

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

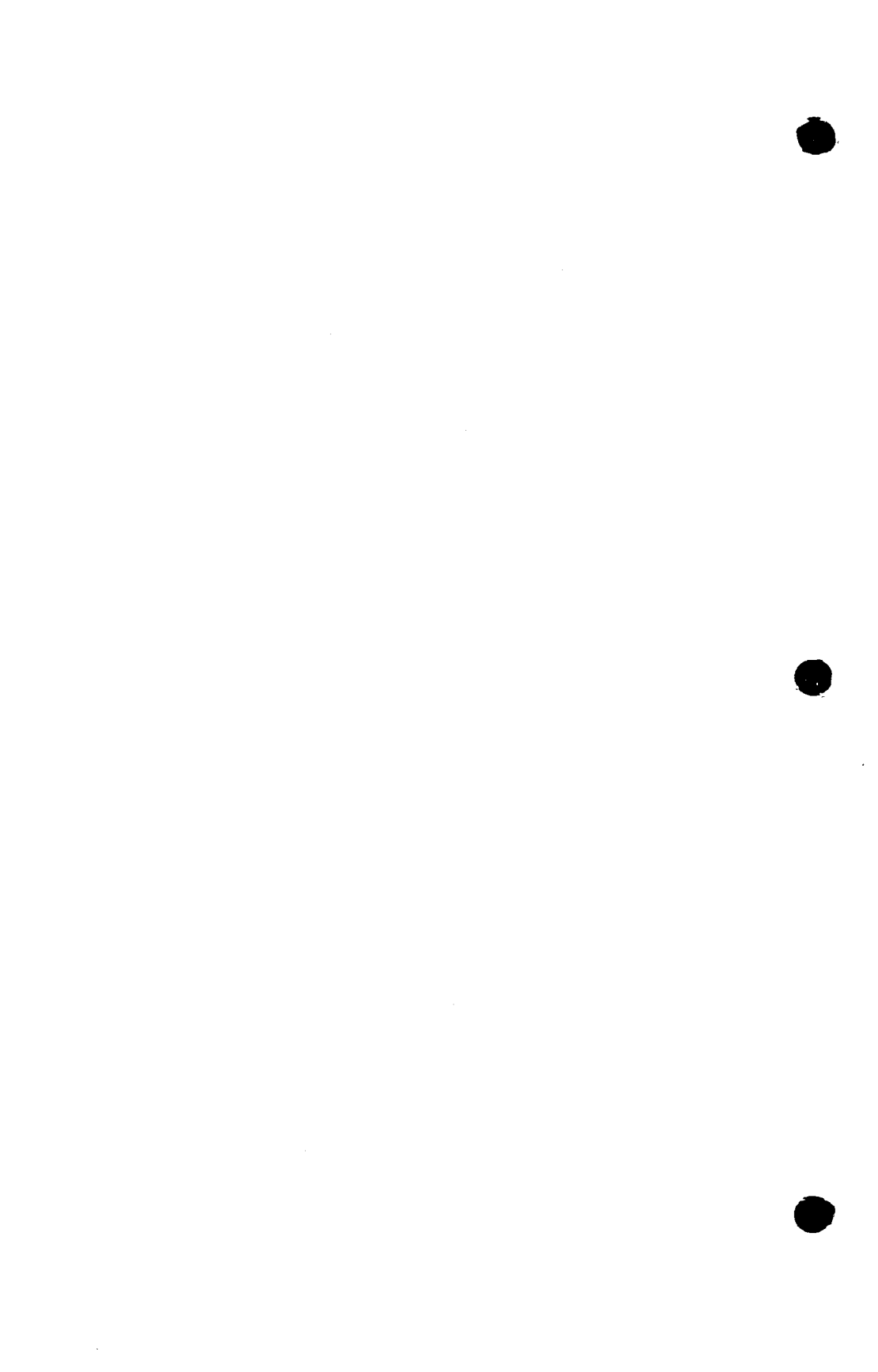


and
THE JUDGE ADVOCATES GENERAL
of the
ARMED FORCES
and the
GENERAL COUNSEL
of the
DEPARTMENT OF THE TREASURY

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

**For the Period
January 1, 1955, to December 31, 1955**

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Annual Report

**SUBMITTED TO THE
COMMITTEES ON ARMED SERVICES**

of the

**SENATE AND OF THE
HOUSE OF REPRESENTATIVES**

and to the

SECRETARY OF DEFENSE

and the

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

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

For the Period

January 1, 1955, to December 31, 1955



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

January 1, 1955, to December 31, 1955



JOINT REPORT

This report, which covers the period from January 1, 1955, through December 31, 1955, represents the fourth report of the Committee created by Article 67 (g) of the Uniform Code of Military Justice, 50 U. S. C. 551-736. That article requires the Judges of the United States Court of Military Appeals, the Judge Advocates General of the Armed Forces, and the General Counsel of the Department of the Treasury to meet annually to survey the operations of the Code and prepare a report to the Committees on Armed Services of the Senate and the House of Representatives, to the Secretary of Defense, and to the Secretaries of the Departments, as respects the status of military justice and the manner and means by which it can be improved by legislative enactment.

