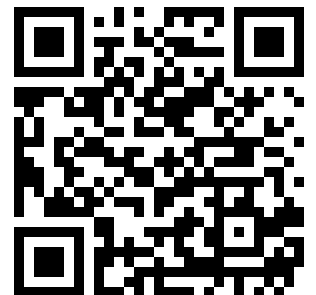

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ADVISORY COMMISSION REPORT



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VOLUME II

SURVEY OF CONVENING AUTHORITIES and MILITARY JUSTICE PRACTITIONERS

PUBLIC COMMENTS,
MISCELLANEOUS DOCUMENTS,
and
STATISTICS

ADVISORY COMMISSION REPORT



VOLUME II

THE MILITARY JUSTICE ACT OF 1983



DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
WASHINGTON, D.C. 20301

14 December 1984

The Honorable John Tower
Chairman, Committee on Armed Services
U.S. Senate, Washington, DC

The Honorable Melvin Price
Chairman, Committee on Armed Services
U.S. House of Representatives, Washington, DC

Dear Senator Tower and Representative Price

This report of the Military Justice Act of 1983 Advisory Commission discusses the issues, and matters related thereto, mandated to be studied by the Commission pursuant to Public Law 98-209 and the Commission's Charter. The report is also being provided to the Code Committee.

The report is transmitted in four volumes. Volume I contains Commission recommendations and position papers. Volume II contains the transcript of Commission hearings. Volume III contains the Commission's survey of convening authorities and military justice practitioners. Volume IV contains public comments, miscellaneous documents and various statistics.

Sincerely


THOMAS L. HEMINGWAY, Colonel, USAF
Chairman, Military Justice Act of
1983 Advisory Commission

1 Atch
Report

Executive Summary

The Congress, through the Military Justice Act of 1983, directed the Secretary of Defense to establish a commission to study and make recommendations to the Congress regarding several specified matters related to the military justice system.

The Military Justice Act of 1983 Advisory Commission was established by the Secretary of Defense to conduct the study directed by the Act. The Commission was composed of nine members, five of whom were senior judge advocates with expertise in military justice from each service, one who was a staff member of the United States Court of Military Appeals and three who were civilian attorneys recognized as experts in military justice or criminal law.

The Commission's study was conducted over nearly a one-year period. The evidence gathered by the Commission is extensive. The Commission heard testimony from twenty-seven witnesses, including commanders, senior judge advocates and civilian experts. The Commission conducted an exhaustive survey of convening authorities and military justice practitioners in each branch of military service. The Commission solicited and received public comment from several sources, including retired military leaders, public interest groups, bar associations and experts in military justice and criminal law. A list of sources the Commission solicited comment from appears in Volume IV of this report. The Commission, in its effort to encourage comment from the public sector, published its Charter and notice of hearings in the Federal Register. Each of the matters before the Commission was extensively researched to allow the Commission to transmit this comprehensive report to Armed Services Committees of the Senate and House of Representatives and the Code Committee.

The Commission makes the following recommendations regarding the matters directed to be studied:

- (A) That sentencing authority should not be exercised by military judge where the court-martial consists of members.
- (B) That military judges and Courts of Military Review should not be given the power to suspend sentences.
- (C) That the jurisdiction of the special court-martial should be expanded to permit adjudgment of sentences including confinement of up to one year: provided, that, 1) a military judge and a certified defense counsel are required to be detailed to every special court-martial in which confinement in excess of six months may be adjudged; 2) no Article 32 investigation requirement for the special court-martial be created; and, 3) no change to current appellate jurisdiction be made.
- (D) That military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should not have a guaranteed term of office (tenure).
- (E) That the United States Court of Military Appeals should be reconstituted as an Article III court under the U.S. Constitution: provided that, enacting legislation not alter the current jurisdiction of the Court and specify that the Court will not have jurisdiction over administrative discharges and nonjudicial-punishment actions.
- (F) That, if the recommendation to reconstitute the Court of Military Appeals as an Article III court is not followed, the Tax Court retirement system should be applied to judges of the Court of Military Appeals.

Although the Commission was not directed to study and make recommendation regarding the membership of the Court of Military Appeals, the Commission recommends that the membership of the Court of Military Appeals be increased from three to five judges regardless of which Article of the Constitution the Court is constituted under.

Organization of the Report

The Commission's Report initially transmitted to the Congress consisted of four volumes:

Volume I: Commission Recommendations and Position Papers

Volume II: Transcript of Commission Hearings

**Volume III: Survey of Convening Authorities and Military Justice Practitioners;
Survey Description and Analysis**

Volume IV: Public Comments, Miscellaneous Documents and Statistics

These four volumes have relabeled as chapters and condensed in this printing into a two volume set.

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Survey of Convening Authorities and Military Justice Practitioners*

PREFACE

This study was conducted by the Military Justice Act of 1983 Advisory Commission. Like most studies based on large-scale survey research, it reflects the work, support and guidance of many people in a number of organizations.

The Commission Working Group spent many hours drafting the questionnaires for the survey. The efforts of the Working Group members made the survey possible.

The Defense Manpower Data Center (DMDC) made vital contributions to the survey by assisting in its design, facilitating its approval and overseeing data processing. Dr Zahava Doering, Chief, Survey and Market Analysis Division, Dr David Boesel, Chief, Personnel Surveys and David Cathcart, Survey Analyst, were the key personnel at DMDC who helped make the survey high quality.

Each of the services played important roles in the collection of the data. The Air Force, as executive agent

for the Commission, supervised the collection process. The Air Force's Military Justice Division of the Office of The Judge Advocate General was the office of primary responsibility for the project. Captain William M. Burd, Chairman of the Working Group and member of the Division, headed the field operations. Sergeant David A. Kleis and Airman First Class Gregory S. Sheehan administered the distribution and collection of the questionnaires. This work was critical in the timely completion of the survey.

Most importantly, the study would not have been possible without the participation of the survey respondents: the convening authorities, staff judge advocates, military judges, judges of the Courts of Review, trial counsel and defense counsel, who took time out of their busy schedules to complete the questionnaires and return them. Their cooperation is greatly appreciated.

* The Military Justice Act of 1983, Advisory Commission in consultation with the Defense Manpower Data Center, Survey and Market Analysis Division, December 1984.

This report was prepared by the Military Justice Act of 1983 Advisory Commission, to be transmitted to the Armed Services Committees of the Senate and House of Representatives and the Code Committee.

PART ONE—INTRODUCTION

I. BACKGROUND

The United States Congress, through the Military Justice Act of 1983, directed the Secretary of Defense to establish a commission to study specific military justice practices and to submit a report with recommendations regarding those matters to the Armed Services Committees of the Senate and House of Representatives and the Code Committee. The Military Justice Act of 1983 Advisory Commission was established and began its research in early 1984.

The Commission soon learned that no comprehensive survey of convening authorities and military justice practitioners had ever been conducted on any of the issues being studied. The Commission determined that a major contribution to their study and to the understanding of the military justice system could be made by surveying convening authorities and military justice practitioners.

The Commission, through its Working Group, and in consultation with the Defense Manpower Data Center (DMDC), designed the survey and developed the survey questionnaires.

The survey was approved by the Department of Defense Comptroller, through the General Counsel for the Department of Defense. Administrative costs were paid for by the Air Force, as executive agent for the Commission, and DMDC paid for data processing.

Survey Design and Administration

(a) The Respondents

The respondent universe comprised the following personnel from all five branches of military service:

1. commanders who exercise general or special court-martial convening authority,
2. staff judge advocates or legal officers,
3. military judges,
4. judges of the Courts of Military Review,
5. trial counsel,
6. defense counsel.

The survey sample was to consist of the entire universe of respondents. Each service supplied the Commission with the total number of respondents in each category. Each service, except the Navy, sent questionnaires to each member in every respondent category. The Navy sent questionnaires to each member of every respondent category except convening authorities. The Navy sent questionnaires to convening authorities who were determined by the Navy to be "substantially involved in convening courts-martial." This modification of the Navy convening authorities sample was made without the coordination of the Commission. The number of respondents in each category is depicted in Table 1 as the number of questionnaires distributed. The response rates were high for all respondent categories and are reflected in Table 2.

Table 1—Total Number of Questionnaires Distributed and Received.

	Convening Authorities	Staff Judge Advocates	Military Judges	Judges of CMR	Trial Cnsl.	Def. Cnsl.	Total**
Air Force.....	*181/136	185/166	30/26	8/6	23/15	145/114	572/463
Army.....	427/298	81/75	44/38	14/12	191/155	205/135	962/713
Navy	2200/691	227/166	89/59	11/9	113/82	143/95	2783/1102
	*** (1061)/691						*** (1644)/1102
Marine Corps	547/319	32/29	—	—	46/26	65/36	690/410
Coast Guard	76/44	11/7	16/13	4/3	25/12	27/17	159/96
	3431	536	179	37	398	585	5166
Total**	1488	443	136	30	290	397	2784
	***2292						***4027
	1488						2784

*Number Distributed/Number Received.

** Total Number Distributed/Total Number Received.

*** Based on revised figures supplied by Navy in September 1984.

Table 2—Survey Participation (Percent of Respondent Population) Respondent Category

	Convening Authori- ties	Staff Judge Advocates	Military Judges	Judges of CMR	Trial Cnsl.	Def. Cnsl.	Total
	(Percent)	(Percent)	(Percent)	(Percent)	(Percent)	(Percent)	(Percent)
Air Force	75	90	87	75	65	90	81
Army	70	93	86	86	81	66	74
Navy	31	73	66	82	73	66	40
	(65) *						(67)
Marine Corps	58	91	—	—	57	55	(59) *
Coast Guard	58	64	81	75	48	63	(60)

* Based on revised figures supplied by Navy in September 1984.

(b) Questionnaires

The questionnaires were drafted by the Working Group and revised substantially by the Commission and in accordance with recommendations by DMDC. The Commission approved the questionnaires after detailed consideration of each question.

The questionnaires were pretested for comprehension, validity of assumptions and completion time. The questionnaires were approximately equal in length and took about one hour to complete. No modifications were made after pretesting. After the questionnaires were approved by the Comptroller and General Counsel for the Department of Defense they were printed and distributed to military justice headquarters activities for each service.

(c) Field Procedures

The questionnaires were distributed to each service during the third week of June 1984. Each service was responsible for ensuring that each member of the respondent population in their service received a questionnaire. The questionnaires distributed to the services contained an explanatory coverletter signed by Chapman B. Cox, General Counsel for the Department of Defense, instructions for completion, and the questions. Each questionnaire was individually numbered to allow accounting for the questionnaire upon its return. Each respondent was instructed to return the completed questionnaire to the Military Justice Division of the Office of The Judge Advocate General of the Air Force. Printed return envelopes were provided to facilitate returns. The services were given the option of adding a letter to each of their questionnaires to encourage full participation in this voluntary survey. The Navy chose to add a letter instructing their lawyer respondents to send a copy of

their completed questionnaire to "Code 20", which is the military justice branch of the Navy Judge Advocate General's office. This action was without the coordination of the Commission.

In mid-August, 1984, each service was notified by the Air Force Military Justice Division of the specific questionnaire numbers that had not been received. Each service, in turn, traced the unreturned questionnaires to encourage, by phone calls, the completion and return of as many questionnaires as possible. This procedure was repeated in mid-September. The survey was completed on 5 October 1984.

(d) Data Processing

After receipt and accounting, the questionnaires, along with data entry specifications, were sent to a data processing contractor. The questionnaires were delivered to the contractor for data entry in batches on a weekly basis. Once the data had been entered in the computer, DMDC provided frequency distributions and cross tabulations.

(e) Data Analysis

Data analysis and preparation of this report were conducted by four members of the Commission's Working Group: Captain William M. Burd, Air Force representative and Working Group Chairman, Major Gary V. Casida, Army representative, Major Jeffrey C. Tuomala, Marine Corps representative, and Lieutenant Donna L. Seremet, Navy representative. The following abbreviations are used in this analysis: CA—convening authority; SJA—staff judge advocate; MJ—trial military judge; CMRJ—Court of Military Review judge; TC—trial counsel; DC—defense counsel; USA—Army; USN—Navy; USMC—Marine Corps; USAF—Air Force; USCG—Coast Guard.

PART TWO—ANALYSIS OF THE DATA

II. GUARANTEED TERMS OF OFFICE FOR MILITARY JUDGES (TENURE)

A. The Bottom-Line Questions (CA Q. 37, 38; SJA Q. 37, 38; MJ Q. 38, 39; CMRJ Q. 43, 44; TC Q. 36 37; DC Q. 38, 39):

The majority of military judges, Court of Military Review judges, trial counsel and defense counsel from all services (except Navy military judges and CMR judges and Coast Guard trial counsel *favor* some provision for guaranteed terms of office for both CMR judges and military judges. On the other hand, the majority of convening authorities and staff judge advocates from all services (except Navy staff judge advocates) *do not favor* some provision for guaranteed terms of office for both CMR judges and military judges. Trial counsel and defense counsel registered the highest number of responses in favor of a guaranteed length of service, but there was considerable variance registered from service to service.

1. Percent favoring some provision for guaranteed terms of office for CMR judges:

	USA	USN	USMC	USAF	USCG	Total
CA	44	47	48	38	42	46
SJA	25	63	47	36	25	46
MJ	74	40	61	52	57	56
CMRJ	83	10	—	50	50	50
TC	68	79	63	60	42	68
DC	73	76	84	85	60	78

2. Percent favoring some provision for guaranteed terms of office for military trial judges:

	USA	USN	USMC	USAF	USCG	Total
CA	34	38	39	34	44	37
SJA	21	58	47	32	38	42
MJ	76	38	61	56	64	58
CMRJ	67	10	—	50	50	43
TC	58	73	53	60	50	61
DC	68	77	77	77	81	74

B. Length of Guaranteed Term (CA Q. 30-32; SJA Q. 29-31; MJ Q. 30-32; CMRJ Q. 34-36; TC Q. 28-30; DC Q. 29-31):

Selectors for guaranteed term of office were "normal tour length", "3-5 years", "6-10 years", and "over 10 years". Because the overwhelming choice of all categories of respondents was "normal tour length" or "3-5

years" for all types of judges, only those responses are charted below. However, a significantly greater number of respondents favor 3-5 year terms for CMR judges than for GCM or SPCM judges, and a larger percentage of respondents preferred 3-5 year terms for GCM judges than SPCM judges. While convening authorities consistently preferred a normal tour length for all judges, most judge advocates (with the notable exception of CMR judges preferred a 3-5 year term for CMR judges but a normal tour length for SPCM judges.

1. Percent favoring *normal tour length/3-5 year term* of service for CMR judges if such terms were enacted:

	USA	USN	USMC	USAF	USCG	Total
CA	59/33	56/34	65/27	65/26	49/41	59/32
SJA	42/51	26/46	50/41	36/53	75/0	35/48
MJ	13/47	38/48	39/44	40/48	64/36	34/46
CMRJ	17/42	80/10	—	50/17	100/0	50/23
TC	24/51	20/48	29/54	20/53	42/50	24/51
DC	22/42	21/48	21/69	19/57	7/53	20/51

2. Percent favoring *normal tour length/3-5 year term* of service for GCM judges if such terms were enacted:

	USA	USN	USMC	USAF	USCG	Total
CA	68/28	62/32	69/28	66/29	54/39	65/30
SJA	52/41	34/47	53/41	46/43	75/25	43/44
MJ	21/29	43/40	56/22	40/44	79/21	42/34
CMRJ	17/67	80/20	—	67/33	100/0	53/40
TC	35/46	26/45	37/39	33/47	50/50	34/45
DC	33/39	27/50	31/59	32/54	25/56	31/48

3. Percent favoring *normal tour length/3-5 year term* of service for SPCM judges if such terms were enacted:

	USA	USN	USMC	USAF	USCG	Total
CA	77/21	70/27	75/23	74/22	56/39	72/25
SJA	75/24	47/45	74/26	54/41	75/25	56/39
MJ	66/32	81/14	61/33	50/46	86/14	69/27
CMRJ	92/8	90/10	—	67/33	100/0	87/13
TC	59/35	43/41	53/40	47/53	58/42	54/38
DC	46/41	42/44	51/41	46/44	40/60	45/43

C. Command Influence on Judges (CA Q. 21-24; SJA Q. 12-17; MJ Q. 13-18; CMRJ Q. 11-22; TC Q. 11-16; DC Q. 12-17.

Except for military judges and CMR judges, few judge advocates were aware of situations in which a military judge was threatened with reassignment or actually reassigned because of his decision, and it is impossible to tell how many different cases are actually involved or if the grounds were legitimate. The majority of respondents indicated that they had only heard of it happening once and the overwhelming majority responded either once or seldom.

A much larger number of respondents, including 26 percent of convening authorities, were aware of instances in which a convening authority or subordinate acting on his behalf criticized a military judge directly or indirectly or through the military judges superior for a court-related decision. Once again, the great majority of all categories of respondents answered that they had heard of such incidents only once or seldom. However, very few indicated that the criticism affected subsequent decisions, with military judges answering that subsequent decisions were known to have been affected in only 4 percent of the instances. A large number of respondents answered that they did not know whether subsequent decisions had been affected.

1. Percent aware of instances in which a military judge was threatened with reassignment or actually reassigned because of his decisions:

	USA	USN	USMC	USAF	USCG	Total
CA	—	—	—	—	—	—
SJA	9	8	15	18	0	12
MJ	21	24	24	36	21	25
CMRJ	25	10	—	33	100	24
TC	4	6	2	13	33	6
DC	4	9	8	8	19	7

2. Percent answering yes to 1 above who responded that it happened only *once/seldom*:

	USA	USN	USMC	USAF	USCG	Total
CA	—	—	—	—	—	—
SJA	25/75	38/52	50/50	68/29	100/0	54/42
MJ	57/43	50/30	75/25	90/10	33/67	65/29
CMRJ	33/67	0/100	—	100/0	100/0	57/43
TC	67/33	71/29	100/0	50/50	75/0	71/25
DC	54/46	42/25	75/25	43/50	67/33	50/39

3. Percent aware of a convening authority or subordinate acting for the commander criticizing a military judge directly or indirectly or through the military judge's superior for court-related decisions:

	USA	USN	USMC	USAF	USCG	Total
CA	25	27	28	20	26	26
SJA	32	56	65	38	38	46
MJ	61	88	65	68	86	74
CMRJ	50	80	—	0	100	53
TC	24	55	38	60	50	36
DC	37	45	38	58	69	46

4. Percent answering yes to 3 above who responded that it happened only *once/seldom*:

	USA	USN	USMC	USAF	USCG	Total
CA	14/59	22/49	13/51	37/48	33/42	20/51
SJA	20/52	22/41	26/43	30/57	50/25	25/46
MJ	9/74	27/46	0/70	41/41	58/33	26/43
CMRJ	33/16	12/25	—	100/0	0/50	24/24
TC	39/32	25/39	20/53	25/38	67/17	32/37
DC	15/36	25/27	27/53	30/31	36/36	25/34

5. Percent of cases in which a convening authority criticized a judge that *affected/did not affect* the military judge's subsequent decisions:

	USA	USN	USMC	USAF	USCG	Total
CA	5/48	3/44	5/49	8/27	9/45	4/44
SJA	4/77	7/53	0/68	8/53	0/60	6/58
MJ	4/74	3/62	0/55	6/65	8/42	4/62
CMRJ	0/83	0/50	—	0/100	0/0	0/59
TC	5/73	13/64	7/60	0/75	0/67	8/68
DC	9/46	15/33	0/38	5/38	0/75	8/41

D. A More Fair and Independent Judiciary? (CA Q. 25, 26; SJA Q. 18, 19; MJ Q. 19, 20; CMRJ Q. 23, 24; TC Q. 17, 18; DC Q. 18, 19):

The majority of all categories of respondents, except trial counsel and defense counsel, believed that a guaranteed term of office would not or would only slightly create the appearance of a more independent and fair military judiciary. The other respondents answered that it would "somewhat" or "greatly" increase the appearance of fairness and independence.

However, a much larger number in all categories believe a guaranteed term of office would make no or only

a slight contribution to the actual independence and fairness of the military judiciary.

1. Percent believing a guaranteed term of office would *not at all/slightly create* the appearance of a more independent and fair military judiciary:

	USA	USN	USMC	USAF	USCG	Total
CA	40/32	37/27	39/29	37/37	42/33	38/30
SJA	41/41	23/26	24/33	30/31	25/50	28/31
MJ	13/21	12/40	17/39	12/44	21/36	14/35
CMRJ	0/25	40/60	—	33/17	0/50	20/37
TC	20/35	18/20	20/27	20/20	17/33	19/29
DC	15/29	14/20	8/21	13/29	13/13	13/25

2. Percent believing a guaranteed term of office would *not at all/slightly actually create* a more independent and fair military judiciary.

	USA	USN	USMC	USAF	USCG	Total
CA	61/23	52/26	51/27	59/28	63/26	55/26
SJA	71/27	39/34	47/35	54/35	50/38	50/33
MJ	42/21	45/26	50/28	40/32	43/43	44/28
CMRJ	25/33	100/0	—	33/17	50/0	53/17
TC	43/31	31/30	44/29	40/20	42/25	40/30
DC	27/29	20/27	13/41	20/40	19/38	22/33

E. Military Judgeship and Career Enhancement (SJA Q. 23-27, 33; MJ Q. 24-28, 34; CMRJ Q. 28-32, 38; TC Q. 22-26, 32, DC Q. 23-27, 33):

The number answering that they viewed assignment as a military judge as not very career enhancing varied greatly from service to service and between the different categories. Military judges view assignment as judge more negatively than any other category in terms of career enhancement. For the overwhelming number of staff judge advocates, military judges, and CMR judges, guaranteed terms of office would make no difference or only somewhat more attractive their view of military judge assignment. Trial counsel and defense counsel, who view military judge assignment less negatively than other categories, would be even more favorably attracted to serving as judges.

Although there are some mild exceptions, assignment of an 0-6 as a military judge or CMR judge is considered by very few as career enhancing for competition for selection to flag or general officer rank. Assignment as a judge was viewed in radically different terms if there were flag or general officer billets on the CMR or the Court of Military Appeals.

1. Percent stating that they view assignment as a military judge as *not* very career enhancing:

	USA	USN	USMC	USAF	USCG	Total
CA	—	—	—	—	—	—
SJA	35	55	36	49	63	48
MJ	50	83	39	48	50	58
CMRJ	—	—	—	—	—	—
TC	20	36	35	47	17	27
DC	18	20	18	29	31	22

2. Percent responding that guaranteed terms of office would make their view of military judge assignment *no different/somewhat more attractive*:

	USA	USN	USMC	USAF	USCG	Total
CA	—	—	—	—	—	—
SJA	73/15	45/36	61/21	67/22	38/38	58/27
MJ	45/32	60/29	61/28	56/32	57/36	55/31
CMRJ	33/33	90/10	—	67/17	0/100	57/27
TC	45/30	38/41	34/34	67/20	50/17	32/43
DC	33/36	33/44	36/41	36/43	19/56	34/41

3. Percent responding that an 0-6 assignment as *military judge/CMR judge* is career enhancing for competition for selection to flag or general officer rank:

	USA	USN	USMC	USAF	USCG	Total
CA	—	—	—	—	—	—
SJA	8/5	1/9	3/26	4/7	0/13	3/9
MJ	0/3	0/0	0/11	4/0	0/7	1/3
CMRJ	0/0	0/11	—	0/17	0/0	0/7
TC	9/23	7/18	7/22	0/0	0/8	8/20
DC	7/17	10/20	15/26	13/17	0/13	10/18

4. Percent responding that a flag or general officer billet on *Court of Military Review/Court of Military Appeals* would make judicial duty more career enhancing:

	USA	USN	USMC	USAF	USCG	Total
CA	—	—	—	—	—	—
SJA	71/72	84/78	74/71	75/67	63/50	78/72
MJ	63/74	64/55	83/88	84/52	50/50	69/63
CMRJ	56/50	80/80	—	83/50	0/0	67/57
TC	61/58	70/68	71/68	87/80	50/33	65/62
DC	57/46	68/62	79/77	82/71	63/38	69/59

F. Adverse or Negative Influence on Quality of the Judiciary? (CA Q. 27-29, 33; SJA Q. 20-22, 32; MJ Q.

21-23, 33; CMRJ Q. 25-27, 37; TC Q. 19-21, 31; DC Q. 20-22, 32):

Except for defense counsel, the majority of all categories of respondents stated that military judge experience with a guaranteed term of office would not or would only slightly contribute to a more professionally competent judiciary. An even larger majority of all categories responded that guaranteed terms of office would have no effect or only be somewhat more attractive in drawing highly competent lawyers to the judiciary.

A very large number of respondents (ranging from 30% of defense counsel to 56% of convening authorities) feared that guaranteed terms of office would create a risk of protecting irresponsible judges. Concern that guaranteed terms of office would give too much independence to military judges was much less widespread, however, it remains a concern to 40% of the convening authorities.

A very wide majority of all categories favored a probationary period for new judges on guaranteed terms of office.

1. Percent responding that military judge experience with a guaranteed term of office would *not at all/slightly contribute* to a more professionally competent military judiciary:

	USA	USN	USMC	USAF	USCG	Total
CA	55/26	44/24	42/28	47/35	32/34	46/26
SJA	48/33	27/25	38/26	38/34	25/38	35/30
MJ	32/26	45/24	44/0	48/20	29/29	40/21
CMRJ	25/17	78/22	—	50/0	0/50	45/17
TC	27/25	16/20	21/26	40/0	25/42	26/23
DC	19/26	16/18	12/10	14/29	6/25	17/25

2. Percent responding that a guaranteed term of office would have *no effect/be somewhat more attractive* in drawing highly competent lawyers to the judiciary:

	USA	USN	USMC	USAF	USCG	Total
CA	—	—	—	—	—	—
SJA	69/27	42/41	50/35	50/36	38/63	52/37
MJ	39/45	62/29	56/22	64/24	71/29	56/31
CMRJ	8/50	70/10	—	50/33	0/100	37/37
TC	44/40	27/54	44/41	50/36	50/33	40/43
DC	29/53	32/43	41/44	31/51	38/50	32/49

3. Percent responding that guaranteed terms of office would create a significant risk of *protecting irresponsible judges/giving judges too much independence*:

	USA	USN	USMC	USAF	USCG	Total
CA	57/42	55/39	58/40	53/39	54/34	56/40
SJA	67/42	44/13	50/26	48/26	12/13	49/24
MJ	16/11	36/5	39/17	28/8	7/14	26/9
CMRJ	17/8	50/30	—	50/17	0/0	33/17
TC	46/21	32/7	55/15	60/33	42/8	44/17
DC	38/13	25/13	36/15	25/9	31/6	30/12

4. Percent favoring a probationary period for new judges on a guaranteed term of office:

	USA	USN	USMC	USAF	USCG	Total
CA	79	79	74	82	78	78
SJA	86	69	74	79	50	75
MJ	61	71	67	76	57	67
CMRJ	83	70	—	67	50	73
TC	78	68	76	87	58	75
DC	75	65	64	76	50	71

G. Special Privilege and Protection (CA 34-36; SJA Q. 34-36; MJ Q. 35-37; CMRJ Q. 40, 41; TC Q. 33-35; DC Q. 34-36):

All categories disfavored any provision providing mandatory selection for promotion from the primary zone regardless of the quality of the military judges performance. Greater concern was expressed among Marine Corps and Coast Guard respondents than their counterparts that mandatory selection would greatly affect relations between judge advocates and other officers.

The majority of convening authorities (87%) and staff judge advocates (58%) disfavor greater protection for military judges than other officers who depend upon independence of action in the performance of their duties.

1. Percent favoring mandatory selection for promotion of military judges from the primary zone regardless of the quality of the military judge's performance:

	USA	USN	USMC	USAF	USCG	Total
CA	5	6	6	7	4	6
SJA	1	11	6	4	25	7
MJ	16	10	6	12	14	12
CMRJ	50	0	—	0	50	23
TC	7	9	10	27	25	9
DC	9	15	13	23	13	15

2. Percent responding that mandatory selection provisions would *greatly/somewhat affect* the general relationship between judge advocates and other officers:

	USA	USN	USMC	USAF	USCG	Total
CA	40/28	49/26	60/20	50/25	61/19	50/25
SJA	48/28	33/29	68/21	44/30	25/13	42/28
MJ	32/29	31/45	33/28	12/52	43/36	29/39
CMRJ	17/25	70/10	—	50/17	50/50	43/20
TC	21/33	17/30	40/33	20/40	42/25	23/32
DC	13/32	12/28	21/26	13/19	25/31	14/27

3. Percent responding that military judges should enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general:

	USA	USN	USMC	USAF	USCG	Total
CA	16	12	15	12	14	13
SJA	36	50	35	37	38	42
MJ	68	67	50	48	43	59
CMRJ	58	30	—	67	100	53
TC	51	55	39	73	33	51
DC	69	68	59	78	69	70

III. SENTENCING ONLY BY MILITARY JUDGES IN NONCAPITAL CASES

A. Questionnaire Design

The questions in this section were designated to test a variety of facets of court-martial sentencing. Among these facets were: the awareness of judges and members of the disciplinary impact of their sentences; whether judges or members are more consistent in their sentences; court-martial duty for members; knowledge of the administrative impact of sentences; the importance to accused and the unit of sentencing by members; the dynamics of member sentencing; and other possible sentencing alternatives. The last question in this section of each questionnaire asked whether or not the respondent favored mandatory sentencing only by military judges.

B. The Bottom Line Question (CA Q. 70; SJA Q. 72; MJ Q. 73; CMRJ Q. 72; TC Q. 72; DC Q. 79):

As groups of respondents, only convening authorities and defense counsel (except Coast Guard defense counsel) opposed mandatory judge alone sentencing. Both groups of judges (except Navy CMR judges) most heavily favor the proposal. Staff judge advocates (except Army) favored it less heavily, and trial counsel favored it only slightly. Air Force and Coast Guard trial counsel favored the proposal more than the other services' trial counsel. Navy and Marine Corps defense counsel favor

the proposal least among defense counsel, even though historical data show that Navy and Marine Corps accused select trial by judge alone more often than accused in the other services. These responses are shown below (percentage favoring mandatory trial by military judge alone):

	USA	USN	USMC	USAF	USCG	Total
CA	23	40	27	30	50	33
SJA	46	67	71	62	100	62
MJ	71	88	83	60	86	77
CMRJ	67	40	—	83	100	63
TC	57	57	56	67	83	58
DC	31	29	22	38	56	33

C. Military Judge and Court Members Familiarity with the Command (CA Q. 39-42; SJA Q. 41-44; MJ Q. 43-47; CMRJ Q. 45-48; TC Q. 41-44; DC Q. 43-46):

Convening authorities believed that military judges were "slightly" or "somewhat" informed about local military events and problems. All lawyer respondents felt that military judges were more informed than did convening authorities. The responses about whether military judges were aware of the disciplinary impact of their sentences on the command roughly followed the same pattern. Judges rated their awareness highest of all groups. All groups generally felt that officers detailed as court members were aware of the disciplinary impact of their sentences, although trial and appellate judges down rated them somewhat on this question. When asked whether sentences adjudged by judges or members more fairly reflected the sense of justice of the community, convening authorities and defense counsel (except Air Force and Coast Guard defense counsel) selected court members' sentences. All other groups selected judges' sentences, with trial judges having the most confidence in their own sentences. Trial judges indicated that they agreed closely with the members' sentences roughly about half the time (MJ Q. 47).

D. Sentence Appropriateness (CA Q. 43, 44, 46; SJA Q. 45, 46, 50; MJ Q. 48, 49, 52, CMRJ Q. 49, 50, 53; TC Q. 45, 46, 50; DC Q. 47, 48, 52):

When asked how often member courts' sentences and military judges' sentences were inappropriately harsh or lenient, convening authorities generally rated members and judges about equal, although Air Force convening authorities felt that members gave inappropriate sentences slightly more often than did judges. All lawyers groups, particularly judges, felt that members gave inappropriate sentences more often than judges, with defense counsel coming closest to calling them equal in this area.

When asked directly whether members or judges could better adjudge appropriate sentences, only convening authorities favored members. Most lawyer groups favored judges' sentences for appropriateness overwhelmingly. Defense counsel, even though strongly opposed to mandatory judge alone sentencing, agree, on a margin of about two-to-one, that military judges can better determine appropriate sentences.

Percentage who believe that *military judges/court members/no difference* can better determine an appropriate sentence:

	USA	USN	USMC	USAF	USCG	Total
CA	25/56/19	36/43/21	24/50/26	37/44/19	43/48/10	31/47/21
SJA	50/18/32	74/ 6/21	76/ 3/21	65/16/20	87/ 0/13	67/11/21
MJ	84/ 3/14	90/ 5/ 5	89/ 6/ 6	88/ 0/12	93/ 0/ 7	88/ 3/ 9
CMRJ	75/17/ 8	60/ 0/40	—	67/ 0/33	100/0/ 0	70/ 7/23
TC	54/18/27	59/19/22	59/22/20	73/20/ 7	75/17/ 8	57/19/24
DC	46/28/26	52/24/23	49/28/23	55/21/25	50/31/19	50/25/25

E. Knowledge of Ramifications of Sentences upon the Accused, the Corrections System, and the Command (CA Q. 45; SJA Q. 49; MJ Q. 51; CMRJ Q. 52; TC Q. 49; DC Q. 51):

Respondents were asked which sentencing authority had the most knowledge of the ramifications of sentences imposed and were given choices of "officer panels," "officer and enlisted panels," "military judges," and "all equally qualified." Convening authority narrowly selected officer and enlisted panels (except Air Force convening authorities, who selected judges), with the other two selectors about even. All lawyer groups, however, overwhelmingly selected judges.

F. Member Sentencing as a Check on Judge Sentencing (SJA Q. 47; MJ Q. 50; CMRJ Q. 51; TC Q. 47; DC Q. 49):

There is a common perception that military judges are influenced not to exceed the sentences adjudged by members in similar cases so as not to discourage requests for judge alone trials. One question tested this perception among lawyers by asking whether judges moderate their sentences for this reason. All groups except CMR judges and Marine Corps staff judge advocates agreed that they do.

G. Selection of Court Members and Importance of Court Duty (CA Q. 47-50, 52, 53; SJA Q. 51-54; MJ Q. 53, 54; CMRJ Q. 54-55; TC Q. 51, 52; DC Q. 53, 54):

Several questions tested perceptions of the "quality" of court members, the importance of court member duty, and the value of court duty to the court members. All groups believed that the "best qualified" personnel were

sometimes or usually selected for duty, although the lawyers who actually see them in court (military judges, trial counsel and defense counsel) had a slightly lower opinion of members' qualifications. Convening authorities and staff judge advocates generally thought that members were "seldom" or "sometimes" selected based primarily upon their relative expendability. The other groups thought that expendability played a slightly greater role in member selection. Convening authorities overwhelmingly believed that court duty better prepares junior officers for leadership. Convening authorities and staff judge advocates agree that court duty is not as important as combat operations, but is nearly as important as peacetime training.

H. Mandatory Judge alone Sentencing as Depriving Accuseds of a Substantial Right (CA Q. 54, 55; SJA Q. 57, 58; MJ Q. 57, 58; CMRJ Q. 56, 57; TC Q. 55, 56; DC Q. 57, 58):

All respondents, except defense counsel, agreed overwhelmingly that elimination of member sentencing would not deprive accuseds of a substantial right. When asked whether elimination of the option would *appear* to deprive accuseds of a substantial right, however, the responses became mixed. Convening authorities (except Air Force) narrowly said no. Staff judge advocates were about evenly divided. Military judges (except Air Force) and CMR judges said no. Trial counsel (except Air Force) and defense counsel (overwhelmingly) felt that it is perceived as a substantial right. Defense counsel also view the option as a substantial right.

Percentage who believe that mandatory judge alone sentencing would *deprive/appear to deprive* accused of a substantial right:

	USA	USN	USMC	USAF	USCG	Total
CA	22/42	17/38	26/40	25/44	14/36	21/40
SJA	33/48	31/54	18/26	27/49	0/ 0	29/48
MJ	21/34	12/26	6/22	24/52	21/46	17/35
CMRJ	8/37	30/40	—	17/17	0/50	17/34
TC	30/51	38/49	34/54	13/27	17/33	31/49
DC	71/84	74/80	79/82	58/68	31/44	67/77

I. Consistency of Military Judges' Sentences Compared to Members' Sentences (CA Q. 56; SJA Q. 62; MJ Q. 60; CMRJ Q. 59; TC Q. 60; DC Q. 62):

All groups (except Navy CMR judges, who split evenly) agreed overwhelmingly that military judge sentencing is more consistent in similar cases than member sentencing.

J. Impact of Mandatory Judge alone Sentencing on Command Authority (CA Q. 58-61; SJA Q. 59, 60; MJ Q. 62-65; CMRJ Q. 61-64; TC Q. 57, 58, 61, 62; DC Q. 59, 60, 63, 64):

Several questions were designed to test whether depriving members of sentencing authority would deprive the command of authority or be perceived adversely by nonlawyer officers. All groups agreed that mandatory judge alone sentencing would not deprive the command of important powers, but convening authorities from the Army, Marine Corps and Air Force, as well as Army staff judge advocates, believed that it would *appear* that command authority had diminished. All groups believe that adoption of this proposal would cause slight resentment among commanders against military judges, but all groups rejected a suggestion that this resentment might cause judges to render inappropriate sentences. Finally, convening authorities rejected overwhelmingly any reduction of commanders' responsibility and authority in military justice matters.

K. "Compromise" Sentences (SJA Q. 61; MJ Q. 59; CMRJ Q. 58; TC Q. 59; DC Q. 61):

The lawyer respondent groups were asked whether doubts as to guilt among members ever resulted in compromises on sentences. All groups generally opined that compromises "sometimes" occur.

L. Give the Accused Forum Options on Both Findings and Sentencing (CA Q. 65; SJA Q. 67; MJ Q. 68; CMRJ Q. 67; TC Q. 65; DC Q. 74):

As one alternative to the primary proposal, respondents were asked whether accuseds should be allowed to exercise independent forum options on both findings and sentence. All groups except defense counsel rejected it overwhelmingly. Defense counsel approved it overwhelmingly.

M. Mandatory Minimum Sentences (CA Q. 66; SJA Q. 68; MJ Q. 69; CMRJ Q. 68; TC):

Defense counsel approved it overwhelmingly.

M. Mandatory Minimum Sentences (CA Q. 66; SJA Q. 68; MJ Q. 69; CMRJ Q. 68; TC):

N. Allow the Military Judge To Determine the Sentencing Authority (CA Q. 67; SJA Q. MJ Q. 70; CMRJ Q. 69; TC Q. 67; DC Q. 76):

All groups also soundly rejected a modification of mandatory judge alone sentencing which would have allowed the military judge the discretion to send the case for sentencing to the members where members had decided the findings.

O. Sentencing Guidelines (CA Q. 68, 69; SJA Q. 70, 71; MJ Q. 71, 72; CMRJ Q. 70, 71; TC Q. 69, 70; DC Q. 77, 78):

All respondents were asked whether sentencing guidelines should be adopted in the military if they are adopted in federal courts, and, if adopted, whether this is a substantial argument for mandatory judge alone sentencing. Convening authorities narrowly oppose guidelines, as well as defense counsel (except Air Force defense counsel). Navy and Air Force CMR judges also disfavor them. Staff judge advocates had no clear preference. Neither did trial judges, except Air Force military judges (opposed) and Coast Guard military judges (favored). Trial counsel broadly supported guidelines. However, all groups saw guidelines as supporting adoption of mandatory judge alone sentencing, except convening authorities (narrowly) and defense counsel (except Air Force and Coast Guard).

P. Random Selection of Members (CA Q. 63, 64; SJA Q. 65, 66; MJ Q. 66, 67; CMRJ Q. 65, 66; TC Q. 63, 64; DC Q. 65, 66):

Respondents were also asked whether mandatory judge alone sentencing should also lead to random selection of court members, as well as limitations on randomness. All groups except defense counsel rejected random selection overwhelmingly. All groups would also preserve current qualifications such as experience and age in any random selection system, except defense counsel, who would only require members to be senior to the accused.

Q. Bargaining Leverage (TC Q. 68; DC Q. 70):

Trial counsel generally thought defense counsel "sometimes" used the power of requesting trial by judge alone as bargaining leverage for pretrial agreements, but defense counsel generally said they "seldom" do.

R. Trial Preparation

Both trial counsel and defense counsel believed that mandatory judge alone sentencing would have little effect on their trial preparation, although many trial counsel believed that their preparation requirements would decrease.

S. Agreement of Defense Counsel and Accused on Requesting Judge alone Trials (DC Q. 67, 68):

More than half of defense counsel recommend trial by judge alone more than half the time, with the Navy and Marine Corps having the highest rate. Almost all defense counsel say that their clients follow their forum recommendation over 75% of the time.

Percentage of cases in which defense counsel recommend trial by military judge alone:

	USA	USN	USMC	USAF	USCG	Total
None	2	2	0	4	13	3
Less than 10%	6	1	10	16	25	9
10-25%	7	5	13	18	25	11
26-50%	27	7	5	25	19	19
51-75%	42	29	49	25	6	33
76-100%	16	56	23	12	13	26

T. Basis for Judge alone Decision (DC Q. 69).

Defense counsel say that sentencing considerations are much more important than findings in forum selections.

Percentage of defense counsel who say decisions to request trial by military judge alone are based primarily upon *findings/sentence/no difference* considerations:

	USA	USN	USMC	USAF	USCG	Total
DC	10/62/28	21/57/22	21/57/28	11/65/25	25/56/19	14/60/25

U. Impact of Adoption of the Proposal on Forum Selection Decisions (DC Q. 72, 73):

About half of defense counsel believe that adoption of the proposal will have no significant effect on the decision to request trial by judge alone, while less than half opined that it would decrease such requests. Few believe it will increase such requests. On the other hand, defense counsel see no impact of this proposal to the decision to request enlisted members on the court.

V. Conclusions

Generally, only convening authorities and defense counsel as groups oppose mandatory judge alone sentencing. All other groups (all lawyers) favor it to varying degrees. The phenomenon of convening authorities and defense counsel being aligned on the same side of a question against the other groups was seen in several areas. Alternative suggestions to the proposal were generally rejected, including two alternatives which were extensions of the primary proposal. Generally, the respondents believe that adoption of the proposal would have little effect on trial preparation or forum selection.

IV. POWER OF SUSPENSION FOR MILITARY JUDGES AND COURTS OF MILITARY REVIEW

A. Questionnaire Design

The questions in this area were designed to test a variety of perceptions and concerns relevant to suspension power. Among the perceptions tested were: the frequency of military judge suspension recommendations and the frequency with which they are followed; the adequacy of information available to a trial judge or appellate court; the effect of military judge suspension power upon commanders' authority; and the sufficiency of military judges' experience. Other concerns tested included: the connection, if any between military judges' authority to sentence and the authority to suspend sentences; whether judges, if given suspension power, should be able to set additional terms for the suspension; and who should be empowered to vacate a suspension imposed by a military judge or CMR. The last four questions in this section of the questionnaire asked the respondents whether military judges should have the power to suspend sentences imposed by courts-martial members; whether they should have the power to suspend their own sentences; whether CMRs should have the power to suspend sentences and whether courts-martial members should have the power to suspend their own sentences.

B. The Bottom-Line Questions

1. Whether military judges should have the power to suspend members' sentences (CA Q. 85; SJA Q. 87; MJ Q. 89; CMRJ Q. 86; TC Q. 88; DC Q. 96):

A majority of convening authorities, staff judge advocates and trial counsel, regardless of service, oppose the proposal. The majority of military judges and CMR judges, with the exception of Marine Corps trial judges and Army appellate judges, are also opposed. A majority of defense counsel in each service favored granting such power to military judges.

Percent favoring military judges' power to suspend members' sentences.

	USA	USN	USMC	USAF	USCG	Total
CA	13	17	11	12	17	14
SJA	19	38	32	21	25	29
MJ	39	31	50	28	14	34
CMRJ	67	30	—	17	0	43
TC	25	49	22	20	33	31
DC	68	80	82	81	69	76

2. Whether military judges should have the power to suspend their own sentences (CA Q. 86; SJA Q. 88; MJ Q. 90; CMRJ Q. 87; TC Q. 89; DC Q. 97):

Most respondents favored the proposal which would enable military judges to suspend their own sentences. The only exceptions were Air Force convening authorities, Army staff judge advocates, Marine Corps and Coast Guard military judges and Marine Corps and Air Force trial counsel.

Percent favoring military judges' suspension of own sentences.

	USA	USN	USMC	USAF	USCG	Total
CA	55	58	45	49	55	54
SJA	41	72	71	52	75	59
MJ	97	93	39	64	36	86
CMRJ	83	50	—	50	100	67
TC	57	75	49	40	67	60
DC	96	96	92	96	94	96

3. Whether CMRs should have suspension power (CA Q. 87; SJA Q. 89; MJ Q. 91; CMRJ Q. 88; TC Q. 90; DC Q. 98):

A majority of convening authorities, staff judge advocates and trial counsel, with the exception of Coast Guard staff judge advocates and Navy trial counsel oppose the proposed granting of suspension power to CMRs. CMR judges generally are equally divided on the issue, except for the majority of Army CMR judges who favor it. A majority of Army, Navy and Air Force trial judges also favor the proposal; a majority of Marine Corps and Coast Guard judges oppose it. A majority of defense counsel of each service favor suspension power for CMRs.

Percent favoring suspension power for CMRs.

	USA	USN	USMC	USAF	USCG	Total
CA	48	48	35	45	39	45
SJA	19	42	32	39	62	36
MJ	53	60	39	64	36	53
CMRJ	75	50	—	50	50	60
TC	45	52	24	27	33	43
DC	81	79	67	84	69	80

4. Whether court-martial members should have the power to suspend their own sentences (CA Q. 88; SJA Q. 90; MJ Q. 92; CMRJ Q. 89; TC Q. 91; DC Q. 99):

The majority of all respondent categories, other than defense counsel, opposed the proposal that court members be granted suspension powers. Notable exceptions to this opposition were the responses of a majority of Navy and Coast Guard convening authorities and staff judge advocates and Navy trial counsel.

Percent favoring court members' suspension power.

	USA	USN	USMC	USAF	USCG	Total
CA	43	49	33	39	57	43
SJA	20	51	50	27	62	38
MJ	45	43	35	24	29	37
CMRJ	42	30	—	33	100	40
TC	40	54	35	7	18	41
DC	87	89	77	81	81	85

C. Frequency of Suspension Recommendations (CA Q. 71; SJA Q. 73; MJ Q. 74; TC Q. 73; DC Q. 80):

The respondents were asked to give an approximation of the number of cases which they either tried or reviewed in which a military judge made a suspension recommendation. The most common answers among the respondents were "0%" and "1-5%." Notable exceptions were Navy and Coast Guard judges, a plurality of whom placed the percentage at "6-10%" as did Marine Corps trial counsel Coast Guard defense counsel, a plurality of whom stated "Over 15%" and Army, Marine Corps and Coast Guard convening authorities, a plurality of whom stated "Don't Know."

	USA	USN	USMC	USAF	USCG	Total
CA	48	58	44	48	44	53
SJA	76	54	50	85	43	78
MJ	76	43	83	76	50	64
TC	89	58	52	94	63	75
DC	77	58	67	81	31	70

D. Frequency with which Recommendations Are Followed (CA Q. 72; SJA Q. 74; MJ Q. 75; TC Q. 74; DC Q. 81):

It is difficult to determine from the data received, the percentage of recommendations actually followed. This difficulty stems from the inconsistencies between the "0%" responses to the previous question and the "no recommendations" responses to the second question. When coupled with the observation of a low number of "0%" responses to this question, this would seem to indicate that many respondents misinterpreted the term "no recommendations" as meaning no recommendations followed vice no recommendations made as was intended by the drafters of the survey. Despite the inconsistencies noted, the majority of responses, regardless of service or class of respondent fell within the "no recommendations," "0%" or "1-25%" parameters.

Percent responding "no recommendations," "0%" or "1-25%."

	USA	USN	USMC	USAF	USCG	Total
CA	87	83	84	82	97	85
SJA	85	72	71	81	67	78
MJ	89	90	71	65	57	79
TC	89	87	78	84	75	86
DC	90	87	66	89	62	74

	USA	USN	USMC	USAF	USCG	Total
CA	19	20	20	30	19	21
SJA	30	45	38	32	100	38
MJ	61	62	50	32	64	55
CMRJ	33	20	—	17	100	30
TC	47	47	41	20	33	44
DC	79	81	74	74	69	77

E. Effect of Trial Judge's Perception of the Likelihood that his Recommendation Will Be Followed on the Decision To Recommend Suspension (MJ Q. 76):

The additional question, posed only to military judges sought to elicit opinions on the effect of their perceptions on whether a recommendation would be followed in determining whether to make a recommendation that a sentence be suspended. Only the majority of Marine Corps and Air Force judges indicated that they never considered the likelihood that their recommendations would be followed. A majority of respondents, with the exception of Army judges, answered either "never" or "seldom." A majority of Army judges respondent between "sometimes" and "always" inclusive.

1. Percent responding "never" or "seldom."

	USA	USN	USMC	USAF	USCG	Total
MJ	37	52	88	52	78	54

2. Percent responding "sometimes," "usually" or "always."

	USA	USN	USMC	USAF	USCG	Total
MJ	64	46	12	47	21	46

F. Adequacy of Information Available to Military Judges (CA Q. 73; SJA Q. 75; MJ Q. 77; CMRJ Q. 73; TC Q. 75; DC Q. 82):

A majority of military judges and defense counsel, with the exception of Air Force judges, believed that judges have adequate information upon which to base a suspension decision. A majority of all other respondent categories, with the exception of Coast Guard CMR judges, Coast Guard staff judge advocates, and Army trial counsel, belief that military judges do not have adequate information.

Percent believing judges have adequate information.

G. Does the Convening Authority Have Better Information? (CA Q. 74; SJA Q. 76; MJ Q. 78; CMRJ Q. 74; TC Q. 76; DC Q. 83):

A majority of all respondents, with the exception of most defense counsel and Coast Guard staff judge advocates, believe that the convening authority has better information upon which to base a suspension decision.

Percent believing that convening authorities have better information.

	USA	USN	USMC	USAF	USCG	Total
CA	90	84	89	85	81	86
SJA	85	76	68	81	37	78
MJ	61	64	56	72	64	63
CMRJ	58	90	—	83	50	73
TC	63	62	83	93	92	68
DC	21	22	64	26	37	27

H. Could Judges Be Given the Same Information Through Modification of Military Law? (CA Q. 75; SJA Q. 77; MJ Q. 79; CMRJ Q. 75; TC Q. 77; DC Q. 84):

A majority of all military lawyer respondents expressed the belief that through modification of military law they could receive the information now available to convening authorities. Convening authorities were closely divided with a plurality of respondents who expressed an opinion, doubting the premise.

Percent believing that the judge could receive the same information through modification of military law.

	USA	USN	USMC	USAF	USCG	Total
CA	22	23	22	35	15	23
SJA	66	75	74	74	75	73
MJ	92	88	83	88	64	86
CMRJ	83	80	—	83	100	83
TC	65	72	54	86	50	66
DC	72	60	72	79	75	71

I. Adequacy of Information Available to Appellate Courts (CMRJ Q. 76):

A majority of appellate judges surveyed, with the exception of Air Force CMR judges believed that there is inadequate information in the record of trial upon which an appellate court could base a suspension decision.

Percent believing that information in the record of trial is *not* adequate.

	ACMR	NMCMR	AFCMR	CGCMR	Total
	58	60	50	100	60

J. Sufficiency of Military Judges' Experience (CA Q. 76; SJA Q. 78; MJ Q. 80; CMRJ Q. 77; TC Q. 78; DC Q. 85):

A majority of military lawyer respondents indicated that they believe that military judges have sufficient experience to render a suspension decision. A majority of convening authorities believe that appropriateness of suspending sentences.

Percent believing military judges have sufficient experience.

	USA	USN	USMC	USAF	USCG	Total
CA	23	25	22	34	19	25
SJA	55	74	76	65	100	68
MJ	95	93	83	92	86	91
CMRJ	75	70	—	67	100	73
TC	59	79	63	80	75	66
DC	85	89	82	88	81	86

K. Actual and Apparent Effect of the Proposal on Commanders' Authority (CA Q. 78, 79; SJA Q. 80, 81; MJ Q. 82, 83; CMRJ Q. 79, 80; TC Q. 80, 81; DC Q. 87, 88):

Most of the convening authorities expressed the belief that granting military judges suspension power would significantly diminish commanders' authority. This view was only partially shared by the staff judge advocates, CMR judges and trial counsel surveyed. A majority of Army and Air Force staff judge advocates and Marine Corps trial counsel believe that there would be an actual loss of authority. A plurality of Army and Air Force trial counsel also agree. Staff judge advocates, CMR judges and trial counsel of the other services believe there would be no significant diminution of a commander's authority. A majority of military judges and defense counsel, regardless of service, also believe that commanders' authority will not be diminished.

An even greater majority of convening authorities believe that there would be an *apparent* loss of commanders' authority. A majority of all other respondents share this belief, with the exception of Marine Corps military judges, and Army, Air Force and Coast Guard defense counsel.

1. Percent believe that commanders' authority will *actually* be diminished.

	USA	USN	USMC	USAF	USCG	Total
CA	79	68	81	68	74	73
SJA	66	37	38	60	12	50
MJ	18	21	28	24	36	23
CMRJ	42	50	—	67	0	47
TC	46	38	63	40	42	46
DC	10	20	44	21	25	19

2. Percent believing that commanders' authority will *appear* to be diminished.

	USA	USN	USMC	USAF	USCG	Total
CA	88	82	89	77	88	84
SJA	80	65	68	70	50	50
MJ	76	57	39	60	57	61
CMRJ	50	70	—	67	50	60
TC	73	71	76	47	67	71
DC	44	56	62	45	37	49

L. Significance of Manpower/Personnel Requirements as a Factor in the Suspension Decision (CA Q. 77; SJA Q. 79; MJ Q. 81; CMRJ Q. 78; TC Q. 79; DC Q. 86):

There appears to be little significance attached to manpower/personnel requirements by the majority of respondents to the survey. With the exception of Air Force CMR judges, most respondents stated that it was either not a factor or only a slight factor.

Percent responding "not at all" or "slight."

	USA	USN	USMC	USAF	USCG	Total
CA	92	84	82	87	85	86
SJA	71	68	73	72	99	71
MJ	62	76	70	80	78	74
CMRJ	50	80	—	34	100	60
TC	84	72	74	73	75	79
DC	75	73	56	73	62	72

M. Existence of a Logical Connection Between Sentencing Power and Suspension Power (CA Q. 80):

SJA Q. 82; MJ Q. 84; CMRJ Q. 81; TC Q. 82; DC Q. 89):

A clear majority of military judges and defense counsel stated that the power to suspend logically follows from vesting military judges with sole sentencing authority. A majority of convening authorities did not draw such a conclusion. There was no clear consensus among the respondents in the other categories.

Percent believing the power to suspend logically follows required judge-alone sentencing.

	USA	USN	USMC	USAF	USCG	Total
CA	39	42	32	42	36	39
SJA	33	49	56	45	62	46
MJ	68	71	56	76	64	69
CMRJ	83	30	—	33	100	57
TC	49	58	29	47	50	49
DC	73	71	72	88	81	77

N. The Importance of Civilian Judges' Possession of Suspension Power as a Factor in Determining Whether Military Judges Should Have Suspension Power (CA Q. 81; SJA Q. 83; MJ Q. 85; CMRJ Q. 82; TC Q. 83; DC Q. 90):

The perceived importance of civilian judges' possession of suspension authority was a matter which for the most part defied consensus between categories of respondents or between respondents within a category. A majority of respondents in all categories, with the exception of Army, Navy and Air Force military judges, Army CMR and Coast Guard CMR judges and Navy trial counsel, selected either "not at all" or "slight."

Percent responding "not at all" or "slight."

	USA	USN	USMC	USAF	USCG	Total
CA	90	81	88	83	84	85
SJA	80	54	56	85	74	66
MJ	40	46	61	48	65	48
CMRJ	33	70	—	67	0	50
TC	60	46	71	74	50	58
DC	100	100	100	100	100	100

(Note: "somewhat" and "great" selectors were inadvertently omitted from defense counsel questionnaire).

O. Importance of Appellate Leave Status of Most Accuseds in Determining Whether CMRs Should Have

Suspension Power (CA Q. 82; SJA Q. 84; MJ Q. 86; CMRJ Q. 83; TC Q. 84; DC Q. 91):

The relative importance of the appellated leave status of most accuseds in determining whether CMRs should have suspension power cannot be easily determined from the data. With the exception of convening authorities, a majority of whom declared that it was not a factor, there was no clear consensus among respondents as indicated by the tables below.

1. Percent responding "not at all" or "slight."

	USA	USN	USMC	USAF	USCG	Total
CA	79	76	69	77	76	75
SJA	57	40	33	61	62	50
MJ	37	47	44	52	71	47
CMRJ	63	30	—	50	50	48
TC	64	55	42	40	75	58
DC	49	47	44	68	56	54

2. Percent responding "somewhat" or "great."

	USA	USN	USMC	USAF	USCG	Total
CA	21	24	31	23	24	25
SJA	43	60	67	39	38	50
MJ	63	52	55	48	12	53
CMRJ	36	70	—	50	50	52
TC	36	45	57	60	25	42
DC	51	52	56	31	43	46

P. If Granted Suspension Power, Should Military Judges Be Authorized To Set Additional Terms or Conditions? (CA Q. 83; SJA Q. 85; MJ Q. 87; CMRJ Q. 84; TC Q. 85; DC Q. 92):

The majority of military lawyer respondents, with the exception of NMCMR judges, favored allowing military judges to set the terms or conditions of suspensions. Convening authorities were divided in their opinions with a plurality of Army, Marine Corps and Air Force convening authorities opposing and Navy and Coast Guard convening authorities almost equally divided on the issue.

Percent favoring authorizing military judges to set conditions of suspension.

	USA	USN	USMC	USAF	USCG	Total
CA	34	39	34	33	33	36
SJA	58	71	76	64	87	67
MJ	79	62	83	64	64	70
CMRJ	92	40	—	83	100	73

	USA	USN	USMC	USAF	USCG	Total
TC	64	72	76	67	75	68
DC	74	78	74	83	75	78

	USA	USN	USMC	USAF	USCG	Total
CMRJ	67	70	—	50	100	67
TC	55	47	56	40	50	52
DC	31	41	46	34	56	37

Q. Who Should Be Able To Vacate Suspensions Imposed by a Military Judge or CMR? (CA Q. 84; SJA Q. 86; MJ Q. 88; CMRJ Q. 85; TC Q. 86; DC Q. 93):

A majority of military lawyer respondents believe that the authority to vacate should vest in both the appropriate judicial authority and the convening/supervisory authority. A majority of Army, Navy and Air Force defense counsel, however, believe authority should vest solely in the judiciary. Another minority viewpoint, stated by a majority of Marine Corps judges and Air Force trial counsel, was that authority should be retained by the convening/supervisory authority. A majority of convening authorities, with the exception of Navy convening authorities, believed the authority should be retained by convening/supervisory authorities. Navy respondents in this category favored exercise of authority by both the judiciary and the command.

Percent favoring vacation by appropriate judicial authority.

	USA	USN	USMC	USAF	USCG	Total
CA	7	8	5	4	10	7
SJA	16	14	12	15	12	14
MJ	26	14	17	12	21	18
CMRJ	33	20	—	17	0	23
TC	19	31	10	7	25	20
DC	53	42	36	49	25	46

2. Percent favoring vacation by convening/supervisory authority.

	USA	USN	USMC	USAF	USCG	Total
CA	49	40	56	51	51	47
SJA	23	29	24	24	12	26
MJ	16	29	56	17	14	25
CMRJ	0	10	—	33	0	10
TC	20	15	32	53	17	21
DC	12	12	15	14	19	13

3. Percent favoring vacation authority in both.

	USA	USN	USMC	USAF	USCG	Total
CA	43	52	38	45	39	46
SJA	56	54	65	60	75	57
MJ	58	57	28	71	64	57

R. What Effect Would Military Judge Suspension Power Have Upon Time Required by Trial and Defense Counsel for Trial Preparation? (TC Q. 87; DC Q. 94):

A majority of trial and defense counsel, regardless of service, believe that suspension authority for military judges would have little effect on the time required for trial preparation.

Percent believing that military judge suspension power would have no effect on time required for trial preparation.

	USA	USN	USMC	USAF	USCG	Total
TC	77	79	83	80	58	77
DC	69	67	74	68	75	69

S. What Effect Would Military Judge Suspension Power Have on Defense Counsel Recommendations for Judge Alone Trials? (DC Q. 95):

A majority of Army, Marine Corps and Coast Guard defense counsel believed that the proposed change would cause them to increase their judge-alone trial recommendations. By a narrow margin, a majority of Navy and Air Force defense counsel believed it would have no effect on their forum recommendations.

Effect of judicial suspension power on recommendations for judge-alone trials.

	USA	USN	USMC	USAF	USCG	Total
Decrease	0	1	0	2	6	1
Same	46	51	46	50	31	48
Increase	54	48	54	48	63	51

T. Conclusions:

Although the breadth and scope of the questions asked and the responses thereto defy easy analysis, it clearly appears that convening authorities are apprehensive about the proposed shift of this traditionally command power to the judiciary. Military lawyers, with a few exceptions, generally favor a shift of this authority or at

the very least a sharing of this authority with commanders.

V. INCREASE THE JURISDICTIONAL MAXIMUM PUNISHMENT OF SPECIAL COURT-MARTIAL TO ONE YEAR

A. Questionnaire Design:

The survey questions were designed to measure the perceptions of the respondents regarding the appropriateness of increasing the confinement jurisdiction of special courts-martial from six months to one year, the effect such a change would have on sentencing patterns and court-martial administration and whether specific additional procedural protections should be afforded an accused with such a change.

B. The Bottom-Line Question:

Of the four major issues addressed in the survey, increasing the maximum confinement at special court-martial to one year received the strongest support. All respondent categories in all services, except defense counsel, favor the proposal. Army and Coast Guard defense counsel favor the proposal, while the other services' defense counsel oppose it.

Percent favoring increase of maximum confinement.

	USA	USN	USMC	USAF	USCG	Total
CA	80	83	86	87	90	84
SJA	85	92	94	91	100	91
MJ	84	90	94	88	85	86
CMRJ	92	100	—	100	100	97
TC	86	81	77	100	83	84
DC	56	29	36	48	62	45

C. Effect on Sentencing Patterns: (CA Q. 92-94; SJA Q. 94-96; MJ Q. 96-98; CMR Q. 91-93; TC Q. 95-97; DC Q. 103-105)

An assumption of the survey was that sentencing authorities (military judges, court members) arrive at sentences considering all of the sentencing options available. It was believed that altering one of the options might alter the sentences imposed. A significant number of respondents believe that increasing the confinement option at special court-martial to one year will encourage longer confinement and may effect the imposition of punitive discharges.

1. Percent believing that cases currently tried at special court-martial would *slightly/somewhat* receive longer sentences if special courts-martial are allowed to impose longer terms of confinement.

	USA	USN	USMC	USAF	USCG	Total
CA	44/41	41/39	42/38	47/38	40/31	43/39
SJA	36/48	35/44	29/59	34/51	62/12	35/48
MJ	34/37	33/52	39/56	40/44	64/14	39/43
CMRJ	42/58	10/50	—	33/50	0/100	27/57
TC	27/46	35/48	49/34	33/53	58/42	33/45
DC	22/42	24/36	19/46	29/46	38/19	25/41

These percentages show that there is a widespread belief that confinement length will increase if the maximum confinement is increased. This supports the position that cases are now referred to special court-martial where the six month confinement limitation is low. It might also support the belief that the availability of longer confinement might cause sentencing authorities to believe that longer confinement is justified. When the percentages of *slightly/somewhat* responses are compared, it reveals that convening authorities do not feel the tendency for longer confinement is as strong as the lawyer respondents believe. Opinion is divided whether the increase in confinement limitation will effect the imposition of punitive discharges. A strong majority of respondents believe that an increase in confinement limitation will either not at all or slightly increase the imposition of punitive discharges. Convening authorities tend to believe the potential for increase is more significant than the lawyer respondents. This may indicate that convening authorities tend to believe that longer confinement of service members renders them less desirable for return to duty. Conversely, most respondents believe that increasing the confinement limitation will not cause a decrease in the number of punitive discharges.

2. Percent believing that increasing the confinement power of special courts-martial could *not at all/slightly* cause many accuseds to receive punitive discharges which would not be imposed under current conditions.

	USA	USN	USMC	USAF	USCG	Total
CA	38/35	54/28	48/29	42/35	62/22	48/30
SJA	75/13	78/15	56/26	80/17	100/0	77/16
MJ	76/19	95/2	71/29	72/16	85/15	81/14
CMRJ	83/0	90/10	—	67/17	50/50	80/10
TC	70/22	65/26	68/27	47/33	50/33	67/25
DC	54/24	66/19	47/26	51/32	87/0	57/24

3. Percent believing that if special courts-martial could impose sentences of up to one year's confinement the number of punitive discharges would *not* decrease.

	USA	USN	USMC	USAF	USCG	Total
CA	57	57	54	59	51	57
SJA	76	61	72	68	88	67
MJ	73	62	53	76	92	69
CMRJ	58	70	—	83	100	70
TC	70	65	75	67	64	69
DC	69	50	67	52	40	58

D. Effect on Court-Martial Administration: (CA Q. 101-105; SJA Q. 108-111; MJ Q. 111-114; CMR Q. 103-106; TC Q. 109-113; DC Q. 117-124)

There is strong support for the conclusion that increasing the confinement jurisdiction of special courts-martial will reduce the number of general courts-martial. Staff judge advocates, trial counsel and judges most strongly believe this, with defense counsel and convening authorities less convinced. A majority of the respondents in each category believe that reducing the number of general courts-martial is desirable. Staff judge advocates and trial counsel more strongly hold this belief than the other categories. Convening authorities and defense counsel find such a reduction desirable by smaller percentages than the other respondent categories.

1. Percent believing that increasing the confinement limitation of special courts-martial will reduce the number of general courts-martial.

	USA	USN	USMC	USAF	USCG	Total
CA	70	64	61	69	74	65
SJA	82	85	85	86	100	86
MJ	79	79	72	92	86	81
CMRJ	92	80	—	83	50	83
TC	86	82	82	87	83	85
DC	83	62	62	77	69	74

2. Percent believing that reducing the number of general courts-martial is desirable/percent having no opinion.

	USA	USN	USMC	USAF	USCG	Total
CA	63/27	61/29	58/31	68/21	72/20	62/28
SJA	78/17	78/14	78/12	86/13	100/0	81/14
MJ	78/11	44/32	65/29	76/4	86/14	66/19
CMRJ	75/8	56/33	—	67/33	100/0	68/21
TC	83/8	76/15	79/8	80/13	91/9	81/10
DC	71/17	51/28	51/23	68/17	53/33	63/21

The data indicates that most respondents do not believe that there is a serious potential for under referral of cases if the confinement limitation is increased.

3. Percent believing that increasing the confinement limitation of special courts-martial will not cause under referral of a significant number of cases.

	USA	USN	USMC	USAF	USCG	Total
CA	68	59	64	60	59	62
SJA	89	88	91	87	100	88
MJ	82	57	67	80	100	74
CMRJ	83	80	—	83	100	83
TC	84	79	88	67	67	82
DC	88	62	72	75	75	75

Although convening authorities have the lowest percentage of respondents believing under referral will not result, they have the highest percentage of respondents with no opinion. Interestingly, staff judge advocates, who have a high interest in the referral process, have the highest percentage of respondents believing that under referral will not result.

Convening authorities were asked what percentage of cases they referred or recommended for referral to trial by general court-martial they would have referred or recommended referral to trial by special court-martial if the confinement limitation had been increased:

	USA	USN	USMC	USAF	USCG	Total
Under						
10%	44	74	67	42	59	62
10-25%	39	14	19	35	19	23
26-50%	13	6	11	17	12	10
51-75%	2	3	1	3	0	2
Over						
75%	1	4	2	2	9	3

Trial and defense counsel were asked whether increasing the confinement limitation would affect their trial preparation. A strong majority of both trial and defense counsel in all services said that there would be no significant change. A majority of defense counsel also did not believe that increasing the confinement limitation would affect their recommendations to clients regarding appropriate pleas to enter, requests for trial by judge alone or requests for enlisted members.

E. Procedural Protections: (CA Q. 95-100; SJA Q. 97-107; MJ Q. 99-110; CMRJ Q. 94-102; TC Q. 98-108; DC Q. 106-116)

The respondents were asked several questions about various procedural protections to measure whether they believe that these procedures should be modified if the confinement limitation is increased. The questions focused on six issues.

Two prominent issues related to detailing military judges and lawyer defense counsel to all special courts-

martial. Trial and defense counsel were asked about their experience in special courts-martial tried without a military judge. The responses reveal that few trial and defense counsel have tried special courts-martial without a military judge. Military judges were asked about the frequency of special courts-martial involving officer defense counsel who were not lawyers. All military judges in all services said that no special courts-martial in their circuit involve the use of officer defense counsel who are not lawyers.

1. Percent of trial and defense counsel who have never tried a special court-martial without a military judge.

	USA	USN	USMC	USAF	USCG	Total
TC	82	73	90	100	100	82
DC	86	79	81	90	81	85

The lawyer respondents strongly favor requiring the detail of a military judge in every special court-martial if the confinement limitation is increased. Convening authorities are split, but most believe that, if the confinement limit is increased, a detailed military judge should be required.

2. Percent believing that a military judge should be detailed in every special court-martial if the confinement limitation is increased.

	USA	USN	USMC	USAF	USCG	Total
CA	42	44	40	58	50	44
SJA	92	91	94	95	88	93
MJ	97	93	82	96	93	93
CMRJ	100	70	—	83	100	87
TC	87	91	95	100	100	90
DC	97	89	87	94	88	93

The lawyer respondents also strongly believe that, if the confinement limitation is increased, lawyer defense counsel should be required. Most convening authorities also favor requiring lawyer defense counsel, but by a smaller percentage than the lawyer respondents.

3. Percent favoring lawyer defense counsel representation at special courts-martial if the confinement limitation is increased/percent favoring limiting confinement to six months without lawyer defense counsel representation.

	USA	USN	USMC	USAF	USCG	Total
CA	65/18	55/21	67/19	71/17	64/21	61/21
SJA	95/5	94/5	97/3	95/4	100/0	95/4
MJ	97/3	90/7	82/18	100/0	93/7	93/6
CMRJ	100/0	80/10	—	100/0	50/50	90/7
TC	88/10	94/4	95/5	100/0	100/0	92/7
DC	99/1	95/5	100/0	97/3	94/6	98/2

All lawyer respondents, except defense counsel strongly do not favor extending Article 32 investigation requirements to special courts-martial if the confinement limitation is increased. Convening authorities also do not favor such an extension. Defense counsel are split on the issue, but more favor requiring Article 32 investigations than not.

	USA	USN	USMC	USAF	USCG	Total
CA	75	62	68	62	74	66
SJA	90	96	91	95	100	94
MJ	97	98	94	96	100	97
CMRJ	83	90	—	100	100	90
TC	91	84	95	100	83	90
DC	42	37	50	47	62	44

A majority of convening authorities, staff judge advocates and judges do not favor increasing the minimum number of court members in special courts-martial from three to five if the confinement limitation is increased. Trial counsel are split on the issue and defense counsel, by a wide margin, favor increasing the minimum number of court members to five.

4. Percent not favoring increasing to five the minimum number of court members if the confinement limitation is increased.

	USA	USN	USMC	USAF	USCG	Total
CA	45	60	59	55	61	56
SJA	63	60	74	61	88	62
MJ	57	67	71	72	86	67
CMRJ	50	90	—	67	50	67
TC	52	45	39	47	50	48
DC	15	13	11	18	31	15

Generally, there is opposition, except by defense counsel, to increasing the required waiting period between service of charges and trial to five days if the special court-martial confinement limitation is increased. Army convening authorities are split and Coast Guard convening authorities favor the idea. Most staff judge advocates, military judges and trial counsel oppose the idea. Coast Guard staff judge advocates and trial counsel are split. Air Force CMR judges favor the proposal. Defense counsel from each service strongly favor the proposal.

5. Percent opposed to increasing to five days the required waiting period between service of charges and trial if special court-martial confinement limitation is increased.

	USA	USN	USMC	USAF	USCG	Total
CA	50	57	58	55	36	55
SJA	56	68	88	68	50	67
MJ	58	67	82	76	64	68
CMRJ	67	90	—	33	50	67
TC	59	71	62	60	50	62
DC	18	12	16	14	19	15

Under present rules, a verbatim record of trial in special courts-martial is required only when a bad conduct discharge is adjudged as a part of the sentence. Most lawyer respondents favor modifying present rules requiring a verbatim record of trial if the confinement limitation is increased. Defense counsel strongly favor extending verbatim records. Of the respondents who favor the

requirement of verbatim records, most approve of the present rule which requires a verbatim record when a discharge or over six months confinement is adjudged.

6. Percent favoring requiring a verbatim record if the confinement limitation is increased/percent favoring verbatim record only in cases where punitive discharge or over six months confinement adjudged.

	USA	USN	USMC	USAF	USCG	Total
CA	20/28	21/30	27/35	25/35	12/38	22/31
SJA	17/35	12/49	15/47	7/44	12/25	12/44
MJ	11/55	12/48	12/71	8/52	14/50	11/54
CMRJ	17/42	10/70	—	0/83	0/50	10/60
TC	26/43	30/44	25/52	7/60	25/42	26/45
DC	65/28	61/35	68/29	45/48	19/37	57/36

PART THREE—THE DATA

VI. GUIDE TO INTERPRETING THE DATA SHEETS

Sections VII through XII present cross tabulations of the first question in each questionnaire with every question in that questionnaire. The first question in each questionnaire asked the respondent to identify what branch of service the respondent was a member of, so each section provides the frequencies of responses of each respondent category to each question. Each table lists the branch of service in rows and the question selectors in columns.

The cross tabulations of each row and column show four figures. The top figure is the frequency of response to a particular question selector in the branch of service. The second figure is the percent the frequency is of total responses to the question. The third figure is the percent the frequency is of the total responses to the question within the branch of service. The fourth figure is the percent the frequency is of the total responses to the question selector by branch of service. For example, the

first table in Section VII shows the frequencies by service of convening authority responses to question number two in the convening authority questionnaire. That table shows seven columns. Each column is the numbered question selector for question two, which asks for the respondent's current grade. The first row shows Army figures. Column 3 is the third question selector, which is the grade 0-6. The table shows then, that 185 responding Army convening authorities were in the grade 0-6. This represents 12.61 percent of all convening authorities responding to the question, 60.26 percent of all Army convening authorities responding to the question and 27.90 of all 0-6 respondents.

The tables also provide totals. The row totals (on right side of page) show the total number of respondents in the branch of service and the percent that total is of the total of all respondents. The column totals (at the bottom of page) show the total number of responses to each question selector and the percent that total is of total responses.

CONVENING AUTHORITIES
FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA2

QA1	QA2	1	2	3	4	5	6	7	TOTAL
FREQUENCY ROW PCT COL PCT	.	11	0	0	0	0	0	0	•
	.	•	•	•	•	•	•	•	•
	.	•	•	•	•	•	•	•	•
ARMY	.	1	3	49	185	15	42	11	307
	.	0.20	3.34	12.61	60.26	1.02	2.86	0.75	20.93
	.	3.00	15.96	27.90	25.86	4.89	13.68	3.58	47.44
NAVY	.	1	37	316	305	28	4	5	696
	.	2.52	21.54	20.79	1.91	0.27	0.34	0.07	47.44
	.	5.32	45.40	43.82	4.02	0.57	0.72	0.14	287
MARINE CORPS	.	43	58	164	55	4	5	1	287
	.	3.95	11.18	3.75	0.27	0.34	0.07	0.00	19.56
	.	20.21	57.14	19.16	1.39	1.74	0.35	0.00	134
AIR FORCE	.	1	0	97	97	5	20	7	134
	.	0.00	0.20	6.61	0.34	0.34	1.36	0.48	9.13
	.	0.00	2.24	72.39	3.73	1.74	14.93	5.22	43
COAST GUARD	.	0	2	5	21	6	8	1	43
	.	0.14	0.34	1.43	0.41	0.55	0.07	0.00	2.93
	.	4.65	11.63	48.84	13.95	18.60	2.33	0.00	1467
TOTAL	.	100	537	663	58	79	25	5	1467
	.	6.82	36.61	45.19	3.95	5.39	1.70	0.34	100.00
	.								

2. What is your current grade?

- 0-4.....1
- 0-5.....2
- 0-6.....3
- 0-7.....4
- 0-8.....5
- 0-9.....6
- 0-10.....7

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA3

QAI	QA3	1	2	3	4	5	TOTAL
FREQUENCY		11	0	0	0	0	•
PERCENT		•	•	•	•	•	•
ROW PCT		•	•	•	•	•	•
COL PCT		•	•	•	•	•	•
ARMY		1	4	48	143	112	307
		•	0.27	3.19	9.50	7.44	20.39
		•	1.30	15.64	46.58	36.48	
		•	4.21	10.71	31.50	24.56	
NAVY		4	37	266	184	197	693
		•	0.60	17.66	12.22	13.08	46.02
		•	1.30	38.38	26.55	28.43	
		•	16.98	59.38	40.53	43.20	
MARINE CORPS		2	52	121	65	47	328
		•	2.86	8.03	4.32	3.12	21.78
		•	13.11	36.89	19.82	14.33	
		•	81.13	27.01	14.32	10.31	
AIR FORCE		0	1	9	52	73	135
		•	0.07	0.60	3.45	4.85	8.96
		•	0.74	6.67	38.52	54.07	
		•	1.89	2.01	11.45	16.01	
COAST GUARD		0	0	4	10	27	43
		•	0.00	0.27	0.66	1.79	2.96
		•	0.00	9.30	23.26	62.79	
		•	0.00	0.89	2.20	5.92	
TOTAL		•	53	448	454	456	1506
		•	3.52	29.75	30.15	30.28	100.00

3. How many years of total active service?

5-10.....	1
11-15.....	2
16-20.....	3
21-25.....	4
over 25.....	5

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA4

QA1 FREQUENCY PERCENT ROW PCT COL PCT	QA4	1	2	3	4	5	6	TOTAL
11		0	0	0	0	0	0	0
2	ARMY	0.00	0.60	220	48	15	14	306
		0.00	2.94	14.65	3.20	1.00	0.93	20.39
		0.00	2.23	71.90	15.69	4.90	4.58	
				47.83	51.06	68.18	14.58	
8	NAVY	395	201	7	22	6	58	689
		26.32	13.39	0.47	1.47	0.40	3.86	45.90
		57.33	29.17	1.02	3.19	0.87	8.42	
		92.94	49.75	1.52	23.40	27.27	60.42	
2	MARINE CORPS	0	77	216	18	0	17	328
		0.00	5.13	14.39	1.20	0.00	1.13	21.85
		0.00	23.48	65.85	5.49	0.00	5.18	
		0.00	19.06	46.96	19.15	0.00	17.71	
0	AIR FORCE	0	106	17	6	1	5	135
		0.00	7.06	1.13	0.40	0.07	0.33	8.99
		0.00	78.52	12.59	4.44	0.74	3.70	
		0.00	26.24	3.70	6.38	4.55	5.21	
0	COAST GUARD	30	11	0	0	0	2	43
		2.00	0.73	0.00	0.00	0.00	0.13	2.86
		69.77	25.58	0.00	0.00	0.00	4.65	
		7.06	2.72	0.00	0.00	0.00	2.08	
425	TOTAL	28.31	404	460	94	22	96	1501
			26.92	30.65	6.26	1.47	6.40	100.00

4. Which one of the following broad categories best describes your military career?

- Seagoing Line Officer.....1
- Air Line Officer.....2
- Ground Line Officer.....3
- Administrative/Logistical Officer4
- Medical/Dental Officer.....5
- Other.....6

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QAS

QA1	QAS	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	11	0	0	0	0	.

ARMY	.	1	41	153	76	34	307
	.	0.20	2.72	10.17	5.05	2.26	20.40
	.	0.98	13.36	49.84	24.76	11.07	
NAVY	.	6	268	176	66	19	691
	.	10.76	17.81	11.69	4.39	1.26	45.91
	.	23.44	38.78	25.47	9.55	2.75	
MARINE CORPS	.	1	132	87	41	21	329
	.	3.19	8.77	5.78	2.72	1.40	21.86
	.	14.59	40.12	26.44	12.46	6.38	
AIR FORCE	.	0	42	49	28	10	135
	.	0.40	2.79	3.26	1.86	0.66	8.97
	.	4.44	31.11	36.30	20.74	7.41	
COAST GUARD	.	0	4	19	12	5	43
	.	0.20	0.27	1.26	0.80	0.33	2.86
	.	6.98	9.30	44.19	27.91	11.63	
TOTAL	.	222	487	484	223	89	1505
	.	14.75	32.36	32.16	14.82	5.91	100.00

5. What is the aggregate amount of time you have served as a commanding officer?

- Less than 1 year.....1
- 1-3 years.....2
- 4-6 years.....3
- 7-10 years.....4
- More than 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA6

QA1	QA6	1	2	3	4	5	5	5	7	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	0	1	0	0	0	.

ARMY	1	13	0.33	5	86	151	34	13	5	307
	.	0.87	0.74	5.74	10.07	10.07	2.27	0.87	0.33	20.48
	.	4.23	1.63	28.01	49.19	49.19	11.07	4.23	1.63	
	.	3.61	3.73	19.33	37.75	37.75	36.56	30.23	20.83	
NAVY	3	210	100	166	146	146	30	22	14	688
	.	14.01	6.67	11.07	9.74	9.74	2.00	1.47	0.93	45.90
	.	30.52	14.53	24.13	21.22	21.22	4.36	3.20	2.03	
	.	58.33	74.63	37.30	36.50	36.50	32.26	51.16	58.33	
MARINE CORPS	3	91	18	113	77	77	23	4	1	327
	.	6.07	1.20	7.54	5.14	5.14	1.53	0.27	0.07	21.81
	.	27.83	5.50	34.55	23.55	23.55	7.03	1.22	0.31	
	.	25.28	13.43	25.39	19.25	19.25	24.73	9.30	4.17	
AIR FORCE	1	15	3	72	25	25	6	4	4	134
	.	1.00	0.53	4.80	1.67	1.67	0.40	0.27	0.27	8.94
	.	11.19	5.97	53.73	18.66	18.66	4.48	2.99	2.99	
	.	4.17	5.97	16.18	6.25	6.25	6.45	9.30	16.67	
COAST GUARD	0	31	3	8	1	1	0	0	0	43
	.	2.07	0.20	0.53	0.07	0.07	0.00	0.00	0.00	2.87
	.	72.09	6.98	18.50	2.33	2.33	0.00	0.00	0.00	
	.	8.61	2.24	1.80	0.25	0.25	0.00	0.00	0.00	
TOTAL	.	360	134	445	400	400	93	43	24	1499
	.	24.02	8.94	29.59	26.68	26.68	6.20	2.87	1.60	100.00

6. How much combat have you experienced?

- None.....1
- 1-6 months.....2
- 7-13 months.....3
- 14-24 months.....4
- 25-30 months.....5
- 31-40 months.....6
- More than 40 months.....7

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA7

QA1	QA7	1	2	3	4	5	6	TOTAL
ARMY	FREQUENCY	8	15	25	92	49	9	300
	PERCENT	1.02	1.70	6.26	3.34	3.34	0.61	20.42
	ROW PCT	5.00	8.33	30.67	16.33	16.33	3.00	7.49
NAVY	FREQUENCY	19	70	89	107	92	53	678
	PERCENT	4.77	6.06	7.28	6.26	6.26	3.61	46.15
	ROW PCT	10.32	13.13	15.78	13.57	13.57	7.82	18.18
MARINE CORPS	FREQUENCY	11	59	58	66	28	18	319
	PERCENT	4.02	3.95	4.49	4.49	1.91	1.23	21.72
	ROW PCT	18.50	18.18	20.69	20.69	8.78	5.64	28.21
AIR FORCE	FREQUENCY	4	13	26	34	15	5	131
	PERCENT	0.88	1.77	2.31	2.31	1.02	0.34	8.92
	ROW PCT	9.92	19.85	25.95	25.95	11.45	3.82	29.01
COAST GUARD	FREQUENCY	2	5	4	4	3	5	41
	PERCENT	0.34	0.27	0.27	0.27	0.20	0.34	2.79
	ROW PCT	12.20	9.76	9.76	9.76	7.32	12.20	48.78
TOTAL		152	202	303	187	90	525	1469
		11.03	13.75	20.63	12.73	6.13	35.74	100.00

7. How much wartime or national emergency service have you experienced without regard to whether such service was in actual combat?

- None.....1
- 1-12 months.....2
- 13-24 months.....3
- 25-36 months.....4
- 37-48 months.....5
- More than 48 months.....6

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAS

QAI	QAS	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	0	0	.

ARMY	.	54	77	88	66	17	302
	.	3.63	5.17	5.91	4.44	1.14	20.30
	.	17.88	25.50	29.14	21.85	5.63	
NAVY	.	12	124	108	151	84	685
	.	218	8.33	7.26	10.15	5.65	46.03
	.	14.65	18.10	15.77	22.04	12.26	
MARINE CORPS	.	6	77	67	72	31	324
	.	5.17	4.50	5.17	4.84	2.08	21.77
	.	23.77	20.68	23.77	22.22	9.57	
AIR FORCE	.	1	59	37	16	2	134
	.	3.97	2.49	1.34	1.08	0.13	9.01
	.	44.03	27.61	14.93	11.94	1.49	
COAST GUARD	.	0	19	13	3	0	43
	.	1.28	0.87	0.54	0.20	0.00	2.89
	.	44.19	30.23	18.60	6.98	0.00	
TOTAL	.	427	318	301	308	134	1488
	.	28.70	21.37	20.23	20.70	9.01	100.00
	.						

8. Approximately how many times have you imposed non-judicial punishment since 1968?

- Under 25.....1
- 26-50.....2
- 51-100.....3
- 101-300.....4
- Over 300.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA9

QA1	QA9	1	2	3	4	5	TOTAL
FREQUENCY ROW PCT COL PCT	.	0	1	0	0	0	.
	10	.	.	.	.	.	.

ARMY	5	245	38	14	2	4	303
	.	16.42	2.55	0.94	0.13	0.27	20.31
	.	80.86	12.54	4.62	0.66	1.32	
NAVY	9	626	37	20	4	1	688
	.	41.96	2.48	1.34	0.27	0.07	46.11
	.	90.99	5.38	2.91	0.58	0.15	
MARINE CORPS	5	264	39	13	6	3	325
	.	17.69	2.61	0.87	0.40	0.20	21.78
	.	81.23	12.00	4.00	1.85	0.92	
AIR FORCE	2	116	13	3	1	0	133
	.	7.77	0.87	0.20	0.07	0.00	8.91
	.	87.22	9.77	2.26	0.75	0.00	
COAST GUARD	0	42	0	1	0	0	43
	.	2.82	0.00	0.07	0.00	0.00	2.88
	.	97.67	0.00	2.33	0.00	0.00	
TOTAL	.	1293	127	51	13	8	1492
	.	86.66	8.51	3.42	0.87	0.54	100.00

9. Approximately how many times have you referred a case to trial by summary court-martial in your career?

- Under 25.....1
- 26-50.....2
- 51-100.....3
- 101-300.....4
- Over 300.....5

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA10

QA1	QA10	0	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1	0	0	0	.

ARMY	5	153 10.25 50.50 13.22	81 5.43 26.73 38.21	36 2.41 11.88 53.73	19 1.27 6.27 46.34	14 0.94 4.62 87.50	303 20.29	
NAVY	8	601 40.25 87.23 51.94	65 4.35 9.43 30.66	11 0.74 1.60 16.42	11 0.74 1.60 26.83	1 0.07 0.15 6.25	689 46.15	
MARINE CORPS	5	255 17.08 78.46 22.04	44 2.95 13.54 20.75	15 1.00 4.62 22.39	10 0.67 3.08 24.39	1 0.07 0.31 6.25	325 21.77	
AIR FORCE	2	106 7.10 79.70 9.16	22 1.47 16.54 10.38	4 0.27 3.01 5.97	1 0.07 0.75 2.44	0 0.00 0.00 0.00	133 8.91	
COAST GUARD	0	42 2.81 97.67 3.63	0 0.00 0.00 0.00	1 0.07 2.33 1.49	0 0.00 0.00 0.00	0 0.00 0.00 0.00	43 2.88	
TOTAL	.	1157 77.49	212 14.20	67 4.49	41 2.75	16 1.07	1493 100.00	

10. Approximately how many times have you referred a case to trial by special court-martial during your career?

- Under 25.....1
- 26-50.....2
- 51-100.....3
- 101-300.....4
- Over 300.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA12

QA1 FREQUENCY PERCENT ROW PCT COL PCT	QA12						TOTAL
	1	2	3	4	5	6	
ARMY	75 4.99 24.59 13.94	173 11.52 56.72 21.00	24 1.60 7.87 35.82	13 0.87 4.26 52.00	9 0.60 2.95 34.62	11 0.73 3.61 50.00	305 20.31
NAVY	264 17.58 38.15 49.07	390 25.97 56.36 47.33	18 1.20 2.60 26.87	5 0.33 0.72 20.00	9 0.60 1.30 34.62	6 0.40 0.87 27.27	692 46.07
MARINE CORPS	164 10.92 49.85 30.48	141 9.39 42.86 17.11	13 0.87 3.95 19.40	3 0.20 0.91 12.00	5 0.33 1.52 19.23	3 0.20 0.91 13.64	329 21.90
AIR FORCE	20 1.33 15.04 3.72	73 6.19 69.92 11.29	12 0.80 9.02 17.91	3 0.20 2.26 12.00	3 0.20 2.26 11.54	2 0.13 1.50 9.09	133 8.85
COAST GUARD	15 1.00 34.88 2.79	27 1.80 62.79 3.28	0 0.00 0.00 0.00	1 0.07 2.33 4.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	43 2.86
TOTAL	538 35.82	824 54.86	67 4.46	25 1.66	26 1.73	22 1.46	1502 100.00

12. Approximately how many special and general courts-martial have you reviewed as convening or reviewing authority in your career?

- None.....1
- 1-50 cases.....2
- 51-100 cases.....3
- 101-200 cases.....4
- 201-400 cases.....5
- More than 400 cases.....6

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA13

QA1	QA13	1	2	3	4	5	6	7	8	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	1	0	0	0	0	.
	10	.	.	.	.	.	.	.	.	.

ARMY	2	24 1.60 7.84 5.66	79 5.26 25.82 12.02	70 4.66 22.88 37.63	57 3.79 18.63 50.44	50 3.33 16.34 65.79	15 1.00 4.90 62.50	8 0.53 2.61 57.14	3 0.20 0.98 33.33	306 20.36
NAVY	6	276 18.36 39.94 65.09	335 22.29 48.48 50.99	54 3.59 7.81 29.03	19 1.26 2.75 16.81	3 0.20 0.43 3.95	2 0.13 0.29 8.33	1 0.07 0.14 7.14	1 0.07 0.14 11.11	691 45.97
MARINE CORPS	1	59 3.93 17.93 13.92	150 9.98 45.59 22.83	51 3.39 15.50 27.42	30 2.00 9.12 26.55	22 1.46 6.69 28.95	7 0.47 2.13 29.17	5 0.33 1.52 35.71	5 0.33 1.52 55.56	329 21.89
AIR FORCE	1	52 3.46 38.81 12.26	67 4.46 50.00 10.20	8 0.53 5.97 4.30	6 0.40 4.48 5.31	1 0.07 0.75 1.32	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	134 8.92
COAST GUARD	0	13 0.86 30.23 3.07	26 1.73 60.47 3.96	3 0.20 6.98 1.61	1 0.07 2.33 0.88	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	43 2.86
TOTAL	.	424 28.21	657 43.71	186 12.38	113 7.52	76 5.06	24 1.60	14 0.93	9 0.60	1503 100.00

13. Approximately how many special or general courts-martial have you actually sat on (to completion) as a member of the court in your career?

- None.....1
- 1-5.....2
- 6-10.....3
- 11-20.....4
- 21-40.....5
- 41-50.....6
- 51-100.....7
- More than 100.....8

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI4

QAI	QAI4		1	2	TOTAL
FREQUENCY ROW PCT COL PCT					
		10	1	0	.
	
	
ARMY		1	219	88	307
			14.55	5.85	20.40
			71.34	28.66	
			40.48	9.13	
NAVY		5	173	519	692
		.	11.50	34.49	45.98
		.	25.00	75.00	
		.	31.98	53.84	
MARINE CORPS		1	132	197	329
		.	8.77	13.09	21.86
		.	40.12	59.88	
		.	24.40	20.44	
AIR FORCE		1	4	130	134
		.	0.27	8.64	8.90
		.	2.99	97.01	
		.	0.74	13.49	
COAST GUARD		0	13	30	43
		.	0.86	1.99	2.86
		.	30.23	69.77	
		.	2.40	3.11	
TOTAL		.	541	964	1505
		.	35.95	64.05	100.00

14. Have you ever prosecuted or defended a general or special court-martial?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA15

QAI	QA15	1	2	3	4	5	6	TOTAL
FREQUENCY ROW PCT COL PCT	.	10	0	0	1	0	0	.

ARMY	3	0	7	182	90	18	18	305
.	0.00	0.47	12.21	5.37	1.21	5.90	1.21	20.46
.	0.00	2.30	59.67	26.23	5.90	64.29	16.82	
.	0.00	2.81	40.09	27.87	64.29	16.82		
NAVY	11	351	114	79	85	9	48	686
.	23.54	7.65	5.30	5.70	0.60	3.22	45.01	
.	51.17	16.62	11.52	12.39	1.31	7.00		
.	95.90	45.78	17.40	29.62	12.14	44.86		
MARINE CORPS	6	1	62	159	70	0	32	324
.	0.07	4.16	10.66	4.59	0.00	2.15	21.73	
.	0.31	19.14	49.07	21.60	0.00	9.88		
.	0.27	24.90	35.02	24.39	0.00	29.91		
AIR FORCE	1	0	64	27	39	1	3	134
.	0.00	4.29	1.81	2.62	0.07	0.20	8.99	
.	0.00	47.76	20.15	29.10	0.75	2.24		
.	0.00	25.70	5.95	13.59	3.57	2.80		
COAST GUARD	1	14	2	7	13	0	6	42
.	0.94	0.13	0.47	0.97	0.00	0.40	2.82	
.	33.33	4.76	16.67	30.95	0.00	14.29		
.	3.83	0.90	11.54	4.53	0.00	5.61		
TOTAL	.	366	249	454	287	28	107	1491
.	24.55	16.70	30.45	19.25	1.88	7.18	100.00	

15. What is the character of your present command?

- Seagoing Command.....1
- Air Command.....2
- Ground Command.....3
- Administrative/Logistical
- Support Command.....4
- Medical/Dental Command.....5
- Other.....6

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI6

QAI	QAI6	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY		226	80	306
		15.73	5.57	21.29
		73.86	26.14	
		19.01	32.26	
NAVY		599	65	664
		41.68	4.52	46.21
		90.21	9.79	
		50.38	26.21	
MARINE CORPS		256	39	295
		17.91	2.71	20.53
		96.78	13.22	
		21.53	15.73	
AIR FORCE		86	46	132
		5.98	3.20	9.19
		65.15	34.85	
		7.23	18.55	
COAST GUARD		22	18	40
		1.53	1.25	2.78
		55.00	45.00	
		1.85	7.26	
TOTAL		1189	248	1437
		82.74	17.26	100.00

16. What is the highest level of court-martial convening authority your current command possesses?

Special court-martial.....1
General court-martial.....2

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI7

QAI	QAI7	0	1	2	3	TOTAL
FREQUENCY		10	1	0	0	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		1	118	180	9	307
		•	7.83	11.94	0.60	20.37
		•	38.44	58.63	2.93	
		•	17.91	22.28	22.50	
NAVY		2	313	367	15	695
		•	20.77	24.35	1.00	46.12
		•	45.04	52.81	2.16	
		•	47.50	45.42	37.50	
MARINE CORPS		2	159	161	8	328
		•	10.55	10.68	0.53	21.77
		•	48.48	49.09	2.44	
		•	24.13	19.93	20.00	
AIR FORCE		1	54	73	7	134
		•	3.58	4.84	0.46	8.89
		•	40.30	54.48	5.22	
		•	8.19	9.03	17.50	
COAST GUARD		0	15	27	1	43
		•	1.00	1.79	0.07	2.85
		•	34.88	62.79	2.33	
		•	2.28	3.34	2.50	
TOTAL		•	659	808	40	1507
		•	43.73	53.62	2.65	100.00

17. How long have you been in your current assignment?

Less than one year.....1
 1-3 years.....2
 Over three years.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI8

QAI	QAI8	1	2	3	4	5	TOTAL
ARMY	FREQUENCY	55	179	59	11	1	395
	PERCENT	3.68	11.97	3.94	0.74	0.07	20.39
	ROW PCT	18.03	58.67	19.34	3.61	0.33	
NAVY	FREQUENCY	283	350	41	11	7	622
	PERCENT	16.92	23.40	2.74	0.74	0.47	46.26
	ROW PCT	40.90	50.53	5.92	1.59	1.01	
MARINE CORPS	FREQUENCY	142	148	29	3	4	326
	PERCENT	9.49	9.89	1.94	0.20	0.27	21.79
	ROW PCT	43.56	45.40	8.90	0.92	1.23	
AIR FORCE	FREQUENCY	25	75	27	3	3	133
	PERCENT	1.67	5.01	1.80	0.20	0.20	8.89
	ROW PCT	18.80	56.39	20.30	2.26	2.26	
COAST GUARD	FREQUENCY	24	15	1	0	0	40
	PERCENT	1.60	1.00	0.07	0.00	0.00	2.67
	ROW PCT	60.00	37.50	2.50	0.00	0.00	
TOTAL		529	767	157	28	15	1496
		35.36	51.27	10.49	1.87	1.00	100.00

18. Approximately how many SPCMs have been tried in your command during your current tour?

- None.....1
- Fewer than 20.....2
- 20-100.....3
- 101-300.....4
- Over 300.....5

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA19

QAI	QA19	1	2	3	4	5	TOTAL
FREQUENCY		0	1				
PERCENT							
ROW PCT	10						
COL PCT							
ARMY		112	124	47	19	4	306
		7.47	8.27	3.14	1.27	0.27	20.41
		36.60	40.52	15.36	6.21	1.31	
		11.51	31.47	58.02	47.50	36.36	
NAVY		556	116	9	10	3	694
		37.09	7.74	0.60	0.67	0.20	46.30
		80.12	16.71	1.30	1.44	0.43	
		57.14	29.44	11.11	25.00	27.27	
MARINE CORPS		240	74	6	5	2	327
		16.01	4.94	0.40	0.33	0.13	21.81
		73.39	22.63	1.83	1.53	0.61	
		24.67	18.78	7.41	12.50	18.18	
AIR FORCE		33	73	18	6	2	132
		2.20	4.37	1.20	0.40	0.13	8.81
		25.00	55.30	13.64	4.55	1.52	
		3.39	18.53	22.22	15.00	18.18	
COAST GUARD		32	7	1	0	0	40
		2.13	0.47	0.07	0.00	0.00	2.67
		80.00	17.50	2.50	0.00	0.00	
		3.29	1.78	1.23	0.00	0.00	
TOTAL		973	394	81	40	11	1499
		64.91	26.28	5.40	2.67	0.73	100.00

19. Approximately how many GCMs have been tried in your command during your current tour?

- None.....1
- Fewer than 10.....2
- 10-20.....3
- 21-100.....4
- Over 100.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA20

QA1 FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	4	5	6	TOTAL
ARMY	0	227 15.09 73.70 22.65	59 3.92 19.16 17.20	13 0.86 4.22 17.11	6 0.40 1.95 21.43	1 0.07 0.32 8.33	2 0.13 0.65 4.65	308 20.48
NAVY	3	472 31.38 68.01 47.11	156 10.37 22.48 45.48	27 1.80 3.89 35.53	6 0.40 0.86 21.43	4 0.27 0.58 33.33	29 1.93 4.18 67.44	694 46.14
MARINE CORPS	4	207 13.76 63.50 20.66	76 5.05 23.31 22.16	20 1.33 6.13 26.32	7 0.47 2.15 25.00	4 0.27 1.23 33.33	12 0.80 3.68 27.91	326 21.68
AIR FORCE	1	57 3.79 42.54 5.69	49 3.26 36.57 14.29	16 1.06 11.94 21.05	9 0.60 6.72 32.14	3 0.20 2.24 25.00	0 0.00 0.00 0.00	134 8.91
COAST GUARD	1	39 2.59 92.86 3.89	3 0.20 7.14 0.87	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	42 2.79
TOTAL	10	1002 66.62	343 22.81	76 5.05	28 1.86	12 0.80	43 2.86	1504 100.00

20. Approximately what percent of your average working day do you spend on military justice matters?

- 1-5 percent.....1
- 6-10 percent.....2
- 11-15 percent.....3
- 16-20 percent.....4
- 21-25 percent.....5
- More than 25 percent.....6

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA21

QA1	QA21	1	2	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	.

ARMY	1	77	230	307
	.	5.13	15.33	20.47
	.	25.08	74.92	
NAVY	9	189	499	688
	.	12.60	33.27	45.87
	.	27.47	72.53	
MARINE CORPS	3	92	235	327
	.	6.13	15.67	21.80
	.	28.13	71.87	
AIR FORCE	0	27	108	135
	.	1.80	7.20	9.00
	.	20.00	80.00	
COAST GUARD	0	11	32	43
	.	0.73	2.13	2.87
	.	25.58	74.42	
TOTAL	.	396	1104	1500
	.	26.40	73.60	100.00
	.			

21. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judges' superior for court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA22

QA1	QA22	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	230	11 2.75 14.10 13.92	46 11.50 58.97 22.44	19 4.75 24.36 18.81	0 0.50 2.56 13.33	78 19.50
NAVY	507	42 10.50 22.11 53.16	94 23.50 49.47 45.85	47 11.75 24.74 46.53	7 1.75 3.68 46.67	190 47.50
MARINE CORPS	237	12 3.00 12.90 15.19	47 11.75 50.54 22.93	28 7.00 30.11 27.72	6 1.50 6.45 40.00	93 23.25
AIR FORCE	108	10 2.50 37.04 12.66	13 3.25 48.15 6.34	4 1.00 14.81 3.96	0 0.00 0.00 0.00	27 6.75
COAST GUARD	31	4 1.00 33.33 5.06	5 1.25 41.67 2.44	3 0.75 25.00 2.97	0 0.00 0.00 0.00	12 3.00
TOTAL		79 19.75	205 51.25	101 25.25	15 3.75	400 100.00

22. If yes, how often?

Once.....1
Seldom.....2
Sometimes.....3
Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA23

QA1	QA23	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	0	.

ARMY	229	9 2.27 11.39 15.52	54 13.60 68.35 23.58	3 0.76 3.80 8.82	13 3.27 16.46 17.11	79 19.90
NAVY	508	34 8.56 17.99 58.62	109 27.46 57.67 47.60	13 3.27 6.88 38.24	33 8.31 17.46 43.42	189 47.61
MARINE CORPS	236	9 2.27 9.57 15.52	50 12.59 53.19 21.83	13 3.27 13.83 38.24	22 5.54 23.40 28.95	94 23.68
AIR FORCE	111	6 1.51 25.00 10.34	12 3.02 50.00 5.24	2 0.50 8.33 5.88	4 1.01 16.67 5.26	24 6.05
COAST GUARD	32	0 0.00 0.00 0.00	4 1.01 36.36 1.75	3 0.76 27.27 8.82	4 1.01 36.36 5.26	11 2.77
TOTAL	.	58 14.61	229 57.68	34 8.56	76 19.14	397 100.00

23. If your answer to #21 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?

- Usually findings.....1
- Usually sentence.....2
- Usually other grounds.....3
- About equally on all the above.4

Convening Authorities

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA25

QA1	QA25	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	0	0

ARMY	1	124	99	72	12	307
	.	8.32	6.64	4.83	0.81	20.60
	.	40.39	32.25	23.45	3.91	100.00
NAVY	15	253	186	178	65	682
	.	16.98	12.48	11.95	4.36	45.77
	.	37.10	27.27	26.10	9.53	100.00
MARINE CORPS	6	125	95	76	28	324
	.	8.39	6.38	5.10	1.88	21.74
	.	38.58	29.32	23.46	8.64	100.00
AIR FORCE	1	49	50	30	5	134
	.	3.29	3.36	2.01	0.34	8.99
	.	36.57	37.31	22.39	3.73	100.00
COAST GUARD	0	18	14	11	0	43
	.	1.21	0.94	0.74	0.00	2.89
	.	41.86	32.56	25.58	0.00	100.00
TOTAL	.	569	444	367	110	1490
	.	38.19	29.80	24.63	7.38	100.00

25. To what extent do you believe that a guaranteed term of office would create the appearance of a more independent and fair military judiciary?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly4

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA26

QA1	QA26	1	2	3	4	TOTAL
FREQUENCY		0	1	0	0	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		188	72	41	6	307
		12.59	4.82	2.75	0.40	20.56
		61.24	23.45	13.36	1.95	
		22.98	18.65	18.14	9.52	
NAVY		357	177	114	36	684
		23.91	11.86	7.64	2.41	45.81
		52.19	25.88	16.67	5.26	
		43.64	45.85	50.44	57.14	
MARINE CORPS		167	99	52	17	325
		11.19	5.96	3.48	1.14	21.77
		51.38	27.38	16.00	5.23	
		20.42	23.06	23.01	26.98	
AIR FORCE		79	37	14	4	134
		5.29	2.48	0.94	0.27	8.98
		58.96	27.61	10.45	2.99	
		9.66	9.59	6.19	6.35	
COAST GUARD		27	11	5	0	43
		1.81	0.74	0.33	0.00	2.88
		62.79	25.58	11.63	0.00	
		3.30	2.95	2.21	0.00	
TOTAL		814	386	226	63	1493
		54.79	25.85	15.14	4.22	100.00

26. To what extent do you believe that a guaranteed term of office would, actually, create a more independent and fair military judiciary?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA27

QA1	QA27	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT	COL PCT	8	1	2	0	.
	
ARMY		168	79	47	11	305
		11.83	5.56	3.31	0.77	21.48
		55.08	25.90	15.41	3.61	
NAVY		25.77	21.01	15.51	12.36	
		299	162	168	51	680
		21.06	11.41	11.83	3.59	47.89
MARINE CORPS		43.97	23.82	24.71	7.50	
		45.86	43.09	55.45	57.30	
		109	74	55	22	260
AIR FORCE		7.68	5.21	3.87	1.55	18.31
		41.92	28.46	21.15	8.46	
		16.72	19.68	18.15	24.72	
COAST GUARD		63	47	19	5	134
		4.44	3.31	1.34	0.35	9.44
		47.01	35.07	14.18	3.73	
TOTAL		9.66	12.50	6.27	5.62	
		13	14	14	0	41
		0.92	0.99	0.99	0.00	2.89
	31.71	34.15	34.15	0.00		
	1.99	3.72	4.62	0.00		
	652	376	303	89	1420	
	45.92	26.48	21.34	6.27	100.00	

27. To what extent do you believe that a guaranteed term of office would contribute to a more professionally competent military judiciary?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA28

QA1	QA28	0	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
	.	8	1	2	0	.

ARMY		2	175	70	61	306
		.	12.70	4.92	4.29	21.50
		.	57.19	22.88	19.93	
		.	21.98	21.47	20.27	
NAVY		14	378	150	155	683
		.	26.56	10.54	10.89	48.00
		.	55.34	21.96	22.69	
		.	47.49	46.01	51.50	
MARINE CORPS		72	149	60	49	258
		.	10.47	4.22	3.44	18.13
		.	57.75	23.26	18.99	
		.	18.72	18.40	16.28	
AIR FORCE		0	72	36	27	135
		.	5.06	2.53	1.90	9.49
		.	53.33	26.67	20.00	
		.	9.05	11.04	8.97	
COAST GUARD		2	22	10	9	41
		.	1.55	0.70	0.63	2.88
		.	53.66	24.39	21.95	
		.	2.76	3.07	2.99	
TOTAL		.	796	326	301	1423
		.	55.94	22.91	21.15	100.00

28. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA29

QA1	QA29	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	8	2	0	.

ARMY	3	102	75	305	21.48
	.	9.01	7.18	5.28	
	.	41.97	33.44	24.59	
	.	22.57	20.99	20.44	
NAVY	15	269	241	172	682
	.	18.94	16.97	12.11	
	.	39.44	35.34	25.22	
	.	47.44	49.59	46.87	
MARINE CORPS	73	104	81	72	257
	.	7.32	5.70	5.07	
	.	40.47	31.52	28.02	
	.	18.34	16.67	19.62	
AIR FORCE	0	52	44	39	135
	.	3.66	3.10	2.75	
	.	39.52	32.59	28.99	
	.	9.17	9.05	10.63	
COAST GUARD	2	14	18	9	41
	.	0.99	1.27	0.63	
	.	34.15	43.90	21.95	
	.	2.47	3.70	2.45	
TOTAL	.	567	486	367	1420
	.	39.93	34.23	25.85	100.00

29. Would guaranteed terms of office for military judges give judges too much independence?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA30

QA1	QA30	1	2	3	4	TOTAL
FREQUENCY ROW PCT COL PCT	.	8	1	0	0	.

ARMY	6	179	100	22	1	302
	.	12.77	7.13	1.57	0.07	21.54
	.	59.27	33.11	7.28	0.33	
NAVY	29	376	228	56	8	668
	.	26.82	16.26	3.99	0.57	47.65
	.	56.29	34.13	8.38	1.20	
MARINE CORPS	72	167	69	19	3	258
	.	11.91	4.36	1.36	0.21	18.40
	.	64.73	26.74	7.36	1.16	
AIR FORCE	2	87	35	10	1	133
	.	6.21	2.50	0.71	0.07	9.49
	.	65.41	26.32	7.52	0.75	
COAST GUARD	2	20	17	4	0	41
	.	1.43	1.21	0.29	0.00	2.92
	.	48.78	41.46	9.76	0.00	
TOTAL	.	829	449	111	13	1402
	.	59.13	32.03	7.92	0.93	100.00

30. If a guaranteed term of office provision were enacted, what length of time should it contain for the judges of the Courts of Military Review?

- Normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA31

QA1	QA31	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
	.	8	1	0	0	.
	.	2	.	.	.	.

ARMY		208	85	10	1	304
	.	14.80	6.05	0.71	0.07	21.64
	.	68.42	27.96	3.29	0.33	
	.	22.86	20.05	15.63	14.29	
NAVY		413	212	38	4	667
	.	29.40	15.09	2.70	0.28	47.47
	.	51.92	31.73	5.70	0.60	
	.	45.38	50.00	59.38	57.14	
MARINE CORPS		178	72	8	1	259
	.	12.67	5.12	0.57	0.07	18.43
	.	68.73	27.80	3.09	0.39	
	.	19.56	16.98	12.50	14.29	
AIR FORCE		89	39	5	1	134
	.	6.33	2.78	0.36	0.07	9.54
	.	66.42	29.10	3.73	0.75	
	.	9.78	9.20	7.81	14.29	
COAST GUARD		22	16	3	0	41
	.	1.57	1.14	0.21	0.00	2.92
	.	53.66	39.02	7.32	0.00	
	.	2.42	3.77	4.69	0.00	
TOTAL	.	910	424	64	7	1405
	.	64.77	30.18	4.56	0.50	100.00

31. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?

- Normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA32

QAI	QA32	1	2	3	4	TOTAL
FREQUENCY		8	2	1	0	0
PERCENT	
ROW PCT	
COL PCT	
ARMY		4	233	65	6	0
		.	16.56	4.62	0.43	0.00
		.	76.04	21.38	1.97	0.00
		.	22.91	18.41	18.75	0.00
NAVY		28	468	183	16	2
		.	33.26	13.01	1.14	0.14
		.	69.96	27.35	2.39	0.30
		.	46.02	51.84	50.00	40.00
MARINE CORPS		71	124	59	4	2
		.	13.77	4.19	0.28	0.14
		.	74.90	22.73	1.54	0.77
		.	19.08	16.71	12.50	40.00
AIR FORCE		1	99	30	4	1
		.	7.04	2.13	0.28	0.07
		.	73.83	22.39	2.99	0.75
		.	9.73	9.50	12.50	20.00
COAST GUARD		2	23	16	2	0
		.	1.63	1.14	0.14	0.00
		.	56.10	39.02	4.88	0.00
		.	2.26	4.53	6.25	0.00
TOTAL		1017	353	32	5	1407
		.	72.28	25.09	2.27	0.35
						100.00

32. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?

- Normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA33

QAI	QA33	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		241 17.00 79.28 21.71	31 2.19 10.20 20.81	32 2.26 10.53 20.13	304 21.44
NAVY		534 37.66 78.65 49.11	74 5.22 10.90 49.66	71 5.01 10.46 44.65	679 47.88
MARINE CORPS		192 13.54 74.13 17.30	31 2.19 11.97 20.81	36 2.54 13.90 22.64	259 18.27
AIR FORCE		111 7.83 42.22 10.00	8 0.56 5.93 5.37	16 1.13 11.85 10.06	135 9.52
COAST GUARD		32 2.26 78.05 2.89	5 0.35 12.20 3.35	4 0.28 9.76 2.52	41 2.89
TOTAL		1110 78.28	149 10.51	159 11.21	1418 100.00

33. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA34

QA1	QA34		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
		10	0	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		1	49	246	12	307
		•	3.27	16.41	0.80	20.48
		•	15.96	80.13	3.91	
		•	24.50	20.43	12.63	
NAVY		11	80	556	50	686
		•	5.34	37.09	3.34	45.76
		•	11.66	91.05	7.29	
		•	40.00	46.18	52.63	
MARINE CORPS		2	49	258	21	328
		•	3.27	17.21	1.40	21.88
		•	14.94	78.66	6.40	
		•	24.50	21.43	22.11	
AIR FORCE		0	16	110	9	135
		•	1.07	7.34	0.60	9.01
		•	11.65	81.48	6.67	
		•	8.00	9.14	9.47	
COAST GUARD		0	6	34	3	43
		•	0.40	2.27	0.20	2.87
		•	13.95	79.07	6.98	
		•	3.00	2.82	3.16	
TOTAL		•	200	1204	95	1499
		•	13.34	80.32	6.34	100.00

34. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA35

QA1	QA35	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1	0

ARMY	.	14	279	14	307
	.	0.93	18.61	0.93	20.48
	.	4.56	90.98	4.56	
NAVY	.	16.47	21.09	15.38	686
	.	42	594	50	45.76
	.	2.80	39.63	3.34	
MARINE CORPS	.	6.12	86.59	7.22	328
	.	49.41	44.90	54.95	21.88
	.	18	292	18	
AIR FORCE	.	1.20	19.48	1.20	135
	.	5.49	89.02	5.49	9.01
	.	21.18	22.07	19.78	
COAST GUARD	.	8	121	6	43
	.	0.53	8.07	0.40	2.87
	.	5.93	99.63	4.44	
TOTAL	.	9.41	9.15	6.59	1499
	.	3	37	3	100.00
	.	0.20	2.47	0.20	
.	6.98	86.05	6.98		
.	3.53	2.80	3.30		
.	85	1323	91		
.	5.67	88.26	6.07		

35. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?

Yes.....1
No.....2
No opinion.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA36

QAI	QA36	1	2	3	4	TOTAL
FREQUENCY						
ROW PCT						
COL PCT						
ARMY		43	54	85	123	305
		2.92	3.66	5.77	8.34	20.69
		14.10	17.70	27.87	40.33	
		24.71	27.27	23.22	16.71	
NAVY		80	86	176	328	670
		5.43	5.83	11.94	22.25	45.45
		11.94	12.84	26.27	48.96	
		45.93	43.43	48.09	44.57	
MARINE CORPS		23	39	64	133	324
		1.90	2.65	4.34	13.09	21.98
		8.64	12.04	19.75	39.57	
		16.09	19.70	17.49	26.22	
AIR FORCE		20	13	33	65	132
		1.36	0.88	2.24	4.48	9.96
		15.15	9.55	25.00	50.00	
		11.40	6.57	9.02	8.97	
COAST GUARD		3	6	8	26	43
		0.20	0.41	0.54	1.76	2.92
		6.28	13.55	18.60	60.47	
		1.72	3.03	2.19	3.53	
TOTAL		174	198	366	736	1474
		11.90	13.43	24.83	49.93	100.00

36. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

...cates and other officers?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

Convening Authorities

FREQUENCIES BY SERVICE

TABLE OF QAI BY QA37

QAI	QA37				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2		
	10	1	0		•
	•	•	•		•
ARMY	2	103	203		306
	•	6.91	13.62		20.52
	•	33.66	66.34		
	•	18.46	21.75		
NAVY	13	263	421		694
	•	17.64	28.24		45.88
	•	38.45	61.55		
	•	47.13	45.12		
MARINE CORPS	6	127	197		324
	•	8.52	13.21		21.73
	•	39.20	60.80		
	•	22.76	21.11		
AIR FORCE	1	46	88		134
	•	3.09	5.90		8.99
	•	34.33	65.67		
	•	6.24	9.43		
COAST GUARD	0	19	24		43
	•	1.27	1.61		2.88
	•	44.19	55.81		
	•	3.41	2.57		
TOTAL	•	558	933		1491
	•	37.42	62.58		100.00

37. On balance, do you favor some provision for guaranteed terms of office for military trial judges?

Yes.....1
No.....2

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA38

QA1	QA38	1	2	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT				
	.	10	0	.

ARMY		134	171	305
		9.04	11.53	20.57
		43.93	56.07	
		19.71	21.30	
NAVY		321	357	678
		21.65	24.07	45.72
		47.35	52.65	
		47.21	44.46	
MARINE CORPS		156	167	323
		10.52	11.26	21.78
		48.30	51.70	
		22.94	20.80	
AIR FORCE		51	83	134
		3.44	5.60	9.04
		38.06	61.94	
		7.50	10.34	
COAST GUARD		18	25	43
		1.21	1.69	2.90
		41.86	58.14	
		2.65	3.11	
TOTAL		680	803	1483
		45.85	54.15	100.00

38. On balance, do you favor some provision for guaranteed terms of office for CMR judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA39

QAI	QA39	1	2	3	4	TOTAL
FREQUENCY		10	0	1	0	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		6	19	105	141	302
		•	1.30	7.17	9.63	20.63
		•	6.29	34.77	46.69	12.25
		•	27.14	25.24	18.75	16.37
NAVY		32	33	184	344	665
		•	2.25	12.57	23.50	45.42
		•	4.91	27.67	51.73	15.64
		•	47.14	44.23	45.74	46.02
MARINE CORPS		8	8	70	178	322
		•	0.55	4.78	12.16	21.99
		•	2.48	21.74	55.28	13.4
		•	11.43	16.83	23.67	9.15
AIR FORCE		1	5	45	69	134
		•	0.34	3.07	4.71	9.15
		•	3.73	33.58	51.49	11.19
		•	7.14	10.82	9.19	6.64
COAST GUARD		2	5	12	20	41
		•	0.34	0.82	1.37	2.80
		•	12.20	29.27	48.78	9.76
		•	7.14	2.89	2.66	1.77
TOTAL		•	70	416	752	1464
		•	4.73	28.42	51.37	100.00

39. How informed are military judges regarding local military events and problems?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA40

QA1	QA40	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1	0	0

ARMY	5	13 0.38 4.29 13.00	89 6.04 29.37 22.70	150 10.18 47.50 21.34	51 3.46 16.83 18.35	303 20.57
NAVY	24	59 4.68 10.23 63.09	192 13.03 28.53 48.98	303 20.57 45.02 43.10	109 7.40 16.20 39.21	673 45.69
MARINE CORPS	8	14 0.95 4.35 14.00	76 5.16 23.60 19.39	159 10.79 49.38 22.62	73 4.96 22.67 26.26	322 21.86
AIR FORCE	1	3 0.20 2.24 3.00	27 1.83 20.15 6.39	71 4.82 52.99 10.10	33 2.24 24.63 11.87	134 9.10
COAST GUARD	2	1 0.07 2.44 1.00	8 0.54 19.51 2.04	20 1.36 48.78 2.84	12 0.81 29.27 4.32	41 2.78
TOTAL	.	100 6.79	392 26.61	703 47.73	278 18.87	1473 100.00

40. Are military judges aware of the disciplinary impact of their sentences on the command?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QAI BY JA42

QAI	FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	TOTAL
•	•	10	0	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		39	165	43	58	305
		2.63	11.14	2.90	3.92	20.59
		12.79	54.10	14.10	19.02	
		15.42	23.91	20.87	17.47	
NAVY		134	295	87	164	690
		9.05	19.92	5.87	11.07	45.91
		19.71	43.38	12.79	24.12	
		52.96	42.75	42.23	49.40	
MARINE CORPS		42	164	44	71	321
		2.84	11.07	2.97	4.79	21.67
		13.08	51.09	13.71	22.12	
		16.60	23.77	21.36	21.39	
AIR FORCE		28	53	30	23	134
		1.89	3.58	2.03	1.55	9.05
		20.90	39.55	22.39	17.16	
		11.07	7.58	14.56	6.93	
COAST GUARD		10	13	2	16	41
		0.58	0.68	0.14	1.08	2.77
		24.39	31.71	4.88	39.02	
		3.95	1.83	0.97	4.82	
TOTAL		253	690	206	332	1481
		17.08	46.59	13.91	22.42	100.00

42. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?

