

Annual Report
of the
**UNITED STATES COURT
OF MILITARY APPEALS**



and
THE JUDGE ADVOCATES GENERAL
of the
ARMED FORCES
and the
GENERAL COUNSEL
of the
DEPARTMENT OF THE TREASURY

**PURSUANT TO THE
UNIFORM CODE OF MILITARY JUSTICE**

**For the Period
January 1, 1956, to December 31, 1956**

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Annual Report

**SUBMITTED TO THE
COMMITTEES ON ARMED SERVICES**

of the

**SENATE AND OF THE
HOUSE OF REPRESENTATIVES**

and to the

SECRETARY OF DEFENSE

and the

**SECRETARIES OF THE DEPARTMENTS OF THE
ARMY, NAVY, AIR FORCE, AND TREASURY**

**PURSUANT TO THE
UNIFORM CODE OF MILITARY JUSTICE**

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January 1, 1956, to December 31, 1956**



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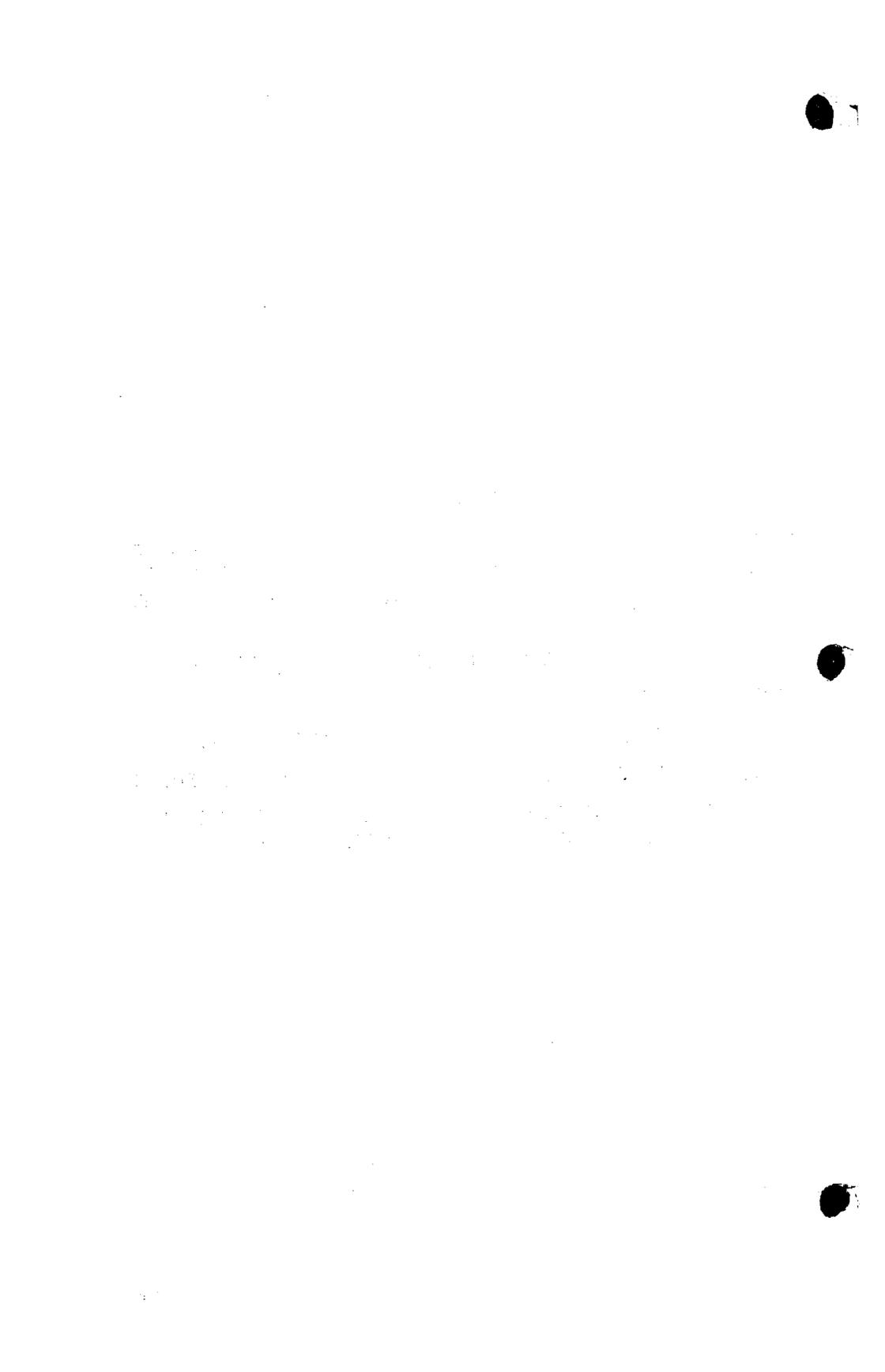
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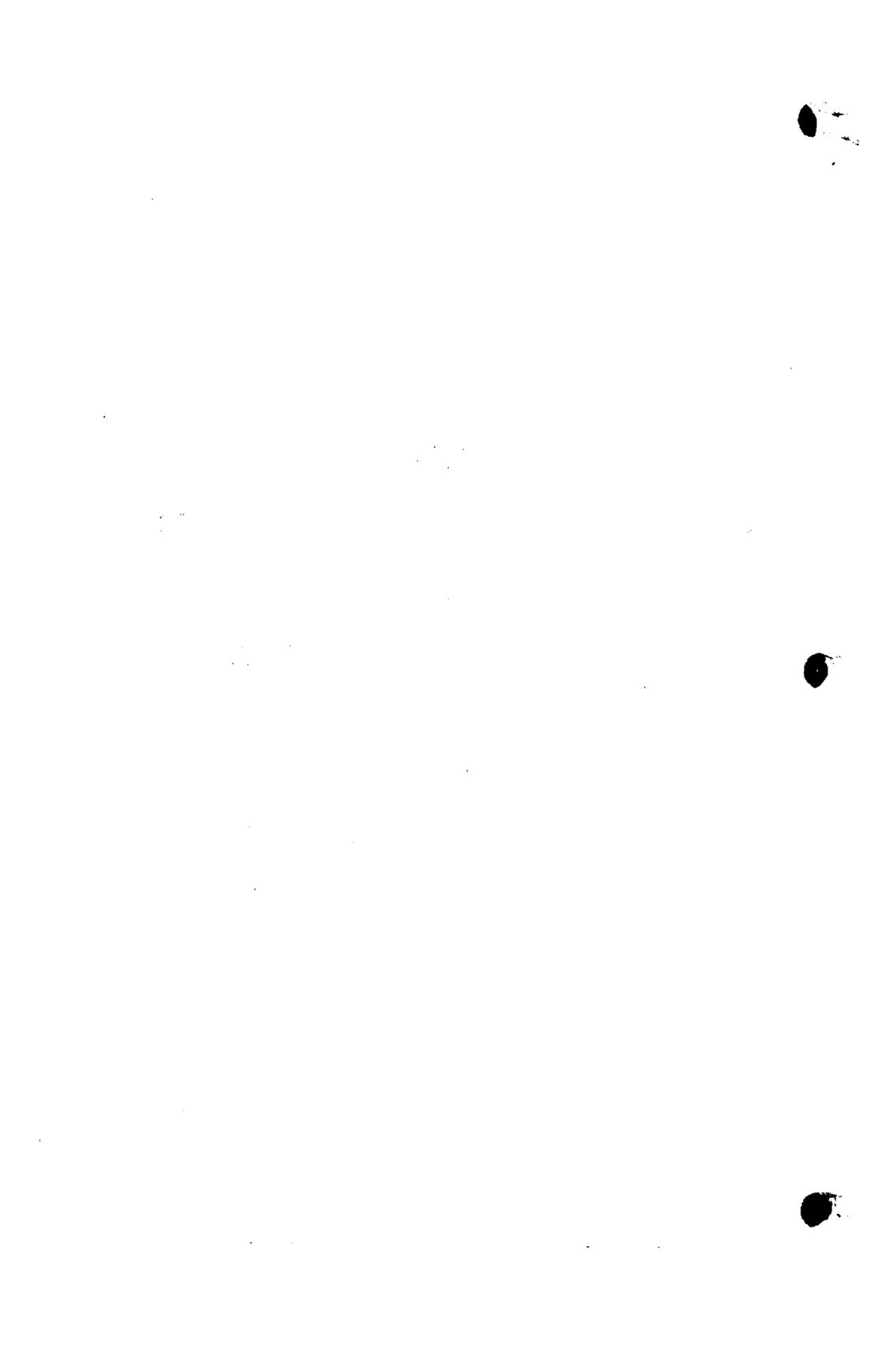
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Joint Report
of the
UNITED STATES COURT OF MILITARY APPEALS
and
THE JUDGE ADVOCATES GENERAL
OF THE ARMED FORCES
and
THE GENERAL COUNSEL OF THE
DEPARTMENT OF THE TREASURY

January 1, 1956, to December 31, 1956



JOINT REPORT

This report, which covers the period from January 1, 1956 through December 31, 1956, represents the fifth report of the Committee created by Article 67 (g) of the Uniform Code of Military Justice, 10 U. S. C. 867 (g). That article requires the Judges of the United States Court of Military Appeals, the Judge Advocates General of the Armed Forces, and the General Counsel of the Department of the Treasury to meet annually to survey the operations of the Code and prepare a report to the Committees on Armed Services of the Senate and the House of Representatives, to the Secretary of Defense, and to the Secretaries of the Departments, with regard to the status of military justice and to the manner and means by which it can be improved by legislative enactment.

