

**THE FIRST FEMALE COLONEL OF THE U.S. ARMY  
JUDGE ADVOCATE GENERAL'S CORPS: A SUMMARY AND  
ANALYSIS OF THE "ORAL HISTORY OF COLONEL  
ELIZABETH R. SMITH, JR. (USA RETIRED) (1951-1978)"<sup>1</sup>**

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*People think that at the top there isn't much room. They  
tend to think of it as an Everest. My message is that  
there is **tons** of room at the top.*

Lady Margaret Thatcher<sup>3</sup>

## I. Introduction

Herman Melville once wrote that pioneers "are the advance-guard, sent on through the wilderness of untried things, to break a new path in the New World that is [theirs]."<sup>4</sup> Like frontier Americans, with one foot

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<sup>1</sup> Oral History of Colonel (COL) Elizabeth R. Smith, Jr., United States Army (Retired) (1951-1978) (January 1989) [hereinafter Smith Oral History] (unpublished manuscript, author unknown, on file with The Judge Advocate General's Legal Center and School (TJAGLCS) Library, U. S. Army, Charlottesville, Virginia). The manuscript was prepared as part of the Oral History Program of the Legal Research and Communications Department at TJAGLCS, Charlottesville, Virginia. The oral history of COL Smith is one of approximately two-dozen personal histories on file with the TJAGLCS Library. They are available for viewing through coordination with the School Librarian and offer a fascinating perspective on key leaders whose indelible influence continues to this day.

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<sup>3</sup> Greatest-Quotations.com, at <http://www.greatest-quotations.com/search.asp?bedenker=Thatcher,+Margaret> (last visited 5 Aug. 2004).

<sup>4</sup> HERMAN MELVILLE, *WHITE JACKET* (1850) (New York: Oxford Univ. Press, 1991).

set in the experience of the past and the other in hope and ambition for the future, Melville aptly described the women who served in the military in the aftermath of WWII. Unburdened by conscription, they volunteered for military service and commissions with an unbridled desire to serve their nation despite a cultural and institutional environment often unprepared to receive them.<sup>5</sup> Yet, receive them they did; building a history of significant contributions to the Army and its various branches, including the Army's Judge Advocate General's Corps (JAG Corps).

These remarkable officers served the JAG Corps knowing that law, military organization, and culture limited their opportunities. They were volunteers for their country; patriots for an Army which was hesitant of their potential. Their ambition to serve and soldier helped quell such doubts and facilitated their ultimate integration into the Army. These officers overcame barriers to advanced education, institutional biases in the military, and the various statutory and policy prohibitions relating to marriage and pregnancy,<sup>6</sup> many in effect as late as the mid-1970s. The pre-1970s Army was a frontier that few women cared to explore which makes those who did all the more remarkable.

These pioneers include: Colonel (COL) Phyllis Propp Fowle, the first Women's Army Corps (WAC) officer to serve with the JAG

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<sup>5</sup> See generally BETTIE J. MORDEN, *THE WOMEN'S ARMY CORPS, 1945-1978* (U.S. Army Center of Military History (CMH) 1990), available at <http://www.army.mil/cmh-pg/books/wac/index.htm> (last visited February 2004).

<sup>6</sup> *Id.* The author specifically notes:

WACs who became pregnant could be legally [involuntarily] discharged. If a woman became pregnant overseas, she was evacuated by air to the United States. If birth occurred before a woman could be discharged for medical disability, she was discharged on the grounds of dependency of a minor child. If the child were stillborn, the woman was discharged for "the convenience of the government." An illegal abortion, however, resulted in a dishonorable discharge for bad conduct. From 1942 through 1945, the WAAC/WAC pregnancy rate was 7 per 1,000 per month; the rate for civilian women in similar age groups for the same period was 117 per 1,000.

*Id.* at 16. See also MATTIE E. TREADWELL, *THE WOMEN'S ARMY CORPS, UNITED STATES ARMY IN WORLD WAR II* (Government Printing Office 1954). The *Treadwell* and *Morden* works are superb sources of information and authoritative histories of the WAAC and later the Women's Army Corps.

Corps, the first female staff judge advocate, and the only woman to serve with the JAG Corps overseas during WWII;<sup>7</sup> Lieutenant Colonel (LTC) Nora G. Springfield, the first WAC granted permanent detail to the JAG Corps;<sup>8</sup> and COL Elizabeth R. Smith, Jr., the first active duty female judge advocate promoted to the rank of colonel.<sup>9</sup>

Colonel Smith served in both the WAC and the JAG Corps from 1951-1978, a period spanning the Korean War to the end of the WAC as a separate branch within the Army.<sup>10</sup> She is one of only a handful of WAC officers who served in Army legal offices before the Army's 1961 decision granting them permanent status in the JAG Corps and one of a very few who became career officers.<sup>11</sup> Most notably, she is forever part of the Army JAG Corps history as the first active duty female judge advocate to achieve the rank of colonel, on 10 July 1972. For nearly eighteen years she remained the only active duty female judge advocate to serve in that rank, until COL Joyce E. Peters' promotion in 1990.<sup>12</sup>

This article discusses the historical context of the integration of women into the JAG Corps, including the WAC, and provides a summary and analysis of interviews conducted with COL Smith on 13

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<sup>7</sup> U.S. Army Women's Museum, Fort Lee, Virginia (AWM). Colonel Propp graduated from law school at University of Iowa law 1933, where she was the only female student in her class. She was one of the first female officers to join the WAAC in the early 1940s, when she was denied entry to the JAG Corps because of her gender. In 1945, she was the only woman serving with the JAG Corps to deploy to Europe during the Second World War, where she served as a temporary detail in the Office of The Judge Advocate, European Theater Army Headquarters until 1947. After a break in service, she went on to become the staff judge advocate at the WAC Center and School at Fort Des Moines, Iowa, and remained in the U.S. Army Reserves until the early 1970s. A suite at the U.S. Army Judge Advocate General's Legal Center and School is dedicated in her memory. For further information on the AWM, see: <http://www.awm.lee.army.mil>. She died in June 2000 at the age of ninety-two.

<sup>8</sup> MORDEN, *supra* note 5, at 127, 128; Smith Oral History, *supra* note 1, at 46.

<sup>9</sup> Smith Oral History, *supra* note 1, at 77-78.

<sup>10</sup> This article contains additional collateral facts COL Smith provided during the review and editing process of this article, including telephone interviews on 29 September 2003, and written correspondence dated 14 November 2003 [hereinafter Smith Interviews] (on file with the author).

<sup>11</sup> *Id.*

<sup>12</sup> See Major Gene Martin & Major Carissa Gregg, An Oral History of COL Joyce E. Peters, United States Army (Retired) (1972-1994) (Mar. 2000) [hereinafter Peters Oral History] (unpublished manuscript, on file with The Judge Advocate General's School Library, United States Army, Charlottesville, Virginia). The manuscript was prepared as part of the Oral History Program of the Legal Research and Communications Department at The Judge Advocate General's Legal Center and School, Charlottesville, Virginia.

and 14 January 1989. The purpose of this article is to present an overview of the personal and professional experience of COL Smith, emphasizing her unique perspective and pivotal place in the history of gender integration in the JAG Corps.

## II. Background: The Women's Army Corps

Opportunities for female judge advocates began in 1943 with the creation of the WAC, and the selective temporary detail of a small number of WAC officers with law degrees to the JAG Corps.<sup>13</sup> In 1961, The Judge Advocate General (TJAG) agreed to detail permanently WAC officers to the JAG Corps, effectively granting them the same status as male JAG officers.<sup>14</sup> The remaining doors finally swung open in 1978, with the demise of the WAC and the introduction of regular appointments for qualified female officers in the various branches of the U.S. Army.<sup>15</sup>

The government established the WAC under federal law in July 1943 as a separate military auxiliary within the Department of the Army, to cultivate, manage, advocate, and protect women service members.<sup>16</sup> Effective in September 1943, the WAC succeeded the Women's Army Auxiliary Corps (WAAC) created two years earlier.<sup>17</sup> These

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<sup>13</sup> TREADWELL, *supra* note 6, at 559; Smith Interview, *supra* note 10.

<sup>14</sup> MORDEN, *supra* note 5, at 127.

<sup>15</sup> Department Of Defense Appropriation Authorization Act for Fiscal Year 1979, Pub. L. No. 95-485, 92 Stat. 1611 (1978) [hereinafter DOD Authorization Act, 1979] (disestablishing the WAC as a separate corps within the Army).

<sup>16</sup> Women's Army Corps (W.A.C.) Act, Pub. L. No. 78-110, 57 Stat. 371 (1943). This act established the Women's Army Corps in the Army of the United States on 1 July 1943. The Act provided as follows:

There is hereby established in the Army of the United States, for the period of the present war and for six months thereafter or for such shorter period as the Congress by concurrent resolution of the President by proclamation shall proscribe, a component to be known as the "Women's Army Corps."

*Id.* The Women's Armed Services Integration Act of 1948, 62 Stat. 356 (1948), later established the WAC on a permanent basis.

<sup>17</sup> Women's Army Auxiliary Corps (W.A.A.C.) Act, Pub. L. No. 77-554, 56 Stat. 278 (1942) (establishing a Women's Army Auxiliary Corps for Service with the Army of the United States on May 15, 1942).

organizations are distinguished from the long-standing Army Nurse Corps, which included a narrow range of professional services generally reflecting their civilian counterparts.<sup>18</sup> By 1944, WAC personnel were eligible to work in 274 varied Army military occupational specialties (MOS).<sup>19</sup> Commissioned WAC officers with specific skills or educational background could apply to other branches, including the JAG Corps, where they would work and serve although they remained WAC officers for most purposes, including promotion.

