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Find Your Yoda

Ten Rules for Being a Rock-Star Operational Attorney

By Brigadier General (Retired) Rich Gross

On March 23, 2018, Brigadier General (Ret.) Rich Gross gave The Judge Advocate General's Legal Center and School's 11th annual Solf-Warren Lecture in National Security Law. The following is an abridged version of his comments during this chaired lecture.

It's a tremendous honor to be here. It's a little intimidating, frankly. First of all, I worked for Mark Warren—absolutely one of the best bosses I ever had. And, in my mind, I have a very short list of the top Operational Law attorneys that I've ever worked with—Army and other services—and he is on that short list. Pat Huston is also on that short list. So, I've got those two here. To make it more intimidating, Professor Yoram Dinstein, who probably is the greatest mind on the planet when it comes to International and Humanitarian Law, is also here. Sir, you will be greatly disappointed today.

When trying to decide what to talk about today, I really thought about what I would have wanted to hear when I was in your shoes. What I'm going to give you are my top ten rules for being a rock-star operational law attorney. I've learned them from some pretty amazing people, some of whom are in this room.

Rule #1: Don't be a dentist.

Now, look, I love dentists. Dentists are important. We all need to go see the dentist and get our teeth cleaned. It is important to our health. So what do I mean by, "Don't be a dentist"? Think about the business model for a dentist. He has an office. You go visit every six months. If you have a problem, your dentist fixes your problem, then you go away. That is the dentist's business model.

However, it doesn't work for an Operational Law attorney. You have to be integrated into your command's business all the time. You have to be present.

Let me give you an example. I was at a meeting at a place I can't tell you where, with a unit I'm not going to disclose. And we spent fifty-nine minutes of that meeting—time I was never going to get back in my life—immersed in the operational business of the command. No legal issues at all. And then, in the very last minute, one of the J3 guys said to the boss, "Hey, sir, I've got an idea we want to pitch to you." So, I hung around.

And he pitched this amazing capability that would have given our command some interesting things that we could do to accomplish some really important missions. There were about twenty-five people standing around. Everybody's going, "That's really cool. That's really cool." But then, just as we're getting ready to break up, I raised my hand. And I said, "I'm sorry. Excuse me, sir." And the boss said, "Hey, Judge, what's up?" This is a two-star. I said, "Sir, I'm pretty sure that would violate the Chemical Weapons Convention." And all heads swung in my direction.

I continued, "It's an international treaty; it's kind of important. I'll check." And I checked. Of course, the J3 guys were furious. But they had not run it by me, you know. They had not come by my office to ask me about this, but fortunately, I was at the meeting



where they introduced it. Sure enough, it was a violation of an international treaty, so, we shut it down. It never got to the point where it was a legal violation, fortunately.

The only way I learned about it was being at the meeting. I learned that from Mark Warren. Mark Warren used to call it “Double-billing.” He would say, “I go to all these meetings that have absolutely no legal purpose, but I’m there, I’m heard, I’m seen, they are aware I am there; and I may be working on something else, but I am listening for that legal issue.”

You will go to a lot of meetings. You will be there, like I said, fifty-nine minutes, and only in the last minute will you get a legal issue—but it will make all the difference. So, do not be a dentist. Get out of your office.

Rule #2: Take the long view.

It is real easy to solve a problem right there on the spot, and not think about the long-term consequences. “Is it legal

or not?” “It’s legal; let’s move on.” You’ve got to take the long view. Sometimes, that involves using more than just your legal acumen. Sometimes, that involves looking at common sense, or what we would call “*The Washington Post* test.” That’s happened to me on more occasions than I can say, and probably happened to you all as well.

When I was on the Joint Staff, we had all the four-star COCOM commanders coming to town. Someone wanted to use helicopters to fly them out from the Pentagon to the Antietam Battlefield, a forty-five minute drive in the worst of traffic. Everybody thought that was a great idea, except me. I said, “I really think that is a bad idea.” Is it illegal? No. Is it a bad idea? Yeah. It’s what Harold Koh, the State Department legal advisor, used to call, “Lawful, but awful,” and is what I call, “Legal, but stupid.”

And so, I said, “I think this is a really bad idea. Think about the optics of this.” Sure enough, they took it to the Chairman of the Joint Chiefs, and they

said, “Everybody on the staff thinks this is a wonderful idea, except the Judge.” And General Dempsey said, “I agree with Rich. We are not going to do it.” They put the COCOM Commanders on a bus. There were probably nine very unhappy COCOM commanders on that bus. But it just didn’t make sense.