The Judges of the United States Court of Military Appeals, the Judge Advocates General, and the General Counsel of the Department of the Treasury, hereinafter referred to as the Code Committee, have met and conferred during the period of this report. The Code Committee is not urging the consideration of additional recommendations at this time, other than those set out in the second annual report for the calendar year 1953, and reaffirmed in the third annual report for calendar year 1954. These recommendations are incorporated in two bills advanced by the Department of Defense and identified as S. 2133 and H. R. 6583, introduced on June 2, 1955, and June 1, 1955, respectively. They are now pending before the present Congress. However, in those bills are proposals which were either not considered or not acted upon by the members of the Code Committee because of lack of unanimity.

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

Respectfully submitted,

ROBERT E. QUINN

Chief Judge.

GEORGE W. LATIMER

Judge.

EUGENE M. CAFFEY

*The Judge Advocate General,
United States Army.*

IRA H. NUNN

*The Judge Advocate General,
United States Navy.*

REGINALD C. HARMON

*The Judge Advocate General,
United States Air Force.*

FRED C. SCRIBNER, JR.

*General Counsel,
Department of the Treasury.*

	1953	1954	1955	Total
Personnel Strength of Armed Forces ¹ -----	-----	3, 006, 334	2, 701, 972	-----
Court Martial Cases for Armed Forces-----	² 776, 678	247, 833	202, 709	1, 227, 220
Cases Reviewed by Boards of Review-----	³ 48, 406	18, 594	17, 245	84, 245
Cases wherein findings were modified by Boards of Review-----	³ 1, 933	490	438	2, 861
Cases docketed with USCMA-----	³ 4, 232	1, 829	1, 881	7, 942
Opinions published by USCMA-----	³ 421	177	156	754
Opinions published wherein decisions of the Boards of Review were modified by USCMA-----	³ 226	72	59	357

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

² Total court-martial cases for calendar years 1951, 1952, and 1953.

³ Total court-martial cases from May 31, 1951 (effective date of the Uniform Code of Military Justice) to December 31, 1953.

Report
of the
UNITED STATES COURT OF MILITARY APPEALS

January 1, 1955, to December 31, 1955

UNITED STATES COURT OF MILITARY APPEALS

The following report of the United States Court of Military Appeals for the year January 1, 1955, to December 31, 1955, is submitted to Congress pursuant to Article 67 (g) of the Uniform Code of Military Justice, 50 U. S. C. 654. While statistics on the volume and scope of the work of the Court during the past year form the principal subject of the report, certain observations of the Judges are included.

It is with deep regret that we report the sudden and untimely death of Judge Paul W. Brosman. He passed away on December 21, 1955, at 3:30 p. m., while working at his desk. He was a learned and distinguished jurist; a hard-working and a most able colleague; and his contributions to military justice will forever be remembered.

During the interval covered by this report, the Bar of the Court has continued to increase steadily. By December 31, 1955, the membership had reached 4,601 attorneys. In the previous reports, a majority of the members who had been admitted were on duty with the Armed Forces, but presently fifty-five percent are civilian practitioners, while forty-five percent are in uniform. The membership of the Bar includes attorneys from the forty-eight States, the Territory of Hawaii, Guam, the Commonwealth of Puerto Rico, the Philippine Islands, Sweden, and Thailand. The number of lawyers from far away localities is due, in part, to the timely efforts of the Services who have continued their policy of assisting their reserve component attorneys to attend court sessions for the purpose of being admitted to practice before this Court. We publicly express our appreciation to the Services for their efforts in that regard and we commend the civilian practitioners, who have appeared for admission, for their interest in the field of military jurisprudence.

The Judges of the Court have continued their policy of familiarizing the civilian and military communities with the provisions of the Uniform Code of Military Justice and the constructive contribution it has made to uniformity and justice in military law. Although these appearances have entailed additional time and work, the lectures to military service schools, reserve officers' associations, legal institutions, bar associations, and civic associations have aided the public to better understand and the Services to better administer the Uniform Code of Military Justice.

In the second annual report, covering the period June 1, 1952, to December 31, 1953, the Judges of the Court joined with The Judge Advocates General of the respective Services and the General Counsel of the Treasury Department, in submitting to Congress seventeen recommendations for improvements in the Uniform Code of Military Justice. It was, and still is, believed that if these recommendations are enacted into law, the Government will be benefited by decreased costs of, and improvements in, military law administration without sacrificing any important benefit previously conferred on members of the Armed Forces. We, therefore, request they be considered by Congress at the earliest practicable date.

In the Services' sectional parts of the second annual report, additional modifications of the Code have been proposed by The Judge Advocates General. A number of those proposed modifications embrace the seventeen recommendations of the Code Committee discussed above, however, others go much further. The reporting Judges do not favorably recommend any of the additional proposals for the reasons advanced in previous reports, namely, that either the need for them has not been demonstrated, or they are retrogressive in that they seek to restore some parts of the previous systems and thereby destroy some of the substantial rights heretofore granted by Congress to persons subject to the Code. It is not deemed appropriate at this time to set forth in detail the arguments to support the conclusions set out above but as a general proposition it can be stated that the controversial recommendations are hostile to the beneficent purposes of the Uniform Code of Military Justice and contrary to the will of Congress. It may well be that members of Congress will conclude to proceed with hearings on some, or all, of the additional proposed changes, but if so, the members of the Court request that they be extended the privilege of presenting their individual views.