Finally, in June 1961, Major General (MG) Charles L. Decker, TJAG of the Army at the time, formally accepted qualified WAC officers for permanent detail in the JAG Corps.<sup>20</sup> Before this, WAC officers with law degrees were eligible for selective temporary detail to the JAG Corps for a period of three years, during which their records, promotions, and career management remained with the WAC.<sup>21</sup> According to Bettie J. Morden's research,

Lt. Col. Nora G. Springfield was the first [woman] to be approved for [permanent] duty as an Army lawyer. In a few years, the Army approved a program under which civilian lawyers and senior law students could apply for appointment in the WAC with permanent detail to the Judge Advocate General's Corps. Their careers would be managed by [the JAG Corps] rather than by the WAC Career Management Branch. On 21 July 1966, 1st LT Adrienne M. McOmber became the first lawyer permanently detailed in the Judge Advocate General's Corps directly from civilian life.<sup>22</sup>

Still, by December 1963, there appeared to be just two active component women permanently detailed and serving in the JAG Corps,<sup>23</sup>

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<sup>18</sup> TREADWELL, *supra* note 6, at 20-21.

<sup>19</sup> *Id.* at 559.

<sup>20</sup> MORDEN, *supra* note 5, at 127.

<sup>21</sup> *Id.* at 123-128.

<sup>22</sup> *Id.* at 127-128 (citing Chronological Record, June 1961, July 1966, ODWAC Ref File, CMH; U.S. DEP'T OF ARMY, REG. 140-100, RESERVE COMPONENTS, APPOINTMENT OF COMMISSIONED AND WARRANT OFFICERS OF THE ARMY (6 Apr. 1961), superceded by U.S. DEP'T OF ARMY, REG. AR 135-100, RESERVE COMPONENTS, APPOINTMENT OF COMMISSIONED AND WARRANT OFFICERS OF THE ARMY (5 Feb. 1972)).

<sup>23</sup> MORDEN, *supra* note 5, at 418 (citing ODCSPER Study, Tab N, WAC Requirements, 1964, ODWAC Reference File, Studies, CMH Library).

a branch made up of over 1,000 officers.<sup>24</sup> By June 1970, the number of female JAG officers tripled to only six.<sup>25</sup> Women remained in the WAC and segregated within the Army until late 1978, when the gates to Army service formally and finally opened through legislation, eliminating the WAC as a separate branch and integrating WAC officers into the various branches of the Army.<sup>26</sup>

In 1972, Assistant Secretary of Defense for Manpower and Reserve Affairs, Roger T. Kelly, wrote in an action memorandum, “separate organizations and restricted assignments do not provide adequate career opportunity for women.”<sup>27</sup> It is worth noting that, despite the restrictions for female officers, female lawyers had been playing a role in military justice since as early as 1944.<sup>28</sup> In that year civilian attorney, Laura Miller Derry, became the first woman to represent a Soldier in an Army court-martial;<sup>29</sup> she was also the first woman to secure a verdict of not guilty in a capital case.<sup>30</sup>

By 1973, the Army began fielding policy reversals and initiatives advancing the role and opportunities for female service members.<sup>31</sup> Foremost among the changes was an end to the involuntary separation for reasons of marriage and pregnancy.<sup>32</sup> These changes responded, in part, to progressive changes in civilian and military culture, and to manpower requirements in the aftermath of the draft. The world and the military had changed significantly since 1948 when congressional hearings resulted in integration of women in the military through establishment of a separate corps.<sup>33</sup> By the mid-1970s, Congress passed

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<sup>24</sup> Personnel, Plans & Training Office (PP&TO), Office of The Judge Advocate General, U.S. Army (July 2003).

<sup>25</sup> MORDEN, *supra* note 5, 129 (citing Strength of the Army Report (STM-30, DCSPER-46) for 30 June 1970).

<sup>26</sup> See DOD Authorization Act, 1979, *supra* note 15.

<sup>27</sup> MORDEN, *supra* note 5, at 311 (citing Memorandum, Assist. Sec’y of Defense (Manpower & Reserve Affairs (M&RA) to Asst. Sec’y’s M&RA of the Military Departments, 6 Apr. 1972, sub: Equal Treatment of Service Women, ODWAC Ref File, Discontinuance of the WAC, CMH).

<sup>28</sup> LAURA MILLER DERRY, *DIGEST OF WOMEN LAWYERS AND JUDGES 8* (Dunne Press 1949). See also *The Laura Miller Derry Papers*, Women’s Manuscript Collection, University of Louisville Archives and Records Center.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Smith Interviews, *supra* note 10.

<sup>32</sup> The Army first reversed involuntary separation for marriage, followed later by an end to involuntary separation for pregnancy. See MORDEN, *supra* note 5, at 301-311.

<sup>33</sup> *Id.* at 318.

legislation to dissolve the separate corps and fully integrate women into the military.<sup>34</sup>

President Jimmy Carter formally rescinded the legislation authorizing the establishment of the WAC on 20 October 1978.<sup>35</sup> With it, went most remnants of institutional disparity between men and women in the Army, the combat service exclusion notwithstanding. A key sponsor of the legislation was Senator William Proxmire, whose determined and articulate advocacy of full integration of women in the Army was vital to its success. During Senate hearings, he noted:

Imagine a separate personnel system for Blacks or Catholics or Chicanos. The country would not stand for such a thing . . . . The Women's Army Corps is the last vestige of a segregated military establishment . . . . Women will continue to serve our country in the military—but in the mainstream of the Services, without restrictions on their service, without special privileges, or special obstacles to their advancement.<sup>36</sup>

### III. Women in the JAGC

Despite the increased access and opportunity for service in the JAG Corps during the 1970s and 1980s, women remained the exception rather than the rule in an otherwise male-dominated Army legal community.<sup>37</sup> This is currently no longer the case.

In July 2001, Brigadier General (BG) Coral C. Pietsch became the first female judge advocate to achieve flag officer status.<sup>38</sup> General Pietsch, a Reserve Component officer, currently serves as the Chief Judge (Individual Military Augmentee) of the U.S. Army Court of

<sup>34</sup> *Id.* at 395-397.

<sup>35</sup> See DOD Authorization Act, 1979, *supra* note 15.

<sup>36</sup> MORDEN, *supra* note 5, at 396 (citing the Congressional Record, 95th Cong, 2nd Session, 26 Sept. 78, pp. 31516-17).

<sup>37</sup> See JA PUB 1-1 (1970-1978), JAGC PERSONNEL AND ACTIVITY DIRECTORY AND PERSONNEL POLICIES (copies are on file with the PP&TO, OTJAG, U.S. Army (1970-1978)). Brigadier General Pietsch has the additional distinction of being the first Asian-Pacific American female general in the history of the U.S. Army. Randy Pullen, *Army Reservist Achieves Two Notable Firsts*, THE OFFICER, Sep 2001, vol. 77, no. 8, at 48.

<sup>38</sup> Personnel, Plans & Training Office (PP&TO), OTJAG, U.S. Army (July 2003) [hereinafter PP&TO, July 2003].

Criminal Appeals.<sup>39</sup> In 2003, the approximately 375 active duty female judge advocates represented slightly more than a quarter of all active duty Army attorneys.<sup>40</sup> Women currently serve with honor and distinction at nearly every level of the JAG Corps.

For example, in 2003, women actively served as staff judge advocates (SJA) or similar senior positions at or in the trial judiciary, the Army litigation divisions, the criminal appeals divisions, corps headquarters, the personnel and policy division, joint combatant commands, major army commands, training installations, and the combat divisions.<sup>41</sup> In the Army, where leaders are traditionally “grown” and developed over time, integrating women in the JAG Corps has proven nothing short of an unqualified success. Their leadership, influence, and contribution have been profound.

This success, however, makes it easy to forget the remarkable experience of those WAC officers who forged the trail ahead of them; the hardy few who served in Army legal offices in advance of the 1961 change in Army policy helping establish the credibility of female judge advocates in the Army legal community as well as among Soldiers and commanders. They were patriots who dedicated their personal and professional lives to the military, which *expressly*<sup>42</sup> limited their opportunities for advancement based on gender and told them they could never serve at the top no matter their talents. It is a tale of dedication, determination, and deserved success. It is, indeed, a story worth telling.

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<sup>39</sup> JA PUB 1-1, (2003-2004), JAGC PERSONNEL AND ACTIVITY DIRECTORY AND PERSONNEL POLICIES (2003-2004) [hereinafter JA PUB. 1-1 (2003-2004)].

<sup>40</sup> PP&TO, *supra* note 38.

<sup>41</sup> See JA PUB 1-1 (2003-2004), *supra* note 39. A non-exclusive list includes: COL Denise K. Vowell, Chief Trial Judge, U.S. Army Legal Services Agency; COL Stephanie D. Willson, Chief, Litigation Division, U.S. Army Legal Services Agency; COL Melinda E. Dunn, SJA, XVIII Airborne Corps and Fort Bragg, North Carolina; COL Michele M. Miller, Chief, Personnel, Plans & Training Office, Office of The Judge Advocate General; COL Kathryn Stone, SJA, U.S. Southern Command; COL Janet W. Charvat, SJA, Military District of Washington; COL Edith E. Robb, SJA, U.S. Army Recruiting Command; COL Lauren B. Leeker, Chief, Government Appellate Division, U.S. Army Legal Services Agency; Lieutenant COL Robin Swope, SJA, Fort Eustis, VA; LTC Sharon E. Riley, SJA, 1st Armor Division; LTC Tara A. Osborn, SJA, 2nd Infantry Division. *Id.*

<sup>42</sup> MORDEN, *supra* note 5, at 124. WACs with Regular Army status were ineligible for promotion beyond lieutenant colonel; could not remain on active duty with dependent children under the age of 18; and were ineligible for attendance at the senior service colleges. *Id.*



## IV. Colonel Elizabeth R. Smith, Jr. (Retired) (1951-1978)

## A. Early Years, Kentucky, and the Desire to Serve

Colonel Smith was born in December 1926, and raised in the modest town of Irvine, Kentucky.<sup>43</sup> From the very beginning, she was fortunate to have a family that encouraged her to do whatever she wanted and to follow her own path regardless of prevailing social conventions. Reinforcing this idea was her mother, who worked and served as the local postmaster under appointment by President Roosevelt.

