

LEARNING LAWYER LEADERSHIP FROM THE MILITARY PROFESSION

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Leadership abilities are critically important in many areas of society in the United States and globally. Millions of the world’s citizens are affected daily by the decisions—good and bad—of their political and governmental officials even if those citizens do not have a choice in their selection. Whether selected by democratic methods or not, people rely on effective leadership to manage their lives, economies, and governments. It is particularly important in some professions and some positions where communities, employees, and other constituents rely on effective leadership to move their organizations and society forward. Military officers and

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lawyers are two professionals that are called upon, indeed, often required to lead others. They share the call to leadership although they have taken different paths to achieve leadership roles and responsibilities. Our societies expect leadership from these key professionals.

This Article is about how military leadership training has influenced the development of approaches and doctrines to lawyer leadership in the military and how those leadership approaches, insights, and programs can assist all American lawyers to become better leaders. The Article also suggests ways that legal education providers, such as bar associations, law schools and professional organizations, such as law firms and corporate counsel offices, can enhance leadership development training. The fundamental objective of this Article is to increase opportunities for lawyers to become better leaders by learning leadership lessons from military lawyers and officers.

The first part of the Article describes how lawyers are increasingly turning to formal education and professional development approaches for leadership skills. While much of this trend in lawyer education is relatively recent, there have been clear and persuasive calls for greater formal leadership education for lawyers and law students.¹ The second part carefully examines the pervasive importance of leadership in the military, notably the U.S. Army, where it provides the foundation for the effective functioning of the important organizations. The third section examines how the Army is developing leadership in its lawyer-officers through highly creative programs and educational opportunities. The final section provides several lessons from U.S. Army leadership doctrine and approaches that will benefit lawyers in other settings—such as law firm practice, corporate law departments, and legal education—where their leadership abilities are important to their organizations and their professional organizations.

I. LAWYER LEADERSHIP AND MILITARY LEADERSHIP—THE CENTRAL IMPORTANCE OF LEADERSHIP SKILLS IN THE LEGAL PROFESSION AND IN THE MILITARY PROFESSION

Leadership matters in American life. From the establishment of national economic policy to the administration of justice in our courts and legislatures, leadership is demanded of our politicians, lawyers and judges,

¹See, e.g., Ben W. Heineman, Jr., *Law and Leadership*, 56 J. LEGAL EDUC. 596, 607–12 (2006).

corporate and business leaders, and our military, to name but a few. Lawyers are frequently called upon to provide essential leadership roles in our society. For example, lawyers often manage law firms and government legal departments. Similarly, lawyers and judges are often required to lead our continuing efforts to advance the rule of law and to strengthen and protect our democracy. The overriding roles that lawyers play in our national life and our most important institutions have been pervasive since the founding of our country. In Alexis de Tocqueville's insightful commentary on lawyers' roles in early American society, he recognized that, in America, lawyers form the "highest political class" and are "keepers of the rule of law."² Perhaps this explains why only about 5% of Americans have ever thought about running for political office, yet 58% of lawyers have considered the idea.³ A majority of US Presidents—59%—were lawyers before coming to the White House and, commonly, about half of the US Congress, 44% of state governors, and 17% of all state legislators are lawyers.⁴

Another profession that has a long tradition of developing political leaders is the military. Thirty-two U.S. presidents served in the military, including nine who were generals before coming to the White House.⁵ Historians have credited President Dwight Eisenhower's success as president with his mastery of his skills for cooperation, integrity, and strategic decision-making developed while a general.⁶ Without question, the U.S. military has developed many of the nation's leaders in government,

²ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 302–09 (Henry Reeve trans., Pa. State Univ. 2002) (1835); Leah Witcher Jackson Teague, *Training Lawyers for Leadership: Vitality Important Mission for the Future Success (and Maybe Survival) of the Legal Profession and Our Democracy*, 58 SANTA CLARA L. REV. 633, 636, 643 (2018); see also Phil C. Neal, *De Tocqueville and the Role of the Lawyer in Society*, 50 MARQ. L. REV. 607, 607–09 (1966).

³Ana Swanson, *How the Most Disliked — and Elected — Profession is Disappearing from Politics*, WASH. POST, (Jan. 19, 2016, 9:20 AM), <https://www.washingtonpost.com/news/wonk/wp/2016/01/19/how-the-most-disliked-and-elected-profession-is-disappearing-from-politics/>.

⁴Neil W. Hamilton, *Ethical Leadership in Professional Life*, 6 U. ST. THOMAS L.J. 358, 361–62 (2009) (using 2006 statistics).

⁵*List of Presidents of the United States by Previous Experience*, WIKIPEDIA, https://en.wikipedia.org/wiki/List_of_presidents_of_the_United_States_by_previous_experience (last visited Dec. 18, 2020).

⁶See THOMAS E. RICKS, *THE GENERALS: AMERICAN MILITARY COMMAND FROM WORLD WAR II TO TODAY* 47–50 (2012).

politics, business, and higher education, and it has led to thinking about how leaders are trained, educated, and developed for service to the country.

