

The Woke Military: A Question of Paternity

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The woke military is the bastard child of a thousand fathers.

Several of those “fathers” were the ones wearing JAG badges.

Luckily, POTUS and SecDef are earnest in reversing the damage done to our armed forces. But it is instructive to ask, “How did we get here?” To avoid a repeat of the blatant politicization of the military in the future, it is entirely right and fair to also ask, “How did illegal racial and gender quotas replace merit? When did common sense and good judgment surrender to rank idiocy?”

We Have Met the Enemy and He Is Us²

The simple truth is this: many military Judge Advocates, “JAGs,” whose clients were their respective service branches, either endorsed or failed to prevent the sixteen-year woke assault on the armed services. That’s likely why SecDef Hegseth fired the Army and Air Force Judge Advocates General in February.

Whether the failures were those of just a few woke ideologues, scaredy-cat careerists, or members of a wider-spread social justice movement, the responsibility to prevent the politicization of the military rested with the lawyers whose sworn duty it was to counsel adherence to the law.

In this essay, it is not my intention to indict the majority of hardworking, patriotic military lawyers who follow the law every day. Rather, my aim, here, is to scrutinize a small but influential minority of Judge Advocates who put ideology and politics above both the law and their duties to their respective armed services. Whether they acted actively or passively, alone or in small groups, a cadre of woke JAGs throughout the DoD may very well have been the single greatest facilitators of left-driven ideological mischief in the military.

Here’s how that happened.

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² Walt Kelly, *Pogo*, April 22, 1970

About 70-80% of lawyers in the military³ are direct appointees; usually civilians with no military backgrounds and many simply looking for a job in an overcrowded field of unemployed law school grads. This figure varies from service to service.

After graduation, newly minted civilian lawyers, drawn mostly by the promise of a paycheck, apply for positions with the various JAG Corps.⁴ In my own experience as a JAG law school recruiter, only a few candidates ever expressed patriotism in support of their JAG applications. Some had civilian political aspirations. Most just wanted a job.) Unfortunately, many of those new hires never really grasp that the mission of the military is to fight and win our nation's wars. Some think JAG service is no more than a federal jobs program with a social justice agenda.

The remaining 20-30% of the new JAG hires are prior service members who came to the JAG via the Funded Legal Education Program/Excess Leave Programs. Unlike their civilian counterparts, those officers have a better understanding of military service and culture when they become JAGs. Not all of them were immune to the woke virus.

Regardless of commissioning source, virtually every one of those newly-minted lawyers have been inoculated with some quantity of sugar-coated Marxism in America's law schools.

One recent study of law school political orientation reveals, "Not only do all of the [top 14 law] schools lean to the left, the skew is fairly extreme in several of the schools." The study continued, confirming that the American Bar, reflected in law schools, law firms, public service is overwhelmingly liberal and partisan in its ideological proclivities.⁵

Writing in *Lawless: The Miseducation of America's Elites* (2025), Professor Ilya Shapiro⁶ decried:

The left-wing capture of the legal academy" [which] exemplifies the maladies that afflict legal academia, particularly at status-conscious schools striving to be perceived as "elite" institutions....[T]he ingredients include: weak-willed leaders, who are easily cowed by noisy protests; overgrown administrative bureaucracies

³ Open source information suggests that in the active duty forces, there are about 1,600 – 1,800 Army JAGs; 1,300 USAF JAGs; 900 - 1,000 Navy JAGs; 600 - 800 uniformed Marine attorneys. National Guardsmen and women Reservists likely also number in the many thousands.

⁴ In Marine parlance, attorneys are called "JAs." The other services call us "JAGs," the term I use throughout this essay, simply to avoid confusion. Apologies to my Marine colleagues.

⁵ Bonica, Adam, Adam Chilton, and Maya Sen. 2016. "[The Political Ideologies of American Lawyers.](https://tinyurl.com/y8beunrl)" *Journal of Legal Analysis* 8 (2): 277-335. Copy at <https://tinyurl.com/y8beunrl>

⁶ Ilya Shapiro is a senior fellow and director of constitutional studies at the Manhattan Institute. Previously he was executive director and senior lecturer at the Georgetown Center for the Constitution, and before that a vice president of the Cato Institute and director of Cato's Robert A. Levy Center for Constitutional Studies.

pandering to every passing DEI/identity politics fad; faculties dominated by left-wingers who espouse radical ideology masquerading as scholarship (i.e. critical race theory); politicized curricula brimming with woke courses; a radicalized student body containing many affirmative action admittees sporting chips on their shoulders; clinical programs promoting overtly social justice causes; and easily-weaponized campus policies prohibiting “harassment and discrimination,” which lack due process and are interpreted to protect hurt feelings caused by “microaggressions.”⁷

Other legal scholars have emerged from the isolation of cancel culture to agree: the American legal academy is largely the prime breeding ground of Marxist thought in America.⁸

Roughly one in three or four civilian applicants is accepted by the various military branches each year. Thus, the JAG world is a buyer’s market and senior JAGs can hand select candidates whose ideologies mirror their own. Senior JAG leaders⁹ are strategically positioned to pick the “right” applicants, by appointing the “right” people to JAG accession boards and to career management offices.