You have to take the long view.

Rule #3: Befriend the gatekeeper.

Your client has somebody who guards them. They guard their schedules. They guard their office. They guard their phone calls. Everything. And if you get in good with that person, you will know exactly what’s going on, and you will get invited.

When I was at Central Command (CENTCOM), General Mattis, now the Secretary of Defense, was my client. He held a “small group” meeting with the Chief of Staff, J2, J3, and J5. The Chief of Staff wouldn’t let me go to the small group meetings. He said, “Well, Rich, we talk about

really important, sensitive things there.” I am, like, “Hello? You don’t think the lawyer should be there, sir?” He said, no. He was just adamant that I should not be there.

The J2, Bob Ashley, a wonderful Army guy and now a three-star, and the J3, who was a Navy admiral, both were concerned that the lawyer was not at the meeting. They liked the idea of the lawyer being there. And so they went to General Allen, who was the Deputy Commander, and said, “Hey, sir, we really need to get the Judge at these meetings.” I was soon added to the meetings. I became part of the small group. It became the J2, J3, J5, and me.

And so, you have got to befriend the gatekeeper. Sometimes, that is the XO; sometimes that is the aide; sometimes that is the civilian secretary. Make friends with all of them. If they need help, they get help. If the secretary to the Chairman called me with an issue, her issue now became number one. I will talk more about rank in number 10. But it didn’t matter to me that she was a GS whatever, and other people would say, “Well, I don’t have time for you; I have a two-star over here who needs help.” No, no, no. That is the gatekeeper. She moved to the front of the line.

Befriend the gatekeeper.

Rule #4: Keep calm and carry on.

Do you remember the signs? They were kind of cool for a while. It was a poster that the Brits put up during World War II, to help the population keep calm and carry on. And my British officer at International Security Assistance Force (ISAF) had one on the wall, and I thought it was really cool, so I put that on my wall from that point forward. I still have that poster because it reminds me that the one thing the JAG cannot do is get emotional, get upset, or get angry. There’s nothing you can do to change what has already happened; we all know that. All you can do is work to fix it moving forward. Nothing makes the situation worse than a boss who is angry or a JAG who is angry. If you are the JAG and the boss, you’re just compounding the problem even more.

One of the folks I worked for once told me, “There’s absolutely nothing we can do about the past. What we can control is what we do with the present and the future.”

And I thought that was amazing, wonderful advice.

When you get excited and energized and crazy, your folks are going to get that way, your commander is going to sense it, and you are not going to be helpful. So, keep calm and carry on.

Rule #5: Build a network.

I learned this from General Stan McChrystal, who wrote a book, *Team of Teams*, which is a pretty amazing book. I can endorse books, now, by the way; I am retired.

It is a great book, but he lived that. He had a network. And so, I created a network of JAGs. You need people who are experts, who can help you out in your day-to-day job, because you do not know everything. I did not know everything; in fact, sometimes I felt like I hardly knew anything. You need experts who can help you out. So, if you’re a criminal law guy, you need somebody who knows administrative law, you need somebody who knows International Law, etc.. You have to build the network.

For me, it was the “Tier One Bar Association.” Many of you in the room are members. It was a group of Special Operations JAGs who were all in the same community: the Joint Special Operations Command (JSOC) crowd and others. We would help each other, whether it was by email or by phone. We were constantly talking, because when you are the only operational law attorney in a unit, and something really weird is going on, you have got to be able to reach out and talk to somebody. But it’s not just Special Ops. It matters for conventional units; it matters for Headquarters Department of the Army; it matters here at the JAG School. So, build those network connections now, and keep them. Make sure you keep them. It’s just vital to build a network.

Rule #6:

Along the lines of number five, **Find your Yoda**. There’s somebody who can speak truth into your life and give you the kind of guidance and wisdom that you need. You need to be able to call somebody who has successfully done what you are doing. Do not pick a loser. Pick somebody who did it well, and count on that person to help

you. You know, we call them “mentors,” we call them “coaches,” we call them “trusted advisors.” It’s your Yoda.

For me, it was Dana Chipman, who is a very tall, tan, handsome individual. He would be furious that I am calling him Yoda. But Dana Chipman was a JAG in a Special Operations Command when I took over a subordinate special operations unit. And he was there to help me get through that.

