

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, 1998 to September 30, 1999

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 TRANSPORTATION,

and

SECRETARIES OF THE

ARMY, NAVY, AND AIR FORCE

PURSUANT TO THE
UNIFORM CODE OF MILITARY JUSTICE
For the Period
October 1, 1998 to September 30, 1999

CONTENTS

Section 1: JOINT ANNUAL REPORT OF THE CODE COMMITTEE

Section 2: REPORT OF THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

Section 3: REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY

Section 4: REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

Section 5: REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE

Section 6: REPORT OF THE CHIEF COUNSEL OF THE COAST GUARD

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, 1998 to September 30, 1999

The Judges of the United States Court of Appeals for the Armed Forces; the Judge Advocates General of the Army, Navy, and Air Force; the Chief Counsel of the Coast Guard; the Director, Judge Advocate Division, Headquarters, United States Marine Corps; Eugene R. Fidell, Esquire, and Professor Fredric I. Lederer, 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 two separate occasions during fiscal year 1999 to consider various matters pertaining to the administration of military justice. As in previous years, both of these meetings were open to the public and interested attendees participated in the proceedings. On each occasion, Code Committee members were presented reports on pending cases and trends in court-martial activity within each of the Armed Forces. Reports and discussions also took place at both meetings concerning the status and content of various pending proposals to amend the Uniform Code of Military Justice and the Manual for Courts-Martial.

The first meeting was held in Charleston, South Carolina, to permit the Code Committee to visit and tour the U.S. Naval Brig, and to receive a briefing on the wide variety of programs administered at this military confinement facility to assist in prisoner rehabilitation. At this meeting the Code Committee also received and considered Annual Confinement Reports of the Army, Navy, Marine Corps, and Air Force for the prior calendar year.

The second meeting was held in Washington, D.C. It included consideration of a report from a representative of the Joint-Service Committee on Military Justice concerning the selection of court-martial members and the committee's review of the current manner in which nonjudicial punishment was being administered under Article 15, UCMJ, within the Armed Forces. Reports from the Subcommittee on the Commemoration of the 50th Anniversary of the Uniform Code of Military Justice and a Joint-Service Committee Study Group on Technology were also discussed.

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, Transportation, Army, Navy, and Air Force.

SUSAN J. CRAWFORD
Chief Judge

EUGENE R. SULLIVAN
Associate Judge

H. F. "SPARKY" GIERKE
Associate Judge

ANDREW S. EFFRON
Associate Judge

WALTER T. COX III
Senior Judge

Major General WALTER B. HUFFMAN, USA
The Judge Advocate of General of the Army

Rear Admiral JOHN D. HUTSON, USN
The Judge Advocate of General of the Navy

Major General WILLIAM A. MOORMAN, USAF
The Judge Advocate of General of the Air Force

Rear Admiral J. S. CARMICHAEL, USCG
Chief Counsel, U.S. Coast Guard

Brigadier General JOSEPH COMPOSTO, USMC
*Director, Judge Advocate Division
Headquarters, United States Marine Corps*

EUGENE R. FIDELL, Esquire
Public Member

Professor FREDRIC I. LEDERER
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 2, 1998 to September 30, 1999

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 1999 Term of 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, Transportation, Army, Navy, and Air Force in accordance with Article 146, Uniform Code of Military Justice, 10 USC § 946.

THE BUSINESS OF THE COURT

The number of cases carried over on the Court's Petition Docket at the end of the 1999 Term of Court reflected a decrease of 22% from the number of cases pending at the end of the prior reporting period. (See Appendix A.) The number of cases carried over on the Master Docket decreased by 27% during the same period. (See Appendix B.)

During the 1999 Term of Court the number of petitions for grant of review filed with the Court decreased by 12% compared with the prior reporting period. (See Appendix J.) Although the number of oral arguments also decreased by 11% during the 1999 Term of Court, the number of opinions released by the Court remained fairly constant. (See Appendices C and D.)*

The overall average processing time from filing to final decision in all cases during the 1999 Term of Court decreased 16% compared with the prior reporting period. (See Appendix I.) The average processing time from the date of filing a petition to the date of a grant by the Court increased by 16% compared with the prior reporting period. (See Appendix E.) However, the processing time

* Although not part of the business of the Court, it is noted that during its 1999 Term the Court was notified that petitions for writ of certiorari were filed with the Supreme Court of the United States in 9 Master Docket cases in which the Court issued a final decision.

from the date of grant to the date of oral argument decreased by 12% when compared with this average during the prior Term of Court. (See Appendix F.) The average processing time from the date of oral argument to final decision remained fairly constant compared with the prior reporting period. (See Appendix G.) The average processing time from the filing of a petition to final decision on the Petition Docket remained fairly constant, but the same overall average on the Master Docket increased by 15%. (See Appendix H.)

Senior Judge Robinson O. Everett was recalled and participated in the review and decision of several cases during the 1999 Term of Court.

During its 1999 Term the Court admitted 547 attorneys to practice before its Bar, bringing the cumulative total of admissions before the Bar of the Court to 31,707.

EXPANSION OF COURT WEB SITE

During the past year the Court has expanded its Internet web site to provide users immediate access to a special Digest of each Court opinion filed during the 1999 Term; an up-to-date Daily Journal of its workload; and a separate up-to-date listing of all granted and certified case issues as well as all summary disposition order cases. These special features offer greater access by the general public to the Court's work and provide an opportunity for prompt legal research by military justice practitioners. In addition to the new Digest of each Court opinion, Appendix K to this report contains a list of all opinions released during the 1999 Term.

RETIREMENT OF CHIEF JUDGE WALTER T. COX III

On September 30, 1999, the judicial term of Chief Judge Walter T. Cox III as a judge of the United States Court of Appeals for the Armed Forces ended. His retirement marked the end of his 15-year term on the Court and the conclusion of his 4-year tenure as its Chief Judge. Throughout his term he authored numerous opinions which significantly contributed to the substantive and procedural areas of military criminal law. While serving as Chief Judge during the past 4 years he continued on the innovative path of his predecessors by establishing the Court's Internet web site, replacing its case management system with a state-of-the-art computerized system, and

overseeing a major courthouse renovation project to provide for increased office space for Court operations. Consistent with his dedication to the Court and at the request of Chief Judge Susan J. Crawford, Judge Cox has consented to continue to serve on the Court as a senior judge in active service pending nomination and confirmation of his replacement. The judges and staff of the Court wish to convey to Congress their gratitude and appreciation to Chief Judge Cox for his outstanding leadership and scholarship while leaving his imprint for judicial excellence on the Court.

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 1999 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 quality of the military's criminal justice system. The Court conducted hearings during this period, without objection of the parties, at Emory University School of Law, Atlanta, Georgia; The Citadel, Charleston, South Carolina; William and Mary School of Law, Williamsburg, Virginia; Georgetown University Law Center, Washington, D.C.; the United States Air Force Academy, Colorado Springs, Colorado; Maxwell Air Force Base, Montgomery, Alabama; and the United States Military Academy, West Point, New York.

"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 the overall administration of military justice throughout the world. The Court hopes that those who attend these hearings from both military and civilian communities will realize that the United States is a democracy that can maintain an armed force instilled with the appropriate discipline to make it a world power, while affording all its members the full protection of the Constitution of the United States and Federal law.

JUDICIAL VISITATIONS

During the 1999 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 and other military personnel at various military installations throughout the world.

JUDICIAL CONFERENCE

On May 6 and 7, 1999, the Court held its annual Judicial Conference at the George Washington University Marvin Center, 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 and a presentation by the Honorable Walter T. Cox III, Chief Judge, United States Court of Appeals for the Armed Forces, on the "State of the Court," followed by speakers who included Professor Christopher Slobogin, Professor of Law, University of Florida College of Law; Mr. Francis A. Gilligan, Senior Legal Advisor to Judge Susan J. Crawford, United States Court of Appeals for the Armed Forces; Colonel Clinton C. Pearson, USAF (Ret.), Former Judge, U.S. Air Force Court of Criminal Appeals; Dr. Jonathan Lurie, Historian to the United States Court of Appeals for the Armed Forces and Professor of History, Rutgers University; and Mr. Stephen D. Smith, Staff Counsel in the Central Legal Staff of the United States Court of Appeals for the Armed Forces, who moderated a panel discussion on Military Rule of Evidence 606(b) with Colonel Kevin Sandkuhler, USMC, Chief, Government Appellate Division, U.S. Navy-Marine Corps Court of Criminal Appeals, Colonel Russell Estey, USA, Chief, Government Appellate Division, U.S. Army Court of Criminal Appeals, Captain Michael Devine, USCG, Chief, Office of Military Justice, U.S. Coast Guard, Colonel Douglas H. Kohrt, USAF, Chief, Defense Appellate Division, U.S. Air Force Court of Criminal Appeals, and Commander Richard Bagley, USN, Defense Appellate Division, U.S. Navy-Marine Corps Court of Criminal Appeals. Additional speakers included Major Maurice A. Lescault, Jr., Professor, Administrative and Civil Law Department, The Judge Advocate General's School, U.S. Army; Major Norman F.J. Allen, III, USA, Professor, Criminal Law Department, The Judge Advocate General's School, U.S. Army; Professor Stephen A. Saltzburg, Professor of Law, George Washington University National Law Center; Major Del Grissom, USAF, Instructor, Military Justice Division, The Judge Advocate General's School, U.S. Air Force; Professor Gary D. Solis, Professor of Law,

United States Military Academy; Charles W. Gittins, Esquire; Lieutenant Colonel J. Kevin Lovejoy, USA, Chief, Criminal Law Department, The Judge Advocate General's School, U.S. Army; Major Martin Sitler, USMC; and Major Lewis J. Puleo, USMC, Director of the Evidence and Environmental Law Divisions, Naval Justice School, U.S. Navy.

The Judge Advocates Association Awards for outstanding career attorneys in each of the Armed Forces were presented by Colonel William R. Hagan, USA (Ret.) to the following: Lieutenant Colonel Thomas K. Emsweiler, JAGC, USA; Commander David A. Wagner, JAGC, USN; Lieutenant Colonel Anthony J. Wolusky, USAF; Lieutenant Colonel Walter S. Michael, USAFR; Major Steven D. Lindsey, USAFR; Major Daniel J. Lecce, USMC; Commander William D. Baumgartner, USCGR; and Lieutenant Colonel Charles D. Roberts and Major Elizabeth C. Masters, Florida National Guard.

SUSAN J. CRAWFORD
Chief Judge

EUGENE R. SULLIVAN
Associate Judge

H.F. "SPARKY" GIERKE
Associate Judge

ANDREW S. EFFRON
Associate Judge

WALTER T. COX III
Senior Judge

USCA STATISTICAL REPORT

1999 TERM OF COURT

CUMULATIVE SUMMARY

CUMULATIVE PENDING OCTOBER 2, 1998

Master Docket	105
Petition Docket	290
Miscellaneous Docket	<u>3</u>
TOTAL	398

CUMULATIVE FILINGS

Master Docket	157
Petition Docket	1051
Miscellaneous Docket	<u>32</u>
TOTAL	1240

CUMULATIVE TERMINATIONS

Master Docket	185
Petition Docket	1115
Miscellaneous Docket	<u>32</u>
TOTAL	1332

CUMULATIVE PENDING OCTOBER 1, 1999

Master Docket	77
Petition Docket	226
Miscellaneous Docket	<u>3</u>
TOTAL	306

OPINION SUMMARY

<u>CATEGORY</u>	<u>SIGNED</u>	<u>PER CURIAM</u>	<u>MEM/ORDER</u>	<u>TOTAL</u>
Master Docket	116	6	63	185
Petition Docket	0	0	1115	1115
Miscellaneous Docket	<u>0</u>	<u>1</u>	<u>31</u>	<u>32</u>
TOTAL	116	7	1209	1332

FILINGS (MASTER DOCKET)

Remanded from Supreme Court	1
Returned from Court of Criminal Appeals....	2
Mandatory appeals filed	0
Certificates filed	6
Reconsideration granted	1
Petitions granted (from Petition Docket)...	<u>147</u>
TOTAL	157

TERMINATIONS (MASTER DOCKET)

Findings & sentence affirmed	138	
Reversed in whole or in part	45	Signed 116
Granted petitions vacated	0	Per curiam .. 6
Other disposition directed	<u>2</u>	Mem/order .. <u>63</u>
TOTAL	185	TOTAL 185

PENDING (MASTER DOCKET)

Awaiting briefs	29
Awaiting oral argument	43
Awaiting lead case decision (trailer cases)	4
Awaiting final action	<u>1</u>
TOTAL	77

FILINGS (PETITION DOCKET)

Petitions for grant of review filed	1047
Petitions for new trial filed	2
Cross-petitions for grant filed	1
Petitions for reconsideration granted	0
Returned from Court of Criminal Appeals ...	<u>1</u>
TOTAL	1051

TERMINATIONS (PETITION DOCKET)

Petitions for grant dismissed	5	
Petitions for grant denied	917	
Petitions for grant granted	147	
Petitions for grant remanded	27	Signed 0
Petitions for grant withdrawn	13	Per curiam .. 0
Other	<u>6</u>	Mem/order .. <u>1115</u>
TOTAL	1115	TOTAL 1115

PENDING (PETITION DOCKET)

Awaiting briefs	63
Awaiting Central Legal Staff review	94
Awaiting final action	<u>69</u>
TOTAL	226

FILINGS (MISCELLANEOUS DOCKET)

Remanded from Supreme Court	1
Writs of error coram nobis sought	4
Writs of habeas corpus sought	1
Other extraordinary relief sought	2
Writ appeals sought	<u>24</u>
TOTAL	32

TERMINATIONS (MISCELLANEOUS DOCKET)

Petitions withdrawn	1	
Petitions remanded	0	
Petitions granted	2	
Petitions denied	28	Signed 0
Petitions dismissed	1	Per curiam. 1
Other	<u>0</u>	Mem/order.. <u>31</u>
TOTAL	32	TOTAL 32

PENDING (MISCELLANEOUS DOCKET)

Awaiting briefs	1
Awaiting Writs Counsel review	0
Awaiting final action	<u>2</u>
TOTAL	3

RECONSIDERATIONS & REHEARINGS

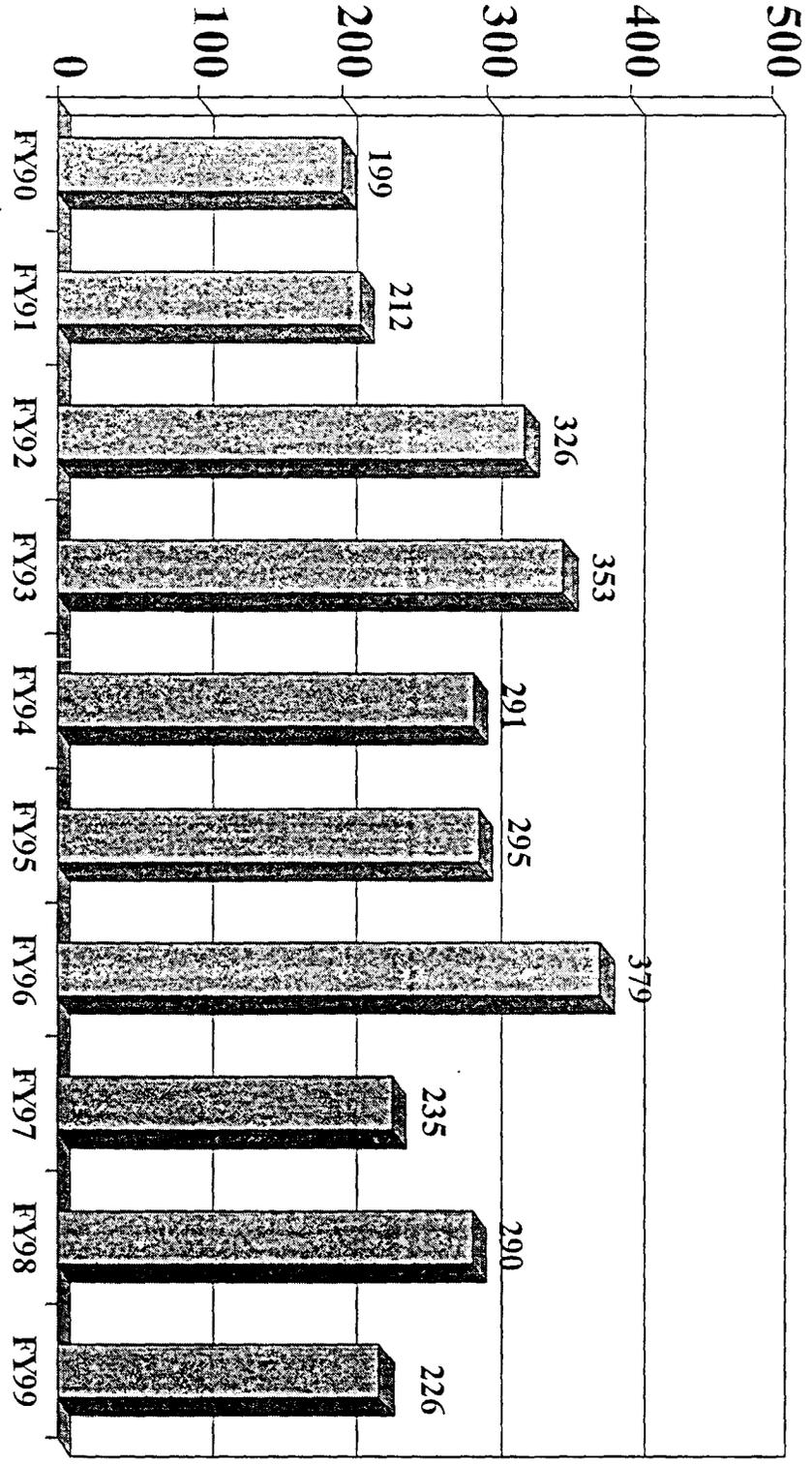
<u>CATEGORY</u>	<u>BEGIN</u>	<u>FILINGS</u>	<u>END</u>	<u>DISPOSITIONS</u>		
	<u>PENDING</u>		<u>PENDING</u>	<u>Granted</u>	<u>Denied</u>	<u>Total</u>
Master Docket	6	9	3	1	11	12
Petition Docket ..	0	7	2	0	5	5
Misc. Docket	<u>0</u>	<u>4</u>	<u>0</u>	<u>0</u>	<u>4</u>	<u>4</u>
TOTAL	6	20	5	1	20	21

MOTIONS ACTIVITY

<u>CATEGORY</u>	<u>BEGIN</u>	<u>FILINGS</u>	<u>END</u>	<u>DISPOSITIONS</u>			
	<u>PENDING</u>		<u>PENDING</u>	<u>Granted</u>	<u>Denied</u>	<u>Other</u>	<u>Total</u>
All motions	25	926	12	874	65	0	939

