

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, 2001 to September 30, 2002

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, 2001 to September 30, 2002

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, 2001 to September 30, 2002

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

The Code Committee met on May 16, 2002, to consider various matters pertaining to the administration of military justice. As in previous years, the meeting was open to the public. The Committee received a report from the Joint Service Committee on Military Justice that summarized changes to the Uniform Code of Military Justice and the Manual for Courts-Martial. The Joint Service Committee representative reported that the Fiscal Year 2002 National Defense Authorization Act included two amendments to the Uniform Code of Military Justice. The first amendment modified Article 111 of the Code by changing the blood alcohol limit for the offense of drunk driving to agree with that of the state where the offense was committed, but not more than .10 percent. The second amendment requires no less than twelve court-martial members in capital cases, unless the convening authority determines that twelve members are not reasonably available due to military exigencies. The committee representative also reported changes to the Manual for Courts-Martial that included a one-year limit on confinement at special courts-martial and the inclusion of a more narrow definition of adulterous relationships which are prejudicial to good order and discipline or are service discrediting. Other matters under consideration are a review of the nonjudicial punishment provisions of Article 15 of the UCMJ, the recommendation of the Department of Defense's Domestic Violence Task Force, a comparison of the International Criminal Court's provisions and the UCMJ, and a proposal for allowing an accused to request sentencing by the military judge following a conviction by members.

The Code Committee requested the Joint Service Committee to study the use of pleas of nolo contendere in courts-martial and the possibility of providing sentencing credit for pretrial confinement or restriction when confinement is not adjudged by a court-martial.

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

H. F. "SPARKY" GIERKE
Associate Judge

ANDREW S. EFFRON
Associate Judge

JAMES E. BAKER
Associate Judge

EUGENE R. SULLIVAN
Senior Judge

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

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

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

Rear Admiral R. F. DUNCAN, USCG
Chief Counsel, U.S. Coast Guard

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

Professor LEE D. SCHINASI
Public Member

Magistrate Judge JACOB HAGOPIAN
Public Member

SECTION 2

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

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

October 1, 2001 to September 30, 2002

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 2002 Term of the Court to the Committees on Armed Services of the United States Senate and the United States House of Representatives, and to the Secretaries of Defense, Transportation, Army, Navy, and Air Force in accordance with Article 146, Uniform Code of Military Justice, 10 U.S.C. § 946.

THE BUSINESS OF THE COURT

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

Senior Judge Eugene R. Sullivan served the entire Term of Court as an active Judge. Additionally, Senior Judge Walter T. Cox, III, was recalled and participated in the review and decision of several cases.

During the 2002 Term of Court, the Court admitted 363 attorneys to practice before its Bar, bringing the cumulative total of admissions before the Bar of the Court to 32,589.

RETIREMENT OF JUDGE EUGENE R. SULLIVAN

On September 30, 2001, Judge Eugene R. Sullivan's term as a Judge of the United States Court of Appeals for the Armed Forces expired. However, at the request of the Court he continued to serve as a Senior Judge for the entire 2002 Term of the Court. His many years of service are greatly appreciated by the Judges and Staff of 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 2002 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 the University of Virginia School of Law, Charlottesville, Virginia, the Catholic University of America, Columbus School of Law, Washington, D.C., the United States Naval Academy, Annapolis, Maryland, the Georgetown University Law Center, Washington, D.C., the United States Air Force Academy, Colorado Springs, Colorado, Seattle University School of Law, Seattle, Washington, and Fort Lewis, Washington.

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

JUDICIAL VISITATIONS

During the 2002 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 staff judge advocates and commanders at various military installations throughout the world.

JUDICIAL CONFERENCE

On May 14 and 15, 2002, the Court held its annual Judicial Conference at the Marvin Center, George Washington University, Washington, D.C. The program for this Judicial Conference was certified for credit to meet the continuing legal education requirements of numerous State Bars throughout the United States. The Conference opened with welcoming remarks by the Honorable Susan J. Crawford, Chief Judge, United States Court of Appeals for the Armed Forces, followed by speakers for this year's Conference, including Professor Jonathan R. Turley, George Washington University School of Law, Professor Jeffrey Rosen, George Washington University School of Law, Dr. Wayne Blackmon, George Washington University School of Law, Colonel Lawrence J. Morris, USA, Chief, Criminal Law Division, Office of

the Judge Advocate General, United States Army, Lieutenant Commander Rebecca A. Conrad, JAGC, USN, Naval Justice School, United States Navy, Colonel Charles R. Myers, USAF (Ret.), United States Air Force Academy, Professor Stephen A. Saltzburg, George Washington University School of Law, Professor Kenneth R. Feinberg, Georgetown University School of Law, Professor Ronald H. Spector, George Washington University History Department, Dr. Gary D. Solis, Chief, Oral History, United States Marine Corps, Major Bradley J. Huestis, USA, Professor, Criminal Law Division, The Judge Advocate General's School, United States Army, and Major Timothy C. MacDonnell, USA, Professor, Criminal Law Division, The Judge Advocate General's School, United States Army.

SUSAN J. CRAWFORD
Chief Judge

H.F. "SPARKY" GIERKE
Associate Judge

ANDREW S. EFFRON
Associate Judge

JAMES A. BAKER
Associate Judge

EUGENE R. SULLIVAN
Senior Judge

USCA STATISTICAL REPORT

2002 TERM OF COURT

CUMULATIVE SUMMARY

CUMULATIVE PENDING OCTOBER 1, 2001

Master Docket	60
Petition Docket	190
Miscellaneous Docket	<u>3</u>
TOTAL	253

CUMULATIVE FILINGS

Master Docket	103
Petition Docket	974
Miscellaneous Docket	<u>30</u>
TOTAL	1107

CUMULATIVE TERMINATIONS

Master Docket	113
Petition Docket	863
Miscellaneous Docket	<u>31</u>
TOTAL	1007

CUMULATIVE PENDING OCTOBER 1, 2002

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

OPINION SUMMARY

<u>CATEGORY</u>	<u>SIGNED</u>	<u>PER</u>	<u>CURIAM</u>	<u>MEM/ORDER</u>	<u>TOTAL</u>
Master Docket	70		2	41	113
Petition Docket	0		1	862	863
Miscellaneous Docket	<u>0</u>		<u>2</u>	<u>29</u>	<u>31</u>
TOTAL	70		5	932	1007

FILINGS (MASTER DOCKET)

Remanded from Supreme Court	1
Returned from Court of Criminal Appeals....	0
Mandatory appeals filed	0
Certificates filed	1
Reconsideration granted	0
Petitions granted (from Petition Docket)...	<u>101</u>
TOTAL	103

TERMINATIONS (MASTER DOCKET)

Findings & sentence affirmed	69	
Reversed in whole or in part	41	Signed
Granted petitions vacated	0	Per curiam ...
Other disposition directed	<u>3</u>	Mem/order ..
TOTAL	113	TOTAL

PENDING (MASTER DOCKET)

Awaiting briefs	10
Awaiting oral argument	22
Awaiting lead case decision (trailer cases)	18
Awaiting final action	<u>0</u>
TOTAL	50

FILINGS (PETITION DOCKET)

Petitions for grant of review filed	957
Petitions for new trial filed	3
Cross-petitions for grant filed	14
Petitions for reconsideration granted	0
Returned from Court of Criminal Appeals ...	<u>0</u>
TOTAL	974

TERMINATIONS (PETITION DOCKET)

Petitions for grant dismissed	1	
Petitions for grant denied	746	
Petitions for grant granted	101	
Petitions for grant remanded	2	Signed
Petitions for grant withdrawn	13	Per curiam ..
Other	<u>0</u>	Mem/order..
TOTAL	863	TOTAL

PENDING (PETITION DOCKET)

Awaiting briefs	156
Awaiting Central Legal Staff review	67
Awaiting final action	<u>78</u>
TOTAL	301

FILINGS (MISCELLANEOUS DOCKET)

Remanded from Supreme Court	0
Writs of error coram nobis sought	0
Writs of habeas corpus sought	5
Other extraordinary relief sought	9
Writ appeals sought	<u>16</u>
TOTAL	30

TERMINATIONS (MISCELLANEOUS DOCKET)

Petitions withdrawn	0	
Petitions remanded	0	
Petitions granted	3	
Petitions denied	28	Signed 0
Petitions dismissed	0	Per curiam. 1
Other	<u>0</u>	Mem/order.. 30
TOTAL	31	TOTAL 31

PENDING (MISCELLANEOUS DOCKET)

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

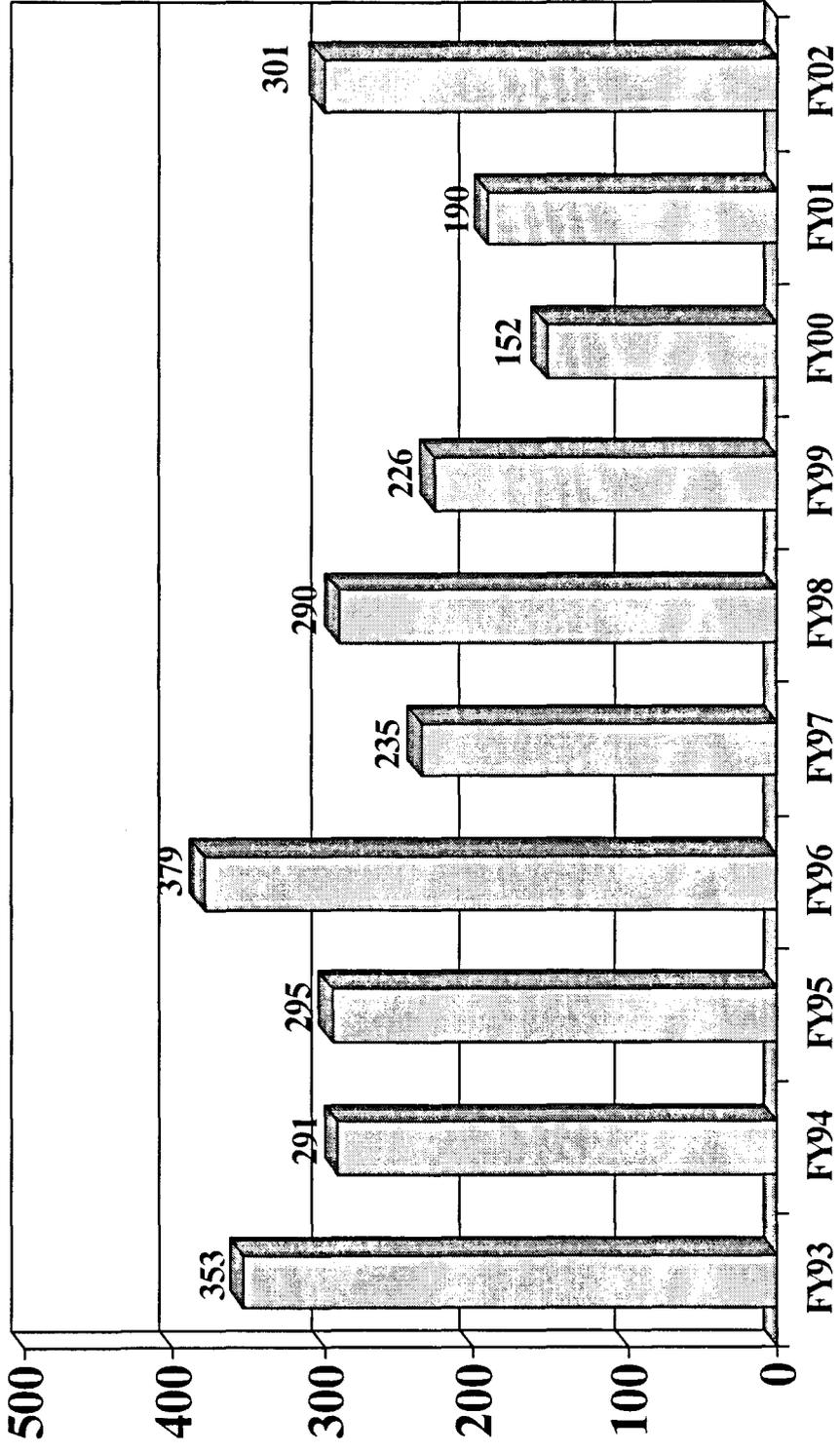
RECONSIDERATIONS & REHEARINGS

<u>BEGIN</u>	<u>END</u>	<u>DISPOSITIONS</u>				
<u>CATEGORY</u>	<u>PENDING</u>	<u>FILINGS</u>	<u>PENDING</u>	<u>Granted</u>	<u>Denied</u>	<u>Total</u>
All Cases	0	24	0	4	20	24

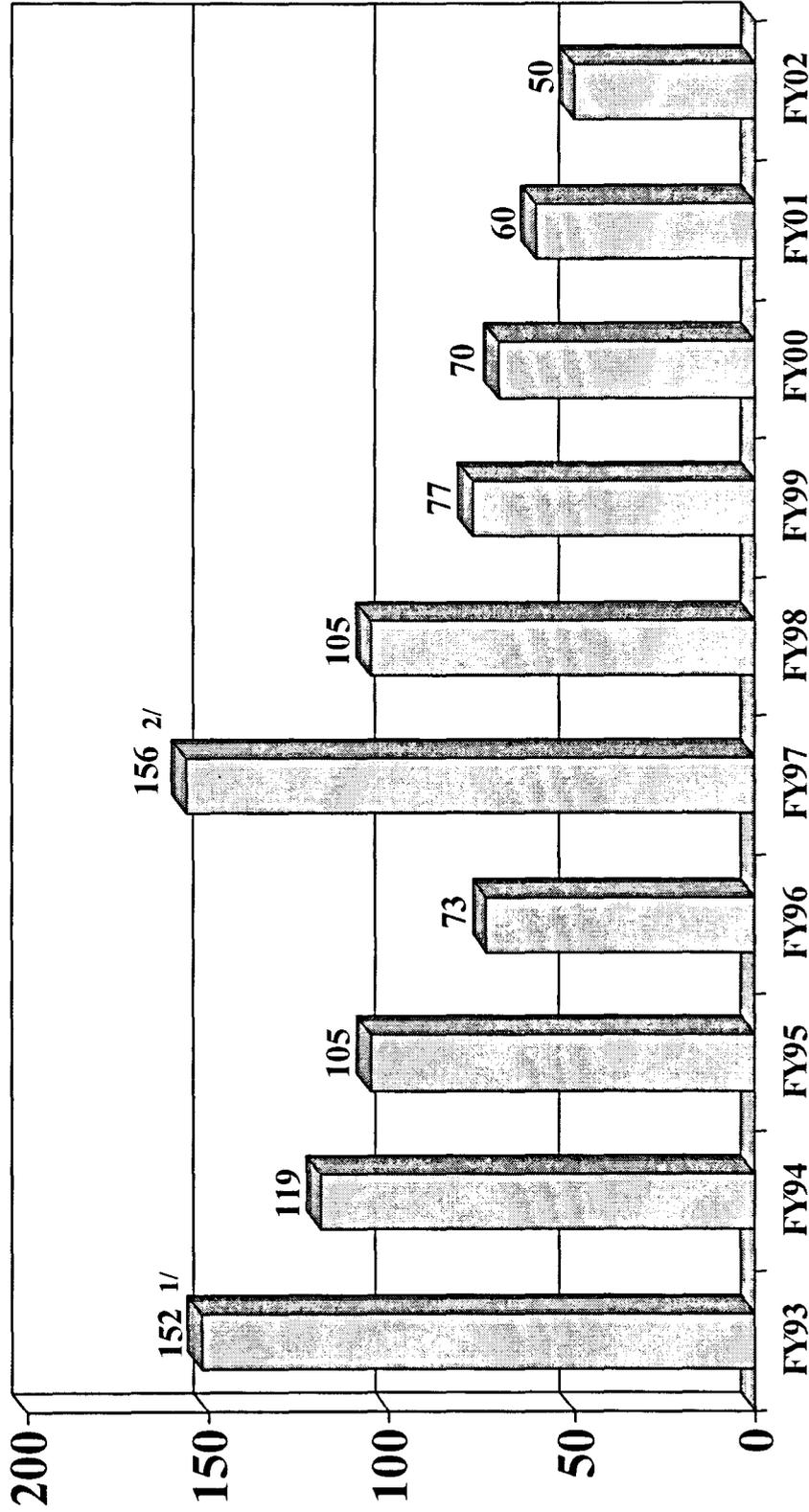
MOTIONS ACTIVITY

<u>BEGIN</u>	<u>END</u>	<u>DISPOSITIONS</u>					
<u>CATEGORY</u>	<u>PENDING</u>	<u>FILINGS</u>	<u>PENDING</u>	<u>Granted</u>	<u>Denied</u>	<u>Other</u>	<u>Total</u>
All motions	7	536	3	512	28	0	540