- Military judges.....1
- Members.....2
- No difference.....3
- Don't know.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA43

QA1	QA43	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	0	0	.
	10	.	.	.	.	.	.

ARMY	3	0	123	176	6	0	305
	.	0.00	8.37	11.97	0.41	0.00	20.75
	.	0.00	40.33	57.70	1.97	0.00	
NAVY	29	6	265	375	22	0	668
	.	0.41	18.03	25.51	1.50	0.00	45.44
	.	0.90	39.67	56.14	3.29	0.00	
MARINE CORPS	7	6	111	193	12	1	323
	.	0.41	7.55	13.13	0.82	0.07	21.97
	.	1.86	34.37	59.75	3.72	0.31	
AIR FORCE	1	0	52	71	1	0	134
	.	0.00	4.22	4.83	0.07	0.00	9.12
	.	0.00	46.27	52.99	0.75	0.00	
COAST GUARD	3	0	17	19	4	0	40
	.	0.00	1.16	1.29	0.27	0.00	2.72
	.	0.00	42.50	47.50	10.00	0.00	
TOTAL	.	12	578	834	45	1	1470
	.	0.82	39.32	56.73	3.06	0.07	100.00

43. How often do members give an inappropriate sentence (unreasonably lenient or harsh)?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA44

QA1	QA44	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT							
ARMY	4	0.14	6.54	12.94	1.09	0.00	20.71
	•	0.60	31.53	62.50	5.26	0.00	
	•	15.33	18.13	22.51	19.75	0.00	
NAVY	30	0.43	15.60	26.09	3.13	0.14	667
	•	1.05	34.33	57.42	6.90	0.30	45.44
	•	53.85	43.37	45.38	56.79	100.00	
MARINE CORPS	7	0.14	7.56	13.22	1.09	0.00	323
	•	0.62	34.37	60.06	4.95	0.00	22.00
	•	15.38	21.02	22.99	19.75	0.00	
AIR FORCE	1	0.07	5.18	3.81	0.07	0.00	134
	•	0.75	56.72	41.79	0.75	0.00	9.13
	•	7.69	14.39	6.64	1.23	0.00	
COAST GUARD	3	0.07	1.09	1.43	0.14	0.00	40
	•	2.50	40.00	52.50	5.00	0.00	2.72
	•	7.69	3.03	2.49	2.47	0.00	
TOTAL	•	13	528	344	81	2	1468
	•	0.89	35.97	57.49	5.52	0.14	100.00

44. How often do judges give an inappropriate sentence (unreasonably lenient or harsh)?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE JF QA1 BY QA45

QA1	QA45	Convening Authorities					TOTAL
FREQUENCY PERCENT ROW PCT		1	2	3	4		
COL PCT							
ARMY	.	83 5.64 27.48 22.02	87 5.91 28.81 19.86	30 5.43 26.49 19.70	52 3.53 17.22 20.72	302 20.52	
NAVY	.	167 11.35 24.78 44.30	210 14.27 31.16 47.95	192 13.04 28.49 47.29	105 7.13 15.58 41.93	674 45.79	
MARINE CORPS	.	91 6.18 28.44 24.14	97 6.59 30.31 22.15	72 4.89 22.50 17.73	60 4.08 18.75 23.90	320 21.74	
AIR FORCE	.	30 2.04 22.39 7.95	28 1.90 20.90 6.39	51 3.46 38.06 12.56	25 1.70 18.66 9.96	134 9.10	
COAST GUARD	.	6 0.41 14.29 1.50	16 1.09 38.10 3.65	11 0.75 26.19 2.71	9 0.61 21.43 3.59	42 2.85	
TOTAL	.	377 25.61	438 29.76	406 27.58	251 17.05	1472 100.00	

45. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system, and the command?

- Officer panels.....1
- Officer and enlisted panels....2
- Military judges.....3
- All are equally qualified.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA46

QA1	QA46		1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
	.	10	0	1	0	.

ARMY		4	76	171	57	304
	.	.	5.15	11.58	3.86	20.58
	.	.	25.00	56.25	18.75	
	.	.	16.39	24.39	18.27	
NAVY		18	245	291	143	679
	.	.	16.59	19.70	9.68	45.97
	.	.	36.08	42.86	21.06	
	.	.	52.80	41.51	45.83	
MARINE CORPS		12	76	160	82	318
	.	.	5.15	10.83	5.55	21.53
	.	.	23.90	50.31	25.79	
	.	.	16.38	22.82	26.28	
AIR FORCE		1	49	59	26	134
	.	.	3.32	3.99	1.76	9.07
	.	.	36.57	44.03	19.40	
	.	.	10.56	8.42	8.33	
COAST GUARD		1	18	20	4	42
	.	.	1.22	1.35	0.27	2.94
	.	.	42.86	47.62	9.52	
	.	.	3.38	2.85	1.28	
TOTAL		.	464	701	312	1477
	.	.	31.42	47.46	21.12	100.00

46. Can court members or military judges better determine an appropriate sentence for a given accused?

Military judges.....1
Court members.....2
No difference.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA47

QA1	QA47	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	1	0	.

ARMY	4	0	10	55	217	22	304
	.	0.00	0.58	3.73	14.71	1.49	20.61
	.	0.00	3.23	18.09	71.38	7.24	
	.	0.00	7.87	13.25	25.26	34.92	
NAVY	22	6	74	230	348	17	675
	.	0.41	5.02	15.59	23.59	1.15	45.76
	.	0.87	10.96	34.07	51.56	2.52	
	.	54.55	58.27	55.42	40.51	26.98	
MARINE CORPS	8	5	33	97	177	10	322
	.	0.34	2.24	6.58	12.00	0.68	21.83
	.	1.55	10.25	30.12	54.97	3.11	
	.	45.45	25.98	23.37	20.61	15.87	
AIR FORCE	2	0	5	21	93	14	133
	.	0.00	0.34	1.42	6.31	0.95	9.02
	.	0.00	3.76	15.79	69.22	10.53	
	.	0.00	3.34	5.06	10.83	22.22	
COAST GUARD	2	0	5	12	24	0	41
	.	0.00	0.34	0.81	1.63	0.00	2.78
	.	0.00	12.20	29.27	58.54	0.00	
	.	0.00	3.94	2.89	2.79	0.00	
TOTAL	.	11	127	415	859	63	1475
	.	0.75	8.61	28.14	58.24	4.27	100.00

47. How often do convening authorities select the "best qualified" personnel for courts-martial duty?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA49

QAI	QA49	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	5	38 2.57 12.54 47.50	162 10.95 53.47 35.60	91 6.15 30.03 13.27	12 0.81 3.96 4.84	0 0.00 0.00 0.00	303 20.47
NAVY	20	17 1.15 2.51 21.25	133 8.99 19.65 29.23	370 25.00 54.65 53.94	150 10.14 22.16 60.48	7 0.47 1.03 63.54	677 45.74
MARINE CORPS	6	9 0.61 2.78 11.25	84 5.68 25.93 18.46	151 10.20 46.60 22.01	76 5.14 23.46 30.65	4 0.27 1.23 36.36	324 21.89
AIR FORCE	1	16 1.08 11.94 20.00	62 4.19 46.27 13.63	51 3.45 38.06 7.43	5 0.34 3.73 2.02	0 0.00 0.00 0.00	134 9.05
COAST GUARD	1	0 0.00 0.00 0.00	14 0.95 33.33 3.08	23 1.55 54.76 3.35	5 0.34 11.90 2.02	0 0.00 0.00 0.00	42 2.84
TOTAL		80 5.41	455 30.74	686 46.35	248 16.76	11 0.74	1480 100.00

48. How often do you believe convening authorities select court members for such duty based primarily upon their relative expendability?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA49

QA1	QA49	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT							
		10	0	0	1	0	•
		•	•	•	•	•	•
		•	•	•	•	•	•
		•	•	•	•	•	•
ARMY		1	0.00	22	75	210	307
		•	0.00	1.47	5.01	14.02	20.49
		•	0.00	7.17	24.43	68.40	
		•	0.00	10.43	15.82	26.68	
NAVY		10	22	149	254	262	687
		•	1.47	9.95	16.96	17.49	45.86
		•	3.20	21.69	36.97	38.14	
		•	84.62	70.62	53.59	33.29	
MARINE CORPS		3	2	32	97	196	327
		•	0.13	2.14	6.48	13.08	21.83
		•	0.61	9.79	29.66	59.94	
		•	7.69	15.17	20.46	24.90	
AIR FORCE		1	1	3	34	96	134
		•	0.07	0.20	2.27	6.41	8.95
		•	0.75	2.24	25.37	71.64	
		•	3.85	1.42	7.17	12.20	
COAST GUARD		0	1	5	14	23	43
		•	0.07	0.33	0.93	1.54	2.87
		•	2.33	11.63	32.56	53.49	
		•	3.85	2.37	2.95	2.92	
TOTAL		•	26	211	474	787	1498
		•	1.74	14.09	31.64	52.54	100.00

49. How meaningful or valuable an experience do you consider court-martial duty in terms of leadership and management training for junior officers?

- Not at all.....1
- Slightly.....2
- Somewhat3
- Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA50

QAI	QA50	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	.

ARMY	1	285	16	6	307
	.	19.01	1.07	0.40	20.48
	.	92.83	5.21	1.95	
	.	23.04	8.16	9.09	
NAVY	8	501	139	49	689
	.	33.42	9.27	3.27	45.96
	.	72.71	20.17	7.11	
	.	40.50	70.92	74.24	
MARINE CORPS	4	287	29	10	326
	.	19.15	1.93	0.57	21.75
	.	88.04	8.90	3.07	
	.	23.20	14.80	15.15	
AIR FORCE	1	125	8	1	134
	.	8.34	0.53	0.07	8.94
	.	93.28	5.97	0.75	
	.	10.11	4.08	1.52	
COAST GUARD	0	39	4	0	43
	.	2.50	0.27	0.00	2.87
	.	90.70	9.30	0.00	
	.	3.15	2.04	0.00	
TOTAL	.	1237	196	66	1499
	.	82.52	13.08	4.40	100.00

50. Do you believe that duty as a court-martial member better prepares a junior officer to command?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA51

QAI	QA51	1	2	3	4	TOTAL
FREQUENCY		10	0	1	0	0
PERCENT	
ROW PCT	
COL PCT	
ARMY		24	73	129	60	284
		1.77	5.89	10.40	4.84	22.90
		7.75	25.70	45.42	21.13	
		12.87	17.63	26.01	37.74	
NAVY		197	199	171	37	500
		7.50	16.05	13.79	2.98	40.32
		18.60	39.80	34.20	7.40	
		54.39	48.07	34.48	23.27	
MARINE CORPS		37	94	134	40	293
		2.02	7.58	10.81	3.23	23.63
		8.53	32.08	45.73	13.65	
		14.62	22.71	27.02	25.16	
AIR FORCE		11	32	52	21	124
		1.53	2.58	4.19	1.69	10.00
		15.32	25.81	41.94	16.94	
		11.11	7.73	10.48	13.21	
COAST GUARD		4	16	10	1	39
		0.97	1.29	0.81	0.08	3.15
		30.77	41.03	25.64	2.56	
		7.02	3.86	2.02	0.63	
TOTAL		171	414	496	159	1240
		13.79	33.39	40.00	12.82	100.00

51. If your answer to #50 is "yes", then, if members continue to judge findings to the same extent as is now the case, would the switch to judge-alone sentencing adversely effect the preparation of junior officers for command?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA52

QA1	QA52	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	0	0	.

ARMY	8	30	88	127	43	12	300
	.	2.04	5.99	8.65	2.93	0.82	20.44
	.	10.00	29.33	42.33	14.33	4.00	
NAVY	24	248	222	167	26	10	673
	.	16.89	15.12	11.38	1.77	0.68	45.84
	.	36.85	32.99	24.81	3.86	1.49	
MARINE CORPS	9	54	123	114	26	4	321
	.	3.68	8.38	7.77	1.77	0.27	21.87
	.	16.82	38.32	35.51	8.10	1.25	
AIR FORCE	2	12	46	50	16	9	133
	.	0.82	3.13	3.41	1.09	0.61	9.06
	.	9.02	34.59	37.59	12.03	6.77	
COAST GUARD	2	6	17	16	2	0	41
	.	0.41	1.16	1.09	0.14	0.00	2.79
	.	14.63	41.46	39.02	4.88	0.00	
TOTAL	.	350	496	474	113	35	1468
	.	23.84	33.79	32.29	7.70	2.38	100.00
	.						

52. In relation to the requirements of present and future combat operations how important do you consider duty as a court-martial member?

- Not at all.....1
- Not as important.....2
- About the same importance.....3
- More important.....4
- Much more important.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA53

QA1 FREQUENCY PERCENT ROW PCT COL PCT	QA53	1	2	3	4	5	TOTAL
.	.	10	0	0	1	0	.
.
.
ARMY	.	8	38	165	71	15	300
	.	0.75	2.59	11.26	4.84	1.02	20.46
	.	3.57	12.67	55.00	23.67	5.00	
	.	8.59	11.28	22.95	31.84	25.42	
NAVY	.	26	235	282	72	12	671
	.	1.00	13.98	19.24	4.91	0.82	45.77
	.	6.82	30.55	42.03	10.73	1.79	
	.	14.90	60.33	39.22	32.29	20.34	
MARINE CORPS	.	10	62	136	46	15	320
	.	0.75	4.23	12.69	3.14	1.02	21.93
	.	3.44	19.38	58.13	14.38	4.69	
	.	8.59	18.40	25.87	20.63	25.42	
AIR FORCE	.	1	20	68	27	16	134
	.	0.20	1.36	4.64	1.84	1.09	9.14
	.	2.24	14.93	50.75	20.15	11.94	
	.	2.34	5.93	9.46	12.11	27.12	
COAST GUARD	.	2	12	18	7	1	41
	.	0.20	0.82	1.23	0.48	0.07	2.90
	.	7.32	29.27	43.90	17.07	2.44	
	.	2.34	3.56	2.50	3.14	1.69	
TOTAL	.	123	337	719	223	59	1466
	.	8.73	22.99	49.05	15.21	4.02	100.00

53. In relation to the requirements of present and future peacetime training how important do you consider duty as a court-martial member?

- Not important at all.....1
- Not as important.....2
- About the same importance.....3
- More important.....4
- Much more important.....5

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA54

QA1	QA54		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
	.	10	1	0	0	.

ARMY		6	66	185	51	302
		.	4.46	12.50	3.45	20.41
		.	21.85	61.26	16.89	
		.	21.43	19.21	24.40	
NAVY		20	118	472	87	677
		.	7.97	31.89	5.88	45.74
		.	17.43	69.72	12.85	
		.	39.31	49.01	41.63	
MARINE CORPS		5	84	199	42	325
		.	5.68	13.45	2.84	21.96
		.	25.85	61.23	12.92	
		.	27.27	20.66	20.10	
AIR FORCE		1	34	79	21	134
		.	2.30	5.34	1.42	9.05
		.	25.37	58.96	15.67	
		.	11.04	8.20	10.05	
COAST GUARD		1	6	28	8	42
		.	0.41	1.89	0.54	2.84
		.	14.29	66.67	19.05	
		.	1.95	2.91	3.83	
TOTAL		.	308	963	209	1480
		.	20.81	65.07	14.12	100.00

54. Would a change to military judge alone sentencing deprive an accused of a substantial right?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA55

QA1	QA55	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	1	0	0

ARMY	.	5	127	132	44
	.	.	8.57	8.91	2.97
	.	.	41.91	43.56	14.52
NAVY	.	20	258	342	77
	.	.	17.41	23.08	5.20
	.	.	38.11	50.52	11.37
MARINE CORPS	.	4	131	158	37
	.	.	8.94	10.66	2.50
	.	.	40.18	48.47	11.35
AIR FORCE	.	1	59	51	24
	.	.	3.98	3.44	1.62
	.	.	44.03	38.06	17.91
COAST GUARD	.	1	15	22	5
	.	.	1.01	1.48	0.34
	.	.	35.71	52.38	11.90
TOTAL	.	590	705	187	1482
	.	39.81	47.57	12.62	100.00

55. Would a change to military judge alone sentencing appear to deprive an accused of a substantial right?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA56

QAI	QA56	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT					
	.	10	0	0	.

ARMY		208	64	31	303
	.	14.07	4.33	2.10	20.50
	.	69.65	21.12	10.23	
	.	19.55	25.60	19.90	
NAVY		514	86	73	673
	.	34.78	5.82	4.94	45.53
	.	76.37	12.78	10.85	
	.	48.31	34.40	44.51	
MARINE CORPS		228	62	36	326
	.	15.43	4.19	2.44	22.06
	.	69.94	19.02	11.04	
	.	21.43	24.80	21.95	
AIR FORCE		79	35	20	134
	.	5.35	2.37	1.35	9.07
	.	58.96	26.12	14.93	
	.	7.42	14.00	12.20	
COAST GUARD		35	3	4	42
	.	2.37	0.20	0.27	2.84
	.	63.33	7.14	9.52	
	.	3.29	1.20	2.44	
TOTAL		1064	250	164	1478
	.	71.99	16.91	11.10	100.00

56. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA57

QA1	QA57	1	2	3	4	TOTAL
FREQUENCY		10	0	0	0	0
PERCENT	
ROW PCT	
COL PCT	
ARMY		7	132	7	73	301
		6.13	9.09	0.48	5.03	20.73
		29.57	43.85	2.33	24.25	
		18.43	22.84	15.91	21.04	
NAVY		43	243	11	146	654
		17.49	16.74	0.76	10.06	45.04
		38.84	37.16	1.68	22.32	
		52.59	42.04	25.00	42.07	
MARINE CORPS		7	129	14	89	323
		6.27	8.88	0.96	6.13	22.25
		28.17	39.94	4.33	27.55	
		18.84	22.32	31.82	25.65	
AIR FORCE		2	56	12	32	133
		2.27	3.86	0.83	2.20	9.16
		24.81	42.11	9.02	24.06	
		6.93	9.69	27.27	9.22	
COAST GUARD		2	18	0	7	41
		1.10	1.24	0.00	0.48	2.82
		39.02	43.90	0.00	17.07	
		3.31	3.11	0.00	2.02	
TOTAL		483	578	44	347	1452
		33.26	39.81	3.03	23.90	100.00

57. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?

- Reduce frequency.....1
- No effect.....2
- Increase frequency.....3
- Merely shift focus to military judge.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA58

QA1	QA58		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.					
			10	0	1	.
		
		
		
ARMY		9	75	161	63	299
		.	5.10	10.94	4.28	20.33
		.	25.08	53.85	21.07	
		.	33.94	16.48	23.08	
NAVY		18	75	491	113	679
		.	5.10	33.38	7.68	46.16
		.	11.05	72.31	16.64	
		.	33.94	50.26	41.39	
MARINE CORPS		7	47	212	64	323
		.	3.20	14.41	4.35	21.96
		.	14.55	65.63	19.81	
		.	21.27	21.70	23.44	
AIR FORCE		7	20	84	24	128
		.	1.36	5.71	1.63	8.70
		.	15.63	65.63	18.75	
		.	9.05	8.60	8.79	
COAST GUARD		1	4	29	9	42
		.	0.27	1.97	0.61	2.86
		.	9.52	69.05	21.43	
		.	1.81	2.97	3.30	
TOTAL		.	221	977	273	1471
		.	15.02	66.42	18.56	100.00

58. Knowing that an accused currently has the option to reject members' sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA59

QAI	QA59	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT CUL PCT	.	10	0	0	.

ARMY	17	166 11.48 57.04 24.59	102 7.05 35.05 15.57	23 1.59 7.90 19.83	291 20.12
NAVY	27	257 17.77 38.36 38.07	359 24.83 53.58 54.81	54 3.73 8.06 46.55	670 46.33
MARINE CORPS	12	168 11.62 52.83 24.89	125 8.64 39.31 19.08	25 1.73 7.86 21.55	318 21.99
AIR FORCE	10	64 4.43 51.20 9.48	48 3.32 38.40 7.33	13 0.90 10.40 11.21	125 8.64
COAST GUARD	1	20 1.38 47.62 2.96	21 1.45 50.00 3.21	1 0.07 2.38 0.86	42 2.90
TOTAL	.	675 46.68	655 45.30	116 8.02	1446 100.00

59. If mandatory judge alone sentencing were adopted, would there be an appearance that command authority had been diminished?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA60

QAI	QA60	1	2	3	TOTAL
FREQUENCY		10	0	1	•
PERCENT		•	•	•	•
ROW PCT		•	•	•	•
COL PCT		•	•	•	•
ARMY		10	13	9	298
		•	0.88	0.61	20.29
		•	4.36	3.02	
		•	11.21	8.49	
NAVY		20	73	71	677
		•	4.97	4.83	46.09
		•	10.78	10.49	
		•	62.93	66.98	
MARINE CORPS		7	26	22	323
		•	1.77	1.50	21.99
		•	8.05	6.81	
		•	22.41	20.75	
AIR FORCE		6	3	3	129
		•	0.20	0.20	8.78
		•	2.33	2.33	
		•	2.59	2.83	
COAST GUARD		1	40	1	42
		•	0.07	0.07	2.86
		•	2.38	2.38	
		•	0.86	0.94	
TOTAL		•	116	106	1469
		•	7.90	7.22	100.00
			84.89		

60. In general, do you favor reduction of commanders' responsibility and corresponding authority regarding military justice matters?

Yes.....1
No.....2
Depends upon the circumstances.3

Convening Authorities

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA61

QA1	QA61	1	2	3	4	TOTAL
FREQUENCY		10	0	0	0	10
PERCENT		0	0	0	0	0
ROW PCT		0	0	0	0	0
COL PCT		0	0	0	0	0
ARMY		8	94	130	32	300
		3.01	6.43	8.89	2.19	20.51
		14.67	31.33	43.33	10.67	
		14.29	19.75	23.99	23.36	
NAVY		20	234	217	47	677
		12.24	15.99	14.83	3.21	46.27
		26.44	34.56	32.05	6.94	
		58.12	49.16	40.04	34.31	
MARINE CORPS		13	98	131	43	317
		3.08	6.70	8.95	2.94	21.67
		14.20	30.91	41.32	13.56	
		14.61	20.59	24.17	31.39	
AIR FORCE		8	35	52	11	127
		1.98	2.39	3.55	0.75	8.68
		22.83	27.56	40.94	8.66	
		9.42	7.35	9.59	8.03	
COAST GUARD		1	15	12	4	42
		0.75	1.03	0.82	0.27	2.87
		26.19	35.71	28.57	9.52	
		3.57	3.15	2.21	2.92	
TOTAL		308	476	542	137	1463
		21.05	32.54	37.05	9.36	100.00

61. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?

Not at all.....1
Slight.....2
Some.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA62

QA1	QA62	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1	.

ARMY	6	55	133	114	302
	.	3.73	9.02	7.73	20.49
	.	13.21	44.04	37.75	
NAVY	17	225	300	155	680
	.	15.26	20.35	10.52	46.13
	.	33.09	44.12	22.79	
MARINE CORPS	9	79	119	123	321
	.	5.36	8.07	8.34	21.78
	.	24.61	37.07	38.32	
AIR FORCE	6	26	56	47	129
	.	1.76	3.80	3.19	8.75
	.	20.16	43.41	36.43	
COAST GUARD	1	15	13	14	42
	.	1.02	0.88	0.95	2.85
	.	35.71	30.95	33.33	
TOTAL	.	400	621	453	1474
	.	27.14	42.13	30.73	100.00
	.				

62. An accused has traditionally had the option to be tried and sentenced by members. How important a factor is this tradition in determining whether military judges should adjudge all sentences in noncapital cases?

Not important.....1
Somewhat important.....2
Very important.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA63

QAI	QA63	1	2	3	TOTAL
FREQUENCY		10	0	1	•
PERCENT		•	•	•	•
ROW PCT		•	•	•	•
COL PCT		•	•	•	•
ARMY		6	229	42	302
		•	15.55	2.85	20.50
		•	75.83	13.91	
		•	23.23	16.09	
NAVY		17	421	148	680
		•	28.58	10.05	46.16
		•	61.91	21.76	
		•	42.70	56.70	
MARINE CORPS		9	212	46	321
		•	14.39	3.12	21.79
		•	66.04	14.33	
		•	21.50	17.62	
AIR FORCE		7	99	15	128
		•	6.72	1.02	8.69
		•	77.34	11.72	
		•	10.04	5.75	
COAST GUARD		1	25	10	42
		•	1.70	0.68	2.85
		•	59.52	23.81	
		•	2.54	3.83	
TOTAL		•	986	261	1473
		•	66.94	17.72	100.00

63. If military judges were given sole sentencing authority and court members tried only the issue of guilt should the system used to select court members be changed to require random selection of court members?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA64

QA1	QA64		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1	0	.
	
	
ARMY	.	6	43	197	62	302
		.	2.93	13.40	4.22	20.54
		.	14.24	65.23	20.53	
NAVY	.	21	100	410	166	676
		.	6.80	27.89	11.29	45.99
		.	14.79	60.65	24.56	
MARINE CORPS	.	11	63	206	50	319
		.	4.29	14.01	3.40	21.70
		.	19.75	64.58	15.67	
AIR FORCE	.	4	22	97	12	131
		.	1.50	6.60	0.82	8.91
		.	16.79	74.05	9.16	
COAST GUARD	.	1	11	26	5	42
		.	0.75	1.77	0.34	2.86
		.	26.19	61.90	11.90	
TOTAL	.	.	239	936	295	1470
		.	16.26	63.67	20.07	100.00
		.				

64. If random selection of members were used under these circumstances, should selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused who meet present statutory qualifications of age, experience, etc?

- All members not junior to the accused.....1
- All members not junior to the accused meeting present qualifications.....2
- No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA65

QA1 FREQUENCY PERCENT ROW PCT COL PCT	QA65			TOTAL
	1	2	3	
	10	0	0	•
	•	•	•	•
	•	•	•	•
ARMY	2	234	32	306
	2.69	15.73	2.15	20.56
	13.07	76.47	10.46	
	24.84	19.93	20.92	
NAVY	14	541	74	683
	4.57	36.36	4.97	45.90
	9.96	79.21	10.83	
	42.24	46.08	48.37	
MARINE CORPS	6	254	31	324
	2.62	17.07	2.08	21.77
	12.04	78.40	9.57	
	24.22	21.64	20.26	
AIR FORCE	2	111	12	133
	0.67	7.46	0.81	8.94
	7.52	83.46	9.02	
	6.21	9.45	7.84	
COAST GUARD	1	34	4	42
	0.27	2.28	0.27	2.82
	9.52	90.95	9.52	
	2.48	2.90	2.61	
TOTAL	•	161	153	1488
	10.82	78.90	10.28	100.00

65. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or military judge for sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA66

QA1	QA66	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	1	0	0	.

ARMY	3	103	176	26	305	20.55
	.	6.94	11.86	1.75	20.55	
	.	33.77	57.70	8.52	100.00	
	.	18.66	22.68	16.67	58.01	
NAVY	14	256	341	86	683	46.02
	.	17.25	22.98	5.80	46.02	
	.	37.48	49.93	12.59	100.00	
	.	46.38	43.94	55.13	145.45	
MARINE CORPS	7	134	163	26	323	21.77
	.	9.03	10.98	1.75	21.77	
	.	41.49	50.46	8.05	100.00	
	.	24.28	21.01	16.67	61.96	
AIR FORCE	3	40	78	14	132	8.89
	.	2.70	5.26	0.94	8.89	
	.	30.30	59.09	10.61	100.00	
	.	7.25	10.05	8.97	26.27	
COAST GUARD	2	19	18	4	41	2.76
	.	1.28	1.21	0.27	2.76	
	.	46.34	43.90	9.76	100.00	
	.	3.44	2.32	2.56	8.32	
TOTAL	.	552	776	156	1484	100.00
	.	37.20	52.29	10.51	100.00	

66. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court-members be provided by law?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA67

QA1	QA67	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.				
	10	1	0	0	.

ARMY	4	97	145	62	304
	.	6.54	9.78	4.18	20.50
	.	31.91	47.70	20.39	
NAVY	15	204	291	187	682
	.	13.76	19.62	12.61	45.99
	.	29.91	42.67	27.42	
MARINE CORPS	7	132	128	63	323
	.	8.90	8.63	4.25	21.78
	.	40.87	39.63	19.50	
AIR FORCE	3	43	67	22	132
	.	2.90	4.52	1.48	8.90
	.	32.58	50.76	16.67	
COAST GUARD	1	10	25	7	42
	.	0.67	1.69	0.47	2.83
	.	23.81	59.52	16.67	
TOTAL	.	486	656	341	1483
	.	32.77	44.23	22.99	100.00

67. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where members have already arrived at findings?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA68

QA1	QA68	0	1	2	3	TOTAL
FREQUENCY		10	1	0	0	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		3	120	147	38	305
		•	8.08	9.90	2.56	20.54
		•	39.34	49.20	12.46	
		•	20.17	21.12	19.59	
NAVY		16	294	296	91	681
		•	19.80	19.93	6.13	45.86
		•	43.17	42.47	13.35	
		•	49.41	42.53	46.91	
MARINE CORPS		5	120	163	41	324
		•	8.08	10.98	2.76	21.82
		•	37.04	50.31	12.65	
		•	20.17	23.42	21.13	
AIR FORCE		2	39	78	16	133
		•	2.53	5.25	1.08	8.96
		•	29.32	58.65	12.03	
		•	6.55	11.21	8.25	
COAST GUARD		1	22	12	3	42
		•	1.48	0.81	0.54	2.83
		•	52.39	28.57	19.05	
		•	3.70	1.72	4.12	
TOTAL		•	595	696	194	1485
		•	40.07	46.67	13.06	100.00

68. If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA69

QAI	QA69	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	.

ARMY	2	92	170	44	306
.	6.18	11.42	2.96	2.96	20.56
.	30.07	55.56	14.38	14.38	
.	17.23	23.81	13.33	13.33	
NAVY	14	263	296	124	683
.	17.67	19.89	8.33	8.33	45.90
.	38.51	43.34	19.16	19.16	
.	49.25	41.46	51.67	51.67	
MARINE CORPS	6	115	167	42	324
.	7.73	11.22	2.82	2.82	21.77
.	35.49	51.54	12.96	12.96	
.	21.54	23.39	17.50	17.50	
AIR FORCE	2	49	61	23	133
.	3.29	4.10	1.55	1.55	8.94
.	36.84	45.86	17.29	17.29	
.	9.19	8.54	9.58	9.58	
COAST GUARD	1	15	20	7	42
.	1.01	1.34	0.47	0.47	2.82
.	35.71	47.62	16.67	16.67	
.	2.81	2.80	2.92	2.92	
TOTAL	.	534	714	240	1488
.	35.89	47.98	16.13	16.13	100.00

69. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA70

QA1	QA70	1	2	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	.
	.	1	.	.

ARMY	2	69	237	306
	.	4.66	15.99	20.65
	.	22.55	77.45	
	.	14.11	23.87	
NAVY	20	273	404	677
	.	18.42	27.26	45.68
	.	40.32	59.68	
	.	55.83	40.68	
MARINE CORPS	6	86	238	324
	.	5.80	16.06	21.86
	.	26.54	73.46	
	.	17.59	23.97	
AIR FORCE	2	40	93	133
	.	2.70	6.28	8.97
	.	30.08	69.92	
	.	8.14	9.37	
COAST GUARD	1	21	21	42
	.	1.42	1.42	2.83
	.	50.00	50.00	
	.	4.29	2.11	
TOTAL	.	489	993	1482
	.	33.00	67.00	100.00

70. On balance, do you favor sentencing only by military judges in all non-capital cases?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA71

QAI	QA71	1	2	3	4	5	6	TOTAL
FREQUENCY		10	0	0	0	0	0	•
PERCENT		•	•	•	•	•	•	•
ROW PCT		•	•	•	•	•	•	•
COL PCT		•	•	•	•	•	•	•
ARMY		10	82	60	19	5	7	298
		•	5.67	4.15	1.31	0.35	0.48	20.62
		•	27.52	20.13	6.38	1.68	2.35	41.95
		•	16.43	21.98	16.10	14.71	7.79	29.00
NAVY		39	275	107	49	15	62	658
		•	19.03	7.40	3.39	1.04	4.29	45.54
		•	41.79	16.26	7.45	2.28	9.42	22.80
		•	55.11	39.19	41.53	44.12	58.89	34.80
MARINE CORPS		13	84	57	38	12	13	317
		•	5.81	3.94	2.63	0.83	0.90	21.94
		•	26.50	17.98	11.99	3.79	4.10	35.65
		•	16.83	20.88	32.20	35.29	14.44	26.22
AIR FORCE		4	44	45	10	2	7	131
		•	3.04	3.11	0.69	0.14	0.48	9.07
		•	33.59	34.35	7.63	1.53	5.34	17.56
		•	8.82	16.48	8.47	5.88	7.78	5.34
COAST GUARD		2	14	4	2	0	1	41
		•	0.97	0.28	0.14	0.00	0.07	2.84
		•	34.15	9.75	4.88	0.00	2.44	48.78
		•	2.81	1.47	1.69	0.00	1.11	4.64
TOTAL		•	499	273	118	34	90	1445
		•	34.53	18.89	8.17	2.35	6.23	100.00

71. In approximately what percentage of the special/general courts-martial convened in your command have military judges recommended that a portion or all of the sentence be suspended?

0%.....	1
1-5%.....	2
6-10%.....	3
11-15%.....	4
Over 15%.....	5
Don't know.....	6

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA72

QA1	QA72	1	2	3	4	5	6	7	TOTAL
ARMY	FREQUENCY	150	35	55	7	4	14	13	278
	PERCENT	11.07	2.58	4.06	0.52	0.30	1.03	0.96	20.52
	ROW PCT	53.96	12.59	19.78	2.52	1.44	5.04	4.68	
NAVY	FREQUENCY	367	64	93	19	12	17	57	629
	PERCENT	27.08	4.72	6.86	1.40	0.89	1.25	4.21	46.42
	ROW PCT	58.35	10.17	14.79	3.02	1.91	2.70	9.06	
MARINE CORPS	FREQUENCY	49.59	42.11	37.20	39.58	41.38	37.78	62.64	283
	PERCENT	13.5	3.9	6.3	1.8	7	8	13	20.89
	ROW PCT	9.96	2.88	4.55	1.33	0.52	0.59	0.96	
AIR FORCE	FREQUENCY	47.70	13.78	22.26	6.36	2.47	2.83	4.59	127
	PERCENT	18.24	25.66	25.20	37.50	24.14	17.78	14.29	9.37
	ROW PCT	7.84	7.89	13.60	8.33	20.69	13.33	7.69	
COAST GUARD	FREQUENCY	30	2	5	0	0	0	1	38
	PERCENT	2.21	0.15	0.37	0.00	0.00	0.00	0.07	2.80
	ROW PCT	78.95	5.26	13.16	0.00	0.00	0.00	2.63	
TOTAL	FREQUENCY	740	152	250	48	29	45	91	1355
	PERCENT	54.61	11.22	18.45	3.54	2.14	3.32	6.72	100.00
	ROW PCT								

72. What percentage of the suspension recommendations have you or your supervisory authority followed?

- No recommendations.....1
- 0%.....2
- 1-25%.....3
- 26-50%.....4
- 51-75%.....5
- 76-95%.....6
- Over 95%.....7

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA73

QA1	QA73	0	1	2	3	TOTAL
FREQUENCY		10	0	1	0	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		3	57	171	77	305
		•	3.90	11.70	5.27	20.88
		•	18.69	56.07	25.25	
		•	19.00	20.55	23.40	
NAVY		28	133	389	147	669
		•	9.10	26.63	10.06	45.79
		•	19.88	58.15	21.97	
		•	44.33	46.75	44.69	
MARINE CORPS		13	64	184	69	317
		•	4.39	12.59	4.72	21.70
		•	20.19	58.04	21.77	
		•	21.33	22.12	20.97	
AIR FORCE		7	38	63	27	128
		•	2.60	4.31	1.85	8.76
		•	29.69	49.22	21.09	
		•	12.67	7.57	8.21	
COAST GUARD		1	8	25	9	42
		•	0.55	1.71	0.62	2.87
		•	19.05	59.52	21.43	
		•	2.57	3.00	2.74	
TOTAL		•	300	832	329	1461
		•	20.53	56.95	22.52	100.00

73. Currently does a military judge have adequate information upon which to base a suspension decision?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA74

QA1	QA74		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	1	0	0	.
	
	
ARMY	.	3	275	13	17	305
		.	13.75	0.89	1.16	20.79
		.	90.16	4.26	5.57	
NAVY	.	23	565	47	62	674
		.	38.51	3.20	4.23	45.94
		.	83.83	6.97	9.20	
MARINE CORPS	.	12	282	17	19	318
		.	13.22	1.16	1.30	21.68
		.	88.58	5.35	5.97	
AIR FORCE	.	7	109	12	7	128
		.	7.43	0.82	0.48	8.73
		.	85.16	9.38	5.47	
COAST GUARD	.	1	34	4	4	42
		.	2.32	0.27	0.27	2.86
		.	40.75	9.52	9.52	
TOTAL	.	.	1265	93	109	1467
		.	46.23	6.34	7.43	100.00
		.				

74. Do convening and supervisory authorities have better information upon which to base a suspension than military judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA75

QAI	QA75	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
	.	10	0	0	.

ARMY		67	132	105	304
		4.57	9.01	7.17	20.75
		22.04	43.42	34.54	
		19.65	21.53	20.55	
NAVY		153	280	241	674
		10.44	19.11	16.45	46.01
		22.70	41.54	35.76	
		44.87	45.68	47.16	
MARINE CORPS		71	137	109	317
		4.85	9.35	7.44	21.64
		22.40	43.22	34.38	
		20.82	22.35	21.33	
AIR FORCE		44	49	35	128
		3.00	3.34	2.39	8.74
		34.38	38.28	27.34	
		12.90	7.99	6.85	
COAST GUARD		6	15	21	42
		0.41	1.02	1.43	2.87
		14.29	35.71	50.00	
		1.76	2.45	4.11	
TOTAL		341	613	511	1465
		23.28	41.84	34.88	100.00

75. Could military judges be given the same information as convening and supervisory authorities through modification of current military law?

Yes.....1
 No.....2
 Don't know.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA76

QA1	QA76		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
	.	10	0	1	0	.

ARMY		5	70	166	67	303
		.	4.80	11.38	4.59	20.77
		.	23.10	54.79	22.11	
		.	19.39	22.31	18.93	
NAVY		26	170	331	170	671
		.	11.65	22.69	11.65	45.99
		.	25.34	49.33	25.34	
		.	47.09	44.49	48.02	
MARINE CORPS		15	70	167	78	315
		.	4.80	11.45	5.35	21.59
		.	22.22	53.02	24.76	
		.	19.39	22.45	22.03	
AIR FORCE		7	43	60	25	128
		.	2.95	4.11	1.71	8.77
		.	33.59	46.88	19.53	
		.	11.91	8.06	7.06	
COAST GUARD		1	8	20	14	42
		.	0.55	1.37	0.96	2.88
		.	19.05	47.62	33.33	
		.	2.22	2.69	3.95	
TOTAL		.	361	744	354	1459
		.	24.74	50.99	24.26	100.00

76. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA77

QA1	GA77	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	0	.

ARMY	4	233	46	24	1	304
	.	15.88	3.14	1.64	0.07	20.72
	.	76.54	15.13	7.89	0.33	
	.	23.25	17.76	13.95	2.94	
NAVY	22	439	130	91	15	675
	.	29.93	8.86	6.20	1.02	46.01
	.	65.04	19.26	13.44	2.22	
	.	43.81	50.19	52.91	44.12	
MARINE CORPS	12	209	57	40	13	319
	.	14.14	3.89	2.73	0.89	21.63
	.	65.41	17.92	12.58	4.09	
	.	20.76	22.01	23.26	38.24	
AIR FORCE	7	95	17	11	5	128
	.	6.48	1.16	0.75	0.34	8.73
	.	74.22	13.28	8.59	3.91	
	.	9.48	6.56	6.40	14.71	
COAST GUARD	1	27	9	6	0	42
	.	1.84	0.61	0.41	0.00	2.86
	.	64.29	21.43	14.29	0.00	
	.	2.69	3.47	3.49	0.00	
TOTAL	.	1002	259	172	34	1467
	.	68.30	17.66	11.72	2.32	100.00

77. How important a factor should manpower/personnel requirements be when considering whether an accused's sentence should be suspended?

- Not at all.....1
- Slight.....2
- Somewhat.....3
- Great.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA7B

QA1	QA7B	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	.

ARMY	3	240	40	25	305
	.	16.34	2.72	1.70	20.76
	.	78.69	13.11	8.20	
NAVY	21	457	139	80	676
	.	31.11	9.46	5.45	46.02
	.	67.60	20.56	11.83	
MARINE CORPS	12	259	42	17	318
	.	17.63	2.86	1.16	21.65
	.	81.45	13.21	5.35	
AIR FORCE	7	87	28	13	128
	.	5.92	1.91	0.88	8.71
	.	67.97	21.88	10.16	
COAST GUARD	1	31	8	3	42
	.	2.11	0.54	0.20	2.86
	.	73.81	19.05	7.14	
TOTAL	.	1074	257	138	1469
	.	73.11	17.49	9.39	100.00

78. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA79

QA1	QA79	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
		10	0	0	•
		•	•	•	•
		•	•	•	•
		•	•	•	•
ARMY		3	29	7	305
		269	1.98	0.48	20.79
		18.34	9.51	2.30	
		88.20	20.14	8.14	
		21.75			
NAVY		23	70	54	674
		550	4.77	3.68	45.94
		37.49	10.39	8.01	
		81.60	48.61	62.79	
		44.46			
MARINE CORPS		12	22	14	318
		282	1.50	0.95	21.68
		19.22	6.92	4.40	
		88.68	15.28	16.28	
		22.90			
AIR FORCE		7	19	10	128
		99	1.30	0.68	8.73
		6.75	14.84	7.81	
		77.34	13.19	11.63	
		8.00			
COAST GUARD		1	4	1	42
		37	0.27	0.07	2.86
		2.52	9.52	2.38	
		88.10	2.78	1.16	
		2.99			
TOTAL		•	144	86	1467
		1237	9.82	5.86	100.00
		84.32			

79. Would there be an appearance that command authority was diminished?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q41 BY QA80

QA1	QA80	1	2	3	TOTAL
FREQUENCY					
ROW PCT					
COL PCT					
ARMY	12	115	160	21	296
	.	8.32	11.57	1.52	21.40
	.	38.85	54.05	7.09	
	.	21.50	21.42	20.79	
NAVY	109	245	297	46	588
	.	17.72	21.48	3.33	42.52
	.	41.67	50.51	7.82	
	.	45.79	39.76	45.54	
MARINE CORPS	5	104	198	23	325
	.	7.52	14.32	1.65	23.50
	.	32.00	60.92	7.08	
	.	19.44	26.51	22.77	
AIR FORCE	3	56	68	8	132
	.	4.05	4.92	0.58	9.54
	.	42.42	51.52	6.06	
	.	10.47	9.10	7.92	
COAST GUARD	1	15	24	3	42
	.	1.08	1.74	0.22	3.04
	.	35.71	57.14	7.14	
	.	2.80	3.21	2.97	
TOTAL	.	535	747	101	1383
	.	38.63	54.01	7.30	100.00

80. If judge alone sentencing were required, does it logically follow that military judges also should have the power to suspend?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA81

QA1	QA81	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	0	1	0

ARMY	14	210	55	23	6	294
	.	15.25	3.99	1.67	0.44	21.35
	.	71.43	18.71	7.82	2.04	
	.	23.18	20.68	14.38	13.33	
NAVY	112	365	113	82	25	585
	.	26.51	8.21	5.95	1.82	42.48
	.	62.39	19.32	14.02	4.27	
	.	40.29	42.48	51.25	55.56	
MARINE CORPS	5	217	68	32	8	325
	.	15.76	4.94	2.32	0.58	23.60
	.	66.77	20.92	9.85	2.46	
	.	23.95	25.56	20.00	17.78	
AIR FORCE	4	89	20	19	3	131
	.	6.46	1.45	1.38	0.22	9.51
	.	67.94	15.27	14.50	2.29	
	.	9.82	7.52	11.88	6.67	
COAST GUARD	1	25	10	4	3	42
	.	1.82	0.73	0.29	0.22	3.05
	.	59.52	23.81	9.52	7.14	
	.	2.76	3.76	2.50	6.67	
TOTAL	.	906	266	160	45	1377
	.	65.80	19.32	11.62	3.27	100.00

81. Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?

Not at all.....1
Slight.....2
Somewhat.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA82

QA1	QA82	1	2	3	4	TOTAL
ARMY	FREQUENCY	170	59	39	21	289
	PERCENT	12.47	4.33	2.86	1.54	21.20
	ROW PCT	58.82	20.42	13.49	7.27	
NAVY	FREQUENCY	331	109	98	40	578
	PERCENT	24.28	8.00	7.19	2.93	42.41
	ROW PCT	57.27	18.86	16.96	6.92	
MARINE CORPS	FREQUENCY	166	58	63	37	324
	PERCENT	12.18	4.26	4.62	2.71	23.77
	ROW PCT	51.23	17.90	19.44	11.42	
AIR FORCE	FREQUENCY	77	23	21	10	131
	PERCENT	5.65	1.69	1.54	0.73	9.61
	ROW PCT	58.78	17.56	16.03	7.53	
COAST GUARD	FREQUENCY	25	6	7	3	41
	PERCENT	1.83	0.44	0.51	0.22	3.01
	ROW PCT	60.98	14.63	17.07	7.32	
TOTAL	FREQUENCY	760	255	228	111	1363
	PERCENT	56.42	18.71	16.73	8.14	100.00
	ROW PCT					

82. By the time cases reach the Court of Military Review many accuseds are on appellate leave. Is this a factor in determining whether Courts of Military Review should have authority to suspend punitive discharges?

Not at all.....1
Slight.....2
Somewhat.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA83

QA1	QA83	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
		10	0	0	0
	
	
	
ARMY		13	130	65	295
		.	9.48	4.74	21.52
		.	44.07	22.03	
		.	23.77	19.70	
NAVY		119	204	148	578
		.	14.88	10.80	42.16
		.	35.29	25.61	
		.	37.29	44.85	
MARINE CORPS		6	135	79	324
		.	9.85	5.76	23.63
		.	41.67	24.38	
		.	24.68	23.94	
AIR FORCE		3	64	24	132
		.	4.67	1.75	9.63
		.	49.48	18.18	
		.	11.70	7.27	
COAST GUARD		1	14	14	42
		.	1.02	1.02	3.06
		.	33.33	33.33	
		.	2.56	4.24	
TOTAL		494	547	330	1371
		.	36.03	24.07	100.00

83. Considering the additional support requirements which might result, if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy and counselling?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA84

QAI	QA84	1	2	3	TOTAL
FREQUENCY		10	0	1	•
PERCENT		•	•	•	•
ROW PCT		•	•	•	•
COL PCT		•	•	•	•
ARMY		15	145	127	293
		•	10.66	9.34	21.54
		•	49.49	43.34	
		•	22.52	20.39	
NAVY		124	230	297	573
		•	16.91	21.84	42.13
		•	40.14	51.83	
		•	35.71	47.67	
MARINE CORPS		9	181	123	321
		•	13.31	9.04	23.60
		•	56.39	38.32	
		•	28.11	19.74	
AIR FORCE		3	67	60	132
		•	4.93	4.41	9.71
		•	50.76	45.45	
		•	10.40	9.63	
COAST GUARD		2	21	16	41
		•	1.54	1.18	3.01
		•	51.22	39.02	
		•	3.26	2.57	
TOTAL		•	644	623	1360
		•	47.35	45.81	100.00

84. If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?

Appropriate judicial authority.....1
 Appropriate convening/supervisory authority.....2
 Both 1 and 2.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA85

QA1	QA85	1	2	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1

ARMY	13	37	258	295
	.	2.70	18.83	21.53
	.	12.54	87.46	
NAVY	119	96	482	578
	.	7.01	35.18	42.19
	.	16.61	83.39	
MARINE CORPS	7	34	289	323
	.	2.48	21.09	23.58
	.	10.53	89.47	
AIR FORCE	3	16	116	132
	.	1.17	8.47	9.64
	.	12.12	97.88	
COAST GUARD	1	7	35	42
	.	0.51	2.55	3.07
	.	16.67	83.33	
TOTAL	.	190	1180	1370
	.	13.87	86.13	100.00
	.			

85. On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA86

QAI	QA86	TOTAL	
FREQUENCY PERCENT ROW PCT	COL PCT	1	2
.	.	10	0
.	.	1	.
.	.	.	.
.	.	.	.
ARMY		7	135
		11.30	9.19
		55.15	44.85
		21.12	19.77
NAVY		25	285
		26.34	19.40
		57.59	42.41
		49.24	41.73
MARINE CORPS		8	177
		9.87	12.05
		45.03	54.97
		18.45	25.92
AIR FORCE		3	67
		4.42	4.56
		49.24	50.76
		8.27	9.81
COAST GUARD		1	19
		1.57	1.29
		54.76	45.24
		2.93	2.78
TOTAL		786	683
		53.51	46.49
		1469	100.00

86. On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?

Yes.....1
No.....2

FREQUENCIES BY SERVICE

TABLE OF QA1 BY QAS7

QA1	QAS7			TOTAL
FREQUENCY ROW PCT COL PCT	1	2		
.	10	0	1	.
.
.
ARMY	6	145	157	302
	9.87	10.69	10.69	20.56
	48.01	51.99	51.99	
	22.14	19.29	19.29	
NAVY	25	321	351	672
	21.85	23.89	23.89	45.75
	47.77	52.23	52.23	
	49.01	43.12	43.12	
MARINE CORPS	8	114	208	322
	7.76	14.16	14.16	21.92
	35.40	64.60	64.60	
	17.40	25.55	25.55	
AIR FORCE	3	59	73	132
	4.02	4.97	4.97	8.99
	44.70	55.30	55.30	
	9.01	8.97	8.97	
COAST GUARD	2	16	25	41
	1.09	1.70	1.70	2.79
	39.02	60.98	60.98	
	2.44	3.07	3.07	
TOTAL	655	814	1469	1469
	44.59	55.41	55.41	100.00

87. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?

Yes.....1
No.....2

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FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA88

QA1	QA88	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
	.	10	0	0	.

ARMY		6	153	20	302
		8.76	10.39	1.36	20.50
		42.72	50.66	6.62	
		20.22	20.59	21.74	
NAVY		23	296	50	674
		22.27	20.10	3.39	45.76
		48.66	43.92	7.42	
		51.41	39.84	54.35	
MARINE CORPS		7	201	17	323
		7.13	13.65	1.15	21.93
		32.51	62.23	5.26	
		16.46	27.05	18.48	
AIR FORCE		3	76	4	132
		3.53	5.16	0.27	8.96
		39.39	57.58	3.03	
		8.15	10.23	4.35	
COAST GUARD		1	17	1	42
		1.63	1.15	0.07	2.85
		57.14	40.48	2.38	
		3.76	2.29	1.09	
TOTAL		638	743	92	1473
		43.31	50.44	6.25	100.00

88. Should court members be given the power to suspend their own sentences?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA89

QA1	QA89	1	2	3	4	5	6	7	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1	0	0	0	0	0

ARMY	10	28	112	34	53	21	8	42	298
	.	1.92	7.67	2.33	3.63	1.44	0.55	2.88	20.41
	.	9.40	37.59	11.41	17.79	7.05	2.68	14.09	
NAVY	25	418	182	20	15	3	6	28	672
	.	28.63	12.47	1.37	1.03	0.21	0.41	1.92	46.03
	.	62.20	27.08	2.94	2.23	0.45	0.89	4.17	
MARINE CORPS	12	118	112	27	5	1	1	54	318
	.	8.08	7.67	1.85	0.34	0.07	0.07	3.70	21.79
	.	37.11	35.22	8.49	1.57	0.31	0.31	16.98	
AIR FORCE	4	3	49	31	25	6	1	16	131
	.	0.21	3.36	2.12	1.71	0.41	0.07	1.10	8.97
	.	2.29	37.40	23.66	19.08	4.58	0.76	12.21	
COAST GUARD	2	23	7	2	2	0	0	7	41
	.	1.58	0.48	0.14	0.14	0.00	0.00	0.48	2.81
	.	56.10	17.07	4.98	4.98	0.00	0.00	17.07	
TOTAL	.	590	462	114	100	31	16	147	1460
	.	40.41	31.64	7.81	6.85	2.12	1.10	10.07	100.00

89. What percentage of cases in your command are GCMs, of the total of GCMs and SPCMs?

- None.....1
- Under 10%.....2
- 10-20%.....3
- 21-50%.....4
- 51-75%.....5
- Over 75%.....6
- Don't know.....7

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA90

QAI	QA90	1	2	3	4	5	6	7	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	0	0	0	0	.

ARMY	15	65 4.86 22.18 13.32	23 1.72 7.85 41.82	30 2.24 10.24 52.63	31 2.32 10.58 42.47	13 0.97 4.44 28.26	17 1.27 5.80 26.98	114 8.53 38.91 20.54	293 21.91
NAVY	125	263 19.67 45.98 53.89	11 0.82 1.92 20.00	5 0.45 1.05 10.53	13 0.97 2.27 17.81	11 0.82 1.92 23.91	22 1.65 3.85 34.92	246 18.40 43.01 44.32	572 42.78
MARINE CORPS	28	112 8.38 37.09 22.95	11 0.82 3.64 20.00	8 0.60 2.65 14.04	8 0.60 2.65 10.96	6 0.45 1.99 13.04	12 0.90 3.97 19.05	145 10.85 48.01 26.13	302 22.59
AIR FORCE	3	33 2.47 25.00 6.76	9 0.67 6.82 16.36	13 0.97 9.85 22.81	20 1.50 15.15 27.40	16 1.20 12.12 34.78	10 0.75 7.58 15.87	31 2.32 23.48 5.59	132 9.87
COAST GUARD	5	15 1.12 39.47 3.07	1 0.07 2.63 1.82	0 0.00 0.00 0.00	1 0.07 2.63 1.37	0 0.00 0.00 0.00	2 0.15 5.26 3.17	19 1.42 50.00 3.42	38 2.84
TOTAL	.	488 36.50	55 4.11	57 4.26	73 5.46	46 3.44	63 4.71	555 41.51	1337 100.00

90. In what percentage of GCM cases is the adjudged sentence to confinement six to twelve months?

- 0-5%.....1
- 6-10%.....2
- 11-20%.....3
- 21-40%.....4
- 41-60%.....5
- Over 60%.....6
- Don't know.....7

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA91

QA1 FREQUENCY PERCENT ROW PCT COL PCT	QA91							TOTAL
	1	2	3	4	5	6	7	
.	10	0	0	0	0	0	0	1
.
.
.
ARMY	16	59	17	27	39	9	16	125
.	4.42	1.27	2.02	2.92	3.92	0.67	1.20	9.37
.	20.21	5.82	9.25	13.36	13.36	3.08	5.48	42.81
.	12.69	30.36	40.91	53.42	53.42	23.68	32.65	21.29
NAVY	127	254	17	9	8	15	12	255
.	19.04	1.27	0.67	0.60	0.60	1.12	0.90	19.12
.	44.56	2.98	1.58	1.40	1.40	2.63	2.11	44.74
.	54.62	30.36	13.64	10.96	10.96	39.47	24.49	43.44
MARINE CORPS	27	108	13	13	13	3	9	147
.	8.10	0.75	0.97	0.97	0.97	0.22	0.67	11.02
.	35.64	3.30	4.29	4.29	4.29	0.99	2.97	48.51
.	23.23	17.86	19.70	17.81	17.81	7.89	18.37	25.04
AIR FORCE	4	30	12	17	13	11	11	37
.	2.25	0.90	1.27	0.97	0.97	0.82	0.82	2.77
.	22.90	9.16	12.98	9.92	9.92	8.40	8.40	28.24
.	6.45	21.43	25.76	17.81	17.81	28.95	22.45	6.30
COAST GUARD	5	14	0	0	0	0	1	23
.	1.05	0.00	0.00	0.00	0.00	0.00	0.07	1.72
.	36.84	0.00	0.00	0.00	0.00	0.00	2.63	60.53
.	3.01	0.00	0.00	0.00	0.00	0.00	2.04	3.92
TOTAL	465	56	66	73	73	38	49	587
.	34.86	4.20	4.95	5.47	5.47	2.85	3.67	44.00
.								1334
.								100.00

91. In what percentage of GCM cases is the adjudged sentence to confinement six to fifteen months?

- 0-5%.....1
- 6-10%.....2
- 11-20%.....3
- 21-40%.....4
- 41-60%.....5
- Over 60%.....6
- Don't know.....7

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA92

QA1	QA92	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
	.	10	0	0	0	0

ARMY	14	32 2.22 10.88 16.00	130 9.02 44.22 21.17	120 8.32 40.82 21.39	12 0.83 4.08 17.91	294 20.39
NAVY	39	105 7.28 15.76 52.50	272 18.86 41.34 44.30	256 17.75 38.91 45.63	25 1.73 3.80 37.31	658 45.53
MARINE CORPS	13	37 2.57 11.67 18.50	134 9.29 42.27 21.82	122 8.46 38.49 21.75	24 1.66 7.57 35.82	317 21.98
AIR FORCE	4	17 1.18 12.98 8.50	61 4.23 46.56 9.93	50 3.47 38.17 9.91	3 0.21 2.29 4.48	131 9.08
COAST GUARD	1	?	17 1.19 40.48 2.77	13 0.90 30.95 2.32	3 0.21 7.14 4.48	42 2.91
TOTAL	.	200 13.87	614 42.58	561 38.90	67 4.65	1442 100.00

92. If SPCMs are allowed to impose longer terms of confinement would cases currently tried at SPCM generally receive longer sentences?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

Convening Authorities

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA93

QA1 FREQUENCY PERCENT ROW PCT COL PCT	QA93				TOTAL
	1	2	3	4	
10	0	0	1	0	•
•	•	•	•	•	•
•	•	•	•	•	•
•	•	•	•	•	•
11	113	103	75	6	297
•	7.89	7.19	5.24	0.42	20.74
•	38.05	34.68	25.25	2.02	•
•	16.31	23.90	26.88	20.69	•
46	350	183	104	14	651
•	24.44	12.78	7.26	0.98	45.46
•	53.76	28.11	15.98	2.15	•
•	50.51	42.46	37.28	48.28	•
18	150	90	65	7	312
•	10.47	6.28	4.54	0.49	21.79
•	48.08	28.85	20.83	2.24	•
•	21.65	20.88	23.30	24.14	•
3	55	46	29	2	132
•	3.94	3.21	2.03	0.14	9.22
•	41.67	34.85	21.97	1.52	•
•	7.94	10.67	10.39	6.90	•
3	25	9	6	0	40
•	1.75	0.63	0.42	0.00	2.79
•	62.50	22.50	15.00	0.00	•
•	3.61	2.09	2.15	0.00	•
•	693	431	279	29	1432
•	48.39	30.10	19.48	2.03	100.00

93. Would increasing the confinement power of SPCMs cause many accuseds to receive punitive discharges which would not be imposed under current conditions?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA94

QA1	QA94	1	2	3	4	5	6	7	8	TOTAL
.	FREQUENCY	10	0	0	0	0	0	0	0	0
	PERCENT	.	.	.	.	.	.	.	.	.
	ROW PCT COL PCT	.	.	.	.	.	.	.	.	.
ARMY	FREQUENCY	20	5	9	79	3	8	10	10	288
	PERCENT	.	0.36	0.66	5.75	0.22	0.58	0.73	0.73	20.98
	ROW PCT COL PCT	.	1.74	3.13	27.43	1.04	2.78	3.47	3.47	86.94
NAVY	FREQUENCY	67	30	18	175	10	11	13	11	630
	PERCENT	.	2.18	1.31	12.75	0.73	0.80	0.95	0.80	45.88
	ROW PCT COL PCT	.	4.76	2.86	27.78	1.59	1.75	2.06	1.75	70.66
MARINE CORPS	FREQUENCY	35	9	12	81	3	13	11	6	295
	PERCENT	.	0.66	0.87	5.90	0.22	0.95	0.80	0.44	21.49
	ROW PCT COL PCT	.	3.05	4.07	27.46	1.02	4.41	3.73	2.03	70.66
AIR FORCE	FREQUENCY	12	5	7	25	4	2	3	5	123
	PERCENT	.	0.36	0.51	1.82	0.29	0.15	0.22	0.36	8.96
	ROW PCT COL PCT	.	4.07	5.69	20.33	3.25	1.63	2.44	4.07	51.63
COAST GUARD	FREQUENCY	6	0	0	13	2	1	2	0	37
	PERCENT	.	0.00	0.00	0.95	0.15	0.07	0.15	0.00	2.69
	ROW PCT COL PCT	.	0.00	0.00	35.14	5.41	2.70	5.41	0.00	93.66
TOTAL		49	46	373	27.17	22	35	39	32	1373
		3.57	3.35	27.17	1.60	2.55	2.84	2.84	2.33	100.00

94. If special courts-martial could impose sentences of up to one year's confinement would the number of punitive discharges decrease?

- Yes if sentencing by military judge only.....1
- Yes if sentencing by members.....2
- Yes regardless of who sentences.....3
- No if sentencing by military judge only.....4
- No if sentencing by members.....5
- No regardless of who sentences.....6
- Both 1 and 5.....7
- Both 2 and 4.....8

FREQUENCIES BY SERVICE
TABLE OF QAI BY QA95

QAI	QA95	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		5	118	59	303
		126	8.09	4.05	20.78
		8.64	38.94	19.47	
		41.58	22.48	20.14	
		19.59			
NAVY		30	231	145	667
		291	15.84	9.95	45.75
		19.36	34.63	21.74	
		43.63	44.00	49.49	
		45.47			
MARINE CORPS		13	130	50	317
		127	8.92	4.12	21.74
		9.71	41.01	18.93	
		40.06	24.76	20.48	
		19.84			
AIR FORCE		6	32	22	129
		75	2.19	1.51	8.85
		5.14	24.81	17.05	
		58.14	6.10	7.51	
		11.72			
COAST GUARD		1	14	7	42
		21	0.96	0.48	2.88
		1.44	33.33	16.67	
		50.00	2.67	2.39	
		3.29			
TOTAL		640	525	293	1458
		43.90	36.01	20.10	100.00

95. If special court-martial jurisdiction were increased would you favor requiring the detailing of a military judge in every case?

Yes.....1
 No.....2
 No, but without military judge, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA96

QA1	QA96	1	2	3	TOTAL
FREQUENCY		10	0	1	0
PERCENT	
ROW PCT	
CUL PCT	
ARMY		4	53	54	304
		13.50	3.63	3.70	20.84
		64.80	17.43	17.76	
		21.96	17.67	20.61	
NAVY		30	155	142	667
		370	10.62	9.73	45.72
		25.36	23.24	21.29	
		55.47	51.67	54.20	
		41.25			
MARINE CORPS		13	61	44	317
		212	4.18	3.02	21.73
		14.53	19.24	13.88	
		66.88	20.33	16.79	
		23.63			
AIR FORCE		6	22	16	129
		91	1.51	1.10	8.84
		6.24	17.05	12.40	
		70.54	7.33	6.11	
		10.14			
COAST GUARD		1	9	5	42
		27	0.62	0.41	2.88
		1.85	21.43	14.29	
		64.29	3.00	2.29	
		3.01			
TOTAL		897	300	262	1459
		61.48	20.56	17.96	100.00

96. If special court-martial jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?

Yes.....1
 No.....2
 No, but without representation by lawyer defense counsel, confinement should be limited to six months.3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA97

QA1	QA97	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	10	0	1	0

ARMY	4	43	229	32	304
	.	2.95	15.72	2.20	20.86
	.	14.14	75.33	10.53	
NAVY	28	153	414	102	669
	.	10.50	28.41	7.00	45.92
	.	22.87	61.88	15.25	
MARINE CORPS	16	58	212	44	314
	.	3.98	14.55	3.02	21.55
	.	18.47	67.52	14.01	
AIR FORCE	7	32	80	16	128
	.	2.20	5.49	1.10	8.79
	.	25.00	62.50	12.50	
COAST GUARD	1	6	31	5	42
	.	0.41	2.13	0.34	2.88
	.	14.29	73.81	11.90	
TOTAL	.	292	966	199	1457
	.	20.04	66.30	13.66	100.00

97. Would you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?

Yes.....1
 No.....2
 No, but if there is no investigation requirement, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA98

QA1	QA98	1	2	3	TOTAL
FREQUENCY		10	0	0	•
PERCENT		•	•	•	•
ROW PCT		•	•	•	•
COL PCT		•	•	•	•

ARMY		3	137	32	305
		•	9.36	2.19	20.83
		•	44.92	10.49	
		•	30.72	16.46	

NAVY		28	157	404	669
		•	10.72	27.60	45.70
		•	23.47	60.39	
		•	35.20	49.91	

MARINE CORPS		9	97	190	321
		•	6.63	12.38	21.93
		•	30.22	59.19	
		•	21.75	23.00	

AIR FORCE		7	43	71	128
		•	2.94	4.85	8.74
		•	33.59	55.47	
		•	9.64	8.60	

COAST GUARD		2	12	25	41
		•	0.82	1.71	2.80
		•	29.27	60.98	
		•	2.69	3.03	

TOTAL		•	446	826	1464
		•	30.46	56.42	100.00

98. If SPCM jurisdictional authority were increased, would you favor increasing to five the minimum number of required court members?

Yes.....1
 No.....2
 No, but if there are fewer than five members, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA99

QA1	QA99	0	1	2	3	TOTAL
FREQUENCY		10	0	1	0	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		5	135	151	17	303
		•	9.23	10.33	1.16	20.73
		•	44.55	49.83	5.61	
		•	23.63	18.80	19.10	
NAVY		25	242	383	46	671
		•	16.55	25.20	3.15	45.90
		•	36.07	57.08	6.86	
		•	42.46	47.70	51.69	
MARINE CORPS		14	115	183	18	316
		•	7.87	12.52	1.23	21.61
		•	36.39	57.91	5.70	
		•	20.18	22.79	20.22	
AIR FORCE		5	53	71	6	130
		•	3.63	4.86	0.41	8.89
		•	40.77	54.62	4.62	
		•	9.30	8.84	6.74	
COAST GUARD		1	25	15	2	42
		•	1.71	1.03	0.14	2.87
		•	59.52	35.71	4.76	
		•	4.39	1.87	2.25	
TOTAL		•	570	803	89	1462
		•	38.99	54.92	6.09	100.00

99. If SPCM jurisdictional authority were increased, would you favor increasing to five the number of days required as a waiting period before trial?

Yes.....1
 No.....2
 No, but if trial before five days, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA100

QA1	QA100		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
		10	0	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		6	59	160	83	302
		•	4.03	10.94	5.67	20.64
		•	19.54	52.98	27.48	
		•	18.27	23.46	18.12	
NAVY		21	142	330	204	676
		•	9.71	22.56	13.94	46.21
		•	21.01	48.82	30.14	
		•	43.96	48.39	44.54	
MARINE CORPS		17	84	119	110	313
		•	5.74	8.13	7.52	21.39
		•	26.84	38.02	35.14	
		•	26.01	17.45	24.02	
AIR FORCE		5	33	52	45	130
		•	2.26	3.55	3.08	8.89
		•	25.38	40.00	34.62	
		•	10.22	7.62	9.83	
COAST GUARD		1	5	21	16	42
		•	0.34	1.44	1.09	2.87
		•	11.90	50.00	38.10	
		•	1.55	3.08	3.49	
TOTAL		•	323	682	458	1463
		•	22.08	46.62	31.31	100.00

100. If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?

Yes.....3
 No.....2
 Verbatim record only if BCD
 or over six months confine-
 ment adjudged.....3

Convening Authorities

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI01

QAI	QAI01	0	1	2	3	TOTAL
FREQUENCY		10	1	0	0	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		4	214	59	31	304
		•	14.54	4.01	2.11	20.65
		•	70.39	19.41	10.20	
		•	22.20	22.96	12.35	
NAVY		19	435	108	135	678
		•	29.55	7.34	9.17	46.06
		•	64.16	15.93	19.91	
		•	45.12	42.02	53.78	
MARINE CORPS		12	194	66	58	318
		•	13.18	4.48	3.94	21.60
		•	61.01	20.75	18.24	
		•	20.12	25.68	23.11	
AIR FORCE		5	90	20	20	130
		•	6.11	1.36	1.36	8.83
		•	69.23	15.38	15.38	
		•	9.34	7.78	7.97	
COAST GUARD		1	31	4	7	42
		•	2.11	0.27	0.48	2.85
		•	73.91	9.52	16.67	
		•	3.22	1.56	2.79	
TOTAL		•	964	257	251	1472
		•	65.49	17.46	17.05	100.00

101. Will increasing the jurisdiction of SPCMs reduce the number of GCMs?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI02

QAI	QAI02		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
.	.	10	1	0	0	.
	
	
	
ARMY		18	182	31	77	290
		.	13.40	2.28	5.67	21.35
		.	62.76	10.69	26.55	
		.	21.67	22.30	20.32	
NAVY		75	381	61	180	622
		.	29.06	4.49	13.25	45.80
		.	61.25	9.81	28.94	
		.	45.36	43.88	47.49	
MARINE CORPS		45	166	31	88	285
		.	12.22	2.28	6.48	20.99
		.	59.25	10.88	30.88	
		.	19.76	22.30	23.22	
AIR FORCE		14	82	13	26	121
		.	5.04	0.96	1.91	8.91
		.	67.77	10.74	21.49	
		.	9.76	9.35	6.86	
COAST GUARD		3	29	3	8	40
		.	2.14	0.22	0.59	2.95
		.	72.50	7.50	20.00	
		.	3.45	2.16	2.11	
TOTAL		.	840	139	379	1358
		.	61.86	10.24	27.91	100.00

102. If so, is this a desirable end?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA103

QA1 FREQUENCY PERCENT ROW PCT COL PCT	QA103					TOTAL	
	.	1	2	3	4		5
.	10	0	0	0	0	0	
.	
.	
ARMY	20	127 10.44 44.10 16.93	112 9.20 38.89 39.72	38 3.12 13.19 30.65	7 0.58 2.43 25.00	4 0.33 1.39 12.12	288 23.66
NAVY	185	373 31.06 73.83 50.40	70 5.75 13.67 24.82	31 2.55 6.05 25.00	15 1.23 2.93 53.57	18 1.48 3.52 54.55	512 42.07
MARINE CORPS	69	174 14.30 66.67 23.20	50 4.11 19.16 17.73	30 2.47 11.49 24.19	2 0.16 0.77 7.14	5 0.41 1.92 15.15	261 21.45
AIR FORCE	11	52 4.27 41.94 6.93	44 3.62 35.48 15.60	21 1.73 16.94 16.94	4 0.33 3.23 14.29	3 0.25 2.42 9.09	124 10.19
COAST GUARD	11	19 1.56 59.38 2.53	6 0.49 18.75 2.13	4 0.33 12.50 3.23	0 0.00 0.00 0.00	3 0.25 9.38 9.09	32 2.63
TOTAL	.	750 61.63	282 23.17	124 10.19	28 2.30	33 2.71	1217 100.00

Convening Authorities

103. Assuming that SPCM jurisdiction was increased, what percentage of cases which you either referred to trial by GCM or forwarded with the recommendation that they be referred for trial by GCM would you have referred to SPCM?

Under 10%.....	1
10-25%.....	2
26-50%.....	3
51-75%.....	4
Over 75%.....	5

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI04

QAI	QAI04		1	2	3	TOTAL
FREQUENCY		10	0	1	0	.
PERCENT	
ROW PCT	
COL PCT	
ARMY		4	26	208	70	304
		.	1.77	14.20	4.78	20.75
		.	3.55	68.42	23.03	
		.	20.31	22.86	16.39	
NAVY		24	46	397	230	673
		.	3.14	27.10	15.70	45.94
		.	5.84	58.99	34.13	
		.	35.74	43.63	53.86	
MARINE CORPS		13	28	203	86	317
		.	1.91	13.86	5.87	21.64
		.	9.83	64.04	27.13	
		.	21.88	22.31	20.14	
AIR FORCE		5	21	78	31	130
		.	1.43	5.32	2.12	8.37
		.	16.15	60.00	23.85	
		.	15.41	9.57	7.26	
COAST GUARD		2	7	24	10	41
		.	0.48	1.64	0.68	2.80
		.	17.07	58.54	24.39	
		.	5.47	2.64	2.34	
TOTAL		.	128	910	427	1465
		.	8.74	62.12	29.15	100.00

104. Would increasing the jurisdiction of SPCMs cause under referral of a significant number of cases?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI05

QAI	QAI05	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.				
	10	1	0	0	.

ARMY	30	138	84	56	278
	.	10.40	6.33	4.22	20.95
	.	49.64	30.22	20.14	
NAVY	96	265	160	176	601
	.	19.97	12.06	13.26	45.29
	.	44.09	26.52	29.28	
MARINE CORPS	37	133	89	71	293
	.	10.02	6.71	5.35	22.08
	.	45.39	30.38	24.23	
AIR FORCE	17	53	44	21	118
	.	3.99	3.32	1.58	8.89
	.	44.92	37.29	17.80	
COAST GUARD	6	19	12	6	37
	.	1.43	0.90	0.45	2.79
	.	51.35	32.43	16.22	
TOTAL	.	608	389	330	1327
	.	45.82	29.31	24.87	100.00

105. If so, should certain serious offenses be precluded from trial by special courts-martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QAI BY QAI06
QAI06

QAI	FREQUENCY PERCENT ROW PCT	COL PCT	.	1	2	TOTAL
.	10	.	.	1	0	.
.
.
ARMY	5	.	.	241	62	303
	.	.	.	16.88	4.34	21.22
	.	.	.	79.54	20.46	
	.	.	.	20.18	26.50	
NAVY	33	.	.	553	111	664
	.	.	.	38.73	7.77	46.50
	.	.	.	83.28	16.72	
	.	.	.	46.31	47.44	
MARINE CORPS	36	.	.	252	40	292
	.	.	.	17.65	2.80	20.45
	.	.	.	96.30	13.70	
	.	.	.	21.11	17.09	
AIR FORCE	8	.	.	110	17	127
	.	.	.	7.70	1.19	8.89
	.	.	.	86.61	13.39	
	.	.	.	9.21	7.26	
COAST GUARD	1	.	.	38	4	42
	.	.	.	2.66	0.28	2.94
	.	.	.	90.48	9.52	
	.	.	.	3.18	1.71	
TOTAL	.	.	.	1194	234	1428
	.	.	.	83.61	16.39	100.00

106. On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to one year?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QA1 BY QA107

QA1	QA107	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
		10	0	0	•
		•	•	•	•
		•	•	•	•
		•	•	•	•
ARMY		6	111	48	302
		10.01	7.77	3.36	21.13
		47.35	36.75	15.89	
		20.97	21.72	20.34	
NAVY		29	216	127	668
		22.74	15.12	8.89	46.75
		48.55	32.34	19.01	
		47.65	42.27	53.81	
MARINE CORPS		37	114	42	293
		137	7.98	2.94	20.50
		9.59	38.91	14.33	
		46.76	22.31	17.80	
AIR FORCE		10	54	13	125
		4.96	3.78	0.91	8.75
		46.40	43.20	10.40	
		8.50	10.57	5.51	
COAST GUARD		2	16	6	41
		1.33	1.12	0.42	2.97
		45.34	39.02	14.63	
		2.79	3.13	2.54	
TOTAL		682	511	236	1429
		47.73	35.76	16.52	100.00

107. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for an offense, rather than the jurisdiction of the court, would determine the trial forum (i.e. Felony and Misdemeanor courts)?

Yes.....1
No.....2
No opinion.....3

STAFF JUDGE ADVOCATES
FREQUENCIES BY SERVICE
TABLE OF Q31 PY Q32

Q31 FREQUENCY PERCENT ROW PCT COL PCT	TABLE OF Q31 PY Q32					TOTAL
	1	2	3	4	5	
•	0	0	0	0	0	•
•	•	•	•	•	•	•
•	•	•	•	•	•	•
•	•	•	•	•	•	•
ARMY	2 6.42	5 1.06	34 7.22	38 9.07	0 0.00	79 16.77
	• 2.53	• 6.33	• 43.04	• 49.10	• 0.00	• 0.00
	• 2.13	• 3.57	• 26.98	• 34.86	• 0.00	• 0.00
NAVY	1 16.35	64 13.59	27 5.73	18 3.82	0 0.00	106 39.49
	• 41.40	• 14.41	• 14.52	• 9.68	• 0.00	• 0.00
	• 81.91	• 45.71	• 21.47	• 16.51	• 0.00	• 0.00
MARINE CORPS	4 0.45	8 1.70	16 3.40	6 1.27	0 0.00	34 7.22
	• 11.76	• 23.53	• 47.06	• 17.65	• 0.00	• 0.00
	• 4.26	• 5.71	• 12.70	• 5.50	• 0.00	• 0.00
AIR FORCE	0 2.34	63 13.33	42 8.92	46 9.77	2 0.42	153 34.82
	• 6.71	• 38.41	• 25.61	• 28.05	• 1.22	• 100.00
	• 11.70	• 45.00	• 33.33	• 42.20	• 100.00	• 100.00
COAST GUARD	0 0.00	0 0.00	7 1.49	1 0.21	0 0.00	8 1.70
	• 0.00	• 0.00	• 87.50	• 12.50	• 0.00	• 0.00
	• 0.00	• 0.00	• 5.56	• 0.92	• 0.00	• 0.00
TOTAL	94 19.96	140 29.72	126 26.75	109 23.14	2 0.42	471 100.00

2. What is your current grade?

- O-3.....1
- O-4.....2
- O-5.....3
- O-6.....4
- O-7.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB3

QB1	QB3	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	0	0	0
	2	.	.	.	.	.	.

ARMY	2	1	10	32	23	11	77
	.	0.23	2.29	7.32	5.26	2.52	17.62
	.	1.30	12.99	41.56	29.87	14.29	
NAVY	30	74	40	32	5	6	157
	.	16.93	9.15	7.32	1.14	1.37	35.93
	.	47.13	25.48	20.38	3.18	3.82	
MARINE CORPS	2	3	13	11	3	2	32
	.	0.69	2.97	2.52	0.69	0.46	7.32
	.	9.38	40.63	34.38	9.38	6.25	
AIR FORCE	1	27	63	38	23	12	163
	.	6.18	14.42	8.70	5.26	2.75	37.30
	.	16.56	38.65	23.31	14.11	7.36	
COAST GUARD	0	0	0	7	1	0	8
	.	0.00	0.00	1.60	0.23	0.00	1.83
	.	0.00	0.00	87.50	12.50	0.00	
TOTAL	.	105	126	120	55	31	437
	.	24.03	28.93	27.46	12.59	7.09	100.00

3. How many years of total active service?

5-10.....	1
11-15.....	2
16-20.....	3
21-25.....	4
over 25.....	5

FREQUENCIES BY SERVICE
TABLE OF Q01 3Y 384

Q01 FREQUENCY PERCENT ROW PCT COL PCT	Q34		TOTAL
	1	2	
ARMY	57 12.10 72.15 16.96	22 4.67 27.96 16.30	79 16.77
NAVY	134 28.45 72.04 39.83	52 11.04 27.96 39.52	186 39.49
MARINE CORPS	27 5.73 79.41 8.04	7 1.49 20.57 5.19	34 7.22
AIR FORCE	111 23.57 67.63 33.04	53 11.25 32.32 39.25	164 34.52
COAST GUARD	7 1.49 67.53 2.08	1 0.21 12.50 0.74	8 1.70
TOTAL	336 71.34	135 28.55	471 100.00

4. What is your current assignment location?

CONUS.....1
Outside CONUS.....2

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q85

Q81	Q85	2	1	2	3	4	TOTAL
FREQUENCY							
PERCENT							
R3W PCT							
C3L PCT							
ARMY		0	25	35	10	9	79
			5.33	7.45	2.13	1.92	16.84
			31.65	44.30	12.66	11.39	
			10.55	22.29	18.52	42.86	
NAVY		2	105	46	27	6	185
			22.69	9.81	5.76	1.28	39.45
			37.30	24.86	14.59	3.24	
			44.73	24.30	50.00	28.57	
MARINE CORPS		0	19	21	1	2	34
			2.13	4.48	0.21	0.43	7.25
			23.41	61.75	2.94	5.88	
			4.22	13.33	1.85	9.52	
AIR FORCE		0	96	48	16	4	164
			20.47	10.23	3.41	0.85	34.97
			58.54	29.27	9.76	2.44	
			40.51	30.57	29.63	19.05	
COAST GUARD		1	0	7	0	0	7
			0.00	1.49	0.00	0.00	1.49
			0.00	100.00	0.00	0.00	
			0.00	4.45	0.00	0.00	
TOTAL			237	157	54	21	469
			50.53	33.48	11.51	4.48	100.00

5. Do you have any prior enlisted/officer non-judge advocate experience?

No.....1
 Officer.....2
 Enlisted.....3
 Officer and enlisted.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q86

Q81	Q86	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	0	25	14	26	7	7	79
	.	5.33	2.99	5.54	1.49	1.49	16.84
	.	31.65	17.72	32.91	8.36	8.86	
	.	12.50	35.90	17.57	14.89	20.00	
NAVY	2	91	13	59	19	5	185
	.	19.40	2.77	12.37	3.84	1.07	39.45
	.	49.19	7.03	31.35	9.73	2.70	
	.	45.50	33.33	39.19	38.30	14.29	
MARINE CORPS	0	7	1	16	5	5	34
	.	1.49	0.21	3.41	1.07	1.07	7.25
	.	20.59	2.94	47.05	14.71	14.71	
	.	3.50	2.56	10.81	10.64	14.29	
AIR FORCE	1	77	11	45	15	15	163
	.	16.42	2.35	9.59	3.20	3.20	34.75
	.	47.24	6.75	27.61	9.20	9.20	
	.	38.50	28.21	30.41	31.91	42.86	
COAST GUARD	0	0	0	3	2	3	8
	.	0.00	0.00	0.64	0.43	0.64	1.71
	.	0.00	0.00	37.50	25.00	37.50	
	.	0.00	0.00	2.03	4.26	8.57	
TOTAL	.	200	39	148	47	35	469
	.	42.64	8.32	31.56	10.02	7.46	100.00

6. How many years non-judge advocate experience do you have?

- None.....1
- Less than 2 years.....2
- 2-6 years.....3
- 7-10 years.....4
- Over 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q87

Q81	Q87	1	2	3	4	TOTAL
FREQUENCY PERCENT COL PCT	1	0	1	0	0	•
	•	•	•	•	•	•
	•	•	•	•	•	•
	•	•	•	•	•	•
ARMY	•	13	45	1	20	79
	•	2.77	9.57	0.21	4.26	15.81
	•	16.46	56.96	1.27	25.32	
NAVY	•	24.53	14.47	12.50	20.41	185
	•	14	143	4	24	39.36
	•	2.93	30.43	0.85	5.11	
MARINE CORPS	•	7.57	77.30	2.16	12.97	34
	•	29.42	45.98	50.00	24.49	7.23
	•	3	13	0	19	
AIR FORCE	•	0.04	2.77	0.00	3.83	164
	•	8.82	38.24	0.00	52.94	34.39
	•	5.65	4.13	0.00	18.37	
COAST GUARD	•	22	107	2	33	8
	•	4.68	22.77	0.43	7.02	1.70
	•	13.41	65.24	1.22	20.12	
TOTAL	•	41.51	34.41	25.00	33.67	470
	•	1	3	1	3	98
	•	0.21	0.64	0.21	0.64	100.00
		12.50	37.50	12.50	37.50	
		11.43	0.95	12.50	3.06	
		53	311	3	98	
		11.26	56.17	1.70	20.85	

7. Have you had substantial experience as trial counsel,
defense counsel or military judge at any time in your career?

No.....1
Trial counsel and/or defense counsel...2
Military judge.....3
Both 2 and 3.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q83

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q83			TOTAL
	1	2	3	
ARMY	0	79	2	79
	15.97	0.43	0.43	16.84
	94.34	2.53	2.53	
	10.99	0.97	10.00	
NAVY	3	72	3	184
	15.35	23.24	0.64	39.23
	30.13	59.24	1.63	
	29.75	52.66	15.00	
MARINE CORPS	0	31	0	34
	6.61	0.64	0.00	7.25
	91.19	9.92	0.00	
	12.31	1.45	0.00	
AIR FORCE	0	56	15	164
	11.94	19.83	3.20	34.97
	34.15	56.71	9.15	
	23.14	44.93	75.00	
COAST GUARD	0	4	0	8
	1.71	0.00	0.00	1.71
	100.00	0.00	0.00	
	3.31	0.00	0.00	
TOTAL	3	242	20	469
	51.60	44.14	4.26	100.00

8. What is the highest level of court-martial convening authority that your commander is authorized to exercise?

GCM.....1
SPCM.....2
None.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q89

Q81	Q89	0	1	2	3	TOTAL
FREQUENCY		1	1	0	0	2
PERCENT		50.00	50.00	0.00	0.00	100.00
ROW PCT		100.00	100.00	0.00	0.00	200.00
COL PCT		50.00	50.00	0.00	0.00	100.00
ARMY		0	21	51	7	79
		0.00	4.49	10.90	1.50	16.88
		0.00	26.58	64.56	8.86	100.00
		0.00	11.86	18.96	31.82	62.64
NAVY		4	77	101	5	183
		100.00	16.45	21.58	1.07	39.10
		0.00	42.08	55.19	2.73	100.00
		0.00	43.50	37.55	22.73	100.00
MARINE CORPS		0	16	17	1	34
		0.00	3.42	3.63	0.21	7.26
		0.00	47.06	50.00	2.94	100.00
		0.00	9.04	6.32	4.55	20.91
AIR FORCE		0	51	95	8	164
		0.00	13.03	20.30	1.71	35.04
		0.00	37.20	57.93	4.88	100.00
		0.00	34.46	35.32	36.36	106.14
COAST GUARD		0	2	5	1	8
		0.00	0.43	1.07	0.21	1.71
		0.00	25.00	52.50	12.50	100.00
		0.00	1.13	1.85	4.55	7.53
TOTAL		5	177	269	22	468
		100.00	37.82	57.43	4.70	100.00

9. How long have you been in your current assignment?

Less than one year.....1
 1-3 years.....2
 Over three years.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q810

Q81	Q810	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT							
ARMY		17 3.64 21.52 17.53	27 5.74 14.13 15.17	27 5.78 34.13 20.45	5 1.07 6.31 12.50	3 0.64 3.80 15.00	79 16.92
NAVY		33 7.07 12.13 34.02	57 12.21 21.32 15.02	57 12.21 31.32 43.18	23 5.35 13.74 42.50	10 2.14 5.49 50.00	182 38.97
MARINE CORPS		2 0.43 5.83 2.06	16 3.21 44.12 11.43	2 0.43 24.47 6.82	4 0.86 11.75 10.00	4 0.86 11.76 20.00	34 7.28
AIR FORCE		43 9.21 25.22 44.33	75 16.05 45.73 42.13	37 7.92 22.55 28.03	5 1.07 3.66 15.00	3 0.64 1.83 15.00	164 35.12
COAST GUARD		2 0.43 25.00 2.05	4 0.86 30.00 3.25	2 0.43 25.00 1.52	0 0.00 0.00 0.00	0 0.00 0.00 0.00	3 1.71
TOTAL		97 20.77	173 36.12	132 28.27	40 8.57	20 4.28	457 100.00

10. How many SPOM have been tried in your command during your current tour?

- None.....1
- Fewer than 20.....2
- 21-100.....3
- 101-300.....4
- Over 300.....5

FREQUENCIES BY SERVICE
TABLE OF Q31 BY QP11

Q31	Q31	1	2	3	4	5	TOTAL
FREQUENCY	•	0	1	0	0	0	•
PERCENT	•	•	•	•	•	•	•
COL PCT	•	•	•	•	•	•	•
ARMY	•	20	20	11	22	6	79
	•	4.28	4.28	2.36	4.71	1.28	16.92
	•	25.32	25.32	13.92	27.85	7.59	
	•	13.89	10.20	20.75	36.07	46.15	
NAVY	•	56	78	16	18	4	182
	•	14.13	16.70	3.43	3.85	0.86	38.97
	•	36.26	42.35	8.79	9.93	2.20	
	•	45.83	39.80	30.19	29.51	30.77	
MARINE CORPS	•	9	11	4	9	1	34
	•	1.93	2.35	0.85	1.93	0.21	7.28
	•	25.47	32.35	11.76	26.47	2.94	
	•	5.25	5.61	7.55	14.75	7.59	
AIR FORCE	•	44	34	22	12	2	164
	•	9.42	17.99	4.71	2.57	0.43	35.12
	•	26.83	51.22	13.41	7.32	1.22	
	•	30.56	42.85	41.51	19.67	15.38	
COAST GUARD	•	5	3	0	0	0	8
	•	1.07	0.54	0.00	0.00	0.00	1.71
	•	62.50	37.50	0.00	0.00	0.00	
	•	3.47	1.53	0.00	0.00	0.00	
TOTAL	•	144	196	53	51	13	467
	•	30.84	41.97	11.35	13.06	2.78	100.00

11. How many GCM have been tried in your command during your current tour?

- None.....1
- Fewer than 10.....2
- 11-20.....3
- 21-100.....4
- Over 100.....5

FREQUENCIES BY SERVICE
TABLE OF Q91 BY Q913

Q91	Q913	FREQUENCY PERCENT ROW PCT			COL PCT			TOTAL
		1	2	3	1	2	3	
ARMY	.	2	0	0	0	0	0	.

NAVY	.	71	2	6	0	0	0	8
	.	.	2.82	8.45	0.00	0.00	0.00	11.27
	.	.	25.00	75.00	0.00	0.00	0.00	100.00
MARINE CORPS	.	166	8	11	2	2	2	21
	.	.	11.27	15.49	2.92	2.92	2.92	29.58
	.	.	38.10	52.38	9.52	9.52	9.52	100.00
AIR FORCE	.	28	3	3	0	0	0	6
	.	.	4.23	4.23	0.00	0.00	0.00	8.45
	.	.	50.00	50.00	0.00	0.00	0.00	100.00
COAST GUARD	.	130	23	10	1	1	1	34
	.	.	32.30	14.08	1.41	1.41	1.41	47.89
	.	.	67.65	29.41	2.94	2.94	2.94	100.00
TOTAL	.	5	2	9	0	0	0	2
	.	.	2.82	8.45	0.00	0.00	0.00	11.27
	.	.	100.00	100.00	0.00	0.00	0.00	100.00
TOTAL		71	39	30	3	3	3	71
TOTAL		100.00	53.52	42.25	4.23	4.23	4.23	100.00

13. If yes, how often?

- Once.....1
- Seldom.....2
- Sometimes.....3
- Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF Q31 BY Q314

Q31 FREQUENCY PERCENT ROW PCT COL PCT	Q314		TOTAL
	1	2	
ARMY	25 5.43 32.47 11.96	52 11.40 67.53 21.05	77 16.89
NAVY	99 21.71 55.93 47.37	78 17.11 44.07 31.59	177 38.82
MARINE CORPS	22 4.92 54.71 10.53	12 2.63 35.29 4.86	34 7.46
AIR FORCE	60 13.16 37.50 23.71	100 21.93 62.50 40.49	160 35.09
COAST GUARD	3 0.65 37.50 1.44	5 1.10 62.50 2.02	8 1.75
TOTAL	209 45.83	247 54.17	456 100.00

14. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judge's superior for court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB15

QB1	QB15	1	2	3	4	TOTAL
FREQUENCY		0	0	0	0	0
PERCENT		.	.	.	.	.
ROW PCT		.	.	.	.	.
COL PCT		.	.	.	.	.
ARMY	54	5	13	4	3	25
		2.35	6.10	1.88	1.41	11.74
		20.00	52.00	16.00	12.00	
		9.43	13.13	8.00	27.27	
NAVY	80	22	41	31	7	101
		10.33	19.25	14.55	3.29	47.42
		21.78	40.59	30.69	6.93	
		41.51	41.41	62.00	63.64	
MARINE CORPS	11	6	10	6	1	23
		2.82	4.69	2.82	0.47	10.80
		26.07	43.48	26.09	4.35	
		11.32	10.10	12.00	9.09	
AIR FORCE	104	19	34	8	0	60
		3.45	15.96	3.76	0.00	28.17
		30.00	56.67	13.33	0.00	
		33.95	34.34	16.00	0.00	
COAST GUARD	4	2	1	1	0	4
		0.94	0.47	0.47	0.00	1.89
		50.00	25.00	25.00	0.00	
		3.77	1.01	2.00	0.00	
TOTAL		53	99	50	11	213
		24.88	46.43	23.47	5.16	100.00

15. If yes, how often?

- Once.....1
- Seldom.....2
- Sometimes.....3
- Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q816

Q81	Q816		1	2	3	4	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	55	0	3	14	1	0	24
			1.44	6.73	0.88		11.54
			12.50	58.73	4.17		
			9.53	14.74	5.00		
NAVY	39	0	20	40	7	31	98
			9.62	19.23	3.37	14.90	47.12
			20.41	40.82	7.14	31.63	
			64.53	42.11	35.00	50.00	
MARINE CORPS	10	0	2	13	0	9	24
			0.93	6.25	0.00	4.33	11.54
			8.33	54.17	0.00	37.50	
			5.45	13.69	0.00	14.52	
AIR FORCE	107	0	5	23	8	15	57
			2.34	13.42	3.85	7.21	27.40
			10.53	49.12	14.04	26.32	
			19.35	29.47	40.00	24.19	
COAST GUARD	3	0	0	0	4	1	5
			0.00	0.00	1.92	0.49	2.40
			0.00	0.00	8.00	20.00	
			0.00	0.00	20.00	1.61	
TOTAL			31	95	20	62	204
			14.90	45.67	9.52	29.81	100.00

16. If your answer to #14 is yes, did the criticism relate to the judge's actions on findings, sentence or other grounds?

- Usually findings.....1
- Usually sentence.....2
- Usually other grounds.....3
- About equally on all of the above..4

FREQUENCIES BY SERVICE
TABLE OF Q31 BY Q317

Q31	Q317	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
		0	0	2	0	•
		•	•	•	•	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		53	1	20	5	26
		•	0.46	9.13	2.28	11.87
		•	3.95	76.92	19.23	
		•	7.69	15.75	6.33	
NAVY		86	7	54	40	101
		•	3.20	24.66	18.26	45.12
		•	6.93	53.47	39.60	
		•	53.85	42.52	50.63	
MARINE CORPS		9	0	17	8	25
		•	0.00	7.76	3.65	11.42
		•	0.00	68.00	32.00	
		•	0.00	13.39	10.13	
AIR FORCE		102	5	33	24	62
		•	2.29	15.07	10.96	28.31
		•	8.06	53.23	38.71	
		•	38.45	25.98	30.38	
COAST GUARD		3	0	3	2	5
		•	0.00	1.37	0.91	2.28
		•	0.00	60.00	40.00	
		•	0.00	2.36	2.53	
TOTAL		•	13	127	79	219
		•	5.94	57.99	36.07	100.00

17. If your answer to #14 is yes, did the criticism impact on the judges' subsequent decisions?

Yes.....1
No.....2
Don't know.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q818

Q81	Q818	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	1	0	•
	.	•	•	•	•	•	•
ARMY	.	0	32	32	12	3	79
		•	6.34	6.84	2.56	0.64	16.88
		•	40.51	40.51	15.19	3.80	
		•	24.06	21.77	9.09	5.36	
NAVY	.	2	42	47	65	29	185
		•	8.97	10.47	13.87	6.20	39.53
		•	22.70	26.47	35.14	15.63	
		•	31.53	33.33	49.24	51.79	
MARINE CORPS	.	1	4	11	10	4	33
		•	1.71	2.35	2.14	0.85	7.05
		•	24.24	33.33	30.30	12.12	
		•	6.02	7.48	7.58	7.14	
AIR FORCE	.	1	49	51	43	20	163
		•	10.47	10.93	9.19	4.27	34.83
		•	30.05	31.29	26.33	12.27	
		•	36.34	34.69	32.58	35.71	
COAST GUARD	.	0	2	4	2	0	8
		•	0.43	0.85	0.43	0.00	1.71
		•	25.00	50.00	25.00	0.00	
		•	1.50	2.72	1.50	0.00	
TOTAL	.	•	133	147	132	56	468
		•	29.42	31.41	28.21	11.97	100.00

18. To what extent do you believe that a guaranteed term of office would create the appearance of a more independent and fair military judiciary?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

Staff Judge Advocates

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q819

Q81	Q819	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		55	21	2	0	79
		11.33	4.45	0.42	0.00	16.77
		70.39	26.52	2.53	0.00	
		23.63	13.13	3.70	0.00	
NAVY		73	64	32	17	186
		15.50	13.53	6.79	3.51	39.49
		39.23	34.41	17.20	9.14	
		30.90	40.75	59.25	73.91	
MARINE CORPS		15	12	4	2	34
		3.40	2.53	0.85	0.42	7.22
		47.05	35.29	11.76	5.88	
		5.75	7.64	7.41	3.70	
AIR FORCE		63	57	15	4	164
		13.62	12.10	3.18	0.85	34.82
		53.56	34.75	9.15	2.44	
		37.13	36.31	27.73	17.39	
COAST GUARD		4	3	1	0	8
		0.85	0.64	0.21	0.00	1.70
		50.00	37.50	12.50	0.00	
		1.69	1.91	1.85	0.00	
TOTAL		237	157	54	23	471
		50.32	33.33	11.46	4.88	100.00

19. To what extent do you believe that a guaranteed term of office would actually create a more independent and fair military judiciary?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB21

QB1	QB21	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	2	0	0	•
	.	•	•	•	•	•
	.	•	•	•	•	•
ARMY		0	53	20	6	79
		•	11.25	4.25	1.27	16.77
		•	67.09	25.32	7.59	
		•	22.94	11.11	10.00	
NAVY		1	82	72	32	186
		•	17.41	15.29	6.79	39.49
		•	44.09	38.71	17.20	
		•	35.50	40.00	53.33	
MARINE CORPS		0	17	15	2	34
		•	3.61	3.18	0.42	7.22
		•	50.00	44.12	5.88	
		•	7.36	8.33	3.33	
AIR FORCE		0	78	67	19	164
		•	16.56	14.23	4.03	34.82
		•	47.56	40.85	11.59	
		•	33.77	37.22	31.67	
COAST GUARD		0	1	6	1	8
		•	0.21	1.27	0.21	1.70
		•	12.50	75.00	12.50	
		•	0.43	3.33	1.67	
TOTAL		•	231	180	60	471
		•	49.04	38.22	12.74	100.00

21. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB22

QB1	QB22		1	2	3	TOTAL
FREQUENCY						
ROW PCT						
COL PCT						
ARMY		0	33	37	8	78
		.	7.07	7.92	1.71	16.70
		.	42.31	47.44	10.26	
		.	29.73	12.46	13.56	
NAVY		4	24	134	25	183
		.	5.14	28.69	5.35	39.19
		.	13.11	73.22	13.66	
		.	21.62	45.12	42.37	
MARINE CORPS		0	9	24	1	34
		.	1.93	5.14	0.21	7.28
		.	26.47	70.59	2.94	
		.	8.11	8.08	1.69	
AIR FORCE		0	44	95	25	164
		.	9.42	20.34	5.35	35.12
		.	26.83	57.93	15.24	
		.	39.64	31.99	42.37	
COAST GUARD		0	1	7	0	8
		.	0.21	1.50	0.00	1.71
		.	12.50	37.50	0.00	
		.	0.90	2.36	0.00	
TOTAL		.	111	297	59	467
		.	23.77	63.60	12.63	100.00

22. Would guaranteed terms of office for military judges give judges too much independence?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q823

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q823			TOTAL
	1	2	3	
ARMY	27 5.79 34.62 12.00	45 9.66 57.69 20.74	6 1.29 7.69 25.00	78 16.74
NAVY	101 21.67 55.19 44.89	68 14.59 37.16 31.34	14 3.00 7.65 58.33	183 39.27
MARINE CORPS	12 2.58 36.36 5.33	21 4.51 63.64 9.68	0 0.00 0.00 0.00	33 7.08
AIR FORCE	80 17.17 48.78 35.56	80 17.17 48.78 36.87	4 0.86 2.44 16.67	164 35.19
COAST GUARD	5 1.07 62.50 2.22	3 0.64 37.50 1.38	0 0.00 0.00 0.00	8 1.72
TOTAL	225 48.28	217 46.57	24 5.15	466 100.00

23. How do you view assignment as a military judge in terms of career enhancement?

Not very career enhancing.....1
Somewhat career enhancing.....2
Very career enhancing.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q824

QB1	Q824	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
		0	0	2	0	•
		•	•	•	•	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		0	6	65	8	79
		•	1.28	13.83	1.70	16.81
		•	7.59	82.28	10.13	
		•	40.00	17.29	10.13	
NAVY		2	2	140	43	185
		•	0.43	29.79	9.15	39.36
		•	1.08	75.68	23.24	
		•	13.33	37.23	54.43	
MARINE CORPS		0	1	23	10	34
		•	0.21	4.89	2.13	7.23
		•	2.94	67.65	29.41	
		•	6.67	6.12	12.66	
AIR FORCE		0	6	142	16	164
		•	1.28	30.21	3.40	34.89
		•	3.66	86.59	9.76	
		•	40.00	37.77	20.25	
COAST GUARD		0	0	6	2	8
		•	0.00	1.28	0.43	1.70
		•	0.00	75.00	25.00	
		•	0.00	1.60	2.53	
TOTAL		•	15	376	79	470
		•	3.19	80.00	16.81	100.00

24. Is O-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB25

QB1	QB25	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT	.	0	2	0	.

ARMY	0	63	12	79	
	0.85	13.40	2.55	16.81	
	5.06	79.75	15.19		
	9.52	19.27	11.88		
NAVY	2	110	58	185	
	3.62	23.40	12.34	39.36	
	9.19	59.46	31.35		
	40.48	33.64	57.43		
MARINE CORPS	0	13	12	34	
	1.91	2.77	2.55	7.23	
	26.47	38.24	35.29		
	21.43	3.98	11.88		
AIR FORCE	0	137	16	164	
	2.34	29.15	3.40	34.89	
	6.71	83.54	9.76		
	26.19	41.90	15.84		
COAST GUARD	0	4	3	8	
	0.21	0.85	0.64	1.70	
	12.50	50.00	37.50		
	2.38	1.22	2.97		
TOTAL	.	42	327	470	
	8.94	69.57	21.49	100.00	

25. Is O-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB26

QB1	QB26		1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
		0	1	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		0	56	8	15	79
		•	11.97	1.71	3.21	16.88
		•	70.89	10.13	18.99	
		•	15.43	20.51	22.73	
NAVY		2	155	2	28	195
		•	33.12	0.43	5.98	39.53
		•	33.78	1.08	15.14	
		•	42.70	5.13	42.42	
MARINE CORPS		0	25	0	9	34
		•	5.34	0.00	1.92	7.26
		•	73.53	0.00	26.47	
		•	6.89	0.00	13.64	
AIR FORCE		2	122	28	12	162
		•	26.07	5.98	2.56	34.62
		•	75.31	17.28	7.41	
		•	33.61	71.79	18.18	
COAST GUARD		0	5	1	2	8
		•	1.07	0.21	0.43	1.71
		•	62.50	12.50	25.00	
		•	1.38	2.56	3.03	
TOTAL		•	363	39	66	468
		•	77.56	8.33	14.10	100.00

26. If there were flag and general officer billets on the Courts of Military Review, would judicial duty be more career enhancing?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB27

QB1	QB27	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	1	0	.

ARMY	1	56 12.07 71.79 16.72	8 1.72 10.26 18.18	14 3.02 17.95 16.47	78 16.81	
NAVY	5	143 30.82 78.57 42.69	6 1.29 3.30 13.64	33 7.11 18.13 38.82	182 39.22	
MARINE CORPS	0	24 5.17 70.59 7.16	0 0.00 0.00 0.00	10 2.16 29.41 11.76	34 7.33	
AIR FORCE	2	108 23.28 66.67 32.24	29 6.25 17.90 65.91	25 5.39 15.43 29.41	162 34.91	
COAST GUARD	0	4 0.86 50.00 1.19	1 0.22 12.50 2.27	3 0.65 37.50 3.53	8 1.72	
TOTAL	.	335 72.20	44 9.48	85 18.32	464 100.00	

27. If there were flag and general officer billets on the Court of Military Appeals, would judicial duty be more career enhancing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q31 BY Q28

Q31 FREQUENCY PERCENT ROW PCT COL PCT	Q28					TOTAL
	1	2	3	4	5	
0	0	0	1	0	1	0
.
.
1	1	21	54	2	0	78
.	0.21	4.51	11.59	0.43	0.00	16.74
.	1.28	26.92	69.23	2.56	0.00	
.	3.23	12.28	22.41	12.50	0.00	
4	23	75	76	7	2	183
.	4.94	16.03	16.31	1.50	0.43	39.27
.	12.57	40.98	41.53	3.83	1.09	
.	74.19	43.96	31.54	43.75	28.57	
0	2	12	17	1	2	34
.	0.43	2.58	3.65	0.21	0.43	7.30
.	5.88	35.29	50.00	2.94	5.88	
.	6.45	7.02	7.05	6.25	28.57	
1	5	58	91	6	3	163
.	1.07	12.45	19.53	1.29	0.64	34.98
.	3.07	35.58	55.83	3.68	1.84	
.	16.13	33.92	37.76	37.50	42.86	
0	0	5	3	0	0	8
.	0.00	1.07	0.64	0.00	0.00	1.72
.	0.00	62.50	37.50	0.00	0.00	
.	0.00	2.92	1.24	0.00	0.00	
TOTAL	31	171	241	16	7	466
	6.65	36.70	51.72	3.43	1.50	100.00

28. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?

Much more attractive.....1
Somewhat more attractive.....2
No effect.....3
Somewhat less attractive.....4
Much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY Q829

QB1	QB29	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT		0	1	0	1	0	•
		•	•	•	•	•	•
		•	•	•	•	•	•
ARMY	0	33	40	6	0	79	16.84
	•	7.04	1.28	•	•	•	•
	•	41.77	8.53	7.59	•	•	•
	•	20.25	50.63	8.70	•	•	•
NAVY	3	48	84	43	9	184	39.23
	•	10.23	17.91	9.17	1.92	•	•
	•	26.09	45.65	23.37	4.89	•	•
	•	29.45	37.33	62.32	75.00	•	•
MARINE CORPS	0	17	14	3	0	34	7.25
	•	3.62	2.99	0.64	•	•	•
	•	50.00	41.18	8.82	•	•	•
	•	10.43	6.22	4.35	•	•	•
AIR FORCE	0	59	87	16	2	164	34.97
	•	12.58	18.55	3.41	0.43	•	•
	•	35.98	53.05	9.76	1.22	•	•
	•	36.20	38.67	23.19	16.67	•	•
COAST GUARD	0	6	0	1	1	8	1.71
	•	1.28	0.00	0.21	0.21	•	•
	•	75.00	0.00	12.50	12.50	•	•
	•	3.68	0.00	1.45	8.33	•	•
TOTAL	•	163	225	59	12	469	100.00
	•	34.75	47.97	14.71	2.56	•	•

29. If a guaranteed term of office provision were enacted, what length of time should it contain for judges of the Courts of Military Review?

- Normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB30

QB1	QB30	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	1	0	0	.

ARMY	.	41	32	6.81	5	1	79
	.	8.72	6.81	1.06	0.21	0.27	16.81
	.	51.90	40.51	6.33	1.27	0.99	79
NAVY	.	20.20	15.61	9.80	5	1	16.81
	.	62	86	18.30	28	9	185
	.	13.19	18.30	5.96	15.14	1.91	39.36
MARINE CORPS	.	33.51	46.49	15.14	54.90	4.86	34
	.	30.54	41.95	54.90	81.82	0.00	7.23
	.	18	14	2.98	0.43	0.00	34
AIR FORCE	.	3.83	41.19	5.88	3.92	0.00	7.23
	.	52.94	8.87	6.83	2	0.00	164
	.	76	71	15.11	16	1	34.89
COAST GUARD	.	16.17	43.29	9.76	3.40	0.21	164
	.	46.34	34.63	31.37	9.76	0.61	34.89
	.	37.44	2	0	0.00	0.00	8
TOTAL	.	1.28	0.43	25.00	0.00	0.00	1.70
	.	75.00	0.98	0.00	0.00	0.00	470
	.	2.96	205	43.62	10.85	2.34	100.00
TOTAL	.	203	205	43.62	10.85	2.34	470
TOTAL	.	43.19	43.62	10.85	2.34	100.00	100.00

30. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?

- Normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q831

Q81	Q831	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	2	0	0	0	.

ARMY	.	0	59	19	1	0	79
	.	.	12.55	4.04	0.21	0.00	16.81
	.	.	74.68	24.05	1.27	0.00	39.36
NAVY	.	2	87	83	11	4	185
	.	.	18.51	17.66	2.34	0.85	39.36
	.	.	47.03	44.86	5.95	2.16	79
MARINE CORPS	.	0	25	9	0	0	34
	.	.	5.32	1.91	0.00	0.00	7.23
	.	.	73.53	26.47	0.00	0.00	34
AIR FORCE	.	0	88	68	7	1	164
	.	.	18.72	14.47	1.49	0.21	34.89
	.	.	53.65	41.46	4.27	0.61	79
COAST GUARD	.	0	6	2	0	0	8
	.	.	1.28	0.43	0.00	0.00	1.70
	.	.	75.00	25.00	0.00	0.00	8
TOTAL	.	265	181	19	19	5	470
	.	.	56.38	38.51	4.04	1.06	100.00

31. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?

- Normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB33

QB1 FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	TOTAL
ARMY	0 0.64 3.85 9.68	0 2.56 15.38 9.60	1 12.18 73.08 20.88	1 1.28 7.69 25.00	0 0.00 0.00 0.00	78 16.67
NAVY	2 4.27 10.81 64.52	67 14.32 36.22 53.60	83 17.74 44.86 30.40	9 1.92 4.86 37.50	6 1.28 3.24 40.00	185 39.53
MARINE CORPS	1 0.64 9.09 9.68	7 1.50 21.21 5.60	20 4.27 60.61 7.33	1 0.21 3.03 4.17	2 0.43 6.06 13.33	33 7.05
AIR FORCE	0 1.07 3.05 16.13	36 7.69 21.95 28.80	110 23.50 67.07 40.29	7 1.50 4.27 29.17	6 1.28 3.66 40.00	164 35.04
COAST GUARD	0 0.00 0.00 0.00	3 0.64 37.50 2.40	3 0.64 37.50 1.10	1 0.21 12.50 4.17	1 0.21 12.50 6.67	8 1.71
TOTAL	31 6.62	125 26.71	273 58.33	24 5.13	15 3.21	468 100.00

33. How would guaranteed terms of office affect your view of military judge assignments?

- Much more attractive.....1
- Somewhat more attractive.....2
- No effect.....3
- Somewhat less attractive.....4
- Much less attractive.....5

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF Q31 BY Q34

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB34			TOTAL
	1	2	3	
•	0	1	0	•
•	•	•	•	•
•	•	•	•	•
•	•	•	•	•
ARMY	1	46	4	78
•	5.97	9.81	0.85	16.63
•	35.90	58.97	5.13	
•	14.36	19.09	12.12	
NAVY	2	76	17	185
•	19.62	15.20	3.62	39.45
•	49.73	41.08	9.19	
•	47.18	31.54	51.52	
MARINE CORPS	0	20	2	34
•	2.56	4.26	0.43	7.25
•	35.29	58.82	5.88	
•	6.15	8.30	6.06	
AIR FORCE	0	95	9	164
•	12.79	20.26	1.92	34.97
•	36.59	57.93	5.49	
•	30.77	39.42	27.27	
COAST GUARD	0	4	1	8
•	0.64	0.85	0.21	1.71
•	37.50	50.00	12.50	
•	1.54	1.56	3.03	
TOTAL	•	241	33	469
•	41.58	51.39	7.04	100.00

34. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QP1 BY QB35

QB1	QB35		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	2	0	0

ARMY		0	1	77	1	79
		.	0.21	16.42	0.21	16.84
		.	1.27	97.47	1.27	100.00
		.	3.03	18.47	5.26	26.76
NAVY		3	22	151	11	184
		.	4.69	32.20	2.35	39.23
		.	11.95	82.07	5.98	100.00
		.	56.67	36.21	57.89	114.56
MARINE CORPS		0	2	32	0	34
		.	0.43	6.82	0.00	7.25
		.	5.88	94.12	0.00	100.00
		.	6.06	7.67	0.00	13.73
AIR FORCE		0	6	151	7	164
		.	1.28	32.20	1.49	34.97
		.	3.66	92.07	4.27	100.00
		.	18.18	36.21	36.84	91.23
COAST GUARD		0	2	6	0	8
		.	0.43	1.28	0.00	1.71
		.	25.00	75.00	0.00	100.00
		.	6.06	1.44	0.00	7.50
TOTAL		.	33	417	19	469
		.	7.04	88.91	4.05	100.00

35. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?

Yes.....1
No.....2
No opinion.....3

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FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB36

QB1	QB36	0	1	2	3	4	TOTAL
FREQUENCY		0	0	0	0	0	0
PERCENT	
ROW PCT	
COL PCT	
ARMY		0	10	9	22	38	79
		.	2.14	1.93	4.71	8.14	16.92
		.	12.66	11.39	27.85	48.10	
		.	14.93	12.33	16.67	19.49	
NAVY		5	32	37	53	60	182
		.	6.85	7.92	11.35	12.65	38.97
		.	17.58	20.33	29.12	32.97	
		.	47.76	50.68	40.15	30.77	
MARINE CORPS		0	1	3	7	23	34
		.	0.21	0.64	1.50	4.93	7.28
		.	2.94	8.82	20.59	67.65	
		.	1.49	4.11	5.30	11.79	
AIR FORCE		0	24	19	49	72	164
		.	5.14	4.07	10.49	15.42	35.12
		.	14.63	11.59	29.88	43.90	
		.	35.82	26.03	37.12	36.92	
COAST GUARD		0	0	5	1	2	8
		.	0.00	1.07	0.21	0.43	1.71
		.	0.00	62.50	12.50	25.00	
		.	0.00	6.85	0.76	1.03	
TOTAL		0	67	73	132	195	467
		.	14.35	15.63	28.27	41.76	100.00

36. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB37

QB1 FREQUENCY PERCENT ROW PCT COL PCT	.		1		2		TOTAL
	0		0		2		.

	.		.		.		
ARMY	1	16	3.41	13.22	62	78	16.63
	.	20.51	79.49				
	.	8.21	22.63				
NAVY	1	109	23.03	16.63	78	186	39.66
	.	58.06	41.94				
	.	55.33	29.47				
MARINE CORPS	0	16	3.41	3.84	18	34	7.25
	.	47.06	52.94				
	.	8.21	6.57				
AIR FORCE	1	52	11.09	23.67	111	163	34.75
	.	31.90	68.10				
	.	26.67	40.51				
COAST GUARD	0	3	0.64	1.07	5	8	1.71
	.	37.50	62.50				
	.	1.54	1.82				
TOTAL	.	195	41.53	58.42	274	469	100.00

37. On balance, do you favor some provision for guaranteed terms of office for military trial judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QP1 BY Q838

QB1 FREQUENCY PERCENT ROW PCT COL PCT	Q838		TOTAL
	0	1		2
.	0	0	0
.	.	.	.
.	.	.	.
ARMY	0	20	20
	.	4.26	12.55
	.	25.32	74.68
	.	9.30	23.14
NAVY	1	117	118
	.	24.89	14.68
	.	62.90	37.10
	.	54.42	27.06
MARINE CORPS	0	16	16
	.	3.40	3.83
	.	47.05	52.94
	.	7.44	7.06
AIR FORCE	1	60	61
	.	12.77	21.91
	.	36.81	63.19
	.	27.91	40.39
COAST GUARD	0	2	2
	.	0.43	1.28
	.	25.00	75.00
	.	0.93	2.35
TOTAL	0	215	215
	.	45.74	54.26
	.		100.00

38. On balance, do you favor some provision for guaranteed terms
of office for OMR judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB39

QB1	QB39	1	2	3	4	5	TOTAL
FREQUENCY		0	0	0	0	1	•
PERCENT		•	•	•	•	•	•
ROW PCT		•	•	•	•	•	•
COL PCT		•	•	•	•	•	•
ARMY		8	3	18	21	21	71
		1.86	0.70	4.20	4.90	4.90	16.55
		11.27	4.23	25.35	29.58	29.58	
		21.05	10.00	23.68	21.65	11.17	
NAVY		5	3	8	27	129	172
		1.17	0.70	1.86	6.29	30.07	40.09
		2.91	1.74	4.65	15.70	75.00	
		13.16	10.00	10.53	27.84	68.62	
MARINE CORPS		2	0	4	12	15	33
		0.47	0.00	0.93	2.80	3.50	7.69
		6.06	0.00	12.12	36.36	45.45	
		5.26	0.00	5.26	12.37	7.98	
AIR FORCE		19	24	43	37	22	145
		4.43	5.59	10.02	8.62	5.13	33.80
		13.10	16.55	29.66	25.52	15.17	
		50.00	80.00	56.58	38.14	11.70	
COAST GUARD		4	0	3	0	1	8
		0.93	0.00	0.70	0.00	0.23	1.86
		50.00	0.00	37.50	0.00	12.50	
		10.53	0.00	3.95	0.00	0.53	
TOTAL		38	30	76	97	188	429
		8.86	6.99	17.72	22.61	43.82	100.00

39. What percentage of cases tried in the past year within your command were tried by military judge alone?

- Less than 10%.....1
- 10%-25%.....2
- 26%-50%.....3
- 51%-75%.....4
- Over 75%.....5

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q840

Q81	Q840					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	28 5.00 35.90 8.72	38 8.14 48.72 34.96	9 1.93 11.54 30.00	2 0.43 2.56 50.00	1 0.21 1.28 33.33	79 16.70
NAVY	124 25.55 57.39 38.53	45 9.54 24.46 41.28	13 2.78 7.07 43.33	2 0.43 1.09 50.00	0 0.00 0.00 0.00	184 39.40
MARINE CORPS	19 4.07 55.88 5.92	10 2.14 29.41 9.17	4 0.86 11.76 13.33	0 0.00 0.00 0.00	1 0.21 2.94 33.33	34 7.28
AIR FORCE	143 30.62 57.73 44.55	15 3.21 9.20 13.76	4 0.86 2.45 13.33	0 0.00 0.00 0.00	1 0.21 0.61 33.33	163 34.90
COAST GUARD	7 1.50 37.50 2.18	1 0.21 12.50 0.92	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	8 1.71
TOTAL	321 58.74	109 23.34	30 6.42	4 0.86	3 0.64	467 100.00

40. In your experience, in what percentage of cases with court members does an accused request enlisted members?

Less than 10%.....1
10%-25%.....2
26%-50%.....3
51%-75%.....4
Over 75%.....5

FREQUENCIES BY SERVICE
TABLE OF Q91 BY QB41

QB1	QB41	0	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	1	0	0	.