During the hearings on the Uniform Code of Military Justice, the House Armed Services Committee reported that practically every witness who testified before the Committee had urged a separate Judge Advocate General's Corps for the Navy and the Air Force. The Committee, however, postponed any final determination until the Judges of the United States Court of Military Appeals had an opportunity to "review the comparative results of the Army with its corps as against the Navy and the Air Force without such a corps." It is now believed that the period of operation of the Code has furnished a base for an intelligent appraisal of the merits of a Corps and that Congress could profitably proceed with hearings on this controversial subject.

The workload of the Court during the past year has continued to be substantial but the Judges and the personnel of the Court are keep-

ing the docket current. During its fifty-five months of existence, the Court has docketed by petition, certificate, or mandatory review, 7,942 cases. Completed action can be reported in 7,831 of these. Oral argument has been heard in 699 cases, affecting 758 accused. Opinions, numbering 754, have been published with another 33 in the process of completion. Of the 754 published opinions; 33 involved Army officers; 7 Air Force officers; 6 Naval officers, 1 Coast Guard officer, and 11 civilians. The remaining 695 pertain to enlisted personnel. As of the terminal date of this report, December 31, 1955, review had been completed in 26 capital cases involving 30 members of the armed forces.

Figures in possession of the Court establish that during the four and one-half year period of operation, there has been progressive improvement in shortening the time required to decide cases on appeal. There is other data considered of importance to Congress, but to simplify its presentation and to furnish a detailed analysis of the status of cases processed during the past years, an exhibit containing relevant information is attached hereto, and made a part hereof.

Respectfully submitted,

ROBERT E. QUINN, *Chief Judge.*

GEORGE W. LATIMER, *Judge.*

STATUS OF CASES

UNITED STATES COURT OF MILITARY APPEALS

CASES DOCKETED

<i>Total by Services</i>	<i>Total as of Dec. 31, 1953</i>	<i>Jan. 1, 1954 to Dec. 31, 1954</i>	<i>Jan. 1, 1955 to Dec. 31, 1955</i>	<i>Total as of Dec. 31, 1955</i>
<i>Petitions (Art. 67 (b) (3)):</i>				
Army.....	2, 998	982	1, 020	5, 000
Navy.....	619	428	449	1, 496
Air Force.....	460	430	392	1, 282
Coast Guard.....	15	2	7	24
Total.....	4, 092	1, 842	1, 868	7, 802
<i>Certificates (Art. 67 (b) (2)):</i>				
Army.....	62	5	-----	67
Navy.....	86	9	15	110
Air Force.....	9	4	3	16
Coast Guard.....	3	2	-----	5
Total.....	160	20	18	198
<i>Mandatory (Art. 67 (b) (1)):</i>				
Army.....	17	6	6	29
Navy.....	0	0	0	0
Air Force.....	0	1	0	1
Coast Guard.....	0	0	0	0
Total.....	17	7	6	30
Total cases docketed.....	4, 269	1, 869	1, 892	1 8, 030

COURT ACTION

<i>Petitions (Art. 67 (b) (3)):</i>				
Granted.....	393	104	130	627
Denied.....	3, 488	1, 703	1, 687	6, 878
Dismissed.....	5	0	0	5
Withdrawn.....	66	37	28	131
Disposed of on motion to dis-				
miss:				
With opinion.....	5	2	0	7
Without opinion.....	16	5	4	25
Disposed of by Order setting				
aside findings and sentence..	2	0	0	2
Remanded to Board of Re-				
view.....	8	5	10	23
Court action due (30 days) ² ..	81	79	75	75
Awaiting briefs ²	43	32	52	52

¹ 7,942 cases actually assigned Docket numbers. Fifty cases counted as both Petitions and Certificates. Three cases certified twice. Thirty-four cases submitted as Petitions for the second time. One Mandatory case filed twice.

² As of December 31, 1953, 1954, and 1955.

