

ANNUAL REPORT
of the
CODE COMMITTEE
on
MILITARY JUSTICE



INCLUDING SEPARATE REPORTS
of the
U.S. COURT OF APPEALS FOR THE ARMED FORCES,
THE JUDGE ADVOCATES GENERAL
OF THE U.S. ARMED FORCES,
AND THE CHIEF COUNSEL
OF THE U.S. COAST GUARD

For the Period
October 1, 2002 to September 30, 2003

ANNUAL REPORT
SUBMITTED TO THE
COMMITTEES ON ARMED SERVICES
of the
United States Senate
and the
United States House of Representatives
and to the
SECRETARY OF DEFENSE,
SECRETARY OF HOMELAND SECURITY,
and
SECRETARIES OF THE
ARMY, NAVY, AND AIR FORCE

PURSUANT TO THE
UNIFORM CODE OF MILITARY JUSTICE
For the Period
October 1, 2002 to September 30, 2003

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SECTION 1

JOINT ANNUAL REPORT OF THE CODE COMMITTEE

JOINT ANNUAL REPORT OF THE
CODE COMMITTEE PURSUANT TO THE
UNIFORM CODE OF MILITARY JUSTICE

October 1, 2002 to September 30, 2003

The Judges of the United States Court of Appeals for the Armed Forces, the Judge Advocate Generals of the Army, Navy, Air Force, and Coast Guard, the Director, Judge Advocate Division, Headquarters, United States Marine Corps, Professor Lee D. Schinasi, and United States Magistrate Judge Jacob Hagopian, Public Members appointed by the Secretary of Defense, submit their annual report on the operation of the Uniform Code of Military Justice pursuant to Article 146, Uniform Code of Military Justice, 10 USC § 946.

The Code Committee met on May 15, 2003, to consider various matters pertaining to the administration of military justice. As in previous years, the meeting was open to the public. Chief Judge Crawford opened the meeting and invited Colonel Gary Sokoloski, USMC, the Chairman of the Joint Service Committee, to present an informational briefing. Colonel Sokoloski noted that the Department of Defense Directive (5500.17) had been amended: (1) to add a liaison from the Joint Staff to the Joint Service Committee, and (2) to change the Committee's review cycle to end in December rather than May. He also noted that the 2001 Annual Review had been forwarded to the Office of Management and Budget for interagency review and that the Department of Defense was completing its review of the 2002 Annual Review. In addition, Colonel Sokoloski observed that the Joint Service Committee had been studying the increased use of technology in the courtroom, military justice in the joint arena, sentence credits, restitution, and challenges to the court members. Finally, he noted that the Joint Service Committee had studied the question of whether pleas of nolo contendere should be allowed in courts-martial but had recommended that such pleas should not be used.

The Judge Advocate General of the Navy raised the issue of whether the existing mandatory appellate review of courts-martial under the Uniform Code of Military Justice should be modified to require a servicemember to file an appeal. There was general agreement that any such proposal would require further study by the Joint Service Committee. A separate proposal to permit arraignments and Article 39(a), UCMJ, sessions to be conducted via video conferencing technology was referred to the Joint Service Committee for further study.

Separate reports of the United States Court of Appeals for the Armed Forces and the individual Armed Forces address further items of special interest to the Committees on Armed Services of the United States Senate and the United States House of Representatives, as well as the Secretaries of Defense, Homeland Security, Army, Navy, and Air Force.

SUSAN J. CRAWFORD
Chief Judge

H. F. "SPARKY" GIERKE
Associate Judge

ANDREW S. EFFRON
Associate Judge

JAMES E. BAKER
Associate Judge

CHARLES E. "CHIP" ERDMANN
Associate Judge

Major General THOMAS J. ROMIG, USA
The Judge Advocate General of the Army

Rear Admiral MICHAEL F. LOHR, USN
The Judge Advocate General of the Navy

Major General THOMAS J. FISCUS, USAF
The Judge Advocate General of the Air Force

Rear Admiral JOHN E. CROWLEY, JR., USCG
The Judge Advocate General of the Coast Guard

Brigadier General KEVIN SANDKUHLER, USMC
Director, Judge Advocate Division
Headquarters, United States Marine Corps

Professor LEE D. SCHINASI
Public Member

Magistrate Judge JACOB HAGOPIAN
Public Member

SECTION 2

REPORT OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

**REPORT OF THE
UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES**

October 1, 2002 to September 30, 2003

The Judges of the United States Court of Appeals for the Armed Forces submit their annual report on the administration of the Court and military justice during the 2003 Term of the Court to the Committees on Armed Services of the United States Senate and the United States House of Representatives, and to the Secretaries of Defense, Homeland Security, Army, Navy, and Air Force in accordance with Article 146, Uniform Code of Military Justice, 10 USC § 946.

THE BUSINESS OF THE COURT

The filing and disposition of cases are set forth in the attached statistical report and graphs. Additional information pertaining to specific opinions is available from the Court's published opinions and Daily Journal. Other dispositions may be found in the Court's official reports, West's Military Justice Reporter and on the Court's web site.

During the 2003 Term of the Court, Senior Judge Walter T. Cox III, was recalled and participated in the review and decision of one case.

During the 2003 Term of Court, the Court admitted 282 attorneys to practice before its Bar, bringing the cumulative total of admissions before the Bar of the Court to 32,871.

**PUBLIC AWARENESS PROJECT
(PROJECT OUTREACH)**

In furtherance of a practice established in 1987, the Court scheduled several special sessions and heard oral arguments in selected cases outside its permanent Courthouse in Washington, D.C., during the 2003 Term of Court. This practice, known as "Project Outreach," was developed as part of a public awareness program to demonstrate the operation of a Federal Court of Appeals, and the military's criminal justice system. The Court conducted hearings during this period, without objection of the parties, at Washington and Lee University School of Law, Lexington, Virginia, Duke University School of Law, Durham, North Carolina, the University of North Carolina School of Law, Chapel Hill, North Carolina, New England School of Law, Boston, Massachusetts, Suffolk University School of Law, Boston, Massachusetts, and Roger Williams University School of Law, Bristol, Rhode Island.

"Project Outreach" has continued to promote an increased public awareness of the fundamental fairness of the military criminal justice system and the role of the Court in its administration. The Court hopes that those who attend these hearings from both military and civilian communities will garner further appreciation for the United States military, the UCMJ, and the essential role both play in providing for the national security of the United States.

JUDICIAL VISITATIONS

During the 2003 Term of Court, the Judges of the Court, consistent with past practice and their ethical responsibility to oversee and improve the entire military criminal justice system, participated in professional training programs for military and civilian lawyers, spoke to professional groups of judges and lawyers and visited with judge advocates, military judges, commanders, and other military personnel at various military installations.

JUDICIAL CONFERENCE

On May 13 and 14, 2003, the Court held its annual Judicial Conference at the Catholic University of America, Columbus School of Law, Washington, D.C. The program for this Judicial Conference was certified for credit to meet the continuing legal education requirements of numerous State Bars throughout the United States. The Conference opened with welcoming remarks by the Honorable Susan J. Crawford, Chief Judge, United States Court of Appeals for the Armed Forces, followed by speakers for this year's conference, including Dean Douglas Kmiec, Catholic University of America, Columbus School of Law, Solicitor General Theodore B. Olson, Commander Michael J. Boock, JAGC, USN, Deputy Legal Counsel, Joint Chiefs of Staff, William H. Taft, IV, Legal Adviser, Department of State, David Crane, Chief Prosecutor of the Special Court for Sierra Leone, Professor Michael F. Noone, Jr., Catholic University of America, Columbus School of Law, Eugene Fidell, Esquire, Professor Elizabeth Hillman, Rutgers-Camden School of Law, Professor Stephen A. Saltzburg, George Washington University School of Law, Professor Kenneth R. Feinberg, Georgetown University Law Center, Roscoe C. Howard, Jr., United States Attorney for the District of Columbia, Professor Anne Coughlin, University of Virginia School of Law, and Major Charles H. Rose, III, USA, JAGC, Professor of Criminal Law, The Judge Advocate General's School, United States Army, Charlottesville, Virginia.

SUSAN J. CRAWFORD
Chief Judge

H.F. "SPARKY" GIERKE
Associate Judge

ANDREW S. EFFRON
Associate Judge

JAMES E. BAKER
Associate Judge

CHARLES E. "CHIP" ERDMANN
Associate Judge

USCA STATISTICAL REPORT

2003 TERM OF COURT

CUMULATIVE SUMMARY

CUMULATIVE PENDING OCTOBER 1, 2002

Master Docket	50
Petition Docket	301
Miscellaneous Docket	<u>2</u>
TOTAL	353

CUMULATIVE FILINGS

Master Docket	113
Petition Docket	694
Miscellaneous Docket	<u>23</u>
TOTAL	830

CUMULATIVE TERMINATIONS

Master Docket	114
Petition Docket	824
Miscellaneous Docket	<u>21</u>
TOTAL	959

CUMULATIVE PENDING OCTOBER 1, 2003

Master Docket	49
Petition Docket	171
Miscellaneous Docket	<u>4</u>
TOTAL	224

OPINION SUMMARY

<u>CATEGORY</u>	<u>SIGNED</u>	<u>PER</u>	<u>CURIAM</u>	<u>MEM/ORDER</u>	<u>TOTAL</u>
Master Docket	53	4		57	114
Petition Docket	0	0		824	824
Miscellaneous Docket	<u>0</u>	<u>0</u>		<u>28</u>	<u>28</u>
TOTAL	53	4		909	966

FILINGS (MASTER DOCKET)

Remanded from Supreme Court	0
Returned from Court of Criminal Appeals....	3
Mandatory appeals filed	0
Certificates filed	4
Reconsideration granted	0
Petitions granted (from Petition Docket)...	<u>106</u>
TOTAL	113

TERMINATIONS (MASTER DOCKET)

Findings & sentence affirmed	70	
Reversed in whole or in part	41	Signed 53
Granted petitions vacated	0	Per curiam ... 4
Other disposition directed	<u>3</u>	Mem/order .. <u>57</u>
TOTAL	114	TOTAL 114

PENDING (MASTER DOCKET)

Awaiting briefs	12
Awaiting oral argument	27
Awaiting lead case decision (trailer cases)	10
Awaiting final action	<u>0</u>
TOTAL	49

FILINGS (PETITION DOCKET)

Petitions for grant of review filed	693
Petitions for new trial filed	1
Petitions for reconsideration granted	0
Returned from Court of Criminal Appeals ...	<u>0</u>
TOTAL	694

TERMINATIONS (PETITION DOCKET)

Petitions for grant dismissed	1	
Petitions for grant denied	681	
Petitions for grant granted	133	
Petitions for grant remanded	5	Signed 0
Petitions for grant withdrawn	4	Per curiam .. 0
Other	<u>0</u>	Mem/order.. <u>824</u>
TOTAL	824	TOTAL 824

PENDING (PETITION DOCKET)

Awaiting briefs	64
Awaiting Central Legal Staff review	43
Awaiting final action	<u>64</u>
TOTAL	171

FILINGS (MISCELLANEOUS DOCKET)

Remanded from Supreme Court	0
Writs of error coram nobis sought	1
Writs of habeas corpus sought	1
Other extraordinary relief sought	4
Writ appeals sought	<u>17</u>
TOTAL	23

TERMINATIONS (MISCELLANEOUS DOCKET)

Petitions withdrawn	1	
Petitions remanded	0	
Petitions granted	1	
Petitions denied	19	Signed 0
Petitions dismissed	0	Per curiam. 0
Other	<u>0</u>	Mem/order.. <u>21</u>
TOTAL	21	TOTAL 21

PENDING (MISCELLANEOUS DOCKET)

Awaiting briefs	1
Awaiting Writs Counsel review	2
Awaiting final action	<u>1</u>
TOTAL	4

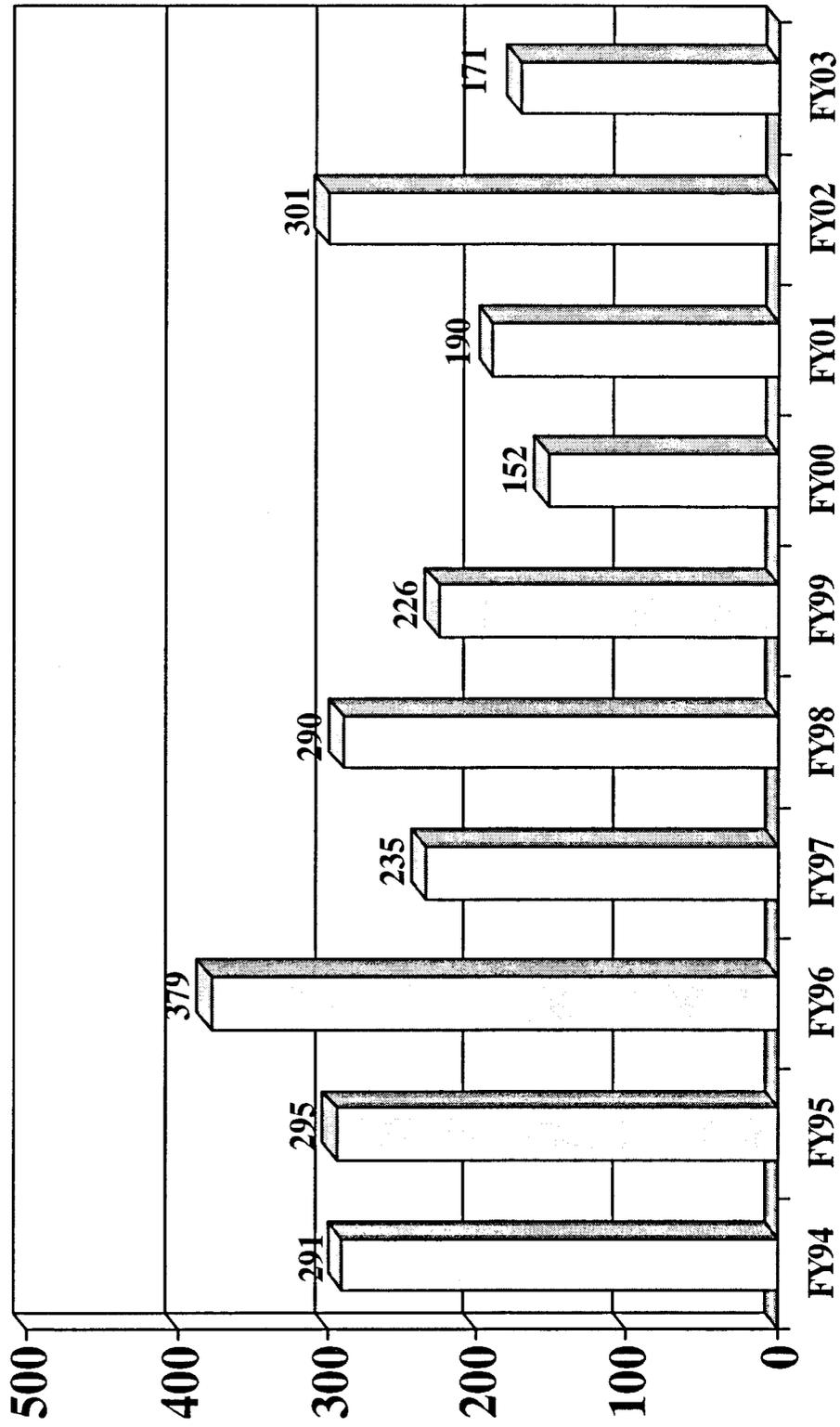
RECONSIDERATIONS & REHEARINGS

CATEGORY	BEGIN	FILINGS	END	DISPOSITIONS		
	PENDING		PENDING	Granted	Denied	Total
All Cases	0	8	0	0	8	8

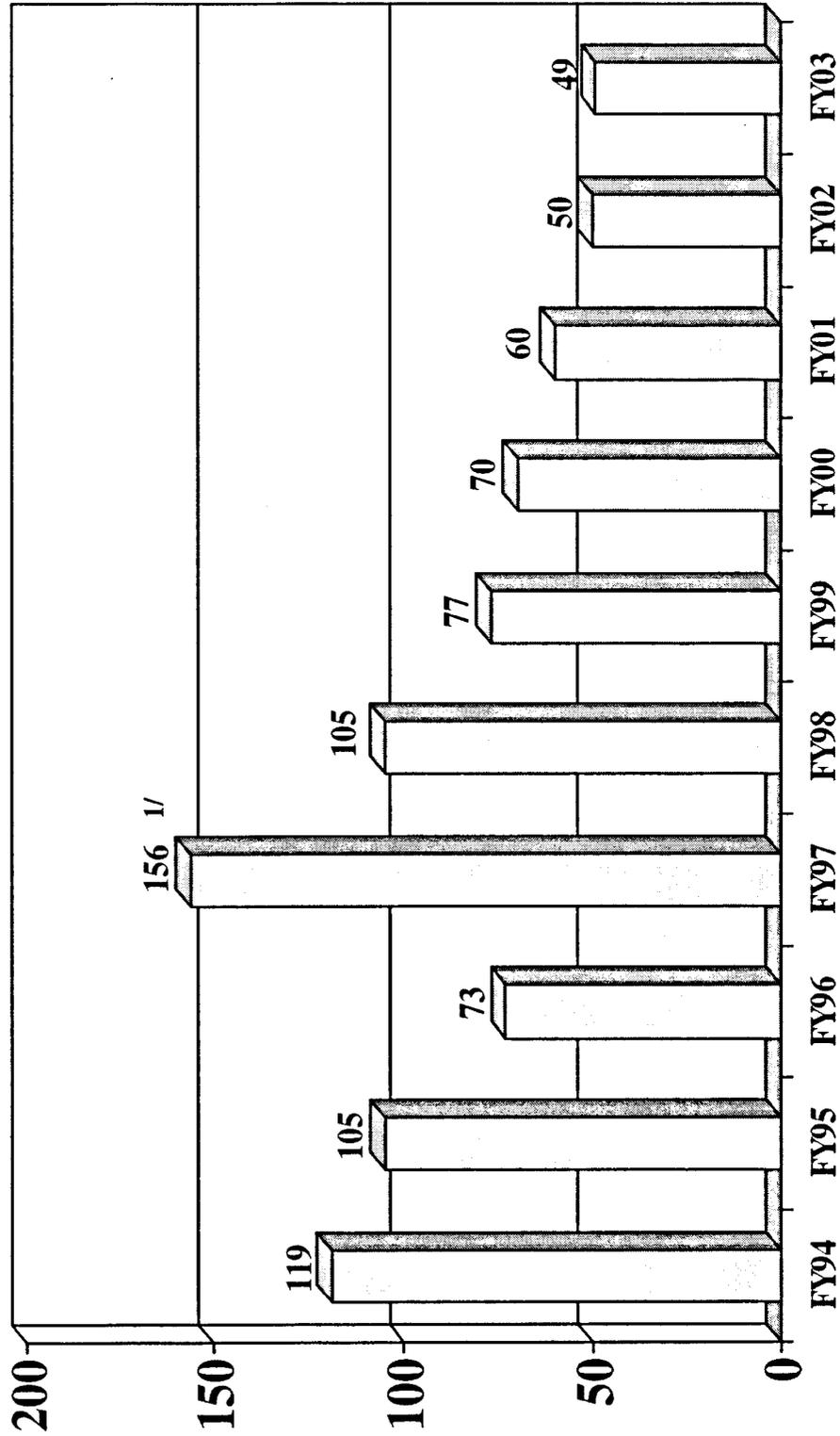
MOTIONS ACTIVITY

CATEGORY	BEGIN	FILINGS	END	DISPOSITIONS			
	PENDING		PENDING	Granted	Denied	Other	Total
All motions	3	482	12	437	36	0	473