ARMY	.	0	13	27	17	17	5	79
	.	.	2.79	5.79	3.65	3.65	1.07	16.95
	.	.	16.46	34.18	21.52	21.52	6.33	100.00
NAVY	.	2	14	29	57	57	28	185
	.	.	3.00	6.22	12.23	12.23	6.01	39.70
	.	.	7.57	15.68	30.81	30.81	15.14	100.00
MARINE CORPS	.	0	1	9	11	9	4	34
	.	.	0.21	1.93	2.36	1.93	0.86	7.30
	.	.	2.94	26.47	32.35	26.47	11.76	100.00
AIR FORCE	.	4	20	52	56	23	9	160
	.	.	4.29	11.16	12.02	4.94	1.93	34.33
	.	.	12.50	32.50	35.00	14.38	5.63	100.00
COAST GUARD	.	0	1	1	1	5	0	8
	.	.	0.21	0.21	0.21	1.07	0.00	1.72
	.	.	12.50	12.50	12.50	62.50	0.00	100.00
TOTAL	.	4	49	118	142	111	46	466
	.	.	10.52	25.32	30.47	23.82	9.87	100.00
	.	.	2.50	29.25	35.25	29.25	7.25	100.00

41. How informed are the military judges who serve your command regarding local military community events and problems?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4
- Don't know.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB42

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB42					TOTAL
	1	2	3	4	5	
ARMY	0 1.49 8.86 46.67	0 1.71 10.13 14.81	0 7.04 41.77 18.64	1 5.33 31.65 13.44	0 1.28 7.59 16.22	79 16.84
NAVY	1 1.28 3.23 40.00	6 4.90 12.37 42.59	71 15.14 38.17 40.11	25 14.07 35.48 35.48	20 4.26 10.75 54.05	186 39.66
MARINE CORPS	0 0.00 0.00 0.00	5 1.07 14.71 9.26	14 2.99 41.18 7.91	13 2.77 38.24 6.99	2 0.43 5.88 5.41	34 7.25
AIR FORCE	2 0.43 1.23 13.33	17 3.62 10.49 31.49	57 12.15 35.19 32.20	77 16.42 47.53 41.40	9 1.92 5.56 24.32	162 34.54
COAST GUARD	0 0.00 0.00 0.00	1 0.21 12.50 1.85	2 0.43 25.00 1.13	5 1.07 62.50 2.69	0 0.00 0.00 0.00	8 1.71
TOTAL	15 3.20	54 11.51	177 37.74	186 39.66	37 7.89	469 100.00

42. Are military judges aware of the disciplinary impact of their sentences on the command?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4
- Don't know.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB43

QB1	QB43	0	1	2	3	4	5	TOTAL
FREQUENCY ROW PCT COL PCT	.	0	1	0	1	0	0	•
	•	•	•	•	•	•	•	•
	•	•	•	•	•	•	•	•
ARMY	2	0.22	2.17	6.30	7.39	34	3	77 16.74
	•	1.30	12.99	37.66	44.16	21.94	0.65	3.90
	•	10.00	12.99	15.34	21.94	39.06	10.34	10.34
NAVY	7	1.09	6.52	14.78	12.83	59	18	180 39.13
	•	2.78	16.67	37.78	32.78	39.06	3.91	10.00
	•	50.00	38.95	35.98	39.06	62.07	10.00	62.07
MARINE CORPS	0	0.00	0	4	15	13	2	34 7.39
	•	0.00	0.87	0.87	3.26	2.83	0.43	0.43
	•	0.00	11.76	44.12	44.12	38.24	5.88	5.88
	•	0.00	5.19	7.94	7.94	8.39	6.93	6.93
AIR FORCE	3	0.65	6.74	15.65	15.65	49	6	161 35.00
	•	1.46	19.25	44.72	30.43	10.65	1.30	1.30
	•	30.00	40.26	38.10	31.61	31.61	20.69	20.69
COAST GUARD	0	0.22	0.43	2	5	0	0	8 1.74
	•	12.50	25.00	52.50	52.50	0.00	0.00	0.00
	•	10.00	2.60	2.65	2.65	0.00	0.00	0.00
TOTAL	•	10	77	189	155	33.70	29	460 100.00
	•	2.17	16.74	41.09	33.70	6.30	6.30	6.30

43. Are the officers of your command who are detailed as court members aware of the disciplinary impact of their sentences on the command?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4
- Don't know.....5

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q844

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q844				TOTAL
	1	2	3	4	
0	1	1	0	0	•
•	•	•	•	•	•
•	•	•	•	•	•
•	•	•	•	•	•
ARMY	24	25	19	11	79
•	5.13	5.34	4.06	2.35	16.88
•	30.38	31.65	24.05	13.92	
•	10.57	21.74	26.76	20.00	
NAVY	103	34	24	22	183
•	22.01	7.26	5.13	4.70	39.10
•	56.28	18.58	13.11	12.02	
•	45.37	29.57	33.80	40.00	
MARINE CORPS	21	8	2	3	34
•	4.49	1.71	0.43	0.64	7.26
•	61.76	23.53	5.88	8.82	
•	9.25	6.96	2.82	5.45	
AIR FORCE	72	48	26	18	164
•	15.38	10.26	5.56	3.85	35.04
•	43.90	29.27	15.85	10.98	
•	31.72	41.74	36.62	32.73	
COAST GUARD	7	0	0	1	8
•	1.50	0.00	0.00	0.21	1.71
•	87.50	0.00	0.00	12.50	
•	3.03	0.00	0.00	1.82	
TOTAL	227	115	71	55	468
•	48.50	24.57	15.17	11.75	100.00

44. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?

- Military judges.....1
- Members.....2
- No difference.....3
- Don't know.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q85

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q85					TOTAL
	0	1	2	3	4	
ARMY	0 0.00	0 0.00	20 4.27	51 10.90	0 0.00	78 16.67
NAVY	2 0.43	25 5.34	119 25.43	39 8.33	3 0.64	185 39.53
MARINE CORPS	1 0.00	0 0.00	3 0.64	27 5.77	3 0.64	33 7.05
AIR FORCE	0 0.00	1 0.21	31 6.62	107 22.86	25 5.34	164 35.04
COAST GUARD	0 0.00	0 0.00	1 0.21	5 1.07	2 0.43	8 1.71
TOTAL	3 0.64	80 17.09	309 66.03	76 16.24	468 100.00	

45. How often do members give an inappropriate sentence
(unreasonably lenient or harsh)?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB46

QB1	QB46	1	2	3	4	TOTAL
FREQUENCY ROW PCT COL PCT	.	0	1	1	1	0

ARMY	1	3	38	35	2	78
	.	0.64	8.10	7.46	0.43	16.63
	.	3.85	48.72	44.87	2.56	
	.	33.33	14.23	19.55	14.29	
NAVY	1	3	103	69	6	186
	.	0.64	23.03	14.71	1.28	39.66
	.	1.61	58.06	37.10	3.23	
	.	33.33	40.45	38.55	42.86	
MARINE CORPS	1	0	20	12	1	33
	.	0.00	4.26	2.56	0.21	7.04
	.	0.00	60.61	36.36	3.03	
	.	0.00	7.49	6.70	7.14	
AIR FORCE	0	3	97	60	4	164
	.	0.64	20.68	12.79	0.85	34.97
	.	1.83	59.15	36.59	2.44	
	.	33.33	36.33	33.52	28.57	
COAST GUARD	0	0	4	3	1	8
	.	0.00	0.85	0.64	0.21	1.71
	.	0.00	50.00	37.50	12.50	
	.	0.00	1.50	1.68	7.14	
TOTAL	.	9	267	179	14	469
	.	1.92	56.93	38.17	2.99	100.00

46. How often do military judges give an inappropriate sentence
(unreasonably lenient or harsh)?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q847

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q847			TOTAL
	1	2	3	
ARMY	0 0 0 0	2 0 0 0	0 0 0 0	0 0 0 0
	8.07 48.10 15.83	6.37 37.97 16.85	11 2.34 13.92 20.75	79 16.77
NAVY	1 0 0 0	105 12.95 32.80 34.27	20 4.25 10.75 37.74	186 39.49
MARINE CORPS	0 0 0 0	14 2.97 41.18 5.83	15 3.18 44.12 8.43	34 7.22
AIR FORCE	0 0 0 0	81 17.20 49.39 33.75	68 14.44 41.46 38.20	164 34.82
COAST GUARD	0 0 0 0	2 0.42 25.00 0.83	4 0.85 50.00 2.25	8 1.70
TOTAL	0 0 0 0	240 50.96	178 37.79	471 100.00

47. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences? _____

Yes.....1
No.....2
No opinion.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB48

QB1 FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	4	TOTAL
ARMY	0	48	19	0	0	78
	.	10.26	4.06	0.00	0.00	16.67
	.	61.54	24.36	0.00	0.00	14.10
	.	22.97	10.22	0.00	0.00	15.94
NAVY	3	64	88	1	31	184
	.	13.68	18.80	0.21	6.62	39.32
	.	34.78	47.83	0.54	16.85	100.00
	.	30.62	47.31	25.00	44.93	100.00
MARINE CORPS	0	15	14	0	5	34
	.	3.21	2.99	0.00	1.07	7.26
	.	44.12	41.18	0.00	14.71	100.00
	.	7.18	7.53	0.00	7.25	100.00
AIR FORCE	0	76	63	3	22	164
	.	16.24	13.45	0.64	4.70	35.04
	.	46.34	38.41	1.93	13.41	100.00
	.	36.36	33.87	75.00	31.88	100.00
COAST GUARD	0	6	2	0	0	8
	.	1.28	0.43	0.00	0.00	1.71
	.	75.00	25.00	0.00	0.00	100.00
	.	2.87	1.08	0.00	0.00	100.00
TOTAL	.	209	186	4	69	468
	.	44.66	39.74	0.85	14.74	100.00

48. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?

- No effect.....1
- Reduce frequency.....2
- Increase frequency.....3
- Merely shift the focus to the military judge.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q850

Q81	Q850	0	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT	.	0	1	1	0	.

ARMY	.	1	39	14	25	78
	.	.	8.48	3.04	5.43	16.96
	.	.	50.00	17.95	32.05	
NAVY	.	.	12.66	28.00	24.51	
	.	.	133	10	37	180
	.	.	28.91	2.17	8.04	39.13
MARINE CORPS	.	.	73.89	5.56	20.56	
	.	.	43.18	20.00	36.27	
	.	.	1	1	7	33
AIR FORCE	.	.	5.43	0.22	1.52	7.17
	.	.	75.76	3.03	21.21	
	.	.	8.12	2.00	6.86	
COAST GUARD	.	.	104	25	32	161
	.	.	22.61	5.43	6.96	35.00
	.	.	64.60	15.53	19.88	
TOTAL	.	.	33.77	50.00	31.37	
	.	.	0	0	1	8
	.	.	1.52	0.00	0.22	1.74
.	.	87.50	0.00	12.50		
.	.	2.27	0.00	0.98		
.	.	308	50	102	460	
.	.	66.96	10.87	22.17	100.00	

50. Can court members or military judges better determine an appropriate sentence for a given accused?

Military judges.....1
 Court members.....2
 No difference.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB51

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB51					TOTAL
	1	2	3	4	5	
ARMY	0 0.00 0.00 0.00	1 0.86 5.13 4.94	0 0 11.54 7.89	1 12.42 74.36 25.00	0 0 1.50 8.97 25.93	78 16.70
NAVY	4 10 2.14 5.46 76.92	53 11.35 28.96 65.43	69 14.78 37.70 60.53	47 10.06 25.68 20.26	4 0.86 2.19 14.81	183 39.19
MARINE CORPS	0 0.00 0.00 0.00	9 1.93 26.47 11.11	11 2.36 32.35 9.65	14 3.00 41.18 6.03	0 0.00 0.00 0.00	34 7.28
AIR FORCE	0 0.43 1.22 15.38	12 2.57 7.32 14.81	23 4.93 14.02 20.18	111 23.77 67.68 47.84	16 3.43 9.76 59.26	164 35.12
COAST GUARD	0 0.21 12.50 7.69	3 0.64 37.50 3.70	2 0.43 25.00 1.75	2 0.43 25.00 0.86	0 0.00 0.00 0.00	8 1.71
TOTAL	0 2.78	81 17.34	114 24.41	232 49.68	27 5.78	467 100.00

51. How often do convening authorities select the "best qualified" personnel for court-martial duty?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QR52

QB1	QR52	0	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	0	0	0	0

ARMY	2	24	33	33	16	4	0	77
	.	5.27	7.25	3.52	0.88	0.00	0.00	16.92
	.	31.17	42.86	20.73	5.19	0.00	0.00	100.00
NAVY	4	26.37	23.74	11.27	5.33	0.00	0.00	77
	.	23	34	66	50	6	179	39.34
	.	5.05	7.47	14.51	10.99	1.32	39.34	100.00
MARINE CORPS	0	12.85	18.99	36.87	27.93	3.35	0.00	34
	.	25.27	24.46	46.48	66.67	75.00	7.47	100.00
	.	4	6	14	9	1	34	100.00
AIR FORCE	7	0.88	1.32	3.08	1.98	0.22	0.22	157
	.	11.76	17.65	41.18	26.47	2.94	34.51	100.00
	.	4.40	4.32	9.86	12.00	12.50	7.47	100.00
COAST GUARD	0	40	66	43	7	1	157	34.51
	.	8.79	14.51	9.45	1.54	0.22	34.51	100.00
	.	25.48	42.04	27.39	4.46	0.64	1.76	100.00
TOTAL	0	43.96	47.48	30.28	9.33	12.50	8	1.76
	.	0	0	3	5	0	157	100.00
	.	0.00	0.00	0.66	1.10	0.00	34.51	100.00
TOTAL	.	91	139	142	75	8	455	100.00
	.	20.00	30.55	31.21	16.48	1.76	100.00	100.00

52. How often do convening authorities of your command select court members for such duty based primarily upon their relative expendability?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB53

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB53					TOTAL
	1	2	3	4	5	
.	0	0	0	0	0	.
.
.
ARMY	3	45	18	1	1	76
	11	9.93	3.97	0.22	0.22	16.78
	2.43	59.21	23.68	1.32	1.32	
	14.47	17.79	32.14	11.11	25.00	
	8.40					
NAVY	10	92	8	4	2	177
	71	20.31	1.77	0.88	0.44	39.07
	15.67	51.98	4.52	2.26	1.13	
	40.11	36.36	14.29	44.44	50.00	
	54.20					
MARINE CORPS	0	15	5	0	0	34
	14	3.31	1.10	0.00	0.00	7.51
	3.09	44.12	14.71	0.00	0.00	
	41.18	5.93	8.93	0.00	0.00	
	10.69					
AIR FORCE	6	99	24	3	1	158
	31	21.85	5.30	0.66	0.22	34.88
	6.84	62.66	15.19	1.90	0.63	
	19.62	39.13	42.86	33.33	25.00	
	23.66					
COAST GUARD	0	2	1	1	0	8
	4	0.44	0.22	0.22	0.00	1.77
	0.88	25.00	12.50	12.50	0.00	
	50.00	0.79	1.79	11.11	0.00	
	3.05					
TOTAL	131	253	56	9	4	453
	28.92	55.95	12.36	1.99	0.88	100.00

53. In relation to the requirements of present and future combat operations, how important is duty as a court-martial member considered to be in your command?

- Not important at all.....1
- Not as important.....2
- About the same importance.....3
- More important.....4
- Much more important.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB55

QB1	QB55	0	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	2	0	0	0	•
	•	•	•	•	•	•	•	•
	•	•	•	•	•	•	•	•
ARMY	4	5	39	31	0	0	0	75
	•	1.09	8.50	6.75	0.00	0.00	0.00	16.34
	•	5.67	52.00	41.33	0.00	0.00	0.00	75
NAVY	5	10	130	21	21	19	2	182
	•	2.18	28.32	4.58	4.58	4.14	0.44	39.65
	•	5.49	71.43	11.54	10.44	1.10	0.44	182
MARINE CORPS	0	1	21	7	7	5	0	34
	•	0.22	4.58	1.53	1.53	1.09	0.00	7.41
	•	2.94	61.76	20.59	14.71	20.83	0.00	34
AIR FORCE	4	7	64	89	0	0	0	160
	•	1.53	13.94	19.39	0.00	0.00	0.00	34.86
	•	4.38	40.00	55.63	0.00	0.00	0.00	160
COAST GUARD	0	1	7	0	0	0	0	8
	•	0.22	1.53	0.00	0.00	0.00	0.00	1.74
	•	12.50	87.50	0.00	0.00	0.00	0.00	8
TOTAL	•	24	261	148	24	24	2	459
	•	5.23	56.86	32.24	5.23	5.23	0.44	100.00

55. What is your sense of the military grade profile of the typical special court-martial panels which actually hear cases at your and/or your subordinate commands?

- Don't know.....1
- One O-4/O-5 and rest below O-4.....2
- 50% split between O-4/O-5 and those below O-4.....3
- Normally all are below O-4.....4
- Normally all are above O-4.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB56

QB1	QB56	1	2	3	4	5	6	7	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	1	0	0	0	•
	•	•	•	•	•	•	•	•	•
	•	•	•	•	•	•	•	•	•
ARMY	5	53	6	0	0	6	0	4	74
	•	11.62	1.32	0.00	0.00	1.32	0.00	0.88	16.23
	•	6.76	71.62	8.11	0.00	8.11	0.00	5.41	
	•	8.06	22.08	8.70	0.00	17.65	0.00	12.12	
NAVY	6	40	56	42	12	17	1	13	181
	•	8.77	12.28	9.21	2.63	3.73	0.22	2.85	39.69
	•	22.10	30.24	23.20	6.63	9.39	0.55	7.18	
	•	64.52	23.33	60.87	75.00	50.00	50.00	39.39	
MARINE CORPS	0	0	16	9	1	3	0	5	34
	•	0.00	3.51	1.97	0.22	0.66	0.00	1.10	7.46
	•	0.00	47.06	26.47	2.94	8.82	0.00	14.71	
	•	0.00	6.67	13.04	6.25	8.82	0.00	15.15	
AIR FORCE	5	14	112	12	2	7	1	11	159
	•	3.07	24.56	2.63	0.44	1.54	0.22	2.41	34.97
	•	8.81	70.44	7.55	1.26	4.40	0.63	6.92	
	•	22.58	46.67	17.39	12.50	20.59	50.00	33.33	
COAST GUARD	0	3	3	0	1	1	0	0	8
	•	0.66	0.66	0.00	0.22	0.22	0.00	0.00	1.75
	•	37.50	37.50	0.00	12.50	12.50	0.00	0.00	
	•	4.84	1.25	0.00	6.25	2.94	0.00	0.00	
TOTAL	•	62	240	69	16	34	2	33	456
	•	13.60	52.63	15.13	3.51	7.46	0.44	7.24	100.00

56. What is your sense of the military grade profile of the typical general court-martial panels which actually hear cases at your and/or your subordinate commands?

- Don't know.....1
- One O-6, two O-5, three O-4, three below O-4.....2
- One O-5, three O-4, rest below O-4.....3
- One or more O-4, rest below O-4....4
- Two O-5, rest split evenly between O-4 and those below O-4.5
- Three O-5, three O-4, three below O-4.....6
- One O-6, three O-5, four O-4, one below O-4.....7

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB58

QB1	QB58	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	.

ARMY	.	38	35	6	79
	.	8.07	7.43	1.27	16.77
	.	48.13	44.30	7.59	
NAVY	.	101	81	4	186
	.	21.44	17.20	0.85	39.49
	.	54.30	43.55	2.15	
MARINE CORPS	.	9	21	4	34
	.	1.91	4.46	0.85	7.22
	.	26.47	61.76	11.76	
AIR FORCE	.	80	77	7	164
	.	15.99	16.35	1.49	34.82
	.	48.78	46.95	4.27	
COAST GUARD	.	0	8	0	8
	.	0.00	1.70	0.00	1.70
	.	0.00	100.00	0.00	
TOTAL	.	228	222	21	471
	.	48.41	47.13	4.46	100.00
	.				

58. Would a change to military judge alone sentencing appear to deprive an accused of a substantial right?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q859

Q81	Q859	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	2	0	.

ARMY	1	8	63	7	78	16.70
	.	1.71	13.49	1.50	16.70	
	.	10.26	80.77	8.97	100.00	
NAVY	2	11	162	12	185	39.61
	.	2.36	34.69	2.57	39.61	
	.	5.95	87.57	6.49	100.00	
MARINE CORPS	0	4	25	5	34	7.28
	.	0.86	5.35	1.07	7.28	
	.	11.76	73.53	14.71	100.00	
AIR FORCE	2	12	138	12	162	34.69
	.	2.57	29.55	2.57	34.69	
	.	7.41	85.19	7.41	100.00	
COAST GUARD	0	1	7	0	8	1.71
	.	0.21	1.50	0.00	1.71	
	.	12.50	87.50	0.00	100.00	
TOTAL	.	36	395	36	467	100.00
	.	7.71	84.58	7.71	100.00	
	.					

59. Knowing that an accused currently has the option to reject member-sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB60

QB1	QB60		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	0	2	0	2
	
	
	
		0	45	31	3	79
		.	9.55	6.58	0.64	16.77
		.	56.96	39.24	3.80	
		.	22.39	12.86	10.34	
NAVY		1	69	102	15	186
		.	14.65	21.66	3.18	39.49
		.	37.10	54.84	8.06	
		.	34.33	42.32	51.72	
MARINE CORPS		0	11	22	1	34
		.	2.34	4.67	0.21	7.22
		.	32.35	64.71	2.94	
		.	5.47	9.13	3.45	
AIR FORCE		0	75	79	10	164
		.	15.92	16.77	2.12	34.82
		.	45.73	48.17	6.10	
		.	37.31	32.78	34.48	
COAST GUARD		0	1	7	0	8
		.	0.21	1.49	0.00	1.70
		.	12.50	87.50	0.00	
		.	0.50	2.90	0.00	
TOTAL		.	201	241	29	471
		.	42.68	51.17	6.16	100.00

60. If mandatory judge alone sentencing were adopted, would there be an appearance that command authority had been diminished?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB61

QB1	QB61	0	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	2	0	0	•
	.	•	•	•	•	•	•	•
	.	•	•	•	•	•	•	•
ARMY	4	2	18	50	4	1	75	16.45
	•	0.44	3.95	10.96	0.98	0.22	0	•
	•	2.57	24.00	66.67	5.33	1.33	•	•
	•	22.22	22.22	16.29	7.27	25.00	•	•
NAVY	7	3	29	129	18	1	180	39.47
	•	0.66	6.36	28.29	3.95	0.22	•	•
	•	1.57	16.11	71.67	10.00	0.56	•	•
	•	33.33	35.80	42.02	32.73	25.00	•	•
MARINE CORPS	2	1	5	22	4	0	32	7.02
	•	0.22	1.10	4.82	0.88	0.00	•	•
	•	3.13	15.63	68.75	12.50	0.00	•	•
	•	11.11	6.17	7.17	7.27	0.00	•	•
AIR FORCE	3	3	22	102	25	2	161	35.31
	•	0.66	6.36	22.37	5.48	0.44	•	•
	•	1.86	18.01	63.35	15.53	1.24	•	•
	•	33.33	35.80	33.22	45.45	50.00	•	•
COAST GUARD	0	0	0	4	4	0	8	1.75
	•	0.00	0.00	0.83	0.88	0.00	•	•
	•	0.00	0.00	50.00	50.00	0.00	•	•
	•	0.00	0.00	1.30	7.27	0.00	•	•
TOTAL	•	9	81	307	55	4	456	100.00
	•	1.97	17.76	67.32	12.06	0.88	•	•

61. How often do court members doubts on the merits end up expressed in a "compromise" sentence?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB62

QB1	QB62				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	
	0	2	0	0	•
	•	•	•	•	•
	•	•	•	•	•
ARMY	0	68	6	5	79
	•	14.44	1.27	1.06	16.77
	•	86.03	7.59	6.33	
	•	16.11	16.22	41.67	
NAVY	1	176	8	2	186
	•	37.37	1.70	0.42	39.49
	•	94.62	4.30	1.08	
	•	41.71	21.62	16.67	
MARINE CORPS	0	29	5	0	34
	•	6.16	1.06	0.00	7.22
	•	95.29	14.71	0.00	
	•	6.87	13.51	0.00	
AIR FORCE	0	141	18	5	164
	•	29.94	3.82	1.06	34.82
	•	85.93	10.98	3.05	
	•	33.41	48.65	41.67	
COAST GUARD	0	8	0	0	8
	•	1.70	0.00	0.00	1.70
	•	100.00	0.00	0.00	
	•	1.90	0.00	0.00	
TOTAL	•	422	37	12	471
	•	89.60	7.86	2.55	100.00

62. Is mandatory sentencing by military judges more likely to produce consistent sentences in similar cases than sentencing by members?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB63

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB63					TOTAL
	1	2	3	4		
•	0	0	0	1	•	•
•	•	•	•	•	•	•
•	•	•	•	•	•	•
•	•	•	•	•	•	•
ARMY	1	33	31	3	78	16.70
•	2.36	7.07	6.64	0.64	•	•
•	14.10	42.31	39.74	3.85	•	•
•	6.40	17.65	33.70	18.75	•	•
NAVY	4	84	27	9	183	39.19
•	13.49	17.99	5.78	1.93	•	•
•	34.43	45.90	14.75	4.92	•	•
•	36.63	44.92	29.35	56.25	•	•
MARINE CORPS	0	13	7	1	34	7.28
•	2.78	2.78	1.50	0.21	•	•
•	38.24	38.24	20.59	2.94	•	•
•	7.56	6.95	7.61	6.25	•	•
AIR FORCE	0	80	27	3	164	35.12
•	17.13	11.56	5.78	0.64	•	•
•	48.78	32.93	16.46	1.83	•	•
•	46.51	28.88	29.35	18.75	•	•
COAST GUARD	0	5	0	0	8	1.71
•	1.07	0.64	0.00	0.00	•	•
•	62.50	37.50	0.00	0.00	•	•
•	2.91	1.60	0.00	0.00	•	•
TOTAL	•	172	187	16	467	100.00
•	36.83	40.04	19.70	3.43	•	•

63. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?

- Not at all.....1
- Slight.....2
- Somewhat.....3
- Great.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q864

Q81	Q864		1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
		0	1	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		0	6	59	14	79
		•	1.28	12.61	2.99	16.88
		•	7.59	74.68	17.72	
		•	26.09	17.51	12.96	
NAVY		2	9	130	46	185
		•	1.92	27.73	9.93	39.53
		•	4.86	70.27	24.86	
		•	19.13	38.58	42.59	
MARINE CORPS		0	0	28	6	34
		•	0.00	5.98	1.28	7.26
		•	0.00	82.35	17.65	
		•	0.00	8.31	5.56	
AIR FORCE		2	8	113	41	162
		•	1.71	24.15	8.76	34.62
		•	4.94	69.75	25.31	
		•	14.78	33.53	37.96	
COAST GUARD		0	0	7	1	8
		•	0.00	1.50	0.21	1.71
		•	0.00	87.50	12.50	
		•	0.00	2.03	0.93	
TOTAL		•	23	137	108	468
		•	4.91	72.01	23.08	100.00

64. If the military judge perceives resentment, would this cause the judge to render an inappropriately lenient or harsh sentence?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB65

QB1	QB65	0	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
ARMY		1	7	65	6	78
		•	1.49	13.86	1.28	16.63
		•	8.97	83.33	7.69	
		•	7.00	19.76	15.00	
NAVY		2	57	106	22	185
		•	12.15	22.60	4.69	39.45
		•	30.81	57.30	11.89	
		•	57.00	32.22	55.00	
MARINE CORPS		0	3	30	1	34
		•	0.64	6.40	0.21	7.25
		•	8.82	88.24	2.94	
		•	3.00	9.12	2.50	
AIR FORCE		0	33	121	10	164
		•	7.04	25.60	2.13	34.97
		•	20.12	73.78	6.10	
		•	33.00	36.78	25.00	
COAST GUARD		0	0	7	1	8
		•	0.00	1.49	0.21	1.71
		•	0.00	87.50	12.50	
		•	0.00	2.13	2.50	
TOTAL		•	100	329	40	469
		•	21.32	70.15	8.53	100.00

65. If military judges were given sole sentencing authority and court members tried only the issue of guilt, should the system used to select court members be changed to require random selection of court members?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB66

QB1 FREQUENCY PERCENT ROW PCT COL PCT	1		2		TOTAL
	0	0	2		•
	•	•	•	•	•
	•	•	•	•	
ARMY	4	8	67		75
	•	1.73	14.50		16.23
	•	10.67	89.33		
	•	10.39	17.40		
NAVY	5	37	145		182
	•	8.01	31.39		39.39
	•	20.33	79.67		
	•	48.05	37.66		
MARINE CORPS	0	9	26		34
	•	1.73	5.63		7.36
	•	23.53	76.47		
	•	10.39	6.75		
AIR FORCE	1	23	140		163
	•	4.98	30.30		35.28
	•	14.11	85.89		
	•	29.87	36.36		
COAST GUARD	0	1	7		8
	•	0.22	1.52		1.73
	•	12.50	87.50		
	•	1.30	1.82		
TOTAL	•	77	385		462
	•	16.67	83.33		100.00

66. If random selection of members were used under these circumstances, should the selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command, not junior to the accused, who meet present statutory qualifications of age, experience, etc.?

All members not junior to the
accused.....1
All members not junior to the
accused who meet present
qualifications.....2

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q867

Q81	Q867	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT						
		0	1	1	0	•
		•	•	•	•	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		0	5	69	5	79
		•	1.06	14.68	1.06	16.81
		•	6.33	87.34	6.33	
		•	6.85	18.21	27.78	
NAVY		1	37	143	6	186
		•	7.87	30.43	1.28	39.57
		•	19.89	76.88	3.23	
		•	50.68	37.73	33.33	
MARINE CORPS		0	7	27	0	34
		•	1.49	5.74	0.00	7.23
		•	20.59	79.41	0.00	
		•	9.59	7.12	0.00	
AIR FORCE		1	23	133	7	163
		•	4.89	28.30	1.49	34.68
		•	14.11	81.60	4.29	
		•	31.51	35.09	38.89	
COAST GUARD		0	1	7	0	8
		•	0.21	1.49	0.00	1.70
		•	12.50	87.50	0.00	
		•	1.37	1.85	0.00	
TOTAL		•	73	379	18	470
		•	15.53	80.64	3.83	100.00

67. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or judge for sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB69

QB1	QB69	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT		0	2	0	•
		•	•	•	•
		•	•	•	•
ARMY		20	47	10	77
		4.27	10.04	2.14	16.45
		25.97	61.04	12.99	
NAVY		42	126	18	186
		8.97	26.92	3.85	39.74
		22.58	67.74	9.68	
MARINE CORPS		5	26	2	33
		1.07	5.56	0.43	7.05
		15.15	78.79	6.06	
AIR FORCE		33	120	11	164
		7.05	25.64	2.35	35.04
		20.12	73.17	6.71	
COAST GUARD		0	7	1	8
		0.00	1.50	0.21	1.71
		0.00	37.50	12.50	
TOTAL		100	326	42	468
		21.37	69.66	8.97	100.00
		•	•	•	•

69. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where the members have already arrived at findings?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB70

QB1	QB70	0	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
ARMY		0	30	40	0	70
		0	6.37	8.49	0	16.77
		0	37.97	50.63	11.39	100.00
		0	13.33	19.70	20.93	54.00
NAVY		1	108	61	17	186
		0	22.93	12.95	3.61	39.49
		0	58.06	32.80	9.14	100.00
		0	48.00	30.05	39.53	117.58
MARINE CORPS		0	15	18	1	34
		0	3.18	3.82	0.21	7.22
		0	44.12	52.94	2.94	100.00
		0	6.67	8.87	2.33	17.87
AIR FORCE		0	67	81	16	164
		0	14.23	17.20	3.40	34.82
		0	40.85	49.39	9.76	100.00
		0	29.78	39.90	37.21	106.89
COAST GUARD		0	5	3	0	8
		0	1.06	0.64	0.00	1.70
		0	62.50	37.50	0.00	100.00
		0	2.22	1.48	0.00	3.70
TOTAL		0	225	203	43	471
		0	47.77	43.10	9.13	100.00

70. If Congress promulgates sentencing guidelines for Federal courts, should similar guidelines be extended to courts-martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB71

QB1	QB71		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	2	0	.

ARMY	.	0	38	32	9	79
	.	.	8.09	6.81	1.91	16.81
	.	.	48.10	40.51	11.39	100.00
NAVY	.	0	15.32	20.92	13.04	49.28
	.	.	97	60	28	185
	.	.	20.64	12.77	5.96	39.36
MARINE CORPS	.	0	52.43	32.43	15.14	99.60
	.	.	39.11	39.22	40.58	118.91
	.	.	20	9	5	34
AIR FORCE	.	0	4.25	1.91	1.06	7.23
	.	.	58.82	26.47	14.71	99.60
	.	.	8.06	5.88	7.25	21.19
COAST GUARD	.	0	83	49	27	164
	.	.	18.72	10.43	5.74	34.89
	.	.	53.66	29.88	16.46	99.60
TOTAL	.	0	5	3	0	8
	.	.	1.06	0.64	0.00	1.70
	.	.	62.50	37.50	0.00	100.00
.	.	2.02	1.96	0.00	3.98	
.	.	248	153	69	470	
.	.	52.77	32.55	14.68	100.00	

71. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q872

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q872		TOTAL
	1	2	
.	0	1	.
.	.	.	.
.	.	.	.
ARMY	1	36	78
.	7.66	8.94	16.60
.	46.15	53.85	
.	12.29	23.73	
NAVY	1	124	186
.	26.38	13.19	39.57
.	66.67	33.33	
.	42.32	35.03	
MARINE CORPS	0	24	34
.	5.11	2.13	7.23
.	70.59	29.41	
.	8.19	5.65	
AIR FORCE	0	101	164
.	21.49	13.40	34.89
.	61.59	38.41	
.	34.47	35.59	
COAST GUARD	0	8	8
.	1.70	0.00	1.70
.	100.00	0.00	
.	2.73	0.00	
TOTAL	293	177	470
.	62.34	37.66	100.00

72. On balance, do you favor sentencing only by military judges
in all non-capital cases?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q873

Q81	Q873	1	2	3	4	5	TOTAL
FREQUENCY		0	2	0	0	0	•
PERCENT		•	•	•	•	•	•
ROW PCT		•	•	•	•	•	•
COL PCT		•	•	•	•	•	•
ARMY	•	20	36	13	0	4	73
		4.52	8.14	2.94	0.00	0.90	16.52
		27.40	49.32	17.81	0.00	5.48	
		19.61	18.09	16.67	0.00	10.00	
NAVY	•	15	83	40	15	26	179
		3.39	18.78	9.05	3.39	5.88	40.50
		8.38	46.37	22.35	8.38	14.53	
		14.71	41.71	51.28	65.22	65.00	
MARINE CORPS	•	1	15	8	3	5	32
		0.23	3.39	1.81	0.68	1.13	7.24
		3.13	46.88	25.00	9.38	15.63	
		0.98	7.54	10.26	13.04	12.50	
AIR FORCE	•	63	65	15	4	4	151
		14.25	14.71	3.39	0.90	0.90	34.16
		41.72	43.05	9.93	2.65	2.65	
		61.76	32.66	19.23	17.39	10.00	
COAST GUARD	•	3	0	2	1	1	7
		0.68	0.00	0.45	0.23	0.23	1.58
		42.86	0.00	28.57	14.29	14.29	
		2.94	0.00	2.56	4.35	2.50	
TOTAL	•	102	199	78	23	40	442
		23.08	45.02	17.65	5.20	9.05	100.00

73. In approximately what percentage of the special/general courts-martial convened in your or a subordinate command have military judges recommended that a portion or all of the sentence be suspended?

0%	1
1-5%	2
6-10%	3
11-15%	4
Over 15%	5

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q874

Q81	Q874	1	2	3	4	5	6	7	TOTAL
ARMY	FREQUENCY	0	1	1	0	0	0	0	•
	PERCENT	•	•	•	•	•	•	•	•
	ROW PCT	•	•	•	•	•	•	•	•
ARMY	CDL PCT	•	•	•	•	•	•	•	•
	FREQUENCY	6	16	28	1	1	3	6	73
	PERCENT	4.11	3.65	6.39	0.23	0.23	0.68	1.37	16.67
NAVY	FREQUENCY	•	•	•	•	•	•	•	•
	PERCENT	•	•	•	•	•	•	•	•
	ROW PCT	•	•	•	•	•	•	•	•
NAVY	CDL PCT	•	•	•	•	•	•	•	•
	FREQUENCY	11	41	64	24	10	12	2	176
	PERCENT	5.25	9.36	14.61	5.48	2.28	2.74	0.46	40.19
MARINE CORPS	FREQUENCY	•	•	•	•	•	•	•	•
	PERCENT	•	•	•	•	•	•	•	•
	ROW PCT	•	•	•	•	•	•	•	•
MARINE CORPS	CDL PCT	•	•	•	•	•	•	•	•
	FREQUENCY	2	4	18	2	5	2	0	32
	PERCENT	0.23	0.91	4.11	0.46	1.14	0.46	0.00	7.31
AIR FORCE	FREQUENCY	•	•	•	•	•	•	•	•
	PERCENT	•	•	•	•	•	•	•	•
	ROW PCT	•	•	•	•	•	•	•	•
AIR FORCE	CDL PCT	•	•	•	•	•	•	•	•
	FREQUENCY	13	26	33	7	2	3	16	151
	PERCENT	14.61	5.94	7.53	1.60	0.45	0.68	3.65	34.47
COAST GUARD	FREQUENCY	•	•	•	•	•	•	•	•
	PERCENT	•	•	•	•	•	•	•	•
	ROW PCT	•	•	•	•	•	•	•	•
COAST GUARD	CDL PCT	•	•	•	•	•	•	•	•
	FREQUENCY	2	0	1	1	0	1	0	6
	PERCENT	0.68	0.00	0.23	0.23	0.00	0.23	0.00	1.37
TOTAL	FREQUENCY	•	87	144	35	18	21	24	438
	PERCENT	•	19.86	32.88	7.99	4.11	4.79	5.48	100.00
	ROW PCT	•	24.89	32.88	7.99	4.11	4.79	5.48	100.00

74. What percentage of the suspension recommendations have been followed by your convening and supervisory authorities?

- No recommendations.....1
- 0%.....2
- 1-25%.....3
- 26-50%.....4
- 51-75%.....5
- 76-95%.....6
- Over 95%.....7

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB75

QB1	QB75	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	1	0	•
	.	•	•	•	•	•
	.	•	•	•	•	•
ARMY	0	24	49	6	79	16.81
	•	5.11	10.43	1.28	•	•
	•	30.38	62.03	7.59	•	•
	•	13.33	18.49	24.00	•	•
NAVY	2	83	95	7	185	39.36
	•	17.66	20.21	1.49	•	•
	•	44.85	51.35	3.78	•	•
	•	46.11	35.85	28.00	•	•
MARINE CORPS	0	13	19	2	34	7.23
	•	2.77	4.04	0.43	•	•
	•	38.24	55.88	5.88	•	•
	•	7.22	7.17	8.00	•	•
AIR FORCE	0	52	102	10	164	34.89
	•	11.06	21.70	2.13	•	•
	•	31.71	62.20	6.10	•	•
	•	28.89	38.49	40.00	•	•
COAST GUARD	0	8	0	0	8	1.70
	•	1.70	0.00	0.00	•	•
	•	100.00	0.00	0.00	•	•
	•	4.44	0.00	0.00	•	•
TOTAL	•	180	265	25	470	100.00
	•	38.30	56.38	5.32	•	•

75. Under current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB76

QB1	QB76	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT		0	1	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		0	67	10	2	79
		•	14.29	2.13	0.43	16.84
		•	84.81	12.66	2.53	
NAVY		3	139	33	6	184
		•	29.64	8.32	1.28	39.23
		•	75.54	21.20	3.26	
MARINE CORPS		0	23	9	2	34
		•	4.90	1.92	0.43	7.25
		•	67.65	26.47	5.88	
AIR FORCE		0	133	28	3	164
		•	28.36	5.97	0.64	34.97
		•	81.10	17.07	1.83	
COAST GUARD		0	3	4	1	8
		•	0.54	0.85	0.21	1.71
		•	37.50	50.00	12.50	
TOTAL		•	365	90	14	469
		•	77.83	19.19	2.99	100.00
		•				

76. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QBI BY Q877

QBI	Q877	FREQUENCY PERCENT ROW PCT	COL PCT	1			2			3			TOTAL
ARMY	.	0	.	0	.	2	.	0	.	0	.	.	
	.	52	11.06	18	3.83	9	1.91	18	3.83	9	1.91	79	
	.	65.82	22.73	11.39	25.71	16.81	11.39	11.39	11.39	11.39	11.39	16.81	
NAVY	.	139	29.57	31	6.60	15	3.19	31	6.60	15	3.19	185	
	.	75.14	16.76	8.11	17.71	16.76	8.11	16.76	8.11	16.76	8.11	39.36	
	.	40.41	34.07	42.85	34.07	34.07	42.85	34.07	42.85	42.85	42.85	39.36	
MARINE CORPS	.	25	5.32	7	1.49	2	0.43	7	1.49	2	0.43	34	
	.	73.53	20.59	5.88	20.59	5.88	5.88	20.59	5.88	5.88	5.88	7.23	
	.	7.27	7.69	5.71	7.69	5.71	5.71	7.69	5.71	5.71	5.71	7.23	
AIR FORCE	.	122	25.96	34	7.23	8	1.70	34	7.23	8	1.70	164	
	.	74.39	20.73	4.98	20.73	4.98	4.98	20.73	4.98	4.98	4.98	34.89	
	.	35.47	37.36	22.86	37.36	22.86	22.86	37.36	22.86	22.86	22.86	34.89	
COAST GUARD	.	6	1.28	1	0.21	1	0.21	1	0.21	1	0.21	8	
	.	75.00	12.50	2.86	12.50	2.86	12.50	2.86	12.50	2.86	2.86	1.70	
	.	1.74	1.10	2.86	1.10	2.86	1.10	1.10	2.86	1.10	2.86	1.70	
TOTAL	.	344	73.19	91	19.36	35	7.45	91	19.36	35	7.45	470	
	.	73.19	19.36	7.45	19.36	7.45	7.45	19.36	7.45	7.45	7.45	100.00	

77. Could military judges be given the same information as
convening and supervisory authorities through modification of
the MRE and other provisions of the Manual for Courts-Martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q878

Q81	Q878		1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
		0	0	2	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		1	43	28	7	78
		•	9.19	5.98	1.50	16.67
		•	55.13	35.90	8.97	
		•	13.44	25.00	19.44	
NAVY		3	137	32	15	184
		•	29.27	6.84	3.21	39.32
		•	74.46	17.39	8.15	
		•	42.81	28.57	41.67	
MARINE CORPS		0	26	6	2	34
		•	5.56	1.28	0.43	7.26
		•	76.47	17.65	5.88	
		•	8.13	5.36	5.56	
AIR FORCE		0	106	46	12	164
		•	22.65	9.83	2.56	35.04
		•	64.63	28.05	7.32	
		•	33.13	41.07	33.33	
COAST GUARD		0	8	0	0	8
		•	1.71	0.00	0.00	1.71
		•	100.00	0.00	0.00	
		•	2.50	0.00	0.00	
TOTAL		•	320	112	36	468
		•	69.38	23.93	7.69	100.00

78. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB79

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB79					TOTAL
	0	1	2	3	4	
	0	1	0	1	0	•
	•	•	•	•	•	•
	•	•	•	•	•	•
ARMY	1	30	26	18	4	78
	•	6.41	5.56	3.85	0.85	16.67
	•	38.46	33.33	23.08	5.13	
	•	18.18	15.48	15.93	18.18	
NAVY	3	58	68	51	7	184
	•	12.39	14.53	10.90	1.50	39.32
	•	31.52	36.96	27.72	3.80	
	•	35.15	40.48	45.13	31.82	
MARINE CORPS	0	9	16	8	1	34
	•	1.92	3.42	1.71	0.21	7.26
	•	26.47	47.06	23.53	2.94	
	•	5.45	9.52	7.08	4.55	
AIR FORCE	0	65	53	36	10	164
	•	13.89	11.32	7.69	2.14	35.04
	•	39.63	32.32	21.95	6.10	
	•	39.39	31.55	31.86	45.45	
COAST GUARD	0	3	5	0	0	8
	•	0.64	1.07	0.00	0.00	1.71
	•	37.50	62.50	0.00	0.00	
	•	1.82	2.99	0.00	0.00	
TOTAL	•	165	168	113	22	468
	•	35.26	35.90	24.15	4.70	100.00

79. How important a factor should manpower and personnel requirements be when considering whether an accused's sentence should be suspended?

Not at all.....1
Slight.....2
Somewhat.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q880

Q81	Q880		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
	.	0	1	1	0	.

ARMY		0	52	25	2	79
		.	11.09	5.33	0.43	16.84
		.	55.32	31.65	2.53	
		.	22.32	11.31	13.13	
NAVY		3	69	108	7	184
		.	14.71	23.03	1.49	39.23
		.	37.50	58.70	3.80	
		.	29.61	48.87	46.67	
MARINE CORPS		0	13	20	1	34
		.	2.77	4.26	0.21	7.25
		.	33.24	58.82	2.94	
		.	5.58	9.05	6.67	
AIR FORCE		0	98	61	5	164
		.	20.90	13.01	1.07	34.97
		.	59.76	37.20	3.05	
		.	42.06	27.60	33.33	
COAST GUARD		0	1	7	0	8
		.	0.21	1.49	0.00	1.71
		.	12.50	87.50	0.00	
		.	0.43	3.17	0.00	
TOTAL		.	233	221	15	469
		.	49.58	47.12	3.20	100.00

80. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q831

Q81	Q831	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	1	0	.

ARMY	0	63	14	2	79	
	.	13.43	2.99	0.43	16.84	
	.	17.75	17.72	2.53		
	.	19.38	11.67	8.33		
NAVY	3	120	54	10	184	
	.	25.59	11.51	2.13	39.23	
	.	65.22	29.35	5.43		
	.	36.92	45.00	41.67		
MARINE CORPS	0	23	9	2	34	
	.	4.90	1.92	0.43	7.25	
	.	67.65	26.47	5.88		
	.	7.08	7.50	8.33		
AIR FORCE	0	115	39	10	164	
	.	24.52	8.32	2.13	34.97	
	.	70.12	23.78	6.10		
	.	35.38	32.50	41.67		
COAST GUARD	0	4	4	0	8	
	.	0.85	0.85	0.00	1.71	
	.	50.00	50.00	0.00		
	.	1.23	3.33	0.00		
TOTAL	.	325	120	24	469	
	.	69.30	25.59	5.12	100.00	

81. Would there be an appearance that command authority was diminished?

Yes.....1
No.....2
No opinion.....3

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FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q882

QB1	QB82	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	1	0	•
	.	•	•	•	•	•
	.	•	•	•	•	•
ARMY	1	26	51	1	78	16.67
	•	5.56	10.90	0.21	0.21	
	•	33.33	65.38	1.28	1.28	
	•	12.09	20.73	14.29	14.29	
NAVY	3	91	90	3	184	39.32
	•	19.44	19.23	0.64	0.64	
	•	49.46	48.91	1.63	1.63	
	•	42.33	36.59	42.86	42.86	
MARINE CORPS	0	19	14	1	34	7.26
	•	4.06	2.99	0.21	0.21	
	•	55.98	41.18	2.94	2.94	
	•	8.84	5.69	14.29	14.29	
AIR FORCE	0	74	88	2	164	35.04
	•	15.81	19.80	0.43	0.43	
	•	45.12	53.66	1.22	1.22	
	•	34.42	35.77	28.57	28.57	
COAST GUARD	0	5	3	0	8	1.71
	•	1.07	0.64	0.00	0.00	
	•	62.50	37.50	0.00	0.00	
	•	2.33	1.22	0.00	0.00	
TOTAL	•	215	246	7	468	100.00
	•	45.94	52.56	1.50	1.50	

82. If judge alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q883

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q883				TOTAL
	1	2	3	4	
0	2	0	0	0	0
.
.
.
0	38	25	14	2	79
.	8.10	5.33	2.99	0.43	16.94
.	48.10	31.65	17.72	2.53	
.	20.21	20.33	12.50	4.35	
3	52	47	55	30	184
.	11.09	10.02	11.73	6.40	39.23
.	28.25	25.54	29.89	16.30	
.	27.66	38.21	49.11	65.22	
0	11	8	13	2	34
.	2.35	1.71	2.77	0.43	7.25
.	32.35	23.53	38.24	5.88	
.	5.85	6.50	11.61	4.35	
0	86	39	29	11	164
.	18.34	8.10	6.18	2.35	34.97
.	52.44	23.17	17.68	6.71	
.	45.74	30.89	25.89	23.91	
0	1	5	1	1	8
.	0.21	1.07	0.21	0.21	1.71
.	12.50	62.50	12.50	12.50	
.	0.53	4.07	0.89	2.17	
0	188	123	112	46	469
.	40.09	26.23	23.88	9.81	100.00

83. Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q884

Q81	Q884		1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	0	1	•
		•	•	•	•	•	•
ARMY	•	33	12	14	20	79	16.92
	•	7.07	2.57	3.00	4.28		
	•	41.77	15.13	17.72	25.32		
NAVY	•	22.15	14.29	12.17	16.81		
	•	37	36	50	60	183	39.19
	•	7.92	7.71	10.71	12.85		
MARINE CORPS	•	20.22	19.67	27.32	32.79	34	7.28
	•	24.83	42.85	43.48	50.42		
	•	7	4	12	11		
AIR FORCE	•	1.50	0.86	2.57	2.36		
	•	20.59	11.76	35.29	32.35		
	•	4.70	4.76	10.43	9.24		
COAST GUARD	•	70	29	36	28	163	34.90
	•	14.99	6.21	7.71	6.00		
	•	42.94	17.73	22.09	17.18		
TOTAL	•	46.98	34.52	31.30	23.53	8	1.71
	•	2	3	3	0		
	•	0.43	0.64	0.64	0.00		
		25.00	37.50	37.50	0.00		
		1.34	3.57	2.61	0.00		
		149	84	115	119	467	100.00
		31.91	17.99	24.63	25.48		

84. By the time cases reach the Court of Military Review, many accused are on appellate leave. Is this a factor in deciding whether the Courts of Military Review should have the authority to suspend punitive discharges?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB85

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB85			TOTAL
	1	2	3	
•	0	1	0	•
•	•	•	•	•
•	•	•	•	•
•	•	•	•	•
ARMY	46	28	5	79
•	9.81	5.97	1.07	16.84
•	58.23	35.44	6.33	
•	14.65	23.33	14.29	
NAVY	130	41	13	184
•	27.72	8.74	2.77	39.23
•	70.65	22.28	7.07	
•	41.40	34.17	37.14	
MARINE CORPS	26	7	1	34
•	5.54	1.49	0.21	7.25
•	76.47	20.59	2.94	
•	8.28	5.83	2.86	
AIR FORCE	105	43	16	164
•	22.39	9.17	3.41	34.97
•	64.02	26.22	9.76	
•	33.44	35.83	45.71	
COAST GUARD	7	1	0	8
•	1.49	0.21	0.00	1.71
•	97.50	12.50	0.00	
•	2.23	0.83	0.00	
TOTAL	314	120	35	469
•	66.95	25.59	7.46	100.00

85. Considering the additional support requirements that might result, if suspension power is given to military judges and/or Courts of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy, and counselling?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB86

QB1	QB86	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	2	0	0	•
	.	•	•	•	•	•
	.	•	•	•	•	•
ARMY	.	13	13	44	4	79
	.	2.78	3.85	9.40	0.85	16.88
	.	16.46	22.78	55.70	5.06	
NAVY	.	19.12	15.00	16.36	36.36	
	.	26	54	100	4	184
	.	5.55	11.54	21.37	0.85	39.32
MARINE CORPS	.	14.13	29.35	54.35	2.17	
	.	38.24	45.00	37.17	36.36	
	.	4	8	22	0	34
AIR FORCE	.	0.85	1.71	4.70	0.00	7.25
	.	11.75	23.53	64.71	0.00	
	.	5.88	6.67	9.18	0.00	
COAST GUARD	.	24	39	97	3	163
	.	5.13	8.33	20.73	0.64	34.83
	.	14.72	23.93	59.51	1.84	
TOTAL	.	35.29	32.50	36.06	27.27	
	.	1	1	6	0	8
	.	0.21	0.21	1.28	0.00	1.71
TOTAL	.	12.50	12.50	75.00	0.00	
	.	1.47	0.83	2.23	0.00	
	.	64	120	269	11	468
		14.53	25.54	57.43	2.35	100.00

86. If the military judge or OMR suspends all or part of a sentence, who should be able to vacate the suspension?

- Appropriate judicial authority.....1
- Appropriate convening/supervisory authority.....2
- Both 1 & 2.....3
- No opinion.....4

FREQUENCIES BY SERVICE
TABLE OF Q81 BY QB87
QB1 QB87

FREQUENCY ROW PCT COL PCT	.		1		2		TOTAL
	0	1	1	2	1	2	
ARMY	1	15	63	78	16.77		
	.	3.23	13.55				
	.	19.23	80.77				
	.	11.28	18.98				
NAVY	5	70	112	182	39.14		
	.	15.05	24.09				
	.	38.46	61.54				
	.	52.63	33.73				
MARINE CORPS	0	11	23	34	7.31		
	.	2.37	4.95				
	.	32.35	67.65				
	.	8.27	6.93				
AIR FORCE	1	35	128	163	35.05		
	.	7.53	27.53				
	.	21.47	78.53				
	.	26.32	38.55				
COAST GUARD	0	2	6	8	1.72		
	.	0.43	1.29				
	.	25.00	75.00				
	.	1.50	1.81				
TOTAL	.	133	332	465			
	.	28.60	71.40	100.00			

87. On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB88

QB1 FREQUENCY PERCENT ROW PCT COL PCT	.	1	2	TOTAL
	0	1	1	2

ARMY	0	32	47	79
	.	6.84	10.04	16.88
	.	40.51	59.49	
	.	11.51	24.74	
NAVY	3	132	52	184
	.	28.21	11.11	39.32
	.	71.74	28.26	
	.	47.48	27.37	
MARINE CORPS	0	24	10	34
	.	5.13	2.14	7.26
	.	70.59	29.41	
	.	8.63	5.26	
AIR FORCE	1	84	79	163
	.	17.95	16.88	34.83
	.	51.53	48.47	
	.	30.22	41.58	
COAST GUARD	0	6	2	8
	.	1.28	0.43	1.71
	.	75.00	25.00	
	.	2.16	1.05	
TOTAL	4	278	190	468
	.	59.40	40.60	100.00

88. On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?

Yes.....1
No.....2

FREQUENCIES BY SERVICE

TABLE OF QBI BY QB89

QBI	FREQUENCY ROW PCT COL PCT	QB89		TOTAL
		1	2	
	0	0	2	•
	•	•	•	•
	•	•	•	•
ARMY	64	15	64	79
	3.21	3.21	13.70	16.92
	18.99	18.99	81.01	
	8.77	8.77	21.62	
NAVY	107	77	107	184
	16.43	16.43	22.91	39.40
	41.85	41.85	58.15	
	45.03	45.03	36.15	
MARINE CORPS	23	11	23	34
	2.36	2.36	4.93	7.28
	32.35	32.35	67.65	
	5.43	5.43	7.77	
AIR FORCE	99	63	99	162
	13.43	13.43	21.20	34.63
	38.89	38.89	61.11	
	36.84	36.84	33.45	
COAST GUARD	3	5	3	8
	1.07	1.07	0.64	1.71
	62.50	62.50	37.50	
	2.92	2.92	1.01	
TOTAL	467	171	296	467
	36.62	36.62	63.38	100.00

89. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q890

Q81	Q890	0	1	2	TOTAL
FREQUENCY ROW PCT COL PCT					
	.	0	1	1	.

ARMY		0	16	63	79
		.	3.43	13.49	16.92
		.	20.25	79.75	
		.	9.09	21.65	
NAVY		3	94	90	184
		.	20.13	19.27	39.40
		.	51.09	48.91	
		.	53.41	30.93	
MARINE CORPS		0	17	17	34
		.	3.64	3.64	7.28
		.	50.00	50.00	
		.	9.66	5.84	
AIR FORCE		2	44	118	162
		.	9.42	25.27	34.69
		.	27.16	72.84	
		.	25.00	40.55	
COAST GUARD		0	5	3	8
		.	1.07	0.64	1.71
		.	62.50	37.50	
		.	2.84	1.03	
TOTAL		.	176	291	467
		.	37.69	62.31	100.00

90. Should court members be given the power to suspend their own sentences?

Yes.....1
NO.....2

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB91

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB91						TOTAL	
	0	1	2	3	4	5	6	
ARMY	6	5	5	8	42	11	2	73
	1.14	1.14	1.14	1.82	9.57	2.51	0.46	16.63
	6.85	6.85	6.85	10.96	57.53	15.07	2.74	
	12.20	3.45	3.45	6.78	39.62	57.89	20.00	
NAVY	8	26	99	39	10	1	4	179
	5.92	5.92	22.55	8.88	2.28	0.23	0.91	40.77
	14.53	14.53	55.31	21.79	5.59	0.56	2.23	
	63.41	63.41	68.28	33.05	9.43	5.26	40.00	
MARINE CORPS	0	1	13	16	4	0	0	34
	0.23	0.23	2.96	3.64	0.91	0.00	0.00	7.74
	2.94	2.94	38.24	47.06	11.76	0.00	0.00	
	2.44	2.44	3.97	13.55	3.77	0.00	0.00	
AIR FORCE	18	6	26	53	50	7	4	146
	1.37	1.37	5.92	12.07	11.39	1.59	0.91	33.26
	4.11	4.11	17.81	36.30	34.25	4.79	2.74	
	14.63	14.63	17.93	44.92	47.17	36.84	40.00	
COAST GUARD	1	3	2	2	0	0	0	7
	0.68	0.68	0.46	0.46	0.00	0.00	0.00	1.59
	42.86	42.86	28.57	28.57	0.00	0.00	0.00	
	7.32	7.32	1.33	1.69	0.00	0.00	0.00	
TOTAL	41	41	145	118	106	19	10	439
	9.34	9.34	33.03	26.88	24.15	4.33	2.28	100.00

91. What percentage of cases in your command are GCMs, of the total of GCMs and SPCMs?

- None.....1
- Under 10%.....2
- 10-20%.....3
- 21-50%.....4
- 51-75%.....5
- Over 75%.....6

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB92

QB1	QB92	1	2	3	4	5	6	TOTAL
FREQUENCY ROW PCT COL PCT								
		0	0	0	0	0	0	0
	
	
	
ARMY		8	12	16	18	6	5	71
		3.36	2.83	3.84	4.32	1.44	1.20	17.03
		19.72	16.90	22.54	25.35	8.44	7.04	
		12.73	22.22	20.78	25.71	9.68	11.36	
NAVY		24	19	27	24	34	19	163
		9.59	4.56	6.47	5.76	6.15	4.56	39.09
		24.54	11.66	16.56	14.72	20.86	11.66	
		36.36	35.13	35.05	34.29	54.84	43.18	
MARINE CORPS		2	6	7	3	5	3	32
		1.92	1.44	1.68	0.72	1.20	0.72	7.67
		25.00	18.75	21.88	9.38	15.63	9.38	
		7.27	11.11	9.09	4.29	8.06	6.82	
AIR FORCE		19	17	27	25	15	16	145
		10.79	4.08	6.47	6.00	3.60	3.34	34.77
		31.03	11.72	18.62	17.24	10.34	11.03	
		40.91	31.48	35.06	35.71	24.19	36.36	
COAST GUARD		2	0	0	0	2	1	6
		0.72	0.00	0.00	0.00	0.48	0.24	1.44
		50.00	0.00	0.00	0.00	33.33	16.67	
		2.73	0.00	0.00	0.00	3.23	2.27	
TOTAL		110	54	77	70	62	44	417
		26.38	12.95	18.47	16.79	14.87	10.55	100.00

92. In what percentage of GCM cases is the adjudged sentence to confinement six to twelve months?

0-5%	1
6-10%	2
11-20%	3
21-40%	4
41-60%	5
Over 60%	6

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB93

QB1	QB93	1	2	3	4	5	6	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	0	0	0	.

ARMY	10	12	8	7	27	11	4	69
	.	2.89	1.93	1.69	6.51	2.65	0.96	16.63
	.	17.39	11.59	10.14	39.13	15.94	5.80	
NAVY	24	34	23	33	24	24	25	163
	.	8.19	5.54	7.95	5.78	5.78	6.02	39.28
	.	20.86	14.11	20.25	14.72	14.72	15.34	
MARINE CORPS	2	5	8	4	8	3	4	32
	.	1.20	1.93	0.96	1.93	0.72	0.96	7.71
	.	15.63	25.00	12.50	25.00	9.38	12.50	
AIR FORCE	19	40	12	28	29	21	15	145
	.	9.64	2.89	6.75	6.99	5.06	3.61	34.94
	.	27.59	8.28	19.31	20.00	14.48	10.34	
COAST GUARD	2	4	1	0	0	1	0	6
	.	0.96	0.24	0.00	0.00	0.24	0.00	1.45
	.	66.67	16.67	0.00	0.00	16.67	0.00	
TOTAL	.	95	52	72	88	60	48	415
	.	22.89	12.53	17.35	21.20	14.46	11.57	100.00
	.							

93. In what percentage of GCM cases is the adjudged sentence to confinement six to fifteen months?

0-5%	1
6-10%	2
11-20%	3
21-40%	4
41-60%	5
Over 60%	6

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB94

QB1	QB94		1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	0	0	0

ARMY	.	4	10	27	36	2	75
	.	.	2.15	5.81	7.74	0.43	16.13
	.	.	13.33	36.00	48.00	2.67	100.00
NAVY	.	2	13	65	81	26	185
	.	.	2.80	13.98	17.42	5.59	39.78
	.	.	7.03	35.14	43.78	14.05	100.00
MARINE CORPS	.	0	2	10	20	2	34
	.	.	0.43	2.15	4.30	0.43	7.31
	.	.	5.88	29.41	58.82	5.88	100.00
AIR FORCE	.	1	16	55	83	9	163
	.	.	3.44	11.83	17.85	1.94	35.05
	.	.	9.82	33.74	50.92	5.52	100.00
COAST GUARD	.	0	1	5	1	1	8
	.	.	0.22	1.08	0.22	0.22	1.72
	.	.	12.50	62.50	12.50	12.50	100.00
TOTAL	.	7	42	162	221	40	465
	.	.	9.03	34.84	47.53	8.60	100.00
	.	.	12.50	62.50	12.50	12.50	100.00

94. If SPCM are allowed to impose longer terms of confinement, would cases currently tried at SPCM generally receive longer sentences?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF Q31 BY QB95

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB95				TOTAL
	1	2	3	4	
0	1	1	0	0	0
.
.
.
2	59	10	9	0	77
.	12.45	2.15	1.93	0.00	16.52
.	75.32	12.99	11.69	0.00	100.00
.	16.11	13.33	32.14	0.00	100.00
4	143	28	11	1	183
.	30.69	6.01	2.36	0.21	39.27
.	78.14	15.30	6.01	0.55	100.00
.	39.72	37.33	39.29	33.33	100.00
0	19	9	5	1	34
.	4.08	1.93	1.07	0.21	7.30
.	55.88	26.47	14.71	2.94	100.00
.	5.28	12.00	17.86	33.33	100.00
0	132	28	3	1	164
.	28.33	6.01	0.64	0.21	35.19
.	80.49	17.07	1.83	0.61	100.00
.	36.67	37.33	10.71	33.33	100.00
0	0	0	0	0	0
.	1.72	0.00	0.00	0.00	1.72
.	100.00	0.00	0.00	0.00	100.00
.	2.22	0.00	0.00	0.00	2.22
0	360	75	28	3	466
.	77.25	16.09	6.01	0.64	100.00

95. Would increasing the confinement power of SPCM cause many accused to receive punitive discharges which would not be imposed under current conditions?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QBI BY QB96

QB1 QB96

FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	7	8	TOTAL	
ARMY	0 0 0 0	0 0.22 1.33 7.14	0 2.40 14.67 14.67	0 0.22 1.33 4.35	0 0.00 0.00 0.00	0 12.42 76.00 18.51	2 0.22 1.33 20.00	0 0.00 0.00 0.00	0 0.22 1.33 5.88	75 16.34
NAVY	9 1.96 4.95 64.29	5 1.09 2.75 35.71	29 6.32 15.93 38.67	15 3.27 8.24 65.22	3 0.65 1.65 100.00	111 24.18 60.99 36.04	3 0.65 1.65 60.00	7 1.53 3.85 41.18	182 39.65	
MARINE CORPS	1 0.22 3.13 7.14	1 0.22 3.13 7.14	2 0.44 6.25 2.67	4 0.87 12.50 17.39	0 0.00 0.00 0.00	23 5.01 71.88 7.47	0 0.00 0.00 0.00	1 0.22 3.13 5.88	32 6.97	
AIR FORCE	1 0.22 0.62 7.14	7 1.53 4.32 50.00	32 6.97 19.75 42.67	3 0.65 1.85 13.04	0 0.00 0.00 0.00	110 23.97 67.90 35.71	1 0.22 0.62 20.00	8 1.74 4.94 47.06	162 35.29	
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.22 12.50 1.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	7 1.53 87.50 2.27	0 0.00 0.00 0.00	0 0.00 0.00 0.00	8 1.74	
TOTAL	14 3.05	14 3.05	75 16.34	23 5.01	3 0.65	308 67.10	5 1.09	17 3.70	459 100.00	

96. If special courts-martial could impose sentences of up to one year confinement, would the number of punitive discharges decrease?

- Yes if sentencing by MJ only.....1
- Yes if sentencing by members.....2
- Yes regardless of who sentences...3
- No if sentencing by MJ only.....4
- No if sentencing by members.....5
- No regardless of who sentences....6
- Both 1 & 5.....7
- Both 2 & 4.....8

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB97

QB1	QB97	1	2	3	4	TOTAL
FREQUENCY ROW PCT COL PCT						
	.	0	2	0	0	0

ARMY		6	70	1	2	73
		.	15.87	0.23	0.45	16.55
		.	95.89	0.00	2.74	
		.	17.72	8.33	0.00	8.70
NAVY		8	156	8	6	179
		.	35.37	1.81	1.36	40.59
		.	87.15	4.47	3.35	
		.	39.49	66.67	26.09	
MARINE CORPS		1	29	1	2	33
		.	6.58	0.23	0.45	7.48
		.	87.88	3.03	6.06	
		.	7.34	8.33	8.70	
AIR FORCE		14	135	1	13	150
		.	30.61	0.23	2.95	34.01
		.	90.00	0.67	8.67	
		.	34.18	8.33	56.52	
COAST GUARD		2	5	1	0	6
		.	1.13	0.23	0.00	1.36
		.	83.33	16.67	0.00	
		.	1.27	8.33	0.00	
TOTAL		395	12	11	23	441
		89.57	2.72	2.49	5.22	100.00

97. What percentage of SFCs in your command are tried without military judges?

- None.....1
- Under 5%.....2
- 5-10%.....3
- Over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB98

QB1 FREQUENCY PERCENT ROW PCT COL PCT	QB98			TOTAL
	0	1	2	
ARMY	6	73	0	79
	16.22	18.21	0.00	16.22
	100.00	100.00	0.00	100.00
	16.26	16.26	0.00	16.26
NAVY	6	180	1	187
	40.00	96.26	0.53	40.22
	99.45	100.00	100.00	99.45
	40.09	40.09	100.00	40.09
MARINE CORPS	0	34	0	34
	0.00	7.56	0.00	7.56
	100.00	100.00	0.00	100.00
	0.00	7.57	0.00	7.57
AIR FORCE	10	154	0	164
	34.22	96.26	0.00	34.22
	100.00	100.00	0.00	100.00
	34.30	34.30	0.00	34.30
COAST GUARD	0	8	0	8
	0.00	1.78	0.00	1.78
	100.00	100.00	0.00	100.00
	0.00	1.78	0.00	1.78
TOTAL	16	449	1	466
	44.94	96.33	0.22	44.94
	100.00	100.00	100.00	100.00
	44.94	44.94	100.00	44.94

98. What percentage of SPCMs in your command involve the use of officer defense counsel who are not lawyers?

None.....1
Under 5%.....2
5-10%.....3
Over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB100

QB1	0	1	2	3	TOTAL
FREQUENCY	0	0	1	1	2
PERCENT	.	.	.	.	.
ROW PCT	.	.	.	.	.
COL PCT	.	.	.	.	.
ARMY	0	73	0	6	79
	.	15.63	0.00	1.28	16.92
	.	92.41	0.00	7.59	
	.	16.86	0.00	23.08	
NAVY	4	166	6	11	183
	.	35.55	1.28	2.36	39.19
	.	90.71	3.28	6.01	
	.	38.34	75.00	42.31	
MARINE CORPS	1	31	0	2	33
	.	6.64	0.00	0.43	7.07
	.	93.94	0.00	6.06	
	.	7.16	0.00	7.69	
AIR FORCE	0	156	2	6	164
	.	33.40	0.43	1.28	35.12
	.	95.12	1.22	3.66	
	.	36.03	25.00	23.08	
COAST GUARD	0	7	0	1	8
	.	1.50	0.00	0.21	1.71
	.	87.50	0.00	12.50	
	.	1.62	0.00	3.85	
TOTAL	5	433	8	26	467
	.	92.72	1.71	5.57	100.00

100. If SPCM jurisdiction were increased, would you favor requiring the detail of a military judge in every case?

Yes.....1
 No.....2
 No, but without a military judge, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QBI BY QB101

QB1	QB101	0	1	2	3	TOTAL
FREQUENCY ROW PCT	COL PCT	0	1	0	1	•
		•	•	•	•	•
ARMY		0	75	0	4	79
		•	15.99	0.00	0.85	16.84
		•	94.94	0.00	5.06	
		•	16.85	0.00	19.05	
NAVY		2	174	2	9	185
		•	37.10	0.43	1.92	39.45
		•	94.05	1.08	4.86	
		•	39.10	66.67	42.86	
MARINE CORPS		1	32	0	1	33
		•	6.82	0.00	0.21	7.04
		•	96.97	0.00	3.03	
		•	7.19	0.00	4.76	
AIR FORCE		0	156	1	7	164
		•	33.26	0.21	1.49	34.97
		•	95.12	0.61	4.27	
		•	35.06	33.33	33.33	
COAST GUARD		0	8	0	0	8
		•	1.71	0.00	0.00	1.71
		•	100.00	0.00	0.00	
		•	1.80	0.00	0.00	
TOTAL		•	445	3	21	469
		•	34.88	0.54	4.48	100.00

101. If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?

Yes.....1
 No.....2
 No, but without representation by lawyer defense counsel, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB102

QB1	Q9102	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	1	1	•
	.	•	•	•	•	•
	.	•	•	•	•	•
ARMY	0	4	71	4	79	16.81
	•	0.85	15.11	0.85	0.85	
	•	5.06	89.87	5.06	33.33	
	•	26.67	16.03	33.33		
NAVY	1	4	178	4	186	39.57
	•	0.85	37.87	0.85	0.85	
	•	2.15	95.70	2.15	2.15	
	•	26.67	40.18	33.33		
MARINE CORPS	0	2	31	1	34	7.23
	•	0.43	6.60	0.21	0.21	
	•	5.88	91.18	2.94	2.94	
	•	13.33	7.00	8.33		
AIR FORCE	1	5	155	3	163	34.68
	•	1.06	32.98	0.64	0.64	
	•	3.07	95.09	1.84	1.84	
	•	33.33	34.99	25.00		
COAST GUARD	0	0	8	0	8	1.70
	•	0.00	1.70	0.00	0.00	
	•	0.00	100.00	0.00	0.00	
	•	0.00	1.81	0.00	0.00	
TOTAL	•	15	443	12	470	100.00
	•	3.19	94.26	2.55		

102. Do you favor extending Article 32 investigation requirements to
SPCM cases if jurisdiction is increased?

Yes.....1
No.....2
No, but if there is no investigation,
confinement should be limited to
six months.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB103

QB1	QB103	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
		0	0	1	1	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		1	26	49	3	78
		•	5.53	10.43	0.64	16.60
		•	33.33	62.82	3.85	
		•	16.88	16.72	13.04	
NAVY		1	67	112	7	186
		•	14.26	23.83	1.49	39.57
		•	36.02	60.22	3.76	
		•	43.51	38.23	30.43	
MARINE CORPS		0	6	25	3	34
		•	1.28	5.32	0.64	7.23
		•	17.65	73.53	8.82	
		•	3.90	8.53	13.04	
AIR FORCE		0	55	100	9	164
		•	11.70	21.28	1.91	34.89
		•	33.54	60.98	5.49	
		•	35.71	34.13	39.13	
COAST GUARD		0	0	7	1	8
		•	0.00	1.49	0.21	1.70
		•	0.00	87.50	12.50	
		•	0.00	2.39	4.35	
TOTAL		•	154	293	23	470
		•	32.77	62.34	4.89	100.00

103. If SPOM jurisdiction were increased, would you favor increasing to five the minimum number of required court members?

Yes.....1
 No.....2
 No, but if there are fewer than 5, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB104

QB1	QB104		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
ARMY		0	32	44	2	78
		.	6.81	9.36	0.43	16.60
		.	41.03	56.41	2.56	
		.	21.77	13.97	25.00	
NAVY		1	55	126	4	186
		.	11.91	26.81	0.85	39.57
		.	30.11	67.74	2.15	
		.	38.10	40.00	50.00	
MARINE CORPS		0	4	30	0	34
		.	0.95	6.38	0.00	7.23
		.	11.75	88.24	0.00	
		.	2.72	9.52	0.00	
AIR FORCE		0	51	111	2	164
		.	10.85	23.62	0.43	34.89
		.	31.10	67.69	1.22	
		.	34.69	35.24	25.00	
COAST GUARD		0	4	4	0	8
		.	0.95	0.85	0.00	1.70
		.	50.00	50.00	0.00	
		.	2.72	1.27	0.00	
TOTAL		.	147	315	8	470
		.	31.28	67.02	1.70	100.00

104. If SPCM jurisdiction were increased, would you favor increasing to five the number of days required as a waiting period before trial?

Yes.....1
 No.....2
 No, but if trial before 5 days, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB105

QB1	QB105	0	1	2	3	TOTAL
FREQUENCY		0	1	0	1	•
PERCENT		•	•	•	•	•
ROW PCT		•	•	•	•	•
COL PCT		•	•	•	•	•
ARMY		1	13	38	27	78
		•	2.78	8.14	5.78	16.70
		•	16.67	48.72	34.62	
		•	24.07	18.45	13.04	
NAVY		3	23	70	91	184
		•	4.93	14.99	19.49	39.40
		•	12.50	38.04	49.46	
		•	42.59	33.98	43.96	
MARINE CORPS		0	5	13	16	34
		•	1.07	2.78	3.43	7.28
		•	14.71	38.24	47.06	
		•	9.26	6.31	7.73	
AIR FORCE		1	12	80	71	163
		•	2.57	17.13	15.20	34.90
		•	7.36	49.08	43.56	
		•	22.22	38.83	34.30	
COAST GUARD		0	1	5	2	8
		•	0.21	1.07	0.43	1.71
		•	12.50	62.50	25.00	
		•	1.85	2.43	0.97	
TOTAL		•	54	206	207	467
		•	11.56	44.11	44.33	100.00

105. If SFOM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?

Yes.....1
 No.....2
 Verbatim record only if BCD or over
 6 months confinement adjudged.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB106

QB1	QB106	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	.

ARMY	1	19	51	8	78
		4.04	10.85	1.70	16.60
		24.36	65.38	10.26	
		16.52	16.56	17.02	
NAVY	1	55	110	21	186
		11.70	23.40	4.47	39.57
		29.57	59.14	11.29	
		47.83	35.71	44.68	
MARINE CORPS	0	4	28	2	34
		0.85	5.96	0.43	7.23
		11.76	82.35	5.88	
		3.48	9.09	4.26	
AIR FORCE	0	37	113	14	164
		7.87	24.04	2.98	34.89
		22.56	68.90	8.54	
		32.17	36.69	29.79	
COAST GUARD	0	0	6	2	8
		0.00	1.28	0.43	1.70
		0.00	75.00	25.00	
		0.00	1.95	4.26	
TOTAL	.	115	308	47	470
		24.47	65.53	10.00	100.00

106. If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the Office of the Judge Advocate General?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q81 BY Q9108

Q81 FREQUENCY PERCENT ROW PCT COL PCT	Q9108			TOTAL
	1	2	3	
.	0	2	0	.
.
.
ARMY	64 13.62 32.05 15.92	8 1.70 10.26 20.00	6 1.28 7.59 21.43	78 16.60
NAVY	159 33.83 35.48 39.55	20 4.26 10.75 50.00	7 1.49 3.76 25.00	186 39.57
MARINE CORPS	27 6.17 85.29 7.21	2 0.43 5.88 5.00	3 0.64 8.82 10.71	34 7.23
AIR FORCE	142 30.21 86.59 35.32	10 2.13 6.10 25.00	12 2.55 7.32 42.86	164 34.89
COAST GUARD	8 1.70 100.00 1.99	0 0.00 0.00 0.00	0 0.00 0.00 0.00	8 1.70
TOTAL	402 85.53	40 8.51	28 5.96	470 100.00

108. Will increasing the jurisdiction of SPOBs reduce the number of GCMS?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB109

QB1	QB109			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3
.	0	0	1	1

ARMY	3	59	4	13
	13.14	0.89	2.90	16.93
	77.63	5.26	17.11	
	16.16	18.18	20.97	
NAVY	9	139	14	25
	30.96	3.12	5.57	39.64
	78.09	7.87	14.04	
	38.08	63.64	40.32	
MARINE CORPS	2	25	3	4
	5.57	0.67	0.89	7.13
	78.13	9.38	12.50	
	6.85	13.64	6.45	
AIR FORCE	9	134	1	20
	29.84	0.22	4.45	34.52
	86.45	0.65	12.90	
	36.71	4.55	32.26	
COAST GUARD	0	8	0	8
	1.78	0.00	0.00	1.78
	100.00	0.00	0.00	
	2.19	0.00	0.00	
TOTAL	365	22	62	449
	81.29	4.90	13.81	100.00

109. If so, is this a desirable end?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF Q31 BY QB110

QB1	QB110	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT	COL PCT	0	1	0	1	•
		•	•	•	•	•
		•	•	•	•	•
ARMY	0	2	70	7	79	16.84
	•	0.43	14.93	1.49	16.84	
	•	2.53	96.51	8.85	108.89	
NAVY	3	8	161	15	184	39.23
	•	1.71	34.33	3.20	39.23	
	•	4.35	87.50	8.15	96.00	
MARINE CORPS	0	1	31	2	34	7.25
	•	0.21	6.61	0.43	7.25	
	•	2.94	91.18	5.88	97.99	
AIR FORCE	0	9	142	13	164	34.97
	•	1.92	30.28	2.77	34.97	
	•	5.49	86.59	7.93	99.01	
COAST GUARD	0	0	8	0	8	1.71
	•	0.00	1.71	0.00	1.71	
	•	0.00	100.00	0.00	100.00	
TOTAL	•	20	412	37	469	100.00
	•	4.26	97.85	7.89	100.00	

110. Would increasing the jurisdiction of SPCM's cause under-referral of a significant number of cases?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB111

QB1	QB111		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	12	48	11	71
		.	2.82	11.27	2.58	16.67
		.	16.90	57.61	15.49	
		.	14.29	16.33	22.92	
NAVY		17	32	117	21	170
		.	7.51	27.46	4.93	39.91
		.	18.82	68.82	12.35	
		.	38.10	39.80	43.75	
MARINE CORPS		4	6	22	2	30
		.	1.41	5.16	0.47	7.04
		.	20.00	73.33	6.57	
		.	7.14	7.48	4.17	
AIR FORCE		17	34	99	14	147
		.	7.98	23.24	3.29	34.51
		.	23.13	67.35	9.52	
		.	40.48	33.67	29.17	
COAST GUARD		0	0	8	0	8
		.	0.00	1.88	0.00	1.88
		.	0.00	100.00	0.00	
		.	0.00	2.72	0.00	
TOTAL			84	294	48	426
		.	19.72	69.01	11.27	100.00

111. If so, should certain serious offenses be precluded from trial by special courts-martial?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QB1 BY QB112

QB1	QB112		TOTAL
FREQUENCY ROW PCT COL PCT	1	2	
ARMY	0 14.26 84.81 15.65	2 2.55 15.19 28.57	79 16.81
NAVY	2 36.38 92.43 39.95	14 2.98 7.57 33.33	185 39.36
MARINE CORPS	0 6.81 94.12 7.48	2 0.43 5.88 4.76	34 7.23
AIR FORCE	0 31.91 91.46 35.05	14 2.98 8.54 33.33	164 34.89
COAST GUARD	0 1.70 100.00 1.87	0 0.00 0.00 0.00	8 1.70
TOTAL	428 91.05	42 8.94	470 100.00

112. On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to 1 year?

Yes.....1
No.....2

STAFF JUDGE ADVOCATES
 FREQUENCIES BY SERVICE
 TABLE OF Q81 BY Q8113

Q81	Q8113	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		22 4.68 27.95 16.79	52 11.06 65.82 17.11	5 1.06 6.33 14.29	79 16.81
NAVY		59 12.55 31.99 45.04	107 22.77 57.84 35.20	19 4.04 10.27 54.29	185 39.36
MARINE CORPS		13 2.77 38.24 9.92	19 4.04 55.88 6.25	2 0.43 5.88 5.71	34 7.23
AIR FORCE		34 7.23 20.73 25.95	121 25.74 73.78 39.80	9 1.91 5.49 25.71	164 34.89
COAST GUARD		3 0.64 37.50 2.29	5 1.06 62.50 1.64	0 0.00 0.00 0.00	8 1.70
TOTAL		131 27.87	304 64.68	35 7.45	470 100.00

113. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for the offense, rather than the jurisdictional limit of the court, determined the trial forum, i.e. felony and misdemeanor courts?

Yes.....1
 No.....2
 No opinion.....3

MILITARY JUDGES
 FREQUENCIES BY SERVICE
 TABLE OF QC1 BY QC2

QC1	QC2	1	2	3	4	TOTAL
FREQUENCY		0	15	10	13	38
PERCENT		0	11.03	7.35	9.56	27.94
ROW PCT		0	39.47	26.32	34.21	
COL PCT		0	35.71	18.18	33.33	
ARMY						
NAVY		1	13	15	13	41
		0	9.56	11.03	9.56	30.15
		0	31.71	36.59	31.71	
		0	30.95	27.27	33.33	
MARINE CORPS		0	8	7	3	18
		0	5.88	5.15	2.21	13.24
		0	44.44	38.89	16.67	
		0	19.05	12.73	7.69	
AIR FORCE		0	6	11	8	25
		0	4.41	8.09	5.88	18.38
		0	24.00	44.00	32.00	
		0	14.29	20.00	20.51	
COAST GUARD		0	0	12	2	14
		0	0.00	8.82	1.47	10.29
		0	0.00	85.71	14.29	
		0	0.00	21.82	5.13	
TOTAL		0	42	55	39	136
		0	30.88	40.44	28.68	100.00

2. What is your current grade?

- 0-3.....1
- 0-4.....2
- 0-5.....3
- C-6.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC3

QC1	QC3							TOTAL
FREQUENCY ROW PCT COL PCT	2	3	4	5	6	7		
ARMY	6 4.38 15.79 33.33	12 8.76 31.58 30.00	8 5.84 21.05 17.78	5 3.65 13.16 29.41	3 2.19 7.64 17.65	1 0.73 2.55 5.88	7 5.11 18.42 41.18	38 27.74
NAVY	5 3.65 11.90 27.78	14 10.22 33.33 35.00	13 9.49 30.95 28.89	5 3.65 11.90 29.41	5 3.65 11.90 29.41	5 3.65 11.90 29.41	5 3.65 11.90 29.41	42 30.66
MARINE CORPS	5 3.65 27.78 27.78	4 2.92 22.22 10.00	6 4.38 33.33 13.33	2 1.46 11.11 11.76	2 1.46 11.11 11.76	1 0.73 5.56 5.88	1 0.73 5.56 5.88	18 13.14
AIR FORCE	2 1.46 8.00 11.11	8 5.84 32.00 20.00	8 5.84 32.00 17.78	4 2.92 16.00 23.53	4 2.92 16.00 23.53	3 2.19 12.00 17.65	3 2.19 12.00 17.65	25 18.25
COAST GUARD	0 0.00 0.00 0.00	2 1.46 14.29 5.00	10 7.30 71.43 22.22	1 0.73 7.14 5.88	1 0.73 7.14 5.88	1 0.73 7.14 5.88	1 0.73 7.14 5.88	14 10.22
TOTAL	18 13.14	40 29.20	45 32.85	17 12.41	17 12.41	17 12.41	17 12.41	137 100.00

3. How many years of total active service?

3-5.....	1
6-10.....	2
11-15.....	3
16-20.....	4
21-25.....	5
Over 25.....	6

FREQUENCIES BY SERVICE

TABLE OF QC1 BY QC4

QC1 FREQUENCY PERCENT ROW PCT COL PCT	QC4		TOTAL
	1	2	
ARMY	23 16.79 60.53 22.55	15 10.95 39.47 42.86	38 27.74
NAVY	33 24.09 78.57 32.35	9 6.57 21.43 25.71	42 30.66
MARINE CORPS	14 10.22 77.76 13.73	4 2.92 22.22 11.43	18 13.14
AIR FORCE	19 13.87 76.00 18.63	6 4.38 24.00 17.14	25 18.25
COAST GUARD	13 9.49 92.86 12.75	1 0.73 7.14 2.86	14 10.22
TOTAL	102 74.45	35 25.55	137 100.00

4. What is your current assignment location?

CONUS.....1
Outside CONUS.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QCS

QC1	QCS	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	0	13	13	6	6	38
	.	9.56	9.56	4.41	4.41	27.94
	.	34.21	34.21	15.79	15.79	
	.	22.41	27.08	33.33	50.00	
NAVY	0	16	17	6	3	42
	.	11.76	12.50	4.41	2.21	30.88
	.	38.10	40.48	14.29	7.14	
	.	27.59	35.42	33.33	25.00	
MARINE CORPS	1	8	5	1	3	17
	.	5.88	3.68	0.74	2.21	12.50
	.	47.06	29.41	5.88	17.65	
	.	13.79	10.42	5.56	25.00	
AIR FORCE	0	20	2	3	0	25
	.	14.71	1.47	2.21	0.00	18.38
	.	80.00	8.00	12.00	0.00	
	.	34.48	4.17	16.67	0.00	
COAST GUARD	0	1	11	2	0	14
	.	0.74	8.09	1.47	0.00	10.29
	.	7.14	78.57	14.29	0.00	
	.	1.72	22.92	11.11	0.00	
TOTAL	.	58	48	18	12	136
	.	42.65	35.29	13.24	8.82	100.00

5. Do you have any prior enlisted/officer non judge advocate experience?

No.....1
Officer.....2
Enlisted.....3
Officer and Enlisted.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC6

QC1	QC6					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	13 9.49 34.21 23.64	5 3.65 13.16 41.67	16 11.68 42.11 34.04	1 0.73 2.63 7.69	3 2.19 7.89 30.00	38 27.74
NAVY	15 10.95 35.71 27.27	2 1.46 4.76 16.67	15 10.95 35.71 31.91	7 5.11 16.67 53.85	3 2.19 7.14 30.00	42 30.66
MARINE CORPS	7 5.11 38.89 12.73	1 0.73 5.56 8.33	5 3.65 27.78 10.64	4 2.92 22.22 30.77	1 0.73 5.56 10.00	18 13.14
AIR FORCE	19 13.87 76.00 34.55	3 2.19 12.00 25.00	1 0.73 4.00 2.13	0 0.00 0.00 0.00	2 1.46 8.00 20.00	25 18.25
COAST GUARD	1 0.73 7.14 1.82	1 0.73 7.14 8.33	10 7.30 71.43 21.28	1 0.73 7.14 7.69	1 0.73 7.14 10.00	14 10.22
TOTAL	55 40.15	12 8.76	47 34.31	13 9.49	10 7.30	137 100.00

6. How many years of non judge advocate experience do you have?

- None.....1
- Less than 2 years.....2
- 2-6 years.....3
- 7-10 years.....4
- Over 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC7

QC1	QC7				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	1 0.73 2.63 20.00	6 4.38 15.79 46.15	4 2.92 10.53 44.44	27 19.71 71.05 24.55	38 27.74
NAVY	1 0.73 2.38 20.00	2 1.46 4.76 15.38	3 2.19 7.14 33.33	36 26.28 85.71 32.73	42 30.66
MARINE CORPS	0 0.00 0.00 0.00	1 0.73 5.56 7.69	0 0.00 0.00 0.00	17 12.41 94.44 15.45	18 13.14
AIR FORCE	1 0.73 4.00 20.00	2 1.46 8.00 15.38	2 1.46 8.00 22.22	20 14.60 80.00 18.18	25 18.25
COAST GUARD	2 1.46 14.29 40.00	2 1.46 14.29 15.38	0 0.00 0.00 0.00	10 7.30 71.43 9.09	10
TOTAL	5 3.65	13 9.49	9 6.57	110 80.29	137 100.00

7. Have you had substantial experience as trial or defense counsel at any time in your career?

No.....1
Trial counsel.....2
Defense counsel.....3
Both4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC8

QC1	QC8		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	0	13	38
	.	9.56	27.94
	.	34.21	
	.	30.23	
NAVY	1	11	41
	.	8.09	30.15
	.	26.83	
	.	25.58	
MARINE CORPS	0	8	18
	.	5.86	13.24
	.	44.44	
	.	18.60	
AIR FORCE	0	0	25
	.	0.00	18.38
	.	0.00	100.00
	.	0.00	26.88
COAST GUARD	0	11	14
	.	8.09	10.29
	.	78.57	
	.	25.58	
TOTAL	.	43	136
	.	31.62	100.00
		68.38	

8. Over what types of courts-martial are you authorized to preside?

SPCM only.....1
Both SPCM and GCM.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC9

QC1	QC9	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY		7 5.11 18.42 33.33	16 11.68 42.11 24.24	6 4.38 15.79 21.43	7 5.11 18.42 53.85	2 1.46 5.26 22.22	38 27.74
NAVY		7 5.11 16.67 33.33	17 12.41 40.48 25.76	10 7.30 23.81 35.71	4 2.92 9.52 30.77	4 2.92 9.52 44.44	42 30.66
MARINE CORPS		3 2.19 16.67 14.29	10 7.30 55.56 15.15	3 2.19 16.67 10.71	1 0.73 5.56 7.69	1 0.73 5.56 11.11	18 13.14
AIR FORCE		3 2.19 12.00 14.29	16 11.68 64.00 24.24	4 2.92 16.00 14.29	1 0.73 4.00 7.69	1 0.73 4.00 11.11	25 18.25
COAST GUARD		1 0.73 7.14 4.76	7 5.11 50.00 10.61	5 3.65 35.71 17.86	0 0.00 0.00 0.00	1 0.73 7.14 11.11	14 10.22
TOTAL		21 15.33	66 48.18	28 20.44	13 9.49	9 6.57	137 100.00

9. How long have you been a military judge(cumulative time)?

- Less than 1 year.....1
- 1-3 years.....2
- 4-6 years.....3
- 7-10 years.....4
- Over 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC10

QC1	QC10			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	13 9.49 34.21 33.33	21 15.33 55.26 26.25	4 2.92 10.53 22.22	38 27.74
NAVY	15 10.95 35.71 38.46	19 13.87 45.24 23.75	8 5.84 19.05 44.44	42 30.66
MARINE CORPS	6 4.38 33.33 15.38	12 8.76 66.67 15.00	0 0.00 0.00 0.00	18 13.14
AIR FORCE	4 2.92 16.00 10.26	19 13.87 76.00 23.75	2 1.46 8.00 11.11	25 18.25
COAST GUARD	1 0.73 7.14 2.56	9 6.57 64.29 11.25	4 2.92 28.57 22.22	14 10.22
TOTAL	39 28.47	80 58.39	19 13.14	137 100.00

10. How long have you been in your current assignment?

Less than one year.....1
1-3 years.....2
Over three years.....3

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC11

QC1	QC11						TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	
ARMY	6 4.38 15.79 46.15	2 1.46 5.26 11.76	3 2.19 7.89 21.43	5 3.65 13.16 26.32	10 7.30 26.32 37.04	12 8.76 31.58 25.53	38 27.74
NAVY	0 0.00 0.00 0.00	4 2.92 9.52 23.53	1 0.73 2.38 7.14	7 5.11 16.67 36.84	7 5.11 16.67 25.93	23 16.79 54.76 48.94	42 30.66
MARINE CORPS	3 2.19 16.67 23.08	0 0.00 0.00 0.00	2 1.46 11.11 14.29	1 0.73 5.56 5.26	4 2.92 22.22 14.81	8 5.84 44.44 17.02	18 13.14
AIR FORCE	0 0.00 0.00 0.00	2 1.46 8.00 11.76	7 5.11 28.00 50.00	6 4.38 24.00 31.58	6 4.38 24.00 22.22	4 2.92 16.00 8.51	25 18.25
COAST GUARD	4 2.92 28.57 30.77	9 6.57 64.29 52.94	1 0.73 7.14 7.14	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	13 9.49	17 12.41	14 10.22	19 13.87	27 19.71	47 34.31	137 100.00

11. How many SPCM cases have you presided over?

Under 10.....	1
10-30.....	2
31-75.....	3
76-150.....	4
151-300.....	5
Over 300.....	6

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC12

QC1	QC12						TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	
ARMY	13 9.49 34.21 29.55	2 1.46 5.26 10.53	1 0.73 2.63 6.25	4 2.92 10.53 18.18	2 1.46 5.26 25.00	16 11.68 42.11 57.14	38 27.74
NAVY	11 8.03 26.19 25.00	7 5.11 16.67 36.84	8 5.84 19.05 50.00	8 5.84 19.05 36.36	2 1.46 4.76 25.00	6 4.38 14.29 21.43	42 30.66
MARINE CORPS	9 6.57 50.00 20.45	1 0.73 5.56 5.26	3 2.19 16.67 19.75	2 1.46 11.11 9.09	0 0.00 0.00 0.00	3 2.19 16.67 10.71	18 13.14
AIR FORCE	0 0.00 0.00 0.00	6 4.38 24.00 31.58	4 2.92 16.00 25.00	8 5.84 32.00 36.36	4 2.92 16.00 50.00	3 2.19 12.00 10.71	25 18.25
COAST GUARD	11 8.03 78.57 25.00	3 2.19 21.43 15.79	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	44 32.12	19 13.87	16 11.68	22 16.06	8 5.84	28 20.44	137 100.00

12. How many GCMs have you presided over?

- None.....1
- Less than 10.....2
- 11-20.....3
- 21-50.....4
- 51-90.....5
- Over 90.....6

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC13

QC1	QC13			TOTAL
FREQUENCY ROW PCT COL PCT	1	2		
ARMY	0	8	30	38 27.94
	5.88	22.06		
	21.05	78.95		
	23.53	29.41		
NAVY	0	10	32	42 30.88
	7.35	23.53		
	23.81	76.19		
	29.41	31.37		
MARINE CORPS	1	4	13	17 12.50
	2.94	9.56		
	23.53	76.47		
	11.76	12.75		
AIR FORCE	0	9	16	25 18.38
	6.62	11.76		
	36.00	64.00		
	26.47	15.69		
COAST GUARD	0	3	11	14 10.29
	2.21	8.09		
	21.43	78.57		
	8.82	10.78		
TOTAL	34	102	136	100.00
	25.00	75.00		

13. Are you aware of any instances in which a military judge has been threatened with reassignment or actually reassigned because of the military judge's court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC14

QC1	QC14	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	31	4 11.76 57.14 18.18	3 8.82 42.86 30.00	0 0.00 0.00 0.00	7 20.59
NAVY	32	5 14.71 50.00 22.73	3 8.82 30.00 30.00	2 5.88 20.00 100.00	10 29.41
MARINE CORPS	14	3 8.82 75.00 13.64	1 2.94 25.00 10.00	0 0.00 0.00 0.00	4 11.76
AIR FORCE	15	9 26.47 90.00 40.91	1 2.94 10.00 10.00	0 0.00 0.00 0.00	10 29.41
COAST GUARD	11	1 2.94 33.33 4.55	2 5.88 66.67 20.00	0 0.00 0.00 0.00	3 8.82
TOTAL		22 64.71	10 29.41	2 5.88	34 100.00

14. If yes, how often?

Once.....1
Seldom.....2
Sometimes.....3
Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC15

QC1 FREQUENCY PERCENT ROW PCT COL PCT	QC15		TOTAL
	1	2	
ARMY	23 16.91 60.53 23.00	15 11.03 39.47 41.67	38 27.94
NAVY	37 27.21 88.10 37.00	5 3.68 11.90 13.89	42 30.88
MARINE CORPS	11 8.09 64.71 11.00	6 4.41 35.29 16.67	17 12.50
AIR FORCE	17 12.50 68.00 17.00	8 5.88 32.00 22.22	25 18.38
COAST GUARD	12 8.82 85.71 12.00	2 1.47 14.29 5.56	14 10.29
TOTAL	100 73.53	36 26.47	136 100.00

15. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander, has criticized a military judge directly or indirectly or through the military judges' superior for court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC16

QC1	QC16	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	15	2	17	3	1	23
	.	2.02	17.17	3.03	1.01	23.23
	.	8.70	73.91	13.04	4.35	
	.	7.69	32.69	15.00	100.00	
NAVY	5	10	17	10	0	37
	.	10.10	17.17	10.10	0.00	37.37
	.	27.03	45.95	27.03	0.00	
	.	38.46	32.69	50.00	0.00	
MARINE CORPS	8	0	7	3	0	10
	.	0.00	7.07	3.03	0.00	10.10
	.	0.00	70.00	30.00	0.00	
	.	0.00	13.46	15.00	0.00	
AIR FORCE	8	7	7	3	0	17
	.	7.07	7.07	3.03	0.00	17.17
	.	41.18	41.18	17.65	0.00	
	.	26.92	13.46	15.00	0.00	
COAST GUARD	2	7	4	1	0	12
	.	7.07	4.04	1.01	0.00	12.12
	.	58.33	33.33	8.33	0.00	
	.	26.92	7.69	5.00	0.00	
TOTAL	.	26	52	20	1	99
	.	26.26	52.53	20.20	1.01	100.00

16. If yes, how often?

Once.....1
Seldom.....2
Sometimes.....3
Frequently.....4

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC17

QC1	QC17	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	15	1	13	1	8	23
		1.03	13.40	1.03	8.25	23.71
		4.35	56.52	4.35	34.78	
		8.33	30.95	7.69	26.67	
NAVY	6	4	11	6	15	36
		4.12	11.34	6.19	15.46	37.11
		11.11	30.56	16.67	41.67	
		33.33	26.19	46.15	50.00	
MARINE CORPS	8	2	5	1	2	10
		2.06	5.15	1.03	2.06	10.31
		20.00	50.00	10.00	20.00	
		16.67	11.90	7.69	6.67	
AIR FORCE	8	3	11	0	3	17
		3.09	11.34	0.00	3.09	17.53
		17.65	64.71	0.00	17.65	
		25.00	26.19	0.00	10.00	
COAST GUARD	3	2	2	5	2	11
		2.06	2.06	5.15	2.06	11.34
		18.18	18.18	45.45	18.18	
		16.67	4.76	38.46	6.67	
TOTAL		12	42	13	30	97
		12.37	43.30	13.40	30.93	100.00

17. If your answer to #15 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?

- Usually findings.....1
- Usually sentence.....2
- Usually other grounds.....3
- About equally on all of the above...4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC18

QC1	QC18	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	15	1	17	5	23
	.	1.00	17.00	5.00	23.00
	.	4.35	73.91	21.74	
	.	25.00	27.42	14.71	
NAVY	5	1	23	13	37
	.	1.00	23.00	13.00	37.00
	.	2.70	62.16	35.14	
	.	25.00	37.10	38.24	
MARINE CORPS	7	0	6	5	11
	.	0.00	6.00	5.00	11.00
	.	0.00	54.55	45.45	
	.	0.00	9.68	14.71	
AIR FORCE	8	1	11	5	17
	.	1.00	11.00	5.00	17.00
	.	5.88	64.71	29.41	
	.	25.00	17.74	14.71	
COAST GUARD	2	1	5	6	12
	.	1.00	5.00	6.00	12.00
	.	8.33	41.67	50.00	
	.	25.00	8.06	17.65	
TOTAL	.	4	62	34	100
	.	4.00	62.00	34.00	100.00

18. If your answer to #15 is yes, did the criticism impact on the judges' subsequent decisions?

Yes.....1
No.....2
Don't know.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC19

QC1	QC19				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	5 3.65 13.16 26.32	8 5.84 21.05 16.67	13 9.49 34.21 33.33	12 8.76 31.58 38.71	38 27.74
NAVY	5 3.65 11.90 26.32	17 12.41 40.48 35.42	12 8.76 28.57 30.77	8 5.84 19.05 25.81	42 30.66
MARINE CORPS	3 2.19 16.67 15.79	7 5.11 38.89 14.58	2 1.46 11.11 5.13	6 4.38 33.33 19.35	18 13.14
AIR FORCE	3 2.19 12.00 15.79	11 8.03 44.00 22.92	8 5.84 32.00 20.51	3 2.19 12.00 9.68	25 18.25
COAST GUARD	3 2.19 21.43 15.79	5 3.65 35.71 10.42	4 2.92 28.57 10.26	2 1.46 14.29 6.45	14 10.22
TOTAL	19 13.87	48 35.04	39 28.47	31 22.63	137 100.00

19. To what extent do you believe a guaranteed term of office would create the appearance of a more independent and fair military judiciary?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC20

QC1	QC20				TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	
ARMY	16 11.68 42.11 26.67	8 5.84 21.05 21.05	10 7.30 26.32 31.25	4 2.92 10.53 57.14	38 27.74
NAVY	19 13.87 45.24 31.67	11 8.03 26.19 28.95	11 8.03 26.19 34.38	1 0.73 2.38 14.29	42 30.66
MARINE CORPS	9 6.57 50.00 15.00	5 3.65 27.78 13.16	3 2.19 16.67 9.38	1 0.73 5.56 14.29	18 13.14
AIR FORCE	10 7.30 40.00 16.67	8 5.84 32.00 21.05	7 5.11 28.00 21.88	0 0.00 0.00 0.00	25 18.25
COAST GUARD	6 4.38 42.86 10.00	6 4.38 42.86 15.79	1 0.73 7.14 3.13	1 0.73 7.14 14.29	14 10.22
TOTAL	60 43.80	38 27.74	32 23.36	7 5.11	137 100.00

20. To what extent do you believe that a guaranteed term of office would, actually, create a more independent and fair military judiciary?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC21

QC1	QC21				TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	
ARMY	12 8.76 31.58 21.82	10 7.30 26.32 34.48	10 7.30 26.32 29.41	6 4.38 15.79 31.58	38 27.74
NAVY	19 13.87 45.24 34.55	10 7.30 23.81 34.48	9 6.57 21.43 26.47	4 2.92 9.52 21.05	42 30.66
MARINE CORPS	8 5.84 44.44 14.55	0 0.00 0.00 0.00	5 3.65 27.78 14.71	5 3.65 27.78 26.32	18 13.14
AIR FORCE	12 8.76 48.00 21.82	5 3.65 20.00 17.24	7 5.11 28.00 20.59	1 0.73 4.00 5.26	25 18.25
COAST GUARD	4 2.92 28.57 7.27	4 2.92 28.57 13.79	3 2.19 21.43 8.82	3 2.19 21.43 15.79	14 10.22
TOTAL	55 40.15	29 21.17	34 24.82	19 13.87	137 100.00

21. To what extent do you believe that a guaranteed term of office would contribute to a more professionally competent military judiciary?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC22

QC1	QC22			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	6 4.38 15.79 16.67	25 18.25 65.79 30.49	7 5.11 18.42 36.84	38 27.74
NAVY	15 10.95 35.71 41.67	21 15.33 50.00 25.61	6 4.38 14.29 31.58	42 30.66
MARINE CORPS	7 5.11 38.89 19.44	9 6.57 50.00 10.98	2 1.46 11.11 10.53	18 13.14
AIR FORCE	7 5.11 28.00 19.44	15 10.95 60.00 18.29	3 2.19 12.00 15.79	25 18.25
COAST GUARD	1 0.73 7.14 2.78	12 8.76 85.71 14.63	1 0.73 7.14 5.26	14 10.22
TOTAL	36 26.28	82 59.85	19 13.87	137 100.00

22. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC23

QC1	QC23			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	4 2.92 10.53 30.77	33 24.09 86.84 30.00	1 0.73 2.63 7.14	38 27.74
NAVY	2 1.46 4.76 15.38	29 21.17 69.05 26.36	11 8.03 26.19 78.57	42 30.66
MARINE CORPS	3 2.19 16.67 23.08	15 10.95 83.33 13.64	0 0.00 0.00 0.00	18 13.14
AIR FORCE	2 1.46 8.00 15.38	21 15.33 84.00 19.09	2 1.46 8.00 14.29	25 18.25
COAST GUARD	2 1.46 14.29 15.38	12 8.76 85.71 10.91	0 0.00 0.00 0.00	14 10.22
TOTAL	13 9.49	110 80.29	14 10.22	137 100.00

23. Would guaranteed terms of office for military judges give judges too much independence?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC24

QC1	QC24			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	19 13.87 50.00 23.75	16 11.68 42.11 29.63	3 2.19 7.89 100.00	38 27.74
NAVY	35 25.55 83.33 43.75	7 5.11 16.67 12.96	0 0.00 0.00 0.00	42 30.66
MARINE CORPS	7 5.11 38.89 8.75	11 8.03 61.11 20.37	0 0.00 0.00 0.00	18 13.14
AIR FORCE	12 8.76 48.00 15.00	13 9.49 52.00 24.07	0 0.00 0.00 0.00	25 18.25
COAST GUARD	7 5.11 50.00 8.75	7 5.11 50.00 12.96	0 0.00 0.00 0.00	14 10.22
TOTAL	80 58.39	54 39.42	3 2.19	137 100.00

24. How do you view assignment as a military judge in terms of career enhancement?

Not very career enhancing.....1
Somewhat career enhancing.....2
Very career enhancing.....3

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC25

QC1	QC25	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	0	0	37	1	38
	.	0.00	27.21	0.74	27.94
	.	0.00	97.37	2.63	
	.	0.00	31.36	5.89	
NAVY	1	0	39	2	41
	.	0.00	28.68	1.47	30.15
	.	0.00	95.12	4.88	
	.	0.00	33.05	11.76	
MARINE CORPS	0	0	10	8	18
	.	0.00	7.35	5.68	13.24
	.	0.00	55.56	44.44	
	.	0.00	8.47	47.06	
AIR FORCE	0	1	22	2	25
	.	0.74	16.18	1.47	18.38
	.	4.00	88.00	8.00	
	.	100.00	14.64	11.76	
COAST GUARD	0	0	10	4	14
	.	0.00	7.35	2.94	10.29
	.	0.00	71.43	28.57	
	.	0.00	4.47	23.53	
TOTAL	.	1	118	17	136
	.	0.74	86.76	12.50	100.00

25. Is 0-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC26

QC1	QC26	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		0	34	3	38
		0.74	25.00	2.21	27.94
		2.63	89.47	7.89	
		25.00	30.36	15.00	
NAVY		1	35	6	41
		0.00	25.74	4.41	30.15
		0.00	85.37	14.63	
		0.00	31.25	30.00	
MARINE CORPS		0	10	6	18
		1.47	7.35	4.41	13.24
		11.11	55.56	33.33	
		50.00	8.93	30.00	
AIR FORCE		0	24	1	25
		0.00	17.65	0.74	18.38
		0.00	96.00	4.00	
		0.00	21.43	5.00	
COAST GUARD		0	9	4	14
		0.74	6.62	2.94	10.29
		7.14	64.29	28.57	
		25.00	8.04	20.00	
TOTAL		0	112	20	136
		2.94	82.35	14.71	100.00

26. Is 0-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC27

QC1 FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	TOTAL
ARMY	24 17.52 63.16 25.53	10 7.30 26.32 47.62	4 2.92 10.53 18.18	38 27.74
NAVY	27 19.71 64.29 28.72	5 3.65 11.90 23.81	10 7.30 23.81 45.45	42 30.66
MARINE CORPS	15 10.95 83.33 15.96	2 1.46 11.11 9.52	1 0.73 5.56 4.55	18 13.14
AIR FORCE	21 15.33 84.00 22.34	3 2.19 12.00 14.29	1 0.73 4.00 4.55	25 18.25
COAST GUARD	7 5.11 50.00 7.45	1 0.73 7.14 4.76	6 4.38 42.86 27.27	14 10.22
TOTAL	94 68.61	21 15.33	22 16.06	137 100.00

27. If there were flag or general officer billets on the Courts of Military Review would judicial duty be more career enhancing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QCI BY QC28

QC1	QC28	0	1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	28	3	7	38
		.	20.59	2.21	5.15	27.94
		.	73.68	7.89	18.42	
		.	32.56	14.29	24.14	
NAVY		0	23	7	12	42
		.	16.91	5.15	8.82	30.88
		.	54.76	16.67	28.57	
		.	26.74	33.33	41.38	
MARINE CORPS		1	15	2	0	17
		.	11.03	1.47	0.00	12.50
		.	89.24	11.76	0.00	
		.	17.44	9.52	0.00	
AIR FORCE		0	13	8	4	25
		.	9.56	5.88	2.94	18.38
		.	52.00	32.00	16.00	
		.	15.12	38.10	13.79	
COAST GUARD		0	7	1	6	14
		.	5.15	0.74	4.41	10.29
		.	50.00	7.14	42.86	
		.	8.14	4.76	20.69	
TOTAL		.	36	21	29	136
		.	63.24	15.44	21.32	100.00

28. If there were flag or general officer billets on the Court of
Military Appeals would judicial duty be more career enhancing?

Yes.....1
No.....2
No opinion.....3

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC29

QC1	QC29					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	5 3.65 13.16 45.45	17 12.41 44.74 39.53	15 10.95 39.47 19.48	1 0.73 2.63 20.00	0 0.00 0.00 0.00	38 27.74
NAVY	1 0.73 2.38 9.09	12 8.76 28.57 27.91	26 18.98 61.90 33.77	2 1.46 4.76 40.00	1 0.73 2.38 100.00	42 30.66
MARINE CORPS	3 2.19 16.67 27.27	4 2.92 22.22 9.30	10 7.30 55.56 12.99	1 0.73 5.56 20.00	0 0.00 0.00 0.00	18 13.14
AIR FORCE	2 1.46 8.00 18.18	6 4.38 24.00 13.95	16 11.68 64.00 20.78	1 0.73 4.00 20.00	0 0.00 0.00 0.00	25 18.25
COAST GUARD	0 0.00 0.00 0.00	4 2.92 28.57 9.30	10 7.30 71.43 12.99	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	11 8.03	43 31.39	77 56.20	5 3.65	1 0.73	137 100.00

29. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?

- Much more attractive.....1
- Somewhat more attractive.....2
- No effect.....3
- Somewhat less attractive.....4
- Much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY OC30

QC1	QC30				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	5 3.65 13.16 10.64	18 13.14 47.37 28.57	8 5.84 21.05 44.44	7 5.11 18.42 77.78	38 27.74
NAVY	16 11.68 38.10 34.04	20 14.50 47.62 31.75	5 3.65 11.90 27.78	1 0.73 2.38 11.11	42 30.66
MARINE CORPS	7 5.11 38.89 14.89	8 5.84 44.44 12.70	2 1.46 11.11 11.11	1 0.73 5.56 11.11	18 13.14
AIR FORCE	10 7.30 40.00 21.28	12 8.76 48.00 19.05	3 2.19 12.00 16.67	0 0.00 0.00 0.00	25 18.25
COAST GUARD	9 6.57 64.29 19.15	5 3.65 35.71 7.94	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	47 34.31	53 45.99	18 13.14	9 6.57	137 100.00

30. If a guaranteed term of office provision were enacted what length of time should it contain for the judges of the Courts of Military Review?

Normal tour length.....1
3-5 years.....2
6-10 years.....3
Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC31

QC1	QC31				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	8 5.84 21.05 14.04	11 8.03 28.95 23.91	11 8.03 28.95 47.83	8 5.84 21.05 72.73	38 27.74
NAVY	18 13.14 42.86 31.53	17 12.41 40.44 36.96	5 3.65 11.90 21.74	2 1.46 4.76 18.18	42 30.66
MARINE CORPS	10 7.30 55.56 17.54	4 2.92 22.22 9.70	3 2.19 16.67 13.04	1 0.73 5.56 9.09	18 13.14
AIR FORCE	10 7.30 40.00 17.54	11 8.03 44.00 23.91	4 2.92 16.00 17.39	0 0.00 0.00 0.00	25 18.25
COAST GUARD	11 8.03 78.57 19.30	3 2.19 21.43 6.52	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	57 41.61	46 33.58	23 16.79	11 8.03	137 100.00

31. If a guaranteed term of office provision were enacted what length of time should it contain for GCM judges?

Normal tour length.....1
3-5 years.....2
6-10 years.....3
Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC32

QC1	QC32	1	2	3	4	TOTAL
FREQUENCY		25	12	1	0	38
PERCENT		19.38	8.82	0.74	0.00	27.94
ROW PCT		65.79	31.58	2.63	0.00	
COL PCT		26.60	32.43	33.33	0.00	
ARMY						
NAVY		34	6	1	1	42
		25.00	4.41	0.74	0.74	30.88
		80.95	14.29	2.38	2.38	
		36.17	16.22	33.33	50.00	
MARINE CORPS		11	6	0	1	18
		9.09	4.41	0.00	0.74	13.24
		61.11	33.33	0.00	5.56	
		11.70	16.22	0.00	50.00	
AIR FORCE		12	11	1	0	24
		8.82	8.09	0.74	0.00	17.65
		50.00	45.83	4.17	0.00	
		12.77	29.73	33.33	0.00	
COAST GUARD		12	2	0	0	14
		8.82	1.47	0.00	0.00	10.29
		85.71	14.29	0.00	0.00	
		12.77	5.41	0.00	0.00	
TOTAL		94	37	3	2	136
		69.12	27.21	2.21	1.47	100.00

32. If a guaranteed term of office provision were enacted what length of time should it contain for SPCM judges?

Normal tour length.....1
3-5 years.....2
6-10 years.....3
Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC33

QC1	QC33			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	23 16.79 60.53 25.00	14 10.22 36.84 42.42	1 0.73 2.63 8.33	38 27.74
NAVY	30 21.90 71.43 32.61	4 2.92 9.52 12.12	8 5.84 19.05 66.67	42 30.66
MARINE CORPS	12 8.76 66.67 13.04	4 2.92 22.22 12.12	2 1.46 11.11 16.67	18 13.14
AIR FORCE	19 13.87 76.00 20.65	6 4.38 24.00 18.18	0 0.00 0.00 0.00	25 18.25
COAST GUARD	8 5.84 57.14 8.70	5 3.65 35.71 15.15	1 0.73 7.14 8.33	14 10.22
TOTAL	92 67.15	33 24.09	12 8.76	137 100.00

33. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?

