



Clockwise, from top left: Lt. Col. Laura Klein, Col. Elizabeth Fleming, Brig. Gen. Malinda Dunn, and Col. Julie K. Hasdorff.

# Well Armed for Legal Duty

By Ann Farmer

*W*omen lawyers in private firms well understand the formula for success: billable hours, billable hours, billable hours. It wouldn't occur to them that their speed on a jogging track could be a performance factor. However, if you're a female lawyer determined to stake a corner office in the legal establishment of the U.S. military, being a poky runner could become a real career drag.

"If you fall behind, everybody sees it," said Brigadier General Malinda E. Dunn of the U.S. Army Judge Advocate General's (JAG) Corps during her keynote speech at the New York State Bar Association's annual meeting in January.

Explaining to a roomful of civilian female lawyers what it takes to climb the career ladder in the JAG Corps, she added, "If you can run, you're a woman who can succeed in that unit. If not, it impacts your entire professional standing."

And Dunn was serious. To join the JAG Corps, it is absolutely necessary to meet certain physical fitness criteria in addition to having a law diploma. To remain, judge advocates

must maintain fitness standards. Dunn, for instance, has even parachuted out of airplanes. Her greatest achievements, however, have been the challenging legal assignments she's completed during the 26-plus years she's been in the JAG Corps.

### All in a Day's Work

"I've been able to do a lot of interesting things," said General Dunn during a phone interview, describing how she joined the JAG Corps in 1981, fresh out of law school, anticipating a three-year stint that she hoped would allow her to see the world. It did. She immediately shipped out to Korea.

"I got off the airplane," Dunn recalled, "and others said, 'I hope you want to be a prosecutor because that's what you'll do.'" Dunn didn't know what being a prosecutor entailed, beyond what she learned in law school. Within a month, however, she was trying soldiers for things like drug use, sexual assaults, fighting, and ration control violations.

When the year ended, she was sent to the 82nd Airborne Division

in Fort Bragg, North Carolina. The Army had begun an intensive drug-testing program, and Dunn participated on a prosecutorial team that established legal precedent for courts-martial cases based on drug urinalysis evidence. She also handled claims cases, such as car dealerships swindling soldiers. Claims are quite common, said Dunn, especially as the armed services population tends to be young and "less wise in the ways of the world."

Through the years, Dunn has changed assignments and risen through the ranks to her current status as assistant judge advocate general for military law and operations. But she still vividly recalls the time, early on, when she reported to a commanding officer who said, "Women have no place in the 82nd Airborne, Captain Dunn."

Even today, with women comprising 25 percent of the JAG Corps, Dunn believes women have to be better than their male counterparts to be considered equally good. "It's frustrating," she said, but offered some tips during her keynote:

Exhibit a strong sense of humor and good self-control. “You have to look people in the eye and speak firmly and clearly,” said the brigadier general, who has earned a Bronze Star and is the mother of two daughters. “You can succeed wildly.”

The job is not without risks. When Dunn was deployed to Afghanistan in 2003 and Iraq in 2005, the U.S. military was fully engaged in combat operations. One day a mortar exploded inside her compound in Mahmudiyah, Iraq, blowing up a vehicle. At the time, she was seated nearby in a conference room made of plywood, where she would meet with the commander to discuss issues, such as how to assist the local populace with clinics, schools, and other war-rebuilding efforts without violating U.S. statutes in terms of funding appropriations.

“We spent a lot of time sorting through fiscal issues,” Dunn said, “so when the auditors came, the commanders would have done it the right way.”

While in Iraq and Afghanistan, she also pieced together courts-martial cases. In Afghanistan, there were no judges assigned to her small base, so the soldiers were sent back to the United States for trial. However, full-blown courts-martial trials are routinely held at other combat zone bases where military judges are periodically stationed.

### **Life as a Military Judge**

Throughout 2007, Colonel Julie K. Hasdorff served as a military judge, traveling a circuit that took her to bases in Europe, Kuwait, and Iraq. “It was quite a ride,” says Hasdorff, who left active duty service with the JAG Corps in 1992 to teach law and eventually establish a private law firm in San Antonio, Texas. She volunteered as a reservist last year because she felt it was her turn. “I wanted to do my part,” she says.

Although she can’t discuss the courts-martial cases she presided over because many are still pending, the situation in Iraq posed numerous

challenges. For instance, “Getting everyone together for court was a logistical nightmare,” she says, explaining that, in many instances, soldier witnesses had been dispatched elsewhere.