The Judges of the United States Court of Military Appeals, the Judge Advocates General, and the General Counsel of the Department of the Treasury, hereinafter referred to as the Code Committee, have met and conferred during the period of this report. The Code Committee is submitting refinements of the previous recommendations submitted in the second annual report for the calendar year 1953, and reaffirmed in the third and fourth annual reports for calendar years 1954 and 1955. These suggestions are set out in exhibit A and differ in many respects with the companion bills advanced by the Department of Defense and identified as S. 2133 and H. R. 6583, introduced on June 2, 1955, and June 1, 1955, respectively. Those bills contained proposals which were either not considered or not acted upon by the members of the Code Committee because of lack of unanimity. Hearings on H. R. 6583 were initiated in the spring of 1956 by the House Armed Services Committee Subcommittee No. 1 but were not concluded before the adjournment of Congress.

In essence, the recommendations included in exhibit A are designed to eliminate some of the procedural difficulties and delays which have arisen under the Code since May 31, 1951, and to provide for more prompt and more efficient administration of military justice, both from the standpoint of the individual and the Government without impairing any substantial right of an accused person. It is hoped that the Committees of Congress will continue with hearings and consider the present suggested amendments proposed by the Code Committee to the end of enacting into law those changes it believes would be most

beneficial to the sound administration and effectiveness of the Uniform Code of Military Justice.

The sectional reports of the Court and of the individual services outline the volume of court-martial cases subject to appellate review during this reporting period. Exhibit B is attached to recapitulate the number of court-martial cases of all types tried throughout the world, and processed since the Uniform Code of Military Justice went into effect.

Respectfully submitted,

ROBERT E. QUINN
Chief Judge.

GEORGE W. LATIMER
Judge.

HOMER FERGUSON
Judge.

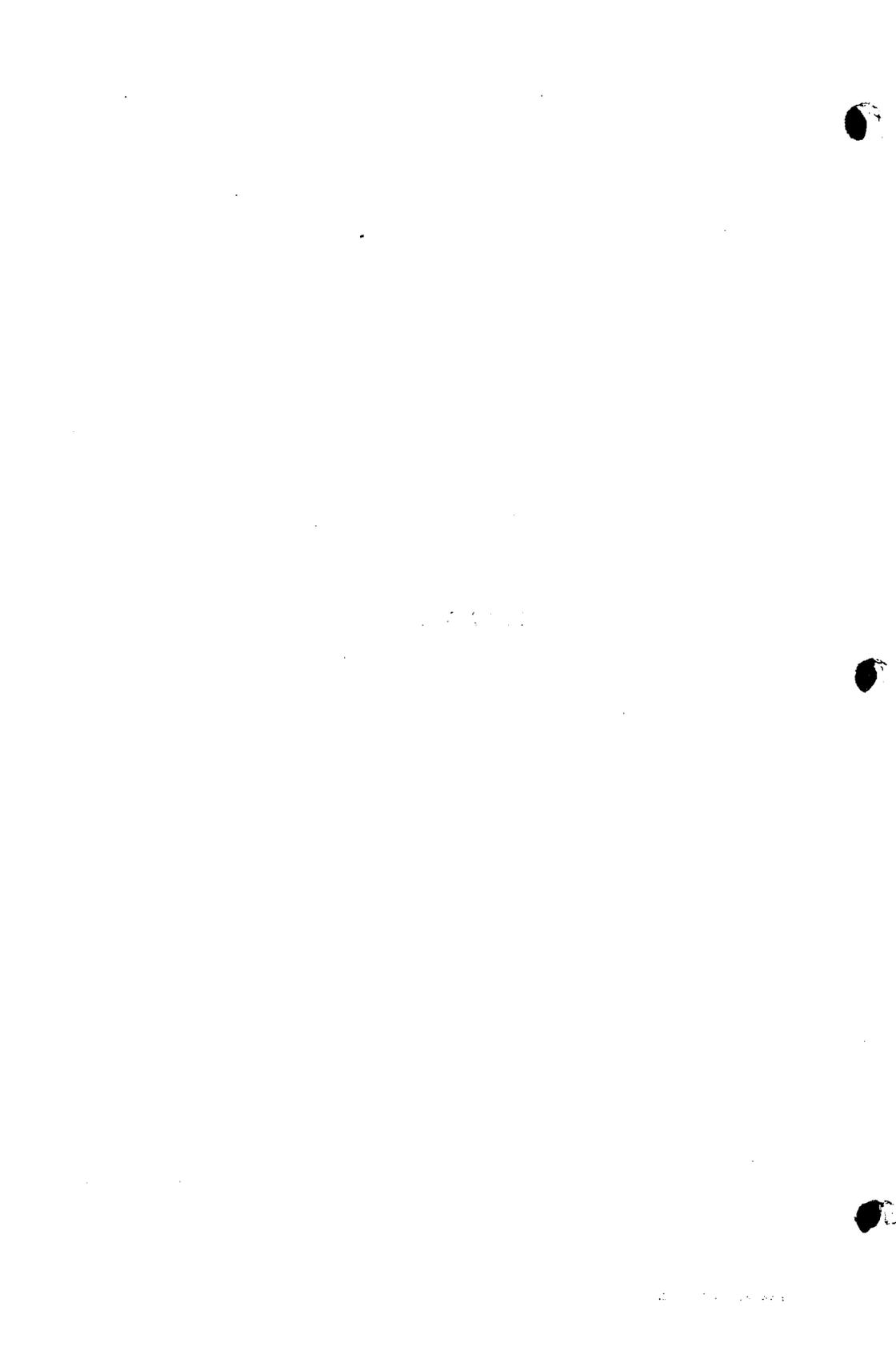
EUGENE M. CAFFEY
*The Judge Advocate General,
United States Army.*

CHESTER WARD
*The Judge Advocate General,
United States Navy.*

REGINALD C. HARMON
*The Judge Advocate General,
United States Air Force.*

FRED C. SCRIBNER, JR.
*General Counsel,
Department of the Treasury.*

EXHIBIT A



1 States confinement facilities with
2 members of the armed forces of friendly
3 foreign nations.”

4 (3) Section 815 is amended—

5 (A) by striking out in subsection (a) (1) (C)
6 the words “one month’s pay” and inserting
7 the words “his pay per month for a period
8 of not more than two months” in place thereof;

9 (B) by striking out in subsection (a) (2) (E)
10 the word “or”;

11 (C) by striking out the period at the end of
12 subsection (a) (2) (F) and inserting a semicolon
13 in place thereof; and

14 (D) by adding the following new clauses at the
15 end of subsection (a) (2) :

16 “(G) if imposed by an officer in the
17 grade of major or lieutenant commander
18 or above, forfeiture of not more than
19 one-half of one month’s pay; or

20 (H) if imposed by an officer in the
21 grade of major or lieutenant commander
22 or above, confinement for not more than
23 seven consecutive days.”

24 (4) Section 816 is amended by striking out the
25 word “; and” in clause (2) and inserting the
26 words “or only of a law officer who is certified

1 to be qualified for duty as a single-
2 officer special court-martial by the Judge
3 Advocate General of the armed force of which
4 he is a member if, before the court is convened,
5 the accused, knowing the identity of the law
6 officer, and upon advice of counsel, requests
7 in writing a court composed only of a law
8 officer and the convening authority has
9 consented thereto; and” in place thereof.

10 (5) Sections 822 (b) and 823 (b) are each
11 amended to read as follows:

12 “(b) If any person described in sub-
13 section (a), except the President of the
14 United States, is an accuser, the court
15 must be convened by a competent authority
16 not subordinate in command or grade to the
17 accuser, and may in any case be convened
18 by a superior competent authority.”

19 (6) Section 825 (a) is amended by adding the
20 following new sentence at the end thereof:

21 “However, to be eligible for appointment
22 as a single-officer special court-martial,
23 the officer must have the qualifications
24 specified for a law officer in section 826 (a)

1 of this title (article 26 (a)) and must be
2 certified to be qualified for duty as a
3 single-officer special court-martial by
4 the Judge Advocate General of the armed
5 force of which he is a member.”

6 (7) Section 837 is amended by striking out in
7 the first sentence thereof the words “nor any
8 other commanding officer” and inserting the words
9 “or any other commanding officer, or any officer
10 serving on the staffs thereof” in place thereof.

11 (8) Section 841 (b) is amended by inserting
12 after the words “law officer” the words “and
13 an officer appointed as a single-officer special
14 court-martial.”

15 (9) Section 851 is amended—

16 (A) by striking out in the second sentence
17 of subsection (b) the words “a motion for
18 a finding of not guilty, or”;

19 (B) by inserting in the third sentence of
20 subsection (b) after the word “trial” the
21 words “except a ruling on a motion for a
22 finding of not guilty which was granted”;
23 and

24 (C) by adding the following new subsection:
25 “(d) Subsections (a), (b), and (c) of

1 this section do not apply to a
2 single-officer special court-
3 martial. An officer who is appointed
4 as a single-officer special court-
5 martial shall determine all questions
6 of law and fact arising during the
7 trial and, if the accused is con-
8 victed, adjudge an appropriate
9 sentence.”

10 (10) Section 854 is amended to read as follows:

11 “§ 854. *Art. 54. Record of trial*

12 “(a) Each court-martial shall make a
13 separate record of the proceedings of the
14 trial of each case brought before it. A
15 record of the proceedings of a trial in
16 which the sentence adjudged includes a
17 bad-conduct discharge or is more than that
18 which could be adjudged by a special court-
19 martial shall contain a complete verbatim
20 account of the proceedings and testimony
21 before the court, and shall be authenticated
22 in such manner as may be required by
23 regulations which the President may prescribe.
24 All other records of trial shall contain

1 such matter and be authenticated in
2 such manner as may be required by
3 regulations which the President may
4 prescribe.