It never occurred to me that it was unusual for a woman to have that position, or to do anything. In fact, all the time I was growing up it never occurred to me that women did not do everything. No issue of it was ever made. I never heard any talk about it. So I just assumed women did whatever they wanted to do, wherever they wanted to, whenever they wanted to. I was used to my family being lawyers or ministers, and I certainly wasn't inclined toward the ministry. So, I aimed toward the law. It never occurred to me to do anything else.<sup>44</sup>

In 1944, she entered the University of Kentucky in a six-year combined Bachelor of Arts and Juris Doctorate degree program.<sup>45</sup> It was in college that she first encountered negative bias against women in the law, including "one particular professor who really went out of his way to ridicule women in his class or permit them to fall into a situation where he could make light of them."<sup>46</sup> While she was not the only woman in her law school class, COL Smith readily admits, "they were unique."<sup>47</sup>

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<sup>43</sup> Smith Oral History, *supra* note 1, at 1.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 2.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* Despite the relative novelty of being a female law student and attorney, she discovered considerable acceptance in her own community.

It surprised me. Being a woman lawyer in my hometown, up in the hills of Kentucky, people don't "cotton" necessarily to women doctors and lawyers. But we had a woman doctor in our town . . . . Everybody loved Dr. Virginia. So maybe she [helped] pave the way for me . . . .

Upon graduation in 1950, amidst the fighting on the Korean peninsula, COL Smith “was very concerned about the war and felt she ought to do something about it.”<sup>48</sup> A friend, and WWII veteran, led her to consider joining the military.<sup>49</sup> She applied to the WAC, “scared stiff at the prospect of entering anything that big.”<sup>50</sup> Her motivation was part patriotism, part adventure, and part desire to get away from her small Kentucky home.<sup>51</sup> Although uncertain what she would be doing in the WAC, she felt assured that the Army would put her legal background to good use. “[I]t just did not make sense to me that the Army, being a somewhat sensible organization, would not at some point use my talents, my ability, my training, and education.”<sup>52</sup>

Her small town neighbors were surprisingly supportive of her decision to apply to the military.<sup>53</sup> Her father, however, a local elected official and established presence in Democratic political circles, was less enamored with the idea.<sup>54</sup> “I think my father was disappointed that I was not going to return to Irvine, Kentucky, and practice law and be in politics.”<sup>55</sup> Even so, he never expressed it.<sup>56</sup> While her mother was concerned about the perception of young women who joined the military as having questionable morals, neither of her parents did anything to stop her from entering military service.<sup>57</sup> Colonel Smith was excited at the

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*Id.* at 5.

<sup>48</sup> *Id.* at 3.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 5.

<sup>53</sup> *Id.* at 4.

All the older people in my little home of 3,500 were thrilled at the thought of me entering the Army, particularly the older women. The older the women were, the more excited they were at this great opportunity to leave home and be in the Army and become a woman Soldier. I was simply amazed at these eighty-year-old ladies who were thrilled at the prospect of me entering the Army.

*Id.*

<sup>54</sup> *Id.* at 6.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* Smith was also concerned about the reputation of female Soldiers.

They just sort of had the reputation of having loose morals. All these men all over, they must have loose morals. Surely, when you put a

prospect of serving, and looked forward with understandable hesitation to the commitment she was about to make. In 1951, she entered active duty.<sup>58</sup>

#### B. Entry into the Women's Army Corps

Colonel Smith reported for military service and entry to the WAC at Fort Lee, Virginia.<sup>59</sup> She entered at the rank of second lieutenant (2LT).<sup>60</sup> Any concerns she had regarding the Army, or the nature and quality of women in the military were quickly abated. She was not the only woman intimidated by the prospect of becoming a Soldier. As she explained,

I was immediately reassured because none of us knew what we were into. It was interesting. All of these women were professional women. They were teachers, airline stewardesses, businesswomen, college graduates. We were all college graduates, about 100 of us. And we had all entered because of the war, because of patriotism, really. There were blacks in our midst and this was a new experience for many of us . . . . The fact that I was a lawyer was irrelevant. Intellectually, socially, in every way, we were all equals and we were all in it together.<sup>61</sup>

A female cadre administered the officers' basic course training and emphasized traditional military skills in drill, ceremony, critical tasks, and physical fitness. The experience was entirely alien to this group of young, professional women.<sup>62</sup> Like generations of new inductees, most

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hand full of women amidst a lot of men, they are liable to go "hog wild"—sex rampant in the barracks and all that, I suppose, drinking, and swearing. Women would pick that up from the men and do that, too.

*Id.* at 6-7.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 7.

<sup>62</sup> *Id.* at 9. Being a group of women did not shield the young WAC trainees from duties typically associated with Army basic training. Colonel Smith commented that,

of these new officers found basic military training a surprisingly rewarding experience.<sup>63</sup> “I guess we got through it [Basic Training] so well because we all went through it together. When you share a common challenge, it is exhilarating, particularly when you [succeed].”<sup>64</sup> Unfortunately, some did not succeed. By the end of the introductory training, the Army dropped roughly twenty-five percent of the women from the program.<sup>65</sup>

After completing the WAC basic course in February 1952, COL Smith received orders for her first duty station to Fort Eustis, Virginia.<sup>66</sup> While enroute to Fort Eustis, she was required, as were all WAC officers, to participate in a two-week hometown recruiting effort. “They thought having us all flood back into our communities in uniform would be helpful to the recruiting effort.”<sup>67</sup> Colonel Smith found it ironic that a country so hesitant to embrace the idea of women in uniform in peace was so eager to recruit them in time of war. Colonel Smith found,

[i]t is interesting in wartime, how the country does not worry about having women do all sorts of things. In wartime, you can fly planes, drive trucks and repair trucks, and fly helicopters and repair them, and they don't ask any questions. It is only in peacetime that you have the luxury of putting women back in offices, perhaps. But in wartime they don't ask questions. If you can walk and breathe and you happen to be a woman, that is irrelevant. You can do the job. In

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It was also interesting running around policing the post. We always ran around having to pick up cigarette butts and paper and all of that, and of course, scrubbing, waxing, mopping, dusting and cleaning out latrines. Doing all of that was, I felt, good training because we were going to have to require other people to do the same. It was useful that we had to go through exactly what we would have to require others to do someday. If it wasn't too demeaning for us, it would not be too demeaning for anyone else, I suppose.

*Id.*

<sup>63</sup> *Id.* at 8.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at 9.

<sup>67</sup> *Id.* at 10. In June 1952 there were 11,456 women assigned to the WAC, down dramatically from its high in World War II of 95,957. Still, there was general agreement that it played a critical support role during the Korean conflict. MORDEN, *supra* note 5, at 407, app. A (citing Strength of the Army Reports (STM-30) June 1942-1959).

wartime, they didn't worry about having a lot of women in the service. They wanted the women because the men were in Korea fighting.<sup>68</sup>

Following her recruiting detail, COL Smith assumed responsibilities as the Executive Officer (XO) of the WAC Detachment at Fort Eustis.<sup>69</sup> Although she was an attorney, COL Smith served as a WAC officer without any relationship to the Army legal community. As the XO, she was essentially second in command to the WAC commander, with oversight responsibility for local WAC personnel assigned throughout the installation.<sup>70</sup> This included "training classes, barracks inspections, assisting in the supply office, and preparation of elimination board proceedings for unfitness or unsuitability [for military service]."<sup>71</sup>

Colonel Smith's time at Fort Eustis was uneventful. She and the other two or three female officers were generally well treated and respected by the male officer cohort at the installation, including the various commanders.<sup>72</sup> She enjoyed the social life, which centered on the officer's club.<sup>73</sup> The experience was sufficiently positive that she applied for and received Regular Army (RA) status.<sup>74</sup>

In March 1954, COL Smith left Fort Eustis for Europe, where the Army assigned her to the Headquarters, United States Army Europe, in Heidelberg, Germany.<sup>75</sup> The WAC staff advisor in Europe at the time, COL Mary Milligan, was also in Heidelberg. Colonel Milligan was one of only two authorized female colonel billets in the Army, the other

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<sup>68</sup> Smith Oral History, *supra* note 1, at 10.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 11. The Army broadly interpreted release for unsuitability to include ineptitude, poor job performance, insubordination, or "a routine pattern of being unable to adapt."  
*Id.*

<sup>72</sup> *Id.* at 12.

<sup>73</sup> *Id.* at 13, 14.

<sup>74</sup> *Id.* at 21. A worthy footnote to the Army of 1952, was the monthly health and welfare formations attended by all personnel, male and female.

We used to march up to the parade ground on payday to get talks on VD and [absences without leave]. Male company guidons would carry streamers for however long they had been without VD, or who had the lowest VD rate. It was interesting.

*Id.* at 13.