Eventually, the “right” young JAGs are stratified as “High Potential Officers” or “HPO” by the time they are mid-level or senior captains.¹⁰ In a clear case of unintended consequences, federal law virtually ensures that the “HPO” JAG apostles in the Army, Navy, and Air Force are groomed and advanced by leadership to ensure that the ideological strain remains pure. Title 10 United States Code § 806 mandates that the duty assignments of Army, Navy, and Air Force JAGs are made upon the recommendation of the service TJAGs, not line commanders.

⁷ See, <https://lawliberty.org/book-review/how-did-the-law-schools-become-lawless/> See generally, <https://reason.com/volokh/2025/01/13/lawless-i-the-illiberal-takeover-of-legal-education/>.

⁸ See *Law School Rankings And Political Ideology: Measuring The Conservative Penalty And Liberal Bonus With Updated 2023 Rankings Data*, Notre Dame Journal of Law, Ethics, & Public Policy Notre Dame Journals of Law, Ethics, and Public Opinion, Vol 37, 2023.

In 2015, the first robust analysis of law school ideological diversity was published in the *Harvard Journal of Law & Public Policy* (hereinafter “2015 study”). But even prior to this landmark study, it was already well known that law school professors were disproportionately liberal—both when compared to the overall legal profession and the public at large. A study using 2013 data found that 82% of law school professors were Democrats, while only 11% were Republicans. And even once inside legal academia, conservative law school professors appear to be relegated to topics such as law and economics as opposed to the more prestigious topics, such as constitutional law and federal courts. *Id.*

⁹ Army, Navy, and Air Force TJAGS are nominated by the President, at least in name: but in reality, the service branches self-select and advance TJAG nominees to the White House. Army, 10 U.S.C. § 3037; Navy, 10 U.S.C. § 8088; Air Force, 10 U.S.C. § 9037. The Marine Corps’ SJA to CMC is nominated by the Commandant, 10 U.S.C. § 806.

¹⁰ https://www.airuniversity.af.edu/Portals/10/ASPJ/journals/Volume-32_Issue-2/F-Nolan_Overstreet.pdf

Thereafter, the chosen elite are steered toward the best schools, the best jobs, and the best opportunities for promotion. Essentially, their fitness/performance reports are predetermined to ensure success.

Because Army, Navy, and Air Force attorneys are part of a “Corps,” JAGs typically compete against one another in terms of fitness reports and before JAG promotion boards, comprised almost entirely of JAG officers. Hence, the JAG promotion systems in the Army, Navy, and Air Force are patently incestuous. That is especially troubling if the criteria for “chosen” status includes allegiance to woke ideology. In short, all one needs to do early in one’s career is to curry favor with the “right” O-6 or general officer JAG...and the future is assured. After all, “woke” begets “woke.”

By contrast, duty assignments for Marine Corps JAGs¹¹ are made at direction of the Commandant of the Marine Corps through the office of the Staff Judge Advocate to the Commandant of the Marine Corps. Unlike the other services, the Marines do not have a separate “JAG Corps.” Marine JAGs report to operational commanders almost their entire careers. They are eligible for command of regular Marine units and their fitness reports are mostly written/signed and/or reviewed by commanders. They vie for advancement in rank against other line officers, such as artillery, infantry, communications, and supply officers and pilots for various aircraft. Marine JAGs don’t compete solely for promotion with other JAGs, they compete against other line officers. It is extremely rare that a Marine JAG even sits on a promotion board where a JAG is a candidate for advancement.

Promotions: Rotten to the Corps

When it comes time for promotion, the “right” people are virtually assured of advancement. Promotion boards are no more than a rubber stamp for the desires of senior JAG leaders.

Don’t doubt me. For instance, the average Air Force JAG promotion board, consisting of hand-picked JAGs, takes no more than 2 or 3 brief minutes to “review” each individual file. Atop each file sits a “Promotion Recommendation” or “PRF.”¹² Most of the PRFs for the inside the Beltway officers are likely written by the TJAG or another senior JAG of the TJAG’s choosing. The Air Force’s official explanation of the PRF demonstrates who actually makes promotion decisions:

Senior raters may present their comments in bullet format and content will be reduced from 9-lines to 2-lines, clearly communicating to the promotion board why they should (or should not) promote an officer...The PRF allow[s] the senior rater

¹¹ Properly referred to as “JAs” in the Marine Corps.