5 “(b) A copy of the record of the
6 proceedings of each general and special
7 court-martial shall be given to the accused
8 as soon as authenticated. If a verbatim
9 record of trial by general court-martial is
10 not required by subsection (a), the accused
11 may buy such a record under regulations
12 which the President may prescribe.”

13 (11) Section 857 is amended by adding the
14 following new sentence at the end of sub-
15 section (a):

16 “A sentence to death includes forfeiture
17 of all pay and allowances and dishonorable
18 discharge. The forfeiture may apply to
19 all pay and allowances becoming due on or
20 after the date the sentence is approved by
21 the convening authority.”

22 (12) Section 865 is amended—

23 (A) by amending subsection (a) to read
24 as follows:

25 “(a) When the convening authority has

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taken final action in a general court-martial case and the sentence approved by him includes a bad-conduct discharge or is more than that which could have been adjudged by a special court-martial, he shall send the entire record, including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, to the appropriate Judge Advocate General.”;

(B) by striking out in subsection (b) the words “to be reviewed by a board of review” wherever they appear therein; and
(C) by amending subsection (c) to read as follows:

“(c) All other records of trial by court-martial shall be reviewed by—
(1) a judge advocate of the Army or Air Force;
(2) an officer of the Navy or Marine Corps on active duty who is a member of the bar of a Federal court or of the highest court of a State; or

1 (3) in the Coast Guard, or
2 Department of the Treasury, a
3 law specialist or member of the
4 bar of a Federal Court or of the
5 highest court of a State.”

6 (13) Section 866 is amended—

7 (A) by amending subsection (b) to read
8 as follows:

9 “(b) The Judge Advocate General shall
10 refer to a board of review each record
11 of trial by court-martial in which the
12 approved sentence—

13 (1) extends to death;

14 (2) affects a general or flag
15 officer;

16 (3) extends to the dismissal of a
17 commissioned officer or a cadet
18 or midshipman; or

19 (4) includes a dishonorable or bad-
20 conduct discharge, or confinement
21 for one year or more, unless the
22 accused pleaded guilty to each
23 offense of which he was found
24 guilty and has stated in writing,
25 after the convening authority

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acted in his case, that he does not desire review by a board of review.”; and (B) by amending subsection (e) to read as follows:

“(e) The Judge Advocate General may dismiss the charges whenever the board of review has ordered a rehearing and he finds a rehearing impracticable. Otherwise, the Judge Advocate General shall, unless there is to be further action by the President, the Secretary concerned, or the Court of Military Appeals, instruct the convening authority to take action in accordance with the decision of the board of review. If the board of review has ordered a rehearing and the convening authority finds a rehearing impracticable, he may dismiss the charges.”

(14) Section 867 is amended by inserting the following new sentence after the first sentence of subsection (f):

“The Judge Advocate General may dismiss

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the charges whenever the Court of Military Appeals has ordered a rehearing and he finds a rehearing impracticable.”

(15) Section 869 is amended to read as follows:

“§ 869. *Art. 69. Review in the office of the Judge Advocate General*

“Every record of trial by court-martial forwarded to the Judge Advocate General under section 865 of this title (article 65), the appellate review of which is not otherwise provided for by section 865 or 866 of this title (article 65 or 66), shall be examined in the office of the Judge Advocate General. If any part of the findings or sentence is found unsupported in law, the Judge Advocate General shall either refer the record to a board of review for review under section 866 of this title (article 66) or take such action in the case as a board of review may under section 866 (c) and (d) of this title (article 66 (c) and (d)). If the record is reviewed by a board of review, there will be no further review by the Court of Military Appeals except under section 867 (b) (2) of this title (article 67 (b) (2)).”

1 (16) Section 871 is amended—

2 (A) by striking out in subsection (b)
3 the first sentence and inserting the
4 following in place thereof:

5 "That portion of a sentence extending
6 to the dismissal of a commissioned
7 officer or a cadet or midshipman may
8 not be executed until approved by the
9 Secretary concerned, or such Under
10 Secretary or Assistant Secretary as
11 may be designated by him.";

12 (B) by amending subsection (c) to read
13 as follows:

14 "(c) That portion of a sentence
15 extending to dishonorable or bad-conduct
16 discharge may not be executed until
17 approved by the Judge Advocate General
18 or affirmed by a board of review, as
19 the case may be, and, in cases reviewed
20 by it, affirmed by the Court of Military
21 Appeals."; and

22 (C) by inserting in subsection (d) after the
23 words "court-martial sentences" the words
24 "and portions of sentences".

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(17) Section 873 is amended—

(A) by striking out in the first sentence after the word “within” the words “one year” and inserting the words “two years” in place thereof; and

(B) by striking out the last sentence and inserting the following in place thereof:

“The board of review or the Court of Military Appeals, as the case may be, shall determine whether a new trial, in whole or in part, should be granted or shall take appropriate action under section 866 or 867 of this title (article 66 or 67), respectively. Otherwise, the Judge Advocate General may grant a new trial in whole or in part or may vacate or modify the findings and sentence in whole or in part.”

(18) Section 895 is amended by striking out the words “custody or confinement” and inserting the words “physical restraint lawfully imposed” in place thereof.

(19) Subchapter X of chapter 47 is amended—

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✓ (A) by inserting the following new section after section 923:

“§ 923a. *Art. 123a. Making, drawing, or uttering check, draft, or order without sufficient funds*

“Any person subject to this chapter who—

(1) for the procurement of any article or thing of value;

(2) for the payment of any past-due obligation; or

(3) for any purpose with intent to deceive or defraud;

makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment, shall be punished as a court-martial may direct. The making, drawing,

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uttering, or delivering by a
maker or drawer of a check, draft,
or order, payment of which is refused
by the drawee because of insufficient
funds of the maker or drawer in the
drawee's possession or control, is
prima facie evidence of his intent to
defraud and of his knowledge of
insufficient funds in, or credit with,
that bank or other depository, unless
the maker or drawer pays the holder
the amount due within five days after
receiving notice, orally or in writing,
that the check, draft, or order was
not paid on presentment. The word
'credit', as used herein, means
arrangement or understanding, express
or implied, with the bank or other
depository for the payment of that
check, draft, or order."; and
(B) by inserting the following new
item in the analysis:

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“923a. 123a. Making, drawing, or
uttering check, draft,
or order without
sufficient funds.”

SEC. 2. This Act becomes effective on the first
day of the tenth month following the month in which it
is enacted.

EXHIBIT B

	1954	1955	1956	Total
Personnel Strength of Armed Forces ¹ -----	3, 006, 334	2, 701, 972	2, 780, 723	-----
Court-Martial Cases for Armed Forces-----	² 1, 024, 511	202, 709	185, 816	1, 413, 036
Cases Reviewed by Boards of Review-----	³ 67, 000	17, 245	13, 920	98, 165
Cases Wherein Findings Were Modified by Boards of Review-----	³ 2, 423	438	421	3, 282
Cases Docketed with USCMA-----	³ 6, 061	1, 881	1, 523	9, 465
Opinions Published by USCMA-----	³ 598	156	98	852
Opinions Published Wherein Decisions of Boards of Review Were Modified by USCMA-----	³ 298	59	54	411

¹ As of December 31; all military personnel on extended or continuous active duty. Data include special categories of such personnel, as follows: Nurses, Navy and Marine Corps Reservists associated with Reserve Activities and Officer Candidates. Retired personnel are excluded.

² Total court-martial cases for calendar years 1951 through 1954.

³ Total court-martial cases from May 31, 1951 (effective date of the Uniform Code of Military Justice), to December 31, 1954.

Report

of the

UNITED STATES COURT OF MILITARY APPEALS

January 1, 1956, to December 31, 1956



UNITED STATES COURT OF MILITARY APPEALS

The following report of the United States Court of Military Appeals for the year January 1, 1956, to December 31, 1956, is submitted to Congress pursuant to Article 67 (g) of the Uniform Code of Military Justice, 10 U. S. C. 867 (g). This report contains statistics on the volume and scope of the work of the Court during the past year, including some general observations of the Judges.

In our last annual report we reported with deep regret the death of Associate Judge Paul W. Brosman on December 21, 1955. The Court functioned from that date until April 9, 1956, at which time Homer Ferguson was sworn in to take the place of the late Judge Brosman. Judge Ferguson, former United States Senator from the State of Michigan and thereafter Ambassador to the Philippine Islands, was nominated as a Judge of this Court on January 30, 1956, by President Dwight D. Eisenhower to fill the unexpired 5-year term of Judge Brosman, ending May 1, 1956, and for a 15-year term ending May 1, 1971. The appointments were confirmed unanimously by the United States Senate on February 17, 1956. Judge Ferguson was given the oath of office in the West Conference Room of the Supreme Court Building by the Chief Justice of the United States, Earl Warren, on April 9, 1956. He assumed the duties of his new office immediately.

During the period covered by this report the membership of the bar of the Court continued its steady growth with the addition of 1,546 attorneys. As of December 31, 1956, 6,147 attorneys had been accepted as practitioners before the Court. Broken down percentage-wise, 58 percent are civilian attorneys and 42 percent are attorneys in the Armed Services. This membership includes attorneys from the 48 States, the territories of Alaska and Hawaii, and the Commonwealth of Puerto Rico. With the normal duty rotation of uniformed personnel, military lawyers admitted to practice may now be found wherever United States troops are stationed throughout the world.