<i>Total by Services</i>	<i>Total as of Dec. 31, 1953</i>	<i>Jan. 1, 1954 to Dec. 31, 1954</i>	<i>Jan. 1, 1955 to Dec. 31, 1955</i>	<i>Total as of Dec. 31, 1955</i>
<i>Certificates (Art. 67 (b) (2)):</i>				
Opinions rendered.....	122	43	19	184
Opinions pending ²	14	8	7	7
Withdrawn.....	3	1	0	4
Set for Hearing ²	11	1	0	0
Ready for Hearing ²	5	0	0	0
Awaiting briefs ²	5	2	3	3
<i>Mandatory (Art. 67 (b) (1)):</i>				
Opinions rendered.....	14	7	4	25
Opinions pending ²	0	0	3	3
Remanded to Board of Re- view.....	1	0	0	1
Set for hearing ²	1	1	0	0
Reading for hearing ²	1	0	1	1
Awaiting briefs ²	0	1	0	0
<i>Opinions rendered:</i>				
Petitions.....	266	123	132	521
Motions to Dismiss.....	5	2	0	7
Per Curiam grants.....	18	3	0	21
Certificates.....	110	36	13	159
Certificates and Petitions....	12	7	6	25
Mandatory.....	14	7	4	25
Remanded to Board of Re- view.....	1	0	1	2
Petition for a New Trial.....	0	1	0	1
Petition for Reconsideration of Petition for New Trial....	0	1	0	1
Total.....	426	180	156	762
<i>Completed Cases:</i>				
Petitions denied.....	3, 488	1, 703	1, 687	6, 878
Petitions dismissed.....	5	0	0	5
Petitions withdrawn.....	66	37	28	131
Certificates withdrawn.....	3	1	0	4
Opinions rendered.....	421	178	156	755
Disposed of on Motion to dis- miss:				
With opinions.....	5	2	0	7
Without opinions.....	16	5	4	25
Disposed of by Order setting aside findings and sentence....	2	0	0	2
Remanded to Board of Re- view.....	9	5	10	24
Total.....	4, 015	1, 931	1, 885	7, 831

² As of December 31, 1953, 1954, and 1955.

<i>Pending completion as of</i>			
	<i>Dec. 31, 1953</i>	<i>Dec. 31, 1954</i>	<i>Dec. 31, 1955</i>
Opinions pending.....	62	40	33
Set for hearing.....	24	11	0
Ready for hearing.....	16	1	9
Petitions granted—awaiting briefs.....	11	10	12
Petitions—Court action due 30 days.....	81	79	75
Petitions—awaiting briefs.....	43	32	52
Certificates—awaiting briefs.....	5	2	3
Mandatory—awaiting briefs.....	0	1	0
Total.....	242	176	184

Report
of
THE JUDGE ADVOCATE GENERAL
of
THE ARMY

January 1, 1955, to December 31, 1955



REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY

1. Recommendations:

During the period covered by this report, a bill was introduced into both houses of Congress (S. 2133, H. R. 6583, 84th Congress, 1st Session), containing a number of recommended changes to the Uniform Code of Military Justice. Most of these recommendations were contained in the Annual Report of the United States Court of Military Appeals and The Judge Advocates General of the Armed Forces and the General Counsel of the Department of the Treasury, for the period June 1, 1952, to December 31, 1953. It is recommended that this bill be speedily enacted.

In addition to the recommendations embodied in this bill, a number of further legislative suggestions were made in the Report of The Judge Advocate General of the Army for the period January 1, 1954, to December 31, 1954. Those recommendations were mainly proposed amendments designed to allow the Code to be adapted to wartime conditions by reducing further the time required for appellate review, increasing the authority of the commanding officer with regard to nonjudicial punishment, increasing the power of inferior courts-martial, returning the law officer to the court as a voting member of the court, and simplifying the procedure for pretrial investigation. Nothing has occurred in the administration of military justice during the period covered by this report which would warrant any modification in these recommendations.

Finally, in November 1955, the United States Supreme Court in *United States ex rel Toth v. Quarles*, 350 U. S. 11 (1955), declared unconstitutional Article 3 (a), of the Uniform Code of Military Justice. Amendatory legislation should be enacted which will vest in the United States district courts the jurisdiction lost to the services by virtue of that decision.

The Uniform Code of Military Justice is being constantly reviewed for necessary changes. Those which have heretofore been listed are considered essential if the Armed Forces are to continue to perform their primary mission of providing the sinews of American democracy, while maintaining a discipline based on law, justice, and respect for the individual.

2. Operations:

a. During the calendar year of 1955, The Judge Advocate General's School at Charlottesville, Virginia, provided resident instruction for 436 lawyers. The School conducted four cycles of an eleven weeks' course in basic military law, graduating 162 students. A special course designed to train claims investigators and adjudicators for claims arising out of the Texas City Disaster was given at the School. The Third Advanced Course of 31 weeks' duration for 22 senior officers of The Judge Advocate General's Corps was completed and the Fourth Advanced Course was begun for 23 officers, including five selected law specialists of the Navy. During the year the graduate program of the School was accredited by the American Bar Association. This program has been described by the Adviser to the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association as "the outstanding specialized graduate law school in the nation." Two three-week courses in procurement law for 100 military and civilian attorneys of the military establishment and one ten-day course dealing in contract termination problems were conducted.

The Nonresident Schools Department, being charged with primary responsibility for the training of Reserve and National Guard lawyers not on active duty through the USAR school and extension course programs, continued the evolution of plans and policies pertaining to the education of these military lawyers. With a view towards affording reserve officers in less populous areas an opportunity to continue their education in military law by participating in the schools, a further program combining certain features of Army extension courses with the USAR school program was instituted during the calendar year as a prototype for other Army service schools. This required the development of several new extension courses and the revision of others in order that the instruction offered to reservists would parallel that given at The Judge Advocate General's School. The department continued the preparation and distribution of legal texts and other instructional materials for use throughout the United States in the 138 courses being taught in 91 USAR schools with judge advocate departments, which had an average total enrollment of 1,623. Extension course enrollment increased to 856.