Petition Docket Year End Pending

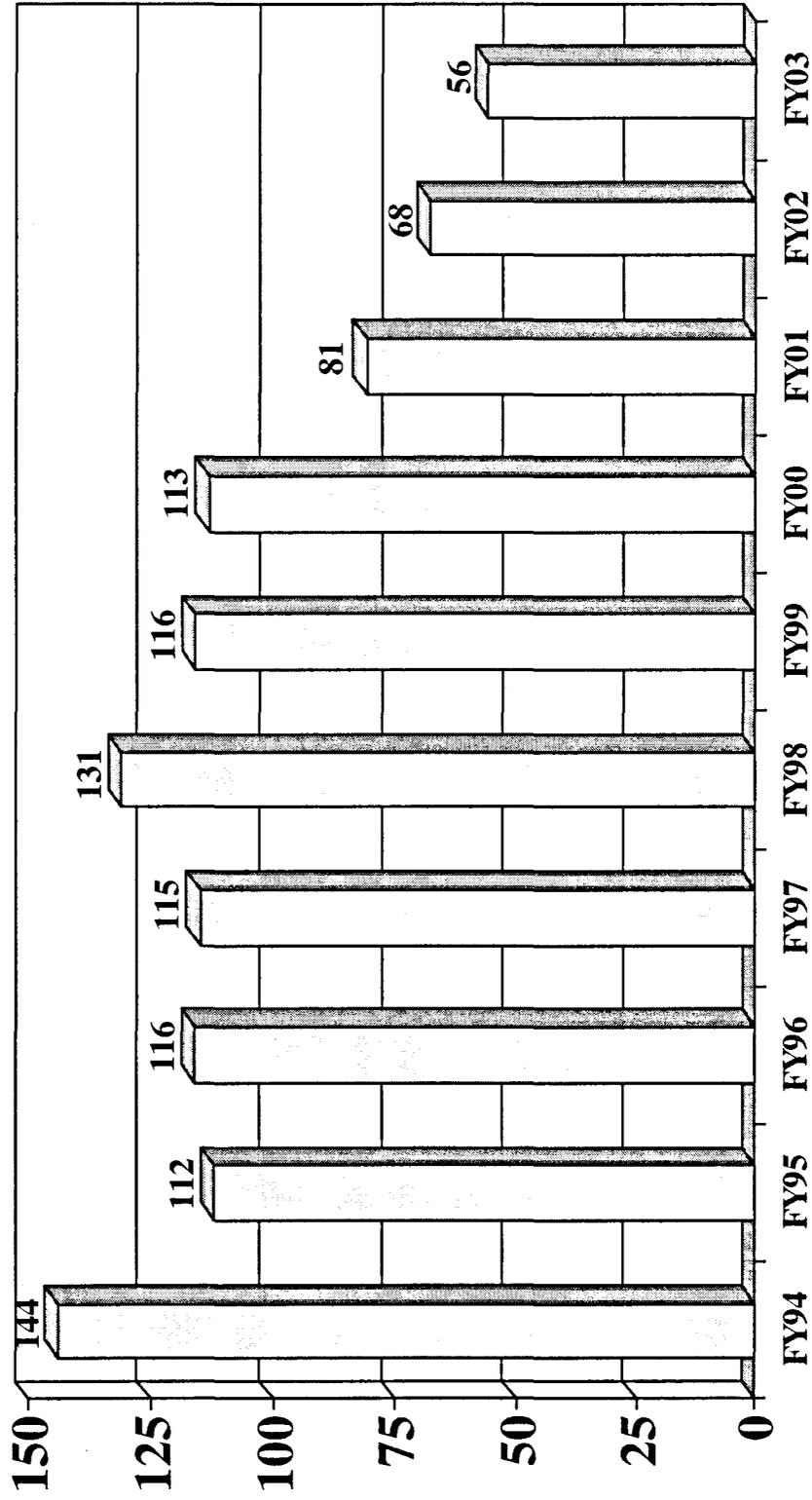


Master Docket Year End Pending

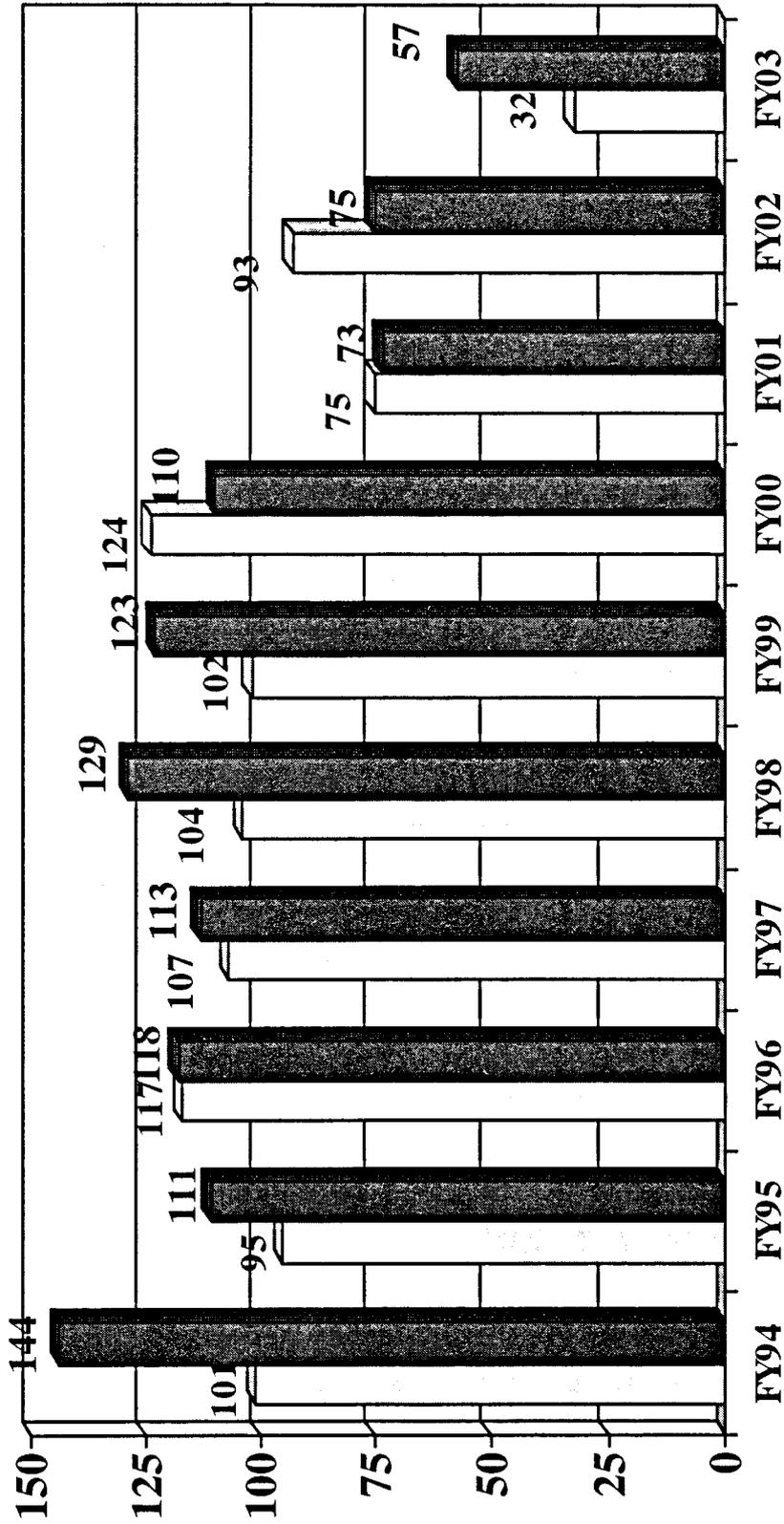


1/ This figure does not include 133 trailer cases to United States v. Gorski, No. 97-0034/AF.

Oral Arguments Per Year



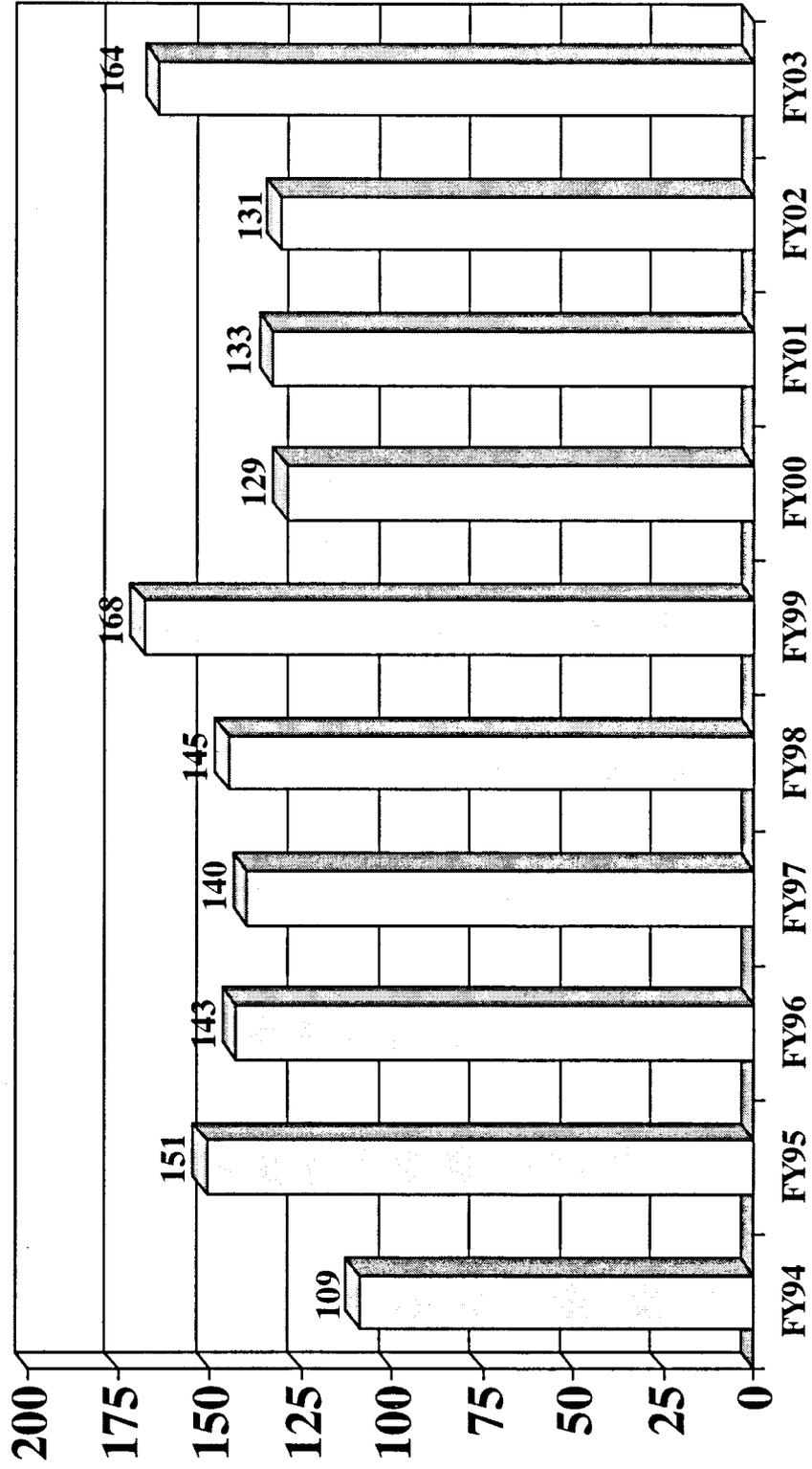
Total Opinions Per Year



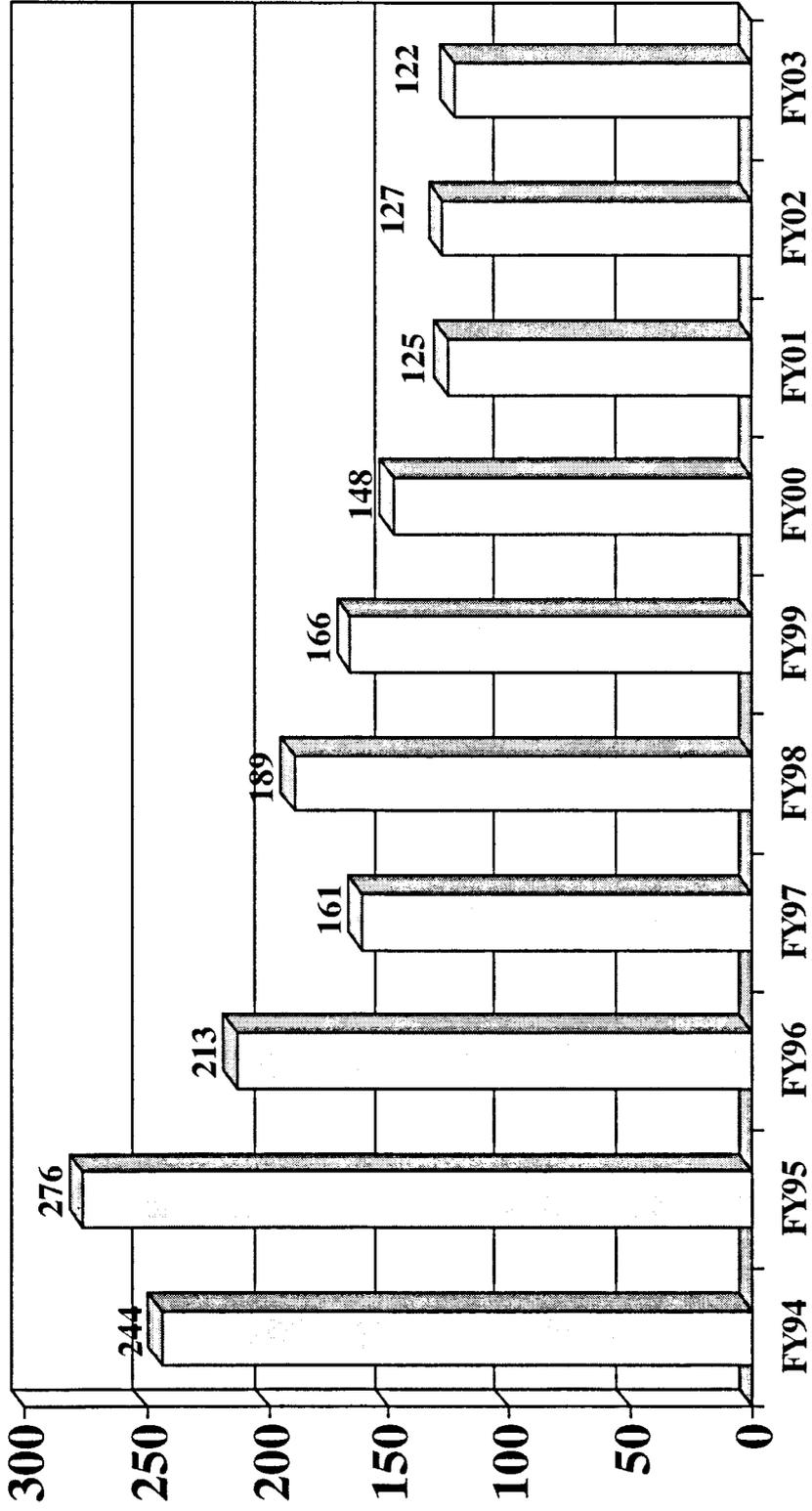
□ TOTAL SEPARATE OPINIONS (CONCUR, CONCUR IN THE RESULT, AND DISSENT)