Being cognizant of the value of having both civilian and military lawyers participate in the administration of military justice, the Judges of the Court desire to commend again the various Services for their efforts during the year in providing facilities for attorneys in reserve components from every section of the country to attend Court sessions for the purpose of being admitted to practice before the Court.

Joint efforts of both civilian and military lawyers in the field of military jurisprudence can only have a salutary effect which will result in a continuing improvement in the operation of military justice from the court-martial level to the final appellate review by this Court. To this end, five special admission sessions were held outside of Washington at the following places: Fort George G. Meade, Md., July 19, 1956, 56 attorneys admitted; Great Lakes, Ill., August 15, 1956, 201 attorneys admitted; Fort Benning, Ga., August 22, 1956, 103 attorneys admitted; Dallas, Tex. (in conjunction with the American Bar Association Annual Convention), August 28, 1956, 147 attorneys admitted; New York, N. Y. (Military Justice Forum of the Association of the Bar of the City of New York), November 19, 1956, 176 attorneys admitted.

In line with their policy of acquainting the civilian populace with the operation of the Uniform Code of Military Justice, the Judges made themselves available for lectures at the military service schools at Charlottesville, Va., and Newport, R. I. They also accepted invitations to address various reserve officers associations, legal institutions, State Bar Associations, and other civic organizations. While these appearances had to be worked into a heavy schedule, it is believed that such efforts on the part of the Judges served a useful purpose in informing the public of the Code and of the Court, and the roles they occupy in the civilian and military communities.

In the second annual report covering the period June 1, 1952, to December 31, 1953, and again in the third annual report covering the period January 1, 1954, to December 31, 1954, the Judges of the Court joined with The Judge Advocates General of the respective Services and the General Counsel of the Department of the Treasury in submitting to Congress 17 recommendations for improvements in the Uniform Code of Military Justice. (These recommendations were embodied in a bill sponsored by the Department of Defense and introduced on June 1, 1955, as H. R. 6583, and in a companion bill in the Senate on June 2, 1955, as S. 2133, 84th Congress, 1st Session. Hearings were held on H. R. 6583 before the House Armed Services Committee, Subcommittee No. 1, commencing on March 15, 1956. At that time testimony was presented by various interested witnesses including The Judge Advocates General or their representatives, as well as the Judges of this Court. These hearings which have been published set forth in detail the original recommendations of the Code Committee and the views of the Court in opposition to some of the proposals included in the Department of Defense bill. In view of the fact that the Congress adjourned before the work of the subcommittee was completed, it is hoped that the Armed Services Committee of the Senate and of the House will have an opportunity to consider the amendments refined and presently submitted by the Code Commit-

tee (See Exhibit A to Joint Report, p. 7), so that their enactment into law will soon be effected.

The workload and the work-product of the Court during the last calendar year has continued to be substantial; however, the Judges and the personnel of the Court have kept the docket current. During its 67 months of existence, the Court has docketed by petition, certificate, or mandatory review, 9,465 cases. Completed action can be reported in 9,354 of these. Opinions numbering 852 have been published with another 37 in the process of completion. Of the 852 published opinions, 35 involved Army officers; 8 Air Force officers; 7 Naval officers; 1 Coast Guard officer, and 16 civilians. The remaining opinions involved enlisted personnel. As of December 31, 1956, review had been completed in 28 capital cases involving 33 members of the Armed Forces.

During the 5½-years' period of operation of the Court, there has been steady improvement in abbreviating the time required to complete appellate review of cases with no diminution in the study and care given to the final disposition of a case.

There is attached a detailed analysis of the status of cases processed since the Court came into existence in 1951.

Respectfully submitted,

ROBERT E. QUINN, *Chief Judge.*

GEORGE W. LATIMER, *Judge.*

HOMER FERGUSON, *Judge.*

STATUS OF CASES
UNITED STATES COURT OF MILITARY APPEALS
CASES DOCKETED

<i>Total by Services</i>	<i>Total as of Dec. 31, 1954</i>	<i>Jan. 1, 1955 to Dec. 31, 1955</i>	<i>Jan. 1, 1956 to Dec. 31, 1956</i>	<i>Total as of Dec. 31, 1956</i>
<i>Petitions (Art. 67 (b) (3)):</i>				
Army.....	3,980	1,020	810	5,810
Navy.....	1,047	449	248	1,744
Air Force.....	890	392	453	1,735
Coast Guard.....	17	7	4	28
Total.....	5,934	1,868	1,515	9,317
<i>Certificates (Art. 67 (b) (2)):</i>				
Army.....	67	0	7	74
Navy.....	95	15	13	123
Air Force.....	13	3	7	23
Coast Guard.....	5	0	0	5
Total.....	180	18	27	225
<i>Mandatory (Art. 67 (b) (1)):</i>				
Army.....	23	6	0	29
Navy.....	0	0	0	0
Air Force.....	1	0	0	1
Coast Guard.....	0	0	0	0
Total.....	24	6	0	30
Total cases docketed.....	6,138	1,892	1,542	19,572

COURT ACTION

<i>Petitions (Art. 67 (b) (3)):</i>				
Granted.....	497	130	102	729
Denied.....	5,191	1,687	1,390	8,268
Dismissed.....	5	0	0	5
Withdrawn.....	103	28	24	155
Disposed of on motion to dismiss:				
With opinion.....	7	0	0	7
Without opinion.....	21	4	2	27
Disposed of by Order setting aside find- ings and sentence.....	2	0	0	2
Remanded to Board of Review.....	13	10	3	26

¹ 9,465 cases actually assigned Docket numbers. Fifty-seven cases counted as both Petitions and Certificates. Three cases certified twice. Forty-five cases submitted as Petitions for the second time. One Mandatory case filed twice. One Mandatory case filed as Petition after second Board of Review Opinion

COURT ACTION—Continued

<i>Total by Services</i>	<i>Total as of Dec. 31, 1954</i>	<i>Jan. 1, 1955 to Dec. 31, 1955</i>	<i>Jan. 1, 1956 to Dec. 31, 1956</i>	<i>Total as of Dec. 31, 1956</i>
<i>Petitions (Art. 67 (b) (3)):</i>				
Court action due (30 days) ² -----	79	75	91	245
Awaiting briefs ² -----	32	52	35	119
<i>Certificates (Art. 67 (b) (2)):</i>				
Opinions rendered-----	165	19	24	208
Opinions pending ² -----	8	7	4	19
Withdrawn-----	4	0	0	4
Set for hearing ² -----	1	0	4	5
Ready for hearing ² -----	0	0	1	1
Awaiting briefs ² -----	2	3	5	10
<i>Mandatory (Art. 67 (b) (1)):</i>				
Opinions rendered-----	21	4	5	30
Opinions pending ² -----	0	3	0	3
Remanded to Board of Review-----	1	0	0	1
Set for hearing ² -----	1	0	0	1
Ready for hearing ² -----	0	1	0	1
Awaiting briefs ² -----	1	0	0	1
<i>Opinions rendered:</i>				
Petitions-----	389	132	75	596
Motions to Dismiss-----	7	0	1	8
Per Curiam grants-----	21	0	0	21
Certificates-----	146	13	22	181
Certificates and Petitions-----	19	6	1	26
Mandatory-----	21	4	5	30
Remanded to Board of Review-----	1	1	0	2
Petition for a New Trial-----	1	0	0	1
Petition for Reconsideration of Petition for New Trial-----	1	0	0	1
Total-----	606	156	104	866
<i>Completed Cases:</i>				
Petitions denied-----	5, 191	1, 687	1, 390	8, 268
Petitions dismissed-----	5	0	0	5
Petitions withdrawn-----	103	28	24	155
Certificates withdrawn-----	4	0	0	4
Opinions rendered-----	599	156	104	859
Disposed of on Motion to dismiss:				
With opinion-----	7	0	0	7
Without opinion-----	21	4	2	27
Disposed of by Order setting aside find- ings and sentence-----	2	0	0	2
Remanded to Board of Review-----	14	10	3	27
Total-----	5, 946	1, 885	1, 523	9, 354

² As of December 31, 1954, 1955, and 1956.

³ 866 cases were disposed of by 852 published opinions. 51 opinions were rendered in cases involving 35 Army officers, 8 Air Force officers, 7 Navy officers, and 1 Coast Guard officer. In addition 16 opinions were rendered in cases involving civilians. The remainder concerned enlisted personnel.

COURT ACTION—Continued

	<i>Pending completion as of—</i>		
	<i>Dec. 31,</i> <i>1954</i>	<i>Dec. 31,</i> <i>1955</i>	<i>Dec. 31,</i> <i>1956</i>
Opinions pending -----	40	33	37
Set for hearing -----	11	0	17
Ready for hearing -----	1	9	4
Petitions granted—awaiting briefs -----	10	12	17
Petitions—Court action due 30 days -----	79	75	91
Petitions—awaiting briefs -----	32	52	35
Certificates—awaiting briefs -----	2	3	5
Mandatory—awaiting briefs -----	1	0	0
	176	184	206
Total -----			

Report
of
THE JUDGE ADVOCATE GENERAL
of
THE ARMY

January 1, 1956, to December 31, 1956



REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY

1. Recommendations:

During the period covered by this report, hearings were held before a Subcommittee of the House Armed Services Committee on a bill introduced into both houses of the 84th Congress (S. 2133 and H. R. 6583, 84th Congress, 1st Session), containing a number of recommended changes to the Uniform Code of Military Justice. It is recommended that the bill be speedily enacted upon its reintroduction into the 85th Congress.

