

**BY THE CONTENT OF CHARACTER<sup>1</sup>: THE LIFE AND  
LEADERSHIP OF MAJOR GENERAL KENNETH D. GRAY  
(RET.) (1966–1997), THE FIRST AFRICAN-AMERICAN JUDGE  
ADVOCATE GENERAL OFFICER**

LIEUTENANT COLONEL GEORGE R. SMAWLEY<sup>2</sup>

*“At this crucial time in our history, we must look back to the generations of Soldiers who came before us and know that they were led by visionary and principled leaders; that their service was based on a foundation of values; that they are the epitome of commitment, competence, candor, courage, and compassion; and that they shared a willingness to persevere and never, never, ever gave up.”<sup>3</sup>*

– Major General Kenneth D. Gray

I. Introduction

In his 2001 book, *Good to Great—Why Some Companies Make the Leap . . . and Others Don’t*, author and former Stanford University Business School faculty member Jim Collins explores the leadership qualities of business leaders able to move their organizations from

---

<sup>1</sup> “I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.” Dr. Martin Luther King, Speech in Washington, D.C. (Aug. 28, 1963) (transcript available at <http://www.usconstitution.net/dream.html>).

<sup>2</sup> Judge Advocate General’s Corps, U.S. Army. Presently assigned as the Assistant Executive Officer, Office of The Judge Advocate General, The Pentagon, Washington, D.C. The U.S. Army Command & General Staff College, Fort Leavenworth, Kan., 2004; LL.M., 2001, The Judge Advocate General’s School, U.S. Army; J.D., 1991, The Beasley School of Law, Temple University; B.A., 1988, Dickinson College. Previous assignments include: Deputy Staff Judge Advocate, 10th Mountain Division (Light Infantry) & Fort Drum, Fort Drum, N.Y. 2004–007; Plans Officer, Personnel, Plans, & Training Office, Office of The Judge Advocate General, Washington, D.C., 2001–2003; Legal Advisor, Chief, Administrative & Civil Law, Chief, International Law, U.S. Army Special Operations Command, Fort Bragg, N.C., 1998–2000; Senior Trial Counsel, Special Assistant U.S. Attorney (Felony Prosecutor), Chief, Claims Division, Fort Benning, Georgia, 1995–1998; Trial Counsel, Special Assistant U.S. Attorney (Magistrate Court Prosecutor), Operational Law Attorney, Chief, Claims Branch, 6th Infantry Division (Light), Fort Wainwright, Alaska, 1992–1995. Member of the bars of Pennsylvania, the U.S. District Court–Northern District of New York, the U.S. Court of Appeals for the Armed Forces, and the U.S. Supreme Court.

<sup>3</sup> Major General Kenneth D. Gray, *The Eighth Annual Hugh J. Clausen Lecture on Leadership*, 175 MIL. L. REV. 385, 400 (2003).

merely good to simply great.<sup>4</sup> According to Collins, leaders who consistently demonstrate a “paradoxical blend of personal humility and professional will . . . modest and willful, humble and fearless”<sup>5</sup> are most likely to move their organizations to greatness—“the highest level in a hierarchy of executive capabilities.”<sup>6</sup> Collins’s leadership studies carry important lessons for any organization, including the military, and find expression in the individual leadership styles and philosophies of great leaders who demonstrate an unrestricted focus on institutional gain (vice personal gain), individual values, and a personal humility driven in large measure by apportioned credit for success.

Major General (MG) Kenneth D. Gray, former The Assistant Judge Advocate General of the Army (TAJAG),<sup>7</sup> is one such leader. During an extraordinarily successful Army career, this remarkable Soldier-lawyer was driven by a broad range of personal and organizational values, dedicated to the institutional Army and the quality of Army legal services, and focused on moving Judge Advocates and the Judge Advocate General’s Corps<sup>8</sup> forward—from good to great—with understated but highly effective and principled leadership for individual and institutional success.

---

<sup>4</sup> JIM COLLINS, *GOOD TO GREAT—WHY SOME COMPANIES MAKE THE LEAP . . . AND OTHERS DON’T* 3 (2001).

That good is the enemy of great is not just a business problem. It is a *human* problem. If we have cracked the code on the question of good to great, we should have something of value to any type of organization. Good schools might become great schools. Good newspapers might become great newspapers. Good churches might become great churches. Good government might become great agencies. And good companies might become great companies.

*Id.* at 16.

<sup>5</sup> *Id.* at 20–22.

<sup>6</sup> *Id.* at 21.

<sup>7</sup> The Fiscal Year 2008 National Defense Authorization Act (NDAA), signed 28 January 2008, amended 10 U.S.C. § 3037 by re-designating the title of The Assistant Judge Advocate General to the “Deputy Judge Advocate General.” National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3, 114. For the purposes of this article, the title in effect at the time the officer held the position is the one used.

<sup>8</sup> U.S. Army Judge Advocate General’s Corps. *See generally* <https://www.jagcnet.army.mil/>.

He is perhaps most celebrated as the highest ranking African-American jurist to serve in the U.S. military and the first to serve as a Judge Advocate general officer. But his race, while historically noteworthy, is a remarkably small part of the story. Major General Gray's leadership and service, which continue today in his capacity as the Vice President of Student Affairs for West Virginia University, are simply bigger than that.

This article does not attempt to place a controlling narrative upon MG Gray's life; instead, it is a modest effort to offer the current generation of military and civilian leaders a model for moving themselves, their subordinates, and their organizations forward through value-driven leadership. The biography makes particular note of MG Gray's demonstrated moral compass, recently defined by executive leadership coaches Doug Lennick and Fred Kiel, Ph.D. as:

a set of deeply held beliefs and values—that drives [leaders'] personal and professional lives. They revealed beliefs such as being honest no matter what; standing up for what is right; being responsible and accountable for their actions; caring about the welfare of those who work for them; and owning up to mistakes and failures.<sup>9</sup>

What follows is a lesson of one man's heartfelt journey from rural West Virginia to the highest echelons of America's Army and back, and the character he displayed throughout. It surveys MG Gray's life from Excelsior, West Virginia, and tells the story of his journey from segregated schools, his service in Vietnam, the Pentagon, myriad leadership positions and related military milestones highlighted by his selection and promotion as the first African-American Judge Advocate to serve as a general officer. The concluding section addresses his personal leadership philosophy and principles that are, collectively, a valuable guidepost for just about any professional—military or civilian.

Emphasis is given here to the value-driven approach engrained in MG Gray from childhood, and which helped him flourish as a black military lawyer serving in the post-Vietnam era until his retirement in May 1997 as the second highest ranking Army Judge Advocate. This article provides a chronological perspective on MG Kenneth Gray's personal

---

<sup>9</sup> DOUG LENNICK & FRED KIEL, MORAL INTELLIGENCE—ENHANCING BUSINESS PERFORMANCE AND LEADERSHIP SUCCESS xxxiv (2007).

and professional life, from his childhood in West Virginia coal country through his remarkable career in the U.S. Army Judge Advocate General's Corps.

## II. 1944–1970

### A. Rural West Virginia, 1944–1962

William J. Bennett describes moral education as a process of “rules and precepts—the *dos* and *don'ts* of life with others—as well as explicit instruction, exhortation, and training.”<sup>10</sup> That process, Bennett wrote, “must affirm the central importance of moral example.”<sup>11</sup> For Kenneth Gray, that example started with his family. By observing and absorbing the smallest details of life and community near the West Virginia coal mines, he was able to acquire an interior attitude defined by core values, ideas, and practices.

That experience began in the late 1940s and early 1950s in Excelsior, West Virginia—a small town with “two rows of houses between two roads near a railroad track”—surrounded by a large, close-knit family that lived within easy walking distance of one another.<sup>12</sup> Major General Gray grew up in a generally segregated community while his father worked in the coal mines in nearby Caretta, West Virginia.<sup>13</sup> His father, Raymond Gray, provided the family a solid working-class living as a miner during a period of relative prosperity.<sup>14</sup> His grandfather, Reverend Thomas E. Woody, was the minister of the local Rosebud Baptist Church, which played a significant and active role in the family's life,

---

<sup>10</sup> WILLIAM J. BENNETT, *THE BOOK OF VIRTUES—A TREASURE OF GREAT MORAL STORIES* 11 (1993).

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

<sup>12</sup> Major Jeff A. Bovarnick & Major Charles L. Young, *An Oral History of Kenneth D. Gray, Major General (Retired), United States Army (1966–1977)*, at 2 (Feb. 2001), [hereinafter *Oral History*] (unpublished manuscript, on file with The Judge Advocate General's Legal Center and School (TJAGLCS) 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 TJAGLCS. The oral history of Major General Gray is one of nearly four dozen personal histories on file with the TJAGLCS Library. They are available for viewing through coordination with the School Librarian, Mr. Daniel Lavering. See <http://www.jagcnet.army.mil/tjaglcs>.

<sup>13</sup> *Id.* at 2–3.

<sup>14</sup> Interview with Major General Kenneth D. Gray (Retired), in Morgantown, W. Va. (Feb. 27, 2008) [hereinafter *Gray Interview*] (notes on file with the author).

especially that of Gray's mother, who took him to Missionary Society meetings, chorus practices, and related church activities.<sup>15</sup>

Although MG Gray was an only child, he nevertheless grew up amidst a wealth of family that remains an enduring impression of his childhood—of the presence and influence of aunts, uncles, cousins, his grandmother, and the church.<sup>16</sup> They collectively played an instrumental role in the man he would become, instilling in him all the tools necessary for challenges he would face and overcome.

My family instilled in me that I could be anything I wanted to be, and to never let anything or anyone stop you. They also grew in me the idea that one should never use color as an excuse or for blame . . . you never really know the reason things happen, and you should never jump to conclusions or reasons for something not going well. You are responsible for yourself.<sup>17</sup>

That sense of responsibility was cast in the inescapable atmosphere of segregation that existed in rural West Virginia. While the town of Excelsior itself was not uniformly segregated,<sup>18</sup> the ugly hue of racism was certainly a part of Gray's childhood and included schools and public accommodations such as restaurants and movies. He recalls, for example, the segregated movie theater, where "we always sat up in the balcony, while the white folks sat on the main level."<sup>19</sup>

The family also had its economic struggles. After eighteen years of working in the mines his father, a veteran who had fought in the Philippines and served as a local American Legion Commander, was laid off with little compensation during a down-turn in the industry coinciding with expanded use of machinery and mechanized extraction methods.<sup>20</sup> Like many other families, this changed a crucial dynamic between MG Gray's parents. He recalls:

---

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

<sup>16</sup> *Id.* "We owned our own home, rather than renting from the coal company. Being an only child afforded my parents greater latitude than they may otherwise have had. I never wanted for anything." *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

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

<sup>20</sup> Oral History, *supra* note 12, at 4–5.

So, the roles reversed in my household. My dad stayed home and my mother went back to college and got her degree from Bluefield State College and became a teacher. She really became the breadwinner in the family, and my dad would stay home and do the cooking and take care of the house. That was really tough; it was a tough thing for them and later led to their divorce . . . when I was a sophomore in college.<sup>21</sup>

Finally, it is worth noting that Gray's segregated high school had a record of producing serious students who went on to be successful in life and in post-secondary education. The faculty at Excelsior High School was universally African American, and most had Master's degrees or equivalent higher education. Gray remembers that they were highly qualified teachers who prepared willing students for success in higher education.<sup>22</sup> "They were dedicated professionals, lived in the community where they worked, and genuinely cared for the children."<sup>23</sup>

#### B. West Virginia State College, 1962–1966

There had never been a serious discussion about MG Gray following his father into the coal mines; his parents didn't want it, and neither did he. The Grays' dream for their son was that he would go to college and into a professional career. Accordingly, upon graduation from Excelsior High School in 1962, Gray and seven of his classmates entered the freshman class of West Virginia State College, a historically black college located in Institute, West Virginia.<sup>24</sup>

---

<sup>21</sup> *Id.* at 5.

<sup>22</sup> *Id.* at 7.

<sup>23</sup> Gray Interview, *supra* note 14.

<sup>24</sup> Oral History, *supra* note 12, at 5, 9.

The atmosphere on campus was largely black students and the campus complexion changed in the evening [when] all of the commuter students came and they were mostly white. If you took a count of the number of students, it would have been a predominately white student body, although West Virginia State is one of the historically black colleges.

*Id.* at 9.

The quality faculty at Excelsior inspired its students toward excellence and provided a marvelous basis for further education. That foundation paid great dividends for Gray, and he found undergraduate college to be a tremendous experience. His long relationship with the military began there as a Reserve Officers' Training Corps (ROTC) cadet. He was also active in a variety of organizations, including the Pershing Rifles,<sup>25</sup> Scabbard and Blade,<sup>26</sup> student government (as treasurer of his class), and Kappa Alpha Psi fraternity (as president of the local chapter).<sup>27</sup> During this period the college required all male college freshmen and sophomores to participate in ROTC, beyond which students competed to remain in the program.<sup>28</sup> College was also where he met his future wife, Carolyn Jane Trice. They were married upon his graduation in 1966.<sup>29</sup>

Major General Gray was awarded a Bachelor of Arts degree in Political Science with minors in French and Military Science, and received a split Reserve Component commission in Army Intelligence and Security—the forerunner of the Military Intelligence Branch—and a Regular Army commission in the Signal Corps. He notes in his oral history, however, “I did not request the Signal Corps, and I did not spend

---

<sup>25</sup> Major General Gray was part of a Pershing Rifle Squad that marched in the inaugural parade for President Lyndon Johnson on 20 January 1965. *Id.* at 11–12.

<sup>26</sup> Scabbard and Blade is a joint service honor society emphasizing leadership, community, and enhancing military education at American colleges and universities. *See generally* <http://www.scabbardandblade.org/Search/Search.asp> (last visited Apr. 27, 2008).

<sup>27</sup> Gray Interview, *supra* note 14. Gray feels strongly that the collective effect of this “interaction in college activities facilitated his leadership development.” *Id.*

<sup>28</sup> Oral History, *supra* note 12, at 11–12.

<sup>29</sup> *Id.* at 11, 16.

I met Carolyn during my sophomore year. Although we had seen each other on campus, we did not begin to talk and form a relationship until our second year in college. She worked in the library, and I was required to go to the library every night to study for three hours, and that is where we met. Although talking to her was a violation of the social restrictions imposed by the fraternity, I could talk to the library staff about books and what I needed to complete my studies. You can guess that I needed lots of help with finding books and other items to help me study. We were married in August 1966, the year we graduated from college, and have been together since that time.

*Id.* at 16.

a day in the Signal Corps. I did not have any desire to go into any other branch than the Judge Advocate General's Corps."<sup>30</sup>

C. West Virginia University College of Law, 1966–1969

The interest in law evolved gradually during his years at West Virginia State College, and in 1966 MG Gray learned about the Army's Excess Leave Program<sup>31</sup> that permitted commissioned officers to attend law school at their own expense while deferring their existing active commitment.<sup>32</sup> Officers were generally exempt from most military training during this period and were left to focus on their studies, with only summers or holidays working as an intern in Army legal offices.<sup>33</sup> He chose West Virginia University because the school provided him with in-state tuition, and spent the first year in the dorms while his wife taught school in Cleveland. The second and third year they lived together, but it was not always an easy experience.<sup>34</sup> Gray recalls:

As you know, [the mid-1960s] was a turbulent time in our history for race relations. At the time, Morgantown [West Virginia] was not a very nice place for blacks. We had a difficult time finding a place to live. We would call to rent an apartment and when we would arrive, nothing would be available. I recall one incident in particular. We called to see an apartment that was available for rent. We were told to come right over. As we were walking toward the realtor's office, the shade was pulled down and a "closed" sign was placed in the window. We could still see through a gap in the shade and saw two women inside smoking. We knocked, but they did not answer the door . . . . So, we decided to buy a mobile home, and we were going to park it not too far from where our house is now because we saw a lot of trailer parks in the area. There was a trailer park

---

<sup>30</sup> *Id.* at 14, 28.