¹² Most recently the AF Form 709

to provide performance-based differentiation and characterization of the eligible officers' potential to serve in the next higher grade.¹³

All of which begs the question: "Given that they are no more than rubber stamps for the leadership, why even bother with a supposedly neutral and independent promotion board?" Army and Navy JAGs tell essentially the same story how the line of succession of the chosen few is assured.

The Air Force took an additional leap into perdition when, in July 2003, the Secretary of the Air Force changed the "JAG Department" to the "JAG Corps."¹⁴ Supposedly, the change did not "affect JAG Corps organization and operations."¹⁵

In a pig's eye.

By creating a "Corps," AF JAG operations, organization, and culture changed badly and forever. Creation of a Corps assured the very JAG incest which resulted in the service-wide woke culture POTUS and SecDef are trying to eliminate today. Woke JAGs picking only woke JAGs for advancement with no realistic involvement from line commanders; what possibly could go wrong?

It's interesting that the first Air Force TJAG, Major General Reginald C. Harmon, preferred "Department" over "Corps" because "he wanted to avoid any impression the JAG Corps was a separate military organization."¹⁶ Major General Harmon was prescient. He feared exactly what has come to pass. The Air Force JAG Corps is now entirely insular. D.C. Beltway JAGs thus spend their careers currying favor with senior JAGs because they know that JAGs nearly exclusively write their performance reports and sit on promotion boards. I am told, anecdotally, that Army and the Navy lawyers toil under the same threat: become a sycophant or perish.

Informational Checkpoints

Blessed with a seemingly-endless abundance of hand-picked JAG loyalists, it was easy for the left to insinuate itself throughout the active forces. Writing in the June 19, 2023 edition of

¹³ <https://www.arpc.afrc.af.mil/News/Article-Display/Article/1846210/air-force-introduces-two-line-promotion-recommendation-forms-for-officer-promot/>

¹⁴ *The AFJAG Reporter*, January 24, 2024.

¹⁵ *Id.*

¹⁶ *Id.*

the Washington Examiner, *How DEI infiltrated the Military*, veteran and Air Force Academy grad Scott Sturman, M.D.,¹⁷ deftly explained:

The answer is simple: DEI activists have used the lessons of military history and strategy to construct informational chokepoints, allowing a few ideologues to control the perceptions and attitudes of masses of individuals, who would otherwise reject DEI as detrimental to the United States armed forces.

Informational Chokepoints indeed: every strategic crossroad on every military installation is guarded by lawyers. Even a cursory review of JAG involvement in military operations reveals a number of rich targets for those with a political agenda. Typically, throughout all services, Judge Advocates serve as:

Legal Advisors to Commanders at all levels. This means they are often embedded in operational units, advising on the legality of operations, rules of engagement, compliance with the Law of Armed Conflict and the Uniform Code of Military Justice.

Military Justice practitioners, who are responsible for administering military justice, which includes prosecuting, defending, and adjudicating military personnel in courts-martial, handling non-judicial punishment, and advising commanders on matters related to military discipline.

Operational Legal counselors, who provide legal advice for operational planning and execution. This sometimes includes advising on the legality of weapons, tactics, coordination with international forces, the detention of prisoners, and rules concerning the use of force.

Integrated staff advisors, who serve as members of a commander's staff by supporting plans and operations and, ideally, ensuring that those plans and strategies comply with both domestic and international law.

Contract Law and Procurement Specialists, who provide oversight for contracts and any agreements made with allied forces, civilian contractors, and foreign governments.

Training and Legal Educators, who provide training for military personnel on a variety of legal issues, including the Law of War, ethics, rules of engagement, and the UCMJ.

Operationally Deployed Officers, who provide on-the-ground legal support to military police, intelligence officers, and other personnel to ensure that military operations are carried out in compliance with international law, especially in complex and dynamic environments with multinational forces or civilian populations.

¹⁷ Scott Sturman, M.D., is a former Air Force helicopter pilot and graduate of the United States Air Force Academy, where he majored in aeronautical engineering. He graduated from the University of Arizona School of Health Sciences Center and practiced medicine for 35 years until retirement.

Theoretically, all of these Judge Advocate roles are absolutely necessary and utterly noble in purpose. And again, most JAGs are forthright, solid lawyers, and fine officers who know right from wrong. Yet, there are a myriad of concerns:

Cloaking their goals under the pretense of social justice, [the Left] now seeks to dismantle the foundations of the American republic by rewriting history; reintroducing racism; creating privileged classes; and determining what can be said in public discourse, *the military*, and houses of worship. (emphasis added)

How Cultural Marxism Threatens the United States—and How Americans Can Fight It, Heritage Foundation, November 14, 2022.