In January 1956, a bill was introduced into the Senate (S. 2791, 84th Congress, 2d Session) to provide for the trial in the Federal district courts of persons not subject to military jurisdiction for certain offenses committed by them while subject to such jurisdiction. This legislation, recommended in the Annual Report for the period January 1, 1955 to December 31, 1955, was prompted by the decision of the United States Supreme Court in *United States ex rel Toth v. Quarles*, 350 U. S. 11 (1955), which held unconstitutional Article 3 (a) of the Uniform Code of Military Justice. Subject to certain amendments proposed by the Department of Defense, it is recommended that this bill be enacted as soon as practicable.

A workable code for the administration of military justice must be readily adaptable to wartime conditions. Some administrative provisions of the present Code, while burdensome in peacetime, could seriously impair the effective administration of military justice in time of war. Present Code provisions result in an excessive expenditure of time to process cases involving no substantial legal issues. In cases reviewed by the United States Court of Military Appeals in 1956, an average of approximately one year elapsed from the time a sentence was adjudged by court-martial until it was ordered into execution. A system requiring nearly a year to complete appellate review is of doubtful utility in effecting prompt punishment in time of war. While punishment is not a part of discipline for the majority, it is recognized that, for a small group, punishment or the fear of punishment is the ingredient needed to give discipline meaning. For this small minority, punishment, to be effective, must be prompt and certain. This is particularly true with respect to those found guilty of military offenses such as desertion, willful disobedience, mutiny and aiding the enemy, as well as civil type felonies occurring in com-

bat and occupied areas. There is, for example, little deterrent value in a system of military justice which precludes contemporary punishment of front-line deserters. A system which permits wartime offenders to take refuge in stateside detention, awaiting appellate review of their cases, while the faithful soldiers remain in the fight, does little for morale, especially in view of the common knowledge in the military that, after peace returns and the stresses of war are relaxed, the public again will demand clemency for those serving sentences for military offenses. Although an adequate solution to the problem requires an informed public, a start in the right direction can be made now through changes to the present Code. Boards of review, now sitting in Washington, should be decentralized. They should be located in Army areas within the United States and within overseas theaters of operations. Such decentralization would obviate the need for forwarding records of trial in general court-martial cases to Washington for board of review action before commanding generals can order sentences into execution. An amendment to the Code permitting convening authorities to order into execution sentences approved by boards of review located in the field should reduce considerably the time expended in appellate review. Provision could be made that death sentences, approved by a board of review sitting in the field, could be ordered into execution by a theater, Army, or expeditionary force commander. Included within such a plan would, of necessity, be a provision whereby The Judge Advocate General would certify to the United States Court of Military Appeals for decision cases in which the boards of review are in disagreement as to points of law.

And now, as I conclude my service as The Judge Advocate General and retire from the Army, I should like to pay tribute to the members of the Judge Advocate General's Corps. Their highest standards of competency, intellectual honesty, and professional devotion reflect the finest traditions of the military and legal professions. It was a privilege to have served with them, and I owe them a debt of gratitude I can never repay.

2. Operations:

a. During the calendar year 1956, The Judge Advocate General's School at Charlottesville, Va., provided residential instructions for 558 military lawyers. The School conducted 2 cycles of the 3-month course in basic military law, graduating 84 students. A third class with 61 students was started. One advanced course of 32 weeks was completed for 23 selected officers of the Army and Navy. This course was lengthened to 35 weeks beginning with the Fifth Advanced Class which started in September 1956. This class consists of 25 military lawyers including 5 Navy law specialists. Two 6-week courses in Court Reporting were held and 26 students graduated. Three 3-week

courses in procurement law which covered generally the latest developments in the field of government contracts were conducted for 125 military and civilian attorneys of the Government. The School also conducted a 2-week contract termination course and a 3-day labor law seminar.

During the month of June, a National Guard Judge Advocate Refresher Course was held at the School. This course will probably be established on an annual basis. In addition, military law instructors of other service schools attended a conference designed to acquaint them with developments in military law and to furnish training in practices and techniques in conducting instruction in military law.

During the period 24 to 27 September 1956, a conference of judge advocates representing general court-martial jurisdictions throughout the world was held at The Judge Advocate General's School. It was attended by over 150 senior officers of the Corps who were privileged to hear outstanding authorities speak on subjects closely related to the field of the military lawyer. The theme of the conference was "The Broad and Increasing Responsibilities of the Judge Advocate General's Corps." On 26 September, dedicatory ceremonies for the new Judge Advocate General's School building were held. The School building was constructed and designed by the University of Virginia especially for the use of the Army. The Honorable Wilber M. Brucker, Secretary of the Army, accepted the building on behalf of the United States Army.

The School continued the publication of the Procurement Legal Service, a biweekly digest of significant decisions and opinions in the field of Government contracts.

The School planned and participated in "LOGEX 56," a logistical exercise in which students of the advanced class performed judge advocate duties under assumed combat conditions.

The nonresident training activities of the school provided instruction for over 2,000 Reserve officers. The school published and distributed instructional guides and material for the 155 Judge Advocate USAR School courses being conducted in 101 USAR School Judge Advocate Branch Departments with a total enrollment of approximately 1,400. Instructional material has been prepared for the 3-year Associate Company Officer Course and for the first 4 years of the 6-year Advanced Officer Course. Thirty-two extension courses have been prepared by the School and are presently available. During October, an orientation course for USAR school instructors was held at the School.

The school conducted continuous research and planning in the field of military law. A "Chronicle Letter" setting forth recent developments in military law was sent frequently to all judge advocates and other interested persons and agencies. Selected materials from this

letter have been collected and arranged for publication in the "1956 Cumulative Pocket Part" for insertion in the back of the *Manual for Courts-Martial, United States, 1951*. It also prepared a brochure dealing with legal career opportunities in the Judge Advocate General's Corps, a series of situation-type lesson materials for use by other service schools in conducting instruction in military justice, and a pamphlet containing four 1-hour lectures on martial law to be used in connection with mandatory instruction in martial law.

The School prepared and completed for distribution the final training film in the military justice series entitled "The Special Court Martial." Two more films on military law subjects are in the planning and writing stage. These are "The Military Board of Officers" and "Investigation of a Claim Against the Government."

b. The commissioning of 108 officers in The Judge Advocate General's Corps during the fiscal year 1957 has been authorized. The majority of those commissioned under this program have been young officers recently graduated from law school without previous military training. To prepare them properly for their duties as judge advocates, they are given an 8-week course of training at The Infantry School followed by a 3-month course in basic military law at The Judge Advocate General's School.

c. Pursuant to the Uniform Code of Military Justice, Article 6 (a), The Judge Advocate General and senior members of his staff in supervision of the administration of military justice inspected Army headquarters and principal posts located within the continental United States. Also inspected were all commands in Europe, Panama, and Puerto Rico in which general court-martial jurisdiction is being exercised over Army personnel.

3. Statistics:

a. The number of records of trial received in the office of The Judge Advocate General for review pursuant to Article 66 during the period covered by this report follows:

	1 Jan 56 through 31 Dec 56
Total	15,317

¹This figure includes 3 cases for which both review pursuant to Article 66 and examination pursuant to Article 69 were required by the Code; these cases are not reflected in the figures for Article 69, below.

In addition, the following table shows the number of records of trial received in the Office of The Judge Advocate General for examination pursuant to Article 69 during the same period:

	1 Jan 56 through 31 Dec 56
Total	1,088

b. The following table shows the workload of the boards of review during the same period :

	<i>1 Jan 56 through 31 Dec 56</i>
On hand at beginning of period-----	237
Referred for review-----	* 5, 332
	<hr/>
Total -----	5, 569
	<hr/>
Reviewed -----	5, 348
Pending at close of period-----	221
	<hr/>
Total -----	5, 569

* This figure includes 15 cases which were received for review pursuant to Article 69 and referred to boards of review.

c. From 1 January 1956 through 31 December 1956, 2,698 of the 5,654 accused whose cases were reviewed by boards of review pursuant to Article 66 (47.7 percent) requested representation by appellate defense counsel before the boards of review.

d. The records in the cases of 809 accused were forwarded during this period to the United States Court of Military Appeals pursuant to the three subdivisions of the Uniform Code of Military Justice, Article 67 (b) ; this figure is 14.3 percent of 5,654, the number of accused whose cases were reviewed by boards of review during the period.

EUGENE M. CAFFEY,
Major General, USA,
The Judge Advocate General.



Report
of
THE JUDGE ADVOCATE GENERAL
of
THE NAVY

January 1, 1956, to December 31, 1956



REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

The present Judge Advocate General of the Navy was sworn in on August 3, 1956, and assumed the duties of his office on August 17, 1956. He is the first Navy law-specialist officer to be appointed Judge Advocate General. The period since his assumption of office has brought wide organizational changes designed to improve the flexibility and efficiency of the Judge Advocate General's organization and to make it more responsive to the expanded needs of the new Navy.

Substantial progress has also been made toward improving career incentive for Navy officer-lawyers. The past organization of the Navy's officer-lawyers was adequate from a career-incentive standpoint when both the legal organization and the Navy were relatively small and when the only naval officers in the Judge Advocate General's organization were general-service line officers with legal training. To those officers were open all of the great career opportunities to serve the Navy in positions of command. They could move in and out of the legal organization in keeping with the opportunities presented by their seagoing careers. The present situation is entirely different for the vast majority of Navy lawyers, since their career opportunities are limited to those presented within the legal organization of the Navy. Along with the organizational changes, therefore, there had to be changes which would improve career incentive.