<sup>31</sup> The precursor to today's Educational Delay program. *See generally* U.S. DEP'T OF ARMY, REG. 601-25, DELAY IN REPORTING FOR AND EXEMPTION FROM ACTIVE DUTY, INITIAL ACTIVE DUTY FOR TRAINING, AND RESERVE FORCES DUTY (19 Oct. 2006).

<sup>32</sup> Oral History, *supra* note 12, at 15.

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

<sup>34</sup> Gray Interview, *supra* note 14. Gray's wife supported him during his time, and he often remarked that he attended law school on "the Carolyn Gray Scholarship." *Id.*



advertising vacancies next door to the elementary school, and I thought how great this would be because [my wife] could walk to work. The owner of the park refused to rent to us.<sup>35</sup>

In the end, the Grays secured a place to park their mobile home in Morgantown for his second and third year.<sup>36</sup> Fortunately, the experience within the university itself was far more accommodating than the town. Major General Gray describes the law school as his “salvation . . . a wonderful place to be because it embraced us [and] was totally different than what was happening in the community.”<sup>37</sup>

Major General Gray was the only African-American law student in his class, and the only one attending the College of Law during his three years in Morgantown.<sup>38</sup> He was, in that regard, alone without obvious mentors or trailblazers to assist him along the way. But looking back, he was able to turn what could have been a limiting experience into something quite positive, finding it to be “one of the best things that could have happened to me because it gave me an opportunity to exist in an arena that would serve me well later in life.”<sup>39</sup> Gray remembers that:

Several of my friends warned me that I would not succeed if I attended WVU College of Law. In other words, leaving the [mostly black] environment [of West Virginia State College] and going to a totally different environment would be very difficult. But it was just another challenge for me, and I wanted to take it on.<sup>40</sup>

It was an entirely new experience for Gray. He embraced the new manner of instruction and ways of thinking and learning, and overcame much in the transition from undergraduate school. He was successful, “[h]aving spent all three years at the law school as the only black student,”<sup>41</sup> and looked back on the experience with a memorable note for the outstanding professors he had and the life-long friends he made

---

<sup>35</sup> Oral History, *supra* note 12, at 17–18.

<sup>36</sup> *Id.* at 18.

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

<sup>38</sup> *Id.*

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

<sup>40</sup> *Id.* at 19.

<sup>41</sup> *Id.* at 22.

there.<sup>42</sup> When asked about any secrets to his success, Gray easily credits his fellow students and several junior faculty members who reached out to him; he never felt as though he was treated differently than the others.<sup>43</sup> Gray graduated as one of sixty-three students from a starting class of eighty or ninety,<sup>44</sup> and was admitted to practice law in West Virginia, fully expecting to return there to a civilian practice following his Army commitment.<sup>45</sup>

### III. 1969–1978

#### A. Judge Advocate Officer Basic Course, 1969

In the summer of 1969, MG Gray reported to the 52nd Judge Advocate General's Corps Officer Basic Course located on the grounds of the University of Virginia. The program of instruction lasted one month, necessarily truncated by the needs of the war in Vietnam.<sup>46</sup> He was joined by five law school classmates, who served as a de facto network of friends and peers, including John Hatcher, who commuted to and from West Virginia with Gray on the weekends to see family.<sup>47</sup>

Gray recalls that the Basic Course class was comprised of direct commissionees (attorneys with no preexisting military experience or commitment), excess leave officers like himself, and several individuals with prior service.<sup>48</sup> Key instructors included future leaders of the Army JAG Corps,<sup>49</sup> among them Major (MAJ) Hugh R. Overholt,<sup>50</sup> who taught

---

<sup>42</sup> *Id.* 20–23.

<sup>43</sup> Gray Interview, *supra* note 14. Faculty members who “embraced” Gray included John Fisher, Robert King, Willard Lawrenson, and Thomas Cady. *Id.*

<sup>44</sup> Oral History, *supra* note 12, at 23.

<sup>45</sup> *Id.* at 22, 24. “[Carolyn] was expecting four and a half years in and probably returning to Charleston—to return to West Virginia where our family roots were, to live, to work and to raise a family. That is what she expected.” *Id.*

<sup>46</sup> *Id.* at 24.

<sup>47</sup> Gray Interview, *supra* note 14.

<sup>48</sup> Oral History, *supra* note 12, at 26.

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

<sup>50</sup> Major General (Retired) Hugh R. Overholt (1957–1989), The Judge Advocate General of the Army (TJAG) (1985–1989). See generally George R. Smawley, *Shoeshine Boy to Major General: A Summary and Analysis of An Oral History of Major General Hugh R. Overholt, United States Army (Retired) 1957–1989*, 176 MIL. L. REV. 309 (2003).

in the Criminal Law Department, and MAJ William K. Suter,<sup>51</sup> who taught on the Administrative and Civil Law Faculty. Of his fellow officers, Gray observed:

A lot of officers came into the JAG Corps to avoid the draft and Vietnam. Most had no desire to remain in the military; they were just biding their time. But I never sensed they weren't committed lawyers. They simply reflected the Army we had at the time.<sup>52</sup>

The Basic Course in 1969 was a hurried affair compared to the more than twelve weeks of intense academic and professional military education and program of instruction currently required by the U.S. Army Judge Advocate General's Legal Center and School. Vietnam and the new demands of the 1969 *Manual for Courts-Martial (MCM)* dictated that the Army educate and train as many Judge Advocates as it could, as quickly as it could.

#### B. Fort Ord, California, 1969–1970

At the turn of the decade most of MG Gray's Basic Course classmates volunteered for, or otherwise ended up, deployed to the war in Vietnam. In his case, Gray was assigned to Fort Ord, California,<sup>53</sup> which he recollects was "a popular assignment for returnees from Vietnam. As a result, we had to make room for them, and a lot of us from Fort Ord got shipped to Vietnam."<sup>54</sup> He was not deployed, at least not initially; he and his family enjoyed relative stability for approximately eight months from September 1969 to the spring of 1970.

During this assignment he was a military criminal defense attorney. Today, that is an unusual first step for a young Judge Advocate where experience in other developmental positions is generally considered an important prerequisite for military prosecutors and defense counsel. But not in 1969. He recalls:

---

<sup>51</sup> Major General (Retired) William K. Suter (1958–1991), The Acting The Judge Advocate General of the Army (ATJAG) (1989–1992). Major General Suter currently serves as the Clerk of the Supreme Court of the United States.

<sup>52</sup> Gray Interview, *supra* note 14.

<sup>53</sup> Oral History, *supra* note 12, at 27, 29–34.

<sup>54</sup> *Id.* at 27.

You got either legal assistance or defense. I really enjoyed defense work. It was overwhelming. I probably had a caseload of eighty cases just myself. Most were AWOL cases and some desertion cases . . . I spent every night, except Saturday night, at the stockade interviewing clients.<sup>55</sup>

An important change in military justice took effect during this time in the recently enacted changes to the *MCM*, and the accordant establishment of an institutionalized trial judiciary. The Military Justice Act of 1968<sup>56</sup> required dramatic changes in military justice procedure that moved the system in the direction of its civilian counterpart, particularly for special courts-martial empowered to confine a Soldier for up to six months. Previously, special courts-martial were often presided over by “law officers”—line officers with little if any legal training.<sup>57</sup> Nor, for that matter, were prosecutors or defense counsel for special-courts required to be licensed attorneys. For special courts-martial, officers were generally temporarily detailed with Judge Advocates serving only an advisory capacity. The 1968 Act changed that, and increased the need for qualified (licensed) counsel throughout the military services.<sup>58</sup>

---

<sup>55</sup> *Id.* at 30.

<sup>56</sup> Military Justice Act of 1968, Pub. L. No. 90-632, 82 Stat. 1335 (1968).

<sup>57</sup> Oral History, *supra* note 12, at 30–31.

<sup>58</sup> WILLIAM THOMAS ALLISON, *MILITARY JUSTICE IN VIETNAM—THE RULE OF LAW IN AN AMERICAN WAR 18–20* (2007) (citing Sam Ervin Jr., *The Military Justice Act of 1968*, 45 *MIL L REV.* 77, 79 (1969)). Allison summarizes the Military Justice Act of 1968 as follows:

For special courts-martial, qualified legal counsel was required to represent the accused when a bad conduct discharge was involved; for all other special courts-martial, the accused had to be represented by a lawyer unless impractical because of military conditions. The act created an independent judiciary for each of the armed services. These judges would not be under line command and thus avoided command influence. They would also have powers and functions in trial similar to those of federal judge and could now rule on pretrial motions as well as on points of law. The old law officer concept disappeared. Under the act, the accused now had the right to request trial by a military judge instead of a full court and could also object to trial by summary courts-martial for trial in a higher court. The appellate boards of review became more formal-sounding courts of military review staffed by independent judges.

*Id.* at 20.

Major General Gray's firsthand experience with Soldiers was of a conscription Army at war. "The war was being fought by draftees. By people who were forced to go to Vietnam . . . who really did not want to go, and that is why they deserted and went AWOL in the numbers that they did. They just did not want to be part of the military."<sup>59</sup> He found that most of his clients were unconcerned about the characterization of their service upon separation from the Army, despite the adverse consequences of a less than honorable discharge.<sup>60</sup> They simply wanted out.

As one of the few African-American Army Judge Advocates on active duty, Gray's race was a non-issue as a Trial Defense Attorney despite many of the racial tensions prevalent elsewhere in the country at the time. He recalls that Soldiers "[c]ould request lawyers because they had heard about a person and I was probably requested just as much as any other lawyer. [But] I *do not* recall any case where someone did not want me because of my race."<sup>61</sup> Alternatively, he acknowledges that certain clients may have requested him because "[t]hey felt they could relate better . . . [that] I could understand where they were coming from."<sup>62</sup> What is important, however, is that MG Gray never experienced any disparate treatment or impediments to his military practice because of his race. He recalls:

All of us were in the same boat in terms of working hard to get the job done. I don't recall any episode at Fort Ord where my race was a factor. I do know that when we represented clients, especially black Soldiers, there was a tendency for them to want a black lawyer. But, as time went by, they knew the individuals to request, especially if you won a lot of cases. It didn't matter what your race was, they just wanted that particular lawyer to represent them at trial if it was [particularly difficult].<sup>63</sup>

The spring of 1970 was, overall, a fruitful time for the Grays. Life was good along the California coast and he enjoyed his robust military

---

<sup>59</sup> Oral History, *supra* note 12, at 32.

<sup>60</sup> *Id.* at 33.

<sup>61</sup> *Id.* at 34 (emphasis added).

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

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

practice; his wife had just been hired as a teacher at one of the elementary schools on Fort Ord.<sup>64</sup> But after only about seven months he received orders to attend the military judges' course in preparation for his next assignment. By August 1970, he was in Da Nang, Vietnam.<sup>65</sup>

### C. Vietnam, 1970–1971

Following receipt of his orders for Vietnam, MG and Mrs. Gray moved their household back to Charleston, West Virginia, where she lived with family, taught school, and furthered her own education while he prepared for the deployment.<sup>66</sup> Major General Gray was specifically identified for deployment to augment a shortage of military judges.<sup>67</sup> “They did not have enough judges in Vietnam. Most of the judges were located in USARV [United States Army Republic of Vietnam] headquarters, and they would travel around and try cases . . . . The idea was to have some part-time judges . . . to help out and try some special courts.”<sup>68</sup>

The help was needed. Historian William T. Allison, citing records of the Army Staff, U.S. National Archives and Records Administration, provides a narrow overview of military justice activity during this period that suggests an extraordinary demand for personnel and resources. For calendar years 1970 and 1971, Allison notes a total of 650 general

---

<sup>64</sup> *Id.* at 35–36.

<sup>65</sup> *Id.* at 35.

<sup>66</sup> *Id.* at 36.

<sup>67</sup> *Id.* at 37; *see also* ALLISON, *supra* note 58, at 69:

One of the more constant problems plaguing military justice organization in Vietnam was that there barely seemed to be enough judge advocates to handle massive caseloads. An MACV military judges' conference on the Military Justice Act of 1968 in May 1969 requested an additional seventy judge advocates at the rank of captain and seven military judges in response to the changes brought by the 1968 Act and the new *Manual for Courts-Martial*. The new requirement that special courts-martial be presided over by a judge and that the accused in special courts-martial had the right to qualified counsel required more legal personnel in Vietnam.

<sup>68</sup> Oral History, *supra* note 12, at 37.

courts-martial; 8642 special courts-martial; 434 summary courts-martial; and no fewer than 106,368 non-judicial actions.<sup>69</sup>

Major General Gray arrived in Vietnam in August, 1970, and after a few days spent at USARV headquarters was ordered to the 1st Logistics Command at Da Nang, later called the Da Nang Support Command, where he served as the Command Judge Advocate.<sup>70</sup> His training as a military judge prepared him to support the judiciary, as needed. But his principle role was to supervise the delivery of full-spectrum legal services not unlike the legal services provided by contemporary Brigade and Command Judge Advocates in Iraq, Afghanistan, and elsewhere. Allison, summarizing the role Judge Advocates played in the Vietnam experience, concludes “that U.S. military legal affairs in Vietnam had uneven success. Military justice may not have completely achieved its primary purpose, but the *practice* of military justice in this unique conflict proved adaptable and successful.”<sup>71</sup> Gray remembers:

We did most things. We had legal assistance, trial and defense counsel, and legal clerks. It was a thriving JAG office. We had offices at Phu Bai that were manned by non-JAGs, but they were lawyers. We had at least two or three non-JAG lawyers at Phu Bai. Most of the lawyers at the DaNang Support Command were JAG officers, but we had a couple that [were not]. That was big in those days. There were lawyers that were in the Army as officers, they were not in the JAG Corps, but they did legal work, and [were] assigned to the JAG office.<sup>72</sup>

---

<sup>69</sup> ALLISON, *supra* note 58, at 71 (citing U.S. Army Disciplinary Actions, Republic of Vietnam, Box 3, Vietnam Monograph, Record Group 319, Records of the Army Staff, United States National Archives and Records Administration, College Park, Maryland).

<sup>70</sup> Oral History, *supra* note 12, at 38, 43.

<sup>71</sup> ALLISON, *supra* note 58, at xi.

<sup>72</sup> Oral History, *supra* note 12, at 39. *See generally* ALLISON, *supra* note 58, at 1–49, 67–89; MAJOR GENERAL GEORGE S. PRUGH, VIETNAM STUDIES, LAW AT WAR: VIETNAM 1964–1973 (1974), available at <http://www.army.mil/cmh-pg/books/vietnam/law-war/law-fm.htm>; FREDERIC L. BORCH, JUDGE ADVOCATES IN COMBAT: ARMY LAWYERS IN MILITARY OPERATIONS FROM VIETNAM TO HAITI (2001); George R. Smawley, *The Past as Prologue: Major General George S. Prugh, Jr. (Ret.) (1942–1975)—Witness to Insurgent War, The Law of War, and the Expanded Role of Judge Advocates in Military Operations*, 187 MIL. L. REV. 96, 125–43 (2006).

It is worth noting that Gray does not remember meeting any other black Judge Advocates in Da Nang, or elsewhere in Vietnam. He observes that, “having been the only black at law school helped me overcome any sense of awareness about being the only black officer or Judge Advocate in a unit.”<sup>73</sup> Vietnam, like law school, served to reinforce his personal sense of singularity that might have been an issue, but was not. “I was there to do a job, like everyone else, all of us working very hard under very trying circumstances.”<sup>74</sup>

The Da Nang office received its technical supervision from a Judge Advocate lieutenant colonel located in Quinon.<sup>75</sup> The General Court-Martial Convening Authority resided with the 24th Corps, and was situated locally in Da Nang.<sup>76</sup> Among MG Gray’s most vivid professional memories of his time there involved an attempted murder case where he served as defense counsel.