Recent media reporting reveals almost on a daily basis, the obscene amounts of money the Biden Administration spent on DEI and social justice projects throughout the federal government; particularly the military.¹⁸

Hand-picked ideologues armed with means, motive, and opportunity manipulated the system to arrive at the current predicament. That’s how we got “here.”

The BDA

The woke insurgency in the military has been on full display ever since the Obama Administration. It got worse during the Biden Administration, particularly with SecDef Austin at the controls. Under the guise of promoting equity, diversity, and inclusiveness, woke acolytes in the various JAG Corps either actively worked for, or passively allowed, the dismantling of the foundations of “duty, honor, country.”

Social Justice: Instead of focusing on military justice, some JAGs took it upon themselves to advocate for social justice causes, often reflecting the left's ideological biases. They pushed for or tolerated policies that prioritize political correctness over practical considerations, such as the implementation of gender-neutral bathrooms and the adoption of woke terminology in military documents.¹⁹ The most egregious example of JAG neglect? Standing by silently as then CSAF Quincy Brown and CSSF John Raymond published their infamous August 9, 2022, Directive entitled *Officer Source of Commission Applicant Pool Goals*. There, the Chiefs of Staff directed the Air and Space Forces to “develop a diversity and inclusion” outreach plan to ensure illegal racially-defined quotas were enforced, toward the questionable goal of “leveraging...diversity to enhance the Air and Space Force’s ability to deter, and, if necessary, deny our Nation’s competitors.” (Our

¹⁸ <https://www.foxnews.com/politics/new-study-reveals-staggering-scope-of-how-much-dei-was-infused-into-government-under-biden>

¹⁹ <https://thefederalist.com/2025/01/30/5-military-officials-whose-damaging-left-wing-antics-must-be-accounted-for/>

“*competitors?*” Seriously? An actual military JAG let the Chiefs call North Korea, Iran, China, and Russia “our competitors?”)

By the way, “DEI” proved to be an utter disaster for our cousins in the UK, where RAF pilot recruiting was devastated by the same moronic guidance found in the American Air and Space Forces *Directive*.²⁰ It appears Marx’s *spectre* is, indeed, actively haunting Europe,²¹ just as it is here in America.

Gender and Identity Politics: In the name of 'inclusivity,' JAGs have been complicit in the military's misguided efforts to accommodate transgender individuals. This includes advocating for taxpayer-funded gender transition surgeries and the acceptance of individuals with gender dysphoria into military service, despite potential medical and readiness concerns.²² Where were the JAGs when, during the Biden administration, the Navy Professional Reading Program added books to their reading list that openly promoted Marxist creeds. Of particular concern is, *How to Be Antiracist*, a tome by prominent leftist scholar Ibram X. Kendi which explicitly argues that “the only remedy to past discrimination is present discrimination” and “capitalism is essentially racist?”²³ Did any Navy JAG/counselor suggest to her/his client that leftist propaganda might be racially discriminatory or even the teeniest bit antithetical to our national values?

Undermining Discipline: Military discipline is crucial for maintaining order and effectiveness in combat. However, the erosion of traditional disciplinary practices by those advocating for more lenient approaches to military justice has made its mark. This likely resulted in reduced morale and a perception of unfairness among the ranks.²⁴ There are recent cases aplenty where military careers were destroyed when members voiced concerns about DoD “diversity” initiatives. The well-publicized case of Air Force Lt Col Matthew Lohmeier is the most renown.²⁵ Did even ONE JAG ask, “What the hell are we doing to this fine officer?” In another more recent, troubling, and ongoing case, outstanding Air Force Capt. Matthew Longo, a law enforcement professional, continues to suffer reprisal and retribution because he properly reported illegal systematic,

²⁰ <https://www.yahoo.com/news/raf-facing-pilot-shortage-diversity-111708584.html>

²¹ <https://www.marxists.org/archive/marx/works/1848/communist-manifesto/ch01.htm>

²² <https://www.heritage.org/defense/commentary/the-rise-wokeness-the-military>

²³ “The only remedy to past discrimination is present discrimination” – This quote can be found in the Introduction of *How to Be an Antiracist*. “Capitalism is essentially racist” – This quote appears in the chapter titled, “The Myth of Meritocracy” in *How to Be an Antiracist*. Specific page numbers vary depend upon the media in which the book is reproduced.

²⁴ <https://www.armyupress.army.mil/Journals/Military-Review/English-Edition-Archives/November-December-2020/Petrusic-Discipline-Vital-%20Tool/>

²⁵ <https://www.military.com/daily-news/2025/01/21/he-met-trump-after-being-booted-space-force-then-he-was-tapped-help-lead-air-force.html>

organization-wide racial and gender discrimination to his military chain of command. As of this writing, the woke crowd that still infests the Air Force is trying to expel Capt. Longo from the service. It's a travesty in need of immediate intervention.