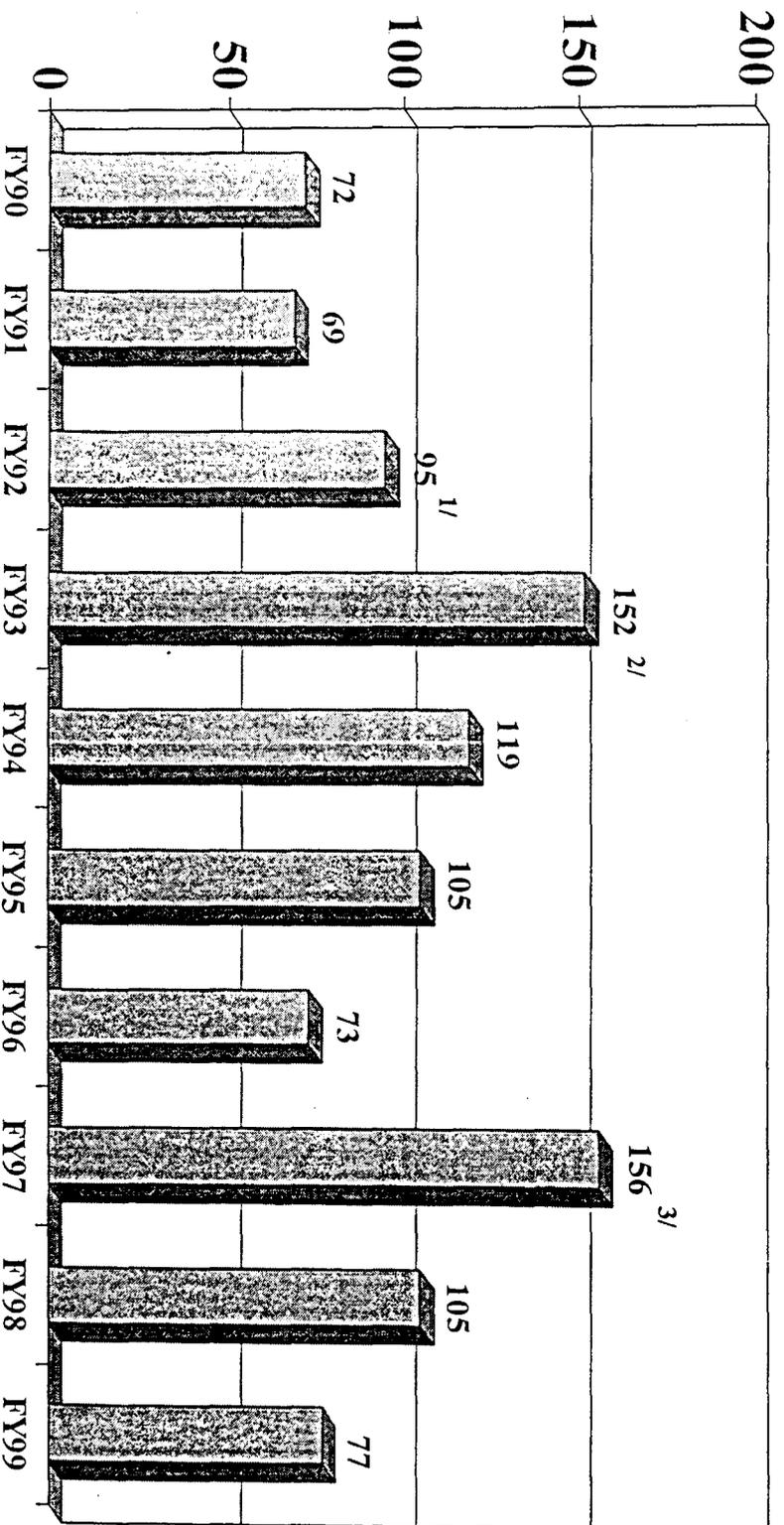
APPENDIX A

Petition Docket Year End Pending



APPENDIX B

Master Docket Year End Pending



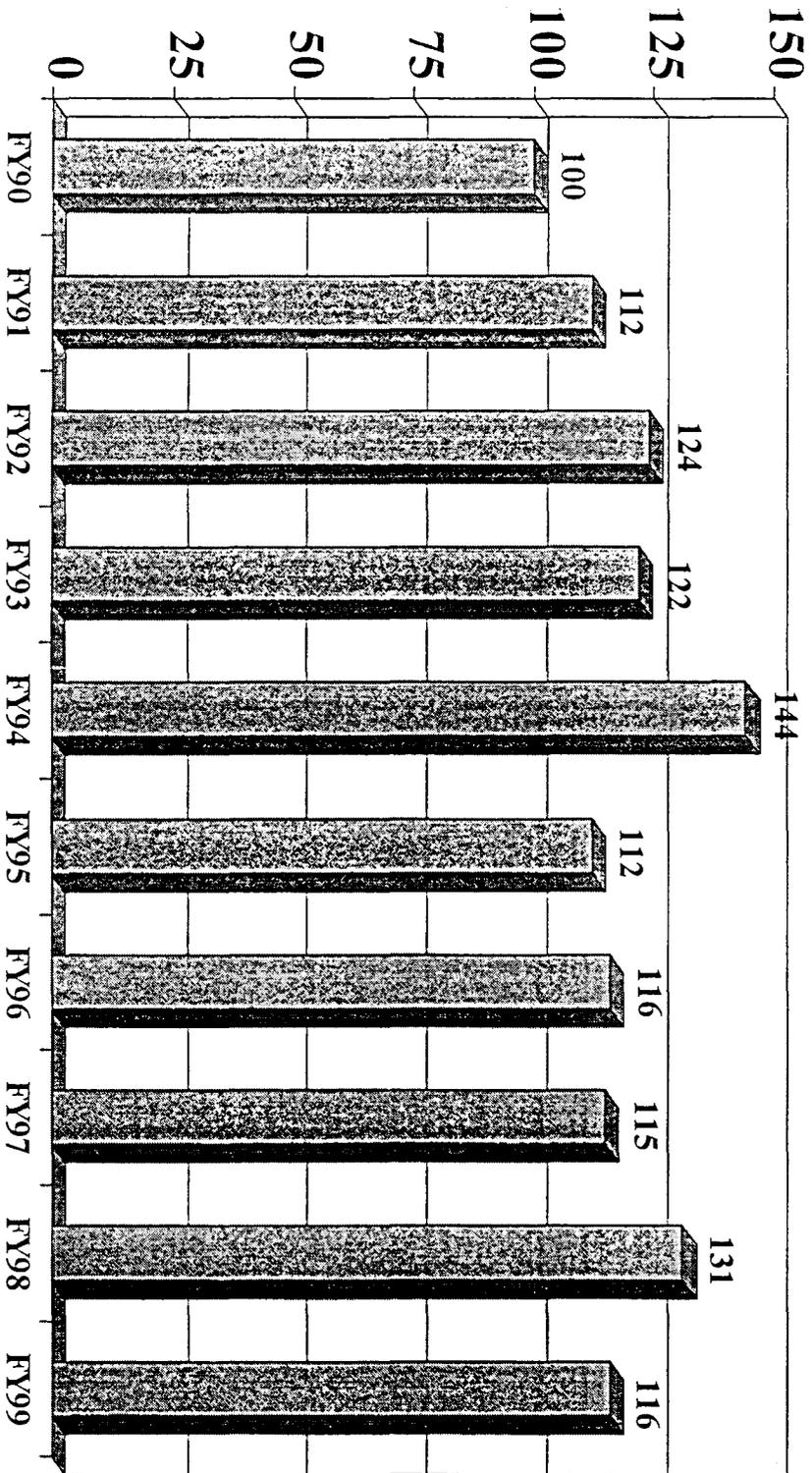
1/ This figure does not include 16 trailer cases to United States v. Watson, No. 68206/MC, and 8 trailer cases to United States v. Weiss, No. 67869/MC.

2/ This figure does not include 87 trailer cases to United States v. Mitchell, No. 93-1044/NA, and 9 trailer cases to United States v. Rexroat, No. 93-5007/AR.