<sup>75</sup> *Id.* at 14.

being the Director of the WAC.<sup>76</sup> As COL Smith recalls, “There were about thirteen female LTCs in the Army, and more majors and lots of captains and lieutenants. Frankly, LTCs were like gods. When you talk about a full colonel, that is . . . beyond a god.”<sup>77</sup>

The original plan called for COL Smith to serve as a supply officer in a Quartermaster unit, a duty she had at Fort Eustis.<sup>78</sup> When COL Milligan learned that COL Smith was an attorney, she intervened on her behalf to assign her to a legal office instead.<sup>79</sup> Colonel Milligan’s fortuitous intervention changed COL Smith’s career. She contacted SJA offices all over Europe looking for an office that needed a lawyer and one willing to accept a female officer. She finally found one in the Northern Area Command, located in Frankfurt.<sup>80</sup> The JAG office there was

desperate for a lawyer. Their civilian lawyer was returning to the United States. He was the legal assistance officer for the command and they had a booming business in that regard. They were desperate to get a lawyer, male, female, JAG or non-JAG.<sup>81</sup>

Colonel Smith recalls that there were only a handful of active duty WAC officers serving in Army legal offices. “I think there were about three of us; perhaps . . . Mary Attaya was in the Army somewhere at the time and maybe Nora Springfield.”<sup>82</sup> Colonel Smith and the others were WAC officers serving with, rather than as a part of the JAG Corps. They remained members of the Army’s WAC.<sup>83</sup> Colonel Smith was neither detailed nor formally assigned to the Army JAG Corps.<sup>84</sup>

As a legal assistance officer, COL Smith advised Soldiers on matters ranging from adoption and finances, to command issues and divorce. Despite her unique stature among military attorneys, clients rarely

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<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 15.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 16.

<sup>84</sup> *Id.* “They were short lawyers and were just happy to have me working. I wasn’t detailed to the JAG Corps, and no one seemed to mind.” Smith Interviews, *supra* note 10.

seemed concerned that she was a woman. “When these young men would come in to me, they might be startled for a minute that I was a woman, but they had too much to worry about to be concerned [by it].”<sup>85</sup> Colonel Smith’s supervisor ensured her experience was multi-disciplinary. She rotated through positions in legal assistance, administrative law,<sup>86</sup> and military justice, where she prosecuted two general courts-martial cases.<sup>87</sup>

She found a welcome and professional environment among her peers and others in the legal office in Frankfurt. One of these peers, Lieutenant John O’Connor, was the husband of future Supreme Court Justice Sandra Day O’Connor.<sup>88</sup> Being a woman was neither an obvious advantage nor a handicap, although it did make for interesting moments. In what might seem a cause for concern today, one of the civilian attorneys COL Smith worked with offered open personal advances and “literally chased me around the office from time to time.”<sup>89</sup> Doubtless, such conduct by a male co-worker would be wholly unacceptable in the today’s Army.<sup>90</sup>

Colonel Smith extended her tour in Germany for a total of three years.<sup>91</sup> Having found her experience working in an SJA office personally and professionally rewarding, in 1957, she applied to attend what is now the Judge Advocate Officer Basic Course, located at The Judge Advocate General’s Legal Center and School (TJAGLCS) in Charlottesville, Virginia. She and Mary Attaya were the only women in the class.<sup>92</sup> Colonel Smith loved every minute of it. “I enjoyed it more,

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<sup>85</sup> Smith Oral History, *supra* note 1, at 15.

<sup>86</sup> *Id.* at 19.

<sup>87</sup> Smith Interviews, *supra* note 10.

<sup>88</sup> Smith Oral History, *supra* note 1, at 19.

<sup>89</sup> *Id.* Colonel Smith specifically recounts,

[w]e had a civilian lawyer, Mr. Loeb, who twirled his red moustache frequently and chased me . . . . He was a very bright, very smart, probably smarter than all of us, but he did have this little thing about women. He did enjoy women. He never really seriously expected to catch me, but he did enjoy the chase.

*Id.*

<sup>90</sup> *See generally*, U.S. DEP’T OF ARMY, REG. 600-20, ARMY COMMAND POLICY Chapter 7 (13 May 2002) (defining sexual harassment and detailing that within the Army, such conduct is unacceptable, not tolerated, and punishable under the Uniform Code of Military Justice); *see also* UCMJ art. 92 (2002).

<sup>91</sup> Smith Oral History, *supra* note 1, at 20, 21.

<sup>92</sup> *Id.*

I think, than my male counterparts did because their first experience in the Army was with the [basic course], while I already knew a great deal about the Army and about JAG work.”<sup>93</sup> In particular, she enjoyed the challenge of applying her experience and developing practical solutions to instructional problems.<sup>94</sup>

Importantly, it was in Charlottesville that COL Smith formulated one of her core leadership principles, which is that, “Just because something is legal doesn’t make it a good idea, does not make it wise.”<sup>95</sup> This sprang from her practical experiences, and served her well in later years as a legal advisor and staff judge advocate. Her common-sense approach and dedicated work ethic, led her to finish first in her basic course class,<sup>96</sup> where she found her gender a non-issue. What mattered more than gender to COL Smith was competence. As she recalls,

I never thought of myself as different. It is interesting. I was always treated very well. My observation really, in those early days, is that if you could do the job you were accepted. I think you really had to demonstrate you could do the job, whereas a fellow might be able to goof off a little . . . . As a woman I felt that I must do my very best at all times, maybe not to let [other females] down, or let my folks down, or let anybody down really . . . . So I tried to do my best, but I found acceptance wherever I went, really. *If you were competent, people didn’t worry about what gender you were.*<sup>97</sup>

The completion of the basic course, while important professionally and personally, did not automatically characterize COL Smith as an Army judge advocate, nor did it guarantee her future assignments in the mainstream JAG Corps. Despite completion of the Judge Advocate Basic Course, COL Smith was neither detailed to the JAG Corps nor assigned to a traditional legal services billet. Rather, she was assigned to

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<sup>93</sup> *Id.* at 22. It is worth noting that at this point in her career, COL Smith was a first lieutenant, having worked her way up from Second Lieutenant in the WAC. Male officers attending the basic course, however, were commissioned into the Army as first lieutenants directly from law school. *Id.* at 25.

<sup>94</sup> *Id.* at 22.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 24.

<sup>97</sup> *Id.* at 23 (emphasis added).



the Fort McClellan Staff Judge Advocate's office<sup>98</sup> and remained a WAC officer. Nevertheless, early on she became the de facto legal advisor to the WAC Center Commander (WACC) during a tumultuous period of investigations into accusations of homosexuality at the center. The investigations often put the Fort McClellan commander and the post Criminal Investigation Division (CID) at odds with the WAC Center.<sup>99</sup> Colonel Smith's concern for suspects' rights, led her to use her status as the only female attorney to assist the WAC Commander.<sup>100</sup>

Despite the seriousness of the controversies and pursuant investigations,<sup>101</sup> Colonel Smith enjoyed her role as legal advisor to senior officers and the opportunity to practice law in a practical, significant way.<sup>102</sup> She assisted the WAC Commander with the investigations, the "adversarial relationship" with the installation, and the heavy-handed approach by CID.<sup>103</sup> Following her efforts in the investigations, she finished her tour at Fort McClellan as an instructor at a WAC basic training battalion where she reveled in the instructional art, trying new and unconventional teaching techniques.<sup>104</sup>

By 1958, at Fort McClellan, Alabama, COL Smith was selected for promotion to captain and was assigned as the commanding officer of a WAC training company, an opportunity she thoroughly enjoyed.<sup>105</sup>

I loved it. I think, other than being a JAG officer in the Army, being a commander is the next best job because you are responsible for everything. You are responsible

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<sup>98</sup> *Id.* at 25.

<sup>99</sup> *Id.* at 26.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.* at 27.

During this time, I felt that I would be followed and that anything I had would be searched and read, so I locked things in the trunk of my car. I slept with papers under my pillow. I carried my briefcase with me at all times. I never let it out of my hands . . . . It was that bad at that post at that time.

*Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 28.

<sup>104</sup> *Id.* at 29-31. Colonel Smith's teaching techniques included the "use [of] physical demonstrations of offenses and do it in a dramatic fashion . . . doing things that would startle them and get them thinking . . ." *Id.* at 30-31.

<sup>105</sup> *Id.*

for all your troops, your cadre, your training, your sergeant and your second and first lieutenants, as well as responsible for the training of the WAC basic trainees. It was a daunting, frightening job . . . .<sup>106</sup>

It was also enormously rewarding.<sup>107</sup> Colonel Smith found the challenge of command and the proprietary ownership of the outcomes of her efforts highly satisfying. In particular, she enjoyed taking part in the growth of young women from the moment they arrived for basic training through their graduation.<sup>108</sup>

As a commander, COL Smith benefited from her experience and understanding of the law, especially concerning military justice.<sup>109</sup> Other leaders recognized this and sought her counsel, her sound judgment, and broad experience. “I had a battalion commander who used my legal

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<sup>106</sup> *Id.* at 31.

<sup>107</sup> Colonel Smith, like most commanders, also experienced her share of memorial moments while in command, some of them quite amusing. In one case, during a training exercise she literally fell over from the weight of her military equipment:

We all had these huge heavy packs, helmets and stuff, and we got almost to the company when retreat sounded. We had to stop. I was on a little hillside and the troops were facing me to get orders. I guess after retreat was over or something, I fell over backwards with all my gear on. From a prone position, I said, “about face.” My cadre and officers were laughing out loud . . . . The troops kept themselves quiet. My cadre and officers did not. We made it back to the company and I just laid into my cadre and officers about breaking attention in front of the troops. Then, when it was all over with, we all had a good laugh. They never forgot that and neither did I. It just became the story of the old lady that fell backwards, while in gear, and had to have help getting up . . . . I am sure that the trainees all giggled themselves sick that night about the “old lady” falling down in formation.

*Id.* at 41-42.

<sup>108</sup> *Id.* at 37.

The parents would be so proud. They would come in and thank me so much for doing this for little Susie or little Nancy and it was really heartwarming to see the transformation. Maybe you don’t think about it, but there is a transformation, not only physical, but inside, as they are able to meet the challenges that you provide them.