■ TOTAL COURT OPINIONS

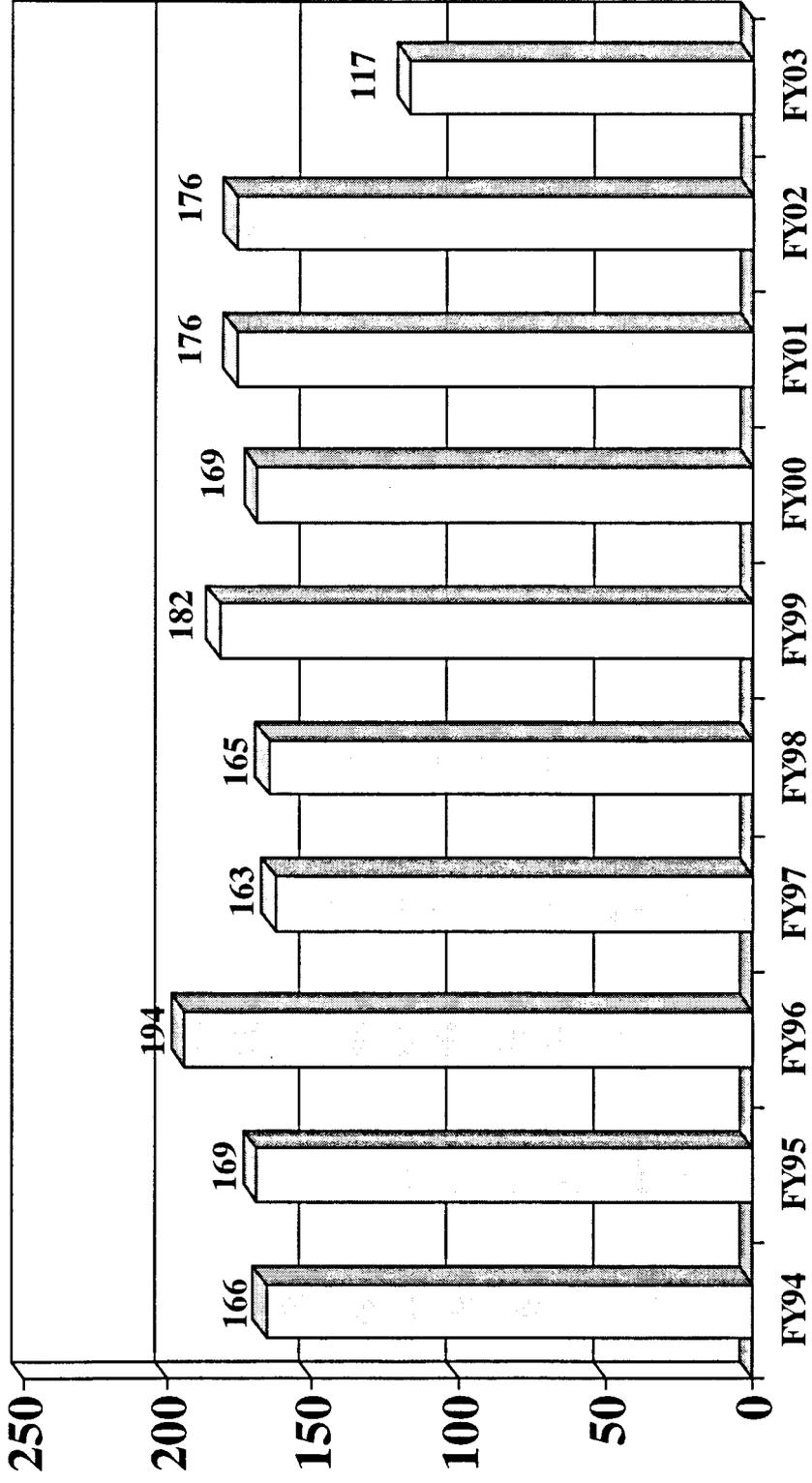
Days from Petition Filing to Grant



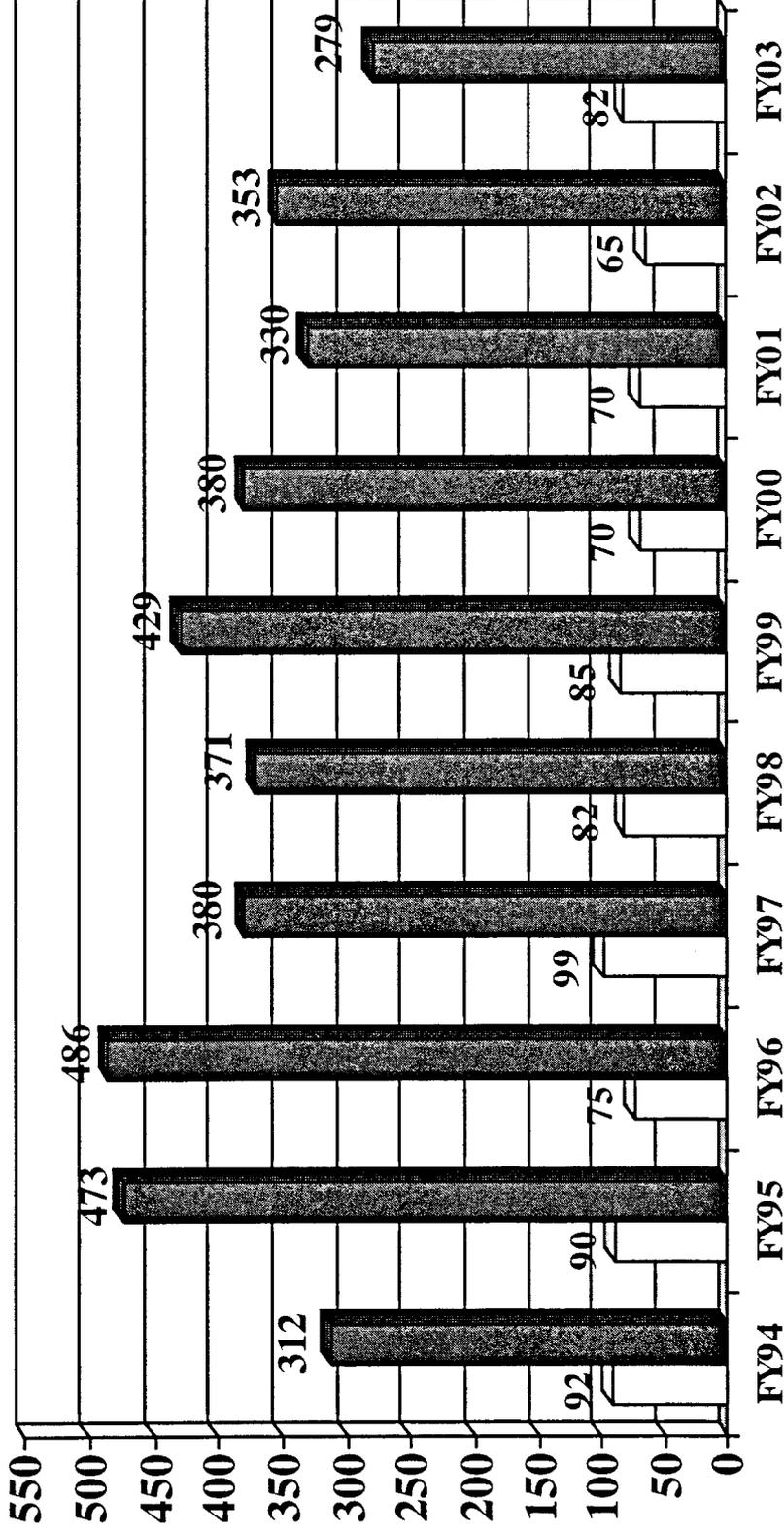
Days from Petition Grant to Oral Argument



Days from Oral Argument to Final Decision



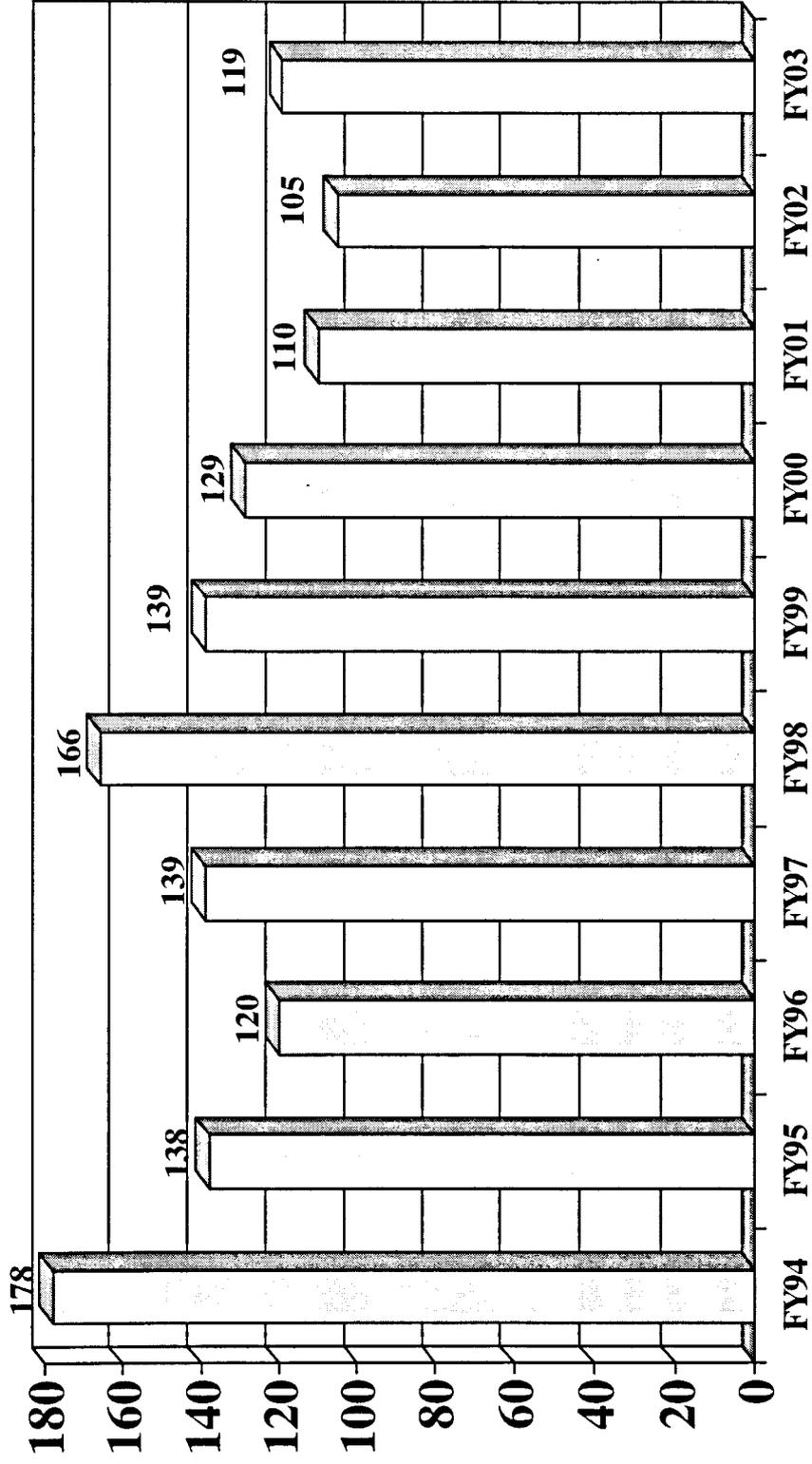
Days from Petition Filing to Final Decision



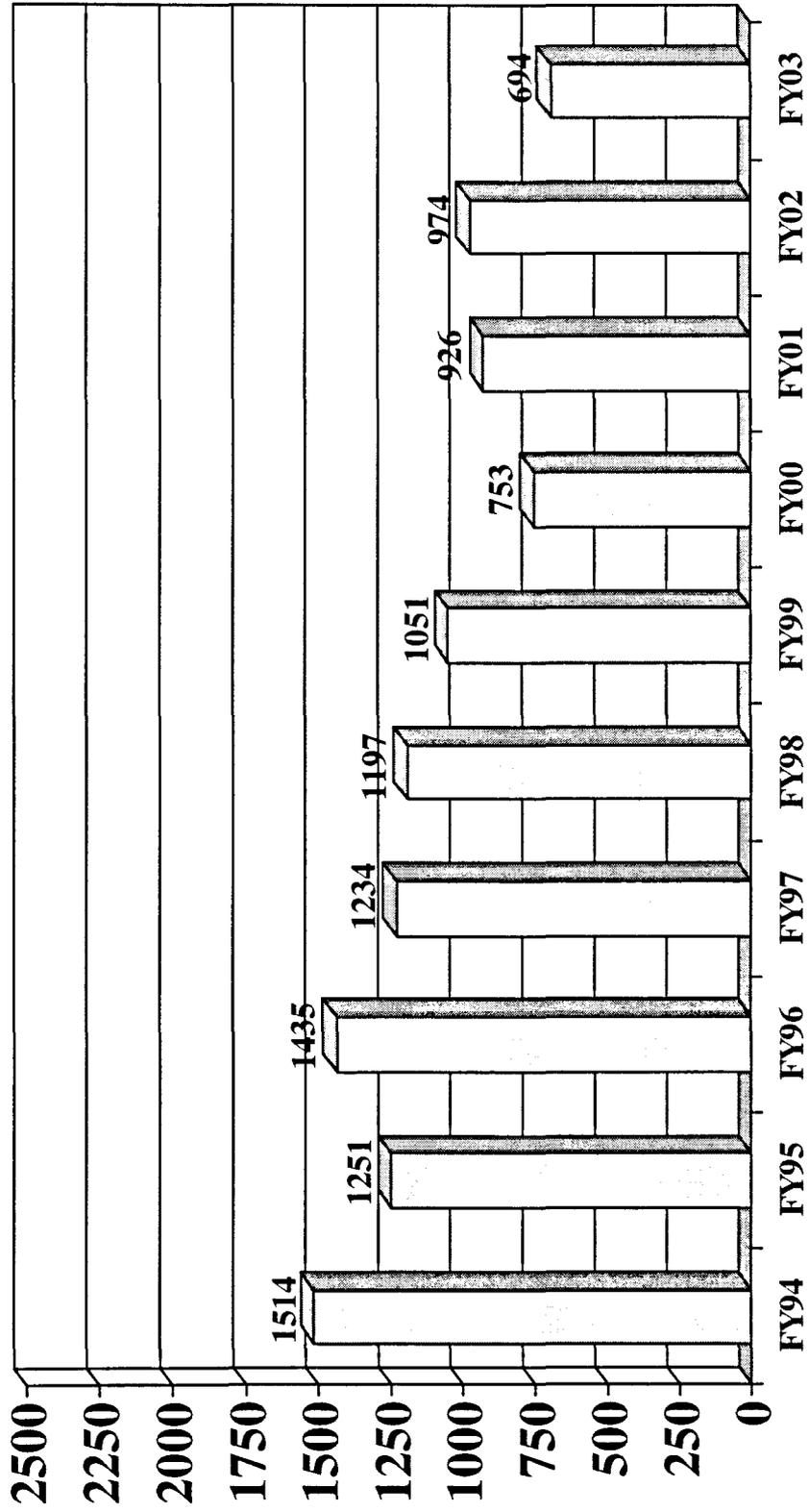
□ PETITION DOCKET (DENIAL/DISMISSAL/WITHDRAWAL)

■ MASTER DOCKET (GRANTED/CERTIFIED/DEATH CASES)

Days from Filing to Final Decision in All Cases



Total Petitions Filed Per Year



SECTION 3

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY

**REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY
OCTOBER 1, 2002 TO SEPTEMBER 30, 2003**

During fiscal year 2003 (FY 03) and in compliance with Article 6(a), Uniform Code of Military Justice (UCMJ), The Judge Advocate General and senior members of his staff made 28 official visits at 45 installations in the United States and overseas. The Judge Advocate General also reorganized The Judge Advocate General's School in Charlottesville, Virginia, into The Judge Advocate General's Legal Center and School. In addition, the Office of The Judge Advocate General (OTJAG) continued to monitor courts-martial, review and prepare military publications and regulations, and develop and draft changes to the Manual for Courts-Martial (MCM) and the UCMJ. Through its Field Operating Agencies, OTJAG provided judicial and appellate services, advice, assistance, and professional education to ensure the efficient administration of military justice. Numbers in this report are based on an average Army end strength of 493,563 in FY 03 as reported by the Army G-1. The Army end strength was 516,599 for FY 02.

THE JUDGE ADVOCATE GENERAL'S LEGAL CENTER AND SCHOOL

On 25 July 2003, The Judge Advocate General activated The Judge Advocate General's Legal Center and School that reorganized and restructured the previously existing Judge Advocate General's School in Charlottesville, Virginia. The creation of the Legal Center and School is intended to create efficiencies for the JAG Corps and the Army by: (1) consolidating the JAG Corps' strategic planning assets in one location; (2) capturing lessons learned and incorporating them into JAG Corps training, doctrine, force structure, and combat developments; (3) centralizing all officer, warrant officer and enlisted training at the JAG School; and (4) enhancing the front-line support available to deployed judge advocates by improving "reach-back" assistance and resources available to them, i.e., research, training and resource materials, and lessons learned. One of the JAG Corps' three brigadier general slots was moved from Washington, DC to Charlottesville and re-designated as the Commander/Commandant of the Legal Center and School. Under the newly configured Legal Center and School, the Army's Center for Law and Military Operations assumes greater significance as the change agent for the JAG Corps. Ultimately, the creation of the Legal Center and School is designed to better position the Army JAG Corps to support the Army of the future.

SIGNIFICANT MILITARY JUSTICE ACTIONS

The Criminal Law Division, OTJAG, advises The Judge Advocate General on military justice policy, legislation, opinions, and related criminal law actions. Specific responsibilities include the following: promulgating military justice regulations, reviewing Army regulations for legal sufficiency, military corrections, the Army's drug testing program, federal

felony and magistrate court prosecutions, producing legal opinions for the Army Staff relating to military justice matters, statistical analysis and evaluation of trends in judicial and nonjudicial punishment and responding to congressional inquiries.

Criminal Law Division individual case data for the last three fiscal years, a small but important part of the overall mission, is displayed below:

	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>
White House inquiries	161	33	37
Congressional and other inquiries	272	206	185
Clemency Petitions, Article 74, UCMJ	5	8	3
Officer Dismissals	22	19	17
Freedom of Information Act/Privacy Act	13	9	3

The major projects for the Criminal Law Division for FY 03 included the initiation of a project, known as "eJustice" to develop a web based military justice management system. The system will provide users worldwide with the capability of executing the Army's Military Justice System. This project will improve the Army Court-Martial Information System (ACMIS), which currently manages all Special and General Courts-Martial in which an arraignment has occurred. The eJustice project will manage all courts-martial, non-judicial punishment, and all adverse reprimands or administrative discharges initiated by commanders. The Criminal Law Division worked in FY 03 to prepare final recommendations in the cases of two Army death penalty cases requiring action by the President. Action by the Secretary of the Army is expected in FY 04. The JAG Corps enhanced its Victim Witness Program by hiring of a Program Manager assigned to the Criminal Law Division in April 2003. The Division has aggressively monitored Army post-trial courts-martial processing and reevaluated the voice recognition program currently in use by Army court-reporters. Finally, the Division requested, received, and starting the staffing process for an update to AR 27-10, Military Justice, last published in September 2002.

JOINT SERVICE COMMITTEE (JSC) ON MILITARY JUSTICE

The Army is the Executive Agent for publication of the Manual for Courts-Martial (MCM) and last published the 2002 edition. This edition incorporated the last three executive orders and various statutory changes. Upon receipt of the next executive order, we will publish a new edition.

The current version of the MCM is available electronically at <http://www.usapa.army.mil/pdf/files/mcm2002.pdf>. It is also available in hardcopy from the Government Printing Office at <http://www.gpo.gov/> or by telephone at (202) 512-1800; fax (202) 512-2250.

During the CY 03 review cycle, the JSC completed its nineteenth annual review of the MCM. The JSC published this review in the Federal Register for public comment on 15 August 2003 and held a public meeting on 1 October 2003 to receive comments from interested parties.

Highlights of the annual review's proposed changes include the following with regard to the Rules for Courts-Martial (R.C.M.): amending various subsections of R.C.M. 201, R.C.M. 503 and R.C.M. 1301 to clarify the rules and procedures to be followed when a service member is tried by a court-martial convened by a combatant or joint commander and to clarify that members, counsel and military judges from different Services may be detailed to a court-martial convened by a combatant or joint commander; amending R.C.M. 504 to clarify that in a combatant command or joint command that a subordinate joint command or joint task force is ordinarily considered separate and detached and to clarify those authorized to determine when a unit is "separate or detached" include the next higher Joint Command GCMCA.

The annual review also proposed amending: (1) R.C.M. 912 to conform military practice to federal practice and limit appellate litigation when a challenged panel member could have been peremptorily challenged or actually did not participate in the trial; and (2) amending R.C.M. 1004 making violations which constitute a grave breach of the law of war an aggravating factor for members to consider in capital cases.

The JSC also recommended several minor amendments to Part V of the MCM, Nonjudicial Punishment Procedure, to clarify that the procedures for nonjudicial punishment proceedings conducted in a combatant or joint command follow the procedures of the accused's service.

The final proposal amendments concerned numerous technical amendments to the MCM, including changing any reference to the "Department of Transportation" to now reflect the "Department of Homeland Security" and amending or deleting portions of the Analysis to various Military Rules of Evidence to conform these sections to current case law.

The JSC drafted an Executive Order (EO) to amend the MCM to implement these proposed changes. The JSC continues to monitor the processing of two additional draft EOs to implement the changes proposed in the 2001 and 2002 review cycles, both of which are pending Presidential approval.

The JSC continues to study, among other things, of the use of technology in the courtroom, the proposed expansion of subpoena authority, the expansion of the statute of limitations in child abuse cases and the effects of the Supreme Court's decision in the case of *Lawrence v. Texas* on military law.

MILITARY JUSTICE STATISTICS
STATISTICAL SUMMARY: FY 03
(See table insert, attached)

U.S. ARMY LEGAL SERVICES AGENCY

The U.S. Army Legal Services Agency, a field operating agency of OTJAG, includes the following organizations involved in the administration of military justice: the U.S. Army Judiciary, the Government Appellate Division, the Defense Appellate Division, the Trial Defense Service, and the Trial Counsel Assistance Program.

U.S. ARMY JUDICIARY

The U.S. Army Judiciary consists of the U.S. Army Court of Criminal Appeals, Office of the Clerk of Court, the Trial Judiciary, and the Examination and New Trials Division.

U.S. Army Court of Criminal Appeals/Office of the Clerk of Court

The Clerk of Court receives records of trial for review under Article 66, Uniform Code of Military Justice. The cases are referred to one of the three judicial panels of the U.S. Army Court of Criminal Appeals for appellate review. Also received are appeals under Article 62, Petitions for Extraordinary Relief, and Withdrawals from Appellate Review.