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

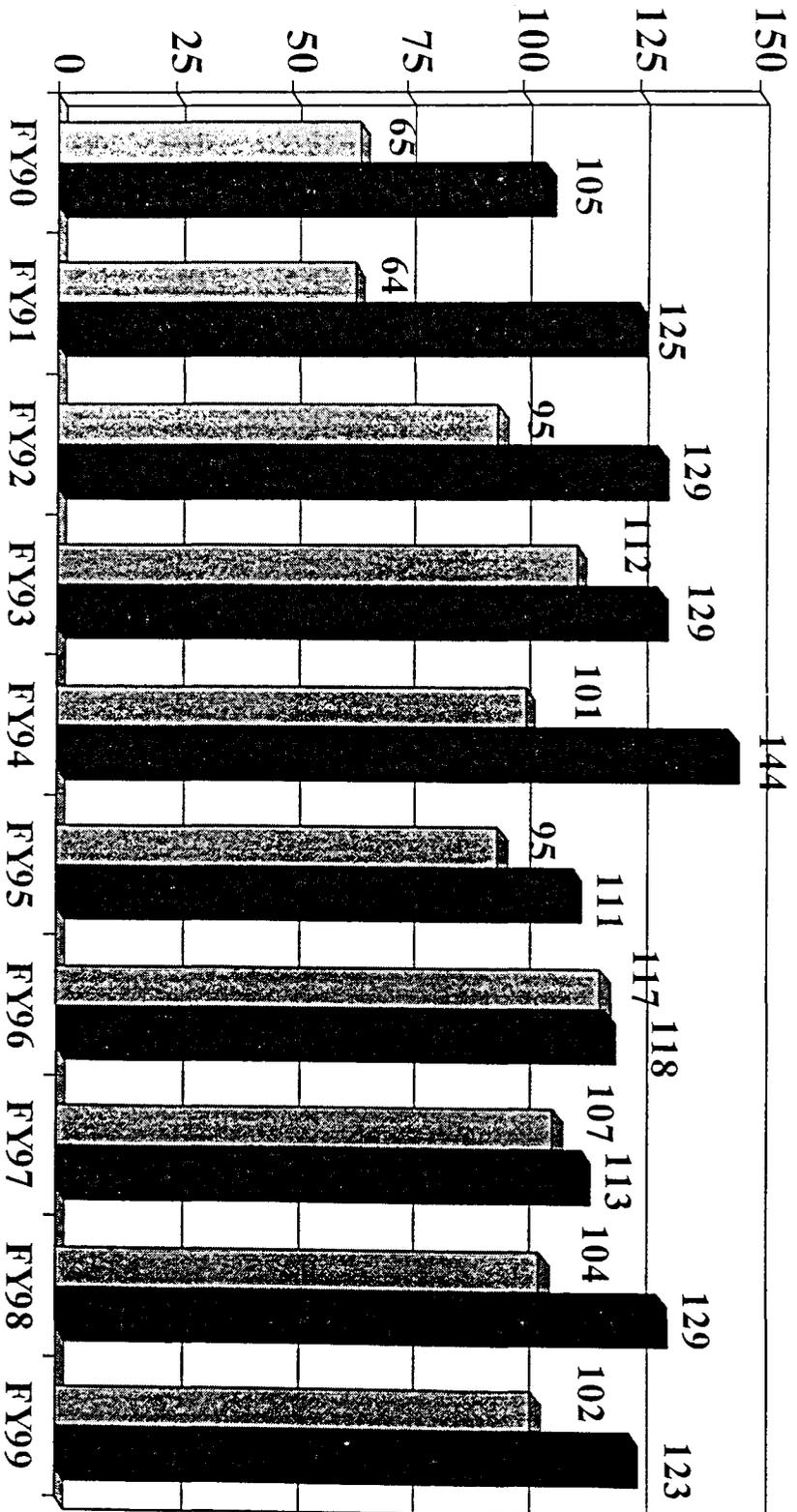
APPENDIX C

Oral Arguments Per Year



APPENDIX D

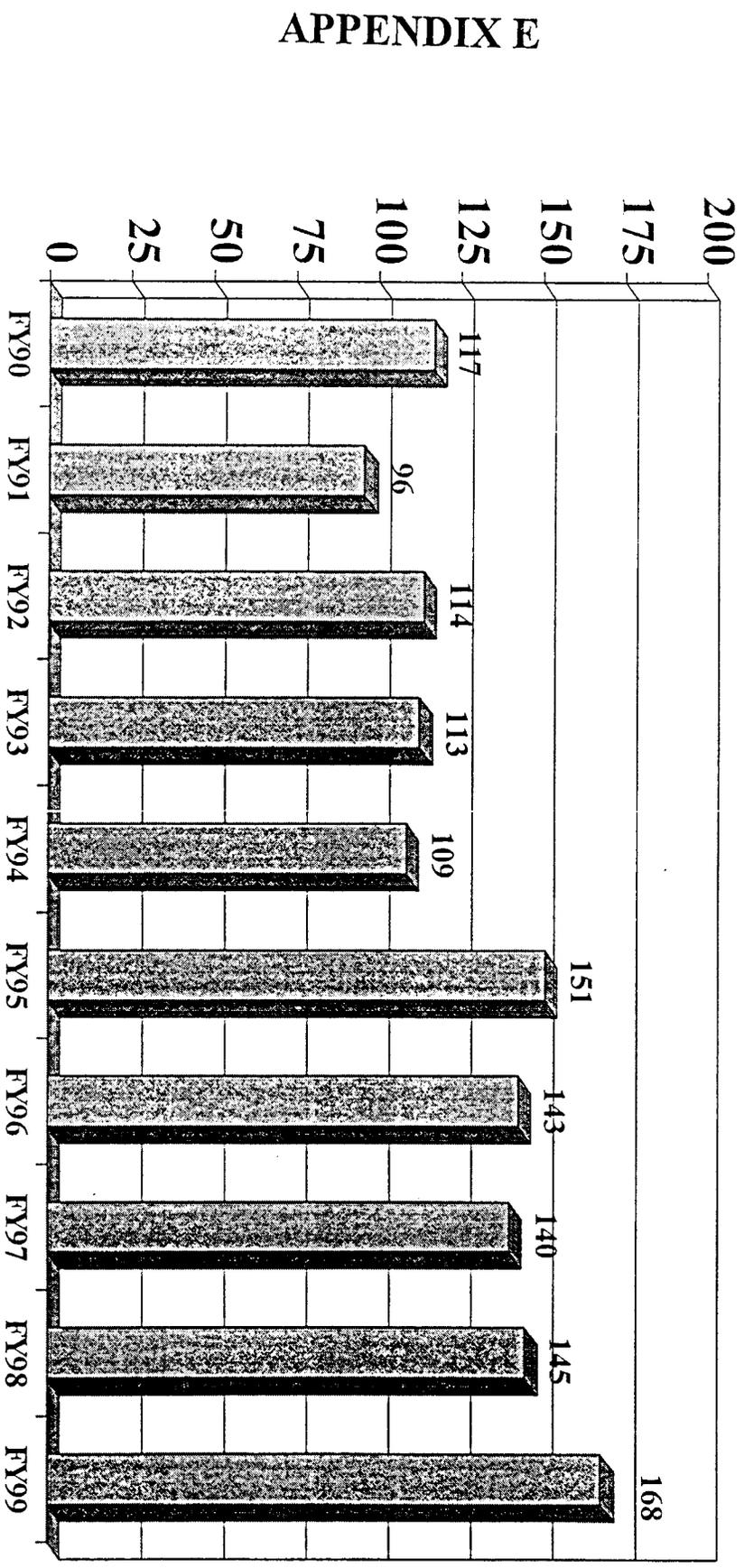
Total Opinions Per Year



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

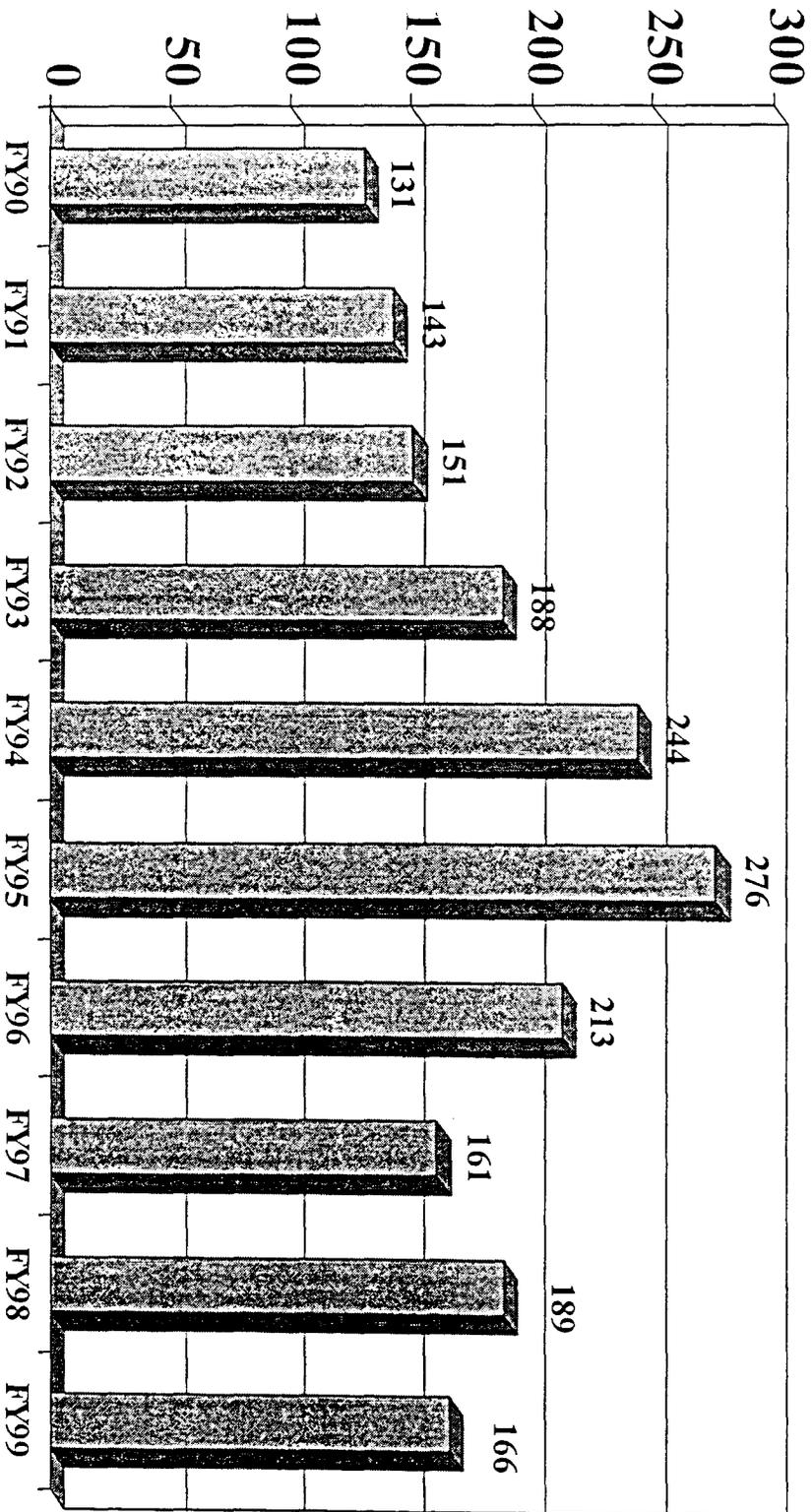
■ TOTAL COURT OPINIONS

Days from Petition Filing to Grant



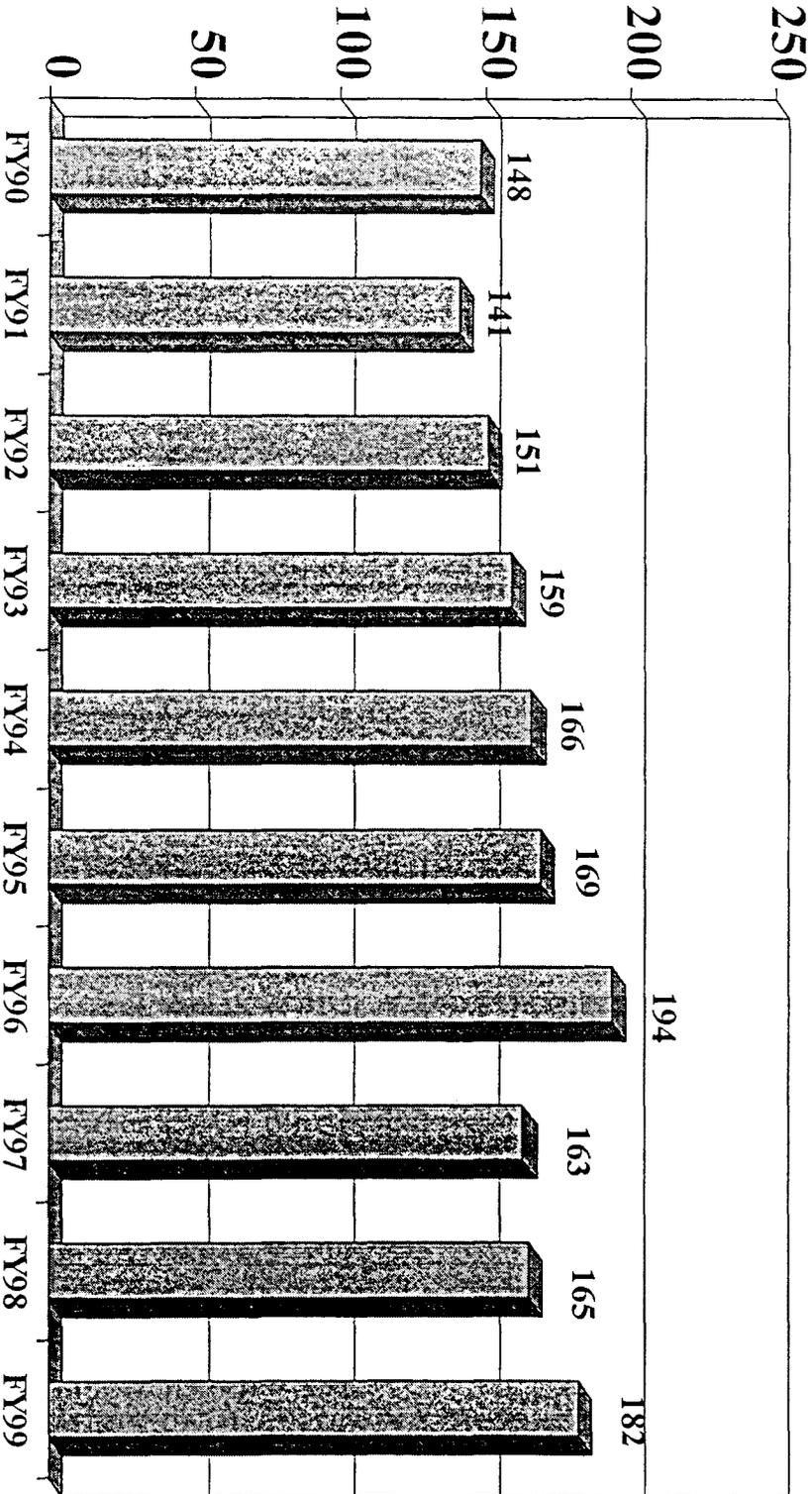
APPENDIX F

Days from Petition Grant to Oral Argument



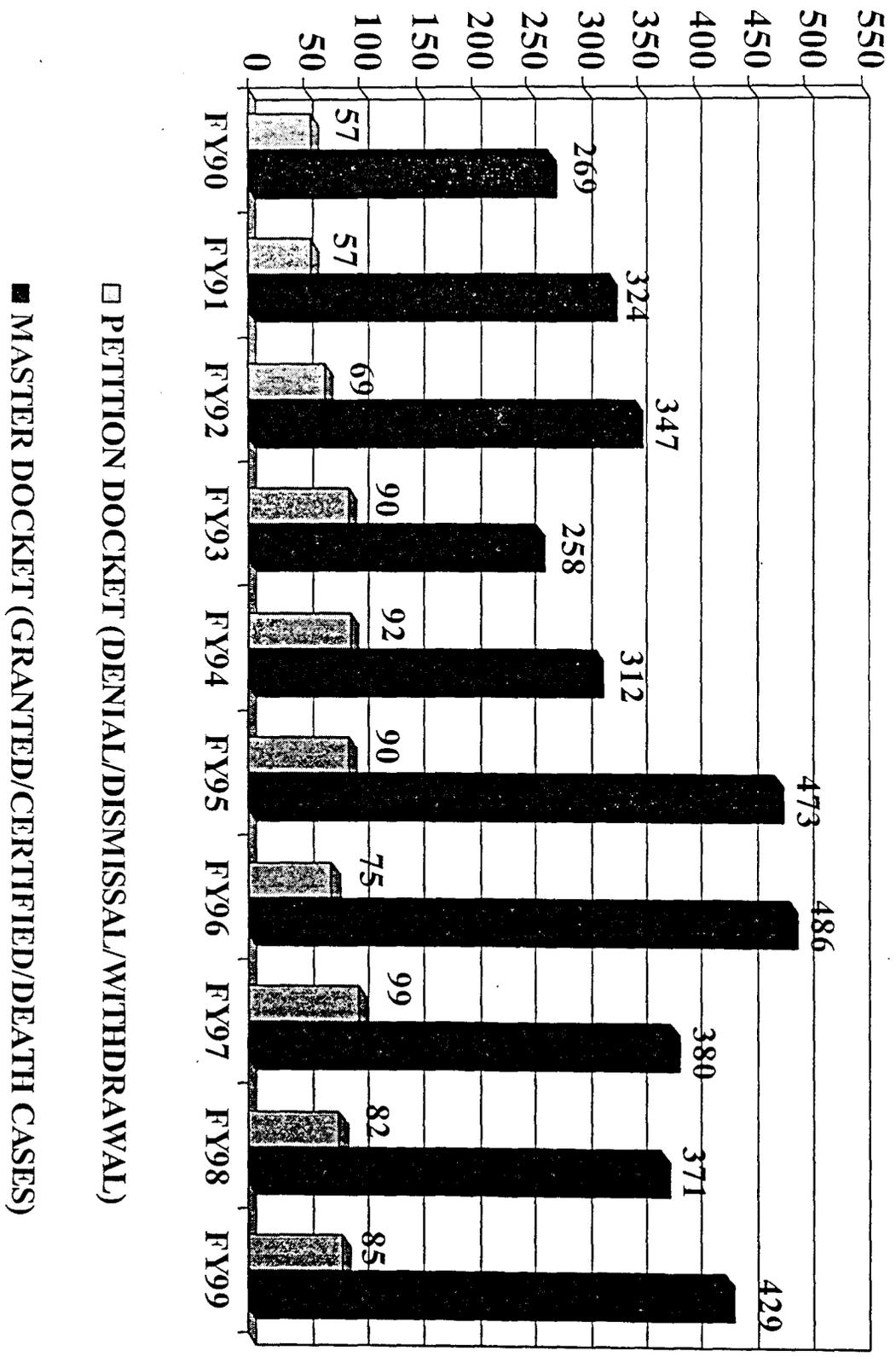
APPENDIX G

Days from Oral Argument
to Final Decision



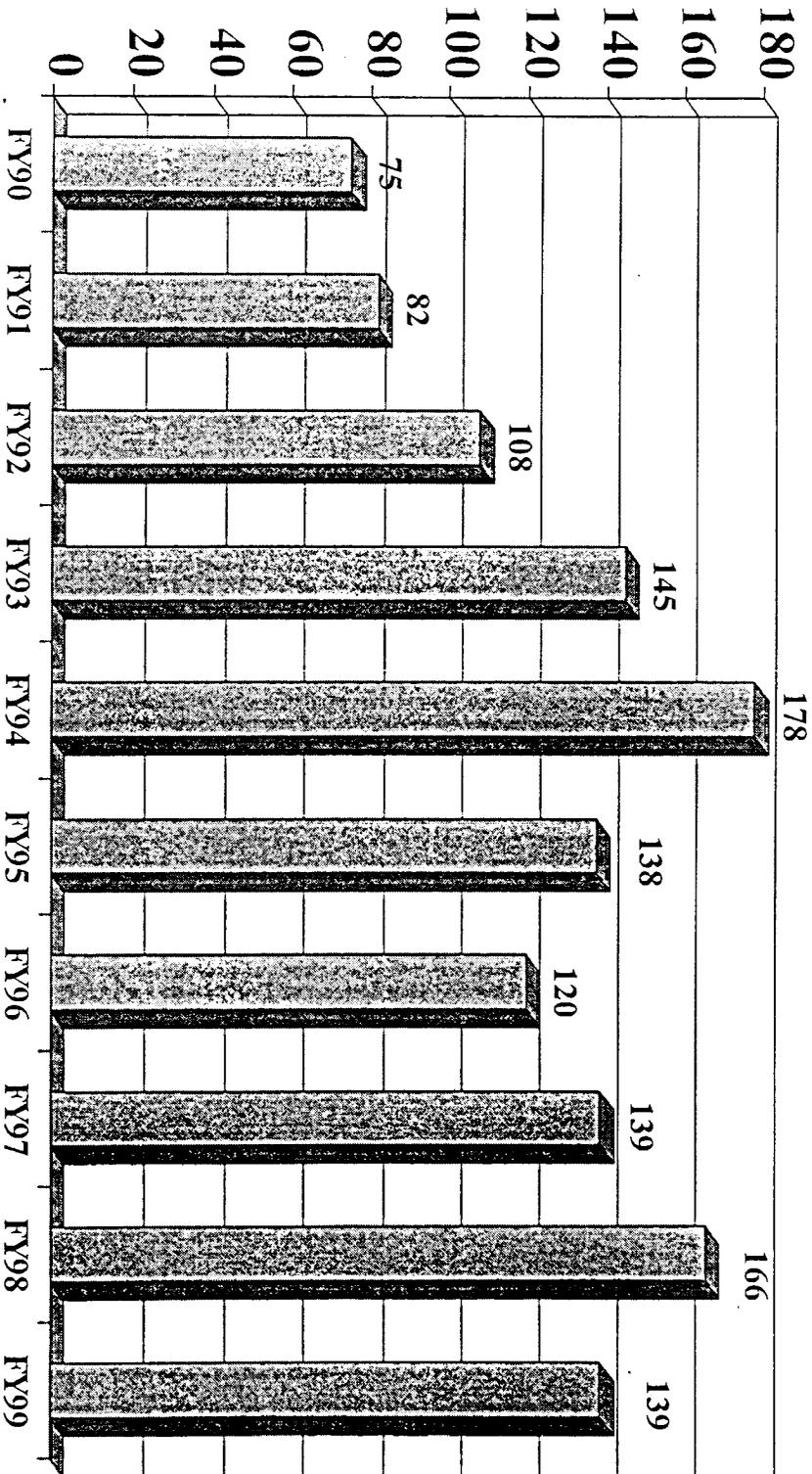
APPENDIX H

Days from Petition Filing to Final Decision



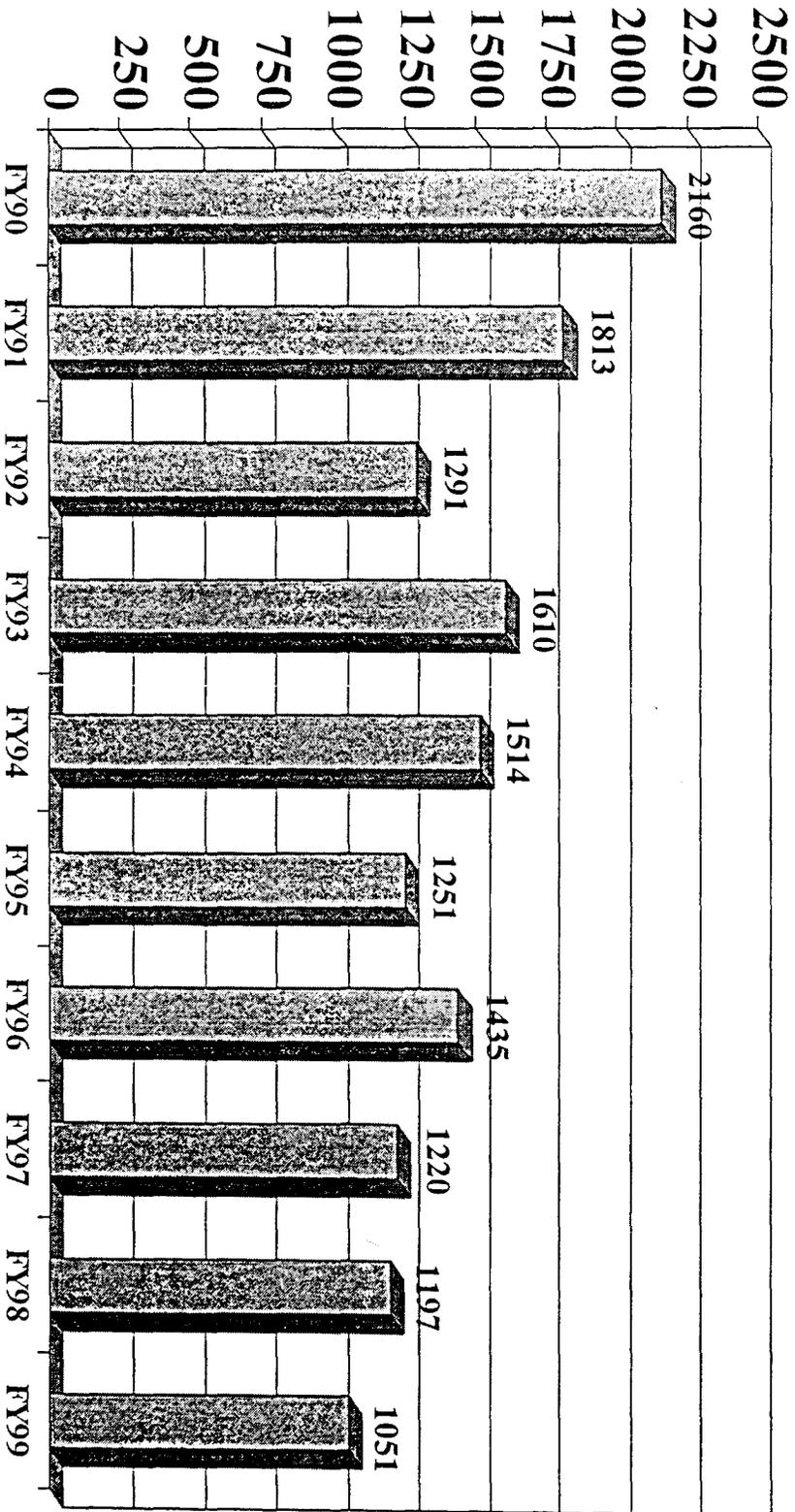
APPENDIX I

Days from Filing to Final Decision in All Cases

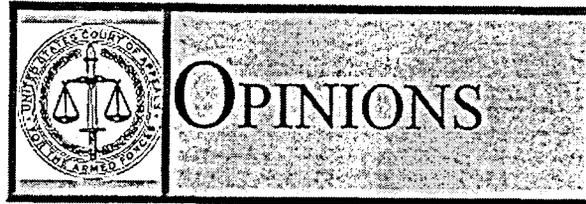


APPENDIX J

Total Petitions Filled Per Year



APPENDIX K



1999 Term of Court (Oct 2, 1998 - Sep 30, 1999)

The following opinions are available in HyperText Markup Language (HTML).

