During the bulldozing operations, General Franks radioed to Colonel Huffman, asking if burying the enemy alive in his own trenches was permitted under the Law of War. If not, said Franks, he would “stop it now.” Colonel Huffman assured him that the breaching operations were lawful. He advised, however, that the location where Iraqi defenders were being buried should be marked for later reporting to the International Committee for the Red Cross.

Long before the first Brigade Operational Law Team (BOLT) grabbed its Rucksack Deployable Law Office and Law Library (RDL) and went off to war, Army judge advocates were refining the discipline of operational law both in combat and in operations other than war. In Judge Advocates in Combat: Army Lawyers in Military Operations from Vietnam to Haiti, Colonel (COL) Frederic Borch tells the story of how the U.S. Army Judge Advocate General’s (JAG) Corps transformed itself from an organization focused on providing primarily garrison-type legal services in a deployed environment to a fully integrated part of the Army operational team. By sharing the stories of individual judge advocates’ experiences during operations in such diverse locations as Vietnam, the Dominican Republic, Iraq, Western Samoa, Egypt, and Haiti, Judge Advocates in Combat demonstrates that the practice of operational law has evolved from the ad-hoc initiatives of judge advocates in unique circumstances to its cur-


2. United States Army. Written while assigned as a student, 51st Judge Advocate Officer Graduate Course, The Judge Advocate General’s School, United States Army, Charlottesville, Virginia.

3. Borch, supra note 1, at 182.

4. The BOLT is comprised of at least one attorney and several enlisted paralegal support staff. The primary mission of the BOLT is to provide operational law support to brigade-size elements in any type of operation. U.S. Dep’t of Army, Field Manual 27-100, Legal Support to Operations 5-21 (1 Mar. 2001).

5. The RDL generally consists of a notebook computer, printer, digital camera, and hardened case. The RDL comes with CD-ROM versions of legal and military research materials and has Internet-connection capability. Id. (glossary).
rent state of doctrinal and practical institutionalization in both the JAG Corps and in the Army.

Colonel Borch is a prolific writer who has co-authored three books and written or co-authored more than thirty-five articles and book reviews published in both military and civilian periodicals and legal journals. He has served in a variety of assignments in the United States and abroad, has taught at the Judge Advocate General’s School of the Army (TJAGSA) in Charlottesville, Virginia, and is currently on the faculty at the Naval War College in Newport, Rhode Island.

*Judge Advocates in Combat* was written under the direction of The Judge Advocate General of the Army and is the first book published under the auspices of the Office of the Judge Advocate General and the Center of Military History. In a sense, the publication of this book is a historical event in itself; in the 225 year existence of the JAG Corps there has been only one prior published history of the Corps.

*Judge Advocates in Combat* is a valuable resource for Army lawyers, commanders, and anyone interested in the role of the judge advocate in modern operations. It is well-organized, tightly written, and packed with stories of how judge advocates have used their abilities as soldiers and lawyers to solve problems and enhance mission success. Helpful features of the book include fifteen organizational charts depicting the legal organization of judge advocates during various operations, sixteen maps depicting judge advocate locations and their supported commands in the

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7. Telephone Interview with COL Frederic L. Borch (Oct. 18, 2002).

8. See Borch, supra note 1, at xi-xii.

9. *The Army Lawyer: A History of the Judge Advocate General’s Corps, 1775-1975* (1975). *The Army Lawyer*, however, was not written as a comprehensive history; rather, it was a collection of articles from earlier publications involving historical aspects of the Corps. See generally id.

10. The book is already ubiquitous within the JAG Corps, much like the black beret. With an initial production run of some 10,000 volumes, it is easier to find a copy of this book than a hard copy of the 2002 edition of the *Manual for Courts-Martial* among members of the Army judge advocate community. Basic and graduate course students, distinguished visitors, and complete strangers will receive copies for years to come before the first printing is exhausted; indeed, the book may replace the vaunted Jefferson cup as TJAGSA’s signature gift.
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ater, and a number of photographs and illustrations. The book’s two appendices contain a glossary, biographical sketches of about ninety of the three hundred judge advocates mentioned by name in the book, and rules of engagement cards drafted by judge advocates in many recent operations. Each chapter has extensive endnotes, and there is also an exhaustive index.