Petition Docket Year End Pending



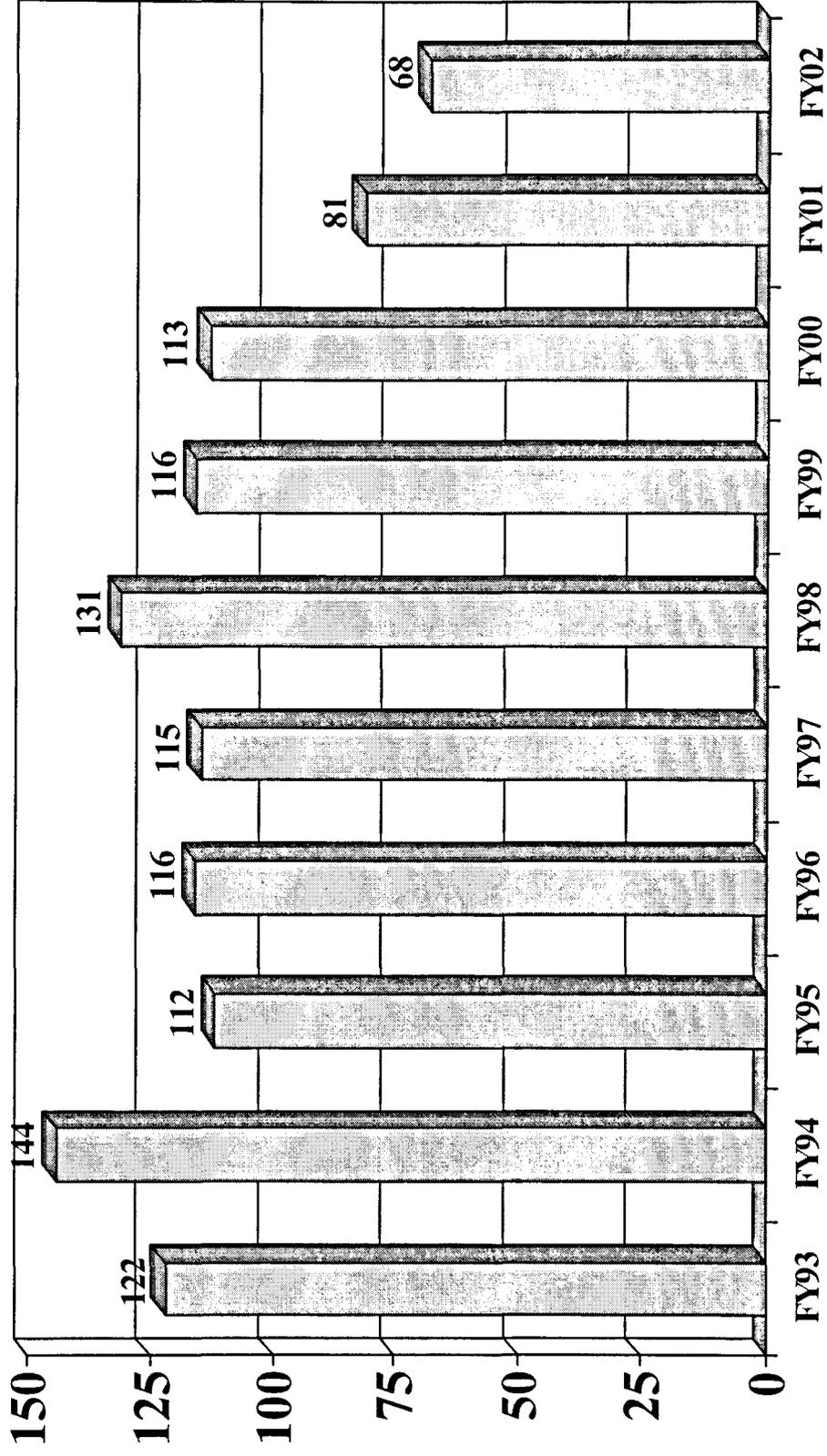
Master Docket Year End Pending



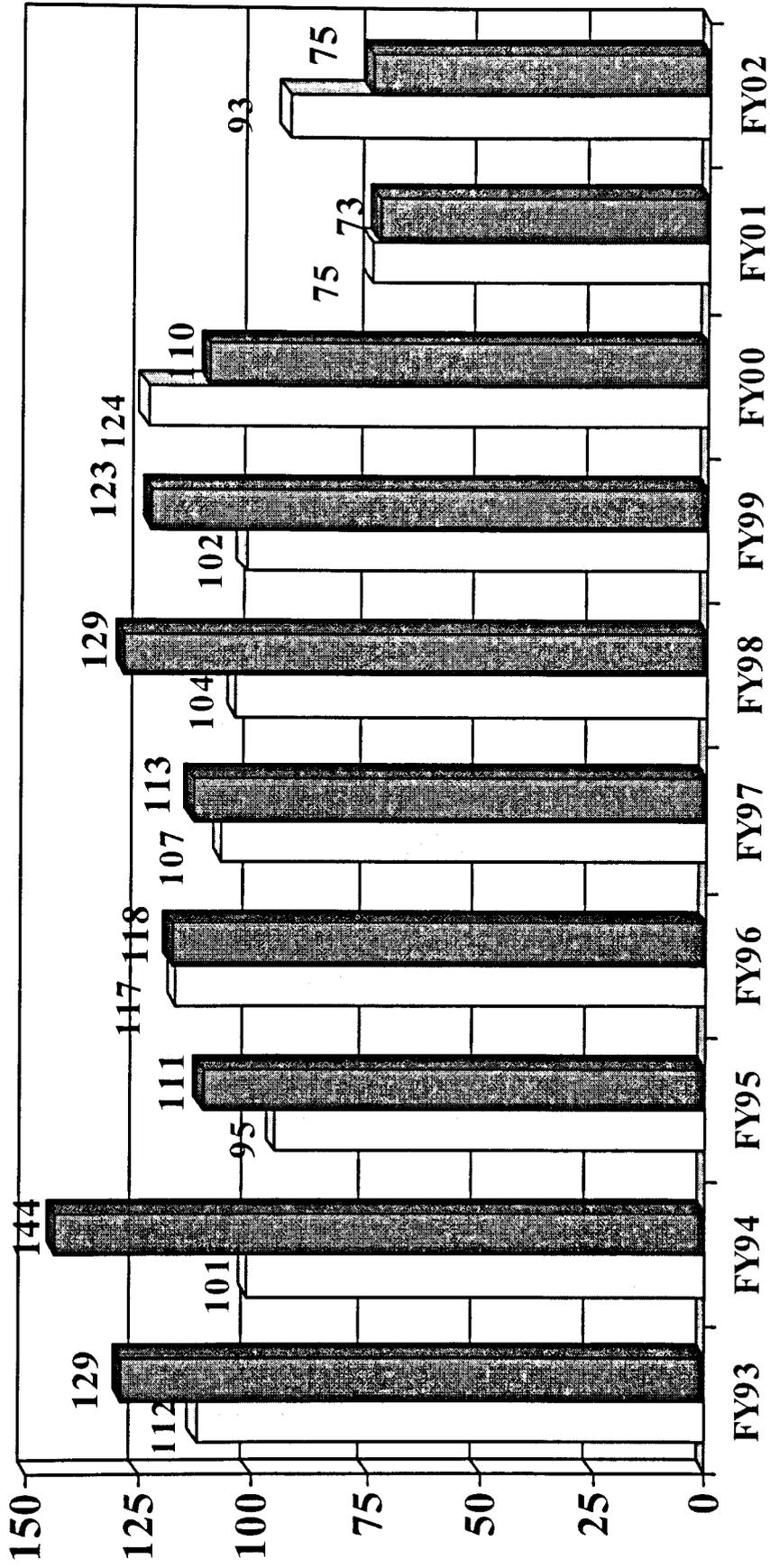
1/ This figure does not include 87 trailer cases to United States v. Mitchell, No. 93-1044/NA, and 9 trailer cases to United States v. Rexroat, No. 93-5007/AR.

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

Oral Arguments Per Year



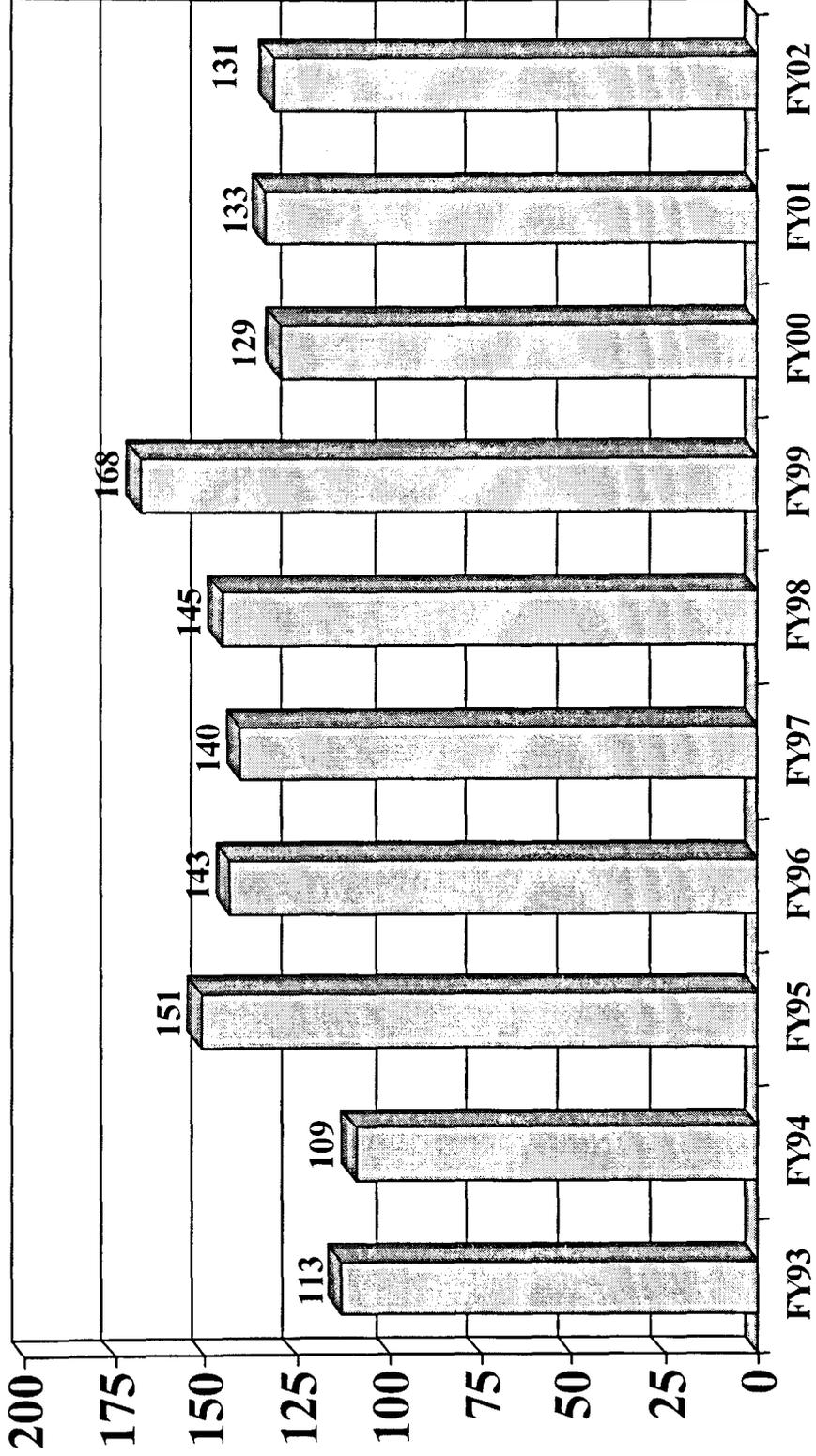
Total Opinions Per Year



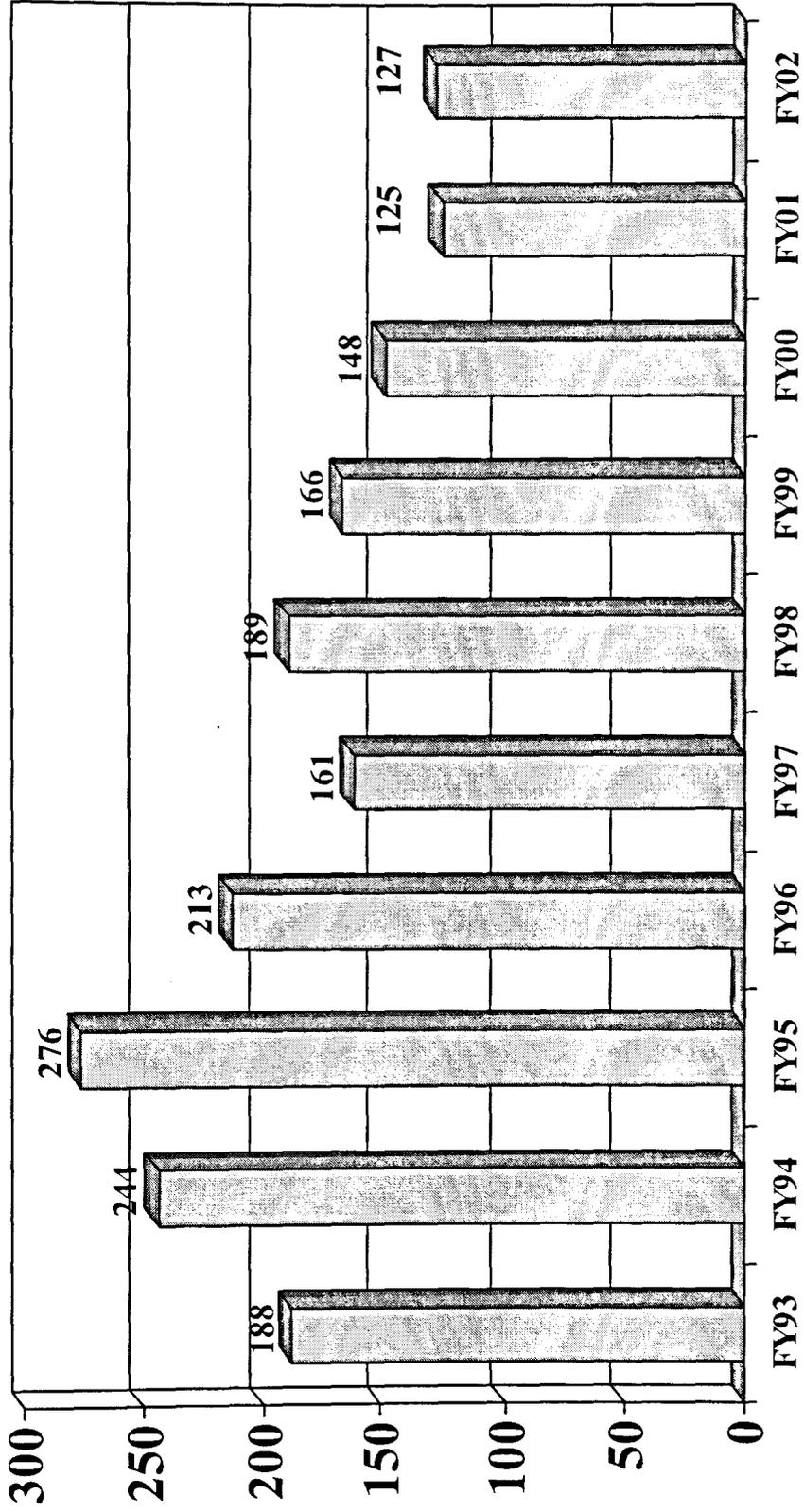
□ TOTAL SEPARATE OPINIONS (CONCUR, CONCUR IN THE RESULT, AND DISSENT)