<u>CASE NAME</u>	<u>DOCKET #</u>	<u>OPINION DATE</u>	<u>MJ CITATION</u>
U.S. v. Simoy	<u>97-7001/AF</u>	Oct 20, 1998	50 MJ 1
U.S. v. Murphy	<u>64,926/AR</u>	Dec 16, 1998	50 MJ 4
U.S. v. Clemente	<u>97-0978/AF</u>	Feb 3, 1999	50 MJ 36
U.S. v. Graham	<u>97-0617/AF</u>	Mar 9, 1999	50 MJ 56
U.S. v. Roland	<u>98-0015/AF</u>	Mar 17, 1999	50 MJ 66
U.S. v. Stuart	<u>98-5029/AF</u>	Mar 19, 1999	50 MJ 72
U.S. v. Southworth	<u>97-1203/NA</u>	Mar 24, 1999	50 MJ 74
U.S. v. Mitchell	<u>96-1198/AF</u>	Mar 26, 1999	50 MJ 79
U.S. v. Allen	<u>97-1016/AR</u>	Mar 26, 1999	50 MJ 84
Steele v. Van Riper	<u>98-8010/MC</u>	Mar 26, 1999	50 MJ 89
U.S. v. Bickley	<u>98-0036/AR</u>	Apr 7, 1999	50 MJ 93
U.S. v. Russell	<u>98-0207/AF</u>	Apr 7, 1999	50 MJ 99
U.S. v. Watt	<u>98-0306/MC</u>	Apr 7, 1999	50 MJ 102
U.S. v. Reist	<u>98-0888/MC</u>	Apr 7, 1999	50 MJ 108
U.S. v. Biagase	<u>98-0152/MC</u>	Apr 13, 1999	50 MJ 143
U.S. v. Campbell	<u>97-0149/AR</u>	Apr 20, 1999	50 MJ 154
U.S. v. Acevedo	<u>97-1164/CG</u>	Apr 21, 1999	50 MJ 169

U.S. v. Gilbert	<u>98-0034/CG</u>	Apr 21, 1999	50 MJ 176
U.S. v. Thomasson	<u>98-0758/NA</u>	Apr 22, 1999	50 MJ 179
U.S. v. McLaughlin	<u>96-0507/MC</u>	Apr 28, 1999	50 MJ 217
U.S. v. Savage	<u>98-0273/AR</u>	May 3, 1999	50 MJ 244
U.S. v. Hall	<u>97-0731/AR</u>	May 5, 1999	50 MJ 247
U.S. v. Schuler	<u>98-0160/NA</u>	May 6, 1999	50 MJ 254
U.S. v. Thompson	<u>98-0182/AR</u>	May 6, 1999	50 MJ 257
U.S. v. Brown	<u>98-0251/MC</u>	May 11, 1999	50 MJ 262
U.S. v. Underwood	<u>98-0275/AF</u>	May 11, 1999	50 MJ 271
U.S. v. Griffin	<u>98-0056/AF</u>	May 12, 1999	50 MJ 278
U.S. v. Lacy	<u>98-0511/MC</u>	May 12, 1999	50 MJ 286
U.S. v. Fee	<u>98-0431/NA</u>	May 12, 1999	50 MJ 290
U.S. v. Noble	<u>98-0569/MC</u>	May 12, 1999	50 MJ 293
U.S. v. Lee	<u>99-0002/AF</u>	May 12, 1999	50 MJ 296
U.S. v. Belflower	<u>98-5025/AF</u>	May 19, 1999	50 MJ 306
U.S. v. Abrams	<u>98-0784/MC</u>	May 21, 1999	50 MJ 361
U.S. v. Olinger	<u>98-0095/NA</u>	May 26, 1999	50 MJ 365
U.S. v. Short	<u>98-0265/NA</u>	May 26, 1999	50 MJ 370
U.S. v. Smith	<u>98-0356/AR</u>	May 26, 1999	50 MJ 380
U.S. v. Gray	<u>93-7001/AR</u>	May 28, 1999	51 MJ 1
U.S. v. Falk	<u>98-0064/AF</u>	May 28, 1999	50 MJ 385
U.S. v. Williams	<u>98-0208/AF</u>	May 28, 1999	50 MJ 397
U.S. v. Halford	<u>98-0325/AF</u>	Jun 2, 1999	50 MJ 402
U.S. v. McDaniels	<u>98-0825/MC</u>	Jun 9, 1999	50 MJ 407
U.S. v. Riley	<u>98-0146/AF</u>	Jun 14, 1999	50 MJ 410
U.S. v. Davis	<u>97-0790/MC</u>	Jun 24, 1999	50 MJ 426
U.S. v. Williams	<u>98-0258/AR</u>	Jun 25, 1999	50 MJ 436

U.S. v. Fox	<u>98-0498/MC</u>	Jun 25, 1999	50 MJ 444
U.S. v. Anderson	<u>98-0092/MC</u>	Jun 29, 1999	50 MJ 447
U.S. v. Smith	<u>98-0775/AR</u>	Jun 29, 1999	50 MJ 451
U.S. v. Schrode	<u>98-0029/MC</u>	Jun 30, 1999	50 MJ 459
U.S. v. Weisbeck	<u>98-0646/AR</u>	Jun 30, 1999	50 MJ 461
U.S. v. Howard	<u>98-0522/MC</u>	Jul 1, 1999	50 MJ 469
U.S. v. Mayo	<u>98-1022/AR</u>	Jul 1, 1999	50 MJ 473
U.S. v. Glover	<u>98-0822/AR</u>	Jul 2, 1999	50 MJ 476
U.S. v. Griffin	<u>98-1075/AR</u>	Jul 12, 1999	50 MJ 480
U.S. v. McClain	<u>98-0752/AR</u>	Jul 14, 1999	50 MJ 483
U.S. v. Bertie	<u>98-0232/AR</u>	Jul 15, 1999	50 MJ 489
U.S. v. Voorhees	<u>98-0309/MC</u>	Jul 15, 1999	50 MJ 494
U.S. v. Sherman	<u>98-0489/NA</u>	Jul 15, 1999	51 MJ 73
U.S. v. Warden	<u>98-0237/AR</u>	Jul 21, 1999	51 MJ 78
U.S. v. Armon	<u>98-0388/AR</u>	Jul 21, 1999	51 MJ 83
U.S. v. Spann	<u>98-0769/MC</u>	Jul 23, 1999	51 MJ 89
U.S. v. Muirhead	<u>98-0658/NA</u>	Jul 28, 1999	51 MJ 94
U.S. v. Anderson	<u>97-1137/AF</u>	Jul 30, 1999	51 MJ 145
U.S. v. Eggen	<u>98-0502/AF</u>	Jul 30, 1999	51 MJ 159
U.S. v. Sanchez	<u>98-0635/MC</u>	Jul 30, 1999	51 MJ 165
U.S. v. Diaz-Duprey	<u>98-0679/AR</u>	Jul 30, 1999	51 MJ 168
U.S. v. Gammons	<u>98-5031/CG</u>	Jul 30, 1999	51 MJ 169
U.S. v. Finster	<u>98-5032/NA</u>	Jul 30, 1999	51 MJ 185
U.S. v. Harris	<u>98-0914/AR</u>	Aug 2, 1999	51 MJ 191
U.S. v. Gibson	<u>98-5030/AR</u>	Aug 2, 1999	51 MJ 198
U.S. v. Owens	<u>98-0133/AF</u>	Aug 9, 1999	51 MJ 204
U.S. v. Richter	<u>98-0109/AF</u>	Aug 9, 1999	51 MJ 213

U.S. v. Johnston	<u>98-0829/NA</u>	Aug 9, 1999	51 MJ 227
U.S. v. Miley	<u>98-0721/NA</u>	Aug 11, 1999	51 MJ 232
U.S. v. Mitchell	<u>98-0248/NA</u>	Aug 12, 1999	51 MJ 234
U.S. v. Cooper	<u>98-0704/AF</u>	Aug 12, 1999	51 MJ 247
U.S. v. Grimm	<u>98-0975/MC</u>	Aug 12, 1999	51 MJ 254
U.S. v. Hawes	<u>98-0199/AF</u>	Aug 13, 1999	51 MJ 258
U.S. v. Sidwell	<u>98-0595/AR</u>	Aug 13, 1999	51 MJ 262
U.S. v. McFadyen	<u>99-0129/AF</u>	Aug 16, 1999	51 MJ 289
U.S. v. Scott	<u>98-0987/AR</u>	Aug 19, 1999	51 MJ 326
U.S. v. Lewis	<u>98-0335/NA</u>	Aug 20, 1999	51 MJ 376
U.S. v. Taylor	<u>96-1241/AF</u>	Aug 27, 1999	51 MJ 390
U.S. v. Carpenter	<u>98-1050/NA</u>	Aug 31, 1999	51 MJ 393
U.S. v. Nelson	<u>98-1109/AR</u>	Sep 1, 1999	51 MJ 399
U.S. v. Kerr	<u>98-0359/AF</u>	Sep 3, 1999	51 MJ 401
U.S. v. Hargrove	<u>99-0346/AR</u>	Sep 3, 1999	51 MJ 408
U.S. v. Dawson	<u>98-0434/MC</u>	Sep 9, 1999	51 MJ 411
U.S. v. Pilkington	<u>98-0512/MC</u>	Sep 9, 1999	51 MJ 415
U.S. v. Griggs	<u>98-1076/NA</u>	Sep 9, 1999	51 MJ 418
U.S. v. Izquierdo	<u>98-0100/NA</u>	Sep 10, 1999	51 MJ 421
U.S. v. Marine	<u>98-1021/MC</u>	Sep 10, 1999	51 MJ 425
U.S. v. Thompson	<u>98-0594/AF</u>	Sep 17, 1999	51 MJ 431
U.S. v. Bradley	<u>98-1113/AF</u>	Sep 17, 1999	51 MJ 437
U.S. v. Ford	<u>98-0855/AR</u>	Sep 23, 1999	51 MJ 445
U.S. v. Whitner	<u>98-0837/AR</u>	Sep 24, 1999	51 MJ 457
U.S. v. Doty	<u>98-0949/NA</u>	Sep 24, 1999	51 MJ 464
U.S. v. Mitchell	<u>97-0935/MC</u>	Sep 27, 1999	51 MJ 490
U.S. v. Barron	<u>98-0210/AR</u>	Sep 27, 1999	52 MJ 1

U.S. v. Vassar	<u>98-0321/AF</u>	Sep 27, 1999	52 MJ 9
U.S. v. Henderson	<u>98-0847/AR</u>	Sep 27, 1999	52 MJ 14
U.S. v. Martinez	<u>98-0998/AR</u>	Sep 27, 1999	52 MJ 22
U.S. v. Villareal	<u>98-0200/NA</u>	Sep 28, 1999	52 MJ 27
U.S. v. Haagenson	<u>98-0581/MC</u>	Sep 28, 1999	52 MJ 34
U.S. v. Brownfield	<u>98-0795/NA</u>	Sep 28, 1999	52 MJ 40
U.S. v. Knight	<u>98-0946/AR</u>	Sep 28, 1999	52 MJ 47
U.S. v. Lee	<u>98-0952/AF</u>	Sep 28, 1999	52 MJ 51
U.S. v. Magnan	<u>98-1001/MC</u>	Sep 29, 1999	52 MJ 56
U.S. v. Jones	<u>97-0723/AR</u>	Sep 29, 1999	52 MJ 60
U.S. v. Hicks	<u>97-0432/AR</u>	Sep 30, 1999	52 MJ 70
U.S. v. Schlamer	<u>98-0301/MC</u>	Sep 30, 1999	52 MJ 80
U.S. v. Rockwood	<u>98-0488/AR</u>	Sep 30, 1999	52 MJ 98
U.S. v. Morrison	<u>98-0617/AR</u>	Sep 30, 1999	52 MJ 117
U.S. v. Wells	<u>98-0681/NA</u>	Sep 30, 1999	52 MJ 126
U.S. v. Wright	<u>98-0873/MC</u>	Sep 30, 1999	52 MJ 136
U.S. v. Fogg	<u>98-0910/MC</u>	Sep 30, 1999	52 MJ 144
U.S. v. Rock	<u>98-0947/AR</u>	Sep 30, 1999	52 MJ 154
U.S. v. Robbins	<u>98-1061/AF</u>	Sep 30, 1999	52 MJ 159
U.S. v. Curtis	<u>99-5001/MC</u>	Sep 30, 1999	52 MJ 166
U.S. v. Holt	<u>98-0037/MC</u>	Sep 30, 1999	52 MJ 173
U.S. v. Roth	<u>98-0270/AR</u>	Sep 30, 1999	52 MJ 187
U.S. v. Morris	<u>98-0471/MC</u>	Sep 30, 1999	52 MJ 193
U.S. v. Davis	<u>98-0497/NA</u>	Sep 30, 1999	52 MJ 201
U.S. v. Birge	<u>98-1002/MC</u>	Sep 30, 1999	52 MJ 209



SECTION 3

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY

OCTOBER 1, 1998, TO SEPTEMBER 30, 1999

During fiscal year 1999 (FY 99), 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 Uniform Code of Military Justice (UCMJ). Through its Field Operating Agencies, OTJAG provided judicial and appellate services, advice, assistance, and professional education to ensure the orderly and efficient administration of military justice. Numbers in this report are based on an Army end strength of 479,426 in FY 99. The Army end strength was 484,054 in FY 98.

MILITARY JUSTICE STATISTICS

STATISTICAL SUMMARY: FY 99

(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, the Clerk of Court, the Examination and New Trials Division, and the Trial Judiciary.

U.S. ARMY TRIAL DEFENSE SERVICE

The United States Army Trial Defense Service (USATDS), a defense service consisting of approximately 130 attorneys, provided high quality, professional defense services to soldiers throughout the Army from 55 offices worldwide. USATDS counsel defended soldiers facing the entire range of allegations under the Uniform Code of Military Justice.

USATDS counsel carried a large workload in FY 99 with workload data for FYs 97, 98, and 99 as displayed below.

	FY97	FY98	FY99
General Courts-Martial	796	694	722
Special Courts-Martial	344	286	331
Administrative Boards	564	597	698
Nonjudicial Punishment	33,185	32,181	31,595
Consultations	30,026	28,668	26,794

USATDS provided defense services to deployed forces around the world, including Southwest Asia, Macedonia, Haiti, Kuwait, Hungary, Bosnia and Kosovo. At certain locations, USATDS maintained inter-service agreements to provide defense services to military personnel from other services. TDS continued to support soldiers in Physical Evaluation Boards (PEB) at selected locations.

The National Capital Region Technology Management Office has provided eight desktop video teleconferencing computer-driven units to eight USATDS offices that support distant clients.

USATDS also assisted in developing a new memorandum of agreement establishing relationships with newly created Reserve trial defense units.

The Office of the Chief, USATDS, relocated to improved facilities at Arlington, Virginia, a move that will enable the Trial Defense Service to more efficiently lead the defense organization.

TRIAL COUNSEL ASSISTANCE PROGRAM

During Fiscal Year (FY) 1999, the U.S. Army's Trial Counsel Assistance Program (TCAP) fulfilled its mission of providing information, advice, training, and trial assistance to military prosecutors world-wide. In addition to services provided to Army attorneys, TCAP had an expanded constituency among prosecutors in the Air Force, Navy, Marine Corps, and Coast Guard. TCAP provided four basic categories of services during FY 1999:

(1) telephone/e-mail inquiry assistance; (2) advocacy training courses; (3) publications; and (4) trial assistance. During FY 1999, TCAP personnel (three Army judge advocates supported by a civilian paralegal) accomplished the following: responded to 361 telephonic requests for assistance; answered 138 e-mail requests for assistance; sent out materials 134 times in response to calls; and, conducted 10

three-day advocacy training courses in the continental United States, Korea, Hawaii, and Germany, providing 215 hours of continuing legal education to 190 judge advocates from all services at a cost of \$23,834.00 or \$125.45 per judge advocate trained. In addition, TCAP expanded the new TCAP website consisting of 5 databases and more than 500 full-text searchable documents. The website is readily accessible via the Lotus Notes system or the World Wide Web (WWW). Applications for access from the WWW increased to 847, more than double the 400 applications for FY 1998. The reduction in phone calls is directly attributable to increased website access. Reservists, National Guard, and sister services continue to request access at a pace roughly equal to requests from Army personnel. On one occasion, TCAP provided a briefing on the TCAP mission to the Senior Prosecutor for the Korean Army. For the first time, TCAP gave a presentation at the Military Justice Managers Course at The Judge Advocate General's School.

Beyond this extensive support to trial counsel, TCAP attorneys prepared 9 Answers and Returns to Habeas Corpus petitions filed with the Office of the U.S. Attorney for the District of Kansas or the United States Court of Appeals for the Tenth Circuit. TCAP reviewed, monitored, and responded to 11 Extraordinary Writs filed in either the Army Court of Criminal Appeals or the Court of Appeals for the Armed Forces and handled three Government Appeals. Finally, they prepared briefs and presented oral argument before the Army Court of Criminal Appeals and the Court of Appeals for the Armed Forces in assistance to other branches of the Government Appellate Division.

SIGNIFICANT MILITARY JUSTICE ACTIONS

Criminal Law Division, OTJAG, advises The Judge Advocate General on military justice policy, legislation, opinions, and related criminal law actions. Specific responsibilities include: promulgating military justice regulations and reviewing Army regulations for legal sufficiency, military corrections, the Army's drug testing program, federal felony and magistrate court prosecutions, legal opinions for the Army Staff, statistical analysis and evaluation, and Congressional inquiries.

Criminal Law Division workload data for the last three fiscal years is displayed below:

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
White House inquiries	139	88	111
Congressional and other inquiries	310	297	330
Clemency Petitions, Art. 74, UCMJ	11	8	8
Officer Dismissals	15	16	14
Freedom of Information Act/Privacy Act	21	25	63

On March 17, 1999, Major General David R.E. Hale was convicted at Fort Lewis, Washington, in accordance with his pleas of one specification of making a false official statement, and seven specifications of conduct unbecoming an officer, in violation of Articles 107 and 133, UCMJ, 10 U.S.C. Sections 907 and 933 (1988). The offenses related to inappropriate personal or sexual relationships with the spouses of subordinate military officers in his command. He was sentenced to be reprimanded, to be fined \$10,000.00 and to forfeit \$1,500.00 pay per month for 12 months. On July 8, 1999, in accordance with the terms of a pretrial agreement the convening authority approved the reprimand, a fine of \$10,000.00 and a forfeiture of \$1,000.00 pay per month for 12 months. This is the third court-martial of a flag level officer since World War II. The other two cases were the 1952 trial of Army Major General Robert W. Grow and the 1957 trial of Rear Admiral Selden G. Hooper.

JOINT SERVICE COMMITTEE ON MILITARY JUSTICE

The Chief, Criminal Law Division, OTJAG, serves as the Army representative to the Joint Service Committee on Military Justice (JSC). The JSC was established by the Judge Advocates General and the Secretary of Transportation (Coast Guard) on August 17, 1972. It conducts an annual review of the MCM as required by Executive Order 12473 and DOD Directive 5500.17. The JSC proposes and evaluates amendments to the UCMJ, MCM, and serves as a forum for exchanging military justice information among the services. The Army acts as Executive Agent for the JSC on a permanent basis.

During FY 99, the JSC completed its fifteenth annual review of the MCM. This review was published in the Federal Register for public comment and a public meeting was held to receive comments from interested parties. Highlights of the annual review's proposed changes include: extending to victims the same rights granted to them in Federal court by The Victims' Rights and Restitution Act of 1990, 42 U.S.C. § 10607(e)(2) by preventing victims who may testify at sentencing from being excluded from the courtroom; raising the monetary amount affecting the maximum punishments for various offenses from \$100 to \$500; providing for enhanced maximum punishment when a firearm or explosive is used for violations of Article 103 (Captured or abandoned property); deleting para. 31(c)(6) (Article 107 - False official statements) to conform with recent court decisions that statements made by a suspect or an accused during an interrogation can be false official statements; providing guidance for charging credit, debit, and electronic transactions as violations of Article 121(Larceny and wrongful appropriation).

JSC legislative proposals to amend Article 111 of the UCMJ to provide an alcohol blood/breath concentration of 0.08 or more as a per se standard of illegal intoxication and to amend Article 19 to increase the sentencing jurisdiction of special courts-martial to adjudge confinement and/or forfeiture of pay for up to one year were incorporated into DoD's Omnibus Legislation to Accompany the DoD Authorization Act Request for FY 2000. Section 577 of the National Defense Authorization Act for FY 2000 amended Article 19 to increase the sentencing authority of special courts-martial but did not include the 0.08 blood/breath concentration for Article 111. The legislation further amended Article 19 to provide that no confinement for more than six months or forfeiture of pay for more than six months may be adjudged without a verbatim record and counsel and a military judge detailed to the case absent military exigency.

Article 19 establishes maximum sentencing jurisdiction for special courts-martial, subject to such limitations as the President may prescribe. Currently, RCM 201(f)(2)(B)(i) limits the confinement and forfeiture sentencing authority of special courts-martial to six months. The JSC is drafting a special executive order, in addition to the 2000 annual review, to make appropriate Manual changes to implement amended Article 19.

Executive Order 13140 was signed into law on 6 October 1999. This executive order resulted from the 1997 annual review. It amends the qualifications of military judges to allow Reserve Component judges to conduct trials in certain cases; provides for the use of remote live testimony for child victims; establishes a psychotherapist-patient privilege; adds hate crime motivation as aggravating evidence for sentencing; adds "victim under 15" as an aggravating factor authorizing a death sentence; and adds reckless endangerment as an offense under Article 134.

