

REMARKS ON BEING A GOOD LAWYER

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It is a great honor to be with you. I'm especially conscious of this Distinguished Lecture Series and am humbled to become a part of it. I say that having reviewed the list of prior speakers and an impressive group it is. So I thank you for the honor.

I confess I am also humbled because the namesake for this speaker series has always been a father figure in my JAG Corps—which is what we call my law firm—and to me.

There was a time not so long ago when young Major Pede worked directly for then-Major General Huffman when he was the Judge Advocate General—the senior uniformed lawyer in the department of the Army, leading a firm of about six thousand lawyers around the world.

So it is just a little surreal and certainly daunting for me to stand here before all of you and that icon in my corps, General Huffman—a man who represents the best in leadership, lawyering and soldiering—to deliver remarks in his name. It is indeed a high privilege.

Sir, thank you for your example.

And of course, all I remember as young Major Pede are those darn eyebrows, and those moments when you knew a question was coming you couldn't answer. You just never wanted to have him lower his voice, slow down his Texan drawl, tilt his head in that mentoring tone, and utter those words: "Now Major Pede, what are you trying to tell me?" It never went well after that.

For those of you wondering about mistakes in life, I've made a few and so will you. I once interviewed with then-Colonel Huffman when he was the senior lawyer of the Mighty VII Corps—the powerful armored formation of

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the American Army—shortly before Desert Shield/Desert Storm. I interviewed for a job with Colonel Huffman and was offered the opportunity to work in his office, and then in my youthful brilliance, decided to stay where I was in another unit—effectively refusing the invitation to come work for him. Colonel Huffman then went off to Desert Shield/Desert Storm to victory and to multiple promotions.

Then-Captain Pede concluded—rather soundly at that point—that my future in this JAG Corps was quickly dying having refused an opportunity with a rising star.

Well, it sort of worked out in the end, but I sure did regret that decision. So lesson one: You'll make mistakes; just move on.

Just a few extra stories about the great General Huffman if you'll permit me. An OCS graduate, he served as a battery commander in Vietnam in the 5th Infantry Division.¹ Just a glimpse of his leadership even then is reflected in the short story of a day when his firebase took indirect fire, artillery fire. Then-Captain Huffman was wounded. But reflecting the leader we would come to know, he didn't want his soldiers to lose confidence or doubt their own metal or safety, so he refused to let them know he was wounded. He patched up his wound and his soldiers were never the wiser.

Yet another leadership story from many years later as Colonel Huffman was forming his team on the edge of deployment to Desert Shield/Desert Storm. He asked his senior lawyers around his corps units in Germany for the best officers who would deploy with him to combat. He received a roster of all male officers.

He returned the lists to the subordinate command's senior lawyers and reminded them he'd asked for their best lawyers, not their best male lawyers. They returned the lists with the best officers which of course included female judge advocates—a number of whom he took with him downrange, and later in their careers became, not surprisingly, extraordinarily successful senior leaders in our JAG Corps and Army. It was also TJAG General Huffman who assigned our first female Staff Judge Advocate to a combat division who went into combat in Afghanistan in 2001. General Huffman led the way in breaking down barriers and set a standard that is now a norm and it's just what we do.

Sir, thank you for your example and your visionary leadership.

So let me continue by clearing the air. I don't know if you know this, but there is a fair amount of criticism of your generation. Whether you're called Millennials or Generation Z.²

1. See Walter B. Huffman, *A Short Comparison of Military Leadership With Law School Leadership—More Similarities Than Differences?*, 41 U. TOL. L. REV. 315, 318—19 (2010).

2. See *Boomers, Gen X, Gen Y, and Gen Z Explained*, KASASA (July 29, 2019), <https://www.kasasa.com/articles/generations/gen-x-gen-y-gen-z>.

There is a misconception that you're soft, that you need to be coddled, that you need a trophy, that you can't handle the truth.³ Said another way, that you can't handle bad news or criticism.

I want you to know something. I think that is some good old-fashioned Texas horse dung. You are, just as the people who sat in these seats before you, great Americans. I've seen it in each of you, and I don't need to know you personally because I see it in the lawyers that join my JAG Corps, some from this very law school. You're dedicated, hard-working, tough, ready, and eager for a challenge, and ready to get out there and tackle whatever life throws at you.

So while every generation tends to complain about the one coming behind it, trust me, all of us know you've got this, and I for one am inspired every day by you.

So, I'd like to talk with you today about what it takes to be a good lawyer, not just in uniform, but anywhere you might practice. And it might sound a bit presumptuous, but I'm the first to recognize none of us are perfect; these are rules we all strive to achieve.