The School prepared the 1955 United States Army Cumulative Pocket Part to the *Manual for Courts-Martial, United States, 1951*, and Department of the Army Pamphlet No. 27-10, "The Trial Counsel and The Defense Counsel," a practical guide to assist pretrial investigation counsel, trial counsel, and defense counsel in the performance of their duties. It also prepared and distributed a series of lectures on martial law, a lesson outline entitled "Congressional Relations," and

the weekly letter of The Judge Advocate General disseminating recent developments in military law of immediate importance to judge advocates in the field.

The School planned, prepared, and supervised the participation by members of the advanced class and selected reserve judge advocate officers in "LOGEX-55," a practical training exercise in which judge advocate duties were performed under simulated combat conditions.

b. In undertaking to solve the problem of court reporting in the Army, a six weeks' course was established at The Judge Advocate General's School in January 1955. The course is designed to train enlisted personnel in the proper method of reporting general courts-martial and various board proceedings by the use of an electronic recorder-reproducer device equipped with a stenomask. During the calendar year 1955, over 75 enlisted men were graduated from the four courses given and were awarded appropriate military occupational specialties.

c. Authority was granted to commission 50 officers in The Judge Advocate General's Corps Reserve during fiscal year 1956 and 100 during fiscal year 1957. The majority of those commissioned under this program have been young officers recently graduated from law school without previous military experience. To prepare them properly for their duties as judge advocates, they are given a two month's course in basic military subjects at The Infantry School, Fort Benning, Georgia, followed by an eleven weeks' course in basic military law at The Judge Advocate General's School.

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

3. Statistics:

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

	<i>1 Jan 55</i>
	<i>through</i>
	<i>31 Dec 55</i>
Total _____	17790

¹ This figure includes 8 cases for which both review pursuant to Article 66 and examination pursuant to Article 69 were required by the Code; these cases are not reflected in the figures for Article 69, below.

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

	1 Jan 55 through 31 Dec 55
Total.....	1383

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

	1 Jan 55 through 31 Dec 55
On hand at beginning of period.....	211
Referred for review.....	7766
Total.....	7977
Reviewed.....	7740
Pending at close of period.....	237
Total.....	7977

c. From 1 January 1955 through 31 December 1955, 3218 of the 8067 accused whose cases were forwarded for review by boards of review pursuant to Article 66 (39.9 percent) requested representation by appellate defense counsel before the boards of review.

d. The records in the cases of 1028 accused were forwarded during this period to the United States Court of Military Appeals pursuant to the three subdivisions of the Uniform Code of Military Justice, Article 67 (b) ; this figure is 12.8 percent of 8039, the number of accused whose cases were reviewed by boards of review during the period.

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

Report
of
THE JUDGE ADVOCATE GENERAL
of
THE NAVY

January 1, 1955, to December 31, 1955



ANNUAL REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY PURSUANT TO THE UNIFORM CODE OF MILITARY JUSTICE COVERING PERIOD OF 1 JANUARY 1955 TO 31 DECEMBER 1955

The Navy and Marine Corps express their profound sorrow at the untimely death of Judge Paul W. Brosman of the United States Court of Military Appeals, who died on December 21, 1955, at the age of 56 and at the height of his brilliant judicial career. This brief expression will serve to record their deep personal respect for him and their heartfelt appreciation for his guidance and his contribution to the law and the administration of military justice.

During the fifth year of operation under the Uniform Code of Military Justice, the major program for revision of the Code was advanced with the introduction in the Congress of the Department of Defense recommendations for amendment to the statute. This proposal was introduced in the Senate on June 2, 1955, as S. 2133 and in the House of Representatives on June 1, 1955, as H. R. 6583. These bills embodied substantially the recommendations jointly made by the Judge Advocates General of the Army, Navy, and Air Force, the General Counsel of the Treasury Department and the Judges of the United States Court of Military Appeals in their Annual Report to the Committees on Armed Services of the Senate and House of Representatives for the period January 1, 1954, to December 31, 1954. The Department of the Navy urges favorable action on these bills with certain modifications submitted by the Judge Advocate General of the Navy which appear in his Annual Report for the calendar year 1954. The latter proposals go beyond those which appear in H. R. 6583 and S. 2133 but on the whole have the same objective, which is to reduce unnecessary burdens imposed upon the services by the Code, in its present form, and to increase the powers of officers who exercise command to impose nonjudicial punishment.

On 2 November 1955, the Under Secretary of the Navy approved the action of the Judge Advocate General whereby two Boards of Review, constituted in the office of the Judge Advocate General, will be located in the San Francisco area. The Judge Advocate General effected this action in order to reduce the number of personnel in the Washington, D. C., area and to facilitate more expeditious handling of

matters from the Pacific coast and Pacific Ocean Commands where action by Boards of Review is necessary. Approximately 40 percent of the courts-martial cases heretofore reviewed by Boards in the Office of the Judge Advocate General emanate from such commands, and it is estimated that the location of two Boards of Review on the west coast will be adequate to handle this volume of work. A number of officers and civilian personnel have been shifted to the San Francisco area for the purpose of processing matters before the Boards and handling post-review problems.