The proposed executive order for the 1998 annual review is being staffed. It proposes to codify the military judge's authority to issue protective or "gag orders"; clarifies which civilian convictions are admissible on sentencing; rejects automatic change to MRE 407 based on a change to FRE 407; updates all of the model specifications by removing the reference to the 20th Century from the date of the offense; conforms the Manual to Article 56a which authorizes a sentence of life without eligibility of parole; and provides additional guidance on the offense of adultery and the circumstances under which its prosecution at a court-martial is appropriate.

Pursuant to Section 552 of the National Defense Authorization Act for FY 1999, the JSC studied and reported on the method of selection of members of the armed forces to serve on courts-martial. The study concluded that the current member selection practice best applies the criteria of Article 25(d), consistent with the demands for fairness

and justice in the military justice system. The DoD General Counsel forwarded the study to Congress on 11 October 1999. Currently, pursuant to a Code Committee request, a JSC ad-hoc working group is studying the feasibility and desirability of creating an independent judiciary. The JSC is also studying Article 15 at the request of the Code Committee and joint military justice at the request of the Joint Staff.

FOREIGN CRIMINAL JURISDICTION

As Executive Agent for the Department of Defense, the Department of 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, does provide an accurate picture of the exercise of foreign criminal jurisdiction during this reporting period:

	1 Dec 1996 to 30 Nov 1997	1 Dec 1997 to 30 Nov 1998
Foreign Offense Citations	4,870	5,092
Total Civilian	1,487	1,498
Total Military	3,383	3,594
Exclusive Foreign Jurisdiction	187	192
Concurrent Jurisdiction	3,196	3,402
Traffic/Other Minor Offenses	346	335
Foreign Jurisdiction Recalls	609	546

With the exception of Foreign Jurisdiction Recalls and Traffic/Other Minor Offenses, there was a slight increase in all categories. This increase was proportional across all categories in certain major offenses, such as robbery, larceny, aggravated assault, simple assault, and drug offenses.

This year, foreign authorities released 76 of the 192 exclusive foreign jurisdiction cases involving military personnel to U.S. authorities, for disposition. 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 2,972 cases. Overall, waivers were obtained by the U.S. in 87.3 percent of all exclusive and concurrent jurisdiction cases. This figure reflects slightly more than a one percent increase in such waivers from 1996-1997, when the relevant figure was 86.1 percent.

During the last reporting period, civilian employees and dependents were involved in 1,487 offenses. Foreign authorities released 250 of these cases (16.8 percent 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 1,498 offenses. The foreign authorities released 246 of these cases (16.4 percent of the current total).

Foreign authorities tried a total of 1,240 cases. Eight trials, or .6 percent, resulted in acquittals. Those convicted were sentenced as follows: 27 cases resulted in executed confinement; 53 cases resulted in suspended confinement; and 1,152 cases (92.9 percent 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 includes tasking judge advocates for field inquiries into allegations of professional misconduct, reviewing reports of inquiry, and 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. SOCO also oversees professional responsibility training within the Army. Working closely with The Judge Advocate General's School, SOCO assists judge advocates in implementing training programs in their commands and offices.

During FY 1999, 20 professional conduct inquiries were conducted and closed. This is an 11% increase from FY 1998's 18 cases. Of the 20 cases closed in 1999, nine cases resulted in a finding of attorney misconduct. Of the nine founded cases, two were minor violations of ethics rules. The remaining seven cases were serious, resulting in punishment including reprimands, suspensions, or resignations. The cases include the following:

- Failing to file post-conviction matters on a client's behalf.
- Misinforming a client about military retirement pay (resulting in a successful malpractice claim against the Army).
- Making untruthful statements about a legal official; falsely claiming that an Army officer was his client; and secretly paying a civilian criminal defense attorney for legal fees without disclosure, consultation, or the client's consent.
- Neglecting a military client's case (after reserve attorney accepted retainer in his civilian capacity).
- State bar suspension for fee and escrow violations and for threatening a former client.
- Shoplifting.
- Conviction for possession of cocaine.

LITIGATION

The number of civil lawsuits against the Department of the Army and its officials dropped slightly from previous years, with about 560 actions filed in FY 99. Cases that require civilian courts to interpret the UCMJ remain a small but significant portion of this total. Most of these cases are filed by (former) soldiers seeking collateral review of courts-martial proceedings in district courts, usually via petitions for writs of habeas corpus, or in the Court of Federal Claims in back-pay actions. Other suits involve challenges to confinement conditions, to decisions to deny clemency or parole, to revoke parole, or to other administrative actions taken by confinement facility officials.

One case of particular note involves a class action filed in 1997 by all inmates confined at the United States Disciplinary Barracks (USDB). The inmates claim that they are subject to unsafe living conditions that violate the Eighth Amendment proscription against cruel and unusual punishment. They allege that the USDB main building is structurally unsound, that they are exposed to unsafe environmental conditions, and that they are improperly subjected to certain administrative practices. In FY 98, the district court denied the inmates' request for a preliminary injunction ordering the Army to transfer them to other correctional institutions. In January 1999, the Army filed a motion for summary judgment maintaining that there is no issue of fact that the inmates are not exposed to unsafe living conditions and that the administrative practices of which they complain are proper, accepted correctional methods. The parties are currently engaged in limited discovery.

EDUCATION AND TRAINING

In Charlottesville, Virginia, the Criminal Law Department of The Judge Advocate General's School continues to lead the way in the Corps-wide effort to improve and sustain our military justice practice. This year, the Criminal Law Department provided instruction on issues ranging from technical litigation skills to managing high profile cases.

A priority mission for the Criminal Law Department continues to be advocacy training. From the Basic Course to the Advanced Trial Advocacy Course, the department employed innovative techniques to train and teach advocacy. For example, each Basic Course student is required to serve as counsel in three advocacy exercises - an administrative separation board, a guilty plea, and a contested court-martial. The Basic Course student leaves TJAGSA with a realistic familiarization of the court-martial and administrative separation practice.

The Criminal Law Department's advocacy emphasis does not stop at the classroom door. The success of and commitment to *The Advocacy Trainer (The AT)* continued throughout 1998 and carried over to 1999. This manual contains numerous skill development drills in all aspects of court-martial practice. Its tabular design allows supervisors to conduct long-term building block training, or short-term targeted "deficiency" training. The department not only published eight new advocacy-training modules, but also made this unique publication more accessible to the field. *The AT* is now available electronically to all services. You can access *The AT* under the Publications listing on TJAGSA's home page (<http://www.jagcnet.army.mil/tjagsa>).

In addition to teaching the Officer Basic Course and Graduate Course, the Criminal Law Department hosted a variety of short courses. In May 1999, the department managed the first multi-service high profile case management course. The target audience was staff judge advocates and attendance was by invitation only. The course was designed to train judge advocates in the unique legal, managerial, and media relations aspects of high profile courts-martial. The course offered several practical exercises and seminar sessions that proved extremely beneficial for the students. This course was a great success and clearly met its objectives.

The Fifth Military Justice Managers Course included new blocks of instruction taught by members of the American Academy of Forensic Science. The instruction included an overview of forensic evidence, crime scene analysis, and DNA testing. The course also included a block of instruction on how to use *The Advocacy Trainer*.

The Criminal Law and International and Operational Law Departments co-hosted the 3d National Security Crimes and Intelligence Law Workshop in June 1999. This course brought together practitioners and investigators in the national security field. Military and civilian students from all services attended the course. The next iteration of this course will likely occur in June 2000.

The Criminal Law Department hosted several distinguished guest speakers. Mr. Gerald Boyle, a prominent criminal attorney from Milwaukee, Wisconsin, addressed the 11th Criminal Law Advocacy Course (CLAC) in April. Mr. James McElhaney, nationally prominent for his several books and ABA column on trial advocacy, addressed the 12th CLAC. Chief Judge Walter Cox of the Court of Appeals for the Armed Forces delivered the twenty-seventh Kenneth J. Hodson Lecture on Criminal Law in November 1998. Additionally, Judge Cox presented his final motivational talk as a CAAF judge to the 42nd Military Judge Course. He will be greatly missed. The 22nd Criminal Law New Developments Course in November 1998 featured Mr. Dwight Sullivan, Managing Attorney for the Maryland American Civil Liberties Union, who presented a lecture on the application of the Bill of Rights to the

military justice system. Students in the New Developments Course also had the opportunity to hear Brigadier General Hess, Staff Judge Advocate to the Commandant, U.S. Marine Corps, discuss his views about the future of the military justice system.

PERSONNEL, PLANS, AND POLICIES

The strength of the Judge Advocate General's Corps at the end of FY 99 was 1,421. This total does not include 59 officers participating in the Funded Legal Education Program. The diverse composition of the Judge Advocate General's Corps included 113 African-Americans, 42 Hispanics, 58 Asians and Native Americans, and 341 women. The FY 99 end strength of 1,421 compares with an end strength of 1,499 in FY 98, 1523 in FY 97, 1541 in FY 96, 1561 in FY 95, 1575 in FY 94, 1646 in FY 93, and 1710 in FY 92. The grade distribution of the Corps was five general officers; 128 colonels; 207 lieutenant colonels; 328 majors; 752 captains. Sixty-four warrant officers, 360 civilian attorneys, and 1,469 enlisted soldiers supported legal operations worldwide.

To ensure selection of the best-qualified candidates for appointment, career status, and schooling, The Judge Advocate General convened advisory boards several times during the year. Selection for appointment in the Corps averages one in three applications.

Two hundred thirty-one Judge Advocate officers completed the following resident service schools:

U.S. Army War College	2
National War College	1
Industrial College of the Armed Forces	2
Department of Justice Fellowship	1
U.S. Army Command and General Staff College	16
The Judge Advocate Officer Graduate Course	44
The Judge Advocate Officer Basic Course	163

During FY 99, seven officers completed funded study for LL.M. degrees in the following disciplines: environmental law, contract law, international law, criminal law, and health care law.

As a separate competitive category under the Department of Defense Officer Personnel Management Act, officers of the Judge Advocate General's Corps compete among themselves for promotion. During FY 99, the Secretary of the Army convened six selection boards to recommend Judge Advocate officers for promotion to higher grades.

WALTER B. HUFFMAN
Major General, USA
The Judge Advocate General of the Army

U.S. ARMY MILITARY JUSTICE STATISTICS

Period: FISCAL YEAR 1999

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	737	692	45	+7.6%
BCD SPECIAL [A]	422	401	21	+54.6%
NON-BCD SPECIAL	10	8	2	-28.6%
SUMMARY	487	459	28	-.004%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				+13.3%

PART 2 - DISCHARGES APPROVED [B]

GENERAL COURTS-MARTIAL (CA LEVEL)			
NUMBER OF DISHONORABLE DISCHARGES (+ Dismissals)	142	+15	
NUMBER OF BAD CONDUCT DISCHARGES	397		
SPECIAL COURTS-MARTIAL (SA LEVEL)			
NUMBER OF BAD CONDUCT DISCHARGES	217		

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	678	
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	194	
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	161	

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

TOTAL ON HAND BEGINNING OF PERIOD	85 [C]	
GENERAL COURTS-MARTIAL	[D]	
BCD SPECIAL COURTS-MARTIAL	[D]	
REFERRED FOR REVIEW	679 [C]	
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
TOTAL CASES REVIEWED	739 [E]	
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
TOTAL PENDING AT CLOSE OF PERIOD	59 [C]	
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD	-5.6%	

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE U.S. ARMY COURT OF CRIMINAL APPEALS

NUMBER	729	
PERCENTAGE	98.6%	

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

PERCENTAGE OF CCA REVIEWED CASES FORWARDED TO USCAAF	312 of 739	42.2%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+0.6%
PERCENTAGE OF TOTAL PETITIONS GRANTED	33 of 312	10.6%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-3.0%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY USACCA		4.5%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-28.3%

PART 7 - APPLICATIONS FOR RELIEF, ARTICLE 69

PENDING AT BEGINNING OF PERIOD		8	
RECEIVED		15	
DISPOSED OF		20	
GRANTED	2		
DENIED	14		
NO JURISDICTION	4		
WITHDRAWN	0		
TOTAL PENDING AT END OF PERIOD		3	

PART 8 - ORGANIZATION OF COURT

TRIALS BY MILITARY JUDGE ALONE		533	
GENERAL COURTS-MARTIAL			
SPECIAL COURTS-MARTIAL		329	
TRIALS BY MILITARY JUDGE WITH MEMBERS			
GENERAL COURTS-MARTIAL		202	
SPECIAL COURTS-MARTIAL		105	

PART 9 - COMPLAINTS UNDER ARTICLE 138

NUMBER OF COMPLAINTS	29	
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PART 10 - STRENGTH

AVERAGE ACTIVE DUTY STRENGTH	473,809	
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PART 11 - NONJUDICIAL PUNISHMENT (ARTICLE 15)

NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	38,879	
RATE PER 1,000	82	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD	-4%	

PAGE 2 OF 2

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.
- [F] Cases where the accused was arraigned.

SECTION 4

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

ANNUAL REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

OCTOBER 1, 1998, TO SEPTEMBER 30, 1999

SUPERVISION OF THE ADMINISTRATION OF
MILITARY JUSTICE

In compliance with the requirement of Article 6(a), Uniform Code of Military Justice, the Judge Advocate General and the Deputy Judge Advocate General made frequent inspections of legal offices in the United States, Europe, and the Far East in order to supervise the administration of military justice.

ARTICLE 69(a), UCMJ, EXAMINATIONS

Thirty-six general courts-martial records of trial 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 1999. Twenty-one were pending at the end of fiscal year 1998. Out of the 37 cases completed, none required corrective action by the Judge Advocate General. Twenty cases were pending review at the close of fiscal year 1999.

ARTICLE 69(b), UCMJ, APPLICATIONS

In fiscal year 1999, 21 applications under Article 69(b), UCMJ, were received for review. Twelve such applications remained pending from fiscal year 1998. Of these 33 applications, 15 were denied on the merits, while relief was granted in whole or in part in one case. Seventeen cases are currently pending review.

ARTICLE 73, UCMJ, PETITIONS

In fiscal year 1999, the Office of the Judge Advocate General received four petitions for a new trial. All petitions were denied.

APPELLATE DEFENSE DIVISION

Active Duty Personnel. The Navy-Marine Corps Appellate Review Activity, Defense Division (Code 45) was staffed by 19 active duty officers and four civilian staff employees at the close of fiscal year 1999. Commander Richard W. Bagley, Jr., JAGC, USN, relieved Captain Carol J. Cooper, JAGC, USN, as Division Director in October 1998. Table 1 illustrates officer distribution by branch of service and grade. Active duty personnel are usually assigned for three-year tours of duty. During fiscal year 1999, six new attorneys reported for duty including three Navy judge advocates reporting for their first tour of duty as judge advocates.

Table 1
Active Duty Personnel Assigned on board
Navy-Marine Corps Appellate Review Activity
Appellate Defense Division

Service	CDR/LtCol (0-5)	LCDR/Maj (0-4)	LT/Capt (0-3)	First Tour (0-2/0-3)	Totals
Navy	1	4	5	5	15
Marine Corps	0	3	1	0	4
Totals	1	7	6	5	19

Reserve Personnel. The Appellate Defense Division was supported by three Naval Reserve units and a number of U.S. Marine Corps Reserve judge advocates. Table 2. Utilizing flexible drilling (flex-drill) these Reservists are mailed records of trial which they review at their homes and return with pleadings to be filed. They also routinely spend two weeks of active duty training per year at Appellate Defense Division headquarters. These Reserve elements accounted for 65% of all cases reviewed and filed with the Navy-Marine Corps Court of Criminal Appeals in fiscal year 1999. NR NAVJAG 109 in Columbus, Ohio, was commanded by Captain Ben J. Piazza, JAGC, USNR. NR NAMARA (Defense) 111 in Oklahoma City, Oklahoma, was commanded by Captain Kristy L. Christen, JAGC, USNR. In fiscal year 2000, the Appellate Defense Division will be augmented by two additional Naval Reserve units headquartered in Fort Worth, Texas, and Long Beach, California.

Table 2
Naval and Marine Corps Reserve Units/Personnel Supporting
Navy-Marine Corps Appellate Review Activity
Appellate Defense Division

Unit	CAPT/Col (0-6)	CDR/LtCol (0-5)	LCDR/Maj (0-4)	LT/Capt (0-3)	Totals
NAVJAG 109 Columbus, OH	1	1	3	0	5
NAMARA 111, Okla. City, OK	1	2	2	2	7
VTU 0614, Wash. DC	1	1	0	0	2
USMCR IMA	0	0	5	1	6
Totals	3	4	10	3	20

Navy-Marine Corps Court of Criminal Appeals Practice. The Appellate Defense Division received 1764 records of trial docketed for Article 66, UCMJ, review by the Navy-Marine Corps Court of Criminal Appeals in fiscal year 1999. This represents a decline of 218 records when compared to fiscal year 1998. The Appellate Defense Division reviewed and filed 1798 cases with the Navy-Marine Corps Court of Criminal Appeals in fiscal year 1999. This represented a decline of 452 cases compared to fiscal year 1998. Tables 3-5 reflect the numbers and types of pleadings filed in fiscal year 1999 and fiscal year 1998. Appellate Defense Division attorneys also argued 31 times before the Navy-Marine Corps Court of Criminal Appeals, including 1 en banc argument. This represented an increase of 14 arguments over fiscal year 1998.

Table 3
Cases Filed by Active Duty
Navy-Marine Corps Appellate Defense Counsel
at the Navy-Marine Corps Court of Criminal Appeals

Fiscal Year	Fully Briefed	Summary Assignment	Submitted on Merits	Total Records Reviewed
FY-99	278	94	253	625
FY-98	415	223	304	942

Table 4
Cases Filed by Reserve
Navy-Marine Corps Appellate Defense Counsel
at the Navy-Marine Corps Court of Criminal Appeals

Fiscal Year	Fully Briefed	Summary Assignment	Submitted on Merits	Total Records Reviewed
FY-99	70	84	1019	1173
FY-98	61	182	1065	1308

Table 5
Cases Filed by Combined Active Duty - Reserve
Navy-Marine Corps Appellate Defense Counsel
at the Navy-Marine Corps Court of Criminal Appeals

Fiscal Year	Fully Briefed	Summary Assignment	Submitted on Merits	Total Records Reviewed
FY-99	348	178	1272	1798
FY-98	476	405	1369	2250

United States Court of Appeals for the Armed Forces Practice.