■ TOTAL COURT OPINIONS

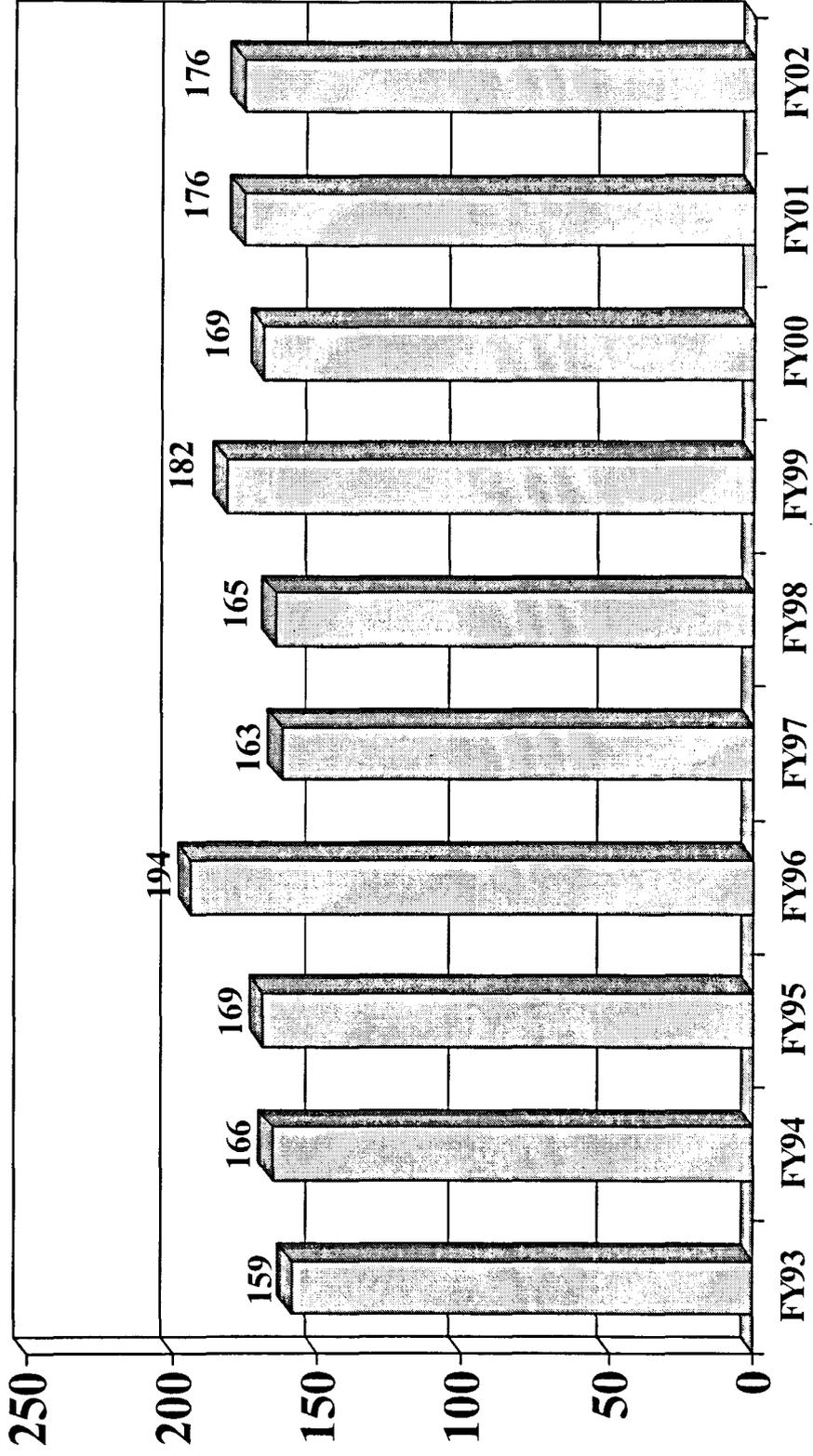
Days from Petition Filing to Grant



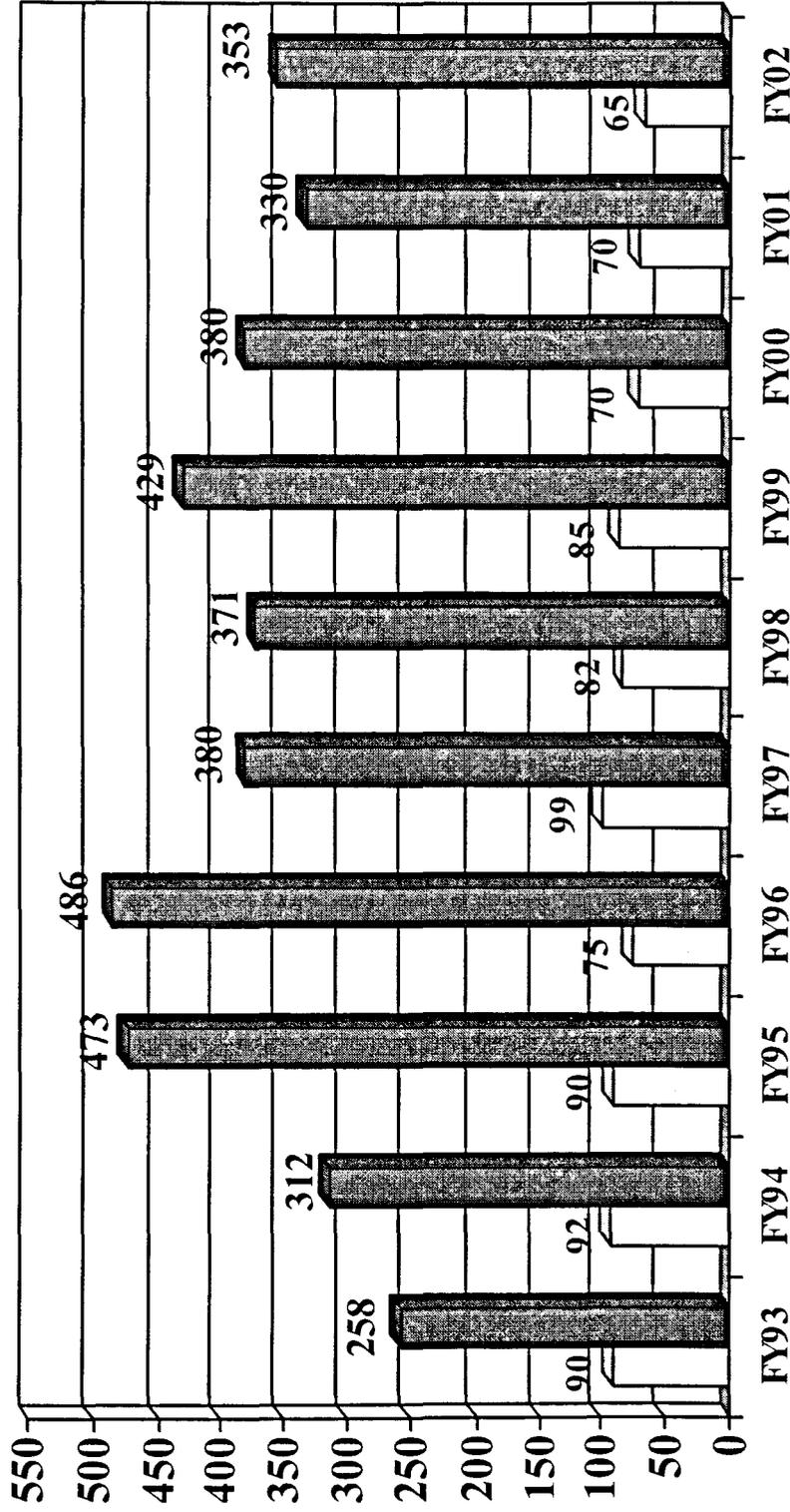
Days from Petition Grant to Oral Argument



Days from Oral Argument to Final Decision



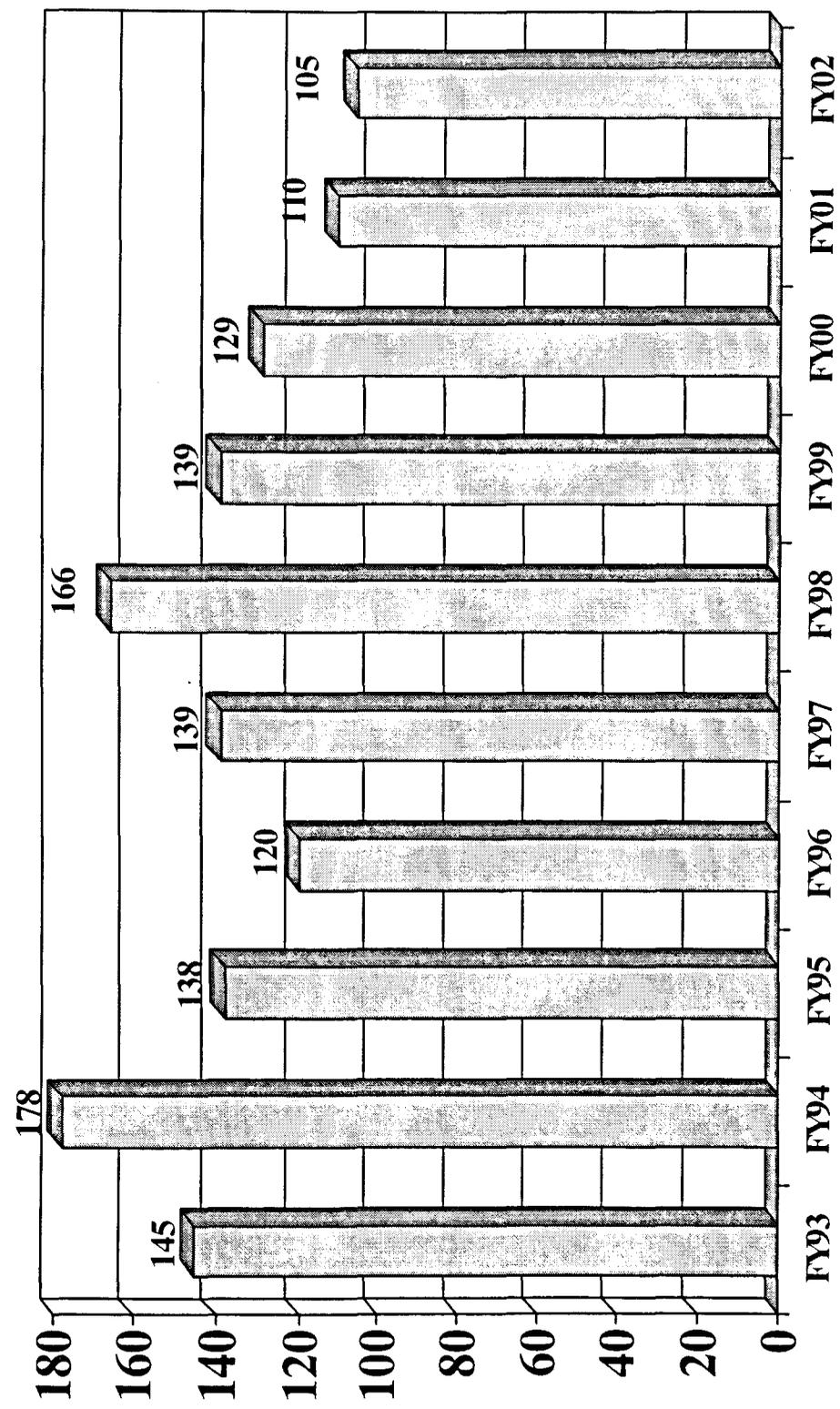
Days from Petition Filing to Final Decision



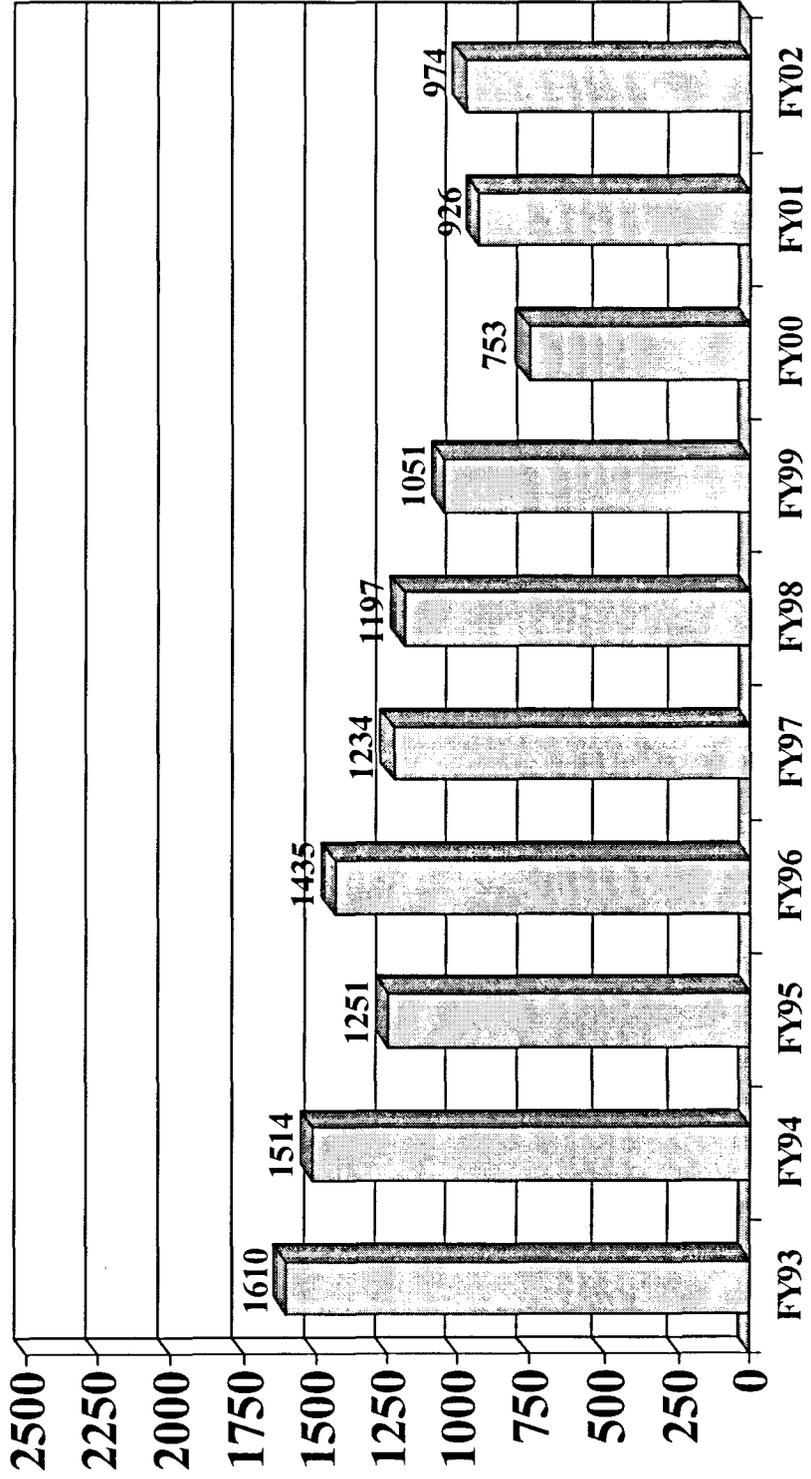
□ PETITION DOCKET (DENIAL/DISMISSAL/WITHDRAWAL)

■ MASTER DOCKET (GRANTED/CERTIFIED/DEATH CASES)

Days from Filing to Final Decision in All Cases



Total Petitions Filed Per Year



SECTION 3

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY

**REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY
OCTOBER 1, 2001 TO SEPTEMBER 30, 2002**

During fiscal year 2002 (FY 02) and in compliance with Article 6(a), Uniform Code of Military Justice (UCMJ), The Judge Advocate General and senior members of his staff made 29 official visits at 44 installations in the United States and overseas. In addition, the Office of The Judge Advocate General (OTJAG) continued to monitor courts-martial, review and prepare military publications and regulations, and develop and draft changes to the Manual for Courts-Martial (MCM) and the UCMJ. Through its Field Operating Agencies, OTJAG provided judicial and appellate services, advice, assistance, and professional education to ensure the efficient administration of military justice. Numbers in this report are based on an average Army end strength of 516,599 in FY 02. The Army end strength number for this year includes 486,500 Regular Army personnel on duty as of 30 September 2002 and includes an average of 26,443 mobilized Army Reserve and National Guard personnel supporting Operations Enduring Freedom and Noble Eagle, and an average of 3,656 mobilized Army Reserve and National Guard personnel supporting operations in Bosnia, Kosovo, and Southwest Asia. The Army end strength was 480,801 for FY 01. The FY 01 and prior year numbers did not include the small number of mobilized reserve component personnel on active duty.

SIGNIFICANT MILITARY JUSTICE ACTIONS

The Criminal Law Division, OTJAG, advises The Judge Advocate General on military justice policy, legislation, opinions, and related criminal law actions. Specific responsibilities include the following: promulgating military justice regulations, reviewing Army regulations for legal sufficiency, military corrections, the Army's drug testing program, federal felony and magistrate court prosecutions, producing legal opinions for the Army Staff relating to military justice matters, statistical analysis and evaluation of trends in judicial and nonjudicial punishment and responding to congressional inquiries.

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

	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
White House inquiries	163	161	33
Congressional and other inquiries	312	272	206
Clemency Petitions, Article 74, UCMJ	8	5	8
Officer Dismissals	23	22	19
Freedom of Information Act/Privacy Act	54	13	9

On 6 September 2002, the Army published a new Army Regulation 27-10, Military Justice, effective 14 October 2002. The new regulation contains many significant changes. A few notable changes include: Special Courts-Martial Convening Authorities may now refer cases to a Special Court-Martial empowered to adjudge a Bad-Conduct Discharge so long as other MCM requirements are met and the SJA prepares a pretrial advice under the provisions of Rules for Courts-Martial (R.C.M.) 406 prior to referral; court reporters must be detailed to all SPCMs; appellate authorities for nonjudicial punishment pursuant to Article 15, UCMJ, may now change filing determinations, but only to the advantage of the appealing soldier; the automatic reduction to pay grade E-1 mandated by Article 58a now applies only to enlisted soldiers with an approved sentence that includes a punitive discharge or more than six months confinement; home addresses and social security numbers will not be used to identify witnesses; Social Security Numbers, other than the accused's, will only be used to verify that the members actually detailed by the convening authority are present, and thereafter no documents that include social security numbers, other than documents related to the accused, will be maintained in the Record of Trial; implementation of the requirements of 42 U.S.C. section 14071 by requiring trial counsel to provide notice of registration requirement to those convicted of a covered offense that are not sentenced to confinement; by direction of HQDA, the Report of Result of Trial, DA Form 4430, must now indicate (1) whether or not the convicted service member must submit to DNA processing IAW 10 U.S.C. section 1565, and (2) whether the conviction does or does not require sex offender registration IAW 42 U.S.C. section 14071; and provision of habeas corpus assistance in death penalty cases, allowing TJAG to appoint military counsel to assist counsel appointed by the District Court or individually retained counsel throughout the appellate process.