During the late summer of 1955 a project was activated in the Office of the Judge Advocate General for revision of the Manual for Courts-Martial. One factor inducing its establishment was the introduction of S. 2133 and H. R. 6583, 84th Congress proposing changes to the Uniform Code of Military Justice. Those changes would, obviously, necessitate Manual changes. The project was deemed important, however, even if Congress should at this time fail to enact changes to the Code. Decisions of the United States Court of Military Appeals and experience under the Code since 1951 reflect the need for many changes to the Manual under existing laws.

Of special interest and importance to Navy lawyers was the new and comprehensive plan for additional training for law specialists, completed by the Judge Advocate General, acting in conjunction with Mr. Albert Pratt, Assistant Secretary of the Navy (Personnel and Reserve Forces), and the Chief of Naval Personnel. Under this program newly commissioned law specialists will be sent to the Officer Candidate School, Newport, Rhode Island, and upon completion of that course will be given instruction in basic military law at either the U. S. Naval School (Naval Justice), a seven weeks' course, or at the junior course at the Judge Advocate General's School conducted by the Army at the University of Virginia, Charlottesville, Virginia, a three months' course. To supplement further the training and experience of Navy law specialists, and to give the additional general naval background considered necessary for performance of duty as senior officers, particularly when serving with important staffs, a number of law specialists will be sent each year to the General Line School at Monterey, California, the Armed Forces Staff College, and the Naval War College. This plan was in addition to a new program already in operation under which five Navy law specialists are now attending the senior course at the Judge Advocate General's School, conducted by the Army at the University of Virginia.

During 1955 four hundred and twenty-six naval reserve officer attorneys were brought to Washington, D. C., for group training. This three-day training tour included admission to practice before the Supreme Court of the United States and the United States Court of

Military Appeals, as well as a briefing of the work of the Office of the Judge Advocate General by each of the various division heads. Forty-six reserve law companies throughout the United States were represented and thirteen tours were required to complete this training program.

Additional training of Naval personnel in military justice during 1955 was conducted in three primary programs: courses of study at the School of Naval Justice, a motion picture training film program, and correspondence courses.

a. The United States Naval School (Naval Justice), U. S. Naval Base, Newport, Rhode Island, graduated 886 officers and 387 enlisted men from its seven weeks' intensive course on the provisions of the Code and Manual for Courts-Martial. 223 inactive reserve officers were graduated from a two weeks' active duty training course at the school during the period 20 August to 2 September 1955. A two-day course for prospective commanding and executive officers was attended by 19 officers, and a short course of fifteen hours instruction was given to 107 senior officers attending the Naval War College at Newport. During September and November 1955, 111 senior officers attended a short course for commanding officers and executive officers and those about to assume such commands. During 1955, 219 enlisted men were graduated from the CLOSED-MICROPHONE COURT REPORTING COURSE also conducted at the Naval School of Justice.

b. Sixteen motion picture training films on the subject of military justice were being distributed throughout the Naval Establishment throughout the calendar year of 1955.

c. Correspondence courses on military justice were used extensively during 1955. A single-assignment course on the provisions of the Code was completed by 6,184 officers and enlisted men during the year. There are 3,111 persons currently enrolled in this course, and an average of 687 applications for the course are being received monthly. A comprehensive 12 assignment course on military justice was completed by 11,887 officers and enlisted men during 1955. 15,749 persons are currently enrolled in this course, and an average of 1,795 applications for the course are being received monthly. Interest in this comprehensive course has been stimulated by the fact that promotion examinations include military justice as an examination subject. One of the correspondence courses which provides an exemption from promotion examinations required in the case of Navy law specialists is a new officer course instituted during the last quarter of 1955, entitled, "The Law Officer". 79 officers were enrolled in this course during 1955 and 6 officers have completed the course. Officer lawyers of the Navy are now enrolling in this correspondence course at the rate of 30 per month.

During 1955, 6,027 records of trial were received in the Office of the Judge Advocate General for review pursuant to Article 66. Of this number, 2,120 were general courts-martial and 3,907 were special courts-martial. In addition, 426 records of trial were received in the Office of the Judge Advocate General for examination pursuant to Articles 69 and 65 (c). The following table shows the workload of the Boards of Review during 1955:

On Hand January 1, 1955-----	201	
Referred for Review during 1955-----	6027	
		6228
Reviewed during 1955-----	6050	
Pending December 31, 1955-----	178	
		6228

During 1955, sixty-three percent of the accused whose cases were received in the Office of the Judge Advocate General for review pursuant to Article 66 requested representation by appellate defense counsel before Boards of Review. This increase in requests for representation by appellate defense counsel continues the trend which has been apparent in this respect during each of the past reporting periods that the Uniform Code of Military Justice has been in effect.

Based upon the number of cases reviewed by Boards of Review during 1955, 6.7 percent were forwarded to the United States Court of Military Appeals pursuant to the three subdivisions of Article 67 (b), Uniform Code of Military Justice.