Rewriting Military Culture: Both political extremes have attempted to exert influence, particularly at the service academies, by rewrites of military history and traditions. JAGs were noticeably absent when, in 2005, an overt culture of evangelical proselytization took root at the Air Force Academy.²⁶ Or, more recently, when at the same institution, cadets were told to refrain from calling their parents, “mom and dad,” lest the tenets of inclusivity be offended.²⁷ Where were the JAGs when, in June 2022, the U.S. Navy forced new recruits to watch training videos on “proper pronoun usage?” The four-minute-long video, posted to the Defense Visual Information Distribution Service website, declared, “Using someone’s pronouns is a simple way to affirm someone’s identity” and emphasized the need to create “a safe space for everybody” through the use of “inclusive language,” including using gender-neutral language when uncertain of someone’s “gender identity.”

These failures, and many more, went a long way toward erasing our proud military heritage and ensuring the division of our soldiers, sailors and airmen along ideological lines.²⁸

We Were Just Following Orders

Of the foregoing...Clearer cases of widespread JAG dereliction I cannot imagine, particularly General Brown (call sign “Swamp Thing” - the irony is just too rich.) and General Raymond’s August 9, 2022, *Directive*, supra, which was a patently illegal military order. Racial discrimination was, is, and forever shall be against the law, no matter how well that order is camouflaged in weasel words like “diversity” or “equity” or “inclusiveness.” Directing military personnel to hire based on skin color is a clear violation of law. The JAGs who either wrote or reviewed or approved or enforced or facilitated that *Directive* were either professionally negligent to an unimaginable degree or they were too career protective to voice an objection or they were “just following orders.”

In regard to the latter, Art 92, UCMJ, specifies that a military member must follow lawful orders. The same Article implies that members must disobey unlawful ones. Moreover, the “defense of superior orders” has been a canard since the founding of

²⁶ <https://www.nytimes.com/2005/06/23/politics/air-force-academy-staff-found-promoting-religion.html>

²⁷ https://www.thecentersquare.com/national/article_5375e924-1b73-11ee-8f22-67ab77ddf2cc.html

²⁸ <https://www.nationalreview.com/2022/12/a-woke-naval-academy-hurts-our-military/>

the Republic.²⁹ And the German denial of personal responsibility for following unlawful orders was rebuked during the Nuremberg Trials.

Issuance of that *Directive* was truly one of those “fall on your saber” moments for a JAG, so I must ask, “Did ANY Judge Advocate voice even the slightest objection?”

And then there were the anthrax and COVID vaccination issues. (No, this is not a “Grassy-knoll” anti-vaccine rant. Far from it.³⁰) But the nearly universal JAG failures in regard to both mandatory vaccination programs raise serious questions about the focus of the various lawyer corps.

Anthrax

On 30 September 1999, President Bill Clinton signed Executive Order 13139, entitled *Improving Health Protection of Military Personnel Participating in Particular Military Operations*. That EO stipulated that before an “Investigational New Drug” or “IND” (FDA term of art) could be administered to individual military service members, those members must first have provided their “informed consent.” In other words, no consent – no IND vaccine. But that didn’t stop the Department of Defense from ruining the health and the careers of hundreds, perhaps thousands of military members who, beginning in 1998, were subjected to a mandatory vaccination program without those members’ consent. Back then, refusal to give “informed consent” meant an Art 15 or a court-martial and a discharge.

It took a team of *pro bono* civilian attorneys to stop the madness. In *Doe v. Rumsfeld*, 297 F.Supp.2d 119 (D.D.C. 2003), the United States District Court for the District of Columbia enjoined the Air Force from requiring administration of the unlicensed IND anthrax vaccine to personnel pursuant to EO13139. That injunction remained in place until the Food and Drug Administration administratively ruled that the then-in-use anthrax vaccine was no longer an IND drug. But before that, any order forcing a military member to take the shots was an illegal one.

Turns out, the alleged risk of combat exposure to weaponized anthrax turned out to be either a colossal intelligence failure or a scam of immense proportion worked on the entire DoD. The entire, sordid history of the anthrax vaccination program is the stuff of political scandal, greed, idiocy and would be worthy of a best-selling novel if someone ever took the time to write it.

Did even one JAG read EO 13139 or counsel against the prosecution or administrative separation of hundreds, if not thousands of military personnel? Did ANY JAG ever ask a qualified physician whether readily accessible antibiotics such as Ciprofloxacin or Doxycycline successfully treat most cases of anthrax at a fraction of the cost with a higher degree of safety than the vaccine?