The Clerk of Court is also the custodian of the Army's permanent court-martial records dating from 1939. Inquiries about courts-martial are received from federal and state investigative agencies, law enforcement offices, military historians, media, veterans, and the accused. Because the Brady Bill requires the processing of handgun applications within three workdays, many expedited requests are received from the Federal Bureau of Investigation's National Instant Background Check System. Also, state sexual offender registries submit many requests.

<u>Inquiries Received</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY03</u>
Freedom of Information Act	214	188	166
Privacy Act	74	60	73
Certified Copies of Convictions	<u>292</u>	<u>417</u>	<u>375</u>
Total Number of Requests	580	665	614

The Office of the Clerk of Court provides assistance to overseas trial jurisdictions in processing requests for non-DOD civilians to travel to overseas trials. This includes making travel arrangements, assisting with requests for expedited passport processing, and issuing invitational travel orders.

Trial Judiciary

Military judges preside over the trial of all special and general courts-martial worldwide. Eighteen active duty and fourteen Army Reserve judges tried courts-martial in remote locations, including Kuwait and Iraq, as well as in military courtrooms throughout the United States, Europe, Japan, and Korea. Three Army Reserve judges were called to active duty to assist with the anticipated caseload increases, fueled in part by the call to active duty of Reserve and National Guard personnel, the first such call since the Military Justice Act of 1968. In spite of massive troop deployments, the overall caseload decreased only slightly, and actually increased at many locations within the continental United States, Germany, and Korea. Trials of soldiers in the Iraq and Kuwait areas commenced shortly after the active combat phase ended, and increased in number over the summer and fall. Two judicial clerks were also called to active duty to assist in preparation of benchbooks for possible use in trials by military commissions and courts-martial of enemy prisoners of war.

Examination & New Trials Division

Pursuant to a delegation from the Judge Advocate General, the Examination and New Trials Division [ENT] examines UP Article 69(a) UCMJ, all general court-martial cases not otherwise reviewed under Article 66, UCMJ. Last year ENT examined 114 cases and acted on eight applications for relief from inferior courts-martial UP Article 69(b), UCMJ. There were no petitions for new trial UP Article 73 and no relief required under RCM 1201(b)(2) where a general court-martial convening authority failed to take corrective action recommended by a judge advocate based on a legal error. ENT also performed an administrative check on 115 cases involving acquittals, post-trial separations UP Chapter 10 AR 635-200, and waivers of appellate review. As of 1 October 2003, this function was transferred to the Office of The Judge Advocate General, Criminal Law Division.

U.S. ARMY TRIAL DEFENSE SERVICE

The U.S. Army Trial Defense Service (USATDS), a defense service consisting of approximately 130 active duty and 170 reserve attorneys provided high quality, professional defense services to soldiers throughout the Army from 55 active duty installations worldwide and 40 reserve locations. USATDS counsel defended soldiers facing the entire range of allegations under the Uniform Code of Military Justice.

USATDS detailed one or more counsel to every Army special and general courts-martial referred in FY 03. USATDS counsel also carry a large workload unrelated to courts-martial representation. The workload unrelated to courts-martial in the last four years is displayed below.

	FY 99	FY 00	FY 01	FY 02	FY 03
Administrative Boards	698	597	826	918	1,215
Nonjudicial Punishment	31,595	30,633	35,786	40,769	39,382
Consultations	26,794	24,051	33,546	37,476	36,382

USATDS provided defense services to deployed forces around the world, including Iraq, Kuwait, Bosnia, Kosovo, Afghanistan, and Central Asia. Currently there are twelve defense attorneys, along with ten enlisted paralegals, deployed to various areas in Iraq. In order to provide a management and supervisory attorney structure for defense services in Iraq, The Judge Advocate General approved the establishment of a provisional USATDS Region XI in July 2003. Despite the hazardous duty and austere environment in Iraq, TDS counsel are providing high quality representation at courts-martial held in the Iraqi Theater of Operations.

A regulatory change now enables USALSA to fund of all defense counsel travel from the first stage of the investigation. This funding arrangement will improve the overall quality of service to the soldier/client. By getting actively involved in the case at its earliest stages, defense counsel have, in many instances, successfully negotiated non-punitive dispositions of cases. At some locations, TDS maintained inter-service agreements to provide defense services to military personnel of sister services. Also, at select locations, TDS counsel continued to support soldiers at Physical Evaluation Boards.

Over the past five years, TDS has seen an overall increase in both the number of courts-martial and their complexity. During FY 03, however, the upward trend line halted and the number of courts-martial decreased to the lowest number since FY 99. The decrease is largely attributable to the ongoing operations associated with Operations Iraqi Freedom and Enduring Freedom.

TDS continues to expand its use of desktop video teleconference (DVTC) equipment to provide defense services to clients who are not co-located with TDS counsel. Offices located outside the continental United States (OCONUS) are making the best use of the technology. The continued success of the technology has generated hopes for expansion of the service to provide DVTC capabilities to remote areas throughout the world,

particularly for our deployed counsel in Iraq, Afghanistan, Kosovo, Bosnia and Central Asia. TDS counsel in Europe have also developed a deployable resource library on CD ROM, which contains an extensive set of references, training materials, an attorney brief bank, standardized forms, case management tools, client information papers, and similar data in a readily portable and easily accessible format. USATDS has launched a new and improved website to monitor and control personnel actions, travel, training, and research which allows for increased active and reserve attorney use.

Building on the formal Memorandum of Understanding (MOU) made in 2001, the Trial Defense Service and the Defense Appellate Division (DAD) continue to foster a very close working relationship. Most recently, DAD and TDS have coordinated to monitor post-trial processing delays to ensure that their clients are receiving the very best representation throughout both the trial and appellate process, with smooth transition of counsel between our organizations.

TDS counsel continue to foster a close working relationship with reserve defense counsel assigned to the 154th and the 22d Trial Defense Service Legal Services Organizations (TDS LSOs). The 154th TDS LSO, consisting of 90 commissioned officers, a warrant officer and 13 enlisted paralegals, provides defense services to soldiers assigned to units in the Eastern half of CONUS and in Europe. The 22d TDS LSO, consisting of 74 commissioned officers and 18 enlisted paralegals, provides defense services to soldiers assigned to units in the Western half of CONUS and Asia. Some individual TDS offices have established joint training programs with their local reserve TDS personnel and have conducted highly successful joint training conferences. The Chief, U.S. Army Trial Defense Service, exercises technical supervision over the reserve TDS LSOs. He is responsible for the performance of defense counsel services and provides oversight for the units' training and readiness. Reserve support to active duty TDS offices remains outstanding, with reserve officers providing critical support at Fort Hood, Fort Stewart and Fort Bragg, as well as other offices with increased caseloads. Reserve judge advocates have also deployed overseas to Germany as backfills for active duty defense counsel who had deployed to Iraq. Finally, several reserve judge advocates have volunteered, have served, and are serving in Iraq, Afghanistan, and Kosovo, as deployed defense counsel.

Continuing Legal Education (CLE) Training for TDS counsel was conducted in weeklong, consolidated regional conferences, attended by active duty and reserve TDS counsel, as well counsel from other services. The multi-region/multi-service approach to CLEs resulted in more productive and informative CLEs, benefiting all attendees. All training sessions included extensive practical exercises and individual critiques by

experienced attorneys. This year there was an increase in participation by both reserve counsel and counsel from our sister services. In Korea, TDS has entered an agreement for cross-training with the Marines in Okinawa. During first quarter of FY 03, multi-regional CLEs were conducted at Las Vegas, NV and Savannah, GA. Because of ongoing military operations during the third quarter of FY 03, multi-region CLEs were not held during the spring. Instead, each USATDS region conducted a regional training workshop on a much smaller scale. The training focused TDS counsel on honing their courtroom skills and expanding their knowledge of military justice with particular emphasis on evidentiary objections and arguments.

TRIAL COUNSEL ASSISTANCE PROGRAM

The United States Army's Trial Counsel Assistance Program (TCAP) fulfilled its mission of providing information, advice, training opportunities, and trial assistance to American military prosecutors worldwide. An additional officer was added to TCAP in FY 03 and TCAP is now staffed by five Army judge advocates and a civilian office assistant. TCAP also serves as a third branch of the Army's Government Appellate Division and utilizes this position to link trial and appellate counsel together to resolve issues of common import to the successful prosecution of courts-martial. In that light, TCAP serves as the prosecutor's appellate advocate for extraordinary writs and Government appeals during the prosecution of a case and as the Government's advocate during habeas corpus litigation of cases that have passed through the ordinary course of appellate review. In tandem, these dual missions for TCAP buttress the fieldwork of trial by court-martial and enhance the appellate finality of ensuing convictions.

TCAP provided five basic categories of services during FY 2003: (1) telephone/e-mail/and website forum inquiry assistance; (2) advocacy training courses and other training events; (3) dissemination of publications on a variety of subjects; (4) trial assistance; (5) appellate assistance. In so doing, TCAP personnel accomplished the following: (1) responded to an average of over 100 telephonic and email requests for assistance per month; (2) conducted six regional advocacy training conferences in the United States (Fort Stewart and the Germany conference were postponed due to deployments), providing hundreds of hours of continuing legal education to approximately 150 military judge advocates and 35 Army Criminal Investigation Division agents; (3) provided electronic and paper copies of countless articles and other publications to judge advocates around the world; (4) responded to numerous messages and inquiries posted therein; (5) actively participated in the preparation and trial of several courts-martial; and (6) responded to four extraordinary

writs and filed one Government appeal with the Court of Appeals for the Armed Forces (CAAF). TCAP prepared over a dozen answers and returns to habeas corpus petitions filed with various Offices of the U.S. Attorney or with the United States Court of Appeals for several circuits.

In response to the need for vigorous investigation, prosecution and treatment of sexual abuse cases, TCAP re-tooled the scenario used in its training conferences. The FY 03 version trained participants in a "start-to-finish" approach employing complex facts and issues within a mock domestic abuse/rape scenario that required the students to research and argue their case under critical scrutiny. For FY 04, TCAP will utilize at six regional training conferences a scenario that presents facts and issues involving child abuse and child pornography. Additionally, the revised TCAP website should be unveiled that will include interactive training scenarios that allow users to train themselves on trial issues and legal principles involved in sexual abuse cases.

In FY 03, at regional training conferences, TCAP expanded its client base to include as students National Guard, Reserve judge advocates, civilian victim witness advocates and judge advocates from other services. Finally, TCAP hosted Army Chiefs of Justice in a "train the trainers" conference designed to enhance the students' skills in developing their subordinates' trial advocacy abilities.

FOREIGN CRIMINAL JURISDICTION

As Executive Agent for foreign criminal jurisdiction, the Army, through the International and Operational Law Division, OTJAG, compiles information concerning the exercise of foreign criminal jurisdiction over U.S. personnel.

The data below, while not drawn from precisely the same reporting period used in other parts of this Report, provides an accurate picture of the exercise of foreign criminal jurisdiction during this reporting period:

	1 Dec 2000 to <u>30 Nov 2001</u>	1 Dec 2001 to <u>30 Nov 2002</u>
Foreign Offense Citations	4,498	5,303
Total Civilian	1,074	1,084
Total Military	3,424	4,219
Exclusive Foreign	156	191
Concurrent Jurisdiction	3,268	4,028
Traffic/Other Minor Offenses	297	371
Foreign Jurisdiction	344	472

This year, foreign authorities released to U.S. authorities 16 of the 191 exclusive foreign jurisdiction cases involving military personnel. In concurrent jurisdiction cases in which the foreign countries had the authority to assert primary jurisdiction, U.S. military authorities were able to obtain waivers of the exercise of this jurisdiction in 3,731 cases. Overall, the U.S. obtained waivers in 92.6% of all exclusive and concurrent jurisdiction cases. This figure reflects a 1.5% decrease in such waivers from 2000-2001, when the relevant figure was 94.1%.

During the last reporting period, civilian employees and dependents were involved in 1,074 offenses. Foreign authorities released 112 of these cases (10.4 % of this total) to U.S. military authorities for administrative action or some other form of disposition. This year, civilian employees and dependents were involved in 1,084 offenses. The foreign authorities released 225 of these cases (20.8 % of the current total).

Foreign authorities tried a total of 931 cases. Ten trials, or 1.1%, resulted in acquittals. Those convicted were sentenced as follows: 18 cases resulted in executed confinement; 48 cases resulted in suspended confinement; and 855 cases (91.8 % of the total trials) resulted in only fines or reprimands.

PROFESSIONAL RESPONSIBILITY

The Standards of Conduct Office (SOCO) manages TJAG's professional responsibility program. This program comprises (1) administratively reviewing complaints for credibility, (2) tasking judge advocates to run field inquiries concerning professional misconduct allegations, (3) reviewing reports of inquiry, and (4) advising TJAG on appropriate resolution of ethics cases. SOCO oversees the operation of TJAG's Professional Responsibility Committee and its issuance of advisory ethics opinions.

The office also oversees professional responsibility training within the Army. SOCO attorneys: (1) give informal one-on-one ethics advice, (2) present ethics topics at professional events, and (3) help judge advocates (in close communication with The Judge Advocate General's School) to give training programs at commands and offices.

Additionally, SOCO actively manages information to: (1) track ethics cases, (2) release information under the Freedom of Information and Privacy Acts, and (3) keep an attorney ethics web site.

Notices and Complaints during FY 2002

- Credibility Reviews. 63 notices and complaints had administrative disposition after credibility reviews determined that no inquiries were warranted (up almost 100 percent from FY 2002's 32 administrative dispositions).
- Inquiries. 18 inquiries were conducted and closed (up 66 percent from FY 2002's 6 closed inquiries). 7 inquiries were founded (compared with no founded inquiries of the 6 total inquiries closed during FY 2002).

LITIGATION

Civil lawsuits requiring federal courts to interpret the UCMJ remain few in number; however such cases involve significant legal issues for the Army. Most suits are by soldiers and former soldiers seeking collateral review of court-martial proceedings, usually via petitions for writs of habeas corpus filed in federal district courts, or in back-pay actions filed in the Court of Federal Claims. Other suits involve challenges to confinement conditions, to decisions to deny clemency or parole, to parole revocation, or to other administrative actions taken by confinement facility officials.

The Army Litigation Division successfully defended a challenge to the administrative revocation of a discharge obtained by fraud in Rooney v. Secretary of the Army. The U.S. District Court for the District of Columbia rejected plaintiff's argument, among others, that the UCMJ and the Constitution prohibit the administrative revocation of a discharge. Major Rooney, a United States Military Academy and Health Professionals Scholarship Program graduate, obtained a discharge from AR-PERSCOM while he was participating in the Medical Corps' Non-funded Medical Education Program, administered by the Office of the Surgeon General. Under this program, Major Rooney was temporarily released from active duty into the IRR, upon his written agreement to return and serve his remaining eight-year active duty service obligation (ADSO). During that year, Major Rooney procured his discharge and the Army subsequently revoked it based on evidence that it was procured under fraudulent circumstances. The Court agreed with the Army that under the provisions of AR 135-175, a discharge revocation need be based only on "some" evidence of "fraudulent circumstances," and therefore rejected Rooney's claim that the Army acted arbitrarily or capriciously. The Court also held that the existence of the fraudulent discharge provisions of Articles 3 and 83, UCMJ, do not prohibit the administrative revocation of a fraudulent discharge.

The United States Court of Federal Claims maintained the limited scope of review of collateral attacks on courts-martial in Brown v. United States, a case challenging the qualifications of the military judge. Brown, a military prisoner convicted of a number of sexual assaults on a minor, challenged his court-martial and demanded back pay on the ground that the military judge was not properly qualified and certified to preside over his case because the judge was in an inactive status with her state bar at the time of trial. The Court rejected Brown's claims, dismissing for failure to state a claim that portion of his complaint asserting a breach of his enlistment contract because military pay claims are governed by statute rather than contract principles. Relying on Burns v. Wilson and its progeny in the Federal Circuit, the Court entered summary judgment for the Army on the remainder of his complaint, finding the issue of the judge's qualifications had been fully and fairly litigated in the military criminal appellate system.

In November 2003, the Litigation Division assisted with the oral argument before the 10th Circuit Court of Appeals, defending a January 2003 District Court decision in Barber v. United States. The case involved a female Private First Class who refused an order to have an anthrax vaccination. Private First Class Barber was scheduled to move to Korea, and the vaccine was required as part of her transition overseas. The District Court granted the Army's motion to dismiss the case, agreeing that it could not judicially review the under other than honorable conditions discharge received for refusing the anthrax vaccination. Private First Class Barber had requested the discharge to avoid her pending court-martial. The lower court adopted the Army's argument that this case is confined to plaintiff's refusal to obey a lawful order, rather than a forum for debating the merits of the vaccination program. The court cited several reasons for not reviewing the discharge: 1) Private First Class Barber has not pursued her administrative remedies through the Army Discharge Review Board and the Army Board for Correction of Military Records; 2) she consented to the other than honorable discharge by requesting it instead of being court-martialed; and 3) it was inappropriate for the judiciary to second-guess the Army on a military personnel decision in an area of military -- rather than judicial -- expertise. Review of the vaccination program, the court determined, should be left to the Executive and Legislative Branches. We presented essentially the same arguments to the appellate court, and are presently awaiting its decision on the appeal.

EDUCATION AND TRAINING

Developing, improving, and sustaining our military justice practice remains the cornerstone mission of The Criminal Law Department of The Judge Advocate General's Legal Center and School (TJAGLCS) in Charlottesville, Virginia. The Criminal Law Department continued instruction on wide-ranging subjects ranging from substantive criminal law to technical litigation skills.

Assisting practitioners in the field is a main focus for the Department. Accordingly, the Department leveraged existing technology to provide helpful resources for counsel and military judges. Each outline created by Department professors is now hyperlinked to the case opinion located on the Lexis website. Current desk books containing the Department's most recent outlines are located at <http://www.jagcnet.army.mil/TJAGLCS> (publications). Additionally, the Crimes and Defenses Handbook, an indispensable tool for practitioners, saw its first major revision since 1995 and was introduced to the field this past year. Like the outlines, the Handbook is hyperlinked to allow the practitioner a useful and timesaving way to conduct thorough research anywhere in the world.

Advocacy training continues to be a top priority for the Criminal Law Department. The Department devotes significant effort to training each Basic Course and Advanced Trial Advocacy Course student on trial advocacy skills. Basic Course students serve as trial counsel or defense counsel in three advocacy exercises, an administrative separation board, a guilty plea court-martial, and a contested court-martial. The Department provides a number of advocacy resources, including *The Advocacy Trainer*, to each Basic Course student in a concerted effort to encourage continued advocacy training in the field.

The Department continued instruction to military justice managers with a heavy emphasis on post-trial processing. The 42 students of the 9th Military Justice Managers Course received significant instruction on the practical "how to" of court-martial post-trial processing as well as substantive law instruction. As in the past two courses, justice managers received a number of resources on CD-Rom for use in the field, including examples of case tracking systems.

The Criminal Law Department continued to offer advanced advocacy training in the 19th and 20th Criminal Law Advocacy Courses in addition to advanced advocacy training electives for the Graduate Course. The two-week Criminal Law Advocacy Courses afforded 103 trial advocates more individualized and specialized trial advocacy training. Augmented with four Reserve Component officers, all of whom practice civil and criminal litigation in their civilian capacities, for each course, the students performed rigorous small-group practical exercises on essential litigation skills from opening statement through closing argument.