JOINT SERVICE COMMITTEE (JSC) ON MILITARY JUSTICE

The Army is the Executive Agent for publication of the Manual for Courts-Martial (MCM) and this year published the 2002 edition. This edition incorporates the last three executive orders and contains the following statutory changes: changes to Article 54, UCMJ (10 U.S.C. § 854), requiring a verbatim record in special courts-martial in which the sentence adjudged includes a bad-conduct discharge, confinement for more than six months, or forfeiture of pay for more than six months; changes to Article 74(a), UCMJ (10 U.S.C. § 874(a)), limiting secretarial clemency authority in cases including a sentence to confinement to life without the eligibility of parole; and, changes to Article 111, UCMJ (10 U.S.C. § 911), changing the blood alcohol content limit to in excess of the lesser of .10, the limit under the law of the State in which the conduct occurred, or

(outside of the United States) such lower limit as the Secretary of Defense may prescribe. The MCM is available electronically at <http://www.usapa.army.mil/pdf/files/mcm2002.pdf>. It is also available in hardcopy from the Government Printing Office at <http://www.gpo.gov/> or by telephone at (202) 512-1800; fax (202) 512-2250.

During FY 02, the JSC completed its eighteenth annual review of the MCM. The JSC published this review in the Federal Register for public comment on 20 May 2002 and held a public meeting on 27 June 2002 to receive comments from interested parties. Highlights of the annual review's proposed changes include the following with regard to the Rules for Courts-Martial: amending R.C.M. 201 and R.C.M. 1004, both of which give guidance on the affirmative action necessary to refer a capital case; amending R.C.M. 307 making what was previously non-binding discussion part of the binding rule to help eliminate the unreasonable multiplication of charges against one person; modifying R.C.M. 501 and R.C.M. 805 by requiring that in all capital cases, the court-martial must be comprised of a military judge and no fewer than twelve members, unless twelve members are not reasonably available because of physical conditions or military exigencies; and adding R.C.M. 1103A to prevent indiscriminate viewing or disclosure of materials ordered sealed by the military judge. In addition, the JSC recommended several changes to the punitive articles of the MCM. These changes include: inserting a new subparagraph (ii) in Part IV, Paragraph 14c(2)(a) (Article 90), making the question of the lawfulness of an order an issue to be decided by the military judge; and replacing the current text of Paragraph 109 (Article 134) by expanding the items about which one can communicate a threat or hoax to include not only explosives or bombs, but also, weapons of mass destruction, biological or chemical agents, substances, or weapons, or hazardous material.

The JSC drafted two Executive Orders (EO) to amend the MCM to implement these proposed changes and the changes proposed in 2001. Both of these EOs are pending executive approval in FY 2003.

The JSC submitted responses to the Department of Defense General Counsel on the JSC's review of the Report of The National Institute Of Military Justice-Sponsored Commission on the 50th Anniversary of The UCMJ (more commonly known as The Cox Commission). The JSC also continued its studies on joint military justice proposals, technology, and proposed expansion of subpoena authority.

MILITARY JUSTICE STATISTICS
STATISTICAL SUMMARY: FY 02
(See table insert, attached)

U.S. ARMY LEGAL SERVICES AGENCY

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

U.S. ARMY JUDICIARY

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

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

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

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

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

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

Trial Judiciary

Military judges preside over the trial of all Army special and general courts-martial worldwide. Eighteen active duty and fourteen Army Reserve judges tried courts-martial in remote locations, including Bosnia, Kosovo, and Kuwait, as well as in military courtrooms throughout the United States, Europe, Japan, and Korea. Significant increases in the number of cases tried in FY 2002 were fueled in part by increases in so-called "club drug" offenses, absence without leave and desertion offenses, and Internet and child pornography offenses. Increased numbers of soldiers on active duty as the result of activation of National Guard and Reserve units also contributed to a significantly increased caseload.

Examination & New Trials Division

Pursuant to a delegation from the Judge Advocate General, the Examination and New Trials Division [ENT] examines under Article 69(a) UCMJ, all general court-martial cases not otherwise reviewed under Article 66, UCMJ. Last year ENT examined 85 cases and acted on five applications for relief from inferior courts-martial under Article 69(b), UCMJ. There were no petitions for new trial under Article 73 and no relief required under RCM 1201(b)(2) where a general court-martial convening authority failed to take corrective action recommended by a judge advocate based on a legal error. ENT also performed an administrative check on 168 cases involving acquittals, post-trial separations under Chapter 10 AR 635-200, and waivers of appellate review.

U.S. ARMY TRIAL DEFENSE SERVICE

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

USATDS counsel workload from FY 98 through FY 02 is displayed below.

	FY98	FY99	FY00	FY01	FY02
General Courts-Martial	694	722	733	782	821
Special Courts-Martial	286	331	392	316	537
Administrative Boards	597	698	597	826	918
Nonjudicial Punishment	32,181	31,595	30,633	35,786	40,769
Consultations	28,668	26,794	24,051	33,546	37,476

USATDS provided defense services to deployed forces around the world, including Southwest Asia, Kuwait, Bosnia, Kosovo and Central Asia. TDS counsel worldwide continue to achieve phenomenal success at the pretrial stages of litigation. The change to Army Regulation 27-10 to fund all defense counsel travel by USALSA from the first stage of the investigation can only improve the overall quality of service to the soldier/client. By getting actively involved in the case at its earliest stages, defense counsel have, in many instances, successfully negotiated non-punitive dispositions of cases. At some locations, TDS maintained inter-service agreements to provide defense services to military personnel of sister services. Also, at select locations, TDS counsel continued to support soldiers at Physical Evaluation Boards. TDS has seen an overall increase in both the number of courts-martial and their complexity, including three pre-meditated murder cases in Europe.

TDS completed the Force Design Update (FDU) started in 2001 in coordination with the Combat Developments Department of The Judge Advocate General's School. Through the FDU process, TDS examined and reviewed how best to provide trial defense services to the Army. Specifically, TDS examined the organization's current operational requirements and recommended changes to the doctrine, training, and organization. There will be significantly more Table of Organization & Equipment (TOE) positions as a result of this process.

TDS continues to expand its use of desktop video teleconference (DVTC) equipment to provide defense services to clients who are not co-located with TDS counsel. Offices located outside the continental United States (OCONUS) are making the best use of the technology. The continued success of the technology has generated hopes for expansion of the service to provide DVTC capabilities to remote areas throughout the world, particularly for our deployed counsel in Kosovo, Bosnia, and Central Asia. TDS counsel in Europe have also developed a deployable resource library on CD ROM, which contains an extensive set of references, training materials, an attorney brief bank, standardized forms, case management tools, client information papers, and similar data in a readily portable and easily accessible format. USATDS has launched a new and improved website to monitor and control personnel actions, travel, training, and research which allows for increased active and reserve attorney use.

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

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

The California Army National Guard has proposed an initiative that is currently under review at National Guard Bureau/Department of the Army level that would turn the 22nd LSO, currently made up of all USAR personnel, into a multi-component unit with one team of defense lawyers being National Guard attorneys. This would truly result in provision of defense services across all components in accordance with the TDS model and standards. The advantages for all parties are many. Both the National Guard and Reserves gain organizational capacity and flexibility. Training opportunities involving TDS would be maximized. Both National Guard defense counsel and units would train as they fight. California would comply with its statutory mandate to conform as nearly as practicable to active duty practice. Potential complaints of actual or perceived unlawful command influence over defense services would be minimized. Finally, the concept of utilizing a predominantly Reserve LSO to provide legal defense services for Army National Guard troops will be validated. This could set a precedent for all 54 states and territories as to how defense services should be provided in the Guard.

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

reserve counsel and counsel from our sister services. In Korea, TDS has entered an agreement for cross-training with the Marines in Okinawa. To date, 2002 CLEs were conducted at Fort Carson, Colorado; Charleston, South Carolina; and Savannah, GA. The training focused TDS counsel on honing their courtroom skills and expanding their knowledge of military justice with particular emphasis on evidentiary objections and arguments. TDS counsel in Europe participated in the Bi-Regional training in April 2002, held in Garmisch, Germany. For the first time, enlisted support personnel attended and received tailored instruction along with the attorneys.

TRIAL COUNSEL ASSISTANCE PROGRAM

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

TCAP provided five basic categories of services during FY 2002: (1) telephone/e-mail/and website forum inquiry assistance; (2) advocacy training courses and other training events; (3) dissemination of publications on a variety of subjects; (4) trial assistance; and (5) appellate assistance. In so doing, TCAP personnel accomplished the following: (1) responded to an average of over 100 telephonic and email requests for assistance per month; (2) conducted seven regional advocacy training conferences in the United States and Germany, providing hundreds of hours of continuing legal education to approximately 175 military judge advocates and 50 Army Criminal Investigation Division agents; (3) provided electronic and paper copies of countless articles and other publications to judge advocates around the world; (4) published daily "Trial Tip of the Day" messages on the TCAP internet website as well as responded to numerous messages and inquiries posted therein; (5) actively participated in the preparation and trial of several courts-martial, one of which involved a murder committed by a senior Army officer; and (6) responded to three extraordinary writs and filed one Government appeal with the Army Court of Criminal Appeals (ACCA). TCAP prepared over a dozen answers and returns to habeas corpus petitions filed with various Offices of the U.S. Attorney or with the United States Court of Appeals for several circuits.

In response to the need for vigorous investigation, prosecution and treatment of sexual abuse cases, TCAP re-tooled the scenario used in its training conferences. The FY 02 version trained participants in a "start-to-finish" approach employing complex facts and issues within a mock child abuse scenario that required the students to research and argue their case under critical scrutiny. For FY 03, TCAP will utilize at eight regional training conferences a scenario that presents facts and issues involving domestic sexual violence. Additionally, the revised TCAP website now includes interactive training scenarios that allow users to train themselves on trial issues and legal principles involved in sexual abuse cases.

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

FOREIGN CRIMINAL JURISDICTION

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

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

	1 Dec 1999 to <u>30 Nov 2000</u>	1 Dec 2000 to <u>30 Nov 2001</u>
Foreign Offense Citations	4,440	4,498
Total Civilian	1,254	1,074
Total Military	3,186	3,424
Exclusive Foreign Jurisdiction	190	156
Concurrent Jurisdiction	2,996	3,268
Traffic/Other Minor Offenses	283	297
Foreign Jurisdiction Recalls	435	344

This year, foreign authorities released to U.S. authorities 2 of the 156 exclusive foreign jurisdiction cases involving military personnel. In concurrent jurisdiction cases in which the foreign countries had the authority to assert primary jurisdiction, U.S. military authorities were able to obtain waivers of the exercise of this jurisdiction in 3,078 cases. Overall, the U.S. obtained waivers in 94.1% of all exclusive and concurrent jurisdiction cases. This figure reflects a 2.7% increase in such waivers from 1999-2000, when the relevant figure was 91.4%.

During the last reporting period, civilian employees and dependents were involved in 1,254 offenses. Foreign authorities released 94 of these cases (7.5 % 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 1,074 offenses. The foreign authorities released 112 of these cases (10.4 % of the current total).

Foreign authorities tried a total of 698 cases. Twelve trials, or 1.7%, resulted in acquittals. Those convicted were sentenced as follows: 16 cases resulted in executed confinement; 55 cases resulted in suspended confinement; and 615 cases (88.1 % of the total trials) resulted in only fines or reprimands.

PROFESSIONAL RESPONSIBILITY

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

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

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

Multijurisdictional Practice

SOCO's attorneys researched and prepared comments for the *ABA Commission on Multijurisdictional Practice*. The Commission's originally proposed Model Rule 5.5 would have left military lawyers unprotected in three of our most important service areas:

Giving legal assistance to individual soldiers, retirees, and their families;

Representing individual defense clients in criminal or adverse administrative actions; and

Representing the National Guard of the states, Puerto Rico, Guam, the Virgin Islands, and the District of Columbia.

In March 2002, MG Michael J. Marchand, The Assistant Judge Advocate General, testified in person before the Commission in New York.

Our efforts succeeded. As approved by the ABA House of Delegates on August 12, 2002, the Commission's report (with minor changes) and newly amended ABA Model Rule of Professional Conduct 5.5 removed doubt about the authority of military attorneys to practice across state lines as they provide their clients legal assistance and defense services on active duty, in the reserves, and in the National Guard.

Notices and Complaints during FY 2002

Credibility Reviews. 32 notices and complaints had administrative disposition after credibility reviews determined that no inquiries were warranted (down 11 percent from FY 2001's 36 administrative dispositions).

Inquiries. Six inquiries were conducted and closed (unchanged from FY 2001's six closed inquiries). None of this year's inquiries were founded (compared with three founded inquiries of six total closed during FY 2001).

LITIGATION

The number of civil lawsuits filed in federal, state, and international courts against the Department of the Army and its officials increased this year from previous years. 552 actions were filed in FY 02, an increase of 17% from the year before. Cases requiring civilian courts to interpret the UCMJ remain a small, but significant portion of this total. Most of these cases are by soldiers and former soldiers seeking collateral review of courts-martial proceedings, usually via petitions for writs of *habeas corpus* filed in federal district courts, or in back-pay actions filed in the Court of Federal Claims. Other suits involve challenges to confinement conditions, to decisions to deny clemency or parole, to parole revocation, or to other administrative actions taken by confinement facility officials.

An important case that is almost at its end, Hall v. Department of Defense, is a class action filed in 1997 by all inmates confined at the United States Disciplinary Barracks (USDB), Fort Leavenworth, Kansas. The inmates claimed they were subject to unsafe living conditions that violated the Eighth Amendment proscription against cruel and unusual punishment.

They alleged 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. Plaintiffs' attorney later moved to dismiss the case because a new USDB was under construction and scheduled to be completed in 2001, thereby mooting the issues presented in the lawsuit. In February 2001, the district court dismissed the lawsuit without prejudice, but several of the inmates appealed the dismissal to the U.S. Court of Appeals for the D.C. Circuit. In the interim, the Army Corps of Engineers delayed the completion date for the new USDB to June 2002. The Court of Appeals remanded the case to the district court to determine what effect, if any, the new completion date would have on the inmates' health and safety. In March 2002, the district court determined that the new completion date would have no effect on the inmates' health and safety and notified the Court of Appeals of its findings. By the end of October 2002, all of the inmates were transferred into the new facility. The Army plans to file a supplemental brief notifying the Court of Appeals that the move to the new USDB is complete and the issues raised by plaintiffs' suit are finally moot.

Litigation Division also routinely defends challenges to the Feres doctrine as it applies to military prisoners after their punitive discharges have been executed, but while they continue to serve sentences of confinement at the USDB and the Regional Confinement Facilities (RCFs). We recently received a favorable decision from the U.S. Court of Appeals for the Tenth Circuit in the lead case on this issue, Ricks v. Nickels, when the court upheld the application of the Feres doctrine to a military prisoner's lawsuit. The court concluded that because plaintiff was convicted by a military court, incarcerated at a military prison, and was subject to the UCMJ if he committed crimes while at the USDB, any injuries he may have incurred inside the prison, even after execution of discharge, were "incident to service," and therefore, any cause of action was barred by Feres.

In 2002, United States District Courts remained mindful of the Army's court-martial jurisdiction. In Schaefer v. White and Beck v. United States, federal district courts in the Middle District of Georgia and the District of Columbia, respectively, rejected plaintiffs' *habeas corpus* petitions and requests for injunctive relief to enjoin the Army from proceeding with ongoing courts-martial against plaintiffs. Relying primarily on the principles of comity, the district courts respected the jurisdiction of the courts-martial and permitted them to proceed unencumbered.

Also, in McKinney v. United States, in a broad opinion acknowledging the unique, separate, and distinct nature of the military justice system, the U.S. Court of Appeals for the D.C. Circuit ruled that The Judge Advocate General's (TJAG) review of a court-martial under Article 69, UCMJ

is not subject to judicial review under the Administrative Procedure Act (APA). The appellate court held that the statutory scheme created by Congress for review of courts-martial extends to Article 69, UCMJ decisions, and therefore, precludes judicial review.