The lessons on leadership by Chinese general Sun Tzu have inspired leadership scholarship and thinking for decades.⁷ His book, *The Art of War*, was written in the sixth century B.C. and is considered a foundational text on leadership, strategy in conflict, and managing followers.⁸ It has found widespread acceptance in the business community where strategy, action, and leadership are greatly valued.⁹ While the principles of leadership trace some of their lineage to *The Art of War*, the U.S. military has solidified concepts and principles of effective leadership of soldiers for over two centuries. The U.S. Army, for example, has developed leadership training, development programs, and doctrine and has consistently reinforced the concept that all military personnel are leaders and, concurrently, followers.¹⁰

The Army has taken a rigorous and analytic approach to the development and training of its lawyers, as it has for its other soldiers. Recently, the Army developed a leadership center within the Judge Advocate General's Legal Center and School to advance leadership development among its legal community.¹¹ Those approaches and programs are discussed in the later parts of the Article, but, as we argue in the Article, the use of the military leadership models serves as a good example that can be universally adopted across the legal profession to advance leadership skills and development programs for lawyer leadership throughout the legal institution.

Lawyers, like military officers, need to have appropriate leadership skills and competencies. This requires leadership education and training,

⁷ See, e.g., Eric Jackson, *Sun Tzu's 31 Best Pieces of Leadership Advice*, FORBES (May 23, 2014, 12:10 PM), <https://www.forbes.com/sites/ericjackson/2014/05/23/sun-tzus-33-best-pieces-of-leadership-advice/#6d5b25515e5e>. *The Art of War* is a central resource for leadership instruction at the U.S. Army's Command and General Staff College at Fort Leavenworth Kansas. It is also featured prominently at the U.S. Army War College and Nation War College.

⁸ See, e.g., *The Best Lessons from 'Art of War,' a Book Evan Spiegel Bought Snapchat Employees when He Felt Threatened by Facebook*, BUS. INSIDER (Mar. 23, 2015, 4:41 PM), <https://www.businessinsider.com/best-lessons-and-summary-of-the-art-of-war-by-sun-tzu-2015-3>.

⁹ See, e.g., *id.*

¹⁰ See, e.g., U.S. DEP'T OF ARMY, DOCTRINE PUB. 6-22, ARMY LEADERSHIP AND THE PROFESSION, at vii (July 2019) (C1, 25 Nov. 2019) [hereinafter ADP 6-22].

¹¹ See *Legal Center and School*, U.S. ARMY JAG CORPS, <https://www.jagcnet.army.mil/Sites/JAGC.nsf> (last visited Jan. 28, 2021).

both formally and “on the job.” Education in leadership skills strengthens expectations of better leadership in the profession while encouraging more and better leadership development programs. But herein lies the problem: until recently, there was very little formal, and only sporadic, leadership education and training given to lawyers. As Baylor Law School’s Leah Witcher Jackson Teague points out, American law school curricula lack specific focus on developing leadership attributes and skills in law students.¹² While Teague notes that law schools are increasingly adding courses, programs, and research agendas concerning leadership for lawyers and law students, only about a fourth of all law schools are doing so.¹³ This leadership training gap between legal education and education for other professional enterprises (for example, government, business, political science) is significant and noteworthy given, as discussed above, the central roles that lawyers play in our society, government, economy, and educational systems. Fortunately, this is changing, and lawyers and law students increasingly are being expected to develop their skills as leaders.

As Dean Teague and other lawyer-leader scholars point out, leadership training and development for lawyers is necessary for several important reasons.¹⁴ First, as previously noted, lawyers assume leadership roles in many areas of the economy and society as well as in the legal profession. Second, ethical leadership is the foundation for appropriate governance of nations, governments, organizations, and groups, and lawyers need to develop the capacity and skills for ethical leadership to direct courts and other judicial organizations and government organizations. Lawyers are necessary for the establishment and maintenance of the rule of law throughout the world, both in their roles as leaders of democratic institutions and their work prosecuting those who would detract from or destroy the rule of law. Third, leadership skills are lawyers’ skills, and

¹²Teague, *supra* note 2, at 643.

¹³*Id.* at 654–55. Teague also notes the recent development of a Section on Leadership of the Association of American Law Schools, the teaching and scholarship think-tank for American legal education. *Id.*

¹⁴*See, e.g.,* Deborah L. Rhode, *Leadership in Law*, 69 STAN. L. REV. 1603, 1605 (2017); Douglas A. Blaze, *Law Student Motivation, Satisfaction, and Well-Being: The Value of a Leadership and Professional Development Curriculum*, 58 SANTA CLARA L. REV. 547, 548, 555 (2018); Donald J. Polden, *Leadership Matters: Lawyers’ Leadership Skills and Competencies*, 52 SANTA CLARA L. REV. 899, 899–902 (2012).

lawyers become better lawyers through the development of those skills, abilities, and attitudes.

The current literature on the skills, behaviors, and attitudes that lawyers need for success in practicing law and serving their clients and communities suggests that lawyers need to be able to do much more than analyze cases and statutory provisions and to argue fine points of law.¹⁵ Those skills, for which law schools have been educating men and women for years, are a critical baseline or foundation for their work as lawyers.¹⁶ But, in current times, these skills and abilities only go so far in preparing lawyers for the work they are actually called up to do.¹⁷ Leadership experts have argued that today's lawyers need a richer mix of skills and competencies, such as:

- Being innovative and creative in complex problem-solving;¹⁸
- Adaptability in management of projects, challenges, and people;¹⁹
- Managing relationships, especially those with law firm or organization talent and clients;²⁰
- Building and leading effective teams;²¹
- Increased persuasive abilities and capacity to influence others toward a shared, positive outcome;²²

¹⁵ Donald J. Polden, *Lawyer Leadership in the Practice of Law*, 14 TENN. J.L. & POL'Y 435, 455 (2020).