In addition to the Military Justice Managers Course and the Criminal Law Advocacy Courses, The Criminal Law Department also hosted a variety of continuing legal education courses, including the 46th Military Judge Course. The Course is a joint effort by all the services, including the Coast Guard, to provide preparatory and refresher training for the newest

members of the trial judiciary. The Department also managed the Twenty-Sixth Criminal Law New Developments Course attended by 228 judge advocates from all services. In addition to hosting courses, Department professors taught classes to Reserve Component judge advocates at Reserve On-Sites as well as providing case updates to appellate court judges and counsel at the Judge Advocate Association Appellate Conference and the Fulton Conference.

Finally, The Criminal Law Department was very fortunate to host a distinguished American jurist last year. Justice Antonin Scalia delivered the 31st Hodson Lecture on Criminal Law. Justice Scalia provided the standing-room only audience with an insightful view of his Constitutional interpretation. Also of note, Department members, along with other Legal Center and School members, provided a Russian delegation with examples of military justice in action through demonstrations of a mock nonjudicial punishment proceeding and a mock court-martial. The demonstrations provided the delegation, which included General-colonel of Justice Aleksandr Savenkov, with an example of our unique adversarial system.

PERSONNEL, PLANS, AND POLICIES

The attorney strength of the active component Judge Advocate General's Corps at the end of FY 03 was 1,506 (including general officers). This total does not include 72 officers attending law school while participating in the Funded Legal Education Program. The attorney strength of the reserve component Judge Advocate General's Corps at the end of FY 03 was 1,999 and the strength of the Army National Guard at the end of FY 03 was 608. The diverse composition of our attorney population included 122 African-Americans, 40 Hispanics, 71 Asians and Native Americans, and 387 women. The FY 03 end strength of 1,506 compares with an end strength of 1474 in FY 02, 1,462 in FY 01, 1,427 in FY 00, 1,426 in FY 99, 1,499 in FY 98, 1,523 in FY 97, 1,541 in FY 96, 1,561 in FY 95, 1,575 in FY 94, and 1,646 in FY 93. The grade distribution of the Corps' attorneys was 5 general officers; 124 colonels; 215 lieutenant colonels; 318 majors; and 844 captains. An additional 83 warrant officers, 428 civilian attorneys, and 1,516 enlisted paralegals supported legal operations worldwide.

THOMAS J. ROMIG
Major General, USA
The Judge Advocate General

APPENDIX - U.S. ARMY MILITARY JUSTICE STATISTICS

Report Period: FISCAL YEAR 2003

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	689	657	32	-12.6%
BCD SPECIAL [A]	644	631	13	+8.8%
NON-BCD SPECIAL	21	20	1	+110%
SUMMARY	858	812	46	0%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-1.6%

PART 2 - DISCHARGES APPROVED [B]

GENERAL COURTS-MARTIAL (CA LEVEL)		
NUMBER OF DISHONORABLE DISCHARGES (+ dismissals)		115 + 16
NUMBER OF BAD-CONDUCT DISCHARGES		291
SPECIAL COURTS-MARTIAL		
NUMBER OF BAD-CONDUCT DISCHARGES		338

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	612
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	477
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	201

PART 4 - WORKLOAD OF THE U.S. ARMY COURT OF CRIMINAL APPEALS

TOTAL ON HAND BEGINNING OF PERIOD		115 [C]
GENERAL COURTS-MARTIAL	[D]	
BCD SPECIAL COURTS-MARTIAL	[D]	
REFERRED FOR REVIEW		760 [C]
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
TOTAL CASES REVIEWED		753 [E]
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
TOTAL PENDING AT CLOSE OF PERIOD		123 [C]
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-4.1%

**PART 5 - APPELLATE COUNSEL REQUESTS BEFORE
U.S. ARMY COURT OF CRIMINAL APPEALS (CCA)**

NUMBER	1086
PERCENTAGE	69.98%

**PART 6 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES
(CAAF)**

PERCENTAGE OF CCA-REVIEWED CASES FORWARDED TO CAAF	283 of 753	37.58%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+14.57%
PERCENTAGE OF TOTAL PETITIONS GRANTED	39 of 293	13.31%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+33.63%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY USACCA		5.18%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD]		+48%

APPENDIX - U.S. ARMY MILITARY JUSTICE STATISTICS - CONT'D

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ

TOTAL PENDING BEGINNING OF PERIOD		1	
RECEIVED		11	
DISPOSED OF		10	
GRANTED	0		
DENIED	10		
NO JURISDICTION	0		
WITHDRAWN	0		
TOTAL PENDING AT END OF PERIOD		2	

PART 8 – ORGANIZATION OF COURTS

TRIALS BY MILITARY JUDGE ALONE			
GENERAL COURTS-MARTIAL		537	
SPECIAL COURTS-MARTIAL		559	
TRIALS BY MILITARY JUDGE WITH MEMBERS			
GENERAL COURTS-MARTIAL		152	
SPECIAL COURTS-MARTIAL		85	

PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ

NUMBER OF COMPLAINTS		22	
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PART 10 – STRENGTH

AVERAGE ACTIVE DUTY STRENGTH		493,563	
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PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)

NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		43,037	
RATE PER 1,000		87.14	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		-4.77%	

EXPLANATORY NOTES

- [A] Cases convened by GCM convening authority.
- [B] Based on records of trial received during FY for appellate review.
- [C] Includes only cases briefed and at issue.
- [D] No reason for distinguishing; GCM and BCD SPCM are not tracked separately.
- [E] Includes Article 62 appeals, All Writs Act cases, and appeals withdrawn.

SECTION 4

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

ANNUAL REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

OCTOBER 1, 2002 TO SEPTEMBER 30, 2003

**SUPERVISION OF THE ADMINISTRATION OF
MILITARY JUSTICE**

In compliance with the requirement of Article 6(a), Uniform Code of Military Justice (UCMJ), the Judge Advocate General and the Deputy Judge Advocate General made frequent inspections of Navy legal offices in the United States, Europe, and the Far East in order to supervise the administration of military justice. These inspections, conducted by subject matter experts, examined the full range of military justice processes at those offices inspected, to include significant portions of the officers, enlisted personnel, and civilians, who currently comprise the Navy Judge Advocate General's Corps and legal community.

ARTICLE 69 (a), UCMJ, EXAMINATIONS

Twenty-five general courts-martial records of trial that were not statutorily eligible for automatic review by the Navy-Marine Corps Court of Criminal Appeals (NMCCA) were forwarded for examination to the Office of the Judge Advocate General in fiscal year 2003. An additional 28 cases were pending at the end of fiscal year 2002. Of the 27 cases completed, none required corrective action by the Judge Advocate General. At the close of fiscal year 2003, 26 cases were pending review.

ARTICLE 69 (b), UCMJ, APPLICATIONS

In fiscal year 2003, applications for review under Article 69(b), UCMJ, were received in 21 cases. At the end of fiscal year 2002, 15 such applications were pending. Of these 36 cases, 16 cases were denied on the merits. At the end of fiscal year 2003, 20 cases were pending review.

ARTICLE 73, UCMJ, PETITIONS

One petition was received in the Office of the Judge Advocate General during fiscal year 2003, and that case is still pending review.

APPELLATE DEFENSE DIVISION (Code 45)

Mission. The Appellate Defense Division represents Navy and Marine Corps appellants before the NMCCA, U.S. Court of Appeals for the Armed Forces (CAAF), and the U.S. Supreme Court. It also represents some appellants before the Navy Clemency & Parole Board. The Division provides assistance to trial defense counsel in the field by helping to file extraordinary writs before NMCCA and CAAF, providing a death penalty assistance team to advise field defense counsel facing potential capital cases, and providing advice on specific cases in litigation at trial.

Organization. Commander George F. Reilly, JAGC, USN, and Lieutenant Colonel Eric B. Stone, USMC, served as Division Director and Deputy Director the entire fiscal year. The Division's mission is accomplished through the integrated efforts of both active duty and Reserve Navy and Marine Corps judge advocates. A highly talented team of 17 Navy and Marine Corps judge advocates participated in accomplishing the Division's active duty mission during fiscal year 2003. In the summer of 2003, two active duty law student interns, a Navy lieutenant and Marine Corps Captain, also supported the Division. These officers received training in military justice and provided invaluable support to the Division as legal research assistants. Additionally, the Appellate Defense Division hosted three law school students from local law schools. The interns received extensive instruction in legal research and writing and, in turn, assisted Division counsel in the preparation of court-martial appeals.

The Division was fully staffed with civilian personnel. A lead legal clerk/office manager and two legal clerks assisted the active duty personnel and one additional legal clerk was assigned exclusively to the Reserve Branch.

Reserve Branch. The Appellate Defense Division relied heavily on the invaluable support of 45 Navy and Marine Corps Reserve judge advocates. Reserve attorneys filed 1460 cases, representing 70% of the total initial pleadings for the year.

The Division's supporting Reserve units maximize productivity with flexible drilling, where their duties permit them to work from home or offices rather than expending the added time and expense of traveling to a local Reserve Center. The Reserve Branch centralized database makes this arrangement possible. The Reserve Branch Head maintains this database tracking every case from assignment to the Reserve Branch, through assignment to counsel, mailing, review of work product, and subsequent filing. In summer 2003, the database was expanded to improve tracking of CAAF petitions, motions, and supplemental briefs.

The Division's supporting Reserve units are: NR NAVJAG 109, Columbus, Ohio; NR NAMARA (Defense) 111, Oklahoma City, Oklahoma; NAVJAG 519, Los Angeles, California; and NAVJAG 211, Fort Worth, Texas. Additionally, the Division received volunteer support from four dedicated Naval Reserve judge advocates from Voluntary Training Unit 614. The Marine Corps Reserve contingent consisted of 12 independently assigned Reserve judge advocates.

Appellate Representation. A total of 2160 new cases were received by the Appellate Defense Division. Despite considerable efforts at reducing the numbers of cases pending filing of initial pleadings, the Division realized a 66 case increase in these numbers. At the end of fiscal year 2003, the total number of cases pending initial review was 1038, however, we expect to reduce this number in the upcoming fiscal year.

As depicted below, the Appellate Defense Division filed 2094 initial pleadings with the NMCCA. This number was comprised of 1483 merit submission, 178 summary assignments, and 433 briefs. Division counsel engaged in oral argument before the NMCCA in 10 cases.

A total of 240 cases were petitioned to CAAF, with 27 grants of review issued. Division counsel engaged in oral argument before the CAAF in seven cases.

Below is a comparison of this year's Appellate Defense statistics with those of the previous two fiscal years.

NMCCA	FY 01	FY 02	FY 03
Briefs Filed	324	677	433
Total Cases Filed	1722	2406	2094
Oral Arguments	12	8	10
USCAAF			
Petitions Filed	140	290	240
Supplements Filed	111	237	174
Briefs Filed	19	13	12
Oral Arguments	19	11	7
U.S. Supreme Court			
Petitions Filed	6	0	3

Capital Litigation. During fiscal year 2003, the Appellate Defense Division continued to represent three enlisted Marines convicted of capital offenses, whose sentences included the death penalty. A Reserve Marine Corps judge advocate with extensive capital litigation experience was mobilized for a 1-year period to serve as lead counsel in *United States v. Quintanilla*, a capital case tried at Camp Pendleton in 1996. A team of active duty and Reserve counsel prepared and filed the defense brief with NMCCA within 5 months of the reservist's mobilization. A Reserve Navy judge advocate was mobilized for a 6-month period to work on the case of *United States v. Parker*, a capital case tried at Camp Lejeune in 1993. In September 2003, NMCCA granted a defense motion for a mental health evaluation to determine whether Lance Corporal Parker is mentally retarded, which could bar his execution under *Atkins v. Virginia*, 536 U.S. 304 (2002). In *United States v. Walker*, another capital case tried at Camp Lejeune in 1993, the Appellate Defense Division filed a motion for summary reversal of the sentence due to exclusion of mitigating evidence. The NMCCA, however, denied the motion without prejudice to raising the same issue in Lance Corporal Walker's plenary brief. The Appellate Defense Division also filed a brief as *amicus curiae* with the Court of Appeals for the Armed Forces, urging the Court to grant a petition for writ of error *coram nobis* filed by Army Private Dwight Loving. Private Loving, whose case was affirmed by the Supreme Court in 1996, seeks a writ overturning his death sentence on the ground that the military death penalty system is inconsistent with *Ring v. Arizona*, 536 U.S. 584 (2002).

The Navy-Marine Corps Capital Litigation Resource Center (CLRC), unique among the services, is co-located with the Appellate Defense Division and provides advice on pretrial, trial, and sentencing strategies in military death penalty cases. It also serves as a research and resource clearinghouse with banks of motions relating to capital litigation as well as information about expert consultants and witnesses. The CLRC maintains a close working relationship with defense judge advocates from all services. The CLRC also plays a large role in training trial and appellate defense counsel at the annual Defense Complex Litigation Course taught at the Naval Justice School, Newport, Rhode Island. During fiscal year 2003, the CLRC provided assistance to the field in several cases that were either referred capital or where capital referral was a possibility.

Initiatives. The Division presented a proposal to amend the Uniform Code of Military Justice at the annual meeting of Code Committee on Military Justice. The proposal focused on special court-martial convictions - and suggested that these cases should receive formal appellate review only if requested by the convicted service member. This proposal posits that such procedures would better focus appellate resources where they are needed most - for serious cases, and those service members who actually want their cases reviewed. Called "Mandatory Review Upon Petition," it is now being studied by the Joint Service Committee.

Support for the Fleet

Trial Defense Assistance. The Appellate Defense Division provided advice and support to Navy and Marine Corps trial defense counsel around the world. The Division maintained a rotating Field Call watch comprised of experienced appellate attorneys who replied to short-fused questions from trial defense counsel and assisted in preparing and filing extraordinary writs.

Extraordinary Writs of Appeal. Six extraordinary writs were submitted to the military courts of appeal on behalf of accused service members at court-martial or on behalf of service members serving sentences in military confinement facilities. Appellate Defense attorneys evaluated the issues for viability as extraordinary writs, researched and developed the issues for presentation, and presented the writs to the courts of appeal.

Contributions to Continuing Legal Education. Appellate defense attorneys lectured at national and local military justice seminars and symposia throughout the year. This year, appellate defense attorneys gave a series of presentations at training sessions for trial defense counsel at Camp Lejeune, North Carolina (current topics in appellant litigation and issue preservation at trial); two lectures at Duke University Law School (military death penalty and professional responsibility); one lecture at the Naval Post Graduate School (military/civilian relations); several lectures at Naval Justice School, Newport, Rhode Island (military death penalty); one lecture at the Navy Legal Service Office in Pensacola, Florida (recent CAAF decisions and issue preservation), and one lecture at the National Legal Aid and Defenders Association's "Life in the Balance" course in Austin, Texas (military death penalty).

APPELLATE GOVERNMENT DIVISION (CODE 46)

The primary mission of the Appellate Government Division is to represent the United States at the appellate level in general and special courts-martial arising from the Navy and Marine Corps, pursuant to Article 70, Uniform Code of Military Justice. In addition, the Division provides support to staff judge advocates and trial counsel throughout the Navy and Marine Corps on issues related to pretrial, court-martial and post-trial proceedings.

At the end of fiscal year 2003, the Division had nine active duty judge advocates and two civilian staff members. Colonel Michael E. Finnie, USMC, relieved Colonel Rose M. Favors, USMC, in the billet of Division Director. Commander Robert P. Taishoff, JAGC, USN, continued in the billet of Division Deputy.

Reserve support is critical to the accomplishment of Appellate Government's mission. Utilizing direct support from 12 Navy Reservists from two Navy Reserve Detachments (NAVJAG 116 (Detroit) and NAMARA 116 (Minneapolis)) and three Marine Corps officers as Individual Mobilization Augmentees, the Division revised the manner in which it employed its Reserve assets. Streamlining the process by which cases are assigned, tracked and filed, the Deputy Director now monitors a "one to one" active duty/Reserve counterpart approach to brief filing. This approach significantly improved the responsiveness, training, and integration our Reserve assets into our appellate mission as evidenced by the quality, timeliness, and increased production of their briefs. The Division also continues to benefit from their collective experience and perspective as civilian practitioners.

During summer 2003, two law student interns, and one Marine Corps officer participating in the Funded Law Education Program, supported the staff. These individuals provided invaluable assistance to the Division as researchers, analysts, and moot court judges as well as receiving considerable training in the military justice system.

The Division continued to institute several organizational changes in response to manpower challenges. To the maximum extent possible, those duties that did not require a judge advocate to perform, or an officer to execute, were delegated to the civilian staff. In addition, greater emphasis was placed on cross-training the civilian staff so that no task would go unattended in anyone's absence. As a result, productivity by counsel and civilian staff significantly improved. Additionally, technology upgrades in the NAUTILUS database allowed each attorney to more carefully track their caseload and create simple pleadings that were previously done by the administrative support staff.

During fiscal year 2003, the Division filed approximately the same number of substantive pleadings at the NMCCA as it did in fiscal year 2002. In fiscal year 2003, the Division saw a sharp reduction in briefs filed at the CAAF and an increase in other pleadings. The following chart reflects these statistics:

	FY 01	FY 02	FY 03
NMCCA			
Briefs filed	395	798	761
Other pleadings	277	456	475
CAAF			
Briefs filed	41	45	12
Other pleadings	82	91	152

During fiscal year 2003, Division judge advocates presented oral argument at the United States Naval Academy for the outreach program sponsored by the NMCCA. Participation in these programs served to educate and inform students at this institution about the fairness and professionalism of the military justice system. Division counsel responded to numerous requests for assistance from Navy and Marine staff judge advocates and trial counsel regarding government appeals and petitions for extraordinary relief. Issues in these cases included evidentiary rulings by military judges and suppression of evidence, among others.

The Division continued to revise Trial Counsel Assistance Program procedures. Procedures were refined with a view towards ensuring accurate, complete, and timely responses to inquiries from the fleet while not detracting from Appellate Government counsels' ability to accomplish the Division's primary mission. Although telephone calls still served as the primary means of communication, the e-mail procedures developed during fiscal year 2002 continued to prove to be extremely efficient, reliable and manageable. Further, a new tracking system was established in order to keep accurate records of the numbers of calls received.

During fiscal year 2003, members of the Division received training consistent with their duties as appellate counsel. Courses included: the Criminal Law New Developments Course at The Army JAG School; advocacy skills training through the Department of Justice; a computer crimes course; and, the Association of Government Attorneys in Capital Litigation Course. Several members of the Division attended the Judge Advocates Associate Symposium on Appellate Practice at Catholic University. Other members of the Division attended the CAAF Judicial Conference.

In September, as a result of flooding from Hurricane Isabelle, Appellate Government's operations were moved to Bldg 200 on the Washington Navy Yard. Despite this major interruption, counsel and staff maintained a positive attitude and kept the work moving in timely fashion. Currently, the plan is to move back to our spaces in March 2004.

NAVY-MARINE CORPS TRIAL JUDICIARY

The Navy-Marine Corps Trial Judiciary is a joint Navy-Marine Corps activity led by the Chief Judge. Its mission is to provide certified military judges for Navy and Marine Corps general and special courts-martial. The Judiciary is organized into 12 judicial circuits and is supported by Naval Reserve and Marine Corps Reserve Individual Mobilization Augmentees.