The appended organization chart reflects some of the initial steps toward the goal of improving career incentive. These include: provision of increased opportunity for service in positions of broad responsibility on a five-man top-management team; appointment of an Assistant Judge Advocate General (Personnel, Reserve and Management) with duties embracing a wide variety of personnel-administration function; formation of a Career Planning Branch, within the Military Personnel Division, with the primary mission of improving career incentive; and elevation of Naval Reserve affairs to divisional status. Improved incentive is expected to generate new enthusiasm and new performance levels in the existing group of officer-lawyers and to improve the flow and caliber of recruits to the Navy's law-specialist group. We are confident that this general improvement will be evident, both immediately and at long range, in the administration of the Uniform Code of Military Justice and in all other fields of law under the cognizance of the Judge Advocate General.

In the reorganization of the Office of the Judge Advocate General on modern, functional lines, immediate responsibility for all military

justice functions has been focused in an Assistant Judge Advocate General (Military Justice), as shown on the appended organization chart. The administration of military justice in the Navy and the Marine Corps during 1956 gives continued evidence of improved workability of the Uniform Code of Military Justice. Court-martial procedures were tested in full view of the Nation during July in the trial of Staff Sergeant Matthew C. McKeon. The factual setting of that case excited the broadest conflict of opinion. Despite the violent public disagreement as to an appropriate punishment for the accused after his conviction, however, there was no criticism of military due process.

More significant, though, is the fact that over 5,000 other cases involving serious offenses were tried in less sensational settings but with equally orderly proceedings. At the same time there were received in the Office of the Judge Advocate General, for review by the boards of review, 767 fewer cases than were received in 1955. This represented a decrease of 13 percent in the more serious cases. The year thus found the state of discipline in the naval service substantially improved. The efficient administration of military justice is certainly entitled to partial credit for this improved state of discipline. The year's improvement in the efficiency of administration of military justice is all the more remarkable because it was accomplished with a demonstrable shortage of officer-lawyers and with a sharply increased demand upon the available lawyers for legal services outside the military justice field.

It is agreed that there is a need for the refinement of military judicial processes. These refinements can probably be accomplished, however, within the general framework of the present law. Experience has shown no necessity for sweeping changes of major proportions. In the second annual report, covering the period from June 1, 1952, to December 31, 1953, the Judges of the United States Court of Military Appeals joined with the Judge Advocates General of the Armed Services and the General Counsel of the Treasury Department in submitting to Congress 17 recommendations for improvements in the Uniform Code of Military Justice. Amendments based upon those recommendations should be enacted.

One of those recommendations, in particular—additional authority for the commanding officer—is of fundamental importance to the naval service. The present Judge Advocate General of the Navy expressed the following view of this problem in 1953 in an article published in the *Vanderbilt Law Review* :

Had there been a long story of abuse of mast powers in the Navy, or even any substantial evidence of such a thing, emasculation of such powers might have been warranted. None has been shown. There is, of course, always a possibility that *individuals* might abuse such power. But now there is a statutory method of appeal provided to meet that possibility. In any event,

legislating against such a remote possibility, by cutting off the powers, is like taking from American parents the power to go beyond words of admonition in correcting their children. There is always the possibility that some individual parents will abuse their authority to cut down Junior's allowance, or administer a spanking or send him to bed without his full supper. As yet, however, there has been no great move to abolish these parental powers and require Dad to refer all such matters to a juvenile court for any corrective measures more effective than reproachful words. The full mast powers formerly existing under the Articles for the Government of the Navy were no more, in proportion to the greater age of the boys to be handled, and to the moment to the individual and to the Navy of the correction to be accomplished, than this type of parental authority in the American home. Those powers need to be restored. 6 Vanderbilt L. Rev. 186, 227.

Further experience has confirmed this initial judgment.

We are operating, however, under the Uniform Code as it exists—not as we would have it. During 1956, 5,260 records of trial were received in the Office of the Judge Advocate General for review pursuant to Article 66. Of this number, 1,832 were general courts-martial and 3,428 were special courts-martial. In addition, 365 records of trial were received in the Office of the Judge Advocate General for examination pursuant to Articles 69 and 65 (c).

The following table shows the workload of the boards of review during 1956:

On hand January 1, 1956.....	178	
Referred for review during 1956.....	5,260	
		5,438
Total.....		5,438
Reviewed during 1956.....	5,165	
Pending December 31, 1956.....	273	
		5,438
Total.....		5,438

The two boards of review established by the Judge Advocate General on the west coast in December 1955, received for review 663 general courts-martial and 1,248 special courts-martial. This total of 1,911 cases comprised 36 percent of the total number of cases received by the Judge Advocate General for review by boards of review during the reporting period.

During 1956, 61 percent of the accused whose cases were received in the Office of the Judge Advocate General for review pursuant to Article 66 requested representation by appellate defense counsel before boards of review. This constitutes a decrease of 2 percent from 1955 in requests for representation by appellate defense counsel, and it reflects a discontinuation of the trend toward consistent increase which had existed in this respect during each of the past reporting periods since the Uniform Code of Military Justice came into effect. It is possible that the incidence of such requests has now reached a plateau. The number of accused requesting appellate representation, of course, remains substantial.

Of cases reviewed by boards of review during 1956, 4.2 percent were forwarded to the United States Court of Military Appeals pursuant to the three subdivisions of Article 67 (b) of the Code.

On November 5, 1956, the Supreme Court of the United States ordered a rehearing in the *Reid v. Covert* and *Kinsella v. Krueger* cases involving the constitutionality of the provision of Article 2 (11) of the Uniform Code of Military Justice (352 U. S. 901). It is this provision of the Code which grants to the military services the right to try, by court-martial, civilians and dependents accompanying the armed forces overseas. In its order of rehearing, the Court propounded four questions to be included among the issues for discussion or reargument. The immediate parties concerned in these cases are personnel of the Army and the Air Force. The Department of Justice, however, in view of the scope of the questions involved and in view of the traditional role played by the Navy in the scheme of military diplomatic representation abroad through regular fleet visitations, requested the Navy to join in the effort to sustain the original decisions of the court as announced on June 11, 1956 (351 U. S. 470, 487).

Overseas commands viewed a loss of jurisdiction to try our civilians and dependents as disruptive of morale and as a potential impediment to overseas commands in the performance of their missions. An inevitable development from an adverse decision by the Court would be the trial of our civilians and dependents by the local courts of foreign nations. The political climate would certainly militate against such trials. Furthermore, the Judge Advocate General has a deep sense of the Navy's obligation and responsibility to its civilians and dependents stationed overseas in the fulfillment of our military requirements. With these considerations before him, the Judge Advocate General assigned an officer to temporary duty with the Department of Justice to assist in the preparation of the Government's case. He has also requested the major overseas commands of the Navy to make available a summary and analysis of their practical experience in this field for presentation to the Supreme Court. The reargument is tentatively scheduled for late in February 1957.

Increased emphasis has been placed on the training of inactive Naval Reserve officer-lawyers in military justice. The law program of the Naval Reserve is designed to provide adequate numbers of trained law specialists available for assignment in the event of mobilization or other national emergency. There are 51 organized nonpay units throughout the United States, with 882 attorneys participating in the program. Throughout 1956, on-the-job training of Reserve officer-lawyers was conducted at major naval installations. In addition, 2-week seminars were conducted at San Francisco and Great Lakes and a 2-week course in military justice was held at Newport, R. I. A total of 453 officers attended these scheduled training courses.

The Judge Advocates General of the Army and the Navy have reached an understanding for interservice training, on a reciprocal basis, of inactive Reserve officer-lawyers of their respective services. This prospective arrangement will provide new opportunities for the training of Naval Reserve officer-lawyers in geographical areas where there are insufficient officers to warrant the establishment of Reserve law units. The details of this reciprocal arrangement are being worked out for early implementation.

Additional training in military justice for naval personnel who are not lawyers was conducted during 1956 in three primary programs:

(a) *Courses of study at the U. S. Naval School (Naval Justice).*—The School, located at the U. S. Naval Base, Newport, R. I. graduated 868 officers and 563 enlisted men from the several intensive 7-week courses conducted during the year on the provisions of the Code and the Manual for Courts-Martial. In addition, 192 inactive Reserve officers were graduated from a 2-week active-duty training course held at the School from August 25 to September 7, 1956. A 28-hour course for senior officers attending the Naval War College at Newport was attended by 64 officers, while the regular Senior Officers' Short Course was attended by 192 officers. During the year, 266 enlisted men were graduated from the Closed-Microphone Court Reporting Course also conducted at the U. S. Naval School (Naval Justice). At the request of the Commandant of the Marine Corps, a team of officer and enlisted instructors from the School conducted the regular 7-week courses for 158 officers and enlisted men at Camp Pendleton, Calif., in May and June of 1956. The School also participated in west coast and east coast Law Seminars presented at San Francisco in July and at Great Lakes in August. Each seminar closed with a moot general court-martial presented by personnel of the School.

(b) *Motion-picture training film program.*—The distribution of 16 motion-picture training films on the subject of military justice, prepared in prior reporting periods, continued throughout the naval establishment during calendar year 1956.