[T]he accused was charged with placing a fragmentation grenade under his commander’s hooch [living quarters] . . . The one thing that was reinforced to me was that you had to get out and visit the scene. The defense team actually visited the area where the unit was located and interviewed all the witnesses, looked at the commander’s hooch, walked the distances . . . We found a weapons expert whose testimony could come close to exonerating the accused, or at least shed some reasonable doubt as to whether the accused actually committed the offense.<sup>77</sup>

By contrast, Gray recalls that the prosecutor in the case “did not like to travel, and he would have all of the witnesses report to him in Da Nang or he would interview them over the phone.”<sup>78</sup> That officer’s failure to appreciate the importance of understanding all the facts of a case and to know the nexus between allegations and evidence led to an acquittal by MG Gray and his defense team.<sup>79</sup> The lesson, clearly, was

---

<sup>73</sup> Gray Interview, *supra* note 14.

<sup>74</sup> *Id.* Gray recalls that his greatest leadership challenge at Da Nang was building a team from a team of personnel new to the office. He also recollects “easy camaraderie among Judge Advocates, and with other special staff including the dentists, doctors, etc.” *Id.*

<sup>75</sup> Oral History, *supra* note 12, at 39.

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

<sup>77</sup> *Id.* at 40.

<sup>78</sup> *Id.* at 41.

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



that despite the obvious perils of traveling within Vietnam during the war, Judge Advocates had a professional—perhaps even moral—obligation to represent clients and the Government with the same rigor and dedication expected in less hostile environments.

The broad scope and character of Army legal services may have been a factor in the reluctance of some Judge Advocates to lean forward in their military practice, as it took them closer to the war. Key changes in the role of Army lawyers began with the 31 May 1951 implementation of the Uniform Code of Military Justice, integrating them more than ever into military discipline and displacing the wide latitude previously exercised by commanders since the Second Continental Congress established the sixty-nine Articles of War in 1775. The 1968 expansion of military lawyers into the process, and thereby into military units, only served to further secure their role forward into military “battle space.”<sup>80</sup>

During Vietnam, the expanded requirements for Judge Advocates were often filled by lawyers looking to avoid the draft and any possibility of assignment as a combat arms officer.<sup>81</sup> Major General Gray observed, “[w]e had a lot of JAG officers who were in the JAG Corps because they did not want to be in the infantry as an enlisted man or in another branch as an officer not practicing law. They did not want to be drafted, so they came into the JAG Corps.”<sup>82</sup> The downside of this, of course, was that avoidance of austere and often dangerous conditions was sometimes at odds with rigorous criminal defense work.

It was a reminder that Judge Advocates were indeed Soldier-lawyers, a term and description coined decades later by the generation of Judge Advocate leaders who had hardened their irons in the fire of the Vietnam

---

<sup>80</sup> For detailed histories on the development of the military justice system, see generally THE ARMY LAWYER: A HISTORY OF THE JUDGE ADVOCATE GENERAL'S CORPS, 1775–1975, at 71–234 (1975); EUGENE R. FIDELL & DWIGHT H. SULLIVAN, EVOLVING MILITARY JUSTICE (2002) (providing an anthology of articles related to military justice published on the 50th anniversary of the passage of the Uniform Code of Military Justice, 1952); ALLISON, *supra* note 58, at 1–20; WILLIAM T. GENEROUS, JR., SWORDS AND SCALES: THE DEVELOPMENT OF THE UNIFORM CODE OF MILITARY JUSTICE (1973); George S. Prugh, Jr., *Observations on the Uniform Code of Military Justice: 1954 and 2000*, 165 MIL L. REV. 21, 37 (2000); JONATHAN LURIE, THE U.S. COURT OF APPEALS FOR THE ARMED FORCES, 1775–1980 (2001); DANIEL WALKER, MILITARY LAW (1954); JAMES SNEDEKER, MILITARY JUSTICE UNDER THE UNIFORM CODE (1953).

<sup>81</sup> Oral History, *supra* note 12, at 45.

<sup>82</sup> *Id.* “They had no intention of making it a career; they were just there because it kept them from becoming a ‘grunt’ or kept them from being some other place.” *Id.*

conflict. That standard is no less true today, where government and defense counsel, paralegals, and legal administrators actively travel across great expanses of terrain in pursuit of facts, and of justice—from Bagram to Kandahar and Jalalabad; from Baghdad to Mosul, Fallujah, Samarra, and many points in between. As of this writing, the Army Judge Advocate General's Corps has suffered the loss of six killed in Operations Iraqi Freedom and Enduring Freedom, and has honored twenty-six recipients of the Purple Heart for injuries incurred during combat operations.<sup>83</sup>

In August 1971, MG Gray returned home from Vietnam to his family in West Virginia, an experience he recalls as “almost a non-event.”<sup>84</sup> There was no welcome home ceremony or public recognition of his combat service; no “bands playing or people waiving at us as we came back.”<sup>85</sup> From this Gray observed a simple, undeniable lesson about warfare and the American conflict in Vietnam: “It was a war that was not supported by the American people.”<sup>86</sup> He took that somewhat bitter experience, of lives lost and enormous sacrifices made with little empathy by those at home, and developed his own sense of what leaders need to do in times of war.

It taught me a lesson, and I think it taught most future leaders a lesson that you do not go into any conflict if you do not have the support of the American people. I think we saw that with General Powell as they prepared for Desert Shield and Desert Storm that he wanted to ensure the support was there. Vietnam was the first war . . . brought home to the American people on television as they sat down to eat dinner through the reports on the nightly news. The cameramen were on the ground with

---

<sup>83</sup> Interview with Command Sergeant Major Michael Glaze, Senior Paralegal Noncommissioned Officer of the Army Judge Advocate General's Corps, in Washington, D.C. (Apr. 25, 2008). The military attorney, legal administrator, and paralegal noncommissioned officers killed in combat zones are: Major Michael Martinez (Tal Afar, Iraq), Chief Warrant Officer Five Sharon T. Swartworth (Tikrit, Iraq), Sergeant Major Cornell W. Gilmore (Tikrit, Iraq), Sergeant Michael M. Merila (Tal Afar, Iraq), Corporal Coty J. Phelps (Iskandariyah, Iraq), and Corporal Sascha Struble (Ghazni, Afghanistan).

<sup>84</sup> Oral History, *supra* note 12, at 41. “My wife met me at the airport, we drove home, and that was about it.” *Id.*

<sup>85</sup> *Id.*

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

the combat units with a view of what was happening . . . .  
[I]t was a difficult war to win in a difficult place.<sup>87</sup>

Those difficulties manifested themselves in many ways, and certainly transcended the conflict with the enemy. In garrison, idle Soldiers stewed in fatigue and stress, sometimes projecting their frustrations at their own leaders.<sup>88</sup> Incidents of “fragging”—the crime of exploding a fragmentary grenade underneath a commanders “hooch”—and cases of Soldiers shooting noncommissioned officers, were not uncommon.<sup>89</sup> Major General Gray attributes some of this extraordinary and violent misconduct to the conditions on the ground. “Vietnam was very intense, especially in the field. Sometimes, [Soldiers] would be assigned to attack an objective and once they captured it were told to give up the ground the very next day. Sometimes a lot of things that went on did not make sense. It was a difficult time. It was a very unpopular war.”<sup>90</sup>

While the war did not compromise his personal resolve for military service, the lasting take-away for MG Gray was that winning the war at home was integral to winning the war overseas. He recalls:

What it did for me was to make it clear that we should never go into a conflict or war without the support of the American people. . . . There was no fanfare when I returned from Vietnam. There were no parades, no welcome home signs, or any other visible sign recognizing that we had served our country. I said [then that] we should never fight a war without the support of the American people, and Vietnam was one of those where we did not have the support.<sup>91</sup>

#### D. Pentagon, 1972–1974

When he returned from Vietnam in August 1971, MG Gray and his wife planned to close the military chapter of his career and transition to

---

<sup>87</sup> *Id.* at 41–42.

<sup>88</sup> *Id.* at 42.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* 42–43.

<sup>91</sup> *Id.* at 43.

civilian practice.<sup>92</sup> At his request, he was reassigned in the Mid-Atlantic region to Fort Meade, Maryland, where he worked as a military administrative law attorney. His recollection of his brief stay there was uniformly positive both for the location between Baltimore and Washington, and for some of the military law practiced, including some of the My Lai cases.<sup>93</sup>

By January 1972, MG Gray was reassigned to the Office of The Judge Advocate General, Personnel, Plans and Training Office (PP&TO), located in the Pentagon. This office managed most personnel issues for the Army Judge Advocate General's Corps including assignments, personnel policy, and manpower structure. The Army leadership at the time recognized growing dissatisfaction among some African-American Soldiers with pending criminal or adverse administrative actions due to the paucity of black Judge Advocates to represent them.<sup>94</sup> It was Gray's view that the problem was not that Soldiers believed that white defense counsel weren't competent or committed to their clients,<sup>95</sup> but that "[the African-American Soldiers] could not relate to the officers, or at least they felt in their minds they would be better represented by someone of their own race."<sup>96</sup>

In response, the Department of Defense looked for initiatives that would increase minority representation within the military legal services.<sup>97</sup> Major General Gray, still a relatively junior officer, was hand-selected to spearhead the program initiatives for the Army. He recalls, "We had about 1600 lawyers at the time, and we only had about sixteen or seventeen black lawyers, and so that is why I was brought in to

---

<sup>92</sup> *Id.* at 47.

<sup>93</sup> *Id.* at 50. See generally MICHAEL R. BELKNAP, *THE VIETNAM WAR ON TRIAL: THE MY LAI MASSACRE AND THE COURT-MARTIAL OF LIEUTENANT CALLEY* (2002); JOSEPH GOLDSTEIN, BURKE MARSHALL, & JACK SCHWARTZ, *THE MY LAI MASSACRE AND ITS COVER-UP: BEYOND THE REACH OF LAW? THE PEERS REPORT WITH A SUPPLEMENT AND INTRODUCTORY ESSAY ON THE LIMITS OF LAW* (1976); Doug Linder, Univ. of Missouri-Kansas City, *An Account of the My Lai Courts Martial*, available at <http://www.law.umkc.edu/faculty/projects/ftrials/mylai/mylai.htm> (last visited Apr. 24, 2008).

<sup>94</sup> Oral History, *supra* note 12, at 51.

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

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

<sup>97</sup> ALLISON, *supra* note 58, at 170–71 (citing U.S. DEP'T OF DEFENSE, REPORT OF THE TASK FORCE ON THE ADMINISTRATION OF MILITARY JUSTICE IN THE ARMED FORCES 2:81–82 (1972)).

recruit more black lawyers for the JAG Corps.”<sup>98</sup> His principal duty during this assignment, which lasted until May 1974, was to develop and implement the Army JAG Corps minority recruiting program and find ways to expand the role and recruitment of women.<sup>99</sup> The program he ultimately advanced had five principal objectives:

1. Visit all law schools with large black or minority enrollment. Gray personally traveled to these schools, and others, interviewing students and advocating on behalf of the Army JAG Corps.<sup>100</sup>
2. Establish a JAG Corps-paid summer internship program for one hundred first year and second year law students (fifty of each), and place them within JAG offices worldwide to expose them to the people and practice of Army legal services.<sup>101</sup>
3. Enlist the support and cooperation of the National Bar Association (NBA) in recruiting black attorneys into the JAGC.<sup>102</sup> The NBA is a professional organization for African-American lawyers, organized in Des Moines, Iowa on 1 August 1925.<sup>103</sup>
4. Leverage the professional and community outreach potential of reserve component Judge Advocates to identify and recruit black attorneys into the Army.<sup>104</sup>
5. Develop, fund, and execute a professional national media effort targeting minority and female lawyers and law students.<sup>105</sup>

---

<sup>98</sup> *Id.*; Oral History, *supra* note 12, at 51.

<sup>99</sup> Oral History, *supra* note 12, at 51. It is worth noting that PP&TO at the time was populated by future leaders of the JAGC, including MG Hugh Overholt, The Judge Advocate General (1984–1988), and MG William Suter, Acting The Judge Advocate General (1989–91).

<sup>100</sup> *Id.* at 52.

<sup>101</sup> *Id.* at 53.

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

<sup>103</sup> The National Bar Association, <http://www.nationalbar.org/about/#history> (last visited Apr. 24, 2008).

<sup>104</sup> Oral History, *supra* note 12, at 53.

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

In all, the initiative to broaden the minority and female composition of the Army JAG Corps was well-received, but not without challenges. Gray recalls that “[i]t was tough to convince [minority law students] that it was a good life and something they would enjoy doing.”<sup>106</sup> He personally traveled throughout the country to law schools, minority law conferences, and job fairs, and encouraged young attorneys to consider the enormous value of military service and the professional opportunities resident in Army legal practice.

True to the words of European Unity architect Jean Monnet, who once wrote that “individuals make things happen, but for those things to survive institutions are required,”<sup>107</sup> the Army JAG Corps continues to actively resource the minority recruiting initiatives begun by Gray nearly thirty years after they began. The fruits of this initiative have been rich indeed. At the end of fiscal year 2007, the Army JAG Corps had 241 minority officers (15%) and 414 women (25%).

Among minorities, 121 are African American (7%), forty-five Hispanic (3%), and seventy-five are Asians and Native American (5%).<sup>108</sup> African Americans include half a dozen senior leaders serving in the rank of colonel, among them Colonel Robert Burrell, Dean of The Judge Advocate General’s School; Colonel Musetta “Tia” Johnson, assigned to the Office of the General Counsel for the Department of Defense (and the first female Army African-American Judge Advocate colonel); and Colonel Gregory Coe, Staff Judge Advocate (SJA) for Fort Jackson, South Carolina.<sup>109</sup>

A particular lesson for MG Gray, one he would take with him, was the peculiar dynamic by which policy programs are developed at the Pentagon and within the Army. In the case of the internship program, for example, which he personally conceived and developed, he recalls:

The thing that surprised me about being in the Pentagon was that it wasn’t the person sitting in the big office that really made decisions. The power within the Pentagon

---

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

<sup>107</sup> ALISTER MCGRATH, *CHRISTIANITY’S DANGEROUS IDEA—THE PROTESTANT REVOLUTION* 277 (2007).

<sup>108</sup> ANNUAL REPORT OF THE CODE COMMITTEE ON MILITARY JUSTICE FOR THE PERIOD OCTOBER 1, 2006 TO SEPTEMBER 30, 2007, at 20 (2008).

<sup>109</sup> U.S. DEP’T OF ARMY, OFFICE OF THE JUDGE ADVOCATE GENERAL, JAG PUB. 1-1, JAGC PERSONNEL AND ACTIVITY DIRECTORY AND PERSONNEL POLICIES (2007).

were the guys sitting back in the rooms in a little cubicle, maybe no more space than a desk and a chair, who really had the power of the pen [to] sign off on programs to get them started . . . . I remember walking the halls of the Pentagon and getting people to sign off on various aspects of [the internship program], and then we brought in that first class [in 1974].<sup>110</sup>

The Summer Intern Program was designed to be selective, and required applicants to submit applications that were reviewed by a board that made recommendations based on merit and demonstrated potential for military service. There were no specific targets for minorities, although they were clearly a focus of the program.