²⁹ See *The United States v. John Jones*, 26 F. Cas. 653 (D.C. 1812); *Mitchell v. Harmony*, 54 U.S. 115 (1851)

³⁰ For the record, I’m as “pro vaccine” as a guy can get.

If not, why not? Methinks the truth was self-evident.

COVID

Whereas the anthrax vaccine may have been based on hyperbole or bad intel, the COVID risk was real. Thus, the pharmaceutical industry went into overdrive. The COVID-19 vaccines were initially developed by Pfizer-BioNTech, Moderna, and Johnson & Johnson under IND status as they began their clinical trials.

On August 23, 2021, the FDA formally licensed the COMIRNATY COVID-19 vaccine.³¹ In footnotes in its license, the FDA noted: there were insufficient stocks of COMIRNATY available for distribution; and although the licensed COMIRNATY and Emergency Use Authorized (EUA) Pfizer BioNTech COVID-19 vaccine were “legally distinct,” they could be used interchangeably. The next day, the SECDEF mandated vaccination against COVID for all active duty, Reserve, and Guard personnel, using only “vaccines that receive full licensure from the FDA in accordance with FDA-approved labeling and guidance.” Query: Whether any uniformed JAG researched, understood or raised this issue.

Notwithstanding this “licensed” requirement, on August 24, 2021, DoD components immediately began using the unlicensed EUA to vaccinate military personnel. DoD continued its use of unlicensed EUA vaccine throughout the lifetime of the mandatory COVID vaccination policy, until SECDEF was compelled to rescind his mandate on 10 January 2023 in accordance with Section 525 of the 2023 National Defense Authorization Act. Nevertheless, roughly 8,000 service-members were involuntarily separated for their refusals to take the vaccine.³² JAGs whose allegiance was to their service branches and not to their own careers never would have let that happen.

Controversy always surrounded whether those vaccines actually worked, whether they posed long-term health risks,³³ and whether mandatory inoculation infringed on some members’ religious freedoms. I offer no opinion in regard to those claims, except to say, whether real or imagined, those concerns had a nearly-universal impact upon nearly every soldier, sailor, airman, and Marine. And therein lay the JAG Waterloo.

Any JAG whose true duty was to the service...and not to a particular commander or organization...would have argued, from the beginning, that the COVID shots (as rolled out to the

³¹ 21 U.S.C. § 360bbb-3

³²https://www.army.mil/article/283143/dod_prepares_invitation_to_bring_back_troops_separated_for_refusing_covid_vaccine; It’s noteworthy that neither EO 13139, nor any subsequent EO addressed EUA status. And while 21 U.S.C. § 360bbb-3 does contain an “informed consent” provision, it also explains that the DoD is empowered to apply sanctions to those who refused. Hence, a military order to take the COVID vaccine was likely a legal one.

³³ <https://www.vox.com/health/403372/trump-rfk-covid-vaccines-anniversary-mrna>

forces) would have been disastrous to recruitment, retention, morale, and discipline.³⁴ Which, of course, it was.

I'd like to believe the JAGs argued these points. But, given what happened during the anthrax debacle, I'm dubious.

It's Time for a Revolution in Military JAG Affairs.

The damage, although pervasive and significant, can be repaired...but not without red-faced anger, retribution, and internecine warfare. Tough as it will be, the cure must be administered. These necessary steps would go a long way toward preventing another leftist political insurrection, such as the one suffered in recent years by our armed forces. Why? Because once Judge Advocates are refocused on their actual clients, they will be far less inclined to advance an agenda that is destructive of the mission. Here are the needed measures:

Know Your Client. It's your service branch, not the person who signs your fitness report.

Get rid of the "Corps." Return to the "JAG Department" model in every service branch. Major General Harmon was right; the JAG should not be a separate, cloistered military organization with its own culture. Like the Marine Corps, all JAGs should be rated by their commanders and face the same promotion boards as their line officer clients.

Keep the stars. Current media reports suggest SecDef wants to reduce the TJAGs to two-star billets. Bad idea. Even though the TJAGs are not among the core deputy chiefs of staff, they work in an environment where people count stars. Given the gravity of the work involved, the turf, the egos, and the issues involved, the TJAGs need real horsepower in that environment. Two stars simply aren't enough.

Review the numbers. The Army, Navy, and Air Force each boast well over 1,000 lawyers; the Marines slightly over half that number. Actual mission requirements may, in fact, require those numbers. But given the Beltway-lawyerly-bureaucrat penchant for turf expansion over the decades, a thorough DOGE-like review of total JAG manning in every service branch is warranted.