Yes.....1
No.....2
No opinion.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC34

QC1	QC34					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	9 6.57 23.68 56.25	12 8.76 31.58 28.57	17 12.41 44.74 22.67	0 0.00 0.00 0.00	0 0.00 0.00 0.00	38 27.74
NAVY	2 1.46 4.76 12.50	12 8.76 28.57 23.57	25 18.25 59.52 33.33	2 1.46 4.76 66.67	1 0.73 2.38 100.00	42 30.66
MARINE CORPS	2 1.46 11.11 12.50	5 3.65 27.78 11.90	11 8.03 61.11 14.67	0 0.00 0.00 0.00	0 0.00 0.00 0.00	18 13.14
AIR FORCE	2 1.46 8.00 12.50	8 5.84 32.00 19.05	14 10.22 56.00 18.67	1 0.73 4.00 33.33	0 0.00 0.00 0.00	25 18.25
COAST GUARD	1 0.73 7.14 6.25	5 3.65 35.71 11.90	3 5.84 57.14 10.67	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	16 11.68	42 30.66	75 54.74	3 2.19	1 0.73	137 100.00

34. How would guaranteed terms of office affect your view of military
Judge assignments?

Much more attractive.....1
Somewhat more attractive.....2
No effect.....3
Somewhat less attractive.....4
Much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC35

QC1	QC35			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	26 18.98 68.42 32.10	9 6.57 23.68 21.43	3 2.19 7.89 21.43	38 27.74
NAVY	28 20.44 66.67 34.57	9 6.57 21.43 21.43	5 3.65 11.90 35.71	42 30.66
MARINE CORPS	9 6.57 50.00 11.11	7 5.11 38.89 16.67	2 1.46 11.11 14.29	18 13.14
AIR FORCE	12 8.76 48.00 14.81	10 7.30 40.00 23.81	3 2.19 12.00 21.43	25 18.25
COAST GUARD	6 4.38 42.86 7.41	7 5.11 50.00 16.67	1 0.73 7.14 7.14	14 10.22
TOTAL	81 59.12	42 30.66	14 10.22	137 100.00

35. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC36

QC1	QC36	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	•	6 4.44 16.22 37.50	31 22.96 83.78 28.44	0 0.00 0.00 0.00	37 27.41
NAVY	•	4 2.96 9.52 25.00	33 24.44 78.57 30.28	5 3.70 11.90 50.00	42 31.11
MARINE CORPS	•	1 0.74 5.88 6.25	15 11.11 88.24 13.76	1 0.74 5.88 10.00	17 12.59
AIR FORCE	•	3 2.22 12.00 18.75	21 15.56 84.00 19.27	1 0.74 4.00 10.00	25 18.52
COAST GUARD	•	2 1.48 14.29 12.50	9 6.67 64.29 8.26	3 2.22 21.43 30.00	14 10.37
TOTAL	•	16 11.85	109 80.74	10 7.41	135 100.00

36. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QCI BY QC37

QC1	QC37				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	9 6.57 23.68 42.85	6 4.38 15.79 26.09	11 8.03 28.95 20.75	12 8.76 31.58 30.00	38 27.74
NAVY	2 1.45 4.76 9.52	8 5.84 19.05 34.78	19 13.87 45.24 35.85	13 9.49 30.95 32.50	42 30.66
MARINE CORPS	2 1.46 11.11 9.52	5 3.65 27.78 21.74	5 3.65 27.78 9.43	6 4.38 33.33 15.00	18 13.14
AIR FORCE	6 4.38 24.00 28.57	3 2.19 12.00 13.04	13 9.49 52.00 24.53	3 2.19 12.00 7.50	25 18.25
COAST GUARD	2 1.46 14.29 9.52	1 0.73 7.14 4.35	5 3.65 35.71 9.43	6 4.38 42.86 15.00	14 10.22
TOTAL	21 15.33	23 16.79	53 38.69	40 29.20	137 100.00

37. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC3B

QC1	QC3B		TOTAL
	1	2	
FREQUENCY			
PERCENT			
ROW PCT			
COL PCT			
ARMY	29	9	38
	21.17	6.57	27.74
	76.32	23.68	
	36.71	15.52	
NAVY	16	26	42
	11.68	18.98	30.66
	38.10	61.90	
	20.25	44.83	
MARINE CORPS	11	7	18
	8.03	5.11	13.14
	61.11	38.89	
	13.92	12.07	
AIR FORCE	14	11	25
	10.22	8.03	18.25
	56.00	44.00	
	17.72	18.97	
COAST GUARD	9	5	14
	6.57	3.65	10.22
	64.29	35.71	
	11.39	8.62	
TOTAL	79	58	137
	57.66	42.34	100.00

38. On balance, do you favor some provision for guaranteed terms of office for military trial judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC39

QC1 FREQUENCY PERCENT ROW PCT COL PCT	QC39		TOTAL
	1	2	
ARMY	28 20.44 73.68 36.36	10 7.30 26.32 16.67	38 27.74
NAVY	17 12.41 40.48 22.08	25 18.25 59.52 41.67	42 30.66
MARINE CORPS	11 8.03 61.11 14.29	7 5.11 38.89 11.67	18 13.14
AIR FORCE	13 9.49 52.00 16.88	12 8.76 48.00 20.00	25 18.25
COAST GUARD	8 5.84 57.14 10.39	6 4.38 42.86 10.00	14 10.22
TOTAL	77 56.20	60 43.80	137 100.00

39. On balance, do you favor some provision for guaranteed terms of office for CMR judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC40

QC1	QC40		TOTAL
	1	2	
FREQUENCY			
PERCENT			
ROW PCT			
COL PCT			
ARMY	10 7.30 26.32 27.78	28 20.44 73.58 27.72	38 27.74
NAVY	22 16.06 52.38 61.11	20 14.60 47.62 19.80	42 30.66
MARINE CORPS	4 2.92 22.22 11.11	14 10.22 77.78 13.86	18 13.14
AIR FORCE	0 0.00 0.00 0.00	25 18.25 100.00 24.75	25 18.25
COAST GUARD	0 0.00 0.00 0.00	14 10.22 100.00 13.86	14 10.22
TOTAL	36 26.28	101 73.72	137 100.00

40. Do you try cases primarily at a single location or do you ride a circuit?

Single location.....1
Circuit.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC41

QC1	QC41	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	1	1	3	4	21	8	37
	.	0.75	2.24	2.99	15.67	5.97	27.61
	.	2.70	8.11	10.81	56.76	21.62	
	.	16.67	15.79	28.57	47.73	15.69	
NAVY	0	0	2	1	4	35	42
	.	0.00	1.49	0.75	2.99	26.12	31.34
	.	0.00	4.76	2.38	9.52	83.33	
	.	0.00	10.53	7.14	9.09	68.63	
MARINE CORPS	0	1	3	2	6	6	18
	.	0.75	2.24	1.49	4.48	4.48	13.43
	.	5.56	16.67	11.11	33.33	33.33	
	.	16.67	15.79	14.29	13.64	11.76	
AIR FORCE	0	0	6	6	11	2	25
	.	0.00	4.48	4.48	8.21	1.49	18.66
	.	0.00	24.00	24.00	44.00	8.00	
	.	0.00	31.58	42.86	25.00	3.92	
COAST GUARD	2	4	5	1	2	0	12
	.	2.99	3.73	0.75	1.49	0.00	8.96
	.	33.33	41.67	8.33	16.67	0.00	
	.	66.67	26.32	7.14	4.55	0.00	
TOTAL	.	6	19	14	44	51	134
	.	4.48	14.18	10.45	32.84	38.06	100.00

41. What percentage of cases that you tried in the past year were military judge alone?

Less than 10%.....1
 10-25%.....2
 26-50%.....3
 51-75%.....4
 Over 75%.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC42

QC1	QC42					TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	5	
ARMY	3 2.19 7.89 4.17	12 8.76 31.58 33.33	13 9.49 34.21 68.42	7 5.11 18.42 100.00	3 2.19 7.89 100.00	38 27.74
NAVY	26 18.98 61.90 36.11	14 10.22 33.33 38.89	2 1.46 4.76 10.53	0 0.00 0.00 0.00	0 0.00 0.00 0.00	42 30.66
MARINE CORPS	8 5.84 44.44 11.11	6 4.38 33.33 16.67	4 2.92 22.22 21.05	0 0.00 0.00 0.00	0 0.00 0.00 0.00	18 13.14
AIR FORCE	24 17.52 96.00 33.33	1 0.73 4.00 2.78	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	25 18.25
COAST GUARD	11 8.03 78.57 15.28	3 2.19 21.43 8.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	72 52.55	36 26.28	19 13.87	7 5.11	3 2.19	137 100.00

42. In your experience, in what percentage of cases with court members does an accused request enlisted members?

Less than 10%.....1
10-25%.....2
26-50%.....3
51-75%.....4
Over 75%.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC43

QC1	QC43				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	0 0.00 0.00 0.00	3 2.19 7.39 17.65	16 11.68 42.11 23.53	19 13.87 50.00 38.78	38 27.74
NAVY	2 1.46 4.75 66.67	6 4.38 14.29 35.29	23 16.79 54.76 33.82	11 8.03 26.19 22.45	42 30.66
MARINE CORPS	0 0.00 0.00 0.00	0 0.00 0.00 0.00	8 5.84 44.44 11.76	10 7.30 55.56 20.41	18 13.14
AIR FORCE	0 0.00 0.00 0.00	4 2.92 16.00 23.53	16 11.68 64.00 23.53	5 3.65 20.00 10.20	25 18.25
COAST GUARD	1 0.73 7.14 33.33	4 2.92 28.57 23.53	5 3.65 35.71 7.35	4 2.92 28.57 8.16	14 10.22
TOTAL	3 2.19	17 12.41	68 49.64	49 35.77	137 100.00

43. How informed are you regarding local military community events and problems?

Not at all.....1
Slightly.....2
Somewhat informed.....3
Greatly informed.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC44

QC1	QC44				TOTAL
FREQUENCY PERCENT ROW PCT	1	2	3	4	
COL PCT					
ARMY	0 0.00	1 0.73	11 8.03	26 18.98	38 27.74
	0.00	2.63	28.95	68.42	
	0.00	12.50	21.57	34.21	
NAVY	2 1.46	2 1.46	21 15.33	17 12.41	42 30.66
	4.76	4.76	50.00	40.48	
	100.00	25.00	41.18	22.37	
MARINE CORPS	0 0.00	2 1.46	6 4.38	10 7.30	18 13.14
	0.00	11.11	33.33	55.56	
	0.00	25.00	11.76	13.16	
AIR FORCE	0 0.00	2 1.46	10 7.30	13 9.49	25 18.25
	0.00	8.00	40.00	52.00	
	0.00	25.00	19.61	17.11	
COAST GUARD	0 0.00	1 0.73	3 2.19	10 7.30	14 10.22
	0.00	7.14	21.43	71.43	
	0.00	12.50	5.88	13.16	
TOTAL	2 1.46	8 5.84	51 37.23	76 55.47	137 100.00

44. Are military judges aware of the disciplinary impact of their sentences on the command?

Not at all.....1
Slightly2
Somewhat3
Greatly4

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC45

QC1	QC45	0	1	2	3	4	TOTAL
ARMY	FREQUENCY	0	1	11	19	7	38
	PERCENT ROW PCT	.	0.75	8.21	14.18	5.22	28.36
	COL PCT	.	2.63	28.95	50.00	18.42	
NAVY	FREQUENCY	2	3	10	21	6	40
	PERCENT ROW PCT	.	2.24	7.46	15.67	4.48	29.85
	COL PCT	.	7.50	25.00	52.50	15.00	
MARINE CORPS	FREQUENCY	0	0	7	8	3	18
	PERCENT ROW PCT	.	0.00	5.22	5.97	2.24	13.43
	COL PCT	.	0.00	38.89	44.44	16.67	
AIR FORCE	FREQUENCY	0	0	12	11	2	25
	PERCENT ROW PCT	.	0.00	8.96	8.21	1.49	18.66
	COL PCT	.	0.00	48.00	44.00	8.00	
COAST GUARD	FREQUENCY	1	0	5	5	3	13
	PERCENT ROW PCT	.	0.00	3.73	3.73	2.24	9.70
	COL PCT	.	0.00	38.46	38.46	23.08	
TOTAL	.	4	2.99	33.58	47.76	15.67	134
		.					100.00

45. Are the officers who are detailed as court members aware of the disciplinary impact of their sentences on the command?

Not at all.....1
Slightly.....2
Somewhat3
Greatly4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC46

QC1	QC46				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	20 14.60 52.63 25.00	5 3.65 13.16 45.45	9 6.57 23.68 45.00	4 2.92 10.53 15.38	38 27.74
NAVY	27 19.71 64.29 33.75	1 0.73 2.38 9.09	6 4.38 14.29 30.00	8 5.84 19.05 30.77	42 30.66
MARINE CORPS	11 8.03 61.11 13.75	1 0.73 5.56 9.09	2 1.46 11.11 10.00	4 2.92 22.22 15.38	18 13.14
AIR FORCE	13 9.49 52.00 16.25	4 2.92 16.00 36.36	2 1.46 9.00 10.00	6 4.38 24.00 23.08	25 18.25
COAST GUARD	9 6.57 64.29 11.25	0 0.00 0.00 0.00	1 0.73 7.14 5.00	4 2.92 28.57 15.38	14 10.22
TOTAL	80 58.39	11 9.03	20 14.60	26 18.98	137 100.00

46. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?

Military judges.....1
Members.....2
No difference.....3
Don't know.....4

FREQUENCIES BY SERVICE
TABLE OF QCI BY QC47

QCI	QC47	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	2	4	11	14	7	36
	.	3.01	8.27	10.53	5.26	27.07
	.	11.11	30.56	38.89	19.44	
	.	18.18	22.92	35.90	29.17	
NAVY	1	8	16	12	5	41
	.	6.02	12.03	9.02	3.76	30.83
	.	19.51	39.02	29.27	12.20	
	.	36.36	33.33	30.77	20.83	
MARINE CORPS	0	7	4	4	3	18
	.	5.26	3.01	3.01	2.26	13.53
	.	38.89	22.22	22.22	16.67	
	.	31.82	8.33	10.26	12.50	
AIR FORCE	0	1	10	8	6	25
	.	0.75	7.52	6.02	4.51	18.80
	.	4.00	40.00	32.00	24.00	
	.	4.55	20.83	20.51	25.00	
COAST GUARD	1	2	7	1	3	13
	.	1.50	5.26	0.75	2.26	9.77
	.	15.38	53.85	7.69	23.08	
	.	9.09	14.58	2.56	12.50	
TOTAL	.	22	48	39	24	133
	.	16.54	36.09	29.32	18.05	100.00

47. In cases where you sat as military judge where an accused was sentenced by members, upon hearing the sentence, in what percentage of the cases did you conclude that you were in close agreement with the sentence?

0-25%.....1
26-50%.....2
51-75%.....3
Over 75%.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC48

QC1	QC48	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY		1	6	27	4	0	38
		0.74	4.41	19.85	2.94	0.00	27.94
		2.63	15.79	71.05	10.53	0.00	
		100.00	40.00	27.27	20.00	0.00	
NAVY		0	1	33	7	1	42
		0.00	0.74	24.26	5.15	0.74	30.88
		0.00	2.38	78.57	16.67	2.38	
		0.00	6.67	33.33	35.00	100.00	
MARINE CORPS		0	2	11	4	0	17
		0.00	1.47	8.09	2.94	0.00	12.50
		0.00	11.76	64.71	23.53	0.00	
		0.00	13.33	11.11	20.00	0.00	
AIR FORCE		0	4	20	1	0	25
		0.00	2.94	14.71	0.74	0.00	18.38
		0.00	16.00	80.00	4.00	0.00	
		0.00	26.67	20.20	5.00	0.00	
COAST GUARD		0	2	8	4	0	14
		0.00	1.47	5.88	2.94	0.00	10.29
		0.00	14.29	57.14	28.57	0.00	
		0.00	13.33	8.08	20.00	0.00	
TOTAL		1	15	99	20	1	136
		0.74	11.03	72.79	14.71	0.74	100.00

48. How often do members give an inappropriate sentence (unreasonably lenient or harsh)?

Never.....1
Seldom.....2
Sometimes.....3
Usually.....4
Always.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC49

QC1	QC49	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT							
COL PCT							
ARMY		0	3	25	10	0	38
		.	2.21	18.38	7.35	0.00	27.94
		.	7.89	65.79	26.32	0.00	
		.	100.00	25.51	29.41	0.00	
NAVY		0	0	39	3	0	42
		.	0.00	28.68	2.21	0.00	30.88
		.	0.00	92.86	7.14	0.00	
		.	0.00	39.80	8.82	0.00	
MARINE CORPS		1	0	11	5	1	17
		.	0.00	8.09	3.68	0.74	12.50
		.	0.00	64.71	29.41	5.88	
		.	0.00	11.22	14.71	100.00	
AIR FORCE		0	0	15	10	0	25
		.	0.00	11.03	7.35	0.00	18.38
		.	0.00	60.00	40.00	0.00	
		.	0.00	15.31	29.41	0.00	
COAST GUARD		0	0	8	6	0	14
		.	0.00	5.88	4.41	0.00	10.29
		.	0.00	57.14	42.86	0.00	
		.	0.00	8.16	17.65	0.00	
TOTAL		.	3	98	34	1	136
		.	2.21	72.06	25.00	0.74	100.00

49. How often do judges give an inappropriate sentence (unreasonably lenient or harsh)?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC50

QC1	QC50			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	15 10.95 39.47 34.09	20 14.60 52.63 26.67	3 2.19 7.89 16.67	38 27.74
NAVY	15 10.95 35.71 34.09	18 13.14 42.86 24.00	9 6.57 21.43 50.00	42 30.66
MARINE CORPS	3 2.19 16.67 6.82	12 8.76 66.67 16.00	3 2.19 16.67 16.67	18 13.14
AIR FORCE	9 6.57 36.00 20.45	14 10.22 56.00 18.67	2 1.46 8.00 11.11	25 18.25
COAST GUARD	2 1.46 14.29 4.55	11 8.03 78.57 14.67	1 0.73 7.14 5.56	14 10.22
TOTAL	44 32.12	75 54.74	18 13.14	137 100.00

50. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?

Yes.....1
No.....2
No opinion.....3

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC51

QC1	QC51	1	2	3	4	TOTAL
ARMY	FREQUENCY	0	1	0	36	1
	PERCENT	0.75	0.00	0.00	26.87	0.75
	ROW PCT	2.63	0.00	0.00	94.74	2.63
NAVY	FREQUENCY	1	0	37	3	41
	PERCENT	0.75	0.00	27.61	2.24	30.60
	ROW PCT	2.44	0.00	90.24	7.32	42.86
MARINE CORPS	FREQUENCY	1	0	15	2	18
	PERCENT	0.75	0.00	11.19	1.49	13.43
	ROW PCT	5.56	0.00	83.33	11.11	28.57
AIR FORCE	FREQUENCY	0	0	24	0	24
	PERCENT	0.00	0.00	17.91	0.00	17.91
	ROW PCT	0.00	0.00	100.00	0.00	100.00
COAST GUARD	FREQUENCY	1	1	11	1	13
	PERCENT	0.00	0.75	8.21	0.75	9.70
	ROW PCT	0.00	7.69	84.62	7.69	100.00
TOTAL		3	1	123	7	134
		2.24	0.75	91.79	5.22	100.00

51. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system and the command?

Officer panels.....1
Officer and enlisted panels.....2
Military judges.....3
All are equally qualified.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC52

QC1	QC52	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		31	1	5	37
		22.79	0.74	3.68	27.21
		83.78	2.70	13.51	
		25.83	25.00	41.67	
NAVY		38	2	2	42
		27.94	1.47	1.47	30.88
		90.48	4.76	4.76	
		31.67	50.00	16.67	
MARINE CORPS		16	1	1	18
		11.76	0.74	0.74	13.24
		88.89	5.56	5.56	
		13.33	25.00	8.33	
AIR FORCE		22	0	3	25
		16.18	0.00	2.21	18.38
		48.00	0.00	12.00	
		18.33	0.00	25.00	
COAST GUARD		13	0	1	14
		9.56	0.00	0.74	10.29
		92.86	0.00	7.14	
		10.83	0.00	8.33	
TOTAL		120	4	12	136
		88.24	2.94	8.82	100.00

52. Can court members or military judges better determine an appropriate sentence for a given accused?

Military judges.....1
Court members.....2
No difference.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC53

QC1	QC53	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY		0	6	15	17	0	38
		0.00	4.38	10.95	12.41	0.00	27.74
		0.00	15.79	39.47	44.74	0.00	
		0.00	16.22	26.79	42.50	0.00	
NAVY		1	19	19	3	0	42
		0.73	13.87	13.87	2.19	0.00	30.66
		2.38	45.24	45.24	7.14	0.00	
		50.00	51.35	33.93	7.50	0.00	
MARINE CORPS		1	6	7	4	0	18
		0.73	4.38	5.11	2.92	0.00	13.14
		5.56	33.33	38.89	22.22	0.00	
		50.00	16.22	12.50	10.00	0.00	
AIR FORCE		0	2	11	12	0	25
		0.00	1.46	8.03	8.76	0.00	18.25
		0.00	8.00	44.00	48.00	0.00	
		0.00	5.41	19.64	30.00	0.00	
COAST GUARD		0	4	4	4	2	14
		0.00	2.92	2.92	2.92	1.46	10.22
		0.00	28.57	28.57	28.57	14.29	
		0.00	10.81	7.14	10.00	100.00	
TOTAL		2	37	56	40	2	137
		1.46	27.01	40.88	29.20	1.46	100.00

53. How often do convening authorities select the "best qualified" personnel for courts-martial duty?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC54

QC1	QC54	2	3	4	5	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		11	20	7	0	38
		8.09	14.71	5.15	0.00	27.94
		28.95	52.63	18.42	0.00	
		50.00	31.75	14.58	0.00	
NAVY		1	14	26	1	42
		0.74	10.29	19.12	0.74	30.88
		2.38	33.33	61.90	2.38	
		4.55	22.22	54.17	33.33	
MARINE CORPS		3	6	7	1	17
		2.21	4.41	5.15	0.74	12.50
		17.65	35.29	41.18	5.88	
		13.64	9.52	14.58	33.33	
AIR FORCE		4	18	3	0	25
		2.94	13.24	2.21	0.00	18.38
		16.00	72.00	12.00	0.00	
		18.18	28.57	6.25	0.00	
COAST GUARD		3	5	5	1	14
		2.21	3.68	3.68	0.74	10.29
		21.43	35.71	35.71	7.14	
		13.64	7.94	10.42	33.33	
TOTAL		22	63	48	3	136
		16.18	46.32	35.29	2.21	100.00

54. How often do convening authorities select court members for such duty based primarily upon their relative expendability?

Never.....1
Seldom.....2
Sometimes.....3
Usually.....4
Always.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC55

QC1	QC55				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	2 1.46 5.26 66.67	27 19.71 71.05 31.40	8 5.84 21.05 28.57	1 0.73 2.63 5.00	38 27.74
NAVY	1 0.73 2.38 33.33	27 19.71 64.29 31.40	4 2.92 9.52 14.29	10 7.30 23.81 50.00	42 30.66
MARINE CORPS	0 0.00 0.00 0.00	8 5.84 44.44 9.30	2 1.46 11.11 7.14	8 5.84 44.44 40.00	18 13.14
AIR FORCE	0 0.00 0.00 0.00	12 8.76 48.00 13.95	13 9.49 52.00 46.43	0 0.00 0.00 0.00	25 18.25
COAST GUARD	0 0.00 0.00 0.00	12 8.76 85.71 13.95	1 0.73 7.14 3.57	1 0.73 7.14 5.00	14 10.22
TOTAL	3 2.19	86 62.77	28 20.44	20 14.60	137 100.00

55. What is your sense of the military grade of the typical special court-martial panels which actually hear cases, to which you have been detailed?

- Don't know.....1
- One 0-4/0-5 and rest below 0-4.....2
- 50% split between 0-4/0-5 and those below 0-4/0-5.....3
- Normally all below 0-4.....4
- Normally all above 0-4.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC56

QC1	QC56	1	2	3	4	5	7	TOTAL
ARMY	FREQUENCY	3	24	4	0	2	2	35
	PERCENT	2.31	18.46	3.08	0.00	1.54	1.54	26.92
	ROW PCT	8.57	68.57	11.43	0.00	5.71	5.71	
		15.00	35.29	20.00	0.00	25.00	25.00	
NAVY	FREQUENCY	8	11	10	4	4	4	41
	PERCENT	6.15	8.46	7.69	3.08	3.08	3.08	31.54
	ROW PCT	19.51	26.83	24.39	9.76	9.76	9.76	
		40.00	16.18	50.00	66.67	50.00	50.00	
MARINE CORPS	FREQUENCY	4	8	3	1	0	0	16
	PERCENT	3.08	6.15	2.31	0.77	0.00	0.00	12.31
	ROW PCT	25.00	50.00	18.75	6.25	0.00	0.00	
		20.00	11.76	15.00	16.67	0.00	0.00	
AIR FORCE	FREQUENCY	0	22	0	0	1	2	25
	PERCENT	0.00	16.92	0.00	0.00	0.77	1.54	19.23
	ROW PCT	0.00	88.00	0.00	0.00	4.00	8.00	
		0.00	32.35	0.00	0.00	12.50	25.00	
COAST GUARD	FREQUENCY	5	3	3	1	1	0	13
	PERCENT	3.85	2.31	2.31	0.77	0.77	0.00	10.00
	ROW PCT	38.46	23.08	23.08	7.69	7.69	0.00	
		25.00	4.41	15.00	16.67	12.50	0.00	
TOTAL		20	68	20	6	8	8	130
		15.38	52.31	15.38	4.62	6.15	6.15	100.00

56. What is your sense of the military grade of the typical general court-martial panels which actually hear cases to which you have been detailed?

Don't know.....1
 One 0-6, two 0-5, three 0-4, three
 below 0-4.....2
 One 0-5, three 0-4, rest
 below 0-4.....3
 One or more 0-4, rest below 0-4....4
 Two 0-5, rest split evenly between
 0-4 and those below 0-4.....5
 Three 0-5, three 0-4, three
 below 0-4.....6
 One 0-6, three 0-5, four 0-4, one
 below 0-4.....7

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC57

QC1	QC57			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	8 5.84 21.05 34.78	30 21.90 78.95 27.52	0 0.00 0.00 0.00	38 27.74
NAVY	5 3.65 11.90 21.74	35 25.55 83.33 32.11	2 1.46 4.76 40.00	42 30.66
MARINE CORPS	1 0.73 5.56 4.35	17 12.41 94.44 15.60	0 0.00 0.00 0.00	18 13.14
AIR FORCE	6 4.38 24.00 26.09	16 11.68 64.00 14.68	3 2.19 12.00 60.00	25 18.25
COAST GUARD	3 2.19 21.43 13.04	11 8.03 78.57 10.09	0 0.00 0.00 0.00	14 10.22
TOTAL	23 16.79	109 79.56	5 3.65	137 100.00

57. Would a change to military judge alone sentencing deprive an accused of a substantial right?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC58

QC1	QC58	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	0	13	25	0	38
	.	9.56	19.38	0.00	27.94
	.	34.21	65.79	0.00	
	.	27.66	31.25	0.00	
NAVY	0	11	24	7	42
	.	8.09	17.65	5.15	30.88
	.	26.19	57.14	16.67	
	.	23.40	30.00	77.78	
MARINE CORPS	0	4	13	1	18
	.	2.94	9.56	0.74	13.24
	.	22.22	72.22	5.56	
	.	8.51	16.25	11.11	
AIR FORCE	0	13	11	1	25
	.	9.56	8.09	0.74	18.38
	.	52.00	44.00	4.00	
	.	27.66	13.75	11.11	
COAST GUARD	1	6	7	0	13
	.	4.41	5.15	0.00	9.56
	.	46.15	53.85	0.00	
	.	12.77	8.75	0.00	
TOTAL	.	47	80	9	136
	.	34.56	58.82	6.62	100.00

58. Would a change to military judge alone sentencing appear to deprive an accused of a substantial right?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC59

QC1	QC59	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY		0	10	25	2	1	38
		0.00	7.35	18.38	1.47	0.74	27.94
		0.00	26.32	65.79	5.26	2.63	
		0.00	37.04	26.60	16.67	100.00	
NAVY		0	9	30	2	0	42
		0.74	6.62	22.06	1.47	0.00	30.88
		2.38	21.43	71.43	4.76	0.00	
		50.00	33.33	31.91	16.67	0.00	
MARINE CORPS		1	3	9	5	0	17
		0.00	2.21	6.62	3.68	0.00	12.50
		0.00	17.65	52.94	29.41	0.00	
		0.00	11.11	9.57	41.67	0.00	
AIR FORCE		0	4	19	2	0	25
		0.00	2.94	13.97	1.47	0.00	18.38
		0.00	16.00	76.00	8.00	0.00	
		0.00	14.81	20.21	16.67	0.00	
COAST GUARD		0	1	11	1	0	14
		0.74	0.74	8.09	0.74	0.00	10.29
		7.14	7.14	78.57	7.14	0.00	
		50.00	3.70	11.70	8.33	0.00	
TOTAL		2	27	94	12	1	136
		1.47	19.85	69.12	8.82	0.74	100.00

59. How often do you believe that court members' doubts on the merits
wind up expressed in a "compromise" sentence?

Never.....1
Seldom.....2
Sometimes.....3
Usually.....4
Always.....5

FRQUENCIES BY SERVICE
TABLE OF QC1 BY QC60

QC1	QC60			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	37 27.01 97.37 28.68	1 0.73 2.63 16.67	0 0.00 0.00 0.00	38 27.74
NAVY	41 29.93 97.62 31.78	0 0.00 0.00 0.00	1 0.73 2.38 50.00	42 30.66
MARINE CORPS	17 12.41 94.44 13.18	0 0.00 0.00 0.00	1 0.73 5.56 50.00	18 13.14
AIR FORCE	21 15.33 84.00 16.28	4 2.92 16.00 66.67	0 0.00 0.00 0.00	25 18.25
COAST GUARD	13 9.49 92.86 10.08	1 0.73 7.14 16.67	0 0.00 0.00 0.00	14 10.22
TOTAL	129 94.16	6 4.38	2 1.46	137 100.00

60. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?

Yes.....1
No.....2
No opinion.....3

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC61

QC1	QC61	1	2	3	4	TOTAL
ARMY	FREQUENCY	27	9	0	2	38
	PERCENT	20.00	6.67	0.00	1.48	28.15
	ROW PCT	71.05	23.68	0.00	5.26	
NAVY	FREQUENCY	28	7	0	6	41
	PERCENT	20.74	5.19	0.00	4.44	30.37
	ROW PCT	68.29	17.07	0.00	14.63	
MARINE CORPS	FREQUENCY	7	10	0	0	17
	PERCENT	5.19	7.41	0.00	0.00	12.59
	ROW PCT	41.18	58.82	0.00	0.00	
AIR FORCE	FREQUENCY	15	7	0	3	25
	PERCENT	11.11	5.19	0.00	2.22	18.52
	ROW PCT	60.00	28.00	0.00	12.00	
COAST GUARD	FREQUENCY	6	7	1	0	14
	PERCENT	4.44	5.19	0.74	0.00	10.37
	ROW PCT	42.86	50.00	7.14	0.00	
TOTAL		83	40	1	11	135
		61.48	29.63	0.74	8.15	100.00

61. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?

Reduce frequency.....1
 No effect.....2
 Increase frequency.....3
 Merely shift focus to military judge.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC62

QC1	QC62			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	2 1.46 5.26 50.00	34 24.82 89.47 27.42	2 1.46 5.26 22.22	38 27.74
NAVY	0 0.00 0.00 0.00	36 26.28 85.71 29.03	6 4.38 14.29 66.67	42 30.66
MARINE CORPS	0 0.00 0.00 0.00	18 13.14 100.00 14.52	0 0.00 0.00 0.00	18 13.14
AIR FORCE	1 0.73 4.00 25.00	23 16.79 92.00 18.55	1 0.73 4.00 11.11	25 18.25
COAST GUARD	1 0.73 7.14 25.00	13 9.49 92.86 10.48	0 0.00 0.00 0.00	14 10.22
TOTAL	4 2.92	124 90.51	9 6.57	137 100.00

62. Knowing that an accused currently has the option to reject members' sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC63

QC1	QC63	0	1	2	3	TOTAL
FREQUENCY		0	26	12	0	38
PERCENT		0	19.12	8.82	0.00	27.94
ROW PCT		0	68.42	31.58	0.00	
COL PCT		0	37.14	19.35	0.00	
ARMY						
NAVY		0	15	24	3	42
		0	11.03	17.65	2.21	30.88
		0	35.71	57.14	7.14	
		0	21.43	38.71	75.00	
MARINE CORPS		0	6	12	0	18
		0	4.41	8.82	0.00	13.24
		0	33.33	66.67	0.00	
		0	8.57	19.35	0.00	
AIR FORCE		0	15	9	1	25
		0	11.03	6.62	0.74	18.38
		0	60.00	36.00	4.00	
		0	21.43	14.52	25.00	
COAST GUARD		1	8	5	0	13
		0	5.88	3.68	0.00	9.56
		0	61.54	38.46	0.00	
		0	11.43	8.06	0.00	
TOTAL		0	70	62	4	136
		0	51.47	45.59	2.94	100.00

63. If mandatory judge alone sentencing were adopted, would there be an appearance that command authority had been diminished?

Yes.....1
No.....2
No opinion.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC64

QC1	QC64	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	.	10	17	9	2	38
		7.35	12.50	6.62	1.47	27.94
		26.32	44.74	23.68	5.26	
		23.26	26.56	34.62	66.67	
NAVY	.	14	21	7	0	42
		10.29	15.44	5.15	0.00	30.88
		33.33	50.00	16.67	0.00	
		32.56	32.81	26.92	0.00	
MARINE CORPS	.	8	8	1	0	17
		5.88	5.88	0.74	0.00	12.50
		47.06	47.06	5.88	0.00	
		18.60	12.50	3.85	0.00	
AIR FORCE	.	6	11	8	0	25
		4.41	8.09	5.88	0.00	18.38
		24.00	44.00	32.00	0.00	
		13.95	17.19	30.77	0.00	
COAST GUARD	.	5	7	1	1	14
		3.68	5.15	0.74	0.74	10.29
		35.71	50.00	7.14	7.14	
		11.63	10.94	3.85	33.33	
TOTAL	.	43	64	26	3	136
		31.62	47.06	19.12	2.21	100.00

64. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?

Not at all.....1
Slight.....2
Some.....3
Great.....4

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC65

QC1	QC65	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		0	35	2	38
		0.74	25.74	1.47	27.94
		2.63	92.11	5.26	
		50.00	29.66	12.50	
NAVY		0	34	7	42
		0.74	25.00	5.15	30.88
		2.38	80.95	16.67	
		50.00	28.81	43.75	
MARINE CORPS		0	15	3	18
		0.00	11.03	2.21	13.24
		0.00	83.33	16.67	
		0.00	12.71	18.75	
AIR FORCE		0	23	2	25
		0.00	16.91	1.47	18.38
		0.00	92.00	8.00	
		0.00	19.49	12.50	
COAST GUARD		1	11	2	13
		0.00	8.09	1.47	9.56
		0.00	84.62	15.38	
		0.00	9.32	12.50	
TOTAL		2	118	16	136
		1.47	86.76	11.76	100.00

65. If the military judge perceives resentment would this cause the judge to render either an inappropriately lenient or harsh sentence?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC66
QC66

QC1	FREQUENCY ROW PCT COL PCT	1	2	3	TOTAL
ARMY		6 4.38 15.79 27.27	29 21.17 76.32 27.88	3 2.19 7.89 27.27	38 27.74
NAVY		8 5.84 19.05 36.36	30 21.90 71.43 28.85	4 2.92 9.52 36.36	42 30.66
MARINE CORPS		3 2.19 16.67 13.64	14 10.22 77.78 13.46	1 0.73 5.56 9.09	18 13.14
AIR FORCE		3 2.19 12.00 13.64	19 13.87 76.00 18.27	3 2.19 12.00 27.27	25 18.25
COAST GUARD		2 1.46 14.29 9.09	12 8.76 85.71 11.54	0 0.00 0.00 0.00	14 10.22
TOTAL		22 16.06	104 75.91	11 8.03	137 100.00

66. If military judges were given sole sentencing authority, and court members tried only the issue of guilt should the system used to select court members be changed to require random selection of court members?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC67

QC1	QC67	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY					
	0	1	34	3	38
	.	0.74	25.00	2.21	27.94
	.	2.63	89.47	7.89	
	.	10.00	32.08	15.00	
NAVY					
	0	3	28	11	42
	.	2.21	20.59	8.09	30.88
	.	7.14	66.67	26.19	
	.	30.00	26.42	55.00	
MARINE CORPS					
	0	1	14	3	18
	.	0.74	10.29	2.21	13.24
	.	5.56	77.78	16.67	
	.	10.00	13.21	15.00	
AIR FORCE					
	0	2	20	3	25
	.	1.47	14.71	2.21	18.38
	.	8.00	80.00	12.00	
	.	20.00	18.87	15.00	
COAST GUARD					
	1	3	10	0	13
	.	2.21	7.35	0.00	9.56
	.	23.08	76.92	0.00	
	.	30.00	9.43	0.00	
TOTAL	.	10	106	20	136
	.	7.35	77.94	14.71	100.00

67. If random selection of members were used under these circumstances, should selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused who meet present statutory qualifications of age, experience, etc?

- All members not junior to the accused.....1
- All members not junior to the accused meeting present qualifications.....2
- No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC68

QC1	QC68			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	5 3.65 13.16 41.67	33 24.09 86.84 27.73	0 0.00 0.00 0.00	38 27.74
NAVY	3 2.19 7.14 25.00	36 26.28 85.71 30.25	3 2.19 7.14 50.00	42 30.66
MARINE CORPS	1 0.73 5.56 8.33	15 10.95 83.33 12.61	2 1.46 11.11 33.33	18 13.14
AIR FORCE	2 1.46 8.00 16.67	23 16.79 92.00 19.33	0 0.00 0.00 0.00	25 18.25
COAST GUARD	1 0.73 7.14 8.33	12 8.76 85.71 10.08	1 0.73 7.14 16.67	14 10.22
TOTAL	12 8.76	119 86.86	6 4.38	137 100.00

68. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or military judge for sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC69

QC1	QC69			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	5 3.65 13.16 35.71	32 23.36 84.21 27.35	1 0.73 2.63 16.67	38 27.74
NAVY	5 3.65 11.90 35.71	33 24.09 78.57 28.21	4 2.92 9.52 66.67	42 30.66
MARINE CORPS	1 0.73 5.56 7.14	16 11.68 88.89 13.68	1 0.73 5.56 16.67	18 13.14
AIR FORCE	3 2.19 12.00 21.43	22 16.06 88.00 18.80	0 0.00 0.00 0.00	25 18.25
COAST GUARD	0 0.00 0.00 0.00	14 10.22 100.00 11.97	0 0.00 0.00 0.00	14 10.22
TOTAL	14 10.22	117 85.40	6 4.38	137 100.00

69. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court-members be provided by law?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC70

QC1	QC70	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		12	24	1	37
		8.82	17.65	0.74	27.21
		32.43	64.86	2.70	
		33.33	25.53	16.67	
NAVY		11	28	3	42
		9.09	20.59	2.21	30.88
		26.19	66.67	7.14	
		30.56	29.79	50.00	
MARINE CORPS		7	10	1	18
		5.15	7.35	0.74	13.24
		38.89	55.56	5.56	
		19.44	10.64	16.67	
AIR FORCE		5	19	1	25
		3.68	13.97	0.74	18.38
		20.00	76.00	4.00	
		13.89	20.21	16.67	
COAST GUARD		1	13	0	14
		0.74	9.56	0.00	10.29
		7.14	92.86	0.00	
		2.78	13.83	0.00	
TOTAL		36	94	6	136
		26.47	69.12	4.41	100.00

70. As another alternative, should the military judge have the discretion to send a case to the members for sentencing, in his discretion, where members have already arrived at findings?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC71

QC1	QC71			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	15 10.95 39.47 25.42	18 13.14 47.37 27.69	5 3.65 13.16 38.46	38 27.74
NAVY	20 14.60 47.62 33.90	19 13.87 45.24 29.23	3 2.19 7.14 23.08	42 30.66
MARINE CORPS	9 6.57 50.00 15.25	9 6.57 50.00 13.85	0 0.00 0.00 0.00	18 13.14
AIR FORCE	5 3.65 20.00 8.47	17 12.41 68.00 26.15	3 2.19 12.00 23.08	25 18.25
COAST GUARD	10 7.30 71.43 16.95	2 1.46 14.29 3.08	2 1.46 14.29 15.38	14 10.22
TOTAL	59 43.07	65 47.45	13 9.49	137 100.00

71. If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC72

QC1	QC72			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	28 20.44 73.68 31.11	7 5.11 18.42 31.82	3 2.19 7.89 12.00	38 27.74
NAVY	23 16.79 54.76 25.56	6 4.38 14.29 27.27	13 9.49 30.95 52.00	42 30.66
MARINE CORPS	10 7.30 55.56 11.11	3 2.19 16.67 13.64	5 3.65 27.78 20.00	18 13.14
AIR FORCE	17 12.41 68.00 18.39	5 3.65 20.00 22.73	3 2.19 12.00 12.00	25 18.25
COAST GUARD	12 8.76 85.71 13.33	1 0.73 7.14 4.55	1 0.73 7.14 4.00	14 10.22
TOTAL	90 65.69	22 16.06	25 18.25	137 100.00

72. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC73

QC1	QC73		TOTAL
FREQUENCY ROW PCT COL PCT	1	2	
ARMY	27 19.71 71.05 25.47	11 8.03 28.95 35.48	38 27.74
NAVY	37 27.01 88.10 34.01	5 3.65 11.90 16.13	42 30.66
MARINE CORPS	15 10.95 83.33 14.15	3 2.19 16.67 9.68	18 13.14
AIR FORCE	15 10.95 60.00 14.15	10 7.30 40.00 32.26	25 18.25
COAST GUARD	12 8.76 85.71 11.32	2 1.46 14.29 6.45	14 10.22
TOTAL	106 77.37	31 22.63	137 100.00

73. On balance, do you favor sentencing only by military judge in all noncapital cases?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC74

QC1	QC74	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY		5	23	7	2	0	37
		3.70	17.04	5.19	1.48	0.00	27.41
		13.51	62.16	18.92	5.41	0.00	
		25.00	34.85	20.59	20.00	0.00	
NAVY		2	16	16	6	2	42
		1.48	11.85	11.85	4.44	1.48	31.11
		4.76	38.10	38.10	14.29	4.76	
		10.00	24.24	47.06	60.00	40.00	
MARINE CORPS		4	10	1	0	2	17
		2.96	7.41	0.74	0.00	1.48	12.59
		23.53	58.82	5.88	0.00	11.76	
		20.00	15.15	2.94	0.00	40.00	
AIR FORCE		6	13	4	2	0	25
		4.44	9.53	2.96	1.48	0.00	18.52
		24.00	52.00	16.00	8.00	0.00	
		30.00	19.70	11.76	20.00	0.00	
COAST GUARD		3	4	6	0	1	14
		2.22	2.96	4.44	0.00	0.74	10.37
		21.43	28.57	42.86	0.00	7.14	
		15.00	6.06	17.65	0.00	20.00	
TOTAL		20	66	34	10	5	135
		14.81	48.89	25.19	7.41	3.70	100.00

74. In what percentage of special/general courts-martial have you recommended suspension of all or part of a sentence?

0%.....1
1-5%.....2
6-10%.....3
11-15%.....4
Over 15%.....5

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC75

QC1	QC75	1	2	3	4	5	6	TOTAL
FREQUENCY								
PERCENT								
ROW PCT								
COL PCT								
ARMY	3	16 13.22 45.71 59.26	10 8.26 28.57 20.00	5 4.13 14.29 26.32	2 1.65 5.71 16.67	1 0.83 2.86 14.29	1 0.83 2.86 16.67	35 28.93
NAVY	4	1 0.83 2.63 3.70	25 20.66 65.79 50.00	8 6.61 21.05 42.11	2 1.65 5.26 16.67	2 1.65 5.26 16.67	0 0.00 0.00 0.00	38 31.40
MARINE CORPS	4	2 1.65 14.29 7.41	5 4.13 35.71 10.00	3 2.48 21.43 15.79	2 1.65 14.29 16.67	1 0.83 7.14 14.29	1 0.83 7.14 16.67	14 11.57
AIR FORCE	5	4 3.31 20.00 14.81	7 5.79 35.00 14.00	2 1.65 10.00 10.53	2 1.65 10.00 16.67	3 2.48 15.00 42.86	2 1.65 10.00 33.33	20 16.53
COAST GUARD	0	4 3.31 28.57 14.81	3 2.48 21.43 6.00	1 0.83 7.14 5.26	4 3.31 28.57 33.33	0 0.00 0.00 0.00	2 1.65 14.29 33.33	14 11.57
TOTAL		27 22.31	50 41.32	19 15.70	12 9.92	7 5.79	6 4.96	121 100.00

75. Approximately what percentage of the suspension recommendations have been followed by either the convening or supervisory authority?

0%	1
1-25%	2
26-50%	3
51-75%	4
76-95%	5
Over 95%	6

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC76

QC1	QC76	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.						
ARMY	2	11 8.53 30.56 21.57	2 1.55 5.56 10.00	5 3.88 13.89 27.78	10 7.75 27.73 38.46	8 6.20 22.22 57.14	36 27.91
NAVY	2	13 10.08 32.50 25.49	8 6.20 20.00 40.00	9 6.98 22.50 50.00	7 5.43 17.50 26.92	3 2.33 7.50 21.43	40 31.01
MARINE CORPS	2	11 8.53 68.75 21.57	3 2.33 18.75 15.00	1 0.78 6.25 5.56	0 0.00 0.00 0.00	1 0.78 6.25 7.14	16 12.40
AIR FORCE	2	6 4.65 26.09 11.75	6 4.65 26.09 30.00	3 2.33 13.04 16.67	7 5.43 30.43 26.92	1 0.78 4.35 7.14	23 17.83
COAST GUARD	0	10 7.75 71.43 19.61	1 0.78 7.14 5.00	0 0.00 0.00 0.00	2 1.55 14.29 7.69	1 0.78 7.14 7.14	14 10.85
TOTAL	.	51 39.53	20 15.50	18 13.95	26 20.16	14 10.85	129 100.00

76. In determining whether to recommend suspension of all or part of a sentence, were you affected by likelihood of its being followed?

Never.....1
Seldom.....2
Sometimes.....3
Usually4
Always.....5

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC77

QC1	QC77			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	23 16.79 60.53 30.67	15 10.95 39.47 25.00	0 0.00 0.00 0.00	38 27.74
NAVY	26 18.98 61.90 34.67	15 10.95 35.71 25.00	1 0.73 2.38 50.00	42 30.66
MARINE CORPS	9 6.57 50.00 12.00	8 5.84 44.44 13.33	1 0.73 5.56 50.00	18 13.14
AIR FORCE	8 5.84 32.00 10.67	17 12.41 68.00 28.33	0 0.00 0.00 0.00	25 18.25
COAST GUARD	9 6.57 64.29 12.00	5 3.65 35.71 8.33	0 0.00 0.00 0.00	14 10.22
TOTAL	75 54.74	60 43.80	2 1.46	137 100.00

77. Under the current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC78

QC1	QC78			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	23 16.79 60.53 26.44	13 9.49 34.21 37.14	2 1.46 5.26 13.33	38 27.74
NAVY	27 19.71 64.29 31.03	9 6.57 21.43 25.71	6 4.38 14.29 40.00	42 30.66
MARINE CORPS	10 7.30 55.56 11.49	3 2.19 16.67 8.57	5 3.65 27.78 33.33	18 13.14
AIR FORCE	18 13.14 72.00 20.69	5 3.65 20.00 14.29	2 1.46 8.00 13.33	25 18.25
COAST GUARD	9 6.57 64.29 10.34	5 3.65 35.71 14.29	0 0.00 0.00 0.00	14 10.22
TOTAL	87 63.50	35 25.55	15 10.95	137 100.00

78. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC79

QC1	QC79			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	35 25.55 92.11 29.66	2 1.46 5.26 13.33	1 0.73 2.63 25.00	38 27.74
NAVY	37 27.01 98.10 31.36	3 2.19 7.14 20.00	2 1.46 4.76 50.00	42 30.66
MARINE CORPS	15 10.95 83.33 12.71	3 2.19 16.67 20.00	0 0.00 0.00 0.00	18 13.14
AIR FORCE	22 16.06 88.00 18.54	2 1.46 8.00 13.33	1 0.73 4.00 25.00	25 18.25
COAST GUARD	9 6.57 64.29 7.63	5 3.65 35.71 33.33	0 0.00 0.00 0.00	14 10.22
TOTAL	118 86.13	15 10.95	4 2.92	137 100.00

79. Could military judges be given the same information as convening and supervisory authorities through modification of the Military Rules of Evidence and other provisions of the Manual for Courts-Martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC80

QC1	QC80			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	36 26.28 94.74 26.80	2 1.46 5.26 22.22	0 0.00 0.00	38 27.74
NAVY	39 28.47 92.86 31.20	3 2.19 7.14 33.33	0 0.00 0.00	42 30.66
MARINE CORPS	15 10.95 83.33 12.00	1 0.73 5.56 11.11	2 1.46 11.11 66.67	18 13.14
AIR FORCE	23 16.79 92.00 18.40	1 0.73 4.00 11.11	1 0.73 4.00 33.33	25 18.25
COAST GUARD	12 8.76 85.71 9.60	2 1.46 14.29 22.22	0 0.00 0.00	14 10.22
TOTAL	125 91.24	9 6.57	3 2.19	137 100.00

80. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC81

QC1	QC81	0	1	2	3	4	TOTAL
ARMY	FREQUENCY	0	13	12	12	1	38
	PERCENT	.	9.56	8.82	8.82	0.74	27.94
	COL PCT	.	34.21	31.58	31.58	2.63	
NAVY	FREQUENCY	0	13	19	8	2	42
	PERCENT	.	9.56	13.97	5.88	1.47	30.88
	COL PCT	.	30.95	45.24	19.05	4.76	
MARINE CORPS	FREQUENCY	1	6	6	5	0	17
	PERCENT	.	4.41	4.41	3.68	0.00	12.50
	COL PCT	.	35.29	35.29	29.41	0.00	
AIR FORCE	FREQUENCY	0	9	11	5	0	25
	PERCENT	.	6.62	8.09	3.68	0.00	18.38
	COL PCT	.	36.00	44.00	20.00	0.00	
COAST GUARD	FREQUENCY	0	7	4	2	1	14
	PERCENT	.	5.15	2.94	1.47	0.74	10.29
	COL PCT	.	50.00	28.57	14.29	7.14	
TOTAL		48	52	32	4	136	
		.	35.29	38.24	23.53	2.94	100.00

81. How important a factor should manpower/personnel requirements be when considering whether an accused's sentence should be suspended?

Not at all.....1
Slight.....2
Somewhat.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC82

QC1	QC82			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	7 5.11 18.42 21.88	31 22.63 81.58 31.63	0 0.00 0.00 0.00	38 27.74
NAVY	9 6.57 21.43 28.13	28 20.44 56.67 28.57	5 3.65 11.90 71.43	42 30.66
MARINE CORPS	5 3.65 27.78 15.53	12 8.76 55.67 12.24	1 0.73 5.56 14.29	18 13.14
AIR FORCE	6 4.38 24.00 19.75	19 13.87 76.00 19.39	0 0.00 0.00 0.00	25 18.25
COAST GUARD	5 3.65 35.71 15.63	8 5.84 57.14 8.16	1 0.73 7.14 14.29	14 10.22
TOTAL	32 23.36	98 71.53	7 5.11	137 100.00

82. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE

TABLE OF QC1 BY QC83

QC1	QC83			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	29 21.17 76.32 34.94	9 6.57 23.68 20.00	0 0.00 0.00	38 27.74
NAVY	24 17.52 57.14 28.92	15 10.95 35.71 33.33	3 2.19 7.14 33.33	42 30.66
MARINE CORPS	7 5.11 38.89 8.43	8 5.84 44.44 17.78	3 2.19 16.67 33.33	18 13.14
AIR FORCE	15 10.95 60.00 18.07	9 6.57 36.00 20.00	1 0.73 4.00 11.11	25 18.25
COAST GUARD	8 5.84 57.14 9.64	4 2.92 28.57 8.89	2 1.46 14.29 22.22	14 10.22
TOTAL	83 60.58	45 32.85	9 6.57	137 100.00

83. Would there be an appearance that command authority was diminished?

Yes.....1
 No.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC84

QC1	QC84				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3		
ARMY	26 18.98 68.42 27.66	11 8.03 28.95 28.21	1 0.73 2.63 25.00		38 27.74
NAVY	30 21.90 71.43 31.91	9 6.57 21.43 23.08	3 2.19 7.14 75.00		42 30.66
MARINE CORPS	10 7.30 55.56 10.64	8 5.84 44.44 20.51	0 0.00 0.00 0.00		18 13.14
AIR FORCE	19 13.87 76.00 20.21	6 4.38 24.00 15.38	0 0.00 0.00 0.00		25 18.25
COAST GUARD	9 6.57 64.29 9.57	5 3.65 35.71 12.82	0 0.00 0.00 0.00		14 10.22
TOTAL	94 69.61	39 28.47	4 2.92		137 100.00

84. If judge-alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC85

QC1	QC85	1	2	3	4	TOTAL
ARMY	FREQUENCY	3	12	13	10	38
	PERCENT	2.19	8.76	9.49	7.30	27.74
	ROW PCT	7.89	31.58	34.21	26.32	
NAVY	FREQUENCY	7	12	15	8	42
	PERCENT	5.11	8.76	10.95	5.84	30.66
	ROW PCT	16.67	28.57	35.71	19.05	
MARINE CORPS	FREQUENCY	3	8	5	2	18
	PERCENT	2.19	5.84	3.65	1.46	13.14
	ROW PCT	16.67	44.44	27.78	11.11	
AIR FORCE	FREQUENCY	9	3	9	4	25
	PERCENT	6.57	2.19	6.57	2.92	18.25
	ROW PCT	36.00	12.00	36.00	16.00	
COAST GUARD	FREQUENCY	4	5	3	2	14
	PERCENT	2.92	3.65	2.19	1.46	10.22
	ROW PCT	28.57	35.71	21.43	14.29	
TOTAL		26	40	45	26	137
		18.98	29.20	32.85	18.98	100.00

85. Is the possession of sentence suspension powers by civilian judges a persuasive argument for adopting a similar provision for courts-martial?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC86

QC1	QC86				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	10 7.30 26.32 23.26	4 2.92 10.53 18.18	15 10.95 39.47 38.46	9 6.57 23.68 27.27	38 27.74
NAVY	11 8.03 26.19 25.58	9 6.57 21.43 40.91	11 8.03 26.19 28.21	11 8.03 26.19 33.33	42 30.66
MARINE CORPS	6 4.38 33.33 13.95	2 1.46 11.11 9.09	6 4.38 33.33 15.38	4 2.92 22.22 12.12	18 13.14
AIR FORCE	8 5.84 32.00 18.60	5 3.65 20.00 22.73	7 5.11 28.00 17.95	5 3.65 20.00 15.15	25 18.25
COAST GUARD	8 5.84 57.14 18.60	2 1.46 14.29 9.09	0 0.00 0.00 0.00	4 2.92 28.57 12.12	14 10.22
TOTAL	43 31.39	22 16.06	39 28.47	33 24.09	137 100.00

86. By the time cases reach the Court of Military Review many accuseds are on appellate leave. Is this a factor in determining whether Courts of Military Review should have authority to suspend punitive discharges?

Not at all.....1
Slight.....2
Somewhat.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC87

QC1	QC87			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	30 21.90 78.95 31.25	6 4.38 15.79 18.75	2 1.46 5.26 22.22	38 27.74
NAVY	26 18.98 61.90 27.08	13 9.49 30.95 40.63	3 2.19 7.14 33.33	42 30.66
MARINE CORPS	15 10.95 83.33 15.63	1 0.73 5.56 3.13	2 1.46 11.11 22.22	18 13.14
AIR FORCE	16 11.68 64.00 16.67	7 5.11 28.00 21.88	2 1.46 8.00 22.22	25 18.25
COAST GUARD	9 6.57 64.29 9.38	5 3.65 35.71 15.63	0 0.00 0.00 0.00	14 10.22
TOTAL	96 70.07	32 23.36	9 6.57	137 100.00

87. Considering the additional support requirements that might result, if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example restitution, therapy and counselling?

Yes.....1
No.....2
No opinion.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC88

QC1	QC88	0	1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	10	6	22	38
		.	7.35	4.41	16.18	27.94
		.	26.32	15.79	57.89	
		.	40.00	17.65	28.57	
NAVY		0	6	12	24	42
		.	4.41	8.82	17.65	30.88
		.	14.29	28.57	57.14	
		.	24.00	35.29	31.17	
MARINE CORPS		0	3	10	5	18
		.	2.21	7.35	3.68	13.24
		.	16.67	55.56	27.78	
		.	12.00	29.41	6.49	
AIR FORCE		1	3	4	17	24
		.	2.21	2.94	12.50	17.65
		.	12.50	16.67	70.83	
		.	12.00	11.76	22.08	
COAST GUARD		0	3	2	9	14
		.	2.21	1.47	6.62	10.29
		.	21.43	14.29	64.29	
		.	12.00	5.88	11.69	
TOTAL		0	25	34	77	136
		.	18.38	25.00	56.62	100.00

88. If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?

Appropriate judicial authority.....1
 Appropriate convening/supervisory
 authority.....2
 Both 1 and 2.....3

FREQUENCIES BY SERVICE
TABLE OF QCI BY QC89

QCI	QC89		TOTAL
	1	2	
FREQUENCY PERCENT ROW PCT COL PCT			
ARMY	15 10.95 39.47 32.61	23 16.79 60.53 25.27	38 27.74
NAVY	13 9.49 30.95 28.26	29 21.17 69.05 31.87	42 30.66
MARINE CORPS	9 6.57 50.00 19.57	9 6.57 50.00 9.89	18 13.14
AIR FORCE	7 5.11 28.00 15.22	18 13.14 72.00 19.78	25 18.25
COAST GUARD	2 1.46 14.29 4.35	12 8.76 85.71 13.19	14 10.22
TOTAL	46 33.58	91 66.42	137 100.00

89. On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC90

QC1	QC90		TOTAL
	1	2	
FREQUENCY			
PERCENT			
ROW PCT			
COL PCT			
ARMY	37 27.01 97.37 31.36	1 0.73 2.63 5.26	38 27.74
NAVY	39 28.47 92.86 33.05	3 2.19 7.14 15.79	42 30.66
MARINE CORPS	14 10.22 77.78 11.86	4 2.92 22.22 21.05	18 13.14
AIR FORCE	18 13.14 72.00 15.25	7 5.11 28.00 36.84	25 18.25
COAST GUARD	10 7.30 71.43 8.47	4 2.92 28.57 21.05	14 10.22
TOTAL	118 86.13	19 13.87	137 100.00

90. On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC91

QC1 FREQUENCY PERCENT ROW PCT COL PCT	QC91		TOTAL
	1	2	
ARMY	20 14.60 52.63 27.40	18 13.14 47.37 28.13	38 27.74
NAVY	25 18.25 59.52 34.25	17 12.41 40.48 26.56	42 30.66
MARINE CORPS	7 5.11 38.89 9.59	11 8.03 61.11 17.19	18 13.14
AIR FORCE	16 11.68 64.00 21.92	9 6.57 36.00 14.06	25 18.25
COAST GUARD	5 3.65 35.71 6.85	9 6.57 64.29 14.06	14 10.22
TOTAL	73 53.28	64 46.72	137 100.00

91. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC92

QC1	QC92	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		17 12.50 44.74 33.33	19 13.97 50.00 23.75	2 1.47 5.26 40.00	38 27.94
NAVY		18 13.24 42.86 35.29	22 16.18 52.38 27.50	2 1.47 4.76 40.00	42 30.88
MARINE CORPS		6 4.41 35.29 11.76	11 8.09 64.71 13.75	0 0.00 0.00 0.00	17 12.50
AIR FORCE		6 4.41 24.00 11.76	18 13.24 72.00 22.50	1 0.74 4.00 20.00	25 18.38
COAST GUARD		4 2.94 28.57 7.84	10 7.35 71.43 12.50	0 0.00 0.00 0.00	14 10.29
TOTAL		51 37.50	80 58.82	5 3.68	136 100.00

92. Should court members be given the power to suspend their own sentences?

Yes.....1
No.....2
No opinion.....3

Military Judges

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC93

QC1	QC93						TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	
ARMY	12 9.09 32.43 30.77	0 0.00 0.00 0.00	3.79 13.51 19.23	8 6.06 21.62 33.33	4 3.03 10.81 57.14	8 6.06 21.62 88.89	37 28.03
NAVY	10 7.58 24.39 25.64	20 15.15 48.78 74.07	5 3.79 12.20 19.23	4 3.03 9.76 16.67	1 0.76 2.44 14.29	1 0.76 2.44 11.11	41 31.06
MARINE CORPS	7 5.30 43.75 17.95	2 1.52 12.50 7.41	5 3.79 31.25 19.23	1 0.76 6.25 4.17	1 0.76 6.25 14.29	0 0.00 0.00 0.00	16 12.12
AIR FORCE	0 0.00 0.00 0.00	5 3.79 20.00 18.52	8 6.06 32.00 30.77	11 8.33 44.00 45.83	1 0.76 4.00 14.29	0 0.00 0.00 0.00	25 18.94
COAST GUARD	10 7.58 76.92 25.64	0 0.00 0.00 0.00	3 2.27 23.08 11.54	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	13 9.85
TOTAL	39 29.55	27 20.45	26 19.70	24 18.18	7 5.30	9 6.82	132 100.00

93. What percentage of cases to which you have been detailed are GCMs of the total of GCM and SPCMs?

- None.....1
- Under 10%.....2
- 10-20%.....3
- 21-50%.....4
- 51-75%.....5
- Over 75%.....6

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC94

QC1	QC94	1	2	3	4	5	6	TOTAL
FREQUENCY								
PERCENT								
ROW PCT								
COL PCT								
ARMY	5	1 0.88 3.03 5.88	8 7.02 24.24 38.10	7 6.14 21.21 30.43	13 11.40 39.39 39.39	2 1.75 6.06 16.67	2 1.75 6.06 25.00	33 28.95
NAVY	4	5 4.39 13.16 29.41	7 6.14 18.42 33.33	6 5.26 15.79 26.09	10 8.77 29.32 30.30	8 7.02 21.05 66.67	2 1.75 5.26 25.00	38 33.33
MARINE CORPS	7	3 2.63 27.27 17.65	3 1.75 18.18 9.52	3 2.63 27.27 13.04	1 0.88 9.09 3.03	1 0.88 9.09 8.33	1 0.88 9.09 12.50	11 9.65
AIR FORCE	0	4 3.51 16.00 23.53	3 2.63 12.00 14.29	6 5.26 24.00 26.09	9 7.89 36.00 27.27	1 0.88 4.00 8.33	2 1.75 8.00 25.00	25 21.93
COAST GUARD	7	4 3.51 57.14 23.53	1 0.88 14.29 4.76	1 0.88 14.29 4.76	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.88 14.29 12.50	7 6.14
TOTAL		17 14.91	21 18.42	23 20.18	33 28.95	12 10.53	8 7.02	114 100.00

94. What percentage of GCM cases is the adjudged sentence to confinement six to twelve months?

0-5%	1
6-10%	2
11-20%	3
21-40%	4
41-60%	5
Over 60%	6

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC95

QC1	QC95	1	2	3	4	5	6	TOTAL
FREQUENCY								
PERCENT								
ROW PCT								
COL PCT								
ARMY	5	1 0.88	3 2.63	7 6.14	12 10.53	8 7.02	2 1.75	33 28.95
	.	3.03	9.09	21.21	36.36	24.24	6.06	
	.	7.69	25.00	25.93	33.33	38.10	40.00	
NAVY	4	5 4.39	6 5.26	10 8.77	11 9.65	6 5.26	0 0.00	38 33.33
	.	13.16	15.79	26.32	28.95	15.79	0.00	
	.	38.46	50.00	37.04	30.56	28.57	0.00	
MARINE CORPS	7	0 0.00	1 0.88	5 4.39	3 2.63	0 0.00	2 1.75	11 9.65
	.	0.00	9.09	45.45	27.27	0.00	18.18	
	.	0.00	8.33	18.52	9.33	0.00	40.00	
AIR FORCE	0	3 2.63	1 0.88	4 3.51	10 8.77	6 5.26	1 0.88	25 21.93
	.	12.00	4.00	16.00	40.00	24.00	4.00	
	.	23.08	8.33	14.61	27.78	28.57	20.00	
COAST GUARD	7	4 3.51	1 0.88	1 0.88	0 0.00	1 0.88	0 0.00	7 6.14
	.	57.14	14.29	14.29	0.00	14.29	0.00	
	.	30.77	8.33	3.70	0.00	4.76	0.00	
TOTAL	.	13 11.40	12 10.53	27 23.68	36 31.58	21 18.42	5 4.39	114 100.00

Military Judges

95. What percentage of GCM cases is the adjudged sentence to confinement six to fifteen months?

0-5%	1
6-10%	2
11-20%	3
21-40%	4
41-60%	5
Over 60%	6

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC96

QC1	QC96				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	7 5.11 18.42 41.18	13 9.49 34.21 24.53	14 10.22 36.84 23.73	4 2.92 10.53 50.00	38 27.74
NAVY	4 2.92 9.52 23.53	14 10.22 33.33 26.42	22 16.06 52.38 37.29	2 1.46 4.76 25.00	42 30.66
MARINE CORPS	1 0.73 5.56 5.88	7 5.11 38.89 13.21	10 7.30 55.56 16.95	0 0.00 0.00 0.00	18 13.14
AIR FORCE	2 1.46 8.00 11.76	10 7.30 40.00 18.87	11 8.03 44.00 18.64	2 1.46 8.00 25.00	25 18.25
COAST GUARD	3 2.19 21.43 17.65	9 6.57 64.29 16.98	2 1.46 14.29 3.39	0 0.00 0.00 0.00	14 10.22
TOTAL	17 12.41	53 38.69	59 43.07	8 5.84	137 100.00

96. If SPCMs are allowed to impose longer terms of confinement, would cases currently tried at SPCM generally receive longer sentences?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC97

QC1	QC97	1	2	3	4	TOTAL
ARMY	FREQUENCY	28	7	1	1	37
	PERCENT ROW PCT	20.90	5.22	0.75	0.75	27.61
	COL PCT	75.68	18.92	2.70	2.70	
NAVY	FREQUENCY	25.69	36.84	20.00	100.00	42
	PERCENT ROW PCT	40	1	1	0	31.34
	COL PCT	29.85	0.75	0.75	0.00	
MARINE CORPS	FREQUENCY	95.24	2.38	2.38	0.00	17
	PERCENT ROW PCT	36.70	5.26	20.00	0.00	12.69
	COL PCT	12	5	0	0	
AIR FORCE	FREQUENCY	8.96	3.73	0.00	0.00	25
	PERCENT ROW PCT	70.59	29.41	0.00	0.00	18.66
	COL PCT	11.01	26.32	0.00	0.00	
COAST GUARD	FREQUENCY	18	4	3	0	13
	PERCENT ROW PCT	13.43	2.99	2.24	0.00	9.70
	COL PCT	72.00	16.00	12.00	0.00	
TOTAL	FREQUENCY	16.51	21.05	60.00	0.00	134
	PERCENT ROW PCT	11	2	0	0	100.00
	COL PCT	8.21	1.49	0.00	0.00	
		10.09	10.53	0.00	0.00	
		109	19	5	1	
		81.34	14.18	3.73	0.75	

97. Would increasing the confinement power of SPCMs cause many accuseds to receive punitive discharges which would not be imposed under current conditions?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC99

QC1	QC98	1	2	3	4	6	7	8	TOTAL
FREQUENCY									
PERCENT									
ROW PCT									
COL PCT									
ARMY		2	0	5	0	27	2	1	37
		1.50	0.00	3.76	0.00	20.30	1.50	0.75	27.82
		5.41	0.00	13.51	0.00	72.97	5.41	2.70	
		100.00	0.00	35.71	0.00	29.35	50.00	10.00	
NAVY		0	1	2	7	26	0	6	42
		0.00	0.75	1.50	5.26	19.55	0.00	4.51	31.58
		0.00	2.38	4.76	16.67	61.90	0.00	14.29	
		0.00	100.00	14.29	70.00	28.26	0.00	60.00	
MARINE CORPS		0	0	3	2	9	1	2	17
		0.00	0.00	2.26	1.50	6.77	0.75	1.50	12.78
		0.00	0.00	17.65	11.76	52.94	5.88	11.76	
		0.00	0.00	21.43	20.00	9.78	25.00	20.00	
AIR FORCE		0	0	3	1	19	1	1	25
		0.00	0.00	2.26	0.75	14.29	0.75	0.75	18.80
		0.00	0.00	12.00	4.00	76.00	4.00	4.00	
		0.00	0.00	21.43	10.00	20.65	25.00	10.00	
COAST GUARD		2	0	1	0	11	0	0	12
		1.50	0.00	0.75	0.00	8.27	0.00	0.00	9.02
		0.00	0.00	8.33	0.00	91.67	0.00	0.00	
		0.00	0.00	7.14	0.00	11.96	0.00	0.00	
TOTAL		2	1	14	10	92	4	10	133
		1.50	0.75	10.53	7.52	69.17	3.01	7.52	100.00

98. If special courts-martial could impose sentences of up to one year's confinement would the number of punitive discharges decrease?

- Yes, if sentencing by MJ alone.....1
 Yes, if sentencing by members.....2
 Yes, regardless of who sentences....3
 No, if sentencing by MJ alone.....4
 No, if sentencing by members.....5
 No, regardless of who sentences....6
 Both 1 and 5.....7
 Both 2 and 4.....8

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC99

QC1	QC99	1	2	3	4	TOTAL
ARMY	FREQUENCY	0	1	1	1	38
	PERCENT	25.93	0.74	0.74	0.74	28.15
	ROW PCT	92.11	2.63	2.63	2.63	
		28.00	100.00	14.29	50.00	
NAVY	FREQUENCY	1	0	6	0	41
	PERCENT	25.93	0.00	4.44	0.00	30.37
	ROW PCT	85.37	0.00	14.63	0.00	
		28.00	0.00	85.71	0.00	
MARINE CORPS	FREQUENCY	0	0	0	1	18
	PERCENT	12.59	0.00	0.00	0.74	13.33
	ROW PCT	94.44	0.00	0.00	5.56	
		13.60	0.00	0.00	50.00	
AIR FORCE	FREQUENCY	0	0	0	0	25
	PERCENT	18.52	0.00	0.00	0.00	18.52
	ROW PCT	100.00	0.00	0.00	0.00	
		20.00	0.00	0.00	0.00	
COAST GUARD	FREQUENCY	1	0	0	0	13
	PERCENT	9.63	0.00	0.00	0.00	9.63
	ROW PCT	100.00	0.00	0.00	0.00	
		10.40	0.00	0.00	0.00	
TOTAL		125	1	7	2	135
		92.59	0.74	5.19	1.48	100.00

99. What percentage of special courts-martial in your circuit are tried without military judges?

- None.....1
- Under 5%.....2
- 5-10%.....3
- Over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC100

QC1	QC100		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT		1	
ARMY	0	38	38
	.	27.94	27.94
	.	100.00	
	.	27.94	
NAVY	1	41	41
	.	30.15	30.15
	.	100.00	
	.	30.15	
MARINE CORPS	0	18	18
	.	13.24	13.24
	.	100.00	
	.	13.24	
AIR FORCE	0	25	25
	.	18.38	18.38
	.	100.00	
	.	18.38	
COAST GUARD	0	14	14
	.	10.29	10.29
	.	100.00	
	.	10.29	
TOTAL	.	136	136
	.	100.00	100.00

100. What percentage of special courts-martial in your circuit involve the use of officer defense counsel who are not lawyers?

None.....1
Under 5%.....2
5-10%.....3
Over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC101

QC1	QC101	0	1	2	3	4	TOTAL
FREQUENCY		0	0	14	12	12	38
PERCENT		0.00	0.00	10.37	8.89	8.89	28.15
ROW PCT		0.00	0.00	36.84	31.58	31.58	
COL PCT		0.00	0.00	28.00	20.69	54.55	
ARMY							
NAVY		0	4	17	16	5	42
		0	2.96	12.59	11.85	3.70	31.11
		0	9.52	40.48	38.10	11.90	
		0	80.00	34.00	27.59	22.73	
MARINE CORPS		1	0	7	9	1	17
		0	0.00	5.19	6.67	0.74	12.59
		0	0.00	41.18	52.94	5.88	
		0	0.00	14.00	15.52	4.55	
AIR FORCE		1	1	8	13	2	24
		0	0.74	5.93	9.53	1.48	17.78
		0	4.17	33.33	54.17	8.33	
		0	20.00	16.00	22.41	9.09	
COAST GUARD		0	0	4	8	2	14
		0	0.00	2.96	5.93	1.48	10.37
		0	0.00	28.57	57.14	14.29	
		0	0.00	8.00	13.79	9.09	
TOTAL		0	5	50	58	22	135
		0	3.70	37.04	42.96	16.30	100.00

101. How important is the Article 32 investigation as a discovery tool for the defense?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC102

QC1	QC102			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	3	
ARMY	0	37	1	38
	.	27.21	0.74	27.94
	.	97.37	2.63	
	.	29.13	11.11	
NAVY	0	39	3	42
	.	28.68	2.21	30.88
	.	92.86	7.14	
	.	30.71	33.33	
MARINE CORPS	1	14	3	17
	.	10.29	2.21	12.50
	.	82.35	17.65	
	.	11.02	33.33	
AIR FORCE	0	24	1	25
	.	17.65	0.74	18.38
	.	96.00	4.00	
	.	18.90	11.11	
COAST GUARD	0	13	1	14
	.	9.56	0.74	10.29
	.	92.86	7.14	
	.	10.24	11.11	
TOTAL	.	127	9	136
	.	93.38	6.62	100.00

102. If SPCM jurisdiction were increased, would you favor requiring the detailing of a military judge in every case?

Yes.....1
 No.....2
 No, but without military judge, confinement should be limited to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF Q1 BY QC103

QC1	QC103	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		37	0	1	38
		27.21	0.00	0.74	27.94
		97.37	0.00	2.63	
		29.13	0.00	12.50	
NAVY		38	1	3	42
		27.94	0.74	2.21	30.88
		90.49	2.38	7.14	
		29.92	100.00	37.50	
MARINE CORPS		14	0	3	17
		10.29	0.00	2.21	12.50
		82.35	0.00	17.65	
		11.02	0.00	37.50	
AIR FORCE		25	0	0	25
		18.38	0.00	0.00	18.38
		100.00	0.00	0.00	
		19.69	0.00	0.00	
COAST GUARD		13	0	1	14
		9.56	0.00	0.74	10.29
		92.86	0.00	7.14	
		10.24	0.00	12.50	
TOTAL		127	1	8	136
		93.38	0.74	5.88	100.00

103. If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?

Yes.....1
 No.....2
 No, but without representation
 by lawyer defense counsel,
 confinement should be
 limited to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC104
QC104

QC1 FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	TOTAL
ARMY	0 0.00 0.00 0.00	37 27.01 97.37 27.82	1 0.73 2.63 50.00	38 27.74
NAVY	1 0.73 2.38 50.00	41 29.93 97.62 30.83	0 0.00 0.00 0.00	42 30.66
MARINE CORPS	1 0.73 5.56 50.00	17 12.41 94.44 12.78	0 0.00 0.00 0.00	18 13.14
AIR FORCE	0 0.00 0.00 0.00	24 17.52 96.00 18.05	1 0.73 4.00 50.00	25 18.25
COAST GUARD	0 0.00 0.00 0.00	14 10.22 100.00 10.53	0 0.00 0.00 0.00	14 10.22
TOTAL	2 1.46	133 97.08	2 1.46	137 100.00

104. Would you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?

Yes.....1
No.....2
No, but if there is no investigation requirement, confinement should be limited to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC105

QC1	QC105	0	1	2	3	TOTAL
ARMY	FREQUENCY	1	14	21	2	37
	PERCENT		10.37	15.56	1.48	27.41
	ROW PCT	.	37.84	56.76	5.41	
	COL PCT	.	36.84	23.08	33.33	
NAVY	FREQUENCY	0	12	28	2	42
	PERCENT		8.89	20.74	1.48	31.11
	ROW PCT	.	28.57	66.67	4.76	
	COL PCT	.	31.58	30.77	33.33	
MARINE CORPS	FREQUENCY	1	4	12	1	17
	PERCENT		2.96	8.89	0.74	12.59
	ROW PCT	.	23.53	70.59	5.88	
	COL PCT	.	10.53	13.19	16.67	
AIR FORCE	FREQUENCY	0	6	18	1	25
	PERCENT		4.44	13.33	0.74	18.52
	ROW PCT	.	24.00	72.00	4.00	
	COL PCT	.	15.79	19.78	16.67	
COAST GUARD	FREQUENCY	0	2	12	0	14
	PERCENT		1.48	8.89	0.00	10.37
	ROW PCT	.	14.29	85.71	0.00	
	COL PCT	.	5.26	13.19	0.00	
TOTAL		1	38	91	6	135
			28.15	67.41	4.44	100.00

105. If SPCM jurisdictional authority were increased, would you favor increasing to five the minimum number of required court members?

Yes.....1
 No.....2
 No, but if there are fewer than five members, confinement should be limited to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC106

QC1	QC106		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
ARMY		0	14 10.29 36.34 36.34	22 16.18 57.89 23.91	2 1.47 5.26 33.33	38 27.94
NAVY		0	12 8.82 28.57 31.58	28 20.59 66.67 30.43	2 1.47 4.76 33.33	42 30.88
MARINE CORPS		1	2 1.47 11.76 5.26	14 10.29 82.35 15.22	1 0.74 5.88 16.67	17 12.50
AIR FORCE		0	5 3.68 20.00 13.16	19 13.97 76.00 20.65	1 0.74 4.00 16.67	25 18.38
COAST GUARD		0	5 3.68 35.71 13.16	9 6.62 64.29 9.78	0 0.00 0.00 0.00	14 10.29
TOTAL		1	38 27.94	92 67.65	6 4.41	136 100.00

106. If SPCM jurisdictional authority were increased, would you favor increasing to five the number of days required as a waiting period before trial?

Yes.....1
No.....2
No but if trial before 5 days,
confinement should be
limited to 6 months3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC107

QC1	QC107				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	
ARMY	0	4 2.94 10.53 26.67	13 9.56 34.21 27.08	21 15.44 55.26 28.77	38 27.94
NAVY	0	5 3.68 11.90 33.33	17 12.50 40.48 35.42	20 14.71 47.62 27.40	42 30.88
MARINE CORPS	1	2 1.47 11.76 13.33	3 2.21 17.65 6.25	12 8.82 70.59 16.44	17 12.50
AIR FORCE	0	2 1.47 8.00 13.33	10 7.35 40.00 20.83	13 9.56 52.00 17.81	25 18.38
COAST GUARD	0	2 1.47 14.29 13.33	5 3.68 35.71 10.42	7 5.15 50.00 9.59	14 10.29
TOTAL	0	15 11.03	48 35.29	73 53.68	136 100.00

107. If SPCM jurisdictional authority is increased, would you favor the requirement of a verbatim record of trial?

Yes.....1
No.....2
Verbatim record only if BCD or
over 6 months confinement
adjudged.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC108

QC1	QC108			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	37 27.01 97.37 27.82	1 0.73 2.63 50.00	0 0.00 0.00 0.00	38 27.74
NAVY	40 29.20 95.24 30.00	1 0.73 2.38 50.00	1 0.73 2.38 50.00	42 30.66
MARINE CORPS	17 12.41 94.44 12.78	0 0.00 0.00 0.00	1 0.73 5.56 50.00	18 13.14
AIR FORCE	25 18.25 100.00 18.80	0 0.00 0.00 0.00	0 0.00 0.00 0.00	25 18.25
COAST GUARD	14 10.22 100.00 10.53	0 0.00 0.00 0.00	0 0.00 0.00 0.00	14 10.22
TOTAL	133 97.08	2 1.46	2 1.46	137 100.00

108. Do special court-martial judges whom you know have sufficient experience to adjudge up to 1 year's confinement at a SPCM?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC109

QC1	QC109			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	12 8.76 31.58 31.58	21 15.33 55.26 26.58	5 3.65 13.16 25.00	38 27.74
NAVY	12 8.76 28.57 31.58	24 17.52 57.14 30.38	6 4.38 14.29 30.00	42 30.66
MARINE CORPS	6 4.38 33.33 15.79	8 5.84 44.44 10.13	4 2.92 22.22 20.00	18 13.14
AIR FORCE	2 1.46 8.00 5.26	19 13.87 76.00 24.05	4 2.92 16.00 20.00	25 18.25
COAST GUARD	6 4.38 42.86 15.79	7 5.11 50.00 8.86	1 0.73 7.14 5.00	14 10.22
TOTAL	38 27.74	79 57.66	20 14.60	137 100.00

109. If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the office of the Judge Advocate General?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC110

QC1	QC110		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	14 5.00 16.67 12.12	4 20 25.00 83.33 42.55	24 30.00
NAVY	18 16.25 54.17 39.39	11 13.75 45.83 23.40	24 30.00
MARINE CORPS	8 5.00 40.00 12.12	4 7.50 60.00 12.77	10 12.50
AIR FORCE	11 13.75 78.57 33.33	3 3.75 21.43 6.38	14 17.50
COAST GUARD	6 1.25 12.50 3.03	1 8.75 87.50 14.89	8 10.00
TOTAL	53 41.25	47 58.75	80 100.00

110. If your answer to question # 110 was "yes" would you favor a change in the selection requirements for SPCM judges equivalent to that of GCM judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC111

QC1	QC111			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	30 21.90 78.95 27.03	7 5.11 18.42 41.18	1 0.73 2.63 11.11	38 27.74
NAVY	33 24.09 78.57 29.73	6 4.38 14.29 35.29	3 2.19 7.14 33.33	42 30.66
MARINE CORPS	13 9.49 72.22 11.71	2 1.46 11.11 11.76	3 2.19 16.67 33.33	18 13.14
AIR FORCE	23 16.79 92.00 20.72	1 0.73 4.00 5.88	1 0.73 4.00 11.11	25 18.25
COAST GUARD	12 8.76 85.71 10.81	1 0.73 7.14 5.88	1 0.73 7.14 11.11	14 10.22
TOTAL	111 81.02	17 12.41	9 6.57	137 100.00

111. Will increasing the jurisdiction of SPCMs reduce the number of GCMs?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC112

QC1	QC112	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	2	28	4	4	36
	.	21.05	3.01	3.01	27.07
	.	77.78	11.11	11.11	
	.	31.82	20.00	16.00	
NAVY	1	18	10	13	41
	.	13.53	7.52	9.77	30.83
	.	43.90	24.39	31.71	
	.	20.45	50.00	52.00	
MARINE CORPS	1	11	1	5	17
	.	8.27	0.75	3.76	12.78
	.	64.71	5.88	29.41	
	.	12.50	5.00	20.00	
AIR FORCE	0	19	5	1	25
	.	14.29	3.76	0.75	18.80
	.	76.00	20.00	4.00	
	.	21.59	25.00	4.00	
COAST GUARD	0	12	0	2	14
	.	9.02	0.00	1.50	10.53
	.	85.71	0.00	14.29	
	.	13.64	0.00	8.00	
TOTAL	.	88	20	25	133
	.	66.17	15.04	18.80	100.00

112. If so, is this a desirable end?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC113

QC1	QC113			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	6 4.38 15.79 27.27	31 22.63 81.58 30.69	1 0.73 2.63 7.14	38 27.74
NAVY	9 6.57 21.43 40.91	24 17.52 57.14 23.76	9 6.57 21.43 64.29	42 30.66
MARINE CORPS	3 2.19 16.67 13.64	12 8.76 66.67 11.88	3 2.19 16.67 21.43	18 13.14
AIR FORCE	4 2.92 16.00 18.18	20 14.60 80.00 19.80	1 0.73 4.00 7.14	25 18.25
COAST GUARD	0 0.00 0.00	14 10.22 100.00 13.86	0 0.00 0.00	14 10.22
TOTAL	22 16.06	101 73.72	14 10.22	137 100.00

113. Would increasing the jurisdiction of SPCM cause under-referral of a significant number of cases?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC114

QC1	QC114		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	12	25	1	38
		.	9.23	19.23	0.77	29.23
		.	31.58	65.79	2.63	
		.	30.00	32.05	8.33	
NAVY		2	14	18	8	40
		.	10.77	13.85	6.15	30.77
		.	35.00	45.00	20.00	
		.	35.00	23.08	66.67	
MARINE CORPS		1	5	10	2	17
		.	3.85	7.69	1.54	13.08
		.	29.41	58.82	11.76	
		.	12.50	12.82	16.67	
AIR FORCE		2	8	14	1	23
		.	6.15	10.77	0.77	17.69
		.	34.78	60.87	4.35	
		.	20.00	17.95	8.33	
COAST GUARD		2	1	11	0	12
		.	0.77	8.46	0.00	9.23
		.	9.33	91.67	0.00	
		.	2.50	14.10	0.00	
TOTAL		.	40	78	12	130
		.	30.77	60.00	9.23	100.00

114. If so, should certain serious offenses be precluded from trial by special courts-martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QC1 BY QC115

QC1 FREQUENCY PERCENT ROW PCT COL PCT	QC115		TOTAL
	1	2	
ARMY	0	32	38
	23.53	4.41	27.94
	84.21	15.79	
	26.67	37.50	
NAVY	0	38	42
	27.94	2.94	30.88
	90.48	9.52	
	31.67	25.00	
MARINE CORPS	0	17	18
	12.50	0.74	13.24
	94.44	5.56	
	14.17	6.25	
AIR FORCE	0	22	25
	16.18	2.21	18.39
	88.00	12.00	
	18.33	18.75	
COAST GUARD	1	11	13
	8.09	1.47	9.56
	94.62	15.38	
	9.17	12.50	
TOTAL	1	120	136
	88.24	11.76	100.00

115. On balance, do you favor increasing jurisdictional maximum punishment of special courts-martial to one year?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QCI BY QC116

QC1	QC116	TOTAL		
FREQUENCY PERCENT ROW PCT COL PCT		1	2	3
ARMY		10 7.41 26.32 29.41	27 20.00 71.05 30.00	1 0.74 2.63 9.09
NAVY		17 12.59 40.48 50.00	19 14.07 45.24 21.11	6 4.44 14.29 54.55
MARINE CORPS		3 2.22 16.67 8.82	13 9.63 72.22 14.44	2 1.48 11.11 18.18
AIR FORCE		1 0.74 4.17 2.94	21 15.56 87.50 23.33	2 1.48 8.33 18.18
COAST GUARD		3 2.22 23.08 8.82	10 7.41 76.92 11.11	0 0.00 0.00 0.00
TOTAL		34 25.19	90 66.67	11 8.15
				135 100.00

116. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for an offense, rather than the jurisdictional limit of the court, would determine the trial forum? (i.e., Felony and Misdemeanor Courts).

Yes.....1
No.....2
No opinion.....3

COURT OF MILITARY REVIEW JUDGES
FREQUENCIES BY SERVICE

TABLE OF QD1 BY QD2

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD2				TOTAL
	1	2	3	4	
ARMY	0 0.00 0.00 0.00	3 10.00 25.00 37.50	8 26.67 66.67 40.00	1 3.33 8.33 100.00	12 40.00
NAVY	0 0.00 0.00 0.00	1 3.33 10.00 12.50	9 30.00 90.00 45.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	1 3.33 16.67 100.00	3 10.00 50.00 37.50	2 6.67 33.33 10.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	1 3.33 50.00 12.50	1 3.33 50.00 5.00	0 0.00 0.00 0.00	2 6.67
TOTAL	1 3.33	8 26.67	20 66.67	1 3.33	30 100.00

2. What is your current grade?

0-4.....1
0-5.....2
0-6.....3
0-7.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD3

QD1	QD3					TOTAL
FREQUENCY ROW PCT COL PCT	2	3	4	5		
ARMY	1 3.33 8.33 20.00	1 3.33 8.33 20.00	7 23.33 58.33 58.33	3 10.00 25.00 37.50		12 40.00
NAVY	0 0.00 0.00 0.00	3 10.00 30.00 60.00	4 13.33 40.00 33.33	3 10.00 30.00 37.50		10 33.33
AIR FORCE	3 10.00 50.00 60.00	1 3.33 16.67 20.00	0 0.00 0.00 0.00	2 6.67 33.33 25.00		6 20.00
COAST GUARD	1 3.33 50.00 20.00	0 0.00 0.00 0.00	1 3.33 50.00 8.33	0 0.00 0.00 0.00		2 6.67
TOTAL	5 16.67	5 16.67	12 40.00	8 26.67		30 100.00

3. How many years of total active service?

8-10.....	1
11-15.....	2
16-20.....	3
21-25.....	4
Over 25.....	5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD4

QD1	QD4					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4		
ARMY	3 10.00 25.00 27.27	6 20.00 50.00 46.15	3 10.00 25.00 60.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 40.00
NAVY	5 16.67 50.00 45.45	4 13.33 40.00 30.77	0 0.00 0.00 0.00	1 3.33 10.00 100.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	3 10.00 50.00 27.27	1 3.33 16.67 7.69	2 6.67 33.33 40.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 15.38	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	11 36.67	13 43.33	5 16.67	1 3.33	1 3.33	30 100.00

4. Do you have any prior enlisted/officer non judge advocate experience?

No.....1
Officer.....2
Enlisted.....3
Officer and Enlisted.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD5

QD1	QD5					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	3 10.00 25.00 30.00	2 6.67 16.67 50.00	5 16.67 41.67 41.67	0 0.00 0.00 0.00	2 6.67 16.67 100.00	12 40.00
NAVY	4 13.33 40.00 40.00	1 3.33 10.00 25.00	3 10.00 30.00 25.00	2 6.67 20.00 100.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	3 10.00 50.00 30.00	1 3.33 16.67 25.00	2 6.67 33.33 16.67	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67 100.00 16.67	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	10 33.33	4 13.33	12 40.00	2 6.67	2 6.67	30 100.00

5. How many years non judge advocate experience do you have?

None.....1
 Less than 2 years.....2
 2-6 years.....3
 7-10 years.....4
 Over 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD6

QD1	QD6				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	1 3.33 8.33 33.33	1 3.33 8.33 50.00	1 3.33 8.33 100.00	1 3.33 8.33 37.50	12 40.00
NAVY	1 3.33 10.00 33.33	1 3.33 10.00 50.00	0 0.00 0.00 0.00	8 26.67 80.00 33.33	10 33.33
AIR FORCE	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00 100.00 25.00	6 20.00
COAST GUARD	1 3.33 50.00 33.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 3.33 50.00 4.17	2 6.67
TOTAL	3 10.00	2 6.67	1 3.33	24 80.00	30 100.00

6. Have you had substantial experience as trial or defense counsel at any time in your career?

- No.....1
- Trial counsel.....2
- Defense counsel.....3
- Both.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD7

QD1	QD7		TOTAL
	1	2	
FREQUENCY			
PERCENT			
ROW PCT			
COL PCT			
ARMY	8 26.67 66.67 33.33	4 13.33 33.33 66.67	12 40.00
NAVY	10 33.33 100.00 41.67	0 0.00 0.00 0.00	10 33.33
AIR FORCE	4 13.33 66.67 16.67	2 6.67 33.33 33.33	6 20.00
COAST GUARD	2 6.67 100.00 8.33	0 0.00 0.00 0.00	2 6.67
TOTAL	24 80.00	6 20.00	30 100.00

7. Do you have any prior experience as a military trial judge?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD8

QD1	QD8	1	2	3	TOTAL
ARMY	FREQUENCY	1	3	6	11
	PERCENT	10.71	21.43	7.14	39.29
	ROW PCT	27.27	54.55	18.18	
NAVY	FREQUENCY	0	7	3	10
	PERCENT	0.00	25.00	10.71	35.71
	ROW PCT	0.00	70.00	30.00	
AIR FORCE	FREQUENCY	1	3	1	5
	PERCENT	3.57	10.71	3.57	17.86
	ROW PCT	20.00	60.00	20.00	
COAST GUARD	FREQUENCY	0	1	1	2
	PERCENT	0.00	3.57	3.57	7.14
	ROW PCT	0.00	50.00	50.00	
TOTAL	FREQUENCY	2	17	7	28
	PERCENT	14.29	60.71	25.00	100.00
	ROW PCT	0	100.00	0	

8. If yes, how many years?

None.....1
 Under 3.....2
 3-6.....3
 7-10.....4
 Over 10.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD9

QD1	QD9	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY	4	3	5	8
	.	12.50	20.83	33.33
	.	37.50	62.50	
	.	23.08	45.45	
NAVY	0	7	3	10
	.	29.17	12.50	41.67
	.	70.00	30.00	
	.	53.85	27.27	
AIR FORCE	2	1	3	4
	.	4.17	12.50	16.67
	.	25.00	75.00	
	.	7.69	27.27	
COAST GUARD	0	2	0	2
	.	8.33	0.00	8.33
	.	100.00	0.00	
	.	15.38	0.00	
TOTAL	.	13	11	24
	.	54.17	45.83	100.00

9. If yes, to question 7 over what types of courts-martial were you authorized to preside?

SPCM only.....1
GCM & SPCM.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD10

QD1	QD10					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	5 16.67 41.67 62.50	5 16.67 41.67 38.46	2 6.67 16.67 40.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 40.00
NAVY	1 3.33 10.00 12.50	5 16.67 50.00 38.46	1 3.33 10.00 20.00	2 6.67 20.00 66.67	1 3.33 10.00 100.00	10 33.33
AIR FORCE	2 6.67 33.33 25.00	2 6.67 33.33 15.38	2 6.67 33.33 40.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	1 3.33 50.00 7.69	0 0.00 0.00 0.00	1 3.33 50.00 33.33	0 0.00 0.00 0.00	2 6.67
TOTAL	8 26.67	13 43.33	5 16.67	3 10.00	1 3.33	30 100.00

10. How long have you been an appellate judge?

Less than 1 year.....1
 1-3 years.....2
 4-6 years.....3
 7-10 years.....4
 Over 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD11

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD11		TOTAL
	1	2	
ARMY	1 3.33 8.33 50.00	11 36.67 91.67 39.29	12 40.00
NAVY	1 3.33 10.00 50.00	9 30.00 90.00 32.14	10 33.33
AIR FORCE	0 0.00 0.00 0.00	6 20.00 100.00 21.43	6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 7.14	2 6.67
TOTAL	2 6.67	28 93.33	30 100.00

11. Are you aware of any instances in which an appellate judge has been threatened with reassignment or actually reassigned because of the judge's court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD12

QD1 FREQUENCY PERCENT ROW PCT	QD12		TOTAL
	1	2	
ARMY	11 100.00 100.00 100.00	1 100.00 100.00 100.00	1 100.00
NAVY	10 100.00 100.00 100.00	0	0 0.00
AIR FORCE	6 100.00 100.00 100.00	0	0 0.00
COAST GUARD	2 100.00 100.00 100.00	0	0 0.00
TOTAL	29 100.00 100.00 100.00	1 100.00	30 100.00

12. If yes, how often?

- Once.....1
- Seldom.....2
- Sometimes.....3
- Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD13

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD13		TOTAL
	1	2	
ARMY	0	9	12
	10.34	31.03	41.38
	25.00	75.00	
	42.86	40.91	
NAVY	0	9	10
	3.45	31.03	34.48
	10.00	90.00	
	14.29	40.91	
AIR FORCE	0	4	6
	6.90	13.79	20.69
	33.33	66.67	
	28.57	18.18	
COAST GUARD	1	0	1
	3.45	0.00	3.45
	100.00	0.00	
	14.29	0.00	
TOTAL	7	22	29
	24.14	75.86	100.00

13. Are you aware of any instances in which a military trial judge has been threatened with reassignment or actually reassigned because of the judge's court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD14

QD1	QD14				TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	
ARMY	9 14.29 33.33 25.00	2 28.57 66.67 66.67	3 42.86		
NAVY	9 0.00 0.00 0.00	1 14.29 100.00 33.33	1 14.29		
AIR FORCE	4 28.57 100.00 50.00	2 0.00 0.00 0.00	2 28.57		
COAST GUARD	1 14.29 100.00 25.00	0 0.00 0.00 0.00	1 14.29		
TOTAL	25	57.14	42.86	7	100.00

14. If yes, how often?

Once.....1
Seldom.....2
Sometimes.....3
Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD15

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD15			TOTAL
	1	2	3	
ARMY	1 3.33 8.33 33.33	11 36.67 91.67 40.74		12 40.00
NAVY	2 6.67 20.00 66.67	8 26.67 80.00 29.63		10 33.33
AIR FORCE	0 0.00 0.00	6 20.00 100.00 22.22		6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 7.41		2 6.67
TOTAL	3 10.00	27 90.00		30 100.00

15. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for said commander, has criticized an appellate judge directly or indirectly or through the appellate judges' superior for court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD16

QD1	QD16	TOTAL		
FREQUENCY ROW PCT COL PCT		1	2	3
ARMY		11 0.00 0.00 0.00	0 0.00 0.00	1 33.33 100.00 50.00
NAVY		8 0.00 0.00 0.00	1 33.33 50.00 100.00	1 33.33 50.00 50.00
AIR FORCE		6 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00
COAST GUARD		2 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00
TOTAL		27 33.33 66.67 100.00	1 33.33 66.67 100.00	2 66.67 100.00 100.00

16. If yes, how often?

Once.....1
Seldom.....2
Sometimes.....3
Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD17

QD1	QD17	1	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.			
ARMY	11	0	1	1
	.	0.00	33.33	33.33
	.	0.00	100.00	
	.	0.00	50.00	
NAVY	8	1	1	2
	.	33.33	33.33	66.67
	.	50.00	50.00	
	.	100.00	50.00	
AIR FORCE	6	0	0	0
	.	.	.	0.00
	.	.	.	
	.	.	.	
COAST GUARD	2	0	0	0
	.	.	.	0.00
	.	.	.	
	.	.	.	
TOTAL	27	1	26	27
	.	33.33	66.67	100.00

17. If your answer to #15 is yes, did the criticism relate to the judges' actions on findings, or sentence or other grounds?

Usually findings.....1
 Usually sentence.....2
 Usually other grounds3
 About equally on all of the above...4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD18

QD1	QD18			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	11 0.00 0.00 0.00	0 0.00 0.00	1 33.33 100.00	1 33.33
NAVY	8 0.00 0.00	2 66.67 100.00	0 0.00 0.00	2 66.67
AIR FORCE	6 0.00 0.00	0 0.00 0.00	0 0.00 0.00	0 0.00
COAST GUARD	2 0.00 0.00	0 0.00 0.00	0 0.00 0.00	0 0.00
TOTAL	27 100.00	2 66.67	1 33.33	3 100.00

18. If your answer to #15 is yes, did the criticism impact on the judges' subsequent decisions?

Yes.....1
No.....2
Don't know.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD19

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD19		TOTAL
	1	2	
ARMY	6 20.00 50.00 37.50	6 20.00 50.00 42.86	12 40.00
NAVY	8 26.67 80.00 50.00	2 6.67 20.00 14.29	10 33.33
AIR FORCE	0 0.00 0.00 0.00	6 20.00 100.00 42.86	6 20.00
COAST GUARD	2 6.67 100.00 12.50	0 0.00 0.00 0.00	2 6.67
TOTAL	16 53.33	14 46.67	30 100.00

19. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a trial judge directly or indirectly or through the trial judges' superior for court-related decisions?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD20

QD1	QD20	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.					
ARMY	6	2 11.76 33.33 50.00	1 5.88 16.67 25.00	1 5.88 16.67 16.67	2 11.76 33.33 66.67	6 35.29
NAVY	2	1 5.88 12.50 25.00	2 11.76 25.00 50.00	4 23.53 50.00 66.67	1 5.88 12.50 33.33	8 47.06
AIR FORCE	5	1 5.88 100.00 25.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 5.88
COAST GUARD	0	0 0.00 0.00 0.00	1 5.88 50.00 25.00	1 5.88 50.00 16.67	0 0.00 0.00 0.00	2 11.76
TOTAL	.	4 23.53	4 23.53	6 35.29	3 17.65	17 100.00

20. If yes, how often?

- Once.....1
- Seldom.....2
- Sometimes.....3
- Frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD21

QD1	QD21	1	2	3	4	TOTAL
FREQUENCY PERCENT	ROW PCT					
	COL PCT					
ARMY		0	3	1	2	6
		0.00	18.75	6.25	12.50	37.50
		0.00	50.00	16.67	33.33	
		0.00	60.00	20.00	50.00	
NAVY		1	2	2	2	7
		6.25	12.50	12.50	12.50	43.75
		14.29	28.57	28.57	28.57	
		50.00	40.00	40.00	50.00	
AIR FORCE		0	0	1	0	1
		0.00	0.00	6.25	0.00	6.25
		0.00	0.00	100.00	0.00	
		0.00	0.00	20.00	0.00	
COAST GUARD		1	0	1	0	2
		6.25	0.00	6.25	0.00	12.50
		50.00	0.00	50.00	0.00	
		50.00	0.00	20.00	0.00	
TOTAL		12.50	31.25	31.25	25.00	100.00
		2	5	5	4	16

21. If your answer to #19 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?

Usually findings.....1
Usually sentence.....2
Usually other grounds.....3
About equally on all of the above..4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD22
QD1 QD22

FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	TOTAL
ARMY	6 .	5 29.41 83.33 50.00	1 5.88 16.67 14.29	6 35.29
NAVY	2 .	4 23.53 50.00 40.00	4 23.53 50.00 57.14	8 47.06
AIR FORCE	5 .	1 5.88 100.00 10.00	0 0.00 0.00 0.00	1 5.88
COAST GUARD	0 .	0 0.00 0.00 0.00	2 11.76 100.00 28.57	2 11.76
TOTAL	13	10 58.82	7 41.18	17 100.00

22. If your answer to #19 is yes, did the criticism impact on the judges' subsequent findings or sentences?

Yes.....1
No.....2
Don't know.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD23

QD1	QD23				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	0 0.00 0.00 0.00	3 10.00 25.00 27.27	3 10.00 25.00 75.00	6 20.00 50.00 66.67	12 40.00
NAVY	4 13.33 40.00 66.67	6 20.00 60.00 54.55	0 0.00 0.00 0.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	2 6.67 33.33 33.33	1 3.33 16.67 9.09	1 3.33 16.67 25.00	2 6.67 33.33 22.22	6 20.00
COAST GUARD	0 0.00 0.00	1 3.33 50.00 9.09	0 0.00 0.00 0.00	1 3.33 50.00 11.11	2 6.67
TOTAL	6 20.00	11 36.67	4 13.33	9 30.00	30 100.00

23. To what extent do you believe a guaranteed term of office would create the appearance of a more independent and fair military judiciary?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD24

QD1	QD24				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	3 10.00 25.00 18.75	4 13.33 33.33 80.00	2 6.67 16.67 33.33	3 10.00 25.00 100.00	12 40.00
NAVY	10 33.33 100.00 62.50	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	2 6.67 33.33 12.50	1 3.33 16.67 20.00	3 10.00 50.00 50.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	1 3.33 50.00 6.25	0 0.00 0.00 0.00	1 3.33 50.00 16.67	0 0.00 0.00 0.00	2 6.67
TOTAL	16 53.33	5 16.67	6 20.00	3 10.00	30 100.00

24. To what extent do you believe that a guaranteed term of office would, actually, create a more independent and fair military judiciary?

- Not at all.....1
- Slightly.....2
- Somewhat.....3
- Greatly4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD25

QD1	QD25	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	0	3	2	3	4	12
	.	10.34	6.00	10.34	13.79	41.38
	.	25.00	16.67	25.00	33.33	
	.	23.08	40.00	50.00	80.00	
NAVY	1	7	2	0	0	9
	.	24.14	6.90	0.00	0.00	31.03
	.	77.78	22.22	0.00	0.00	
	.	53.85	40.00	0.00	0.00	
AIR FORCE	0	3	0	2	1	6
	.	10.34	0.00	6.90	3.45	20.69
	.	50.00	0.00	33.33	16.67	
	.	23.08	0.00	33.33	20.00	
COAST GUARD	0	0	1	1	0	2
	.	0.00	3.45	3.45	0.00	6.90
	.	0.00	50.00	50.00	0.00	
	.	0.00	20.00	16.67	0.00	
TOTAL	.	13	5	6	5	29
	.	44.83	17.24	20.69	17.24	100.00

25. To what extent do you believe that a guaranteed term of office would contribute to a more professionally competent military judiciary?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD26

QD1	QD26			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	1 3.33 8.33 20.00	10 33.33 83.33 47.62	1 3.33 8.33 25.00	12 40.00
NAVY	3 10.00 30.00 60.00	7 23.33 70.00 33.33	0 0.00 0.00 0.00	10 33.33
AIR FORCE	1 3.33 16.67 20.00	2 6.67 33.33 9.52	3 10.00 50.00 75.00	6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 9.52	0 0.00 0.00	2 6.67
TOTAL	5 16.67	21 70.00	4 13.33	30 100.00

26. Would guaranteed terms of office for military judges give military judges too much independence?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD27

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD27			TOTAL
	1	2	3	
ARMY	2 6.67 16.67 20.00	9 30.00 75.00 50.00	1 3.33 8.33 50.00	12 40.00
NAVY	5 16.67 50.00 50.00	4 13.33 40.00 22.22	1 3.33 10.00 50.00	10 33.33
AIR FORCE	3 10.00 50.00 30.00	3 10.00 50.00 16.67	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 11.11	0 0.00 0.00 0.00	2 6.67
TOTAL	10 33.33	18 60.00	2 6.67	30 100.00

27. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD28

QD1	QD28		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	9	3	0	12
			31.03	10.34	0.00	41.38
			75.00	25.00	0.00	
			45.00	37.50	0.00	
NAVY		1	6	3	0	9
			20.69	10.34	0.00	31.03
			56.67	33.33	0.00	
			30.00	37.50	0.00	
AIR FORCE		0	3	2	1	6
			10.34	6.90	3.45	20.69
			50.00	33.33	16.67	
			15.00	25.00	100.00	
COAST GUARD		0	2	0	0	2
			6.90	0.00	0.00	6.90
			100.00	0.00	0.00	
			10.00	0.00	0.00	
TOTAL			20	8	1	29
			68.97	27.59	3.45	100.00

28. How do you view assignment as an appellate judge in terms of career enhancement?

- Not very career enhancing.....1
- Somewhat career enhancing.....2
- Very career enhancing.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD29

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD29			TOTAL
	2	3		
ARMY	11 36.67 91.67 40.74	1 3.33 8.33 33.33		12 40.00
NAVY	10 33.33 100.00 37.04	0 0.00 0.00 0.00		10 33.33
AIR FORCE	5 16.67 83.33 18.52	1 3.33 16.67 33.33		6 20.00
COAST GUARD	1 3.33 50.00 3.70	1 3.33 50.00 33.33		2 6.67
TOTAL	27 90.00	3 10.00		30 100.00

29. Is 0-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD30

QD1	QD30	1	2	3	TOTAL
FREQUENCY					
ROW PCT					
COL PCT					
ARMY		0	11	1	12
		0.00	37.93	3.45	41.38
		0.00	91.67	8.33	
		0.00	45.83	33.33	
NAVY		1	8	0	9
		3.45	27.59	0.00	31.03
		11.11	88.89	0.00	
		50.00	33.33	0.00	
AIR FORCE		0	4	1	6
		3.45	13.79	3.45	20.69
		16.67	66.67	16.67	
		50.00	16.67	33.33	
COAST GUARD		0	1	1	2
		0.00	3.45	3.45	6.90
		0.00	50.00	50.00	
		0.00	4.17	33.33	
TOTAL		2	24	3	29
		6.90	82.76	10.34	100.00

30. Is 0-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD31

QD1	QD31			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	7 23.33 58.33 35.00	2 6.67 16.67 40.00	3 10.00 25.00 60.00	12 40.00
NAVY	8 26.67 80.00 40.00	2 6.67 20.00 40.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	5 16.67 83.33 25.00	1 3.33 16.67 20.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67 100.00 40.00	2 6.67
TOTAL	20 66.67	5 16.67	5 16.67	30 100.00

31. If there were flag and general officer billets on the Court of
Military Review, would judicial duty be more career enhancing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD32

QD1	QD32				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	TOTAL
ARMY	6 20.00 50.00 35.29	4 13.33 33.33 90.00	2 6.67 16.67 25.00	2 6.67 16.67 25.00	12 40.00
NAVY	8 26.67 80.00 47.06	1 3.33 10.00 20.00	1 3.33 10.00 12.50	1 3.33 10.00 12.50	10 33.33
AIR FORCE	3 10.00 50.00 17.65	0 0.00 0.00 0.00	3 10.00 50.00 37.50	3 10.00 50.00 37.50	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67 100.00 25.00	2 6.67 100.00 25.00	2 6.67
TOTAL	17 56.67	5 16.67	8 26.67	8 26.67	30 100.00

32. If there were flag and general officer billets on the Court of Military Appeals would judicial duty be more career enhancing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD33

QD1	QD33					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4		
ARMY	5 16.67 41.67 83.33	6 20.00 50.00 54.55	1 3.33 8.33 9.09	0 0.00 0.00	0 0.00 0.00	12 40.00
NAVY	0 0.00 0.00	1 3.33 10.00 9.09	7 23.33 70.00 63.64	2 6.67 20.00 100.00		10 33.33
AIR FORCE	1 3.33 16.67 16.67	2 6.67 33.33 18.18	3 10.00 50.00 27.27	0 0.00 0.00 0.00		6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 18.18	0 0.00 0.00	0 0.00 0.00		2 6.67
TOTAL	6 20.00	11 36.67	11 36.67	2 6.67		30 100.00

33. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?

Much more attractive.....1
Somewhat more attractive.....2
No effect.....3
Somewhat less attractive.....4
Much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD34

QD1	QD34				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	2 6.67 16.67 13.33	5 16.67 41.67 71.43	4 13.33 33.33 57.14	1 3.33 8.33 100.00	12 40.00
NAVY	8 26.67 80.00 53.33	1 3.33 10.00 14.29	1 3.33 10.00 14.29	0 0.00 0.00 0.00	10 33.33
AIR FORCE	3 10.00 50.00 20.00	1 3.33 16.67 14.29	2 6.67 33.33 28.57	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 13.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	15 50.00	7 23.33	7 23.33	1 3.33	30 100.00

34. If a guaranteed term of office provision were enacted what length of time should it contain for the judges of the Courts of Military Review?

Normal tour length.....1
3-5 years.....2
6-10 years.....3
Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD35

QD1	QD35				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3		
ARMY	2 6.67 16.67 12.50	8 26.67 66.67 66.67	2 6.67 16.67 100.00		12 40.00
NAVY	8 26.67 80.00 50.00	2 6.67 20.00 16.67	0 0.00 0.00 0.00		10 33.33
AIR FORCE	4 13.33 66.67 25.00	2 6.67 33.33 16.67	0 0.00 0.00 0.00		6 20.00
COAST GUARD	2 6.67 100.00 12.50	0 0.00 0.00 0.00	0 0.00 0.00 0.00		2 6.67
TOTAL	16 53.33	12 40.00	2 6.67		30 100.00

35. If a guaranteed term of office provision were enacted what length of time should it contain for GCM judges?

Normal tour length.....1
3-5 years.....2
6-10 years.....3
Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD36
QD36

QD1	QD36		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	11 36.67 91.67 42.31	1 3.33 8.33 25.00	12 40.00
NAVY	3 30.00 90.00 34.62	1 3.33 10.00 25.00	10 33.33
AIR FORCE	4 13.33 66.67 15.38	2 6.67 33.33 50.00	6 20.00
COAST GUARD	2 6.67 100.00 7.69	0 0.00 0.00 0.00	2 6.67
TOTAL	26 86.67	4 13.33	30 100.00

36. If a guaranteed term of office provision were enacted what length of time should it contain for SPCM judges?

Normal tour length.....1
3-5 years.....2
6-10 years.....3
Over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD37

QD1	QD37			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	10 33.33 83.33 45.45	1 3.33 8.33 20.00	1 3.33 8.33 33.33	12 40.00
NAVY	7 23.33 70.00 31.82	3 10.00 30.00 60.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	4 13.33 66.67 18.18	1 3.33 16.67 20.00	1 3.33 16.67 33.33	6 20.00
COAST GUARD	1 3.33 50.00 4.55	0 0.00 0.00 0.00	1 3.33 50.00 33.33	2 6.67
TOTAL	22 73.33	5 16.67	3 10.00	30 100.00

37. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD38

QD1	QD38			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	4 13.33 33.33 80.00	4 13.33 33.33 50.00	4 13.33 33.33 23.53	12 40.00
NAVY	0 0.00 0.00	1 3.33 10.00 12.50	9 30.00 90.00 52.94	10 33.33
AIR FORCE	1 3.33 16.67 20.00	1 3.33 16.67 12.50	4 13.33 66.67 23.53	6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 25.00	0 0.00 0.00	2 6.67
TOTAL	5 16.67	8 26.67	17 56.67	30 100.00

38. How would guaranteed terms of office affect your view of military judge assignments?

- Much more attractive.....1
- Somewhat more attractive.....2
- No effect.....3
- Somewhat less attractive.....4
- Much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD40

QD1	QD40			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	7 23.33 58.33 43.75	2 6.67 16.67 18.18	3 10.00 25.00 100.00	12 40.00
NAVY	3 10.00 30.00 18.75	7 23.33 70.00 63.64	0 0.00 0.00 0.00	10 33.33
AIR FORCE	4 13.33 66.67 25.00	2 6.67 33.33 18.18	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 12.50	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	16 53.33	11 36.67	3 10.00	30 100.00

40. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD41

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD41			TOTAL
	1	2	3	
ARMY	6 20.00 50.00 85.71	5 16.67 41.67 25.00	1 3.33 8.33 33.33	12 40.00
NAVY	0 0.00 0.00 0.00	10 33.33 100.00 50.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	4 13.33 66.67 20.00	2 6.67 33.33 66.67	6 20.00
COAST GUARD	1 3.33 50.00 14.29	1 3.33 50.00 5.00	0 0.00 0.00 0.00	2 6.67
TOTAL	7 23.33	20 66.67	3 10.00	30 100.00

41. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD42

QD1	QD42				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	4 13.33 33.33 50.00	3 10.00 25.00 100.00	3 10.00 25.00 50.00	2 6.67 16.67 15.38	12 40.00
NAVY	2 6.67 20.00 25.00	0 0.00 0.00 0.00	1 3.33 10.00 16.67	7 23.33 70.00 53.95	10 33.33
AIR FORCE	2 6.67 33.33 25.00	0 0.00 0.00 0.00	1 3.33 16.67 16.67	3 10.00 50.00 23.08	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 3.33 50.00 16.67	1 3.33 50.00 7.69	2 6.67
TOTAL	8 26.67	3 10.00	6 20.00	13 43.33	30 100.00

42. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD43

QD1	QD43		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	8 26.67 66.67 61.54	4 13.33 33.33 23.53	12 40.00
NAVY	1 3.33 10.00 7.69	9 30.00 90.00 52.94	10 33.33
AIR FORCE	3 10.00 50.00 23.08	3 10.00 50.00 17.65	6 20.00
COAST GUARD	1 3.33 50.00 7.69	1 3.33 50.00 5.88	2 6.67
TOTAL	13 43.33	17 56.67	30 100.00

43. On balance, do you favor some provision for guaranteed terms of office for military trial judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD44

QD1	QD44		TOTAL
FREQUENCY ROW PCT COL PCT	1	2	
ARMY	10 33.33 83.33 66.67	2 6.67 16.67 13.33	12 40.00
NAVY	1 3.33 10.00 6.67	9 30.00 90.00 60.00	10 33.33
AIR FORCE	3 10.00 50.00 20.00	3 10.00 50.00 20.00	6 20.00
COAST GUARD	1 3.33 50.00 6.67	1 3.33 50.00 6.67	2 6.67
TOTAL	15 50.00	15 50.00	30 100.00

44. On balance, do you favor some provision for guaranteed terms of office for CMR judges?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD45

QD1	QD45				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	1 3.33 8.33 50.00	1 3.33 8.33 20.00	3 10.00 25.00 27.27	7 23.33 58.33 58.33	12 40.00
NAVY	0 0.00 0.00 0.00	2 6.67 20.00 40.00	4 13.33 40.00 36.36	4 13.33 40.00 33.33	10 33.33
AIR FORCE	1 3.33 16.67 50.00	1 3.33 16.67 20.00	3 10.00 50.00 27.27	1 3.33 16.67 8.33	6 20.00
COAST GUARD	0 0.00 0.00 0.00	1 3.33 50.00 20.00	1 3.33 50.00 9.09	0 0.00 0.00 0.00	2 6.67
TOTAL	2 6.67	5 16.67	11 36.67	12 40.00	30 100.00

45. How informed are military judges regarding local military events and problems?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD46

QD1	QD46				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	0 0.00 0.00 0.00	2 6.67 16.67 50.00	2 6.67 16.67 22.22	8 26.67 66.67 53.33	12 40.00
NAVY	2 6.67 20.00 100.00	0 0.00 0.00 0.00	4 13.33 40.00 44.44	4 13.33 40.00 26.67	10 33.33
AIR FORCE	0 0.00 0.00 0.00	2 6.67 33.33 50.00	2 6.67 33.33 22.22	2 6.67 33.33 13.33	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 3.33 50.00 11.11	1 3.33 50.00 6.67	2 6.67
TOTAL	2 6.67	4 13.33	9 30.00	15 50.00	30 100.00

46. Are military judges aware of the disciplinary impact of their sentences on the command?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD47

QD1	QD47					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	2	3	4	5	6	
ARMY	4 13.33 33.33 36.36	5 16.67 41.67 35.71	3 10.00 25.00 60.00	3 10.00 25.00 60.00	3 10.00 25.00 60.00	12 40.00
NAVY	3 10.00 30.00 27.27	5 16.67 50.00 35.71	2 6.67 20.00 40.00	2 6.67 20.00 40.00	2 6.67 20.00 40.00	10 33.33
AIR FORCE	2 6.67 33.33 18.18	4 13.33 66.67 28.57	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 18.18	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	11 36.67	14 46.67	5 16.67	5 16.67	5 16.67	30 100.00

47. Are the officers who are detailed as court-members aware of the disciplinary impact of their sentences on the command?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD48

QD1	QD48				TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	
ARMY	7 23.33 58.33 50.00	1 3.33 8.33 33.33	2 6.67 16.67 33.33	2 6.67 16.67 28.57	12 40.00
NAVY	4 13.33 40.00 28.57	1 3.33 10.00 33.33	2 6.67 20.00 33.33	3 10.00 30.00 42.86	10 33.33
AIR FORCE	2 6.67 33.33 14.29	1 3.33 16.67 33.33	2 6.67 33.33 33.33	1 3.33 16.67 14.29	6 20.00
COAST GUARD	1 3.33 50.00 7.14	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 3.33 50.00 14.29	2 6.67
TOTAL	14 46.67	3 10.00	6 20.00	7 23.33	30 100.00

48. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?

Military judges.....1
Members.....2
No difference.....3
Don't know.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD49

QD1 FREQUENCY PERCENT ROW PCT COL PCT	2	3	4	TOTAL
ARMY	1 3.33 8.33 100.00	10 33.33 83.33 41.67	1 3.33 8.33 20.00	12 40.00
NAVY	0 0.00 0.00 0.00	7 23.33 70.00 29.17	3 10.00 30.00 60.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	6 20.00 100.00 25.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	1 3.33 50.00 4.17	1 3.33 50.00 20.00	2 6.67
TOTAL	1 3.33	24 80.00	5 16.67	30 100.00

49. How often do members give an inappropriate sentence (unreasonably lenient or harsh)?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD50

QD1	QD50					TOTAL
FREQUENCY PERCENT ROW PCT	1	2	3	4	4	12
COL PCT						40.00
ARMY	1 3.33 8.33 100.00	9 30.00 75.00 52.94	2 6.67 16.67 25.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 40.00
NAVY	0 0.00 0.00 0.00	1 3.33 10.00 5.88	5 16.67 50.00 62.50	4 13.33 40.00 100.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	5 16.67 83.33 29.41	1 3.33 16.67 12.50	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 11.76	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	1 3.33	17 56.67	8 26.67	4 13.33	4 13.33	30 100.00

50. How often do judges give an inappropriate sentence (unreasonably lenient or harsh)?

Never.....1
Seldom.....2
Sometimes.....3
Usually.....4
Always.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD51

QD1	QD51			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	5 16.67 41.67 38.46	6 20.00 50.00 42.86	1 3.33 8.33 33.33	12 40.00
NAVY	5 16.67 50.00 38.46	5 16.67 50.00 35.71	0 0.00 0.00 0.00	10 33.33
AIR FORCE	2 6.67 33.33 15.38	3 10.00 50.00 21.43	1 3.33 16.67 33.33	6 20.00
COAST GUARD	1 3.33 50.00 7.69	0 0.00 0.00 0.00	1 3.33 50.00 33.33	2 6.67
TOTAL	13 43.33	14 46.67	3 10.00	30 100.00

51. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD52

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD52				TOTAL
	1	2	3	4	
ARMY	1 3.33 8.33 100.00	0 0.00 0.00 0.00	10 33.33 83.33 40.00	1 3.33 8.33 33.33	12 40.00
NAVY	0 0.00 0.00 0.00	1 3.33 10.00 100.00	8 26.67 80.00 32.00	1 3.33 10.00 33.33	10 33.33
AIR FORCE	0 0.00 0.00 0.00	0 0.00 0.00 0.00	5 16.67 83.33 20.00	1 3.33 16.67 33.33	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67 100.00 8.00	0 0.00 0.00 0.00	2 6.67
TOTAL	1 3.33	1 3.33	25 83.33	3 10.00	30 100.00

52. Who possesses more knowledge about the ramifications of a particular sentence on the accused, the military corrections system and the command?

Officer panels.....1
Officer and enlisted panels.....2
Military judges.....3
All are equally qualified.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD53

QD1	QD53			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	9 30.00 75.00 42.86	2 6.67 16.67 100.00	1 3.33 8.33 14.29	12 40.00
NAVY	6 20.00 60.00 28.57	0 0.00 0.00 0.00	4 13.33 40.00 57.14	10 33.33
AIR FORCE	4 13.33 66.67 19.05	0 0.00 0.00 0.00	2 6.67 33.33 28.57	6 20.00
COAST GUARD	2 6.67 100.00 9.52	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	21 70.00	2 6.67	7 23.33	30 100.00

53. Can court members or military judges better determine an appropriate sentence for a given accused?

Military judges.....1
Court members.....2
No difference.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD54

QD1	QD54				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	2	3	4	5	
ARMY	2 6.67 16.67 28.57	4 13.33 33.33 36.36	6 20.00 50.00 50.00	6 20.00 50.00 50.00	12 40.00
NAVY	4 13.33 40.00 57.14	6 20.00 60.00 54.55	0 0.00 0.00 0.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	1 3.33 16.67 9.09	5 16.67 83.33 41.67	6 20.00 83.33 41.67	6 20.00
COAST GUARD	1 3.33 50.00 14.29	0 0.00 0.00 0.00	1 3.33 50.00 8.33	1 3.33 50.00 8.33	2 6.67
TOTAL	7 23.33	11 36.67	12 40.00	12 40.00	30 100.00

54. How often do convening authorities select the "best qualified" personnel for courts-martial duty?

Never.....1
Seldom.....2
Sometimes.....3
Usually.....4
Always.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD55
QD55

QD1 FREQUENCY PERCENT ROW PCT COL PCT	2	3	4	TOTAL
ARMY	1 3.33 8.33 100.00	9 30.00 75.00 42.86	2 6.67 16.67 25.00	12 40.00
NAVY	0 0.00 0.00 0.00	5 16.67 50.00 23.81	5 16.67 50.00 62.50	10 33.33
AIR FORCE	0 0.00 0.00 0.00	6 20.00 100.00 28.57	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	1 3.33 50.00 4.76	1 3.33 50.00 12.50	2 6.67
TOTAL	1 3.33	21 70.00	8 26.67	30 100.00

55. How often do convening authorities select court members for such duty based primarily upon their relative expendability?