*Id.*

<sup>109</sup> *Id.* at 34-35.

expertise, too, just as advice. Throughout my tour of service, people frequently came to me, rather than to the IG or the chaplain.”<sup>110</sup> This was important, because although she was not a judge advocate it gave her the satisfaction of making a meaningful difference for people and organizations. As COL Smith notes,

I did not have legal status as a lawyer. I felt that I had an opportunity to effect changes frequently, and I did effect some changes when I could because of the fact that everyone knew I had the confidence of the WAC Center Commander. It is very helpful to have the confidence of the commander. You can work miracles through persuasion.<sup>111</sup>

Colonel Smith’s next assignment was to the Office of the Staff Judge Advocate, Fort Leavenworth, Kansas, where she was assigned to and served as the office’s only female officer.<sup>112</sup> Her WAC status remained the same, although she was now temporarily detailed to the JAG Corps. Unless extended, a temporary detail was for a period of three years.<sup>113</sup> Colonel Smith believes she received the legal office assignment because of her attendance at the basic course and the people she had met there, among them, the chief of the JAG Corps personnel office, COL William Hodson.<sup>114</sup>

At Fort Leavenworth, she served as the claims officer.<sup>115</sup> In that capacity she worked closely with service members and their families to resolve various personnel claims, including damage to property arising from Army moves. Colonel Smith notes that, “[T]he thrust of my time there was in trying to streamline the procedures for the men; they were all men at that time I think, who came to the Command and General Staff College.”<sup>116</sup> Her clients also included the prisoners incarcerated at the U.S. Disciplinary Barracks. “I felt I was maybe adding to the morale of the prisoners or something by doing well. You always had to find your motivation for doing whatever job you were doing and mine was helping

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<sup>110</sup> *Id.* at 35.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at 43.

<sup>113</sup> Smith Interviews, *supra* note 10.

<sup>114</sup> Smith Oral History, *supra* note 1, at 42.

<sup>115</sup> *Id.* at 42, 43.

<sup>116</sup> *Id.* at 43.

folks.”<sup>117</sup> While her Fort Leavenworth assignment would not be the last time she used her talents to help others, it would be the last spent in temporary detail to the JAG Corps.

### C. Permanent Detail to the Judge Advocate General’s Corps

The gates for women in the JAG Corps opened dramatically in 1961, when TJAG formally granted qualified WAC officers permanent detail in the JAG Corps.<sup>118</sup> In July 1961, COL Smith, along with Nora Springfield and Mary Attaya, were among the very first women to apply for the new status.<sup>119</sup> Although still part of the WAC, officers with permanent detail received their career-development from the JAG Corps.<sup>120</sup>

Colonel Smith’s next assignment was to The Judge Advocate General’s School (now TJAGLCS), where she served as the Deputy Director of the Academic Department working for COL Russell Fairbanks.<sup>121</sup> She found COL Fairbanks to be “a brilliant man, very demanding of the people who worked for him . . . .”<sup>122</sup> Colonel Smith, the only female judge advocate on the staff or faculty, personally managed the school’s academic schedule, guest speakers, coordinated support to the academic departments, and otherwise assisted in the administration of the academic program.<sup>123</sup> During this period, a WAC selection board chose her for promotion to the rank of major.<sup>124</sup>

She remained in Charlottesville the following year to attend the ten-month Judge Advocate Career Course, currently known as the Judge Advocate Officer Graduate Course, where she was the only woman in her class.<sup>125</sup> Upon graduation, COL Smith was assigned to the Pentagon in the Military Affairs Division, Administrative Law Division (ALD), of the Office of the Judge Advocate General.<sup>126</sup> This was a sought-after

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<sup>117</sup> *Id.* at 44.

<sup>118</sup> MORDEN, *supra* note 5, at 127, 128; Smith Oral History, *supra* note 1, at 46.

<sup>119</sup> MORDEN, *supra* note 5, at 127, 128.

<sup>120</sup> Smith Oral History, *supra* note 1, at 46, 47.

<sup>121</sup> *Id.* at 47.

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* at 50-51.

<sup>125</sup> *Id.* at 54.

<sup>126</sup> *Id.* at 53.

assignment, and she was excited for the opportunity. Colonel Smith believed that,

[c]areer-wise, I think, it was one of the best assignments you could have. It was far better than the Military Justice Division, International Law, or anything else because a commander's "meat and potatoes" is running his post, camp, or station, and he is going to be in the area of administrative law far more than the courts-martial. Anybody can do courts-martial. I think it takes real talent and ability to do Administrative Law . . . .<sup>127</sup>

Indeed, COL Smith found the experience in the Pentagon extremely rewarding, although she missed the contact with clients. Colonel Smith noted, "we would roll our opinions. Where they went, you didn't know; who got them, you really didn't know; you didn't see faces."<sup>128</sup> During this period, she adopted the common practice of limiting legal opinions solely to issues of the law, with minimal commentary on the logic or wisdom of proposed actions. The desire to demonstrate a more consular approach with legal reviews became a key professional trait she later employed as a staff judge advocate.

We would write back [to the client] "no legal objection" to something. Then, to our little note for ourselves on our retained copies, we would say, "boy, what a lousy idea this is, for all these reasons." But, we would not tell our client this. I guess we thought we would be meddling if we said more. From my experience there, from then on, I never stopped telling people, "no legal objection to this; however, for the following reasons this is an unwise idea. It is fraught with policy problems, political problems, congressional problems, public relations problems," and then would tell them what they were.<sup>129</sup>

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<sup>127</sup> *Id.*

<sup>128</sup> *Id.* at 56.

<sup>129</sup> *Id.* at 56-57.

#### D. Staff Judge Advocate, U.S. Army Recruiting Command

In October 1966, COL Smith left Washington when TJAG selected her for an assignment as the first staff judge advocate for the U.S. Army Recruiting Command (USAREC), in Hampton, Virginia.<sup>130</sup> Until this time, the command used the legal services of the Continental Army Command (CONARC), located at Fort Monroe, Virginia.<sup>131</sup> She was as excited and unsure, as any officer would be, at the prospect of advising a commanding general and associated staff.<sup>132</sup>

The issues she faced at USAREC, located “in an old missile site way out in the boondocks of Hampton where cows and horses grazed,”<sup>133</sup> ran the full spectrum of administrative, acquisition, and command related concerns.<sup>134</sup> USAREC was not a general courts-martial convening authority, and therefore, CONARC dealt with serious justice issues.<sup>135</sup> The most serious and immediate work dealt with the draft induction of men into the Army during the height of the anti-Vietnam movement. The issues included moral-waivers to escape service, demonstrations at Armed Forces Examining and Entrance Stations (AFEES), and responses to private habeas corpus actions used to impede the induction process.<sup>136</sup>

Moral waivers were required whenever a prospective enlistment applicant had a criminal or juvenile record.<sup>137</sup> Eligibility for a waiver depended on the nature of the conviction or criminal offense. USAREC applied specific standards against these criminal records, which required a close analysis of individual state law to see whether the elements and conditions of the conviction permitted accession into the military.<sup>138</sup>

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<sup>130</sup> *Id.* at 60-61.

<sup>131</sup> *Id.* at 61. At that time, the Continental Army Command was responsible for both training and force management. Those responsibilities were later bifurcated between what is now the U.S. Training and Doctrine Command (TRADOC) and the U.S. Forces Command (FORSCOM). *Id.*

<sup>132</sup> Despite her apprehension at being an SJA, the JAG Corps leadership felt she was ready for the job. “I thought I needed more time in the Administrative Law Division, that I needed time somewhere . . . . But [The Judge Advocate General] felt I could do the job and [Colonel] John Folawn said, ‘you are ready, Liz.’” *Id.* at 60.

<sup>133</sup> *Id.* at 61.

<sup>134</sup> *Id.* at 62-97.

<sup>135</sup> Smith Interviews, *supra* note 10.

<sup>136</sup> Smith Oral History, *supra* note 1, at 63-69.

<sup>137</sup> *Id.* at 62.

<sup>138</sup> *Id.* at 63.

Colonel Smith obtained and used extracts of every state's criminal code for this purpose to adjudicate the waivers.<sup>139</sup>

The most dramatic events concerning USAREC during this period involved the often-violent anti-war demonstrations at various recruiting stations and AFEES.<sup>140</sup> Colonel Smith recalls that

[w]e had incidents of hurling blood; throwing blood on our files and throwing artificial blood on our employees . . . .<sup>141</sup> We had an AFEES bombed. People in their right mind don't go around bombing things just because [they believed] their goal is just. Their goal may be to stop an illegal war, but you don't have the right to kill people, or to destroy government or private property, or to hurt people. There were many zealots who were doing that sort of thing.<sup>142</sup>

Important in all of this was COL Smith's bound determination to address violence without involving military personnel.<sup>143</sup> "We had to protect ourselves, but with civilian law enforcement, not Soldiers."<sup>144</sup> This required coordinated security support operations between federal, state, local, and contract personnel to protect USAREC assets (human and physical) from radical anti-war activists.

That was my goal: no military person was going to act like a policeman. We were not going to have pictures in the papers of military people, great big sergeants, picking up little civilians and throwing them down, taking them out, or kicking them out the door. We would [instead] have pictures of sheriffs doing that, marshals and [General Service Administration] guards, but not us.<sup>145</sup>

Finally, draft inductees, who were technically under military control, commonly took legal action to stop or delay further administrative

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<sup>139</sup> *Id.* at 67.

<sup>140</sup> *Id.* at 69.

<sup>141</sup> *Id.* at 65.

<sup>142</sup> *Id.* at 69.