The Navy-Marine Corps Trial Judiciary (NMCTJ) consists of 32 active duty and 27 reservists serving in 12 circuits and five branch offices. During fiscal year 2003, NMCTJ provided judicial services in 315 general courts-martial and 1854 special courts-martial. These numbers represent a decrease in both general and special courts-martial as compared to fiscal year 2002.

NMCTJ provided judicial services to Fleet and Shore Activities, and Marine Forces in the United States and around the world. Members of the Trial Judiciary participated in continuing education at The Army Judge Advocate's General's School, the Interservice Military Judge's Seminar at Maxwell Air Force Base, and various courses at the National Judicial College at the University of Nevada, Reno.

NMCTJ also provided training at various levels, including the Navy-Marine Corps Senior Officer Course, Naval Justice School Basic Course, and other in-service courses. NMCTJ performed an active role in mentoring judge advocates through both formal and informal training sessions.

NAVAL LEGAL SERVICE COMMAND

Naval Legal Service Command (NAVLEGSVCCOM) is commanded by the Deputy Judge Advocate General of the Navy and includes 291 Judge Advocates, 1 Civil Engineer Corps Officer, 17 Limited Duty (Legal) Officers, 205 Legalmen, and 208 civilians. NAVLEGSVCCOM provides a wide range of legal services to Navy, Marine Corps, and Coast Guard afloat and ashore commands, active duty naval personnel, family members, and retirees from 58 offices world-wide: eight Naval Legal Service Offices (NLSOs), six Trial Service Offices (TSOs), and the Naval Justice School. NAVLEGSVCCOM provides counsel for courts-martial, administrative proceedings, physical evaluation boards, legal assistance, and advice to line commanders. NAVLEGSVCCOM also provides assistance for claims processing, and adjudication, and training judge advocates, legalmen, and other DOD personnel. During fiscal year 2003, NAVLEGSVCCOM provided counsel for 196 General Courts-martial, 712

Special Courts-martial, 190 Article 32s, 1,082 Administrative Boards, processed over 45,000 claims, provided over 277,900 legal assistance services, and provided command assistance services for over 3,900 commands.

NAVLEGSVCCOM is currently beta testing the Military Justice model of the HELM (Home Electronic Legal Manager) system for time management. The Legal Assistance Time Management program has been implemented at all sites. It is expected to field the Military Justice module at all sites in fiscal year 2004.

NAVAL JUSTICE SCHOOL

Organization. Naval Justice School (NJS) reports to Commander, Naval Legal Service Command, for administrative and operational control. The main NJS facility is located in Newport, Rhode Island. Teaching detachments are based in San Diego, California, and Norfolk, Virginia (areas of fleet concentration), while a 1-person Branch Office is co-located with The Judge Advocate General's School of the Army in Charlottesville, Virginia.

Mission. NJS provides accession and continuing legal training to Navy, Marine Corps, and Coast Guard judge advocates, Limited Duty Officers (Law), enlisted legal professionals, and international students. Training is also provided to sea service commanders, senior officers, legal officers, senior enlisted leaders, and others in the sound administration of military law. In fiscal year 2003, NJS provided instruction to more than 10,000 students worldwide (including 2,547 in resident courses ranging in length from 2 days to more than 9 weeks).

Academic Programs. NJS has seven "core" courses, each with primary focus on military justice. These courses are:

- Accession Judge Advocate Course. This 9-week course, offered four times annually, provides accession training for all judge advocates in the Navy, Marine Corps, and Coast Guard. The course includes extensive training in military justice and court-martial advocacy, as well as training in legal assistance, operational law, and administrative law. Upon graduation, judge advocates are certified per Article 27(b), UCMJ. Fiscal year 2003 graduates: 138.
- Accession Legalman Course. This 9-week course, offered four times annually, trains Navy enlisted personnel selected for conversion to the Legalman rating. The course is divided into two distinct phases: military justice paralegal training and court-reporting. Fiscal year 2003 graduates: 113.

- Basic Legal Specialist Course. This 9 1/2-week course, offered four times annually, provides accession level training to junior enlisted Marines seeking the Military Occupational Specialty of Marine Corps Legal Services Specialist. Curriculum consists of training in military justice, post trial review, and legal administration. Fiscal year 2003 graduates: 85.
- Senior Officer Course in Military Justice and Civil Law. This 1-week course trains senior officers in the execution of the legal responsibilities of command with instruction in nonjudicial punishment, court-martial procedures, and administrative law. In fiscal year 2003, this course was offered 21 times in 11 different locations, training 606 officers.
- Legal Officer Course. This 3-week course prepares non-lawyer "legal officers" to perform a host of military law functions in commands not large enough to warrant assignment of a judge advocate. In fiscal year 2003, this course was offered 16 times in 3 different locations, with 507 graduates.
- Legal Clerk Course. Legal Clerks are typically assigned to assist non-lawyer legal officers within a command as a collateral duty. This 2-week course provides training in the preparation of legal forms and reports, service record entries, nonjudicial punishment, and court-martial procedures. In fiscal year 2003, the course was offered 19 times in 4 different locations, graduating 342 students.
- Senior Enlisted Leadership Course (SELC) in Military Justice and Civil Law. This 3-day course provides senior enlisted leaders of all services training in a wide range of military law with primary focus on military justice matters. In fiscal year 2003, the SELC was incorporated into the core curriculum at the Navy's Senior Enlisted Academy (SEA). The course was offered six additional times in 4 different locations, reaching another 177 students.
- Continuing Legal Education. In addition to the "core" courses, NJS provided a number of continuing legal education (CLE) courses. Twenty-five CLE offerings focused primarily upon military justice with training including: intermediate and advanced trial advocacy skills; computer crimes; legal research and writing; national security cases; prosecuting and defending complex cases; reserve updates; and a number of paralegal courses. Training was provided

- to active duty and reserve judge advocates and enlisted legal professionals from the sea services, Army, Air Force, and foreign countries in military justice and other topics including, operational law, administrative law, legal assistance, and estate planning. In fiscal year 2003, 32 distinct courses were offered 40 times in 9 different locations, reaching 822 active duty and 713 reserve legal professionals.

Coordination. Through the Interservice Legal Education Review Committee (ISLERC), Commanding Officer of NJS and Commandants of the Army and Air Force JAG Schools meet semi-annually to discuss new initiatives and opportunities for cross-training and to increase cooperation and efficiency in the training of legal personnel within the Department of Defense.

Publications. NJS is responsible for publication of the Naval Law Review, all materials in support of academic programs, and any additional materials directed by higher authority. In addition to publishing Volume 49 of the Naval Law Review, which included articles on Military Justice, Operational Law, Environmental Law, and Military Commissions, NJS published updated student study guides and three reference manuals designed to assist sea service commanders with implementation of the UCMJ.

Additional Training. NJS participated in the Expanded International Military Education and Training Program, a security assistance program mandated by Congress. Instruction was provided in a variety of areas with primary focus on military justice and procedure. NJS instructors provided training in Albania, Kyrgystan, Macedonia, Moldova, Namibia, and South Africa. NJS also worked closely with the Defense Institute of International Legal Studies and provided extensive training to 11 senior foreign military and government attorneys participating in the Military Law Development Program. NJS instructors also provided more than 600 hours of instruction, primarily in military law and procedure, at nine different schools and conferences throughout the United States.

MARINE CORPS ACTIVITIES

There are approximately 436 active-duty Marine judge advocates and 400 Reserve Marine judge advocates. Additionally, there are 18 warrant officers and 467 enlisted members working in legal offices. These offices support the Fleet Marine Forces in the continental United States, overseas and on deployment throughout the world. Our drilling Reserve judge advocate community provides substantial support to each of our offices in all functional areas.

Marine Corps judge advocates perform a variety of missions. They work in the military criminal justice system as prosecutors, defense counsel, military judges, appellate defense counsel, or appellate government counsel in cases of all descriptions. Legal assistance judge advocates assist Marines, Sailors, military retirees, and family members in estate planning, domestic relations law, consumer law, tax law, property law, landlord and tenant law, debtor and creditor law, adoptions, and citizenship cases. Marine judge advocates also advise commanders during military operations, review military operational plans and provide advice on the Law of War, rules of engagement, and domestic law relating to the employment of force and support of our allies. Other proactive areas include pre-mobilization legal assistance, environmental law, civil law, contract law, international law, claims and tort law, and labor law.

Since Marine Corps judge advocates are unrestricted line officers, many also serve in non-legal billets. For example, this year, Marine judge advocates served as Commanding Officer, Marine Corps Security Forces Company, Kings Bay, Georgia; Commanding Officer, Support Battalion, Marine Corps Recruit Depot, San Diego, California; Commanding Officer, Support Battalion, Marine Corps Recruit Depot, Parris Island, South Carolina; Commanding Officer, 2d Recruit Training Battalion, Marine Corps Recruit Depot, San Diego, California; Commanding Officer, 3rd Battalion, Marine Corps Recruit Depot, San Diego, California; Commanding Officer, Headquarters Battalion, Barstow, California; Commanding Officer, Marine Corps Security Forces Company, Bremerton, Washington; and Commanding Officer, Headquarters and Service Battalion, Marine Corps Base, Kaneohe Bay, Hawaii.

The Marine Corps accesses 45 judge advocates a year from civilian law schools and private practice. Approximately 10 judge advocates per year are lateral transfers from other Marine Corps occupational fields via the Law Education Program. We continue to have more applicants than openings and are able to use a board process to screen all applicants to ensure the highest quality. Applicants come from diverse backgrounds and all have law degrees from ABA accredited law schools. They have higher than average LSAT scores and have successfully completed the rigorous Marine Corps Officer Candidate Course training program.

The process of becoming a Marine Corps judge advocate is four-fold. First, eligible applicants must attend Officer Candidate School (OCS) in Quantico, Virginia. This strenuous ten-week course is designed to test a candidate's leadership and physical abilities. Successful completion leads to a commission as a Second Lieutenant. Second, all Marine Corps officers attend The Basic School (TBS). The Basic School is a rigorous,

6-month program that provides each lieutenant the foundation to be an infantry platoon commander. The phrase "every Marine a rifleman" applies even to judge advocates. Third, each judge advocate must complete the Basic Lawyer Course at the Naval Justice School in Newport, Rhode Island. Finally, each judge advocate must successfully complete the newly implemented Basic Operational Law Training (BOLT) course. BOLT provides judge advocates a week of training in operational and international law. Successful completion of OCS, TBS, the Basic Lawyer Course, and BOLT culminates in designation as a judge advocate.

Upon reporting to their commands, various continuing legal education training opportunities are available to include command and Headquarters, U.S. Marine Corps sponsored programs. Currently, training opportunities are available at each of the service judge advocate schools. Additionally, various civilian continuing legal education opportunities are provided for judge advocates. Approximately twelve judge advocates each year are selected for advanced (LL.M.) training at civilian law schools and the Judge Advocate General's School of the U.S. Army. Additionally, each year, five to six judge advocates attend a military specific training course such as Expeditionary Warfare School, Command and Staff College, or War College.

Our warrant officer and enlisted members also undergo a significant training regime. On average, 10 enlisted Marines are enrolled in a stenography/scopist course and each year 30 enlisted Marines attend the Legal Service Specialist Mid-Career Course at Naval Justice School. We also had 6 enlisted Marines attend the Law Office management course at Maxwell Air Force Base, Alabama, and the Senior NCO management course at Charlottesville, Virginia. In addition, we have enlisted Marines filling non-legal billets as Drill Instructors, Recruiters, and Marine Security Guard. Currently, enlisted Marines are enrolled in paralegal programs and have the opportunity to attend legal education courses offered by the Marine Corps, Army, Navy, and Air Force, including the Legalman/Legal Services Specialist Mid-Career Course and Legal Research and Writing at the Naval Justice School.

The average debt for new Marine Corps judge advocates is \$57,000. Following the other services, the Law School Education Debt Subsidy (LSEDS) has now been approved and is undergoing implementation in the Marine Corps. Captains who have completed their initial active duty obligation and intend to augment into the regular Marine Corps are eligible. Selection to major is the upper parameter for eligibility. Thirty thousand dollars is the authorized payment to be made in yearly installments of \$10,000. Officers accepting LSEDS incur a further 3 year commitment.

The following chart contains military justice statistical information for the Marine Corps in fiscal year 2002 and 2003.

Fiscal Year	End strength	GCM	SPCM	SCM	Total Courts	NJP	Total Adseps
FY 03	177,779	145	818	782	1,745	8,344	7,096
FY 02	173,733	223	1,419	1,009	2,651	8,523	11,868

MICHAEL F. LOHR
Rear Admiral, JAGC, U.S. Navy
The Judge Advocate General of the Navy

APPENDIX - U.S. NAVY/MARINE CORPS MILITARY JUSTICE STATISTICS

Report Period: FY 2003

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	315	291	24	-3.7%
BCD SPECIAL	1854	1815	39	-1.5%
NON-BCD SPECIAL	0	0	0	0%
SUMMARY	1990	1955	35	-5.1%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-1.3%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL (CA LEVEL)			
NUMBER OF DISHONORABLE DISCHARGES			99
NUMBER OF BAD-CONDUCT DISCHARGES			205
SPECIAL COURTS-MARTIAL (SA LEVEL)			
NUMBER OF BAD-CONDUCT DISCHARGES			1391

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	324
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	1360
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	36

PART 4 - WORKLOAD OF THE U.S. NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS

TOTAL ON HAND BEGINNING OF PERIOD		2198
GENERAL COURTS-MARTIAL	716	
BCD SPECIAL COURTS-MARTIAL	1482	
REFERRED FOR REVIEW		1727
GENERAL COURTS-MARTIAL	334	
BCD SPECIAL COURTS-MARTIAL	1393	
TOTAL CASES REVIEWED		2162
GENERAL COURTS-MARTIAL	341	
BCD SPECIAL COURTS-MARTIAL	1821	
TOTAL PENDING AT CLOSE OF PERIOD		1764
GENERAL COURTS-MARTIAL	709	
BCD SPECIAL COURTS-MARTIAL	1055	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		+1.2%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE

U.S. NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS (CCA)

NUMBER	1727
PERCENTAGE	100%

PART 6 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES (CAAF)

PERCENTAGE OF CCA-REVIEWED CASES FORWARDED TO CAAF	235	10%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+5.4%
PERCENTAGE OF TOTAL PETITIONS GRANTED	22	10.6%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+3%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CCA		1.2%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		+1.4%

APPENDIX - U.S. NAVY/MARINE CORPS MILITARY JUSTICE STATISTICS - CONT'D

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ			
TOTAL PENDING BEGINNING OF PERIOD		15	
RECEIVED		21	
DISPOSED OF		16	
GRANTED	0		
DENIED	16		
NO JURISDICTION	0		
WITHDRAWN	0		
TOTAL PENDING AT END OF PERIOD		20	
PART 8 – ORGANIZATION OF COURTS			
TRIALS BY MILITARY JUDGE ALONE			
GENERAL COURTS-MARTIAL		249	
SPECIAL COURTS-MARTIAL		1732	
TRIALS BY MILITARY JUDGE WITH MEMBERS			
GENERAL COURTS-MARTIAL		66	
SPECIAL COURTS-MARTIAL		116	
PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ			
NUMBER OF COMPLAINTS		117	
PART 10 – STRENGTH			
AVERAGE ACTIVE DUTY STRENGTH		557,716	
PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)			
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		28.114	
RATE PER 1,000		50.6	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		--10.8%	

SECTION 5

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE
OCTOBER 1, 2002 TO SEPTEMBER 30, 2003

THE AIR FORCE COURT OF CRIMINAL APPEALS

The Air Force Court of Criminal Appeals rendered 402 decisions in fiscal year 2003. This represents a slight decrease from last fiscal year's 435 decisions. The Court continued its "Project Outreach" program, hearing oral arguments around the country. The Court heard argument at the United States Air Force Academy in Colorado Springs, Colorado, on the scope of an inspection of a trainee's personal laptop computer at Keesler Air Force Base, Mississippi. The Court also heard argument at Scott Air Force Base, Illinois, on the factual and legal sufficiency of certain convictions for indecent assault, larceny, and false official statement. Finally, the Court heard oral argument at The Judge Advocate General School at Maxwell Air Force Base, Alabama, on whether the appellant's conviction for indecent acts with a child was factually sufficient and whether his conviction for possessing child pornography, contrary to 18 U.S.C. § 2252A(a)(5)(A), stands in light of the Supreme Court's ruling in *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002).

The Court was busy this past year with a large turnover of appellate military judges in 2003. The Court lost many seasoned judges to retirement or change of station. The Court is now at full strength, however, with nine active duty judges and six reserve judges. Senator Lindsey Graham and Assistant Secretary of the Interior Craig Manson were among the Court's new reserve judges.

TRIAL JUDICIARY

The Air Force Trial Judiciary had an average of 22 active duty trial judges, six reserve trial judges, and nine noncommissioned officers assigned throughout five judiciary circuits worldwide. The military judges' duties include: presiding over all general and special courts-martial tried in the United States Air Force; serving as investigating officers under Article 32, UCMJ; serving as legal advisors for officer discharge boards and other administrative boards; conducting parole violation hearings; and presiding at public hearings held to consider draft environmental impact statements. Fiscal year 2003 was once again a very busy year for the USAF Trial Judiciary. Though the numbers were down from the previous year, judges presided over more than 800 general and special courts-martial around the world.

The Trial Judiciary conducted the Twenty-Ninth Interservice Military Judges' Seminar, from 22-25 April 2003 at The Air Force Judge Advocate General School, Maxwell AFB, Alabama. This seminar was attended by 116 military judges from the trial judiciaries of the Army, Navy, Marine Corps, Coast Guard, Air Force and a military judge from the Canadian armed forces.

The Chief Trial Judge attended the last week and a half of the Military Judges' Course conducted at The Army Judge Advocate General School in Charlottesville, Virginia, from 28 April - 16 May 2003 to participate in a roundtable presentation with the Chief Trial Judges of the sister services, conduct seminars with the new judges, evaluate moot court exercises, and participate in the graduation ceremony.

Our active duty and reserve judges attended several seminars and courses this year. Air Force judges were represented at the "Handling Capital Cases" symposium at the National Judicial College (NJC), the Advanced Criminal Evidence Course, held by the NJC in Reno, NV, and the Criminal Law New Developments Course at the Army JAG School.

Our judges continue to interface with a variety of legal programs throughout the military. One such program of note is Defense Institute of International Legal Studies (DIILS). Colonel Pittman was heavily involved with the DIILS, making several trips to Brazzaville, Republic of the Congo, to train members of their armed forces in legal principles unique to Congo.

Colonel Murnane also worked closely with the Defense Institute of International Legal Studies, by participating in training programs with the military forces in Latvia and Argentina. Her direct involvement with the Latvian Armed Forces led to the passage in the Saeima (Latvian parliament) of language she and her team drafted to create a mobile military justice process to aid Latvia in its successful bid to become a full partner in the North Atlantic Treaty Organization. In Argentina, Colonel Murnane provided essential legal training to the Argentine military on how the military and media should interact in a democracy.