¹⁶ See AM. BAR ASS'N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 138–139 (1992) (referred to as the MacCrate Report) (identifying key skills and fundamental values of the profession, including problem solving, legal analysis, research abilities, factual investigation, counseling, negotiation and others).

¹⁷ See WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 185–90 (2007).

¹⁸ Donald J. Polden, *Lawyer, Leadership, and Innovation*, 58 SANTA CLARA L. REV. 427, 443 (2018).

¹⁹ Roland B. Smith & Paul Bennett Marrow, *The Changing Nature of Leadership in Law Firms*, N.Y. ST. B. ASS'N J., Sept. 2008, at 33, 34–35 [hereinafter *Changing Nature*].

²⁰ See *id.* at 36.

²¹ *Id.*

- Establishing and enhancing their credibility with constituencies and followers;²³
- Understanding clients' business needs and being able to leverage business approaches and solutions, not just legal ones;²⁴ and
- Development of personal and interpersonal skills, such as the traits of empathy, self-management, and taking personal responsibility for one's own behaviors.²⁵

The contemporary demands on lawyers' skills and behaviors require a broader set of skills and behaviors than what is customarily taught in law schools and what is often expected in law practice. It is true that some law firms, mainly larger, national law firms, encourage and develop for leadership in associates and younger partners, but most have not implemented leadership development programs.²⁶ Where can firms, law schools, corporate legal departments, and other law practice organizations turn to develop leadership skills development? If the legal profession does not lead in leadership training and development, then who will lead the profession? One of the central themes of this Article is that lawyer leadership development in the United States can benefit from the systemic and more deeply researched leadership development programs and guides that are currently used in professional formation of military lawyer leaders. The next section of the Article turns to the deeper knowledge, research, and programmatic initiatives for lawyer leadership developed by the military.

²² See *id.*

²³ *Id.*

²⁴ Mark A. Cohen, *Skills and Education for Legal Professionals in the 2020's*, FORBES (July 1, 2020, 7:54 AM), <https://www.forbes.com/sites/markcohen1/2020/07/01/skills-and-education-for-legal-professionals-in-the-2020s/?sh=6c3c8bf02702>.

²⁵ Polden, *supra* note 15, at 455.

²⁶ See Polden, *supra* note 18, at 445–48 (describing law firm initiatives to manage talent through performance evaluation and professional development programs, but noting that still much is lacking).

II. ARMY LEADERSHIP IS PEOPLE LEADERSHIP—“EVERY SOLDIER LEADS”

The heart of the Army is the soldier. She is the center of gravity—the Army’s most valuable weapon system. More, she knows—through training, discipline, and experience—that *every soldier leads*. Period. She may not have a “direct” leadership role relative to others, but her respective responsibility to lead is no less important. The rifleman owes a duty to lead those to her left and right in order to make for a more perfect team. That same rifleman also must understand her relative positional authority for the good of the team. The same is true among the Army’s most senior leaders. The Army’s foundational leadership document, Army Doctrine Publication 6-22 (ADP 6-22), is very clear when it states, “[E]very member of the Army profession, military or civilian, is part of a team and functions in the role of leader and subordinate.”²⁷ It also acknowledges that being a good subordinate is part of being a good leader and that “[L]eaders are not limited to just those designated by position, rank, or authority.”²⁸

As a result, the Army trains *everyone* on leadership and it reinforces leadership responsibilities and principles often.²⁹ It does not train only its senior leaders and is not necessarily as hierarchical in design as one might think.³⁰ This concept was recently reinforced at the annual Association of the United States Army meeting when Secretary of the Army Ryan McCarthy emphasized the importance of “people” and explained how the Army was prioritizing efforts to give junior leaders more time to build cohesive teams.³¹ Army Chief of Staff General James McConville further explained that, “Army leadership will continue to put ‘people first’ as it works to balance operational tempo requirements and make policy changes.”³² The point they were both reinforcing was the same—the Army is about people and teams, and the way to make both people and teams better is to allow them time to develop.³³ Not only was this an exceptional

²⁷ ADP 6-22, *supra* note 10, at vii.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Devon Suits, *Army Secretary Announces People as Top Priority*, ARMY NEWS SERV. (Oct. 13, 2020), <https://www.army.mil/article/239882/?dmd&linkId=102456560>.

³² *Id.*

³³ *Id.*; ADP 6-22, *supra* note 10, at 1-13.

example of leadership and organizational understanding at the most strategic level, it was also an acknowledgment of the importance of enabling leadership and leadership development at *every* level of the Army. It is this attitude and mindset that helps to shape the Army's leadership culture.