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Id.* at 68.

processing. These writs of habeas corpus frustrated the induction process and movement of the individual to military reception stations.<sup>146</sup> The writs were served on the respective commanders of the seventy-three AFEES, who in turn received support and guidance from USAREC.<sup>147</sup>

While the Department of Justice handled the actual litigation, COL Smith actively assisted her AFEES commanders by educating them on the pertinent law and their legal obligations.<sup>148</sup> She developed a uniform command regulation for them to follow.<sup>149</sup> Other routes for avoiding or delaying induction into the Army included filing congressional appeals and claims of conscientious objection, homosexuality, and various medical and psychiatric conditions.<sup>150</sup> The USAREC command ultimately considered all of these at one level or another.

In 1973, the draft ended and inductions ceased.<sup>151</sup> The USAREC began transforming itself and refocused the recruiting mission in response to the all-volunteer Army. This transformation brought its own set of new challenges, among them recruiter misconduct that, “effected the enlistment of male or female applicants who were not qualified.”<sup>152</sup> Colonel Smith recalls cases of “tinkering with mental examinations, concealing physical defects, and concealing criminal records.”<sup>153</sup>

Introducing advertising and marketing to attract a volunteer force created its own challenges, including intrinsic ethical concerns, conflicts of interest between civilian agencies and military personnel,<sup>154</sup> and the

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<sup>146</sup> *Id.* at 64.

<sup>147</sup> *Id.* at 63.

<sup>148</sup> *Id.* at 65.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.* at 63-64.

<sup>151</sup> *Id.* at 83-84.

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> *Id.* at 84-85. One of the key problems related to advertising for Army recruits, were the ethical constraints on the relationship between government employees and advertising agency representatives. Colonel Smith remembers that

[i]t really became necessary to remind these people of ours of the things they should not be accepting from the agency people—gifts, mementoes, free dinners, free drinks, and what have you. They must remember that they are representing the Army; they are not employees of the agency.

*Id.* at 85.



development of a marketing approach that was entirely new to the Army.<sup>155</sup> The opportunities for women in the Army expanded greatly during the early to mid-seventies, and recruiters took notice. Colonel Smith recounted that “Where women would serve and where women would hold command positions in the Army over men began to develop during this period of time. It was a big change in [the Army’s] outlook toward women.”<sup>156</sup> The progressive evolution of the Army allowed recruiters to broaden their appeal to women.

Remarkably, COL Smith used her position at USAREC to help facilitate the institutional changes that would help open the gates even wider for women in the Army. As one of the early pioneers, she actively participated in the transformation from induction to inducement, leading to a quality volunteer force more dependent than ever on its female cohort.<sup>157</sup> As COL Smith said,

If we were going to bring in all these women, they had to figure out how to cope with them. There was concern about the prejudice against women on the part of the commanders within the Army and the sergeants in the Army; so there had to be some schooling or training in dealing with women, watching out for women being mistreated by their male superiors. It was changing. The men were changing grudgingly, but it was changing because of the volunteer Army.<sup>158</sup>

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<sup>155</sup> *Id.* at 102-103.

In meeting the Army’s [recruiting targets] it helped to get lots of women in because the overall number included women . . . . We had all sorts of market studies. It became like a business selling a product. We had market studies and we would break it down. Demographics became very important so you would know where to put your recruiting stations, how many recruiters you needed and what kind of recruiters you needed . . . . The regulations began to change in the area of women having children, women having illegitimate children, entering with children, and having children after they go in service. Of course, the latter did not become our problem, but the whole area of the female began to change.

*Id.* at 103.

<sup>156</sup> *Id.*

<sup>157</sup> *Id.* at 114.

<sup>158</sup> *Id.*

Colonel Smith reviewed the language for all proposed enlistment contracts and participated in writing Army regulations and policies regarding “enlistment contracts, commitments, and promises.”<sup>159</sup> She combined the professional expertise of a lawyer with USAREC’s practical experience in recruiting, and assisted the Department of the Army’s transition from a conscriptive force to a voluntary one,<sup>160</sup> stating, “[I]t was important to open up and broaden the Army’s regulations and the Army’s treatment of women in order to help us attract the quality women [we were seeking].”<sup>161</sup> These efforts were remarkably successful. In the post-Vietnam era, the Army had no real difficulty recruiting women.<sup>162</sup> According to COL Smith,

We had more equality for women in the Army as far as jobs were concerned. They had opportunity to earn the same as a man in the Army. You didn’t get paid less because you were a woman. They had the opportunity to get an education while being in the service.<sup>163</sup>

Colonel Smith also used this transitional period to expand the role of judge advocates throughout the recruiting command by securing authorizations for Army lawyers in each of the five recruiting regions.<sup>164</sup> Colonel Smith found that “A big thrust of their work was reviewing the reports of investigation into recruiting malpractice. They were, I felt, invaluable.”<sup>165</sup>

Colonel Smith took genuine pride and satisfaction in her USAREC experience. She found the unique civil, administrative, and political

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<sup>159</sup> *Id.* at 110.

<sup>160</sup> *Id.*

<sup>161</sup> *Id.* at 104. Some of the regulatory changes, according to COL Smith, included,

A waiver for women who had children if they were illegitimate. I don’t recall what the significance was of having the child legitimately or illegitimately but women with a child, one or two children, could get waivers to join the Army. We tried to equalize the policy for men and women, still recognizing that the women usually were the primary care-giver for the children. We were trying to equalize the rules for women and men who had spouses and children.

*Id.* at 112.

<sup>162</sup> *Id.* at 109.

<sup>163</sup> *Id.*

<sup>164</sup> *Id.* at 91.

<sup>165</sup> *Id.*

challenges of the assignment enormously memorable. She recalls, “Things were exciting, literally exciting and exploding, during that draft era and we were right in the middle of it. It was the best job in the Army, at that time, for really reeling out the legal advice to people who were going to act on it right that minute.”<sup>166</sup> Equally important, she recognized and took full advantage of the opportunities for leveraging legal counsel into the high visibility operations of induction and recruiting during this volatile period.<sup>167</sup>

Even after the Vietnam era, during her tenure at USAREC, COL Smith proved adept at identifying the issues that mattered to her commanders. Her ability to identify key issues, whether legal or otherwise, and her loyalty and desire to share her views for the best interest of the commanding general, integrated her into the very fabric of the command.<sup>168</sup> It never mattered that she was a woman; she had clearly earned her place at the top as a trusted member of the staff.

I had the confidence of every one of the staff, their respect, and their wholehearted support. They were in a job that had the “eye of Congress,” because of their constituents; the “eye of the press” because of our activities in inducting people like Muhammad Ali; and the “eye of the public,” because we had their kids coming in. Everybody was looking at us . . . I briefed every new Commanding General . . . to let them know what to expect. I made it crystal clear to each one that I was their legal advisor, that they were my number one client, and that there would be nobody under them who would ever lead them deliberately into trouble or let them get into trouble if I knew about it. *I would tell them it would never, ever happen because I would stop it. I made it crystal clear to everybody that I briefed that I was absolutely ruthless in protecting the Commanding General. . . .*<sup>169</sup> Everybody’s job is to keep the

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<sup>166</sup> *Id.* at 71.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* at 72.

<sup>169</sup> *Id.* (emphasis added). Colonel Smith readily admits that her commanders did not always follow her advice, but at least they listened. As she remembered,

The main thing is that [the commander] had the benefit of my views. Other people often would not tell him what he didn’t want to

commander out of trouble and to help him do his job and make decisions. They should not only be legal decisions. They should be wise decisions that will not impact on future decisions, that will not impede him in making future decisions, that will not cause him to lose something for his troops, or for his post, or for the Army as a whole . . . . The Army is people. Through the commander, the Army is the client. If the commander makes legal, wise decisions, the Army is well served.<sup>170</sup>

There were, of course, those occasional few that resented the unique relationship COL Smith crafted with her commanders. Colonel Smith remembered, “There were always one or two officers who resented this bitterly, and I felt it was because I was a woman.”<sup>171</sup> Still, she never let it bother her. As COL Smith noted, “because I had the confidence of the one who mattered, the Commanding General, a Division Chief might as well get along with me because his [actions] weren’t going to sail through if I didn’t concur.”<sup>172</sup>

Colonel Smith’s legal acumen and instructive candor repeatedly earned her enormous equities with commanders and staff alike. As noted earlier, her experience at the ALD led her to believe that the judge advocate’s role is to provide more than simply a read on the law, but also on reason. Her willingness and ability to expand her role from legal advisor to command counselor convincingly, led a succession of general officers to trust her judgment and her commitment to the success of the command.

If it was an unwise policy, I would point out the political aspects of it, the congressional aspects, or how it could look on the front pages of the *Washington Post* or the *New York Times*. Is this something we want to do? Is

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hear . . . . I might be the only one around free to tell him what he didn’t want to hear, either orally or in writing . . . . Of course, he knew he would go to jail alone. It was sort of a joke. He said, “Well, I guess I will go to jail alone on that one. Liz didn’t agree with me, but I did it.”

*Id.* at 76.

<sup>170</sup> *Id.* at 158.

<sup>171</sup> *Id.* at 74.

<sup>172</sup> *Id.*

this something we have to do? It was legal, but how about such and such? If I could think of an alternative or some other idea, I would suggest it. I frequently would not concur, although there was no legal objection, because it was such a bad idea. We were just inviting a congressional inquiry into it. We were inviting the press to get into it. We were inviting the parents of the nation to rise up in arms. The rest of the Army would take a dim view of something we wanted to do and we could not work in isolation.<sup>173</sup>

Colonel Smith's experience at USAREC was so positive, so rewarding, and so uniformly successful that she managed to do something few military officers can—she never left. Nor did the JAG Corps try to make her go elsewhere.<sup>174</sup> She remained the staff judge advocate at the Recruiting Command for an extraordinary twelve consecutive years from 1966 until her retirement in 1978. Colonel Smith fondly remembers that

[I]t was wonderful. I resisted efforts to reassign me. I did not want to go anywhere else. Where else could I go and do all this . . . ? I don't know of any other place where I would want to go . . . .<sup>175</sup> [I] felt I was in an enviable position and that [I] had the best job in the Army because I was so in the middle of everything. I was literally affecting Army policy on recruiting as well as on inductions. How many chances do you get to go beyond your post, camp, or station . . . .<sup>176</sup>

Colonel Smith retained her commanders' respect and confidence throughout her tenure at USAREC. During those twelve years, she served five successive commanding generals, fiercely pursuing the interests of each as she worked to help modernize the way the Army identifies and recruits its men and women.<sup>177</sup> After over twenty-six years of dedicated service, she retired on 31 May 1978.<sup>178</sup> The decision was for family; her mother, who had been an active part of the command

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<sup>173</sup> *Id.* at 75.