We did not have any quotas *per se*, but we did want to get [minorities] involved in the program so they could see what [the Army JAG Corps] was like. If you go back and look at it historically, I don't think anyone was excluded or discriminated against; everyone had an opportunity to participate. We got some, and we didn't get some. [T]he program has been highly successful over the years [for recruiting] because [participants] get a chance to do some real work [in an Army law office].<sup>111</sup>

For both the internships and the greater minority recruiting program, the target audience for Gray were those "individuals willing to serve

---

<sup>110</sup> Oral History, *supra* note 12, at 54.

<sup>111</sup> *Id.* at 61. Major General Gray believed strongly that what the Army JAG Corps needed was a mix of motivated young officers with varied backgrounds, both black and white, military and non-military:

My view is that a good blend is the right way to go because officers with varied backgrounds have something to contribute to the Corps. Officers with prior experience obviously have a slight advantage because of their experience and knowledge of the Army—especially those entering from line units and their familiarity with how they function. It is still important for the Corps to have a combination of prior experienced officers and those who come in directly from law school. That will provide different perspectives on the practice of law and their approach to resolv[ing] issues.

their country [and who] really wanted to be in the JAG Corps.”<sup>112</sup> The aim was to identify and reach out to civic-minded lawyers and law students with the desire and ability to assume immediate responsibility for casework and clients, with special emphasis on targeting those with a clear interest in the military.<sup>113</sup> A central pitch, which continues in varying degrees to this day, is the special opportunity that young Judge Advocates have to rapidly immerse themselves in the practice of law rather than spend time supporting senior attorneys in a law firm or corporate setting. “In the JAG Corps, we [get] thrown in right away and do real legal work right off the bat. . . . A lot of these law students wanted to get in and do trial work. They wanted to get into the courtroom, and we could offer that.”<sup>114</sup>

But despite the opportunities offered by the Army JAG Corps, not all universities were willing to grant the military access to their campuses. The reasons varied, but in most cases these universities cited the federal government’s policy on homosexuals in the military, or general objections to military service. Indeed, MG Gray’s alma mater, West Virginia University, barred Judge Advocate recruiters—including Gray.<sup>115</sup> The question of military recruiter access was largely resolved decades later in the 2006 U.S. Supreme Court decision in *Rumsfeld v. Forum for Academic Institutional Rights (FAIR)*,<sup>116</sup> in which a unanimous Court upheld the 1994 Solomon Act allowing federal agencies to limit grants to universities that barred military recruiters.<sup>117</sup>

Finally, it is worth noting that the remarkable experience MG Gray had at the Pentagon—developing a wide-ranging and successful minority recruiting program and working at an institutionally “strategic” level with and for the leaders of the JAG Corps—had the collateral benefit of enfranchising Gray in the Army. “If I had gone to Hawaii, for example, out of Vietnam, instead of going back to Fort Meade, none of this would have happened for me. . . . The assignment at PP&TO and the knowledge, understanding, and the experience were the main reasons I

---

<sup>112</sup> *Id.* at 58.

<sup>113</sup> *Id.*

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

<sup>115</sup> *Id.* at 59. In the case of West Virginia University, he later took personal action to open the doors to young law students, recalling that “[o]ne of the things I talked to the dean about when I got to be on the [university’s] Visiting Committee was changing that policy. They promised me they would and they did.” *Id.*

<sup>116</sup> *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47 (2006).

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



decided to stay in the Army.”<sup>118</sup> It also influenced the way he thought of the relationship between officers and the military.

That first assignment at PP&TO gave me a different perspective. My philosophy was that the JAG Corps really does not owe you anything. *You cannot go along believing that you are owed something from the JAG Corps because that is just not the case at all. You are a master of your own fate.* You have to do the jobs well to put yourself in the position to be considered for a particular assignment as you compete with other people for particular jobs.<sup>119</sup>

But the PP&TO experience was only part of it. The Army has always been about growing and developing people, and the remarkable collection of JAG Corps mentors Gray found at PP&TO and elsewhere was the reason he ultimately decided to remain on active duty.<sup>120</sup> He recalls: “[At PP&TO] I had Hugh Overholt [and] Del O’Roark.<sup>121</sup> I had Bill Suter who always used to tell me that he was giving me opportunities to fail . . . [l]ike the Summer Intern Program—an opportunity to fail. It was a running joke with us. General Larry Williams was in the Pentagon as a one-star. These were mentors for me.”<sup>122</sup> They made the difference for Gray at a crucial decision point in his life and career, demonstrating the significant personal and institutional relevance of leaders who take the time to identify and invest themselves in subordinates. The dividends of that personal investment were tremendous.

E. Judge Advocate Officer Advanced Course and assignment to the Faculty of The Judge Advocate General’s School, 1974–1978

Having made the decision to remain on active duty, in August 1974 MG Gray entered the 23rd Judge Advocate Advanced Course at The Judge Advocate General’s School, Charlottesville. There were thirty-

---

<sup>118</sup> Oral History, *supra* note 12, at 57.

<sup>119</sup> *Id.* at 78 (emphasis added).

<sup>120</sup> *Id.* at 57.

<sup>121</sup> Brigadier General (Retired) Dulaney Lee “Del” O’Roark, Jr. (1961–1989), Judge Advocate, United States Army Europe and Seventh Army, Germany (1987–1989).

<sup>122</sup> Oral History, *supra* note 12, at 57.

seven officers in the class, including nominal representation by the Navy, Marine Corps, and a Japanese military legal services officer.<sup>123</sup> Gray was the only black officer; there were no women.<sup>124</sup> The year-long course is designed for “career” officers to prepare them for advanced positions of leadership and responsibility.<sup>125</sup> The school currently issues a congressionally-authorized Masters of Law (LL.M.) in Military Law, and conducts extensive continuing legal education programs accredited by the American Bar Association.<sup>126</sup>

The academic atmosphere of the Judge Advocate General’s School suited Gray so much that he sought and received a follow-on position on the faculty in the School’s Criminal Law Department. His portfolio there included courses in military criminal procedure, non-judicial punishment, pre-trial agreements, and extraordinary writs, and participation in a host of seminars and moot courts.<sup>127</sup> Gray found the new role of law instructor a struggle at first; he later recalled that despite a week of podium and instructor training at Fort Monmouth,

[t]he challenge for me was just improving my skills as an instructor because I was not very good, in my own estimation, during the first [Judge Advocate Officers]

---

<sup>123</sup> *Id.* at 62.

<sup>124</sup> Correspondence with Major Michael S. Devine, Assistant Dean, Academics & Training, The Judge Advocate General’s School, Charlottesville, Va. (Dec. 10, 2007) (on file with author).

<sup>125</sup> Oral History, *supra* note 12, at 64.

A lot of emphasis there was on preparing us to go out and be good managers in [a Staff Judge Advocate] office . . . . There was a good balance. We had international law, contract law, and all those things to really prepare us and expand our backgrounds to meet the challenges of the field.

*Id.*

<sup>126</sup> 10 U.S.C. § 4315 (2000).

Under regulations prescribed by the Secretary of the Army, the Commandant of the Judge Advocate General’s School of the Army may, upon recommendation by the faculty of such school, confer the degree of master of laws (LL.M.) in military law upon graduates of the school who have fulfilled the requirements for that degree.

For more on The Judge Advocate General’s Legal Center and School, see <https://www.jagcnet.army.mil/TJAGLCS>.

<sup>127</sup> Oral History, *supra* note 12, at 71.

Basic Course I taught. Everyone has a learning curve when they first start to teach at the JAG School. Most officers were able to adapt to it, but it took me that first Basic Course to adapt to it. Another challenge is that you have to have a thick skin because the students do not hesitate to criticize you on the critiques when you don't do a good job and you deserve to be criticized. You have to take those and learn from them and try to correct anything that you need to improve on. You have to read them critically and not take them too personally.<sup>128</sup>

In typical fashion, Gray identified his perceived shortcomings and worked to overcome them. The following year he was elevated to "senior instructor" status, responsible for teaching criminal procedure.<sup>129</sup>

Like so many other young military attorneys, at the end of his three-year assignment to the school Gray again found himself at the decision point of whether to remain on active duty or seek opportunities elsewhere; he was not alone. The decision to remain on active duty can be complex, and naturally competes with a host of interests and concerns—personal and professional.

In MG Gray's mind, there are two key considerations for young military officers. The first is that the decision of whether to stay or go should be theirs, not someone else's. "The one thing I would say to [young officers] right from the beginning is that they have to put themselves in a position so that they can make the decision. . . . You have to do all the things you need to do in the JAG Corps to make yourself competitive for promotion . . . so that when the time comes it is your decision to make."<sup>130</sup> Gray also urged young officers to thoughtfully assess their family situation.<sup>131</sup> "What are their desires? You have to make sure you have their support because if you don't . . . and they are not happy, it is going to be a very difficult time."<sup>132</sup>

I had an offer from the U.S. Attorney in Charleston, West Virginia, to be a part of that office [and] I . . . was

---

<sup>128</sup> *Id.* at 72.

<sup>129</sup> *Id.* About this time, Gray was also promoted to the rank of major—12 December 1976.

<sup>130</sup> *Id.* at 76–77.

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

<sup>132</sup> *Id.*

poised to actually take the job when I was told that my assignment in Europe would either be a military judge or the [Deputy Staff Judge Advocate] at 1st Armored Division. . . . I decided to take the deputy job and the rest is history—that was the decision that caused me to stay in the Army for a career.<sup>133</sup>

Gray remembers that he and his wife worked through the decision together and that there was an “excitement” to the prospect of going to Europe as opposed to the “permanency” of returning to West Virginia.<sup>134</sup> “Could I have been successful? I believe I could have been very successful. . . . [But] you have to weigh what you really want to do and what you really want out of life . . . [Y]ou have to put yourself in a position to really feel that you could be successful anywhere you choose. You have to have control of that decision.”<sup>135</sup>

#### IV. 1978–1984

##### A. Deputy Staff Judge Advocate, 1st Armored Division, Germany, 1978–1980

The Grays arrived in Germany in the late spring of 1978 and almost immediately found the romance of a European assignment compromised by the considerable challenges posed by the 37,000-strong and widely dispersed 1st Armored Division.<sup>136</sup> Gray recalls: “I think we had ten branch offices . . . stretching all the way from Grafenwoehr to Nuremburg [including] . . . Montieth Barracks, Nuremburg, Zirndorf, Illisheim, Crailsheim, Ansbach, Katterbach, Bliedorn, and Bamberg. We had ten separate branch offices with Judge Advocates assigned to each.”<sup>137</sup> His immediate supervisor was Lieutenant Colonel (LTC) Robert E. Murray, who later served as The Assistant Judge Advocate General of the Army.<sup>138</sup> The Division Artillery (DIVARTY), located at

---

<sup>133</sup> *Id.* at 74.

<sup>134</sup> *Id.* at 77.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.* at 92.

<sup>137</sup> *Id.* at 80.

<sup>138</sup> Major General (Retired) Robert E. Murray (1962–1993), The Assistant Judge Advocate General of the Army (1991–1993).

Pinder Barracks, was commanded by then LTC John M. Shalikashvili, the future Chairman of the Joint Chiefs of Staff.<sup>139</sup>

Almost immediately, Gray came to appreciate his training and experience as an instructor at the JAG School for the presence and expertise it afforded him in all manner of public speaking. In particular, he found that his comfort at the briefing podium before senior officers helped distinguish him from other officers. “I just presented with total confidence . . . [t]he confidence to appear in front of General Officers and other high-ranking officials and talk to them about whatever. . . . I think the JAG School experience gave me the foundation for success as a deputy.”<sup>140</sup>

As in any large organization, there were plenty of leadership challenges for Gray who, as the deputy, had an integral role in the management of subordinate officers and non-commissioned officers for an organization with roughly 100 personnel.<sup>141</sup> While he was eminently impressed by most of his junior Judge Advocates, he still recalls memorable exceptions, noting that “our best prosecutor . . . had a drinking problem. [And] one of our officers in charge was caught with the sergeant major of the command in a pornography ring.”<sup>142</sup>

Those challenges, and others, led Gray to quickly appreciate the importance of maintaining situational awareness over the organization where so many officers and Soldiers were cast about the German countryside separate and apart from the office leadership. As the Deputy Staff Judge Advocate, “[t]he Staff Judge Advocate would look [to me] to solve problems so you had to know what was going on. [Y]ou had to work closely with your boss . . . [and] adapt to that person’s style. [I]f they liked to work long hours then as a deputy you must understand and adapt.”<sup>143</sup> Gray wanted the best out of the various officers in charge of local legal centers, and emphasized the importance of office management, the administration of military justice, and communication with the headquarters office.<sup>144</sup> “We did not want surprises.”<sup>145</sup>

---

<sup>139</sup> General John M. Shalikashvili (Retired) (1966–1997), Chairman of the Joint Chiefs of Staff (1993–1997).

<sup>140</sup> Oral History, *supra* note 12, at 81.

<sup>141</sup> *Id.* at 82.

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

<sup>143</sup> *Id.* at 83.

<sup>144</sup> *Id.* at 84.

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

Working for LTC Murray had its own challenges—none of them particularly onerous, but challenging still. Imagine an organization spread across ten different locations in an age before computers, email, or fax, and a senior supervising attorney who expected perfection in nearly every item of office work product.

We didn't have "white-outs" or pen and ink corrections—all of our work had to be perfectly done. Lieutenant Colonel Murray always insisted that our documents be error-free. The rationale was that documents reflected on how well the office was run and that we took pride in our work. He had an administrative law background and was trained to proofread documents from the top left corner down to the bottom right corner of the page. If necessary, I read it backwards just to make sure there were no typos or errors. I learned that one had to be very meticulous. I discovered that officers trained in administrative law were more meticulous than those trained in criminal law. *Your work reflects the type of office that you manage, the kind of leader that you are, and the kind of office that you run.*<sup>146</sup>

The days were long,<sup>147</sup> but Gray remembers he enjoyed "the intensity of the action, the responsibility and the sense of accomplishment . . . . About anything that you could imagine that could happen during the course of a career probably happened there. It prepared me for the challenges that I faced in the future."<sup>148</sup>

That future began early when Gray's three-year tour was cut short by his selection for the year-long course of instruction at resident Command and General Staff College, Fort Leavenworth, Kansas.<sup>149</sup> He relocated his family from Germany to Kansas in 1980, and recalls that although he did not particularly enjoy the classes at Leavenworth (despite graduating

---

<sup>146</sup> Oral History, *supra* note 12, at 84–85 (emphasis added). It was a philosophy adopted by MG Gray.

<sup>147</sup> *Id.* at 85. "At the 2nd Armored Division, we arrived very early in the morning and stayed very late. Fifteen-hour days were not unheard of because of all the different cases and all of the things we were involved in." *Id.* at 85–86.

<sup>148</sup> *Id.* at 87.

<sup>149</sup> *Id.* at 89. "Most individuals served three or four years in Germany, and some could even extend another year." Lieutenant Colonel Murray was also selected for Senior Service College, and so the two departed Germany at the same time. *Id.*

with honors), he understood and appreciated their value in his continued professional development.<sup>150</sup> “It was another piece of the puzzle . . . to the foundation of my background training to help me understand the Army, and also to help me understand the significance of the role I [would later have] as the Staff Judge Advocate at the 2nd Armored Division.”<sup>151</sup>

B. Staff Judge Advocate, 2nd Armored Division, Fort Hood, Texas, 1981–1984

In 1981, MG Gray became the principal legal advisor to the Commanding General of the 2nd Armored Division—a complex, sprawling organization of over 10,000 Soldiers located in the heart of Texas.<sup>152</sup> The legal office was comprised of several dozen military attorneys and paralegals,<sup>153</sup> and one of Gray’s essential priorities as the SJA was the proper care and development of his people. He remembers enjoying the responsibility of leading his own team of legal professionals:

I enjoyed . . . running an efficient office and helping to develop the Judge Advocates who worked for me. I made sure that they all got their promotions either early or on time and [that] they got to the right schools. I helped them manage their careers and the overall mentoring, managing, and leading that take place in a Staff Judge Advocate Office.<sup>154</sup>

As elsewhere during his career, Gray encountered many remarkable officers who would serve the JAG Corps and the Army with distinction. These included Colonel Dulaney “Del” O’Roark, who served as the SJA for III Corps & Fort Hood;<sup>155</sup> Captain Thomas Romig, who served under Gray as a criminal litigator and chief of military justice and who later

---

<sup>150</sup> *Id.* at 93.