As the result of further study it is proposed that the following paragraph of the legislation submitted by the Judge Advocate General of the Navy in his Annual Report for the calendar year 1954 be revised to read as follows:

Paragraph (mm)

"(mm) Article 65 (c) is amended to read as follows:

'(c) All other special and summary court-martial records shall be forwarded to the officer exercising general court-martial jurisdiction over the command, or such other authority as may be designated by the Secretary of the Department, for review by a judge advocate of the Army or Air Force, a law specialist of the Navy or commissioned officer of the Navy who is a lawyer, or a law specialist or lawyer of the Coast Guard or Treasury Department. In addition to returning such records to the convening authority with a direction that certain action be taken, the officer exercising general court-martial jurisdiction, or the authority designated by the Secretary of the Department, may take the same action with respect to such records as is authorized for the convening authority. Such records shall be transmitted and disposed of as the Secretary of the Department may prescribe by regulation.'"

Additional examination of the following paragraphs has led to the further conclusion that the following amendments proposed in the 1954 report are unnecessary at this time and accordingly these paragraphs are withdrawn:

(a) Paragraph (n) repealing subsection (c) of Article 25, which would eliminate enlisted persons as members of courts-martial.

(b) Paragraph (nn) amending Article 66 (a), which would provide that boards of review shall be composed of three officers, except that for the Coast Guard any member of a Board of Review may be a civilian. This amendment also would require that each member of a board of review must have had at least six years of experience in legal duties in any department or armed force.

This report is submitted pursuant to Article 67 (g), Uniform Code of Military Justice.

IRA H. NUNN,
Rear Admiral, USN,
The Judge Advocate General.



Report
of
THE JUDGE ADVOCATE GENERAL
of
THE AIR FORCE

January 1, 1955, to December 31, 1955

REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE

1. Several recommendations for amendments to the Uniform Code of Military Justice have been made during the past four years that this report has been submitted, pursuant to Article 67 (g) of the Uniform Code of Military Justice. Continuous studies are being made in the operation of the Uniform Code of Military Justice to evaluate its effectiveness and workability. We are still endeavoring to help establish a system that would be workable in the event of a global war. However, rather than propose any additional changes to the Code at this time, it is recommended that consideration be given toward enacting into law some of the previous proposals which would improve the administration of military justice. Only after those changes have been made and evaluated should we consider any additional proposed amendments to the Uniform Code of Military Justice.

2. Habeas corpus cases of particular significance to the Air Force during the past year were as follows:

a. *United States ex rel Audrey M. Toth v. Donald A. Quarles, Secretary of the Air Force*. This case was decided by the United States Supreme Court on 7 November 1955. The Supreme Court reversed the Court of Appeals for the District of Columbia and held Article 3 (a) of the Uniform Code of Military Justice to be unconstitutional. Article 3 (a) provided for the trial by court-martial, after discharge, of a person who committed a serious offense while a member of the armed forces if he could not be tried in a civil court of the United States. In other words, Congress enacted Article 3 (a) to correct the situation that existed which permitted an honorable discharge to operate as a bar to a prosecution for murder or other serious offenses. There is presently being studied proposed legislation designed to provide the means to prosecute in the District Courts of the United States any person who otherwise would have been tried by court-martial under Article 3 (a) if that article had not been invalidated.

b. *United States of America ex rel Clarice B. Covert v. Curtis Reed*. A petition for writ of habeas corpus was filed in this case in the United States District Court for the District of Columbia on 17 November 1955. It was alleged that even if Mrs. Covert had been subject to court-martial jurisdiction under Article 2 (11) of the Uniform Code

of Military Justice at the time of her original trial by court-martial in May 1953, she was no longer subject to such jurisdiction because the Air Force had transported her back to the United States and she was no longer a person "accompanying" the armed forces without the territorial limits of the United States within the meaning of Article 2 (11). The second argument was that Article 2 (11) was unconstitutional insofar as it purported to make a civilian amenable to court-martial jurisdiction in time of peace. Oral argument was heard by the District Court on 22 November 1955, at the conclusion of which the court ruled in favor of Mrs. Covert on the basis of the *Toth* decision and ordered Mrs. Covert's release. An appeal to the Supreme Court in this case was noted in December 1955. Subsequently, a statement as to jurisdiction was filed with the Supreme Court with a view to having that Court consider a direct appeal from the decision of the District Court under the provisions of 28 USC 1252.

3. During the past year The Judge Advocate General, the Assistant Judge Advocate General, and other senior judge advocates have made frequent and extensive inspections in the field in supervision of the administration of military justice pursuant to the requirement of Article 6 (a) of the Uniform Code of Military Justice. In addition, Major General Reginald C. Harmon, The Judge Advocate General, United States Air Force, went to Geneva, Switzerland, as a member of the American Delegation to the First United Nations Congress on the Prevention of Crime and Treatment of Prisoners which convened in August 1955. After attending the United Nations Congress, he made extensive inspections of Air Force legal offices in the European areas of interest.

Several field visits to installations in the United States and overseas were also made by the Assistant Judge Advocate General, Major General Albert M. Kuhfeld, during this period. In addition, he attended the American Bar Association and the Judge Advocates' Association in Philadelphia, Pennsylvania, and spoke at the Constitution Day Observance in Madison, Wisconsin.

