

Advisory Committee on Military Justice: Summary of report (continued)

. . . The Committee concluded that criticism of the Army system of justice garnered from the above material could be summarized as a general concern that this system, as set forth in the Manual for Courts-Martial of the Army, was not followed closely enough, and often broke down for two reasons: “(1) a failure on the part of the Army to foresee the needs of its system of military justice and a reluctance to utilize available men of legal skill so that the courts were frequently staffed with incompetent men; (2) the denial to the courts of independence of action in many instances by the commanding officers who appointed the courts and reviewed their judgments, and who conceived it the duty of the command to interfere for disciplinary purposes.” Witnesses testified that military courts were in disrepute because there was “such disparity and severity in the impact of the system on the guilty,” and that the morale of the troops was impaired as a result. The Committee concluded that the criticism expressed in the material it reviewed was “well founded and reflected actual breakdowns in the operation of the system.”

The Committee made two general recommendations. First, the Secretary of War, the general staff, and the Army should place greater emphasis upon the operation of the Army system of justice. Second, there should be a substantial enlargement of the Judge Advocate General’s Department, and an increase in the number of technicians in the administration of the Army system of justice. These recommendations are further defined in numerous specific recommendations regarding the authorities of courts-martial, including suggested amendments to various Articles of War, and the recommendation that greater specificity be provided in the Manual for Courts-Martial as to court procedures and responsibilities. The Committee recommended that a “Board of Officers be constituted to consider other advisable changes in the Articles of War and in the Manual of Courts-Martial and that such study be a continuous process.”

In two appendices to the committee report, the committee provides summaries and analyses of written comments it received regarding the efficacy of the military justice system. *The Administration of Military Justice* is a summary of “constructive criticism” derived from the body of correspondence provided to the committee. It is organized in two parts: Phases of the system of military justice; and Treatment of criticisms in the order in which they occur in an average case (beginning with pre-trial proceedings). The criticisms, which include recommendations, cover personnel issues, revision of the Manual for Courts-Martial, revision of the Articles of War, and revision of all aspects of the then-current system of military justice (e.g., filing of charges and trials). The *Topical Outline* is a “tabulation and summary discussion of answers received [from generals, Judge Advocate officers, and enlisted men] before 14 October 1946 to the questionnaire mailed out by the War Department Advisory Committee on Military Justice.” It summarizes the merits and weaknesses of the court-martial system, encompassing its purpose, jurisdiction, organization, procedures, and review of proceedings. The outline also addresses the advisability of amending various Articles of War.