The Army defines "Leadership" as "the activity of influencing people by providing purpose, direction, and motivation to accomplish the mission and improve the organization."³⁴ The Army develops and sequences training, education, and operational opportunities to reinforce this central tenet.³⁵ Army leadership training is necessarily a tiered effort based on experience, duties and responsibilities, rank, etc. and is managed not just by "HR professionals" but by everybody in the chain of command.³⁶ It is self-policing and omnipresent. Leadership and potential for future leadership opportunities play a central role in promotions and opportunities worldwide—that is as true for the rifleman as it is for the IT specialist or the newest private right out of basic training ("boot camp") (and yes, even military attorneys, civilian attorneys supporting the Army, and paralegals!).³⁷

Every Army leader has a unique perspective regarding leadership. Everybody has grown their individual perspectives based on unique opportunities, experiences, styles, and challenges. Regardless, Army *doctrine* serves as the institutional and foundational basis for leadership. It is the Army's common language from which it builds and develops individuals and teams and ensures shared understanding among the entire force. Specifically, Army leadership doctrine provides "a standard set of leader attributes and core leader competencies facilitates focused feedback, education, training, and development across all leadership levels."³⁸

³⁴ADP 6-22, *supra* note 10, at 1-13. The author notes there are great similarities when comparing other definitions of leadership in the context of lawyer leadership. *See, e.g.*, Polden, *supra* note 14, at 902-03 (explaining that "leadership is defined as a process by which an individual or a group influences others to achieve positive and ethical change"); Barry Z. Posner, *Leadership Development in Law Schools: Myths, Principles, and Practices*, 58 SANTA CLARA L. REV. 399, 400 (2018) (explaining that "leadership is about an individual's actions, and how he or she mobilizes others to want to struggle for shared aspirations").

³⁵ADP 6-22, *supra* note 10, at 1-13.

³⁶*See id.* at vii.

³⁷*Id.* at 6-12.

³⁸*Id.* at vii.

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At its basic level, Army leadership doctrine builds from its “enduring concepts of leadership through the core *competencies* and *attributes* required of leaders of all cohorts and all organizations, regardless of mission or setting.”³⁹ As a guiding device, Army doctrine provides a Leadership Requirements Model, consisting of three core attributes and three core competencies.⁴⁰ The Army develops its educational and training depth from these attributes and competencies.

³⁹ *Id.* (emphasis added).

⁴⁰ *Id.*



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Not only is the Leadership Requirements Model an aspirational design tool from which one can pattern behavior and develop milestones for training and education, it also provides the foundational guideposts for leadership development, especially among non-commissioned and junior officers, *including attorneys*. Every Army officer receives a written performance report, usually accompanied by direct, in-person feedback from her supervisor, at least once per year.⁴² When discussing an

⁴¹*Id.* at 1-15. For the purposes of this paper, the model itself will suffice. For further discovery and in-depth breakdown of the specific attributes and competencies, each of which deserves unique scholarship, *see generally id.* at 1-15-16.

⁴²*Id.* at 6-1.

individual's performance over that particular performance period, the supervisor does so through the lens of the three core competencies (*leads, develops, and achieves*) and the three core attributes (*character, presence, and intellect*).⁴³ Done correctly, supervisors have also set up routine, periodic counseling sessions over the course of the performance period in order to highlight those areas in which the junior officer has excelled and, more importantly, those areas where that officer can improve.⁴⁴ At the conclusion of these counseling sessions, the supervisor and subordinate should agree upon a course of action to improve deficiencies, and the supervisor should identify and make available growth opportunities for the junior officer.⁴⁵

To prepare leaders to fulfill their duties and responsibilities, which tend to become increasingly more complex over a career, the Army profession develops its entire workforce (both soldiers *and* Department of the Army civilians) to demonstrate these core competencies and attributes through career-long training, education, and experience.⁴⁶ As discussed, it does so to “accomplish the mission and improve the organization.”⁴⁷ A worthwhile endeavor, to be sure. So, shouldn't the legal profession? In the next section, we will discuss how the Army Judge Advocate General's Corps (JAGC) created and embedded its legal leadership development model within the broader Army leadership requirements model.

III. LEADERSHIP TRAINING AND DEVELOPMENT IN THE U.S. ARMY

Judge Advocates (JAs) exist in an environment where they are part of a profession within a profession, or as JAGC practitioners refer to it, “dual-professions.” In 2019, the JAGC acknowledged that Judge Advocates required unique leadership training and education based on their unique roles and responsibilities and, therefore, created the United States Army Judge Advocate General's Leadership Center at the Judge Advocate

⁴³ *See id.* at 1-16.

⁴⁴ *Id.* at 1-23.

⁴⁵ U.S. DEP'T OF ARMY, TECHNIQUES PUB. 6-22.1, THE COUNSELING PROCESS, at 1-4 (July 2014).

⁴⁶ ADP 6-22, *supra* note 10, at 1-1.

⁴⁷ *Id.* at 1-13.

General's Legal Center & School in Charlottesville, Virginia.⁴⁸ The Leadership Center's overarching task was to develop a program—using Army leadership doctrine as a foundation—that would support Army and JAGC leadership education and training in order to develop JAGC leaders and teams, adaptive to any environment.⁴⁹ Specifically, the JAGC sought to develop a program that would most effectively “provide principled counsel and premier legal services, as committed members and leaders in the legal and Army professions, in support of a ready, globally responsive, and regionally engaged Army.”⁵⁰

Until this development, Judge Advocate leadership training opportunities were built in to larger Army opportunities, without deference to the fact that Judge Advocates face many unique challenges. Among them, are their “adversarial” duties as either a prosecutor or defense counsel, or during representation in administrative and general legal assistance matters, often in opposition to superior and influential officers or civilians in the chain of command or part of their respective military communities. Anybody who has served in the Armed Forces can also testify, Judge Advocates generally have greater access to senior leaders and management than their non-peers, which can sometimes create the appearances of inequity. Of course, Judge Advocates also owe a professional responsibility and ethical commitment to their respective bar licensing authorities which, though rare, can put them at odds with their superiors, peers, and subordinates. Finally, Judge Advocates earned their advanced degrees in law, often without any formal leadership training or education prior to joining the Army, which puts them at an institutional deficit relative their non-Judge Advocate peers.