Table 6 reflects a sizable increase in the number of Navy-Marine Corps cases reviewed by the Court of Appeals for the Armed Forces in fiscal year 1999, and a dramatic increase in the number of Navy-Marine Corps cases argued before, and decided by, the Court. In fiscal year 1999, Appellate Defense represented, or assisted in the representation, of four cases certified by the Judge Advocate General to the Court: United States v. Curtis, 52 M.J. 166 (1999) (affirming the lower court's opinion); United States v. Finster, 51 M.J. 185 (1999) (affirming the lower court's opinion); United States v. Byrd, 50 M.J. 754 (N.M.Ct.Crim.App. 1999) cert. ___ M.J. ___ (U.S.C.A.A.F. May 7, 1999) (pending argument on issue of whether proper execution of appellant's punitive discharge in accordance with Article 71(c), UCMJ, made appellant's case final under Article 76, UCMJ, and terminated military appellate court jurisdiction over the case); and United States v. Townes, 50 M.J. 762 (N.M.Ct.Crim.App. 1999) cert. ___ M.J. ___ (U.S.C.A.A.F. June 18, 1999) (pending argument on issue of whether the lack of appellant's personal request for enlisted members, on the record, pursuant to Article 25, UCMJ, defeated the court-martial's jurisdiction).

Table 6
Representation by
Navy-Marine Corps Appellate Defense Counsel
before the U.S. Court of Appeals for the Armed Forces

Fiscal Year	Petitions for Review Filed	Petitions Granted/ Briefs Filed	Oral Argument	Published Opinions
FY-99	323	45	55	54
FY-98	353	35	24	28

Capital Litigation. In fiscal year 1999, the Appellate Defense Division was actively involved in the appeals of four capital cases. In United States v. Private Ronnie Curtis, USMC, 52 M.J. 166 (1999), military appellate defense counsel assisted Private Ronnie Curtis' civilian defense counsel in responding to the Government's motions for reconsideration of the Navy-Marine Corps Court of Criminal Appeals' decision affirming a life sentence in lieu of ordering a resentencing hearing. Military appellate counsel also assisted civilian counsel in representing Private Curtis before the Court of Appeals for the Armed Forces when the Judge Advocate General certified to the Court a question as to whether the Navy-Marine Corps Court could affirm a life sentence without ordering a resentencing hearing. The defense brief in United States v. Private Kenneth G. Parker, USMC, NMCM No. 95-1500 was filed with the Navy-Marine Corps Court of Criminal Appeals on July 23, 1999, and is awaiting the Government's answer. Appellate defense

teams are currently researching and writing their briefs in United States v. Private Wade L. Walker, NMCM No. 95-1607 (a companion case to Parker) and United States v. Private Jesse Quintinilla, USMC, No. 98-1632, for the Navy-Marine Corps Court.

The Navy-Marine Corps Defense Capital Litigation Resource Center (CLRC) completed its second full year of operations. Captain Henry Lazzaro, JAGC, USNR, remained the director. The CLRC, unique among the services, is co-located with the Appellate Defense Division and provides advice on pretrial, trial, and sentencing strategies. It also serves as a research and resource clearinghouse with banks of motions relating to capital litigation as well as information on expert consultants and witnesses. In fiscal year 1999, the CLRC provided its expertise in four cases where the death penalty was sought or seriously considered. In two of those cases the charges were ultimately referred non-capital, another case concluded with the withdrawal of the capital referral as part of a pretrial agreement, and the fourth case is pending. The CLRC also provided advice, coordination and procurement of Reserve counsel for three Marine Corps cases awaiting appellate review where a death sentence was approved by the convening authority. The CLRC maintains liaison with the Army and Air Force appellate divisions. Finally, the CLRC plays a large role in training trial and appellate defense counsel at the annual Defense Capital Litigation Course taught at the Naval Justice School, Newport, Rhode Island.

Trial Defense Assistance. The Appellate Defense Division provides advice and support to Navy and Marine Corps trial defense counsel on a continuing basis. Beginning in October 1998, the Division began publication of a monthly newsletter, entitled *Timely Objection*, which summarizes and analyzes all recent Court of Appeals for the Armed Forces and Navy-Marine Corps Court of Criminal Appeals cases. The newsletter also summarizes and analyzes recent federal and state appellate decisions involving criminal justice. It also contains a "trial tips" section designed to aid the trial practitioner and training section highlighting military and civilian training relevant to courts-martial practice.

The Appellate Defense Division also maintains a rotating watch of experienced appellate attorneys who answer short-fused questions from the field and assist in filing extraordinary writs.

APPELLATE GOVERNMENT DIVISION

Appellate Representation. The eight Navy and five Marine Corps judge advocates assigned to the Appellate Government Division filed a total of 852 pleadings last year, 616 with the Navy-Marine Corps Court of Criminal Appeals and 236 with the Court of Appeals for the Armed Forces.

Field Assistance. The Trial Counsel Assistance Program (TCAP) is a function within the Appellate Government Division that provides a central coordinating point to assist field trial counsel and Staff Judge Advocates in the effective prosecution of courts-martial. Eleven appellate counsel are detailed to implement this program. In fiscal year 1999, prompt assistance was provided in response to almost 750 telephone calls or electronic messages from trial counsel and Staff Judge Advocates requesting advice or information about cases pending or being tried. Additional assistance was provided through training presentations. The Appellate Government Division also published 12 Electronic Viewpoints to the field dealing with a variety of current legal issues.

Presentations. Government counsel participated in the 1999 Judicial Conference of the United States Court of Appeals for the Armed Forces and made presentations at William and Mary College, The George Washington Law Center, the Navy-Marine Corps Trial Judiciary Conference in San Diego, California, the Army-Navy Reserve Conference in Minneapolis, Minnesota, the Courts of Criminal Appeals Judge's Conference in Washington, D.C., the Trial Services Office, San Diego, California, the Trial Services Office, Norfolk, Virginia, and multiple presentations at the Naval Justice School in Newport, Rhode Island. These presentations included extensive support of the Government's Capital Litigation Course.

Reserves. The Appellate Government Division provided training to, and received outstanding support from, eight Naval reservists assigned to NAMARA (Govt) 116 and NAVJAG 113 and six Marine Corps reservists. The reservists continued to make a significant contribution to the successful accomplishment of the Division's mission.

NAVY-MARINE CORPS TRIAL JUDICIARY

The Navy-Marine Corps Trial Judiciary (NMCTJ) consists of 33 active duty judges and 22 reservists serving in 13 circuit and four branch offices. During fiscal year 1999, NMCTJ provided judicial services in 349 general courts-martial and 2102 special courts-martial. These numbers represent a decrease in general courts-martial (121) and special courts-martial (220), compared to fiscal year 1998.

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 Trial Judiciary's annual training conference, the Naval Justice School, the Army Judge Advocate General's School, and the Air Force-sponsored Inter-Service Military Judges' Seminar. NMCTJ also provided training at various levels, including the Navy-Marine Corps Senior Officer Course and other in-service courses. NMCTJ also 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 327 officers, 203 enlisted, and 204 civilians. NAVLEGSVCCOM provides a wide range of legal services to afloat and ashore commands, active duty naval personnel, dependents, and retirees from 55 offices world-wide: eight Naval Legal Service Offices (NLSOs), five Trial Service Offices (TSOs), the Naval Justice School, and 42 detachments and branch offices. NAVLEGSVCCOM provides counsel for courts-martial, administrative boards, physical evaluation boards, legal assistance, and local commanders. NAVLEGSVCCOM also provides assistance for claims processing and adjudication, and training judge advocates, legalmen, and other DoD personnel. During fiscal year 1999, NAVLEGSVCCOM provided counsel for 225 general courts-martial, 818 special courts-martial, 269 Article 32 investigations, and 911 Administrative Boards; processed over 30,000 claims; provided over 500,000 legal assistance services; and provided command assistance services for over 3,900 commands.

Over the last year NAVLEGSVCCOM closed some offices where regionalization was more conducive to the mission. NLSO Southeast Branch Office Orlando was closed. TSO Southeast Detachment Corpus Christi and TSO Southeast Branch Offices Kings Bay and Roosevelt Roads were closed.

NAVLEGSVCCOM is currently beta testing a new management record tracking system and hopes to adopt this new system throughout NAVLEGSVCCOM in 2000. Additionally, NAVLEGSVCCOM developed a new quarterly productivity statistical report that should provide more reliable information and reduce the amount of time required to complete the report.

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). Also reporting to Commanding Officer, NJS, is the Defense Institute of International Legal Studies (DIILS), operating under the Expanded International Military Education and Training (EIMET) Program.

Mission Statement. NJS shall:

1. Oversee training of judge advocates, Limited Duty Officers (law), and Legalmen to ensure their career-long professional development and readiness.

2. Provide comprehensive formal training to all sea service judge advocates and other legal personnel to promote justice and ensure the delivery of quality legal advice and other legal services.

3. Train sea service commanders and senior officers in the practical aspects of military law to enable them to perform their command and staff duties, and train other sea service personnel to assist in the sound administration of military justice.

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

Academic Programs. NJS has five "core" courses, each containing substantial blocks of instruction relating to military justice and operation of the UCMJ. These courses are:

1. Accession Judge Advocate Course. This nine-week course, offered four times per fiscal year, is the accession level course in military justice for all judge advocates of the Navy, Marine Corps, and Coast Guard. The majority of the course is dedicated to military justice and court-martial advocacy training (other topical areas include legal assistance and administrative law). Upon graduation from NJS, judge advocates are certified in accordance with Article 27(b), UCMJ. Fiscal year 1999 graduates:

Navy	96
Marine Corps	63
Coast Guard	19
International	4

2. Accession Legalman Course. This nine-week course, offered three times per fiscal year, trains enlisted personnel selected for conversion to the Legalman rating. In FY 1999, the course consisted of two phases: (a) Paralegal, dedicated to training Navy Legalmen in military justice practice (six weeks), and (b) Court Reporters (three weeks). Fiscal year 1999 graduates: 36.

3. Senior Officer Course (SOC) in Military Justice and Civil Law. This four-day course is taught in Newport, Rhode Island, and other areas of fleet and Fleet Marine Force concentration. In fiscal year 1999, the course was offered 17 times, at nine locations. The course prepares senior officers in the execution of their legal responsibilities of command. The majority of the course focuses on such areas as nonjudicial punishment and court-martial procedures. Fiscal year 1999 participants in SOC:

Navy	484
Marine Corps	78
Coast Guard	12
Civilian	5
Air Force	2

4. Legal Officer Course. In the sea services, non-lawyer "legal officers" perform a host of military justice functions in many commands that are not large enough to warrant assignment of a judge advocate. This four-week course prepares these collateral duty legal officers (typically paygrades 0-1 to 0-3) to assume legal duties in their respective commands. This course is offered 16 times per fiscal year, at Newport, Rhode Island, San Diego, California, and Norfolk, Virginia. Fiscal year 1999 legal officers trained:

Navy	543
Marine Corps	77
Coast Guard	5
International	1

5. Legal Clerk Course. Legal Clerks are typically assigned to assist non-lawyer legal officers within a command. This is usually a collateral duty for a command yeoman, or personnelman, or a Marine Corps legal services specialist. This two-week course provides training in the preparation of legal forms and reports, service record entries, and post-mast and post court-martial procedures. In fiscal year 1999, the course was offered 19 times at Newport, Rhode Island, San Diego, California, and Norfolk, Virginia. Fiscal year 1999 participants:

Navy	330
Marine Corps	50
Civilian	2

In addition to the above "core" courses, NJS offered numerous continuing legal education programs throughout the fiscal year that contained detailed instructions relating to the operation of the UCMJ. These included:

<u>Officer Courses</u>	<u>Length</u>
Reserve Judge Advocate Course	Two weeks
Staff Judge Advocate Course	Two weeks
Capital Litigation Course (Separate offerings for Prosecution and Defense)	Three days each
Intermediate Trial Advocacy Course	One week
Advanced Trial Advocacy Course	Two days
Coast Guard Law Specialist Course	Two days
Computer Crimes	Two days
National College of District Attorneys Course	One week

Enlisted Courses

Length

Reserve Legalman Course	Two weeks
Legalman Legal Writing	One week
Army Reserve Court Reporting Course	Two weeks
Military Justice Course for the Staff Judge Advocate/Command Judge Advocate/Shipboard LN	One week
NLSO/TSO Legalman Course	Three days
Coast Guard Legal Clerk Course	Three weeks
Senior Legalman Course	One week

International Programs. In fiscal year 1998, NJS introduced the *Legal Considerations for Peacekeeping and Military Operations* Course. In fiscal year 1999, 51 students from 32 countries attended the Fall and Spring offerings of this five-week resident course held in Newport, Rhode Island. The course covers topics including International Law, UN Organizations, UN Charter, Regional Organizations, Humanitarian Relief Organizations, Non-Governmental Organizations, Law of Armed Conflict, Rules of Engagement, Status of Forces Agreements, National Policy for Peace Operations, Legal Issues Regarding Demining and Preventive Diplomacy. The students hear from notable guest speakers, engage in interactive group problems and take field trips to Washington, D.C. and UN Headquarters in New York City. In the past two years, 106 students have completed the course.

The Defense Institute of International Legal Studies (DIILS) has presented programs to over 11,000 senior military and civilian government officials in 70 countries worldwide since its inception in late 1992. Teams, consisting of judge advocates from all uniformed services, utilize the UCMJ and their experiences to compare, contrast and develop military justice systems in emerging democracies. In fiscal year 1999, DIILS presented 43 weeks of seminars in 31 developing nations. Significantly, 25 percent of the participants have been civilian members of these governments who determine policy and create new military justice codes.

Publications. NJS is responsible for the publication of the *Naval Law Review*, all materials in support of academic programs, and any additional materials directed by higher authorities. NJS will be publishing Volume 46 of the *Naval Law Review* which will contain several articles related to Operational and International Law and Military Justice. NJS is constantly updating study guides and other textual material.

MARINE CORPS ACTIVITIES

The Marine Corps judge advocate community consisted of approximately 402 judge advocates during fiscal year 1999. Nearly half of all judge advocates were company grade officers, in pay grade 0-3 or below. Forty-five officers were new accessions, ordered to begin their period of active duty at The Basic School in Quantico,

Virginia. In addition to the new accessions, 10 officers graduated from ABA-accredited law schools by way of government-sponsored law education programs. Four of these officers graduated from the Funded Law Education Program (FLEP) and six graduated from the Excess Leave Program (ELP) (LAW). Twelve officers are currently assigned to FLEP and 16 are now attending law school under the ELP(LAW).

Thirteen judge advocates attended resident professional military education courses in fiscal year 1999. Five majors and two lieutenant colonels received LL.M. degrees from the graduate course at the Army Judge Advocate General's School, Charlottesville, Virginia. Three captains completed the Amphibious Warfare School, Quantico, Virginia, and one lieutenant colonel completed the Marine Corps Command and Staff Course, Quantico, Virginia. One lieutenant colonel and one colonel completed top-level schools and two majors received LL.M. degrees through the Special Education Program (SEP). Twelve officers are currently attending resident professional military education courses and two are assigned to the SEP. As unrestricted officers, Marine Corps judge advocates continued to fill numerous non-legal billets. At the end of the fiscal year, five judge advocates were serving in command billets: Company F, Marine Security Guard Battalion, Frankfurt, Germany; Marine Corps Security Forces, Kings Bay, Georgia; Headquarters Battalion, Marine Corps Base, Hawaii; Headquarters and Service Battalion, Marine Corps Recruit Depot, San Diego, California; and Security Battalion, Marine Corps Base, Quantico, Virginia. Ten judge advocates continued to serve in joint billets.

The Marine Corps Reserve judge advocate community averaged 395 officers during fiscal year 1999. Approximately 275 of these officers were actively participating in the Reserves. Fourteen reserve judge advocates, major through colonel, serve as appellate counsel in the Navy-Marine Corps Appellate Review Activity. Reserve judge advocates serve at bases and stations throughout the country and overseas. They provide legal support alongside, and are indistinguishable from, their active duty counterparts in billets ranging from instructors at Naval Justice School to legal assistance attorneys at Marine Corps Base, Camp Pendleton, California. Reserve judge advocates also serve in non-legal billets at various combat arms and supporting commands.

JOHN D. HUTSON
Rear Admiral, USN
The Judge Advocate General of the Navy

Period: FY 99

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	349	317	31	-25.7%
BCD SPECIAL	2102	2009	93	-9.4%
NON-BCD SPECIAL	0	0	0	0%
SUMMARY	1565	1529	36	-12.2%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-12.2%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL (CA LEVEL)		
NUMBER OF DISHONORABLE DISCHARGES		114
NUMBER OF BAD CONDUCT DISCHARGES		165
SPECIAL COURTS-MARTIAL (SA LEVEL)		1533
NUMBER OF BAD CONDUCT DISCHARGES		

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	328
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	1356
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	36

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

TOTAL ON HAND BEGINNING OF PERIOD		1495
GENERAL COURTS-MARTIAL	453	
BCD SPECIAL COURTS-MARTIAL	1042	
REFERRED FOR REVIEW		1727
GENERAL COURTS-MARTIAL	344	
BCD SPECIAL COURTS-MARTIAL	1383	
TOTAL CASES REVIEWED		1894
GENERAL COURTS-MARTIAL	400	
BCD SPECIAL COURTS-MARTIAL	1494	
TOTAL PENDING AT CLOSE OF PERIOD		1330
GENERAL COURTS-MARTIAL	399	
BCD SPECIAL COURTS-MARTIAL	931	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-24.8%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS

NUMBER	1727
PERCENTAGE	100%

PART 6 - U. S. COURT OF MILITARY APPEALS ACTIONS

PERCENTAGE OF COMR REVIEWED CASES FORWARDED TO USCMA	344	18%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+2%
PERCENTAGE OF TOTAL PETITIONS GRANTED	56	16%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+4%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY COMR		3%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-14%

PART 7 - APPLICATIONS FOR RELIEF, ARTICLE 69

PENDING AT BEGINNING OF PERIOD		12	
RECEIVED		21	
DISPOSED OF		16	
GRANTED	1		
DENIED	15		
NO JURISDICTION			
WITHDRAWN			
TOTAL PENDING AT END OF PERIOD		17	

PART 8 - ORGANIZATION OF COURT

TRIALS BY MILITARY JUDGE ALONE			
GENERAL COURTS-MARTIAL		256	
SPECIAL COURTS-MARTIAL		1965	
TRIALS BY MILITARY JUDGE WITH MEMBERS			
GENERAL COURTS-MARTIAL		93	
SPECIAL COURTS-MARTIAL		137	

PART 9 - COMPLAINTS UNDER ARTICLE 138

NUMBER OF COMPLAINTS	201	
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PART 10 - STRENGTH

AVERAGE ACTIVE DUTY STRENGTH	544,896	
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PART 11 - NONJUDICIAL PUNISHMENT (ARTICLE 15)

NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	28,565	
RATE PER 1,000	5.2	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD	-9.5%	

SECTION 5

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE
OCTOBER 1, 1998 TO SEPTEMBER 30, 1999

In compliance with the requirements of Article 6(a), Uniform Code of Military Justice (UCMJ), The Judge Advocate General and Deputy Judge Advocate General made official staff inspections of field legal offices in the United States and overseas. They also attended and participated in various bar association meetings and addressed many civic, professional, and military organizations.