Rule number one won't surprise you: It is hard work or work hard.

Thomas Edison said, "[o]ppportunity is missed by most people because it is dressed in overalls and looks like [hard] work."⁴ You have to make sure you do not miss your opportunities.

There are no short cuts, no tricks, no magic. Being a good lawyer requires complete and utter focus, and application. If you don't have an appetite for hard work, find another line of work.

There is simply no substitute for putting your shoulder to the wheel and turning the stone.

In my view, you'll spend the first three to six years learning your craft. Figuring out how to research, how to write, how to speak to a fellow lawyer and a client, and how to create confidence in your advice.

Everything you need to know about being, and I mean being a lawyer, is learned in these early years—it is your foundation. You spend the rest of your career refining and learning finesse.

But getting the basics down is hard work. How is a foundation built in the first three to six years?

You have to hone your skills in writing, reading, and speaking. You have to learn how to take the complex and make it simple, how to take the

3. See generally Ronald Alsop, *Why Bosses Won't 'Like' Generation Z*, BBC (Mar. 4, 2015), <https://www.bbc.com/worklife/article/20150304-the-attention-deficit-generation>; *How Millennial Trophies Created a Generation of Workaholics*, ATLANTIC, <https://www.theatlantic.com/sponsored/project-time-off/how-millennial-trophies-created-a-generation-of-workaholics/1260/> (last visited Apr. 20, 2020).

4. See Angela Ruth, *Thomas Edison—Don't Miss an Opportunity*, DUE (June 6, 2015), <https://due.com/blog/thomas-edison-dont-miss-an-opportunity/>.

world and distill it down onto a three-by-five card or a thirty-second conversation, how to give the client everything he or she really truly needs to make a decision without going off on tangents that, while academically interesting or show how smart you are, do not serve the client. The client typically wants to know the time of day, not how to build a watch.

This is where you will put a lot of time in—time observing, time working, time reading, time asking questions.

A key element of this hard work is mastering the law.

No one seeks the advice of an “okay” attorney.

Indeed, part of our profession’s ethical foundation speaks to our competence—our ability to provide the services our clients’ need and deserve. We must be masters of the law. We must get it right. You get it right through hard work. Reading yet another ruling, statute, opinion and then the history of that opinion so you have the context. Mastery of the law is a lifelong journey.

I’ve been learning this week all about cooperative research agreements in medical research. If you’d asked me a month ago what I knew about them, the answer would have been “nothing.” As lawyers, if you’re not learning, you’re regressing—growing stale and risking irrelevance.

And the last part of hard work is learning to deliver your stock in trade: What do you trade in as a lawyer? Your advice and counsel. And we know from what I’ve just told you, it has to be right.

So how is that advice and counsel best delivered? Face to face. Anything short of face to face compromises your ability to persuade, to see the effect of your advice, to adjust as necessary to your client; face to face is the lawyers’ currency.

And as you so well know, our digital world creates constant incentives to be “remote”; to disconnect, you must resist this temptation in the practice of law.

If you can’t be face to face, pick up the phone—engage. Then the written word, and then email. And of course, we never practice law by text. Repeat with me, we never practice law by text!

Rule number two: Attitude.

Attitude is everything for a lawyer. A relentlessly positive, winner’s attitude, no matter the adversity or the odds.

An attitude of “why not me?” Versus an attitude of “why me?”

An attitude that the glass of water is half full.

Remember the story of the Spartans when offered the opportunity to surrender by the Persians at Thermopylae.⁵ The Persians told the fearless

5. Kate Lohnes & Donald Sommerville, *Battle of Thermopylae*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/event/Battle-of-Thermopylae-Greek-history-480-BC> (last visited Apr. 20, 2020).

Spartans that “our arrows will blot out the sun,” and of course the Spartan, ever laconic in his expression, responded, “Then we will fight in the shade.”⁶

Even better, the famous American medic during the Battle of the Bulge in 1944.⁷ As German forces plowed through Allied territory and closed in on the 12,000 soldiers of the mighty 101st Airborne Division holed up in the tiny village of Bastogne, a Corporal Carson of Easy Company made famous in the series *Band of Brothers* approached a medic and asked why everyone wasn’t being evacuated.⁸ The medic replied: “Haven’t you heard? They’ve got us surrounded—the poor bastards.”⁹

Think of these when you’re having a bad day.

Attitude is a force all its own.

I’m not saying there won’t be bad days and losses—that is part of being a lawyer—but it is attitude that gets you through it all, gets you back on your feet, earns respect from your peers.

My third rule: I call it lifelong learning.