<sup>174</sup> *Id.* at 97.

<sup>175</sup> *Id.* at 78.

<sup>176</sup> *Id.* at 77-131.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.* at 115.

community but gradually endured declining health, simply needed her more.<sup>179</sup>

Colonel Smith's mother and namesake, Elizabeth R. Smith, (Sr.), had lived with COL Smith for over a decade, and COL Smith "included [her mother] in absolutely every function as though she were a spouse."<sup>180</sup> It has long been part lore of the JAG Corps that COL Smith added the "Jr." to her name, in conjunction with her first and middle initial, to lead audiences of her legal actions to believe she was a man. As COL Smith recalls, nothing could be further from the truth,

I am a junior, named after my mother. It says so right on my birth certificate; it's perfectly legal. I never abbreviated my name or added "Jr." to mislead anyone into thinking I was a man. It never bothered me at all to be a woman. In fact, it was something I *wanted* people to know.<sup>181</sup>

Her mother's importance cannot be overstated. She provided that fundamental element of a home, so vital to most service members.<sup>182</sup> Even the command understood and appreciated Elizabeth Smith, "Sr".

Everybody knew her the day I retired from the Army. At my retirement ceremony, General Forrester presented her with a gold medallion on a chain that said, "USAREC Mom." It was really something. I never could have made it the eleven years she was with me without it . . . .<sup>183</sup>

Colonel Smith and her mother settled into quiet retirement in Newport News, Virginia, where COL Smith resides to this day.<sup>184</sup> When she left the Army, she left the law and never turned back.<sup>185</sup> Her memories of the Army and the JAG Corps remain fond, even enthusiastic.

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<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> Smith Interviews, *supra* note 10 [emphasis added].

<sup>182</sup> Smith Oral History, *supra* note 1, at 116.

<sup>183</sup> *Id.* at 115.

<sup>184</sup> Smith Interviews, *supra* note 10.

<sup>185</sup> Smith Oral History, *supra* note 1, at 117-118.

## V. The First Female Colonel of the JAG Corps

A seminal moment for COL Elizabeth Smith, the Army, and the JAG Corps, occurred on 10 July 1972, when she became the first permanently detailed WAC judge advocate promoted to the rank of full colonel.<sup>186</sup> The media widely covered this high profile event, and elicited considerable response from women all over the country.<sup>187</sup> Her accomplishment was indeed remarkable. At the time of her promotion, there were only approximately 901 commissioned WAC officers in the Army,<sup>188</sup> and COL Smith believes only thirteen of those were full colonels.<sup>189</sup> It would be another long eighteen years before the active duty Army would promote another female judge advocate to this senior rank.<sup>190</sup>

Her promotion was a credit to all she accomplished. It was recognition of years of hard work, demonstrated professional excellence in both the WAC and JAG Corps', fierce loyalty to her clients, and the proven ability to adapt and excel in the Army of her day. By her own admission, at no time had she focused on anything other than the work at hand, and never worried about efficiency reports or promotions; she let her service speak for her.<sup>191</sup>

Colonel Smith readily admits she did not have the background expected for promotion to colonel.<sup>192</sup> She neither had attended resident

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<sup>186</sup> *Id.* at 78-79.

<sup>187</sup> *Id.*

<sup>188</sup> MORDEN, *supra* note 5, at 410 (citing Strength of the Army Report (STM-30, DCSPER-46) for 30 June 1960-1984).

<sup>189</sup> Smith Oral History, *supra* note 1, at 79. "When I entered the Army becoming a major seemed like a far off goal, and being a lieutenant colonel was almost out of the world, and to be a full colonel, was something." *Id.*

<sup>190</sup> See generally Peters Oral History, *supra* note 12.

<sup>191</sup> Smith Oral History, *supra* note 1, at 97. In COL Smith's words,

[L]et me tell you, anybody who has to work with fear and trembling about an [Officer Efficiency Report] is not going to be able to do a good job. I never worried about that. I never thought about it. I always felt that if I had to leave the Army suddenly for some reason, I could always work. I could always make a living. I did not have to be in the Army to do it. I was not going to operate my life worried about [Officer Efficiency Reports].

*Id.*

<sup>192</sup> *Id.* at 162-163.

Command and General Staff College nor deployed to a combat zone. Her career path was unconventional, but nonetheless rewarding.<sup>193</sup> She sought out and retained positions where she felt she could make a difference, without compromising herself or what, in her mind, were her responsibilities.

Colonel Smith never had to compromise herself or her responsibilities. Her service secured her place in Army and JAG Corps' history as the first active duty female judge advocate promoted to full colonel. The promotion, a tremendous accomplishment by any standard, was more remarkable given the environment in which it occurred. From college to law school, to the move from the WAC to the JAG Corps, COL Smith was one of only a handful of women forging the trail on which so many have since traveled.

#### VI. Notes on the Experience of Women and JAG Corps Leadership

Much has been written about the experiences of Army Nurses and WAC officers in the period following the Second World War.<sup>194</sup> Little, unfortunately, has been written of the lawyers, although some experiences are no doubt similar. Colonel Smith's story demonstrates some of the challenges women faced as the Army transitioned from the WAC to full integration. It is also an interesting look at the Army's ongoing institutional transformation.

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<sup>193</sup> *Id.*

In a way, I probably was not in step with the party line of the JAG Corps or the Army. I have gone my own way and done things that I felt were right. I think if you feel things are right and honest and true, yourself, then do it. You have got to do what you think is right and not what somebody else thinks is right.

*Id.*

<sup>194</sup> See generally EDITH A. ANYNES, FROM NIGHTINGALE TO EAGLE: AN ARMY NURSE'S HISTORY (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1973); MARY SARNECKY, A HISTORY OF THE U.S. ARMY NURSE CORPS (Philadelphia: University of Pennsylvania Press, 1999); and ELIZABETH A. SHIELDS, HIGHLIGHTS IN THE HISTORY OF THE ARMY NURSE CORPS (CMH 1981).



### A. Initial Challenges

Despite the expanded opportunities in the JAG Corps and the military, many female judge advocates had experiences different from their male counterparts. A good and strikingly obvious example is the relationship between women leaders and their female subordinates.

Colonel Smith experienced this first hand as a WAC company commander. She showed little patience for the thinly veiled efforts of some women to leverage their gender when dealing with male officers, and of male officers unsure of exactly how to deal with female Soldiers.<sup>195</sup> Her determined approach often led her male counterparts to say, “Liz, you are too hard-hearted.”<sup>196</sup> She remained unapologetic;

[D]uring my experience, [male officers] were always so hesitant to yell at a women. That was bad, because the women could get lazy and could get away with murder. That could create dissension in the office, particularly within a unit, if the men got different treatment from the women. It always annoyed me that men would let women off easier than men because they couldn't stand to see a woman cry . . . . I would talk to men about this practice of theirs and tell them not to fall for it. A woman could cry buckets with me at the company and, of course, they would, and I would just hand them a little box of Kleenex and tell them to blow. Let them cry their eyes out and then get along with the business. It is an act and a woman can use it. [W]omen cannot want to get ahead in the world and then, when the going gets tough, rely on this female ability to get sympathy from a man. A man knows when he is being played for a sucker. He can't help it and he is going to resent it later when he thinks about it . . . .<sup>197</sup>

Another issue facing COL Smith was the unavoidable consequences of being the only female field grade officer; or, indeed, the only female commissioned officer. The one place where this became an issue was during her short tour in the ALD. The important dynamic involved

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<sup>195</sup> *Id.* at 39.

<sup>196</sup> *Id.*

<sup>197</sup> *Id.* at 38-39.

social relationships within the office and the sense of separation and indifference resulting from an environment that never fully integrated.<sup>198</sup> One example was the casual ostracizing by other field grade officers in the small things that make up a day, like going for coffee. “The field grade officers never, ever, not once, asked me to go with them. Ever. I guess I may have stayed and covered the office. That is the first time I felt there was a distinction being made because I was a woman.”<sup>199</sup>

Fortunately, COL Smith rarely encountered any meaningful gender-related issues as a supervisor.<sup>200</sup> Most of her subordinates were, at least outwardly, unaffected by it. There were exceptions, of course. One male junior officer took a dim view of the professional counseling he received from her and became “a disruptive influence” as a result.<sup>201</sup> Colonel Smith stated, “He had a very strong wife at home. Maybe he did not want a strong wife at home and a strong boss at the office . . . . He could not do anything about the wife, so maybe I was the target.”<sup>202</sup>

Throughout her career, COL Smith was aware of her unique position as one of only a handful of female judge advocates and, later, as one of its senior officers. Her concern throughout her career was basic enough; she wanted to avoid letting people down. Colonel Smith stated,

I wanted to do well because I knew that I had a unique position as the legal counsel for a large command and being a full colonel—but my main concern as a woman: never letting down women. I wanted to do well for myself, my family, my hometown, my State of

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<sup>198</sup> *Id.* at 58.