(c) *Correspondence courses.*—Correspondence courses on military justice continued to attract the interest of naval personnel. A single-assignment course on the provisions of the Code was completed by 8,187 officers and enlisted men during the year. There are 905 persons currently enrolled in this course, and applications for it are being received at an average rate of 498 per month. A comprehensive 12-assignment course on military justice was completed by 20,089 officers and enlisted men during 1956. A total of 17,882 persons are currently enrolled in this course, and applications are being received at an average rate of 1,852 per month. The correspondence course entitled "The Law Officer" was completed

by 92 officers during the year. Completion of this course provides an exemption from promotion examinations required of Navy law specialists. There were 161 officers enrolled in this course during 1956, and officer-lawyers of the Navy are now enrolling in the course at the rate of 13 per month.

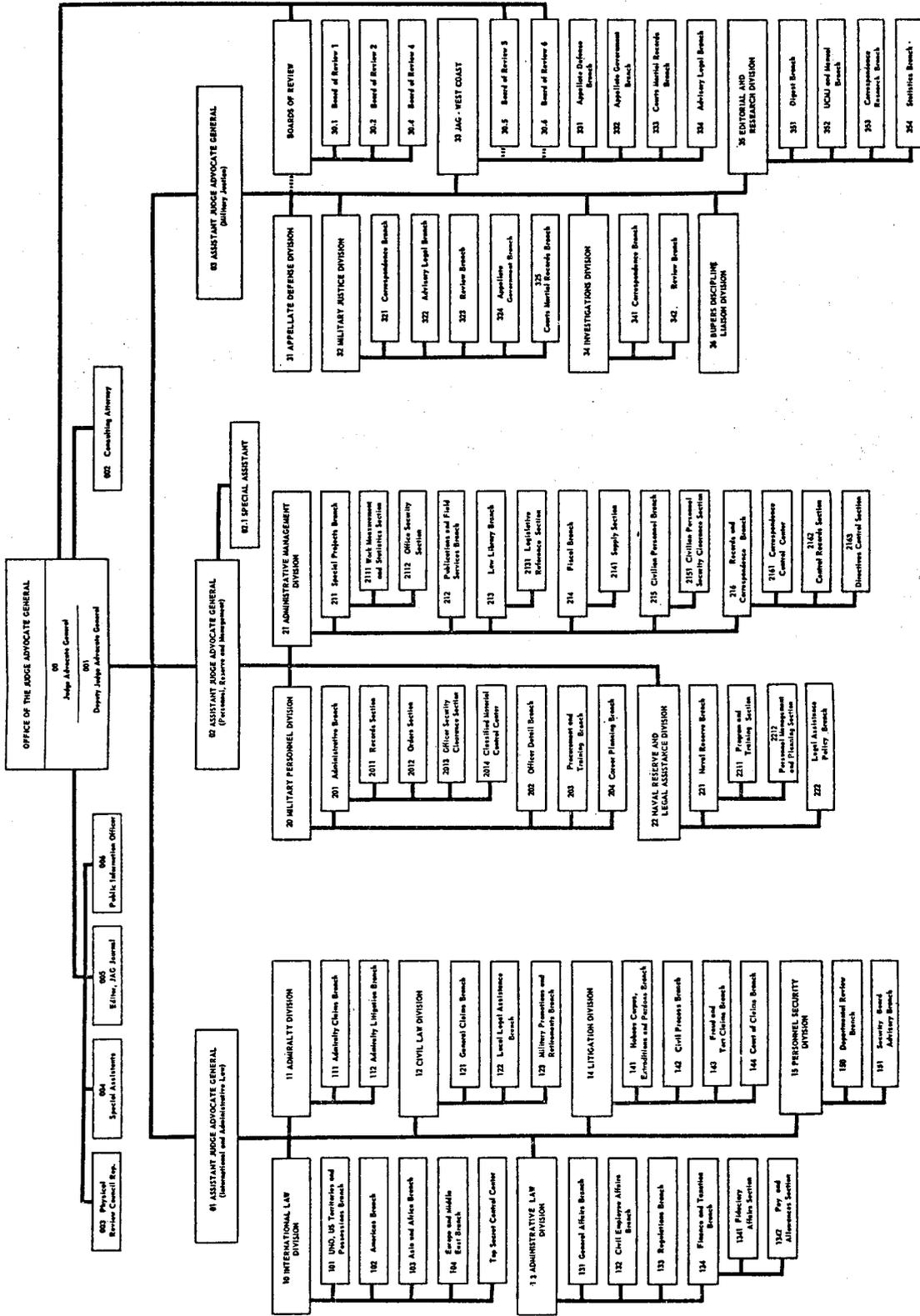
The *JAG Journal*, the only legal publication of its kind in the military establishment, entered its 10th year of publication in August. It continued during the year as an effective means of promoting legal forehandedness among personnel charged with the administration of naval law and as a vehicle for bringing to notice recent military-law developments of interest to the Navy. Articles in the field of military justice published during the year included such helpful contributions as "Manual for Courts-Martial—Modification by the Court of Military Appeals"; "Impeachment"; "The Staff Legal Officer"; and "Right to a Public Trial in the Military." Points of law decided in current decisions of the United States Court of Military Appeals were digested as an additional feature appearing in each issue.

Additional projects included the publication and distribution during 1956 of a guide for presidents and members of special courts-martial, NAVEXOS P-1524. In December, kits containing basic legal reference materials were assembled as an aid to Navy and Marine Corps Reserve officer-lawyers who are assigned primary duty in the line but who have legal duties as a collateral matter. The distribution of these kits has begun and will be carried out on a continuing basis.

In September, the Judge Advocate General and three members of his staff attended the annual meeting of the American Bar Association in Dallas, Texas. Participation in this meeting and in regional and local conferences of the civilian bar has afforded an excellent opportunity for a constructive interchange of ideas with leaders of the civilian bar. The civilian bar has demonstrated an intense and continuing interest in the effective administration of military justice, and its cooperation has contributed greatly to the success of that administration. Close liaison with the American Bar Association's Standing Committee on Legal Assistance to Servicemen and with the National Legal Aid Association has also improved the effectiveness of the Navy's program of legal assistance to service personnel and their dependents.

This report is submitted pursuant to Article 67 (g) of the Uniform Code of Military Justice. The period it covers has seen changes, developments, and trends which promise a continued improvement in the administration of military law and military justice in the Navy.

CHESTER WARD,
Rear Admiral, USN,
The Judge Advocate General.



Date: 19 December 1956

Approved:

Charles
 Judge Advocate General

Title of Parent Office
 Office of the Judge Advocate General

Title of Office
 Office of the Judge Advocate General

Chart No. II

Report
of
THE JUDGE ADVOCATE GENERAL
of
THE AIR FORCE

January 1, 1956, to December 31, 1956

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE

1. After Congress did not take action during the past year on the proposed amendments to the Uniform Code of Military Justice, it was determined to restudy those proposals in the light of testimony brought out during the hearings before the House Armed Services Committee. After reviewing the report of the hearings and considering critical views expressed by other interested agencies, the draft of the proposal was revised to reflect those views which would improve the administration of military justice. That draft is now being studied within the military departments and an early agreement on it is expected. It is hoped that Congress, during its next session, will take favorable action on this needed legislation.

2. A habeas corpus case of particular significance to the Air Force was the case of *United States of America ex rel Clarice B. Covert v. Curtis Reed*. A petition for writ of habeas corpus was filed in this case in the United States District Court for the District of Columbia on 17 November 1955. It was alleged that even if Mrs. Covert had been subject to court-martial jurisdiction under Article 2 (11) of the Uniform Code of Military Justice at the time of her original trial by court-martial in May 1953, she was no longer subject to such jurisdiction because the Air Force had transported her back to the United States and she was no longer a person "accompanying" the Armed Forces without the territorial limits of the United States within the meaning of Article 2 (11). The second argument was that Article 2 (11) was unconstitutional insofar as it purported to make a civilian amenable to court-martial jurisdiction in time of peace. Oral argument was heard by the District Court on 22 November 1955, at the conclusion of which the court ruled in favor of Mrs. Covert on the basis of the Toth decision and ordered Mrs. Covert's release. A direct appeal to the Supreme Court under the provisions of 28 USC 1252 was made in December 1955. The case was argued before the court in April 1956. On 11 June 1956, the Supreme Court handed down its opinion in this case and its companion case (*Kinsella v. Kreuger*) holding that there was no constitutional bar to the power of Congress to enact Uniform Code of Military Justice, Article 2 (11). A Petition for Rehearing was filed in both cases and was granted by the court in November 1956. Supplemental briefs are being filed by the government and the petitioner and it is anticipated that the cases will be reargued in February or March 1957.

3. There were 1,334 judge advocates on active duty with the United States Air Force on 1 January 1956; on 31 December 1956 there were only 1,201 judge advocates. During this one year period, 229 judge advocates were gained while 362 were lost to the United States Air Force. Numerically, the 133 judge advocate difference will be compensated for by a planned increase of new judge advocates. However, experience-wise, the loss is staggering. The mass exodus to civilian life of the professionally qualified military lawyer is one of the most serious problems facing the Air Force today. Approximately 50 percent of the Air Force Judge Advocate General's Department is presently composed of inexperienced young lawyers recently out of law school. As these young military lawyers complete their military obligation and obtain legal experience, they voluntarily return to more lucrative and rewarding practices in civilian life. Their replacements are young lawyers recently graduated from law schools who, too, at the end of 2 or 3 years, will also return to civilian practice. The Uniform Code of Military Justice cannot be administered with the high degree of professional competence intended by Congress, while this situation continues.

4. During the period of this report, Major General Reginald C. Harmon, The Judge Advocate General, his assistant, Major General Albert M. Kuhfeld, and senior members of his staff visited numerous Air Force installations in the United States and overseas, pursuant to the requirement of Article 6 (a) of the Uniform Code of Military Justice. In addition, they attended bar association meetings, veterans' conventions and various conferences where the Uniform Code of Military Justice was a topic of discussion.