Finally, the Army defended litigation involving the Right to Financial Privacy Act (RFPA) (12 U.S.C. §§ 3401 et. seq.) and the release of financial records pursuant to a subpoena issued during the pretrial phase of the court-martial process. Flowers v. First Hawaiian Bank, involved a retired Command Sergeant Major (CSM) who filed a lawsuit alleging the Army obtained his financial records in a manner that violated the RFPA. Court-martial proceedings were initiated against the CSM. In preparation for an Article 32, UCMJ investigation, the trial counsel contacted two banks and requested CSM Flowers' financial records using Department of Defense Form 453 (Subpoena). The banks complied with the requests and delivered Flowers' financial records to the trial counsel. CSM Flowers ultimately retired in lieu of court-martial. He then filed suit against one of the banks, First Hawaiian, alleging that it violated the RFPA by releasing his financial records without ensuring that the Army complied with the notice provisions in the RFPA. The U.S. District Court for the District of Hawaii disagreed with CSM Flowers and held that the bank did not violate the RFPA. The court found that the records were lawfully released pursuant to an exception in the RFPA that negates the notice requirements for banks when the financial records are sought by a government authority in connection with litigation. On appeal, the U.S. Court of Appeals for the Ninth Circuit reversed and held that, although the financial records were sought for litigation in which CSM Flowers and the Army were parties, the trial counsel used an illegal subpoena to obtain the financial records. Because the subpoena was not lawfully issued, the bank did not lawfully release the records, therefore, the bank and the Army violated the RFPA. The Ninth Circuit remanded the case for further action and to allow CSM Flowers to amend his complaint to add the Army and Fort Jackson Federal Credit Union as defendants.

EDUCATION AND TRAINING

The Criminal Law Department of The Judge Advocate General's School (TJAGSA) in Charlottesville, Virginia, remains focused on sustaining and improving our military justice practice. This year, the Criminal Law Department provided instruction on a variety of topics ranging from substantive criminal law to technical litigation skills.

Assisting military justice managers with post-trial processing was a top priority last year for the Department. The 37 students of the 8th Military Justice Managers Course received significant instruction on the practical "how to" of court-martial post-trial processing as well as case

law instruction. Justice managers received a number of resources on CD Rom for use in the field, including examples of case tracking systems. Of particular note, noncommissioned officers attended the course for the first time. The mixture of officer and noncommissioned officer justice managers provided for a superb exchange of ideas and systems.

Advocacy training continues to be a top priority for the Criminal Law Department. The Department devotes significant effort to training Basic Course and Advanced Trial Advocacy Course students on trial advocacy skills. Each Basic Course student is required to serve as trial counsel or defense counsel in three advocacy exercises - an administrative separation board, a guilty plea court-martial, and a contested court-martial.

In addition to the Basic Course instruction, the Criminal Law Department continued to offer advanced advocacy training in the 17th and 18th Criminal Law Advocacy Courses, as well as offering advanced advocacy training electives for the Graduate Course. The two-week Criminal Law Advocacy Courses afford the students more individualized and specialized trial advocacy training. Augmented with four Reserve Component officers for each course, the Department puts the students through rigorous small-group practical exercises on essential litigation skills from opening statement through closing argument. Each Criminal Law Advocacy Course student must serve as trial counsel or defense counsel for a guilty plea and contested court-martial. The Graduate Course electives focus more on training supervisors and managers of the military justice system, with special emphasis on designing and executing training programs.

The Department began an initiative to overlap training opportunities with the School's Court Reporter Training Division headed by Master Sergeant Monique Wagner. During Criminal Law Advocacy Course exercises, each court reporter undergoing the transition to voice recognition court reporting sat through a practical exercise and recorded the young trial attorney's performance. The court reporters transcribed the exercise and provided the transcript to the judge advocates. The linkup with the court reporters in a training environment provided young judge advocates with constructive feedback while simultaneously providing a tremendous training opportunity for the court reporters.

In addition to the Military Justice Managers Course and the Criminal Law Advocacy Courses, The Criminal Law Department also hosted a variety of continuing legal education courses. The Department managed the 45th Military Judge Course, providing preparatory and refresher training for the newest members of the trial judiciary of each service. The Department also managed the Twenty-Fifth Criminal Law New Developments Course attended by 234 judge advocates from all services. The New Developments Course included popular and informative presentations from Colonel (Retired) Fran Gilligan and Dr. Andrew Baker. Colonel Gilligan presented an overview of recent Fourth Amendment cases while Dr. Baker from the Armed Forces Institute of Pathology provided the students with an after lunch talk on forensic pathology.

The Criminal Law Department hosted other distinguished guest speakers during the year. Colonel (Retired) Keith Hodges provided young trial advocates with practice pointers, both in and outside the courtroom, during the 17th and 18th Criminal Law Advocacy Courses. The Honorable Marc Racicot, a former Army judge advocate, delivered the 30th Kenneth J. Hodson Lecture on Criminal Law. Mr. Racicot treated the audience with an insightful presentation detailing how his experiences as a trial counsel assisted him during his tenures as the Attorney General and Governor of Montana.

PERSONNEL, PLANS, AND POLICIES

The attorney strength of the active component Judge Advocate General's Corps at the end of FY 02 was 1,474 (including general officers). This total does not include 73 officers attending funded law school while participating in the Funded Legal Education Program. The attorney strength of the reserve component Judge Advocate General's Corps at the end of FY 02 was 2,860 and the strength of the Army National Guard at the end of FY 02 was 613. The diverse composition of our attorney population included 130 African-Americans, 38 Hispanics, 60 Asians and Native Americans, and 375 women. The FY 02 end strength of 1,474 in compares with an end strength of 1,462 in FY 01, 1,427 in FY 00, 1,426 in FY 99, 1,499 in FY 98, 1,523 in FY 97, 1,541 in FY 96, 1,561 in FY 95, 1,575 in FY 94, and 1,646 in FY 93. The grade distribution of the Corps' attorneys was 5 general officers; 123 colonels; 216 lieutenant colonels; 318 majors; and 812 captains. An additional seventy-nine warrant officers, 372 civilian attorneys, and 1,439 enlisted paralegals supported legal operations worldwide.

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

APPENDIX - U.S. ARMY MILITARY JUSTICE STATISTICS

Report Period: FISCAL YEAR 2002

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	788	757	31	+2.3%
BCD SPECIAL [A]	592	574	18	+67.2%
NON-BCD SPECIAL	10	8	2	+233.3%
SUMMARY	858	793	65	+27.6%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				+22.6%

PART 2 – DISCHARGES APPROVED [B]

GENERAL COURTS-MARTIAL (CA LEVEL)			
NUMBER OF DISHONORABLE DISCHARGES (+ dismissals)			106 + 19
NUMBER OF BAD-CONDUCT DISCHARGES			252
SPECIAL COURTS-MARTIAL (TR LEVEL)			
NUMBER OF BAD-CONDUCT DISCHARGES			174

PART 3 – RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 – GENERAL COURTS-MARTIAL	596
FOR REVIEW UNDER ARTICLE 66 – BCD SPECIAL COURTS-MARTIAL	254
FOR EXAMINATION UNDER ARTICLE 69 – GENERAL COURTS-MARTIAL	154

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

TOTAL ON HAND BEGINNING OF PERIOD		117 [C]
GENERAL COURTS-MARTIAL	[D]	
BCD SPECIAL COURTS-MARTIAL	[D]	
REFERRED FOR REVIEW		785 [C]
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
TOTAL CASES REVIEWED		785 [E]
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
TOTAL PENDING AT CLOSE OF PERIOD		115 [C]
GENERAL COURTS-MARTIAL		
BCD SPECIAL COURTS-MARTIAL		
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		+1.3%

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

NUMBER	852
PERCENTAGE	97.7%

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

PERCENTAGE OF CCA-REVIEWED CASES FORWARDED TO CAAF	258 of 785	32.8%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-0.2%
PERCENTAGE OF TOTAL PETITIONS GRANTED	28 of 281	9.96%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-46.15%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY USACCA		3.5%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD]		-20.8%

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

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ		
TOTAL PENDING BEGINNING OF PERIOD		1
RECEIVED		6
DISPOSED OF		6
GRANTED	0	
DENIED	6	
NO JURISDICTION	0	
WITHDRAWN	0	
TOTAL PENDING AT END OF PERIOD		1
PART 8 – ORGANIZATION OF COURTS		
TRIALS BY MILITARY JUDGE ALONE		
GENERAL COURTS-MARTIAL		626
SPECIAL COURTS-MARTIAL		499
TRIALS BY MILITARY JUDGE WITH MEMBERS		
GENERAL COURTS-MARTIAL		162
SPECIAL COURTS-MARTIAL		93
PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ		
NUMBER OF COMPLAINTS		21
PART 10 – STRENGTH		
AVERAGE ACTIVE DUTY STRENGTH		516,599**
PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)		
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		44,318
RATE PER 1,000		85.8
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		-8.5%

**Army Strength in FY 02 (516,599) includes a Regular Army strength of 486,500 as of 30 September 2002 and an average of 26,443 mobilized Reserve Component personnel supporting Operation Enduring Freedom and Noble Eagle and 3,656 mobilized RC personnel supporting operations in Bosnia, Kosovo, and Southwest Asia.

EXPLANATORY NOTES

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

SECTION 4

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

ANNUAL REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY

OCTOBER 1, 2001 TO SEPTEMBER 30, 2002

**SUPERVISION OF THE ADMINISTRATION OF
MILITARY JUSTICE**

In compliance with the requirement of Article 6(a), Uniform Code of Military Justice (UCMJ), the Judge Advocate General and the Deputy Judge Advocate General made frequent inspections of legal offices in the United States, Europe, and the Far East in order to supervise the administration of military justice. These inspections, conducted by subject matter experts, examined the full range of military justice processes at those offices inspected.

ARTICLE 69(a), UCMJ, EXAMINATIONS

Forty general courts-martial records of trial that were not statutorily eligible for automatic review by the Navy-Marine Corps Court of Criminal Appeals (NMCCA) were forwarded for examination to the Office of the Judge Advocate General in fiscal year 2002. An additional nine cases were pending at the end of fiscal year 2001. Out of the 21 cases completed, none required corrective action by the Judge Advocate General. At the close of fiscal year 2002, 28 cases were pending review under Article 69(a), UCMJ.

ARTICLE 69(b), UCMJ, APPLICATIONS

In fiscal year 2002, applications for review under Article 69(b), UCMJ, were received in 23 cases. At the end of fiscal year 2001, 14 such applications were pending. Of these 37 cases, 22 were denied on the merits. At the end of fiscal year 2002, 15 cases were pending review.

ARTICLE 73, UCMJ, PETITIONS

No petitions were received in the Office of the Judge Advocate General during fiscal year 2002.

APPELLATE DEFENSE DIVISION (Code 45)

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

Organization. The Division's mission is accomplished thorough the integrated efforts of both active duty and reserve judge advocates. Captain Carol J. Cooper, JAGC, USN, was the Division Director until June 2002, when she was relieved by Commander George F. Reilly, JAGC, USN. Lieutenant Colonel Eric B. Stone, USMC, reported aboard as Deputy Director in July 2002.

A dedicated team of 14 Navy and Marine Corps judge advocates comprised the Division's active duty contingent. During the summer of 2002, the Division was supported by two newly commissioned Naval Reserve officers who were second year law students in the Navy's JAG Student program. These officers received considerable training in the military justice system and provided invaluable support to the Division as research assistants, analysts and moot court judges.

The Division was fully staffed with civilian personnel, with a lead legal clerk/office manager and two legal clerks assisting the active duty personnel, and two legal clerks exclusively assigned to the Reserve Branch. The Division emphasized cross training of personnel in order to provide greater flexibility in task assignment.

The support by 40 Navy and Marine Corps reserve judge advocates assigned to the Division proved invaluable in making significant progress against the case backlog. Reserve attorneys filed more than 1700 cases, 71% of the total for the year. This number almost matches the total number of cases filed by active duty and reserve counsel in fiscal year 2001.

The Division's supporting reserve units are able to maximize productivity by flexible drilling. They can work from their homes or offices rather than a Reserve Center. They are provided access to LEXIS-NEXIS for legal research on their cases, and maintain connectivity with the Reserve Branch by phone or e-mail. The Division also established a Unit Law Advisor program where an active duty appellate counsel is assigned to assist members of a reserve unit with substantive or procedural legal issues.

The responsibilities of the Reserve Branch Head were increased to include more than mere administrative support to reserves. The Branch Head is also tasked with maintaining a database that tracks the progress of a case assigned to a reserve attorney from mail-out through CAAF petition. This system, developed in-house, dramatically increased the Division's accountability for cases assigned to reserve attorneys and established achievable productivity goals and monitor progress on both an individual and unit basis. The Division's supporting reserve units are: NR NAVJAG 109, Columbus, Ohio; NR NAMARA (Defense) 111, Oklahoma City, Oklahoma; NAVJAG 519, Los Angeles, California; and NAVJAG 211, Fort Worth, Texas.

The Division also received volunteer support from three dedicated Naval Reserve judge advocates from NR VTU [Voluntary Training Unit] 614. The Marine Corps Reserve contingent consisted of 12 independently assigned reserve judge advocates.

In addition to their normal monthly caseload goal, seasoned reserve attorneys were also called upon to review a number of older cases in an effort to expedite their processing. This program worked extremely well as it not only moved the cases forward in the review process but also provided reserve counsel an opportunity to work with more challenging and complex cases.

The Appellate Defense Division exemplifies how the teamwork of reserve and active duty commands can successfully accomplish a mission that neither could possibly do alone. The success of this partnership was recognized with the presentation of the prestigious RADM Hugh Howell Award to the Appellate Defense Division as the best reserve gaining command in the East.

Fiscal Year 2002 Highlights

Appellate Representation. The Appellate Defense Division worked diligently during this fiscal year to reduce the backlog of pending cases, which began the year at approximately 1300 cases. The "backlog" number is the sum of cases where no initial pleadings have been filed with the NMCCA. Division counsel, active and reserve, filed a total of 2406 cases during fiscal year 2002 and received 2099 new records of trial, thus reducing the backlog by 325 cases. Nearly 40% more cases were filed in fiscal year 2002 compared with the previous year.

A total of 28% of the cases reviewed were fully briefed to the NMCCA, and another 11% were summarily assigned. This represents an increase in briefed cases of 109% over the previous year and 76% more summary assignments. In addition, 290 cases were petitioned to the CAAF, with 22 grants of review issued. Division counsel engaged in oral argument in 11 cases before the CAAF, and 8 cases before the NMCCA. The Division participated in two CAAF Project Outreach arguments at the U.S. Naval Academy and Georgetown University Law School. Oral argument was also heard at the Naval Academy before the NMCCA. The following figures reflect the Division's workload over the past three fiscal years:

NMCCA	FY 00	FY01	FY02
Briefs Filed	288	324	677
Total Cases Filed	1286	1722	2406
Oral Arguments	16	12	8
USCAAF			
Petitions Filed	196	140	290
Supplements Filed	186	111	237
Briefs Filed	42	19	13
Oral Arguments	41	19	11
U.S. Supreme Court			
Petitions Filed	8	6	0

Capital Litigation. In fiscal year 2002, the Appellate Defense Division continued to be involved in the appeal of three capital cases. An increased emphasis on these capital cases is planned for fiscal year 2003 in an effort to move the cases toward review. Arrangements have been made for two qualified and experienced reserve judge advocates to be recalled to active duty in fiscal year 2003 to work on these cases. In the case of *U.S. v. Parker*, the government answer was filed in May 2001 and the defense reply is nearly complete and ready for filing. One of the recalled reserve attorneys will have significant responsibility for the *Parker* case. In the companion case of *U.S. v. Walker*, although the lead counsel was the released from active duty, new counsel was assigned well before the old counsel was released. This smoothed the transition to new counsel and the case continues moving forward with vigor. The lead counsel in *U.S. v. Quintanilla* also left active duty during the year. New counsel was appointed and the other recalled reserve attorney will be assigned as lead counsel on this case when he reports aboard in early January 2003.

The Navy-Marine Corps Capital Litigation Resource Center (CLRC), unique among the services, is co-located with the Appellate Defense Division and provides advice on pretrial, trial, and sentencing strategies. 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. The CLRC maintains a close working relationship with the Army and Air Force and provides advice and assistance in potential capital cases. The CLRC plays a large role in training trial and appellate defense counsel at the annual Defense Complex Litigation Course taught at the Naval Justice School, Newport, Rhode Island. The CLRC was active this year as Captain Cooper, in addition to her duties as the Director, provided assistance to the field in several cases where the death penalty was being considered or sought. Lieutenant Colonel Dwight Sullivan, USMCR, assumed this role as a collateral duty upon his arrival in January.

Support for the Fleet

Trial Defense Assistance. The Appellate Defense Division provides advice and support to Navy and Marine Corps trial defense counsel on a continuing basis. The Division maintains a rotating Field Call watch comprised of experienced appellate attorneys who reply to short-fused questions from the trial defense counsel in the field and assist them in filing extraordinary writs.