Most JAs have at least some experience—usually very early on in their careers—in the courtroom.⁵¹ If one were to accept the Army definition of leadership of “*influencing* people by providing purpose, direction, and motivation,”⁵² the act of being in a courtroom, prosecuting or defending, is an act of leadership—the purist form of influence. In the case of the military

⁴⁸ See generally U.S. ARMY JAG CORPS, <https://www.jagcnet.army.mil/Sites/JAGC.nsf> (last visited Jan. 28, 2021).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Those with affinity for courtroom advocacy/trial practice, and proven performance, often have the opportunity to grow within the JAGC as such.

⁵² ADP 6-22, *supra* note 10, at 1-13 (emphasis added).

justice system, it is “influencing” not a jury of the accused’s “peers,” but senior leaders, often times senior to the prosecutor and defense counsel.

However, Judge Advocates perform a myriad of other functions and practice within several legal disciplines, such as contract law, fiscal law, national security law, administrative law, policy, etc., all of which present different leadership challenges. As mentioned above, many Judge Advocates join the service without any previous formal leadership training, whereas their non-JA counterparts earned a commission through a service academy, the Reserved Officers Training Corps (“ROTC”), or via Officer Candidate School. The United States Military Academy at West Point has entire departments dedicated to leadership development and ethics.⁵³ ROTC likewise has robust built-in leadership training and courses designed to develop first-line leaders.⁵⁴ Pre-commissioning courses are reinforced repeatedly as newly-minted Lieutenants embark on their respective careers through experience, opportunity, and consistent and robust leadership development programs. Many new Judge Advocates do not have the common foundational skills and institutional experience from which to grow.

Understanding its population and acknowledging its dual-professional responsibilities, the Leadership Center asked the questions: How do we build this? Do Judge Advocates understand Army leadership doctrine? Do they need to? Does JAGC leadership development affect talent management? Are there different levels of relative leadership experience? Do lawyers who have led relatively solitary practices as action officers or transactional attorneys have the same experience? While there is no way to truly answer any of these questions with any certainty, the Leadership Center endeavored to get a more thorough understanding of the state of the JAGC so that it could—at the very least—make it better.

In developing solutions to these questions, the Leadership Center had a treasure trove of information at its fingertips, such as years’ worth of formal

⁵³*Academic Departments*, U.S. MIL. ACAD. W. POINT, <https://www.westpoint.edu/academics/academic-departments> (last visited Feb. 16, 2021); *The William E. Simon Center for the Professional Military Ethic*, U.S. MIL. ACAD. W. POINT, <https://www.westpoint.edu/military/simon-center-for-the-professional-military-ethic> (last visited Feb. 16, 2021).

⁵⁴*See, e.g.*, U.S. ARMY, <https://www.goarmy.com/rotc.html> (last visited Feb. 16, 2021); U.S. A.F. ROTC, <https://www.afrotc.com/> (last visited Feb. 16, 2021); MY NAVY HR, <https://www.netc.navy.mil/NSTC/NROTC/> (last visited Feb. 16, 2021).

written feedback, senior leadership visits to its field offices, and retention trends. Best of all was the deliberate decision to build the Leadership Center as part of the Judge Advocate General's Legal Center and School. The Leadership Center, therefore, had immediate access to the more than 112 joint⁵⁵ service and multinational Judge Advocates attending the Judge Advocate General's "graduate course," an LL.M. granting course of instruction designed to develop military law expertise among mid-level officers (officers who have served as Judge Advocates between three to eight years, depending on commissioning source).⁵⁶ The JAGC leadership also agreed to allow the Leadership Center to focus its efforts on institutional instruction to these Judge Advocates.

The Leadership Center's initial findings suggested that JAGC leadership was generally in good shape and that Judge Advocates had faith and confidence in the system from which they had grown and the leaders the Army and JAGC produced.⁵⁷ Yet, it also found the following:

- A majority unfamiliar with Army Leadership Doctrine;
- Law office leadership development programs are not synchronized with Army doctrine;
- Current doctrine and policy does not fully address unique leadership challenges of JAs;
- JAGC is not integrated and synchronized with institutional legal leadership trends; and
- JAGC lacks a formal wellness program.⁵⁸

From this initial set of findings, the Leadership Center set forth to develop its Leadership Center with three primary goals:

⁵⁵"Joint," i.e., more than one service—in this case, the students came from the Army, Navy, Air Force, Marines, Coast Guard, and one Department of the Army Civilian.

⁵⁶U.S. ARMY, THE U.S. ARMY JUDGE ADVOCATE GENERAL'S CORPS (2017), https://www.law.edu/_media/ocpd-probono-forms/JAG-Corps-Brochure.pdf.

⁵⁷The Leadership Center's initial findings are not publicly available. The findings are available at the U.S. Army Judge Advocate General's Legal Center and School upon the filing of a Freedom of Information Act request.

⁵⁸See *supra* note 57 and accompanying text.