THE AIR FORCE COURT OF CRIMINAL APPEALS

The Court's workload remained relatively stable over the past three years; however, the Court's production dropped from the previous year. This is directly attributable to the reduction in the Court's manning. The Court began the fiscal year with seven judges. However, in December 1998, Judge Morgan retired, and in March 1999, Chief Judge Rothenburg retired. From April 1999 until late August 1999, the Court had only five judges. Also, during this time period, the Court had two Honors Law Clerks instead of three. By the end of the fiscal year, the Court was fully manned with nine judges. Judge Wilcox, Judge Burd, Judge Head, and Judge Roberts joined the Court. Production should increase in 2000 now that the Court is fully manned.

The Court's newly renovated courtroom was dedicated in April 1999.

Technologically, the Court has refined its Internet web page (<http://afcca.law.af.mil>), which now includes the most recent memorandum (unpublished) opinions. Appellate Government and Appellate Defense Counsel can access Electronic Filing on the web page to file Motions for Enlargement of Time with the Court. In the future, counsel will also have the capability to file other motions electronically.

USAF JUDICIARY ORGANIZATION

The USAF Judiciary Directorate has responsibility for overseeing the administration of military justice throughout the United States Air Force, from nonjudicial proceedings to the appellate review of courts-martial. Additionally, the Directorate has the staff responsibility of the Air Force Legal Services Agency in all military justice matters which arise in connection with programs, special projects, studies, and inquiries generated by the Department of Defense (DoD), Headquarters USAF, members of Congress, and various agencies. The Judiciary Directorate consists of the Trial Judiciary Division, Government Trial and Appellate Counsel Division, Appellate Defense Division, Trial Defense Division, Military Justice Division, and the Clemency, Corrections and Officer Review Division.

TRIAL JUDICIARY DIVISION

The Air Force Trial Judiciary had an average of 20 active duty trial judges, 5 reserve trial judges, and 10 noncommissioned officers assigned throughout 5 judiciary circuits worldwide. The Chief Trial Judge, his military judge assistant and one noncommissioned officer are assigned to the Trial Judiciary headquarters. 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; legal advisors for officer discharge boards and other administrative boards; and hearing officers at public hearings held to consider draft environmental impact statements. During the year, military judges averaged approximately 125 days on temporary duty to perform these functions at locations other than their bases of assignment.

The Chief Trial Judge made supervisory visits to all three CONUS circuits and both of the overseas circuits to review workload and facilities. The Trial Judiciary has a Website on the Internet for trial judges. The Website contains reference materials and is updated continually.

The Twenty-Fifth Interservice Military Judges' Seminar was conducted by the Trial Judiciary at The Air Force Judge Advocate General School, Maxwell AFB, Alabama, from 12 through 16 April 1999. This seminar was attended by 105 military judges from the trial judiciaries of the Army, Navy, Marine Corps, Coast Guard, and the Air Force. The 1999 program included a PROJECT OUTREACH oral argument before the United States Court of Appeals for the Armed Forces. All of the military judges attending the Interservice Seminar and a large number of Maxwell's professional military education students and faculty attended the PROJECT OUTREACH argument.

Seven active duty trial judges attended the 3-week Military Judges' Course conducted by The Army Judge Advocate General's School in Charlottesville, Virginia, from 3 through 21 May 1999. In September 1999, one active duty judge attended the Trying Capital Cases Course in Reno, Nevada, conducted by the National Judicial College. In July 1999, 6 active duty military judges attended the Special Problems in Criminal Evidence Course in Reno, Nevada.

The Chief Trial Judge attended both the mid-year and the annual meeting of the American Bar Association in Atlanta, Georgia, in August 1999. He serves on the Executive Committee of the National Conference of Special Court Judges and as Co-Chair of the Military Courts

Committee. He also serves as the Chair of the Military Courts Committee of the Judiciary Division, Federal Bar Association. These interactions with civilian judges are most beneficial in promoting a greater mutual understanding of the military and civilian justice systems and the roles of military and civilian judges.

GOVERNMENT TRIAL & APPELLATE COUNSEL DIVISION

Appellate Government Counsel

In November 1998, the Chief, Trial and Appellate Government Counsel Division and four appellate counsel traveled to The Army Judge Advocate General's School to attend the Criminal Law New Developments Course. This course covered the latest military cases in all significant areas of criminal law. In addition to providing the newest 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.

Appellate government counsel helped develop and plan the annual Military Justice Administration Workshop (MJAW) designed to assist numbered Air Force and base legal offices in understanding the complexities and problems associated with administering a military justice program. In December 1998, the JAJG Division Chief and two other appellate government counsel taught at the MJAW conducted at the Air Force Judge Advocate General School at Maxwell AFB, Alabama. Likewise, two appellate government counsel also provided instruction at the MJAW sponsored by HQ AFSPC/JA and conducted at the Air Force Academy in March 1999.

Appellate government counsel also prepared and provided an appellate update on USCAAF and AFCCA decisions and trends in case law for each of the trial counsel workshops in the five judicial circuits. Additionally, appellate government counsel provided instruction on myriad military justice topics at the Trial and Defense Advocacy Course, the Advanced Trial and Defense Advocacy Course, and the Staff Judge Advocate Course conducted at the Air Force Judge Advocate General School.

The Trial and Appellate Government Counsel Division continues to manage the Advocacy Continuing Education (ACE) Program. The web page dedicated to the ACE Program is routinely updated with materials of assistance to trial counsel worldwide, including the Trial Counsel Deskbook annually prepared by appellate government counsel. Easy access to these materials supplements the briefing provided by appellate government counsel at the Trial and Defense Advocacy Course and the Advanced Trial and Defense Advocacy Course.

Appellate government counsel have contributed to "PROJECT OUTREACH," sponsored by USCAAF and the AFCCA, by conducting oral arguments before audiences at the United States Air Force Academy and the Air Force Judge Advocate General School, educating personnel about the fairness and professionalism of the military justice system.

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

Appellate practice before USCAAF and AFCCA is cyclic as indicated below.

AFCCA	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
Briefs Filed	412	329	434	320	230
Cases Argued	33	27	22	10	11
USCAAF	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
Briefs Filed	71	80	85	48	29
Cases Argued	33	52	58	59	27
SUPREME COURT	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
Petition Waivers Filed	24	4	15	17	2
Briefs Filed	2	0	0	0	0

Circuit Trial Counsel

The manning authorizations for the fiscal year included 17 Circuit Trial Counsel (CTC) at three circuit offices in CONUS, while four CTCs cover the Pacific and European theaters, two per theater. During fiscal year 1999, Circuit Trial Counsel tried 222 general courts-martial or 55% of all general courts-martial. In addition, Circuit Trial Counsel tried 53 special courts-martial and represented government interests in 11 officer discharge boards held Air Force wide. Several CTCs attended the Criminal Law New Developments Course at the Army JAG School in Charlottesville, Virginia. The CTCs in all five judicial circuits conducted workshops for base-level prosecutors. Circuit Trial Counsel also utilize their talents by teaching as adjunct instructors at the Trial and Defense Advocacy Course and the Advanced Trial and Defense Advocacy Course.

APPELLATE DEFENSE COUNSEL DIVISION

With the United States Court of Appeals for the Armed Forces' decision to reverse the sentence in *United States v. Simoy*, the Air Force no longer has any death penalty cases in the appellate process. The division continues to provide death penalty litigation training to at least two appellate defense counsel annually.

Issues concerning Articles 57a and 58b, UCMJ, have generally been resolved and no longer compose a significant portion of this division's workload.

Appellate counsel continued to support trial defense counsel in the field through active participation in Circuit Defense Counsel Workshops. Counsel provided briefings at the workshops to field trial defense practitioners on new developments in the military criminal law. Appellate counsel also taught new Area Defense Counsel at Area Defense Counsel Orientation Courses.

The following figures reflect the division's workload in fiscal year 1999 and the previous four years:

AFCCA	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
Cases Briefed	592	534	505	603	507
Oral Arguments	33	23	22	10	9
USCAAF	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
Supplements					
To Petitions	473	589	527	424	416
Grant Briefs	39	39	85	40	26
Oral Arguments	40	45	58	59	23
SUPREME COURT	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>
Petitions	26	5	13	17	0
Briefs in Opposition	0	2	2	1	0
Briefs on the Merits	0	1	1	0	0

TRIAL DEFENSE DIVISION

The Trial Defense Division is responsible for providing all 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 directly to the Chief, Trial Defense Division, (JAJD), who reports to the Director, United States Air Force Judiciary (JAJ).

The Division is manned with 81 ADCs stationed at 71 bases worldwide. They received support from 72 DPs. The Division has 21 CDCs and 5 CCDCs. The CCDCs, along with all but four of the CDCs, are stationed at the circuit offices at Bolling AFB, DC; Randolph AFB, TX; Travis AFB, CA; Ramstein AB, Germany; and Yokota AB, Japan. A single defense paralegal is assigned to each of the three CONUS circuits.

The continuing success of the Air Force's Area Defense Program is largely attributable to its independence and its energized personnel. Other than advising and representing clients, training remains the division's top priority. Aside from on-the-job training and mentoring that is provided by CCDCs and CDCs, newly appointed defense counsel receive formal training at the Area Defense Counsel Orientation and at various Circuit-sponsored workshops. DP training was broadened in 1998 with the introduction of Circuit DP Conferences and the added training continues to strengthen the provision of defense services. The Division also provided adjunct faculty members for the Trial and Defense Advocacy Course and the Advanced Trial Advocacy Course, held at the Air Force Judge Advocate General School, Maxwell AFB, AL.

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 requested by the White House, Congress, DoD and the Air Staff. The division chief represents the Air Force on the Joint Service Committee on Military Justice (JSC). The division chief is also the current chairman of the JSC. The division also provided representatives to all interservice activities involving military justice and support for the Code Committee.

During the course of the past year, the Military Justice Division served as the action agency for the review of military justice issues on applications submitted to the Air Force Board for Correction of Military Records. The Division provided 98 formal opinions concerning such applications. They also received 316 inquiries in specific cases requiring either formal written replies or telephonic replies to senior officials, including the President and members of Congress. The Military Justice Division also reviewed 69 records of trial for review under Article 69a, UCMJ; 6 records under Article 69b. The Division also co-developed, planned and taught the annual Military Justice Administration Workshops with the Government Trial & Appellate Counsel Division.

The Military Justice Division has also conducted several major training projects in the area of Victim Witness Assistance (VWAP). Over the past year we traveled to two installations in Europe and six installations in the Pacific. Approximately 400 judge advocates, chaplains, first sergeants, security forces personnel, and health care professionals attended the training sessions. The Division also provided VWAP training to military judges at the Interservice Military Judges Seminar and the new judges course. Approximately 150 military judges were trained at these two courses. Division personnel assisted with training provided at the National Symposium on Victims of Federal Crime. Thirty-nine Air Force members from various Air Force career fields attended the national symposium. Finally, a representative from the Division attended the Gulf Coast Conference on Violence and Its Aftermath where they briefed on the DoD VWAP Program.

CLEMENCY, CORRECTIONS & OFFICER REVIEW DIVISION

The primary responsibilities of the Clemency, Corrections and Officer Review Division are 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 Command on correction issues.

Confinement

At the end of fiscal year 1999, a total of 526 Air Force personnel were in confinement. Of those, 158 inmates were in long-term confinement at the United States Disciplinary Barracks (USDB), Fort Leavenworth, Kansas, and 88 were serving time in the Federal Bureau of Prisons (BOP) system. There were six inmates in the Return-to-Duty Rehabilitation (RTDR) Program, with none graduating and being returned to duty during this period. The number of Air Force inmates on parole at the end of fiscal year 1999 was 136, an 11 percent decrease from last fiscal year.

AIR FORCE JUDGE ADVOCATE GENERAL SCHOOL

The Air Force Judge Advocate General's (JAG) School is one of seven professional continuing education schools organizationally aligned as part of Air University's Ira C. Eaker College for Professional Development at Maxwell Air Force Base, Alabama. The

William L. Dickinson Law Center is home to the school, and the David C. Morehouse Center supports Paralegal Studies. The JAG School conducts legal education for attorneys and paralegals from all military services; provides instruction at other Air University schools and colleges; publishes *The Reporter*, *The Military Commander and the Law*, and *The Air Force Law Review*; and maintains JAG Department liaison with civilian professional organizations, law schools, and states requiring continuing legal education.

Resident Courses

The JAG School conducted some 45 classes in-residence covering 30 different courses (some courses are held more than once a year), which were attended by approximately 3,600 students. Courses, seminars, and workshops conducted at the AFJAGS included:

- Advanced Environmental Law
- Advanced Labor and Employment Law
- Advanced Trial Advocacy
- Aircraft Accident Investigation Legal Advisor
- Claims and Tort Litigation
- Deployed Air Reserve Components Operations and Law
- Environmental Law
- Environmental Law Update
- Federal Employee Labor Law
- Federal Income Tax Law
- International Law
- Judge Advocate Staff Officer
- Law Office Manager
- Law Technology
- Legal Aspects of Information Operations
- Military Judge
- Military Justice Administration
- Negotiations and Appropriate Dispute Resolution
- Operations Law
- Paralegal Apprentice
- Paralegal Craftsman
- Reserve Component WebFLITE
- Reserve Forces Judge Advocate
- Reserve Forces Paralegal
- Staff Judge Advocate
- Trial and Defense Advocacy

In addition to this resident course curriculum, the JAG School conducted four "Surveys of the Law" for judge advocates and paralegals in the reserve components at a civilian conference center in Denver, Colorado. The surveys provide concentrated legal updates and included extensive reviews of recent development in military justice and civil

law. During fiscal year 1999, over 600 reserve and Air National Guard judge advocates and paralegals attended the JAG School Surveys of the Law. In addition, the JAG School conducted a PACOM CLE tour to update Air Force, Army, and Navy personnel assigned overseas on a host of legal topics, including military justice and professional ethics.

Distance Learning Courses

The JAG School utilizes distance learning for those educational offerings that lend themselves to effective teaching through this medium. The school presented two courses, the Air Force Systems and Logistics Contracting Course and the Fiscal Law Course via teleseminar (satellite downlink) to over 50 locations attended by more than 2000 personnel. In addition, the 5-skill level Paralegal Journeyman Course is offered as a non-resident, distance learning course in both paper-based and CD-ROM versions. The CD-ROM version was the first career development course in Air Force history to be offered in multimedia CD format.

Outside Teaching

In addition to the resident courses, the JAG School faculty provided military justice instruction in the following colleges, schools, academies, and courses within Air University: Air War College; Air Command and Staff College; Squadron Officer School; College of Aerospace Doctrine, Research, and Education; International Officers School; Basic Officers' Training Course; Commissioned Officers' Training Course; USAF First Sergeant Academy; Senior Noncommissioned Officer Academy; Group Commanders' Course, and the Chaplain Orientation Course.

In FY 99, the JAG School faculty participated in the Expanded International Military Education and Training Program (E-IMET), one of several Security Assistance Programs mandated by Congress (22 U.S.C. 2347). The program is designed to further U.S. foreign policy goals as established in the Foreign Assistance Act. The E-IMET Program involves joint U.S. military teaching teams sent abroad to teach human rights, military justice, civilian control of the military, law of armed conflict, rules of engagement, and general democratic principles.

Publications

The school published 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 other military lawyers. *The Air Force Law Review* is a scholarly publication that encourages frank discussion of relevant legislative, administrative, and judicial developments. Additionally, four issues of *The Reporter*,

the JAG Department's quarterly legal publication containing articles of general interest, were distributed in December, March, June, and September. Each issue of *The Reporter* has two sections dedicated to contemporary military justice issues. A third section addresses ethical issues that have surfaced in the military justice context. The school updated and redistributed substantial numbers of its most popular publication, *The Military Commander and the Law*, a 600+ page compendium of legal topics addressing the issues confronting today's Air Force commanders. *The Military Commander and the Law* is also available to military users on WebFLITE, where it is revised every six months.

LEGAL INFORMATION SERVICES

FLITE (Federal Legal Information Through Electronics) continued its proud tradition of legal information technology innovation for the Department of Defense (DoD). FLITE usage continues to grow as more legal professionals take advantage of the cutting edge communication, information management, and computer assisted legal research functions of the various FLITE systems. Of significant note this year, the Air Force Court of Criminal Appeals' electronic filing system, developed at FLITE, was deployed and is in use today. FLITE hopes to work with other interested Courts of Criminal Appeals and/or the United States Court of Appeals for the Armed Forces to field similar systems in the future. In addition, a beta version of a DoD Electronic Reading Room has been developed for the three Boards of Correction of Military Records and the three Discharge Review Boards. This web site, complete with searchable decisional documents, is scheduled to become operational early in calendar year 2000. FLITE also fielded a new SIPRNET (Secret Internet Protocol Router Network) product, C-FLITE, which now provides a place for classified legal materials. Finally, FLITE is in the process of making technological enhancements to its premier product, WebFLITE, which may allow portions of it to become available to all DoD legal professionals, at no cost, sometime in fiscal year 2000.

The Automated Military Justice Administrative Management System (AMJAMS), known as AMJAMS III, is currently released to the field as version 3.0. The trial judiciary and appellate modules are complete and in use. Redesigned up-to-the-minute reports are available to all users via the internet. The recently added investigations module facilitates tracking of pending cases prior to an Article 15 being offered or courts-martial charges being preferred. The addition of five new reports and the adhoc query function greatly enhances the usefulness of the database. AMJAMS currently facilitates tracking of all military justice actions from cradle to grave while providing managers with the necessary tools to manage their local programs.

As a result of technological advancements in the voice recognition court reporting systems, the JAS Resource Management Division has set up a meeting during the second quarter of FY00 at Keesler AFB. Attendees at this meeting will include court reporters, members of the judiciary and legal information services and a representative from AudioScribe Corporation. These individuals will meet to evaluate the new version of the voice recognition court reporting system including the appropriate hardware and software requirements.

PERSONNEL

As of 30 September 1999, there were 1,330 judge advocates on duty. Company grade officers (captains and first lieutenants) made up slightly over half of that number (671). Nearly 25% were majors (321) and the remaining 15% lieutenant colonels (210). Roughly 10% were colonels (123) and above, including two major generals and three brigadier generals.