Training Provided. Appellate defense attorneys gave presentations at training sessions for trial defense counsel at Camp Lejeune, North Carolina, and Naval Submarine Base, Bangor, Washington. These presentations focused on "hot topics" in appellate litigation and how to best preserve issues for appeal at the trial level. With significant reserve support, the Division also resumed publication of a quarterly newsletter, *Timely Objection*, providing updates in the law and practice tips for trial defense counsel.

Training and Enhancements. All Division counsel attended training on appellate advocacy sponsored by the District of Columbia Bar Association and the CAAF Conference. Division counsel also attended the CAAF Capital Case seminar, the Naval Justice School course on defense of complex cases, the Army JAG School's criminal law new developments course, and the Judge Advocate's Association course on military appellate advocacy.

Other Division attorneys attended training specific to particular areas of trial and appellate practice. The Division has one counsel designated as a National Security Law specialist, another as a computer crimes specialist, and a third as a DNA evidence specialist. Once trained in their specialty area, these attorneys assist their colleagues as well as trial defense counsel with issues related to the particular area of

law. Other specialized training was provided to Division attorneys assigned to capital cases. The Division also sent two attorneys to Department of Justice (DOJ) Office of Legal Education courses in Columbia, South Carolina, fully funded by DOJ.

The Division Director initiated a "back to basics" internal training program for Division counsel in a successful effort to enhance the case review process and increase productivity. The reserve training program for reservists was completely revised and brought newly assigned reserve counsel into the Division for introductory training early in their assignment. This effort was successful in reducing the overall learning curve for these attorneys and enabled them to be productive within a short time of joining their units.

During fiscal year 2002, all members of the Division, military and civilian, received new computers and software upgrades, resulting in greater efficiency and capability. In addition, requirements and funding plans were developed to replace time-worn furniture and workstations. The significant increase in productivity and consequent reduction in case backlog was a direct result of training enhancements for both newly assigned and experienced appellate counsel, institution of a revamped indoctrination training program for newly assigned reserve attorneys, and implementation of the new reserve case assignment and tracking system, in conjunction with a great deal of hard work and zealous representation by our attorneys.

APPELLATE GOVERNMENT DIVISION (Code 46)

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

At the end of fiscal year 2002, the Division had eleven (11) active duty judge advocates and two (2) civilian staff members. Colonel Rose Marie Favors, USMC, continued in the billet of Division Director. Commander Robert P. Taishoff, JAGC, USN, assumed the billet of Division Deputy after earning his LLM (Litigation) from George Washington University through the Navy Graduate Education Program.

The Division was also supported by 15 Navy Reservists from two Navy Reserve Detachments --- NAVJAG 116 (Detroit) and NAMARA 116 (Minneapolis). Four Marine reservists served as Individual Mobilization Augmentees. The Division revised the manner in which it employed support from Navy and Marine reservists. Specifically, the process for assigning, tracking and

filing appellate briefs was streamlined under the leadership of senior reservists who were accountable for the performance of their subordinates. As a result, reservists filed more briefs, of a consistently high quality and in a timely manner; the revision significantly improved responsiveness, training and integration. The Division also benefited from the reservists who, by their varied experiences as civilian attorneys, provided superb training and mentorship for active duty members of the Division.

During fiscal year 2002, the Division received support from two Navy Reserve judge advocates who were recalled to active duty. Commander Paul Jones, JAGC, USNR, served as Division Deputy for a two-month period. Commander Edward S. Mallow, JAGC, USNR, served as Appellate Government Counsel and also provided support to Code 20 (Military Justice) on issues related to Operation Enduring Freedom/Noble Eagle.

During summer 2002, the staff was supported by two Navy officers, law students in the Navy Legal Education program, as well as a Marine second lieutenant, also a law student. These officers received considerable training in the military justice system and provided invaluable support to the Division as research assistants, analysts and moot court judges.

During fiscal year 2002, the Division instituted several organizational changes in order to maximize assets and establish priorities in support of its primary mission. The most critical change was establishing the billet of Senior Appellate Counsel [SAC], held by an officer who by demonstrated leadership, experience and skill is involved in critical stages of all cases and issues within the Division. The SAC also ensures consistency in the government's position in related cases whether in briefs or oral arguments. Within six months of establishing the billet, the Division saw measurable improvements in the number and quality of briefs its counsel produced. The SAC also assumed a preeminent role in the Division's Trial Counsel Assistance Program [TCAP], resulting in greater responsiveness and quality in the Division's support to trial counsel and staff judge advocates throughout the Navy and Marine Corps. Several administrative duties were shifted to the civilian staff from counsel who could then focus greater attention on their roles as appellate advocates. To the maximum extent possible, those duties that did not require a judge advocate to perform or an officer to execute were delegated to the civilian staff. In addition, greater emphasis was placed on cross-training the civilian staff so that no task would go unattended in anyone's absence. As a result, productivity by counsel and civilian staff significantly improved.

During fiscal year 2002, the Division filed 102% more briefs at the NMCCA than in fiscal year 2001. Similarly, in fiscal year 2002, the Division filed 9% more briefs at the CAAF than in fiscal year 2001. The following chart reflects these increases.

	FY00	FY01	FY02
NMCCA			
Briefs filed	429	395	798
Other pleadings	303	277	456
CAAF			
Briefs filed	47	41	45
Other pleadings	126	82	91

During fiscal year 2002, Division judge advocates presented oral argument at the United States Naval Academy and Georgetown University School of Law, for outreach programs sponsored by the CAAF and the NMCCA. Participation in these programs served to educate and inform students at those institutions about the fairness and professionalism of the military justice system. Division counsel responded to numerous requests for assistance from Navy and Marine staff judge advocates and trial counsel regarding government appeals and petitions for extraordinary relief. Issues in these cases included evidentiary rulings by military judges and suppression of evidence, among others.

During fiscal year 2002, the Division significantly revised Trial Counsel Assistance Program procedures. In addition to realigning that function under the SAC, mentioned above, procedures were implemented with a view towards ensuring accurate, complete, timely responses to inquiries from the fleet while not detracting from appellate government counsel's ability to accomplish the Division's primary mission. Specifically, formalized e-mail procedures were incorporated as a tool for inquiries from the fleet and Division responses. Although telephone calls still served as the primary means of communication, the newly implemented e-mail procedures proved to be extremely efficient, reliable and manageable.

Members of the Division also provided support to the Fleet by presenting lectures to a variety of audiences and by serving as members of panel discussions at conferences attended by the Division's sister service counterparts and at the United States Naval Academy.

During fiscal year 2002, members of the Division received training consistent with their duties as appellate counsel. Courses included: the Criminal Law New Developments Course at The Army JAG School; advocacy skills training through the Department of Justice; a Computer Crimes

course; and, the Association of Government Attorneys in Capital Litigation Course. Several reservists and four members of the Division attended the Military Appellate Advocacy Symposium during March 2002. Other members of the Division attended the CAAF Judicial Conference in May.

During fiscal year 2002, all members of the Division, military and civilian, received new computers and software upgrades, resulting in greater efficiency and capability. In addition, requirements and funding plans were developed to replace time-worn furniture as well as a copier, shredder and a telefax machine.

NAVY-MARINE CORPS TRIAL JUDICIARY

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

The Navy-Marine Corps Trial Judiciary (NMCTJ) consists of 35 active duty and 23 reservists serving in 12 circuits and five branch offices. During fiscal year 2002, NMCTJ provided judicial services in 499 general courts-martial and 2188 special courts-martial. These numbers represent an increase in general courts-martial (18) and a decrease in special courts-martial (76), as compared to fiscal year 2001.

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

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

NAVAL LEGAL SERVICE COMMAND

Naval Legal Service Command (NAVLEGSVCCOM) is commanded by the Commander, Naval Legal Service Command and is composed of 286 Judge Advocates, 16 Limited Duty (Law) Officers, 203 Legalmen, and 209 civilians. Through eight Naval Legal Service Office Commands and six Trial Service Office Commands, NAVLEGSVCCOM provides a wide range of legal services to afloat and ashore commands, active duty naval personnel, family members,

and retirees from 57 offices world-wide. Additionally, much of the responsibility for Navy, Marine Corps, and Coast Guard legal training is accomplished by the Naval Justice School, which is also part of the NAVLEGSVCCOM. NAVLEGSVCCOM provides counsel for courts-martial, various administrative hearings, physical evaluation boards, legal assistance, and as legal advisors to Navy and Marine Corps Commands. NAVLEGSVCCOM also provides assistance for claims processing and adjudication, and training judge advocates, legalmen, and other DOD personnel. During fiscal year 2002, NAVLEGSVCCOM provided counsel for 285 General Courts-martial, 773 Special Courts-martial, 272 Article 32 Investigations, 1044 Administrative Hearings, processed over 45,000 claims, provided over 237,320 legal assistance services, and provided over 50,000 command assistance services for over 3,750 commands.

NAVLEGSVCCOM is developing HELM (Home Electronic Legal Manager) system for case management. The Legal Assistance Time Management program has been implemented at all sites and work is on-going on the military justice module.

NAVAL JUSTICE SCHOOL

Organization. Naval Justice School (NJS) reports to Commander, NAVLEGSVCCOM, 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).

Mission Statement. NJS shall:

1. Oversee training of Judge Advocates, Limited Duty Officers (Law), Legalmen and legal specialists 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 semi-annually to discuss new initiatives and opportunities for cross-training, and to increase cooperation and efficiency in the training of legal personnel within the Department of Defense.

Academic Programs. NJS has six "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 2002 graduates:

Navy	75
Marine Corps	58
Coast Guard	15

2. Accession Legalman Course. This nine-week course, offered four times per fiscal year, trains enlisted personnel selected for conversion to the Legalman rating. In fiscal year 2002, the course consisted of two phases: (a) Paralegal, dedicated to training Navy Legalmen in military justice practice (six weeks), and (b) Court Reporting (three weeks). Fiscal year 2002 graduates: 56

3. Senior Officer Course (SOC) in Military Justice and Civil Law. This one week course is taught in Newport, Rhode Island, and other areas of Fleet and Fleet Marine Force concentration. In fiscal year 2002, the course was offered 21 times at 7 different 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 2002 attendance:

Navy	475
Marine Corps	199
Air Force	1
Coast Guard	0
Civilian	3

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 2002 legal officers trained:

Navy	75
Marine Corps	58
Coast Guard	15
Civilian	0

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 2002, the course was offered 18 times at Newport, Rhode Island, San Diego, California, and Norfolk, Virginia. Fiscal year 2002 participants:

Navy	276
Marine Corps	20
Civilian	6

6. Basic Legal Specialist Course. In January 2002, the Marine Basic Legal Specialist School transferred from Camp Johnson, North Carolina, to Newport, Rhode Island, to become the sixth core course offered by the Naval Justice School. The legal services specialist MOS encompasses every facet of legal administration with the exception of court reporting. This course for enlisted Marines last 9 1/2 weeks and is offered four times per fiscal year. It is an accession level course. The curriculum consists of military justice, post-trial review, and legal administration. Other topical areas include typing, basic correspondence, computer research, and English and grammar. Upon graduation from NJS, Legal Specialist Marines are prepared for assignment throughout the Marine Corps legal community including Naval Legal Services Offices. Since moving to Newport in January 2002, there have been 85 graduates.

In addition to the above "core" courses, NJS offered numerous continuing legal education programs throughout the fiscal year that provide detailed instruction relating to military law. These included:

<u>Officer Courses</u>	<u>Length</u>
Reserve Judge Advocate Course	Two weeks
Staff Judge Advocate Course	Two weeks
Complex Litigation Course (Separate offerings for Prosecution and Defense)	One week
Intermediate Trial Advocacy Course	One week
Coast Guard Law Specialist Course	One week
Reserve JAGC Military Law Update Workshops	2 ½ days
Computer Crimes	Two Days
National College of District Attorneys Course	One week
Law of Military Operations	Two weeks
Staff Judge Advocate Environmental Law	Three days
Legal Assistance Manager's Workshop	Two days
Law of Naval Operations	One week
Family and Consumer Law	One week
NITA	One week
National Security Litigation	Three Days
Military Justice Managers Course	Three Days
USMC Basic Operational Law Training	One week
Estate Planning	One week
SOAC Course	Four days
Continuing Legal Education	Two days

<u>Enlisted Courses</u>	<u>Length</u>
Reserve Legalman Course	Two weeks
Legalman Research and Drafting Course	One week
Legalman Legal Writing	One week
Military Justice Course for the Staff Judge Advocate/Command Judge Advocate/Shipboard LN	Two weeks
NLSO/TSO Legalman Course	Three days
Coast Guard Legal Clerk Course	Two weeks
Senior Legalman Course	Three days
Advanced Legal Specialist	Two weeks
Senior Enlisted Leadership	Three days
Marine Scopist Course	Eight weeks

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. In fiscal year 2003, NJS will be publishing Volume 48 of the Naval Law Review which will contain articles related to Military Justice, Operational and Environmental Law, and Legal Assistance.

MARINE CORPS ACTIVITIES

There are approximately 428 active-duty Marine judge advocates and 400 reserve judge advocates. Additionally, there are 18 warrant officers and 396 enlisted members working in legal offices. These offices support the Fleet Marine Forces in the continental United States, overseas and on deployment throughout the world. Our drilling reserve judge advocate community provides substantial support to each of our offices. This support is coordinated at two annual meetings, the Reserve JA conference and the IMA all-hands drill. Marine Corps judge advocates perform a variety of missions. They work in the military criminal justice system as prosecutors, defense counsel, military judges, appellate defense counsel, or appellate government counsel in criminal cases of all descriptions. Legal assistance attorneys assist Marines, Sailors, military retirees, and family members in estate planning, domestic relations law, consumer law, tax law, property law, landlord and tenant law, debtor and creditor law, adoptions, and citizenship cases. Marine judge advocates also advise commanders during military operations, reviewing military operations plans and providing advice on the Law of War, rules of engagement, and domestic law relating to the employment of force and support of our allies. Other proactive areas include environmental law, civil law, contract law, international law, claims and tort law, and labor law. In addition, because Marine Corps judge advocates are unrestricted line officers, many serve in non-legal billets. For example, this year alone, Marine judge advocates served as Commanding Officers of the following units: Marine Wing Headquarters Squadron-1, 1st Marine Aircraft Wing, Okinawa, Japan; Support Battalion, Marine Corps Recruit Depot, San Diego, California; Support Battalion, Marine Corps Recruit Depot, Parris Island, South Carolina; Headquarters and Support Battalion, Logistics Base, Barstow, California; and Headquarters and Support Battalion, Marine Corps Base, Kaneohe Bay, Hawaii.

The Marine Corps accesses 45 judge advocates a year from civilian law schools and private practice, in addition to the 10 judge advocates that are lateral transfers from other Marine Corps occupational fields via the Law Education Program. We continue to have more applicants than openings and are able to use a board process to screen all applicants to ensure the highest quality. Applicants come from diverse backgrounds but can generally be described as coming from top-tier ABA accredited law schools. They have higher than average LSAT scores and have successfully completed the rigorous Marine Corps Officer Candidate Course training program. The process of becoming a Marine Corps judge advocate is four-fold. First, eligible applicants must attend Officer Candidate School (OCS) in Quantico,

Virginia. This strenuous ten-week course is designed to test a candidate's leadership and physical abilities. Successful completion leads to a commission as a Second Lieutenant. Second, all Marine Corps officers attend the Basic School (TBS). The Basic School is a rigorous, 6-month program that provides each lieutenant the foundation to be an infantry platoon commander. The phrase "every Marine a rifleman" applies even to judge advocates. Third, each judge advocate must complete the Basic Lawyer Course at the Naval Justice School in Newport, Rhode Island. Finally, each judge advocate must successfully complete the newly implemented Basic Operational Law Training (BOLT) Course. BOLT provides judge advocates a week of training in operational and international law. Successful completion of OCS, TBS, the Basic Lawyer Course, and BOLT culminates in designation as a judge advocate. Upon reporting to their commands, various continuing legal education training opportunities are available to include command and Headquarters, Marine Corps sponsored programs. Currently, training opportunities are available at each of the service judge advocate schools. Additionally, various civilian continuing legal education opportunities are provided for judge advocates. Approximately twelve judge advocates each year are selected for advanced (LL.M.) training at civilian law schools and the Judge Advocate General's School of the U.S. Army. Additionally, each year five to six judge advocates attend a military specific training course such as Amphibious Warfare School, Command and Staff College, or War College. Our warrant officer and enlisted members also undergo a significant training regime. On average, 10 enlisted Marines are enrolled in a stenography/scopist course and each year 30 enlisted Marines attend the Legal Service Specialist Mid-Career Course at Naval Justice School.

Currently, enlisted Marines are enrolled in paralegal programs and have the opportunity to attend legal education courses offered by the Marine Corps, Army, Navy, and Air Force, including the Legalman/Legal Services Specialist Mid-Career Course and Legal Research and Writing at Naval Justice School.

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

The following chart contains military justice statistical information for the Marine Corps in fiscal years 2001 and 2002.