<sup>199</sup> *Id.* Still, COL Smith never let being a woman interfere with what she was doing, recalling,

I had too much pride to assert myself. I have never ever pushed myself where I thought I might not be wanted . . . . That was the one place where I felt that, I would have to say, being a woman made a difference . . . . It did not impede my progress. I did not stop me from doing my work or interrupt my work at all. I thought, myself, it was, at least, rude and impolite; aside from professionalism, I thought it was wrong.

*Id.*

<sup>200</sup> Smith Interviews, *supra* note 10.

<sup>201</sup> Smith Oral History, *supra* note 1, at 100.

<sup>202</sup> *Id.* at 100-101.

Kentucky, and friends, but also just not wanting to do badly because if I did badly, it would perhaps hold back other women, in some way, in the eyes of men who would question whether a woman could do the job.<sup>203</sup>

#### B. Later Experiences

Whether a woman could do the job became an increasingly moot point during the late 1980s and early 1990s. As time passed, the questions regarding female judge advocates changed profoundly and no longer dealt with the matter of how and whether women could do the job, but at what level. The second generation of female judge advocates, who came of age and rank a decade or more after COL Smith and her peers, would ask questions about advancement, actively participate in promotion and selection boards, and do more. Foremost among them may have been COL Joyce E. Peters.<sup>204</sup>

Colonel Peters joined the Army as a WAC officer in 1972, the same year as COL Smith's groundbreaking promotion to the rank of full colonel; COL Peters would later become the second.<sup>205</sup> Unlike COL Smith, COL Peters entered the Army as a WAC officer permanently detailed to the JAG Corps and served her entire career as a judge advocate.<sup>206</sup>

Like COL Smith, COL Peters also sensed the burden and importance of succeeding on behalf of other women.<sup>207</sup> Separated by a generation, each was keenly aware of their visibility within the JAG Corps, if not the Army, and of the promise and peril that entailed. Colonel Peters echoed

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<sup>203</sup> *Id.* at 118-119.

<sup>204</sup> Peters Oral History, *supra* note 12, at i-iii. Colonel Peters was the Distinguished Graduate of her Officer Advanced Course class where she was the only woman in attendance (May, 1978), and in May, 1992, she became the first female judge advocate to attend a Senior Service College, the National War College, where she graduated with honors. She is believed to be the first female officer to serve as a staff judge advocate for a general courts-martial convening authority, at the U.S. Army Quartermaster Center and School, Fort Lee, Virginia (1986-1989). In 1992, she also became the first woman to serve as the staff judge advocate of an Army Corps (I Corps, 1992-1994). Before retiring, COL Peters also served as the first Judge Advocate selected as the Senior Military Assistant to the Secretary of the Army (June-September, 1994). *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

<sup>207</sup> *Id.* at 264.

the sentiments of COL Smith when she [COL Peters] reflected that “the general overall success that [she] had in [senior leadership positions] was a big factor in allowing the JAG Corps to expand as rapidly as it did with the least amount of friction in integrating women in the Army.”<sup>208</sup>

As late as the mid-1970s, one of the unmistakable issues for women in the JAG Corps, and the Army generally, was the lack of opportunity for upward mobility.<sup>209</sup> Limited promotion opportunities were a function of law as much as Army culture, which capped the highest rank in the WAC (to which all women technically belonged) to colonel with the exception of the Director of the WAC, who was by this time a brigadier general.

Earlier generations seemed less troubled by the fact that they were ineligible for promotion to general officer in the JAG Corps. As COL Smith noted, “We just never thought of it. There were no female generals, and we considered promotion to colonel a distant hope, at best. We were just happy serving; becoming a general simply never occurred to us.”<sup>210</sup> The generation that followed was not so accepting of this obvious inequity. As COL Peters recalls,

General Persons<sup>211</sup> was the [United State Army Europe] Judge Advocate when I was at V Corps, and I used to see him at social events and that kind of thing. And, I used to tell him, “You know, it’s really unfair. This is really unfair.” I said, “Where do the women in the JAG Corps go? What is their career aspiration? Am I supposed to be aspiring to be a colonel because I’m a WAC and I can’t go above colonel?” I said, “Can I become a two-star general? Could I become The Judge Advocate General?” And he said, “Well, no, I don’t think you can.” I said, “Well, there’s something wrong about that. You need to fix that, General Persons.” And, in about [1976] was when they integrated the service academies and [later when] they abolished the WAC... and when Major General Persons was The Judge Advocate General, he wrote me and said, “Okay,

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<sup>208</sup> *Id.*

<sup>209</sup> Smith Interviews, *supra* note 10.

<sup>210</sup> *Id.*

<sup>211</sup> Brigadier General Wilton B. Persons (later promoted to major general).

we've done it. Go for it." . . . [I]t's interesting because career opportunities for women really changed, and it evolved over the time that I was in the JAG Corps, and earlier . . . . Up until that time, the women, although there were increasing numbers of women coming in the JAG Corps, they didn't have any opportunity to go beyond a certain level. That was bound to be a negative factor, in terms of how they would view what they were doing, and their opportunities should have been the same for everybody . . . .<sup>212</sup>

As one of the very few senior women in the JAG Corps at the time, TJAG often nominated COL Peters to serve as a JAG Corps representative on various Army promotion and selection boards.<sup>213</sup> Part of the reason for this was to ensure the JAG Corps had visibility and a vote on the competitive selection of women for promotion as a means of ensuring women received fair and unbiased consideration for further advancement.<sup>214</sup>

Implicit in this was the notion of affirmative action and evidence of past discrimination. While the Army did not have an express policy of promotion quotas for women, selection boards were advised to look for the possibility that women or minorities were somehow disadvantaged in

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<sup>212</sup> Peters Oral History, *supra* note 12, at 72-73. This echoes the experience of the WAC from its inception:

By the last phase of their career pattern, the twenty-first to thirtieth year of service, most WAC officers had achieved their last promotion to major or lieutenant colonel and were assigned to WAC Center or WAC School or a major headquarters somewhere in the Army. Their male peers, meanwhile, were attending a senior service college, commanding a battalion or brigade, or managing a large staff division in a major headquarters. Men could look forward to promotion to colonel or even general officer rank and to assignment to positions such as division, corps, or army commander or even chief of staff of the Army.

MORDEN, *supra* note 5, at 125 (citing U.S. DEP'T OF ARMY, TECHNICAL MANUAL 20-206, CAREER MANAGEMENT FOR ARMY OFFICERS (29 June 1948), superceded by U.S. DEP'T OF ARMY, PAM 600-3, CAREER PLANNING FOR ARMY OFFICERS (15 Oct. 1956)).

<sup>213</sup> Peters Oral History, *supra* note 12, at 248.

<sup>214</sup> [Major General William K. Suter] once said to me, "You're on all these boards because you're supposed to keep an eye on what's going on with the women and see what's happening with the women." *Id.* at 248-249.

a way that had a material affect upon their career opportunities.<sup>215</sup> If so, a selection board member could consider this as they evaluated respective personnel files. Colonel Peters' experience was that these protected groups gained little undeserved advantage from such policies.<sup>216</sup> She observed that promotion boards selected individuals for promotion based on patterns of merit and demonstrated ability.<sup>217</sup> As COL Peters recalls,

I used to sit on these boards, and I would look at all these [personnel] files. There were always files that floated to the top and always files that floated to the bottom, and the hard part was the middle. My own personal view is that I'm not sure that affirmative action ever helped anybody . . . . I never saw anybody advance for that reason.<sup>218</sup>

The example of COL Smith, COL Peters, and others, has made room at the top for women at nearly every level of Army leadership. Their contribution as role models and mentors within the JAG Corps echoes to this day. Within the Army, Soldiers and commanders are no longer surprised to find female judge advocates in courtrooms, claims offices, or combat headquarters.

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<sup>215</sup> *Id.* at 249.

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> Peters Oral History, *supra* note 12, at 248-249.

I don't know that you can find past discrimination. The only way you can see discrimination would be if you could read it between the lines in the words of the OER. And, sometimes, you can see images coming up. They did away with a lot of it. It used to be that you'd have these OERs that said his spouse is very active in such-and-such, and I was always suspicious when they said...things that were clearly gender-specific. But usually, I could sort of sense how the person was doing just by what the chain of assignments was and what the texture of the comments were that the person was writing. You could see [discrimination] to some extent in some of that, but nothing that you could put your hand on and say, "that is it."

*Id.* at 249-250.

## VII. Conclusion

For nearly its first 165 years, the commissioned officer corps of the Army JAG Corps contained no women. Not one. While the JAG Corps takes justifiable pride in over 225 years of history, for female judge advocates that period is remarkably short, albeit no less laudatory. Colonel Elizabeth R. Smith, Jr., was among the vanguard of female contributors to the JAG Corps and the Army—the first female JAG officer to achieve senior status with her promotion to colonel in 1972, the second to accept permanent detail to the JAG Corps, and one of the early few career officers. It would be eighteen years before the Army would promote another female judge advocate to colonel, namely, COL Joyce Peters in 1990. In 2000, there were six female colonels in the JAG Corps; by 2004, there were twenty-five.<sup>219</sup>

Colonel Smith's contributions and success helped lead the way for those who followed by validating the notion of senior female leadership, and thereby influencing the culture of not only the JAG Corps, but also the Army itself. She is a model for what a woman born during the interwar period could accomplish. Her experience gives voice to a generation that lacked role models and mentors; one that looked inward for the confidence, the optimism, and the vision to succeed in a landscape often unwelcome and unfamiliar. The pioneer spirit of officers like Colonel Smith, fused to talent and tenacity, provides the current generation of judge advocates with valuable perspective and appreciation for the individuals who cleared the trail for the current day.

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<sup>219</sup> Personnel, Plans & Training Office (PP&TO), Office of The Judge Advocate General, U.S. Army (July 2004).