- Never.....1
- Seldom.....2
- Sometimes.....3
- Usually.....4
- Always.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD56

QD1	QD56		TOTAL
	1	2	
FREQUENCY PERCENT ROW PCT COL PCT			
ARMY	1 3.33 8.33 20.00	11 36.67 91.67 44.00	12 40.00
NAVY	3 10.00 30.00 60.00	7 23.33 70.00 28.00	10 33.33
AIR FORCE	1 3.33 16.67 20.00	5 16.67 83.33 20.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 8.00	2 6.67
TOTAL	5 16.67	25 83.33	30 100.00

56. Would a change to military judge alone sentencing deprive an accused of a substantial right?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD57

QD1	QD57	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		4 13.79 36.36 40.00	7 24.14 63.64 38.89	0 0.00 0.00 0.00	11 37.93
NAVY		4 13.79 40.00 40.00	5 17.24 50.00 27.78	1 3.45 10.00 100.00	10 34.48
AIR FORCE		1 3.45 16.67 10.00	5 17.24 83.33 27.78	0 0.00 0.00 0.00	6 20.69
COAST GUARD		1 3.45 50.00 10.00	1 3.45 50.00 5.56	0 0.00 0.00 0.00	2 6.90
TOTAL		10 34.48	18 62.07	1 3.45	29 100.00

57. Would a change to military judge alone sentencing appear to deprive an accused of a substantial right?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD58

QD1	QD58					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	2	3	4	5		
ARMY	2 6.67 16.67 28.57	8 26.67 66.67 40.00	1 3.33 8.33 50.00	1 3.33 8.33 100.00	1 3.33 8.33 100.00	12 40.00
NAVY	4 13.33 40.00 57.14	5 16.67 50.00 25.00	1 3.33 10.00 50.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	1 3.33 16.67 14.29	5 16.67 83.33 25.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 10.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	7 23.33	20 66.67	2 6.67	3 10.00	1 3.33	30 100.00

58. How often do court members' doubts on the merits wind up expressed in a "compromise" sentence?

Never.....1
Seldom.....2
Sometimes.....3
Usually.....4
Always.....5

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD59

QD1	QD59		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	10 33.33 83.33 43.48	2 6.67 16.67 28.57	12 40.00
NAVY	5 16.67 50.00 21.74	5 16.67 50.00 71.43	10 33.33
AIR FORCE	5 20.00 100.00 26.09	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 8.70	0 0.00 0.00 0.00	2 6.67
TOTAL	23 76.67	7 23.33	30 100.00

59. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD60

QD1	QD60				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	4	4	
ARMY	8 26.67 66.67 57.14	4 13.33 33.33 28.57	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 40.00
NAVY	2 6.67 20.00 14.29	6 20.00 60.00 42.86	2 6.67 20.00 100.00	2 6.67 20.00 100.00	10 33.33
AIR FORCE	3 10.00 50.00 21.43	3 10.00 50.00 21.43	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	1 3.33 50.00 7.14	1 3.33 50.00 7.14	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	14 46.67	14 46.67	2 6.67	2 6.67	30 100.00

60. What effect would vesting military judges with sole sentencing power have on the exercise of unlawful command influence?

Reduce frequency.....1
No effect.....2
Increase frequency.....3
Merely shift focus to military judge.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD61
QD61

QD1 FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	TOTAL
ARMY	0 0.00 0.00 0.00	12 40.00 100.00 44.44	0 0.00 0.00 0.00	12 40.00
NAVY	0 0.00 0.00 0.00	9 30.00 90.00 33.33	1 3.33 10.00 100.00	10 33.33
AIR FORCE	2 6.67 33.33 100.00	4 13.33 66.67 14.81	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 7.41	0 0.00 0.00 0.00	2 6.67
TOTAL	2 6.67	27 90.00	1 3.33	30 100.00

61. Knowing that an accused currently has the option to reject members' sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD62

QD1	QD62	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	.	4 13.79 36.36 36.36	7 24.14 63.64 41.18	0 0.00 0.00 0.00	11 37.93
NAVY	.	3 10.34 30.00 27.27	7 24.14 70.00 41.18	0 0.00 0.00 0.00	10 34.48
AIR FORCE	.	2 6.90 33.33 18.18	3 10.34 50.00 17.65	1 3.45 15.67 100.00	6 20.69
COAST GUARD	.	2 6.90 100.00 18.18	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.90
TOTAL	.	11 37.93	17 58.62	1 3.45	29 100.00

62. If mandatory judge alone sentencing were adopted, would there be an appearance that command authority had been diminished?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD63

QD1	QD63	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.					
ARMY	1	3	6	2	0	11
	.	10.34	20.69	6.90	0.00	37.93
	.	27.27	54.55	18.18	0.00	
	.	27.27	54.55	33.33	0.00	
NAVY	0	3	4	2	1	10
	.	10.34	13.79	6.90	3.45	34.48
	.	30.00	40.00	20.00	10.00	
	.	27.27	36.36	33.33	100.00	
AIR FORCE	0	4	0	2	0	6
	.	13.79	0.00	6.90	0.00	20.69
	.	66.67	0.00	33.33	0.00	
	.	36.36	0.00	33.33	0.00	
COAST GUARD	0	1	1	0	0	2
	.	3.45	3.45	0.00	0.00	6.90
	.	50.00	50.00	0.00	0.00	
	.	9.09	9.09	0.00	0.00	
TOTAL	.	11	11	6	1	29
	.	37.93	37.93	20.69	3.45	100.00

63. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?

Not at all.....1
Slight.....2
Some.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD64

QD1	QD64	1	2	3	TOTAL
FREQUENCY		9	8	2	19
PERCENT		31.03	27.59	6.90	64.52
ROW PCT		81.82	80.00	18.18	76.67
COL PCT		40.91	36.36	28.57	35.29
ARMY					
		1	9	2	12
		0	31.03	6.90	38.93
		0	81.82	18.18	100.00
		0	40.91	28.57	69.48
NAVY					
		0	8	2	10
		0	27.59	6.90	34.48
		0	80.00	20.00	100.00
		0	36.36	28.57	64.93
AIR FORCE					
		0	4	2	6
		0	13.79	6.90	20.69
		0	66.67	33.33	100.00
		0	18.18	28.57	46.75
COAST GUARD					
		0	1	1	2
		0	3.45	3.45	6.90
		0	50.00	50.00	100.00
		0	4.55	14.29	18.84
TOTAL		0	22	7	29
		0	75.86	24.14	100.00

64. If the military judge perceives resentment, would this cause the judge to render either an inappropriately lenient or harsh sentence?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD65

QD1	QD65			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	10.00 25.00 50.00	8 25.67 66.67 38.10	1 3.33 8.33 33.33	12 40.00
NAVY	6.67 20.00 33.33	8 26.67 80.00 38.10	0 0.00 0.00 0.00	10 33.33
AIR FORCE	0.00 0.00 0.00	4 13.33 66.67 19.05	2 6.67 33.33 66.67	5 20.00
COAST GUARD	3.33 50.00 16.67	1 3.33 50.00 4.76	0 0.00 0.00 0.00	2 6.67
TOTAL	20.00	70.00	10.00	30 100.00

65. If military judges were given sole sentencing authority, and court members tried only the issue of guilt should the system used to select court members be changed to require random selection of court members?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD66

QD1	QD66			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	3 10.00 25.00 50.00	9 30.00 75.00 40.91	0 0.00 0.00 0.00	12 40.00
NAVY	2 6.67 20.00 33.33	8 26.67 80.00 36.36	0 0.00 0.00 0.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	4 13.33 66.67 18.18	2 6.67 33.33 100.00	6 20.00
COAST GUARD	1 3.33 50.00 16.67	1 3.33 50.00 4.55	0 0.00 0.00 0.00	2 6.67
TOTAL	6 20.00	22 73.33	2 6.67	30 100.00

66. If random selection of members was used under these circumstances, should selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused who meet present statutory qualifications of age, experience etc.?

All members not junior to accused..1
 All members not junior to the
 accused meeting present
 qualifications.....2
 No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD67

QD1	QD67			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	1 3.33 8.33 25.00	11 36.67 91.67 44.00	0 0.00 0.00 0.00	12 40.00
NAVY	3 10.00 30.00 75.00	7 23.33 70.00 28.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	5 16.67 83.33 20.00	1 3.33 16.67 100.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 8.00	0 0.00 0.00 0.00	2 6.67
TOTAL	4 13.33	25 83.33	1 3.33	30 100.00

67. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or military judge for sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD68

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD68		TOTAL
	1	2	
ARMY	3 10.00 25.00 60.00	9 30.00 75.00 36.00	12 40.00
NAVY	2 6.67 20.00 40.00	8 26.67 80.00 32.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	6 20.00 100.00 24.00	6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 8.00	2 6.67
TOTAL	5 16.67	25 83.33	30 100.00

68. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court members be provided by law?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD69
QD1 QD69

FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	TOTAL
ARMY	3 10.00 25.00 42.86	9 30.00 75.00 40.91	0 0.00 0.00 0.00	12 40.00
NAVY	0 0.00 0.00 0.00	9 30.00 90.00 40.91	1 3.33 10.00 100.00	10 33.33
AIR FORCE	2 6.67 33.33 28.57	4 13.33 66.67 18.18	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 28.57	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	7 23.33	22 73.33	1 3.33	30 100.00

69. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where members have already arrived at findings?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD70

QD1	QD70			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	9 26.67 66.67 57.14	2 6.67 16.67 18.18	2 6.67 16.67 40.00	12 40.00
NAVY	3 10.00 30.00 21.43	7 23.33 70.00 63.64	0 0.00 0.00 0.00	10 33.33
AIR FORCE	1 3.33 16.67 7.14	2 6.67 33.33 18.18	3 10.00 50.00 60.00	6 20.00
COAST GUARD	2 6.67 100.00 14.29	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	14 46.67	11 36.67	5 16.67	30 100.00

70. If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD71

QD1	QD71			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	9 30.00 75.00 40.91	3 10.00 25.00 50.00	0 0.00 0.00 0.00	12 40.00
NAVY	7 23.33 70.00 31.82	2 6.67 20.00 33.33	1 3.33 10.00 50.00	10 33.33
AIR FORCE	4 13.33 66.67 18.18	1 3.33 16.67 16.67	1 3.33 16.67 50.00	6 20.00
COAST GUARD	2 6.67 100.00 9.09	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	22 73.33	6 20.00	2 6.67	30 100.00

71. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD72

QD1	QD72		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	8 26.67 66.67 42.11	4 13.33 33.33 36.36	12 40.00
NAVY	4 13.33 40.00 21.05	6 20.00 60.00 54.55	10 33.33
AIR FORCE	5 16.67 83.33 26.32	1 3.33 16.67 9.09	6 20.00
COAST GUARD	2 6.67 100.00 10.53	0 0.00 0.00 0.00	2 6.67
TOTAL	19 63.33	11 36.67	30 100.00

72. On balance, do you favor sentencing only by military judges in all non-capital cases?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD73

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD73			TOTAL
	1	2	3	
ARMY	4 13.33 33.33 44.44	7 23.33 58.33 36.84	1 3.33 8.33 50.00	12 40.00
NAVY	2 6.67 20.00 22.22	7 23.33 70.00 36.84	1 3.33 10.00 50.00	10 33.33
AIR FORCE	1 3.33 16.67 11.11	5 16.67 83.33 26.32	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 22.22	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	9 30.00	19 63.33	2 6.67	30 100.00

73. Under the current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would the military judge have adequate information upon which to base a suspension decision?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD74

QD1	QD74		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	7 23.33 58.33 31.82	5 16.67 41.67 62.50	12 40.00
NAVY	9 30.00 70.00 40.91	1 3.33 10.00 12.50	10 33.33
AIR FORCE	5 16.67 33.33 22.73	1 3.33 16.67 12.50	6 20.00
COAST GUARD	1 3.33 50.00 4.55	1 3.33 50.00 12.50	2 6.67
TOTAL	22 73.33	8 26.67	30 100.00

74. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD75

QD1	QD75			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	10 33.33 83.33 40.00	1 3.33 8.33 33.33	1 3.33 8.33 50.00	12 40.00
NAVY	8 26.67 80.00 32.00	2 6.67 20.00 66.67	0 0.00 0.00 0.00	10 33.33
AIR FORCE	5 16.67 83.33 20.00	0 0.00 0.00 0.00	1 3.33 16.67 50.00	6 20.00
COAST GUARD	2 6.67 100.00 8.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	25 83.33	3 10.00	2 6.67	30 100.00

75. Could military judges be given the same information as convening and supervisory authorities through modification of the Military Rules of Evidence and other provisions of the Manual for Courts-Martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD76

QD1	QD76			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	4 13.33 33.33 36.36	7 23.33 58.33 38.89	1 3.33 8.33 100.00	12 40.00
NAVY	4 13.33 40.00 36.36	6 20.00 60.00 33.33	0 0.00 0.00 0.00	10 33.33
AIR FORCE	3 10.00 50.00 27.27	3 10.00 50.00 16.67	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 11.11	0 0.00 0.00	2 6.67
TOTAL	11 36.67	19 60.00	1 3.33	30 100.00

76. Generally is there adequate information contained in the record of trial upon which an appellate court could base a suspension decision?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD77

QD1	QD77			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	9 30.00 75.00 40.91	2 6.67 16.67 33.33	1 3.33 8.33 50.00	12 40.00
NAVY	7 23.33 70.00 31.82	3 10.00 30.00 50.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	4 13.33 66.67 18.18	1 3.33 16.67 16.67	1 3.33 16.67 50.00	6 20.00
COAST GUARD	2 6.67 100.00 9.09	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	22 73.33	6 20.00	2 6.67	30 100.00

77. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD78

QD1	QD78				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	1 3.33 3.33 14.29	5 16.67 41.67 45.45	5 16.67 41.67 50.00	1 3.33 8.33 50.00	12 40.00
NAVY	4 13.33 40.00 57.14	4 13.33 40.00 36.36	2 6.67 20.00 20.00	0 0.00 0.00 0.00	10 33.33
AIR FORCE	1 3.33 16.67 14.29	1 3.33 16.67 9.09	3 10.00 30.00 50.00	1 3.33 16.67 50.00	6 20.00
COAST GUARD	1 3.33 50.00 14.29	1 3.33 50.00 9.09	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	7 23.33	11 36.67	10 33.33	2 6.67	30 100.00

78. How important a factor should manpower/personnel requirements be when considering whether an accused's sentence should be suspended?

Not at all.....1
Slight.....2
Somewhat.....3
Great.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD79

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD79		TOTAL
	1	2	
ARMY	5 16.67 41.67 35.71	7 23.33 58.33 43.75	12 40.00
NAVY	5 16.67 50.00 35.71	5 16.67 50.00 31.25	10 33.33
AIR FORCE	4 13.33 66.67 28.57	2 6.67 33.33 12.50	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 12.50	2 6.67
TOTAL	14 46.67	16 53.33	30 100.00

79. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD80

QD1	QD80			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	6 20.00 50.00 33.33	6 20.00 50.00 54.55	0 0.00 0.00 0.00	12 40.00
NAVY	7 23.33 70.00 38.89	3 10.00 30.00 27.27	0 0.00 0.00 0.00	10 33.33
AIR FORCE	4 13.33 66.67 22.22	1 3.33 16.67 9.09	1 3.33 16.67 100.00	6 20.00
COAST GUARD	1 3.33 5.56	1 3.33 9.09	0 0.00 0.00	2 6.67
TOTAL	18 60.00	11 36.67	1 3.33	30 100.00

80. Would there be an appearance that command authority was diminished?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD81

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD81		TOTAL
	1	2	
ARMY	10 33.33 83.33 58.82	2 6.67 16.67 15.38	12 40.00
NAVY	3 10.00 30.00 17.65	7 23.33 70.00 53.85	10 33.33
AIR FORCE	2 6.67 33.33 11.76	4 13.33 66.67 30.77	6 20.00
COAST GUARD	2 6.67 100.00 11.76	0 0.00 0.00 0.00	2 6.67
TOTAL	17 56.67	13 43.33	30 100.00

81. If judge alone sentencing were required does it logically follow that military judges should also have the power to suspend?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD82

QD1	QD82				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	1 3.33 8.33 11.11	3 10.00 25.00 50.00	5 16.67 41.67 50.00	3 10.00 25.00 60.00	12 40.00
NAVY	5 16.67 50.00 55.56	2 6.67 20.00 33.33	2 6.67 20.00 20.00	1 3.33 10.00 20.00	10 33.33
AIR FORCE	3 10.00 50.00 33.33	1 3.33 16.67 16.67	2 6.67 33.33 20.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 3.33 50.00 10.00	1 3.33 50.00 20.00	2 6.67
TOTAL	30.00	20.00	33.33	16.67	30 100.00

82. Is the possession of sentence suspending power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD83

QD1	QD83	1	2	3	4	TOTAL
FREQUENCY	.					
PERCENT						
ROW PCT						
COL PCT						
ARMY		4 13.79 36.36 66.67	3 10.34 27.27 37.50	2 6.90 18.18 22.22	2 6.90 18.18 33.33	11 37.93
NAVY		1 3.45 10.00 16.67	2 6.90 20.00 25.00	6 20.69 60.00 66.67	1 3.45 10.00 16.67	10 34.48
AIR FORCE		0 0.00 0.00 0.00	3 10.34 50.00 37.50	1 3.45 16.67 11.11	2 6.90 33.33 33.33	6 20.69
COAST GUARD		1 3.45 50.00 16.67	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 3.45 50.00 16.67	2 6.90
TOTAL		6 20.69	8 27.59	9 31.03	6 20.69	29 100.00

83. By the time cases reach the Court of Military Review many accuseds are on appellate leave. Is this a factor in determining whether Courts of Military Review should have authority to suspend punitive discharges?

- Not at all.....1
- Slight.....2
- Somewhat.....3
- Great.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD84

QD1	QD84			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	11 36.67 91.57 50.00	1 3.33 8.33 14.29	0 0.00 0.00 0.00	12 40.00
NAVY	4 13.33 40.00 18.18	5 16.67 50.00 71.43	1 3.33 10.00 100.00	10 33.33
AIR FORCE	5 16.67 83.33 22.73	1 3.33 16.67 14.29	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 9.09	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	22 73.33	7 23.33	1 3.33	30 100.00

84. Considering the additional support requirements that might result, if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy and counselling?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD85

QD1	QD85			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	4 13.33 33.33 57.14	0 0.00 0.00 0.00	8 26.67 66.67 40.00	12 40.00
NAVY	2 6.67 20.00 28.57	1 3.33 10.00 33.33	7 23.33 70.00 35.00	10 33.33
AIR FORCE	1 3.33 16.67 14.29	2 6.67 33.33 66.67	3 10.00 50.00 15.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67 100.00 10.00	2 6.67
TOTAL	7 23.33	3 10.00	20 66.67	30 100.00

85. If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?

- Appropriate judicial authority.....1
- Appropriate convening/supervisory authority.....2
- Both 1 and 2.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD86

QD1	QD86		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	8 26.67 66.67 61.54	4 13.33 33.33 23.53	12 40.00
NAVY	3 10.00 30.00 23.08	7 23.33 70.00 41.18	10 33.33
AIR FORCE	1 3.33 16.67 7.69	5 16.67 83.33 29.41	6 20.00
COAST GUARD	1 3.33 50.00 7.69	1 3.33 50.00 5.88	2 6.67
TOTAL	13 43.33	17 56.67	30 100.00

86. On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD87

QD1	QD87		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	10 33.33 83.33 50.00	2 6.67 16.67 20.00	12 40.00
NAVY	5 16.67 50.00 25.00	5 16.67 50.00 50.00	10 33.33
AIR FORCE	3 10.00 50.00 15.00	3 10.00 50.00 30.00	6 20.00
COAST GUARD	2 6.67 100.00 10.00	0 0.00 0.00 0.00	2 6.67
TOTAL	20 66.67	10 33.33	30 100.00

87. On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD88

QD1	QD88		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	9 30.00 75.00 50.00	3 10.00 25.00 25.00	12 40.00
NAVY	5 16.67 50.00 27.78	5 16.67 50.00 41.67	10 33.33
AIR FORCE	3 10.00 50.00 16.67	3 10.00 50.00 25.00	6 20.00
COAST GUARD	1 3.33 50.00 5.56	1 3.33 50.00 8.33	2 6.67
TOTAL	19 60.00	12 40.00	30 100.00

88. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD89

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD89		TOTAL
	1	2	
ARMY	5 16.67 41.67 41.67	7 23.33 58.33 38.89	12 40.00
NAVY	3 10.00 30.00 25.00	7 23.33 70.00 38.89	10 33.33
AIR FORCE	2 6.67 33.33 16.67	4 13.33 66.67 22.22	6 20.00
COAST GUARD	2 6.67 100.00 16.67	0 0.00 0.00 0.00	2 6.67
TOTAL	12 40.00	18 60.00	30 100.00

89. Should court members be given the power to suspend their own sentences?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD91

QD1	QD91					TOTAL
FREQUENCY PERCENT ROW PCT	1	2	3	4		
COL PCT						
ARMY	0 0.00 0.00	5 16.67 41.67 62.50	7 23.33 58.33 41.18	0 0.00 0.00		12 40.00
NAVY	2 6.67 20.00 100.00	1 3.33 10.00 12.50	5 16.67 50.00 29.41	2 6.67 20.00 66.67		10 33.33
AIR FORCE	0 0.00 0.00 0.00	2 6.67 33.33 25.00	3 10.00 50.00 17.65	1 3.33 16.67 33.33		6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67 100.00 11.76	0 0.00 0.00 0.00		2 6.67
TOTAL	2 6.67	8 26.67	17 56.67	3 10.00		30 100.00

91. If SPCMs are allowed to impose longer terms of confinement, would cases currently tried at SPCM generally receive longer sentences?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD92

QD1	QD92			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	10 33.33 83.33 41.67	0 0.00 0.00 0.00	2 6.67 16.67 66.67	12 40.00
NAVY	9 30.00 90.00 37.50	1 3.33 10.00 33.33	0 0.00 0.00 0.00	10 33.33
AIR FORCE	4 13.33 66.67 16.67	1 3.33 16.67 33.33	1 3.33 16.67 33.33	6 20.00
COAST GUARD	1 3.33 50.00 4.17	1 3.33 50.00 33.33	0 0.00 0.00 0.00	2 6.67
TOTAL	24 80.00	3 10.00	3 10.00	30 100.00

92. Would increasing the confinement power of SPCM could cause many accuseds to receive punitive discharges which would not be imposed under current conditions?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD93

QD1 FREQUENCY PERCENT ROW PCT COL PCT	3	4	6	7	TOTAL
ARMY	5 16.67 41.67 71.43	0 0.00 0.00 0.00	7 23.33 59.33 33.33	0 0.00 0.00 0.00	12 40.00
NAVY	1 3.33 10.00 14.29	1 3.33 10.00 100.00	7 23.33 70.00 33.33	1 3.33 10.00 100.00	10 33.33
AIR FORCE	1 3.33 16.67 14.29	0 0.00 0.00 0.00	5 16.67 83.33 23.81	0 0.00 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67 100.00 9.52	0 0.00 0.00 0.00	2 6.67
TOTAL	7 23.33	1 3.33	21 70.00	1 3.33	30 100.00

93. If special courts-martial could impose sentences of up to one year's confinement, would the number of punitive discharges decrease?

Yes, if sentencing by military judge only.....1
 Yes, if sentencing by members.....2
 Yes, regardless of who sentences....3
 No, if sentencing by military judge only.....4
 No, if sentencing by members.....5
 No, regardless of who sentences.....6
 Both 1 and 5.....7
 Both 2 and 4.....8

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD94

QD1	QD94					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	2	3	4	5	6	
ARMY	4 13.33 33.33 44.44	5 16.67 41.67 33.33	3 10.00 25.00 50.00			12 40.00
NAVY	3 10.00 30.00 33.33	5 16.67 50.00 33.33	2 6.67 20.00 33.33			10 33.33
AIR FORCE	1 3.33 16.67 11.11	4 13.33 66.67 26.67	1 3.33 16.67 16.67			6 20.00
COAST GUARD	1 3.33 50.00 11.11	1 3.33 50.00 6.67	0 0.00 0.00 0.00			2 6.67
TOTAL	9 30.00	15 50.00	6 20.00			30 100.00

94. How important is the Article 32 investigation as a discovery tool for the defense?

Not at all.....1
Slightly.....2
Somewhat.....3
Greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD95

QD1	QD95			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	12 40.00 100.00 46.15	0 0.00 0.00 0.00	0 0.00 0.00	12 40.00
NAVY	7 23.33 70.00 26.92	1 3.33 10.00 50.00	2 6.67 20.00 100.00	10 33.33
AIR FORCE	5 16.67 83.33 19.23	1 3.33 16.67 50.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 7.69	0 0.00 0.00 0.00	0 0.00 0.00	2 6.67
TOTAL	26 86.67	2 6.67	2 6.67	30 100.00

95. If SPCM jurisdiction were increased would you favor requiring the detailing of a military judge in every case?

Yes.....1
No.....2
No, but without military judge,
confinement should be limited
to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD96

QD1	QD96			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	12 40.00 100.00 44.44	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 40.00
NAVY	8 26.67 80.00 29.63	1 3.33 10.00 100.00	1 3.33 10.00 50.00	10 33.33
AIR FORCE	6 20.00 100.00 22.22	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	1 3.33 50.00 3.70	0 0.00 0.00 0.00	1 3.33 50.00 50.00	2 6.67
TOTAL	27 90.00	1 3.33	2 6.67	30 100.00

96. If SPCM jurisdiction were increased would you favor requiring representation by lawyer defense counsel?

Yes.....1
 No.....2
 No, but without representation
 by lawyer defense counsel,
 confinement should be
 limited to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD97

QD1 FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	TOTAL
ARMY	1 3.33 8.33 100.00	10 33.33 83.33 37.04	1 3.33 8.33 50.00	12 40.00
NAVY	0 0.00 0.00	9 30.00 90.00 33.33	1 3.33 10.00 50.00	10 33.33
AIR FORCE	0 0.00 0.00	6 20.00 100.00 22.22	0 0.00 0.00	6 20.00
COAST GUARD	0 0.00 0.00	2 6.67 100.00 7.41	0 0.00 0.00	2 6.67
TOTAL	1 3.33	27 90.00	2 6.67	30 100.00

97. Do you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?

Yes.....1
No.....2
No but if there is no investigation requirement, confinement should be limited to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD98

QD1	QD98			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	5 16.67 41.67 62.50	6 20.00 50.00 30.00	1 3.33 8.33 50.00	12 40.00
NAVY	0 0.00 0.00 0.00	9 30.00 90.00 45.00	1 3.33 10.00 50.00	10 33.33
AIR FORCE	2 6.67 33.33 25.00	4 13.33 66.67 20.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	1 3.33 50.00 12.50	1 3.33 50.00 5.00	0 0.00 0.00 0.00	2 6.67
TOTAL	8 26.67	20 66.67	2 6.67	30 100.00

98. If SPCM jurisdictional authority were increased, would you favor increasing to five the minimum number of required court members?

Yes.....1
No.....2
No, but if there are fewer than 5 members confinement should be limited to 6 months.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD99

QD1	QD99			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	10.00 25.00 37.50	26.67 66.67 40.00	3.33 8.33 50.00	12 40.00
NAVY	0.00 0.00 0.00	30.00 90.00 45.00	1 3.33 10.00 50.00	10 33.33
AIR FORCE	13.33 66.67 50.00	5.67 33.33 10.00	2 0.00 0.00	6 20.00
COAST GUARD	3.33 50.00 12.50	3.33 50.00 5.00	0 0.00 0.00	2 6.67
TOTAL	26.67	66.67	6.67	30 100.00

99. If SPCM jurisdictional authority were increased, would you favor a provision increasing to five the number of days required as a waiting period before trial?

Yes.....1
No.....2
No, but if trial before 5 days,
confinement should be limited
to 6 months3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD100

QD1	QD100			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	2 6.67 16.67 66.67	5 15.67 41.67 55.56	5 16.67 41.67 27.78	12 40.00
NAVY	1 3.33 10.00 33.33	2 6.67 20.00 22.22	7 23.33 70.00 38.89	10 33.33
AIR FORCE	0 0.00 0.00 0.00	1 3.33 16.67 11.11	5 16.67 83.33 27.78	6 20.00
COAST GUARD	0 0.00 0.00 0.00	1 3.33 50.00 11.11	1 3.33 50.00 5.56	2 6.67
TOTAL	3 10.00	9 30.00	18 60.00	30 100.00

100. If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?

Yes.....1
 No.....2
 Verbatim record only if BCD or
 over 6 months confinement
 adjudged.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD101

QD1	QD101			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	7 23.33 58.33 58.33	4 13.33 33.33 26.67	1 3.33 8.33 33.33	12 40.00
NAVY	2 6.67 20.00 16.67	7 23.33 70.00 46.67	1 3.33 10.00 33.33	10 33.33
AIR FORCE	2 6.67 33.33 16.67	3 10.00 50.00 20.00	1 3.33 16.67 33.33	6 20.00
COAST GUARD	1 3.33 50.00 8.33	1 3.33 50.00 6.67	0 0.00 0.00 0.00	2 6.67
TOTAL	12 40.00	15 50.00	3 10.00	30 100.00

101. If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the Office of the Judge Advocate General?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD102

QD1	QD102			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	11 36.67 91.67 40.74	1 3.33 8.33 100.00	0 0.00 0.00 0.00	12 40.00
NAVY	8 26.67 80.00 29.63	0 0.00 0.00 0.00	2 6.67 20.00 100.00	10 33.33
AIR FORCE	6 20.00 100.00 22.22	0 0.00 0.00 0.00	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 7.41	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 6.67
TOTAL	27 90.00	1 3.33	2 6.67	30 100.00

102. Do special court-martial judges whom you know have sufficient experience to award up to 1 year of confinement at a SPCM?

Yes.....1
No.....2
No opinion.....3.

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD103

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD103			TOTAL
	1	2	3	
ARMY	11 36.67 91.67 44.00	1 3.33 8.33 33.33	0 0.00 0.00 0.00	12 40.00
NAVY	9 26.67 80.00 32.00	2 6.67 20.00 66.67	0 0.00 0.00 0.00	10 33.33
AIR FORCE	5 16.67 83.33 20.00	0 0.00 0.00 0.00	1 3.33 16.67 50.00	6 20.00
COAST GUARD	1 3.33 50.00 4.00	0 0.00 0.00 0.00	1 3.33 50.00 50.00	2 6.67
TOTAL	25 83.33	10.00 3	6.67 2	30 100.00

103. Will increasing the jurisdiction of SPCMs reduce the number of GCMS?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD104

QD1	QD104		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	9	2	1	12
		.	32.14	7.14	3.57	42.86
		.	75.00	16.67	8.33	
		.	47.37	66.67	16.67	
NAVY		1	5	1	3	9
		.	17.86	3.57	10.71	32.14
		.	55.56	11.11	33.33	
		.	26.32	33.33	50.00	
AIR FORCE		0	4	0	2	6
		.	14.29	0.00	7.14	21.43
		.	66.67	0.00	33.33	
		.	21.05	0.00	33.33	
COAST GUARD		1	1	0	0	1
		.	3.57	0.00	0.00	3.57
		.	100.00	0.00	0.00	
		.	5.26	0.00	0.00	
TOTAL		.	19	3	6	28
		.	67.86	10.71	21.43	100.00

104. If so, is this a desirable end?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD105

QD1	QD105			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	2 6.67 16.67 66.67	10 33.33 33.33 40.00	0 0.00 0.00 0.00	12 40.00
NAVY	1 3.33 10.00 33.33	9 26.67 80.00 32.00	1 3.33 10.00 50.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	5 16.67 83.33 20.00	1 3.33 15.67 50.00	6 20.00
COAST GUARD	0 0.00 0.00 0.00	2 6.67 100.00 8.00	0 0.00 0.00 0.00	2 6.67
TOTAL	3 10.00	25 83.33	2 6.67	30 100.00

105. Would increasing the jurisdiction of SPCMs cause under referral of a significant number of cases?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD106

QD1	FREQUENCY PERCENT ROW PCT	QD106			TOTAL
	COL PCT	1	2	3	
ARMY	0	7	5	0	12
		26.92	19.23	0.00	46.15
		58.33	41.67	0.00	
		63.64	41.67	0.00	
NAVY	1	3	4	2	9
		11.54	15.38	7.69	34.62
		33.33	44.44	22.22	
		27.27	33.33	66.67	
AIR FORCE	3	1	1	1	3
		3.85	3.85	3.85	11.54
		33.33	33.33	33.33	
		9.09	8.33	33.33	
COAST GUARD	0	0	2	0	2
		0.00	7.69	0.00	7.69
		0.00	100.00	0.00	
		0.00	16.67	0.00	
TOTAL		11	12	3	26
		42.31	46.15	11.54	100.00

106. If so, should certain serious offenses be precluded from trial by special courts-martial?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD107

QD1 FREQUENCY PERCENT ROW PCT COL PCT	QD107		TOTAL
	1	2	
ARMY	11 36.67 91.67 37.93	1 3.33 8.33 100.00	12 40.00
NAVY	10 33.33 100.00 34.49	0 0.00 0.00 0.00	10 33.33
AIR FORCE	6 20.00 100.00 20.69	0 0.00 0.00 0.00	6 20.00
COAST GUARD	2 6.67 100.00 6.90	0 0.00 0.00 0.00	2 6.67
TOTAL	29 96.57	1 3.33	30 100.00

107. On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to one year?

Yes.....1
No.....2

FREQUENCIES BY SERVICE
TABLE OF QD1 BY QD108

QD1	QD108			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	5 20.00 50.00 60.00	4 13.33 33.33 23.53	2 6.67 16.67 66.67	12 40.00
NAVY	3 10.00 30.00 30.00	7 23.33 70.00 41.18	0 0.00 0.00 0.00	10 33.33
AIR FORCE	0 0.00 0.00 0.00	5 16.67 93.33 29.41	1 3.33 16.67 33.33	6 20.00
COAST GUARD	1 3.33 50.00 10.00	1 3.33 50.00 5.88	0 0.00 0.00 0.00	2 6.67
TOTAL	10 33.33	17 56.67	3 10.00	30 100.00

108. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for an offense, rather than the jurisdictional limit of the court, would determine the trial forum (i.e., Felony and Misdemeanor Courts)?

Yes.....1
No.....2
No opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE3

QE1	QE3	1	2	3	4	5	6	7	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0	0	0	0	.

ARMY	.	91	23	46	17	3	1	1	182
	.	27.58	6.97	13.94	5.15	0.91	0.30	0.30	55.15
	.	50.00	12.64	25.27	9.34	1.65	0.55	0.55	
NAVY	.	63.19	41.82	58.23	40.48	37.50	100.00	100.00	
	.	41	21	12	5	1	0	0	80
	.	12.42	6.36	3.64	1.52	0.30	0.00	0.00	24.24
MARINE CORPS	.	51.25	26.25	15.00	6.25	1.25	0.00	0.00	
	.	28.47	38.18	15.19	11.90	12.50	0.00	0.00	
	.	9	8	14	8	2	0	0	41
AIR FORCE	.	2.73	2.42	4.24	2.42	0.61	0.00	0.00	12.42
	.	21.95	19.51	34.15	19.51	4.88	0.00	0.00	
	.	6.25	14.55	17.72	19.05	25.00	0.00	0.00	
COAST GUARD	.	3	3	5	4	0	0	0	15
	.	0.91	0.91	1.52	1.21	0.00	0.00	0.00	4.55
	.	20.00	20.00	33.33	26.67	0.00	0.00	0.00	
TOTAL	.	2.08	5.45	6.33	9.52	0.00	0.00	0.00	
	.	0	0	2	8	2	0	0	12
	.	0.00	0.00	0.61	2.42	0.61	0.00	0.00	3.64
		0.00	0.00	16.67	66.67	16.67	0.00	0.00	
		0.00	0.00	2.53	19.05	25.00	0.00	0.00	
		144	55	79	42	8	1	1	330
		43.64	16.67	23.94	12.73	2.42	0.30	0.30	100.00

3. How many years of total active service?

0-3.....	1
4-5.....	2
6-10.....	3
11-15.....	4
16-20.....	5
21-25.....	6
over 25.....	7

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE4

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE4		TOTAL
	1	2	
.	1	0	.
.	.	.	.
.	.	.	.
ARMY	111	71	182
.	33.64	21.52	55.15
.	60.99	39.01	
.	47.64	73.20	
NAVY	65	15	80
.	19.70	4.55	24.24
.	81.25	18.75	
.	27.90	15.46	
MARINE CORPS	35	6	41
.	10.61	1.82	12.42
.	85.37	14.63	
.	15.02	5.19	
AIR FORCE	10	5	15
.	3.03	1.52	4.55
.	66.67	33.33	
.	4.29	5.15	
COAST GUARD	12	0	12
.	3.64	0.00	3.64
.	100.00	0.00	
.	5.15	0.00	
TOTAL	233	97	330
.	70.61	29.39	100.00

4. What is your current assignment location?

CONUS.....1
Outside CONUS.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE5

QE1	QE5	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	.

ARMY	.	105	52	9	14	180
	.	31.91	15.81	2.74	4.26	54.71
	.	58.33	28.89	5.00	7.78	
NAVY	.	60	6	15	0	81
	.	18.24	1.82	4.56	0.00	24.62
	.	74.07	7.41	18.52	0.00	
MARINE CORPS	.	31.09	6.82	53.57	0.00	
	.	21	14	2	4	41
	.	6.38	4.26	0.61	1.22	12.46
AIR FORCE	.	51.22	34.15	4.88	9.76	
	.	10.88	15.91	7.14	20.00	
	.	7	5	2	1	15
COAST GUARD	.	2.13	1.52	0.61	0.30	4.56
	.	46.67	33.33	13.33	6.67	
	.	3.63	5.68	7.14	5.00	
TOTAL	.	0	11	0	1	12
	.	0.00	3.34	0.00	0.30	3.65
	.	0.00	91.67	0.00	8.33	
		193	88	28	20	329
		58.66	26.75	8.51	6.08	100.00

5. Do you have any prior enlisted/officer non-judge advocate experience?

no.....1
officer.....2
enlisted.....3
officer and enlisted.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE6

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE6					TOTAL
	1	2	3	4	5	
ARMY	3	24	57	7	2	180
	27.52	7.34	17.43	2.14	0.61	55.05
	50.00	13.33	31.67	3.89	1.11	
	53.25	60.00	60.64	33.33	66.67	
NAVY	2	10	15	2	0	79
	15.90	3.06	4.59	0.61	0.00	24.16
	65.82	12.66	18.99	2.53	0.00	
	30.77	25.00	15.96	9.52	0.00	
MARINE CORPS	0	6	11	5	1	41
	5.50	1.83	3.36	1.53	0.31	12.54
	43.90	14.63	26.83	12.20	2.44	
	10.65	15.00	11.70	23.81	33.33	
AIR FORCE	0	0	4	2	0	15
	2.75	0.00	1.22	0.61	0.00	4.59
	60.00	0.00	26.67	13.33	0.00	
	5.33	0.00	4.26	9.52	0.00	
COAST GUARD	0	0	7	5	0	12
	0.00	0.00	2.14	1.53	0.00	3.67
	0.00	0.00	58.33	41.67	0.00	
	0.00	0.00	7.45	23.81	0.00	
TOTAL	169	40	94	21	3	327
	51.68	12.23	28.75	6.42	0.92	100.00

6. How many years non-judge advocate experience do you have?

none.....1
 less than 2 years.....2
 2-6 years.....3
 7-10 years.....4
 over 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE7

QE1	QE7						TOTAL
FREQUENCY PERCENT ROW PCT	1	2	3	4	5	6	
COL PCT							
ARMY	1 10.57 19.23 55.56	0 15.11 27.47 53.19	0 17.22 31.32 63.33	0 6.34 11.54 51.22	0 3.02 5.49 47.62	0 2.72 4.95 40.91	182 54.98
NAVY	0 6.34 25.93 33.33	26 7.85 32.10 27.66	24 7.25 29.63 26.67	8 2.42 9.88 19.51	1 0.30 1.23 4.76	1 0.30 1.23 4.55	81 24.47
MARINE CORPS	0 1.81 14.63 9.52	16 4.83 39.02 17.02	7 2.11 17.07 7.78	7 2.11 17.07 17.07	4 1.21 9.76 19.05	1 0.30 2.44 4.55	41 12.39
AIR FORCE	0 0.30 6.67 1.59	2 0.60 13.33 2.13	2 0.60 13.33 2.22	4 1.21 26.67 9.76	3 0.91 20.00 14.29	3 0.91 20.00 13.64	15 4.53
COAST GUARD	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.30 8.33 2.44	3 0.91 25.00 14.29	8 2.42 66.67 36.36	12 3.63
TOTAL	63 19.03	94 28.40	90 27.19	41 12.39	21 6.34	22 6.65	331 100.00

7. How long have you been a trial counsel?

- less than 6 months.....1
- 6 months-1 year.....2
- 1-2 years.....3
- 2-3 years.....4
- 3-4 years.....5
- over 4 years.....6

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE8

QE1	QE8	1	2	3	4	TOTAL
FREQUENCY		1	0	0	0	0
PERCENT		100	0	0	0	100
ROW PCT		100	0	0	0	100
COL PCT		100	0	0	0	100
ARMY		109	44	14	14	181
		33.13	13.37	4.26	4.26	55.02
		60.22	24.31	7.73	7.73	
		73.65	46.81	35.00	29.79	
NAVY		16	27	20	18	81
		4.86	8.21	6.08	5.47	24.62
		19.75	33.33	24.69	22.22	
		10.81	28.72	50.00	38.30	
MARINE CORPS		9	13	4	14	40
		2.74	3.95	1.22	4.26	12.16
		22.50	32.50	10.00	35.00	
		6.08	13.83	10.00	29.79	
AIR FORCE		7	6	1	1	15
		2.13	1.82	0.30	0.30	4.56
		46.67	40.00	6.67	6.67	
		4.73	6.38	2.50	2.13	
COAST GUARD		7	4	1	0	12
		2.13	1.22	0.30	0.00	3.65
		58.33	33.33	8.33	0.00	
		4.73	4.26	2.50	0.00	
TOTAL		148	94	40	47	329
		44.98	28.57	12.16	14.29	100.00

8. How many SPCM cases have you tried as trial counsel?

less than 20.....1
20-50.....2
51-100.....3
over 100.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE9

QE1	QE9	1	2	3	4	5	TOTAL
ARMY	FREQUENCY	1	0	0	0	0	•
	PERCENT	•	•	•	•	•	•
	ROW PCT	•	•	•	•	•	•
NAVY	FREQUENCY	29	75	41	21	15	181
	PERCENT	8.79	22.73	12.42	6.36	4.55	54.85
	ROW PCT	16.02	41.44	22.65	11.60	8.29	•
MARINE CORPS	FREQUENCY	20	35	21	4	1	81
	PERCENT	6.06	10.61	6.36	1.21	0.30	24.55
	ROW PCT	24.69	43.21	25.93	4.94	1.23	•
AIR FORCE	FREQUENCY	7	17	10	6	1	41
	PERCENT	2.12	5.15	3.03	1.82	0.30	12.42
	ROW PCT	17.07	41.46	24.39	14.63	2.44	•
COAST GUARD	FREQUENCY	0	1	6	3	5	15
	PERCENT	0.00	0.30	1.82	0.91	1.52	4.55
	ROW PCT	0.00	6.67	40.00	20.00	33.33	•
TOTAL		63	133	78	34	22	330
		19.09	40.30	23.64	10.30	6.67	100.00

9. How many GCM cases have you tried as trial counsel?

none.....1
less than 10.....2
11-25.....3
26-50.....4
over 50.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE10

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE10		TOTAL
	1	2	
ARMY	139 42.12 76.80 53.26	42 12.73 23.20 60.87	181 54.85
NAVY	72 21.82 88.89 27.59	9 2.73 11.11 13.04	81 24.55
MARINE CORPS	34 10.30 82.93 13.03	7 2.12 17.07 10.14	41 12.42
AIR FORCE	15 4.55 100.00 5.75	0 0.00 0.00 0.00	15 4.55
COAST GUARD	1 0.30 8.33 0.38	11 3.33 91.67 15.94	12 3.64
TOTAL	261 79.09	69 20.91	330 100.00

10. Are you a full-time trial counsel?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE11

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE11		TOTAL
	1	2	
.	1	0	.
.	.	.	.
.	.	.	.
ARMY	1	8	174
	.	2.42	52.57
	.	4.40	95.60
	.	40.00	55.95
NAVY	0	5	76
	.	1.51	22.96
	.	6.17	93.83
	.	25.00	24.44
MARINE CORPS	0	1	40
	.	0.30	12.08
	.	2.44	97.56
	.	5.00	12.86
AIR FORCE	0	2	13
	.	0.60	3.93
	.	13.33	86.67
	.	10.00	4.18
COAST GUARD	0	4	8
	.	1.21	2.42
	.	33.33	66.67
	.	20.00	2.57
TOTAL	.	20	331
	.	6.04	93.96
	.		100.00

11. Are you aware of any instances in which a military judge has been threatened with reassignment or actually reassigned because of the military judge's decisions?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE12

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE12				TOTAL
	2	1	2	3	
.	0	.	.	.	.
ARMY	174	6	3	0	9
	25.00	12.50	0.00	0.00	37.50
	66.67	33.33	0.00	0.00	
	35.29	50.00	0.00	0.00	
NAVY	74	5	2	0	7
	20.83	8.33	28.57	0.00	29.17
	71.43	33.33	0.00	0.00	
	29.41	0.00	0.00	0.00	
MARINE CORPS	39	2	0	0	2
	8.33	0.00	0.00	0.00	8.33
	100.00	0.00	0.00	0.00	
	11.76	0.00	0.00	0.00	
AIR FORCE	13	1	1	0	2
	4.17	4.17	0.00	0.00	8.33
	50.00	50.00	0.00	0.00	
	5.88	16.67	0.00	0.00	
COAST GUARD	8	3	0	1	4
	12.50	0.00	4.17	25.00	16.67
	75.00	0.00	0.00	100.00	
	17.65	0.00	0.00	0.00	
TOTAL	17	6	1	1	24
	70.83	25.00	4.17	100.00	

12. If yes, how often?

once.....1
seldom.....2
sometimes.....3
frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE13

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE13		TOTAL
	1	2	
.	1	0	.
.	.	.	.
.	.	.	.
ARMY	6	135	177
	12.96	41.67	54.63
	23.73	76.27	
	36.21	64.90	
NAVY	1	36	80
	13.58	11.11	24.69
	55.00	45.00	
	37.93	17.31	
MARINE CORPS	1	25	40
	4.63	7.72	12.35
	37.50	62.50	
	12.93	12.02	
AIR FORCE	0	6	15
	2.78	1.85	4.63
	60.00	40.00	
	7.76	2.88	
COAST GUARD	0	6	12
	1.85	1.85	3.70
	50.00	50.00	
	5.17	2.88	
TOTAL	116	208	324
	35.80	64.20	100.00

13. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judge's superior for court-related decisions?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE14

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE14				TOTAL
	1	2	3	4	
	0	0	0	0	0

ARMY	16	13	8	4	41
	14.04	11.40	7.02	3.51	35.96
	39.02	31.71	19.51	9.76	
	44.44	30.95	29.63	44.44	
NAVY	11	17	13	3	44
	9.65	14.91	11.40	2.63	38.60
	25.00	38.64	29.55	6.82	
	30.56	40.48	48.15	33.33	
MARINE CORPS	3	8	4	0	15
	2.63	7.02	3.51	0.00	13.16
	20.00	53.33	26.67	0.00	
	8.33	19.05	14.81	0.00	
AIR FORCE	2	3	1	2	8
	1.75	2.63	0.88	1.75	7.02
	25.00	37.50	12.50	25.00	
	5.56	7.14	3.70	22.22	
COAST GUARD	4	1	1	0	6
	3.51	0.88	0.88	0.00	5.26
	66.67	16.67	16.67	0.00	
	11.11	2.38	3.70	0.00	
TOTAL	36	42	27	9	114
	31.58	36.84	23.68	7.89	100.00

14. If yes, how often?

once.....1
seldom.....2
sometimes.....3
frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE15

QE1	QE15	1	2	3	4	TOTAL
FREQUENCY		0	0	0	0	0
PERCENT		.	.	.	.	.
ROW PCT		.	.	.	.	.
COL PCT		.	.	.	.	.
ARMY	141	6 5.36 14.29 33.33	24 21.43 57.14 45.28	4 3.57 9.52 44.44	8 7.14 19.05 25.00	42 37.50
NAVY	40	6 5.36 14.63 33.33	14 12.50 34.15 26.42	3 2.68 7.32 33.33	18 16.07 43.90 56.25	41 36.61
MARINE CORPS	26	5 4.46 33.33 27.78	8 7.14 53.33 15.09	0 0.00 0.00 0.00	2 1.79 13.33 6.25	15 13.39
AIR FORCE	7	0 0.00 0.00 0.00	3 2.68 37.50 5.66	2 1.79 25.00 22.22	3 2.68 37.50 9.38	8 7.14
COAST GUARD	6	1 0.89 16.67 5.56	4 3.57 66.67 7.55	0 0.00 0.00 0.00	1 0.89 16.67 3.13	6 5.36
TOTAL		18 16.07	53 47.32	9 8.04	32 28.57	112 100.00

15. If your answer to number 13 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds.

- usually findings.....1
- usually sentence.....2
- usually on other grounds.....3
- about equally on all of the above.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE16

QE1	QE16			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
	2	0	0	.

ARMY	139	2	10	44
	1.69	27.12	8.47	37.29
	4.55	72.73	22.73	
	22.22	40.00	34.48	
NAVY	36	6	10	45
	5.08	24.58	8.47	38.14
	13.33	64.44	22.22	
	66.67	36.25	34.48	
MARINE CORPS	26	1	5	15
	0.85	7.63	4.24	12.71
	6.67	60.00	33.33	
	11.11	11.25	17.24	
AIR FORCE	7	0	2	8
	0.00	5.08	1.69	6.78
	0.00	75.00	25.00	
	0.00	7.50	6.90	
COAST GUARD	6	0	2	6
	0.00	3.39	1.69	5.08
	0.00	66.67	33.33	
	0.00	5.00	6.90	
TOTAL	.	9	29	118
	7.63	67.80	24.58	100.00

16. If your answer to number 13 is yes, did the criticism impact on the judges' subsequent decisions?

Yes.....1
no.....2
don't know.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE17

QE1	QE17	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	1	0	.

ARMY	.	37 11.25 20.44 57.81	63 19.15 34.81 64.95	48 14.59 26.52 48.48	33 10.03 18.23 47.83	181 55.02
NAVY	.	14 4.26 17.50 21.88	16 4.86 20.00 16.49	28 8.51 35.00 28.28	22 6.69 27.50 31.88	80 24.32
MARINE CORPS	.	8 2.43 19.51 12.50	11 3.34 26.83 11.34	13 3.95 31.71 13.13	9 2.74 21.95 13.04	41 12.46
AIR FORCE	.	3 0.91 20.00 4.69	3 0.91 20.00 3.09	6 1.82 40.00 6.06	3 0.91 20.00 4.35	15 4.56
COAST GUARD	.	2 0.61 16.67 3.13	4 1.22 33.33 4.12	4 1.22 33.33 4.04	2 0.61 16.67 2.90	12 3.65
TOTAL	.	64 19.45	97 29.48	99 30.09	69 20.97	329 100.00

17. To what extent do you believe that a guaranteed term of office would create the appearance of a more independent and fair military judiciary?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE18

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE18					TOTAL
	0	1	2	3	4	
ARMY	1 23.94 43.41 59.40	1 79 23.94 43.41 59.40	56 16.97 30.77 57.14	35 10.61 19.23 47.95	12 3.64 6.59 46.15	182 55.15
NAVY	1	25 7.58 31.25 18.80	24 7.27 30.00 24.49	24 7.27 30.00 32.88	7 2.12 8.75 26.92	80 24.24
MARINE CORPS	0	18 5.45 43.90 13.53	12 3.64 29.27 12.24	7 2.12 17.07 9.59	4 1.21 9.76 15.38	41 12.42
AIR FORCE	0	6 1.82 40.00 4.51	3 0.91 20.00 3.06	5 1.52 33.33 6.85	1 0.30 6.67 3.95	15 4.55
COAST GUARD	0	5 1.52 41.67 3.76	3 0.91 25.00 3.06	2 0.61 16.67 2.74	2 0.61 16.67 7.69	12 3.64
TOTAL	0	133 40.30	98 29.70	73 22.12	26 7.88	330 100.00

18. To what extent do you believe that a guaranteed term of office would actually create a more independent and fair military judiciary?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE19

QE1	QE19	0	1	2	3	4	TOTAL
FREQUENCY		1	0	46	64	22	182
PERCENT		0	0	13.90	19.34	6.65	54.98
ROW PCT		0	0	25.27	35.16	12.09	
COL PCT		0	0	60.53	55.65	41.51	
ARMY		0	13	16	33	19	81
		0	3.93	4.83	9.97	5.74	24.47
		0	16.05	19.75	40.74	23.46	
		0	14.94	21.05	28.70	35.85	
NAVY		0	15	9	12	5	41
		0	4.53	2.72	3.63	1.51	12.39
		0	36.59	21.95	29.27	12.20	
		0	17.24	11.84	10.43	9.43	
MARINE CORPS		0	6	0	5	4	15
		0	1.81	0.00	1.51	1.21	4.53
		0	40.00	0.00	33.33	26.67	
		0	6.90	0.00	4.35	7.55	
AIR FORCE		0	3	5	1	3	12
		0	0.91	1.51	0.30	0.91	3.63
		0	25.00	41.67	8.33	25.00	
		0	3.45	6.58	0.87	5.66	
COAST GUARD		0	87	76	115	53	331
		0	26.28	22.96	34.74	16.01	100.00
TOTAL		0	87	76	115	53	331

19. To what extent do you believe that experience as a military judge with a guaranteed term of office would contribute to a more professionally competent military judiciary?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE20

QE1	QE20	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	.

ARMY	.	84	69	29	182
	.	25.45	20.91	8.79	55.15
	.	46.15	37.91	15.93	
NAVY	.	57.53	53.08	53.70	
	.	26	41	14	81
	.	7.88	12.42	4.24	24.55
MARINE CORPS	.	32.10	50.62	17.28	
	.	17.81	31.54	25.93	
	.	22	10	8	40
AIR FORCE	.	6.67	3.03	2.42	12.12
	.	55.00	25.00	20.00	
	.	15.07	7.69	14.81	
COAST GUARD	.	9	4	2	15
	.	2.73	1.21	0.61	4.55
	.	60.00	26.67	13.33	
TOTAL	.	6.16	3.08	3.70	
	.	5	6	1	12
	.	1.52	1.82	0.30	3.64
.	41.67	50.00	8.33		
.	3.42	4.62	1.85		
.	146	130	54	330	
.	44.24	39.39	16.36	100.00	

20. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE21

QE1	QE21	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT	.	1	0	1	.

ARMY	1	38	120	24	182
	.	11.55	36.47	7.29	55.32
	.	20.88	65.93	13.19	
NAVY	0	6	64	11	81
	.	1.82	19.45	3.34	24.62
	.	7.41	79.01	13.58	
MARINE CORPS	2	6	30	3	39
	.	1.82	9.12	0.91	11.85
	.	15.38	76.92	7.69	
AIR FORCE	0	5	6	4	15
	.	1.52	1.82	1.22	4.56
	.	33.33	40.00	26.67	
COAST GUARD	0	1	8	3	12
	.	0.30	2.43	0.91	3.65
	.	8.33	66.67	25.00	
TOTAL	.	56	228	45	329
	.	17.02	69.30	13.68	100.00

21. Would guaranteed terms of office for military judges give judges too much independence?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE22

QE1 FREQUENCY ROW PCT COL PCT	QE22			TOTAL
	1	2	3	
ARMY	4 11.04 20.11 40.91	36 30.98 56.42 59.76	101 12.88 23.46 60.87	179 54.91
NAVY	1 8.20 36.25 32.95	29 10.43 42.50 20.12	34 5.21 21.25 24.64	80 24.54
MARINE CORPS	1 4.29 35.00 15.91	14 5.52 45.00 10.65	18 2.45 20.00 11.59	40 12.27
AIR FORCE	0 2.15 46.67 7.95	7 2.45 53.33 4.73	8 0.00 0.00 0.00	15 4.60
COAST GUARD	0 0.61 16.67 2.27	2 2.45 66.67 4.73	8 0.61 16.67 2.90	12 3.68
TOTAL	88 26.99	169 51.84	69 21.17	326 100.00

22. How do you view assignment as a military judge in terms of career enhancement?

- not very career enhancing.....1
- somewhat career enhancing.....2
- very career enhancing.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE23

QE1	QE23	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	.

ARMY	.	17	98	66	181
	.	5.15	29.70	20.00	54.85
	.	9.39	54.14	36.46	
NAVY	.	6	42	33	81
	.	1.82	12.73	10.00	24.55
	.	7.41	51.85	40.74	
MARINE CORPS	.	3	19	19	41
	.	0.91	5.76	5.76	12.42
	.	7.32	46.34	46.34	
AIR FORCE	.	0	13	2	15
	.	0.00	3.94	0.61	4.55
	.	0.00	86.67	13.33	
COAST GUARD	.	0	7	5	12
	.	0.00	2.12	1.52	3.64
	.	0.00	58.33	41.67	
TOTAL	.	26	179	125	330
	.	7.88	54.24	37.88	100.00

23. Is O-6 assignment to military judge duty considered the type of duty that is career-enhancing for competition for selection for flag or general officer rank?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE24

QE1	QE24	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0	.

ARMY		2	42	66	73	181
		.	12.77	20.06	22.19	55.02
		.	23.20	36.46	40.33	
		.	63.64	54.10	51.77	
NAVY		1	14	27	39	80
		.	4.26	8.21	11.85	24.32
		.	17.50	33.75	48.75	
		.	21.21	22.13	27.66	
MARINE CORPS		0	9	9	23	41
		.	2.74	2.74	6.99	12.46
		.	21.95	21.95	56.10	
		.	13.64	7.38	16.31	
AIR FORCE		0	0	12	3	15
		.	0.00	3.65	0.91	4.56
		.	0.00	80.00	20.00	
		.	0.00	9.84	2.13	
COAST GUARD		0	1	8	3	12
		.	0.30	2.43	0.91	3.65
		.	8.33	66.67	25.00	
		.	1.52	6.56	2.13	
TOTAL		.	66	122	141	329
		.	20.06	37.08	42.86	100.00

24. Is O-6 assignment to duty at the Court of Military Review considered the type of duty that is career-enhancing for competition for selection to flag or general officer rank?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE25

QE1	QE25	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1

ARMY	.	111	14	57	182
	.	33.53	4.23	17.22	54.98
	.	60.99	7.69	31.32	60.64
NAVY	.	57	3	21	81
	.	17.22	0.91	6.34	24.47
	.	70.37	3.70	25.93	22.34
MARINE CORPS	.	29	2	10	41
	.	8.76	0.60	3.02	12.39
	.	70.73	4.88	24.39	10.64
AIR FORCE	.	13	0	2	15
	.	3.93	0.00	0.60	4.53
	.	86.67	0.00	13.33	2.13
COAST GUARD	.	6	2	4	12
	.	1.81	0.60	1.21	3.63
	.	50.00	16.67	33.33	4.26
TOTAL	.	216	21	94	331
	.	65.26	6.34	29.40	100.00

25. If there were flag and general officer billets on the Court of Military Review, would judicial duty be more career enhancing?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE26

QE1	QE26				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	
ARMY	1 32.12 58.24 51.96	106 3.94 7.14 54.17	13 19.09 34.62 61.76	0 0 0 0	182 55.15
NAVY	1 16.36 67.50 26.47	54 1.82 7.50 25.00	6 6.06 25.00 19.61	20 0 0 0	80 24.24
MARINE CORPS	0 8.48 68.29 13.73	28 0.61 4.88 8.33	11 3.33 26.83 10.78	0 0 0 0	41 12.42
AIR FORCE	0 3.64 80.00 5.88	12 0.00 0.00 0.00	3 0.91 20.00 2.94	0 0 0 0	15 4.55
COAST GUARD	0 1.21 33.33 1.96	4 0.91 25.00 12.50	5 1.52 41.67 4.90	0 0 0 0	12 3.64
TOTAL	0 61.82	204 7.27	102 30.91	0 0	330 100.00

26. If there were flag and general officer billets on the Court of Military Appeals, would judicial duty be more career enhancing?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE27

QE1	QE27	0	1	2	3	4	TOTAL
FREQUENCY ROW PCT COL PCT							
ARMY	0	1	23	73	80	6	182
	1	0	6.97	22.12	24.24	1.82	55.15
	2	0	12.64	40.11	43.96	3.30	
	3	0	56.10	51.05	60.15	46.15	
NAVY	0	0	12	44	22	3	81
	1	0	3.64	13.33	6.67	0.91	24.55
	2	0	14.81	54.32	27.16	3.70	
	3	0	29.27	30.77	16.54	23.08	
MARINE CORPS	0	0	3	17	18	3	41
	1	0	0.91	5.15	5.45	0.91	12.42
	2	0	7.32	41.46	43.90	7.32	
	3	0	7.32	11.89	13.53	23.08	
AIR FORCE	1	1	2	5	7	0	14
	2	0	0.61	1.52	2.12	0.00	4.24
	3	0	14.29	35.71	50.00	0.00	
	4	0	4.88	3.50	5.26	0.00	
COAST GUARD	0	0	1	4	6	1	12
	1	0	0.30	1.21	1.82	0.30	3.64
	2	0	8.33	33.33	50.00	8.33	
	3	0	2.44	2.80	4.51	7.69	
TOTAL	0	0	41	143	133	13	330
	1	0	12.42	43.33	40.30	3.94	100.00

27. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?

- much more attractive.....1
- somewhat more attractive.....2
- no effect.....3
- somewhat less attractive.....4
- much less attractive.....5

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE28

QE1	QE28	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	•
	.	•	•	•	•	•
	.	•	•	•	•	•
ARMY		44 13.29 24.18 55.00	93 28.10 51.10 55.36	38 11.48 20.88 55.07	7 2.11 3.85 50.00	182 54.98
NAVY		16 4.83 19.75 20.00	39 11.78 48.15 23.21	21 6.34 25.93 30.43	5 1.51 6.17 35.71	81 24.47
MARINE CORPS		12 3.63 29.27 15.00	22 6.65 53.66 13.10	6 1.91 14.63 8.70	1 0.30 2.44 7.14	41 12.39
AIR FORCE		3 0.91 20.00 3.75	8 2.42 53.33 4.76	3 0.91 20.00 4.35	1 0.30 6.67 7.14	15 4.53
COAST GUARD		5 1.51 41.57 6.25	6 1.81 50.00 3.57	1 0.30 9.33 1.45	0 0.00 0.00 0.00	12 3.63
TOTAL		80 24.17	168 50.76	69 20.85	14 4.23	331 100.00

28. If a guaranteed term of office provision were enacted, what length of time should it contain for judges of the Courts of Military Review?

normal tour length.....1
3-5 years.....2
6-10 years.....3
over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE29

QE1	QE29	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	.

ARMY		64	83	29	6	182
		19.39	25.15	8.79	1.82	55.15
		35.16	45.60	15.93	3.30	
		57.66	56.08	49.15	50.00	
NAVY		21	36	18	5	80
		6.36	10.91	5.45	1.52	24.24
		26.25	45.00	22.50	6.25	
		18.92	24.32	30.51	41.67	
MARINE CORPS		15	16	10	0	41
		4.55	4.85	3.03	0.00	12.42
		36.59	39.02	24.39	0.00	
		13.51	10.81	16.95	0.00	
AIR FORCE		5	7	2	1	15
		1.52	2.12	0.61	0.30	4.55
		33.33	46.67	13.33	6.67	
		4.50	4.73	3.39	8.33	
COAST GUARD		6	6	0	0	12
		1.82	1.82	0.00	0.00	3.64
		50.00	50.00	0.00	0.00	
		5.41	4.05	0.00	0.00	
TOTAL		111	148	59	12	330
		33.64	44.85	17.88	3.64	100.00

29. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?

normal tour length.....1
3-5 years.....2
6-10 years.....3
over 10 years.....4

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE30

QE1	QE30				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	107 32.62 58.79 60.80	63 19.21 34.62 50.81	10 3.05 5.49 43.48	2 0.61 1.10 40.00	182 55.49
NAVY	34 10.37 43.04 19.32	32 9.76 40.51 25.81	10 3.05 12.66 43.48	3 0.91 3.80 60.00	79 24.09
MARINE CORPS	21 6.40 52.50 11.93	16 4.88 40.00 12.90	3 0.91 7.50 13.04	0 0.00 0.00 0.00	40 12.20
AIR FORCE	7 2.13 46.67 3.98	8 2.44 53.33 6.45	0 0.00 0.00 0.00	0 0.00 0.00 0.00	15 4.57
COAST GUARD	7 2.13 58.33 3.98	5 1.52 41.67 4.03	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 3.66
TOTAL	176 53.66	124 37.80	23 7.01	5 1.52	328 100.00

30. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?

- normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE31

QE1	QE31	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	1	0	0	0

ARMY	.	142	42.90	32	8	182
	.	78.02	17.58	9.67	2.42	54.98
	.	57.26	49.23	17.58	4.40	44.44
NAVY	0	55	16.62	21	5	81
	.	67.90	6.34	6.34	1.51	24.47
	.	22.18	25.93	32.31	6.17	41
MARINE CORPS	0	31	9.37	9	1	41
	.	75.61	21.95	2.72	0.30	12.39
	.	12.50	13.85	13.85	2.44	15
AIR FORCE	0	13	3.93	0	2	15
	.	86.67	0.00	0.00	0.60	4.53
	.	5.24	0.00	0.00	13.33	12
COAST GUARD	0	7	2.11	3	2	12
	.	58.33	25.00	0.91	0.60	3.63
	.	2.82	4.62	4.62	11.11	331
TOTAL	.	248	74.92	65	18	331
				19.64	5.44	100.00

31. If a guaranteed term of office provision were enacted should new judges be required to complete a probationary period?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE32

QE1	QE32	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	0	.

ARMY	1	36 10.91 19.78 61.02	55 16.67 30.22 51.40	82 24.85 45.05 57.75	8 2.42 4.40 42.11	1 0.30 0.55 33.33	182 55.15
NAVY	1	10 3.03 12.50 16.95	33 10.00 41.25 30.84	30 9.09 37.50 21.13	6 1.82 7.50 31.58	1 0.30 1.25 33.33	80 24.24
MARINE CORPS	0	9 2.73 21.95 15.25	14 4.24 34.15 13.08	14 4.24 34.15 9.86	3 0.91 7.32 15.79	1 0.30 2.44 33.33	41 12.42
AIR FORCE	0	2 0.61 13.33 3.39	3 0.91 20.00 2.80	10 3.03 66.67 7.04	0 0.00 0.00 0.00	0 0.00 0.00 0.00	15 4.55
COAST GUARD	0	2 0.61 16.67 3.39	2 0.61 16.67 1.87	6 1.82 50.00 4.23	2 0.61 16.67 10.53	0 0.00 0.00 0.00	12 3.64
TOTAL	.	59 17.88	107 32.42	142 43.03	19 5.76	3 0.91	330 100.00

32. How would guaranteed terms of office affect your view of military judge assignments?

much more attractive.....1
 somewhat more attractive.....2
 no effect.....3
 somewhat less attractive.....4
 much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE33

QE1	QE33	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT		1	0	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		1	93	73	16	182
		•	28.18	22.12	4.85	55.15
		•	51.10	40.11	8.79	
		•	55.36	58.87	42.11	
NAVY		1	44	25	11	80
		•	13.33	7.58	3.33	24.24
		•	55.00	31.25	13.75	
		•	26.19	20.16	28.95	
MARINE CORPS		0	16	18	7	41
		•	4.85	5.45	2.12	12.42
		•	39.02	43.90	17.07	
		•	9.52	14.52	18.42	
AIR FORCE		0	11	2	2	15
		•	3.33	0.61	0.61	4.55
		•	73.33	13.33	13.33	
		•	6.55	1.61	5.26	
COAST GUARD		0	4	6	2	12
		•	1.21	1.82	0.61	3.64
		•	33.33	50.00	16.67	
		•	2.38	4.84	5.26	
TOTAL		•	168	124	38	330
		•	50.91	37.58	11.52	100.00

33. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE34

QE1	QE34	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0

ARMY	.	13	151	18	182
	.	3.96	46.04	5.49	55.49
	.	7.14	82.97	9.89	98.99
NAVY	.	7	59	13	79
	.	2.13	17.99	3.96	24.09
	.	8.86	74.68	16.46	96.00
MARINE CORPS	.	22.58	23.05	31.71	77.34
	.	4	31	5	40
	.	1.22	9.45	1.52	12.20
AIR FORCE	.	10.00	77.50	12.50	100.00
	.	12.90	12.11	12.20	37.21
	.	4	10	1	15
COAST GUARD	.	1.22	3.05	0.30	4.57
	.	26.67	66.67	6.67	100.00
	.	12.90	3.91	2.44	19.25
TOTAL	.	31	256	41	328
	.	9.45	78.05	12.50	100.00
	.				

34. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE35

QE1	QE35	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		47	37	59	37	180
		14.55	11.46	18.27	11.46	55.73
		26.11	20.56	32.78	20.56	
		55.95	60.66	56.73	50.00	
NAVY		24	16	23	13	76
		7.43	4.95	7.12	4.02	23.53
		31.58	21.05	30.26	17.11	
		28.57	26.23	22.12	17.57	
MARINE CORPS		5	6	13	16	40
		1.55	1.86	4.02	4.95	12.38
		12.50	15.00	32.50	40.00	
		5.95	9.84	12.50	21.62	
AIR FORCE		5	1	6	3	15
		1.55	0.31	1.86	0.93	4.64
		33.33	6.67	40.00	20.00	
		5.95	1.64	5.77	4.05	
COAST GUARD		3	1	3	5	12
		0.93	0.31	0.93	1.55	3.72
		25.00	8.33	25.00	41.67	
		3.57	1.64	2.88	6.76	
TOTAL		84	61	104	74	323
		26.01	18.89	32.20	22.91	100.00

35. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?

- no.....1
- slightly.....2
- somewhat.....3
- greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE36

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE36		TOTAL
	1	2	
.	1	0	1
.	.	.	.
.	.	.	.
ARMY	2	105	181
.	32.01	23.17	55.18
.	58.01	41.99	
.	52.76	58.91	
NAVY	1	58	80
.	17.68	6.71	24.39
.	72.50	27.50	
.	29.15	17.05	
MARINE CORPS	1	21	40
.	6.40	5.79	12.20
.	52.50	47.50	
.	10.55	14.73	
AIR FORCE	0	9	15
.	2.74	1.83	4.57
.	60.00	40.00	
.	4.52	4.65	
COAST GUARD	0	6	12
.	1.83	1.83	3.66
.	50.00	50.00	
.	3.02	4.65	
TOTAL	199	129	328
.	60.67	39.33	100.00

36. On balance, do you favor some provision for guaranteed terms of office for military trial judges?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE37

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE37		TOTAL
	0	1	2
ARMY	1 37.27 67.58 54.42	0 123 37.27 67.58 54.42	1 59 17.88 32.42 56.73
NAVY	0 19.39 79.01 28.32	64 19.39 79.01 28.32	17 5.15 20.99 16.35
MARINE CORPS	1 7.58 62.50 11.06	25 7.58 62.50 11.06	15 4.55 37.50 14.42
AIR FORCE	0 2.73 60.00 3.98	9 2.73 60.00 3.98	6 1.82 40.00 5.77
COAST GUARD	0 1.52 41.67 2.21	5 1.52 41.67 2.21	7 2.12 58.33 6.73
TOTAL	1 226 68.48	0 226 68.48	104 31.52
	330 100.00		

37. On balance, do you favor some provision for guaranteed terms of office for CMR judges?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE38

QE1	QE38		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	5	8	178 54.94
	170	2.47	
	52.47	4.49	
	95.51	17.39	
	61.15		
NAVY	1	12	80 24.69
	68	3.70	
	20.99	15.00	
	85.00	26.09	
	24.46		
MARINE CORPS	2	3	39 12.04
	36	0.93	
	11.11	7.69	
	92.31	6.52	
	12.95		
AIR FORCE	0	14	15 4.63
	1	4.32	
	0.31	93.33	
	6.67	30.43	
	0.36		
COAST GUARD	0	9	12 3.70
	3	2.78	
	0.93	75.00	
	25.00	19.57	
	1.08		
TOTAL	278	46	324 100.00
	85.80	14.20	

38. Do you try cases primarily at a single location or do you ride a circuit?

single location.....1
circuit.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE39

QE1	QE39	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT	COL PCT						
ARMY	11	13 4.09	11 3.46	46 14.47	53 16.67	49 15.41	172 54.09
NAVY	2	1 0.31	1 0.31	2 0.63	15 4.72	60 18.87	79 24.84
MARINE CORPS	0	5 1.57	2 0.63	6 1.89	10 3.14	18 5.66	41 12.89
AIR FORCE	0	4 1.26	1 0.31	4 1.26	3 0.94	3 0.94	15 4.72
COAST GUARD	1	6 1.89	1 0.31	4 1.26	0 0.00	0 0.00	11 3.46
TOTAL		29 9.12	16 5.03	62 19.50	81 25.47	130 40.88	318 100.00

39. What percentage of cases that you tried in the past year were before military judge alone?

less than 10%.....1
10-25%.....2
26-50%.....3
51-75%.....4
over 75%.....5

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE40

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE40					TOTAL
	1	2	3	4	5	
ARMY	8 17.13 31.43 38.46	45 14.02 25.71 60.00	30 9.35 17.14 61.22	24 7.48 13.71 82.76	21 6.54 12.00 84.00	175 54.52
NAVY	3 14.95 61.54 33.57	15 4.67 19.23 20.00	9 2.80 11.54 18.37	5 1.56 6.41 17.24	1 0.31 1.28 4.00	78 24.30
MARINE CORPS	0 5.92 46.34 13.29	11 3.43 26.83 14.67	9 2.80 21.95 18.37	0 0.00 0.00 0.00	2 0.62 4.88 8.00	41 12.77
AIR FORCE	0 4.05 86.67 9.09	1 0.31 6.67 1.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.31 6.67 4.00	15 4.67
COAST GUARD	0 2.49 66.67 5.59	3 0.93 25.00 4.00	1 0.31 8.33 2.04	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 3.74
TOTAL	143 44.55	75 23.36	49 15.26	29 9.03	25 7.79	321 100.00

40. In your experience, in what percentage of cases with court members does an accused request enlisted members?

- less than 10%.....1
- 10-25%.....2
- 26-50%.....3
- 51-75%.....4
- over 75%.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE41

QE1	QE41	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1	0	.

ARMY	5	7	29	55	67	20	178
	.	2.15	8.90	16.87	20.55	6.13	54.60
	.	3.93	16.29	30.90	37.64	11.24	
NAVY	1	2	12	28	28	10	80
	.	0.61	3.68	8.59	8.59	3.07	24.54
	.	2.50	15.00	35.00	35.00	12.50	
MARINE CORPS	0	1	3	15	16	6	41
	.	0.31	0.92	4.60	4.91	1.84	12.58
	.	2.44	7.32	36.59	39.02	14.63	
AIR FORCE	0	0	3	9	2	1	15
	.	0.00	0.92	2.76	0.61	0.31	4.60
	.	0.00	20.00	60.00	13.33	6.67	
COAST GUARD	0	2	5	1	4	0	12
	.	0.61	1.53	0.31	1.23	0.00	3.68
	.	16.67	41.67	8.33	33.33	0.00	
TOTAL	.	12	52	108	117	37	326
	.	3.68	15.95	33.13	35.89	11.35	100.00

41. How informed are military judges before whom you have tried cases regarding local military community events and problems?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4
- don't know.....5

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FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE42

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE42					TOTAL
	1	2	3	4	5	
ARMY	4 1.22 2.23 57.14	26 7.95 14.53 65.00	70 21.41 39.11 54.69	67 20.49 37.43 50.38	12 3.67 6.70 63.16	179 54.74
NAVY	3 0.92 3.75 42.86	6 1.83 7.50 15.00	33 10.09 41.25 25.78	32 9.79 40.00 24.06	6 1.83 7.50 31.58	80 24.46
MARINE CORPS	0 0.00 0.00 0.00	3 0.92 7.32 7.50	17 5.20 41.46 13.28	20 6.12 48.78 15.04	1 0.31 2.44 5.26	41 12.54
AIR FORCE	0 0.00 0.00 0.00	3 0.92 20.00 7.50	5 1.53 33.33 3.91	7 2.14 46.67 5.26	0 0.00 0.00 0.00	15 4.59
COAST GUARD	0 0.00 0.00 0.00	2 0.61 16.67 5.00	3 0.92 25.00 2.34	7 2.14 58.33 5.26	0 0.00 0.00 0.00	12 3.67
TOTAL	7 2.14	40 12.23	128 39.14	133 40.67	19 5.81	327 100.00

42. Are military judges aware of the disciplinary impact of their sentences on the command?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4
- don't know.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE43

QE1	QE43	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	0	.

ARMY	.	4	20	56	87	11	178
	.	1.23	6.13	17.18	26.69	3.37	54.60
	.	2.25	11.24	31.46	48.88	6.18	
NAVY	.	4	8	27	32	9	80
	.	1.23	2.45	8.28	9.82	2.76	24.54
	.	5.00	10.00	33.75	40.00	11.25	
MARINE CORPS	.	2	8	15	13	3	41
	.	0.61	2.45	4.60	3.99	0.92	12.58
	.	4.88	19.51	36.59	31.71	7.32	
AIR FORCE	.	0	5	6	4	0	15
	.	0.00	1.53	1.84	1.23	0.00	4.60
	.	0.00	33.33	40.00	26.67	0.00	
COAST GUARD	.	0	6	2	4	0	12
	.	0.00	1.84	0.61	1.23	0.00	3.68
	.	0.00	50.00	16.67	33.33	0.00	
TOTAL	.	10	47	106	140	23	326
	.	3.07	14.42	32.52	42.94	7.06	100.00

43. Are the officers who are detailed as court members aware of the disciplinary impact of their sentences on the command?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4
- don't know.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE44

QE1	QE44	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	.

ARMY	.	66	56	36	22	180
	.	20.12	17.07	10.98	6.71	54.88
	.	36.67	31.11	20.00	12.22	
NAVY	.	33	23	7	17	80
	.	10.06	7.01	2.13	5.18	24.39
	.	41.25	28.75	8.75	21.25	
MARINE CORPS	.	22	9	4	6	41
	.	6.71	2.74	1.22	1.83	12.50
	.	53.66	21.95	9.76	14.63	
AIR FORCE	.	6	5	2	2	15
	.	1.83	1.52	0.61	0.61	4.57
	.	40.00	33.33	13.33	13.33	
COAST GUARD	.	8	3	1	0	12
	.	2.44	0.91	0.30	0.00	3.66
	.	66.67	25.00	8.33	0.00	
TOTAL	.	135	96	50	47	328
	.	41.16	29.27	15.24	14.33	100.00
	.					

44. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?

military judges.....1
members.....2
no difference.....3
don't know.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE45

QE1	QE45	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	0

ARMY	.	3	48	107	20	178
	.	0.92	14.77	32.92	6.15	54.77
	.	1.69	26.97	60.11	11.24	
NAVY	.	100.00	63.16	56.61	35.09	
	.	0	12	49	18	79
	.	0.00	3.69	15.08	5.54	24.31
MARINE CORPS	.	0.00	15.19	62.03	22.78	
	.	0.00	15.79	25.93	31.58	
	.	0	11	20	10	41
AIR FORCE	.	0.00	3.38	6.15	3.08	12.62
	.	0.00	26.83	48.78	24.39	
	.	0.00	14.47	10.58	17.54	
COAST GUARD	.	0	3	11	1	15
	.	0.00	0.92	3.38	0.31	4.62
	.	0.00	20.00	73.33	6.67	
TOTAL	.	0.00	3.95	5.82	1.75	
	.	0	2	2	8	12
	.	0.00	0.62	0.62	2.46	3.69
.	0.00	16.67	16.67	66.67		
.	0.00	2.63	1.06	14.04		
.	3	76	189	57	325	
.	0.92	23.38	58.15	17.54	100.00	

45. How often do members give an inappropriate sentence
(unreasonably lenient or harsh)?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

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FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE46

QE1	QE46	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	0	0	.

ARMY	5	5	85	83	4	1	178
	.	1.54	26.15	25.54	1.23	0.31	54.77
	.	2.81	47.75	46.63	2.25	0.56	
NAVY	2	1	35	43	0	0	79
	.	0.31	10.77	13.23	0.00	0.00	24.31
	.	1.27	44.30	54.43	0.00	0.00	
MARINE CORPS	0	0	23	17	1	0	41
	.	0.00	7.08	5.23	0.31	0.00	12.62
	.	0.00	56.10	41.46	2.44	0.00	
AIR FORCE	0	0	9	5	1	0	15
	.	0.00	2.77	1.54	0.31	0.00	4.62
	.	0.00	60.00	33.33	6.67	0.00	
COAST GUARD	0	0	9	3	0	0	12
	.	0.00	2.77	0.92	0.00	0.00	3.69
	.	0.00	75.00	25.00	0.00	0.00	
TOTAL	.	6	161	151	6	1	325
	.	1.85	49.54	46.46	1.85	0.31	100.00

46. How often do military judges give an inappropriate sentence (unreasonably lenient or harsh)?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE47

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE47			TOTAL
	1	2	3	
.	0			
1	0	1	0	.
.
.
ARMY	6	59	41	177
	23.77	18.21	12.65	54.63
	43.50	33.33	23.16	
	53.10	50.00	67.21	
NAVY	2	31	11	79
	11.42	9.57	3.40	24.38
	46.84	39.24	13.92	
	25.52	26.27	18.03	
MARINE CORPS	0	18	2	41
	6.48	5.56	0.62	12.65
	51.22	43.90	4.88	
	14.48	15.25	3.28	
AIR FORCE	0	5	1	15
	2.78	1.54	0.31	4.63
	60.00	33.33	6.67	
	6.21	4.24	1.64	
COAST GUARD	0	5	6	12
	0.31	1.54	1.85	3.70
	8.33	41.67	50.00	
	0.69	4.24	9.84	
TOTAL	6	118	61	324
	18.52	36.42	18.83	100.00

47. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?

yes.....1
no.....2
no opinion.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE48

QE1	QE48	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	1

ARMY	.	77	69	3	28	177
	.	23.84	21.36	0.93	8.67	54.80
	.	43.50	38.98	33.33	15.82	58.33
NAVY	.	39	27	6	8	80
	.	12.07	8.36	1.86	2.48	24.77
	.	48.75	33.75	7.50	10.00	100.00
MARINE CORPS	.	28.06	21.26	66.67	16.67	39
	.	13	18	0	8	39
	.	4.02	5.57	0.00	2.48	12.07
AIR FORCE	.	33.33	46.15	0.00	20.51	15
	.	9.35	14.17	0.00	16.67	39
	.	3	9	0	3	15
COAST GUARD	.	0.93	2.79	0.00	0.93	4.64
	.	20.00	60.00	0.00	20.00	100.00
	.	2.16	7.09	0.00	6.25	15.50
TOTAL	.	7	4	0	1	12
	.	2.17	1.24	0.00	0.31	3.72
	.	58.33	33.33	0.00	8.33	100.00
.	5.04	3.15	0.00	2.08	10.27	
.	139	127	9	48	323	
.	43.03	39.32	2.79	14.86	100.00	

48. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?

- reduce frequency.....1
- no effect.....2
- increase frequency.....3
- merely shift the focus of unlawful command influence to the military judge.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE49

QE1	QE49	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	1	0	.

ARMY	4	15	16	121	27	179
	.	4.62	4.92	37.23	8.31	55.08
	.	8.38	8.94	67.60	15.08	
NAVY	.	48.39	43.24	56.02	65.85	
	2	9	13	48	9	79
	.	2.77	4.00	14.77	2.77	24.31
MARINE CORPS	.	11.39	16.46	60.76	11.39	
	.	29.03	35.14	22.22	21.95	
	1	3	6	28	3	40
AIR FORCE	.	0.92	1.85	8.62	0.92	12.31
	.	7.50	15.00	70.00	7.50	
	.	9.68	16.22	12.96	7.32	
COAST GUARD	0	2	1	11	1	15
	.	0.62	0.31	3.38	0.31	4.62
	.	13.33	6.67	73.33	6.67	
TOTAL	.	6.45	2.70	5.09	2.44	
	0	2	1	8	1	12
	.	0.62	0.31	2.46	0.31	3.69
.	16.67	8.33	66.67	8.33		
.	6.45	2.70	3.70	2.44		
.	31	37	216	41	325	
.	9.54	11.38	66.46	12.62	100.00	

49. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system, and the command?

officer panels.....1
 officer and enlisted panels....2
 military judges.....3
 all are equally qualified.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE50

QE1	QE50	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1

ARMY	.	97	33	49	179
	.	29.66	10.09	14.98	54.74
	.	54.19	18.44	27.37	
NAVY	.	51.60	53.23	63.64	
	.	14.37	4.59	5.50	80
	.	58.75	18.75	22.50	24.46
MARINE CORPS	.	25.00	24.19	23.38	
	.	24	9	8	41
	.	7.34	2.75	2.45	12.54
AIR FORCE	.	58.54	21.95	19.51	
	.	12.77	14.52	10.39	
	.	11	3	1	15
COAST GUARD	.	3.36	0.92	0.31	4.59
	.	73.33	20.00	6.67	
	.	5.85	4.84	1.30	
TOTAL	.	9	2	1	12
	.	2.75	0.61	0.31	3.67
	.	75.00	16.67	8.33	
		4.79	3.23	1.30	
		188	62	77	327
		57.49	18.96	23.55	100.00

50. Can court members or military judges better determine an appropriate sentence for a given accused?

military judges.....1
 court members.....2
 no difference.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE51

QE1	QE51	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	1	0	.

ARMY	4	5	29	46	90	9	179
	.	1.54	8.95	14.20	27.78	2.78	55.25
	.	2.79	16.20	25.70	50.28	5.03	
	.	50.00	34.12	48.94	72.00	90.00	
NAVY	4	3	30	29	15	0	77
	.	0.93	9.26	8.95	4.63	0.00	23.77
	.	3.90	38.96	37.66	19.48	0.00	
	.	30.00	35.29	30.85	12.00	0.00	
MARINE CORPS	0	1	21	6	12	1	41
	.	0.31	6.48	1.85	3.70	0.31	12.65
	.	2.44	51.22	14.63	29.27	2.44	
	.	10.00	24.71	6.38	9.60	10.00	
AIR FORCE	0	0	1	8	6	0	15
	.	0.00	0.31	2.47	1.85	0.00	4.63
	.	0.00	6.67	53.33	40.00	0.00	
	.	0.00	1.18	8.51	4.80	0.00	
COAST GUARD	0	1	4	5	2	0	12
	.	0.31	1.23	1.54	0.62	0.00	3.70
	.	8.33	33.33	41.67	16.67	0.00	
	.	10.00	4.71	5.32	1.60	0.00	
TOTAL	.	10	85	94	125	10	324
	.	3.09	26.23	29.01	38.58	3.09	100.00

51. How often do convening authorities select the "best qualified" personnel for court-martial duty?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE2

QE1	QE2	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	0	1	0	.

ARMY	4	30 9.29 16.76 88.24	59 18.27 32.96 83.10	63 19.50 35.20 52.94	25 7.74 13.97 27.17	2 0.62 1.12 28.57	179 55.42
NAVY	5	3 0.93 3.95 8.82	1 0.31 1.32 1.41	29 8.98 38.16 24.37	39 12.07 51.32 42.39	4 1.24 5.26 57.14	76 23.53
MARINE CORPS	0	1 0.31 2.44 2.94	6 1.86 14.63 8.45	14 4.33 34.15 11.76	19 5.88 46.34 20.65	1 0.31 2.44 14.29	41 12.69
AIR FORCE	0	0 0.00 0.00 0.00	4 1.24 26.67 5.63	7 2.17 46.67 5.88	4 1.24 26.67 4.35	0 0.00 0.00 0.00	15 4.64
COAST GUARD	0	0 0.00 0.00 0.00	1 0.31 8.33 1.41	6 1.86 50.00 5.04	5 1.55 41.67 5.43	0 0.00 0.00 0.00	12 3.72
TOTAL	.	34 10.53	71 21.08	119 36.84	92 28.48	7 2.17	323 100.00

52. How often do convening authorities select court members for such duty based primarily upon their relative expendability?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QES3

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QES3					TOTAL
	1	2	3	4	5	
ARMY	4	87	64	6	2	179
	6.17	26.85	19.75	1.85	0.62	55.25
	11.17	48.60	35.75	3.35	1.12	
	83.33	45.79	83.12	20.00	66.67	
NAVY	3	56	4	15	0	78
	0.93	17.28	1.23	4.63	0.00	24.07
	3.85	71.79	5.13	19.23	0.00	
	12.50	29.47	5.19	50.00	0.00	
MARINE CORPS	1	28	3	8	1	40
	0.00	8.64	0.93	2.47	0.31	12.35
	0.00	70.00	7.50	20.00	2.50	
	0.00	14.74	3.90	26.67	33.33	
AIR FORCE	0	10	4	0	0	15
	0.31	3.09	1.23	0.00	0.00	4.63
	6.67	66.67	26.67	0.00	0.00	
	4.17	5.26	5.19	0.00	0.00	
COAST GUARD	0	9	2	1	0	12
	0.00	2.78	0.62	0.31	0.00	3.70
	0.00	75.00	16.67	8.33	0.00	
	0.00	4.74	2.60	3.33	0.00	
TOTAL	24	190	77	30	3	324
	7.41	58.64	23.77	9.26	0.93	100.00

53. What is your sense of the military grade profile of the typical special court-martial panel before whom you have tried cases?

- 1 don't know.....1
- one O-4/O-5 and rest below
- 0-4.....2
- 50% split between O-4/O-5 and those below O-4.....3
- normally all are below O-4.....4
- normally all are above O-4.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QES4

QE1	QES4	1	2	3	4	5	6	7	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	0	0	0	0	.

ARMY	26 8.15 14.69 46.43	109 34.17 61.58 69.87	14 4.39 7.91 35.90	5 1.57 2.82 27.78	10 3.13 5.65 35.71	3 0.94 1.69 50.00	10 3.13 5.65 62.50	177 55.49	
NAVY	18 5.64 23.68 32.14	15 4.70 19.74 9.62	17 5.33 22.37 43.59	7 2.19 9.21 38.89	11 3.45 14.47 39.29	3 0.94 3.95 50.00	5 1.57 6.58 31.25	76 23.82	
MARINE CORPS	6 1.88 15.00 10.71	17 5.33 42.50 10.90	7 2.19 17.50 17.95	5 1.57 12.50 27.78	4 1.25 10.00 14.29	0 0.00 0.00 0.00	1 0.31 2.50 6.25	40 12.54	
AIR FORCE	0 0.31 6.67 1.79	12 3.76 80.00 7.69	0 0.00 0.00 0.00	0 0.00 0.00 0.00	2 0.63 13.33 7.14	0 0.00 0.00 0.00	0 0.00 0.00 0.00	15 4.70	
COAST GUARD	5 1.57 45.45 8.93	3 0.94 27.27 1.92	1 0.31 3.09 2.56	1 0.31 9.09 5.56	1 0.31 9.09 3.57	0 0.00 0.00 0.00	0 0.00 0.00 0.00	11 3.45	
TOTAL	56 17.55	156 48.90	39 12.23	18 5.64	28 8.78	6 1.88	16 5.02	319 100.00	

54. What is your sense of the military grade profile of the typical general court-martial panel before whom you have tried cases?

don't know.....1
 one O-6, two O-5, three O-4,
 three below O-4.....2
 one O-5, three O-4, five below
 O-4.....3
 one or more O-4, rest below
 O-4.....4

two O-5, rest split evenly
 between O-4 and those below
 O-4.....5
 three O-5, three O-4, three
 below O-4.....6
 one O-6, three O-5, four O-4,
 one below O-4.....7

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QES5

QE1	QES5	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1

ARMY	.	54	113	15	182
	.	16.36	34.24	4.55	55.15
	.	29.67	62.09	8.24	71.43
NAVY	.	30	47	3	80
	.	9.09	14.24	0.91	24.24
	.	37.50	58.75	3.75	41
MARINE CORPS	.	14	26	1	41
	.	4.24	7.88	0.30	12.42
	.	34.15	63.41	2.44	41
AIR FORCE	.	13.73	12.56	4.76	15
	.	0	2	1	3
	.	0.61	3.64	0.30	4.55
COAST GUARD	.	13.33	80.00	6.67	100.00
	.	1.96	5.80	4.76	12
	.	0	2	1	3
TOTAL	.	102	207	21	330
	.	30.91	62.73	6.36	100.00
	.				

55. Would a change to military judge alone sentencing deprive an accused of a substantial right?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE56

QE1	QE56	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	.

ARMY	.	92	73	17	182
	.	27.96	22.19	5.17	55.32
	.	50.55	40.11	9.34	
NAVY	.	57.14	52.52	58.62	
	.	39	35	5	79
	.	11.85	10.64	1.52	24.01
MARINE CORPS	.	49.37	44.30	6.33	
	.	24.22	25.18	17.24	
	.	22	16	3	41
AIR FORCE	.	6.69	4.86	0.91	12.46
	.	53.66	39.02	7.32	
	.	13.66	11.51	10.34	
COAST GUARD	.	4	9	2	15
	.	1.22	2.74	0.61	4.56
	.	26.67	60.00	13.33	
TOTAL	.	2.48	6.47	6.90	
	.	4	6	2	12
	.	1.22	1.82	0.61	3.65
.	33.33	50.00	16.67		
.	2.48	4.32	6.90		
.	161	139	29	329	
.	48.94	42.25	8.81	100.00	

56. Would a change to military judge alone sentencing appear to deprive an accused of a substantial right?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QES7

QE1	QES7	FREQUENCY			TOTAL
		ROW PCT	COL PCT		
ARMY	1	24	136	0	180 54.88
	2	7.32	41.46	6.10	
	3	13.33	75.56	11.11	
NAVY	1	3	71	6	80 24.39
	2	0.91	21.65	1.83	
	3	3.75	88.75	7.50	
MARINE CORPS	1	3	37	1	41 12.50
	2	0.91	11.28	0.30	
	3	7.32	90.24	2.44	
AIR FORCE	1	0	11	4	15 4.57
	2	0.00	3.35	1.22	
	3	0.00	73.33	26.67	
COAST GUARD	1	0	10	2	12 3.66
	2	0.00	3.05	0.61	
	3	0.00	83.33	16.67	
TOTAL		30	265	33	328 100.00
		9.15	80.79	10.06	

57. Knowing that an accused currently has the option to reject members sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE58

QE1	QE58	1	2	3	TOTAL
FREQUENCY		0	0	1	1
PERCENT	
ROW PCT	
COL PCT	
ARMY		73	80	27	180
		22.32	24.46	8.26	55.05
		40.56	44.44	15.00	
		54.89	51.28	71.05	
NAVY		31	42	7	80
		9.48	12.84	2.14	24.46
		38.75	52.50	8.75	
		23.31	26.92	18.42	
MARINE CORPS		16	21	3	40
		4.89	6.42	0.92	12.23
		40.00	52.50	7.50	
		12.03	13.46	7.89	
AIR FORCE		8	6	1	15
		2.45	1.83	0.31	4.59
		53.33	40.00	6.67	
		6.02	3.85	2.63	
COAST GUARD		5	7	0	12
		1.53	2.14	0.00	3.67
		41.67	58.33	0.00	
		3.76	4.49	0.00	
TOTAL		133	156	38	327
		40.67	47.71	11.62	100.00

58. If mandatory judge alone sentencing were adopted, would there be an appearance that command authority had been diminished?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE59

QE1	QE59	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	0	1	0	0	.

ARMY	7	12	23	101	34	6	176
	.	3.74	7.17	31.46	10.59	1.87	54.83
	.	6.82	13.07	57.39	19.32	3.41	
NAVY	2	4	15	49	11	0	79
	.	1.25	4.67	15.26	3.43	0.00	24.61
	.	5.06	18.99	62.03	13.92	0.00	
MARINE CORPS	2	1	5	24	9	0	39
	.	0.31	1.56	7.48	2.80	0.00	12.15
	.	2.56	12.82	61.54	23.08	0.00	
AIR FORCE	0	0	3	8	3	1	15
	.	0.00	0.93	2.49	0.93	0.31	4.67
	.	0.00	20.00	53.33	20.00	6.67	
COAST GUARD	0	0	1	6	5	0	12
	.	0.00	0.31	1.87	1.56	0.00	3.74
	.	0.00	8.33	50.00	41.67	0.00	
TOTAL	.	17	47	188	62	7	321
	.	5.30	14.64	58.57	19.31	2.18	100.00

59. How often do court members' doubts on the merits end up expressed in a "compromise" sentence?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE60

QE1	QE60	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	.

ARMY	.	153	17	11	181
	.	46.50	5.17	3.34	55.02
	.	84.53	9.39	6.08	
NAVY	.	53.87	58.62	68.75	
	.	70	7	3	80
	.	21.28	2.13	0.91	24.32
MARINE CORPS	.	87.50	8.75	3.75	41
	.	24.65	24.14	18.75	12.46
	.	36	3	2	
AIR FORCE	.	10.94	0.91	0.61	15
	.	87.80	7.32	4.88	4.56
	.	12.68	10.34	12.50	
COAST GUARD	.	13	2	0	12
	.	3.95	0.61	0.00	3.65
	.	86.67	13.33	0.00	
TOTAL	.	4.58	6.90	0.00	
	.	12	0	0	329
	.	3.65	0.00	0.00	100.00
.	100.00	0.00	0.00		
.	4.23	0.00	0.00		
.	284	29	16		
.	86.32	8.81	4.86		

60. Is mandatory sentencing by military judges more likely to produce consistent sentences in similar cases than sentencing by members?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE61

QE1	QE61	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	.

ARMY	.	50	86	35	9	180
	.	15.34	26.38	10.74	2.76	55.21
	.	27.78	47.78	19.44	5.00	
NAVY	.	18	37	21	4	80
	.	5.52	11.35	6.44	1.23	24.54
	.	22.50	46.25	26.25	5.00	
MARINE CORPS	.	15	17	6	1	39
	.	4.60	5.21	1.84	0.31	11.96
	.	38.46	43.59	15.38	2.56	
AIR FORCE	.	7	5	3	0	15
	.	2.15	1.53	0.92	0.00	4.60
	.	46.67	33.33	20.00	0.00	
COAST GUARD	.	5	5	2	0	12
	.	1.53	1.53	0.61	0.00	3.68
	.	41.67	41.67	16.67	0.00	
TOTAL	.	95	150	67	14	326
	.	29.14	46.01	20.55	4.29	100.00

61. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?

not at all.....1
slight.....2
somewhat.....3
great.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE62

QE1	QE62	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1	.

ARMY	2	13	119	49	181	55.35
	.	3.98	36.39	14.98		
	.	7.18	65.75	27.07		
	.	72.22	57.77	47.57		
NAVY	3	5	43	30	78	23.85
	.	1.53	13.15	9.17		
	.	6.41	55.13	38.46		
	.	27.78	20.87	29.13		
MARINE CORPS	0	0	23	18	41	12.54
	.	0.00	7.03	5.50		
	.	0.00	56.10	43.90		
	.	0.00	11.17	17.48		
AIR FORCE	0	0	11	4	15	4.59
	.	0.00	3.36	1.22		
	.	0.00	73.33	26.67		
	.	0.00	5.34	3.88		
COAST GUARD	0	0	10	2	12	3.67
	.	0.00	3.06	0.61		
	.	0.00	83.33	16.67		
	.	0.00	4.85	1.94		
TOTAL	.	18	206	103	327	100.00
	.	5.50	63.00	31.50		

62. If the military judge perceives resentment, would this cause the judge to render either an inappropriately lenient or harsh sentence?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE63

QE1	QE63		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
		1	1	0	0	•
		•	•	•	•	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		1	39	123	20	182
		•	11.82	37.27	6.06	55.15
		•	21.43	67.58	10.99	
		•	39.39	64.06	51.28	
NAVY		1	48	24	8	80
		•	14.55	7.27	2.42	24.24
		•	60.00	30.00	10.00	
		•	48.48	12.50	20.51	
MARINE CORPS		0	6	29	6	41
		•	1.82	8.79	1.82	12.42
		•	14.63	70.73	14.63	
		•	6.06	15.10	15.38	
AIR FORCE		0	3	9	3	15
		•	0.91	2.73	0.91	4.55
		•	20.00	60.00	20.00	
		•	3.03	4.69	7.69	
COAST GUARD		0	3	7	2	12
		•	0.91	2.12	0.61	3.64
		•	25.00	58.33	16.67	
		•	3.03	3.65	5.13	
TOTAL		•	99	192	39	330
		•	30.00	58.18	11.82	100.00

63. If military judges were given sole sentencing authority and court members tried only the issue of guilt, should the system used to select court members be changed to require random selection of court members?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE64

QE1	QE64		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	5	150	178
	8.75	46.88	55.63
	15.73	84.27	
	43.75	58.59	
NAVY	2	55	79
	7.50	17.19	24.69
	30.38	69.62	
	37.50	21.48	
MARINE CORPS	4	29	37
	2.50	9.06	11.56
	21.62	78.38	
	12.50	11.33	
AIR FORCE	1	14	14
	0.00	4.38	4.38
	0.00	100.00	
	0.00	5.47	
COAST GUARD	0	8	12
	1.25	2.50	3.75
	33.33	66.67	
	6.25	3.13	
TOTAL	64	256	320
	20.00	80.00	100.00

64. If random selection of members were used under these circumstances, should the selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused, who meet present statutory qualifications of age, experience, etc.?

all members not junior to the accused.....1
all members not junior to the accused who meet present qualifications.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE65

QE1	QE65	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0

ARMY	1	37	133	12	182
	.	11.21	40.30	3.64	55.15
	.	20.33	73.08	6.59	
NAVY	1	30	47	3	80
	.	9.09	14.24	0.91	24.24
	.	37.50	58.85	3.75	
MARINE CORPS	0	11	27	3	41
	.	3.33	8.18	0.91	12.42
	.	26.83	65.85	7.32	
AIR FORCE	0	5	10	0	15
	.	1.52	3.03	0.00	4.55
	.	33.33	66.67	0.00	
COAST GUARD	0	1	9	2	12
	.	0.30	2.73	0.61	3.64
	.	8.33	75.00	16.67	
TOTAL	.	84	226	20	330
	.	25.45	68.48	6.06	100.00
	.				

65. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or judge for sentencing?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE66

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE66			TOTAL
	1	2	3	
ARMY	1 17.99 32.42 67.05	113 34.45 62.09 50.67	10 3.05 5.49 58.82	182 55.49
NAVY	2 4.27 17.72 15.91	62 18.90 78.48 27.80	3 0.91 3.80 17.65	79 24.09
MARINE CORPS	1 1.83 15.00 6.82	32 9.76 80.00 14.35	2 0.61 5.00 11.76	40 12.20
AIR FORCE	0 2.13 46.67 7.95	7 2.13 46.67 3.14	1 0.30 6.67 5.88	15 4.57
COAST GUARD	0 0.61 16.67 2.27	9 2.74 75.00 4.04	1 0.30 8.33 5.88	12 3.66
TOTAL	88 26.83	223 67.99	17 5.18	328 100.00

66. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court members be provided by law?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE67

QE1	QE67	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0

ARMY	2	35 10.67 19.34 54.69	117 35.67 64.64 52.47	29 8.84 16.02 70.73	181 55.18
NAVY	1	16 4.88 20.00 25.00	58 17.68 72.50 26.01	6 1.83 7.50 14.63	80 24.39
MARINE CORPS	1	7 2.13 17.50 10.94	31 9.45 77.50 13.90	2 0.61 5.00 4.88	40 12.20
AIR FORCE	0	4 1.22 26.67 6.25	8 2.44 53.33 3.59	3 0.91 20.00 7.32	15 4.57
COAST GUARD	0	2 0.61 16.67 3.13	9 2.74 75.00 4.04	1 0.30 8.33 2.44	12 3.66
TOTAL	.	64 19.51	223 67.99	41 12.50	328 100.00

67. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where the members have already arrived at findings?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE68

QE1	QE68	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1	0	.

ARMY	5	34 10.46 19.10 75.56	41 12.62 23.03 48.24	74 22.77 41.57 50.68	26 8.00 14.61 60.47	3 0.92 1.69 50.00	178 54.77
NAVY	1	6 1.85 7.50 13.33	27 8.31 33.75 31.76	34 10.46 42.50 23.29	11 3.38 13.75 25.58	2 0.62 2.50 33.33	80 24.62
MARINE CORPS	0	2 0.62 4.89 4.44	9 2.77 21.95 10.59	24 7.38 58.54 16.44	5 1.54 12.20 11.63	1 0.31 2.44 16.67	41 12.62
AIR FORCE	0	1 0.31 6.67 2.22	4 1.23 26.67 4.71	9 2.77 60.00 6.16	1 0.31 6.67 2.33	0 0.00 0.00 0.00	15 4.62
COAST GUARD	1	2 0.62 18.18 4.44	4 1.23 36.36 4.71	5 1.54 45.45 3.42	0 0.00 0.00 0.00	0 0.00 0.00 0.00	11 3.38
TOTAL	.	45 13.85	85 26.15	146 44.92	43 13.23	6 1.85	325 100.00

68. How often does defense counsel use the power of his client to request trial by military judge alone as bargaining leverage with the convening authority, staff judge advocate or trial counsel?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE69

QE1	QE69	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT	.	1	0	0	.

ARMY		99	66	17	182
		30.18	20.12	5.18	55.49
		54.40	36.26	9.34	
NAVY		37	33	8	78
		11.28	10.06	2.44	23.78
		47.44	42.31	10.26	
MARINE CORPS		23	14	4	41
		7.01	4.27	1.22	12.50
		56.10	34.15	9.76	
AIR FORCE		11	3	1	15
		3.35	0.91	0.30	4.57
		73.33	20.00	6.67	
COAST GUARD		6	3	3	12
		1.83	0.91	0.91	3.66
		50.00	25.00	25.00	
TOTAL		176	119	33	328
		53.66	36.28	10.06	100.00

69. If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE70

QE1	QE70	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	.

ARMY	.	92	56	34	182
	.	28.13	17.13	10.40	55.66
	.	50.55	30.77	18.68	
	.	54.12	57.73	56.67	
NAVY	.	38	22	17	77
	.	11.62	6.73	5.20	23.55
	.	49.35	28.57	22.08	
	.	22.35	22.68	28.33	
MARINE CORPS	.	21	14	6	41
	.	6.42	4.28	1.83	12.54
	.	51.22	34.15	14.63	
	.	12.35	14.43	10.00	
AIR FORCE	.	10	4	1	15
	.	3.06	1.22	0.31	4.59
	.	66.67	26.67	6.67	
	.	5.88	4.12	1.67	
COAST GUARD	.	9	1	2	12
	.	2.75	0.31	0.61	3.67
	.	75.00	8.33	16.67	
	.	5.29	1.03	3.33	
TOTAL	.	170	97	60	327
	.	51.99	29.66	18.35	100.00

70. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge sentencing?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE71

QE1	QE71	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	.

ARMY	4	96	11	72	179
	.	29.36	3.36	22.02	54.74
	.	53.63	6.15	40.22	
	.	54.86	78.57	52.17	
NAVY	1	38	1	41	80
	.	11.62	0.31	12.54	24.46
	.	47.50	1.25	51.25	
	.	21.71	7.14	29.71	
MARINE CORPS	0	27	2	12	41
	.	8.26	0.61	3.67	12.54
	.	65.85	4.88	29.27	
	.	15.43	14.29	8.70	
AIR FORCE	0	7	0	8	15
	.	2.14	0.00	2.45	4.59
	.	46.67	0.00	53.33	
	.	4.00	0.00	5.80	
COAST GUARD	0	7	0	5	12
	.	2.14	0.00	1.53	3.67
	.	58.33	0.00	41.67	
	.	4.00	0.00	3.62	
TOTAL	.	175	14	138	327
	.	53.52	4.28	42.20	100.00

71. What effect would giving military judges sole sentencing authority have on your trial preparation?

- no significant change.....1
- require more preparation.....2
- require less preparation.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE72

QE1	QE72			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	
ARMY	6 31.37 57.06 53.72	101 42.94 53.72	1 0.43 0.94	177 54.97
NAVY	2 13.98 56.96 23.94	45 10.56 43.04 25.37	34 17	79 24.53
MARINE CORPS	2 6.83 56.41 11.70	22 5.28 43.59 12.69	17	39 12.11
AIR FORCE	0 3.11 66.67 5.32	10 1.55 33.33 3.73	5	15 4.66
COAST GUARD	0 3.11 83.33 5.32	10 0.62 16.67 1.49	2	12 3.73
TOTAL	8 188	188 58.39	134 41.61	322 100.00

72. On balance, do you favor sentencing only by military judges in noncapital cases?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE73

QE1	QE73	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	0	1	0	0	0	.

ARMY	10	67	86	13	4	3	173
	.	20.87	26.79	4.05	1.25	0.93	53.89
	.	38.73	49.71	7.51	2.31	1.73	
NAVY	0	10	37	21	6	7	81
	.	3.12	11.53	6.54	1.87	2.18	25.23
	.	12.35	45.68	25.93	7.41	8.64	
MARINE CORPS	0	6	15	17	3	0	41
	.	1.87	4.67	5.30	0.93	0.00	12.77
	.	14.63	36.59	41.46	7.32	0.00	
AIR FORCE	0	7	7	1	0	0	15
	.	2.18	2.18	0.31	0.00	0.00	4.67
	.	46.67	46.67	6.67	0.00	0.00	
COAST GUARD	1	4	3	2	2	0	11
	.	1.25	0.93	0.62	0.62	0.00	3.43
	.	36.36	27.27	18.18	18.18	0.00	
TOTAL	.	94	148	54	15	10	321
	.	29.28	46.11	16.82	4.67	3.12	100.00
	.						

73. In approximately what percentage of the special/general courts-martial that you have tried have military judges recommended that a portion or all of the sentence be suspended?

0%	1
1-5%	2
6-10%	3
11-15%	4
over 15%	5

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FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE74

QE1	QE74	1	2	3	4	5	6	7	TOTAL
ARMY	FREQUENCY	74	49	31	5	3	6	5	173
	PERCENT	23.57	15.61	9.87	1.59	0.96	1.91	1.59	55.10
	ROW PCT	42.77	28.32	17.92	2.89	1.73	3.47	2.89	
NAVY	FREQUENCY	7	18	42	4	2	2	2	77
	PERCENT	2.23	5.73	13.38	1.27	0.64	0.64	0.64	24.52
	ROW PCT	9.09	23.38	54.55	5.19	2.60	2.60	2.60	
MARINE CORPS	FREQUENCY	6	8	16	3	3	0	3	39
	PERCENT	1.91	2.55	5.10	0.96	0.96	0.00	0.96	12.42
	ROW PCT	15.38	20.51	41.03	7.69	7.69	0.00	7.69	
AIR FORCE	FREQUENCY	7	2	2	1	0	0	1	13
	PERCENT	2.23	0.64	0.64	0.32	0.00	0.00	0.32	4.14
	ROW PCT	53.85	15.38	15.38	7.69	0.00	0.00	7.69	
COAST GUARD	FREQUENCY	4	2	3	2	1	0	0	12
	PERCENT	1.27	0.64	0.96	0.64	0.32	0.00	0.00	3.82
	ROW PCT	33.33	16.67	25.00	16.67	8.33	0.00	0.00	
TOTAL		98	79	94	15	9	8	11	314
		31.21	25.16	29.94	4.78	2.87	2.55	3.50	100.00

74. What percentage of the suspension recommendations have been followed by either the convening authority or supervisory authority?

- no recommendation.....1
- 0%.....2
- 1-25%.....3
- 26-50%.....4
- 51-75%.....5
- 76-95%.....6
- over 95%.....7

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE75

QE1	QE75	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	.

ARMY	3	84	81	15	180
	.	25.53	24.62	4.56	54.71
	.	46.67	45.00	8.33	
	.	57.53	50.31	68.18	
NAVY	0	38	39	4	81
	.	11.55	11.85	1.22	24.62
	.	46.91	48.15	4.94	
	.	26.03	24.22	18.18	
MARINE CORPS	0	17	23	1	41
	.	5.17	6.99	0.30	12.46
	.	41.46	56.10	2.44	
	.	11.64	14.29	4.55	
AIR FORCE	0	3	12	0	15
	.	0.91	3.65	0.00	4.56
	.	20.00	80.00	0.00	
	.	2.05	7.45	0.00	
COAST GUARD	0	4	6	2	12
	.	1.22	1.82	0.61	3.65
	.	33.33	50.00	16.67	
	.	2.74	3.73	9.09	
TOTAL	.	146	161	22	329
	.	44.38	48.94	6.69	100.00

75. Under current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE76

QE1	QE76	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	.

ARMY	.	114	48	19	181
	.	34.55	14.55	5.76	54.85
	.	62.98	26.52	10.50	
NAVY	.	50	23	8	81
	.	15.15	6.97	2.42	24.55
	.	61.73	28.40	9.88	
MARINE CORPS	.	34	3	4	41
	.	10.30	0.91	1.21	12.42
	.	82.93	7.32	9.76	
AIR FORCE	.	14	1	0	15
	.	4.24	0.30	0.00	4.55
	.	93.33	6.67	0.00	
COAST GUARD	.	11	1	0	12
	.	3.33	0.30	0.00	3.64
	.	91.67	8.33	0.00	
TOTAL	.	223	76	31	330
	.	67.58	23.03	9.39	100.00
	.				

76. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE77

QE1	QE77	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0

ARMY	.	116	35	28	179
	.	35.69	10.77	8.62	55.08
	.	64.80	19.55	15.64	
NAVY	.	54.46	47.30	73.68	
	.	57	18	4	79
	.	17.54	5.54	1.23	24.31
MARINE CORPS	.	22.78	24.32	5.06	
	.	26.76		10.53	
	.	22	15	4	41
AIR FORCE	.	6.77	4.62	1.23	12.62
	.	53.66	36.59	9.76	
	.	10.33	20.27	10.53	
COAST GUARD	.	12	2	0	14
	.	3.69	0.62	0.00	4.31
	.	85.71	14.29	0.00	
TOTAL	.	5.63	2.70	0.00	
	.	6	4	2	12
	.	1.85	1.23	0.62	3.69
TOTAL	.	50.00	33.33	16.67	
	.	2.82	5.41	5.26	
	.	213	74	38	325
		65.54	22.77	11.69	100.00

77. Could military judges be given the same information as convening and supervisory authorities through modification of Military Rules of Evidence and other provisions of the MCM?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE78

QE1	QE78	1	2	3	TOTAL
FREQUENCY		1	0	0	1
PERCENT		100.00	0.00	0.00	100.00
ROW PCT		100.00	0.00	0.00	100.00
COL PCT		100.00	0.00	0.00	100.00
ARMY		106	46	29	181
		32.12	13.94	8.79	54.85
		58.56	25.41	16.02	
		48.85	63.89	70.73	
NAVY		64	10	7	81
		19.39	3.03	2.12	24.55
		79.01	12.35	8.64	
		29.49	13.89	17.07	
MARINE CORPS		26	11	4	41
		7.88	3.33	1.21	12.42
		63.41	26.83	9.76	
		11.98	15.28	9.76	
AIR FORCE		12	3	0	15
		3.64	0.91	0.00	4.55
		80.00	20.00	0.00	
		5.53	4.17	0.00	
COAST GUARD		9	2	1	12
		2.73	0.61	0.30	3.64
		75.00	16.67	8.33	
		4.15	2.78	2.44	
TOTAL		217	72	41	330
		65.76	21.82	12.42	100.00

78. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE79

QE1	OE79	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0	.

ARMY	1	88 26.67 48.35 58.28	66 20.00 36.26 58.93	21 6.36 11.54 35.59	7 2.12 3.85 17.50	182 55.15
NAVY	0	40 12.12 49.38 26.49	19 5.76 23.46 16.96	22 6.67 27.16 37.29	0 0.00 0.00 0.00	81 24.55
MARINE CORPS	1	15 4.55 37.50 9.93	15 4.55 37.50 13.39	9 2.73 22.50 15.25	1 0.30 2.50 12.50	40 12.12
AIR FORCE	0	6 1.82 40.00 3.97	5 1.52 33.33 4.46	4 1.21 26.67 6.78	0 0.00 0.00 0.00	15 4.55
COAST GUARD	0	2 0.61 16.67 1.32	7 2.12 58.33 6.25	3 0.91 25.00 5.08	0 0.00 0.00 0.00	12 3.64
TOTAL	.	151 45.76	112 33.94	59 17.88	8 2.42	330 100.00

79. How important a factor should manpower personnel requirements be when considering whether an accused's sentence should be suspended?

not at all.....1
slight.....2
somewhat.....3
great.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE80

QE1	QE80	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	.

ARMY	1	84 25.38 46.15 55.26	76 22.96 41.76 52.05	22 6.65 12.09 66.67	182 54.98
NAVY	0	31 9.37 38.27 20.39	48 14.50 59.26 32.88	2 0.60 2.47 6.06	81 24.47
MARINE CORPS	0	26 7.85 63.41 17.11	12 3.63 29.27 8.22	3 0.91 7.32 9.09	41 12.39
AIR FORCE	0	6 1.81 40.00 3.95	5 1.51 33.33 3.42	4 1.21 26.67 12.12	15 4.53
COAST GUARD	0	5 1.51 41.67 3.29	5 1.51 41.67 3.42	2 0.60 16.67 6.06	12 3.63
TOTAL	.	152 45.92	146 44.11	33 9.97	331 100.00

80. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE81

QE1	QE81	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1

ARMY	1	133	38	11	182
	.	40.43	11.55	3.34	55.32
	.	73.08	20.88	6.04	
NAVY	2	56	19	4	79
	.	17.02	5.78	1.22	24.01
	.	70.89	24.05	5.06	
MARINE CORPS	0	31	5	5	41
	.	9.42	1.52	1.52	12.46
	.	75.61	12.20	12.20	
AIR FORCE	0	7	3	5	15
	.	2.13	0.91	1.52	4.56
	.	46.67	20.00	33.33	
COAST GUARD	0	8	3	1	12
	.	2.43	0.91	0.30	3.65
	.	66.67	25.00	8.33	
TOTAL	.	235	68	26	329
	.	71.43	20.67	7.90	100.00

81. Would there be an appearance that command authority was diminished?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE82

QE1	QE82	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	1	0	0	.

ARMY	.	2	90	80	11	181
	.	.	27.27	24.24	3.33	54.85
	.	.	49.72	44.20	6.08	
NAVY	.	0	47	31	3	81
	.	.	14.24	9.39	0.91	24.55
	.	.	58.02	38.27	3.70	
MARINE CORPS	.	0	12	27	2	41
	.	.	3.64	8.18	0.61	12.42
	.	.	29.27	65.85	4.88	
AIR FORCE	.	0	7	8	0	15
	.	.	2.12	2.42	0.00	4.55
	.	.	46.67	53.33	0.00	
COAST GUARD	.	0	6	6	0	12
	.	.	1.92	1.82	0.00	3.64
	.	.	50.00	50.00	0.00	
TOTAL	.	162	152	16	330	330
	.	49.09	46.06	4.85	100.00	
	.					

82. If judge alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE83

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE83					TOTAL
	0	1	2	3	4	
ARMY	1 19.34 35.16 55.17	0 64 19.34 35.16 55.17	1 46 13.90 25.27 59.74	0 52 15.71 28.57 52.53	0 20 6.04 10.99 51.28	162 54.98
NAVY	0 5.14 20.99 14.66	17 5.14 20.99 14.66	20 6.04 24.69 25.97	30 9.06 37.04 30.30	14 4.23 17.28 35.90	81 24.47
MARINE CORPS	0 6.95 56.10 19.83	23 6.95 56.10 19.83	6 1.81 14.63 7.79	10 3.02 24.39 10.10	2 0.60 4.88 5.13	41 12.39
AIR FORCE	0 3.02 66.67 8.62	10 3.02 66.67 8.62	1 0.30 6.67 1.30	2 0.60 13.33 2.02	2 0.60 13.33 5.13	15 4.53
COAST GUARD	0 0.60 16.67 1.72	2 0.60 16.67 1.72	4 1.21 33.33 5.19	5 1.51 41.67 5.05	1 0.30 8.33 2.56	12 3.63
TOTAL	0 116 35.05	116 35.05	77 23.26	99 29.91	39 11.78	331 100.00

83. Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE84

QE1	QE84	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT							
ARMY	0	1	0	0	1	0	0
	2	70	46	33	32	181	55.02
		21.28	13.98	10.03	9.73		
		38.67	25.41	18.23	17.68		
		57.38	65.71	45.21	50.00		
NAVY	0	33	11	23	14	81	24.62
		10.03	3.34	6.99	4.26		
		40.74	13.58	28.40	17.28		
		27.05	15.71	31.51	21.88		
MARINE CORPS	1	10	7	7	16	40	12.16
		3.04	2.13	2.13	4.86		
		25.00	17.50	17.50	40.00		
		8.20	10.00	9.59	25.00		
AIR FORCE	0	5	1	7	2	15	4.56
		1.52	0.30	2.13	0.61		
		33.33	6.67	46.67	13.33		
		4.10	1.43	9.59	3.13		
COAST GUARD	0	4	5	3	0	12	3.65
		1.22	1.52	0.91	0.00		
		33.33	41.67	25.00	0.00		
		3.28	7.14	4.11	0.00		
TOTAL	0	122	70	73	64	329	100.00
		37.08	21.28	22.19	19.45		

84. By the time cases reach the Court of Military Review, many accuseds are on appellate leave. Is this a factor in deciding whether the Courts of Military Review should have the authority to suspend punitive discharges?