GOVERNMENT TRIAL & APPELLATE COUNSEL DIVISION

APPELLATE GOVERNMENT COUNSEL

In November 2003, five appellate counsel attended the Criminal Law New Developments Course at the Army Judge Advocate General School. This course covered the latest military cases in all significant areas of criminal law. In addition to providing new appellate counsel an update in the most recent criminal law developments, it was an opportunity for both appellate counsel and trial counsel to spend several hours together and discuss ways to better serve the base legal offices. In October 2003, five appellate counsel attended the USCAAF Symposium sponsored by The Judge Advocate's Association at Catholic University School of Law. Also, in May 2003, the Division Chief and seven appellate counsel, including four reserve appellate counsel, attended the USCAAF Judicial Conference, at Catholic University School of Law. These conferences provided current information on appellate issues and guidance on appellate practice.

In October, the Division Chief and three appellate government counsel, including one reserve counsel, provided in-depth training at the Military Justice Administration Course (MJAC) conducted at the Air Force Judge Advocate General School (AFJAGS).

Appellate government counsel prepared and provided an appellate update on USCAAF and AFCCA decisions and trends in case law at trial counsel workshops at each of the five circuits. Additionally, the Division Chief provided instruction on myriad of military justice topics at the Information Operations Law Course and the Advanced Trial and Defense Advocacy Course in April 2003, and the Staff Judge Advocate Course in June of 2003.

Appellate government counsel have contributed to "Project Outreach," sponsored by the Court of Appeals for the Armed Forces and the Air Force Court of Criminal Appeals, by conducting oral arguments before audiences at the United States Air Force Academy, The Air Force Judge Advocate General School, Duke University School of Law, the University of North Carolina School of Law, Scott Air Force Base, Roger Williams University School of Law, Creighton University School of Law, and Offutt Air Force Base, educating attendees on the fairness and professionalism of the military justice system.

The Division produced a number of important publications this year, including the Appellate Update, the Advocacy Continuing Education (ACE) Newsletters and the 2003 Trial Counsel Desk book. In turn, these documents were placed on the Division's website, providing practitioners easy and immediate access to the latest in military justice case law.

Currently, there are eleven reserve judge advocates assigned as appellate government counsel. They continue to provide superb support, greatly assisting the Division in carrying out its mission. In addition to preparing written briefs, six reserve counsel presented oral arguments before the Air Force Court of Criminal Appeals and the Court of Appeals for the Armed Forces during the fiscal year.

A summary of Air Force Appellate (Government) practice follows:

AFCCA	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>
Briefs Filed	230	151	203	181	230
Cases Argued	11	19	20	12	13
USCAAF	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>
Briefs Filed	29	23	46	99	51
Cases Argued	27	28	32	28	31

SUPREME COURT	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>
Petition Waivers					
Filed	2	1	1	0	0
Briefs Filed	0	0	0	0	0

CIRCUIT TRIAL COUNSEL

Manning authorizations for the fiscal year included 17 Circuit Trial Counsel (CTC) at three circuit offices in CONUS, while 4 CTCs cover the Pacific and European theaters, 2 per theater. During fiscal year 2003, CTCs tried 201 general courts-martial and 59 special courts-martial. In November, several CTCs attended the Criminal Law New Developments Course at the Army JAG School. The CTCs in all five judicial circuits conducted workshops for base-level prosecutors. Circuit Trial Counsel also showcase their talents teaching as adjunct instructors at the Trial and Defense Advocacy Course and the Advanced Trial and Defense Advocacy Course.

APPELLATE DEFENSE DIVISION

Training for our appellate defense counsel remains one of the division's highest priorities. This training included the Criminal Law New Developments Course at the Army Judge Advocate General's Legal Center and School in Charlottesville, VA, the Judicial Conference sponsored by the U.S. Court of Appeals for the Armed Forces, and a Military Appellate Advocacy Symposium sponsored by the Judge Advocates Association. In addition, three of our appellate defense counsel attended the *Winning Brief* seminar sponsored by LawProse, Inc.

Appellate defense counsel served as adjunct faculty members twice at the Trial and Defense Advocacy Course at the Air Force Judge Advocate General School at Maxwell AFB, AL. Appellate defense counsel also served as instructors at two Area Defense Counsel Orientation Courses.

Appellate defense counsel continued to support trial defense counsel in the field by actively participating in defense counsel workshops in the Pacific, European, Eastern, and Central Circuits. Appellate defense counsel also kept trial defense counsel in the field updated on new appellate developments in military criminal law via our weekly *Newsletter for Defense Practitioners*.

Appellate defense counsel contributed to "Project Outreach" sponsored by the Air Force Court of Criminal Appeals (AFCCA) and the U.S. Court of Appeals for the Armed Forces (USCAAF) by participating in oral arguments before audiences at: the United States Air Force Academy, CO; the General

Hemingway Annual Paralegal Symposium at Scott AFB, IL; the Air Force Judge Advocate General School at Maxwell AFB, AL; Washington and Lee School of Law in Lexington, VA; Duke School of Law in Durham, NC; North Carolina School of Law in Chapel Hill, NC; and, Roger Williams School of Law in Bristol, RI. "Project Outreach" helps educate students and personnel involved in civilian legal practice about the fairness and professionalism of the military justice system.

The following figures reflect the division's workload over the past five fiscal years:

AFCCA	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>
Briefs Filed	507	399	481	525	512
Cases Argued	9	15	14	12	12
USCAAF	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>
Supplements to Petitions	416	330	457	412	219
Grant Briefs	26	28	31	33	22
Cases Argued	23	25	31	28	26
SUPREME COURT	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>
Petitions	0	1	6	3	3
Briefs in Opposition	0	0	0	0	0
Briefs on the Merits	0	0	0	0	0

TRIAL DEFENSE DIVISION

The Trial Defense Division is responsible for providing all trial defense services within the Air Force through Area Defense Counsel (ADC), Defense Paralegals (DP), Circuit Defense Counsel (CDC), and Chief Circuit Defense Counsel (CCDC). These personnel report to the Chief, Trial Defense Division (JAJD), who reports to the Director, United States Air Force Judiciary (JAJ). The Chief, Trial Defense Division is assisted by the Deputy Chief and Law Office Manager.

The Division is manned with 83 ADCs stationed at 70 bases worldwide. They are assisted by 72 DPs. The Division has 21 CDCs and 5 CCDCs. The CCDCs, along with all but three of the CDCs, are stationed at the circuit offices located at Bolling AFB, DC, Randolph AFB, TX, Travis AFB, CA, Ramstein AB, Germany, and Yokota AB, Japan. A single defense paralegal manager is assigned to each of the three CONUS circuits and the European Circuit.

The continuing success of the Air Force's Area Defense Counsel Program is largely attributable to its independence and its energized personnel. To ensure the best representation for Air Force clients, training remains the division's top priority. Seven CDCs attended the Criminal Law New Developments Course at the Army Judge Advocate General School. On a continuing basis, each CCDC and CDC provides on-the-job training and mentoring to ADCs. Newly appointed defense counsel receive formal training at the Area Defense Counsel Orientation held at Bolling AFB in June and September and at annual workshops conducted by each Circuit. Each circuit conducts DP training at annual workshops. In addition, the division ensured each ADC attended the Trial and Defense Advocacy Course and that all CDCs attended the Advanced Trial Advocacy Course. The Division provided adjunct faculty members for these two courses held at the Air Force Judge Advocate General School.

MILITARY JUSTICE DIVISION

The Military Justice Division prepares opinions and policy positions for The Judge Advocate General and for the Air Force Board for Correction of Military Records. They also assemble reports on military justice issues requested by the White House, Congress, DoD and the Air Staff. The division represents the Air Force on the DoD Joint Service Committee (JSC) on Military Justice. The division also provides representatives to all interservice activities involving military justice and support for the Code Committee. Lastly, the division serves as the action agency for the review of military justice issues on applications submitted to the Air Force Board for Correction of Military Records (AFBCMR).

During the past year, the Military Justice Division: (1) provided 93 formal opinions concerning AFBCMR applications; (2) received 164 inquires in specific cases requiring either formal written replies to senior officials, including the President and members of Congress; (3) reviewed 44 records of trial for review under Article 69a, UCMJ, two records under Article 69b, UCMJ, and one record under Article 73, UCMJ; and (4) presented the seventh annual Military Justice Administration Workshop at the Air Force Judge Advocate General School; over 120 judge advocates and paralegals attended the "back to basics" one-week workshop.

CLEMENCY, CORRECTIONS AND OFFICER REVIEW DIVISION

The Division's primary responsibilities continue to be to (1) recommend appropriate disposition of statutorily required sentence review actions by the Secretary of the Air Force in officer and cadet dismissal cases; (2) recommend action by The Judge Advocate General or the Secretary of the Air Force, as appropriate, to effect statutorily authorized clemency for members of the Air Force under court-martial sentence; (3) represent The Judge Advocate General on the Air Force Clemency and Parole Board; (4) make recommendations for the Secretary of the Air Force to the Attorney

General on Presidential Pardon applications by court-martialed Air Force members; and (5) advise The Judge Advocate General and the Security Forces Center on corrections issues.

At the end of fiscal year 2003, 511 Air Force personnel were in confinement. Of those, 83 inmates were in long-term confinement at the United States Disciplinary Barracks (USDB), Fort Leavenworth, Kansas, and 73 were serving time in the Federal Bureau of Prisons (BOP) system. A total of 34 inmates were enrolled in the Air Force Return-to-Duty Rehabilitation (RTDR) Program during this period, with eight graduating and being returned to duty. The number of Air Force inmates on parole at the end of fiscal year 2003 was 135, an 11 percent increase from last fiscal year.

AIR FORCE JUDGE ADVOCATE GENERAL SCHOOL

The Air Force Judge Advocate General (AFJAG) School is one of eight professional continuing education schools in Air University's Ira C. Eaker College for Professional Development at Maxwell Air Force Base, Alabama. The AFJAG School is located in The William L. Dickinson Law Center, a 56,000 square foot academic facility dedicated in 1993. The Dickinson Law Center also houses the David C. Morehouse Center for Paralegal Studies and the Air Force Legal Information Services Division (JAS). The AFJAG School provides legal education and training to attorneys and paralegals from all military services, other federal agencies, and many foreign countries. The AFJAG School faculty provides instruction at several Air University schools and colleges as well as courses throughout the Department of Defense. The AFJAG School publishes *The Reporter*, *The Air Force Law Review* and *The Military Commander and the Law*. The AFJAG School maintains AFJAG Department liaison with civilian professional organizations, law schools, and states requiring continuing legal education.

AFJAG School Courses

The AFJAG School conducted 40 classes (some courses are held more than once a year) in Fiscal Year 2003 for 4,647 students. Courses, seminars, and workshops conducted at the AFJAG School included:

- Accident Investigation Board Legal Advisor
- Advanced Environmental Law
- Advanced Labor and Employment Law
- Advanced Trial Advocacy
- Career Services Officers
- Claims and Tort Litigation
- Deployed Air Reserve Components Operations and Law
- Deployed Fiscal Law and Contingency Contracting
- Environmental Law
- Environmental Law Update

Federal Employee Labor Law
Federal Income Tax Law
Housing Privatization
Information Operations Law
International Law
Judge Advocate Staff Officer
Law Office Manager
Legal Aspects of Information Operations
Legal Aspects of Sexual Assault
Military Judges
Military Justice Administration
Negotiation and Appropriate Dispute Resolution
Operations Law
Paralegal Apprentice
Paralegal Craftsman
Reserve Forces Judge Advocate
Reserve Forces Paralegal
Roles of Civilians in Military Operations
Staff Judge Advocate
Trial and Defense Advocacy

Off-Site Courses

The AFJAG School conducts four "Annual Surveys of the Law" for judge advocates and paralegals in the Air Force Reserve and Air National Guard. The surveys provide concise legal updates and extensive reviews of recent developments in military justice. The surveys are conducted at a civilian conference facility in Denver, Colorado. 520 students attended the course conducted in January 2003.

Distance Learning (DL) Courses

The AFJAG School conducted two DL courses, the Air Force Systems and Logistics Contracting Course and the Fiscal Law Course, by live satellite broadcast (one-way video and two-way audio) to more than 50 Air Force and Army sites throughout the United States. Approximately 1,900 personnel participated in DL courses in fiscal year 2003.

Outside Teaching

In addition to teaching AFJAG School courses, faculty members provide over 1,200 academic hours of instruction annually on a wide range of legal topics in other colleges, schools, and courses within Air University. These include: Air War College; Air Command and Staff College; Squadron Officer School; College of Aerospace Doctrine, Research, and Education; School of Advanced Airpower Studies; International Officer School; Officer

Training School; Senior Noncommissioned Officer Academy; USAF First Sergeant Academy; Professional Military Comptroller School; Group Commanders' Course; Wing Commanders' Seminar; Advanced Personnel Officer Course; and the Chaplain Orientation Course. Additionally, the faculty performs more than 1,000 hours of instruction annually in other schools, courses, and conferences throughout the world. In fiscal year 2003, AFJAG School personnel instructed at the Inter-American Air Force Academy; USAF Special Operations School; U.S. Army Judge Advocate General School; American Society of Military Comptrollers Conference; SOUTHCOM Legal Engagement Conference; Federal Bar Association Contracting Conference; and the D.C National Guard Leadership Conference.

The AFJAG School participates in the Expanded International Military Education and Training (E-IMET) program, one of several security assistance programs mandated by Congress. The program promotes U.S. foreign policy goals as established in the Foreign Assistance Act. The E-IMET Program involves joint U.S. military training teams teaching human rights, military justice, civilian control of the military, the law of armed conflict, rules of engagement, and general democratic principles in countries designated as emerging democracies. Faculty from the AFJAG School participated in four E-IMET missions in fiscal year 2003. E-IMETs were conducted for Honduras, Bangladesh, Moldova, and Mali.

Publications

Each year, the AFJAG School publishes two issues of *The Air Force Law Review*, a professional legal journal consisting of articles of interest to Air Force judge advocates, civilian attorney advisors, and others with an interest in military law. *The Law Review* is a scholarly legal publication that encourages candid discussion of relevant legislative, administrative, and judicial developments. Additionally, four issues of *The Reporter*, the Department's quarterly legal publication containing articles of general interest, were produced and distributed. The AFJAG School continues to distribute large quantities of its most popular publication, *The Military Commander and the Law*, a 550+ page compendium of concise legal papers addressing issues confronting military commanders. The printed version was updated in Fiscal Year 2002 and more than 15,000 copies were printed and distributed worldwide. An electronic version is available on-line at <http://milcom.jag.af.mil>.

LEGAL INFORMATION SERVICES

During fiscal year 2003, the Legal Information Services (JAS) Directorate continued to exploit the force-multiplying power inherent in information technology (IT) by launching ten new software initiatives while continuing to upgrade and refine five of its existing platforms and services.

Most notable among its new initiatives, JAS developed a Federal Legal Information Through Electronics (FLITE) registration application which now enables DoD attorneys and paralegals to register on-line for free access to FLITE's electronic legal research capabilities.

A second JAS initiative involved the acquisition of Genesys, a web based collaboration tool, which provides legal personnel the ability to conduct desktop teleconferencing on the web from their government office computers. This new technology will save money by reducing the demand for costly and time-consuming face-to-face meetings and video teleconferencing.

JAS created a Staff Judge Advocate-Law Office Manager (SJA-LOM) Claims Report to assist SJAs and LOMs in managing their legal offices. JAS created a medical malpractice claims report to track the status of medical malpractice claims along with an ad hoc query program for the claims. During the calendar year in question, JAS developed several new programs to manage claims filed under international agreements and tort litigation.

In March 2003, JAS acquired a new software package for the JAS help desk. The new software will allow JAS to better manage and serve the needs of its IT customers across the Air Force and DoD.

JAS began hosting the CAAF electronic filing system and continued to host the public web sites for both CAAF and the AFCCA.

JAS created a new cyber law web page along with a JAS home web page, for JAS, during the noted time period. These two new web pages will allow JAS to better serve the IT requirements of its diverse and complex customer base.

JAS created a host of other IT initiatives during the noted period including the creation of 40 Rapid Deployment Kits (RDK). Each RDK contains a laptop computer, a printer, digital camera, legal materials on DVDs and CD-ROMS packaged in a hardened carrying case that meets carry-on restrictions for commercial airlines. Judge Advocates and paralegals deployed in support of Operation Iraqi Freedom were outfitted with, found utility in, and loved the RDK.

JAS developed an Officer Performance Report (OPR) and Enlisted Performance Report (EPR) and Performance Feedback (PF) Tracker which now allows Air Force Legal personnel to know, 60 to 30 days in advance of the need to accomplish an OPR, EPR or PF. In addition to the OPR/EPR/PF tracker, JAS created an Air Force-wide Administrative Discharge System, which will now allow AFJAG personnel, for the first time, to process and track the status of administrative discharges.

JAS migrated its major applications to a new Sun4800 server, replacing two older servers. The new server is faster, easier to maintain, more reliable, and provides higher availability. All parts, including processors, motherboards, and power supplies are redundant, and repairs can be made without interrupting service.

JAS released the newest Automated Military Justice Analysis and Management System (AMJAMS) updates, which streamlined the production of reports, added features that allowed the Judiciary to shut down their Access database, and provided a variety of other enhancements.

The final two new IT initiatives JAS launched during the noted time period were the AMJAMS and Armed Forces Claims Information Management System (AFCIMS) Robo Demo Training Modules which can be found on the new JAS Customer Support Branch web page, and the key personnel locator (KPL) in the TJAG family of products. The KPL, which was introduced by one of JAS' adjunct staff members in D.C. at JAZ, will save time by facilitating the easy finding of National Guard and Reserve personnel in the National Capitol Region (NCR).

From all indications, 1 October 2002 - 30 September 2003 represented a banner year for JAS IT initiatives. Experts at JAS were unleashed and encouraged to find and create new and better IT initiatives to better help its Air Force and DoD customers across the board. Colonel Steven Linder, the JAS Director for seven years, retired in June 2003 and Colonel Morris Davis succeeded him. Colonel Davis was tasked by TJAG and the SECAF, prior to the start of his tenure at JAS, to serve on a fact-finding team directed to investigate allegations of sexual misconduct and harassment at the US Air Force Academy. Following his tenure on the fact-finding team, Colonel Davis assumed the JAS mantle.

JAS personnel received a shot in the arm and a morale booster from the June 2003 visit of Retired Air Force Colonel Calvin M. Vos. Colonel Vos, now 92 years old, is the founder of FLITE and of the AFJAG Corps Information Technology Office, which evolved into the JAS legal information directorate. Colonel Vos launched the AFTJAG and the DoD into using computers to store and retrieve legal information in the 1960s! At the time, Colonel Vos was the Staff Judge Advocate assigned to the Air Force Accounting And Finance Center.

LEGAL ASSISTANCE AND PREVENTIVE LAW PROGRAM

The Legal Assistance Division oversees a global legal assistance and preventive law program. During CY 2003, Air Force legal assistance programs served over 268,000 clients, prepared over 70,000 wills and nearly 290,000 powers of attorney, and notarized almost 450,000 documents. The Division also instituted a new, automated, user-friendly on-line statistical and data tracking program for legal assistance that eliminates

the burden of manually preparing an annual written report. The program allows the Department, at all levels of command, to immediately retrieve data on the volume of legal assistance work each office completes, organized by criteria such as type of legal issue and grade of client. The new program, known as WebLIONS, also contains a client conflict checker, a services valuation calculator, and dozens of templates for powers of attorney.