At that unit, I had never been an operational law attorney. I used to make fun of operational law attorneys. Back when I was at Fort Campbell as a captain, we didn’t know what that area of law really was, so we made fun of them. And suddenly there I was, an operational law attorney for a very sophisticated Special Operations unit, and I was lost, so I would call Dana and say, “Hey, I don’t know what the deal is.” He would talk me through it. Later on, I did the same for others.

You have to find your Yoda. It must be somebody who can speak honestly, tell you what is going on, give you good advice, and keep you on the straight and narrow when you need it. Absolutely critical.

Rule #7: Legal counsel is two words: “legal” and “counsel.”

You will find, the higher up you get in your job, in rank and position, the more commanders will count on you, not only for your legal opinion, but for your “counsel”—your non-legal advice or guidance. We do that very well. There is something they do to mess up our brains in law school, so that we have a different way of looking at things. We look at it from different angles, we analyze it differently. It works—it is not always the right answer, frankly, but it is often a very good perspective.

Be careful to be crystal clear to your clients that you are giving them counsel and not a legal opinion, because you owe it to them. When you are giving a legal opinion, you are the only one on the staff qualified to do that, and you ought to make that clear to folks without being a jerk. However, when giving non-legal advice or counsel, you are one of many advisors, so keep that in mind. You are one perspective.

General Dempsey used to consult me for reviewing news articles, helping him prep for press conferences, and helping



him prep for Congressional hearings. I did that with General McChrystal and General Mattis as well. They value your counsel.

Just make it clear when you're giving a legal opinion versus merely counsel.

Rule #8: Take all of the blame and none of the credit.

This is more of a leadership rule than an operational law attorney rule. You ought to be willing to give top cover to the folks who work for you. You ought to be willing to be the "buck-stops-here" guy when it comes to legal advice. That means you take all of the blame and you give them all the credit. You would be amazed what people will do for you when you do that. This works for anything, not just operational law. This works as a general counsel of a company. This works as a commander of the JAG School. It works anywhere, and it's incredible.

I learned this from a guy named Dave Carey, who retired as one of our regimental one-stars. When he was the Staff Judge Advocate at Fort Campbell, Kentucky, and my boss, he would get beat up at Division Headquarters. You would think he was the only one in the office working, because he took all the blame.

When the commander was praising what was going on in that office, you would think Dave Carey did not do a single thing. He would say because "Well, I didn't write this. He did this." Dave Carey would name people and make you feel good. The two CGs we worked for knew which lawyers in the office were doing all the good things. They must have thought Dave Carey was a complete screw-up, and all these young captains were amazing.

Take all of the blame, and none of the credit.

Rule #9: Make the complex simple.

Our job is to teach. You all have busy leaders. Take General Dempsey, for example. If he got an email and he had to scroll down, he would not read it. He would not scroll. God forbid you put it in a Word document: he would not open it. That is not unusual for busy two, three, and four-stars.

You have got to make the complex simple.

There are some easy ways to do that. Your subject line is not, "Monday morning." Your subject line is not, "Legal Opinion." You need to put enough on the subject line to where they know exactly what you

are going to tell them, and then your first sentence is a bottom line up front (BLUF). I use to write, "BLUF." I still write "BLUF." I'm in the civilian world; I get asked, "What's that?" But I still do it. You tell them in that first sentence what it is you are going to tell them and what you need them to do, and then you lay it out.

I saw four-stars go into critical national security meetings, on some of the most complex issues facing our nation at the time, armed with only three bullet points in an info paper. You have got to make the complex simple.

Rule #10, last one: Ignore rank.

Ignore rank, theirs and yours. When I say "theirs," that applies in three ways.

One, there are a lot of really, really smart people that can help you out who may be E-4s. They may be E-2s. Yet they have expertise and help that you need. If you think about them in terms of, "Well, that's an E-4 and I'm an O-4, I don't have time for this, you know. Talk to the sergeant." You are not going to get what you need. You need to think in terms of, "What is this person's capabilities? What do they bring to the fight?"

I learned this from General McChrystal, whom I watched demonstrate this principle all the time. For example, I once saw a young E-5 who had an intel report that he knew the boss needed to see. He walked right up to General McChrystal and said, "I need you to see this, sir." McChrystal would listen to him, and not a single person in the room tried to stop the E-5 or block his access to the boss. Ignore the rank. McChrystal did that better than anyone.