<sup>151</sup> *Id.*

<sup>152</sup> The 2nd Armored Division was first formed at Fort Benning, Georgia, in 1940 and later re-designated as the 4th Infantry Division (Mechanized) in 1995. *See generally* <http://www.globalsecurity.org/military/agency/army/2ad.htm> (last visited Apr. 24, 2008).

<sup>153</sup> Gray Interview, *supra* note 14. Gray was promoted to the rank of lieutenant colonel on 5 July 1981.

<sup>154</sup> Oral History, *supra* note 12, at 100.

<sup>155</sup> *Id.* at 98.

became The Judge Advocate General of the Army;<sup>156</sup> and Captain Robert Burrell, whom Gray commissioned and who later served in top positions as the SJA at Fort Sill, Oklahoma and the Chief of PP&TO.<sup>157</sup>

Importantly, the opportunity to lead his own team at the 2nd Armored Division afforded MG Gray the chance to further consider the elements of leadership that would characterize his tenure as one of the JAG Corps' finest senior officers. More often than not, his focus came down to growing and developing young officers and noncommissioned officers. "Taking care of subordinates was very important to me. Taking care of the enlisted Soldiers and recognizing that they were and are the backbone of the organization."<sup>158</sup> He recalled that

[e]veryone is not on the same level of expertise or ability to [get things done]. You really had to juggle what you gave people to bring out the best in them because you did not want [them] to fail. I wanted them to have a great experience, to do well, to get promoted, to get the follow-on assignment [they wanted], and to get the schools they needed. . . . As an SJA . . . you need to push your people and try to get for them the things they want.<sup>159</sup>

A lasting lesson that Gray himself learned, and tried to emulate, was the leadership notion of "powering down" endorsed by his division commander, Lieutenant General (LTG) John W. Woodmansee, Jr., and the III Corps Commander, LTG Walter F. Ulmer, Jr.<sup>160</sup> "In other words, you push down to the lowest level in an organization the authority to do and perform certain missions and actions."<sup>161</sup> Gray took the principle of powering down and delegated to junior personnel wherever and whenever he could as a means to "develop their managerial and leadership skills."<sup>162</sup>

---

<sup>156</sup> *Id.* at 97, 99. Major General (Retired) Thomas J. Romig (1972–2005), The Judge Advocate General (2001–2005).

<sup>157</sup> *Id.* at 97.

<sup>158</sup> *Id.* at 101.

<sup>159</sup> *Id.* at 102.

<sup>160</sup> *Id.* at 101.

<sup>161</sup> *Id.*

<sup>162</sup> *Id.* at 103.



His achievements as an SJA in developing and cultivating subordinates to be their best—to move them from good to great—was easily recognized by senior JAG Corps leaders, and contributed to his selection as the Chief of PP&TO following completion of his three-year tour at Fort Hood. Certainly, the chief of personnel and policy for the Army’s uniformed attorneys wasn’t a position he had sought out, recalling only that he “received a telephone call informing [him] that [he] would be the next chief. It was simple as that . . . but I was thrilled for the opportunity.”<sup>163</sup>

#### V. 1984–1991

##### A. Chief of Personnel, Plans and Training, Office of The Judge Advocate General, Pentagon, 1984–1987

The Chief of Personnel, Plans & Training has a surprisingly broad scope of responsibility for Army legal services.<sup>164</sup> Central to everything is the recruitment, development, policy and management for over 1600 active duty Judge Advocates, with additional responsibility for approximately 2500 Judge Advocates in the United States Army Reserve and Army National Guard. It is one of the most mission critical, challenging, and politically sensitive positions in the JAG Corps.<sup>165</sup>

The scope of responsibility of PP&TO includes personnel assignments, promotion/selection board members, manpower and strength management, and long-range planning for the institutional development of Army legal services.<sup>166</sup> Of his new position, Gray recalls,

People look at the Chief of PP&TO and say he has it made. [But, you] have an opportunity in that job to fail every day. How many jobs are there that get scrutinized by TJAG and TAJAG, all of the other general officers, and the Executive Officer on everything you do? It is so

---

<sup>163</sup> *Id.* at 104.

<sup>164</sup> The author was assigned to PP&TO as a Plans Officer from 2001–2004.

<sup>165</sup> Interview with Colonel David Diner, Chief, Personnel, Plans and Training Office, Office of The Judge Advocate General, Rosslyn, Va. (Dec. 12, 2007).

<sup>166</sup> Oral History, *supra* note 12, at 106, 108–09. “PP&TO was a good job and it was a challenging job, but it was also a job where your career was on the line each and every day.” *Id.* at 106.

key to the survival of the JAG Corps and how the Corps is run. It is like your career flashing in front of your eyes almost every day.<sup>167</sup>

To complicate matters, the top two senior officers in the JAG Corps at the time—Major General Hugh J. Clausen and Major General Hugh R. Overholt—had previously served in the same position, understood the job and had quite naturally developed notions of what the Chief of PP&TO could and should do.<sup>168</sup> Against this backdrop, MG Gray focused on the opportunities and priorities at hand, remembering that “it is like any other job you approach in the JAG Corps or [elsewhere]. You [simply] learn the job . . . and do it to the best of your ability and let the rest take care of itself.”<sup>169</sup>

Assisting him was a group of remarkable officers including key future leaders of the Corps, such as John Altenburg,<sup>170</sup> Plans Officer; Walter B. Huffman,<sup>171</sup> Company Grade Assignments Officer; Michael Marchand,<sup>172</sup> Plans Officer; and Joseph Ross,<sup>173</sup> who handled reserve component issues and planning. It was important to Gray to build the right kind of team to deal with the unique portfolio of issues handled by PP&TO, and he remembers the criteria he used: “I brought in as many smart guys as I could, and clearly Walt Huffman was one of those guys who were capable of doing the things that were right for the Corps. *I needed guys who had integrity, who were committed, and had compassion.*”<sup>174</sup>

Under Gray’s leadership every effort was made to bring fairness to the assignment process for hundreds of officers (and by association their

---

<sup>167</sup> *Id.* at 127.

<sup>168</sup> *Id.* at 106.

<sup>169</sup> *Id.* Gray was promoted to the rank of colonel on 1 March 1986.

<sup>170</sup> *Id.* at 107. Major General (Retired) John D. Altenburg (1974–2001), The Assistant Judge Advocate General (1997–2001).

<sup>171</sup> *Id.* Major General (Retired) Walter B. Huffman (1968–2001), The Judge Advocate General (1997–2001).

<sup>172</sup> *Id.* Major General (Retired) Michael J. Marchand (1974–2005), The Assistant Judge Advocate General (2001–2005).

<sup>173</sup> *Id.* Colonel (Retired) Joseph A. Ross (1975–2002), Executive Officer, Office of The Judge Advocate General (July 1999 to Sept. 2001). Colonel Ross worked with MG Gray twice during his career, first in 1984 when he was the assistant plans officer when MG Gray was the Chief of PP&TO, and then again from 1995 to 1997, when Ross served as the Chief of PP&TO, and Gray was The Assistant Judge Advocate General.

<sup>174</sup> Oral History, *supra* note 12, at 107 (emphasis added).

families) in a process with abundant egos, individual agendas, and the over-arching needs of the Army.<sup>175</sup> It is a process that may also involve a degree of advocacy on the part of senior officers on behalf of subordinates with whom they have worked and mentored.<sup>176</sup> But in the JAG Corps and elsewhere, from a personnel officer's perspective there are, despite often contrary perceptions, serious limits on how far a personal patron can carry a subordinate. As Gray experienced,

You cannot do the job for the people out there. . . . If someone got a job based on a recommendation or because they had the support of a mentor over someone else, it still had to be a choice between the two and it still had to be based on the file . . . I don't care what you do or what you say, if you're in the job and you can't [do it], you are not going to get promoted.<sup>177</sup>

In July 1987, after three years of influencing a generation of JAG Corps officers through assignments and institutional policy and program leadership, MG Gray was selected for attendance at the Army's Industrial College of the Armed Forces (ICAF), located at Fort McNair, Washington, D.C.<sup>178</sup> He chose ICAF because of the experience and education it afforded other senior leaders he had worked for and respected.<sup>179</sup> Of the curriculum, he recalls: "We studied national defense issues, transportation [and] international relations issues. It was intense training on strategic issues [to] enhance our understanding of strategic planning and gave us an understanding of global issues."<sup>180</sup>

The strategic studies perspective offered at ICAF, and his previous experience as the 2nd Armored Division SJA, were the ideal preparation

---

<sup>175</sup> *Id.* at 114–15. "[A] person's reputation about how well they do a job is out there. One of the things we strived to do was to be fair and focus on the individual and the individual's [personnel] file to make assignments." *Id.* at 114.

<sup>176</sup> *Id.*

<sup>177</sup> *Id.* at 117.

<sup>178</sup> *Id.* at 123. According to its website, "The Industrial College of the Armed Forces mission is to prepare selected military and civilians for strategic leadership and success in developing our national security strategy and in evaluating, marshalling, and managing resources in the execution of that strategy." Industrial College of the Armed Forces, available at <http://www.ndu.edu/ICAF/> (last visited Apr. 16, 2008).

<sup>179</sup> Oral History, *supra* note 12, at 123 ("All of my mentors had gone to ICAF, and that is where I wanted to [attend] . . . General Overholt had gone there . . . General Suter . . . , General O'Roark . . . Holdaway went to ICAF. All of [them] were my mentors.").

<sup>180</sup> *Id.* at 124.

for MG Gray's follow-on assignment as the SJA for III Corps and Fort Hood, Texas—America's largest military installation.<sup>181</sup>

B. Staff Judge Advocate, III Corps and Fort Hood, Texas, 1988–1989

Major General Gray credits his successful three-year tour as the SJA for 2nd Armored Division as the principal key to his selection in 1988 as the III Corps and Fort Hood SJA.<sup>182</sup> It was a senior level position he actively sought, recalling:

I wanted to be a Corps SJA. I thought the best job for me would either be VII Corps in Europe or III Corps [at Fort Hood]—I couldn't go to XVIII Airborne Corps because I am not Airborne qualified and I had no plans to become Airborne qualified. . . . I liked Fort Hood. It was a great place to serve.<sup>183</sup>

His leadership and legal practice as a Corps SJA were inherently broad in scope, implicating a full spectrum of installation law, civilian personnel management, community relations, and the standard core competencies of military justice, legal assistance, claims, and so forth.<sup>184</sup> But as great a place as Fort Hood was to serve, MG Gray's tenure there would be brief—cut short by his selection for promotion to brigadier general in 1989, and subsequent reassignment to the Pentagon. On his selection for general officer, Gray reflects back:

Whenever you are in that group [of senior colonels holding key positions] there is a chance that lightning could strike. If you've done everything that you need to do, you can put yourself in that position. There was a chance—I didn't think it would happen—but there was a chance that it could.<sup>185</sup>

---

<sup>181</sup> *Id.* at 129–31; *see also* Public Affairs Office, Fort Hood, <http://pao.hood.army.mil> (last visited Apr. 16, 2008).

<sup>182</sup> Oral History, *supra* note 12, at 98.

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

<sup>184</sup> *Id.* at 132.

<sup>185</sup> *Id.* at 139.

C. Special Assistant to The Judge Advocate General, 1989–1990

From September 1989 to March 1990, MG Gray was assigned as a Special Assistant to MG William Suter, the Acting The Judge Advocate General.<sup>186</sup> The position was essentially a placeholder until Gray's own confirmation for promotion to general officer.<sup>187</sup> The other officers nominated and pending confirmation were COL Thomas Crean and COL John Bozeman.<sup>188</sup> But shortly after Gray arrived at the Pentagon, a great discord arose regarding the integrity of the general officer board that recommended the three colonels for promotion to brigadier general.

The controversy originated, in large measure, from courts-martial at the 3rd Armored Division in 1982–1983 that were later found tainted by unlawful command influence during the period that COL Bozeman was the SJA.<sup>189</sup> Colonel Bozeman's role in the command influence and the advice he provided the Commanding General, MG Thurman E. Anderson, were identified to the Vice Chief of Staff of the Army and others as part of the general officer pre-board screening, selection board notification, and confirmation staffing process arising from Bozeman's selection for promotion to brigadier general. This disclosure was found insufficient. The Senate Committee on the Armed Services determined that, among other things, COL Bozeman's role had been withheld from the Army leadership and the Senate.<sup>190</sup>

The Senate Committee also concluded that the Judge Advocate general officer selection board was tainted by the perception of an improper selection of its members.<sup>191</sup> To make matters worse, there were other, unassociated allegations that remarks by COL Crean during a

---

<sup>186</sup> See 10 U.S.C. § 3037, establishing the positions of The Judge Advocate General and The Assistant Judge Advocate General. No officer may serve in the position of TJAG without Senate confirmation; therefore, an officer acting in the position is referred to as Acting The Judge Advocate General. In 1989, MG Suter was The Assistant Judge Advocate General and Acting The Judge Advocate General. 10 U.S.C. § 3037 (2000).

<sup>187</sup> Oral History, *supra* note 12, at 134.

<sup>188</sup> *Id.* at 135. Major General Gray had worked for COL Bozeman in PP&TO, and remembers him as “[a]n outstanding officer . . . Probably one of the best that we had in the JAG Corps.” *Id.* at 141.

<sup>189</sup> See *United States v. Thomas*, 22 M.J. 388 (1986); *United States v. Treakle*, 18 M.J. 646 (1984); see also Oral History, *supra* note 12, at 136, 142–44.

<sup>190</sup> S. COMM. ON ARMED SERVS., REPORT ON THE INVESTIGATION OF ISSUES CONCERNING NOMINATIONS FOR GENERAL OFFICER POSITIONS IN THE JUDGE ADVOCATE GENERAL'S CORPS, U.S. ARMY, S. REP. NO. 102-1, at 16–22 (1991) [hereinafter SENATE REPORT].

<sup>191</sup> *Id.* at 15–16.

(non-attribution) presentation at The Judge Advocate General's School may have contradicted a Department of Defense policy.<sup>192</sup> Consequently, the results of the original board were vacated and a new brigadier general selection board was convened.<sup>193</sup>

Major General Suter, who was serving as The Assistant Judge Advocate General and Acting The Judge Advocate General and who had been selected to serve as the next TJAG, became involved in the controversy when he personally advocated on behalf of the merits of the brigadier-selects and the process of their selection.<sup>194</sup> Gray recalls that Suter "was supportive of that list. He was supportive of all of us."<sup>195</sup> Despite the regrettable circumstances of the confirmation process, Suter served honorably for nearly two years as the Acting The Judge Advocate General until his retirement in 1991. By all measures, Suter contributed greatly to the JAG Corps and the Army, and his legacy remains

---

<sup>192</sup> Oral History, *supra* note 12, at 142–44.

<sup>193</sup> SENATE REPORT, *supra* note 190, at 1–2. In relevant part, the Senate Committee on Armed Services reported:

After these nominations were referred to the Committee on the Armed Services, the Committee received information concerning the promotion selection process which raised serious questions about the leadership and management of the Judge Advocate General's Corps in the Army. At the request of the Committee, the Department of Defense ordered an investigation into these matters. The investigation, which was conducted by the Deputy Inspector General of the Department of Defense, confirmed that there were serious irregularities in the promotion selection process.