During the 2003 tax-filing season, a record 105 Air Force legal offices offered electronic tax filing services to those eligible for military tax program assistance. These sites filed 133,539 electronic federal returns and 15,165 federal paper returns, for a total of 148,704 federal income tax returns, as well as 33,169 state electronic returns and 38,361 state paper returns, for a total of 71,530 state income tax returns. Employing 3,296 volunteers worldwide, the Air Force tax program assisted members in filing 220,234 returns, at a savings of \$25,545,674 in fees. Implemented in 2002, the web-based Tax Program Reporting System allows all levels of command to immediately access the data in real time. Again, significant time and effort are saved in preparing the annual report of the tax program.

PERSONNEL

As of 30 September 2003, the Air Force Judge Advocate's Corps had 1387 judge advocates on active duty. Company grade officers (lieutenants and captains) made up approximately half of that number (676). Slightly more than 25% were majors (3789) and 16% were lieutenant colonels (216). Almost ten percent of the Corps were colonels (122) and above, including two major generals and three brigadier generals.

THOMAS J. FISCUS
Major General, USAF
The Judge Advocate General

APPENDIX - U. S. AIR FORCE MILITARY JUSTICE STATISTICS

Report Period: FISCAL YEAR 2003

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	351	329	22	-37.76%
BCD SPECIAL	471	243	30	+22.65%
NON-BCD SPECIAL [A]		198		
SUMMARY	101	100	1	-15.12%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-30.23%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL (CA LEVEL)				
NUMBER OF DISHONORABLE DISCHARGES			85*	
NUMBER OF BAD-CONDUCT DISCHARGES			218	
SPECIAL COURTS-MARTIAL (CA LEVEL)				
NUMBER OF BAD-CONDUCT DISCHARGES			248	

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	312
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	256
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	43

PART 4 - WORKLOAD OF THE U.S. AIR FORCE COURT OF CRIMINAL APPEALS

TOTAL ON HAND BEGINNING OF PERIOD		480
GENERAL COURTS-MARTIAL	[B]	
BCD SPECIAL COURTS-MARTIAL	[B]	
REFERRED FOR REVIEW		567
GENERAL COURTS-MARTIAL	[B]	
BCD SPECIAL COURTS-MARTIAL	[B]	
TOTAL CASES REVIEWED		402
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
TOTAL PENDING AT CLOSE OF PERIOD		645
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD (563:564)		+17%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE

U.S. AIR FORCE COURT OF CRIMINAL APPEALS (CCA)

NUMBER	563:568
PERCENTAGE	99.11%

PART 6 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES (CAAF)

PERCENTAGE OF AFCCA REVIEWED CASES FORWARDED TO USCAAF (211/404)	52.23%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	-15.32%
PERCENTAGE OF TOTAL PETITIONS GRANTED (60/211)	28.43%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	+18.19%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CCA (60/404)	14.85%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD (423:381)	+7.94%

APPENDIX - U.S. AIR FORCE MILITARY JUSTICE STATISTICS - CONT'D

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ

TOTAL PENDING BEGINNING OF PERIOD		1	
RECEIVED		3	
DISPOSED OF		3	
GRANTED	0		
DENIED	3		
NO JURISDICTION	0		
WITHDRAWN	0		
TOTAL PENDING AT END OF PERIOD		1	

PART 8 – ORGANIZATION OF COURTS

TRIALS BY MILITARY JUDGE ALONE		546	
GENERAL COURTS-MARTIAL		235	
SPECIAL COURTS-MARTIAL		311	
TRIALS BY MILITARY JUDGE WITH MEMBERS		276	
GENERAL COURTS-MARTIAL		116	
SPECIAL COURTS-MARTIAL		160	

PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ

NUMBER OF COMPLAINTS		14	
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PART 10 – STRENGTH

AVERAGE ACTIVE DUTY STRENGTH		367,855	
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PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)

NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		9092	
RATE PER 1,000		24.72	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		-.18%	

EXPLANATORY NOTES

[A] The Air Force does not convene non-BCD SPCMs. Of the 471 SPCMs tried, there were 243 convictions with a BCD adjudged, 198 convictions without a BCD adjudged and 30 acquittals.

[B] GCM and SPCM were not tracked separately.

* Includes 28 officer dismissals

SECTION 6

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE COAST GUARD

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE U. S. COAST GUARD

October 1, 2002 to September 30, 2003

THE DEPARTMENT OF HOMELAND SECURITY

On March 1, 2003, the U.S. Coast Guard transferred intact to the newly created Department of Homeland Security. The legislation that created the Department of Homeland Security amended 10 U.S.C. § 801(1) to allow the Secretary of Homeland Security to designate The Judge Advocate General of the Coast Guard. Secretary Ridge subsequently designated the Chief Counsel of the Coast Guard as the "Judge Advocate General of the Coast Guard." Previously, the General Counsel of the Department of Transportation was The Judge Advocate General.

PERSONNEL AND TRAINING

The Coast Guard has 176 officers designated as law specialists (judge advocates) serving on active duty, of which 139 are serving in legal billets and 37 are serving in general duty billets. Among the 37 military attorneys serving "out-of-specialty" are the Vice Commandant of the Coast Guard, the Commander of the Eighth Coast Guard District in New Orleans, the Military Assistant to the Secretary of Homeland Security, and other commanding and executive officers of Coast Guard cutters, groups, marine safety offices, training centers, and support commands. Three of the five Coast Guard officers selected for flag rank this year are attorneys. The Coast Guard also employs 69 civilian attorneys ranging from GS-12 to SES.

The Coast Guard sent attorneys to 41 different courses of instruction during this fiscal year, primarily at the various service JAG schools. 83% of Coast Guard attorneys attended one or more courses of continuing legal education. Twenty-two Coast Guard officers are currently undergoing postgraduate studies in law and will be certified as law specialists at the successful completion of their studies. Seven students will graduate in 2004, seven will graduate in 2005, and eight will graduate in 2006. Fourteen Coast Guard officers (including five funded postgraduate program studies and nine direct-commissioned lawyers) completed the Navy Basic Lawyer Course in Newport, Rhode Island. All have been or are in the process of becoming certified under Article 27(b), UCMJ.

U. S. COAST GUARD COURT OF CRIMINAL APPEALS

The judges on the U.S. Coast Guard Court of Criminal Appeals during fiscal year 2003 were:

Chief Judge Joseph H. Baum
Judge David J. Kantor
Judge Robert W. Bruce (until his retirement on 1 July 2003)
Judge Gary A. Palmer
Judge Thomas R. Cahill
Judge Lane I. McClelland (administered oath on 19 June 2003)

In addition to the decisional work of the Court, as reflected in the Appendix, the judges of the Court have been involved in various professional conferences, committees and seminars during the past fiscal year.

In April, Judge Cahill attended the one-week Military Judges Seminar, TJAGSA, at Maxwell AFB, Montgomery, AL.

In May, Judge Palmer represented the Court on a panel of appellate military judges that made a presentation as part of the training course for new military judges at the Army Judge Advocate General School in Charlottesville, VA.

On 22 and 23 September 2003, the judges participated in the William S. Fulton, Jr. Appellate Military Judges Conference and Training Seminar at the Federal Judicial Center in Washington, D.C. The seminar included a panel discussion on "What I Wish I Had Known as a New Appellate Judge" with Judge Cahill representing the Court as a panel member, and break out sessions with judges from the other service courts discussing "*Lawrence v. Texas* and the UCMJ," "Post Trial Delay - *Diaz*," and "Sentence Credit Issues." Chief Judge Baum served as a discussion group leader.

On 26 September, Judge Cahill served as a panelist on a panel of court of criminal appeals judges presenting a "View from the Appellate Bench" discussion at the Judge Advocates Association appellate advocacy seminar, Columbus School of Law, Catholic University, Washington, D.C.

Chief Judge Baum served another term this past year as a member of the Rules Advisory Committee of the U.S. Court of Appeals for the Armed Forces.

MILITARY JUSTICE ORGANIZATION

Thirteen staff judge advocates advise 15 officers exercising general court-martial jurisdiction and approximately 350 officers exercising special court-martial jurisdiction. Responsibility for detailing trial and defense counsel to general and special courts-martial rests with the staff judge advocate of the cognizant Maintenance and Logistics Command; Atlantic for east-coast cases and Pacific for west-coast cases. Pursuant to an inter-service memorandum of understanding, the U.S. Navy provides trial defense counsel for all Coast Guard courts-martial. In return, at least four Coast Guard attorneys are assigned to full time duty at one or more Navy Legal Service Offices or Trial Service Offices.

The Coast Guard has one general courts-martial judge and 13 collateral-duty special courts-martial judges. The Chief Trial Judge details all military judges to Coast Guard courts-martial. When the Chief Trial Judge was unavailable, courts-martial judges from other military services were detailed to general courts-martial.

The Office of Military Justice at Coast Guard Headquarters is responsible for representing the United States in all courts-martial appeals and providing support to staff judge advocates and trial counsel throughout the Coast Guard. The office is also responsible for developing military justice policy for the Coast Guard, including participation on the Joint Service Committee (JSC) on Military Justice. Within the office, two officers are assigned primary duty as appellate government counsel.

On August 1, 2003, the Judge Advocate General reorganized several elements within the headquarters staff to create a new element entitled "Legal and Defense Services Staff." This staff element will combine all legal functions involving personal representation, such as appellate defense counsel, physical disability evaluation system counsel, and legal assistance. Currently, one officer is assigned primary duty as appellate defense counsel.

NEW MILITARY JUSTICE BILLETS

Due to continued growth in Coast Guard end-strength, which is expected to result in a concomitant increase in the military justice workload, the fiscal year 2004 budget provides four additional attorney billets for military justice. The billets are expected to be filled in the third quarter of fiscal year 2004. The billets include an additional appellate defense counsel, an appellate government counsel, a trial counsel, and a billet in support of military commissions.

MILITARY JUSTICE STATISTICS

NOTE: All statistics are based on the number of courts-martial records received and filed at Coast Guard Headquarters during fiscal year 2003 and, where indicated, records received during each of the four preceding fiscal years. The number of courts-martial vary widely from year to year, but this is not a reliable indicator of the administration of military justice given the relatively small number of courts-martial overall.

Fiscal Year	03	02	01	00	99
General Courts-Martial	08	04	15	10	6
Special Courts-Martial	18	23	17	23	17
Summary Courts-Martial	20	11	18	11	3
Total	46	38	50	44	26

GENERAL COURTS-MARTIAL

Seven of the eight accused tried by general courts-martial this fiscal year were tried by military judge alone. One elected to be tried by a general court-martial composed of officer and enlisted members. All eight general courts-martial resulted in convictions. Three accused tried by general courts-martial were nonrated (pay grades E-1 through E-3), three were petty officers (pay grades E-4 through E-6), one was a chief petty officer (pay grades E-7 through E-9), and one was a commissioned officer (W-1 through O-9).

The following table summarizes the sentences adjudged in general courts-martial tried by military judge alone (seven convictions):

Sentence	Cases Imposed
dishonorable discharge/dismissal-	1
bad-conduct discharge - - - - -	4
confinement - - - - -	5
hard labor without confinement-	0
reduction in pay-grade - - - - -	5
fined (total \$1,700.00) - - - - -	2
restriction - - - - -	2
forfeiture of all pay and allowances - - - - -	0
partial forfeiture of pay and allowances - - - - -	1

The following table summarizes the sentences adjudged in general courts-martial tried by members (one conviction):

Sentence	Cases Imposed
dishonorable discharge	0
bad-conduct discharge	0
confinement	0
hard labor without confinement	1
reduction in pay-grade	1
fined (total \$0.00)	0
restriction	1
forfeiture of all pay and allowances	0
partial forfeiture of pay and allowances	0

The following table compares the frequency of imposition of the four most common punishments imposed at general courts-martial in the past five fiscal years.

FY	Number of Convictions	Forfeitures	Confinement	Reduction in Pay-Grade	Punitive Discharge/Dismissal
03	8	1 (13%)	5 (63%)	6 (75%)	5 (63%)
02	4	1 (25%)	3 (75%)	3 (75%)	4 (100%)
01	15	4 (27%)	14 (93%)	13 (87%)	10 (67%)
00	9	5 (56%)	7 (78%)	6 (67%)	6 (67%)
99	6	0 (0%)	6 (100%)	6 (100%)	5 (83%)

The following table shows the distribution of the 95 specifications referred to general courts-martial in fiscal year 2003.

Violation of the UCMJ, Article	No. of Specs.
81 (conspiracy)	12
83 (fraudulent enlistment, appointment, or separation)	1
92 (failure to obey order or regulation)	14
107 (false official statements)	19
108 (military property of United States - loss, damage, destruction, or wrongful disposition)	4
120 (rape or carnal knowledge)	2
121 (larceny or wrongful appropriation)	4
125 (sodomy)	4
128 (assault)	1
130 (housebreaking)	10
133 (conduct unbecoming an officer and a gentleman)	4
134 (general)	20
	<u>95</u>

Eight general courts-martial received and filed at Coast Guard Headquarters in FY 2003 was double the number received the previous fiscal year, but eight is in general accord with longer term averages. The Coast Guard has averaged 9 general courts-martial per year over the last 5 years with 4 to 15 cases a year. This increase in general courts-martial in FY 2003 is somewhat offset by the decrease in special courts-martial.

SPECIAL COURTS-MARTIAL

Fifteen of the eighteen accused tried by special courts-martial this fiscal year were tried by military judge alone. Two elected to be tried by special courts-martial with enlisted and officer members, and one with officer members. All of the special courts-martial resulted in convictions and thirteen accused received a BCD. Three accused tried by special court-martial pled guilty to all charges and specifications. Fifteen of the accused whose charges were referred to special courts-martial were nonrated (pay grades E-1 through E-3), two were petty officers (pay grades E-4 through E-6), one was a chief petty officer (pay grades E-7 through E-9), and none were commissioned officers (W-1 through O-9).

The following table summarizes the sentences adjudged in the eighteen special courts-martial cases.

Sentence	Cases Imposed
bad-conduct discharge - - - - -	13
confinement - - - - -	16
hard labor without confinement - - - - -	0
reduction in pay-grade - - - - -	15
fined (total \$0.00) - - - - -	0
restriction - - - - -	0
partial forfeiture of pay and allowances- - - - -	2
reprimand - - - - -	0

The following table compares the frequency of imposition of the four most common punishments imposed at special courts-martial in the past five fiscal years.

FY	Number of Convictions	Forfeitures	Confinement	Reduction in		
				Pay-Grade	BCD	
03	18	2 (11%)	16 (88%)	15 (83%)	13 (72%)	
02	23	9 (39%)	22 (96%)	17 (74%)	18 (78%)	
01	17	9 (53%)	17 (100%)	12 (71%)	9 (53%)	
00	23	8 (35%)	20 (87%)	19 (83%)	10 (43%)	
99	17	8 (47%)	15 (88%)	16 (94%)	9 (53%)	

The following table shows the distribution of the 114 specifications referred to special courts-martial in fiscal year 2003.

Violation of the UCMJ, Article	No. of Specs.
80 (attempts) - - - - -	3
83 (fraudulent enlistment, appointment, or separation) - -	2
85 (desertion) - - - - -	3
86 (unauthorized absence) - - - - -	9
87 (missing movement) - - - - -	2
91 (insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer) - - - - -	2
92 (failure to obey order or regulation) - - - - -	12
107 (false official statement) - - - - -	6
111 (drunken or reckless driving) - - - - -	1
112a (wrongful use, possession, etc. of controlled substance) - - - - -	27
121 (larceny or wrongful appropriation) - - - - -	12
123 (forgery) - - - - -	10
123a (making, drawing, or uttering check, draft or order without sufficient funds) - - - - -	3
125 (sodomy) - - - - -	1
128 (aggravated assault) - - - - -	5
134 (general) - - - - -	16
	<u>114</u>

There was a 22% decrease in special courts-martial received and filed at Coast Guard Headquarters this fiscal year over last fiscal year. Over the past five years the Coast Guard has averaged twenty special courts-martial per year with seventeen to twenty-three special courts-martial a year.

JUDGE ADVOCATE GENERAL ACTION UNDER ARTICLE 69, UCMJ

The Judge Advocate General referred one case to the Coast Guard Court of Criminal Appeals pursuant to Article 69(d)(1), UCMJ.

ADDITIONAL MILITARY JUSTICE STATISTICS

Appendix A contains the Coast Guard, Fiscal Year 2003 military justice statistics.

JOHN E. CROWLEY, JR.
Rear Admiral, U. S. Coast Guard
The Judge Advocate General of the Coast Guard

APPENDIX - U.S. COAST GUARD MILITARY JUSTICE STATISTICS

Report Period: 1 OCTOBER 2002 - 30 SEPTEMBER 2003

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	8	8	0	+100%
BCD SPECIAL	18	18		-22%
NON-BCD SPECIAL	0	0	0	UNCHANGED
SUMMARY	20	20	0	+82%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				+21%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL		
NUMBER OF DISHONORABLE DISCHARGES		1
NUMBER OF BAD-CONDUCT DISCHARGES		4
SPECIAL COURTS-MARTIAL		
NUMBER OF BAD-CONDUCT DISCHARGES		13

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	5
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	18
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	3

PART 4 - WORKLOAD OF THE COAST GUARD COURT OF CRIMINAL APPEALS

TOTAL ON HAND BEGINNING OF PERIOD		14
GENERAL COURTS-MARTIAL	4	
BCD SPECIAL COURTS-MARTIAL	10	
REFERRED FOR REVIEW		24*
GENERAL COURTS-MARTIAL	7	
BCD SPECIAL COURTS-MARTIAL	16	
TOTAL CASES REVIEWED		25**
GENERAL COURTS-MARTIAL	8	
BCD SPECIAL COURTS-MARTIAL	16	
TOTAL PENDING AT CLOSE OF PERIOD		13
GENERAL COURTS-MARTIAL	3	
BCD SPECIAL COURTS-MARTIAL	10	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-22%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE

U.S. COAST GUARD COURT OF CRIMINAL APPEALS (CCA)

NUMBER	24
PERCENTAGE	100%

PART 6 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES (CAAF)

PERCENTAGE OF CCA-REVIEWED CASES FORWARDED TO CAAF	2/24	8%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-8%
PERCENTAGE OF TOTAL PETITIONS GRANTED	2/8	25%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		SAME
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CGCCA	2/24	8%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-1%

* One extraordinary writ not a court-martial.

** One extraordinary writ not a court-martial.

APPENDIX - U.S. COAST GUARD MILITARY JUSTICE STATISTICS - CONT'D

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ		
TOTAL PENDING BEGINNING OF PERIOD		0
RECEIVED		0
DISPOSED OF		0
GRANTED	0	
DENIED	0	
NO JURISDICTION	0	
WITHDRAWN	0	
TOTAL PENDING AT END OF PERIOD		0
PART 8 – ORGANIZATION OF COURTS		
TRIALS BY MILITARY JUDGE ALONE		
GENERAL COURTS-MARTIAL		7
SPECIAL COURTS-MARTIAL		15
TRIALS BY MILITARY JUDGE WITH MEMBERS		
GENERAL COURTS-MARTIAL		1
SPECIAL COURTS-MARTIAL		3
PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ		
NUMBER OF COMPLAINTS		2
PART 10 – STRENGTH		
AVERAGE ACTIVE DUTY STRENGTH		39,619
PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)		
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		1,658
RATE PER 1,000		41.85
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		+4.35%