Perhaps the most useful reference feature of Judge Advocates in Combat is the bibliography. Colonel Borch lists literally hundreds of primary source documents, including official records, personnel records, after-action reports, regulations, and cases. He also lists a rich collection of secondary sources, an invaluable resource to anyone wishing to learn more about the operations discussed in the book or the development of Army operational law doctrine over the years.

The theme of the book is “the evolution of the role of judge advocates in military operations and how this development has enhanced commanders’ ability to succeed.” Colonel Borch develops this theme by focusing on the individual activities of selected judge advocates during operations in Vietnam, Grenada, Panama, Desert Shield, Desert Storm, Somalia, and Haiti. Each operation is given its own chapter in the book. There is also a catch-all chapter on operations other than war from 1965-1994 that includes such diverse operations as Operation Power Pack in the Dominican Republic from 1965-1966 and Army participation in Joint Task Force Los Angeles during the 1992 riots.

Each chapter begins with a brief synopsis of the events leading up to the conflict or deployment. Borch sets the scene by summarizing the political situation and the Army mission, then moves on to an examination of what Army judge advocates were doing in support of operations, a task he accomplishes primarily by weaving together stories of individual judge

11. See, e.g., Borch, supra note 1, chart 1, at 18 (diagramming the legal organization of U.S. Army units in Vietnam and the respective technical supervision and command relationships).
12. See, e.g., id. map 4, at 60 (depicting judge advocate locations during Operation Urgent Fury).
15. Id. app. B.
16. See id. at 369-79.
17. See id. at 379-91.
18. Id. at vii.
19. Id. ch. 8.
advocate feats and initiatives. He then concludes each chapter with a comment about the significance of the operation to the Army and the JAG Corps. The only drawback to this organizational scheme is the catch-all chapter, which interrupts the flow of the book. Having just finished reading about operations in Haiti, when judge advocate participation is at a peak, the reader is suddenly jolted back thirty years to Operation Power Pack in the Dominican Republic, before judge advocates began truly practicing operational law. The effect is disconcerting and might have been avoided by choosing a chronological or subject-based organization.

Younger judge advocates accustomed to JAG participation in military operations and the JAG Corps’ firmly established role in the military decision-making process will benefit from the historical perspective the book provides. For example, Army lawyers did not participate in the planning for Operation Urgent Fury in Grenada in 1983. Colonel (retired) (then Lieutenant Colonel (LTC)) Quentin Richardson, the Staff Judge Advocate (SJA) for the 82d Airborne Division, had barely twelve hours’ notice to prepare for the operation, and he had to convince the division chief of staff to leave behind another staff officer from the assault command post and take him instead.20

By 1989, during Operation Just Cause, judge advocates participated fully in the planning process and were embedded into the Army organization of command at all levels. When the 82d Airborne Division flew off to combat, the SJA, COL (retired) (then LTC) James J. Smith, was on the lead aircraft with the division commander and made the first combat jump by an Army judge advocate.21

In 1990 and 1991, over two hundred judge advocates deployed in support of Desert Shield/Desert Storm, supporting every level of command. They performed such functions as drafting rules of engagement, trying courts-martial, processing claims, serving on targeting cells, providing legal assistance to soldiers, facilitating battlefield contracting, and even, in one case, acting as a liaison officer to an Egyptian Army transportation battalion.22 Judge advocates made a significant contribution to the war effort; according to COL Raymond C. Ruppert, Central Command SJA

20. Id. at 63-64. Given the issues that subsequently arose, including prisoner of war issues, claims, and law of war issues, LTC Richardson said that convincing the division chief of staff to take him “was the smartest thing [he] did.” Id. at 64 (quoting Interview with LTC Richardson by then-LTC Borch (4 Mar. 1996)).
21. Id. at 99.
22. Id. at chs. 4-5.
during the conflict, Desert Storm was “the most legalistic war we’ve ever fought.”

Operations after Desert Shield/Desert Storm featured further refinement of judge advocate participation in operations. Recognizing their versatility, commanders gave judge advocates new roles traditionally performed by other staff sections. For example, during Operation Uphold Democracy in Haiti, the XVIII Airborne Corps SJA, Major General (retired) (then COL) John Altenburg was tasked to explain the operation’s rules of engagement at a press conference. Judge advocates have also served as a liaison to non-governmental organizations such as the International Committee for the Red Cross in Somalia and Guantanamo Bay, drafted status of forces agreements during disaster relief operations in Bangladesh and Western Samoa, and helped coordinate lawful military support to local elections during relief operations in Florida after Hurricane Andrew.