Fiscal Year	End strength	GCM	SPCM	SCM	Total Courts	NJP	Total Adseps
FY02	173,733	223	1,419	1,009	2,651	8,523	11,868
FY01	172,934	227	1,513	1,037	2,777	13,351	11,696

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

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

Report Period: FY 2002

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	499	481	18	+3.7%
BCD SPECIAL	2188	2144	44	-3.4%
NON-BCD SPECIAL	0	0	0	0%
SUMMARY	2098	2078	20	-7%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-1.5%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL (CA LEVEL)				
NUMBER OF DISHONORABLE DISCHARGES			164	
NUMBER OF BAD-CONDUCT DISCHARGES			207	
SPECIAL COURTS-MARTIAL (SA LEVEL)				
NUMBER OF BAD-CONDUCT DISCHARGES			1612	

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	410
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	1600
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	40

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

TOTAL ON HAND BEGINNING OF PERIOD		2083
GENERAL COURTS-MARTIAL	550	
BCD SPECIAL COURTS-MARTIAL	1533	
REFERRED FOR REVIEW		2015
GENERAL COURTS-MARTIAL	400	
BCD SPECIAL COURTS-MARTIAL	1615	
TOTAL CASES REVIEWED		1926
GENERAL COURTS-MARTIAL	244	
BCD SPECIAL COURTS-MARTIAL	1682	
TOTAL PENDING AT CLOSE OF PERIOD		2198
GENERAL COURTS-MARTIAL	716	
BCD SPECIAL COURTS-MARTIAL	1482	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		+11.6%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE U.S. NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS (CCA)

NUMBER	2015
PERCENTAGE	100%

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

PERCENTAGE OF CCA-REVIEWED CASES FORWARDED TO CAAF	289	4.6%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-3.4%
PERCENTAGE OF TOTAL PETITIONS GRANTED	22	7.6%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		+7.4%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CCA		1.1%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		+57%

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

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ		
TOTAL PENDING BEGINNING OF PERIOD		14
RECEIVED		23
DISPOSED OF		22
GRANTED	0	
DENIED	22	
NO JURISDICTION	0	
WITHDRAWN	0	
TOTAL PENDING AT END OF PERIOD		15
PART 8 – ORGANIZATION OF COURTS		
TRIALS BY MILITARY JUDGE ALONE		
GENERAL COURTS-MARTIAL		403
SPECIAL COURTS-MARTIAL		2077
TRIALS BY MILITARY JUDGE WITH MEMBERS		
GENERAL COURTS-MARTIAL		96
SPECIAL COURTS-MARTIAL		111
PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ		
NUMBER OF COMPLAINTS		101
PART 10 – STRENGTH		
AVERAGE ACTIVE DUTY STRENGTH		557,210
PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)		
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		31,530
RATE PER 1,000		56.6
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		-10%

SECTION 5

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE

**REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE
OCTOBER 1, 2001 TO SEPTEMBER 30, 2002**

THE AIR FORCE COURT OF CRIMINAL APPEALS

During fiscal year 2002, the Court rendered over 435 decisions. This represents a decrease of 22% from fiscal year 2001.

The Air Force Court of Criminal Appeals hosted the annual William S. Fulton Jr. Appellate Military Judges' Conference at the Thurgood Marshall Federal Judiciary Center on 25 and 26 September 2002. The Conference, sponsored by the American Bar Association, was certified for credit to meet state continuing legal education requirements. Chief Judge Susan J. Crawford opened the Conference and provided comments on topics of interest at the U.S. Court of Appeals for the Armed Forces. The conferees enjoyed presentations from several other distinguished speakers including Senator (then Congressman) Lindsey O. Graham, South Carolina; Senior Judge Walter Cox, U.S. Court of Appeals for the Armed Forces; Mr. Leroy Foreman, U.S. Court of Appeals for the Armed Forces; Mr. Andrew Oosterbaan, Department of Justice; Professor Jeffrey Van Detta, John Marshall Law School; Mr. Gary Bockweg, Administrative Offices of the Federal Courts and several appellate military judges.

The Court continued its "Project Outreach" program, hearing oral arguments at the United States Air Force Academy, Colorado; Maxwell AFB, Alabama; Scott AFB, Illinois; and George Mason University, Virginia.

TRIAL JUDICIARY

The Air Force Trial Judiciary had an average of 22 active duty trial judges, six reserve trial judges, and nine noncommissioned officers assigned throughout five judiciary circuits worldwide. The military judges' duties include: presiding over all general and special courts-martial tried in the United States Air Force; serving as investigating officers under Article 32, UCMJ; serving as legal advisors for officer discharge boards and other administrative boards; conducting parole violation hearings; and presiding at public hearings held to consider draft environmental impact statements. Fiscal year 2002 was once again a very busy year for the USAF Trial Judiciary, with judges presiding over more than 1000 general and special courts-martial around the world.

The Trial Judiciary conducted the Twenty-Eighth Interservice Military Judges' Seminar, from 22-26 April 2002 at The Air Force Judge Advocate General School, Maxwell AFB, Alabama. This seminar was attended by 119 military judges from the trial judiciaries of the Army, Navy, Marine Corps, Coast Guard, Air Force and a military judge from the Canadian armed forces.

The Chief Trial Judge attended the last week of the Military Judges' Course conducted at The Army Judge Advocate General School in Charlottesville, Virginia, from 29 April - 19 May 2002 to participate in a roundtable presentation with the Chief Trial Judges of the sister services, conduct seminars with the new judges, evaluate moot court exercises, and participate in the graduation ceremony. The European Circuit Chief Military Judge served as an adjunct instructor for the Defense Institute of International Legal Studies (DIILS) in Buenos Aires, Argentina from 21 - 30 June 2002, and Riga and Leipaje, Latvia, in January and March 2002. Another Air Force military judge served as an adjunct instructor for DIILS in Vilnius, Republic of Lithuania, from 22 - 26 June 2002.

Our active duty and reserve judges attended several seminars and courses this year. Air Force judges were represented at the "Handling Capital Cases" symposium at the National Judicial College (NJC), New Orleans, the Advanced Criminal Evidence Course, held by the NJC in Reno, NV, the Computer Crimes Course at NAS Fort Worth, TX, the AFLSA Reserve Training Seminar held in Washington, DC, and the Criminal Law New Developments Course at the Army JAG School.

GOVERNMENT TRIAL & APPELLATE COUNSEL DIVISION

APPELLATE GOVERNMENT COUNSEL

In November 2002, the Division Chief and three appellate counsel attended the Criminal Law New Developments Course at the Army Judge Advocate General School. This course covered the latest military cases in all significant areas of criminal law. In addition to providing new appellate counsel an update in the most recent criminal law developments, it was an opportunity for both appellate counsel and trial counsel to spend several hours together and discuss ways to better serve the base legal offices. In February, five appellate counsel attended the USCAAF Symposium sponsored by The Judge Advocate's Association at George Washington University School of Law. Also, in May 2002, four appellate counsel attended the USCAAF Judicial Conference, at George Washington University School of Law. These conferences provided current information on appellate issues and guidance on appellate practice.

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

Appellate government counsel prepared and provided an appellate update on USCAAF and AFCCA decisions and trends in case law at trial counsel workshops at each of the five circuits. Additionally, appellate government counsel provided instruction on a myriad of military justice topics at the Trial and Defense Advocacy Course in January 2002, and the Advanced Trial and Defense Advocacy Course in April 2002.

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

The Division produced a number of important publications this year, including the Appellate Update, the Advocacy Continuing Education (ACE) Newsletters and the 2002 Trial Counsel Deskbook. In turn, these documents were placed on the Division's website, providing practitioners easy and immediate access to the latest in military justice caselaw.

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

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

AFCCA	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Briefs Filed	320	230	151	203	181
Cases Argued	10	11	19	20	12
USCAAF	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Briefs Filed	48	29	23	46	99
Cases Argued	59	27	28	32	28
SUPREME COURT	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Petition Waivers					
Filed	17	2	1	1	0
Briefs Filed	0	0	0	0	0

CIRCUIT TRIAL COUNSEL

Manning authorizations for the fiscal year included 17 Circuit Trial Counsel (CTC) at three circuit offices in CONUS, while 4 CTCs cover the Pacific and European theaters, 2 per theater. During fiscal year 2002, CTCs tried 253 general courts-martial and 28 special courts-martial. In November, several CTCs attended the Criminal Law New Developments Course at the Army JAG School. The CTCs in all five judicial circuits conducted workshops for base-level prosecutors. Circuit Trial Counsel also 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 DIVISION

Training of appellate defense counsel remains one of the Appellate Defense Division's highest priorities. This training includes attending military and civilian appellate advocacy seminars sponsored by The Judge Advocate General's Department, USCAAF, the Federal Bar Association, the Judge Advocates' Association, and LawProse.

Appellate defense counsel served as adjunct faculty members in the Advanced Trial Advocacy Course and the Trial and Defense Advocacy Course at the Air Force Judge Advocate General School. Appellate defense counsel continued to support trial defense counsel in the field by actively participating in circuit defense counsel workshops. Counsel also briefed field defense practitioners on new appellate developments in military criminal law. The Division's Law Office Manager spoke at the Eastern and Central Circuit defense paralegal workshops, highlighting the differing roles of trial defense and appellate defense paralegals.

Appellate defense counsel contributed to "Project Outreach" sponsored by the AFCCA and USCAAF by participating in oral arguments before audiences at the United States Air Force Academy, the Seattle School of Law, the General Hemingway Annual Paralegal Symposium at Scott AFB, and the Air Force Judge Advocate General School.

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

AFCCA	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Briefs Filed	603	507	399	481	525
Cases Argued	10	9	15	14	12

USCAAF	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Supplements to					
Petitions	424	416	330	457	412
Grant Briefs	40	26	28	31	33
Cases Argued	59	23	25	31	28

SUPREME COURT	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>
Petitions	17	0	1	6	3
Briefs in					
Opposition	1	0	0	0	0
Briefs on the					
Merits	0	0	0	0	0

TRIAL DEFENSE DIVISION

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

The Division is manned with 81 ADCs stationed at 71 bases worldwide. They are assisted by 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 located at Bolling AFB, DC, Randolph AFB, TX, Travis AFB, CA, Ramstein AB, Germany, and Yokota AB, Japan. A single defense paralegal superintendent is assigned to each of the three CONUS circuits and the European Circuit.

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

MILITARY JUSTICE DIVISION

The Military Justice Division prepares opinions and policy positions for The Judge Advocate General and for the Air Force Board for Correction of Military Records. The Division also provides responses to military justice inquiries requested by the White House, Congress, DoD and Headquarters Air Force. During the past fiscal year, the Division received 156 inquiries involving specific cases requiring either formal written replies or telephonic replies to senior officials, including the President and members of Congress.

The Division represents the Air Force on the DoD Joint Service Committee (JSC) on Military Justice. The JSC recommends and implements changes to the Uniform Code of Military Justice and the Manual for Courts-Martial. The Division also provides representatives to all interservice activities involving military justice and support for the Code Committee.

The Military Justice Division serves as the action agency for the review of military justice issues on applications submitted to the Air Force Board for Correction of Military Records. During fiscal year 2002, the Military Justice Division wrote 94 formal opinions concerning such applications. The Military Justice Division also reviewed 97 records of trial for review under Article 69a, UCMJ, 5 records under Article 69b, UCMJ, and no records under Article 73, UCMJ.

The Division conducted the sixth annual Military Justice Administration Course at the Air Force Judge Advocate General School. Over 125 judge advocates and paralegals attended the "back to basics" one-week workshop, emphasizing the procedures and methods necessary to ensuring the proper management of the military justice system.

CLEMENCY, CORRECTIONS AND OFFICER REVIEW DIVISION

The Division's primary responsibilities continue to be to (1) recommend appropriate disposition of statutorily required sentence review actions by the Secretary of the Air Force in officer and cadet dismissal cases; (2) recommend action by The Judge Advocate General or the Secretary of the Air Force, as appropriate, to effect statutorily authorized clemency for members of the Air Force under court-martial sentence; (3) represent The Judge Advocate General on the Air Force Clemency and Parole Board; (4) make recommendations for the Secretary of the Air Force to the Attorney General on Presidential pardon applications by court-martialed Air Force members; and (5) advise The Judge Advocate General and the Security Forces Center on corrections issues.

At the end of fiscal year 2002, 503 Air Force personnel were in confinement. Of those, 85 inmates were in long-term confinement at the United States Disciplinary Barracks (USDB), Fort Leavenworth, Kansas, and 115 were serving time in the Federal Bureau of Prisons (BOP) system. A total of 26 inmates were enrolled in the Air Force Return-to-Duty Rehabilitation (RTDR) Program during this period, with two graduating and being returned to duty. The number of Air Force inmates on parole at the end of fiscal year 2002 was 122, a 6 percent decrease from last fiscal year.

AIR FORCE JUDGE ADVOCATE GENERAL SCHOOL

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

AFJAG School Courses

The AFJAG School conducted 39 classes (some courses are held more than once a year) and two symposia in Fiscal Year 2002 for more than 3,500 students. The decrease in the number of classes and number of students were a result of the cancellation of some courses and reduced attendance in others following the 11 September 2001 terrorist attacks. Courses, seminars, symposia, and workshops conducted at the AFJAG School included:

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

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

Off-Site Courses

Normally the AFJAG School conducts four "Annual Surveys of the Law" for approximately 500 judge advocates and paralegals in the Air Force Reserve and Air National Guard. The surveys provide concise legal updates and extensive reviews of recent developments in military justice. The surveys are conducted at a civilian conference facility in Denver, Colorado, and historically take place in early October. As a result of the 11 September 2001 attacks, the FY 2002 surveys scheduled for 5-7 October 2001 were cancelled and rescheduled in January 2003.

Distance Learning (DL) Courses

The AFJAG School conducted two DL courses, the Air Force Systems and Logistics Contracting Course and the Fiscal Law Course, by live satellite broadcast (one-way video and two-way audio) to more than 50 Air Force and Army sites throughout the United States. Approximately 1,300 personnel participated in DL courses in fiscal year 2002.

Outside Teaching

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

Training School; Senior Noncommissioned Officer Academy; USAF First Sergeant Academy; Professional Military Comptroller School; Group Commanders' Course; Wing Commanders' Seminar; Advanced Personnel Officer Course; and the Chaplain Orientation Course. Additionally, the faculty performs more than 1,200 hours of instruction annually in other schools, courses, and conferences throughout the world. In fiscal year 2002, AFJAG School personnel instructed at the Inter-American Air Force Academy; Air National Guard International Humanitarian Law Symposium; USAF Special Operations School; U.S. Army Judge Advocate General School; American Society of Military Comptrollers Conference; and the Harvard Conference on Humanitarian Issues in Military Targeting.

The AFJAG School participates in the Expanded International Military Education and Training (E-IMET) program, one of several security assistance programs mandated by Congress. The program promotes U.S. foreign policy goals as established in the Foreign Assistance Act. The E-IMET Program involves joint U.S. military training teams teaching human rights, military justice, civilian control of the military, the law of armed conflict, rules of engagement, and general democratic principles in countries designated as emerging democracies. Faculty from the AFJAG School participated in four E-IMET missions in fiscal year 2002. E-IMETs were conducted for Bulgaria, Macedonia, Slovenia, and Madagascar.

Publications

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

LEGAL INFORMATION SERVICES

During fiscal year 2002, the Legal Information Services (JAS) Division continued to exploit the force-multiplying power of information technology (IT) by launching four new software initiatives while continuing to upgrade and refine several of its existing platforms and services.

Most notable among the new initiatives, JAS developed an ingenious Reserve Deployment/Mobility Readiness Data Base (RDRDB). The RDRDB, created by Reserve Air Force judge advocates, allows Air Force war planners at all levels to determine the mobility readiness of their reserve personnel. The RDRDB allows war planners to assess reserve personnel mobility readiness and home station reserve support capabilities through a set of weighted readiness indicators. The RDRDB is being adopted not only by the Reserve Components, but also by the US Air Force in general.

A second JAS initiative is the Air National Guard JAG-Distance Finder (ANGJDF). The ANGJDF allows Staff Judge Advocates at all levels of command to identify and contact ANG and Reserve judge advocates within a variable radius from any base. The ANGJDF uses US Census and Roster data to track ANG and Reserve judge advocates by the Zip Code of the base and the judge advocate in question. For example, if the SJA at Kirtland AFB, New Mexico, wants to know whether there are any ANG and Reserve judge advocates within 50 miles of Kirtland AFB, the SJA can turn to the ANGJDF to obtain a print out of the available personnel.

JAS electronically archived the late Dr. Schubert's post war European collection. Dr. Schubert donated thousands of legal policy documents he had collected and created over many years to The Judge Advocate General's Department. The documents are a treasure trove of information that faced deterioration and destruction had they not been archived.