5. The Office of The Judge Advocate General supervised and arranged for the publication of 3 bound volumes of Court-Martial Reports and 1 volume of Digest of Opinions containing legal opinions of the United States Court of Military Appeals, Army, Navy, Air Force, and Coast Guard. In addition, it published four quarterly paperbound volumes of Digest of Opinions; drafted and edited the 1957 Annotation to the Manual for Courts-Martial, 1951 (Air Force Pocket Part), which has approximately 350 pages and contains selected opinions and decisions rendered by the United States Supreme Court and other Federal courts, the United States Court of Military Appeals, Boards of Review of the Army, Navy, Air Force, and the Coast Guard, Executive Orders of the President and publications of the Defense Department; and published 35 issues of the JAG Index-Digest which provides a rapid competent vehicle for disseminating military justice information to judge advocates in the field.

6. Continued emphasis was placed on the training programs of the Judge Advocate General Flights, Air Reserve Squadrons, and Air

National Guard legal offices. Sets of Court-Martial Reports and pertinent recurring publications were distributed to those organizations.

7. a. The number of records of trial received in the Office of The Judge Advocate General for review pursuant to Article 66 during the period of this report follows:

	1 January 1956 to 31 December 1956
Total	* 3, 423

*1,336 general courts-martial; 2,087 special courts-martial.

In addition, the following table shows the number of records of trial received in the Office of The Judge Advocate General for examination pursuant to Article 69 during the same period:

	1 January 1956 to 31 December 1956
Total	325

b. The following table shows the workload of the Boards of Review during the same period:

	1 January 1956 to 31 December 1956
On hand at beginning of period.....	112
Referred for review.....	3, 423 3, 535
Reviewed.....	3, 349
Pending at close of period.....	186 3, 535

c. From 1 January to 31 December 1956, 51 percent of the accused whose cases were received in the Office of The Judge Advocate General for review pursuant to Article 66 requested representation by appellate defense counsel before Boards of Review.

d. Based upon the number of cases reviewed by Boards of Review during this period, 13.3 percent were forwarded to the United States Court of Military Appeals pursuant to the three subdivisions of the Uniform Code of Military Justice, Article 67 (b). Of the total cases forwarded, all except seven were based upon petitions of the accused for grant of review by the Court of Military Appeals. Seven cases during the period were certified by The Judge Advocate General. Petitions were granted by the Court of Military Appeals during the period in 6.2 percent of the cases which were petitioned, or 0.8 percent of the total number of cases reviewed by the Boards of Review.

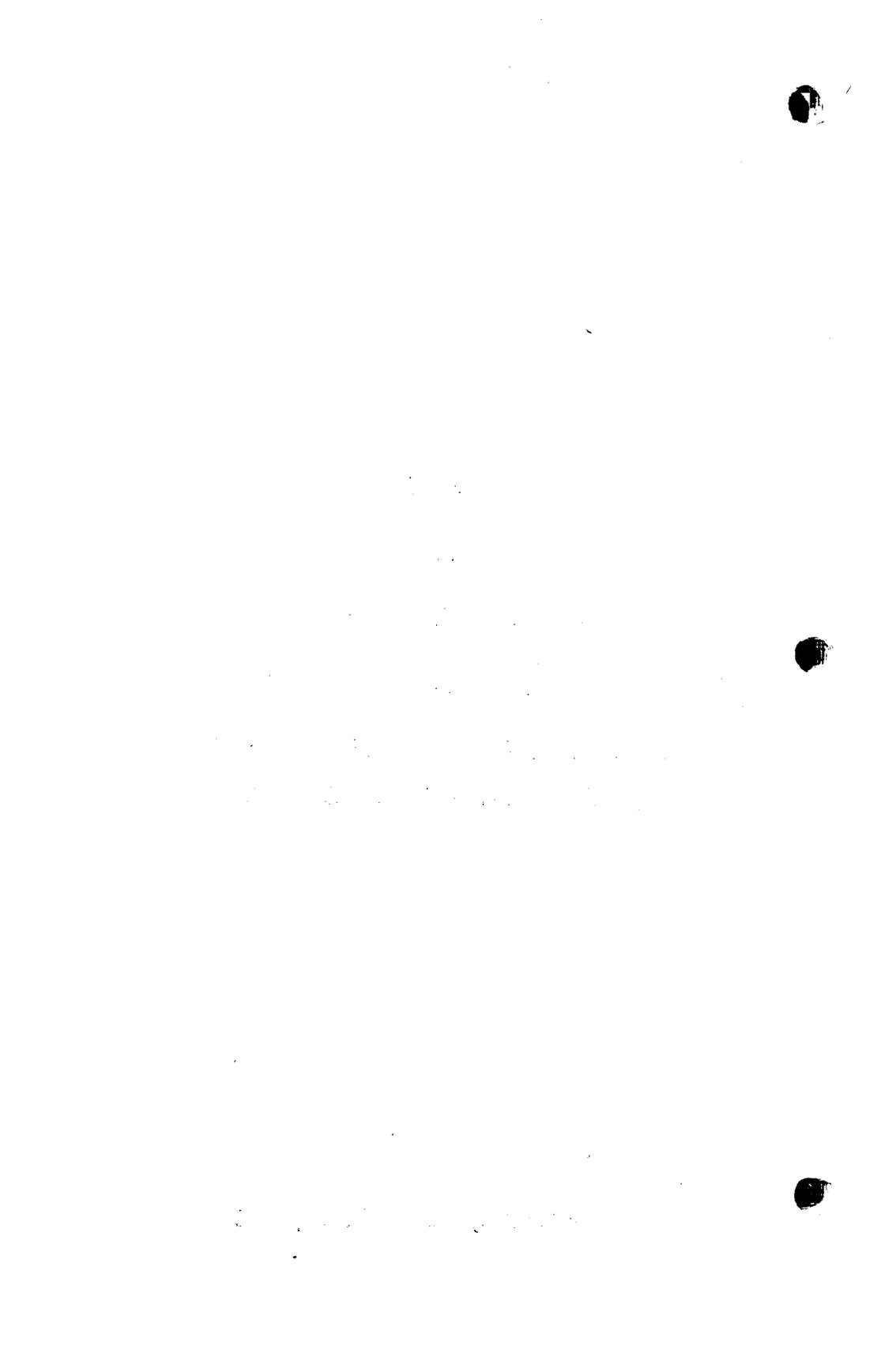
8. At the close of the period, there were 100 commands in the Air Force exercising general court-martial jurisdiction. Reciprocal court-martial jurisdiction has been granted by the Secretary of Defense to four commands.

REGINALD C. HARMON,
Major General, USAF,
The Judge Advocate General,
United States Air Force.



Report
of
THE GENERAL COUNSEL
of
THE DEPARTMENT OF THE TREASURY
(UNITED STATES COAST GUARD)

January 1, 1956, to December 31, 1956



REPORT OF THE GENERAL COUNSEL OF THE TREASURY DEPARTMENT, UNITED STATES COAST GUARD

1. The steady decline in the aggregate number of courts-martial in the Coast Guard since the effective date of the Uniform Code of Military Justice, and noted in the previous annual reports, was reversed during the year 1956. Comparative figures for records of trial received in the past 3 years show:

	1956	1955	1954
General courts-martial.....	19	23	19
Special courts-martial.....	202	159	168
Summary courts-martial.....	585	480	612
Total	806	662	799

2. (a) Sixty-one records of trial were received in the Office of the General Counsel for review by the single Treasury Department Board of Review. Of these 17 were general court-martial cases and the remainder special courts-martial. Two additional general courts-martial were examined in the Office of the General Counsel pursuant to the provisions of Article 69 of the Code. Two general court-martial cases involved commissioned officers. The following table shows the case action by the Board of Review:

On hand at beginning of period.....	2
Received during year.....	61
Reviewed by Board of Review.....	58
Pending at end of year.....	5

(b) Board of Review action resulted in modification of the results of trial in 20 cases. Only 1 rehearing was ordered. In 9 cases the sentence was disapproved in part and in 3 cases the findings were modified but not the sentence; in 7 cases both findings and sentence were modified. The Board of Review set aside 10 punitive discharges. Thirty-eight cases were affirmed without modification. In six cases the General Counsel exercised residual clemency after the Board of Review decision. In sum, action upon appellate review resulted in changing the findings or the sentence or both in 34 percent of the cases reaching the Board of Review. On the basis of 58 cases acted upon, and considering the clemency actions by the General Counsel, the results of trial were modified in 45 percent of the cases.

3. The accused petitioned the Court of Military Appeals pursuant to Article 67 of the Code in six instances. Four petitions were denied

by the Court while the petitions in two of the appeals were awaiting submission to the Court at the close of the calendar year. On August 17, 1956, the Court delivered its opinion in the Coast Guard case of *United States v. Huff*, 22 CMR 37, which had been argued originally in November 1955 and reargued in June 1956, reversing in part the Board of Review decision published at 19 CMR 603.

4. A revision of Coast Guard regulations supplementing the Manual for Courts-Martial and constituting Chapter I of the Coast Guard Supplement MCM 1951 was approved by the Acting Secretary of the Treasury on February 3, 1956, and published. As heretofore, Advance Opinions of the United States Court of Military Appeals, decisions of the Coast Guard Board of Review, the Coast Guard Law Bulletin, the Army JAG Chronicle Letter, and the Navy JAG Journal were distributed to Coast Guard legal offices.

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