- Effective application of leadership that enables expert, versatile, and ready legal advisors adaptive to any environment;
- Create shared understanding of Army and JAGC leadership norms and expectations; and
- Improve the relative health and well-being of the JAGC, and identify and retain the best talent in the process.⁵⁹

After establishing its goals, the Center established five very clear and time-based “lines of effort” in order to reach those goals. Its initial five lines of effort were: training and instruction, field office support, doctrine and policy development, liaison with other entities, and wellness.⁶⁰ Taking it a step further, each line of effort was supported by numerous milestones/tasks that the center believed would support its effort. In military doctrinal terms, these subtasks are often called, “measures of performance.” However, measures of performance alone are not enough. “Measures of effectiveness” are necessary in order to really reflect and determine if you are meeting objectives and—if you are not—how to change course based on findings and input. In other words, *measures of performance* are, “did we do task X?” whereas *measures of effectiveness* ask the more important and relevant question, “did it work?”

As discussed above, the initial main effort was to create a program of instruction for the graduate course, and then to subsequently “teach” the graduate course—the initial *measure of performance*. The graduate course was an early test-bed that allowed initial data collection. Derived from the base graduate course instruction, the Center simultaneously developed programs of instruction and training that was designed to be “exportable” and taken to Army legal offices all over the world.⁶¹ The Center began to develop a modified and abbreviated course of instruction for the new Judge Advocates arriving at the Officer Basic Course, a six-week program of instruction that teaches new Judge Advocates the main elements of military law and practice.⁶² The entire operation was and is very similar to how an

⁵⁹ See *supra* note 57 and accompanying text.

⁶⁰ See *supra* note 57 and accompanying text.

⁶¹ See *supra* note 57 and accompanying text.

⁶² See *supra* note 57 and accompanying text.

outside consultant or trainer would advise a large company, in this case, on leadership.

The question remains, was/is this training effective? Has the JAGC created better leaders? Ultimately, time will tell. Assessing success cannot always be determined immediately, especially in areas as gray as “leadership.” It takes a very deliberate and patient analysis of what is happening internally as a result of the training and instruction. Assessment is a continuous process, and the Center will continue to gather lessons learned from students long after the graduate course, including retention rates of those officers, and the soldiers they lead. Early reviews of the material indicate that the training and instruction was useful. To be sure, one pre-determined measure of effectiveness—ensure that mid-level leaders understand Army doctrine—was a resounding success, as all 112 students validated their understanding through small-group exercises and testing.⁶³

IV. LAWYER-LEADERS AND LESSONS FROM ARMY LEADERS AND LEADERSHIP

This section of the Article draws upon the leadership education doctrine and training and development approaches of the U.S. Army to formulate “lessons” that lawyers in other fields—such as legal education, law firm and organization, government service—can use to strengthen the leadership education that is beginning in law schools, bar association leadership “academies,” and law practice organization training programs.

It is useful, at the onset, to look at the methods and goals of leadership education both for military lawyers and for non-military lawyers and compare their similarities and their differences to evaluate whether there is a gap in development training. This comparison is important in determining whether lawyer leadership education and training should be modeled on the work that the U.S. Army has taken in its core doctrines and its competency-based Leadership Requirements Model.

Military lawyers share several fundamental characteristics with practicing lawyers outside of the military, including:

⁶³ See *supra* note 57 and accompanying text.

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- They are formed into and functioning as a profession;⁶⁴
- Are guided by ethical, moral and relational prescriptions;⁶⁵

⁶⁴The military describes the military profession in the following precepts and fundamental beliefs:

1-4. Traditional professions share essential characteristics. They provide a vital service to society, requiring expertise and skill developed through years of training, education, and experience. Professions establish standards of practice and certify that their members are qualified to serve the needs of society.

1-5. Professionals accept the responsibility to be stewards of the people and resources entrusted to them by society and to advance the state of their profession in anticipation of changes to the world around them. Professions motivate their members to answer a “calling to honorable service,” to pursue lifelong learning, and to cooperate as members with a common purpose higher than individual gratification. A calling or vocation means that the mission is more important than the individual is, which is the basis of sacrifice.

1-6. Professions self-police and must live by an ethic with both legal and moral foundations. A professional ethic provides the set of moral principles that guide decisions and actions in professional practice. Traditional professions include medicine and law, science and engineering, architecture, higher education, ordained religious practice, and the military.

ADP 6-22, *supra* note 10, at 1-1 to -2; *accord Mission and Vision*, U.S. ARMY JAG CORPS, <https://www.jagcnet.army.mil/Sites/JAGC.nsf> (last visited Jan. 28, 2021) [hereinafter JAGC Mission Statement].

The Preamble to the ABA’s Model Rules of Professional Conduct similarly provide that “[a] lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice,” and that “[a]s a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession.” MODEL RULES OF PROF. CONDUCT pmb. para. 1, 6 (AM. BAR ASS’N 2019).

⁶⁵ADP 6-22 describes these foundational principles as follows:

1-44. True professions are guided by an ethic that establishes the personal and institutional standards expected of its members. A professional ethic creates a shared professional identity, and provides an enduring set of moral principles, values and beliefs that guide that profession as it provides its specialized service to society. The *Army ethic* is the set of enduring moral principles, values, beliefs, and laws that guide the Army profession and create the culture of trust essential to Army professionals in the conduct of missions, performance of duty, and all aspects of life.