I'm certain there is a fair amount of excess to be found. For instance, several of the services entice new JAG applicants with promises of significant litigation experience. That might have been true once, but since the 2022 establishment of the politically-conceived and badly-designed Offices of Special Trial Counsel³⁵ (worthy of a separate rant) and since very few drug cases are ever tried in courts-martial and since Federal Tort Claims and

³⁴ [Lawmakers press Pentagon for answers as military recruiting crisis deepens - POLITICO](#)

³⁵ 10 U.S.C. §1044f See also <https://www.stripes.com/theaters/us/2024-12-31/sexual-harassment-military-special-trial-counsels-16335871.html>

environmental cases are actually litigated in federal court by the civilian lawyers at the DoJ...the simple fact is...very few installation level JAGs ever actually go to court with any regularity.³⁶ So why do we need so many lawyers? Which leads to the next point:

Learn your job. The best way to ensure longevity is to be very good at a necessary task. JAGs should re-focus on military justice, because that ALWAYS was the JAG *raison d'être*. Installation level Staff Judge Advocates must stop taking the easy route of non-judicial punishments and administrative separations and return to the business of prosecuting criminals in courts-martial. No JAG should EVER be promoted beyond 0-3 without proof of real, fully-litigated courtroom competence. (Guilty pleas don't count.) We also need more JAGs who are operationally proficient in the Law of War. Contract, labor and environmental law are best suited for civilian attorneys, anyway. Which leads to the next point:

Be really good in the courtroom. At some point in the histories of the various JAG Corps, it became vogue for career aspirants to market themselves as “generalists,” as opposed to becoming solid courtroom assets. Status as a “generalist” virtually ensured a coveted ladder-climbing assignment as a Staff Judge Advocate, which is an absolute requirement for promotion to 0-6, general officer, or anointment as the TJAG. Career criminal law courtroom people? Lucky to make 0-5.

“Generalists,” typically have only a fleeting association with the courtroom. Maybe one or two years as a prosecutor to fill a square, and frequently no time as a defense counsel. Those “generalists” who DID work as defense lawyers were frequently loathe to actually go to court and fight for their clients, lest they “p*** off someone” who could hurt their careers.³⁷

³⁶ SecDef Austin's March 11, 2022 Memorandum to the Service Secretaries established and defined the various offices of Special Trial Counsel, designed to address the political belief that the armed services had collectively failed to investigate and prosecute instances of sexual harassment and abuse. If the belief was founded in fact, then I cannot image a more stinging indictment of failed JAG leadership. Nevertheless, SecDef Austin's Memo included this prescription: “Special Trial Counsel will be highly skilled, experienced, well-trained, and competent in handling the investigation and trial-level litigation of covered offenses.” By creating the office of Special Trial Counsel, SecDef Austin signed the death warrant for JAG courtroom experience. Under this new scheme, only a select few attorneys with courtroom experience are chosen for service on the Special Trial Counsel Team. That means that installation-level JAGs get almost no courtroom experience. Why? Because historically, sex crimes and drug cases made up the vast majority of courts-martial. Most installation-level Staff Judge Advocates and Chiefs of Military Justice long ago stopped litigating drug cases and with sex crimes being removed to a centralized office of special counsel...local JAGs simply don't learn the craft of trial lawyering. (And no, scripted guilty pleas do not count as courtroom experience.)

³⁷ 'Tis an age old phenomenon lampooned by Gilbert and Sullivan's *HMS Pinafore* in 1878. Of careerists and posers in uniform they wrote:

When I was a lad I served a term
As office boy to an attorney's firm.
I cleaned the windows and I swept the floor,
And I polished up the handle of the big front door.
I polished up that handle so carefuller
That now I am the Ruler of the Queen's Navee!

The fix? Easy. No one gets an assignment as a Staff Judge Advocate or promotion to 0-6 without years of demonstrated excellence as **both** a prosecutor and a defense counsel. Period. Extra career points for service as a Military Judge.

It's time to return the JAGs to their historical roots and to backwater careerist "generalists" forever.

Get your BDUs dirty. JAGs must...must...get out from behind their desks and go out to the flightline or out in the field and learn what our clients actually do every day. Which leads to the next point:

Learn an Additional Skill. We can all learn from the Marines. All JAGs should be trained and assigned a secondary, combat-focused MOS or AFSC. My USMC JAG friends tell me that additional military skills are the key to advancement and promotion in the Marines. There are lots of warfighting skills for which JAG chairborne warriors are suited: intel, logistics, civil affairs, cybersecurity...and for the adventurous, perhaps airbase ground defense or any other small arms proficiency. The list goes on and on. One thing is certain; this way we'd find out quickly who really wants to serve as a military officer...and who joined simply for the paycheck.

Go to school. All JAGs must attend in-residence PME. Attendance at service specific Command and Staff College must be made mandatory for promotion to 0-5 and attendance at War College must be made mandatory for promotion to 0-6 and above.