Second, it works the other way around. You cannot ignore your boss's rank in the sense that you stop calling her "ma'am," or him "sir," and be disrespectful. But you have to speak truth to power. If you are worried about their rank, and you are afraid to tell them the truth, you are not going to be effective. You have to have courage. You have to be able to tell them what is going on and why what they are getting ready to do is a really bad idea. You need to be able to ignore rank and speak truth to power.

Finally, ignoring rank goes for the way you treat people. General McChrystal used to talk about "invisible people." The folks who clean your offices, the folks who work at the gym, the gatekeepers we discussed earlier—we tend to ignore them. We do not even say "hi" to them sometimes, because we somehow have this mental class system in our minds, which is so wrong. McChrystal was great about talking to anybody. You will be amazed at what you can find out when you are nice to everybody, when you treat everybody the same, with the same kind of dignity and respect. You will get information and help on your job that will just blow your mind.

So, ignore rank, and you'll do well.

In closing, I've got two last pieces of advice that do not have anything to do with being an operational law attorney.

First, I get asked a lot for career advice. "Should I do this job?" By the way, this is not "PPT&O-approved" advice, okay. I tell people, "You ought to do what you want to do. You've got one life; have fun. Go do what you want to do." If you want to go do X, ask for X. They may not let you, but at least go after it.

Listen to good advice, find your Yoda, talk to your network. But at the end of the day, if you want to go work Claims at an Army hospital because you have a passion

for that, go do it. If you do not get promoted, then that is the consequence, but at least you do what you love, because there is nothing worse than making rank and then getting out and being miserable because you did not do anything that you liked doing.

When I went to interview with Delta Force, and this was pre-9/11, and I had a friend who said, "You will never get promoted to lieutenant colonel. If you take that job, you will never get promoted. Guarantee it." And, you know, I thought about it. I talked to my wife about it. And I said, "You know what? It is a cool job. I am never going to get a chance like this again in my life. I am going to go for it." And I said to my wife, "Honey, I may not make lieutenant colonel." And she said, "Go have fun. Go do what you want to do."

Well, it did not hurt me, obviously. I had a blast. And, as it turns out, I got the job, and three months after I showed up, 9/11 happened, and we got busy.

And so, you just do not know what is going to happen, but I cannot imagine where my life would be now if I had not done it.

Do what you want to do. That's advice number one.

Advice number two. There was a civilian attorney named Mike Lewis at Fort Campbell twenty plus years ago. What a great guy. My wife and I had babies at Fort Campbell, and Mike Lewis had a couple of kids who were maybe at the time twelve and ten.

I do not think he would mind me sharing this with you. He had shared custody, but probably not as much custody as he wanted. I had new kids. He showed me a picture of his kids his two boys. He said, "You know what? Enjoy the time you have with them. It goes fast. You're never going to get this time back."

Other people had told me that. People tell you time goes fast, but you tend not to believe them. Or, you believe them, but you do not really get it. When Mike said it, I got it. It was in his eyes, it was in his voice, and it made a difference in my life because I made sure that, if I was home, I was home; that I spent time with my kids and my family. There were a lot of deployments; I missed a lot of Christmases and a lot of birthdays. But, when I was home, I was home.

You know, there is always going to be enough work to fill the time. You are always going to have enough to do. You have got to shut it off and go home.

There was a great philosopher of our generation named Ferris Bueller. Ferris said, "Life moves pretty fast. If you don't stop every once in a while and look around, you're going to miss it." And that is some amazing, wonderful advice, because your life is going by like a rocket.

I am retired from the Army. I have been out of the Army now for two years. Where did the time go? I was sitting where you were sitting not long ago, and it is gone by so fast. My kids are in college or out of college; one is married. I mean, it goes fast.

So, enjoy them while you can. Take the time while you can. Cherish those moments. The work will be there when you get back. There are times when you have got to do the mission; there are times when you just got to be there on Sunday afternoon at the JAG office and finish up or get ready for a trial or do whatever. There are times you have to deploy. But, you know what? Sometimes, you do it to yourself. Stop! Go home. Spend the time with your kids and your family. You will never regret that.

Life moves pretty fast. You have got to stop every once in a while and look around, or you are going to miss it. So, please do that with your families. **TAL**

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