For case law reference, Hasdorff carried a law library on disk. And she could discuss legal matters with U.S.-based judges by phone or e-mail. But the difference in time zones required her to anticipate the legal issues that might arise in court.

She also had to maintain a certain separateness to assure others of her objectivity. “You can’t socialize with the prosecutor or defense,” says Hasdorff, who worked on motions

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and read books during her downtime. “It can be a lonely job if you can’t go hang out with the guys.”

Plus, serving in a combat zone is physically grueling. “You feel old when you put on a flak vest, a helmet, and a weapon—altogether they weigh 70 pounds. And then you have to pick up your bag. There’s no bellhop,” says Hasdorff, 49, who added that even being from Texas did not prepare her for temperatures soaring to 140 degrees.

### **Overcoming Adversity**

Similar sentiments about the harsh conditions in a combat zone are shared by Colonel Elizabeth Fleming, another JAG reservist mobilized to Iraq last year. She went to Camp Slayer in Baghdad where, as command judge advocate,

she provided daily legal advice to the commander of the 358 Civil Affairs Brigade.

To beat the heat, Fleming, 51, began her daily workout at 5AM, donning a heavy pack and running the inner parameters of the compound, logging about 5.5 miles. It was one of the few times during the day that she didn’t have to tote her M16 rifle and M9 pistol. As the only female JAG there, she received private accommodations, a trailer she described as “a tin can.” When she stood up, she could touch both walls.

Travel was severely restricted. “Anytime you left the base, you were in danger of being blown up,” says Fleming, noting that the danger extended to the escorts. Therefore, she spent most of her time in camp. “You’re sitting in a big prison yard pretty much,” she said. “There’s no place to blow off steam. I was going stir crazy.”

That wasn’t the situation when Fleming was on active duty in Korea from 1984 to 1987 and routinely rubbed elbows with the locals. During that deployment, she served as a trial counsel for felony cases involving drug distribution, homicide, white-collar crime, and sexual assaults. Not many women had yet infiltrated the ranks of the JAG Corps. Fleming recalls the first time she served as the prosecutor, and another female JAG served as the defense, for a male serviceman charged with rape. “The men were all giggly, thinking we couldn’t do it.”

Sexual assaults continue to occupy a substantial percentage of judge advocate caseloads. A Department of Defense statement issued last year reported a 24 percent increase in sexual assault reports in 2006, although the Pentagon attributed the spike in reporting to better education on the subject and more willingness to report the incidents. “In my experience in the Army,” Dunn noted, “when we have sexual assaults reported, we take it pretty darn seriously.”

*(Continued on page 14)*

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## WELL ARMED FOR LEGAL DUTY

*(Continued from page 11)*

Nonetheless, Fleming was bothered by some double standards while stationed in Iraq. For instance, when one female enlistee became pregnant, others suggested that she be court-martialed, insinuating that she'd become pregnant on purpose to get out of deployment. And whereas the father of the baby received his award at the end of his tour, the pregnant enlistee departed without one. "I thought everything about it was unfair," Fleming says.

### **Missions Accomplished**

While Fleming was relieved to return to the comforts of home and her drilling reservist status in St. Louis, another JAG officer, Lieutenant Colonel Laura Klein, sees no reason to curtail her active-duty status. She's taken full advantage of

the Army JAG Corps to get a free legal education and serve abroad. She's already been stationed in Afghanistan, Italy, Korea, Somalia, and Iraq twice. Next she goes to England. "You can make a real difference," says Klein, 41, whose focus and passion is operational law.

In fall 2003, she was deployed to a base in Kirkuk, Iraq, where she supervised a process for Kurds, displaced under Saddam Hussein's rule, to file claims on their former homes and to negotiate land use agreements with those Arabs who'd taken over their properties in good faith. "It was very exciting," Klein says.

When she returned to Iraq in 2005, Klein helped supervise and coordinate investigations concerning potential criminal misconduct regarding the rules of engagement. This might include an incident where a civilian Iraqi was killed during crossfire between U.S. military troops and insurgents. Her role required a nuanced understanding

of the cultural dynamics at play. For instance, any settlement regarding an accidental Iraqi death required a negotiation. "Bartering is a manifestation of something else. It's a face-saving," says Klein, who would advise her subordinates on how to effectively conduct the exchanges with the Iraqis and make appropriate expressions of sympathy.

"The importance of what you do is immediately apparent," says Klein, describing a huge demand for the critical thinking and problem-solving skills that judge advocates bring to Iraq and other deployed settings. "This is exactly what I joined the JAG Corps to do: to be part of the team and to support the commanders to successfully complete the mission." 

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