- not at all.....1
- slight.....2
- somewhat.....3
- great.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE85

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE85			TOTAL
	1	2	3	
ARMY	116 35.37 64.09 52.02	44 13.41 24.31 66.67	21 6.40 11.60 53.85	181 55.18
NAVY	57 17.38 72.15 25.56	11 3.35 13.92 16.67	11 3.35 13.92 28.21	79 24.09
MARINE CORPS	31 9.45 75.61 13.90	7 2.13 17.07 10.61	3 0.91 7.32 7.69	41 12.50
AIR FORCE	10 3.05 66.67 4.48	3 0.91 20.00 4.55	2 0.61 13.33 5.13	15 4.57
COAST GUARD	9 2.74 75.00 4.04	1 0.30 8.33 1.52	2 0.61 16.67 5.13	12 3.66
TOTAL	223 67.99	66 20.12	39 11.89	328 100.00

85. Considering the additional support requirements that might result if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy, and counselling?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE86

QE1	QE86	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1	0	.

ARMY	2	34	36	99	12	181	54.85
	.	10.30	10.91	30.00	3.64		
	.	18.78	19.89	54.70	6.63		
	.	50.75	50.70	57.56	60.00		
NAVY	0	25	12	38	6	81	24.55
	.	7.58	3.64	11.52	1.82		
	.	30.86	14.81	46.91	7.41		
	.	37.31	16.90	22.09	30.00		
MARINE CORPS	0	4	13	23	1	41	12.42
	.	1.21	3.94	6.97	0.30		
	.	9.76	31.71	56.10	2.44		
	.	5.97	18.31	13.37	5.00		
AIR FORCE	0	1	8	6	0	15	4.55
	.	0.30	2.42	1.82	0.00		
	.	6.67	53.33	40.00	0.00		
	.	1.49	11.27	3.49	0.00		
COAST GUARD	0	3	2	6	1	12	3.64
	.	0.91	0.61	1.82	0.30		
	.	25.00	16.67	50.00	8.33		
	.	4.48	2.82	3.49	5.00		
TOTAL	.	67	71	172	20	330	100.00
	.	20.30	21.52	52.12	6.06		

86. If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?

- appropriate judicial authority
-1
- appropriate convening/super-
- visory authority.....2
- both.....3
- no opinion.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE87

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE87			TOTAL
	0	1	2		3
.	1	0	1	0
.
.
ARMY	4	7	137	35
	2.13	41.77	10.67	54.57
	3.91	76.54	19.55	
	87.50	53.94	53.03	
NAVY	0	1	64	16
	0.30	19.51	4.88	24.70
	1.23	79.01	19.75	
	12.50	25.20	24.24	
MARINE CORPS	0	0	34	7
	0.00	10.37	2.13	12.50
	0.00	82.93	17.07	
	0.00	13.39	10.61	
AIR FORCE	0	0	12	3
	0.00	3.66	0.91	4.57
	0.00	60.00	20.00	
	0.00	4.72	4.55	
COAST GUARD	0	0	7	5
	0.00	2.13	1.52	3.66
	0.00	58.33	41.67	
	0.00	2.76	7.58	
TOTAL	8	254	66	328
	2.44	77.44	20.12	100.00

87. What effect would giving military judges suspension power have on your trial preparation?

- require less preparation.....1
- no significant change.....2
- require more preparation.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE88

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE88		TOTAL
	1	2	
ARMY	45 13.72 25.14 44.55	134 40.85 74.86 59.03	179 54.57
NAVY	40 12.20 49.38 39.60	41 12.50 50.62 18.06	81 24.70
MARINE CORPS	9 2.74 21.95 8.91	32 9.76 78.05 14.10	41 12.50
AIR FORCE	3 0.91 20.00 2.97	12 3.66 80.00 5.29	15 4.57
COAST GUARD	4 1.22 33.33 3.96	8 2.44 66.67 3.52	12 3.66
TOTAL	101 30.79	227 69.21	328 100.00

88. On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE89

QE1	QE89	0	1	2	TOTAL
FREQUENCY ROW PCT COL PCT					
		1	0	1	.
	
	
	
ARMY		3	103	77	180
		.	31.31	23.40	54.71
		.	57.22	42.78	
		.	52.02	58.78	
NAVY		0	61	20	81
		.	18.54	6.08	24.62
		.	75.31	24.69	
		.	30.81	15.27	
MARINE CORPS		0	20	21	41
		.	6.08	6.38	12.46
		.	48.78	51.22	
		.	10.10	16.03	
AIR FORCE		0	6	9	15
		.	1.82	2.74	4.56
		.	40.00	60.00	
		.	3.03	6.87	
COAST GUARD		0	8	4	12
		.	2.43	1.22	3.65
		.	66.67	33.33	
		.	4.04	3.05	
TOTAL		.	198	131	329
		.	60.18	39.82	100.00

89. On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE90

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE90		TOTAL
	1	2	
ARMY	4 24.85 45.25 57.86	81 30.06 54.75 52.69	179 54.91
NAVY	2 12.58 51.90 29.29	41 11.66 48.10 20.43	79 24.23
MARINE CORPS	0 3.07 24.39 7.14	10 9.51 75.61 16.67	41 12.58
AIR FORCE	0 1.23 26.67 2.86	4 3.37 73.33 5.91	15 4.60
COAST GUARD	0 1.23 33.33 2.86	4 2.45 66.67 4.30	12 3.68
TOTAL	140 42.94	186 57.06	326 100.00

90. On balance, should the Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?

yes.....1
no.....2

FREQUENCIES BY SERVICE

TABLE OF QE1 BY QF91

QE1	QF91		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	5	106	178 54.94
	22.22	32.72	
	40.45	59.55	
	54.55	55.21	
NAVY	1	37	38 12.35
	13.27	11.42	
	53.75	46.25	
	32.58	19.27	
MARINE CORPS	1	26	27 8.63
	4.32	8.02	
	35.00	65.00	
	10.61	13.54	
AIR FORCE	0	14	14 4.63
	0.31	4.32	
	6.67	93.33	
	0.76	7.29	
COAST GUARD	1	9	10 3.40
	0.62	2.78	
	18.18	81.82	
	1.52	4.69	
TOTAL	132	192	324 100.00
	40.74	59.26	

91. Should court members be given the power to suspend their own sentences?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE92

QE1	QE92	1	2	3	4	5	6	TOTAL
FREQUENCY		0	0	0	0	0	0	0
PERCENT	
ROW PCT	
COL PCT	
ARMY		12 3.73 6.78 50.00	16 4.97 9.04 20.00	42 13.04 23.73 50.00	64 19.88 36.16 85.33	28 8.70 15.82 80.00	15 4.66 8.47 62.50	177 54.97
NAVY		6 1.86 7.59 25.00	40 12.42 50.63 50.00	26 8.07 32.91 30.95	6 1.86 7.59 8.00	1 0.31 1.27 2.86	0 0.00 0.00 0.00	79 24.53
MARINE CORPS		1 0.31 2.56 4.17	19 5.90 48.72 23.75	14 4.35 35.90 16.67	3 0.93 7.69 4.00	1 0.31 2.56 2.86	1 0.31 2.56 4.17	39 12.11
AIR FORCE		0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.31 6.67 1.19	1 0.31 6.67 1.33	5 1.55 33.33 14.29	8 2.48 53.33 33.33	15 4.66
COAST GUARD		5 1.55 41.67 20.83	5 1.55 41.67 6.25	1 0.31 8.33 1.19	1 0.31 8.33 1.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	12 3.73
TOTAL		24 7.45	80 24.84	84 26.09	75 23.29	35 10.87	24 7.45	322 100.00

92. What percentage of cases to which you have been detailed are GCMs, of the total of GCMs and SPCMs?

- none.....1
- under 10%.....2
- 10-20%.....3
- 21-50%.....4
- 51-75%.....5
- over 75%.....6

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE93

QE1	QE93	1	2	3	4	5	6	TOTAL
ARMY	FREQUENCY	11	35	27	29	15	12	172
	PERCENT	17.59	11.40	8.79	9.45	4.89	3.91	56.03
	ROW PCT	31.40	20.35	15.70	16.86	8.72	6.98	
NAVY	FREQUENCY	6	10	5	7	13	16	75
	PERCENT	7.82	3.26	1.63	2.28	4.23	5.21	24.43
	ROW PCT	32.00	13.33	6.67	9.33	17.33	21.33	
MARINE CORPS	FREQUENCY	5	6	4	5	5	6	36
	PERCENT	3.26	1.95	1.30	1.63	1.63	1.95	11.73
	ROW PCT	27.78	16.67	11.11	13.89	13.89	16.67	
AIR FORCE	FREQUENCY	0	3	4	1	1	0	15
	PERCENT	1.95	0.98	1.30	0.33	0.33	0.00	4.89
	ROW PCT	40.00	20.00	26.67	6.67	6.67	0.00	
COAST GUARD	FREQUENCY	3	0	0	1	1	2	9
	PERCENT	1.63	0.00	0.00	0.33	0.33	0.65	2.93
	ROW PCT	55.56	0.00	0.00	11.11	11.11	22.22	
TOTAL		99	54	40	43	35	36	307
		32.25	17.59	13.03	14.01	11.40	11.73	100.00

93. In what percentage of GCM cases to which you have been detailed is the adjudged sentence to confinement six to twelve months?

0-5%	1
6-10%	2
11-20%	3
21-40%	4
41-60%	5
over 60%	6

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE94

QE1	QE94						TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	
ARMY	9 41 13.27 23.56 49.40	27 8.74 15.52 58.70	41 13.27 23.56 66.13	35 11.33 20.11 70.00	22 7.12 12.64 53.66	8 2.59 4.60 29.63	174 56.31
NAVY	6 25 8.09 33.33 30.12	13 4.21 17.33 28.26	9 2.91 12.00 14.52	6 1.94 8.00 12.00	13 4.21 17.33 31.71	9 2.91 12.00 33.33	75 24.27
MARINE CORPS	5 8 2.59 22.22 9.64	5 1.62 13.89 10.87	6 1.94 16.67 9.68	6 1.94 16.67 12.00	3 0.97 8.33 7.32	8 2.59 22.22 29.63	36 11.65
AIR FORCE	0 3 0.97 20.00 3.61	1 0.32 6.67 2.17	5 1.62 33.33 8.06	3 0.97 20.00 6.00	2 0.65 13.33 4.88	1 0.32 6.67 3.70	15 4.85
COAST GUARD	3 6 1.94 66.67 7.23	0 0.00 0.00 0.00	1 0.32 11.11 1.61	0 0.00 0.00 0.00	1 0.32 11.11 2.44	1 0.32 11.11 3.70	9 2.91
TOTAL	18 83 26.86	46 14.89	62 20.06	50 16.18	41 13.27	27 8.74	309 100.00

94. What percentage of GCM cases is the adjudged sentence to confinement six to fifteen months?

- 0-5%.....1
- 6-10%.....2
- 11-20%.....3
- 21-40%.....4
- 41-60%.....5
- over 60%.....6

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE95

QE1	QE95	1	2	3	4	TOTAL
FREQUENCY ROW PCT COL PCT	.	1	0	0	0	.

ARMY	.	28	48	83	21	180
	.	8.51	14.59	25.23	6.38	54.71
	.	15.56	26.67	46.11	11.67	
NAVY	.	73.68	44.44	55.70	61.76	
	.	4	28	39	10	81
	.	1.22	8.51	11.85	3.04	24.62
MARINE CORPS	.	4.94	34.57	48.15	12.35	
	.	10.53	25.93	26.17	29.41	
	.	5	20	14	2	41
AIR FORCE	.	1.52	6.08	4.26	0.61	12.46
	.	12.20	48.78	34.15	4.88	
	.	13.16	18.52	9.40	5.88	
COAST GUARD	.	1	5	8	1	15
	.	0.30	1.52	2.43	0.30	4.56
	.	6.67	33.33	53.33	6.67	
TOTAL	.	2.63	4.63	5.37	2.94	
	.	0	7	5	0	12
	.	0.00	2.13	1.52	0.00	3.65
		0.00	6.48	3.36	0.00	
		38	108	149	34	329
		11.55	32.83	45.29	10.33	100.00

95. If SPCMs are allowed to impose longer terms of confinement, would cases currently tried at SPCM generally receive longer sentences?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4

FRÉQUENCIES BY SERVICE
TABLE OF QE1 BY QE96

QE1	QE96	1	2	3	4	TOTAL
ARMY	FREQUENCY	125	40	11	3	179
	PERCENT	38.46	12.31	3.38	0.92	55.08
NAVY	ROW PCT	69.83	22.35	6.15	1.68	
	COL PCT	57.60	50.00	45.83	75.00	
MARINE CORPS	FREQUENCY	51	20	6	1	78
	PERCENT	15.69	6.15	1.85	0.31	24.00
AIR FORCE	ROW PCT	65.38	25.64	7.69	1.28	
	COL PCT	23.50	25.00	25.00	25.00	
COAST GUARD	FREQUENCY	28	11	2	0	41
	PERCENT	8.62	3.38	0.62	0.00	12.62
TOTAL	ROW PCT	68.29	26.83	4.88	0.00	
	COL PCT	12.90	13.75	8.33	0.00	
TOTAL	FREQUENCY	7	5	3	0	15
	PERCENT	2.15	1.54	0.92	0.00	4.62
TOTAL	ROW PCT	46.67	33.33	20.00	0.00	
	COL PCT	3.23	6.25	12.50	0.00	
TOTAL	FREQUENCY	6	4	2	0	12
	PERCENT	1.85	1.23	0.62	0.00	3.69
TOTAL	ROW PCT	50.00	33.33	16.67	0.00	
	COL PCT	2.76	5.00	8.33	0.00	
TOTAL		217	80	24	4	325
		66.77	24.62	7.38	1.23	100.00

96. Would increasing the confinement power of SPCMs cause many accuseds to receive punitive discharges which would not be imposed under current conditions?

not at all.....1
slight.....2
somewhat.....3
great.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE97

QE1	QE97	1	2	3	4	6	7	8	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	1	0	0	0	.

ARMY	5	8	5	29	3	124	4	5	178
.	.	2.51	1.57	9.09	0.94	38.87	1.25	1.57	55.80
.	.	4.49	2.81	16.29	1.69	69.66	2.25	2.81	
.	.	50.00	62.50	55.77	42.86	56.62	57.14	50.00	
NAVY	2	5	1	14	4	51	3	1	79
.	.	1.57	0.31	4.39	1.25	15.99	0.94	0.31	24.76
.	.	6.33	1.27	17.72	5.06	64.56	3.80	1.27	
.	.	31.25	12.50	26.92	57.14	23.29	42.86	10.00	
MARINE CORPS	5	0	1	5	0	27	0	3	36
.	.	0.00	0.31	1.57	0.00	8.46	0.00	0.94	11.29
.	.	0.00	2.78	13.89	0.00	75.00	0.00	8.33	
.	.	0.00	12.50	9.62	0.00	12.33	0.00	30.00	
AIR FORCE	0	1	1	2	0	10	0	1	15
.	.	0.31	0.31	0.63	0.00	3.13	0.00	0.31	4.70
.	.	6.67	6.67	13.33	0.00	66.67	0.00	6.67	
.	.	6.25	12.50	3.85	0.00	4.57	0.00	10.00	
COAST GUARD	1	2	0	2	0	7	0	0	11
.	.	0.63	0.00	0.63	0.00	2.19	0.00	0.00	3.45
.	.	18.18	0.00	18.18	0.00	63.64	0.00	0.00	
.	.	12.50	0.00	3.85	0.00	3.20	0.00	0.00	
TOTAL	.	16	8	52	7	219	7	10	319
.	.	5.02	2.51	16.30	2.19	68.65	2.19	3.13	100.00

97. If special courts-martial could impose sentences of up to one year confinement, would the number of punitive discharges decrease?

- yes, if sentencing by MJ only..1
- yes, if sentencing by members..2
- yes, regardless of who sentences
.....3
- no, if sentencing by MJ only..4
- no, if sentencing by members..5
- no, regardless of who sentences
.....6
- both 1 and 5.....7
- both 2 and 4.....8

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE98

QE1	QE98	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	0	.
	.	1	.	.	.	.

ARMY	.	146	9	7	16	178
	.	45.06	2.78	2.16	4.94	54.94
	.	82.02	5.06	3.93	8.99	8.99
NAVY	.	54.68	40.91	63.64	66.67	178
	.	57	13	3	5	78
	.	17.59	4.01	0.93	1.54	24.07
MARINE CORPS	.	73.08	16.67	3.85	6.41	78
	.	21.35	59.09	27.27	20.83	41
	.	37	0	1	3	41
AIR FORCE	.	11.42	0.00	0.31	0.93	12.65
	.	90.24	0.00	2.44	7.32	15
	.	13.86	0.00	9.09	12.50	4.63
COAST GUARD	.	15	0	0	0	15
	.	4.63	0.00	0.00	0.00	4.63
	.	100.00	0.00	0.00	0.00	12
TOTAL	.	5.62	0.00	0.00	0.00	3.70
	.	12	0	0	0	12
	.	3.70	0.00	0.00	0.00	3.70
TOTAL	.	267	22	11	24	324
	.	82.41	6.79	3.40	7.41	100.00

98. What percentage of SPCMs you have tried are tried without military judges?

none.....1
 under 5%.....2
 5-10%.....3
 over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE99

QE1	QE99	1	2	3	4	TOTAL
FREQUENCY		1	0	0	0	1
PERCENT		100.00	0.00	0.00	0.00	100.00
ROW PCT		100.00	0.00	0.00	0.00	100.00
COL PCT		100.00	0.00	0.00	0.00	100.00
ARMY		173	3	1	1	178
		52.91	0.92	0.31	0.31	54.43
		97.19	1.69	0.56	0.56	100.00
		54.23	50.00	100.00	100.00	178
NAVY		78	3	0	0	81
		23.85	0.92	0.00	0.00	24.77
		96.30	3.70	0.00	0.00	100.00
		24.45	50.00	0.00	0.00	81
MARINE CORPS		41	0	0	0	41
		12.54	0.00	0.00	0.00	12.54
		100.00	0.00	0.00	0.00	100.00
		12.85	0.00	0.00	0.00	41
AIR FORCE		15	0	0	0	15
		4.59	0.00	0.00	0.00	4.59
		100.00	0.00	0.00	0.00	100.00
		4.70	0.00	0.00	0.00	15
COAST GUARD		12	0	0	0	12
		3.67	0.00	0.00	0.00	3.67
		100.00	0.00	0.00	0.00	100.00
		3.76	0.00	0.00	0.00	12
TOTAL		319	6	1	1	327
		97.55	1.83	0.31	0.31	100.00

99. What percentage of SPCMs you have tried involve the use of officer defense counsel who are not lawyers?

none.....1
under 5%.....2
5-10%.....3
over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE100

QE1	QE100	1	2	3	4	TOTAL
FREQUENCY	.	0	0	1	0	.
PERCENT
ROW PCT
COL PCT
ARMY	4	10	52	60	57	179
	.	3.05	15.85	18.29	17.38	54.57
	.	5.59	29.05	33.52	31.84	
	.	47.62	60.47	50.85	55.34	
NAVY	0	7	16	29	29	81
	.	2.13	4.88	8.84	8.84	24.70
	.	8.64	19.75	35.80	35.80	
	.	33.33	18.60	24.58	28.16	
MARINE CORPS	0	3	13	15	10	41
	.	0.91	3.96	4.57	3.05	12.50
	.	7.32	31.71	36.59	24.39	
	.	14.29	15.12	12.71	9.71	
AIR FORCE	0	1	4	7	3	15
	.	0.30	1.22	2.13	0.91	4.57
	.	6.67	26.67	46.67	20.00	
	.	4.76	4.65	5.93	2.91	
COAST GUARD	0	0	1	7	4	12
	.	0.00	0.30	2.13	1.22	3.66
	.	0.00	8.33	58.33	33.33	
	.	0.00	1.16	5.93	3.88	
TOTAL	.	21	86	118	103	328
	.	6.40	26.22	35.98	31.40	100.00

100. How important is the Article 32 investigation as a discovery tool for the defense?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE101

QE1	QE101	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT	.	1	1	0	0	.
	
	
ARMY	2	158	7	16	181	54.85
	.	47.88	2.12	4.85	54.85	
	.	87.29	3.87	8.84	95.16	
NAVY	0	74	3	4	81	24.55
	.	22.42	0.91	1.21	24.55	
	.	91.36	3.70	4.94	99.00	
MARINE CORPS	0	39	0	2	41	12.42
	.	11.82	0.00	0.61	12.42	
	.	95.12	0.00	4.88	100.00	
AIR FORCE	0	15	0	0	15	4.55
	.	4.55	0.00	0.00	4.55	
	.	100.00	0.00	0.00	100.00	
COAST GUARD	0	12	0	0	12	3.64
	.	3.64	0.00	0.00	3.64	
	.	100.00	0.00	0.00	100.00	
TOTAL	.	298	10	22	330	100.00
	.	90.30	3.03	6.67	100.00	

101. If SPCM jurisdiction were increased, would you favor requiring the detail of a military judge in every case?

- yes.....1
- no.....2
- no, but without a military judge, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE102

QE1	QE102	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		160	3	18	181
		48.48	0.91	5.45	54.85
		88.40	1.66	9.94	
		52.98	60.00	78.26	
NAVY		76	2	3	81
		23.03	0.61	0.91	24.55
		93.83	2.47	3.70	
		25.17	40.00	13.04	
MARINE CORPS		39	0	2	41
		11.82	0.00	0.61	12.42
		95.12	0.00	4.88	
		12.91	0.00	8.70	
AIR FORCE		15	0	0	15
		4.55	0.00	0.00	4.55
		100.00	0.00	0.00	
		4.97	0.00	0.00	
COAST GUARD		12	0	0	12
		3.64	0.00	0.00	3.64
		100.00	0.00	0.00	
		3.97	0.00	0.00	
TOTAL		302	5	23	330
		91.52	1.52	6.97	100.00

102. If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?

Yes.....1
 no.....2
 no, but without representation
 by lawyer defense counsel, con-
 finement should be limited to
 six months.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE103

QE1	QE103	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0	•
		•	•	•	•	•
		•	•	•	•	•
ARMY		10	165	7	182	55.15
		3.03	50.00	2.12		
		5.49	90.66	3.85		
		52.63	55.74	46.67		
NAVY		6	67	7	80	24.24
		1.82	20.30	2.12		
		7.50	83.75	8.75		
		31.58	22.64	46.67		
MARINE CORPS		0	39	0	41	12.42
		0.61	11.82	0.00		
		4.88	95.12	0.00		
		10.53	13.18	0.00		
AIR FORCE		0	15	0	15	4.55
		0.00	4.55	0.00		
		0.00	100.00	0.00		
		0.00	5.07	0.00		
COAST GUARD		0	10	1	12	3.64
		0.30	3.03	0.30		
		8.33	83.33	8.33		
		5.26	3.38	6.67		
TOTAL		•	19	296	330	100.00
		•	5.76	89.70	4.55	

103. Do you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?

yes.....1
no.....2
no, but if there is no investigation confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE104

QE1	QE104		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
		1	0	1	0	.
	
	
ARMY		1	69	94	19	182
		.	20.91	28.48	5.76	55.15
		.	37.91	51.65	10.44	
		.	49.64	59.12	59.38	
NAVY		1	37	36	7	80
		.	11.21	10.91	2.12	24.24
		.	46.25	45.00	8.75	
		.	26.62	22.64	21.88	
MARINE CORPS		0	22	16	3	41
		.	6.67	4.85	0.91	12.42
		.	53.66	39.02	7.32	
		.	15.83	10.06	9.38	
AIR FORCE		0	8	7	0	15
		.	2.42	2.12	0.00	4.55
		.	53.33	46.67	0.00	
		.	5.76	4.40	0.00	
COAST GUARD		0	3	6	3	12
		.	0.91	1.82	0.91	3.64
		.	25.00	50.00	25.00	
		.	2.16	3.77	9.38	
TOTAL		.	139	159	32	330
		.	42.12	48.18	9.70	100.00

104. If SPCM jurisdiction were increased, would you favor increasing to five the minimum number of required court members?

yes.....1
no.....2
no, but if there are fewer than five, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE105

QE1	QE105	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	1	0	.
	.	0	.	.	.

ARMY	2	66 20.12 36.46 57.89	107 32.62 59.12 52.45	8 2.44 4.42 80.00	181 55.18
NAVY	1	22 6.71 27.50 19.30	57 17.38 71.25 27.94	1 0.30 1.25 10.00	80 24.39
MARINE CORPS	1	14 4.27 35.00 12.28	25 7.62 62.50 12.25	1 0.30 2.50 10.00	40 12.20
AIR FORCE	0	6 1.83 40.00 5.26	9 2.74 60.00 4.41	0 0.00 0.00 0.00	15 4.57
COAST GUARD	0	6 1.83 50.00 5.26	6 1.83 50.00 2.94	0 0.00 0.00 0.00	12 3.66
TOTAL	.	114 34.76	204 62.20	10 3.05	328 100.00

105. If SPCM jurisdiction were increased, would you favor increasing to five the number of days required as a waiting period before trial?

Yes.....1
no.....2
no, but if trial before five days, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE106

QE1	QE106	FREQUENCY PERCENT ROW PCT COL PCT			TOTAL
		1	2	3	
ARMY	.	47	56	79	182
	.	14.29	17.02	24.01	55.32
	.	25.82	30.77	43.41	
	.	55.29	58.95	53.02	
NAVY	.	24	21	35	80
	.	7.29	6.38	10.64	24.32
	.	30.00	26.25	43.75	
	.	28.24	22.11	23.49	
MARINE CORPS	.	10	9	21	40
	.	3.04	2.74	6.38	12.16
	.	25.00	22.50	52.50	
	.	11.76	9.47	14.09	
AIR FORCE	.	1	5	9	15
	.	0.30	1.52	2.74	4.56
	.	6.67	33.33	60.00	
	.	1.18	5.26	6.04	
COAST GUARD	.	3	4	5	12
	.	0.91	1.22	1.52	3.65
	.	25.00	33.33	41.67	
	.	3.53	4.21	3.36	
TOTAL	.	85	95	149	329
	.	25.84	28.88	45.29	100.00

106. If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?

Yes.....1
 no.....2
 verbatim record only if BCD or over six months confinement adjudged.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE107

QE1	QE107	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0	.

ARMY	.	1	51	102	29	182
	.	.	15.50	31.00	8.81	55.32
	.	.	28.02	56.04	15.93	
NAVY	.	1	30	40	10	80
	.	.	9.12	12.16	3.04	24.32
	.	.	37.50	50.00	12.50	
MARINE CORPS	.	1	12	21	7	40
	.	.	3.65	6.38	2.13	12.16
	.	.	30.00	52.50	17.50	
AIR FORCE	.	0	6	8	1	15
	.	.	1.82	2.43	0.30	4.56
	.	.	40.00	53.33	6.67	
COAST GUARD	.	0	4	5	3	12
	.	.	1.22	1.52	0.91	3.65
	.	.	33.33	41.67	25.00	
TOTAL	.	103	176	50	329	100.00
	.	31.31	53.50	15.20		
	.					

107. If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year would you favor requiring examination of the record of trial in the office of the Judge Advocate General?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE108

QE1	QE108	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	.

ARMY	2	162	9	10	181
	.	49.39	2.74	3.05	55.18
	.	89.50	4.97	5.52	
	.	53.47	81.82	71.43	
NAVY	1	75	1	4	80
	.	22.87	0.30	1.22	24.39
	.	93.75	1.25	5.00	
	.	24.75	9.09	28.57	
MARINE CORPS	1	39	1	0	40
	.	11.89	0.30	0.00	12.20
	.	97.50	2.50	0.00	
	.	12.87	9.09	0.00	
AIR FORCE	0	15	0	0	15
	.	4.57	0.00	0.00	4.57
	.	100.00	0.00	0.00	
	.	4.95	0.00	0.00	
COAST GUARD	0	12	0	0	12
	.	3.66	0.00	0.00	3.66
	.	100.00	0.00	0.00	
	.	3.96	0.00	0.00	
TOTAL	.	303	11	14	328
	.	92.38	3.35	4.27	100.00

108. Do SPCM military judges whom you know have sufficient experience to adjudge up to one year of confinement at a special court-martial?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE109

QE1	QE109	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	0	.
	.	1	.	.	.

ARMY	2	156	15	10	181
	.	47.56	4.57	3.05	55.18
	.	86.19	8.29	5.52	
NAVY	1	66	11	3	80
	.	20.12	3.35	0.91	24.39
	.	82.50	13.75	3.75	
MARINE CORPS	1	33	3	4	40
	.	10.06	0.91	1.22	12.20
	.	82.50	7.50	10.00	
AIR FORCE	0	13	2	0	15
	.	3.96	0.61	0.00	4.57
	.	86.67	13.33	0.00	
COAST GUARD	0	10	0	2	12
	.	3.05	0.00	0.61	3.66
	.	83.33	0.00	16.67	
TOTAL	.	278	31	19	328
	.	84.76	9.45	5.79	100.00

109. Will increasing the jurisdiction of SPCMs reduce the number of GCMS?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE110

QE1	QE110		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT						
COL PCT						
	.	1	1	0	0	.

ARMY	10	143	16	14	173	54.57
	.	45.11	5.05	4.42	14	4.42
	.	82.66	9.25	8.09	173	54.57
	.	55.86	55.17	43.75	173	54.57
NAVY	2	60	7	12	79	24.92
	.	18.93	2.21	3.79	79	24.92
	.	75.95	8.86	15.19	79	24.92
	.	23.44	24.14	37.50	79	24.92
MARINE CORPS	2	31	5	3	39	12.30
	.	9.78	1.58	0.95	39	12.30
	.	79.49	12.82	7.69	39	12.30
	.	12.11	17.24	9.36	39	12.30
AIR FORCE	0	12	1	2	15	4.73
	.	3.79	0.32	0.63	15	4.73
	.	80.00	6.67	13.33	15	4.73
	.	4.69	3.45	6.25	15	4.73
COAST GUARD	1	10	0	1	11	3.47
	.	3.15	0.00	0.32	11	3.47
	.	90.91	0.00	9.09	11	3.47
	.	3.91	0.00	3.13	11	3.47
TOTAL	.	256	29	32	317	100.00
	.	80.76	9.15	10.09	317	100.00

110. If so, is this a desirable end?

yes.....1
no.....2
my previous answer was "no"....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE111

QE1	QE111	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0	.

ARMY	6	12	146	19	177	54.63
	.	3.70	45.06	5.86		
	.	6.78	82.49	10.73		
	.	70.59	54.48	48.72		
NAVY	1	3	64	13	80	24.69
	.	0.93	19.75	4.01		
	.	3.75	80.00	16.25		
	.	17.65	23.88	33.33		
MARINE CORPS	1	2	32	6	40	12.35
	.	0.62	9.88	1.85		
	.	5.00	80.00	15.00		
	.	11.76	11.94	15.38		
AIR FORCE	0	0	15	0	15	4.63
	.	0.00	4.63	0.00		
	.	0.00	100.00	0.00		
	.	0.00	5.60	0.00		
COAST GUARD	0	0	11	1	12	3.70
	.	0.00	3.40	0.31		
	.	0.00	91.67	8.33		
	.	0.00	4.10	2.56		
TOTAL	.	17	268	39	324	100.00
	.	5.25	82.72	12.04		

111. What effect would increasing the jurisdiction of SPCMs to one year confinement have on your trial preparation?

- less preparation.....1
- no significant change.....2
- more preparation.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE112

QE1	QE112			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	12 3.66 6.67 50.00	152 46.34 84.44 56.51	16 4.88 8.89 45.71	180 54.88
NAVY	6 1.83 7.41 25.00	64 19.51 79.01 23.79	11 3.35 13.58 31.43	81 24.70
MARINE CORPS	2 0.61 5.00 8.33	35 10.67 87.50 13.01	3 0.91 7.50 8.57	40 12.20
AIR FORCE	3 0.91 20.00 12.50	10 3.05 66.67 3.72	2 0.61 13.33 5.71	15 4.57
COAST GUARD	1 0.30 8.33 4.17	8 2.44 66.67 2.97	3 0.91 25.00 8.57	12 3.66
TOTAL	24 7.32	269 82.01	35 10.67	328 100.00

112. Would increasing the jurisdiction of SPCMs cause under-referral of a significant number of cases?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE113

QE1	QE113	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.	1	0	1	0

ARMY	8	47 14.73 26.86 48.96	104 32.60 59.43 58.76	24 7.52 13.71 52.17	175 54.86
NAVY	4	25 7.84 32.47 26.04	38 11.91 49.35 21.47	14 4.39 18.18 30.43	77 24.14
MARINE CORPS	1	11 3.45 27.50 11.46	25 7.84 62.50 14.12	4 1.25 10.00 8.70	40 12.54
AIR FORCE	0	7 2.19 46.67 7.29	7 2.19 46.67 3.95	1 0.31 6.67 2.17	15 4.70
COAST GUARD	0	6 1.88 50.00 6.25	3 0.94 25.00 1.69	3 0.94 25.00 6.52	12 3.76
TOTAL	.	96 30.09	177 55.49	46 14.42	319 100.00

113. If so, should certain serious offenses be precluded from trial by special courts-martial?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE114

QE1	QE114			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	
ARMY	3	155	25	180
	.	47.26	7.62	54.88
	.	86.11	13.89	
	.	55.96	49.02	
NAVY	0	66	15	81
	.	20.12	4.57	24.70
	.	81.48	18.52	
	.	23.83	29.41	
MARINE CORPS	1	31	9	40
	.	9.45	2.74	12.20
	.	77.50	22.50	
	.	11.19	17.65	
AIR FORCE	0	15	0	15
	.	4.57	0.00	4.57
	.	100.00	0.00	
	.	5.42	0.00	
COAST GUARD	0	10	2	12
	.	3.05	0.61	3.66
	.	83.33	16.67	
	.	3.61	3.92	
TOTAL	4	277	51	328
	.	84.45	15.55	100.00

114. On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to one year?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QE1 BY QE115

QE1 FREQUENCY PERCENT ROW PCT COL PCT	QE115		TOTAL
	1	2	
ARMY	3 24.39 44.44 52.98	100 30.49 55.56 56.50	180 54.88
NAVY	0 12.50 50.62 27.15	40 12.20 49.38 22.60	81 24.70
MARINE CORPS	1 4.57 37.50 9.93	25 7.62 62.50 14.12	40 12.20
AIR FORCE	0 2.44 53.33 5.30	7 2.13 46.67 3.95	15 4.57
COAST GUARD	0 2.13 58.33 4.64	5 1.52 41.67 2.82	12 3.66
TOTAL	151 46.04	177 53.96	328 100.00

115. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for the offense, rather than the jurisdictional limit of the court, determined the trial forum, i.e. felony and misdemeanor courts?

yes.....1
no.....2

DEFENSE COUNSEL
FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF2

QF1	QF2	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY		6	102	21	6	2	137
		1.46	24.82	5.11	1.46	0.49	33.33
		4.38	74.45	15.33	4.38	1.46	
		30.00	31.38	42.00	46.15	66.67	
NAVY		8	91	5	0	1	105
		1.95	22.14	1.22	0.00	0.24	25.55
		7.62	86.67	4.76	0.00	0.95	
		40.00	28.00	10.00	0.00	33.33	
MARINE CORPS		6	26	7	0	0	39
		1.46	6.33	1.70	0.00	0.00	9.49
		15.38	66.67	17.95	0.00	0.00	
		30.00	8.00	14.00	0.00	0.00	
AIR FORCE		0	101	6	6	0	113
		0.00	24.57	1.46	1.46	0.00	27.49
		0.00	89.38	5.31	5.31	0.00	
		0.00	31.08	12.00	46.15	0.00	
COAST GUARD		0	5	11	1	0	17
		0.00	1.22	2.68	0.24	0.00	4.14
		0.00	29.41	64.71	5.88	0.00	
		0.00	1.54	22.00	7.69	0.00	
TOTAL		20	325	50	13	3	411
		4.87	79.08	12.17	3.16	0.73	100.00

2. What is your current grade?

0-2.....1
0-3.....2
0-4.....3
0-5.....4
0-6.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF3

QF1	QF3							TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	5	7		
ARMY	63 15.33 45.99 28.90	26 6.33 18.98 38.24	22 5.35 16.06 34.38	20 4.87 14.60 41.67	5 1.22 3.65 41.67	1 0.24 0.73 100.00		137 33.33
NAVY	77 18.73 73.33 35.32	16 3.89 15.24 23.53	8 1.95 7.62 12.50	2 0.49 1.90 4.17	2 0.49 1.90 16.67	0 0.00 0.00 0.00		105 25.55
MARINE CORPS	21 5.11 53.85 9.63	5 1.22 12.82 7.35	7 1.70 17.95 10.94	6 1.46 15.38 12.50	0 0.00 0.00 0.00	0 0.00 0.00 0.00		39 9.49
AIR FORCE	55 13.38 48.67 25.23	20 4.87 17.70 29.41	25 6.08 22.12 39.06	11 2.68 9.73 22.92	2 0.49 1.77 16.67	0 0.00 0.00 0.00		113 27.49
COAST GUARD	2 0.49 11.76 0.92	1 0.24 5.88 1.47	2 0.49 11.76 3.13	9 2.19 52.94 18.75	3 0.73 17.65 25.00	0 0.00 0.00 0.00		17 4.14
TOTAL	218 53.04	68 16.55	64 15.57	48 11.68	12 2.92	1 0.24		411 100.00

3. How many years of total active service?

0-3.....	1
4-5.....	2
6-10.....	3
11-15.....	4
16-20.....	5
21-25.....	6
over 25.....	7

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF4

QF 1	QF 4	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY	0	82	55	137
	.	20.00	13.41	33.41
	.	59.85	40.15	
	.	28.18	46.22	
NAVY	0	81	24	105
	.	19.76	5.85	25.61
	.	77.14	22.86	
	.	27.84	20.17	
MARINE CORPS	1	33	5	38
	.	8.05	1.22	9.27
	.	86.84	13.16	
	.	11.34	4.20	
AIR FORCE	0	81	32	113
	.	19.76	7.80	27.56
	.	71.68	28.32	
	.	27.84	26.89	
COAST GUARD	0	14	3	17
	.	3.41	0.73	4.15
	.	82.35	17.65	
	.	4.81	2.52	
TOTAL	.	291	119	410
	.	70.98	29.02	100.00

4. What is your current assignment location?

CONUS.....1
Outside CONUS.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF5

QF1	QF5				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	
ARMY	84 20.44 61.31 30.77	37 9.00 27.01 43.53	10 2.43 7.30 25.64	6 1.46 4.38 42.86	137 33.33
NAVY	85 20.68 80.95 31.14	6 1.46 5.71 7.06	14 3.41 13.33 35.90	0 0.00 0.00 0.00	105 25.55
MARINE CORPS	24 5.84 61.54 8.79	7 1.70 17.95 8.24	5 1.22 12.82 12.82	3 0.73 7.69 21.43	39 9.49
AIR FORCE	76 18.49 67.26 27.84	26 6.33 23.01 30.59	10 2.43 8.85 25.64	1 0.24 0.88 7.14	113 27.49
COAST GUARD	4 0.97 23.53 1.47	9 2.19 52.94 10.59	0 0.00 0.00 0.00	4 0.97 23.53 28.57	17 4.14
TOTAL	273 66.42	85 20.68	39 9.49	14 3.41	411 100.00

5. Do you have any prior enlisted/officer non-judge advocate experience?

no.....1
officer.....2
enlisted.....3
officer and enlisted.....4

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF6

QF1	QF6						TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5		
ARMY	1 71 17.44 52.21 31.28	18 4.42 13.24 38.30	35 8.60 25.74 33.98	10 2.46 7.35 41.67	2 0.49 1.47 33.33		136 33.42
NAVY	2 72 17.69 69.90 31.72	11 2.70 10.68 23.40	17 4.18 16.50 16.50	2 0.49 1.94 8.33	1 0.25 0.97 16.67		103 25.31
MARINE CORPS	0 20 4.91 51.28 8.81	7 1.72 17.95 14.89	9 2.21 23.08 8.74	2 0.49 5.13 8.33	1 0.25 2.56 16.67		39 9.58
AIR FORCE	1 61 14.99 54.46 26.87	11 2.70 9.82 23.40	34 8.35 30.36 33.01	5 1.23 4.46 20.83	1 0.25 0.89 16.67		112 27.52
COAST GUARD	0 3 0.74 17.65 1.32	0 0.00 0.00 0.00	8 1.97 47.06 7.77	5 1.23 29.41 20.83	1 0.25 5.88 16.67		17 4.18
TOTAL	227 55.77	47 11.55	103 25.31	24 5.90	6 1.47		407 100.00

6. How many years non-judge advocate experience do you have?

none.....1
less than 2 years.....2
2-6 years.....3
7-10 years.....4
over 10 years.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF7

QF1	QF7	1	2	3	4	5	6	TOTAL
ARMY	FREQUENCY	29	32	50	15	7	4	137
	PERCENT	7.07	7.80	12.20	3.66	1.71	0.98	33.41
	COL PCT	21.17	23.36	36.50	10.95	5.11	2.92	
NAVY	FREQUENCY	36	30	21	14	2	2	105
	PERCENT	8.78	7.32	5.12	3.41	0.49	0.49	25.61
	COL PCT	34.29	28.57	20.00	13.33	1.90	1.90	
MARINE CORPS	FREQUENCY	3	15	14	3	1	3	39
	PERCENT	0.73	3.66	3.41	0.73	0.24	0.73	9.51
	COL PCT	7.69	38.46	35.90	7.69	2.56	7.69	
AIR FORCE	FREQUENCY	21	34	40	12	4	2	113
	PERCENT	5.12	8.29	9.76	2.93	0.98	0.49	27.56
	COL PCT	18.58	30.09	35.40	10.62	3.54	1.77	
COAST GUARD	FREQUENCY	1	0	1	5	4	5	16
	PERCENT	0.24	0.00	0.24	1.22	0.98	1.22	3.90
	COL PCT	6.25	0.00	6.25	31.25	25.00	31.25	
TOTAL	FREQUENCY	90	111	126	49	18	16	410
	PERCENT	21.95	27.07	30.73	11.95	4.39	3.90	100.00
	COL PCT							

7. How long have you been a defense counsel?

less than 6 months.....	1
6 months-1 year.....	2
1-2 years.....	3
2-3 years.....	4
3-4 years.....	5
over 4 years.....	6

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF8

QF1	QF8					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	12 2.92 8.76 60.00	65 15.82 47.45 34.95	36 8.76 26.28 31.58	12 2.92 8.76 24.49	12 2.92 8.76 28.57	137 33.33
NAVY	1 0.24 0.95 5.00	34 8.27 32.38 18.28	26 6.33 24.76 22.81	22 5.35 20.95 44.90	22 5.35 20.95 52.38	105 25.55
MARINE CORPS	0 0.00 0.00 0.00	7 1.70 17.95 3.76	17 4.14 43.59 14.91	8 1.95 20.51 16.33	7 1.70 17.95 16.67	39 9.49
AIR FORCE	7 1.70 6.19 35.00	69 16.79 61.06 37.10	30 7.30 26.55 26.32	6 1.46 5.31 12.24	1 0.24 0.88 2.38	113 27.49
COAST GUARD	0 0.00 0.00 0.00	11 2.68 64.71 5.91	5 1.22 29.41 4.39	1 0.24 5.88 2.04	0 0.00 0.00 0.00	17 4.14
TOTAL	20 4.87	186 45.26	114 27.74	49 11.92	42 10.22	411 100.00

8. How many SPCM cases have you defended?

none.....1
less than 20.....2
20-50.....3
51-100.....4
over 100.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF9

QF1	QF9					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	
ARMY	17 4.14 12.41 22.37	48 11.68 35.04 24.87	41 9.98 29.93 43.16	18 4.38 13.14 58.06	13 3.16 9.49 81.25	137 33.33
NAVY	27 6.57 25.71 35.53	52 12.65 49.52 26.94	20 4.87 19.05 21.05	5 1.22 4.76 16.13	1 0.24 0.95 6.25	105 25.55
MARINE CORPS	3 0.73 7.69 3.95	22 5.35 56.41 11.40	12 2.92 30.77 12.63	1 0.24 2.56 3.23	1 0.24 2.56 6.25	39 9.49
AIR FORCE	22 5.35 19.47 28.95	63 15.33 55.75 32.64	20 4.87 17.70 21.05	7 1.70 6.19 22.58	1 0.24 0.88 6.25	113 27.49
COAST GUARD	7 1.70 41.18 9.21	8 1.95 47.06 4.15	2 0.49 11.76 2.11	0 0.00 0.00 0.00	0 0.00 0.00 0.00	17 4.14
TOTAL	76 18.49	193 46.96	95 23.11	31 7.54	16 3.89	411 100.00

9. How many GCM cases have you defended?

- none.....1
- less than 10.....2
- 11-25.....3
- 26-50.....4
- over 50.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF10

QF1 FREQUENCY PERCENT ROW PCT COL PCT	QF10		TOTAL
	1	2	
ARMY	134 32.60 97.81 37.02	3 0.73 2.19 6.12	137 33.33
NAVY	87 21.17 82.86 24.03	18 4.38 17.14 36.73	105 25.55
MARINE CORPS	31 7.54 79.49 8.56	8 1.95 20.51 16.33	39 9.49
AIR FORCE	109 26.52 96.46 30.11	4 0.97 3.54 8.16	113 27.49
COAST GUARD	1 0.24 5.88 0.28	16 3.89 94.12 32.65	17 4.14
TOTAL	362 88.08	49 11.92	411 100.00

10. Are you a full time defense counsel?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF11

QF1 FREQUENCY PERCENT ROW PCT COL PCT	QF11		TOTAL
	1	2	
ARMY	132 32.51 97.06 48.53	4 0.99 2.94 2.99	136 33.50
NAVY	25 6.16 24.27 9.19	78 19.21 75.73 58.21	103 25.37
MARINE CORPS	7 1.72 18.42 2.57	31 7.64 81.58 23.13	38 9.36
AIR FORCE	108 26.60 96.43 39.71	4 0.99 3.57 2.99	112 27.59
COAST GUARD	0 0.00 0.00 0.00	17 4.19 100.00 12.69	17 4.19
TOTAL	272 67.00	134 33.00	406 100.00

11. Is your officer effectiveness or fitness report written by a full time defense counsel?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF12

QF1 FREQUENCY PERCENT ROW PCT COL PCT	QF12		TOTAL
	1	2	
ARMY	3 1.48 4.48 20.00	6 31.60 95.52 34.13	134 33.09
NAVY	0 2.22 8.57 30.00	9 23.70 91.43 25.60	105 25.93
MARINE CORPS	0 0.74 7.69 10.00	3 8.89 92.31 9.60	39 9.63
AIR FORCE	2 2.22 8.11 30.00	9 25.19 91.89 27.20	111 27.41
COAST GUARD	1 0.74 18.75 10.00	3 3.21 81.25 3.47	16 3.95
TOTAL	5 7.41	30 92.59	405 100.00

12. Are you aware of any instances in which a military judge has been threatened with reassignment or actually reassigned because of the military judge's decisions?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF13

QF1	QF13					TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	5	
ARMY	124 • •	7 15.22 53.85 30.43	6 13.04 46.15 33.33	0 0.00 0.00 0.00	0 0.00 0.00 0.00	13 28.26
NAVY	93 • •	5 10.87 41.67 21.74	3 6.52 25.00 16.67	4 8.70 33.33 80.00	0 0.00 0.00 0.00	12 26.09
MARINE CORPS	35 • •	3 6.52 75.00 13.04	1 2.17 25.00 5.56	0 0.00 0.00 0.00	0 0.00 0.00 0.00	4 8.70
AIR FORCE	99 • •	6 13.04 42.86 25.09	7 15.22 50.00 38.89	1 2.17 7.14 20.00	0 0.00 0.00 0.00	14 30.43
COAST GUARD	14 • •	2 4.35 66.67 8.70	1 2.17 33.33 5.56	0 0.00 0.00 0.00	0 0.00 0.00 0.00	3 6.52
TOTAL	•	23 50.00	18 39.13	5 10.87	0 0.00	46 100.00

13. If yes, how often?

once.....1
seldom.....2
sometimes.....3
frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF14

QF1	QF14		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	10	47	80
	.	12.18	20.73
	.	37.01	62.99
	.	26.40	38.46
NAVY	3	46	56
	.	11.92	14.51
	.	45.10	54.90
	.	25.84	26.92
MARINE CORPS	2	14	23
	.	3.63	5.96
	.	37.84	62.16
	.	7.87	11.06
AIR FORCE	9	60	44
	.	15.54	11.40
	.	57.69	42.31
	.	33.71	21.15
COAST GUARD	1	11	5
	.	2.85	1.30
	.	68.75	31.25
	.	6.18	2.40
TOTAL	.	178	208
	.	46.11	53.89
			386
			100.00

14. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judge's superior for court-related decisions?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF15

QF1	QF15	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	90	7 3.85 14.89 15.56	17 9.34 36.17 27.87	18 9.89 38.30 32.73	5 2.75 10.64 23.81	47 25.82
NAVY	57	12 6.59 25.00 26.67	13 7.14 27.08 21.31	15 8.24 31.25 27.27	8 4.40 16.67 38.10	48 26.37
MARINE CORPS	24	4 2.20 26.67 8.89	8 4.40 53.33 13.11	1 0.55 6.67 1.82	2 1.10 13.33 9.52	15 8.24
AIR FORCE	52	18 9.89 29.51 40.00	19 10.44 31.15 31.15	19 10.44 31.15 34.55	5 2.75 8.20 23.81	61 33.52
COAST GUARD	6	4 2.20 36.36 8.89	4 2.20 36.36 6.56	2 1.10 18.18 3.64	1 0.55 9.09 4.76	11 6.04
TOTAL		45 24.73	61 33.52	55 30.22	21 11.54	182 100.00

15. If yes, how often?

once.....1
seldom.....2
sometimes.....3
frequently.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF16

QF1	QF16	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	.	93	21	3	18	44
		1.16	12.14	1.73	10.40	25.43
		4.55	47.73	6.82	40.91	
		6.25	30.88	21.43	30.51	
NAVY	.	59	8	5	18	46
		8.67	4.62	2.89	10.40	26.59
		32.61	17.39	10.87	39.13	
		46.88	11.76	35.71	30.51	
MARINE CORPS	.	25	4	2	5	14
		1.73	2.31	1.16	2.89	8.09
		21.43	28.57	14.29	35.71	
		9.38	5.88	14.29	8.47	
AIR FORCE	.	55	31	3	14	58
		5.78	17.92	1.73	8.09	33.53
		17.24	53.45	5.17	24.14	
		31.25	45.59	21.43	23.73	
COAST GUARD	.	6	4	1	4	11
		1.16	2.31	0.58	2.31	6.36
		18.18	36.36	9.09	36.36	
		6.25	5.88	7.14	6.78	
TOTAL	.	32	68	14	59	173
		18.50	39.31	8.09	34.10	100.00

16. If your answer to #14 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?

usually findings.....1
usually sentence.....2
usually other grounds.....3
about equally on all of the
above.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF17

QF1	QF17		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	91	4	21	21	46	25.56
		2.22	11.67	11.67	25	
		8.70	45.65	45.65	48	
		28.57	28.38	22.83	26.67	
NAVY	57	7	16	25	48	26.67
		3.89	8.89	13.89	13	
		14.58	33.33	52.08	7.22	
		50.00	21.62	27.17		
MARINE CORPS	26	0	5	8	13	7.22
		0.00	2.78	4.44		
		0.00	38.46	61.54		
		0.00	6.76	8.70		
AIR FORCE	52	3	23	35	61	33.89
		1.67	12.78	19.44		
		4.92	37.70	57.38		
		21.43	31.08	38.04		
COAST GUARD	5	0	9	3	12	6.67
		0.00	5.00	1.67		
		0.00	75.00	25.00		
		0.00	12.16	3.26		
TOTAL		14	74	92	180	100.00
		7.78	41.11	51.11		

17. If your answer to #14 is yes, did the criticism impact on the judges' subsequent decisions?

yes.....1
no.....2
don't know.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF18

QF1	QF18	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	.	20 4.95 14.93 37.04	39 9.65 29.10 38.24	41 10.15 30.60 29.71	34 8.42 25.37 30.91	134 33.17
NAVY	.	14 3.47 13.59 25.93	21 5.20 20.39 20.59	35 8.66 33.98 25.36	33 8.17 32.04 30.00	103 25.50
MARINE CORPS	0	3 0.74 7.69 5.56	8 1.98 20.51 7.84	17 4.21 43.59 12.32	11 2.72 28.21 10.00	39 9.65
AIR FORCE	1	15 3.71 13.39 27.78	32 7.92 28.57 31.37	38 9.41 33.93 27.54	27 6.68 24.11 24.55	112 27.72
COAST GUARD	1	2 0.50 12.50 3.70	2 0.50 12.50 1.96	7 1.73 43.75 5.07	5 1.24 31.25 4.55	16 3.96
TOTAL	.	54 13.37	102 25.25	138 34.16	110 27.23	404 100.00

18. To what extent do you believe a guaranteed term of office would create the appearance of a more independent and fair military judiciary?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF19

QF1	QF19	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.					
ARMY	.	37 9.09 27.21 42.05	39 9.58 28.68 29.10	36 8.85 26.47 30.00	24 5.90 17.65 36.92	136 33.42
NAVY	.	21 5.16 20.19 23.86	28 6.88 26.92 20.90	37 9.09 35.58 30.83	18 4.42 17.31 27.69	104 25.55
MARINE CORPS	0	5 1.23 12.82 5.68	16 3.93 41.03 11.94	9 2.21 23.08 7.50	9 2.21 23.08 13.85	39 9.58
AIR FORCE	1	22 5.41 19.64 25.00	45 11.06 40.18 33.58	33 8.11 29.46 27.50	12 2.95 10.71 18.46	112 27.52
COAST GUARD	1	3 0.74 18.75 3.41	6 1.47 37.50 4.48	5 1.23 31.25 4.17	2 0.49 12.50 3.08	16 3.93
TOTAL	.	88 21.62	134 32.92	120 29.48	65 15.97	407 100.00

19. To what extent do you believe that a guaranteed term of office would actually create a more independent and fair military judiciary?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF20

QF1	QF20	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
ARMY	.	26 6.40 19.12 38.81	36 8.87 26.47 35.29	37 9.11 27.21 27.41	37 9.11 27.21 36.27	136 33.50
NAVY	2	16 3.94 15.53 23.88	19 4.68 18.45 18.63	44 10.84 42.72 32.59	24 5.91 23.30 23.53	103 25.37
MARINE CORPS	0	8 1.97 20.51 11.94	10 2.46 25.64 9.80	11 2.71 28.21 8.15	10 2.46 25.64 9.80	39 9.61
AIR FORCE	1	16 3.94 14.29 23.88	33 8.13 29.46 32.35	38 9.36 33.93 28.15	25 6.16 22.32 24.51	112 27.59
COAST GUARD	1	1 0.25 6.25 1.49	4 0.99 25.00 3.92	5 1.23 31.25 3.70	6 1.48 37.50 5.88	16 3.94
TOTAL	.	67 16.50	102 25.12	135 33.25	102 25.12	406 100.00

20. To what extent do you believe that experience as a military judge with a guaranteed term of office would contribute to a more professionally competent military judiciary?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF21

QF1	QF21	1	2	3	TOTAL
ARMY	FREQUENCY	51	65	20	136
	PERCENT	12.50	15.93	4.90	33.33
	ROW PCT	37.50	47.79	14.71	
NAVY	FREQUENCY	26	62	16	104
	PERCENT	6.37	15.20	3.92	25.49
	ROW PCT	25.00	59.62	15.38	
MARINE CORPS	FREQUENCY	14	18	7	39
	PERCENT	3.43	4.41	1.72	9.56
	ROW PCT	35.90	46.15	17.95	
AIR FORCE	FREQUENCY	28	67	18	113
	PERCENT	6.86	16.42	4.41	27.70
	ROW PCT	24.78	59.29	15.93	
COAST GUARD	FREQUENCY	5	6	5	16
	PERCENT	1.23	1.47	1.23	3.92
	ROW PCT	31.25	37.50	31.25	
TOTAL	FREQUENCY	124	218	66	408
	PERCENT	30.39	53.43	16.18	100.00
	ROW PCT				

21. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF22

QF1 FREQUENCY PERCENT ROW PCT COL PCT	QF22			TOTAL
	1	2	3	
ARMY	18 4.42 13.24 37.50	94 23.10 69.12 30.82	3 5.90 17.65 44.44	136 33.42
NAVY	13 3.19 12.50 27.08	81 19.90 77.88 26.56	10 2.46 9.62 18.52	104 25.55
MARINE CORPS	6 1.47 15.38 12.50	30 7.37 76.92 9.84	3 0.74 7.69 5.56	39 9.58
AIR FORCE	10 2.46 8.93 20.83	89 21.87 79.46 29.18	13 3.19 11.61 24.07	112 27.52
COAST GUARD	1 0.25 6.25 2.08	11 2.70 68.75 3.61	4 0.98 25.00 7.41	16 3.93
TOTAL	48 11.79	305 74.94	54 13.27	407 100.00

22. Would guaranteed terms of office for military judges give judges too much independence?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF23

QF1	QF23	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		25	81	30	136
		6.22	20.15	7.46	33.83
		18.38	59.56	22.06	
		28.09	36.99	31.91	
NAVY		20	51	29	100
		4.98	12.69	7.21	24.88
		20.00	51.00	29.00	
		22.47	23.29	30.85	
MARINE CORPS		7	21	10	38
		1.74	5.22	2.49	9.45
		18.42	55.26	26.32	
		7.87	9.59	10.64	
AIR FORCE		32	56	24	112
		7.96	13.93	5.97	27.86
		28.57	50.00	21.43	
		35.96	25.57	25.53	
COAST GUARD		5	10	1	16
		1.24	2.49	0.25	3.98
		31.25	62.50	6.25	
		5.62	4.57	1.06	
TOTAL		89	219	94	402
		22.14	54.48	23.38	100.00

23. How do you view assignment as a military judge in terms of career enhancement?

- not very career enhancing.....1
- somewhat career enhancing.....2
- very career enhancing.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF24

QF1	QF24	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	0	9 2.21 6.62 22.50	79 19.41 58.09 37.44	48 11.79 35.29 30.77	136 33.42
NAVY	1	10 2.46 9.62 25.00	46 11.30 44.23 21.80	48 11.79 46.15 30.77	104 25.55
MARINE CORPS	0	6 1.47 15.38 15.00	17 4.18 43.59 8.06	16 3.93 41.03 10.26	39 9.58
AIR FORCE	1	15 3.69 13.39 37.50	61 14.99 54.46 28.91	36 8.85 32.14 23.08	112 27.52
COAST GUARD	1	0 0.00 0.00 0.00	8 1.97 50.00 3.79	8 1.97 50.00 5.13	16 3.93
TOTAL	:	40 9.83	211 51.84	156 38.33	407 100.00

24. Is 0-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF25

QF1	QF25	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		23	52	60	135
		5.65	12.78	14.74	33.17
		17.04	38.52	44.44	
		30.67	35.86	32.09	
NAVY		21	29	55	105
		5.16	7.13	13.51	25.80
		20.00	27.62	52.38	
		28.00	20.00	29.41	
MARINE CORPS		10	8	21	39
		2.46	1.97	5.16	9.58
		25.64	20.51	53.85	
		13.33	5.52	11.23	
AIR FORCE		19	51	42	112
		4.67	12.53	10.32	27.52
		16.96	45.54	37.50	
		25.33	35.17	22.46	
COAST GUARD		2	5	9	16
		0.49	1.23	2.21	3.93
		12.50	31.25	56.25	
		2.67	3.45	4.81	
TOTAL		75	145	187	407
		18.43	35.63	45.95	100.00

25. Is 0-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF26

QF1	QF26	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		77	11	47	135
	2	18.92	2.70	11.55	33.17
	.	57.04	8.15	34.81	
	.	27.40	64.71	43.12	
NAVY		71	2	32	105
	0	17.44	0.49	7.86	25.80
	.	67.62	1.90	30.48	
	.	25.27	11.76	29.36	
MARINE CORPS		31	0	8	39
	0	7.62	0.00	1.97	9.58
	.	79.49	0.00	20.51	
	.	11.03	0.00	7.34	
AIR FORCE		92	2	18	112
	1	22.60	0.49	4.42	27.52
	.	82.14	1.79	16.07	
	.	32.74	11.76	16.51	
COAST GUARD		10	2	4	16
	1	2.46	0.49	0.98	3.93
	.	62.50	12.50	25.00	
	.	3.56	11.76	3.67	
TOTAL		291	17	109	407
	.	69.04	4.18	26.78	100.00

26. If there were flag or general officer billets on the Courts of Military Review would judicial duty be more career enhancing?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF27

QF1	QF27	0	1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		2	62	15	58	135
		.	15.23	3.69	14.25	33.17
		.	45.93	11.11	42.96	
		.	25.62	48.39	43.28	
NAVY		0	65	7	33	105
		.	15.97	1.72	8.11	25.80
		.	61.90	6.67	31.43	
		.	26.86	22.58	24.63	
MARINE CORPS		0	30	1	8	39
		.	7.37	0.25	1.97	9.58
		.	76.92	2.56	20.51	
		.	12.40	3.23	5.97	
AIR FORCE		1	79	5	28	112
		.	19.41	1.23	6.88	27.52
		.	70.54	4.46	25.00	
		.	32.64	16.13	20.90	
COAST GUARD		1	6	3	7	16
		.	1.47	0.74	1.72	3.93
		.	37.50	18.75	43.75	
		.	2.48	9.68	5.22	
TOTAL		.	242	31	134	407
		.	59.46	7.62	32.92	100.00

27. If there were flag or general officer billets on the Court of Military Appeals would judicial duty be more career enhancing?

Yes.....1
no.....2
no opinion.....3

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FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF28

QF1	QF28	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	.	18	71	39	6	134
		4.48	17.66	9.70	1.49	33.33
		13.43	52.99	29.10	4.48	
		30.00	36.22	30.47	33.33	
NAVY	.	21	44	33	5	103
		5.22	10.95	8.21	1.24	25.62
		20.39	42.72	32.04	4.85	
		35.00	22.45	25.78	27.78	
MARINE CORPS	0	5	17	16	1	39
		1.24	4.23	3.98	0.25	9.70
		12.82	43.59	41.03	2.56	
		8.33	8.67	12.50	5.56	
AIR FORCE	3	14	56	34	6	110
		3.48	13.93	8.46	1.49	27.36
		12.73	50.91	30.91	5.45	
		23.33	28.57	26.56	33.33	
COAST GUARD	1	2	8	6	0	16
		0.50	1.99	1.49	0.00	3.98
		12.50	50.00	37.50	0.00	
		3.33	4.08	4.69	0.00	
TOTAL	.	60	196	128	18	402
		14.93	48.76	31.84	4.48	100.00

28. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?

much more attractive.....1
 somewhat more attractive.....2
 no effect.....3
 somewhat less attractive.....4
 much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF29

QF1	QF29	1	2	3	4	TOTAL
ARMY	FREQUENCY	29	56	41	8	134
	PERCENT ROW PCT	7.23	13.97	10.22	2.00	33.42
NAVY	FREQUENCY	21	49	25	7	102
	PERCENT ROW PCT	5.24	12.22	6.23	1.75	25.44
MARINE CORPS	FREQUENCY	8	27	4	0	39
	PERCENT ROW PCT	2.00	6.73	1.00	0.00	9.73
AIR FORCE	FREQUENCY	21	63	24	3	111
	PERCENT ROW PCT	5.24	15.71	5.99	0.75	27.68
COAST GUARD	FREQUENCY	1	8	6	0	15
	PERCENT ROW PCT	0.25	2.00	1.50	0.00	3.74
TOTAL		80	203	100	18	401
		19.95	50.62	24.94	4.49	100.00

29. If a guaranteed term of office provision were enacted, what length of time should it contain for judges of the Courts of Military Review?

- normal tour length.....1
- 3-5 years.....2
- 6-10 years.....3
- over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF30

QF1	QF30	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
ARMY	.	45 11.14 33.33 36.00	52 12.87 38.52 26.67	28 6.93 20.74 43.08	10 2.48 7.41 52.63	135 33.42
NAVY	.	28 6.93 27.18 22.40	51 12.62 49.51 26.15	19 4.70 18.45 29.23	5 1.24 4.85 26.32	103 25.50
MARINE CORPS	0	12 2.97 30.77 9.60	23 5.69 58.97 11.79	4 0.99 10.26 6.15	0 0.00 0.00 0.00	39 9.65
AIR FORCE	2	36 8.91 32.43 28.80	60 14.85 54.05 30.77	11 2.72 9.91 16.92	4 0.99 3.60 21.05	111 27.48
COAST GUARD	1	4 0.99 25.00 3.20	9 2.23 56.25 4.62	3 0.74 18.75 4.62	0 0.00 0.00 0.00	16 3.96
TOTAL	.	125 30.94	195 48.27	65 16.09	19 4.70	404 100.00

30. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?

normal tour length.....1
3-5 years.....2
6-10 years.....3
over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF31

QF1	QF31	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT							
ARMY		2 15.38 45.93 34.07	62 13.90 41.48 32.00	56 2.73 8.15 34.38	11 1.49 4.44 42.86	6 0.79 2.56 21.43	135 33.50
NAVY		2 10.67 41.75 23.63	43 11.17 43.69 25.71	45 2.73 10.68 34.38	11 0.99 3.88 28.57	4 0.52 1.56 11.90	103 25.56
MARINE CORPS		0 4.96 51.29 10.99	20 3.97 41.03 9.14	16 0.50 5.13 6.25	2 0.25 2.56 7.14	1 0.13 1.43 4.29	39 9.68
AIR FORCE		2 12.66 45.95 28.02	51 12.16 44.14 28.00	49 1.99 7.21 25.00	8 0.74 2.70 21.43	3 0.39 1.17 9.30	111 27.54
COAST GUARD		2 1.49 40.00 3.30	6 2.23 60.00 5.14	9 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00 0.00	15 3.72
TOTAL		182 45.16	175 43.42	32 7.94	14 3.47	403 100.00	

31. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?

normal tour length.....1
3-5 years.....2
6-10 years.....3
over 10 years.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF32

QF1	QF32	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	.	101	28	6	135
	.	24.88	6.90	1.48	33.25
	.	74.81	20.74	4.44	
	.	35.19	30.43	22.22	
NAVY	.	68	26	10	104
	.	16.75	6.40	2.46	25.62
	.	65.38	25.00	9.62	
	.	23.69	28.26	37.04	
MARINE CORPS	0	25	11	3	39
	.	6.16	2.71	0.74	9.61
	.	64.10	28.21	7.69	
	.	8.71	11.96	11.11	
AIR FORCE	1	85	21	6	112
	.	20.94	5.17	1.48	27.59
	.	75.89	18.75	5.36	
	.	29.62	22.83	22.22	
COAST GUARD	1	8	6	2	16
	.	1.97	1.48	0.49	3.94
	.	50.00	37.50	12.50	
	.	2.79	6.52	7.41	
TOTAL	.	287	92	27	406
	.	70.69	22.66	6.65	100.00

32. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF33

QF1	QF33	1	2	3	4	5	TOTAL
ARMY	FREQUENCY	32	49	45	8	1	135
	PERCENT	7.92	12.13	11.14	1.98	0.25	33.42
	ROW PCT	23.70	36.30	33.33	5.93	0.74	
NAVY	FREQUENCY	41.03	29.34	33.09	42.11	25.00	
	PERCENT	20	45	34	3	0	102
	ROW PCT	4.95	11.14	8.42	0.74	0.00	25.25
MARINE CORPS	FREQUENCY	19.61	44.12	33.33	2.94	0.00	
	PERCENT	25.64	26.95	25.00	15.79	0.00	
	ROW PCT	0	9	14	0	0	39
AIR FORCE	FREQUENCY	2.23	3.96	3.47	0.00	0.00	9.65
	PERCENT	23.08	41.03	35.90	0.00	0.00	
	ROW PCT	11.54	9.58	10.29	0.00	0.00	
COAST GUARD	FREQUENCY	14	48	40	7	3	112
	PERCENT	3.47	11.88	9.90	1.73	0.74	27.72
	ROW PCT	12.50	42.86	35.71	6.25	2.68	
TOTAL	FREQUENCY	17.95	28.74	29.41	36.84	75.00	
	PERCENT	3	9	3	1	0	16
	ROW PCT	0.74	2.23	0.74	0.25	0.00	3.96
TOTAL	FREQUENCY	18.75	56.25	18.75	6.25	0.00	404
	PERCENT	3.85	5.39	2.21	5.26	0.00	100.00
	ROW PCT	78	167	136	19	4	
		19.31	41.34	33.66	4.70	0.99	

33. How would guaranteed terms of office affect your view of military judge assignments?

- much more attractive.....1
- somewhat more attractive.....2
- no effect.....3
- somewhat less attractive.....4
- much less attractive.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF34

QF1	QF34	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	.	93	29	13	135
		22.85	7.13	3.19	33.17
		68.89	21.48	9.63	
		32.63	31.52	43.33	
NAVY	0	71	29	5	105
		17.44	7.13	1.23	25.80
		67.62	27.62	4.76	
		24.91	31.52	16.67	
MARINE CORPS	0	23	10	6	39
		5.65	2.46	1.47	9.58
		58.97	25.64	15.38	
		8.07	10.87	20.00	
AIR FORCE	1	87	20	5	112
		21.38	4.91	1.23	27.52
		77.68	17.86	4.46	
		30.53	21.74	16.67	
COAST GUARD	1	11	4	1	16
		2.70	0.98	0.25	3.93
		68.75	25.00	6.25	
		3.86	4.35	3.33	
TOTAL	.	285	92	30	407
		70.02	22.60	7.37	100.00

34. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF35

QF1	QF35	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	•	12 2.96 8.89 19.67	104 25.62 77.04 37.01	19 4.68 14.07 29.69	135 33.25
NAVY	•	16 3.94 15.24 26.23	71 17.49 67.62 25.27	18 4.43 17.14 28.13	105 25.86
MARINE CORPS	•	5 1.23 13.16 8.20	27 6.65 71.05 9.61	6 1.48 15.79 9.38	38 9.36
AIR FORCE	•	26 6.40 23.21 42.62	69 17.00 61.61 24.56	17 4.19 15.18 26.56	112 27.59
COAST GUARD	•	2 0.49 12.50 3.28	10 2.46 62.50 3.56	4 0.99 25.00 6.25	16 3.94
TOTAL	•	61 15.02	281 69.21	64 15.76	406 100.00

35. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF36

QF1	QF36		1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT							
ARMY	4	43	31	42	17	133	
	.	10.80	7.79	10.55	4.27	33.42	
	.	32.33	23.31	31.58	12.78		
	.	34.96	27.19	39.62	30.91		
NAVY	2	28	34	29	12	103	
	.	7.04	8.54	7.29	3.02	25.88	
	.	27.18	33.01	28.16	11.65		
	.	22.76	29.82	27.36	21.82		
MARINE CORPS	1	6	14	10	8	38	
	.	1.51	3.52	2.51	2.01	9.55	
	.	15.79	36.84	26.32	21.05		
	.	4.88	12.28	9.43	14.55		
AIR FORCE	5	40	34	20	14	108	
	.	10.05	8.54	5.03	3.52	27.14	
	.	37.04	31.48	18.52	12.96		
	.	32.52	29.82	18.87	25.45		
COAST GUARD	1	6	1	5	4	16	
	.	1.51	0.25	1.26	1.01	4.02	
	.	37.50	6.25	31.25	25.00		
	.	4.88	0.88	4.72	7.27		
TOTAL	.	123	114	106	55	398	
	.	30.90	28.64	26.63	13.82	100.00	

36. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF37

QF1	QF37	2	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
ARMY	.	2	68	56	11	135
		.	16.75	13.79	2.71	33.25
		.	50.37	41.48	8.15	
		.	29.82	42.42	23.91	
NAVY	.	0	54	32	19	105
		.	13.30	7.88	4.68	25.86
		.	51.43	30.48	18.10	
		.	23.68	24.24	41.30	
MARINE CORPS	.	1	28	10	0	38
		.	6.90	2.46	0.00	9.36
		.	73.68	26.32	0.00	
		.	12.28	7.58	0.00	
AIR FORCE	.	1	67	31	14	112
		.	16.50	7.64	3.45	27.59
		.	59.82	27.68	12.50	
		.	29.39	23.48	30.43	
COAST GUARD	.	1	11	3	2	16
		.	2.71	0.74	0.49	3.94
		.	68.75	18.75	12.50	
		.	4.82	2.27	4.35	
TOTAL	.	.	228	132	46	406
		.	56.16	32.51	11.33	100.00

37. Do you believe your clients would feel that a military judge is more independent from command influence under a system of guaranteed terms of office?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF38

QF1	QF38	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY		93	43	136
	1	22.96	10.62	33.58
	.	68.38	31.62	
	.	31.00	40.95	
NAVY		79	24	103
	2	19.51	5.93	25.43
	.	76.70	23.30	
	.	26.33	22.86	
MARINE CORPS		30	9	39
	0	7.41	2.22	9.63
	.	76.92	23.08	
	.	10.00	8.57	
AIR FORCE		85	26	111
	2	20.99	6.42	27.41
	.	76.58	23.42	
	.	28.33	24.76	
COAST GUARD		13	3	16
	1	3.21	0.74	3.95
	.	81.25	18.75	
	.	4.33	2.86	
TOTAL		300	105	405
	.	74.07	25.93	100.00

38. On balance, do you favor some provision for guaranteed terms
of office for trial judges?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF39

QF1	FREQUENCY PERCENT ROW PCT COL PCT	QF39		TOTAL
		1	2	
ARMY		97	36	133
		24.31	9.02	33.33
		72.93	27.07	
		31.29	40.45	
NAVY		77	24	101
		19.30	6.02	25.31
		76.24	23.76	
		24.84	26.97	
MARINE CORPS		32	6	38
		8.02	1.50	9.52
		84.21	15.79	
		10.32	6.74	
AIR FORCE		95	17	112
		23.81	4.26	28.07
		84.82	15.18	
		30.65	19.10	
COAST GUARD		9	6	15
		2.26	1.50	3.76
		60.00	40.00	
		2.90	6.74	
TOTAL		310	89	399
		77.69	22.31	100.00

39. On balance, do you favor some provision for guaranteed terms
of office for CMR judges?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF40

QF1	QF40		1	2	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	5	100	32	132	
	.	24.69	7.90	32.59	
	.	75.76	24.24		
	.	32.68	32.32		
NAVY	0	83	22	105	
	.	20.49	5.43	25.93	
	.	79.05	20.95		
	.	27.12	22.22		
MARINE CORPS	0	39	0	39	
	.	9.63	0.00	9.63	
	.	100.00	0.00		
	.	12.75	0.00		
AIR FORCE	0	75	38	113	
	.	18.52	9.38	27.90	
	.	66.37	33.63		
	.	24.51	38.38		
COAST GUARD	1	9	7	16	
	.	2.22	1.73	3.95	
	.	56.25	43.75		
	.	2.94	7.07		
TOTAL	.	306	99	405	
	.	75.56	24.44	100.00	

40. Do you defend cases primarily in a single location or do you ride a circuit?

single location.....1
circuit.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF41

QF1	QF41	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	6	14 3.49 10.69 20.00	27 6.73 20.61 36.99	57 14.21 43.51 50.44	33 8.23 25.19 22.76	131 32.67
NAVY	1	2 0.50 1.92 2.86	10 2.49 9.62 13.70	13 3.24 12.50 11.50	79 19.70 75.96 54.48	104 25.94
MARINE CORPS	0	6 1.50 15.38 8.57	5 1.25 12.82 6.85	13 3.24 33.33 11.50	15 3.74 38.46 10.34	39 9.73
AIR FORCE	2	36 8.98 32.43 51.43	30 7.48 27.03 41.10	29 7.23 26.13 25.66	16 3.99 14.41 11.03	111 27.68
COAST GUARD	1	12 2.99 75.00 17.14	1 0.25 6.25 1.37	1 0.25 6.25 0.88	2 0.50 12.50 1.38	16 3.99
TOTAL		70 17.46	73 18.20	113 28.18	145 36.16	401 100.00

41. What percentage of the cases you tried in the past year were by military judge alone?

under 25%.....1
26-50%.....2
51-75%.....3
over 75%.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF42

QF1	QF42	1	2	3	4	5	TOTAL
FREQUENCY ROW PCT COL PCT							
ARMY	•	32 7.92 23.53 14.41	36 8.91 26.47 48.65	33 8.17 24.26 67.35	15 3.71 11.03 53.57	20 4.95 14.71 64.52	136 33.66
NAVY	•	65 16.09 65.00 29.28	14 3.47 14.00 18.92	9 2.23 9.00 18.37	8 1.98 8.00 28.57	4 0.99 4.00 12.90	100 24.75
MARINE CORPS	•	22 5.45 56.41 9.91	10 2.48 25.64 13.51	3 0.74 7.69 6.12	3 0.74 7.69 10.71	1 0.25 2.56 3.23	39 9.65
AIR FORCE	•	90 22.28 79.65 40.54	14 3.47 12.39 18.92	2 0.50 1.77 4.08	2 0.50 1.77 7.14	5 1.24 4.42 16.13	113 27.97
COAST GUARD	•	13 3.22 81.25 5.86	0 0.00 0.00 0.00	2 0.50 12.50 4.08	0 0.00 0.00 0.00	1 0.25 6.25 3.23	16 3.96
TOTAL	•	222 54.95	74 18.32	49 12.13	28 6.93	31 7.67	404 100.00

42. In your experience, in what percentage of cases with court members does an accused request enlisted members?

less than 10%.....1
10-25%.....2
26-50%.....3
51-75%.....4
over 75%.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF43

QF1	QF43	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	1	9	19	47	47	14	136
	.	2.22	4.68	11.58	11.58	3.45	33.50
	.	6.62	13.97	34.56	34.56	10.29	
	.	37.50	24.36	34.31	39.17	29.79	
NAVY	3	2	18	26	38	18	102
	.	0.49	4.43	6.40	9.36	4.43	25.12
	.	1.96	17.65	25.49	37.25	17.65	
	.	8.33	23.08	18.98	31.67	38.30	
MARINE CORPS	0	4	2	13	16	4	39
	.	0.99	0.49	3.20	3.94	0.99	9.61
	.	10.26	5.13	33.33	41.03	10.26	
	.	16.67	2.56	9.49	13.33	8.51	
AIR FORCE	0	8	35	42	17	11	113
	.	1.97	8.62	10.34	4.19	2.71	27.83
	.	7.08	30.97	37.17	15.04	9.73	
	.	33.33	44.87	30.66	14.17	23.40	
COAST GUARD	1	1	4	9	2	0	16
	.	0.25	0.99	2.22	0.49	0.00	3.94
	.	6.25	25.00	56.25	12.50	0.00	
	.	4.17	5.13	6.57	1.67	0.00	
TOTAL	.	24	78	137	120	47	406
	.	5.91	19.21	33.74	29.56	11.58	100.00

43. How informed are the military judges before whom you have tried cases regarding local military community events and problems?

- not at all.....1
- slightly.....2
- somewhat.....3
- greatly.....4
- don't know.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF44

QF1	QF44	1	2	3	4	5	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	.						
ARMY	2	3	6	46	63	17	135
	.	0.74	1.48	11.33	15.52	4.19	33.25
	.	2.22	4.44	34.07	46.67	12.59	
	.	30.00	22.22	36.22	32.31	36.17	
NAVY	1	4	6	31	43	20	104
	.	0.99	1.48	7.64	10.59	4.93	25.62
	.	3.85	5.77	29.81	41.35	19.23	
	.	40.00	22.22	24.41	22.05	42.55	
MARINE CORPS	1	1	2	14	17	4	38
	.	0.25	0.49	3.45	4.19	0.99	9.36
	.	2.63	5.26	36.84	44.74	10.53	
	.	10.00	7.41	11.02	8.72	8.51	
AIR FORCE	0	2	12	34	60	5	113
	.	0.49	2.96	8.37	14.78	1.23	27.83
	.	1.77	10.62	30.09	53.10	4.42	
	.	20.00	44.44	26.77	30.77	10.64	
COAST GUARD	1	0	1	2	12	1	16
	.	0.00	0.25	0.49	2.96	0.25	3.94
	.	0.00	6.25	12.50	75.00	6.25	
	.	0.00	3.70	1.57	6.15	2.13	
TOTAL	.	10	27	127	195	47	406
	.	2.46	6.65	31.28	48.03	11.58	100.00

44. Are military judges aware of the disciplinary impact of their sentences on the command?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4
don't know.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF45

QF1	QF45	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	.	1 0.25 0.74 14.29	12 2.95 8.82 24.00	39 9.58 28.68 33.33	73 17.94 53.68 38.22	11 2.70 8.09 26.19	136 33.42
NAVY	.	1 0.25 0.96 14.29	10 2.46 9.62 20.00	17 4.18 16.35 14.53	50 12.29 48.08 26.18	26 6.39 25.00 61.90	104 25.55
MARINE CORPS	.	1 0.25 2.63 14.29	2 0.49 5.26 4.00	17 4.18 44.74 14.53	16 3.93 42.11 8.38	2 0.49 5.26 4.76	38 9.34
AIR FORCE	0	3 0.74 2.65 42.86	22 5.41 19.47 44.00	39 9.58 34.51 33.33	46 11.30 40.71 24.08	3 0.74 2.65 7.14	113 27.76
COAST GUARD	1	1 0.25 6.25 14.29	4 0.98 25.00 8.00	5 1.23 31.25 4.27	6 1.47 37.50 3.14	0 0.00 0.00 0.00	16 3.93
TOTAL	.	7 1.72	50 12.29	117 28.75	191 46.93	42 10.32	407 100.00

45. Are the officers who are detailed as court members aware of the disciplinary impact of their sentences on the command?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4
don't know.....5

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF46

QF1	QF46	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
ARMY	•	32 7.92 23.88 27.83	55 13.61 41.04 39.01	25 6.19 18.66 40.98	22 5.45 16.42 25.29	134 33.17
NAVY	•	26 6.44 25.24 22.61	37 9.16 35.92 26.24	11 2.72 10.68 18.03	29 7.18 28.16 33.33	103 25.50
MARINE CORPS	•	9 2.23 23.68 7.83	18 4.46 47.37 12.77	5 1.24 13.16 8.20	6 1.49 15.79 6.90	38 9.41
AIR FORCE	•	41 10.15 36.28 35.65	30 7.43 26.55 21.28	17 4.21 15.04 27.87	25 6.19 22.12 28.74	113 27.97
COAST GUARD	•	7 1.73 43.75 6.09	1 0.25 6.25 0.71	3 0.74 18.75 4.92	5 1.24 31.25 5.75	16 3.96
TOTAL	•	115 28.47	141 34.90	61 15.10	87 21.53	404 100.00

46. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?

military judges.....1
members.....2
no difference.....3
don't know.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF47

QF1	QF47	1	2	3	4	5	TOTAL
ARMY	FREQUENCY	0	32	87	16	2	137
	PERCENT ROW PCT	0.00	7.90	21.48	3.95	0.49	33.83
	COL PCT	0.00	23.36	63.50	11.68	1.46	66.67
NAVY	FREQUENCY	5	26	65	8	0	100
	PERCENT ROW PCT	0.25	6.42	16.05	1.98	0.00	24.69
	COL PCT	1.00	26.00	65.00	8.00	0.00	0.00
MARINE CORPS	FREQUENCY	0	9	26	4	0	39
	PERCENT ROW PCT	0.00	2.22	6.42	0.99	0.00	9.63
	COL PCT	0.00	23.08	66.67	10.26	0.00	0.00
AIR FORCE	FREQUENCY	0	18	79	15	1	113
	PERCENT ROW PCT	0.00	4.44	19.51	3.70	0.25	27.90
	COL PCT	0.00	15.93	69.91	13.27	0.88	33.33
COAST GUARD	FREQUENCY	1	2	11	3	0	16
	PERCENT ROW PCT	0.00	0.49	2.72	0.74	0.00	3.95
	COL PCT	0.00	12.50	68.75	18.75	0.00	0.00
TOTAL		1	87	268	46	3	405
		0.25	21.48	66.17	11.36	0.74	100.00

47. How often do court members give an inappropriate sentence (unreasonably lenient or harsh)?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF48

QF1	QF48	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	.	2	57	67	9	1	136
	.	0.49	14.04	16.50	2.22	0.25	33.50
	.	1.47	41.91	49.26	6.62	0.74	
	.	66.67	33.33	32.06	42.86	50.00	
NAVY	.	0	41	56	5	0	102
	.	0.00	10.10	13.79	1.23	0.00	25.12
	.	0.00	40.20	54.90	4.90	0.00	
	.	0.00	23.98	26.79	23.81	0.00	
MARINE CORPS	.	0	14	22	3	0	39
	.	0.00	3.45	5.42	0.74	0.00	9.61
	.	0.00	35.90	56.41	7.69	0.00	
	.	0.00	8.19	10.53	14.29	0.00	
AIR FORCE	.	1	52	55	4	1	113
	.	0.25	12.81	13.55	0.99	0.25	27.83
	.	0.88	46.02	48.67	3.54	0.88	
	.	33.33	30.41	26.32	19.05	50.00	
COAST GUARD	.	0	7	9	0	0	16
	.	0.00	1.72	2.22	0.00	0.00	3.94
	.	0.00	43.75	56.25	0.00	0.00	
	.	0.00	4.09	4.31	0.00	0.00	
TOTAL	.	3	171	209	21	2	406
	.	0.74	42.12	51.48	5.17	0.49	100.00

48. How often do military judges give an inappropriate sentence
(unreasonably lenient or harsh)?

never.....1
seldom.....2
sometimes.....3
usually.....4
always.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF49

QF1	QF49	0	1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	85	41	11	137
		.	20.83	10.05	2.70	33.58
		.	62.04	29.93	8.03	
		.	34.55	33.88	26.83	
NAVY		1	65	24	15	104
		.	15.93	5.88	3.68	25.49
		.	62.50	23.08	14.42	
		.	26.42	19.83	36.59	
MARINE CORPS		0	26	7	6	39
		.	6.37	1.72	1.47	9.56
		.	66.67	17.95	15.38	
		.	10.57	5.79	14.63	
AIR FORCE		1	63	42	7	112
		.	15.44	10.29	1.72	27.45
		.	56.25	37.50	6.25	
		.	25.61	34.71	17.07	
COAST GUARD		1	7	7	2	16
		.	1.72	1.72	0.49	3.92
		.	43.75	43.75	12.50	
		.	2.85	5.79	4.88	
TOTAL		.	246	121	41	408
		.	60.29	29.66	10.05	100.00

49. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF50

QF1	QF50	1	2	3	4	TOTAL
ARMY	FREQUENCY	54	36	10	37	137
	PERCENT	13.37	8.91	2.48	9.16	33.91
	ROW PCT	39.42	26.28	7.30	27.01	
NAVY	COL PCT	34.62	40.00	31.25	29.37	
	FREQUENCY	34	23	9	37	103
	PERCENT	8.42	5.69	2.23	9.16	25.50
MARINE CORPS	ROW PCT	33.01	22.33	8.74	35.92	
	COL PCT	21.79	25.56	28.13	29.37	
	FREQUENCY	11	5	4	17	37
AIR FORCE	PERCENT	2.72	1.24	0.99	4.21	9.16
	ROW PCT	29.73	13.51	10.81	45.95	
	COL PCT	7.05	5.56	12.50	13.49	
COAST GUARD	FREQUENCY	51	23	6	32	112
	PERCENT	12.62	5.69	1.49	7.92	27.72
	ROW PCT	45.54	20.54	5.36	28.57	
TOTAL	COL PCT	32.69	25.56	18.75	25.40	
	FREQUENCY	6	3	3	3	15
	PERCENT	1.49	0.74	0.74	0.74	3.71
TOTAL	ROW PCT	40.00	20.00	20.00	20.00	
	COL PCT	3.85	3.33	9.38	2.38	
	FREQUENCY	156	90	32	126	404
TOTAL	PERCENT	38.61	22.28	7.92	31.19	100.00
	ROW PCT					
	COL PCT					

50. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?

- reduce frequency.....1
- no effect.....2
- increase frequency.....3
- merely shift the focus to the military judge.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF51

QF1	QF51	0	1	2	3	4	TOTAL
ARMY	FREQUENCY	1	7	15	88	26	136
	PERCENT	.	1.72	3.69	21.67	6.40	33.50
	COL PCT	.	5.15	11.03	64.71	19.12	32.91
NAVY	FREQUENCY	2	5	13	54	31	103
	PERCENT	.	1.23	3.20	13.30	7.64	25.37
	COL PCT	.	4.85	12.62	52.43	30.10	39.24
MARINE CORPS	FREQUENCY	0	4	6	25	4	39
	PERCENT	.	0.99	1.48	6.16	0.99	9.61
	COL PCT	.	10.26	15.38	64.10	10.26	5.06
AIR FORCE	FREQUENCY	1	6	3	88	15	112
	PERCENT	.	1.48	0.74	21.67	3.69	27.59
	COL PCT	.	5.36	2.68	78.57	13.39	18.99
COAST GUARD	FREQUENCY	1	2	2	9	3	16
	PERCENT	.	0.49	0.49	2.22	0.74	3.94
	COL PCT	.	12.50	12.50	56.25	18.75	3.80
TOTAL		.	24	39	264	79	406
		.	5.91	9.61	65.02	19.46	100.00

51. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system and the command?

- officer panels.....1
- officer and enlisted panels...2
- military judges.....3
- all are equally qualified.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF52

QF1	QF52	0	1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		5	61	37	34	132
		.	15.44	9.37	8.61	33.42
		.	46.21	28.03	25.76	
		.	30.65	37.00	35.42	
NAVY		7	51	24	23	98
		.	12.91	6.08	5.82	24.81
		.	52.04	24.49	23.47	
		.	25.63	24.00	23.96	
MARINE CORPS		0	19	11	9	39
		.	4.81	2.78	2.28	9.87
		.	48.72	28.21	23.08	
		.	9.55	11.00	9.38	
AIR FORCE		3	60	23	27	110
		.	15.19	5.82	6.84	27.85
		.	54.55	20.91	24.55	
		.	30.15	23.00	28.13	
COAST GUARD		1	8	5	3	16
		.	2.03	1.27	0.76	4.05
		.	50.00	31.25	18.75	
		.	4.02	5.00	3.13	
TOTAL		.	199	100	96	395
		.	50.38	25.32	24.30	100.00

52. Can court members or military judges better determine an appropriate sentence for a given accused?

military judges.....1
members.....2
no difference.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF53

QF1	QF53	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	3	13	34	51	35	1	134
	.	3.27	8.56	12.85	8.82	0.25	33.75
	.	9.70	25.37	38.06	26.12	0.75	
	.	48.15	28.57	31.10	41.18	50.00	
NAVY	8	6	34	41	16	0	97
	.	1.51	8.56	10.33	4.03	0.00	24.43
	.	6.19	35.05	42.27	16.49	0.00	
	.	22.22	28.57	25.00	18.82	0.00	
MARINE CORPS	0	2	10	15	12	0	39
	.	0.50	2.52	3.78	3.02	0.00	9.82
	.	5.13	25.64	38.46	30.77	0.00	
	.	7.41	8.40	9.15	14.12	0.00	
AIR FORCE	2	6	37	50	17	1	111
	.	1.51	9.32	12.59	4.28	0.25	27.96
	.	5.41	33.33	45.05	15.32	0.90	
	.	22.22	31.09	30.49	20.00	50.00	
COAST GUARD	1	0	4	7	5	0	16
	.	0.00	1.01	1.76	1.26	0.00	4.03
	.	0.00	25.00	43.75	31.25	0.00	
	.	0.00	3.36	4.27	5.88	0.00	
TOTAL	.	27	119	164	85	2	397
	.	6.80	29.97	41.31	21.41	0.50	100.00

53. How often do convening authorities select the "best qualified" personnel for courts-martial duty?

never.....1
seldom.....2
sometimes.....3
usually.....4
always.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF54

QF1	QF54	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	.	8	41	65	20	2	136
	.	2.01	10.28	16.29	5.01	0.50	34.09
	.	5.88	30.15	47.79	14.71	1.47	
	.	57.14	47.13	35.71	19.05	18.18	
NAVY	5	0	11	42	40	7	100
	.	0.00	2.76	10.53	10.03	1.75	25.06
	.	0.00	11.00	42.00	40.00	7.00	
	.	0.00	12.64	23.08	38.10	63.64	
MARINE CORPS	1	1	9	15	12	1	38
	.	0.25	2.26	3.76	3.01	0.25	9.52
	.	2.63	23.68	39.47	31.58	2.63	
	.	7.14	10.34	8.24	11.43	9.09	
AIR FORCE	4	5	23	53	27	1	109
	.	1.25	5.76	13.28	6.77	0.25	27.32
	.	4.59	21.10	48.62	24.77	0.92	
	.	35.71	26.44	29.12	25.71	9.09	
COAST GUARD	1	0	3	7	6	0	16
	.	0.00	0.75	1.75	1.50	0.00	4.01
	.	0.00	18.75	43.75	37.50	0.00	
	.	0.00	3.45	3.85	5.71	0.00	
TOTAL	.	14	87	182	105	11	399
	.	3.51	21.80	45.61	26.32	2.76	100.00

54. How often do convening authorities select court members for such duty based primarily upon their relative expendability.

never.....1
seldom.....2
sometimes.....3
usually.....4
always.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF55

QF1	QF55	1	2	3	4	5	TOTAL
ARMY	FREQUENCY	0	54	67	4	3	137
	PERCENT	2.22	13.30	16.50	0.99	0.74	33.74
	ROW PCT	6.57	39.42	48.91	2.92	2.19	
NAVY	COL PCT	34.62	26.60	47.52	12.90	60.00	
	FREQUENCY	3	67	4	16	0	102
	PERCENT	3.69	16.50	0.99	3.94	0.00	25.12
MARINE CORPS	ROW PCT	14.71	65.69	3.92	15.69	0.00	
	COL PCT	57.69	33.00	2.84	51.61	0.00	
	FREQUENCY	0	22	8	8	0	39
AIR FORCE	PERCENT	0.25	5.42	1.97	1.97	0.00	9.61
	ROW PCT	2.56	56.41	20.51	20.51	0.00	
	COL PCT	3.85	10.84	5.67	25.81	0.00	
COAST GUARD	FREQUENCY	1	49	60	1	1	112
	PERCENT	0.25	12.07	14.78	0.25	0.25	27.59
	ROW PCT	0.89	43.75	53.57	0.89	0.89	
TOTAL	COL PCT	3.85	24.14	42.55	3.23	20.00	
	FREQUENCY	1	11	2	2	1	16
	PERCENT	0.00	2.71	0.49	0.49	0.25	3.94
TOTAL	ROW PCT	0.00	69.75	12.50	12.50	6.25	
	COL PCT	0.00	5.42	1.42	6.45	20.00	
	FREQUENCY	26	203	141	31	5	406
TOTAL	PERCENT	6.40	50.00	34.73	7.64	1.23	100.00
	ROW PCT						
	COL PCT						

55. What is your sense of the military grade profile of the typical SPCM panels which actually hears cases at which you have been detailed?

- don't know.....1
- one 0-4/0-5 and rest below 0-4.....2
- 50% split between 0-4/0-5 and those below 0-4.....3
- normally all below 0-4.....4
- normally all above 0-4.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF56

QF1	QF56	1	2	3	4	5	6	7	8	TOTAL
ARMY	FREQUENCY	5	67	14	3	14	2	18	13	136
	PERCENT	1.23	16.54	3.46	0.74	3.46	0.49	4.44	3.21	33.58
	ROW PCT	3.68	49.26	10.29	2.21	10.29	1.47	13.24	9.56	
NAVY	COL PCT	7.35	42.41	29.17	17.65	31.82	66.67	51.43	40.63	
	FREQUENCY	36	17	17	7	10	0	8	7	102
	PERCENT	8.89	4.20	4.20	1.73	2.47	0.00	1.98	1.73	25.19
MARINE CORPS	ROW PCT	35.29	16.67	16.67	6.86	9.80	0.00	7.84	6.86	
	COL PCT	52.94	10.76	35.42	41.18	22.73	0.00	22.86	21.88	
	FREQUENCY	0	11	7	4	6	1	2	3	39
AIR FORCE	PERCENT	1.23	2.72	1.73	0.99	1.48	0.25	0.49	0.74	9.63
	ROW PCT	12.82	28.21	17.95	10.26	15.38	2.56	5.13	7.69	
	COL PCT	17.35	6.96	14.58	23.53	13.64	33.33	5.71	9.38	
COAST GUARD	FREQUENCY	16	60	8	1	11	0	7	9	112
	PERCENT	3.95	14.81	1.98	0.25	2.72	0.00	1.73	2.22	27.65
	ROW PCT	14.29	53.57	7.14	0.89	9.82	0.00	6.25	8.04	
TOTAL	COL PCT	23.53	37.97	16.67	5.88	25.00	0.00	20.00	28.13	
	FREQUENCY	6	3	2	2	3	0	0	0	16
	PERCENT	1.48	0.74	0.49	0.49	0.74	0.00	0.00	0.00	3.95
TOTAL	ROW PCT	37.50	18.75	12.50	12.50	18.75	0.00	0.00	0.00	405
	COL PCT	8.82	1.90	4.17	11.76	6.82	0.00	0.00	0.00	100.00
	TOTAL	68	158	48	17	44	3	35	32	
		16.79	39.01	11.85	4.20	10.86	0.74	8.64	7.90	

56. What is your sense of the military grade profile of the typical GCM panels which actually hears cases at which you have been detailed?

- don't know.....1
- one 0-6, two 0-5, three 0-4, three below 0-4.....2
- one 0-5, three 0-4, rest below 0-4.....3
- one or more 0-4, rest below 0-4.....4
- two 0-5, rest split evenly between 0-4 and below 0-4..5
- three 0-5, three 0-4, three below 0-4.....6
- one 0-6, three 0-5, four 0-4, one below 0-4.....7
- other.....8

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF57

QF1	QF57	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	1	97	36	3	136
	.	23.89	8.87	0.74	33.50
	.	71.32	26.47	2.21	
	.	35.40	29.51	30.00	
NAVY	2	76	25	2	103
	.	18.72	6.16	0.49	25.37
	.	73.79	24.27	1.94	
	.	27.74	20.49	20.00	
MARINE CORPS	0	31	6	2	39
	.	7.64	1.48	0.49	9.61
	.	79.49	15.38	5.13	
	.	11.31	4.92	20.00	
AIR FORCE	1	65	44	3	112
	.	16.01	10.84	0.74	27.59
	.	58.04	39.29	2.68	
	.	23.72	36.07	30.00	
COAST GUARD	1	5	11	0	16
	.	1.23	2.71	0.00	3.94
	.	31.25	68.75	0.00	
	.	1.82	9.02	0.00	
TOTAL	.	274	122	10	406
	.	67.49	30.05	2.46	100.00

57. Would a change to military judge alone sentencing deprive an accused of a substantial right?

yes.....1
no.....2
no opinion.....3

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FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF58

QF1	QF58	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	1	114	19	3	136
	.	28.08	4.68	0.74	33.50
	.	83.82	13.97	2.21	
	.	36.66	23.75	20.00	
NAVY	2	82	17	4	103
	.	20.20	4.19	0.99	25.37
	.	79.61	16.50	3.88	
	.	26.37	21.25	26.67	
MARINE CORPS	0	32	6	1	39
	.	7.88	1.48	0.25	9.61
	.	82.05	15.38	2.56	
	.	10.29	7.50	6.67	
AIR FORCE	1	76	30	6	112
	.	18.72	7.39	1.48	27.59
	.	67.86	26.79	5.36	
	.	24.44	37.50	40.00	
COAST GUARD	1	7	8	1	16
	.	1.72	1.97	0.25	3.94
	.	43.75	50.00	6.25	
	.	2.25	10.00	6.67	
TOTAL	.	311	80	15	406
	.	76.60	19.70	3.69	100.00

58. Would a change to military judge alone sentencing appear to deprive an accused of a substantial right?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF59

QF1	QF59	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	.	17	94	25	136
		4.18	23.10	6.14	33.42
		12.50	69.12	18.38	
		39.53	32.08	35.21	
NAVY	.	6	74	24	104
		1.47	18.18	5.90	25.55
		5.77	71.15	23.08	
		13.95	25.26	33.80	
MARINE CORPS	0	6	30	3	39
		1.47	7.37	0.74	9.58
		15.38	76.92	7.69	
		13.95	10.24	4.23	
AIR FORCE	1	14	80	18	112
		3.44	19.66	4.42	27.52
		12.50	71.43	16.07	
		32.56	27.30	25.35	
COAST GUARD	1	0	15	1	16
		0.00	3.69	0.25	3.93
		0.00	93.75	6.25	
		0.00	5.12	1.41	
TOTAL	.	43	293	71	407
		10.57	71.99	17.44	100.00

59. Knowing that an accused currently has the option to reject member-sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF60

QF1	QF60	1	2	3	TOTAL
FREQUENCY		53	65	15	133
PERCENT		13.18	16.17	3.73	33.08
ROW PCT		39.85	48.87	11.28	
COL PCT		33.13	33.85	30.00	
ARMY	4				
NAVY	2	36	50	17	103
		8.96	12.44	4.23	25.62
		34.95	48.54	16.50	
		22.50	26.04	34.00	
MARINE CORPS	0	16	19	4	39
		3.98	4.73	1.00	9.70
		41.03	48.72	10.26	
		10.00	9.90	8.00	
AIR FORCE	2	48	49	14	111
		11.94	12.19	3.48	27.61
		43.24	44.14	12.61	
		30.00	25.52	28.00	
COAST GUARD	1	7	9	0	16
		1.74	2.24	0.00	3.98
		43.75	56.25	0.00	
		4.38	4.69	0.00	
TOTAL		160	192	50	402
		39.80	47.76	12.44	100.00

60. If mandatory judge alone sentencing were adopted, would there be an appearance that command authority had been diminished?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF61

QF1	QF61	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	3	2	12	93	23	4	134
	.	0.51	3.05	23.60	5.84	1.02	34.01
	.	1.49	8.96	69.40	17.16	2.99	
	.	40.00	28.57	34.44	33.82	44.44	
NAVY	8	2	9	65	21	0	97
	.	0.51	2.28	16.50	5.33	0.00	24.62
	.	2.06	9.28	67.01	21.65	0.00	
	.	40.00	21.43	24.07	30.88	0.00	
MARINE CORPS	0	0	4	26	6	3	39
	.	0.00	1.02	6.60	1.52	0.76	9.90
	.	0.00	10.26	66.67	15.38	7.69	
	.	0.00	9.52	9.63	8.82	33.33	
AIR FORCE	4	1	15	77	15	1	109
	.	0.25	3.81	19.54	3.81	0.25	27.66
	.	0.92	13.76	70.64	13.76	0.92	
	.	20.00	35.71	28.52	22.06	11.11	
COAST GUARD	2	0	2	9	3	1	15
	.	0.00	0.51	2.28	0.76	0.25	3.81
	.	0.00	13.33	60.00	20.00	6.67	
	.	0.00	4.76	3.33	4.41	11.11	
TOTAL	.	5	42	270	68	9	394
	.	1.27	10.66	68.53	17.26	2.28	100.00

61. How often do court members' doubts on the merits wind up expressed in a "compromise" sentence?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF62

QF1	QF62	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		111	15	8	134
		27.34	3.69	1.97	33.00
		82.84	11.19	5.97	
		33.13	41.67	22.86	
NAVY		78	10	16	104
		19.21	2.46	3.94	25.62
		75.00	9.62	15.38	
		23.28	27.78	45.71	
MARINE CORPS		36	1	2	39
		8.87	0.25	0.49	9.61
		92.31	2.56	5.13	
		10.75	2.78	5.71	
AIR FORCE		97	10	6	113
		23.89	2.46	1.48	27.83
		85.84	8.85	5.31	
		28.96	27.78	17.14	
COAST GUARD		13	0	3	16
		3.20	0.00	0.74	3.94
		81.25	0.00	18.75	
		3.88	0.00	8.57	
TOTAL		335	36	35	406
		82.51	8.87	8.62	100.00

62. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF63

QF1	QF63	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	6	30	43	40	18	131
	.	7.56	10.83	10.08	4.53	33.00
	.	22.90	32.82	30.53	13.74	
	.	30.61	33.33	30.77	45.00	
NAVY	3	17	38	39	8	102
	.	4.28	9.57	9.82	2.02	25.69
	.	16.67	37.25	38.24	7.84	
	.	17.35	29.46	30.00	20.00	
MARINE CORPS	1	7	8	19	4	38
	.	1.76	2.02	4.79	1.01	9.57
	.	18.42	21.05	50.00	10.53	
	.	7.14	6.20	14.62	10.00	
AIR FORCE	2	37	35	29	10	111
	.	9.32	8.82	7.30	2.52	27.96
	.	33.33	31.53	26.13	9.01	
	.	37.76	27.13	22.31	25.00	
COAST GUARD	2	7	5	3	0	15
	.	1.76	1.26	0.76	0.00	3.78
	.	46.67	33.33	20.00	0.00	
	.	7.14	3.88	2.31	0.00	
TOTAL	.	98	129	130	40	397
	.	24.69	32.49	32.75	10.08	100.00

63. Would there be resentment among accused against military judges in particular and judge advocates in general if military judges were given sole sentencing authority?

- not at all.....1
- slight.....2
- some.....3
- great.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF64

QF1	QF64			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	24 5.94 17.91 35.29	55 13.61 41.04 32.93	55 13.61 41.04 32.54	134 33.17
NAVY	23 5.69 22.55 33.82	34 8.42 33.33 20.36	45 11.14 44.12 26.63	102 25.25
MARINE CORPS	6 1.49 15.38 8.82	16 3.96 41.03 9.58	17 4.21 43.59 10.06	39 9.65
AIR FORCE	15 3.71 13.27 22.06	54 13.37 47.79 32.34	44 10.89 38.94 26.04	113 27.97
COAST GUARD	0 0.00 0.00 0.00	8 1.98 50.00 4.79	8 1.98 50.00 4.73	16 3.96
TOTAL	68 16.83	167 41.34	169 41.83	404 100.00

64. If the military judge perceives resentment, would this cause the judge to render an inappropriately lenient or harsh sentence?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF65

QF1	QF65	1	2	3	TOTAL
ARMY	FREQUENCY	90	22	21	133
	PERCENT	22.28	5.45	5.20	32.92
	ROW PCT	67.67	16.54	15.79	
NAVY	FREQUENCY	86	6	12	104
	PERCENT	21.29	1.49	2.97	25.74
	ROW PCT	82.69	5.77	11.54	
MARINE CORPS	FREQUENCY	20	13	6	39
	PERCENT	4.95	3.22	1.49	9.65
	ROW PCT	51.28	33.33	15.38	
AIR FORCE	FREQUENCY	101	6	5	112
	PERCENT	25.00	1.49	1.24	27.72
	ROW PCT	90.18	5.36	4.46	
COAST GUARD	FREQUENCY	10	2	4	16
	PERCENT	2.48	0.50	0.99	3.96
	ROW PCT	62.50	12.50	25.00	
TOTAL		307	49	48	404
		75.99	12.13	11.88	100.00

65. If military judges were given sole sentencing authority and court members tried only the issue of guilt, should the system used to select court members be changed to require random selection of court members?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF66

QF1	QF66		TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	
ARMY	6 17.65 52.67 31.94	69 15.86 47.33 35.43	131 33.50
NAVY	7 15.86 63.27 28.70	62 9.21 36.73 20.57	98 25.06
MARINE CORPS	0 5.37 53.85 9.72	21 4.60 46.15 10.29	39 9.97
AIR FORCE	6 15.09 55.14 27.31	59 12.28 44.86 27.43	107 27.37
COAST GUARD	1 1.28 31.25 2.31	5 2.81 69.75 6.29	16 4.09
TOTAL	216 55.24	175 44.76	391 100.00

66. If random selection of members were used under these circumstances, should the selection be from a pool of all members of the command, not junior to the accused or from a pool of all members of the command, not junior to the accused, who meet present statutory qualifications of age, experience, etc?

- all members not junior to the accused.....1
- all members not junior to the accused meeting present qualifications.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF67

QF1	QF67						TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	
ARMY	9 0.51 1.56 20.00	8 2.03 6.25 22.86	9 2.23 7.03 20.93	34 8.63 26.56 45.95	54 13.71 42.19 41.54	21 5.33 16.41 20.59	128 32.49
NAVY	4 0.51 1.98 20.00	1 0.25 0.99 2.86	5 1.27 4.95 11.63	7 1.78 5.93 9.46	29 7.36 28.71 22.31	57 14.47 56.44 55.88	101 25.63
MARINE CORPS	0 0.00 0.00 0.00	4 1.02 10.26 11.43	5 1.27 12.82 11.63	2 0.51 5.13 2.70	19 4.82 48.72 14.62	9 2.28 23.08 8.82	39 9.90
AIR FORCE	3 1.02 3.64 40.00	4 4.57 16.36 51.43	20 5.08 18.18 46.51	28 7.11 25.45 37.84	27 6.85 24.55 20.77	13 3.30 11.82 12.75	110 27.92
COAST GUARD	1 0.51 12.50 20.00	4 1.02 25.00 11.43	4 1.02 25.00 9.30	3 0.76 18.75 4.05	1 0.25 6.25 0.77	2 0.51 12.50 1.96	16 4.06
TOTAL	10 2.54	35 8.88	43 10.91	74 18.78	130 32.99	102 25.89	394 100.00

67. In what percentage of cases have you recommended that your client request trial by military judge alone?

- none.....1
- less than 10%.....2
- 10-25%.....3
- 26-50%.....4
- 51-75%.....5
- 76-100%.....6

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF68

QF1	QF68	0	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT							
ARMY		9	1 0.25 0.78 20.00	6 1.53 4.69 35.29	12 3.05 9.38 36.36	109 27.74 85.16 32.25	128 32.57
NAVY		3	1 0.25 0.98 20.00	4 1.02 3.92 23.53	8 2.04 7.84 24.24	89 22.65 87.25 26.33	102 25.95
MARINE CORPS		0	1 0.25 2.56 20.00	1 0.25 2.56 5.88	3 0.76 7.69 9.09	34 8.65 87.18 10.06	39 9.92
AIR FORCE		4	2 0.51 1.83 40.00	6 1.53 5.50 35.29	9 2.29 8.26 27.27	92 23.41 84.40 27.22	109 27.74
COAST GUARD		2	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.25 6.67 3.03	14 3.56 93.33 4.14	15 3.82
TOTAL		17	5 1.27	17 4.33	33 8.40	338 86.01	393 100.00

68. In cases where you have recommended trial by military judge alone, what percentage of those cases have your clients followed your advice?

0-25%.....1
26-50%.....2
51-75%.....3
76-100%.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF69

QF1	QF69	0	1	2	3	TOTAL
FREQUENCY		9	12	80	36	128
PERCENT		.	3.05	20.30	9.14	32.49
ROW PCT		.	9.38	62.50	28.13	
COL PCT		.	21.05	33.61	36.36	
ARMY						
NAVY		4	21	58	22	101
		.	5.33	14.72	5.58	25.63
		.	20.79	57.43	21.78	
		.	36.84	24.37	22.22	
MARINE CORPS		0	8	20	11	39
		.	2.03	5.08	2.79	9.90
		.	20.51	51.28	28.21	
		.	14.04	8.40	11.11	
AIR FORCE		3	12	71	27	110
		.	3.05	18.02	6.85	27.92
		.	10.91	64.55	24.55	
		.	21.05	29.83	27.27	
COAST GUARD		1	4	9	3	16
		.	1.02	2.28	0.76	4.06
		.	25.00	56.25	18.75	
		.	7.02	3.78	3.03	
TOTAL		.	57	238	99	394
		.	14.47	60.41	25.13	100.00

69. Are decisions to request trial by military judge alone based primarily upon findings or sentence considerations?

findings.....1
sentence.....2
no difference.....3

Advisory Commission Report

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF70

QF1	QF70	1	2	3	4	5	TOTAL
ARMY	FREQUENCY	51	32	37	8	2	130
	PERCENT	12.72	7.98	9.23	2.00	0.50	32.42
	ROW PCT	39.23	24.62	28.46	6.15	1.54	
NAVY	FREQUENCY	35	23	35	7	3	103
	PERCENT	8.73	5.74	8.73	1.75	0.75	25.69
	ROW PCT	33.98	22.33	33.98	6.80	2.91	
MARINE CORPS	FREQUENCY	6	10	13	6	4	39
	PERCENT	1.50	2.49	3.24	1.50	1.00	9.73
	ROW PCT	15.38	25.64	33.33	15.38	10.26	
AIR FORCE	FREQUENCY	43	23	39	5	3	113
	PERCENT	10.72	5.74	9.73	1.25	0.75	28.18
	ROW PCT	38.05	20.35	34.51	4.42	2.65	
COAST GUARD	FREQUENCY	8	1	6	1	0	16
	PERCENT	2.00	0.25	1.50	0.25	0.00	3.99
	ROW PCT	50.00	6.25	37.50	6.25	0.00	
TOTAL		143	89	130	27	12	401
		35.66	22.19	32.42	6.73	2.99	100.00

70. How often do you use the power of your client to request trial by military judge alone as bargaining leverage with the convening authority, staff judge advocate or trial counsel?

- never.....1
- seldom.....2
- sometimes.....3
- usually.....4
- always.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF71

QF1	QF71	1	2	3	TOTAL
ARMY	FREQUENCY	96	5	33	134
	PERCENT	23.65	1.23	8.13	33.00
	ROW PCT	71.64	3.73	24.63	
NAVY	FREQUENCY	72	5	27	104
	PERCENT	17.73	1.23	6.65	25.62
	ROW PCT	69.23	4.81	25.96	
MARINE CORPS	FREQUENCY	20	0	19	39
	PERCENT	4.93	0.00	4.68	9.61
	ROW PCT	51.28	0.00	48.72	
AIR FORCE	FREQUENCY	69	5	39	113
	PERCENT	17.00	1.23	9.61	27.83
	ROW PCT	61.06	4.42	34.51	
COAST GUARD	FREQUENCY	13	0	3	16
	PERCENT	3.20	0.00	0.74	3.94
	ROW PCT	81.25	0.00	18.75	
TOTAL	FREQUENCY	270	15	121	406
	PERCENT	66.50	3.69	29.80	100.00
	ROW PCT				

71. What effect would giving military judges sole sentencing authority have on your trial preparation?

no significant change.....1
require more preparation.....2
require less preparation.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF72

QF1	QF72	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	•	7 15.54 47.69 31.47	9 2.26 6.92 25.00	59 14.79 45.38 35.54	130 32.58
NAVY		2 14.29 55.34 28.93	4 1.00 3.88 11.11	42 10.53 40.78 25.30	103 25.81
MARINE CORPS		2 4.76 51.35 9.64	8 2.01 21.62 22.22	10 2.51 27.03 6.02	37 9.27
AIR FORCE		0 13.28 46.90 26.90	10 2.51 8.85 27.78	50 12.53 44.25 30.12	113 28.32
COAST GUARD		1 1.50 37.50 3.05	5 1.25 31.25 13.89	5 1.25 31.25 3.01	16 4.01
TOTAL		• 197 • 49.37	36 9.02	166 41.60	399 100.00

72. What effect would giving military judges sole sentencing authority have on your recommendations to clients to request trial by military judge-alone on findings?

- no significant change.....1
- increase recommendations for trial by judge-alone.....2
- decrease recommendations for trial by judge-alone.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF73

QF1	QF73	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	.	102 25.37 76.12 32.69	25 6.22 18.66 34.25	7 1.74 5.22 41.18	134 33.33
NAVY	.	80 19.90 78.43 25.64	19 4.73 18.63 26.03	3 0.75 2.94 17.65	102 25.37
MARINE CORPS	.	29 7.21 78.38 9.29	6 1.49 16.22 8.22	2 0.50 5.41 11.76	37 9.20
AIR FORCE	.	86 21.39 76.11 27.56	22 5.47 19.47 30.14	5 1.24 4.42 29.41	113 28.11
COAST GUARD	.	15 3.73 93.75 4.81	1 0.25 6.25 1.37	0 0.00 0.00 0.00	16 3.98
TOTAL	.	312 77.61	73 18.16	17 4.23	402 100.00

73. What effect would giving military judges sole sentencing authority have on your recommendations to clients to request enlisted members on the court?

- no significant change.....1
- increase recommendations for enlisted membership.....2
- decrease recommendations for enlisted membership.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF74

QF1	QF74	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY		95 23.46 69.85 31.46	29 7.16 21.32 39.19	12 2.96 8.82 41.38	136 33.58
NAVY		79 19.51 77.45 26.16	18 4.44 17.65 24.32	5 1.23 4.90 17.24	102 25.19
MARINE CORPS		32 7.90 84.21 10.60	4 0.99 10.53 5.41	2 0.49 5.26 6.90	38 9.39
AIR FORCE		90 22.22 79.65 29.80	17 4.20 15.04 22.97	6 1.48 5.31 20.69	113 27.90
COAST GUARD		6 1.48 37.50 1.99	6 1.48 37.50 8.11	4 0.99 25.00 13.79	16 3.95
TOTAL		302 74.57	74 18.27	29 7.16	405 100.00

74. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or judge for sentencing?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF75

QF1	QF75	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	1	6	127	3	136
	.	1.48	31.28	0.74	33.50
	.	4.41	93.38	2.21	
	.	31.58	34.32	17.65	
NAVY	2	3	92	8	103
	.	0.74	22.66	1.97	25.37
	.	2.91	89.32	7.77	
	.	15.79	24.86	47.06	
MARINE CORPS	1	2	34	2	38
	.	0.49	8.37	0.49	9.36
	.	5.26	89.47	5.26	
	.	10.53	9.19	11.76	
AIR FORCE	0	7	103	3	113
	.	1.72	25.37	0.74	27.83
	.	6.19	91.15	2.65	
	.	36.84	27.84	17.65	
COAST GUARD	1	1	14	1	16
	.	0.25	3.45	0.25	3.94
	.	6.25	87.50	6.25	
	.	5.26	3.78	5.88	
TOTAL	.	19	370	17	406
	.	4.68	91.13	4.19	100.00

75. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court members, be provided by law?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF76

QF1	QF76	1	2	3	TOTAL
FREQUENCY		12	108	15	135
PERCENT		2.97	26.73	3.71	33.42
ROW PCT		8.89	80.00	11.11	
COL PCT		24.00	34.95	33.33	
ARMY					
NAVY		13	79	11	103
		3.22	19.55	2.72	25.50
		12.62	76.70	10.68	
		26.00	25.57	24.44	
MARINE CORPS		7	27	3	37
		1.73	6.68	0.74	9.16
		18.92	72.97	8.11	
		14.00	8.74	6.67	
AIR FORCE		15	84	14	113
		3.71	20.79	3.47	27.97
		13.27	74.34	12.39	
		30.00	27.18	31.11	
COAST GUARD		3	11	2	16
		0.74	2.72	0.50	3.96
		18.75	68.75	12.50	
		6.00	3.56	4.44	
TOTAL		50	309	45	404
		12.39	76.49	11.14	100.00

76. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where the members have already arrived at findings?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF77

QF1	QF77	0	1	2	3	TOTAL
FREQUENCY		0	49	72	16	137
PERCENT		.	12.04	17.69	3.93	33.66
ROW PCT		.	35.77	52.55	11.68	
COL PCT		.	28.99	38.30	32.00	
ARMY						
NAVY		2	42	54	7	103
		.	10.32	13.27	1.72	25.31
		.	40.78	52.43	6.80	
		.	24.85	28.72	14.00	
MARINE CORPS		1	11	23	4	38
		.	2.70	5.65	0.98	9.34
		.	28.95	60.53	10.53	
		.	6.51	12.23	8.00	
AIR FORCE		0	59	33	21	113
		.	14.50	8.11	5.16	27.76
		.	52.21	29.20	18.58	
		.	34.91	17.55	42.00	
COAST GUARD		1	8	6	2	16
		.	1.97	1.47	0.49	3.93
		.	50.00	37.50	12.50	
		.	4.73	3.19	4.00	
TOTAL		.	169	188	50	407
		.	41.52	46.19	12.29	100.00

77. If Congress promulgates sentencing guidelines for Federal courts, should similar guidelines be extended to courts-martial?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF78

QF1	QF78	0	1	2	3	TOTAL
FREQUENCY ROW PCT COL PCT						
ARMY		0	50	59	28	137
		.	12.32	14.53	6.90	33.74
		.	36.50	43.07	20.44	
		.	30.12	38.82	31.82	
NAVY		3	42	41	19	102
		.	10.34	10.10	4.68	25.12
		.	41.18	40.20	18.63	
		.	25.30	26.97	21.59	
MARINE CORPS		1	13	20	5	38
		.	3.20	4.93	1.23	9.36
		.	34.21	52.63	13.16	
		.	7.83	13.16	5.68	
AIR FORCE		0	51	29	33	113
		.	12.56	7.14	8.13	27.83
		.	45.13	25.66	29.20	
		.	30.72	19.08	37.50	
COAST GUARD		1	10	3	3	16
		.	2.46	0.74	0.74	3.94
		.	62.50	18.75	18.75	
		.	6.02	1.97	3.41	
TOTAL		4	166	152	88	406
		.	40.89	37.44	21.67	100.00

78. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF79

QF1	QF79					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	4	
ARMY	0	43	94			137 33.91
	.	10.64	23.27			
	.	31.39	68.61			
	.	32.33	34.69			
NAVY	3	30	72			102 25.25
	.	7.43	17.82			
	.	29.41	70.59			
	.	22.56	26.57			
MARINE CORPS	2	8	29			37 9.16
	.	1.98	7.18			
	.	21.62	78.38			
	.	6.02	10.70			
AIR FORCE	1	43	69			112 27.72
	.	10.64	17.08			
	.	38.39	51.61			
	.	32.33	25.46			
COAST GUARD	1	9	7			16 3.96
	.	2.23	1.73			
	.	56.25	43.75			
	.	6.77	2.58			
TOTAL	.	133	271			404 100.00
	.	32.92	67.08			

79. On balance, do you favor sentencing only by military judges in all noncapital cases?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF80

QF1	QF80	1	2	3	4	5	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	6	46	55	22	5	3	131
		11.56	13.82	5.53	1.26	0.75	32.91
		35.11	41.98	16.79	3.82	2.29	
		35.66	36.42	32.35	20.00	12.00	
NAVY	3	20	39	21	9	13	102
		5.03	9.80	5.28	2.26	3.27	25.63
		19.61	38.24	20.59	8.82	12.75	
		15.50	25.83	30.88	36.00	52.00	
MARINE CORPS	0	9	17	7	2	4	39
		2.26	4.27	1.76	0.50	1.01	9.80
		23.08	43.59	17.95	5.13	10.26	
		6.98	11.26	10.29	8.00	16.00	
AIR FORCE	3	52	37	15	6	0	110
		13.07	9.30	3.77	1.51	0.00	27.64
		47.27	33.64	13.64	5.45	0.00	
		40.31	24.50	22.06	24.00	0.00	
COAST GUARD	1	2	3	3	3	5	16
		0.50	0.75	0.75	0.75	1.26	4.02
		12.50	18.75	18.75	18.75	31.25	
		1.55	1.99	4.41	12.00	20.00	
TOTAL		129	151	68	25	25	398
		32.41	37.94	17.09	6.28	6.28	100.00

80. In what percentage of court-martial cases that you have defended have the military judge or court members recommended suspension of all or part of a sentence?