Colonel Borch wrote Judge Advocates in Combat as a narrative history, selecting stories and experiences of various judge advocates and using them to illustrate his theme that the role of judge advocates has evolved over the years and has enhanced commanders’ ability to succeed. This narrative approach is both the great strength and weakness of the book. On one hand, Borch is a gifted storyteller who chose his stories and experiences well; readers will enjoy paging through the book and reading about the exploits of various judge advocates in different operational settings. In turn, each of the stories admirably illustrates an aspect of the transformational development of operational law in the JAG Corps. On the other hand, because this is a contemporary history, Borch runs the risk that some readers who participated in these operations may feel left out or slighted by his decision to focus on certain individuals or units.

In addition, Borch’s approach leaves several gaps, particularly with the doctrinal and institutional changes the JAG Corps made between operations, that he never satisfactorily fills. In the conclusion to the chapter on Grenada, for example, Borch notes that “[b]eginning in 1986, there was a

23. Id. at 194.
24. Id. at 242.
25. Id. at 222.
26. Id. at 293.
27. Id. at 288-89.
28. Id. at 280.
29. Id. at 304.
concerted effort to reconfigure the corps’ assets and training to meet [the challenges identified during the operation].” Borch never goes into detail about this “concerted effort,” however, leaving the reader to wonder how the JAG Corps conducted this reconfiguration.

*Judge Advocates in Combat* begins with an account of the Vietnam conflict. The first judge advocate in Vietnam, COL (retired) (then LTC) Paul Durbin, arrived in 1959, with virtually no guidance on his mission. He began by providing traditional garrison legal services to the command. Life in South Vietnam was relatively uneventful for him until an attempted coup by the South Vietnamese Army several months into his tour. During the coup attempt, Durbin walked outside his quarters and noticed that an American Army advisor was riding in a jeep with a South Vietnamese paratrooper colonel involved in the attempt. Durbin flagged down the jeep, advised the American officer that it was outside the scope of the officer’s duties to advise the Vietnamese officer on carrying out a coup, and subsequently drafted written guidance for Military Assistance Advisory Group personnel in the event of a breakdown in internal law and order.

Throughout their sixteen years of involvement in Vietnam, Army judge advocates, as LTC Durbin’s experience illustrates, saw needs that fell outside the traditional model of legal services and took the initiative to fill them. In addition to providing traditional legal services, Army judge advocates served as advisors to the South Vietnamese army, developed policy on prisoners of war and war crimes, helped train troops on the Law of War, administered a creative and effective claims system, and towards the end of the war, served as legal advisors to the Four-Party Joint Military

30. This is particularly evident with Operation Desert Storm. Colonel Borch concentrates heavily on the activities of VII Corps and 1st Armored Division judge advocates, stating that they “typify those of the military lawyers who deployed during Desert Storm.” *Id.* at 180. Although this is undoubtedly true, some readers may feel it is no mere coincidence that the VII Corps SJA and 1st Armored Division SJA were, respectively, The Judge Advocate General and The Assistant Judge Advocate General during the writing of this book. There were many other divisional and corps SJA sections serving in Southwest Asia that might have typified operations just as well.

31. *Id.* at 81.

32. *Id.* at 7.
Commission. Borch notes that, looking back, “it is clear that a metamorphosis in the role of the Army lawyer was under way.”

Institutionally, the most significant change in judge advocate operations wrought by Vietnam came in the aftermath of the My Lai massacre and the subsequent Peers inquiry. The inquiry found that a contributing cause to the killings was inadequate training in the Law of War. Senior judge advocates assisted in revising Army regulations to require that judge advocates, together with commanders, provide instruction in the Law of War. In 1972, COL Waldemar A. Solf recommended that the Army propose to the Department of Defense (DOD) the creation of a DOD-level Law of War Program. The Judge Advocate General endorsed the suggestion, and the Secretary of Defense promulgated DOD Directive 5100.77 on 5 November 1974. The directive established a uniform Law of War program for all the services with the Army JAG Corps as the lead organization in implementing the program. Of greater significance to the development of operational law, however, was the requirement that judge advocates be involved in the development and review of operations plans to ensure compliance with the law of war; although few realized it at the time, this would set the stage for the eventual transformation of the Army JAG Corps.