The Committee's inquiry and the Department's investigation led to the following actions on these nominations: (1) as a result of information provided to the Committee, and at the request of the Department of the Army, one of the nominations for promotion to brigadier general [Bozeman] was returned to the President by the Senate at the end of the 1st Session of the 101st Congress; . . . (2) as a result of flaws in the selection process documented in the Inspector General's report, the remaining two nominations for brigadier general [Gray, Crean] were withdrawn by the President in September 1990; as a result of the issues raised in the Inspector General's report, the nomination for the position of [T]he Judge Advocate General [Suter] was returned to the President by the Senate at the end of the 101st Congress . . . .

*Id.*

<sup>194</sup> Oral History, *supra* note 12, at 145.

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

characterized by boundless energy, innovative leadership and an accomplished career in law and military service.

For Gray, this was an extraordinarily difficult period, personally and professionally:

It was a traumatic time. I came out on the list in 1989 when I was the SJA at III Corps, and I left that job because it was a [colonel's] billet and I was about to be promoted to brigadier general. I could no longer occupy that job . . . . I returned to the Pentagon in 1989 and I was very disappointed when the list was pulled back because I had done nothing wrong. The focus was on John Bozeman because of the command influence cases . . . . Later, Tom Crean was the subject of an investigation that, in my opinion, was unfair. . . . My father passed away in December 1989. Although he knew I had been selected for promotion to brigadier general he never got to see me [as a general] and that was very disappointing to me. . . . When the list was pulled back and another board convened and the list released, I wasn't on it.<sup>196</sup> That was a tremendous disappointment.<sup>197</sup>

In March 1990, MG Gray assumed duties as the Acting Commander of the United States Army Legal Services Agency (USALSA),<sup>198</sup> an organization that oversees Army litigation, the Army trial and appellate judiciary, and related activities. He originally assumed the position in anticipation of his promotion to general officer, and in the wake of the second board result was reassigned to make way for one of the officers on the recently announced selection list.<sup>199</sup> But then lightning struck.

---

<sup>196</sup> The second list recommended COL Thomas R. Cuthbert, COL Malcolm "Scott" Magers, COL Robert E. Murray, and COL Fredrick Green for promotion to brigadier general. Oral History, *supra* note 12, at 155.

<sup>197</sup> *Id.* at 143-44. "Those of us who were on the [original] list when it was pulled back were not selected when they convened the new board. None of us got selected on the second list, including me. When that board was announced there were three other officers who were selected for promotion." *Id.* at 145-46.

<sup>198</sup> *Id.* at 135.

<sup>199</sup> *Id.*

Before a list is moved on from one level [of the government] to the next, one of the first reviews is in the GOMO, the General Officer Management Office at the Pentagon. . . . I was told that during the course of that review they discovered something about one of the officers that caused them to pull his name off the list. I was the next in line and received a telephone call telling me that I was going to be promoted . . . .<sup>200</sup>

Following this remarkable news, The Judge Advocate General, MG John Fugh<sup>201</sup> required Gray to participate once again in the Army's institutional courses for guidance and instruction to its new brigadier generals. Gray recalls joking that he had been "recycled," and having the sense that MG Fugh did this to demonstrate and "to underscore *his* belief that the first list that included COL Crean and COL Bozeman was not legitimate."<sup>202</sup> Gray regretted the treatment of the other two, particularly Crean, whom he felt had been unfairly treated.<sup>203</sup>

"Recycled" though he may have been, he came away from the process with a profound appreciation for the honors and responsibilities of his selection for general officer.

You are under constant scrutiny. It is almost like being a celebrity and people are going to watch what you do. If you think about something you would like to have done, it might get done. . . . It was important for us to understand that we were ascending to a different level in our careers. Every action had to withstand scrutiny and be above suspicion. *They stressed the importance of adhering to our values.*<sup>204</sup>

In the final analysis, very little good came from this tumultuous period for the Army JAG Corps. The one principal change that came out of this period was the decision by the JAG Corps and the Army leadership to realign the promotion and selection process for JAG Corps

---

<sup>200</sup> *Id.* at 146. Colonel Fredrick Green's name was withdrawn from the promotion selection list. *Id.* at 155.

<sup>201</sup> Major General (Retired) John L. Fugh (1961–1993), The Judge Advocate General (1991–1993).

<sup>202</sup> Oral History, *supra* note 12, at 147.

<sup>203</sup> *Id.*

<sup>204</sup> *Id.* at 137.



general officers. In the future, the Chief of Staff of the Army notified officers selected for TJAG and TAJAG that their terms were limited to four years apiece.<sup>205</sup> Never again would TAJAG be permitted to move up to the TJAG position and thereby occupy one of the JAG Corps' only two major general billets for up to eight years. In the future, TJAG and TAJAG would come and go together, starting with Gray<sup>206</sup> and MG Michael Nardotti.<sup>207</sup>

#### VI. 1991–1997 (Commander USALSA, TAJAG)

##### A. Commanding General of the U.S. Army Legal Services Agency and Chief Judge of the Army Court of Military Review, Washington, D.C. 1991–1993

Army Chief of Staff Gordon Sullivan presided over MG Gray's promotion to brigadier general on 1 April 1991. Brigadier General Magers<sup>208</sup> was promoted the same day; BG Cuthbert<sup>209</sup> and BG Murray<sup>210</sup> one month earlier.<sup>211</sup> Gray had assumed formal command of USALSA on 1 March of that year. Despite its significance, Gray's selection was not the highly celebrated affair one might imagine. It is of perhaps great credit to the Army, and the nation, that by 1991 the idea of a black officer at the general officer ranks was, while notable, no longer

---

<sup>205</sup> *Id.* at 151–54.

<sup>206</sup> Gray Interview, *supra* note 14. See Memorandum from the Secretary of the Army, subject: Tenure of JAGC General Officers (2 Mar. 1992) (on file with author) (“[MG Nardotti and MG Gray], even though not appointed simultaneously, should expect to retire at the same time (i.e., simultaneously), not later than four years from the date of the earlier of the two appointments.”).

<sup>207</sup> Oral History, *supra* note 12, at 152 (Major General (Retired) Michael J. Nardotti, Jr. (1969–1997), The Judge Advocate General (1993–1997)). See generally George R. Smawley, *The Soldier-Lawyer: A Summary and Analysis of An Oral History of Major General Michael J. Nardotti, Jr. United States Army (Retired) (1969–1997)*, 168 MIL. L. REV. 1 (2001).

<sup>208</sup> Brigadier General (Retired) Malcolm “Scott” Magers (1966–1995), Judge Advocate, United States Army Europe and Seventh Army (1991–1993); the Assistant Judge Advocate General for Civil Law and Litigation (1991, 1993–1995).

<sup>209</sup> Brigadier General (Retired) Thomas R. Cuthbert (1961–1996), Assistant Judge Advocate General for Military Law (1991–1993); Commander, United States Army Legal Services Agency/Chief Judge, United States Army Court of Military Review (1993–1995); Special Assistant to The Judge Advocate General (1995–1996).

<sup>210</sup> Major General (Retired) Robert E. Murray (1962–1993), Special Assistant to The Judge Advocate General (1991); The Assistant Judge Advocate General (TAJAG) (1991–1993); Acting The Judge Advocate General (1993).

<sup>211</sup> Oral History, *supra* note 12, at 168.

extraordinary.<sup>212</sup> Gray's promotion was a critical moment in the long history of African-American service in the Army's Judge Advocate General's Corps dating back to the first black Judge Advocate, Major A.E. Patterson, who served in the Judge Advocate General's Department during World War I.<sup>213</sup>

But at a certain and important level, the accomplishment of Kenneth Gray is simply greater because of the fact that he was not only an officer, but also an Army Judge Advocate.<sup>214</sup> He had succeeded in undergraduate school and law school at a time when African Americans were woefully under-represented in higher education and the legal profession. From that origin, he rose to the top of his profession as an attorney and an officer by the content of his character and a relentless commitment to steady values, hard work, and personal accomplishment. Indeed, in oral histories and the personal interviews and research of the author, the very mention of his race is virtually absent. In this, it could be said, that Martin Luther King's dream for his children was realized for MG Gray in the U.S. Army and the Judge Advocate General's Corps.<sup>215</sup> Gray recalls of that day:

When I was promoted to brigadier general, I commented at the ceremony that I stood on the shoulders of many officers who had gone before me and it was an honor to be promoted to general officer. I had the opportunity to reach a high level of potential and rise to a level beyond my expectations. That makes our Army great because it gives people of all races, backgrounds, and cultures an opportunity to excel and reach their potential. I also feel

---

<sup>212</sup> Brigadier General (Retired) Benjamin O. Davis, Sr. was the first African American general officer in the regular Army and U.S. Armed Forces. He was promoted on 20 October 1940. Brigadier General Davis served in numerous key positions, including brigade command, Assistant Army Inspector General, and Special Assistant to the Commanding General, Communications Zone, European Theater of Operations. United States Army History—The First African American General Officer in the Regular Army and in the U.S. Armed Forces, [http://strategyandwar.com/united\\_states\\_army/benjamin\\_oliver\\_davis.html](http://strategyandwar.com/united_states_army/benjamin_oliver_davis.html) (last visited Apr. 14, 2008); see also MARVIN E. FLETCHER, AMERICA'S FIRST BLACK GENERAL: BENJAMIN O. DAVIS, SR. 1880–1920 (1989).

<sup>213</sup> Frederic L. Borch, III, Notes from the Field, *Judge Advocate "Firsts"*, ARMY LAW., July 1997, at 37.

<sup>214</sup> As of April 2008, Gray remains the only African-American Judge Advocate to serve in the rank of general officer—among the military services, only the Army has promoted a black uniformed lawyer to this senior rank.

<sup>215</sup> See *supra* note 1.

that my service was based on a strong foundation of values. In fact, in many speeches that I give today I always stress what I call the five C's—Commitment, Competence, Candor, Courage, and Compassion. [They] have been important in helping me achieve success. Dedication, loyalty, selfless service to one's country, and love of family have also been important.<sup>216</sup>

Finally promoted to general officer, Gray formally assumed the position of Commander of USALSA and Chief Judge, U.S. Army Court of Military Review, in Falls Church, Virginia.<sup>217</sup> In this capacity he was the commanding officer of the military's largest legal services organization, responsible for the direction, management, and oversight of the Army JAG Corps' Contract Law Division, Litigation Division (with oversight of all lawsuits filed against the Army and Army officials), Environmental Law Division, Regulatory Law Division, and Trial Judiciary, including all administrative support to Government Appellate Division, Defense Appellate Division, Army Court of Military Review, Standards of Conduct Office, and Trial Defense Service. As Chief Judge of the Army's highest court, he maintained the integrity of the military justice system.

Gray deeply appreciated the people and the environment at USALSA, both as the Acting Commander, and later, as the fully vested leader of the organization. He remembers the respite the people there afforded him during the difficult period of the general officer selections.

It was a terrible time. I cannot begin to describe to you how bad it was. My salvation was moving to the Legal Services Agency because whenever I walked around the Pentagon, people would stop me in the hall and ask me "When are you getting promoted?" or "What is happening?" As soon as I went over to [USALSA] it was like a breath of fresh air . . . . If I had to look back

---

<sup>216</sup> Oral History, *supra* note 12, at 194.

<sup>217</sup> The U.S. Army Court of Military Review was the Army's highest appellate court, and was renamed the Army Court of Criminal Appeals in 1994 to coincide with the renaming of the U.S. Court of Military Appeals to the U.S. Court of Appeals for the Armed Forces. USALSA moved from Falls Church, Va. to its current location in Arlington, Va. in 1990. *See generally* U.S. Army Legal Services Agency, [https://www.jagcnet.army.mil/Intranets/AC/USALSA/usalsa.nsf/\(JAGCNetDocID\)/USALSA+History?OpenDocument](https://www.jagcnet.army.mil/Intranets/AC/USALSA/usalsa.nsf/(JAGCNetDocID)/USALSA+History?OpenDocument) (last visited Apr. 24, 2008).

over my career, it was probably the most enjoyable assignment I had in the Army and the JAG Corps. Probably because of how I was received when I first went over there.<sup>218</sup>

While Gray appreciated the importance of his role as the Chief Judge of the Army's senior appellate court, including the hearing of several interesting death cases,<sup>219</sup> his real satisfaction came from the experience of handling the large and complex challenges faced by USALSA. "I enjoyed the command part more than I enjoyed anything else in my career. . . . being able to command the organization, to lead and manage, and . . . doing all of those things required of a CEO . . . ."<sup>220</sup>

At a professional level, the roles and responsibilities of a general officer were vastly different from his previous experience as a division or corps SJA. As responsibility grows, so can the distance from a leader from the people who daily run his organization. In response to the question of whether a brigadier general personally accomplishes more or less than a colonel,<sup>221</sup> Gray reflected:

If you have a philosophy of doing the best that you can in any job that you have, I don't know if there could ever be any kind of distinction between the job that you do as a colonel and the job that you do as a general . . . . The challenge of being a brigadier was unique because of the feeling of being alone. As a colonel, you could pick up the phone and call the other colonels and talk to them. But as a brigadier, there were a limited number of people I could really talk to if I had issues to discuss.<sup>222</sup>

---

<sup>218</sup> Oral History, *supra* note 12, at 156.

<sup>219</sup> *Id.* at 157.

<sup>220</sup> *Id.* As a brigadier general, Gray also sat on promotion and selection boards including the brigadier general selection board that selected Michael J. Nardotti (1969–1997), a celebrated Vietnam combat veteran with whom Gray would later serve as The Assistant Judge Advocate General. The need for this board arose when MG Fugh was elevated to the position of TJAG, and an opening was created for TAJAG resulting in the selection of BG Murray to fill the slot only six months after his promotion to brigadier general. That, in turn, created an opening for a new brigadier general—filled by Nardotti. *Id.* at 166.

<sup>221</sup> *Id.* at 170.

<sup>222</sup> *Id.*

B. The Assistant Judge Advocate General of the Army, Washington D.C., 1993–1997

In the spring of 1993, Gray was selected by the Secretary of the Army, John W. Shannon,<sup>223</sup> from among the four active duty Judge Advocate brigadier generals to serve as The Assistant Judge Advocate General of the Army.<sup>224</sup> The position is statutory and graded in the rank of major general,<sup>225</sup> and Gray was promoted to fill it on 1 October 1993 making him the highest ranking African-American Judge Advocate to serve in the Department of Defense.<sup>226</sup> Despite what one might naturally imagine about the thought process of such a promotion, Gray recalls with characteristic modesty that he

was never nervous [about the prospect] because any of the officers could have been selected for promotion to two-star. I could not say that it was really a goal. . . . At the time, I think it could have gone either way. I could have been on the list and become TJAG or not been on the list at all. All the BGs were very well qualified and could have easily been selected.<sup>227</sup>

Unfortunately, Gray's selection as TAJAG was not without controversy. Brigadier General Cuthbert, one of the four brigadier generals under consideration for promotion, apparently felt that Secretary Shannon, a retired Army colonel who was then serving as the Pentagon's top ranking civilian African American, had made the decision to select Gray on the basis of his race. As MG Nardotti recalls, "[Cuthbert] believed somehow that he had been shortchanged in that process. I don't know whether he believed he should have been TJAG or he should have been TAJAG, but he believed that what happened was improper and

---

<sup>223</sup> Hon. John W. Shannon, Secretary of the Army, Aug. 1989–Nov. 1993. *See generally* <http://www.army.mil/leaders/leaders/usa/former/shannon.html> (last visited Apr. 24, 2008).