4. The primary source of lawyers for The Judge Advocate General's Department during the past year has been the Air Force ROTC program. This program accounted for the input of approximately 150 young lawyers for duty in this department. In addition, a program for the voluntary recall of approximately 30 reserve officers was instituted. The officer experience level continues to be a problem primarily due to the large input of AFROTC graduates who have been committed for only 2 years of active duty. The experience problem was aggravated to some extent this past year by the addition of approximately 100 Air National Guard officers to the department. The AFROTC officers are generally available for overseas assignment only

between their sixth and twelfth months of active duty and the Air National Guard officers have not been available for overseas assignment at all. Thus the overseas requirements have been filled by experienced career officers leaving the short-term officers to man the installations in the United States. While most of the AFROTC and ANGUS officers show a potential value, they are severely limited by their lack of legal and military experience.

5. As a result of the continued emphasis on the Judge Advocate General Reserve Training Program, new training flights were activated at the following locations in the United States: Louisville, Kentucky; Vancouver, Washington; Houston, Texas; Meridian, Mississippi; Pensacola, Florida; Rochester, New York; Roanoke, Virginia; Long Beach, California; Ft. Wayne and South Bend, Indiana; and Dayton, Ohio. The program for bringing all existing Judge Advocate General Reserve Training Flights to Washington, D. C., for a three-day orientation and training exercise was continued. A total of 50 units has been airlifted to Washington since this program was originated in October 1953.

The training of these units has been most successful in preparing officers for immediate active duty in the event of a national emergency by familiarizing them with the type of work they would do in the event they were called to active duty. In addition, this training program has proved highly successful as a morale booster to all personnel participating in it.

6. As of 31 December 1955 there were 89 commands in the Air Force exercising general court-martial jurisdiction. During the reporting period commanders of 9 commands were empowered to exercise general court-martial jurisdiction. Authorization for the interservice utilization of law officers and counsel was granted to 4 commands.

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

	1 Jan 1955 to 31 Dec 1955
Total-----	13396

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

	1 Jan 1955 to 31 Dec 1955
Total-----	421

¹ 1,469 general courts-martial; 1,927 special courts-martial.

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

	1 Jan 1955	
	to	
	31 Dec 1955	
On hand at beginning of period-----	113	
Referred for review-----	3396	3509
Reviewed-----	3397	
Pending at close of period-----	112	3509

c. From 1 January to 31 December 1955, 52 percent of the accused whose cases were received in the Office of The Judge Advocate General for review pursuant to Article 66 requested representation by appellate defense counsel before boards of review.

d. Based upon the number of cases reviewed by boards of review during this period, 12.2 percent were forwarded to the United States Court of Military Appeals pursuant to the 3 subdivisions of Article 67 (b), Uniform Code of Military Justice. Of the total cases forwarded, all except 4 were based upon petition of the accused for grant of review by the Court of Military Appeals. Four cases were certified by The Judge Advocate General. Petitions were granted by the Court of Military Appeals during the period in 4.9 percent of the cases which were petitioned or .6 percent of the total number of cases reviewed by the boards of review.

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

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

January 1, 1955, to December 31, 1955

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

1. During the calendar year 1955 the incidence of courts-martial in the Coast Guard continued to decline. Comparative figures for the years 1953, 1954 and 1955 are shown below :

	1955	1954	1953
General courts-martial-----	23	19	19
Special courts-martial-----	159	168	279
Summary courts-martial-----	480	612	725
Total-----	662	799	1,023

2. *a.* The records of trial received in the Office of the General Counsel of the Treasury Department for review by the Board of Review amounted to 58, of which 12 were general court-martial cases and the remainder special courts-martial. There were 11 additional general courts-martial examined in the Office of the General Counsel pursuant to the provisions of Article 69 of the Code.

b. Board of Review action resulted in modification of the results of trial in 13 cases, in one of which a rehearing was ordered. In 8 cases the sentence was disapproved in part and in 4 cases the findings were modified but not the sentence. Forty-four cases were affirmed as approved on review below. In two of these latter the General Counsel exercised residual clemency in respect to the sentence, immediately following the Board of Review action. In sum, either the findings or the sentence were changed in 26 percent of the cases which reached the Board of Review. Eight Board of Review decisions were appealed by the accused to the Court of Military Appeals pursuant to Article 67 of the Code. The Court granted leave to appeal in one and denied the petitions in the other cases. The Court affirmed the decision of the Board of Review in the single case which had been previously certified to it by the General Counsel.

3. *a.* During the year work was commenced upon a revision of the Coast Guard Supplement to the Manual for Courts-Martial, United States, 1951. By the end of the year work had been completed upon the first chapter, which relates most directly to courts-martial.

b. At the close of the year there were 28 officers certified as competent to perform the duties of law officer of a general court-martial and an additional 37 officers on active duty who had been certified as qualified

trial or defense counsel under Article 27 of the Code. A distribution was made of Department of the Army Pamphlets Nos. 27-9 and 27-10 relating to the duties of law officer, trial counsel and defense counsel. In addition, District Legal Officers were furnished regularly with Advance Opinions of the United States Court of Military Appeals, decisions of the Coast Guard Board of Review, and the Coast Guard Law Bulletin, which included a Guide for Court Martial Members.

FRED C. SCRIBNER, JR.
General Counsel
Treasury Department

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