WILLIAM A. MOORMAN
Major General, USAF
The Judge Advocate General of the Air Force

Period: Fiscal Year 1999

PART 1 - BASIC COURTS-MARTIAL STATUS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE(+)/ DECREASE (-) OVER LAST REPORT
GENERAL	421	396	25	-4.75%
BCD SPECIAL	333	313	20	9.54%
NON-BCD SPECIAL [A]				
SUMMARY	91	90	1	19.74%
OVERALL RATE OF INCREASE (+) / DECREASE (-) OVER LAST REPORT				

PART 2 - DISCHARGE APPROVED

GENERAL COURTS-MARTIAL (CA LEVEL)		
NUMBER OF DISHONORABLE DISCHARGES		52
NUMBER OF BAD CONDUCT DISCHARGES		225
SPECIAL COURT-MARTIAL (SA LEVEL)		
NUMBER OF BAD CONDUCT DISCHARGES		113

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICAL 66 - GENERAL COURTS-MARTIAL	336
FOR REVIEW UNDER ARTICLE 66 - BCD SPEECIAL COURTS-MARTIAL	121
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	87

PART 4 - WORK LOAD OF THE AIR FORCE COURT OF CRIMINAL APPEALS

TOTAL ON HAND BEGINNING OF PERIOD		354
GENERAL COURTS-MARTIAL	275	
BCD SPECIAL COURTS-MARTIAL	79	
REFERRED FOR REVIEW		465
GENERAL COURTS-MARTIAL	342	
BCD SPECIAL COURTS-MARTIAL	123	
TOTAL CASES REVIEWED		483
GENERAL COURTS-MARTIAL	344	
BCD SPECIAL COURTS-MARTIAL	139	
TOTAL PENDING AT CLOSE OF PERIOD		336
GENERAL COURTS-MARTIAL	273	
BCD SPECIAL COURTS-MARTIAL	63	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD (576:483)		-16.15%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE THE AIR FORCE COURT OF CRIMINAL APPEALS

NUMBER	463
PERCENTAGE	99.57%

PART 6 - U.S. COURT OF APPEALS FOR THE ARMED FORCES

PERCENTAGE OF AFCCA REVIEWED CASES FORWARDED TO USCAAF (412/483)	85.30%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	-16.15%
PERCENTAGE OF TOTAL PETITIONS GRANTED (28/412)	6.80%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	-62.16%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY AFCCA (28/483)	5.80%
RATE OF INCREASE (+) / DECREASE (-)OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD (457:412)	-9.85%

PART 7 - APPLICATIONS FOR RELIEF, ARTICLE 69

PENDING AT BEGINNING OF PERIOD		2
RECEIVED		6
DISPOSED OF		6
GRANTED	0	
DENIED	6	
NO JURISDICTION	0	
WITHDRAWN	0	
TOTAL PENDING AT END OF PERIOD		2

PART 8 - ORGANIZATION OF COURT

TRIALS BY MILITARY JUDGE ALONE		
GENERAL COURTS-MARTIAL	238	
SPECIAL COURTS-MARTIAL	178	
TRIALS BY MILITARY JUDGE WITH MEMBERS		
GENERAL COURTS-MARTIAL	183	
SPECIAL COURTS-MARTIAL	155	

PART 9 - COMPLAINTS UNDER ARTICLE 138

NUMBER OF COMPLAINTS	11
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PART 10 - STRENGTH

AVERAGE ACTIVE DUTY STRENGTH	358,353
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PART 11 - NONJUDICIAL PUNISHMENT (ARTICLE 15)

NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	8243
RATE PER 1,000	23
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD	3.24%

[A] The Air Force does not convene Non-BCD SPCMs. Of the 333 BCD SPCMS tried, there were 143 convictions with a BCD adjudged and 190 convictions without a BCD adjudged.

SECTION 6

REPORT OF THE CHIEF COUNSEL OF THE COAST GUARD

REPORT OF THE CHIEF COUNSEL OF THE COAST GUARD

OCTOBER 1, 1998 to SEPTEMBER 30, 1999

NOTE: All statistics presented in this analysis are based upon the number of court-martial records received and filed at Coast Guard Headquarters during fiscal year 1999 and, where indicated, records received during each of the five preceding years. Further, all undated statistics refer to courts-martial in which the record was received in fiscal year 1999.

<u>Fiscal Year</u>	<u>99</u>	<u>98</u>	<u>97</u>	<u>96</u>	<u>95</u>	<u>94</u>
General Courts-Martial	6	18	6	22	11	9
Special Courts-Martial	17	21	9	16	8	23
Summary Courts-Martial	3	8	10	14	14	15
<u>Total</u>	<u>26</u>	<u>47</u>	<u>25</u>	<u>52</u>	<u>33</u>	<u>47</u>

COURTS-MARTIAL

Attorney counsel were detailed to all special courts-martial. Military judges were detailed to all special courts-martial. For most cases, the presiding judge was the Chief Trial Judge, a full-time general courts-martial judge. When the Chief Trial Judge was unavailable, military judges with other primary duties were used for special courts-martial. Control of the detail of judges was centrally exercised by the Chief Trial Judge and all requirements were met in a timely fashion.

GENERAL COURTS-MARTIAL

Four of the six accused tried by general courts-martial this fiscal year were tried by military judge alone. None of the four accused tried by military judge alone received a dishonorable discharge and three received a bad-conduct discharge. Two accused elected to be tried by general courts-martial that included enlisted members. Both of the accused tried by general courts-martial with members received sentences that included bad-conduct discharges. All of the general courts-martial resulted in convictions. Two of the accused whose charges were referred to general courts-martial were nonrated (pay grades E-1 through E-3), four were petty officers (pay grades E-4 through E-6), none were chief petty officers (pay grades E-7 through E-9), and none was a warrant officer or junior officer (W-1 through O-3).

The following is a breakdown of the sentences adjudged in general courts-martial tried by military judge alone (four convictions):

<u>Sentence</u>	<u>Cases Imposed</u>
dishonorable discharge - - - - -	0
bad-conduct discharge - - - - -	3
confinement - - - - -	4
hard labor without confinement- - - - -	0
reduction in pay-grade - - - - -	4
fined (total \$0.00).- - - - -	0
restriction - - - - -	0
forfeiture of all pay and allowances - - - - -	0
partial forfeiture of pay and allowances - - - - -	0

The following is a breakdown of sentences adjudged in general courts-martial tried by members (two convictions).

<u>Sentence</u>	<u>Cases Imposed</u>
dishonorable discharge- - - - -	0
bad-conduct discharge - - - - -	2
confinement - - - - -	2
hard labor without confinement- - - - -	0
reduction in pay-grade - - - - -	2
fined (total \$0.00) - - - - -	0
restriction - - - - -	0
forfeiture of all pay and allowances - - - - -	0
partial forfeiture of pay and allowances - - - - -	0

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

<u>FY</u>	<u>Number of Convictions</u>	<u>Forfeitures</u>	<u>Confinement</u>	<u>Reduction in Pay-Grade</u>	<u>Punitive Discharge/Dismissal</u>
99	6	0 (0%)	6 (100%)	6 (100%)	5 (83%)
98	17	5 (29%)	12 (71%)	16 (94%)	11 (65%)
97	6	2 (33%)	4 (67%)	5 (83%)	4 (67%)
96	22	15 (68%)	19 (86%)	20 (91%)	18 (82%)
95	11	6 (55%)	10 (91%)	9 (82%)	7 (64%)

The following table shows the distribution of the 99 specifications referred to general courts-martial in fiscal year 1999.

<u>Violation of the UCMJ, Article</u>	<u>No. of Specs.</u>
80 (attempts) - - - - -	1
81 (conspiracy) - - - - -	0
83 (fraudulent enlistment)- - - - -	0
85 (desertion) - - - - -	0
86 (absence without leave)- - - - -	3
87 (missing movement) - - - - -	0
89 (disrespect toward a superior commissioned officer - - -	1
90 (assaulting or willfully disobeying a superior commissioned officer) - - - - -	0
92 (failure to obey order or regulation) - - - - -	25
93 (cruelty and maltreatment) - - - - -	3
107 (false official statement) - - - - -	3
108 (wrongful disposition of military property)- - - - -	0
109 (waste, spoilage, or destruction of government property)	1
112a (wrongful use, possession, etc. of controlled substances) - - - - -	0
116 (riot or breach of the peace) - - - - -	0
117 (provoking speech or gestures) - - - - -	0
120 (rape or carnal knowledge) - - - - -	3
121 (larceny or wrongful appropriation) - - - - -	14
123 (forgery) - - - - -	7
123a (making, drawing or uttering check, draft, or order without sufficient funds) - - - - -	0
125 (sodomy) - - - - -	4
128 (assault)- - - - -	3
129 (burglary) - - - - -	0
133 (conduct unbecoming an officer) - - - - -	0
134 (general) - - - - -	31

GENERAL COURTS-MARTIAL SUMMARY

There was a 67% decrease from fiscal year 1998 to fiscal year 1999 in general courts-martial records received and filed at Coast Guard Headquarters. Due to the small size of the Coast Guard this change is not statistically significant when viewed as a single-year change. Over the past 5 years the Coast Guard has averaged 13 general courts-martial per year. Sixty-seven per cent of the accused tried by general courts-martial during fiscal year 1999 were tried by military judge alone. Twenty-five per cent of these accused pled guilty to all charges and specifications. Fifty per cent of the accused tried by general courts-martial with members pled guilty to all charges and specifications.

SPECIAL COURTS-MARTIAL

Sixteen of the seventeen accused tried by special courts-martial this fiscal year were tried by military judge alone. Eight received a bad-conduct discharge. The one accused tried by a special court-martial with members received a sentence that included a bad-conduct discharge. No accused elected to be tried by a special court-martial that included enlisted members. All of the special courts-martial resulted in convictions. Seven of the accused whose charges were referred to special courts-martial were nonrated (pay grades E-1 through E-3), nine were petty officers (pay grades E-4 through E-6), one accused was a chief petty officer (pay grades E-7 through E-9), and no accuseds were warrant officers or junior officers (W-1 through O-3).

The following is a breakdown of the sentences adjudged in special courts-martial tried by military judge alone (16 convictions).

<u>Sentence</u>	<u>Cases Imposed</u>
bad-conduct discharge - - - - -	8
confinement - - - - -	15
hard labor without confinement - - - - -	1
reduction in pay-grade - - - - -	15
finned (total \$7,500.00) - - - - -	2
restriction - - - - -	2
partial forfeiture of pay and allowances- - - - -	8
reprimand - - - - -	0

The following is a breakdown of the sentence adjudged in the special court-martial tried by members (one conviction).

<u>Sentence</u>	<u>Cases Imposed</u>
bad-conduct discharge - - - - -	1
confinement - - - - -	0
hard labor without confinement - - - - -	1
reduction in pay-grade- - - - -	1
finned (total \$0.00) - - - - -	0
restriction - - - - -	0
partial forfeiture of pay and allowances - - - - -	0
reprimand - - - - -	0

The following shows the four sentences imposed most by special courts-martial in the past five fiscal years.

FY	Number of Convictions	Reduction in			
		Forfeitures	Confinement	Pay-Grade	BCD
99	17	8 (47%)	15 (88%)	16 (94%)	9 (53%)
98	20	9 (45%)	9 (45%)	17 (85%)	4 (20%)
97	9	4 (44%)	6 (67%)	8 (89%)	5 (56%)
96	14	11 (79%)	10 (71%)	13 (93%)	7 (50%)
95	7	3 (43%)	5 (71%)	6 (86%)	2 (29%)

The following table shows the distribution of the 109 specifications referred to special courts-martial in fiscal year 1999.

Violation of the UCMJ, Article	No. of Specs.
80 (attempts)	6
81 (conspiracy)	0
83 (fraudulent enlistment)	0
85 (desertion)	2
86 (unauthorized absence)	0
87 (missing movement)	1
90 (assaulting or willfully disobeying a superior commissioned officer)	2
92 (failure to obey order or regulation)	9
93 (cruelty and maltreatment)	6
107 (false official statements)	2
108 (sale, loss, damage, destruction, or wrongful disposition of military property of the U.S.)	0
112a (wrongful use, possession, etc. of controlled substance)	22
116 (riot or breach of the peace)	0
117 (provoking speech or gestures)	0
121 (larceny or wrongful appropriation)	19
123 (forgery)	13
123a (insufficient funds)	0
125 (sodomy)	0
128 (aggravated assault)	1
129 (burglary)	0
133 (conduct unbecoming an officer)	0
134 (general)	26

SPECIAL COURTS-MARTIAL SUMMARY

There was a 19% decrease in special courts-martial received and filed at Coast Guard Headquarters this fiscal year over last fiscal year. Due to the small size of the Coast Guard this change is not statistically significant when viewed as a single-year change. Over the past five years the Coast Guard has averaged 14 special courts-

martial per year. Ninety-four per cent of the accused tried during fiscal year 1999 by special courts-martial were tried by military judge alone. Six per cent of these accused pled guilty to all charges and specifications. None of the accused tried by special courts-martial with members pled guilty to all charges and specifications.

CHIEF COUNSEL ACTION UNDER ARTICLE 69, UCMJ

In addition to the required reviews of courts-martial conducted as a result of petitions filed under Article 66, UCMJ, a discretionary review was conducted under Article 69 of all courts-martial not requiring appellate review.

PERSONNEL, ORGANIZATION, AND TRAINING

The Coast Guard has 171 officers designated as law specialists (judge advocates) serving on active duty - 130 are serving in legal billets and 41 are serving in general duty billets. Twenty Coast Guard officers are currently undergoing postgraduate studies in law and 19 will be certified as law specialists at the completion of their studies (8 to graduate in 2000 including one with an LL.M. in Admiralty Law, 6 will graduate in 2001 including one with an LL.M. in International Law, and 6 will graduate in 2002). Nineteen Coast Guard officers (6 funded postgraduate program studies and 13 direct-commissioned lawyers) completed the Navy Basic Lawyer Course in Newport, Rhode Island. All have been or are in the process of being certified under Article 27(b), UCMJ.

U. S. COAST GUARD COURT OF CRIMINAL APPEALS

The judges for the U.S. Coast Guard Court of Criminal Appeals during fiscal year 1999 were as follows:

Chief Judge Joseph H. Baum
Judge David J. Kantor
Judge Ronald R. Weston
Judge Lane I. McClelland

The Court normally sits in panels of three at U.S. Coast Guard Headquarters in Washington, D.C. On 13 April 1999 the Court traveled *en banc* to the U.S. Coast Guard Academy in New London, Connecticut to hear oral argument in the case of *U.S. v. Frazier* as part of "Project Outreach," a program instituted by the United States Court of Appeals for the Armed Forces to take appellate hearings outside the Washington, D.C. area, and thus, make the public more aware of the military justice appellate process. Oral argument on the case was held before the corps of cadets, faculty, and administration at the

Coast Guard Academy, Coast Guard law specialists, both active and retired, from the surrounding area, and other guests. After the hearing adjourned, in furtherance of "Project Outreach" objectives, the judges and appellate counsel entertained questions from the audience not pertaining to the case.

In addition to the decisional work of the Court, as reflected in appendix A, the judges to the Court have been involved in various professional conferences, committees and seminars during the past fiscal year. In March 1999 the judges of the Court participated in the William S. Fulton, Jr. Appellate Military Judges Conference at the Federal Judicial Center in Washington, D.C. The conference was hosted by the U.S. Air Force Court of Criminal Appeals and featured Chief Judge Walter T. Cox III, who offered his perspective of the military justice system from fifteen years on the bench of the U.S. Court of Appeals for the Armed Forces. The conference also included a presentation by Professor James Strazzella of Temple University School of Law on the "Art of Appellate Judging," a talk by Major Martin H. Sitler, USMC, of the Army Judge Advocate General's School, on Extraordinary Writs, and a presentation by Ms. Diane DiMarco from the Administrative Office of the U.S. Courts on electronic filings. The conference also included panel discussions with judges from the Air Force Court on various issues facing our courts of criminal appeals. The Air Force Court also hosted the annual Appellate Military Judges Training Seminar, which was held on September 16 and 17, 1999, at the Federal Judicial Center.

In May 1999 the judges of the Court attended the Judicial Conference of the United States Court of Appeals for the Armed Forces at George Washington University in Washington, D.C. This two-day conference included presentations on a variety of topics, including problems implementing Articles 57(a) and 58b, UCMJ, trickery and deceit by law enforcement officers, various rules of evidence, ethical questions, disobedience of orders and the law of war, and defending high profile cases.

On 18 March 1999, Chief Judge Baum participated on a panel with Chief Judge Cox and the Chief Judges from the other service Courts of Criminal Appeals as part of the program for a Military Appellate Advocacy Symposium at The Catholic University of America Columbus School of Law. Chief Judge Baum also 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, working on proposed rule changes for that court. He continued to play an active role in the Federal Bar Association as a member of the Pentagon Chapter and as immediate past Chair of the Association's Judiciary Division.

ADDITIONAL MILITARY JUSTICE STATISTICS

Appendix A to this report contains basic military justice statistics for the reporting period and reflects the increase/decrease of the workload in various categories.

J. S. CARMICHAEL
Rear Admiral, USCG
Chief Counsel, U. S. Coast Guard

Period: 1 October 1998 -- 30 September 1999

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	6	6	0	-67%
BCD SPECIAL	17	17		-19%
NON-BCD SPECIAL	0	0	0	UNCHANGED
SUMMARY	3	3	0	-63%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-45%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL			
NUMBER OF DISHONORABLE DISCHARGES		6	
NUMBER OF BAD CONDUCT DISCHARGES		16	
SPECIAL COURTS-MARTIAL			
NUMBER OF BAD CONDUCT DISCHARGES		6	

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	9
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	2

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

TOTAL ON HAND BEGINNING OF PERIOD		23
GENERAL COURTS-MARTIAL	15	
BCD SPECIAL COURTS-MARTIAL	8	
REFERRED FOR REVIEW		15
GENERAL COURTS-MARTIAL	6	
BCD SPECIAL COURTS-MARTIAL	9	
TOTAL CASES REVIEWED		20*
GENERAL COURTS-MARTIAL	10	
BCD SPECIAL COURTS-MARTIAL	10	
TOTAL PENDING AT CLOSE OF PERIOD		20
GENERAL COURTS-MARTIAL	12	
BCD SPECIAL COURTS-MARTIAL	8	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		+82%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE COAST GUARD COURT OF CRIMINAL APPEALS

NUMBER	15
PERCENTAGE	100%

PART 6 - U. S. COURT OF APPEALS FOR THE ARMED FORCES

PERCENTAGE OF COMR REVIEWED CASES FORWARDED TO USCAAF	2/20	10%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-63%
PERCENTAGE OF TOTAL PETITIONS GRANTED	2/2	100%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+33%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CGCCA		10%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-33%

PAGE 1 OF 2

* The CGCCA issued a decision on reconsideration in U. S. v. Tualla. Accordingly, there are two decisions for that case, accounting for 19 cases decided, with 20 decisions.

PART 7 - APPLICATIONS FOR RELIEF, ARTICLE 69

PENDING AT 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 COURT

TRIALS BY MILITARY JUDGE ALONE			
GENERAL COURTS-MARTIAL		4	
SPECIAL COURTS-MARTIAL		16	
TRIALS BY MILITARY JUDGE WITH MEMBERS			
GENERAL COURTS-MARTIAL		2	
SPECIAL COURTS-MARTIAL		1	

PART 9 - COMPLAINTS UNDER ARTICLE 138

NUMBER OF COMPLAINTS	3	
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PART 10 - STRENGTH

AVERAGE ACTIVE DUTY STRENGTH	35,534	
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PART 11 - NONJUDICIAL PUNISHMENT (ARTICLE 15)

NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	986	
RATE PER 1,000	27.75	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD	+6.32%	