Ever wonder how your professors always seem to know the answers to everything? Ever watch a judge in action or a senior partner and think that they are imbued with some sort of God-given ability that you’ll never possess?

I remember distinctly practicing in front of judges and lamenting that I’d never know the law like they did—seemingly a ready answer for virtually every circumstance.

I am here to tell you there is nothing supernatural going on. They have simply been doing their job, and doing it well, for a long time. It’s just as Oliver Wendell Holmes famously said, “The life of the law is not logic but experience.”¹⁰

Instinct, intuition, and experience will all come, but you have to do the time, first.

How do you get there? How do you develop instincts?

You must view yourself as a lifelong work in progress. You are never finished learning. You are never finished becoming better at contracts, voir dire, cross examination, understanding the law of nations. Or, as important, you’re never finished becoming a better son or daughter, mother, father, brother or sister. This notion of what makes a good lawyer is all about constantly improving in all that you do.

And it includes what you read. You must be relentless and voracious.

Reading is the secret sauce of professional success.

6. 300 (Warner Bros. 2007).

7. STEPHEN E. AMBROSE, *BAND OF BROTHERS: E COMPANY, 506TH REGIMENT, 101ST AIRBORNE FROM NORMANDY TO HITLER’S EAGLE’S NEST* 243 (Simon & Schuster 25th anniversary ed. 2002).

8. *See id.*

9. *Id.*

10. OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* 1 (Boston: Little, Brown, and Co. 1881).

In his book, *Call Sign Chaos*, which I commend to you, former Secretary of Defense Jim Mattis wrote “It now became more clear to me why we assign an expanded reading list to everyone promoted to a new rank; that reading gives historical depth that lights the path ahead. Slowly but surely, we learned there was nothing new under the sun. Properly informed, we weren’t victims, we could always create options.”¹¹

Challenge yourself by reading and listening to things that you are not comfortable with—that maybe don’t align with your interests or your views.

Look at things from another perspective. Listen. Always ask why. Ask why not.

Reading must be an ingrained, irresistible habit—such that you feel guilty about not reading.

Rule number four.

Another guiding principle of practice, and it’s as old as time itself.

I think it was actually Virgil, or perhaps Aristotle who coined this phrase: “don’t be a jerk.”

Simple. Succinct. To the point. No one wants to work with a jerk. No one wants to be around a jerk. And at the end of the day you shouldn’t want to be a jerk.

You want to be in the room. You want to be the trusted advisor, the confidant, the one they call. You have to be someone that people can trust and believe in. That they like to be around.

The play *Hamilton* made famous the notion of “being in the room where it happened”; in Hamilton’s case, “the room” was the famous meeting between Hamilton, Jefferson, and Madison where they struck a deal to place the national capital in Virginia while Hamilton got his national banking system.¹² No one else was in the room, so nobody knows how it happened.¹³ How the deal was struck, so what resonates with each of us—as in the song itself— is how do you get in the room?¹⁴

Figure out what about you interferes with your message and causes people to go to someone else.

As a lawyer, you have to be in the room with your client to make a difference. If you’re not trusted, if you’re prickly, or you overreact, or you don’t know your craft, or you’re a jerk, you won’t get the invitation: The call.

So you and I can complain that the boss always starts his meetings with the latest hockey scores: But get over it, start reading the hockey news so you

11. JIM MATTIS & BING WEST, *CALL SIGN CHAOS: LEARNING TO LEAD XII–XIII* (2019).

12. LIN-MANUEL MIRANDA & JEREMY MCCARTER, *HAMILTON: THE REVOLUTION 20–28* (Hachette Book Grp., Inc., 1st ed., 2016).

13. See Claire Lampen, *The Secret Meaning Behind the Lyrics to The Room Where It Happens from Hamilton*, MIC (Feb. 17, 2016), <https://www.mic.com/articles/135387/the-secret-meaning-behind-the-lyrics-to-the-room-where-it-happens-from-hamilton>.

14. See *id.*

can participate. This isn't a "sell out"; it's called getting along and being an effective teamplayer and an effective lawyer.

Sometimes that first five minutes at the start of a conversation is the most important, and if you can't participate in it because you've decided you're not interested in what those around you are interested in, you're probably in the wrong line of work.

Rule number five: Principled Counsel.

Kipling once reminded us in a famous poem to "keep your head when all about you are losing theirs and blaming it on you."¹⁵

In the best and worst of times, you need your guideposts. Those things that let you know you're on the azimuth—that you're doing the right thing.