- none.....1
- 1-5%.....2
- 6-10%.....3
- 11-15%.....4
- over 15%.....5

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF81

QF1	QF81	1	2	3	4	5	6	7	TOTAL
ARMY	FREQUENCY	45	46	24	6	1	3	4	129
	PERCENT	11.45	11.70	6.11	1.53	0.25	0.76	1.02	32.82
	ROW PCT	34.88	35.66	18.60	4.65	0.78	2.33	3.10	
NAVY	COL PCT	35.43	41.07	25.00	21.43	33.33	27.27	25.00	
	FREQUENCY	22	26	39	9	1	2	1	100
	PERCENT	5.60	6.62	9.92	2.29	0.25	0.51	0.25	25.45
MARINE CORPS	ROW PCT	22.00	26.00	39.00	9.00	1.00	2.00	1.00	
	COL PCT	17.32	23.21	40.63	32.14	33.33	18.18	6.25	
	FREQUENCY	10	6	10	6	1	5	1	39
AIR FORCE	PERCENT	2.54	1.53	2.54	1.53	0.25	1.27	0.25	9.92
	ROW PCT	25.64	15.38	25.64	15.38	2.56	12.82	2.56	
	COL PCT	7.87	5.36	10.42	21.43	33.33	45.45	6.25	
COAST GUARD	FREQUENCY	48	30	19	3	0	1	8	109
	PERCENT	12.21	7.63	4.83	0.76	0.00	0.25	2.04	27.74
	ROW PCT	44.04	27.52	17.43	2.75	0.00	0.92	7.34	
TOTAL	COL PCT	37.80	26.79	19.79	10.71	0.00	9.09	50.00	
	FREQUENCY	2	4	4	4	0	0	2	16
	PERCENT	0.51	1.02	1.02	1.02	0.00	0.00	0.51	4.07
TOTAL	ROW PCT	12.50	25.00	25.00	25.00	0.00	0.00	12.50	
	COL PCT	1.57	3.57	4.17	14.29	0.00	0.00	12.50	
	FREQUENCY	127	112	96	28	3	11	16	393
TOTAL	PERCENT	32.32	28.50	24.43	7.12	0.76	2.80	4.07	100.00
	ROW PCT								
	COL PCT								

81. What percentage of the suspension recommendations have been followed by either the convening authority or supervisory authority?

- no recommendations.....1
- 0.....2
- 1-25%.....3
- 26-50%.....4
- 51-75%.....5
- 76-95%.....6
- over 95%.....7

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF82

QF1	QF82	1	2	3	TOTAL
ARMY	FREQUENCY	108	17	11	136
	PERCENT ROW PCT	26.54	4.18	2.70	33.42
	COL PCT	79.41	12.50	8.09	
NAVY	FREQUENCY	83	15	5	103
	PERCENT ROW PCT	20.39	3.69	1.23	25.31
	COL PCT	80.58	14.56	4.85	
MARINE CORPS	FREQUENCY	29	9	1	39
	PERCENT ROW PCT	7.13	2.21	0.25	9.58
	COL PCT	74.36	23.08	2.56	
AIR FORCE	FREQUENCY	84	25	4	113
	PERCENT ROW PCT	20.64	6.14	0.98	27.76
	COL PCT	74.34	22.12	3.54	
COAST GUARD	FREQUENCY	11	3	2	16
	PERCENT ROW PCT	2.70	0.74	0.49	3.93
	COL PCT	68.75	18.75	12.50	
TOTAL		315	69	23	407
		77.40	16.95	5.65	100.00

82. Under current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF83

QF1	QF83	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		28 6.90 20.59 25.23	98 24.14 72.06 37.98	10 2.46 7.35 27.03	136 33.50
NAVY		23 5.67 22.33 20.72	71 17.49 68.93 27.52	9 2.22 8.74 24.32	103 25.37
MARINE CORPS		25 6.16 64.10 22.52	12 2.96 30.77 4.65	2 0.49 5.13 5.41	39 9.61
AIR FORCE		29 7.14 25.89 26.13	68 16.75 60.71 26.36	15 3.69 13.39 40.54	112 27.59
COAST GUARD		6 1.48 37.50 5.41	9 2.22 56.25 3.49	1 0.25 6.25 2.70	16 3.94
TOTAL		111 27.34	258 63.55	37 9.11	406 100.00

83. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF84

QF1	QF84		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
ARMY	.	1	98 24.08 72.06 33.91	16 3.93 11.76 27.59	22 5.41 16.18 36.67	136 33.42
NAVY	.	2	62 15.23 60.19 21.45	24 5.90 23.30 41.38	17 4.18 16.50 28.33	103 25.31
MARINE CORPS	.	0	28 6.88 71.79 9.69	6 1.47 15.38 10.34	5 1.23 12.82 8.33	39 9.58
AIR FORCE	.	0	89 21.87 78.76 30.80	9 2.21 7.96 15.52	15 3.69 13.27 25.00	113 27.76
COAST GUARD	.	1	12 2.95 75.00 4.15	3 0.74 18.75 5.17	1 0.25 6.25 1.67	16 3.93
TOTAL	.	.	289 71.01	58 14.25	60 14.74	407 100.00

84. Could military judges be given the same information as convening and supervisory authorities through modification of the Military Rules of Evidence and other provisions of the Manual for Courts-Martial?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF85

QF1	QF85	1	2	3	TOTAL
ARMY	FREQUENCY	115	10	11	136
	PERCENT	28.26	2.46	2.70	33.42
	ROW PCT	84.56	7.35	8.09	
NAVY	FREQUENCY	32.67	43.48	34.38	103
	PERCENT	92	0.74	1.97	25.31
	ROW PCT	22.60	2.91	7.77	
MARINE CORPS	FREQUENCY	89.32	13.04	25.00	39
	PERCENT	26.14	0.74	0.98	9.58
	ROW PCT	7.86	7.99	10.26	
AIR FORCE	FREQUENCY	9.09	13.04	12.50	113
	PERCENT	32	3	4	27.76
	ROW PCT	7.86	0.74	0.98	
COAST GUARD	FREQUENCY	100	5	8	16
	PERCENT	24.57	1.23	1.97	3.93
	ROW PCT	88.50	4.42	7.08	
TOTAL	FREQUENCY	28.41	21.74	25.00	407
	PERCENT	13	2	1	100.00
	ROW PCT	3.19	0.49	0.25	
		3.69	8.70	3.13	
		352	23	32	
		86.49	5.65	7.86	

85. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF86

QF1	QF86	1	2	3	4	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY	2	46 11.36 34.07 31.94	55 13.58 40.74 37.41	30 7.41 22.22 30.30	4 0.99 2.96 26.67	135 33.33
NAVY	3	47 11.60 46.08 32.64	28 6.91 27.45 19.05	24 5.93 23.53 24.24	3 0.74 2.94 20.00	102 25.19
MARINE CORPS	0	6 1.48 15.38 4.17	16 3.95 41.03 10.88	15 3.70 38.46 15.15	2 0.49 5.13 13.33	39 9.63
AIR FORCE	0	40 9.88 35.40 27.78	43 10.62 38.05 29.25	26 6.42 23.01 26.26	4 0.99 3.54 26.67	113 27.90
COAST GUARD	1	5 1.23 31.25 3.47	5 1.23 31.25 3.40	4 0.99 25.00 4.04	2 0.49 12.50 13.33	16 3.95
TOTAL		144 35.56	147 36.30	99 24.44	15 3.70	405 100.00

86. How important a factor should manpower and personnel requirements be when considering whether an accused's sentence should be suspended?

not at all.....1
slight.....2
somewhat.....3
great.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF87

QF1	QF87	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	1	13	115	8	136
	.	3.20	28.33	1.97	33.50
	.	9.56	84.56	5.88	
	.	16.46	37.70	36.36	
NAVY	2	21	74	8	103
	.	5.17	18.23	1.97	25.37
	.	20.39	71.84	7.77	
	.	26.58	24.26	36.36	
MARINE CORPS	0	17	22	0	39
	.	4.19	5.42	0.00	9.61
	.	43.59	56.41	0.00	
	.	21.52	7.21	0.00	
AIR FORCE	1	24	84	4	112
	.	5.91	20.69	0.99	27.59
	.	21.43	75.00	3.57	
	.	30.38	27.54	18.18	
COAST GUARD	1	4	10	2	16
	.	0.99	2.46	0.49	3.94
	.	25.00	62.50	12.50	
	.	5.06	3.28	9.09	
TOTAL	.	79	305	22	406
	.	19.46	75.12	5.42	100.00

87. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF89

QF1	QF88	0	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT	COL PCT					
ARMY		2	60 14.81 44.44 30.15	60 14.81 44.44 35.29	15 3.70 11.11 41.67	135 33.33
NAVY		3	57 14.07 55.88 28.54	35 8.64 34.31 20.59	10 2.47 9.80 27.78	102 25.19
MARINE CORPS		0	24 5.93 61.54 12.06	14 3.46 35.90 8.24	1 0.25 2.56 2.78	39 9.63
AIR FORCE		0	52 12.84 45.02 26.13	54 13.33 47.79 31.76	7 1.73 6.19 19.44	113 27.90
COAST GUARD		1	6 1.48 37.50 3.02	7 1.73 43.75 4.12	3 0.74 18.75 8.33	16 3.95
TOTAL		0	199 49.14	170 41.98	36 8.89	405 100.00

88. Would there be an appearance that command authority was diminished?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF89

QF1	QF89		1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT						
COL PCT						
ARMY	0	100	29	8	137	33.58
	.	24.51	7.11	1.96		
	.	72.99	21.17	5.84		
	.	31.95	36.25	53.33		
NAVY	2	73	26	4	103	25.25
	.	17.89	6.37	0.98		
	.	70.87	25.24	3.88		
	.	23.32	32.50	26.67		
MARINE CORPS	0	28	11	0	39	9.56
	.	6.86	2.70	0.00		
	.	71.79	28.21	0.00		
	.	8.95	13.75	0.00		
AIR FORCE	0	99	11	3	113	27.70
	.	24.26	2.70	0.74		
	.	87.61	9.73	2.65		
	.	31.63	13.75	20.00		
COAST GUARD	1	13	3	0	16	3.92
	.	3.19	0.74	0.00		
	.	81.25	18.75	0.00		
	.	4.15	3.75	0.00		
TOTAL	.	313	80	15	408	100.00
	.	76.72	19.61	3.68		

89. If judge alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF90

QF1	QF90		1	2	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	.	7	23 5.85 17.69 33.33	107 27.23 82.31 33.02	130 33.08
NAVY		8	16 4.07 16.49 23.19	81 20.61 83.51 25.00	97 24.68
MARINE CORPS		1	10 2.54 26.32 14.49	28 7.12 73.68 8.64	38 9.67
AIR FORCE		1	17 4.33 15.18 24.64	95 24.17 84.82 29.32	112 28.50
COAST GUARD		1	3 0.76 18.75 4.35	13 3.31 81.25 4.01	16 4.07
TOTAL		.	69 17.56	324 82.44	393 100.00

90. Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?
 not at all.....1
 slightly.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF91

QF1	QF91	0	1	2	3	4	TOTAL
FREQUENCY							
PERCENT							
ROW PCT							
COL PCT							
ARMY	•	2	27	40	43	25	135
		•	6.65	9.85	10.59	6.16	33.25
		•	20.00	29.63	31.85	18.52	
		•	24.77	36.36	34.68	39.68	
NAVY	•	2	23	26	37	17	103
		•	5.67	6.40	9.11	4.19	25.37
		•	22.33	25.24	35.92	16.50	
		•	21.10	23.64	29.84	26.98	
MARINE CORPS	•	0	12	5	16	6	39
		•	2.96	1.23	3.94	1.44	9.61
		•	30.77	12.82	41.03	15.38	
		•	11.01	4.55	12.90	9.52	
AIR FORCE	•	0	45	32	23	13	113
		•	11.08	7.88	5.67	3.20	27.83
		•	39.82	28.32	20.35	11.50	
		•	41.28	29.09	18.55	20.63	
COAST GUARD	•	1	2	7	5	2	16
		•	0.49	1.72	1.23	0.49	3.94
		•	12.50	43.75	31.25	12.50	
		•	1.83	6.36	4.03	3.17	
TOTAL	•	•	109	110	124	63	406
		•	26.85	27.09	30.54	15.52	100.00

91. By the time cases reach the Court of Military Review, many accused are on appellate leave. Is this a factor in deciding whether the Courts of Review should have the authority to suspend punitive discharges?

not at all.....1
slight.....2
somewhat.....3
great.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF92

QF1	QF92	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	1	101 24.94 74.26 32.06	17 4.20 12.50 38.64	18 4.44 13.24 39.13	136 33.58
NAVY	3	60 19.75 78.43 25.40	9 2.22 8.82 20.45	13 3.21 12.75 28.26	102 25.19
MARINE CORPS	1	28 6.91 73.68 8.89	5 1.23 13.16 11.36	5 1.23 13.16 10.87	38 9.38
AIR FORCE	0	94 23.21 83.19 29.84	11 2.72 9.73 25.00	8 1.98 7.08 17.39	113 27.90
COAST GUARD	1	12 2.96 75.00 3.81	2 0.49 12.50 4.55	2 0.49 12.50 4.35	16 3.95
TOTAL		315 77.78	44 10.86	46 11.36	405 100.00

92. Considering the additional support requirements that might result, if suspension power is given to military judges and/or Courts of Military Review, should judges also be given the authority to impose conditional terms of the suspension, for example, restitution, counseling and therapy?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE

TABLE OF QF1 BY QF93

QF1	QF93		1	2	3	4	TOTAL
FREQUENCY		0	73	16	43	5	137
PERCENT		.	17.89	3.92	10.54	1.23	33.58
ROW PCT		.	53.28	11.68	31.39	3.65	
COL PCT		.	38.62	30.19	28.67	31.25	
ARMY							
NAVY		2	43	12	42	6	103
		.	10.54	2.94	10.29	1.47	25.25
		.	41.75	11.65	40.78	5.83	
		.	22.75	22.64	28.00	37.50	
MARINE CORPS		0	14	6	18	1	39
		.	3.43	1.47	4.41	0.25	9.56
		.	35.90	15.38	46.15	2.56	
		.	7.41	11.32	12.00	6.25	
AIR FORCE		0	55	16	38	4	113
		.	13.48	3.92	9.31	0.98	27.70
		.	48.67	14.16	33.63	3.54	
		.	29.10	30.19	25.33	25.00	
COAST GUARD		1	4	3	9	0	16
		.	0.98	0.74	2.21	0.00	3.92
		.	25.00	18.75	56.25	0.00	
		.	2.12	5.66	6.00	0.00	
TOTAL		.	189	53	150	16	408
		.	46.32	12.99	36.76	3.92	100.00

93. If the military judge or Court of Review suspends all or part of a sentence, who should be able to vacate the suspension?

- appropriate judicial authority.....1
- appropriate convening/supervisory authority.....2
- both 1 and 2.....3
- no opinion.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF94

QF1	QF94	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY	.	1	3	94	136
			0.74	23.15	9.61
			2.21	69.12	28.68
			75.00	33.57	31.97
NAVY	.	2	1	69	103
			0.25	17.00	8.13
			0.97	66.99	32.04
			25.00	24.64	27.05
MARINE CORPS	.	1	0	28	38
			0.00	6.90	2.46
			0.00	73.68	26.32
			0.00	10.00	8.20
AIR FORCE	.	0	0	77	113
			0.00	18.97	8.87
			0.00	68.14	31.86
			0.00	27.50	29.51
COAST GUARD	.	1	0	12	16
			0.00	2.96	0.99
			0.00	75.00	25.00
			0.00	4.29	3.28
TOTAL	.	4	4	280	406
		0.99	0.99	68.97	30.05
					100.00

94. What effect would giving military judges suspension power have on your trial preparation?

- require less preparation.....1
- no significant change.....2
- require more preparation.....3

FREQUENCIES BY SERVICE

TABLE OF QF1 BY QF95

QF1	QF95	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
	ARMY	4 0.00 0.00 0.00	61 15.06 45.86 31.44	72 17.78 54.14 34.78	133 32.84
	NAVY	1 0.25 0.96 25.00	53 13.09 50.96 27.32	50 12.35 48.08 24.15	104 25.68
MARINE CORPS	0 0.00 0.00 0.00	18 4.44 46.15 9.28	21 5.19 53.85 10.14	39 9.63	
AIR FORCE	0 0.49 1.77 50.00	57 14.07 50.44 29.38	54 13.33 47.79 26.09	113 27.90	
COAST GUARD	1 0.25 6.25 25.00	5 1.23 31.25 2.58	10 2.47 62.50 4.83	16 3.95	
TOTAL	14 0.99	194 47.90	207 51.11	405 100.00	

95. What effect would giving military judges suspension power over their own sentences have on your recommendations to clients to request trial by military judge alone?

decrease recommendations for
trial by judge alone.....1
no significant change.....2
increase recommendations for
trial by judge alone.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF96

QF1	QF96	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY				
	1	92	44	136
	.	22.72	10.86	33.58
	.	67.65	32.35	
	.	29.87	45.36	
NAVY				
	4	81	20	101
	.	20.00	4.94	24.94
	.	80.20	19.80	
	.	26.30	20.62	
MARINE CORPS				
	0	32	7	39
	.	7.90	1.73	9.63
	.	82.05	17.95	
	.	10.39	7.22	
AIR FORCE				
	0	92	21	113
	.	22.72	5.19	27.90
	.	81.42	18.58	
	.	29.87	21.65	
COAST GUARD				
	1	11	5	16
	.	2.72	1.23	3.95
	.	68.75	31.25	
	.	3.57	5.15	
TOTAL				
	.	308	97	405
	.	76.05	23.95	100.00

96. On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF97

QF1	0	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY	1	131	5	136
	.	32.35	1.23	33.58
	.	96.32	3.68	
	.	33.85	27.78	
NAVY	4	97	4	101
	.	23.95	0.99	24.94
	.	96.04	3.96	
	.	25.06	22.22	
MARINE CORPS	0	36	3	39
	.	8.89	0.74	9.63
	.	92.31	7.69	
	.	9.30	16.67	
AIR FORCE	0	108	5	113
	.	26.67	1.23	27.90
	.	95.58	4.42	
	.	27.91	27.78	
COAST GUARD	1	15	1	16
	.	3.70	0.25	3.95
	.	93.75	6.25	
	.	3.88	5.56	
TOTAL	.	387	18	405
	.	95.56	4.44	100.00

97. On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?

yes.....1
no.....2

FREQUENCIES BY SERVICE

TABLE OF QF1 BY QF9R

QF1	QF9R	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY	3	109	25	134
	.	27.05	6.20	33.25
	.	81.34	18.66	
	.	33.96	30.49	
NAVY	4	80	21	101
	.	19.85	5.21	25.06
	.	79.21	20.79	
	.	24.92	25.61	
MARINE CORPS	0	26	13	39
	.	6.45	3.23	9.68
	.	66.67	33.33	
	.	8.10	15.85	
AIR FORCE	0	95	18	113
	.	23.57	4.47	28.04
	.	84.07	15.93	
	.	29.60	21.95	
COAST GUARD	1	11	5	16
	.	2.73	1.24	3.97
	.	68.75	31.25	
	.	3.43	6.10	
TOTAL	.	321	82	403
	.	79.65	20.35	100.00

98. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF99

QF1	QF99	1	2	TOTAL
FREQUENCY				
PERCENT				
ROW PCT				
COL PCT				
ARMY	.	119 29.38 87.50 34.59	17 4.20 12.50 27.87	136 33.58
NAVY	.	90 22.22 89.11 26.16	11 2.72 10.89 18.03	101 24.94
MARINE CORPS	.	30 7.41 76.92 8.72	9 2.22 23.08 14.75	39 9.63
AIR FORCE	.	92 22.72 81.42 26.74	21 5.19 18.58 34.43	113 27.90
COAST GUARD	.	13 3.21 81.25 3.78	3 0.74 18.75 4.92	16 3.95
TOTAL	.	344 84.94	61 15.06	405 100.00

99. Should court members be given the power to suspend their own sentences?

yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF100

QF1	QF100	1	2	3	4	5	6	TOTAL
FREQUENCY								
PERCENT								
ROW PCT								
COL PCT								
ARMY	9	1	13	22	44	30	18	128
	.	0.25	3.27	5.53	11.06	7.54	4.52	32.16
	.	0.78	10.16	17.19	34.38	23.44	14.06	
	.	4.17	10.66	22.22	50.57	73.17	72.00	
NAVY	2	14	47	32	10	0	0	103
	.	3.52	11.81	8.04	2.51	0.00	0.00	25.88
	.	13.59	45.63	31.07	9.71	0.00	0.00	
	.	58.33	38.52	32.32	11.49	0.00	0.00	
MARINE CORPS	0	0	25	12	2	0	0	39
	.	0.00	6.28	3.02	0.50	0.00	0.00	9.80
	.	0.00	64.10	30.77	5.13	0.00	0.00	
	.	0.00	20.49	12.12	2.30	0.00	0.00	
AIR FORCE	1	5	27	31	31	11	7	112
	.	1.26	6.78	7.79	7.79	2.76	1.76	28.14
	.	4.46	24.11	27.68	27.68	9.82	6.25	
	.	20.83	22.13	31.31	35.63	26.83	28.00	
COAST GUARD	1	4	10	2	0	0	0	16
	.	1.01	2.51	0.50	0.00	0.00	0.00	4.02
	.	25.00	62.50	12.50	0.00	0.00	0.00	
	.	16.67	8.20	2.02	0.00	0.00	0.00	
TOTAL	.	24	122	99	87	41	25	398
	.	6.03	30.65	24.87	21.86	10.30	6.28	100.00

100. What percentage of cases to which you have been detailed are GCMs of the total of GCMs and SPCMs?

- none.....1
- under 10%.....2
- 10-20%.....3
- 21-50%.....4
- 51-75%.....5
- over 75%.....6

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF101

QF1	QF101						TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	4	5	6	
ARMY	9 26.56 21.38	13 3.52 33.33	25 6.78 53.19	27 7.32 49.09	14 3.79 10.94	15 4.07 11.72	128 34.69
NAVY	19 13.28 56.98 30.82	6 1.63 6.98 15.38	3 0.81 3.49 6.38	10 2.71 11.63 18.18	6 1.63 6.98 20.00	12 3.25 13.95 30.77	86 23.31
MARINE CORPS	0 4.07 38.46 9.43	7 1.90 17.95 17.95	5 1.36 12.82 10.64	2 0.54 5.13 3.64	5 1.36 12.82 16.67	5 1.36 12.82 12.82	39 10.57
AIR FORCE	10 14.36 51.46 33.33	12 3.25 11.65 30.77	13 3.52 12.62 27.66	15 4.07 14.56 27.27	5 1.36 4.85 16.67	5 1.36 4.85 12.82	103 27.91
COAST GUARD	4 2.17 61.54 5.03	1 0.27 7.69 2.56	1 0.27 7.69 2.13	1 0.27 7.69 1.82	0 0.00 0.00 0.00	2 0.54 15.38 5.13	13 3.52
TOTAL	39 159 43.09	39 10.57	47 12.74	55 14.91	30 8.13	39 10.57	369 100.00

101. What percentage of GCM cases to which you have been detailed is the adjudged sentence to confinement six to twelve months?

0-5%	1
6-10%	2
11-20%	3
21-40%	4
41-60%	5
over 60%	6

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF102

QF1	QF102						TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	
ARMY	9 5.14 14.84 13.77	18 4.86 14.06 42.86	26 7.03 20.31 55.32	28 7.57 21.88 41.79	23 6.22 17.97 57.50	14 3.78 10.94 38.89	128 34.59
NAVY	18 11.89 50.57 31.88	8 2.16 9.20 19.05	7 1.89 8.05 14.89	9 2.43 10.34 13.43	7 1.89 8.05 17.50	12 3.24 13.79 33.33	87 23.51
MARINE CORPS	0 4.86 46.15 13.04	5 1.35 12.82 11.90	4 1.08 10.26 8.51	7 1.89 17.95 10.45	1 0.27 2.56 2.50	4 1.08 10.26 11.11	39 10.54
AIR FORCE	10 12.97 46.60 34.78	11 2.97 10.68 26.19	8 2.16 7.77 17.02	21 5.68 20.39 31.34	9 2.43 8.74 22.50	6 1.62 5.83 16.67	103 27.84
COAST GUARD	4 2.43 69.23 6.52	0 0.00 0.00 0.00	2 0.54 15.38 4.26	2 0.54 15.38 2.99	0 0.00 0.00 0.00	0 0.00 0.00 0.00	13 3.51
TOTAL	37.30	11.35	12.70	13.11	10.81	9.73	370 100.00

102. What percentage of GCM cases is the adjudged sentence to confinement six to fifteen months.

0-5%	1
6-10%	2
11-20%	3
21-40%	4
41-60%	5
over 60%	6

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF103

QF1	QF103		1	2	3	4	TOTAL
FREQUENCY ROW PCT COL PCT							
ARMY	.	1	12 2.98	30 7.44	57 14.14	37 9.18	136 33.75
	.	.	8.82	22.06	41.91	27.21	
	.	.	33.33	30.30	34.55	35.92	
NAVY	.	4	14 3.47	24 5.96	36 8.93	27 6.70	101 25.06
	.	.	13.86	23.76	35.64	26.73	
	.	.	38.89	24.24	21.82	26.21	
MARINE CORPS	.	0	3 0.74	7 1.74	18 4.47	11 2.73	39 9.68
	.	.	7.69	17.95	46.15	28.21	
	.	.	8.33	7.07	10.91	10.68	
AIR FORCE	.	2	7 1.74	32 7.94	51 12.66	21 5.21	111 27.54
	.	.	6.31	28.83	45.95	18.92	
	.	.	19.44	32.32	30.91	20.39	
COAST GUARD	.	1	0 0.00	5 1.49	3 0.74	7 1.74	16 3.97
	.	.	0.00	37.50	18.75	43.75	
	.	.	0.00	6.06	1.82	6.80	
TOTAL	.	.	36 8.93	99 24.57	165 40.94	103 25.56	403 100.00

103. If SPCMs are allowed to impose longer terms of confinement, would cases currently tried at SPCM generally receive longer sentences?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF104

QF1	QF104				TOTAL
FREQUENCY PERCENT ROW PCT	1	2	3	4	
ARMY	1 18.30 53.68 32.30	32 8.02 23.53 32.99	23 5.76 16.91 40.35	8 2.01 5.88 42.11	136 34.09
NAVY	7 16.29 66.33 28.76	19 4.76 19.39 19.59	10 2.51 10.20 17.54	4 1.00 4.08 21.05	98 24.56
MARINE CORPS	1 4.51 47.37 7.96	10 2.51 26.32 10.31	7 1.75 18.42 12.28	3 0.75 7.89 15.79	38 9.52
AIR FORCE	1 14.29 50.89 25.22	36 9.02 32.14 37.11	15 3.76 13.39 26.32	4 1.00 3.57 21.05	112 28.07
COAST GUARD	2 3.26 86.67 5.75	0 0.00 0.00 0.00	2 0.50 13.33 3.51	0 0.00 0.00 0.00	15 3.76
TOTAL	226 56.64	97 24.31	57 14.29	19 4.76	399 100.00

104. Would increasing the confinement power of SPCMs cause many accused to receive punitive discharges which would not be imposed under current conditions?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF105

QF1	QF105										TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4	5	6	7	8	9	10	TOTAL
ARMY	2 0.26 0.74 6.25	2 0.51 1.48 20.00	28 7.20 20.74 30.11	3 0.77 2.22 33.33	1 0.26 0.74 25.00	93 23.91 68.89 40.97	2 0.51 1.48 15.38	5 1.29 3.70 29.41	135 34.70		
NAVY	13 2.31 9.78 56.25	2 0.51 2.17 20.00	26 6.68 28.26 27.96	2 0.51 2.17 22.22	0 0.00 0.00 0.00	46 11.83 50.00 20.26	3 0.77 3.26 23.08	4 1.03 4.35 23.53	92 23.65		
MARINE CORPS	0 0.26 2.56 6.25	0 0.00 0.00 0.00	7 1.80 17.95 7.53	1 0.26 2.56 11.11	2 0.51 5.13 50.00	26 6.68 66.67 11.45	1 0.26 2.56 7.69	1 0.26 2.56 5.88	39 10.03		
AIR FORCE	5 1.03 3.70 25.00	5 1.29 4.63 50.00	27 6.94 25.00 29.03	2 0.51 1.85 22.22	1 0.26 0.93 25.00	56 14.40 51.85 24.67	6 1.54 5.56 46.15	7 1.80 6.48 41.18	108 27.76		
COAST GUARD	2 0.26 6.67 6.25	1 0.26 6.67 10.00	5 1.29 33.33 5.38	1 0.26 6.67 11.11	0 0.00 0.00 0.00	6 1.54 40.00 2.64	1 0.26 6.67 7.69	0 0.00 0.00 0.00	15 3.86		
TOTAL	16 4.11	10 2.57	93 23.91	9 2.31	4 1.03	227 58.35	13 3.34	17 4.37	399 100.00		

105. If SPCMs could impose sentences of up to one year confinement, would the number of punitive discharges decrease?

- Yes, if sentencing by MJ only..1
- yes, if sentencing by members..2
- Yes, regardless of who sentences.....3
- no, if sentencing by MJ only..4
- no, if sentencing by members..5
- no regardless of who sentences.....6
- both 1 and 5.....7
- both 2 and 4.....8

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FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF106

QF1	QF106	1	2	3	4	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT						
ARMY	6	113 28.39 86.26 33.43	3 0.75 2.29 21.43	6 1.51 4.58 31.58	9 2.26 6.87 33.33	131 32.91
NAVY	3	81 20.35 79.41 23.96	7 1.76 6.86 50.00	10 2.51 9.80 52.63	4 1.01 3.92 14.81	102 25.63
MARINE CORPS	2	30 7.54 91.08 8.88	2 0.50 5.41 14.29	3 0.75 8.11 15.79	2 0.50 5.41 7.41	37 9.30
AIR FORCE	1	101 25.38 90.18 29.88	1 0.25 0.89 7.14	0 0.00 0.00 0.00	10 2.51 8.93 37.04	112 28.14
COAST GUARD	1	13 3.27 81.25 3.85	1 0.25 6.25 7.14	0 0.00 0.00 0.00	2 0.50 12.50 7.41	16 4.02
TOTAL		338 84.92	14 3.52	19 4.77	27 6.78	398 100.00

106. What percentage of SPCMs you have been detailed to are tried without military judge?

none.....1
under 5%.....2
5-10%.....3
over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF107

QF1	QF107					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	4		
ARMY	6 130 32.50 99.24 33.16	0 0.00 0.00 0.00	1 0.25 0.76 20.00	0 0.00 0.00	0 0.00 0.00	131 32.75
NAVY	3 100 25.00 98.04 25.51	0 0.00 0.00 0.00	2 0.50 1.96 40.00	0 0.00 0.00	0 0.00 0.00	102 25.50
MARINE CORPS	0 38 9.50 97.44 9.69	0 0.00 0.00 0.00	0 0.00 0.00 0.00	1 0.25 2.56 50.00	0 0.00 0.00	39 9.75
AIR FORCE	1 108 27.00 96.43 27.55	1 0.25 0.89 100.00	2 0.50 1.79 40.00	1 0.25 0.89 50.00	0 0.00 0.00	112 28.00
COAST GUARD	1 16 4.00 100.00 4.08	0 0.00 0.00 0.00	0 0.00 0.00 0.00	0 0.00 0.00	0 0.00 0.00	16 4.00
TOTAL	392 98.00	1 0.25	5 1.25	2 0.50	2 0.50	400 100.00

107. What percentage of SPCMs you have been detailed to involve the use of officer defense counsel who are not lawyers?

none.....1
under 5%.....2
5-10%.....3
over 10%.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF108

QF1	QF108					TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	4	
ARMY	0	2 0.50 1.46 11.76	20 4.96 14.60 21.98	41 10.17 29.93 31.06	74 18.36 54.01 45.40	137 34.00
NAVY	7	4 0.99 4.08 23.53	29 7.20 29.59 31.87	38 9.43 38.78 28.79	27 6.70 27.55 16.55	98 24.32
MARINE CORPS	0	2 0.50 5.13 11.76	13 3.23 33.33 14.29	9 2.23 23.08 6.82	15 3.72 38.46 9.20	39 9.68
AIR FORCE	0	7 1.74 6.19 41.18	26 6.45 23.01 28.57	38 9.43 33.63 28.79	42 10.42 37.17 25.77	113 28.04
COAST GUARD	1	2 0.50 12.50 11.76	3 0.74 18.75 3.30	6 1.49 37.50 4.55	5 1.24 31.25 3.07	16 3.97
TOTAL	7	17 4.22	91 22.58	132 32.75	163 40.45	403 100.00

108. How important is the Article 32 investigation as a discovery tool for the defense?

not at all.....1
slightly.....2
somewhat.....3
greatly.....4

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF109

QF1	QF109				TOTAL
FREQUENCY ROW PCT COL PCT	0	1	2	3	
ARMY	0	133	2	2	137
	.	32.84	0.49	0.49	33.83
	.	97.08	1.46	1.46	
	.	35.37	40.00	8.33	
NAVY	5	99	1	10	100
	.	21.98	0.25	2.47	24.69
	.	89.00	1.00	10.00	
	.	23.67	20.00	41.67	
MARINE CORPS	0	34	1	4	39
	.	8.40	0.25	0.99	9.63
	.	87.18	2.56	10.26	
	.	9.04	20.00	16.67	
AIR FORCE	0	106	0	7	113
	.	26.17	0.00	1.73	27.90
	.	93.81	0.00	6.19	
	.	28.19	0.00	29.17	
COAST GUARD	1	14	1	1	16
	.	3.46	0.25	0.25	3.95
	.	87.50	6.25	6.25	
	.	3.72	20.00	4.17	
TOTAL	.	376	5	24	405
	.	92.84	1.23	5.93	100.00

109. If SPCM jurisdiction were increased, would you favor requiring the detail of a military judge in every case?

Yes.....1
no.....2
no, but without a military judge, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF110

QF1	QF110			TOTAL
	FREQUENCY ROW PCT COL PCT	1	3	
ARMY	0 33.42 99.27 34.26	1 136 33.42 99.27 34.26	3 0.25 0.73 10.00	137 33.66
NAVY	2 24.08 95.15 24.69	98 24.08 95.15 24.69	5 1.23 4.85 50.00	103 25.31
MARINE CORPS	1 9.34 100.00 9.57	38 9.34 100.00 9.57	0 0.00 0.00 0.00	38 9.34
AIR FORCE	0 27.03 97.35 27.71	110 27.03 97.35 27.71	3 0.74 2.65 30.00	113 27.76
COAST GUARD	1 3.69 93.75 3.78	15 3.69 93.75 3.78	1 0.25 6.25 10.00	16 3.93
TOTAL	397	397	10	407
	97.54	97.54	2.46	100.00

110. If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?

Yes.....1
 No.....2
 no, but without representation
 by lawyer defense counsel,
 confinement should be
 limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF111

QF1	QF111			TOTAL
FREQUENCY ROW PCT COL PCT	1	2	3	
ARMY	0 13.48 40.15 38.19	55 14.22 42.34 32.58	24 5.88 17.52 27.91	137 33.58
NAVY	1 10.78 42.31 30.56	38 9.31 36.54 21.35	22 5.39 21.15 25.58	104 25.49
MARINE CORPS	1 3.19 34.21 9.03	19 4.66 50.00 10.67	6 1.47 15.79 6.98	38 9.31
AIR FORCE	0 7.11 25.66 20.14	29 12.99 46.90 29.78	31 7.60 27.43 36.05	113 27.70
COAST GUARD	1 0.74 18.75 2.08	3 0.74 62.50 5.62	10 2.45 18.75 3.49	16 3.92
TOTAL	144 35.29	178 43.63	86 21.08	408 100.00

111. Do you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?

Yes.....1
no.....2
no, but if there is no investigation, confinement should be limited to six months...3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF112

QF1	QF112	0	1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		0	102	20	15	137
		.	25.12	4.93	3.69	33.74
		.	74.45	14.60	10.95	
		.	36.30	32.26	23.81	
NAVY		2	74	13	16	103
		.	18.23	3.20	3.94	25.37
		.	71.84	12.62	15.53	
		.	26.33	20.97	25.40	
MARINE CORPS		1	28	4	6	38
		.	6.90	0.99	1.48	9.36
		.	73.68	10.53	15.79	
		.	9.96	6.45	9.52	
AIR FORCE		1	70	20	22	112
		.	17.24	4.93	5.42	27.59
		.	62.50	17.86	19.64	
		.	24.91	32.26	34.92	
COAST GUARD		1	7	5	4	16
		.	1.72	1.23	0.99	3.94
		.	43.75	31.25	25.00	
		.	2.49	8.06	6.35	
TOTAL		.	281	62	63	406
		.	69.21	15.27	15.52	100.00

112. If SPCM jurisdiction were increased, would you favor increasing to five the minimum number of required court members?

Yes.....1
 no.....2
 no, but if there are fewer than five, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF113

QF1	QF113			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	0 25.49 75.91 34.10	25 6.13 18.25 39.68	8 1.96 5.84 20.00	137 33.58
NAVY	1 19.61 76.92 26.23	13 3.19 12.50 20.63	11 2.70 10.58 27.50	104 25.49
MARINE CORPS	1 6.62 71.05 8.85	6 1.47 15.79 9.52	5 1.23 13.16 12.50	38 9.31
AIR FORCE	0 20.34 73.45 27.21	16 3.92 14.16 25.40	14 3.43 12.39 35.00	113 27.70
COAST GUARD	1 2.70 68.75 3.61	3 0.74 18.75 4.76	2 0.49 12.50 5.00	16 3.92
TOTAL	305 74.75	63 15.44	40 9.80	408 100.00

113. If SPCM jurisdiction were increased, would you favor increasing to five the number of days required as a waiting period before trial?

yes.....1
no.....2
no, but if trial before five days, confinement should be limited to six months.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF114

QF1	QF114				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	
ARMY	0	89	10	38	137
	.	21.81	2.45	9.31	33.58
	.	64.96	7.30	27.74	
	.	38.36	32.26	26.21	
NAVY	1	63	5	36	104
	.	15.44	1.23	8.82	25.49
	.	60.58	4.81	34.62	
	.	27.16	16.13	24.83	
MARINE CORPS	1	26	1	11	38
	.	6.37	0.25	2.70	9.31
	.	68.42	2.63	28.95	
	.	11.21	3.23	7.59	
AIR FORCE	0	51	8	54	113
	.	12.50	1.96	13.24	27.70
	.	45.13	7.08	47.79	
	.	21.98	25.81	37.24	
COAST GUARD	1	3	7	6	16
	.	0.74	1.72	1.47	3.92
	.	18.75	43.75	37.50	
	.	1.29	22.58	4.14	
TOTAL	.	232	31	145	408
	.	56.86	7.60	35.54	100.00

114. If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?

Yes.....1
 no.....2
 verbatim record only if BCD
 or over six months
 confinement adjudged.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF115

QF1	QF115			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	0 22.36 66.42 33.58	32 7.86 23.36 39.51	14 3.44 10.22 25.45	137 33.66
NAVY	2 16.95 66.99 25.46	18 4.42 17.48 22.22	16 3.93 15.53 29.09	103 25.31
MARINE CORPS	1 6.14 65.79 9.23	8 1.97 21.05 9.88	5 1.23 13.16 9.09	38 9.34
AIR FORCE	0 18.43 66.37 27.68	20 4.91 17.70 24.69	18 4.42 15.93 32.73	113 27.76
COAST GUARD	1 2.70 68.75 4.06	3 0.74 18.75 3.70	2 0.49 12.50 3.64	16 3.93
TOTAL	271 66.58	81 19.90	55 13.51	407 100.00

115. If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the Office of The Judge Advocate General?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF116

QF1	QF116				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	
ARMY	0	117	9	11	137
	.	28.68	2.21	2.70	33.58
	.	85.40	6.57	8.03	
	.	33.05	31.03	44.00	
NAVY	1	87	9	8	104
	.	21.32	2.21	1.96	25.49
	.	83.65	8.65	7.69	
	.	24.58	31.03	32.00	
MARINE CORPS	0	33	5	1	39
	.	8.09	1.23	0.25	9.56
	.	84.62	12.82	2.56	
	.	9.32	17.24	4.00	
AIR FORCE	1	104	5	3	112
	.	25.49	1.23	0.74	27.45
	.	92.86	4.46	2.69	
	.	29.38	17.24	12.00	
COAST GUARD	1	13	1	2	16
	.	3.19	0.25	0.49	3.92
	.	81.25	6.25	12.50	
	.	3.67	3.45	8.00	
TOTAL	.	354	29	25	408
	.	86.76	7.11	6.13	100.00

116. Do SPCM judges whom you know have sufficient experience to
adjudge up to one year of confinement at a SPCM?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF117

QF1	QF117				TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	0	1	2	3	
ARMY	0	114 28.08 83.21 38.13	18 4.43 13.14 24.66	5 1.23 3.65 14.71	137 33.74
NAVY	1	65 16.01 62.50 21.74	18 4.43 17.31 24.66	21 5.17 20.19 61.76	104 25.62
MARINE CORPS	0	24 5.91 61.54 8.03	13 3.20 33.33 17.81	2 0.49 5.13 5.88	39 9.61
AIR FORCE	3	85 20.94 77.27 28.43	20 4.93 18.18 27.40	5 1.23 4.55 14.71	110 27.09
COAST GUARD	1	11 2.71 68.75 3.68	4 0.99 25.00 5.48	1 0.25 6.25 2.94	16 3.94
TOTAL	0	299 73.65	73 17.98	34 8.37	406 100.00

117. Would increasing the jurisdiction of SPCMs reduce the number of GCMs?

yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF118

QF1	QF118		1	2	3	TOTAL
FREQUENCY						
PERCENT						
ROW PCT						
COL PCT						
ARMY		4	95	15	23	133
			24.48	3.87	5.93	34.28
			71.43	11.28	17.29	
			39.09	23.44	28.40	
NAVY		8	49	21	27	97
			12.63	5.41	6.96	25.00
			50.52	21.65	27.84	
			20.16	32.81	33.33	
MARINE CORPS		4	18	9	8	35
			4.64	2.32	2.06	9.02
			51.43	25.71	22.86	
			7.41	14.06	9.88	
AIR FORCE		5	73	17	18	108
			18.81	4.38	4.64	27.84
			67.59	15.74	16.67	
			30.04	26.56	22.22	
COAST GUARD		2	8	2	5	15
			2.06	0.52	1.29	3.87
			53.33	13.33	33.33	
			3.29	3.13	6.17	
TOTAL			243	64	81	388
			62.63	16.49	20.88	100.00

118. If so, is this a desirable end?

Yes.....1
 No.....2
 no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF119

QF1	QF119	1	2	3	TOTAL
FREQUENCY					
PERCENT					
ROW PCT					
COL PCT					
ARMY		9	106	21	136
		2.22	26.17	5.19	33.58
		6.62	77.94	15.44	
		69.23	36.93	20.00	
NAVY		2	52	49	103
		0.49	12.84	12.10	25.43
		1.94	50.49	47.57	
		15.38	18.12	46.67	
MARINE CORPS		0	26	12	38
		0.00	6.42	2.96	9.38
		0.00	68.42	31.58	
		0.00	9.06	11.43	
AIR FORCE		2	90	20	112
		0.49	22.22	4.94	27.65
		1.79	80.36	17.86	
		15.38	31.36	19.05	
COAST GUARD		0	13	3	16
		0.00	3.21	0.74	3.95
		0.00	81.25	18.75	
		0.00	4.53	2.86	
TOTAL		13	287	105	405
		3.21	70.86	25.93	100.00

119. What effect would increasing the jurisdiction of SPCMs to one year confinement have on your trial preparation?

- require less preparation.....1
- no significant change.....2
- require more preparation.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF120

QF1	QF120			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	2 4.48 13.33 21.43	76 18.91 56.30 30.89	41 10.20 30.37 56.94	135 33.58
NAVY	4 8.46 33.66 40.48	57 14.18 56.44 23.17	10 2.49 9.90 13.89	101 25.12
MARINE CORPS	0 1.74 17.95 8.33	24 5.97 61.54 9.76	8 1.99 20.51 11.11	39 9.70
AIR FORCE	2 5.72 20.72 27.38	76 18.91 68.47 30.89	12 2.99 10.81 16.67	111 27.61
COAST GUARD	1 0.50 12.50 2.38	13 3.23 81.25 5.28	1 0.25 6.25 1.39	16 3.98
TOTAL	84 20.90	246 61.19	72 17.91	402 100.00

120. What effect would increasing the jurisdiction of SPCMs to one year confinement have on your recommendations to clients regarding appropriate pleas to enter?

- increase recommendations for not guilty pleas.....1
- no significant change.....2
- increase recommendations for guilty pleas.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF121

QF1 FREQUENCY PERCENT ROW PCT COL PCT	QF121			TOTAL
	1	2	3	
ARMY	2 2.24 6.67 17.65	94 23.38 69.63 35.47	32 7.96 23.70 37.21	135 33.58
NAVY	5 4.73 19.00 37.25	59 14.68 59.00 22.26	22 5.47 22.00 25.58	100 24.88
MARINE CORPS	0 2.24 23.08 17.65	26 6.47 66.67 9.81	4 1.00 10.26 4.65	39 9.70
AIR FORCE	1 2.49 8.93 19.61	10 18.91 67.86 28.68	26 6.47 23.21 30.73	112 27.86
COAST GUARD	1 1.00 25.00 7.84	10 2.49 62.50 3.77	2 0.50 12.50 2.33	16 3.98
TOTAL	51 12.69	265 65.92	86 21.39	402 100.00

121. Under the present sentencing structure, what effect would increasing the jurisdiction of SPCMs to one year confinement have on your recommendations to clients to request trial by military judge alone?

- decrease recommendations for trial by judge alone.....1
- no significant change.....2
- increase recommendations for trial by judge alone.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF122

QF1	QF122	1	2	3	TOTAL
FREQUENCY PERCENT ROW PCT COL PCT					
ARMY	2	9 2.22 6.67 32.14	110 27.16 81.48 33.85	16 3.95 11.85 30.77	135 33.33
NAVY	2	9 2.22 8.74 32.14	77 19.01 74.76 23.69	17 4.20 16.50 32.69	103 25.43
MARINE CORPS	0	3 0.74 7.69 10.71	27 6.67 69.23 8.31	9 2.22 23.08 17.31	39 9.63
AIR FORCE	1	5 1.23 4.46 17.86	97 23.95 86.61 29.85	10 2.47 8.93 19.23	112 27.65
COAST GUARD	1	2 0.49 12.50 7.14	14 3.46 87.50 4.31	0 0.00 0.00 0.00	16 3.95
TOTAL	:	28 6.91	325 80.25	52 12.84	405 100.00

122. Under the present sentencing structure, what effect would increasing the jurisdiction of SPCMs to one year confinement have on your recommendations to clients to request enlisted members on the court?

- decrease recommendations for enlisted membership.....1
- no significant change.....2
- increase recommendations for enlisted membership.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF123

QF1	QF123			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	7 1.72 5.15 33.33	119 29.24 87.50 38.76	10 2.46 7.35 12.66	136 33.42
NAVY	2 0.49 1.92 9.52	64 15.72 61.54 20.85	38 9.34 36.54 48.10	104 25.55
MARINE CORPS	3 0.74 7.69 14.29	28 6.88 71.79 9.12	8 1.97 20.51 10.13	39 9.58
AIR FORCE	8 1.97 7.14 38.10	84 20.64 75.00 27.36	20 4.91 17.86 25.32	112 27.52
COAST GUARD	1 0.25 6.25 4.76	12 2.95 75.00 3.91	3 0.74 18.75 3.80	16 3.93
TOTAL	21 5.16	307 75.43	79 19.41	407 100.00

123. Would increasing the jurisdiction of SPCMs cause underrefer-
ral of a significant number of cases?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF124

QF1	QF124			TOTAL
FREQUENCY PERCENT ROW PCT COL PCT	1	2	3	
ARMY	12 1.62 4.80 13.95	6 105 28.38 84.00 40.70	14 3.78 11.20 20.29	125 33.78
NAVY	13 3.24 13.04 27.91	12 57 15.41 61.96 22.09	23 6.22 25.00 33.33	92 24.86
MARINE CORPS	3 1.35 13.89 11.63	5 22 5.95 61.11 8.53	9 2.43 25.00 13.04	36 9.73
AIR FORCE	11 4.32 15.69 37.21	16 64 17.30 62.75 24.81	22 5.95 21.57 31.88	102 27.57
COAST GUARD	2 1.08 26.67 9.30	4 10 2.70 66.67 3.88	1 0.27 6.67 1.45	15 4.05
TOTAL	43 11.62	258 69.73	69 18.65	370 100.00

124. If so, should certain serious offenses be precluded from trial by SPCM?

Yes.....1
no.....2
no opinion.....3

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF125

QF1	FREQUENCY PERCENT ROW PCT COL PCT	QF125		TOTAL
		1	2	
ARMY	4 18.27 55.64 40.66	74 14.57 44.36 26.46	59 14.57 44.36 26.46	133 32.84
NAVY	1 7.41 28.85 16.48	30 7.41 18.27 33.18	74 18.27 71.15 33.18	104 25.68
MARINE CORPS	0 3.46 35.90 7.69	14 3.46 35.90 7.69	25 6.17 64.10 11.21	39 9.63
AIR FORCE	0 13.33 47.79 29.67	54 13.33 47.79 29.67	59 14.57 52.21 26.46	113 27.90
COAST GUARD	1 2.47 62.50 5.49	10 2.47 62.50 5.49	6 1.48 37.50 2.69	16 3.95
TOTAL	0 182 44.94	182 44.94	223 55.06	405 100.00

125. On balance, do you favor increasing the jurisdictional maximum punishment of SPCMs to one year?

Yes.....1
no.....2

FREQUENCIES BY SERVICE
TABLE OF QF1 BY QF126

QF1	QF126				TOTAL
FREQUENCY ROW PCT COL PCT	0	1	2	3	
ARMY	2 7.88 23.70	32 7.88 29.36	91 22.41 67.41	12 2.96 8.89	135 33.25
NAVY	1 8.13 31.73	33 8.13 30.28	48 11.82 46.15	23 5.67 22.12	104 25.62
MARINE CORPS	1 3.20 34.21	13 3.20 11.93	23 5.67 60.53	2 0.49 5.26	38 9.36
AIR FORCE	0 6.16 22.12	25 6.16 22.94	79 19.46 69.91	9 2.22 7.96	113 27.83
COAST GUARD	1 1.48 37.50	6 1.48 5.50	7 1.72 43.75	3 0.74 18.75	16 3.94
TOTAL	4 10.9	109 26.85	248 61.08	49 12.07	406 100.00

126. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for the offense, rather than the jurisdictional limit of the court, determined the trial forum, i.e. felony and misdemeanor courts?

Yes.....1
no.....2
no opinion.....3

Public Comments, Miscellaneous Documents and Statistics

PART ONE—INTRODUCTION

I. Organization of Chapter 4

This chapter contains the written comments submitted to the Commission, written statements submitted by witnesses who testified before the Commission that do not appear in chapter 2 of this report, research documents submitted by various sources, the Commission Charter, administrative letters and memorandums and court-martial related statistics submitted by each service.

Some of the submitted documents attached or referred to published materials. These materials have not been included in this volume to reduce the bulk of the report.

Part three of this volume also contains a standard letter sent to the many individuals, agencies and public interest groups whose comments were solicited by the Commission. Following that letter is a list of such individuals and groups who received Commission invitations to comment or testify before the Commission.

PART TWO—PUBLIC COMMENTS

II. Letters and Statements from Public Interest Groups, Individuals and Bar Associations



132 West 43 Street
New York, NY 10036
(212) 944 9800

Henry Schwarzschild
DIRECTOR

Norman Dorsen
PRESIDENT

Ira Glasser
EXECUTIVE DIRECTOR

March 21, 1984

Col. Thomas L. Hemingway
Chairman
Military Justice Act of 1983 Advisory Commission
HQ USAF/JAJM
1900 Half Street, S.W.
Washington, D.C. 20324

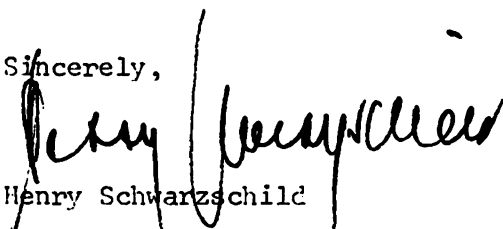
Dear Colonel Hemingway:

We thank you for your invitation to submit comments on the issues before the Military Justice Act of 1983 Advisory Commission.

Please be informed that Eugene R. Fidell, Esq., of Washington, D.C., will present the views of the American Civil Liberties Union to the Commission. Mr. Fidell can be reached at LeBoeuf, Lamb, Leiby & Macrae, Suite 1100, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036, 202/457-7500.

Again, we are grateful for your invitation.

Sincerely,


Henry Schwarzschild

HS:c

CC: Eugene R. Fidell, Esq.
John H. F. Shattuck, Esq.

DEPARTMENT OF DEFENSE
BEFORE THE
MILITARY JUSTICE ACT OF 1983 ADVISORY COMMISSION

Statement of

EUGENE R. FIDELL
Partner
Boasberg, Klores, Feldesman & Tucker
Washington, D.C.

on behalf of the
AMERICAN CIVIL LIBERTIES UNION

June 8, 1984

Mr. Chairman and Members of the Advisory Commission:

Thank you for affording me an opportunity to appear before the Advisory Commission created pursuant to the Military Justice Act of 1983. I appear today on behalf of the American Civil Liberties Union. As you know, the ACLU was actively involved in the legislative process that led to passage of the 1983 Act, and continues to be deeply concerned over the issues which Congress has directed this Commission to study.

In offering this statement, I would like to address two types of questions: first, the range of issues identified by Congress in the 1983 Act, and second, some additional issues which the Commission should at least be aware of, and perhaps should address in its report. If at any time you would like to interrupt with a question, please do not be bashful. We are here to exchange ideas rather than give speeches.

As far as the issues identified by Congress are concerned, the position of the ACLU is in large measure stated in the testimony and responses to questions that were furnished to the Senate Armed Services Committee while the 1983 Act was under consideration. Looking at the issues identified in the letter you, Mr. Chairman, have circulated, I would summarize the ACLU's position as follows:

1. Sentencing by the Military Judge. The ACLU's position is stated on pages 200 and 219-20 of the Senate Hearings. In a

nutshell, the ACLU opposes any change in current law since many members of the armed forces believe that sentencing by the jury (including the option for enlisted jurors) is an important safeguard. Our testimony also sets forth the factors that tend to distinguish the military and civilian sentencing systems.

2. Suspension of sentences. As stated in the ACLU's responses to questions posed by the Senate Armed Services Committee, "the power to suspend sentence should be conferred upon whoever adjudges the sentence, whether that be the military judge or the members of the court-martial." Senate Hearings at 240.

3. Increase of special court-martial sentencing limits. The ACLU opposes any increase in the sentencing powers of the special court-martial. See Senate Hearings at 200-01, 220, 240-41. "A jury of three should not be authorized to sentence a person to prison for a year." *Id.* at 220.

The 1983 Act's inquiry regarding the need for changes in the military justice system's appellate structure is not contingent on increasing the sentencing power of the special court-martial. See Section 9(b)(1)(C). The ACLU's position on the need for such structural changes appears at pages 201 and 220-29 of the Senate Hearings. In addition, access to the appellate process under the UCMJ is the subject of an article I have written in my personal capacity, a copy of which has been

furnished in draft to the Commission. The views expressed in that article do not necessarily represent the position of the ACLU, but the questions raised certainly merit the serious attention of this body.

4. Terms of office for military trial and appellate judges. The ACLU position on this matter is addressed on pages 225, 242-44 and 248 of the Senate Hearings. In addition, the subject is treated in an article I have written in my personal capacity for the Federal Bar News and Journal, a copy of which has also been furnished to the Commission in draft. Once again, the views expressed in that article do not necessarily represent the position of the ACLU, but the article does, I think, marshal the pertinent considerations.

Recently it has been suggested that establishment of a flag or general officer billet for each service's trial and appellate benches might be an alternative to tenure that might attract more judge advocates to the bench and retain them there for longer periods of time. H.R. Rep. No. 98-691, 98th Cong., 2d Sess. 254 (1984). The ACLU has no objection to the creation of such billets, but we would oppose this action if it were viewed as an alternative to a meaningful system of judicial tenure. Judicial tenure is not simply a question of offering incentives to potential judges, but also a matter of encouraging independence of judicial thought and action, and assuring the affected troops that the bench is independent to essentially the

same degree that civilian judges are independent. Indeed, it could be argued with some force that creating a flag or general officer billet on each bench would only inject notions of rank among judges in a way that the system has to date quite properly labored to downplay. Thus, establishing such billets could be counterproductive.

The question of tenure for military judges has been discussed for too long. The time has come for action. This Commission should fashion a constructive proposal. A possible starting point would be the pertinent parts of the bill prepared several years ago by the Association of the Bar of the City of New York. I would particularly urge the Commission to review the comments of the various services in response to that proposal.

5. The ACLU has no position as to the elements of a fair and equitable retirement system for judges of the Court of Military Appeals, except to suggest that the system should be no less generous than that applicable to the Tax Court. As a practical matter, the retirement system should be such as to remove any substantial financial incentive for judges to seek appointment to other federal courts, in the interest of reducing personnel (and therefore doctrinal) turbulence.

6. Article III status. Article III status should be afforded to the Court of Military Appeals. This will enhance the quality of nominees, reduce personnel turbulence, increase the

Court's stature within both the military and civilian communities, and generally would be more in keeping with the notion of direct review of decisions by the Supreme Court of the United States. If serious consideration is given to extending Article III status in this fashion, attention should also be given to expanding the Court's subject matter jurisdiction to include judicial review of other military personnel determinations such as administrative discharges, disabilities and the sundry matters reviewed by the boards for correction of military records. A realignment of the functions of the United States Claims Court and the Court of Appeals for the Federal Circuit might be a corollary of any such change.

The ACLU has recommended certain other structural changes for the Court of Military Appeals, such as elimination of the political balance test and curtailment of the presidential power to designate chief judges. Senate Hearings at 228 & n.26. The Court should also be expanded to at least five judges--the minimum number recommended by the American Bar Association for the highest court of a jurisdiction.

As I mentioned at the outset, there is also a set of issues which lie outside the strict limits of the Commission's congressional mandate, but which also merit your attention and possibly some comment in your report to the House and Senate Armed Services Committees. In this regard, I would hope that the Commission would read its charter in a generous fashion. You

are, after all, functioning in large measure as a surrogate for the congressional hearing process, and I am confident no one would object if you were to cast your net too widely.

There are four additional matters on which you may wish to comment. First, this Commission should make known its views on the question of how military judicial decisions are digested by the West Publishing Company. At the recent Homer Ferguson Conference held at George Washington University, I asked for a show of hands concerning the need for change in this area, particularly in light of the increasing interaction between civilian and military legal systems attributable to the prospect of Supreme Court review of military decisions. A clear majority of those present at the workshop on Supreme Court practice under the 1983 Act indicated that they thought their jobs would be facilitated if the usual West digesting topics all of us learned in law school were applied to military cases.

Second, I urge the Commission to look carefully at the current arrangements for gathering statistical data concerning operation of the military justice system. I am not speaking now of data like the tabulation of responses to questionnaires such as those this Commission itself has developed, but rather the hard data such as those which are brought together in the Annual Reports of the Court of Military Appeals and the Judge Advocates General. It has long been recognized in other jurisdictions that statistical data can play a key role in identifying problems and

formulating solutions.

As far as the military justice system is concerned, I fear that the current arrangements are materially deficient. For example, the statistical reports submitted by each service reflect inconsistent interpretations of the basic form. Some of the services feel a need to add footnotes and parenthetical explanations; others do not. There is even some disagreement as to basic definitions. For example, the Army and the Coast Guard construed "BCD specials" in Part 1 of the form differently from the Navy and the Air Force, since only the Army and Coast Guard show acquittals in that category. Other deficiencies include the absence of information as to the outcome of Article 138 petitions or NJP appeals. The forms also fail to reveal how many GCMS reviewed under Article 69 are referred to the Courts of Military Review. In conducting research for one of the articles referred to previously, I was disturbed to find that three of the services kept that particular statistic on a fiscal year basis, while the fourth kept it on a calendar year basis. Not to belabor the point, I suggest the Code Committee be urged to take a hard look at the statistics being generated. We should be able to learn a lot more from statistics, without much more effort. For example, can anyone tell me how many requests for individual military counsel were made in any service last year? Or how many such requests were made across service lines, as permitted by *United States v. Johnson*?

The third of my observations grows out of the second. I think it is time we had a National Institute of Military Justice. The efforts of this Commission are desirable, as are those of the Joint Service Committee on Military Justice, but this kind of effort should be given greater recognition and a broader range of continuing responsibilities, as appropriate for a jurisdiction whose population exceeds two million. In time, I hope we in the civilian community will be able to marshal the resources necessary to launch a project to work in collaboration with the armed services, perhaps combining the functions of the National Institute of Justice, the Vera Institute of Justice and perhaps the Federal Judicial Center. I like to think such a project would find favor in the eyes of those responsible for administration of the military justice system, and would be viewed as a constructive force working in the national interest.

Finally, the Code Committee and Congress should be encouraged to look into the current arrangements for handling matters of professional responsibility within the armed services. All too little attention has been given to this subject, which goes to the heart of the delivery of effective legal assistance in this as in any other criminal justice system. Each service should be asked to report--in appropriately sanitized fashion--on the range of professional responsibility and judicial disciplinary issues it has had to address in the last five years.

Advisory Commission Report

Thank you very much, Mr. Chairman, for affording me the opportunity to meet with the Commission this morning. If you have any questions at this time, I would be pleased to entertain them.



Federal Bar Association

April 2, 1984

Col. Thomas L. Hemingway, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, D.C. 20301

Dear Col. Hemingway:

This is in reply to your letter of March 14, 1984, informing the Federal Bar Association of the commencement of meetings of the Military Justice Act of 1983 Advisory Commission on April 12, 1984, and inviting the FBA to comment on topics to be addressed.

The matter has been referred to the FBA Military Law and Practice Committee for possible comment and testimony.

I appreciate your interest in the views of the Federal Bar Association on this matter.

Sincerely,

A handwritten signature in black ink that reads "J. Thomas Rouland". The signature is written in a cursive, flowing style.

J. Thomas Rouland, CAE
Executive Director

cc: Col. Leonard R. Piotrowski
Hon. Arthur L. Burnett
Hon. Robinson O. Everett
Alfred F. Belcuore, Esq.

Pepperdine University School of Law

5 April, 1984

Col. Thomas L. Hemmingway, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
Headquarters, USAF/JAJM
Washington, D.C. 20324

Dear Colonel Hemmingway,

This letter responds to your undated letter soliciting comments on certain issues coming before the Commission on and after April 12, 1984. Some of my opinions in areas of the Commission's interest are not shared by many, and perhaps not by most, Judge Advocates. I am pleased to present them to you and the Commission for whatever they may be worth.

Any conceptual approach to Military Justice begins with assumptions concerning the similarities and differences between the role of criminal law in a civilian context on one hand and the function of Military Justice on the other. I see each system as being designed to further and foster the legitimate ends of the "society" in which it performs its essential role. Civilian "justice" is designed to further the ends of a free society in which the individual is given the maximum of liberty and independent action. Regimentation is an anathema. Military Justice is designed to further the ends of a community in which control, coordination and submission to authoritative direction are essential for success. Unless these basic differences in objective justify the differences in both substance and procedure between the two systems, Military Justice should be abolished. If there is a difference, it should be recognized and accommodated.

In order to develop the desired independence of the individual in our civilian society we employ a justice system which promotes and encourages independent action, discourages regimentation and allows no human personality to emerge as an "authority" figure over others. In our system the source of civil commands is nameless, faceless and impersonal. It is enough that its directives and restraints emanate from abstract institutions called governments, and that enforcement of its rules is spread among a plurality of functionaries such as policemen (peace officers), investigators, prosecutors, jailers, judges, correction specialists, parole officers, etc. There is no single "authority figure" involved. And, as long as society is protected from the accused, there is no great hurry to complete the judicial process.

Col. Thomas L. Hemmingway, USAF
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On the other hand, there is a different dimension to a military society. Military organizations run on discipline. Discipline, in turn, is an attitude, a willingness to submerge independent action for group action under human leadership. Discipline is brought on by a combination of factors including education, training, repetition, commitment to goals, respect for leadership, confidence in superiors and associates, a sense of justice that slackers will be punished and the faithful rewarded, fear of failing to conform to duty, and an attitude of obedience to human leadership. Military Justice is relevant to several of the above attitudes, and is one of the more important tools of discipline. It must be designed in both the actions it commands and prohibits, and in the procedures it employs, to further and support "discipline."

The key to military discipline is the chain of command. It is the persons in the chain of command who must be obeyed when the combat team is committed. This requires the existence of persons in authority who must be recognized as such. The attitude to respond instantaneously and obediently to authority, even in the face of personal danger, is not one which can be turned on and off like a spigot. It must be developed and nurtured during the days before the crisis. Therefore, as an essential part of the process of developing discipline, it is important to have everything which happens to the individual, whether good or bad, to be seen as emanating from the person of the commander through the chain of command. This necessitates the creation of an "authority figure" in the person of the commander. The Military Justice system should be designed throughout to facilitate this result.

As I see it, the administration of justice in any environment involves three separate and distinct problems: (1) the problem of determining whom to try and when to try them, (2) the process of determining guilt or innocence, and (3) the assessment of an appropriate punishment to be meted out to the guilty. The first of these problems is clearly within the province of the commander. The two factors which should influence his decisions are: those concepts of justice shared by all society, and the particular disciplinary needs of the command. The second problem is of interest to the commander only to the extent that the truth is determined with due regards to the rights of the accused. Since discipline is never furthered (but rather is hindered) by punishing the innocent, the phase of the justice system having to do with determining innocence or guilt should be carefully isolated from improper command influence. On the other hand, the third problem, that of sentencing the guilty often has a direct impact upon the "discipline of the command," and is of deep concern to the commander.

It is also rational to divide court-martial cases into three different categories: one having to do with traditional crimes under civilian standards, having no separate impact upon discipline; the second having to do with civilian crimes having an impact upon discipline; and the

Col. Thomas L. Hemmingway, USAF
5 April, 1984
Page 3

third with purely "military" offenses having to do only with discipline. With respect to the first category, the commander has no legitimate interest beyond seeing "justice done." But with respect to the second and third categories, the commander has a direct and important interest. In fact, if it were not for this interest, there should be no such thing as Military Justice.

If it is the objective of Congress to develop a military criminal code which facilitates the creation and maintenance of an efficient and effective fighting force, while at the same time maximizing the rights of the accused, I see the task of the Commission to identify the legitimate roles of the commander in moulding discipline and give him the power and tools to do his job, maintaining due sensitivity to and respect for every "right" of the accused. No guilty accused has a right to go unpunished by a sentence appropriate for his offense under the circumstances. But he does have a right to due process in determining his guilt and punishment.

It is within this paradigm that I respond to the issues raised in your letter.

a. Sentencing authority should NOT be exercised by the military judge in any case in which the disciplinary needs of the command are involved. By the very nature of the duties of the judge he is isolated from the command and does not know of its needs. He may know what society may demand in a case not involving discipline, but the system of letting officers of the command determine the appropriate punishment is more likely to support the mission of military justice when command discipline is involved. Relatively few military judges understand the dynamics of command discipline. AWOL is a bigger problem, and should receive a greater punishment, in a unit in which AWOL is a recurring event than in a unit where it is occasional. It is a simplistic mind which would award equal sentences for equal days absent. Since the COMA finds "command influence" when a commander advises the court-martial concerning the disciplinary needs of the command, the only way this need can be met is by having officers of the command who are already familiar with these needs assess the sentence.

On the other hand, when the offense is one familiar to civilian criminal law prosecuted only for reasons of general justice, having little to do with the disciplinary needs of the command, the military judge is in a better position to determine an appropriate sentence than is the commander. It might make sense to allow the convening authority to designate those cases in which he believes sentencing should be retained for the command, and to allow all others to be awarded by the judge.

Col. Thomas L. Hemmingway, USAF
5 April, 1984
Page 4

b. Since the judges on the Courts of Military Review exercise discretion over the appropriateness of the sentence and can remit any of it they do not like, it seems appropriate to allow them to suspend the excess instead of remitting it. If I could discover a way to do so, I would limit this power to those cases in which the accused was charged with non-military offenses only, or where he was transferred from the command of the convening authority. It is not helpful to suspend a "military offense" sentence approved by the chain of command and then return the accused to that command.

c. Now that a special court-martial has a military judge and lawyer counsel it seems appropriate to increase its jurisdiction to allow it to award sentences of confinement up to one year. Otherwise, we continue to use a hammer to swat a fly. I really have not thought out all the ramifications of the change, including appellate review.

d. Military judges should NOT have tenure! Not everyone is cut out to be a judge, and the damage done to discipline by an incompetent judge is very great. In civilian life, a bad judge does violence only to our concept of justice; in military life it can wreck havoc with the discipline of a command. There are other and more effective methods of preserving the independence of judges than by granting them tenure.

e. Based upon my personal opinion of the competency of several of the COMA judges, I would favor any system of retiring them as soon as possible under any circumstances. By and large they have been a sorry lot. However, a more tempered response is that there should be a provision for retirement which parallels civil service, with some credit for the experiences which got them on the bench in the first place.

f. No, USCMCA should NOT be an Article III court! Its judgments have more finality as the Supreme Court of the Military than they would have as a Federal Appellate Court. Besides, its function is that of implementing Congressional policy under Article I, and it should recognize that fact.

Since I do not have access to the charter of your Commission, I do not know what other matters are before it. I have some very strong opinions that the UCMJ is very good for peacetime use, but would be a disaster of no mean proportions in a substantial armed conflict. We swept our problems under the rug during Vietnam. "Justice" should get a purple heart for what happened to her there, and the bandage should be moved from her eyes to her posterior.

Because of the mobility of the military population, I would recommend a concerted program to develop a method of preserving testimony on video tape in the presence of the accused and counsel which would be admissible in lieu of the witness unless the party against whom the evidence was to be used could show some prejudice from the procedure. This would require

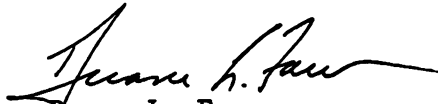
Col. Thomas L. Hemmingway, USAF
5 April, 1984
Page 5

either legislation, or rules changes, or both. This would avoid holding witnesses in a combat zone, pulling them from combat units to testify, holding witnesses beyond their enlistments, etc.

I have no particular desire to come to Washington to testify before the Commission, but would not be averse to doing so if it appeared that what have to say has some importance.

If I can be of any further service to you, please advise me.

Sincerely,



Duane L. Faw
BGen. USMC(Ret)
Professor of Law



The University of South Dakota
Office of the Dean

School of Law
605/677-5443

April 11, 1984

Col. Thomas L. Hemingway
HD USAF/JAJM
1900 Half Street, S.W.
Washington, D.C. 20324

Dear Tom:

Thank you for your letter of March 14, advising me of the work of the Military Justice Act of 1983 Advisory Commission of which you are chairman. The topics which you set out for study are of special interest and I believe that the military justice system has matured to the point where they can be given serious consideration.

I have some thoughts on each of the questions set out but I lack current data which is somewhat limiting. Nonetheless, I will go down the six questions as best I can.

- a. Sentencing by military judges - In general, I favor granting to military judges the authority to impose sentences, except in capital cases. Experience, I believe, would indicate that courts that sit for extended periods of time or try a number of cases as distinguished from the court that sits for one case only will have a change in their sentencing attitude. They are less likely to be taken in by novel and emotional appeals. They become better equipped to deal with the punishment issue as it pertains to offenses and the status of military discipline. That being the case, it would seem that military judges, because of their experience and observance of the patterns of misconduct and effective means of dealing with this conduct, would be well equipped to combine the purposes of sentencing (ie. punishment for the wrongdoing and effective deterrence to others) and do an excellent job with this function.
- b. Suspended sentences - In general, I would leave the suspension of sentences to commanders and not to judges and the courts. One exception

The University of South Dakota

Vermillion, South Dakota 57069

Col. Thomas Hemingway

April 11, 1984

- Page 2 -

would be with respect to confinement where a discharge is being executed. In my opinion, the return of a member to a duty status while serving a suspended sentence is a matter that should have command attention and not be left to the judges.

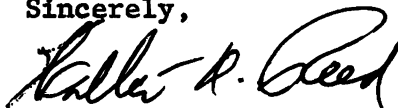
- c. Jurisdiction of special courts-martial - There was a time that I strongly favored the expansion of the jurisdiction of special courts to include authority to sentence an accused to confinement of up to one year. With the changes in the Military Justice Act which reduced the requirements for command review and somewhat diminished the distinction between general and special courts, I am not sure that such an extension of jurisdiction is necessary.
- d. Tenure for military judges - In my experience, I have not seen the need for tenure of military judges. If we select our judges with care and raise the stature of the position, in my view tenure is not required. It is essential that there be an obligation to assign highly qualified and competent people as military judges.
- e. Retirement for judges of the Court of Military Appeals My answer to this issue is that the Court of Military Appeals should be an Article III court under the U.S. Constitution. Judges appointed to such a court have lifetime salary protection and a retirement system is not a problem. We have many courts of special jurisdiction such as the Court of International Trade which are Article III courts. The importance of the Court of Military Appeals is measured on two fronts. First, it is an instrument that is an essential element in the maintenance of discipline and readiness in the armed forces. Second, they are the protectors of the future, the property and the freedom of a community made up of some two million individuals. Their independent role should not be questioned and they definitely should be insulated from any possible suggestion of political or bureaucratic influence. In my opinion, the stature and importance of the Military Justice system, its direct relationship to the preservation of vital national interests and its responsibility for the protection of individual rights of a vast community of Americans more than warrant Article III status for this court.

Col. Thomas Hemingway
April 11, 1984
- Page 3 -

Tom, I appreciate your inquiry to me concerning these important questions and I hope my comments are in some small way useful to you. I don't believe that it is necessary for me to appear personally. However, should the best interest of the services be served, I am available to do whatever you and the Commission think best.

Warm, personal regards.

Sincerely,



Walter D. Reed
Dean
Major General, USAF(ret.)

WDR:mte

Superior Court of the District of Columbia
 Washington, D. C. 20001

John B. Fauntleroy
 Judge

April 12, 1984

Colonel Thomas L. Hemingway, USAF
 Chairman, Military Justice Act
 of 1983 Advisory Commission
 Hq USAF/JAJM
 1900 Half Street, S. W.
 Washington, D. C. 20324

Dear Colonel Hemingway:

Reference is made to your letter dated 14 March 1984 requesting that I express my opinion on the following issues now pending before your Commission:

- Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.

Answer: I believe that a military judge should have the above sentencing authority.

- Whether military judges and the Courts of Military Review should have the power to suspend sentences.

Answer: I believe that military judges of the trial bench and the Courts of Military Review should have the power to suspend sentences.

- Whether the jurisdiction of special courts-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and if so, what, if any, changes should be made to current appellate jurisdiction.

Answer: Jurisdiction of Special Courts-Martial should be expanded to permit imposition of sentences and the defendant should have the right to appeal such conviction.

- Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

Answer: Because of the nature of the military, I do

Colonel Thomas L. Hemingway, USAF - - - 2.

April 12, 1984

believe that military judges should not have tenure.

- What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

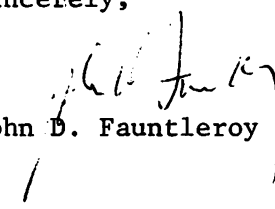
Answer: COMA judges should have the same retirement as Article III judges.

- Whether the United States Court of Military Appeals should be an Article III court under the U.S. Constitution.

Answer: Yes.

Please be informed that the above answers are my personal views, and are not to be associated with any organization or committee that I might be a member of.

Sincerely,



John D. Fauntleroy

cc: Chief Judge Robinson E. Everett
Court of Military Appeals

GEORGE S. PRUGH
17 CEDAR LANE
ORINDA, CALIFORNIA 94563
(415) 254-7872

12 April 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act of 1983
Advisory Committee
Washington Headquarters Services
Department of Defense
Washington, DC, 20301

Dear Colonel Hemingway :

Please accept my sincere thanks for the opportunity to furnish my comments to your Advisory Committee on the issues you described in your letter of 14 March 1984.

I write with the incentive of an abiding interest in military justice, as you graciously acknowledged, and from the perspective of over thirty years of military service and almost seven years as a professor teaching American criminal procedure in a major law school. During my military service, I had both line and staff experience, to include duty as a war-time unit commander, as a judge advocate performing at one time or another in almost every aspect of military justice, and finally for four years as The Judge Advocate General of the Army. I mention this merely to underscore the seriousness with which I approach your invitation to provide my views on these important issues.

Much as I would personally like to appear and testify before your committee, I do believe I can present my thoughts in this letter and thus save considerable time and expense that would be involved in travel to Washington at this time.

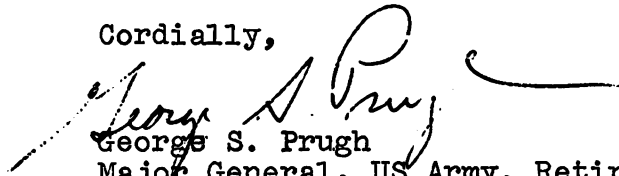
There are two points I would like to make at the outset. The first is one I have tried to express on several other occasions and which I tried to spell out in some detail in an article published with General William C. Westmoreland in 3 Harvard Journal of Law and Public Policy, p. 1 et seq (1980). This point is that the requirements for a military justice system are radically different during periods of military stress than in peacetime, stateside, non-stressed situations. The military justice system must be designed to reinforce and support the conduct of the forces during the stressful times. Anything else is superfluous to the mission of these military services. Some amplification of this thought, particularly in relationship to procedural civilianization of the military justice system, is found in an article I wrote for VIII Recueil de la Societe International de Droit Penal Militaire et de Droit de la Guerre, p. 251 et seq (1981).

The second thought is related to the first : any provision for a military justice system should be analyzed and tested from the standpoint of support to the accomplishment of the mission of the armed forces in times of military stress. If the provision stands in the way of that mission accomplishment then the provision must be restricted to non-exigent times.

Apart from the foregoing I would like to mention that I have no preconceived notions, biases, or prejudices that intrude upon the issues you are dealing with.

Once again I thank you for the invitation to comment on these matters. My thoughts are expressed on the attached sheets, numbered to correspond with the issues your letter identified.

Cordially,



George S. Prugh
Major General, US Army, Retired

1. Judicial Sentencing : Whether the sentencing authority in court-martial cases should be exercised by a military judge in all non-capital cases to which a military judge has been detailed.

Most civilian jurisdictions in the United States use judge-alone sentencing. The reasons usually advanced for this include a greater degree of consistency and uniformity in like cases, use of judicial expertise in sentencing, possibly a better use of the pre-sentencing report.

It would be inaccurate to say that there is general public satisfaction in the sentencing process. Although criticism probably stems more from disappointment at the results of sentencing, rather than its processes, there has been enough dissatisfaction with what judges have done in this regard that several jurisdictions have sought legislative relief in recent years to narrow the judicial options, even to the point of removing the alternative of probation in some instances. I know of no movement, however, to place increased sentencing power in the hands of jurors. One might well conclude that the public, and even more the legal profession, on the whole prefers to leave the sentencing to the judiciary.

It is not sufficient, however, for the military services merely to conform their processes to the civilian community, for the Uniform Code of Military Justice provides some unique features that must be considered. One is the recognition of the distinction between commissioned and enlisted personnel and the consequent grant of the right of enlisted personnel to have a minimum proportion of enlisted persons appointed to serve on a court-martial. Furthermore, in the services the 'juror' is selected from the military community, a narrower group to select from than would normally be found in a civilian community.

Consistency and uniformity in sentencing are always difficult to achieve, primarily because the details of the violation and the accused's personal record are such vital considerations. This is certainly true in both civilian and military cases. Even statistical comparisons are of doubtful validity because of the highly individualized factual situations affecting the decisions made in the cases. Accordingly I place low values of theoretical consistency and uniformity in sentencing.

It appears that a large proportion of court-martial cases do result in trial by judge alone these days. The most recent figures I have show that in the Army judge alone is selected in twice as many GCMs and over four times as many BCD SpCMs than where a jury is selected. And yet there remains a substantial number of these serious courts-martial where the accused opted for a court with members.

It would be interesting to examine the kinds of charges involved in the cases where the enlisted accused opts for a court with members. My suspicion is that an accused facing a certain charge where the facts might suggest a different point of view by enlisted persons in general (having in mind that enlisted members designated in such cases will in all likelihood be noncommissioned officers), might elect to have his sentence determined by a full court rather than by an officer-judge. In any case, regardless of the tactical motivation, in the military services today the accused has an option to go either way, judge alone or court with members, with the further option of court with some enlisted members. If all sentencing was placed in the exclusive hands of the military judge those options are reduced markedly.

It has to be borne in mind that regardless of the reputation or actuality of the judge for fairness, judicial temperament and demeanor, and technical competence, the military judge is a commissioned officer designated by the 'establishment', and he or she will be so regarded by many accused persons as having a bias, however slight. Furthermore, a military judge develops a 'track record' over time, from which a reputation as to sentencing can be gleaned. No self-respecting counsel would ignore including that in the analysis leading to the decision to opt for trial by judge alone.

In short, while the proposal to vest the military judge with sentencing authority in all cases probably would tend to achieve somewhat greater consistency and uniformity in the sentencing process and might further the other advantages set forth at the outset of this discussion, I doubt that the 'gain' is worth the cost to the accused's procedural rights presently enjoyed under the Code. I would leave the sentencing as it is - to the military judge when trial is by judge alone, to the court members otherwise.

There could, of course, be another option. There could be an authorization for sentencing to be by the military judge alone at the accused's option, even though the guilt phase was before a court with members. This should be contingent upon the military judge's concurrence. I would favor such a variation over the proposal to vest all sentencing in the military judge.

2. Probation by Military Judge: Whether military judges and the Courts of Military Review should have the power to suspend sentences.

At the outset, it has to be recognized that in the civilian criminal processes the judge normally has the power to suspend a sentence, attach conditions, and revoke or modify the terms or period of probation (except, of course, in those situations where probation is prohibited).

In recent years many jurisdictions, including the Federal courts, have developed a substantial probation service that is able to prepare detailed presentencing reports and to supervise the activities of the probationer. The military services are without such a capability except insofar as an individual convening authority may provide resources to perform this task. The Military Judge is quite without such capability, and in view of the present arrangement that the military judge's authority exists only as to those cases in which he or she is lawfully designated and may yet retain 'jurisdiction', it is unlikely that the military judge ever would have the manpower available to undertake supervision of probationers. Inevitably, in the military community, that function would be left to the probationer's commander.

For the trial judge to have the power to suspend a sentence does make optimum use of the judge's judicial experience and knowledge of the particular case. This is a positive benefit. But there are several obvious disadvantages. First, the proposal would deprive the commander of an important disciplinary tool. There is no parallel in this regard in the civilian community.

Further, it would not be likely that both the military judge and the commander would be authorized to suspend sentences, for conflict would surely result. If the judge did not suspend, would a commander be likely thereafter to do so? I believe that would be rare. But if the judge suspends and the accused is returned to the same organization for duty following conviction but without the commander's agreement as to suspension, trouble is sure to occur in far too many instances to make this practical.

An additional disadvantage is that the military judge's action to suspend does in fact burden a commander, not the judge who takes the action. The potentiality for unnecessary conflict between military judges and commanders, most especially convening authorities, becomes manifest. This is not to say the cost should be avoided merely because the risk exists, but it is difficult to see a gain justifying such cost.

The military judge today may recommend suspension of the sentence, although I have an idea that this is not frequently done. It is quite possible to strengthen such a judicial recommendation by requiring in those instances that the convening authority specifically consider the judge's recommendation and either accept it or give reasons for not doing so, which reasons could be reviewed for abuse of discretion.

There is not, in the military services, the same degree of latitude for probationers to start afresh in a changed environment, to have different associates and kinds of employment. The probationer is still in the military service and he remains subordinate to a unit commander who retains responsibility for the performance of the unit. In view of the fact that most courts-martial are for relatively minor offenses, involving short punishment periods, it will be inevitable that many of the convicted offenders placed on probation would be ordered back to the same unit, or at least the same major command. Under these circumstances, probation cannot be dealt with the same way as in the civilian community.

One of the most significant areas for the use of the probation is with regard to the punitive discharge, and it is probably generally true that a person with a suspended punitive discharge is transferred to another command. Nevertheless, suspension of the discharge by the military judge would require the commander to lose the opportunity to exercise this option, although the commander may be seeking to determine whether the accused should be given another chance to serve honorably. It seems to me that probation in this situation is more properly a matter of executive judgment than it is of a legal nature or something within the special competence of a military judge.

Finally, the military judge will never have such a complete file of relevant information regarding the accused's record and potential for rehabilitation as does the commander.

In summary, then, I recommend leaving the suspension authority with the Convening Authority rather than the military judge.

I arrive at the same position with respect to the probation authority for the Court of Military Review. As a practical matter, suspension can be effected through recommendation to The Judge Advocate General and to the service secretary. This is presently routinely accomplished. It is unnecessary to vest the CMR with probation authority, and to do so merely intrudes further into the area of executive clemency and discretion.

3. Expanded Special Court-Martial Punishment Power:
Whether the jurisdiction of special courts-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and if so, what, if any, changes should be made to current appellate jurisdiction.

The justification for this proposal appears to rest on two points: (1) such a change would reduce the number of general courts-martial cases by making possible disposition of more cases at a lower level; (2) such a change conforms to the majority of civilian jurisdictions that empower inferior courts such as municipal courts and United States magistrates to impose sentences including confinement up to one year.

As a practical matter, the proposal would not upset the delicate appellate processes and it would not require a change in them. What it does shift is the pretrial decisional level of convening authority and the minimum size of a court with members empowered to impose confinement of up to one year from 5 to 3.

The decisional level for pretrial and posttrial actions upon a GCM imposing a one-year confinement is relatively high in the military hierarchy, sufficiently so to warrant a substantial legal staff usually headed by an experienced officer in the grade of O-5 or O-6. Staff legal officers are far less frequently found at a special court-martial jurisdiction and their presence at that level is not required by the Code or MCM. Amended Article 64, however, requires that the record of a special court-martial resulting in a sentence extending to a punitive discharge or confinement for more than six months must be transmitted to the person exercising general court-martial jurisdiction for review. The net effect of this is to provide the same sort of posttrial review and action competency and authority as has been the requirement for a general court-martial imposing a sentence without a punitive discharge or confinement less than a year.

What would be different, then, under the proposal is the level of authority - and staff legal advice - for the pretrial investigation, legal advice, and reference to trial (Articles 32 and 34). If the proposal were adopted, an accused could face the extended confinement sentence of just less than one year on conviction by a special court-martial composed of a military judge alone or with not less than three court members, the matter having been referred to trial by a special court-martial convening authority who lacked the benefit of an Article 32 investigation and legal advice.

There is a further difference. If the court was with members, a majority of two out of three could impose the sentence of just less than one year of confinement, whereas in a general court-martial imposing the same sentence 4 members out of a minimum of 5 would have to agree. There is no question, then, that the proposal would adversely affect the situation of an accused, not only as to the pretrial decisional matters but also as to the determination of the sentence by a court with members.

In balancing the anticipated gains against these identified costs to an accused, I come down on the side of the accused. The jurisdictional gain the change would effect seems insubstantial to me, especially when contrasted with the possibility of almost a year in confinement by means of a sentence arrived at by a two-to-one vote minimum and in a case that has not had the benefit of an Article 32 investigation or careful preliminary legal review.

Furthermore, I do not see this proposal as beneficial in times of military stress, primarily because in my view it would arise in only relatively minor disciplinary situations (although admittedly these could be numerous and harmful in small degree to unit effectiveness). If the offense was believed to be truly such as to significantly reduce unit effectiveness it warrants trial by GCM or SpCM empowered to impose a BCD. Our military stress problems are not likely, in my view, to be solved by increasing the jurisdiction of the special court-martial convening authority. This proposal is band-aid action when considered in times of military stress, more likely to cover over a problem than to solve one. Furthermore, it anticipates increasing the procedural authority of an officer who, at the levels most likely to obtain in times of military stress, is already overloaded with responsibility but must function with minimum staff assistance.

Increasing confinement time for minor offenses in periods of military stress merely extends the exclusion of the confinee from military duty - at the very time he or she is needed most. In times of military stress the services ^{will} real deterrence for serious military offenses and prompt return to duty of as many offenders as possible or their exit from the service altogether. It is undesirable to extend confinement as a have of refuge from the dangers and difficulties of the stressful times.

In summary, then, I would recommend against adoption of this proposal. I would leave the sentence limits of the courts-martial as they presently exist.

4. Tenure for the Military Judge: Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

Tenure for the military judiciary would add to the appearance of judicial independence and tend to support the judges' freedom to make a decision adverse to the establishment or the command without fear of retribution in the form of relief from duty as a judge in other cases. These are laudable goals and would warrant implementation if necessary or the costs to achieve them were not excessive. It is my thought, however, that what is involved here is more a matter of appearance than of reality and is unnecessary.

It must be noted that the military judiciary is already effectively independent. Articles 6, 26 and 37. The military judge's pay, rank, and status as a commissioned officer on active duty continues regardless of the termination of the judicial duty assignment, and the military judge is free to follow the dictates of his or her own conscience without fear of jeopardizing present pay, rank, or status. All officers are subjected to the process of fitness or efficiency reports, but in the case of the military judiciary this process is kept in the judicial chain. Granting tenure to the military judge, then, touches only upon the duty assignment and not the livelihood that is at risk for the civilian judge who lacks tenure or must seek reelection. The issue for the military judge is continuation in judicial duties or reassignment to other legal duties but at the same rate of pay, in the same grade or rank, and with the same expectations of remaining on active duty and of reaching retirement status.

Not directly affected by tenure is the promotion situation. A grant of tenure would not bear on the promotion potential, although it is realistic to note that the failure to be selected for advanced service schooling and failure to develop experience at higher levels of responsibility, both of which might be influenced by tenure, will undoubtedly have an adverse impact of promotion selection.

Any one assignment that absorbed a large part of an officer's total years of service would tend to reduce the opportunities for advanced schooling and assignments to higher levels of responsibility.

In the military judiciary tenure would provide stability in assignment but it would at the same time limit the flexibility of assignment presently afforded the Chief Judges and The Judge Advocates General in distributing their personnel assets. In times of military stress, particularly, the demands for key trained and experienced personnel may be expected to be such that tenure would be an obstacle to intelligent and needful reassignment.

This suggests that the inquiry into tenure should look at what would be meant by it - a fixed period of a particular duty assignment at a firm jurisdictional area, or a fixed period of assignment as a particular kind of military judge.

It would be quite restrictive if 'tenure' meant that a particular military judge had to remain in a particular duty station for the tenure period. I doubt that many military judges would opt for such a system, and certainly the Chief Judge and The Judge Advocate General would wish to have greater flexibility than that. Such a restrictive version of tenure does not accomplish much in the way of protecting the military judge's judicial independence or even the appearance of that independence. There is still no guarantee that cases will be referred to that military judge or will arise in commands that he or she is intended to serve. An accused person - or a person who might soon be facing charges - may be reassigned to a command served by another military judge, so a command may quite innocently and properly effect a change in the forum.

In all of the years of my service as a military lawyer I never came across a situation in which it could be fairly said that fear of relief caused a military judge to rule differently than his educated, logical, and principled reasoning dictated. Admittedly it would be difficult to prove causal factors, but it is highly unlikely, in my view, that an officer selected to be a military judge would be so influenced by fear of reassignment from the judiciary as to impact upon his judicial conduct.

Would the officer's own preferences in the given circumstances be of concern? I would assume that if the officer voluntarily determined that he or she would prefer another type of military law duty than as a military judge the 'tenure' proposal would not stand in the officer's way.

It must be recognized that there already is a career pattern for developing military trial judges, and this would be somewhat conflicting with any lengthy tenure in one post. Presently an officer may be assigned sequentially as a military magistrate or commissioner to a military judge, possibly then assigned as a trial judge for SpCMs, then to GCs, then to a CMR, possibly a school assignment or a teaching duties between some of these, duty as a Chief Judge in a Circuit or as Chief Trial Judge. At each of these steps there is an increasingly broad range of information available on the officer. Tenure, considered in regard to a career pattern, could very well be obstructive to the officer that it is designed to 'protect'.

Tenure, then, must not be a straight jacket for the military career, and of course it need not be. But care must attend it. Will tenure tend to drive out of the military judiciary those energetic and able military lawyers who aspire to becoming something more than a trier of general and special courts-martial? Sensitive as the position of a military judge is, and important to the military justice process, there are positions equally or more important and certainly more varied. Professional challenge and excitement may be found in many areas of military law, of which the military judiciary addresses only a small part. There is a risk that 'tenure' would provide the "snug niche in which to bide one's time". There is no spare room for such a person in the military service in times of stress.

If there is to be a 'tenure', what should be its length? I suggest that it would approximate the present normal tour of three years overseas for accompanied persons and at least a year after each Permanent Change of Station. Should it be the same for all military judges? It would seem reasonable that the SpCM judge should have but the briefest tenure or none at all, because he or she is less of a known quality when appointed and the officer might for good and sufficient reasons not fit or wish to remain as a military judge after brief experience. Most civilian jurisdictions provide for shorter terms of office for judges of inferior courts. At the level of the general criminal jurisdiction it appears that a term of four to six years is normal in most States. This is possibly twice as long as the average tour of duty of a military judge but, as noted above, the military judge retains pay, rank, and status regardless of tenure.

For several years I have been of the view that the military trial judge should be a 'continuing court', so that he or she may receive petitions and writs in matters not yet referred to trial. Would tenure have an effect on such a designation? I think not. I believe that the 'continuing court' concept can be achieved through Secretarial designation and directive, although the preferable method would be to establish the concept by statute. Tenure in the sense being considered by the Advisory Committee need not have any impact on that issue one way or the other.

In my time as The Judge Advocate General much effort was expended to see that the Army's judiciary remained independent. Assignments of the officers designated as military judges were effected by the Chief Judge and the Chief Trial Judge, with the coordination of the Personnel, Plans and Training Officer. I know of no instance where a judge's reassignment was sought by some field command or even suggested, and had there been any such action I would surely have been informed and the proposal quashed then and there. I was personally interested in each judicial appointment and assignment.

In my opinion the military judges conformed and will continue to conform to the highest standards expected on any American judge. Tenure would be superfluous to these officers.

In summary, then, it is my recommendation that, while the policy should be to retain military judges in their judicial assignments for whatever tour of duty is normal and that military judges should not be reassigned prematurely without their own concurrence or for good cause, military judges should not be 'tenured'. If, however, tenure is determined to be desirable it should be limited to the normal tour of duty for the particular location (e.g. overseas, either accompanied or unaccompanied, hardship area, combat area, stateside, etc). Duty within the Judiciary at any location should count as tenure.

5. CMA Retirement : what should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

If the CMA became an Article III court it would seem that the retirement for CMA judges should parallel that of the Federal Circuit court justices.

If the CMA remains as an Article I court, the CMA retirement should equate to that of other Article I judges or the most beneficial of State supreme court retirement plans.

Retirement benefits should relate to length of service on the US Court of Military Appeals, to age at retirement, and to financial contributions by the individual judge to his or her own retirement plan.

The benefit should assure an adequate retirement at the conclusion of fifteen years or thereafter, with a possible vesting and reduced benefit at the first five years period or thereafter.

The contribution should be about 5% per annum, with added options for disability, death benefits, and Cost of Living Allowances.

For some State court retirement plans, see 56 J. Am. J. Soc. 140 (Nov 1972) and 58 J. Am. Jud. Soc 197 (Nov 1974).

6. CMA Under Article III : Whether the United States Court of Military Appeals should be an Article III court under the US Constitution.

The major advantages for such action would be (1) increased prestige of the USCMA and (2) lifetime appointment and service until retirement.

The major disadvantages appear to me to be that such action greatly reduces the turn-over of the personnel on the court and would thus reduce the opportunity for fresh views. I recognize that this very turn-over has been the subject of criticism in the past, but what is primarily of concern here is a matter of degree. Under Article III turnover could drop to a negligible figure.

Congress and the President should have a periodic opportunity to inject new blood into the Court in an orderly fashion. With only three court members the risks are always substantial that personality clashes might occur or become protracted, with consequent detriment to the orderly administration of military justice. Removal under such circumstances is almost impossible. The present system provides an adequate safety valve to overcome such possible problems.

If an adequate retirement program was adopted for the USCMA I do not believe that the resignation of judges in favor of another judicial appointment with greater tenure would be very substantial.

Although I regard this issue as close, I come down on the side of remaining with Article I but providing USCMA judges with an adequate contributory retirement program.

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CRIMINAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION
& NATIONAL BOARD OF TRIAL ADVOCACY

April 16, 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act
of 1983 Advisory Commission
HQ USAF/JAJM
Washington, D.C. 20301

Dear Colonel Hemingway,

Thank you for the opportunity to comment on the issues contained in your letter of 14 March 1984. As I indicated on the telephone, because of my background, I believe I may have a perspective on criminal justice in general and the military justice system in particular that may aid the Commission. I would be glad to appear in person. If you issue an invitation to testify, and travel expenses cannot be reimbursed, perhaps we can schedule an appearance when I would be in Washington on other business. For example, I expect to orally argue a case before the United States Air Force Court of Military Review in May or June.

Please permit me to provide brief comments on the issues set out in your letter.

1. Sentencing By The Military Judge

I believe more uniformity in sentencing can be achieved by adopting the procedure whereby sentencing in non-captial cases is usually done by the military judge. Judges are more experienced at this function, can adjudge sentences that are proportional, and see convicted defendants from different units. However, I see a vital contribution to the military justice system by members sentencing in certain cases. Thus, I recommend the system used by the state courts in Texas. Unless jury sentencing is requested in writing prior to trial, all sentencing would be done by the military judge. The accused would retain the right to plead guilty to the military judge and be sentenced by members. He would also have the option to plead not guilty to members, and be sentenced by the military judge if convicted.

April 16, 1984
Colonel Thomas L. Hemingway, USAF
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2. The Power To Suspend Sentences

I have always been in favor of giving a military judge the power to suspend a sentence. I am not sure an appellate court should have that authority. I think probation (suspension) is a matter for a court, not a convening authority. Judges see many, many cases. They are better equipped to know who deserves probation. They also should hear revocation or vacation motions. This would relieve the convening authority of the burden of conducting such hearings. As a convening authority, I would like to see the retention of a convening authority's power to reduce any sentence to fit the military exigencies of the command, to include retaining the power to suspend a sentence not suspended by a judge.

3. One Year Special Court-Martial Sentences

With the reality of a field-grade SpCM judiciary upon us, I believe it would be wise to increase the sentencing authority of a SpCM, sitting with a military judge, to one year. I believe many cases now referred to General Courts Martial would go to the lower court. Furthermore, most jurisdictions have one year as the breaking point between misdemeanors and felonies. This would put us in line with civilian jurisdictions. I believe no major change is needed in appellate jurisdiction, as long as the accused retains the right to file an appeal.

4. Tenure for Military Judges

How do we define tenure? If it is for a specified period, then I believe we should have tenure for military judges. I do not believe military judges should have unlimited tenure. I believe trial and appellate military judges should have tenure for either two or three year periods. Longer terms could impair career patterns. Even elected state judges have specified terms. Military judges could be reappointed, so I tend to favor two year tours. Frankly, the lack of any tenure for military judges is a criticism that causes some critics to believe that we have no independent judiciary below the United States Court of Military Appeals.

5. United States Court of Military Appeals Retirement

Quite simply, United States Court of Military Appeals judges are federal judges. They should have benefits identical to those of the retired judges of the various United States Courts of Appeals.

April 16, 1984
Colonel Thomas L. Hemingway, USAG
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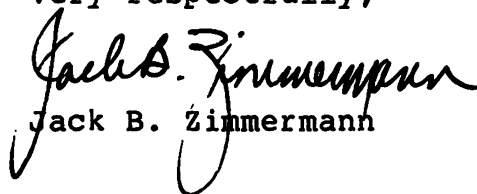
6. United States Court of Military Appeals as an Article III Court

With the recent legislation permitting petitions from the United States Court of Military Appeals to the Supreme Court, I suppose the only remaining significance to this issue is life tenure for the judges (assuming the previous question provides for retirement identical to Article III judges). In most of the history of the Court, I believe appointments effectively have been for life, or at least for as long as the judge wanted the job. I am hesitant to recommend life tenure for any judge, given the arrogance and lack of accountability that many federal judges now have. However, since this is an appellate court, and is not elected by the citizenry, it is probably better to ensure its independence from the political process by giving the judges life tenure. It will go a long way towards enhancing the credibility of the United States Court of Military Appeals among other federal courts of appeal. In my view, it would in effect "create" another court equivalent to the other Courts of Appeal. In fact, if we did it, I would suggest changing the name to the "United States Court of Appeals for the Military Circuit," and provide that procedures to get to that Court and from that Court to the Supreme Court be modelled after the other United States Courts of Appeals.

These brief observations are made by one who has been in the role of prosecutor, defense counsel, trial judge, and convening authority. Although it would round out my experience, I hope to avoid participation as an accused!

If I can assist in any way, please contact me.

Very respectfully,


Jack B. Zimmermann

JBZ/wb

Advisory Commission Report

Law Offices

EDWARD J. BELLEN

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18 April 1984

COL Thomas L. Hemingway
HQ USAF/JAJM
1900 Half Street, S.W.
Washington, D.C. 20324
U.S.A.

Dear COL Hemingway:

Thank you for affording me the opportunity to comment on the several topics listed in your recent letter to me.

1. Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.

Viewed from the defense counsel table, vesting sentencing authority in the Military Judge would certainly have a balancing effect upon the sentences adjudged. The extreme swings, be they extremely lenient or extremely harsh, would tend to disappear, (absent good cause) and the perception of the fairness of the Military Justice system would be enhanced both in the military community which the justice system serves and in the general civilian community at large. I am, therefore, in favor of such a change, though not absolutely.

I would suggest that the accused (in non-capital cases) be given a choice in selecting his Sentencing Authority as he is now given in selecting his Findings authority (Article 16, UCMJ). After Findings, the accused could request Sentencing by Military Judge Alone, subject to objection by the Trial Counsel, with final determination to be made by the Military Judge. Further, this election by an accused could only be made in cases where the after-Findings maximum permissible sentence included confinement at hard labor not to exceed ten years.

Several potential benefits would accrue from this plan. First, the defendant would have a greater voice than he does now in his own proceedings. Second, the government would not have to worry that long Findings deliberations might have influenced a Not Guilty Finding by members who were tired and might not, sub-consciously, have wanted to continue into a sentencing phase.

COL Thomas L. Hemingway
18 April 1984
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Third, while allowing for the leavening effect of a Military Judge, the "conscience of the community" reflected by the sentence of a panel need not be lost, as would be the case if there were automatic sentencing by the Military Judge in all cases, since the Military Judge could refuse to act as the sentencing authority.

2. Whether military judges and the Courts of Military Review should have the power to suspend sentences

I believe that all sentencing authorities should have the power to suspend sentences. I would, however, foresee logistical difficulties in the procedures for vacation of the suspension, as well as grave potential for abuse by irritated commanders, unless provisions were made for a Military Judge to act as the vacation authority. Continuing jurisdiction over an accused for the period of suspension plus a short period to complete administration action could be mandated as part of any sentence containing a suspension. This would ensure (as much as is possible with the continual rotation of assignments in the military) that the trial judge act as the vacation authority.

Though not specifically addressed in your letter, I would, at this juncture, make a strong plea for the abolition of Article 58a, UCMJ. If a sentencing authority wishes an enlisted member to be reduced, this should be stated as a specific element of punishment, as now is the case in the Air Force, but not in the Army. (I am not aware of the current situation in the other services). Such a change would make military sentencing philosophy more uniform while allowing for wider (and wiser?) discretion in types and forms of sentences than is now the case, absent action by the Secretary concerned.

3. Whether the jurisdiction of special courts-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and if so, what, if any, changes should be made to current appellate jurisdiction.

Yes, although ultimately I would favor a four-tiered court-martial system: Summary (jurisdictional limits and composition as now); Disciplinary (jurisdictional limits of six months confinement, forfeiture of pay of no more than 50% for a period up to six months, and reduction to E-1; composition as now); Special (jurisdictional limits of two years confinement, forfeiture of pay up to 75% for two years, reduction to E-1, imposition of Bad Conduct Discharge; composition as now with extra proviso that at least one field grade officer be impaneled); General (jurisdictional limits and composition as now with extra proviso that at least two field grade officers be impaneled).

I perceive the advantages of this expansion of Court-Martial options to be manifold. The government would have more prosecutorial

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discretion to fit the level of referral to the offense(s) since the distinctions in potential punishment between the various levels are significant and definite (that is, not variable as is now the case if the Secretary concerned so orders). The accused would have incentive to acknowledge his offense (if he did, in fact, do it) and enter into a mutually beneficial plea bargain, which is not now the case at the Special Court-Martial level given parole, probation and time off for good behavior considerations. If, as posited in section 2, supra, Article 58a is abolished, that, in conjunction with this quadrilevel court-martial division, will give commanders the necessary latitude to match recommendations against accuseds more fairly and equitably than now sometimes seems to be the case.

Although, under my quadrilevel proposal, consideration would have to be given to appellate jurisdiction, no such consideration would be needed if the only jurisdictional change is to increase special court-martial authority to include confinement up to one year, since that would bring up the question of revising (downward) the appellate jurisdiction of General Courts-Martial as well, a move which does not need to be made.

4. Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

It is a truism that all judicial officers should, to the greatest extent possible, be insulated from injudicious pressures upon their decisions. As long as a judge knows that his future rests, to some extent, in the hands of those who may either be adversely effected by his decision, or who may philosophically disapprove of his decision, that decision is always subject to second-guessing, speculation and the perception that it was not made impartially. Not every judge will have the moral courage of a Billie Morrison and it is my opinion that the firing of Judge Morrison affected some of the honorable men who were assigned to follow him.

That having been said, there are, nonetheless, potentially insurmountable difficulties in granting tenure to all trial judges in the military. The Courts of Military Review, on the other hand, could and should be tenured positions. A possible model for this would be to allow senior Colonels (O-6) who have had judicial experience to opt for a Court of Review tenure position with the knowledge that they would, thereby, be declaring themselves ineligible for further JAGC assignments. The mechanisms to be used in this type of program are more involved and complex than can be addressed here. Suffice it to say that I am convinced that such a system could be established for the benefit of all concerned.

A similar situation might be possible for General Court-Martial judges, but only on an all-or-none basis, that is, all

COL Thomas L. Hemingway
18 April 1984
Page Four

EDWARD J. BELLEN

General Court-Martial judges would have to be tenured or none should be. Were this not to be the case, it would be possible for a convening authority to assign cases around the tenured judge (or judges) simply by not detailing such judges to cases, thus defeating the purpose of tenure (insulation from extraneous, injudicious influences). The reason that I feel that tenure for General Court-Martial judges might not work is that, in the main, such assignments are given to officers who still perceive themselves as upwardly mobile within the various JAG Corps and such officers might not be willing to make the career sacrifice required by becoming tenured with no eligibility for further JAGC promotions or assignments.

This rationale extends even more forcefully to the issue of tenure for Special Court-Martial judges, which is the reason for my conclusion that such a system would not work at that level.

5. What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

Inasmuch as Article 67, UCMJ, provides that the judges of the Court of Military Appeals are "...entitled to the same salary and travel allowances as are...judges of the United States Courts of Appeals...", and being totally ignorant of the retirement systems in question, my thought would be to make them similarly analogous.

6. Whether the United States Court of Military Appeals should be an Article III court under the U. S. Constitution

Although this might be seen as being more form over substance in light of the Court's positions concerning the parameters of its own authority, such a change would solidify those positions and would be consistent with the language already cited in Article 67. Such a change would also serve the ends of judicial independence mentioned in section 4, supra. Finally, it would enhance the prestige of the Court within the legal community and, hopefully, within the general population as well. If it were known that the final appeal authority in the military justice system is a court which, to all intents and purposes, is the equivalent to a United States Courts of Appeals, then the misperception typified by the title of Robert Sherrill's 1969 book, (Military Justice is to Justice as Military Music is to Music) might finally be laid to rest.

Sir, I hope that the foregoing will be of some use to the Commission. Being first and foremost a Trial Attorney, it is

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COL Thomas L. Hemingway
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EDWARD J. BELLEN

sometimes difficult for me to put my thoughts on paper, accustomed as I am to public speaking. Should the commission decide that a fact-finding trip to the trial arena of Europe is in order, I would be honored to appear and testify. I would also make every effort to appear in Washington should it be felt that this would contribute to the work of the Commission.

Sincerely yours,

A handwritten signature in cursive script that reads "David Court". The signature is written in dark ink and is positioned above the printed name.

DAVID COURT

DC:mp



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UNIVERSITY

Washington, D.C. 20052 / The National Law Center

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25 April, 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
HQ USAF/JAJM
1900 Half Street, S.W.
Washington, D.C. 20324

Dear Colonel Hemingway,

I very much appreciate the opportunity to comment on the matters affecting military justice which are under study by the Commission which you extended to me in your letter of 14 March, 1984.

During my career on active duty as a Navy judge advocate, and especially during my tenure as the Deputy Judge Advocate General and Judge Advocate General of the Navy, I have enthusiastically supported any initiative to improve the system of military justice. Changes to military justice should be primarily focused on enhancing the efficiency of the administration of military justice and on promoting good order and discipline within the armed forces, without diminishing the substantive and procedural rights of the accused.

I shall now address specifically those matters concerning military justice which are under charter for the Commission to study.

Sentencing by military judge alone in non-capital cases - I believe the military justice system has progressed to the point where the sentencing authority in courts-martial, except capital cases, should be the military judge. As I testified previously before the Senate Armed Services Subcommittee on Manpower and Personnel, sentencing by the military judge will conform the military justice system with the Federal and most state systems and is the next evolutionary step in the process since the creation of military judges in the Military Justice Act of 1968. The quality and expertise of military judges assigned to the trial bench has similarly evolved. The trial judiciary is now a professional independent organization within the naval service. Judges are selected for assignment to the bench based on maturity, experience, and expertise in military justice matters.

Advisory Commission Report

It was my experience and belief that the sentences awarded by military judges were more uniform, consistent, and appropriate than those adjudged by members. This belief is supported by a study of the Pacific Fleet activities in 1980. I fully support an ammendment to the Uniform Code of Military Justice which would authorize the sentencing of accused by military judge alone in all but capital cases.

Power of military judges and the Court of Military Review to suspend sentences - Although the authority to suspend sentences appears to be a natural adjunct to the sentencing power, I consider that this power should be reserved for the convening and superior authorities. I do not believe that our military judges could not exercise this authority wisely; rather, I believe that the convening authorities and the superior authorities are the more appropriate authorities to suspend sentences within the military justice system. Convening authorities are invested with the important responsibilities of maintaining the good order and discipline and the morale of their units; and the discretion to act on sentences of courts-martial whether approval in whole or in part, disapproval, or suspension in whole or in part, is an important and effective tool for the maintenance of the effectiveness of the unit. It is because of this very necessary and important role of the convening authority in the military justice system that I oppose granting the authority of the trial or appellate judges to suspend sentences.

Expansion of special courts-martial jurisdiction to adjudge confinement of up to one year and change to appellate jurisdiction, if any - Special courts-martial authorized to adjudge bad-conduct discharges have, since the enactment of the Uniform Code of Military Justice in 1951, evolved to where an accused is afforded all procedural and substantive rights provided at a general court-martial. Yet, the maximum punishment which may be adjudged by a special court-martial remains unchanged. I believe that an increase in the sentence jurisdiction of special courts-martial is appropriate, would enhance good order and discipline, and, in many cases, would benefit the accused. A commanding officer may forward a case recommending a general court-martial because he considers that the seriousness of the offense warrants a punishment in excess of the current jurisdictional limitation of the special court-martial, but less than the maximum punishment imposable for the offense. An increase in the jurisdictional limit of special courts-martial to confinement for up to one year may result in many of these cases being referred to special rather than general courts-martial. The accused would benefit from the elimination of the stigma of a conviction by a general court-martial, from the avoidance of the risk of exposure to the maximum sentence imposable for the offense, and from the convening authority (in most cases the accused's commanding officer in the naval service) taking the action on the sentence. The government, of course, will also realize benefit from the decrease in processing time and in personnel (members) for a special court martial rather than a general court-

martial. The only change needed in appellate jurisdiction would be that of the Judge Advocate General under article 69 (a), UCMJ. Those special courts-martial in which the approved sentence exceeds six months confinement and no bad-conduct discharge would be reviewed for legal and factual sufficiency as are general courts-martial currently which impose confinement of one year or less and do not impose a punitive discharge.

Tenure for military trial judges and judges of the Court of Military Review - Many factors militate against tenure for trial and appellate judges including: (1) the competitive nature of the military system for promotions; (2) the desire of officers to experience different assignments with different challenges; and (3) the personnel policy of varied assignments to enable officers to obtain wide and varied experience in the military community and in the practice of law within the military. I fear that many of the quality judge advocates of mature and judicial temperament would not be attracted to the judiciary because of these limitations. The naval service is committed to a quality, professional independent judiciary. All military judges are assigned to the Trial Judiciary Activity and are independent of convening authorities and line commanders. Formal procedures are promulgated to investigate allegations of disability or misconduct of military judges while insuring that due process rights are fully protected. The current policy within the naval service is to assign judge advocates as military judges for a minimum term of three years. Absent a military exigency, the officer is not transferred from the judiciary. This "de facto" tenure provides the stability so important to the necessary development and independence of military judges. I feel that a professional, independent judiciary is necessary to the effective administration of military justice and is, in fact, a reality within the naval service today. Tenure for military judges would add little to enhance an independent judiciary and perhaps would be counterproductive in attracting quality judge advocates to the bench.

Fair and equitable retirement for judges of the Court of Military Appeals - I fully concur and support a retirement system that would provide to the judges of the Court of Military Appeals a retirement system equal to that currently available to other Federal judges in the Federal judiciary. Not only would such a system be desirable on equitable grounds, but it is necessary to continue to attract the highest quality of judges to the Court of Military Appeals.

Enhancement of the initiatives I have recommended will further develop the quality of justice in the military without impeding the primary mission of the Armed Forces.

Advisory Commission Report

I very much appreciate the opportunity to put my views before the Commission. I see no need to testify personally before the Commission, but I would be pleased to provide any additional comments on any subject that the Commission might desire.

Sincerely,



John S. Jenkins
RADM, JAGC, USN (Ret.)
Assistant Dean and
Professorial Lecturer in Law

**Superior Court of the District of Columbia
Chambers of Judge Tim Murphy**

MAY 4 1984

Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act of 1983
Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, D.C. 20301

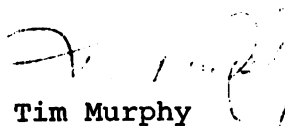
Dear Colonel Hemingway:

Thank you for the opportunity to express my views on the issues contained in your letter of 14 March. I am attaching a separate statement on each of the six issues.

My strongest views are on issue one, with major suggestions as to numbers three and six. This summer I will have completed 30 years in the USMCR. I have been a Superior Court Trial Judge since 1966, and a Military Judge since 1970. I have taught Sentencing at the National Judicial College, in Reno, for 12 years. In recent years, I have made 5 trips to WestPac and 4 trips to Europe where I have met with and discussed Judicial Issues with military lawyers and judges. I speak from this background.

If your Commission believes a personal appearance would aid the Commission, I will make myself available. The thrust of my remarks is attached.

Sincerely,


Tim Murphy
Colonel, USMCR

Atts.

1. Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.

"The consequences of a sentence are of the highest order. ... The decision which is presented at sentencing is also enormously complex." These words, taken from page 1 of the Introduction to the American Bar Association's Criminal Justice Standards Relating to Sentencing Alternatives and Procedures, sum up the reasons why the military must reject jury sentencing and permit only judicial sentencing in noncapital cases.

Jury sentencing in America is almost completely discredited. I know of no organization, group, or commentator of stature in the United States that supports jury sentencing. In fact, every respected body that has studied the issue in the last 50 years has rejected it.

Wickersham Commission 1931

Model Sentencing Act

Model Penal Code

The President's Commission on Law Enforcement and the Administration of Justice, 1967

ABA Standards Relating to Sentencing Alternatives and Procedures, 1968

National Advisory Commission on Standards and Goals, 1973

Jury sentencing exists in a few States for historical reasons and has been strongly discredited. As recently as 11 April 1984, Blacks picketed the Arlington County Courthouse protesting racial bias in jury sentences.