Go to the funeral. Politics and social agendas are dying. JAGs need to lead the way to the funeral by eradicating any notion of DEI and "wokeism" from every aspect of military service. There is only one mission: to fight and win America's wars. Anything that is not that must die.

Unretire the unafflicted. It will require easily-obtained waivers to return some gray hair to active duty in leadership positions. There are numerous retired JAGs who were not infected with "woke disorder" and who would willingly (OK, maybe begrudgingly) return to duty long enough to fix the problems, purge the "Departments" of their ailments, and return the entire cadre of military JAGs to their proper compass headings.

A Postscript

Even as I write this, the media, other gawkers, pundits and pols are still engaging in incessant, hyperbolic hand wringing over the firing of the TJAGS and other general officers.³⁸

Stick close to your desks and never go to sea, and you all
may be rulers of the Queen's Navee!

³⁸ *Hegseth: Trump Will Install New Military Attorneys Who Won't Be 'Roadblocks to Anything'* Rolling Stone, February 23, 2025; *'People Are Very Scared': Trump Administration Purge of JAG Officers Raises Legal, Ethical Fears* Military.com Feb 24, 2025; *Firing the 'Conscience' of the Military* The Atlantic March 3, 2025

They fear, perhaps justifiably, that more firings are on the horizon as they manufacture more outrage.

Critics argue that by firing the highest ranking service lawyers, the SecDef stripped away “the guardrails” and “the conscience of the military;”³⁹ i.e., those supposed paragons of justice, the incorruptible knights of the order. Truth is, most JAG lawyers beyond the rank of Captain seldom actually practice law. Here’s another not-so-secret, dirty-little-secret about senior military Judge Advocates: most (not all) of them have not seen the inside of a courtroom in fifteen to twenty years at the time they put on their birds or stars. Many haven’t performed any tasks that an attorney would recognize as the practice of law in years. They are bureaucrats and administrators, carefully groomed as such from the start of their careers. But crack open a law book, write a brief, go to court, argue a case since they were 0-3s? Not so much.

Of course, most of the overreaction is symptomatic of post-election TDS. But the alleged “intellectual” rationale for the angst is that SecDef fired the service JAGS because he, nefariously, doesn’t want to be restricted by the Law of Armed Conflict, the Geneva Conventions, or federal law.

I’ve never met or spoken with former combat-Major Hegseth, but I’m willing to bet his frustration is not so much with the actual Law of War as it is with the frequently idiotic and often dangerous “Rules of Engagement” (ROE) promulgated by White House minions.⁴⁰ The gap between the actual Law of Armed Conflict and the Rules of Engagement is frequently chasm-wide, a fact completely and intentionally misunderstood by the political left and the media.

Nor is SecDef Hegseth’s frustration with foolish Rules of Engagement anything new. Our warfighters in the Viet Nam war were frequently hamstrung by insane ROE. The story goes that President Johnson was often heard to boast, “They can't bomb a shithouse without my say so!” That is, perhaps, an apocryphal tale, but given how that war was disastrously waged, it rings true. Certainly, the disastrous withdrawal from Afghanistan supports SecDef’s frustration. We’re still waiting to find out who comprised the brain trust for that debacle. Simply said, a savvy JAG who is fully conversant in the Law of War would fall on her or his saber in the face of ill-conceived ROE that put our troops in unnecessary peril.

SecDef’s firing of the Army and Air Force TJAGS have inflamed the political/media left plus the military members of the swamp, particularly the lawyers. The well-organized resistance and invective will not soon abate.⁴¹

³⁹ *Id.*

⁴⁰ See David French, *How Our Overly Restrictive Rules of Engagement Keep Us from Winning Wars*, National Review, Dec 21, 2015.

⁴¹ “Foul slander against political opponents will help the workers to realise (sic) all the sooner where the counter-revolution is, and to sweep it away in the name of freedom, peace, bread for the hungry and land for the peasants.”

It's pretty clear: this is going to be a fight for the soul of the military against a deeply entrenched "competitor." But I draw inspiration from Thomas Jefferson who knew that a good omelet requires a few broken eggs:

God forbid we should ever be 20 years without such a rebellion. The people can not be all, and always, well informed. The part which is wrong will be discontented in proportion to the importance of the facts they misconceive. If they remain quiet under such misconceptions it is a lethargy, the forerunner of death to the public liberty... The remedy is to set them right as to facts, pardon and pacify them. What signify a few lives lost in a century or two? (sic) The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure.⁴²

It's long past time for some Jeffersonian manure. Figuratively speaking, of course.

V.I. Lenin, *"The Proletarian Revolution and the Renegade Kautsky,"* 1918.

⁴² <https://www.monticello.org/research-education/thomas-jefferson-encyclopedia/tree-liberty-quotation/>