- They both view leadership as a set of competencies and attributes;⁶⁶
- Many lawyers share their military lawyer counterparts' status as "dual professionals", such as their work in government service and corporation counsel;
- Military lawyers and other lawyers often must demonstrate "vertical leadership, by leading others through authority and role, and "horizontal leadership" by leading colleagues and clients through persuasion and influence.⁶⁷

These shared attributes are discussed in greater detail in following paragraphs. However, there are also some noteworthy dissimilarities in leadership demands and skills between military lawyer leaders and other lawyers in leadership roles. One fundamental difference is that the military has more structured relationships than lawyers performing in other law areas and where formal directing authority is a core part of the operations of the organization. Lawyer leaders often function in situations where they lack formal authority.⁶⁸ They must exercise informal directing authority and they must lead others through persuasion and influence, rather than rank or position, toward shared goals.⁶⁹

ADP 6-22, *supra* note 10, at 1-6.

⁶⁶ See generally Polden, *supra* note 14, at 904-19.

⁶⁷ See NICK PETRIE, FUTURE TRENDS IN LEADERSHIP DEVELOPMENT 6 (2011), <https://law.scu.edu/wp-content/uploads/leadership/Future-Trends-in-Leadership-Development.pdf>. The author notes that this nomenclature acknowledges that lawyers—in the military and in law organization—lead others; they have formal directing authority. However, lawyer leaders often lead others with influence and persuasion toward desirable and necessary outcomes, but they lack formal authority over their constituents. Relationships between law firm partners or lawyers in corporate counsel offices are examples of leadership roles without formal directing authority. Another such relationship occurs between an attorney and her clients who may be influenced by the attorney's advice and legal judgment but who is not directing the client's decisions.

⁶⁸ See Hamilton, *supra* note 4, at 387.

⁶⁹ See *id.* at 387-88. The author notes that this point is not a refutation of the core notion in the Army leadership model that leadership is for everyone and is expected for all military and civilians, but rather a reflection of the fact that the military has an important vertical reporting and leadership structure within its organizations while that extent of more hierarchical structures are less common in law practice and many law organizations such as law firms.

Secondly, the military has a very well-developed and accepted leadership model from which individuals and teams base their behaviors, and that guides them toward meeting shared goals. The Army's "leadership requirements model" guides the expectations on leadership in the military legal profession.⁷⁰ No such model exists or is widely accepted in the legal profession, although there is a growing body of serious scholarship on the skills, behaviors, and requirements of lawyer leadership.⁷¹ Furthermore, there are some helpful "models" that do exist in other fields of leadership development from which a lawyer-leadership training and development system can be drawn.⁷²

Third, the military branches have comprehensive and well developed leadership development manuals and training programs, such as the U.S. Army Judge Advocate General's Legal Center and School, that have a rich curriculum including models and programs for lawyer leadership development.⁷³ Moreover, there is an expectation that military leaders pursue a career-long process of training and education for the skills and attitudes they require for effective performance.⁷⁴ There are no similar development programs for lawyers who need leadership training and development, even though the similarities in leadership expectations for all lawyers suggests that all lawyers would benefit from educational and developmental training opportunities provided to US Army lawyers. What would that look like?

A broad-based program of leadership instruction would be based on the notion that the work of lawyers is rooted in the nature of a profession and that practitioners benefit from conducting their roles and behaviors as

⁷⁰See ADP 6-22, *supra* note 10, at 1-15 ("As a common leadership model for the Army, the leadership requirements model aligns expectations with leader development activities and personnel management practices and systems. Understanding the expectations and applying the attributes and competencies prepares leaders for the situations they are most likely to encounter. The model informs leaders of the enduring capabilities needed regardless of echelon, mission, or assignment.").

⁷¹See, e.g., DEBORAH L. RHODE & AMANDA K. PACKEL, *LEADERSHIP: LAW, POLICY & MANAGEMENT* (2011).

⁷²See, e.g., JAMES M. KOUZES & BARRY Z. POSNER, *THE LEADERSHIP CHALLENGE: HOW TO MAKE EXTRAORDINARY THINGS HAPPEN IN ORGANIZATIONS* (6th ed. 2017).

⁷³JAGC Mission Statement, *supra* note 64. The author notes that this should be contrasted with the fact that so few American law schools even teach leadership skills and attitudes as a fundamental part of the law school curriculum. See Teague, *supra* note 2, at 654-56.

⁷⁴See ADP 6-22, *supra* note 10, at 1-2.

members of a professional enterprise. Similar to the Army doctrine, the characteristics of a profession are based on relationships of trust, service to others (clients, courts, for example), competence in service, and leadership through stewardship of others (protecting their freedoms, wealth, and unwelcomed intrusions to their lives, for example). As the Army doctrine recognizes:

True professions are guided by an ethic that establishes the personal and institutional standards expected of its members. A professional ethic creates a shared professional identity, and provides an enduring set of moral principles, values and beliefs that guide that profession as it provides it specialized service to society.⁷⁵

There are similar foundations for lawyer professionalism and civic duties for all lawyers. The American Bar Association's Preamble to the Model Rules of Professional Conduct provide that "[a] lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice."⁷⁶ The moral and ethical foundation of lawyer-leaders, whether military officers or not, is rooted in their professional norms.

Secondly, the education of lawyers for leadership roles requires a curriculum, expert educational materials, and operating manuals from which to teach that are accessible to the teachers and mentors and, most importantly, are readily available and apparent to lawyers and law students who strive to be better lawyers. While these curricula, textual materials and manuals should stress the development of aspirational goals of leading as a lawyer, the core attributes of these programs and materials are the skills, behaviors, and attitudes that leaders in a professional calling must possess to fulfill the requirements of their leadership roles. The Army leadership model explicitly links the necessary leadership behaviors to competencies and attributes.⁷⁷ For the Army, the chief attributes of an effective leader are "character, presence and intellect," which collectively permit the leader to apply or demonstrate the competencies.⁷⁸ Both military lawyers and other

⁷⁵ *Id.* at 1-6.