<sup>224</sup> Oral History, *supra* note 12, at 167–68. The brigadier generals at the time (1991) were: BG Kenneth Gray, Commander & Chief Judge, USALSA; BG Michael Nardotti, Assistant Judge Advocate General for Civil Law; BG Thomas Cuthbert, Assistant Judge Advocate General for Military Law; and BG Malcolm "Scott" Magers, Judge Advocate, United States Army Europe and Seventh Army.

<sup>225</sup> 10 U.S.C. § 3037 (2000).

<sup>226</sup> Oral History, *supra* note 12, at 173. Major General Gray retains this distinction; no African-American Judge Advocates have been selected for general officer since.

<sup>227</sup> *Id.* at 172.

therefore had a basis to complain.”<sup>228</sup> The result was Cuthbert’s profound refusal to retire in accordance with institutional custom following his non-selection for promotion to major general.<sup>229</sup>

Title 10 U.S.C. § 635 requires brigadier generals who are not recommended for promotion to retire five years from the date of their promotion or upon completion of thirty years of active service, depending upon which event occurred later in time. Cuthbert had approximately three years in grade as a brigadier general when he was not selected for promotion. Army custom and (non-binding) policy was that Judge Advocate brigadier generals would retire at an appropriate time following their non-selection so that another officer might be promoted.<sup>230</sup> Since the JAG Corps promotes against vacancies, BG Cuthbert’s insistence on remaining on active duty the full statutorily authorized five years thus prevented brigadier general-select John Altenburg’s timely promotion and created notable discord within elements of the JAG Corps.

Major General Nardotti, for whom this was perhaps his greatest personnel challenge, remembers Cuthbert “laying out what he perceived to be the unfairness [of Gray’s promotion] and because of that he was not going to retire.” Referring to the controversy involving the brigadier general selection boards two years earlier, Nardotti told Cuthbert “that what he was doing was running dangerously close to plunging us back into the problems that we were just clawing our way out of.”<sup>231</sup>

---

<sup>228</sup> Major Kevin M. Boyle & Major Michael J. McHugh, *An Oral History of Major General Michael J. Nardotti, Jr., United States Army (Retired) (1969–1997)*, at 212 (May 2000) (unpublished manuscript, on file with The Judge Advocate General’s Legal Center and School Library, U.S. Army, Charlottesville, Va.). Prior to 1994, the process for selecting TJAG and TAJAG (statutory positions) began with a non-binding advisory board. The results of the board helped inform the Army Chief of Staff, who used it at his discretion to advise the Secretary of the Army, who ultimately made the decision and forwarded the nomination to the President for action. The promotion requirements changed in 1994, removing Secretarial discretion and requiring TJAG and TAJAG be on an approved selection list under the provisions of Title 10 U.S.C. Chapter 36 (Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List).

<sup>229</sup> *Id.* at 210–17.

<sup>230</sup> *Id.* 207–10.

<sup>231</sup> *Id.* at 213. Indeed, BG Cuthbert’s conduct ultimately led General Sullivan to relieve him of his duties as the Chief Judge of the Court of Military Review and assign him as a special assistant to MG Nardotti—an extraordinary admonishment for a Judge Advocate general officer.

Cuthbert's rejection of the fairness of the selection process had racial overtones which regrettably, but quite naturally, affected Gray. It called into question the very legitimacy of the promotion process and suggested his selection as TAJAG was based on race rather than merit—in striking contrast to everything Gray represented, stood for, and had worked long and hard to achieve. In truth, BG Cuthbert's notions of a race-tainted selection process were simply wrong.

Major General Nardotti recalls his conversation with Chief of Staff Gordon Sullivan regarding BG Cuthbert's refusal to retire:

When I took the issue to the Chief of Staff, he said, "Why in heaven's name is he refusing to retire?" and I went into the explanation, and he said, "John Shannon had nothing to do with it. I picked Ken Gray, because I knew he was a better man, and this proves it." General Gordon Sullivan was not carrying a minority agenda; he was making a call as the Chief. That was his recommendation. It went to [Secretary of the Army] Shannon that way based on his recommendation.<sup>232</sup>

There was an undeniable excitement surrounding Gray's selection as the Army's number-two ranking uniformed lawyer—and perhaps a bit of apprehension after all he had gone through with his brigadier general selection.<sup>233</sup> Had he not been selected for promotion to major general, Gray makes clear that he would have simply retired so that another officer would have the opportunity to be promoted:

We had general officers who stayed around for so long that it prevented other officers from getting selected for promotion to brigadier general. They occupied those slots for nine or ten years, and there were a number of outstanding officers who never had an opportunity to be a [general officer]. I would not have stayed.<sup>234</sup>

As TAJAG, Gray was in partnership with MG Nardotti as the senior leadership for uniformed Army legal services. TJAG's responsibilities are broad indeed, but can be reduced to two key elements: senior legal

---

<sup>232</sup> *Id.* at 215.

<sup>233</sup> *Id.* at 173.

<sup>234</sup> *Id.*

advisor to the Chief of Staff of the Army and senior uniformed legal advisor to the Secretary of the Army and the Army staff; and branch chief of the Judge Advocate General's Corps with statutory responsibility for the management of Judge Advocates and the delivery of Army legal services to commanders, Soldiers, and authorized others including Family members and retirees.<sup>235</sup>

Although Nardotti and Gray were both Vietnam veterans and military lawyers with decorated military careers, they were nonetheless distinctive personalities with divergent backgrounds in their military experience and in life. Despite their differences—"Mike is a little more conservative than I am," recalls Gray, "and so he would read the Washington Times and I would read the Washington Post"<sup>236</sup>—MG Gray recounts a positive reminiscence of the type of leaders they were and what, together, they hoped to accomplish for the Army:

I think [MG Nardotti and I] complemented each other very well. He had a totally different background than mine. He came up through the line as an infantry officer. We had the same philosophy in terms of values and the fact that we didn't worry too much about who got the credit for something. We were really [just] focused on doing the best that we could for the JAG Corps.<sup>237</sup>

The two leaders set out to accomplish much during their approximately four-year tenure together. First and foremost, there was a sense that the JAG Corps, as an institution, needed the chance to heal from the sense of conflict and divisiveness that colored the previous

---

<sup>235</sup> 10 U.S.C. § 3037(c) (2000).

The Judge Advocate General, in addition to other duties prescribed by law—

(1) is the legal adviser of the Secretary of the Army and of all officers and agencies of the Department of the Army;

(2) shall direct the members of the Judge Advocate General's Corps in the performance of their duties; and

(3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

<sup>236</sup> Oral History, *supra* note 12, at 176.

<sup>237</sup> *Id.*



years.<sup>238</sup> Gray reflects, “we did a number of things, but just for the JAG Corps itself we put an end to all of the acrimony that had gone on before. . . . [s]o the process and the JAG Corps could go forward.”<sup>239</sup> Part of the answer was principled leadership focused almost exclusively on the mission of the JAG Corps. “We wanted to make sure we had an organization that was based on values and that we were proficient in our core competencies, in the things that we had to do best. . . . We tried to instill that in the organization and push that philosophy down in the Corps . . . .”<sup>240</sup>

The post-Gulf War environment helped provide a second focus—the growing area of operational law. This included:<sup>241</sup>

1. Expansion of Operational Law as a focal point for officer basic and advanced training and instruction at the The Judge Advocate General’s School;
2. Integration of Judge Advocates in the combat training centers as observers and controllers for commanders and Judge Advocates participating in new, realistic training scenarios;
3. Creation of new training opportunities for reserve component Judge Advocates at The Judge Advocate General’s School to better prepare them for mobilizations and deployments;
4. Resourcing the Center for Law and Military Operations (CLAMO) with facilities, money, and talented officers who would catalogue lessons learned by Judge Advocates in training and real-world operations, and begin developing doctrine for legal support across the operational spectrum.

---

<sup>238</sup> Gray Interview, *supra* note 14. Gray attributes part of the acrimony during this period to the fact that general officers—specifically the TAJAG—were able to remain on active duty for so long (up to eight years as a major general) that it prevented other highly qualified colonels from having the opportunity for promotion. This changed as a policy matter in 1993. “Mike Nardotti and I were the first [TJAG and TAJAG] to get the letters telling us that we would come and go together . . . that we would retire together. I kept the letter in the drawer of my desk the whole time.” *Id.*

<sup>239</sup> Oral History, *supra* note 12, at 186.

<sup>240</sup> *Id.* at 177.

<sup>241</sup> *Id.* at 183–84.

This institutional commitment by the JAG Corps to military operations was really more a recognition that the role of Army lawyers had changed in the 1990s as the military moved from the Cold War to smaller wars and expeditionary conflict. Gray observed:

One of the key changes as we went from the Gulf War through all of those conflicts, we see the Judge Advocate playing [an ever] prominent role. I think it just evolved. We were there all of the time before, but this really brought it to the forefront. [Colonel] Raymond Ruppert was the legal advisor to General Norman Schwarzkopf in Desert Storm, [MG] John Altenburg was the legal advisor in Haiti, and . . . [COL] John Bozeman was the legal advisor in Panama. These guys were at the top of their profession and they were outstanding SJAs advising their commanders in tough situations and did a superb job. . . . I tell people [at the University of West Virginia] . . . that most commanders are not going to go to war without taking their Judge Advocates with them because there are so many issues. It shocks them because they only think of us trying cases. They think of us as JAG on TV.<sup>242</sup>

Major General Nardotti and MG Gray also recognized that the dramatic military down-sizing following the Gulf War required a new and thoughtful look at how the Army Reserve and National Guard would integrate and work with the active Army in future conflicts. Accordingly, a third focus concerned the structure, quality, and training of Reserve and National Guard Judge Advocates, paralegals, and legal administrators. It was important that they have access to quality formal legal instruction, continuing legal education, leadership opportunities, and home-station training. Nardotti, in particular, realized that future wars would rely heavily upon the Reserve Component—and they have.<sup>243</sup> Gray summarized the objective this way:

---

<sup>242</sup> *Id.* at 183.

<sup>243</sup> See generally James R. Helmly, *The Chief, Army Reserve Addresses "Courage to Change" in the Army Reserve*, ARMY RESERVE MAG., Mar. 22, 2005; EDWARD P. MCNAMEE, III, ARMY RESERVE COMPONENT ACCESSIBILITY DURING OPERATIONS OTHER THAN WAR: SOME IMPLICATIONS FOR THE CINC'S (Naval War Coll. 1994), available at <http://handle.dtic.mil/100.2/ADA283440>; OFFICE OF THE CHIEF, ARMY RESERVE, UNITED STATES ARMY RESERVE LONG-RANGE PLAN 1993–2023 (Washington D.C. 1993); U.S. Army Reserve Posture Statement 2007, available at <http://www.usarmyreserve2007>

[Our goal] was to create a seamless organization between the active . . . and Reserve component Judge Advocates, so you really couldn't tell the difference. . . . We knew at that time in order to win any conflict, we would have to use the Reserve Components. The Army itself, and the JAG Corps, were going to have to rely on the Reserve Component judge advocates to either backfill when our units moved out or . . . go when we had to deploy.<sup>244</sup>

A final focus was the rapidly developing nature and capability of technology to facilitate, expand, and bring efficiency to Army legal services. Major General Gray was responsible for the supervision of technology, and credits the contributions of others for helping move the JAG Corps forward in this critical area. "For someone who was not very computer literate at the time it was quite a challenge; but we had warrant officers [and officers] who were very smart in this regard, and [they] began to work with the Army to increase our ability with computers. . . . We worked really hard to set standards on software and hardware compatible throughout the Corps."<sup>245</sup>

By the end of his four-year tenure as The Assistant Judge Advocate General, MG Gray was ready to move onto the next phase of his personal and professional life. There were voices inside the Army suggesting he should remain to pursue a move to become The Judge Advocate General, just as MG Overholt and others before him had done.<sup>246</sup> Despite his initial agreement to retire after four years, the strong relationship Gray (and Nardotti) had with Secretary of the Army Togo West and the Chief of Staff of the Army suggested that perhaps it was possible.<sup>247</sup> But Gray was not interested. He had run long and hard enough for over thirty years, although he did recognize the disappointment of some that, despite the Army policy advising his retirement, he didn't attempt to stay longer to become the first African-American TJAG.

---

posturestatement.org; UNITED STATES ARMY RESERVE COMMAND, ANNUAL COMMAND HISTORY, 1 JANUARY TO 31 DECEMBER 1995 (Kathryn Roe Coker & Edward P. Shanahan eds., 1997); Dave Moniz, *Reserves Chief Tells Troops to Enter Full War Mode*, USA TODAY, Sept. 15, 2003, [http://www.usatoday.com/news/world/iraq/2003-09-15-reserves-chief\\_x.htm](http://www.usatoday.com/news/world/iraq/2003-09-15-reserves-chief_x.htm) (last visited Apr. 27, 2008).

<sup>244</sup> Oral History, *supra* note 12, at 176.

<sup>245</sup> *Id.* at 177–78.

<sup>246</sup> *Id.* at 186–87.

<sup>247</sup> *Id.*

I was disappointed that other general officers, particularly African-American general officers, thought that I did not want to be The Judge Advocate General. That comment was made by several of them. I didn't respond. In a sense, sometimes I feel that I may have let the junior officers down in the Corps who looked at me as possibly becoming the first TJAG of my race. The question I raised was whether it was for the right reasons? Perhaps it was not my decision to make. I ultimately answered the question—no, it would not have been for the right reasons. It would have been very self-serving. It could have served my race, and it would have served the Army, but it would also have blocked others from ever getting the chance to be promoted . . . . It was just a matter of principle . . . I thought that the opportunity was there—perhaps for the wrong reasons. I do not think that anyone has a right to be promoted to general officer. For those officers who set that as a goal, I think it is a mistake.<sup>248</sup>

#### VII. 1997–2008

Major General Gray retired on 1 May 1997 with a heartfelt farewell, presided over by the Secretary of the Army, Togo West, in the courtyard of the Pentagon. After more than thirty years of military service, including his historic selection and successive promotions as a general officer, he sought to set out the way ahead for military retirement and the next phase of personal and professional life. Retirement can be a difficult time for senior military leaders. Should he pursue private or corporate practice for the pecuniary rewards that might bring? Or remain in executive-level government service and apply decades of understanding and experience elsewhere in service to the nation? He later recalled,

As I neared retirement [in the mid 1990s], I had lunch with one of my law school classmates, Marshall Jarrett, who works at the Justice Department as the Ethics Counsel for Attorney General Ashcroft, and we were discussing what I would do when I retired. He said to

---

<sup>248</sup> *Id.* at 187.

me—“You ought to do something that warms your heart.” I thought [then] that being around young people and students and being in this type of environment would be something I would really enjoy.<sup>249</sup>

He was tempted, understandably, to look elsewhere, recalling, “I had always vowed that once I finished with my public service that I was going to get a job where I was going to make some money . . . .”<sup>250</sup> Instead, he was recruited by the President of West Virginia University to return to Morgantown, where he assumed his current position as the Vice President for Student Affairs on 5 May 1997.<sup>251</sup> It was a surprisingly easy transition.

[B]eing a Judge Advocate, we can do just about anything. We have the background and experience to take on any job that is out there that requires management and leadership. Those core values that we have, integrity, dedication, selfless service, and [the willingness] to roll up your sleeves and work hard are all present in most JAG officers . . . . [The decision to join the university] has turned out to be really good because I had the opportunity to continue working with young people, with students, leading an organization and working with a President who established a vision, goals and objectives, performance measures, and all of those things that fit into what I was used to and could just bring to this particular job. I thoroughly enjoy what I am doing.<sup>252</sup>

Initially, Gray found some among his university coworkers wary of his military background. Gray explains:

I am non-traditional . . . I didn't come up through the ranks of university administration or academics. This may have contributed to some initial resistance to my

---

<sup>249</sup> *Id.* at 73.