One of our founders once wrote:

"In matters of fashion, swim with the current

In matters of principle, stand like a rock."¹⁶

Words that matter:

The legal practice gets rocky. It's dynamic and challenging and exciting, which is just another way of saying it is unpredictable and at times, chaotic.

You must have a set of guideposts that get you through the tough times. As Kipling tells us, "if you can meet with [t]riumph and [d]isaster [a]nd treat those two imposters just the same."¹⁷

You all know the timeless standard: Do the right thing when no one is looking.

But how do you know what the right thing is?

You trust your gut. You talk with your trusted friend, perhaps you pray, you "let things cook" for a while, but deep down, trust me, you'll know. It wells up in your gut and your gut tells you.

If it feels wrong that's because it is.

In my Corps, we focus on what we call principled counsel as our guidepost. We define principled counsel as "professional advice on law and policy grounded in the Army Ethic and enduring respect for the Rule of Law, effectively communicated with appropriate candor and moral courage, that influences . . . decisions."¹⁸

This high standard is at the very heart of what we do—what you will do—day in and day out, doing what is right when no one is looking. Finding the way to yes, legally and with honor.

15. RUDYARD KIPLING, *If*, in REWARDS AND FAIRIES 200, 200–01 (1910).

16. See OXFORD UNIV. PRESS, OXFORD TREASURY OF SAYINGS AND QUOTATIONS 62 (Susan Ratcliffe ed., 4th ed. 2011).

17. KIPLING *supra* note 15, at 200.

18. Colonel Russell N. Parson & Lieutenant Colonel Patrick L. Bryan, *Azimuth Check: Navigation from the Leadership Center*, ARMY LAW., no. 6, 2019, at 9.

Principled counsel is providing truth to power, it is not zealotry.¹⁹ It is the essence of honest counsel and advice in the toughest of times: Effective, achievable, and executable advice and counsel.²⁰

This is where our ethical foundation finds its roots. Professions in their truest form are self-governed and self-policed. Our ethical code is actually codified in the rules for professional conduct for lawyers. Our state bars can investigate allegations of wrongdoing and suspend or revoke our license to practice law.²¹

We must be mindful our practice of law must always be predicated on doing what is right.

My last rule: Inspiration.

You must find it, and the question is: Where do you look?

Since I was a Captain, I've used three things:

First is the people around me. It could be not wanting to disappoint my boss, like General Huffman, or my wife or my parents. I wanted them to be proud of me and I want you to hear it from me. These are noble and timeless wellsprings for inspiration.

Let me offer you two other classic troves of inspiration.

Kipling wrote:

“If you can keep your head when all about you
Are losing theirs and blaming it on you,
If you can trust yourself when all men doubt you
But make allowance for their doubting too
If you can wait and not be tired by waiting,
Or being lied about, don't deal in lies,
Or being hated, don't give way to hating,
And yet don't look too good, nor talk too wise”²²

There is no other way to say it—every word, every sentence, every stanza—for a lawyer is “off the charts” inspiration.

And of course, there is the man in the arena.²³

Our twenty-sixth president reminded us that:

It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the

19. See *Mission and Vision*, U.S. ARMY JUDGE ADVOC. GEN'S (JAG) CORPS (Mar. 09, 2012, 12:42 PM), <https://www.jagcnet.army.mil/Sites/jagc.nsf/homeContent.xsp?open&documentId=DEE613DFEC84B73B852579BC006142CE>.

20. See *id.*

21. See generally MODEL RULES OF PROF'L CONDUCT r. 10 (AM. BAR ASS'N 2019).

22. KIPLING, *supra* note 15.

23. See Julie A. Oseid, *The Power of Zeal: Teddy Roosevelt's Life and Writing*, 10 LEGAL COMM. & RHETORIC: JAWLD 125, 147–49 (2013).

arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes [up] short again and again, because there is no effort without error and shortcoming; . . . who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.²⁴

So I say to you: suit up and get into the arena when you become lawyers.²⁵ Find what inspires you and hold on to it tightly. It will get you through the darkest hours and the sunniest days.

Find your inspiration so that, as Teddy says, you “dare greatly” so that you too may never be counted among “those cold and timid souls who know neither victory nor defeat.”²⁶

Thank you, and to each of you future lawyers: make us proud!

24. Erin McCarthy, *Roosevelt's “The Man in the Arena”*, MENTAL FLOSS (Apr. 23, 2015), <https://www.mentalfloss.com/article/63389/roosevelts-man-arena>.

25. See Theodore Roosevelt, Address at the Sorbonne, Paris: Citizenship in a Republic (Apr. 23, 1910), in 94 THE OUTLOOK 983, 985.

26. *Id.*