⁷⁶ MODEL RULES OF PRO. CONDUCT pmb1. para. 1 (AM. BAR ASS'N 2019).

⁷⁷ ADP 6-22, *supra* note 10, at 1-6.

⁷⁸ *Id.*

practicing lawyers share common aspirational expectations, including competence, diligence, discretion, and cultivation of knowledge for the benefit of clients and the profession.⁷⁹

Third, the core competencies for today's lawyers are expanding and complex given the increasingly complex, volatile, and uncertain environments that lawyers work in.⁸⁰ This is true for both military lawyers and all lawyers who fulfill the roles and duties of the legal profession. Today, lawyers' work is increasingly technology-driven, increasingly global, and increasingly complex due to growth of complicated judicial systems and regulatory regimes, and to the severe disruptions to performance of their professional duties by economic recessions and public health crises. Moreover, today, lawyers must be able to perform many skills and behaviors in a complex society and economy, which require creative thinking, solutions to business problems, and entrepreneurial and innovative capacities. Today, a lawyer needs to lead herself and others in this complex set of challenges. The solutions to clients' problems are often not legal, but rather are about business, technology, public health, and other complex issues. Leadership training is training for relationships with others.

Fourth, much of today's leadership development must happen "on the job." Institutions must begin to demand more effective leadership from those in command and must provide the tools for necessary improvement of ineffective leadership. This is true for the military and other law practitioners as all of the legal profession, like other areas of business, faces the problem of inadequate leadership. According to Everett Spain, a survey of 22,000 soldiers revealed that 20% said they were serving under a "toxic leader."⁸¹ He also reports that researchers using similar studies in other fields reported that half of senior executives were failing their leadership duties and that 16% of corporate managers were toxic and 20% were incompetent.⁸² Similarly, an annual report by Altman Weil, a consulting firm for the legal profession, studies the status of American law firms and found a vast majority of managing partners agreed that firms needed to improve practice efficiencies in the face of intense competition, ongoing

⁷⁹ See generally MODEL RULES OF PRO. CONDUCT pmbl. para. 1 (AM. BAR ASS'N 2019).

⁸⁰ See PETRIE, *supra* note 67, at 13.

⁸¹ Everett Spain, *Reinventing the Leader Selection Process*, HARV. BUS. REV., Nov.–Dec. 2020, at 78, 81.

⁸² *Id.*

commoditization of legal work, price pressures and encroachment of non-law-firm competitors.⁸³ Yet, according to those law firm principals, only 22% of the firms have attempted to systematically change and enhance their work processes, and only 31% have provided ongoing project management training and support to their attorneys.⁸⁴ These contemporary studies suggest that in two professions where leadership of others and to society are looked to, there are significant shortcomings in demonstrated leadership. Further, legal education has not been spared from the challenges of the economy's depressions and the need for greater flexibility to adapting to "new age" problems such as sharply declining enrollment, poor performance of their graduates on bar examinations, and the impact of declining job opportunities for graduates.⁸⁵ These challenges, too, require leadership in education to adjust and adapt to rapidly evolving environments, and they require a professional commitment to career-long personal and professional development, including, importantly, their leadership skills.

The evidence is abundant that more change is needed in many areas of law practice and client service and such change requires more, and better, leadership in the profession. How will this happen? Who will be the leaders in the profession as it attempts to develop greater leaders and leadership opportunities? First, conferences stressing leadership by and for lawyers and legal institutions, such as the recent one at Baylor University School of Law, provide opportunities to important and emerging voices in lawyer-leadership training to share pedagogy, research, and new approaches to leadership education. Second, operating approaches or manuals to educating lawyers and law students about leadership should be developed and adopted by law schools, bar associations, and other lawyer education programs (including certification as a specialty in state continuing education programs). The U.S. Army has developed a very thoughtful leadership requirements approach for its professionals, including lawyers, and this approach should be adopted by law firms and law organizations so that there is widespread acceptance of the role of leadership in our expectations of lawyers. And, third, lawyer professional education approaches (such as

⁸³ERIC A. SEEGER & THOMAS S. CLAY, 2020 LAW FIRMS IN TRANSITION, at v (2020), http://www.altmanweil.com/dir_docs/resource/474829CC-0945-4A99-B321-2BFD3DAB146D_document.pdf.

⁸⁴*Id.*

⁸⁵*See generally* Polden, *Lawyer, Innovation*, *supra* note 18, at 431–34.

continuing education) should build upon the need for career-long professional development of leadership skills, behaviors and attitudes to accompany their current focus on lawyer substantive legal knowledge.

V. CONCLUSION

This Article has demonstrated that there are significant demands on the legal profession in the United States and that more and better leadership in the profession and in the work of lawyers is needed. We have attempted to make the case for the legal profession and lawyers and law institutions (such as firms, law schools, and bar associations, for example) making more systematic movements toward leadership education and training. Finally, and most importantly, we have argued that lawyers have an established and well-functioning system of developing leadership by military lawyers that can serve as a guide to this effort toward greater leadership development. That system was developed by the U.S. military to train every soldier to be a leader through educational programs, a professional leadership operating model, expectation of career-long development, and well-developed doctrine of effective leadership abilities, and it can be a source of much-needed inspiration and education for all lawyers.