LEGAL ASSISTANCE AND PREVENTIVE LAW PROGRAM

The Legal Assistance Division oversees a global legal assistance and preventive law program. During 2002, Air Force legal assistance programs served over 284,000 clients, representing a 12% increase from the previous year, prepared 125,235 wills (75% increase over 2001), 192,580 powers of attorney (18% increase over 2001), and provided over 415,000 notaries, an increase of 22% from 2001. The Division also coordinated field testing of a new on-line statistical and data tracking program for legal assistance that will eliminate the burden of manually preparing an annual written report. The program will allow the Department, at all levels of command, to immediately retrieve data on the volume of legal assistance work each office completes, organized by criteria such as type of legal issue and grade of client. The new program, known as WebLIONS, begins full operation on 2 January 2003.

During the 2002 tax-filing season, a record 98 Air Force legal offices offered electronic tax filing services to those eligible for military tax program assistance. These sites filed 126,687 electronic federal returns and 18,174 federal paper returns, for a total of 145,861 federal income tax returns, as well as 27,997 state electronic returns and 42,779 state paper returns, for a total of 70,876 state income tax returns.

Employing 205 JA personnel and 3531 volunteers worldwide, the Air Force tax program assisted members in filing 206,737 returns, at a savings of \$15,752,837 in fees. Implemented in 2002, the web-based Tax Program Reporting System allows all levels of command to immediately access the data in real time. Again, significant time and effort are saved in preparing the annual report of the tax program.

PERSONNEL

As of 30 September 2002, the Air Force Judge Advocate's Department had 1370 judge advocates on active duty. Company grade officers (lieutenants and captains) made up approximately half of that number (665). Slightly more than 25% were majors (349) and 16% were lieutenant colonels (222). Almost ten percent of the Department were colonels (129) and above, including two major generals and three brigadier generals.

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

APPENDIX - U. S. AIR FORCE MILITARY JUSTICE STATISTICS

Report Period: FISCAL YEAR 2002

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	564	534	30	+15.10%
BCD SPECIAL	384	194	19	+12.94%
NON-BCD SPECIAL [A]		157		
SUMMARY	119	118	1	-5.55%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				+11.61%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL (CA LEVEL)				
NUMBER OF DISHONORABLE DISCHARGES			61	
NUMBER OF BAD-CONDUCT DISCHARGES			367	
SPECIAL COURTS-MARTIAL (CA LEVEL)				
NUMBER OF BAD-CONDUCT DISCHARGES			173	

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL	448
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL	169
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL	96

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

TOTAL ON HAND BEGINNING OF PERIOD		361	
GENERAL COURTS-MARTIAL	[B]		
BCD SPECIAL COURTS-MARTIAL	[B]		
REFERRED FOR REVIEW		617	
GENERAL COURTS-MARTIAL	[B]		
BCD SPECIAL COURTS-MARTIAL	[B]		
TOTAL CASES REVIEWED		564	
GENERAL COURTS-MARTIAL			
BCD SPECIAL COURTS-MARTIAL			
TOTAL PENDING AT CLOSE OF PERIOD		480	
GENERAL COURTS-MARTIAL			
BCD SPECIAL COURTS-MARTIAL			
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD (563:564)			+17%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE

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

NUMBER	603:617
PERCENTAGE	97.73%

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

(CAAF)

PERCENTAGE OF AFCCA REVIEWED CASES FORWARDED TO USCAAF (381/564)	67.55%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	-7.58%
PERCENTAGE OF TOTAL PETITIONS GRANTED (42/423)	10.24%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	+24%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CCA (42/563)	6.91%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD (423:381)	-9.92%

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

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ			
TOTAL PENDING BEGINNING OF PERIOD		3	
RECEIVED		0	
DISPOSED OF		3	
GRANTED	0		
DENIED	3		
NO JURISDICTION	0		
WITHDRAWN	0		
TOTAL PENDING AT END OF PERIOD		0	
PART 8 – ORGANIZATION OF COURTS			
TRIALS BY MILITARY JUDGE ALONE		605	
GENERAL COURTS-MARTIAL		359	
SPECIAL COURTS-MARTIAL		246	
TRIALS BY MILITARY JUDGE WITH MEMBERS		343	
GENERAL COURTS-MARTIAL		205	
SPECIAL COURTS-MARTIAL		138	
PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ			
NUMBER OF COMPLAINTS		28	
PART 10 – STRENGTH			
AVERAGE ACTIVE DUTY STRENGTH		357,537	
PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)			
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		9109	
RATE PER 1,000		25.48	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		+5.83%	

EXPLANATORY NOTES

[A] The Air Force does not convene non-BCD SPCMs. Of the 384 SPCMs tried, there were 194 convictions with a BCD adjudged, 157 convictions without a BCD adjudged and 19 acquittals.

[B] GCM and SPCM were not tracked separately.

SECTION 6

REPORT OF THE CHIEF COUNSEL OF THE COAST GUARD

REPORT OF THE CHIEF COUNSEL OF THE U. S. COAST GUARD

October 1, 2001 to September 30, 2002

NOTE: All statistics are based on the number of court-martial records received and filed at Coast Guard Headquarters during fiscal year 2002 and, where indicated, records received during each of the four preceding fiscal years. The number of court-martial cases varies widely from year to year, in part, based on the small size of the Coast Guard.

Fiscal Year	02	01	00	99	98
General Courts-Martial	04	15	10	6	18
Special Courts-Martial	23	17	23	17	21
Summary Courts-Martial	11	18	11	3	8
Total	38	50	44	26	47

COURTS-MARTIAL

Attorney counsel and military judges were detailed to all special courts-martial. The Chief Trial Judge details all military judges and all requests were timely met. When the Chief Trial Judge was unavailable, military judges with other primary duties were detailed to special courts-martial and general courts-martial judges from other military services were detailed to general courts-martial.

GENERAL COURTS-MARTIAL

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

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

Sentence	Cases Imposed
dishonorable discharge/dismissal- - - - -	3
bad conduct discharge - - - - -	0
confinement - - - - -	3
hard labor without confinement- - - - -	0
reduction in pay-grade - - - - -	2
fined (total \$3,000.00) - - - - -	1
restriction - - - - -	0
forfeiture of all pay and allowances - - - - -	1
partial forfeiture of pay and allowances - - - - -	0

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

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

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

FY	Number of Convictions	Forfeitures	Confinement	Reduction in Pay-Grade	Punitive Discharge/Dismissal
02	4	1 (25%)	3 (75%)	3 (75%)	4 (100%)
01	15	4 (27%)	14 (93%)	13 (87%)	10 (67%)
00	9	5 (56%)	7 (78%)	6 (67%)	6 (67%)
99	6	0 (0%)	6 (100%)	6 (100%)	5 (83%)
98	17	5 (29%)	12 (71%)	16 (94%)	11 (65%)

The following table shows the distribution of the 47 specifications referred to general courts-martial in fiscal year 2002.

Violation of the UCMJ, Article	No. of Specs.
78 (accessory after the fact)	1
81 (conspiracy)	2
92 (failure to obey order or regulation)	4
120 (rape or carnal knowledge)	2
121 (larceny or wrongful appropriation)	1
125 (sodomy)	5
134 (general)	32
	<u>47</u>

Four general courts-martial represent a 73% decrease in general courts-martial records received and filed at Coast Guard Headquarters in FY 2002 over the previous fiscal year. The Coast Guard has averaged 10 general courts-martial per year over the last 5 years with four to eighteen cases a year. This decrease in general courts-martial in FY 2002 is somewhat offset by the increase in special courts-martial.

SPECIAL COURTS-MARTIAL

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

The following table summarizes the sentences adjudged in the twenty-three special courts-martial cases:

Sentence	Cases Imposed
bad-conduct discharge - - - - -	18
confinement - - - - -	22
hard labor without confinement - - - - -	0
reduction in pay-grade - - - - -	17
fined (total \$400.00) - - - - -	1
restriction - - - - -	0
partial forfeiture of pay and allowances- - - - -	9
reprimand - - - - -	0

The following table compares the four sentences imposed most by special courts-martial in the past five fiscal years:

FY	Number of Convictions	Forfeitures	Confinement	Reduction in	
				Pay-Grade	BCD
02	23	9 (39%)	22 (96%)	17 (74%)	18 (78%)
01	17	9 (53%)	17 (100%)	12 (71%)	9 (53%)
00	23	8 (35%)	20 (87%)	19 (83%)	10 (43%)
99	17	8 (47%)	15 (88%)	16 (94%)	9 (53%)
98	20	9 (45%)	9 (45%)	17 (85%)	4 (20%)

The following table shows the distribution of the 191 specifications referred to special courts-martial in fiscal year 2002.

Violation of the UCMJ, Article	No. of Specs.
80 (attempts)- - - - -	2
81 (conspiracy)- - - - -	6
83 (fraudulent enlistment, appointment, or separation) - -	2
85 (desertion)- - - - -	5
86 (unauthorized absence) - - - - -	15
87 (missing movement)- - - - -	5

90	(assaulting or willfully disobeying a superior commissioned officer) - - - - -	3
92	(failure to obey order or regulation) - - - - -	14
107	(false official statement)- - - - -	6
112a	(wrongful use, possession, etc. of controlled substance) - - - - -	62
117	(provoking speeches or gestures) - - - - -	1
121	(larceny or wrongful appropriation) - - - - -	12
123a	(making, drawing, or uttering check, draft or order without sufficient funds)- - - - -	1
125	(sodomy)- - - - -	1
128	(aggravated assault)- - - - -	6
134	(general) - - - - -	<u>50</u>
		191

There was a 35% increase in special courts-martial received and filed at Coast Guard Headquarters this fiscal year over last fiscal year. Over the past five years the Coast Guard has averaged twenty special courts-martial per year with seventeen to twenty-three special courts-martial a year. While a 35% increase in special courts-martial in one year is significant, the total number of general and special courts-martial held in the last year is the second lowest total number of general and special courts-martial held in the last five years.

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, one review of a general courts-martial was conducted under Article 69(d) (1), UCMJ.

PERSONNEL, ORGANIZATION, AND TRAINING

The Coast Guard has 181 officers designated as law specialists (judge advocates) serving on active duty of which 137 are serving in legal billets and 44 are serving in general duty billets. Twenty-three Coast Guard officers are currently undergoing postgraduate studies in law and will be certified as law specialists at the successful completion of their studies. Eight students will graduate in 2003, seven will graduate in 2004, and eight will graduate in 2005. Fourteen Coast Guard officers (including three funded postgraduate program studies and eleven direct-commissioned lawyers) completed the Navy Basic Lawyer Course in Newport, Rhode Island. All have been or are in the process of becoming certified under Article 27(b), UCMJ.

U. S. COAST GUARD COURT OF CRIMINAL APPEALS

The following judges sat on the U.S. Coast Guard Court of Criminal Appeals during fiscal year 2001:

<u>Position</u>	<u>Name</u>	<u>Sworn-In</u>	<u>Departed</u>
Chief Judge	Joseph H. Baum	1 Apr 1985	
Judge	David J. Kantor	1 Jul 1997	
Judge	Robert W. Bruce	6 Sep 2000	
Judge	Gary A. Palmer	19 Apr 2001	
Judge	Ronald E. Kilroy	25 July 2001	30 Sep 2002
Judge	Thomas R. Cahill	1 Mar 2002	

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

In March, 2002, Judge Bruce participated in a panel of appellate military judges that made a presentation to the Military Appellate Attorney Seminar presented by the Judge Advocates Association at Catholic University School of Law in Washington, DC. The panel provided an opportunity for appellate attorney's to discuss items of interest with sitting appellate judges.

In May, 2002, Judge Bruce participated in a panel of appellate military judges that made a presentation to the Military Judges Course at the Army Judge Advocate General School in Charlottesville, VA. The panel provided an opportunity for the new trial judges to discuss items of interest with sitting appellate judges.

On 17 September 2002, the judges participated in the Coast Guard's 2002 Legal Officers Conference, Military Justice Day at the Sheraton Suites in Alexandria, VA. The Conference that day included informative presentations and discussion on the state of military justice in the Coast Guard, various issues in the pretrial, trial, post-trial and appellate phases of Courts-Martial, and a presentation on current trends in military law by Judge Robert Bruce. Vice Admiral Thad W. Allen, Chief of Staff, U.S. Coast Guard, discussed current Coast Guard issues and the role the Coast Guard legal community plays in those evolving issues.

On 25 and 26 September 2002, the judges participated in the William S. Fulton, Jr. Appellate Military Judges Conference and Training Seminar at the Federal Judicial Center in Washington, D.C. The conference was hosted by the U.S. Army Court of Criminal Appeals and featured an opening address by Chief Judge Susan J. Crawford, entitled "More Answered and Unanswered Questions." The conference included presentations on "Current Issues in Military Law" by The Honorable Lindsey O. Graham, U.S. House of Representatives, "Standards of Review" by Mr. LeRoy F. Foreman, Commissioner to CAAF Judge H.F. Gierke; "Lessons on Judicial Writing" by Professor Jeffery A. Van Detta, John Marshall Law School; "The Scope of Article 66(c), UCMJ" by Colonel Michael J. Breslin, Senior Judge, Air Force

Court of Criminal Appeals; "Prosecuting Child Pornography after Ashcroft v. Free Speech Coalition" by Mr. Andrew G. Oosterbaan, Chief, Child Exploitation and Obscenity Section, U.S. Department of Justice; "Is There Justice for All: A Contemporary Look at Courts-Martial" by the Honorable Walter T. Cox III, Senior Judge, U.S. Court of Appeals for the Armed Forces; "Case Management and Electronic Filing" by Mr. Gary Bockweg, Project Director, Office of Information Technology, Administrative Offices of the U.S. Courts; "Ethical Considerations for Judges" by Colonel Keven Kuhn, USAFR, The Judge Advocate General's School, USAF; and a discussion of recent specific service military judge opinions by a representative from each of the respective services. Judge Robert Bruce represented the Coast Guard. Judge Kantor, Judge Bruce, Judge Palmer, and Judge Cahill were in attendance.

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

ADDITIONAL MILITARY JUSTICE STATISTICS

Appendix A contains the formal Coast Guard, Fiscal Year 2002 military justice statistics.

R. F. DUNCAN
Rear Admiral, U. S. Coast Guard
Chief Counsel

APPENDIX - U.S. COAST GUARD MILITARY JUSTICE STATISTICS

Report Period: 1 OCTOBER 2001 - 30 SEPTEMBER 2002

PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
GENERAL	4	4	0	-73%
BCD SPECIAL	23	23		+35%
NON-BCD SPECIAL	0	0	0	UNCHANGED
SUMMARY	11	11	0	-39%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-14%

PART 2 - DISCHARGES APPROVED

GENERAL COURTS-MARTIAL				
NUMBER OF DISHONORABLE DISCHARGES			2	
NUMBER OF BAD-CONDUCT DISCHARGES			1	
SPECIAL COURTS-MARTIAL				
NUMBER OF BAD-CONDUCT DISCHARGES			18	

PART 3 - RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG

FOR REVIEW UNDER ARTICLE 66 - GENERAL COURTS-MARTIAL		3	
FOR REVIEW UNDER ARTICLE 66 - BCD SPECIAL COURTS-MARTIAL		18	
FOR EXAMINATION UNDER ARTICLE 69 - GENERAL COURTS-MARTIAL		1	

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

TOTAL ON HAND BEGINNING OF PERIOD		19	
GENERAL COURTS-MARTIAL	14		
BCD SPECIAL COURTS-MARTIAL	5		
REFERRED FOR REVIEW		27*	
GENERAL COURTS-MARTIAL	10		
BCD SPECIAL COURTS-MARTIAL	16		
TOTAL CASES REVIEWED		32*	
GENERAL COURTS-MARTIAL	19		
BCD SPECIAL COURTS-MARTIAL	12		
TOTAL PENDING AT CLOSE OF PERIOD		14	
GENERAL COURTS-MARTIAL	4		
BCD SPECIAL COURTS-MARTIAL	10		
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD			+33%

PART 5 - APPELLATE COUNSEL REQUESTS BEFORE

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

NUMBER	27
PERCENTAGE	100%

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

PERCENTAGE OF CCA REVIEWED CASES FORWARDED TO CAAF	5/32	16%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-24%
PERCENTAGE OF TOTAL PETITIONS GRANTED	4/16	25%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD		-58%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CGCCA	3/32	9%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD		-31%

*One of the extraordinary writ petitions related to a civilian conviction, not a court-martial.

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

PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ			
TOTAL PENDING BEGINNING OF PERIOD		0	
RECEIVED		0	
DISPOSED OF		0	
GRANTED	0		
DENIED	0		
NO JURISDICTION	0		
WITHDRAWN	0		
TOTAL PENDING AT END OF PERIOD		0	
PART 8 – ORGANIZATION OF COURTS			
TRIALS BY MILITARY JUDGE ALONE			
GENERAL COURTS-MARTIAL		3	
SPECIAL COURTS-MARTIAL		22	
TRIALS BY MILITARY JUDGE WITH MEMBERS			
GENERAL COURTS-MARTIAL		1	
SPECIAL COURTS-MARTIAL		1	
PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ			
NUMBER OF COMPLAINTS		1	
PART 10 – STRENGTH			
AVERAGE ACTIVE DUTY STRENGTH		36,773	
PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)			
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		1379	
RATE PER 1,000		37.50	
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		-4.50%	