The JAG Corps, however, did not capitalize on the lessons learned from the Vietnam War. When the war was over, Army judge advocates returned to their traditional garrison roles. Operational law was not part of the JAG Corps mission, and the JAG Corps did virtually nothing to conduct training or prepare its officers to provide operational support in the field. Consequently, the JAG Corps as an institution was unprepared for Operation Urgent Fury in Grenada in 1983. Nonetheless, judge advocates

33. The Joint Military Commission was formed as part of the Paris Peace Accords; its mission was to oversee a mutual troop withdrawal; serve as a communication forum for the Four Parties (the United States, South Vietnam, North Vietnam, and the Viet Cong); assist in verifying and implementing the agreement, and arrange for the return of prisoners of war and identification of those missing in action. Id. at 47-48.

34. Id. at 51.

35. See id. at 30. The inquiry took its name from Lieutenant General William R. Peers, the senior member of the investigative committee. Id.

36. Id. at 30.


38. Borch, supra note 1, at 31.
thrown into combat demonstrated great ingenuity and flexibility, and they did a superb job of providing operational legal support to the command. When they returned, their experiences served “as a catalyst for the development of a new military legal discipline referred to as ‘operational law,’ a compendium of domestic, foreign, and international law applicable to U.S. forces engaged in combat or operations other than war.”

At this point in Judge Advocates in Combat, a major weakness of the narrative history technique reveals itself. In his conclusion to the chapter on Grenada and again in the conclusion to the book, COL Borch mentions that Urgent Fury served as a catalyst for the JAG Corps to reconfigure its assets and training. He fails to address in any detail, however, what specific doctrinal, organizational, and educational changes enabled the JAG Corps institutionally to rise to the challenge posed by Grenada. The omission is critical because if Grenada was truly a time of transition, there can be no true sense of historical perspective on the operation without a thorough discussion of what the Army—and specifically the JAG Corps—did to bring about a change. This material would be particularly valuable to judge advocates in the future who may have to make similar transitional changes in response to new challenges.

Without this bridging material, COL Borch takes up Operations Just Cause, Desert Shield, Desert Storm, operations in Somalia, Operation Uphold Democracy in Haiti, and operations other than war from 1965-1994. In each operation, through the careful selection of representative examples, COL Borch traces the further evolution of the judge advocate role in operations, continuing to develop his two-fold theme of how the role of judge advocates in military operations has increased and how this development has enhanced the commanders’ ability to succeed. His documentation of the expanded role of judge advocates in military operations is admirable.

Borch spends less time developing the second part of his theme: how increased judge advocate participation has enhanced commanders’ abili-
ties to succeed. He treats as self-evident the proposition that commanders have found judge advocates to be valuable, as demonstrated by the fact that commanders have increasingly turned to judge advocates to perform non-traditional tasks. One of the best examples is Major General Bull-Hansen of the Multi-National Force and Observers calling on COL (then Major) David Graham to draft a formal document turning over control of the Sinai Peninsula from Israel to Egypt, something the diplomats had neglected to do. These stories are interesting, and they help buttress Borch’s argument that judge advocates have been increasingly useful to commanders over the years.

The primary weakness in Borch’s development of his argument, however, is its viewpoint: everything is told from the judge advocate’s point of view. Colonel Borch missed a great opportunity to interview the commanders and principal staff officers involved in these missions, many of whom, like the judge advocates who advised them, are still living. General (retired) Gordon R. Sullivan, former Chief of Staff of the Army, did write a laudatory foreword, but the book itself contains no primary source material from commanders or principal staff officers. This oversight robs the book of an important perspective that would benefit not only judge advocates, but also other officers who might read the book.

*Judge Advocates in Combat* is a rich storehouse of historical perspective, information, and ideas. The book traces the development of operational law from a time when judge advocates had to “re-invent the wheel” for every operation, to the current state of affairs in which judge advocates are a welcome and integral part of the operational team at every echelon of command. Judge advocates deploying today stand on the shoulders of an innovative group of officers who proved their worth in all types of contingency and combat operations throughout the world. It is a proud heritage, and COL Borch has done a superb job of documenting it.

42. *Id.* at 275.
43. *Id.* at 322.