<sup>250</sup> *Id.* at 191. “JAG officers and those of us in public life don't make much and don't have much money.” *Id.*

<sup>251</sup> *Id.* Major General Gray is the recipient of the West Virginia University Law School's *Justicia Officium* Award, and is a member of the Academy of Distinguished Alumni of the University.

<sup>252</sup> *Id.* at 191–92.

selection. But the same values apply here as in the Army: you transition them from one to the other, and lead the same way by emphasizing organizational values and getting others to buy-in to what you are trying to accomplish.<sup>253</sup>

Over time, and in small gestures such as dropping his much earned military title—insisting people call him by his first name without any reference to his status as a retired general officer—he earned broad and enthusiastic acceptance by university faculty.<sup>254</sup> In all, Gray’s transition to private life and service in the university setting was successful and highly satisfying. The skills he honed as a Soldier and officer found ready application at West Virginia University, and the leadership traits that made him so spectacularly accomplished in one found easy translation to the second. We turn now to those skills, and the lessons and considerations learned from his remarkable life and career.

#### VIII. Leadership Philosophy

*The good-to-great leaders never wanted to become larger-than-life heroes. They never aspired to be put on a pedestal or become unreachable icons. They were seemingly ordinary people quietly producing extraordinary results.*<sup>255</sup>

Leadership philosophies strive to provide consistent ways of thinking, contributing to an atmosphere, and a practical paradigm for decision making that recognizes sets of standards against which facts and circumstances are applied.<sup>256</sup> What gives MG Gray’s leadership style its distinctive and prescriptive character is the unbridled focus on leveraging human and organizational capital in the most effective way possible, while acknowledging clearly defined institutional goals and objectives.

---

<sup>253</sup> Gray Interview, *supra* note 14.

<sup>254</sup> Gray, *supra* note 3, at 387. “I asked everyone to call me by my first name. They felt relieved when I dropped the title. It was a small thing for me, but huge for them.” *Id.* Gray has noted that “[t]he only thing a title can buy is a little time—either to increase your level of influence with others or erase it.” *Id.* (quoting JOHN C. MAXWELL & ZIG ZIGLAR, *THE 21 IRREFUTABLE LAWS OF LEADERSHIP* 14 (1998)).

<sup>255</sup> COLLINS, *supra* note 4, at 37.

<sup>256</sup> See generally U.S. DEP’T OF ARMY, FIELD MANUAL 6-22, ARMY LEADERSHIP (12 Oct. 2006) [hereinafter FM 6-22].

Gray was willing to move beyond the convenient certainties of the past, for example, the way the JAG Corps looked at minority recruiting or the integration of the reserve component, and worked to identify and maximize people and policy to address current and future institutional requirements. His legacy in this regard is not exclusively defined by what he individually achieved professionally, but in the personal example he provided others.

In 2002, MG Gray was the guest lecturer for the Eighth Annual Hugh J. Clausen Lecture on leadership sponsored by The U.S. Army Judge Advocate General's School.<sup>257</sup> There, he presented a broad and thematic leadership vision for an audience of junior and mid-grade Army officers assembled at the U.S. military's premier center for legal education and training.<sup>258</sup> He told the group of young leaders that the ballast for his brand of leadership—the element that steadies the turbulence of all manner of conflict and interactions—is a core adherence to a set of fundamental values. Echoing the values that are the doctrinal cornerstone for the Army,<sup>259</sup> he told the group:

I believe it is . . . important to have a strong foundation underlying all we do. For me, that foundation is a set of values that guides my everyday life. I'm talking about duty, honor, selfless service, love and loyalty to family and country, personal responsibility, and absolute integrity; values that were instilled in me when I was growing up and during my service in the Army.<sup>260</sup>

He went on to emphasize the nexus between personal and institutional values; citing the work of James Kouzes and Barry Posner, he offered that

leaders must engage individuals in a discussion of what the values mean and how their personal beliefs and behaviors are influenced by what the organization stands for. I believe it is necessary to discuss values and expectations in recruiting and orienting new members to

---

<sup>257</sup> Gray, *supra* note 3, at 385.

<sup>258</sup> *Id.*

<sup>259</sup> FM 6-22, *supra* note 256, at 2-2. The Army values are Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage.

<sup>260</sup> Gray, *supra* note 3, at 395.

your staff; it is always good to let people know what is expected of them.<sup>261</sup>

This emphasis on values is the foundational antecedent to Gray's leadership philosophy, fostering personal and institutional conduct conditioned by what he refers to as the "qualities of professionalism"—commitment, competence, candor, courage, and compassion.<sup>262</sup> These qualities, integrated into Army literature and highly emphasized by leaders like General Gordon Sullivan, former Chief of Staff of the Army,<sup>263</sup> condition and define almost every other aspect of professional life. In his 1996 book, *Hope is Not a Method*, Sullivan writes that, "One of the most important lessons we learned during the rebuilding of the Army after Vietnam was the importance of values—a commitment by all [S]oldiers to something larger than themselves."<sup>264</sup> The importance of personal commitment to institutional success is directly tied to shared values, which Sullivan observes

express the essence of an organization. They bind expectations, provide alignment, and establish a foundation for transformation and growth. By emphasizing values, the leader signals what will not change, providing an anchor for people drifting in a sea of uncertainty and a strategic context for decisions and actions that will grow the organization. Leadership begins with values.<sup>265</sup>

Value-driven leadership implicates many nuanced considerations and individual expressions of personal experience, understanding, and perspective which contribute to—and ultimately become an expression of—the content of one's character, and the work ethic that motivates it. They alone are not prognosticators of success in the military or elsewhere; they are, however, preconditional for most and endow leaders with the potential to achieve greatness. Values and hard work are the mortar by which the bulwark of successful leadership is built, facilitating success over adversity and mediocrity by appealing to the nobler side of human nature through action and initiative. Major General Hugh

---

<sup>261</sup> *Id.* at 390 (citing JAMES M. KOUZES & BARRY Z. POSNER, *ENCOURAGING THE HEART: A LEADER'S GUIDE TO REWARDING AND RECOGNIZING OTHERS* (1998)).

<sup>262</sup> *Id.* at 395.

<sup>263</sup> See GORDON R. SULLIVAN & MICHAEL V. HARPER, *HOPE IS NOT A METHOD* (1996).

<sup>264</sup> *Id.* at 57.

<sup>265</sup> *Id.* at 64.



Overholt, whom Gray cites as an early mentor, made specific observations of both:

Ken clearly demonstrated a caring nature for nearly everyone, and always strove to do right by people and the Army without any of the careerism I saw in some others. He had an instinctive leadership quality you could just feel; a very special kind of leader. He was also an enormously hard worker. Whereas I might take something new and kind of fake it, Ken would focus on things, take the time that was needed and master them. He was successful because of his personal commitment and effort.<sup>266</sup>

Gray, in addition to his emphasis on shared values and hard work, commends leaders to focus on specific traits, attitudes, and considerations for moving people and organizations from merely good to truly great. If values are a binding material of great leadership, then individual priorities and the lessons of others are among the stone that provides its structure. In his 2002 lecture, he offered the following considerations for leaders at both the personal and institutional level:<sup>267</sup>

Personal conduct: How to relate to others.

- Be yourself and continue to learn.
- Don't worry about who gets the credit.
- Be humble (manage your ego).
- Remember your family.

Institutional conduct: moving your organization forward.

- Establish Mission, Vision, Goals, and Objectives.
- Set realistic goals.
- Develop shared values.
- Create a cohesive and balanced team.

---

<sup>266</sup> Telephone Interview with Major General (Retired) Hugh S. Overholt, Partner, Ward & Smith P.A.; TJAG (1985–1989); TAJAG (1981–1985) (Mar. 5, 2008) (notes on file with the author). General Overholt is currently counsel with Ward & Smith, P.A., New Bern, N.C. See generally [www.WardandSmith.com/Pages/attorneys/Overholt.html](http://www.WardandSmith.com/Pages/attorneys/Overholt.html) (last visited Apr. 24, 2008).

<sup>267</sup> Gray, *supra* note 3, at 387–94.

- Be innovative, creative, and think outside the box.
- Be a mentor and take care of subordinates.
- Celebrate and reward success.
- Communicate, Listen, Communicate.

To highlight a few key aspects of this, one need only begin with MG Gray's focus upon people and relationships when touring and inspecting Army legal offices under the provisions of UCMJ Article 6:<sup>268</sup>

I really wanted to see how well the SJA office was operating and functioning. How it fit in to the command structure, in other words, whether it was an integral part of what was going on at the installation. I wanted to see how the SJA's relationship was with the [commanding general]. I wanted to check the morale within the offices, the civilians, enlisted, and officers.<sup>269</sup>

Mentoring, in particular, was a key question Gray considered as he evaluated uniformed attorneys and paralegals—asking about leaders' relationships with subordinates, and the efforts being made to grow and develop junior officers and non-commissioned officers. He notes, "I think mentoring is really just guiding people. I think it is an obligation that we have as senior officers to mentor those who are junior to us."<sup>270</sup>

One of the key leaders Gray mentored during his career was MG Walter Huffman, currently the Dean of Texas Tech Law School, who succeeded MG Nardotti as The Judge Advocate General of the Army in 1997. When asked about Gray's leadership style, Huffman recalls, first and foremost, the special ability to listen and communicate with subordinates and his patient and studied evaluation of people and problems. As Huffman describes it:

---

<sup>268</sup> UCMJ art. 6 (2008) ("The Judge Advocate General or senior members of his staff shall make frequent inspections in the field in supervision of the administration of military justice.").

<sup>269</sup> Oral History, *supra* note 12, at 179.

<sup>270</sup> *Id.* at 117. Major General Gray cites numerous past and future leaders of the JAG Corps among those he has mentored and worked with. He specifically mentions the following in his oral history, many previously mentioned in this article: MG Thomas Romig, MG Walt Huffman, MG John Altenburg, MG Michael Marchard, COL Paul Snyders, COL Robert McFetridge, COL Robert Burrell, COL Calvin Lewis, COL Tia Johnson, and COL Michelle Miller. *Id.* at 188–89.

Perhaps as a function of his life experience, and all the challenges Gray may have encountered, he was very slow to judge people. He always took a hard look and never prejudged anyone. I learned from Ken Gray the importance of understanding a person before you conclude anything about them . . . always knowing more than an initial impression before concluding the measure of a person.<sup>271</sup>

This patient approach to evaluating people also found practical expression in Gray's method for dealing with problems. His calm demeanor and dedication to the leadership contributed to his ability to always remain focused on the things that matter most, to never get overly excited, and to reinforce organizational goals, missions, and objectives. Of this, General Huffman further recalls: "I learned from MG Gray that sometimes the best reaction is no reaction. It is amazing how a crisis of the moment can resolve when left alone; over-reaction can become a crisis in itself."<sup>272</sup>

Huffman, who worked for Gray at the Office of The Judge Advocate General, Personnel, Plans & Training Office, also extends great credit to Gray for his exemplary role as the consummate team player who consistently did great things without any concern for personal reward or recognition, and who adopted the priorities of people like MG Mike Nardotti with passion and unrestricted commitment. "He was the perfect deputy, who was loyal to [MG Mike Nardotti] and wholly dedicated himself to [Nardotti's] goals, objectives, and policies. . . . Gray had no private agendas, sought little personal recognition, and genuinely cared about everyone."<sup>273</sup>

Gray also cared about the institution of the Judge Advocate General's Corps, and his success with programs like the minority recruiting initiative are a lasting credit to his ability to visualize, develop, and achieve goals and accomplish missions while thinking "outside the box." Major General William Suter, the former Acting The Judge Advocate General of the Army and the current Clerk of the U.S.

---

<sup>271</sup> Interview with Major General (Retired) Walter B. Huffman, Texas Tech University Law School, in Lubbock, Tex. (Feb. 15, 2008) (notes on file with author).

<sup>272</sup> *Id.*

<sup>273</sup> *Id.*

Supreme Court, worked with Gray directly in the 1970s. He echoes this and remembers Gray as an officer of great foresight and ingenuity:

First, [Gray] is a fine gentlemen. Second, he is an excellent lawyer. Sometimes I called him the “DLJO.” That means “Dirty Little Jobs Officer.” I was taught that the best officers are those who do everything well, especially those things that are unpleasant or unrewarding. Ken was the man that could and would do anything and do it well. He never complained. He always took it with a smile. Our TJAG at the time was MG George Prugh.<sup>274</sup> He was a man of great foresight. He inundated us with “Prugh-grams.” Do this, do that, try this, try that. The bad news was that a lot of his ideas were unworkable. The good news is that many of his ideas were brilliant.

One of the Prugh-grams told [PP&TO] to start a JAG law student summer intern program. He accurately thought the program would attract women and minorities, some of whom might enter the JAG Corps on active duty or the Reserve Components. Ken was assigned the task of making it happen. He had to get the funding and field support, advertise, select, etc. He had no staff. Ken pulled off a miracle and that summer we had 100 law students working as interns in [the United States] and Europe. The program that Ken hatched is alive today. The JAG Corps and our Nation benefitted greatly from this program because it made thousands of law students aware of how the Army legal system works.<sup>275</sup>

Finally, the former The Judge Advocate General, MG Mike Nardotti, reiterates the sentiments of MG Huffman in his feelings for Gray as the consummate team-player who never worried about who got the credit and who steadfastly put the institution first, helping facilitate an enormously productive partnership from 1993–1997. As his principal deputy in the leadership of the JAG Corps, Nardotti “relied upon Gray

---

<sup>274</sup> See generally Smawley, *supra* note 72.

<sup>275</sup> Correspondence from Major General William Suter, to Lieutenant Colonel George Smawley (13 Feb. 2008) (on file with the author).

for his superb judgment, and felt that Gray set the highest possible standard as a Soldier, a gentleman, and an officer."<sup>276</sup>

#### IX. Summary

Kenneth Gray was one of those exceptional military leaders who mastered not only the complexities of his profession, but did so with a certain memorable and very human touch that influenced senior officers and subordinates alike in ways that almost transcended traditional notions of leadership. Even now, a decade after his retirement from active duty, people speak of Gray with a special enthusiasm and affection bestowed on very few; he remains a part of the conscience of the Army JAG Corps for the quality of character he demonstrated throughout his career. Colonel Joe Ross, who served with him twice in the 1980s and mid 1990s, remembers him as a trusted mentor, the sort of man who young men and women seek to follow.

[Gray's] quiet, inspirational style of leadership was a model for me. Always a gentleman, always humble, and always a professional, he was a man I would choose to raise my children if, God forbid, something happened to my wife and me (that is actually a statement first expressed by Walt Huffman; I fully endorse it). . . . He is now, as he has always been, totally selfless, dedicated to helping others, and a mentor of mentors.<sup>277</sup>

It is the author's view that Kenneth Gray's life experience in West Virginia, and on through his education and early career, contributed to each and every success and carried him over and across each and every disappointment on the road to becoming America's senior ranking African-American military jurist. Major General Gray is a leader steeped in the values of a great family, fortified by the adversity and spotlight of being among the first black lawyers to make the military a career, and remains tempered by the studied understanding and appreciation for the inherent worth of others. His legacy is the example he set as a leader and the role he played as mentor, seeing in people what they often could not see in themselves. He demonstrates an innate ability to visualize the potential in individuals and institutions and to move them

---

<sup>276</sup> Smawley, *supra* note 207, at 37.

<sup>277</sup> Correspondence with Colonel Joseph Ross (Feb. 25, 2008) (on file with author).

to their truest potential. His life and career are a worthy lesson and example, for the current generation and the next.