Sol Rubin in his giant work "The Law of Criminal Corrections", 1963, discussed at length jury sentencing (pages 122-128), and concludes "Jury sentencing cures none of the ills of sentencing." "In the face of modern sentencing potential, jury sentencing is an obstruction without any benefit whatsoever." (page 128) The ABA Standard mentioned above analyzes the issues and the arguments. They need not be repeated by me. The National Judicial College book Sentencing and Probation, 1973 ed., has a bibliography on the subject which has been updated in the 1978 edition.

2.

While it may be argued jury sentencing makes every officer a part of and responsible for justice in the Command and informs them of the state of justice, they operate in a state of vincible ignorance. The unsworn lie of the excused that cannot be inquired into at sentencing, the lack of knowledge of sentencing ranges in similar cases, the lack of knowledge about the real meaning of a sentence all suggest the court members are ill equipped for this serious and complex decision.

It goes without saying, certainly in any BCD case, that a Presentence Report is indispensable. The National Conference of State Trial Judges' famous State Trial Judges Book (1969) concluded "The Presentence investigation is indispensable." The ABA Standards Relating to Sentencing Alternatives and the National Advisory Commission Standards and Goals both call for Presentence Reports at least involving felonies, minors, or if a person may be confined.

A Presentence Report system can be established in a judge-sentencing environment where the need to conclude the proceeding is not as critical as when court members must return to their duties.

Since jury sentencing is so discredited, has so few supporters, it is unnecessary to argue further. It can only be defended based on tradition and a fear of civilianization. While tradition is grand, so was the cavalry. It is time the military justice moved into the 20th Century.

2. Whether military judges and the Courts of Military Review should have the power to suspend sentences.

If by this question you mean suspend and put on probation I favor the suggestion as to trial judges. I do not believe appellate judges can ever adequately review sentences except to see if they fit within pre-determined guidelines.

If you are going to expand the present appellate review authority to suspend, you should permit the Court to increase a sentence. This will control a runaway trial judge. If you eliminate jury sentences, then considerable power is given to a trial judge which hopefully will be tenured. If because of personal belief or a desire to avoid trial the judge turns everyone loose, the system must have some protection. We had a judge once who in one year in the criminal division reportedly jailed only 2 persons. His sentences reduced the court to its lowest common denominator. Every sentence was harsh when compared to a "turn them loose" sentence. While there will be some howls, you need controls on judicial discretion. This is one. I recognize my position is contrary to the ABA Standard "Appellate Review of Sentences."

A danger in judge-only sentencing is judges will try and run a Command based on their own view of discipline. Harsh sentences can be reduced by Command or the CMR but the low sentence creates permanent harm. I would assume appellate review by the government would be rare and only with JAG approval but the availability will give credibility to the system.

4.

3. Whether the jurisdiction of special courts-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and if so, what, if any, changes should be made to current appellate jurisdiction.

I only wish to respond to the first part of this question because I have no expertise in appellate matters.

I favor the concept as a last resort. What you should do is abolish member trials in SCM, and only have member trials in GCM. However, Art. 32 investigations would only be required in the felony GCM. What you are trying to do is get more time for a few crimes or repeat offenders without the full dress show of a GCM. Create the hybrid I have suggested. It appears clear jury trials are not required where the penalty is 6 months or less, Williams v. Florida, 399 U.S. 78 (1970). In the District of Columbia, we have recently eliminated jury trials in drunk driving and shoplifting cases. This allows trials of minor matters in an expeditious manner without the burden of juries. This would be of real value to troops in the field. Since jury trials are required over 6 months, allow such trials by GCM but limit the full present procedural rights to felonies.

If you do not propose to eliminate the jury trial in minor matters, the current trend, then expanding SCM jurisdiction to one year will pick up these cases where one year is appropriate but the case not worth the headaches of a GCM.

4. Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

The answer to this is Yes as long as you have a viable Disabilities Commission perhaps at D.O.D. level.

This is a symbolic issue, to create the appearance of justice. It is my impression judges generally can serve for extended periods of time, if that is their career choice. This is certainly the case in the Army. If the public impression was judges were tenured, then the military public would tend to think they were less subject to Command influence. A judge should be able to make unpopular decisions that irritate Command and JAG without immediate loss of a job. But Command and JAG should not have to suffer a renegade judge. If you have a tenure plan, you should have a 6 months probation plan to see if a judge has the temperament and desire to serve with removal by the service JAG prior to expiration of probation; otherwise, only by a Disabilities Commission.

It would be unthinkable to appoint someone as Battalion Commander for 3 years and discover no leadership abilities or a desire to fight and say he could not be removed. The same applies to judges.

Among the SCM judges, I have perceived a "nobody loves me and if I really am good I will not get promoted" attitude. Tenure would relieve some of this anxiety which comes with being a youthful judge.

No person should ever be a GCM judge without extensive SCM experience or an appellate judge without extensive trial judge experience. This training ground will weed out the poor ones and with good judges in place tenure is just a symbolic move. However, spouses might enjoy the stability that comes with tenured jobs.

6.

5. What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

In answer six, I oppose Article III status. I do feel in order to attract top persons in mid-career for 15-year terms that one term should provide economic security. I would give each year of service 5% pension rate. With vesting after 5 years. This could be combined with other federal service for a maximum of 90% either with or without prior federal service. This would permit a person with no prior federal service to retire after 15 years at 75%. This proposal has limitations. Persons with prior government service may seek the position to "cap" a career and never stay 15 years. However, qualified persons should not be punished for prior service. I set a 90% cap because OBM's current attacks on the retirement system suggest you can never sell 100% and 90% is a lot of money. The Chief Justice or Chief Judge of COMA should be able to recall by consent any judge to serve (see number six) and, if so called, paid the deferential between retired and full pay.

I do not favor providing office space, staff, etc., for any retired judge unless the judge works at least 8 months a year. They have no need for such an ego perk and it wastes taxpayers' money. A judge who sits less than 8 months should be provided staff when sitting and during opinion writing but not otherwise unless space is available without additional cost in a federal building.

6. Whether the United States Court of Military Appeals should be an article III court under the U. S. Constitution.

The answer to this question is No. The present 15-year term is adequate in length to insure judicial independence and attract qualified judges. It is impossible to remove judicial despots and in a court as small as COMA the lack of fresh ideas could prove harmful. Federal Judges are America's monarchy and whatever reasons exist for Art. III judges they do not exist for COMA.

If one is honest, you have to realize the court deals with a narrow and extremely simple type of law. In spite of its salary and perks, the court only attracts persons as a stepping stone (Duncan, Perry), or a career cap (Cook, Darden, Kilday). Almost no one has ever stayed 15 years. I think it inconceivable that any first rate legal mind would seek the present type of court as a lifetime job. Judge Fletcher is a first rate trial judge who came on the court in the prime of his legal career and has served with distinction. It remains to be seen if he will serve a full 15-year term. Lifetime would only attract mature people or talented persons who will quit on you. My response to number five shows how to economically protect a 15-year judge. The distinction between Art. I and Article III judges is philosophic, at best, and has no practical effect.

What you really should push is a law that would allow COMA judges to sit by designation in the Federal District and Circuit Courts. Similarly, these courts could sit on COMA to reduce backlogs or in war time. This would eliminate any need to expand the Court to 5 persons. Chief Judge of the Federal Circuit, Howard Markey, while Chief Judge of the former Court of Customs and Patent Appeals (an Art. I Court), sat on every one of the Federal Circuits.

Think of how attractive the Judgeship would be if judges knew they could sit by designation of the Chief Justice, when available, in the Circuit or trial courts. Think of the great legal minds we could bring to COMA when the Circuit or trial judge sits by designation. Chief Judge Markey is a retired USAF Major General, Joseph Hatchett, on the Fifth Circuit (formerly on the Florida Supreme Court), is a former USMCR Military Judge, Eugene Wright, Ninth Circuit, is a retired Colonel, USAR. I am sure there are many others who would relish the job and bring stature to the court. Do not waste time trying to get something you do not need. Go for something you do need and I bet you could get it. It costs no money, except a little travel, gives COMA an unlimited source of help in need, and permits a COMA judge with talent and free time to sit on Article III courts.

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May 4, 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, DC 20301

Dear Colonel Hemingway:

On behalf of the Virginia State Bar, I acknowledge receipt of your April 30, 1984 letter concerning the activities of the Advisory Commission which you chair. I will bring your letter to the attention of our Military Law Committee so that they may file any comments deemed appropriate with your Commission.

Sincerely,

A handwritten signature in cursive script that reads "Sam Clifton".

N. S. Clifton

NSC:jts
cc: Military Law Committee



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May 8, 1984

Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, D.C. 20301

Dear Colonel Hemingway:

I am responding on behalf of the Ohio State Bar Association to your 30 April 1984 letter.

The Association has no committees or sections charged with any military responsibility or with any particular interest in military proceedings or Courts Martial. Accordingly we have no comments in response to your letter.

Thank you for making this inquiry of our association.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Albert L. Bell".

Albert L. Bell
Counsel

ALB:mr

Wallace Dann

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ASSOCIATE
DAVID M. LAYTON

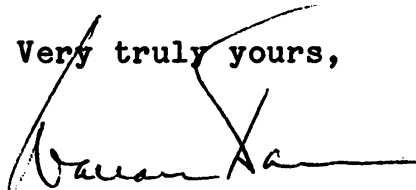
May 9, 1984

Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
Department of Defense
Washington, D.C. 20301

Dear Colonel Hemingway:

Your letter of April 30, 1984 addressed to the Maryland State Bar Association has been referred to me as Chairman of the Maryland LAMP Committee. I have written to the various Committee members and expect to be in touch with you shortly. In the meantime, would you let me know when and where the hearings are to be held and the subject matter of the various hearings.

Very truly yours,



WALLACE DANN

WD/bm

cc: Committee Members



THE FLORIDA BAR

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

May 16, 1984

TALLAHASSEE, FL 32301-8226
904/222-5286

Mr. Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
United States Air Force Headquarters
1900 Half Street, Southwest
Washington, D. C. 20324

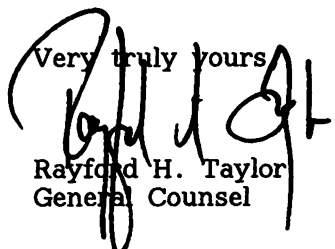
Dear Colonel Hemingway:

This will acknowledge your recent letter soliciting comments concerning various issues in the military justice system.

I have taken the liberty of forwarding your letter to the chairman and vice chairman of The Florida Bar's Military Law Committee. I hope they will be able to furnish you their comments concerning the issues presented in your letter.

We appreciate your contacting the Bar and giving us an opportunity to participate in your Commission's deliberations.

Very truly yours,


Raymond H. Taylor
General Counsel

RHT:pggt50

cc: Mr. John S. Morse
Mr. David H. Bludworth
Mr. James P. Knox

THOMAS B. HAYWARD ASSOCIATES, INC.

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NATIONAL SECURITY AFFAIRS PACIFIC BASIN-EAST ASIA

PRESIDENT

May 17, 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
Department of the Air Force
Office of the Chief of Staff
Washington, D.C. 20330

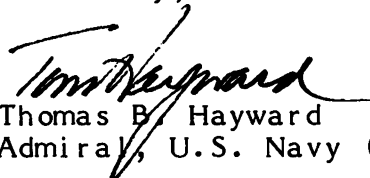
Dear Colonel Hemingway:

In thinking through the substance of your 1 May letter soliciting from me any inputs which I would like to make regarding the newly initiated study on the Military Justice Act, I found myself torn between several objectives.

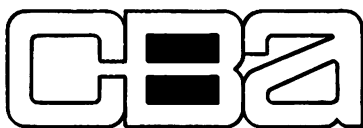
The bottom line of this conflict is that I do not believe I have time to do the necessary research to produce a quality input to your study effort; but I would like to make myself available to you when you encounter very specific problems in which my voice or vote might be important to the outcome of your deliberations.

You have a considerable challenge ahead of you, one in which I offer you my best wishes and highest respects.

Sincerely,


Thomas B. Hayward
Admiral, U.S. Navy (Retired)

TBH:aa



Connecticut Bar Association 101 Corporate Place Rocky Hill, CT 06067 203-721-0025

June 11, 1984

Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act of
1983 Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, D. C. 20301

Dear Colonel Hemingway:

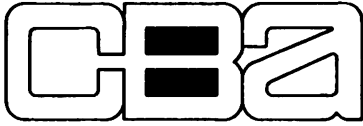
The members of the Veterans' and Military Affairs Committee of the Connecticut Bar Association very much appreciate the opportunity afforded by the Military Justice Act of 1983 Advisory Committee to comment on the six issues enumerated in your letter of March 14, 1984. It should be noted, however, that the views which follow are those of the Committee and cannot and must not be considered the position of the Connecticut Bar Association.

The Committee is divided on whether the trial military judge should be the sole authority to impose sentence except in capital cases. Such power in the trial military judge would do much to increase the authority of that office and could reasonably be expected to result in greater uniformity in sentencing.

Removing the option of sentencing by members could, however, be construed as detrimental to the important military aspects of the military justice system by depriving defendants of input from line officers and enlisted members.

The Committee feels strongly that military judges and the Courts of Military Review should have the power to suspend sentences. Such power in the trial military judge would enhance the position of that office and would comport with the general practice in civilian courts. While this power in the military judge might be considered by the convening authority to be in derogation of that person's powers, provision for the same would allay the suspicion that, contrary to law, greater than warranted sentences are imposed with the recommendation of suspension, in reliance in the convening authority's power to suspend sentence. This power in the Courts of Military Review is consistent with their existing right to reassess sentence.

The Committee supports the proposition that the jurisdiction of special courts-martial should be increased to include sentencing authority of one year, a recognition of the traditional distinction between misdemeanor and felony jurisdiction, the increas-



Connecticut Bar Association 101 Corporate Place Rocky Hill, CT 06067 203-721-0025

- 2 -

ed status of trial military judges, and their reputation for independence, and of the realities of military necessity in wartime.

Whether trial military judges and judges of the Courts of Military Review should have tenure received a great deal of discussion from the Committee which, however, decided not to take a position. It was felt that tenure, without a clear opportunity for selection to the highest grades, could be detrimental to career opportunity for military judges. This is a recognition of the differences between the realities of the military and civilian judicial systems, despite the opportunity to escape the suspicion of improper influence upon military judges which their having tenure would provide.

It is the understanding of the Committee that judges of the Court of Military Appeals who are appointed for terms of fifteen years have no special retirement plan but are afforded benefits which are available to non-judicial federal employees. It is the strong feeling of the Committee that such judges, in recognition of their status in the military justice system, should be afforded a retirement program consistent with that status.

The question of retirement is, of course, intricately involved with the question of whether the Court of Military Appeals ought to be accorded Article III status under the Constitution. If that occurs, and the Committee declines to take a position regarding that question, then it is assumed that the question of a retirement program for its judges becomes moot.

The Veterans' and Military Affairs Committee again expresses its appreciation for being allowed to make its comments known to the Commission.

Very truly yours,

Richard C. Noren
Chairman
Connecticut Bar Association
Veterans' and Military
Affairs Committee

RCN/ghf

THE
UNIVERSITY
OF UTAH

COLLEGE OF LAW
SALT LAKE CITY, UTAH 84112

June 11, 1984

Professor Stephen A. Saltzburg
Professor of Law
University of Virginia
Charlottesville, Virginia

Dear Stephen:

As a member of the council of the A.L.I. I have received a copy of your letter to President Raswill Perkins anent several proposed changes in the military justice system.

The area is one in which I am not well-versed. My first impression was that Congress should not accord the United States Court of Military Appeals status as an Article III Court.

Upon further reflection and consultation with a colleague who is versed in military law I express the view that Article III jurisdiction is desirable to issue that fairness be assured in military tribunal proceedings.

Cordially,


Jefferson B. Fordham

JBF:ejk

1705 North 1400 West
Provo, Utah 84604
16 June 1984

Thomas L. Hemingway
Colonel, USAF
HQ USAF/JAJM
1900 Half Street, S.W.
Washington, D.C. 20324

Dear Colonel:

I am a member of the Utah State Bar Military Law Section. I am writing to comment on the topics to be addressed by the Commission pursuant to the 1983 Advisory Commission Act. I admit bias, having seen the worst of military justice and thinking, but I have followed Military Law (including its legislative background) since 1971. I currently work for a defense contractor and have relatives who served in the armed forces of the United States.

First, I favor making the United States Court of Military Appeals an Article III court under the U.S. Constitution. I feel that regularizing (in the sense of bringing the justices and judges of military courts into more of a civilian mode in some respects) the courts is in the best interests of the military. I also feel that expanding their powers is in the military's best interest (more on both below). One substantial step toward this would be to make the courts Article III courts.

Second, I favor the power to suspend sentences in the Courts of Military Review. I feel that the burden of proof should be on the Courts to justify such actions (i.e. I am in favor of severe limitations of the power) but I am in favor of such power.

The reasoning is two-fold. In personal experience and in some statistical studies, I have seen evidence of abuse in the military justice system. HOWEVER, THE AMOUNT OF ABUSE, ESPECIALLY BY COMMANDERS, IS INCREDIBLY SMALL. I have been impressed at the general level of equity. When one finally gets to the truth of many complaints, most of the complainents admit the fairness of the procedures.

Yet, an Article III court should have power equivalent to other such courts. By giving power to suspend, but by limiting it, one is supporting the dignity of the courts while re-affirming a trust in the command and other personnel in the system.

In accord with the above, I would favor allowing military judges to exercise the sentencing authority and the adjudgment of sentencing. It is my personal belief that statistical extrapolation of trends means that the sentences would actually become a bit more severe. This is the case when enlisted personnel sit on juries and has been the case in other "liberalizing" steps taken for experiment or other reasons.

However, in most cases I believe that it would result in a greater perception of fairness (as has happened in spite of stiffer sentencing and results in similar cases). With public perception the way it is, I feel that the perception of fairness is worth the change.

Also, in those services which have severe discipline problems (noticably not the Air Force), transferring certain duties to the judges might well both relieve certain command personell of excess demands and help discipline by giving the image of an implacable, though fair, outside force.

As for tenure and retirement, I favor treating military judges like military doctors.

Advisory Commission Report

I admit that this letter has given more opinion than fact, example or logic. To be honest, while I can make the facts and logic (and even more so the examples) support my opinions, in the long run they are really my opinions, and little more. In spite of the experience of people I have seen and studied (including my first exposure to the literature being Military Justice is to Justice as Military Music is to Music, and my second some rather damning Army statistics), my long run impression of military justice has been quite positive.

Most of the changes I favor are ones relating to perception and dignity rather than actual results (as I do not believe that there would be substantial changes in the results). I also favor relieving command personnel of the nonroutine disciplinary proceedings and decisions. There is much to be said for a commander not having to "take the blame" for certain judicial results. While often it doesn't matter, sometimes it does in a rather tragic way. Usually there is a perception of inequity regardless of the result.

I wish you luck. I don't know if you've talked with him, but a friend of mine, Lt. Col. Flammer at the war college (at least he was) has some interesting insights on the subject. While he differs with me on many points (or at least he did three to four years ago), his background as an Air Force pilot and an historian, both inside and outside of the service, lends him a valuable perspective.

Sincerely,



Stephen Marsh
Attorney at Law

**MARINE CORPS ASSOCIATION****MARINE CORPS
GAZETTE**

Box 1775 Quantico, Virginia 22134 Tel. (703) 640-6161

LEATHERNECK
MAGAZINE OF THE MARINES

June 19, 1984

Colonel T. L. Hemingway, USAF
HQ USAF/JAJM
1900 Half Street, S.W.
Washington D.C. 20324

Dear Colonel Hemingway,

Thank you for your letter of 11 June.

The president of the Marine Corps Association is General J. K. Davis, Assistant Commandant of the Marine Corps. Presumably the Marine Corps will have input to the Advisory Commission and General Davis would participate in that input.

The Marine Corps Association is prohibited by its bylaws from taking positions in legislation. Our individual members who desire to become involved in particular legislation may do so through membership in the Marine Corps League, Retired Officers Association, NCOA, etc. or through their Congressional representatives.

We appreciate your offering the Association the opportunity to comment and wish you the best of luck in your study.

Sincerely,

Handwritten signature of G. L. Bartlett in cursive.

G. L. Bartlett
Brigadier General, U. S. Marine Corps (Ret)
Executive Director

GLB:bjm



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"CITIZENS FIRST, VETERANS SECOND"

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June 20, 1984

Col. Thomas L. Hemingway, USAF
Chairman, Military Justice Act of 1983 Advisory Committee
Washington Headquarters Services
Department of Defense
Washington, D.C. 20301

Dear Colonel Hemingway:

The following are the comments of the American Veterans Committee (AVC) on the issues identified for study by the Congress:

1. Sentencing by the Military Judge

AVC believes that the Military Judges (MJs) should be involved in the sentencing procedures, if only to provide some continuity and some awareness of the sentences being adjudged for similar offenses in other courts-martial, thereby avoiding sentences of aberrational severity or leniency. There are, however, more than the two alternatives usually discussed--sentencing by members and sentencing by the MJ alone. Congress should also consider the possibility, common in a number of European law systems, of joint sentencing by the MJ and members acting together. This would maintain the "sense of the community" which those who favor sentencing by members seem to be looking for, while allowing the professional (the MJ) some significant input.

2. Suspension of sentences

AVC believes that whoever adjudges the sentence should also have the power to suspend the sentence. In the present situation sentences may be too severe or too lenient because the authority adjudging the sentence has guessed wrong as to whether the authority empowered to suspend is or is not going to do so. In addition, the imposition of a relatively long sentence, but suspended, may serve as a powerful incentive to the defendant not to commit further offenses, but the additional length of the putative sentence would be justified only if the authority deciding upon it knew that it would be suspended.

3. Increase of SCM sentencing limits

AVC believes that the power of the SCM to award a BCD is much more significant than whether confinement is to extend for six months or for one year,

To achieve a more democratic and prosperous America and a more stable World



Col. T. L. Hemingway

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June 20, 1984

since the BCD has effects which last for years afterwards; AVC is therefore not opposed to increasing the sentencing limits per se; however, AVC insists that if it is expected that the SCM will be using the new authority for longer sentencing, there be a verbatim record similar to that now used where a BCD is anticipated. In effect, this should mean that there will be two kinds of SCM: Six-months-and-no-BCD SCMs and One-year-and/or-BCD SCMs.

4. Tenure for MJs

This should be subdivided into two: Tenure for SCM and GCM MJs and tenure for CMR members.

As to SCM and GCM MJs, the concept of tenure can be applied in at least two ways: Security in the MJ function, or a particular period of time in a particular MJ assignment. The latter is likely to hamper the ability of the services to adapt to changing conditions. In addition, since conditions vary from individual to individual and from assignment to assignment, tenure in a particular assignment may be viewed by one MJ as a protection and by another as a sentence--particularly if it prevents him/her from moving to a more desirable assignment. The objective of granting tenure to SCM and GCM MJs is, we believe, to increase both actual and apparent objectivity, so that nobody will believe that a particular action was taken by a particular MJ in order to please a particular commander, or in order to secure a better evaluation or assignment. Alternative to a system of tenure might be a procedure which gives MJs direct access to a sympathetic entity directly under TJAG of their service, to be used if the MJ believes that the timing or location of a new assignment is undesirable from their own point of view, and traceable to the MJs activities as such.

On the other hand, members of the CMRs should be given tenure of a specified number of years. AVC believes that assignment to CMR should generally be viewed as the last assignment before retirement. As a possible incentive to the officers involved, they should be given the option to request recall to active duty to continue on CMR for a certain number of additional years should they so desire. AVC has come to this view because of an inquiry (admittedly conducted at a time during the Vietnam conflict when the armed forces were considerably expanded) into which levels of JAG officer were most likely to exhibit independence of judgment, or to appear to exhibit independence of judgment. Two levels fell into this category: Those at the bottom (usually O-3) who were concerned only with completing their obligated service, and were then intending to leave, and those at the top (usually O-6) who knew they were not likely to be selected for further promotion, and were completing a tour prior to retirement. It was the levels in between (usually O-4 and O-5) who were concerned with promotion opportunities, the quality of their next assignment, and other matters viewed as likely to weigh against their professional judgment at times.

Col. T. L. Hemingway

3

June 20, 1984

5. Retirement system for COMA Judges

This should actually be the last question since, if the response to Question 6 indicates that the COMA Judges should be Article III Judges, the question of retirement is already taken care of.

Assuming arguendo that there is no change in the Article I/Article II status of the COMA Judges, they (as well as any other Article I Judges) should be given the kind of retirement system which will allow the judges to remain in office for the whole of their statutory terms, and not to use COMA as a stepping-stone to the federal bench. It should be noted that, in the past, judges have left COMA to accept appointment, not to the Circuit Courts of Appeal (which might be viewed as a lateral move), but to District Courts.

The system currently in place for judges of the Tax Court might well be viewed as a model, unless it is possible to enact one system for all of the Article I judges, wherever located.

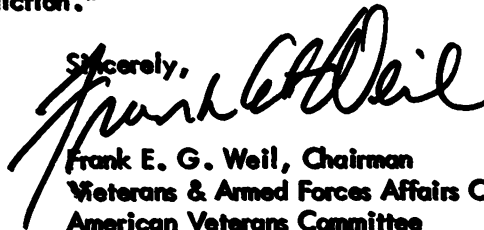
6. Article III Status for COMA Judges

AVC favors conferring Article III status on COMA Judges. The arguments submitted on this question by the ACLU, quoted below, appear to be cogent, and AVC associates itself with these arguments:

"This will enhance the quality of nominees, reduce personnel turbulence, increase the Court's stature within both the military and civilian communities and generally would be more in keeping with the notion of direct review of decisions by the Supreme Court of the United States. If serious consideration is given to extending Article III status in this fashion, attention should also be given to expanding the Court's subject matter jurisdiction to include judicial review of other military personnel determinations such as administrative discharges, disabilities and the sundry matters reviewed by the boards for the correction of military records. A realignment of the functions of the United States Claims Court and the Court of Appeals for the Federal Circuit might be a corollary of any such change.

"The ACLU has also recommended certain other structural changes for COMA, such as the elimination of the political balance test and curtailment of the presidential power to designate chief judges. The Court should also be expanded to at least five judges--the minimum number recommended by the ABA for the highest court of a jurisdiction."

Sincerely,



Frank E. G. Weil, Chairman
Veterans & Armed Forces Affairs Commission
American Veterans Committee

FEGW:lw1



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3 July 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act of 1983,
Advisory Commission
Washington Headquarters Services
Department of Defense
Washington, D.C. 20301

Dear Colonel Hemingway:

In response to your letter of 11 June 1984, Admiral James Holloway, President of this Association, advises that you are correct in that he has a definite interest in the subject matter of your letter, but that he is also of the opinion that your Commission would profit more from testimony of prior Judges Advocate General of the services rather than testimony of a line officer.

With best wishes, I am

Sincerely,

M.S. Snowden
CAPT, USN (Ret.)
Executive Director

KARNIG BOYAJIAN

ATTORNEY AT LAW

40 COURT STREET
BOSTON, MASSACHUSETTS 02108

(617) 742-8282

July 12, 1984

Department of Defense
Washington Headquarters Services
Washington, D.C. 20301ATTENTION: Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act of
1983 Advisory Commission

Dear Colonel Hemingway:

Your letter of 30 April 1984 addressed to the Massachusetts Bar Association seeking a response to certain questions relative to the Military Justice Act of 1983 was forwarded to me for consideration and reply. By way of background, I am a member of the Council of the Criminal Justice Section of the M.B.A., a Colonel (Judge Advocate Corps) with the U.S. Army Reserve, former Commander of the 3rd JAG Detachment (Military Law Center), Boston, Massachusetts, and an active criminal practitioner.

I reviewed your questions and consulted with a number of my fellow civilian attorneys who also have military Judge Advocate background and experience. Without attempting to address each possible ramification and consequence the listed issues might present, I offer to you a consensus response in the order of the topics presented in your letter.

- (1) No. Board should sentence. Board hears one case and is then dismissed. Judges on the other hand could be more easily influenced by the convening authority and would sentence to please them. From a defense standpoint, Board sentencing is a fairer process and less subject to command influence.
- (2) No. Convening authority only should have the power to suspend sentences but a judge sitting alone should be allowed to suspend a sentence that he imposed. Judges should not have the power to suspend sentences imposed by the Board.
- (3) No. Jurisdiction should remain as is and if the crime is serious enough it should be referred to a General Court Martial convening authority.
- (4) No. They should be governed by the policies that effect all other offices in the JAG. They should not receive preferential treatment merely because they are judges.

Department of Defense
COL Thomas L. Hemingway

- 2 -

July 12, 1984

- (5) No change from existing policy is warranted.
- (6) No change necessary. System seems to function well as is and any change would have an adverse potential effect on JAG judges.

I hope that the foregoing will be of help to you in the course of your deliberations. If I can be of further assistance in the future, feel free to contact me. Best of luck in your endeavors towards a better military justice system.

Respectfully,


Karnig Boyajian

smc



COLLEGE OF LAW
SALT LAKE CITY, UTAH 84112

August 7, 1984

Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act of
1983 Advisory Committee
Department of Defense
Washington Headquarters Services
Washington, D.C. 20301

Dear Colonel Hemingway:

Recently you wrote the Utah State Bar asking for the opinion of Utah lawyers on various subjects pertinent to military law. The matter was referred by the Utah State Bar to the Military Law Section. At a meeting of the Section, the various topics in your letter were debated and discussed and the Section submits the following statement on the questions raised in your letter.

1. Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.

The Section opposes the sentencing authority being exercised exclusively by the military judge in cases to which a military judge has been detailed. The Section was of the opinion that various military considerations justify both the prosecution and the defense having an opinion to submit sentencing considerations to a court composed of members.

2. Whether military judges and the Courts of Military Review should have the power to suspend sentences.

The Section believes that the power to suspend sentences should rest in the convening authority or military commander based upon military needs and should not be exercised by a remote judicial authority.

3. Whether the jurisdiction of special courts-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and if so, what, if any, changes should be made to current appellate jurisdiction.

Thomas L. Hemingway, Colonel, USAF
August 7, 1984
Page 2

The Section concluded that expanded special courts-martial jurisdiction should be adopted and the current appellate process for special courts-martial continued.

4. Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

The Section concluded that military judges in special and general courts-martial should have tenure but only after they had voluntarily elected to accept the role of a more permanent military judge and after there had been a period of time where they had proved to be capable of satisfactory performance as a military judge.

5. What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

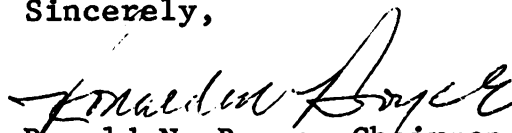
The Section supports the same retirement system for judges of the Court of Military Appeals as is available for Article III judges of other federal courts of appeal.

6. Whether the United States Court of Military Appeals should be an Article III court under the U.S. Constitution.

The Section supports Article III status for the United States Court of Military Appeals.

We hope this information will be of assistance to you. If we can in any way assist you in the future, please do not hesitate to call upon our organization.

Sincerely,



Ronald N. Boyce, Chairman
Utah State Bar Military
Law Section

RNB:bm

August 9, 1984

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Colonel Thomas L. Hemingway, USAF
Chair, The Military Justice Act of
1983 Advisory Commission
HQ, United States Air Force/JAJM
1900 Half Street, S.W.
Washington, D.C. 20324

Dear Tom:

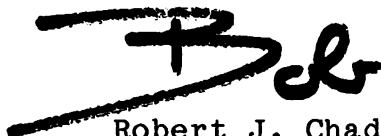
Re: Retirement System for USCMA Judges

In my individual capacity, I suggest for your consideration that the elements of a fair and equitable retirement system for the United States Court of Military Appeals' judges should include:

a retirement system equivalent to that of Judges of the United States Tax Court except that the salary on which the retired pay is based should be consistent with that of Judges of the United States Court of Appeal.

This comports with and updates the similar position taken by others, including the ABA long ago as 1979.

Most sincerely,



Robert J. Chadwick

RJC:cb

American Bar Association

Col. Thomas L. Hemingway, Chairman
 Military Justice Act of 1983 Advisory
 Commission
 HQ USAF/JAJM
 1900 Half Street, S.W.
 Washington, D.C. 20324

Dear Col. Hemingway:

On behalf of the Standing Committee on Military Law of the American Bar Association, I want to thank you and the Commission for your invitation to comment on the issues under consideration by the Commission.

The American Bar Association has very strict rules that committees and committee chairman cannot comment publicly on matters that have not been made the official policy of the American Bar Association. To become policy the committee must study an issue in depth and present a report to the Board of Governors of the Association and in turn to the House of Delegates at which time the House will act. If the action is positive the resolution or proposal becomes ABA policy.

There is only one subject that your commission is considering that the ABA has taken a policy position on and that does not relate specifically to the issue of whether the United States Court of Military Appeals should be an Article III court or not, but that the ABA supports the retention and strengthening of the Court of Military Appeals by (a) providing for full 15-year term for its judges and (b) by making its retirement system equal to that of other Article I courts. This policy was adopted in August of 1979.

We regret very much that we have not been more supportive of your Commission, however, I feel that once your Commission has issued its report, we will as a committee be able to take action on all of the proposals being considered by the Commission that are within the scope of our committees functions.

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1983-84

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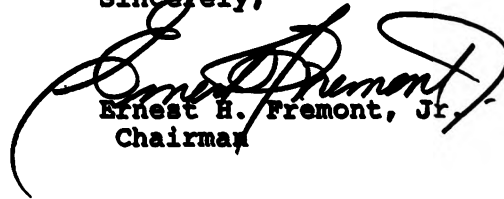
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Advisory Commission Report

Col. Thomas L. Hemingway, Chairman
Military Justice Act of 1983 Advisory
Commission
August 30, 1984
Page 2

The members of the committee wish you well in your work and we look forward to seeing the final report to Congress. I trust that the committee will be able to take an active part in considering these very important issues.

Sincerely,



Ernest H. Fremont, Jr.
Chairman

EHF:gl

cc: Committee Members

SUBJECT: Military Justice Act of 1983 Advisory Commission

Colonel Thomas L. Hemingway
Chairman, Military Justice Act of 1983 Advisory Commission
Headquarters, United States Air Force
ATTN: JAJM
Washington DC 20324

Dear Colonel Hemingway:


I understand that your Commission has been addressing, *inter alia*, whether the sentencing authority in courts-martial should be exercised by a military judge in all noncapital cases to which a military judge has been detailed. As a law student at Oxford University with recent active duty in the US Army Judge Advocate General's Corps, I am particularly interested in this subject.

Britain, for example has employed such a bifurcated criminal procedure for some time. And, one may argue, placing the sentencing phase in the exclusive province of military judges would lend a greater uniformity among similar offenders. However, any evidence for such a claim of greater "objectivity" or fewer inflamed passions should be carefully weighed.

Therefore, might I suggest a streamlined questionnaire, dovetailed with current reporting requirements, to be completed by military judges at trials in which a jury has been empanelled? It should summarize the relevant offenses which have been returned on the merits, list apparent factors in aggravation, extenuation and mitigation, and propose an alternative sentence as if the military judge had been sitting alone. This additional paperwork could easily be completed during jury deliberations and, far from an unnecessary burden imposed by sociology researchers, input from two thousand such cases might provide statistically significant data from which to draw reasonable comparisons between judge and jury sentencing. Work on this subject was pioneered in the late 1960s by Professors Calvin and Zeisel of the University of Chicago Law School.

Thank you for your time and attention to my suggestions. If I can assist your efforts in any way, please do not hesitate because of my reserve status. In any case, I look forward to the future progress of your commission in its endeavors.

Sincerely yours,


Stephen D. Aarons
1 Marston Ferry Rd.
Oxford OX2 7EF Britain

USAF Upper Heyford Box 1526
APO New York 09194

Advisory Commission Report

III. Letters and Statements from Military Sources

ROBINSON O. EVERETT
CHIEF JUDGEUNITED STATES COURT OF MILITARY APPEALS
WASHINGTON, D.C. 20442

April 12, 1984

Colonel Thomas L. Hemingway
Chairman, Military Justice Act of 1983
Study Commission
1900 Half Street, S.W. (AF/JAJM)
Washington, D.C. 20324

Dear Colonel Hemingway:

Congratulations on your selection to chair the Study Commission. Your group has an opportunity to play a major role in enhancing the quality of military justice.

Last week, I spoke on developments in military justice to the 10th Interservice Seminar at Maxwell, AFB. In this speech I had an occasion to discuss the importance of the Commission and suggest some possible avenues of interest. In the hope that these remarks might be of some assistance in your task, I am enclosing copies of the relevant portions of my speech.

With every good wish for success in this your challenging endeavor, I am

Sincerely,

Robinson O. Everett
Chief Judge

Excerpts from Speech Given at Maxwell Air Force Base

April 3, 1984

The Commission has been appointed by Secretary Weinberger and will consist of nine members, of whom three are "persons from private life who are recognized authorities on military justice or criminal law". One of these is Professor Saltzburg, a highly regarded professor at the University of Virginia Law School, who has authored books on criminal law, criminal procedure, and the Military Rules of Evidence. Incidentally, he spoke at our Homer Ferguson Conference last year and is scheduled to appear again this year. Another member is Professor Kenneth Ripple of Notre Dame, who at one time served on Chief Justice Burger's staff at the Supreme Court and is a highly regarded student of the decisions of that Court. I believe he also is a Naval reserve judge advocate. The third public member, Steve Honigman, has chaired the Committee on Military Justice of the Bar of the City of New York and in the late 1970's was at one time a commissioner of the Navy Court of Military Review. On various occasions he has testified before the Armed Service Committees.

The commission is to prepare a report by, I believe, September 1; and this report will go to the Committees on Armed Services of the Senate and House and to the Code Committee established under Article 67(g). Incidentally, as part of the Military Justice Act of 1983, Congress expanded the Code Committee by adding two public members, who recently have been appointed by

Secretary Weinberger. One of them is A. Kenneth Pye, former Chancellor at Duke University and a highly regarded authority on criminal law and procedure. Some of you have probably have heard him on past occasions at our Homer Ferguson Conference. The other member, Mary Ellen Hanley, is a partner in a large Seattle law firm; and at one time chaired the American Bar Association Committee on Legal Assistance to Military Personnel. She herself was a Marine and is the widow of a Navy officer.

The Commission is required to include in its report findings and comments on a number of subtopics related to the subjects which the commission has been asked to study. Although the Commission does not have the same broad charter as did the Morgan Committee, which drafted the Uniform Code, its recommendations could have a profound impact on military justice. To cite one example, if the commission recommends that all sentencing be done by judge alone and if that recommendation is accepted by Congress, then the trial of a large number of cases will be affected.

I have suggested that an effort be made to obtain empirical data that will bear on some of these proposals to be considered by the Commission. For example, what sort of variation is there between the sentence that a military judge would impose and the sentence that court members impose in various types of cases? To what extent would waivers of trial by members be forthcoming if it were possible to have a jury trial and nonetheless have the judge do the sentencing? In what percentage of the cases would the

judge suspend a discharge if he had the power to do so? What have been the average tours of duty of military judges at the trial and appellate level, and what has been the extent and the circumstances of deviations from that average? In how many cases would the charges be referred to a special court, rather than a general court, if the special court could impose confinement of one year?

Surveys of various groups might also be helpful. For example, among military judges, to what extent is there concern about the absence of any statutes or regulations providing tenure? Among trial and defense counsel, what are the anticipated effects on average sentences and on plea bargaining of an increase in the special court-martial's confinement powers?

I have suggested to the Judge Advocates Generals and others that such information be collected, and I will certainly make the suggestion to the Commission. However, unless some of the data collection begins soon, it cannot be completed in time to be of great assistance to the Commission, which will hold its first meeting later this month.

* * *

Since Congress now has chosen to authorize petitions for review on writ of certiorari, I have recommended that it consider going further and transforming our Court into an Article III

court. By so doing, it would eliminate any possible recurrence of an issue that was raised in the Matthews case about our jurisdiction to declare a Federal statute unconstitutional. I am pleased that the House Armed Services Committee in its report on the Military Justice Act of 1983, suggested that "in the context of considering the impact of various changes on appellate jurisdiction, the Commission established by Section 9 of the Amendment should study and report on the question of whether the Court of Military Appeals should be an Article III court."

I would also suggest that, if our Court were reestablished under Article III, its jurisdiction might be expanded to allow consideration of certain other matters -- such as administrative discharges -- which are military related. Indeed, we might be redesignated as the Court of Appeals for the Military Circuit and given jurisdiction over a variety of matters concerned with the armed forces. In this way, there would be created an Article III court of specialized jurisdiction very akin to the recently created Court of Appeals for the Federal Circuit. One advantage of the specialized court -- which has been pointed out by Dean Erwin Griswold and others -- is that it eliminates the possibility of conflict among the circuits with respect to certain issues and thereby reduces the occasion to grant certiorari because of such conflict. In other words, the conflict does not arise if the particular type of case is considered only by a single court of appeals.



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY FORCES COMMAND
FORT MCPHERSON, GEORGIA 30330

April 17, 1984

REPLY TO
ATTENTION OF

Staff Judge Advocate

Colonel Thomas L. Hemingway
Chairman, Military Justice Act of 1983
Advisory Commission
HQ USAF/JAJM
1900 Half Street, S.W.
Washington, D.C. 20324

Dear Colonel Hemingway:

Thank you for your letter of 14 March 1984. As I am now the Staff Judge Advocate at Headquarters, U.S. Army Forces Command, I am less directly involved in the day to day administration of the military criminal law system, but I welcome the opportunity to express the opinions which I have developed in my continuous service as a Staff Judge Advocate from 1972 to the present.

I support empowering military judges to impose sentences in all noncapital cases. Military judges have the education and experience that permits them to balance the interests of society and the accused. If military judges are so empowered, sentences will be more uniform and predictable. The views of the victim and society will be presented on the record through the implementation of the Victim and Witness Protection Act of 1982 (Public Law 97-291, 12 October 1982), and the representative function of the court members will not be lost by giving sentencing authority to the military judges.

I would favor military judges having the power to suspend sentences only if the present presentencing procedure is modified to require more information about the accused to be presented. While the present procedure permits introduction of some information, in fact, the sentencing phase of trial is usually a continuation of the adversary system, rather than a search for an appropriate sentence. Some presentencing report, giving more balanced information about the accused is needed. Invariably, however, if such a procedure is adopted, there would be delay in the sentencing unless sufficient resources, both personnel and financial, could be authorized to permit preparing of adequate presentencing reports prior to convictions. With these changes, I would favor empowering the military judges to suspend sentences.

-2-

As much as I support the military judges, I oppose the proposal to give them tenure. Especially in the Courts of Military Review, the military judges contribute a sense of the reality of military service. They can only acquire that sense and communicate it by serving various tours in the legal offices of the military services. The civilian judges of the U.S. Court of Military Appeals provide a necessary check on too much emphasis on the needs of the military services, and the military judges of the Courts of Military Review provide the balance that ensures that judge-made rules are practicable. Moreover, I am not aware of any problems which would warrant changing the present system.

I see little advantage to changing the jurisdiction of special courts-martial. They are the misdemeanor courts, and the general courts-martial are the felony courts. If a sentence which exceeds the punishment authorized by special court-martial seems warranted in any case, the case can easily be referred to general court-martial. This is especially true in light of the recent revisions to the UCMJ in regard to pretrial advice and post-trial reviews. Moreover, I believe that the Article 32 investigation is a worthwhile procedure in felony cases. Increasing the punishment of special courts-martial may lead to more elaborate review procedures, and the creation of mini-general courts-martial. I do not see a pressing need for change.

With the advent of direct appeals from the U.S. Court of Military Appeals to the U.S. Supreme Court (Public Law 98-209, 6 December 1983), the time is appropriate to establish the military's highest court as a full member of the Federal judiciary (with a fair and equitable retirement system for the judges). Perhaps the change can be viewed as largely symbolic, but the legal system operates largely on prestige. We will never have enough marshals to enforce physically most court decisions.

Again, thank you for the invitation and the opportunity to express my thoughts.

Sincerely,



Earle F. Lasseter
Colonel, Judge Advocate
General's Corps
Staff Judge Advocate



COMMANDER NAVAL AIR FORCE
UNITED STATES PACIFIC FLEET
NAVAL AIR STATION, NORTH ISLAND
SAN DIEGO, CALIFORNIA 92135

5800
Ser 011/ 3132
30 APR 1984

From: Commander Naval Air Force, U.S. Pacific Fleet
To: Commander in Chief, U.S. Pacific Fleet

Subj: Proposals to amend the Uniform Code of Military Justice

Ref: (a) Uniform Code of Military Justice (UCMJ)
(b) Military Justice Act of 1983

Encl: (1) Proposals to Amend the UCMJ: Military Justice Act
of 1983

1. Comments and recommendations regarding proposals to amend reference (a) contained in subsection 9(b) of reference (b) are submitted. For the reasons detailed in enclosure (1), Commander Naval Air Force, U.S. Pacific Fleet recommends that:

a. the Navy support the proposal to have military judges exercise sentencing authority in all non-capital special and general courts-martial to which a military judge has been assigned;

b. the Navy support the proposal to expand the jurisdiction of the special court-martial to permit sentences including confinement of up to one year;

c. article 19 of reference (a) be amended to provide confinement for a year may be awarded only if a bad conduct discharge is also within the jurisdiction of the special court-martial, i.e., a military judge is assigned, certified military counsel are detailed and a verbatim record is to be prepared; and

d. the proposals to give the power to suspend sentences to military judges and to the Courts of Military Review be opposed.

2. No changes to appellate jurisdiction are recommended. No opinions are expressed on the proposals for tenure for military judges and on the retirement system for judges of the U.S. Court of Military Appeals.

Copy to:
COMNAVSURFPAC
COMSUBPAC


C. A. EASTERLING

Advisory Commission Report

PROPOSALS TO AMEND THE UCMJ:
MILITARY JUSTICE ACT OF 1983

Ref: (a) Military Justice Act of 1983
(b) UCMJ

1. Background. Pursuant to subsection 9(b) of reference (a), the Secretary of Defense has appointed a nine-member commission to recommend Congressional action on certain proposals to amend reference (b) which are of major significance to the operation of the military justice system. Informal liaison with one member of the commission, Mr. Christopher Sterrett, indicated a strong desire on his part to receive the views of line commanders on these changes. This enclosure presents the detailed comments and recommendations of all NAVAIRPAC officers in command and recommends that Commander in Chief U.S. Pacific Fleet submit views to Chief of Naval Operations for presentation to the commission.

2. Sentencing by Military Judge Alone. COMNAVAIRPAC recommends that the sentencing authority in court-martial cases should be exercised by a military judge alone in all non-capital special and general court-martial cases to which a military judge has been detailed.

a. Allowing the military judge to exercise sentencing authority in non-capital cases would bring court-martial sentencing procedures in line with those currently used in Federal district courts. The judge is in a much better position than the military or civilian jury to assess an appropriate sentence based upon a wide knowledge of similar cases. This change would contribute to more consistent sentences and a better overall perception of the military justice system as being "fair." Members usually have no prior experience and lack the frame of reference necessary to adequately determine punishment.

b. This change would also shorten trial and processing times as there would be no requirement for sentencing instructions and other precautions now used for members' sentencing. This proposal would also release court-martial members sooner to return to normal duties. A military judge can usually dispose of a guilty plea case in one to two hours, while a members' guilty plea case can take the better part of a day, primarily because of voir dire, instructions and deliberations.

c. There is a perception held by many that an accused is likely to receive a lighter sentence from members who may be junior officers and sympathetic to him/her.

d. The change would promote consistency and uniformity of sentences in local areas. This is an ideal sentencing arrangement because sentences will reflect local standards and, at the same time, be more predictable than sentences imposed by military

Enclosure (1)

members. Predictability is an important aid to commanders who refer cases to courts-martial or enter into pretrial agreements. Under the current system, an accused is free to choose between the predictability of a military judge or the inconsistency of military members. In the case of a serious felony, where a stiff sentence would predictably be awarded by a military judge, the accused is likely to choose members for sentencing. Because of this, serious and often more complicated offenses are usually tried on the merits before members in order to take advantage of the members' expected lighter sentence. The result is that trials take much longer. It is to be expected if all sentencing of non-capital offenses were by military judge alone that fewer trials on the merits would be tried before military members.

e. Such a change in procedure would, however, remove one influence on military judges, that of the members' sentencing process which interjects the conscience of the community into courts-martial. Further, relationships between judge advocates and other members of the armed forces could possibly become divided if, at some future time, military judges were to be considered overly lenient in the adjudication of court-martial sentences. That commanders would have no recourse in these cases would serve to exacerbate a division. In addition, this change might be considered an abdication of responsibility of command, and of the line officer community, in effecting military justice and ensuring good order and discipline.

f. Mandatory judge alone sentencing would affect the accused's rights in the sense that the accused no longer would have the right now enjoyed to elect trial through sentencing by members. However, this change would also give the accused a new right to have guilt or innocence determined by members, and the sentence, if convicted, determined by the judge.

g. While mandatory judge alone sentencing will remove the non-judge military community from the sentencing portion of the court-martial process, these persons will still retain the opportunity to participate in courts-martial on the issue of guilt or innocence. In any event it appears that the vast majority of cases are judge alone trials, so that removing the members from sentencing will not have a significant effect on the participation of the military community in the military justice system.

h. Since sentencing by the judge is an almost uniform practice in civilian courts, alignment of military courts with this practice, with the resultant elimination of the appearance, however unjustified, of command influence in this area, would most certainly have a favorable effect on the perception of the military justice system by members of the armed forces, the legal profession and the general public.

Enclosure (1)

Advisory Commission Report

i. By increasing efficiency, consistency and appropriateness of sentencing, this proposal can be expected to have a favorable impact on the commander's responsibility for his command.

3. Judges' Suspending Sentences. COMNAVAIRPAC opposes the proposals to grant military judges and the Courts of Military Review the power to suspend sentences.

a. The uniqueness of the military structure indicates that neither military judges nor Courts of Military Review should enjoy a power traditionally granted to their civilian counterparts. The civilian judge is in the best position to determine whether it is to society's and an individual's benefit that an individual be awarded a suspended sentence. In the military community, that role properly is reserved to the commanding officer and his superiors in command, who are responsible for the morale and discipline of the unit to which the individual belongs. The commanding officer, in particular, possesses a unique knowledge of each individual beyond that which may be presented at trial. The commanding officer can best assess the impact of an individual's crime on the unit as a whole.

b. The view of an accused presented to a military judge or contained in the record of trial is often not complete due to evidentiary rules. At trial the accused puts on the best appearance he can. The convening authority has a better knowledge of the individual, or has ready access to such information. Further, the command would have to live with the suspension decision, and would be tasked with holding a vacation hearing, if required, due to subsequent misconduct of the accused. A proliferation of suspended punitive discharges would very likely be a burden to fleet commands.

c. Suspended punishment is a powerful disciplinary tool which is used effectively by commanding officers at captain's mast. Certainly, if courts are empowered to award suspended sentences, sentences more appropriate for the offenses can be awarded and then suspended for individuals deserving of leniency. Under the cloud of a suspended sentence, accuseds are more likely to understand the seriousness of their offense and to correct their behavior. However, vesting power to suspend sentences outside the chain of command has the potential seriously to undercut the commanding officer's ability to maintain morale and discipline within his unit. The impact of this change on the military judicial system and relationships between line and judiciary would be highly negative.

d. Due to the present rules of the court-martial system, the sentencing decisions are made solely on matters admitted before the court. Such a restriction sharply limits the information available to the court-martial sentencing authority. The convening authority possesses much more information about the accused,

and more importantly, what effect the sentence will have on the remainder of the command. Nowhere would these factors be more true than in the case of a bad conduct discharge. The decision to suspend this punishment has at its core a determination of whether continued service on the part of the accused will be of benefit to himself, the Navy and society in general. The convening authority occupies the best position for an accurate determination of such potential.

e. If the power to suspend sentences were to be given to judges at the trial and review court levels, the present system should also be changed to resemble that of many state court jurisdictions in which a sentencing hearing is held some time after trial and at which all information relevant to sentencing is presented. Such a change would, however, be unwieldy to accomplish in the military environment and is unnecessary in light of the existing military justice system.

f. Suspension should be a matter of command prerogative that takes into account not only the individual offender, but also the effect of a suspended sentence on unit discipline, morale, readiness and mission requirements. Only the commanding officer can adequately assess these factors. Granting this power to military judges and to the Courts of Military Review would thus have a negative impact on the commanders' responsibility for his command.

g. As it now stands, the recommendation by a military judge to suspend a sentence is always given full consideration and is usually followed by the convening authority or supervisory authority. However, the responsibility for each member's actions and discipline must remain with his commanding officer.

h. The proposal to permit the military judge to suspend sentences derives in part from the appearance of judges erring on the side of leniency, rather than relying on the convening or supervisory authority to accept his recommendation for suspension, in those cases where an accused who has either committed a serious offense or a series of minor offenses is deserving of harsh punishment but shows potential for rehabilitation. The proposal is based on the assumption that in any given case, where suspension is deemed appropriate by the military judge, he will award the suspended punishment knowing that such will be effected. The suspended punishment will be added to any unsuspended punishment deemed appropriate. This proposal also rests on the assumption that since under the present system the military judge only has the power to recommend suspension, he will refrain from using such power, or in using such power will reduce the unsuspended punishment thereby hedging his bet as to whether the convening authority will accept the recommendation. The key argument for this proposal is that the very effective power to suspend will be utilized more fully when there is no military

Enclosure (1)

judge/convening authority standoff (i.e., refusal of the military judge to suspend because of uncertainty and refusal of the convening authority to suspend because the sentence is too lenient). One result of the above mentioned leniency of the military judge is that the accused or his/her shipmates may perceive that the offense was not serious. Further, where the military judge suspends because leniency has already been granted, the convening and supervisory authorities are, in a practical sense, limited in what mitigating action they can then take on the case. To deal with this dilemma, article 64, UCMJ, could be amended to require the convening authority to consider fully a recommendation for suspension and explain why he chose not to follow the recommendation for suspension.

i. The proposal to grant the power of suspension to the Courts of Military Review could be viewed as being appropriate to give those courts sentence mitigating authority equal to that of a convening authority. However, in nearly all cases in which such power could be exercised, the accused would have to be recalled from appellate leave. His return would normally have an adverse impact on his command and the court's action would clearly undermine command authority.

4. Special Court-martial Awarding Up to One Year's Confinement. COMNAVAIRPAC and his commanders uniformly support the proposal to expand the jurisdiction of the special court-martial to include sentences including confinement of up to one year.

a. While the special court-martial is the appropriate level for most misdemeanor offenses, such court currently is not empowered to award sentences comparable to those authorized by civilian criminal courts for misdemeanors, i.e., up to one year's confinement. This forces the military convening authority to refer a serious misdemeanor to a general court-martial, a forum that was designed for felony cases, in order to ensure that the proper punishment is available. Increasing the punishment authority of the special court-martial to one year's confinement would bring the court-martial system more in line with the Federal court system's distinction between misdemeanor and felony trials.

b. The most difficult case for commanders to refer to trial are those misdemeanor offenses which are deserving of more than six months' confinement. Such cases commonly include possession and use of drugs, some aggravated assaults, and serious military infractions. When these infractions occur, an appropriate forum does not now exist to try these cases. Due to a heightened awareness of accountability, more of these cases are being referred to general courts-martial. If the maximum punishment of special courts-martial was increased to one year's confinement, these cases would be properly tried as misdemeanors, and appropriate sentences could still be awarded.

c. Most accused currently tried by special courts-martial are charged with offenses for which the authorized punishment exceeds the jurisdiction of the special court. Special courts-martial convening authorities now tend to convene article 32 investigations and recommend trial by general court-martial only in cases where offenses charged are extremely serious and trial by special court-martial is obviously inappropriate.

d. Enactment of this proposal would thus increase the likelihood of more appropriate sentences, particularly for long-term unauthorized absences. Most unauthorized absence cases are tried as guilty pleas. Courts traditionally give the accused credit for his plea, and this credit effectively limits the actual maximum sentence to four or five months. An increase in sentence limits would permit the court to give credit for a guilty plea but still sentence the accused to confinement for at least as long as any cruise or deployment he may have avoided by his absence. Many other types of cases are currently tried as special courts-martial because the convening authority desires to keep in house his command's disciplinary problems, and the result may be inappropriate sentences for fairly serious assaults or larcenies. Increasing the jurisdictional limits could reduce the inappropriateness of sentences in such cases as well.

e. A significant decrease in the number of general courts-martial would likely result from an expansion of the sentencing jurisdiction of the special court-martial to one year's confinement. Since almost all Navy special courts-martial are tried before a military judge alone under conditions in which a bad conduct discharge could lawfully be adjudged in accordance with article 19, UCMJ, this command would interpose no objections to requiring the same conditions for a special court-martial to adjudge between six months' and one year's confinement, as is now required for a special court-martial to adjudge a bad conduct discharge.

f. It would not seem desirable to require a special court-martial to have a minimum of five (vice three) members under these conditions to be empowered to adjudge confinement up to one year. Nor would it seem appropriate to require five members for a non-bad conduct discharge special court-martial with lawyer counsel and summarized record, yet three members for a bad conduct discharge special court-martial with lawyer counsel and verbatim record, due to a maximum six-month increase in the jurisdictional limit of a special court-martial. Most Navy special courts-martial are convened with five members now, and most are tried by a judge alone. But the system must continue to meet the unique military requirements for flexibility in the administration of military justice without undue complexity. The naval service must retain the ability to try special courts-martial at sea, on board small combatants. The pool of qualified members available to such commands is too small to permit an

Enclosure (1)

increase in the minimum number of members on a special court-martial. The present minimum of three is sufficient to permit a full airing of competing views and philosophies. There is no compelling reason why three members should be deemed competent to adjudge six months confinement, yet not confinement for six months to a year. Of course, if mandatory judge sentencing is implemented, this question is moot.

g. No change in the appellate review process would be appropriate for special court-martial sentences which include confinement greater than six months, but not exceeding one year, since, even if such a sentence were imposed at a general court-martial, review by a Court of Military Review would depend on whether the accused was awarded a punitive discharge.

h. Adoption of this proposal will give the commanding officer the option to refer cases to trial by the more expeditious special court-martial rather than the cumbersome general court-martial and will have a favorable impact on the commander's responsibility for his command. A one-year jurisdictional maximum at special courts-martial would reduce general courts-martial by as much as twenty percent, the benefit to the community would increase the likelihood of appropriate sentencing, greater judicial economy, and the creation of substantial deterrent for minor offenses. The overall effect would be greater respect and reliance on the military justice system by the line community.

Enclosure (1)



DEPARTMENT OF THE NAVY
 HEADQUARTERS UNITED STATES MARINE CORPS
 WASHINGTON, D.C. 20380

IN REPLY REFER TO
 1300
 JAS263

24 MAR 1984

Colonel Thomas L. Hemingway, USAF
 Chairman, Military Justice Act of
 1983 Advisory Commission
 Department of Defense
 Washington Headquarters Services
 Washington, D.C. 20301

Dear Colonel Hemingway:

Thank you for providing me the opportunity to address the issue of tenure for general and special courts-martial military judges. The following remarks reflect only my own views, based on ten years in the Judge Advocate Division, HQMC.

1. Length of Term. I recommend that the term as military judge correspond with that of a normal tour of duty. In the vast majority of cases this has and would continue to result in a term of three years. However, such a term is sufficiently flexible to enable the Marine Corps to properly manage its personnel assets by allowing for unaccompanied overseas tours or exigent circumstances which would require a tour of duty which is less than three years. In addition, individual judge advocates would be better able to participate in managing their career growth patterns if there were no fixed number of years required for duty as a military judge. Finally, fixed terms of longer duration would diminish the desirability of duty as a military judge and thereby deter highly qualified officers from seeking this assignment .

2. Entire Term at One Location. If the term as military judge is specified as that of a normal tour of duty, one would expect it be spent at one location. Conversely, if the term of military judge is specified as a certain number of years, then there would be no prohibition against serving this term at more than one location. Requiring otherwise is unnecessarily restrictive and would "trap" certain personnel at isolated military installations, while others may be allowed to "homestead" in more desired places. There are tours of duty to which military members are assigned without their families, normally 12 months in duration. As stated before, a requirement of this sort will be viewed as unattractive to many judge advocates, thereby limiting the field of qualified personnel available.

3. Judges Perform Only Judicial Functions. Requiring military judges to perform only judicial functions appears desirable as a method of enhancing the stature of the judiciary and ensuring performance of the highest caliber. Nevertheless, military judges should not be exempted from routine training requirements expected of all Marine Corps officers such as annual weapons requalifications and semi-annual physical fitness training. Allowing judges to sit as summary courts-martial or Article 32 investigating officer should be permissible, at service discretion.

Advisory Commission Report

4. Mandatory Promotion. I oppose mandatory promotion for military judges. Such a requirement is fraught with potential abuse, i.e. manipulating assignments to the judiciary at strategic times in a judge advocate's career in order to ensure selection for promotion. Promotion has always been and should continue to be based upon criteria of "best qualified." There is no evidence that Marine Corps judges have suffered in their advancement because of having served in the judiciary, therefore no such drastic remedy is warranted. Tenure, if limited to a normal tour of duty, will have no foreseeable effect on officer grade distribution or other personnel requirements of DOPMA.

Sincerely,



E. R. ALVES
Head, Legal Support Branch
Judge Advocate Division

Copy to:
BGen Donovan, USMC
Col Mitchell, USMC
Navy JAG



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
200 STOVALL STREET
ALEXANDRIA, VA 22332

IN REPLY REFER TO
5810
61
7 JUN 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act of 1983 Advisory Commission
Washington Headquarters Services
Department of Defense
Washington, DC 20301

Dear Colonel Hemingway:

We have long recognized the problems, both real and perceived, facing career development of military judges. Solutions have not been so readily apparent. I particularly appreciate the opportunity to address the set of proposals you present and I commend the Advisory Commission for their initiative in this area. The views expressed herein are my own and do not necessarily represent those of the Judge Advocate General of the Navy.

Term of office. An officer normally anticipates completion of a "normal tour" of duty before reassignment. In the case of any particular officer, this expectation is subject to being overridden when the needs of the service require reassignment short of "normal tour." Thus from a personnel management standpoint, a guaranteed term of office, whatever the length, for a military judge merely means that we would have to look elsewhere if the needs of the service require that an individual officer be short-toured to fill a requirement elsewhere. While a great deal of assignment flexibility would be lost, the system could be made to work without substantial difficulty. Similarly, as to the Navy, a term of three to five years could be implemented with no greater difficulty. However, a term greater than five years would likely require an extremely careful screening of military judges prior to assignment. Once assigned to the judiciary, presuming "tenure" follows a period of apprenticeship and evaluation, a term of office of five or even ten year could be managed. We would simply remove the billet and the incumbent from the detailing process for the term.

Entire term at one location. The impact of a requirement that an entire term be spent in one location would vary depending on the length of the term. The Navy positions military judges at various judicial circuits and branch offices worldwide. As fleet concentrations and operational commitments shift, so do the number of judges assigned to any given location. This is reflective of an effort to responsibly manage personnel assets given end strength limitations. To the extent that permitting a "tenured" judge to decline relocation run contrary to those objectives, I would oppose it. However, use of threat of reassignment to control judicial discretion would, unquestionably, not be desirable. Also the Navy has a number of high tempo overseas assignments for military judges that would place an extremely heavy personal burden on an individual if the term of office were greater than three years.

Performance of only judicial functions. Assigning military judges to other nonconflicting duties, such as claims adjudication, would not seem inconsistent with the tenure concept. That concept itself protects against

Advisory Commission Report

repercussions which might follow from the performance of additional duties. Where military judges are not fully utilized because of variances in caseload and other factors beyond their control, it makes good management sense to assign them additional noninterfering duties to help meet the Navy's overall legal services responsibilities.

Mandatory promotions. This presents the single most objectionable aspect to judicial tenure from a personnel management perspective. Such a "right" is totally foreign to our promotion system which relies upon performance and qualifications as hallmarks. While some judges, and perhaps most, would respond to challenges in the workplace because of their own high professional standards, others would likely shrink away from such challenges because the motivation factor, i.e., promotion, was already secure. For this reason alone, I would strenuously oppose mandatory promotion for anyone. Further, within the Navy JAG Corps, DOPMA has reduced promotion opportunity and lengthened promotion flow points. In this climate, if a unique group of officers in a promotion eligibility zone were guaranteed promotion, the result would be a further degradation of the promotion picture for other officers in the promotion zone. Such a step could potentially be devastating to the morale of the other JAG Corps officers. I oppose this approach because the potential for harm would be great and the gain, if any, would be small.

These proposals, other than mandatory promotion, would have no foreseeable impact on officer rank distribution or on the relationship to DOPMA. Only with relief from control grade ceilings for the Navy JAG Corps could mandatory promotion ever conceivably become a workable program. However, I wish to reemphasize that I do not support such relief for this purpose.

Finally, I would like to point out that perspectives of any judge advocate are sharpened through varied assignments. This is no less true for military judges. Isolation in a tenured judiciary would mean the loss of those valuable perspectives gained from operational and headquarters staff judge advocate assignments, policy formulation assignments and management assignments.

Sincerely,



T. C. WATSON, JR.
Captain, JAGC, U. S. Navy
Deputy Assistant Judge Advocate General
(Military Personnel)

REPLY TO
ATTENTION OF

JALS-TD

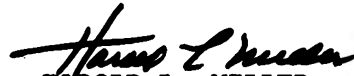
3 July 1984

**MEMORANDUM FOR THE ADVISORY COMMISSION ON THE MILITARY JUSTICE
ACT OF 1983****SUBJECT: The Military Justice Act of 1983**

1. The Trial Defense Service (TDS) supports the proposed revision at Section 9.(b)(C) of the "Military Justice Act of 1983," providing for expansion of the sentencing authority of special courts-martial to include confinement of up to one year. This revision provides more flexibility in sentencing and in pretrial negotiation. Convening authorities are more likely to refer borderline cases to Special Courts under the revision because a longer sentence is available without the pretrial and post trial headaches that accompany referral to a General Court Martial. This also would provide a substantial benefit to TDS as some of the time-consuming defense pretrial responsibilities, such as preparation and participation in Article 32 proceedings, would be eliminated. Defense counsel could devote time saved to other defense priorities.
2. TDS opposes the proposed revision at Section 9.(b)(1)(A) that requires mandatory judge alone sentencing in all non-capital cases. The option of requesting to be sentenced by a panel or by judge alone is an important right afforded the accused. Prior to sentencing and in ruling upon evidentiary matters, the military judge often is exposed to prejudicial information that would not be presented to a fact-finder panel for fear that it would unnecessarily prejudice the members against the accused. Although it is presumed that the judge is able to ignore this type of information, the experience of human nature teaches that regardless of how fair and impartial the judge may be, prejudicial information is difficult if not impossible to ignore. Sentencing by the panel in such a case eliminates any doubt of the sentencer being improperly influenced.
3. Another important consideration is the military background of the panel members. They are selected from a cross section of the Military Community and are actively involved in the business of being soldiers. The panel members, unlike the judge, live or work in the barracks, and motorpools, train at the training sites, operate and maintain the tanks, jump from the airplanes, fire the weapons and supervise the troops. They are the experts in military community affairs and represent the voice of the

Advisory Commission Report

community. Accordingly, they are often in a better position to determine an appropriate sentence and the effect of that sentence on the accused and the community.



HAROLD L. MILLER
Colonel, JAGC
Chief, Trial Defense Service



DEPARTMENT OF THE ARMY
HEADQUARTERS 10 INFANTRY DIVISION
OFFICE OF THE COMMANDING GENERAL
APO NEW YORK 09036

July 16, 1984

Department of the Army
Office of The Judge Advocate General
Attention: DAJA-CL
Military Justice Act
Advisory Commission
Washington, D. C. 20310

Dear Mr. Chairman and Members:

This letter expresses my opinions as to several proposed changes in our military justice system which your commission has been directed by Congress to study.

I sincerely appreciate your understanding that my command schedule did not feasibly afford the opportunity to have accepted your invitation to personally appear before your commission. My opinions are as follows:

I do not recommend that sentencing by military judge alone be adopted in all noncapital cases. Court member involvement is most critical to individualized sentencing in the military for it reflects a truer application of community and local command standards to one of its citizens. An accused should retain the right to request trial and sentencing by either a court with members (including enlisted) or by a military judge alone.

A possible alternative to sentencing by military judge alone in noncapital cases would be to allow this sentencing in all non-BCD Special and Summary Courts-Martial. Detailing of military judges to non-BCD Special Courts-Martial is common practice Army-wide. Frequently, military judges sit as a Summary Court-Martial. This alternative would align our sentencing system with that presently in effect in the U. S. Magistrate Court system.

I do not recommend that military judges be empowered to suspend sentences. It is my firm opinion that an adjudged sentence should reflect what forms and amounts of punishment the sentencing authority concludes as best meeting the needs of the accused, the military community, and society. My experience causes me to conclude that our present system of who can suspend a court-martial sentence is the most effective and it meets the needs of our military society.

For example, the limitations on presentencing evidence often result in a military judge not receiving a total picture of the accused. Under our present system, however, a convening authority may be provided all pertinent information regarding an accused's character, duty performance, and rehabilitation potential in determining whether or not to accept the sentencing authority's recommendations of suspension. A convening authority is not limited to considering only the evidence of record.

-2-

I do not recommend that Courts of Military Review be empowered to suspend sentences. Presently, the Courts of Military Review have several viable avenues to grant sentence relief. In my opinion a member of a service Court of Military Review should meet certain criteria before being assigned as an appellate judge. In addition to the statutory criteria set forth under the Uniform Code of Military Justice, these judges should possess vast and recent experience in military criminal law, have served as both a staff judge advocate and a military judge, and have within their last five years been assigned to a field command. To expand the authority of our Courts of Military Review without first establishing firm criteria for assignment thereto would not, in my opinion, best serve the needs of our military society.

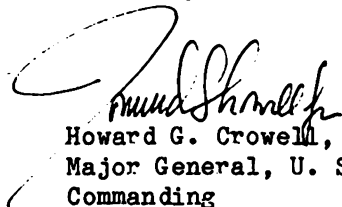
I do not recommend that any form of tenure be given either to military judges or appellate judges on the Courts of Military Review. In the Army, these judges are all assigned to the U. S. Army Legal Services Agency, an independent organization. Assignment of judges to this independent agency affords the shield to protect our system from attacks of arguable influence from outside sources. Our present system in this area is consistent with the efficient management of military judicial resources. I fail to see any true benefit to our system by giving tenure to judges.

I do recommend that the maximum confinement at Special Courts-Martial be increased to one year. This would align our system with the maximum penalty for offenses tried before U. S. Magistrates and most state misdemeanor courts. Additionally, given the relative seriousness of many offenses now being referred to Special Courts-Martial, increased confinement is warranted. Present procedures are adequate for appealing a Special Courts-Martial with an approved bad conduct discharge or for applying for relief under Article 69, Uniform Code of Military Justice. Accordingly, no changes should be made to our current appellate jurisdiction.

With respect to expanding the jurisdiction of the U. S. Court of Military Appeals, I feel there is great wisdom in keeping that Honorable Court under the Executive Branch of our government. I do not believe that an expansion of jurisdiction and placing the court under Article III of our Constitution will, by nature of action, cause the court to attract better qualified jurists. The U. S. Court of Military Appeals has highly qualified judges; they have broad powers in overseeing the administration of military justice throughout the various services; and their jurisdiction should remain as presently chartered.

It is my pleasure to have submitted my thoughts and opinions to your committee. Again, I appreciate your kind understanding of my letter response.

Sincerely,



Howard G. Crowell, Jr.
Major General, U. S. Army
Commanding

Enclosure
Questionnaire



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS LOWRY TECHNICAL TRAINING CENTER (ATC)
LOWRY AIR FORCE BASE, CO 80230

9 AUG 1984

REPLY TO
ATTN OF: CC

SUBJECT: Military Justice Act of 1983 Advisory Commission Study

to: Chairman, Military Justice Act of 1983 Advisory Commission

1. I am pleased to have the opportunity to express my views to your commission on several of the issues the Armed Services Committees have chartered you to study.

2. As the Commander, Lowry Technical Training Center, I not only exercise a numbered Air Force level, general court-martial jurisdiction, but also have the unique responsibility for administering all Air Force sentenced courts-martial offenders assigned to the Air Force centralized confinement system. I exercise this command responsibility through the 3320th Correction and Rehabilitation Squadron located at Lowry Air Force Base, Colorado, with subordinate detachments at the U.S. Disciplinary Barracks, Fort Leavenworth, Kansas, and the Installation Detention Facility, Fort Lewis, Washington. The squadron operates a third confinement facility as well as the Air Force rehabilitation program at Lowry. Of our approximately 700 prisoners in the Air Force at present, 330 of them are confined at one of these facilities, with another 30 awaiting space in the centralized system. Once assigned to the 3320th, I become their general court-martial convening authority, charged with the responsibility for making clemency, parole, discharge and restoration recommendations to the Secretary of the Air Force through the Secretary of the Air Force Personnel Council. As a result, the Lowry general court-martial convening authority's position is unlike all others in the Air Force. I mention this for two reasons: first, in the hundreds of cases I have reviewed as a result of acting on clemency and parole board recommendations, I see what actions court members and judges are taking throughout the world. Second, I am in a unique position to know how our prisoners with substantial sentences fare, well down the road after trial. I see them, talk to them, and follow their cases to a conclusion. In addition, I perform the normal functions of a general court-martial convening authority for cases originating in my jurisdiction.

3. With this background in mind, my views on several of the issues you are chartered to study are as follows:

SENTENCING POWERS OF MILITARY JUDGES

I believe our judges are highly competent professionals who are dedicated to justice and are contributing greatly to its achievement. While taking sentencing away from court members would not cause our military judicial system irreparable harm, I oppose doing so because of a number of inherent disadvantages that would accrue. I, like other convening authorities, carefully select court members. In doing so, two considerations generally are foremost in my mind.

First, in selecting more senior members, I choose officers who demonstrate mature judgement, exhibit high standards of character, and have had experience in working with people, especially as commanders. Second, in selecting junior members, I seek to provide potential leaders with an opportunity to be exposed to the discipline of administering military justice. My experience is that choosing an appropriate sentence is usually as difficult and often more difficult than reaching findings in a court-martial case. Loss of the opportunity for members to choose a sentence would therefore deny the military justice system of the valuable judgement of mature, experienced commanders on the one hand, and the important means of training future leaders in the full spectrum of military justice on the other.

Another important reason for retaining the option for member sentencing in courts-martial is that the members, in most cases, are better able to bring to bear local conditions than a judge when deciding on a sentence. In my experience, many cases involve local nuances that are important in arriving at a sentence (usually in favor of the accused), factors better reflected by the collective subjective judgement of the court members than by a single judge who is unlikely to have the same degree of local knowledge.

Military commanders bear the ultimate responsibility for justice and discipline, the sine qua non for success in combat. Further separation of commanders from the administration of military justice, through the vehicle of exclusive sentencing by judges, creates an undesirable diminution of commanders' sense of responsibility for maintaining military discipline. While sentencing by judges may be acceptable, indeed preferable, in the civilian world where juries are not drawn from a common profession, the military profession, with its different mission and its unique role in society, requires that its officers be intimately involved in all respects of the administration of justice and discipline. Just as the civilian judicial system is designed to serve the needs of civilian society, so must the military justice system be designed to serve the needs of military society, both while fully protecting the rights of the accused. The point is, civilian and military societies are not synonymous - they can't be because of the mission the military society has been charged to carry out by the civilian society: to fight and if necessary die for one's country - unquestioningly.

I have given a good deal of thought to sentence consistency, as the nature of my present command requires I do, over the past two-plus years. As you well know, each case and each accused are sufficiently unique that finite comparison has little value. But my best assessment after reviewing the hundreds of cases is that consistency in sentencing by military judges is no better -- and no worse -- than the consistency of sentencing by members. My conclusion is that nothing is to be gained in the name of consistency by judge-only sentencing.

In cases arising within my own court-martial jurisdiction, nearly half the accused have elected to be tried by a court with members. While I realize there are other reasons than the anticipated sentence that can drive that decision, I am certain that the accused in some cases had greater confidence in the members than the judge with regard to sentence. In any event, I believe the right of the accused to elect -- especially in the military profession -- is a substantial one and should be preserved.

SENTENCE SUSPENSION POWERS OF MILITARY JUDGES

One of the major revelations I experienced when I assumed my present command was the number of opportunities an accused has from the time of his offense to completion of his sentence to have the consequences of his offense ameliorated. It does not appear to me to be necessary or desirable to inject a further opportunity for sentence amelioration through granting suspension powers to our military judges. Our convening and supervisory authorities are in the best position to evaluate the propriety and consequences of suspending sentences, not only at the time of initial review, but during service of confinement in our centralized confinement facilities as well. To fractionalize this authority by granting suspension powers to judges who, in my opinion, are in a less than optimum position to judge the suitability of suspension, would be a step in the wrong direction. While our present practice may not mirror civilian practice, this is another area where differences in the military environment call for different procedures. The civilian accused has no commander and no convening authority.

With respect to suspension of sentences by appellate judges, the possibility exists, of course, than an individual on appellate leave could have a punitive discharge suspended. In my unique position of operating the Air Force centralized confinement system, I have seen the consequences of a return from appellate leave on several occasions when convictions were overturned or rehearings on sentence were ordered. The administrative burdens were by no means minor. For example, one accused disclaimed funds for his return, one had disposed of all his uniforms, and one offered to accept an administrative discharge Under Other Than Honorable conditions rather than uproot himself from the niche he had made for himself in the civilian community. I believe that if punitive discharges were suspended by courts of military review, the only role the accused would usually have upon return to duty would be that of a respondent in an administrative discharge.

As a final comment on this issue, I have observed over the past several years that, while I have suspended portions of a number of sentences as a convening authority, I have not had a single recommendation from a judge in a court-martial I convened that I suspend any part of a sentence.

SPECIAL COURT-MARTIAL SENTENCES

Regarding expanded confinement jurisdiction for special courts-martial, I favor the increase to one year. In my experience as a convening authority, I have found a considerable percentage of cases that appear borderline in the sense of whether a special court-martial can adequately dispose of the offenses. In most of those close cases the value of an Article 32 investigation to either the government or the accused is dubious. Consequently, with expansion of the sentencing jurisdiction to one year for special courts-martial, many or most could be handled by special court-martial with attendant economy.

Another factor that I have encountered is a tendency on the part of some judges to consider that referral by the convening authority to a special court-martial means that the convening authority does not consider the offense or offenses to be serious. Certainly increased sentence powers could help to dispel this notion.

On more than one occasion, I have been presented an offer for pretrial agreement in which referral to special court-martial was the core of the offer. In one such case I believe the offer might well have been made and accepted if special court-martial sentencing power extended to confinement for one year. Consequently, expansion to one year might well have some salutary impact on those few cases in which plea bargaining is appropriate.

TENURE FOR MILITARY JUDGES

I do not believe it is necessary for military judges to have tenure and to grant them tenure would have certain drawbacks. The independence of our judiciary is very evident to me. Having an independent judiciary takes our judges out of the mainstream of the Air Force organizationally, but I believe it was clearly a necessary move. I do not believe, however, that further insulation from the mainstream is good for them or for the Air Force, nor do I believe tenure would serve any substantial purpose. In my experience, the vulnerability of military judges to reassignment has not been abused. Furthermore, as a senior commander, I can readily envision explicit assignment restrictions on judges becoming unmanageable: ours is a very dynamic profession where, commonly, future needs are difficult and often impossible to predict. There are many reasons to keep control over assignments of judges, none of which even remotely concern their perceived lack of impartiality. I recognize that there is a desire on the part of some to emulate civilian practices and that tenure is the rule rather than the exception in the civilian judicial sphere. However, emulation of the civilian practice is not an end in itself. I believe our dynamic, worldwide mission simply makes us different. And, of course, reassignment of a military judge is by no means the equivalent of removal of a civilian judge because the reassigned military judge continues his principal profession -- that of a military officer -- with our own variety of "tenure" (i.e., career status) uninterrupted.

If tenure is instituted, I believe strongly it should be for a normal tour only. I do not detect any problems of significance attributable to experience levels of our judges requiring prolonging tours as a judge. Indeed, under our concept of career progression, it would be a disservice to them to carve out a large portion of their career in the comparatively insular, albeit important, function they perform while judges. By the same token, a normal tour of duty as a judge will undoubtedly provide valuable training and background for later judge advocate assignments.

4. Let me again express my appreciation to your commission for allowing me to make known my views on these issues.



WILLIAM R. USHER, Major General, USAF
Commander



DEPARTMENT OF THE NAVY
COMMANDER NAVAL SURFACE FORCE
UNITED STATES ATLANTIC FLEET
NORFOLK, VIRGINIA 23511

N003
14 August 1984

Colonel Thomas Hemingway, USAF
Chairman
Military Justice Act of 1983
Advisory Commission
c/o AF/JAJM
1900 Half Street, S.W.
Washington, DC 20324

Dear Colonel Hemingway:

At the conclusion of my testimony on 10 August 1984, Colonel Raby requested that I amplify my remarks with some of the statistical data on which I relied in forming my conclusions. To that end I have prepared the following discussion.

The Naval Surface Force, U. S. Atlantic Fleet, is comprised of approximately 190 geographically dispersed subordinate commands vested with special court-martial convening authority. All special courts-martial convened by these commands and tried in the continental U. S., Guantanamo Bay or Puerto Rico, in which the sentence (awarded prior to 1 August 1984) as approved by the convening authority, includes a bad conduct discharge, are reviewed by the Force Commander as supervisory authority. Such cases not involving an approved bad conduct discharge are reviewed by flag officer commanders of organizational units directly subordinate to the Force Commander, a Vice Admiral.

The vast majority of these 190-odd subordinate units are ships or other mobile organizations which are frequently deployed throughout the world. Thus many trials convened by such units are conducted overseas. Such cases are not routed to COMNAVSURFLANT or any directly subordinate commander for review. These cases comprise no part of the available data base within COMNAVSURFLANT.

Because of their operational responsibilities, subordinate flag officers within the COMNAVSURFLANT chain of command are restricted by regulation from exercising their general court-martial convening authority. In the case of officer accused, all subordinate convening authorities located within CONUS, Guantanamo Bay or Puerto Rico, submit recommendations for trial by general court-martial directly to COMNAVSURFLANT who acts as convening authority in these cases. In the case of enlisted accused, such recommendations are submitted to the most accessible Naval Base commander, an officer who is not in the COMNAVSURFLANT chain of command. Thus general courts-martial involving enlisted accused are also not part of the available data base within COMNAVSURFLANT.

During the 18-month period commencing 1 January 1983, COMNAV-SURFLANT convened 5 general courts-martial involving officer accused. None of these cases could reasonably have been expected to be referred to a special court-martial assuming a special court-martial had the contemplated expanded sentencing power. I have also surveyed 75 general courts-martial involving enlisted SURFLANT personnel, whose courts were convened during the same time period by various CONUS Naval Base commanders. Based on somewhat scanty information, I can only identify 4 or 5 such cases which might reasonably have been referred to a special court-martial with expanded sentencing power.

COMNAVSURFLANT reviewed, as supervisory authority, the following bad conduct discharge special courts-martial during the periods indicated:

<u>1982</u>	<u>1983</u>	<u>1984 (Jan-June)</u>
589	564	218

Of these cases, I selected all of the cases arriving at COMNAVSURFLANT during the first quarter of CY84 for detailed analysis. The cases were tried by 13 or more different military judges in 5 separate locations on the U. S. East coast. The results are as follows:

I. Total Cases	107
Members sentence	2
Military Judge alone sentence	105
Awarded confinement 5 months or more	7
Awarded confinement less than 4 months	84
Pretrial Agreements	
No impact on actual sentence	14
Required suspension of BCD	5
Reduced forfeitures or reduction in rate	9
Reduced confinement	34
Clemency actions required by PTA	48

Clemency action by CA in excess of
PTA requirements or in cases with no
pretrial agreement

9 (includes
two BCD
suspensions)

Total Clemency by CA 57

II. Breakdown by offense

Unauthorized absence < 1 year	57
Unauthorized absence > 1 year	25
Total unauthorized absence	82
Drugs	6
Drugs plus misc. other	5
Larceny	4
Assault	4
Misc.	6
	<hr/>
Total	107

In 59 of the foregoing 107 cases, the accused requested a discharge at trial. Such a request almost forecloses, as a practical matter, judicial recommendation for clemency. In the remaining 48 cases, the military judge recommended suspension of some part of the sentence in 12 cases. The recommendation was acted upon favorably by the convening authority in 7 cases. Recommendations to suspend some confinement were made in 3 cases, all accepted, while only 4 of 12 recommendations to suspend discharges were accepted.

In an attempt to eliminate the distortion introduced by pretrial agreements, I isolated the 82 unauthorized absence cases. My reasoning is that in an unauthorized absence case, a pretrial agreement is overwhelmingly a free gift from the convening authority since the defense has relatively little with which to bargain. In such cases the convening authority almost never can complain that he was forced by the system to accept a result he otherwise would have found seriously objectionable. The 82 absence offenses were further subdivided into four categories:

Advisory Commission Report

1. UA one year or less duration with good prior record
2. UA one year or less duration with poor prior record
3. UA in excess of one year duration with good prior record
4. UA in excess of one year duration with poor prior record.

"Poor" prior record was somewhat arbitrarily defined as a prior special court-martial conviction or five or more prior non-judicial punishments.

	<u>No. of Cases</u>	<u>Some form of CA Clemency</u>	<u>Suspend BCD</u>
short UA/good record	43	16	1
short UA/poor record	14	7	1
long UA/good record	16	10	1
long UA/poor record	9	7	2 (1 w/o PTA)
	<hr style="width: 50px; margin: 0 auto;"/> 82	<hr style="width: 50px; margin: 0 auto;"/> 40	<hr style="width: 50px; margin: 0 auto;"/> 5

Thus while the overall rate of convening authority clemency was 49%, it rose from 37% for those with "short" UAs and relatively good records to 77% for those with long UAs and poor records. In the area of suspended BCDs, the trend line for clemency rises even more sharply from 2% for the short UA clean records to 22% for the long UA poor records. For the 25 long UA cases average confinement awarded was 2.9 months, reduced by convening authorities to 1.7 months. For the 57 short UA cases, average confinement awarded was 2.3 months, reduced by convening authorities to 1.85 months.

Some further curiosities emerged from this 107 case sample. Eight of 11 drug cases involved a pretrial agreement (which in these cases is often a more meaningful bargain process than in UA cases). The overall clemency rate was 54%, driven exclusively by pretrial agreements, but no bad conduct discharges were suspended. Three of the four larceny cases involved sums in excess of \$5000, and 50% of the BCDs were suspended.

Because of the way general courts-martial are administered for SURFLANT personnel, I have much reduced access to detailed information from which to draw conclusions. However in reviewing the 28 GCMs involving SURFLANT personnel tried in Norfolk, Virginia between 1 January 83 and 31 July 1984, 8 or almost 35% involved sentencing by court-members. This is such a large increase over the less than 2% rate demonstrated by the sample of special courts that I do not believe it can be explained by any geographic bias of the sample.

All of the foregoing is of course subject to the usual cautions about drawing unwarranted conclusions from inadequate data. Nevertheless it conforms precisely with my subjective impression formed over six years of close observation regarding the way in which the military justice system actually functions in the naval operating forces. I hope the foregoing will be of some assistance to your Commission.

Very respectfully,



F. G. DE ROCHER
CAPT, JAGC, USN
Force Judge Advocate

Copy to:
NAVY JAG (Code 20)



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY, EUROPE and SEVENTH ARMY
THE COMMANDER IN CHIEF
APO NEW YORK 09403

14 AUG 1984

Colonel Thomas L. Hemingway
 Chairman, Military Justice Act of 1983
 Advisory Commission
 Office of The Judge Advocate General, Air Force
 Chief, Military Justice Division
 1900 Half Street, SW
 Washington, D. C. 20324

Dear Colonel Hemingway:

This letter expresses my opinions concerning the proposed legislative changes to the military justice system which your commission has been directed to study. I have reviewed the four subject areas in the questionnaire provided to general and special court-martial convening authorities. My views concerning each area are submitted below.

I do not support guaranteed terms of office for military trial judges or appellate judges on the Courts of Military Review. The current system provides independence for the Army judiciary. Military judges in the Army are assigned to an independent legal services agency and trial judges are no longer detailed to specific courts-martial by convening authorities. A guaranteed term of office for military judges would not enhance either the independence or fairness of the Army judiciary. Also, the approval of this proposal would deny the services needed flexibility in assignment of these legal officers.

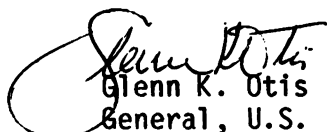
Military judges should not be the sole sentencing authority in noncapital cases. Court members have a better sense of the impact offenses have on servicemembers and the military community affected for the purpose of determining an appropriate, individualized sentence. The responsibility for sentencing also provides court-martial members valuable training in military justice and a greater understanding of the entire disciplinary process. Finally, if adopted, the proposal would remove an important sentencing option from accused servicemembers by denying them the right to request trial and sentencing by a court composed of members, to include enlisted personnel.

-2-

I oppose granting the power of suspension of sentences to military judges and appellate judges on the Court of Military Review. I strongly believe commanders must be maintained in the key decision making points of the military justice system; this is one of those points. Neither a military trial judge nor an appellate court can properly evaluate the effect a suspension decision has on the servicemember, unit discipline, and overall military readiness; appellate courts in particular are too far removed in time and distance from the accused and the unit to make this decision. The commander is better qualified to make decisions concerning suspension of sentences. For that reason, I believe military trial judges and Courts of Military Review should not be given the authority to suspend all or even part of an adjudged sentence.

I support the measure to increase maximum confinement punishment of special courts-martial (SPCM) to one year, provided a pretrial hearing in the nature of an Article 32, UCMJ, investigation is not required. This change should reduce the number of general courts-martial and quicken the administrative processing of cases. However, some of the benefits of this proposal would be diluted if a hearing requirement, with increased administrative burdens and delays, is created as a prerequisite to convening SPCMs with an increased confinement maximum.

Sincerely,


Glenn K. Otis
General, U.S. Army
Commander in Chief

Advisory Commission Report



DEPARTMENT OF THE AIR FORCE
 HEADQUARTERS PACIFIC AIR FORCES
 HICKAM AIR FORCE BASE, HAWAII 96853

13 AUG 1984

Mr. Chapman B. Cox
 Chairman, Military Justice Act of
 1983 Advisory Commission
 Washington DC 20301

Dear Mr. Cox

I appreciate the opportunity to comment on the matters under consideration by the Commission.

The military justice system must serve, in the final analysis, the best interests of discipline and readiness of the nation's armed forces. The system must be fair and reasonable in order to be supported by the American people and by the men and women in uniform, but it must never be forgotten that the system is unique and serves a unique purpose. Analogies to civilian practice and procedures are seldom relevant.

Military judges call the issues as they see them and are, in fact and law, independent of command authority. What is required in a military judge is judgment, and a judge advocate acquires that judgment best by a career of many and varied assignments--not one of narrow specialization. An assignment as a military judge is one of many assignments a judge advocate should hold as he or she progresses to the senior leadership positions in the Air Force, and The Judge Advocate General must have the flexibility to put judge advocates in the positions that best serve the needs of the Air Force and the individual. Requiring tenure for military judges or a general officer billet in the Judiciary is both bad policy and unnecessary.

Because the military community is both distinct as an entirety and varies from place to place and command to command, court members are in the best position to act as the conscience of the military community and to adjudge an appropriate sentence. The right of a military member to be both tried and sentenced by members of the military community, including enlisted members, is a substantial one that should not be diminished. Further, the power to suspend sentences should reside solely and precisely where it is now--in the hands of the commander.

As Air Force practice provides an accused virtually identical protections in both special and general courts-martial, we have no objection to increasing the special court-martial jurisdictional limit to include one-year confinement at hard labor.

You are dealing with matters which go to the heart of military morale, discipline and readiness. Changing a system which serves the nation so well must be done with great care.

Sincerely


 JEROME F. O'MALLEY, General, USAF
 Commander in Chief



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS TWENTY-SECOND AIR FORCE (MAC)
TRAVIS AIR FORCE BASE, CALIFORNIA 94535

29 AUG 1984

Colonel Thomas L. Hemingway
Chairman, Military Justice Act of 1983 Advisory Commission
Washington Headquarters Services
Washington, D.C. 20301

Dear Colonel Hemingway:

Thank you for the opportunity to comment on topics before the Advisory Commission of the Military Justice Act. I would like to offer my opinions on several of the issues mentioned in your letter of 11 July 1984.

(1) I firmly believe the sentencing authority in non-capital courts-martial should not be exercised exclusively by military judges. Unlike most civilian judges, Air Force judges try cases in a broad geographic area, may appear at any particular base very infrequently and usually are stationed at a base other than that at which a court is held. As a result, they may well be less aware of the needs of discipline at any particular base than a cross section of the military community serving on a court panel. Therefore, I do not believe the disciplinary needs of the Air Force will benefit by fixing sentencing authority exclusively in the hands of military judges. The present system enables the accused to choose to be tried by military judge alone, thereby safeguarding the accused's rights while protecting the interests of military discipline. I recommend against tinkering with it.

(2) I also see no advantage in authorizing judges or the Courts of Military Review to suspend sentences. When sentencing an accused, the judge should impose a sentence he or she considers appropriate. By allowing judges to suspend sentences, I fear some may be tempted to adjudge an inappropriately severe sentence, then mitigate it by suspending a large part. Such actions would be an abdication of judicial responsibility. In addition, I believe the military system differs from that of the civilian community in that national security interests often take precedence over rehabilitation efforts for a particular accused. Partly due to mission exigencies, we cannot develop a probationary system analogous to that in the civilian community. Quite honestly, our commanders and supervisors already have too many responsibilities to routinely function as quasi-probation officers. I regard any decision to expend Air Force resources to rehabilitate an offender through a suspended sentence to be an inherent function of command.

(3) I applaud any efforts to expand the jurisdiction of special courts-martial to permit adjudgment of sentences of confinement for up to one year. Such a change would conform our classification of offenses more closely to that of civilian federal law. In a large number of cases, we in the military deal with offenses which may merit confinement in excess of six months. We currently face the unpleasant alternatives of either trying these cases in a general court-martial or a court with an insufficient level of maximum punishment. In terms of protecting the accused's rights, special courts-martial have advanced a long way from the system prevailing when the six month jurisdictional limit was established. These courts now include a military judge, a military defense counsel, the right of the accused to hire

GLOBAL IN MISSION — PROFESSIONAL IN ACTION

Advisory Commission Report

civilian counsel and rules of evidence identical to those in general courts-martial. The time has arrived for their jurisdiction to reach a level reflecting their stature in the military justice system.

(4) I strongly oppose suggestions that military judges should have tenure. Our judges are first and foremost military officers. Like other officers, they should be subject to reassignment when it best meets the needs of the military. They should not be insulated from the system of evaluation and control common to other officers. I suppose this recommendation for tenure derives from a suspicion that military judges lack independence due to "command influence." If such is the suspicion, it is completely false. First of all, I know of no such efforts to influence a military judge in favor of command policy during my long career in the Air Force. Secondly, should such pressure arise in an isolated instance, the military judge should have the same personal integrity as other officers to resist it in accordance with his or her oath. After all, military judges are not the only officers in the Air Force theoretically subject to improper pressures, which are inherent to any large organization. We should combat such defects by establishing mechanisms for exposing them, and by choosing our military judges from the very best of our judge advocates. In short, I oppose any effort to create a special caste of officers in the legal field, apart from the responsibilities and command of other officers, just as strongly as I would resist it in the operational functions.

(5) I have no comment on the other issues mentioned in your letter.

Once again, I appreciate this opportunity to comment on military justice matters. I hope my thoughts provide some assistance to you. Overall, we have a very fine military justice system in the Air Force. In many ways, it has improved greatly since I entered the Navy in 1945. I am sure your work will further enhance its fairness and efficiency, providing our men and women with a system which meets the requirements of military discipline and protects the rights of the accused.



DONALD W. BENNETT
Major General, USAF
Commander

06 SEP 1984

STATEMENT OF THE SERGEANT MAJOR OF THE MARINE CORPS, SERGEANT MAJOR
ROBERT E. CLEARY, U.S. MARINE CORPS

Thank you for the opportunity to submit a statement. Although I have been briefed in detail on all of the issues which the DoD Advisory Commission is considering, I will offer some remarks on only two of them.

Sentence by military judge alone. As you probably know, over two-thirds of all Marine Corps courts-martial are tried by judge alone. I think this repeated choice of young Marines to let the judge decide guilt or innocence and to let the judge decide the punishment if guilty is based on a high confidence level which they have in Marine Corps judges. Most of our judges have prior line service and seem to have the courage to announce a fair sentence even if the sentence is not always as high as some commanding officers or commanding generals might expect. In wartime we might have real problems freeing up numbers of officers to sit as members on courts-martial if large numbers of accuseds wanted trial by members. I won't attempt to recommend any specific wartime arrangement, but respectfully suggest that you gentlemen think about it. For peacetime and the limited periodic flaps we get into in recent years I think the current system is working well and there is no need to change it.

Suspension of sentence by military judge. I am against the judge suspending any sentence. The Marine appears before the judge for a very short time. Sometimes his superiors get to testify and usually the judge gets to see some pages from his service record book. It seems to me that civilian judges announce a sentence and then sometimes suspend part of it or all of it because they have to be the only authority to impose a sentence. That seems natural because civilians live a private life of their own. Marines live a public life: they're under constant and organized supervision and the results of that supervision are not only documented but are remembered in an organized way by superiors like platoon sergeants and company commanders. I can't believe that a judge can know as much basic information about a Marine as the commanding officer can know through talking with these people. If a court-martial is ever allowed to suspend sentences we could find ourselves with all sorts of conditions of probation that might distract a platoon sergeant from his primary duty and turn him into a probation officer if elaborate post-trial conditions are announced by the court.

All in all, I think the system operates fairly although I look forward to the changes under the new manual which should speed up things before the trial and make it easier to take action after the trial.

Robert E. Cleary
ROBERT E. CLEARY

U.S. Department
of Transportation

United States
Coast Guard



Commandant
United States Coast Guard

Washington, DC 20593
Staff Symbol:
Phone: G-PO
(202) 426-2738

24 SEP 1984

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act of 1983 Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, DC 20301

Dear Colonel Hemingway:

Thank you for the opportunity to comment on the impact that tenure for military judges would have on personnel assignments in the Coast Guard. This letter is a single reply to your letters to CAPT Zins and CAPT Lynn dated 21 May 1984. I tailored my response to the paragraph numbering of your letters.

1. Assume that "tenure" means a guaranteed term of: (a) normal tour of duty, (b) three to five years, (c) five to ten years, (d) over ten years.

Option (a), Normal Tour. The normal Coast Guard tour length for staff positions at Headquarters or district offices is four years. A general court-martial judge assignment is considered to be a staff assignment, therefore a four year tour would not be inconsistent with assignment regulations. Recent assignment practice, however, has been to limit the military judge tour to two years. This practice has satisfied the needs of the Service and the career aspirations of Coast Guard law specialists. I might add that this apparent rapid turnover has not adversely affected the processing of courts-martial in the Coast Guard.

Option (b), Three to Five Year Tour. This could be accommodated within our normal four year staff assignment tour lengths, but as stated earlier, would be contrary to past practice which provides the best approach for satisfying both organizational and individual needs.

Option (c), Five to Ten Years and Option (d) Over Ten Years. Implementation of a tour length of this duration would effectively remove the officer from the mainstream of Coast Guard business. Unlike the DOD services all Coast Guard officers are considered general line officers, i.e., there are no engineering, legal, supply, or other specialty corps. Coast Guard law specialists probably would not view such an assignment as career enhancing which would create recruiting difficulties for the legal specialty.

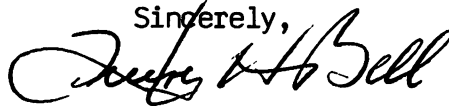
2. Requirement that the entire term be spent at one location. For a normal tour this requirement poses no problems. Longer tours, however, raise the same issues discussed above regarding generalist career patterns.

3. Requirement that judges perform only judicial functions. The Coast Guard uses full and part-time military judges. Part-time military judges detailed to special courts-martial are typically District Legal Officers. They are detailed to special courts-martial only when they can devote the necessary attention to them, but they are not relieved of other duties. Qualified military judges designated by and responsible to the Chief Counsel serve as general courts-martial judges. Their functions, therefore, are solely judicial.

4. Mandatory promotion for all judges who are within the primary zone. Since all of our judges are general line officers, they are considered in competition with all other officers in a zone regardless of specialty. We could not accept mandatory promotion for any group of specialists without adversely affecting promotion opportunity for others.

The DOPMA does not apply to the Coast Guard, therefore tenure relative to DOPMA is not a factor as far as the Coast Guard is concerned. For the most part, personnel management of the Coast Guard officer corps is based on law as set forth in Title 14 USC. Tenure, as defined in your letter, undoubtedly would contradict many of the provisions contained in Title 14 USC and thus significantly impact the personnel management of the Coast Guard officer corps.

Sincerely,



JOSEPH H. BELL
1st Lt., U.S. Coast Guard
CAGM, Office of Personnel

Advisory Commission Report

HEADQUARTERS MILITARY AIRLIFT COMMAND

**PRESENTATION TO THE
MILITARY JUSTICE ACT OF 1983 COMMISSION**

**BOLLING AIR FORCE BASE, WASHINGTON, DC
10 AUGUST 1984**

**STATEMENT OF: LIEUTENANT GENERAL ROBERT F. COVERDALE
VICE COMMANDER IN CHIEF
MILITARY AIRLIFT COMMAND**



Biography

United States Air Force

Secretary of the Air Force, Office of Public Affairs, Washington, D.C. 20330

LIEUTENANT GENERAL ROBERT F. COVERDALE

Lieutenant General Robert F. Coverdale is vice commander in chief, Military Airlift Command, with headquarters at Scott Air Force Base, Ill.

General Coverdale was born Sept. 24, 1930, in Amherst, Ohio, and graduated from Amherst High School in 1948. He attended Ohio Wesleyan University in Delaware, Ohio, and received a bachelor of arts degree in 1952. He graduated from the Armed Forces Staff College at Norfolk, Va., in 1967.

He was commissioned a second lieutenant through the Air Force Reserve Officers' Training Corps program and received his pilot wings after completing training at Vance Air Force Base, Okla., in November 1953.

His first assignment as a C-119 pilot at Sewart Air Force Base, Tenn., with the 75th and 62nd Troop Carrier Squadrons, was the beginning of his long career in airlift. While at Sewart he also served as a C-130 pilot, chief of the command post, aircraft scheduling officer and as the 314th Troop Carrier Wing's chief of training.

General Coverdale was assigned to Detachment 1, 315th Air Division, Naha Air Base, Okinawa, in September 1962. His positions there included chief of standardization with the 6315th Operations Group and operations officer of the 817th Troop Carrier Squadron.

He departed Okinawa in July 1965 and was assigned at Langley Air Force Base, Va., serving first with the 4450th Standardization-Evaluation Group and later with Headquarters Tactical Air Command as a staff officer in airlift concept and doctrine.

In August 1967, after graduation from the Armed Forces Staff College, he was assigned to Detachment 4, 314th Air Division at Don Muang Airport, Thailand, where he served as operations officer. He returned to the United States in August 1968 and was assigned to Headquarters U.S. Air Force, Washington, D.C., where he became chief of the Employment Test Branch for the deputy director for operational test and evaluation.

The general became vice commander of the 516th Tactical Airlift Wing at Dyess Air Force Base, Texas, in March 1971. He assumed command of the wing, redesignated as the 463rd Tactical Airlift Wing, in June 1972. General Coverdale was named commander of the 314th Tactical Airlift Wing at Little Rock Air Force Base, Ark., in November 1973, and took command of the 834th Air Division there in July 1974.



(Current as of October 1981)

In June 1975 he became commander of the 317th Tactical Airlift Wing as well as the first commander of the newly established U.S. Air Force Airlift Center at Pope Air Force Base, N.C. He was named deputy chief of staff for plans, Headquarters Military Airlift Command at Scott Air Force Base in August 1977, and became the command's chief of staff, in December 1979. From May 1980 to July 1981, General Coverdale commanded 22nd Air Force at Travis Air Force Base, Calif. He assumed his present duties in August 1981.

The general is a command pilot with more than 7,200 flying hours in various types of transport aircraft. He flew 46 combat missions in Southeast Asia and accumulated 162 combat flying hours. General Coverdale also has a parachutist rating, which he received in 1975 after completing Airborne Jump School with the 82nd Airborne Division at Fort Bragg, N.C. His military decorations and awards include the Distinguished Service Medal, Legion of Merit with one oak leaf cluster, Meritorious Service Medal with one oak leaf cluster, Air Force Commendation Medal with one oak leaf cluster, Republic of Vietnam Gallantry Cross with palm and Republic of Korea Order of National Security Merit.

He was promoted to lieutenant general Aug. 1, 1981, with same date of rank.

General Coverdale is married to the former Norma Tate of Huntingdon, Tenn. They have three children: Lisa, Amy and Tate.

PERSONAL FACT SHEET - LIEUTENANT GENERAL ROBERT F. COVERDALE

Personal Data

1. Born - Sept. 24, 1930, Amherst, Ohio.
Father - Fredrick Coverdale; mother - Odelia Coverdale.
2. Married - June 9, 1957; wife - Norma Tate.
Children - Lisa, Amy and Tate.
3. Hometown - Amherst, Ohio.

Education

Graduated - Amherst High School, Amherst, Ohio, 1948; Ohio Wesleyan University, Delaware, Ohio, bachelor of arts degree, 1952; Armed Forces Staff College, Norfolk, Va., 1967.

Service

1. May 1953 - November 1953, student, pilot training, 3575th Pilot Training Wing, Vance Air Force Base, Okla.
2. November 1953 - February 1954, student, advanced pilot training, 314th Troop Carrier Wing, Sewart Air Force Base, Tenn.
3. February 1954 - May 1954, C-119 pilot, 75th Troop Carrier Squadron, Sewart Air Force Base, Tenn.
4. May 1954 - August 1955, C-119 pilot, 61st Troop Carrier Squadron, Sewart Air Force Base, Tenn.
5. August 1955 - March 1957, C-119 pilot, 62nd Troop Carrier Squadron, Sewart Air Force Base, Tenn.
6. March 1957 - September 1958, assistant wing liaison officer, 314th Troop Carrier Wing, Sewart Air Force Base, Tenn.
7. September 1958 - May 1959, C-130 pilot, 50th Troop Carrier Squadron, Sewart Air Force Base, Tenn.
8. May 1959 - February 1962, air operations officer with additional duty August 1961 - June 1962 as combat crew control officer, 314th Troop Carrier Wing, Sewart Air Force Base, Tenn.
9. September 1962 - July 1963, assistant director, combat operations, Detachment I, 315th Air Division, Naha Air Base, Okinawa.
10. August 1963 - August 1964, chief, standardization and evaluation team, Detachment I, 315th Air Division, Naha Air Base, Okinawa.
11. August 1964 - July 1965, operations officer, 817th Troop Carrier Squadron, Naha Air Base, Okinawa.

(General Coverdale cont.)

12. July 1965 - October 1965, C-130A team chief, Evaluation Branch, 4450th Standardization-Evaluation Group, Langley Air Force Base, Va.
13. November 1965 - February 1967, staff officer, deputy chief of staff for operations, Headquarters Tactical Air Command, Langley Air Force Base, Va.
14. January 1967 - August 1967, student, Armed Forces Staff College, Norfolk, Va.
15. August 1967 - August 1968, operations officer, Detachment 4, 314th Air Division, Don Muang Airport, Thailand.
16. August 1968 - March 1971, chief, Employment Test Branch, Office of the Deputy Director, Operational Test and Evaluation, Headquarters U.S. Air Force, Washington, D.C.
17. March 1971 - June 1972, vice commander, 516th Tactical Airlift Wing (redesignated 463rd Tactical Airlift Wing), Dyess Air Force Base, Texas.
18. June 1972 - November 1973, commander, 463rd Tactical Airlift Wing, Dyess Air Force Base, Texas.
19. November 1973 - July 1974, commander, 314th Tactical Airlift Wing, Little Rock Air Force Base, Ark.
20. July 1974 - February 1975, commander, 834th Air Division, Little Rock Air Force Base, Ark.
21. February 1975 - June 1975, commander, Operating Location Alpha, 21st Air Force, Pope Air Force Base, N.C.
22. June 1975 - August 1977, commander, 317th Tactical Airlift Wing and U.S. Air Force Airlift Center, Pope Air Force Base, N.C.
23. August 1977 - December 1979, deputy chief of staff for plans, Headquarters Military Airlift Command, Scott Air Force Base, Ill.
24. December 1979 - May 1980, chief of staff, Headquarters Military Airlift Command, Scott Air Force Base, Ill.
25. May 1980 - July 1981, commander, 22nd Air Force, Travis Air Force Base, Calif.
26. August 1981 - present, vice commander in chief, Headquarters Military Airlift Command, Scott Air Force Base, Ill.

D. Decorations and Service Awards

Distinguished Service Medal
 Legion of Merit with one oak leaf cluster
 Meritorious Service Medal with one oak leaf cluster
 Air Force Commendation Medal with one oak leaf cluster
 Republic of Vietnam Gallantry Cross with palm
 Republic of Korea Order of National Security Merit

(General Coverdale cont.)

E. Effective Dates of Promotions

<u>Grade</u>	<u>Temporary</u>	<u>Permanent</u>
Second Lieutenant	May 23, 1952	May 23, 1952
First Lieutenant	Apr 9, 1954	Sep 6, 1955
Captain	Apr 10, 1958	Sep 5, 1959
Major	Jul 15, 1963	Sep 5, 1966
Lieutenant Colonel	Sep 26, 1966	Sep 5, 1973
Colonel	Oct 1, 1970	Oct 1, 1975
Brigadier General	Jul 1, 1975	Jul 16, 1977
Major General	Jul 1, 1978	Dec 4, 1980
Lieutenant General	Aug 1, 1981	

(Date of rank Aug. 1, 1981)

END

Mr Chairman and members of the commission, I appreciate the opportunity to appear before you today and impart my views on the questions chartered for your inquiry by congressional mandate.

BACKGROUND

As my biography indicates, I am the Vice Commander of the Military Airlift Command, an organization of approximately 79,000 military members. For purposes of court-martial jurisdiction, the command is divided into five general court martial (GCM) jurisdictions,--the principal ones being 21 AF, 22 AF, and 23 AF. The remaining two are the 76 ALD at Andrews AFB which exercises GCM jurisdiction over both Andrews and Bolling AFBs. The other is a small GCM jurisdiction located at Lajes in the Azores. Averaging the number of courts-martial in the command over the last several years, we find that the average general court-martial case load is about 45 per year and the average number of special courts-martial tried is about 227 per year for a total average case load of 272. I understand that compared to the other services, this is a relatively light case load.

Prior to assuming my current position, I was the commander of 22 AF located at Travis AFB CA. As such, I was the convening authority of the busiest GCM jurisdiction in the Military Airlift Command. 22 AF has wide geographic responsibility ranging from the Mississippi River west and throughout the Pacific. However, the court martial jurisdiction I exercised was only over bases located within the continental USA. In our overseas area, court-martial jurisdiction is exercised, pursuant to agreement, by other commands. 22 AF averaged approximately 145 courts-martial per year, with about 25 being general courts-martial and 120 being special courts-martial. In my position as a convening authority, as well as throughout my career, I have had close contact with the administration of military justice in the Air Force. Therefore, I have formed certain views and opinions with regard to the four principal issues being evaluated by this committee. I will address the four issues in the following order: 1) Tenure for military judges, 2) Sentencing by military judges, 3) Suspension power for military judges and for Courts of Military Review, and 4) Increasing jurisdictional limits of special courts-martial.

TENURE FOR MILITARY JUDGES

As a basic proposition, I do not think an assignment should be absolute, particularly in a military context. The very essence of the military requires a degree of flexibility to maximize the best use of military forces. Within that context, I do not believe it feasible or advisable to place a military officer in a lengthy, guaranteed position. There are a number of other career considerations, for example, career enhancement, career growth, and upward mobility, that become very important factors in determining position assignment and length of tours. A lengthy period of assignment for a judge advocate officer would be too limiting. I do not find it objectionable that a normal tour

length in a military judge position be directed as long as there remained the safeguards for removing an incumbent from that office for misconduct, misfeasance, or other just cause. I am unaware of any situation where a military judge has been removed from a military judge assignment because of dissatisfaction with his judgments. In the final analysis, I believe the current system is operating well and see no compelling reason for it to be disturbed.

SENTENCING BY MILITARY JUDGES

I am not in favor of a system mandating that military judges sentence in all court-martial cases. In my view, while an accused does have the right to elect trial by military judge alone, to remove any military community involvement in the sentencing process removes the military command structure one step further away from disciplinary matters--an essential element of the military organization. In sentencing by court members, there is reflected a broad base experience in all aspects of the military organization. This potentially brings to the court martial process another perspective that judges may not always have. In sum, it brings a mixture of experiences in the military community. I believe this perspective is important. In addition, I believe tradition is an important matter to be considered in this regard. Traditionally, enlisted members have had the right to have enlisted peers involved in rendering judgment on them. While this may not be a frequently used right, I do not believe it is diminished in importance.

SUSPENSION POWER FOR MILITARY JUDGES AND FOR COURTS OF MILITARY REVIEW

I am not in favor of the power of suspension of sentences be vested in military judges. In my opinion, this is a matter directly tied to the convening authority's wider knowledge and perspective of the command. This broader picture is indispensable in evaluating the individual sentence of a member of the command. The convening authority has more information at his disposal and is not taking the narrow view of a particular case within a very limited time frame. Additionally, I view this proliferation of the authority to suspend as being another step to remove military command from the all important disciplinary concerns. In this regard, it must be remembered that commanders do not exercise these powers in isolation. Rather, they have available to them professional assistance and advice from a broad spectrum of disciplines including that of staff judge advocate. I have less concern with regard to suspension powers being exercised by the Courts of Military Review inasmuch as they have available to them much of the same information available to the convening authority. Further, their power could only be exercised by more than one person since the courts are comprised of multi-member panels. Again, I do not see any problem or criticism of the way the system runs now and, therefore, do not see any need for change in the suspension of sentence authority.

INCREASING JURISDICTIONAL LIMITS OF SPECIAL COURT MARTIALS

I am in favor of this proposal inasmuch as I envision that it will reduce the number of general court-martial cases. I believe there are enough cases that are on the border line between special and general that ultimately end up in a general court martial because of the current sentence limitations. General courts-martial are more time consuming and costly proceedings because of formalized investigations and greater personnel requirements. I believe a 1-year maximum confinement period, under the circumstances, is a better break point between the two courts-martial. Given the much greater potential punishment in a general court-martial, I believe the proposed increase in special courts-martial would inure to the benefit not only of the military but also the accused. There is no question that a greater stigma attaches to a general court-martial conviction than that of a special. Presupposing the increase is adopted, I do not see any need to increase the minimum number of members to serve on a special court martial. Our experience in the Air Force is that rarely, if ever, does a minimum of three members end up sitting on a case. I would guess the average number to be closer to five. Considering the proposal to allow sentencing by one person alone, namely the military judge, I fail to see much argument mustered to say that three members are not enough to decide an appropriate sentence.

These observations I offer as a result of my experience in the command administration of military justice. I will be happy to answer any questions you may have. Thank you for the invitation to appear before you today.

STATEMENT PRESENTED TO THE
MILITARY JUSTICE ACT OF 1983 STUDY COMMISSION

by

Colonel D. M. Brahms
U.S. Marine Corps
on
10 August 1984

[Greetings and Salutations]

I. INTRODUCTION

I have been asked to comment on whether the Court of Military Appeals (CMA) should be an Article III Court. When I was asked to testify before this commission I reviewed the commission's mandate set forth in section 9(b)(1) of the Military Justice Act of 1983. I discovered that the commission had not been tasked to study this matter and I wondered as to its source. Researching further, I found that the Armed Services Committee of the United States House of Representatives recommended that this issue be considered by the commission. H.R.Rep. No. 98-549, 98th Cong., 1st Sess. 17 (1983). Furthermore, I learned that Chief Judge Everett has suggested that the Court of Military Appeals be reestablished under Article III. (Chief Judge Everett's remarks at Maxwell Air Force Base, 3 April 1984, to the Tenth-Inter-Service Seminar.) In light of this apparent interest, I wondered what research had been conducted on the advisability of this change. I had one of my staff officers check with the following organizations and individuals to see if we might glean some wisdom from these sources. He checked with: (1) Standing Committee on the Federal Judiciary, American Bar Association; (2) Administrative Office of the United States Courts, Federal Judicial Center; (3) Staff Director for Government Liaison, Washington, D.C., American Bar Association; (4) Policy and Research Branch, Headquarters, U.S. Marine Corps; (5) Military Law Branch, Headquarters, U.S. Marine Corps; and (6) several members of your commission. The majority of these organizations were unaware that such a change is being contemplated and expressed little if any interest in the subject. The members of the commission expressed interest, but professed that they had not yet completed their research on the issue. It is clear that I am writing on a clean slate.

I preface my remarks with these comments because I have not come to you to present the definitive statement on this issue. I merely wish to present the results of a modest research effort we were able to accomplish in the midst of running one of the largest and busiest Staff Judge Advocate's office in the U.S. Marine Corps. I suggest that this should be but the first such endeavor before a reasoned decision is reached on this subject. Our research focused on four issues. How is an Article III Court created? What is the power, both real and perceived, of an Article III Court? What analytic shifts, if any, might result from this change? Finally, are there any increased costs associated with the creation of an Article III Court?

II. CREATION OF AN ARTICLE III COURT

We know that CMA, by the express terms of its enacting, legislation, is an Article I Court. Article 67, Uniform Code of Military Justice (UCMJ) provides that "there is a United States Court of Military Appeals established under Article I of the Constitution of the United States" At first blush it would seem the simple amendment of Article 67, UCMJ, to read "There is a United States Court of Military Appeals established under Article III of the Constitution" would be sufficient to accomplish the proposed change. Unfortunately, very seldom in our profession is anything as simple as it first appears. It behooves us to consider the history of the now defunct United States Court of Customs and Patent Appeals and the United States Court of Claims.

In Ex parte Bakelite Corp., 279 U.S. 438 (1928), and Williams v. United States, 289 U.S. 553 (1932), the Supreme Court held that the United States Court of Customs and Patent Appeals and the United States Court of Claims were neither confined in jurisdiction nor protected in independence by Article III of the Constitution, but that both had been created by virtue of other substantive powers possessed by Congress under Article I. In sum, the Court concluded that both courts were legislative or Article I Courts. Congress pronounced its disagreement with these rulings by providing as to each that "such Court is hereby declared to be a Court established under Article III of the Constitution of the United States." Act of July 28, 1953, § 1, 67 Stat. 226, added to 28 U.S.C. § 171 (Court of Claims); Act of August 25, 1958, § 1, 72 Stat. 848, added to 28 U.S.C. § 211 (Court of Customs and Partent Appeals). To everyone except an attorney, this would seem to have foreclosed all debate as to the status of these courts. Yet in 1962, the Supreme Court granted certiorari to determine whether these Courts were Article III or Article I courts. The Glidden Company v. Zdanok (No. 242) and Lurk v. United States (No. 481), 370 U.S. 530, reh.den. 371 U.S. 854 (1962). While the facts of these two cases are not important to the resolution of our issue, the court's analysis of the issue is.

The Court held, in a plurality opinion, that both courts were Article III courts. Three justices joined in the lead opinion, two justices concurred in the lead opinion, two justices dissented, and two did not participate. Justice Harlan, author of the lead opinion enunciated a test to determine whether a particular court is an Article III court. His test was "whether . . . [a court's] business is the federal business . . . specified [in Article III] and its judges and judgments are allowed the independence there expressly or impliedly made requisite." Id. at 552. These restrictions express, in his opinion, the framers' desire to safeguard the independence of the judiciary from other branches by confining its activities to cases of a judicial nature. Id. at 572. Justice Clark, in a concurring opinion, set forth his test as: Does the court have "jurisdiction over justicable matters, . . . [issue] final judgments, [and have] judges appointed by the President with the consent of the Senate" Id. at 586. Justice Clark focused on the perception that both courts issued advisory type opinions. He noted that "the acceptance of jurisdiction of either executive or legislative references calling for advisory opinions has never been honored by Article 3 courts." Id. at 587. Hence, the focus of both justices was whether the courts in question issued advisory opinions.

The rule against issuing advisory opinions was first enunciated in Hayburn's case. 2 Call. 409, 1 L.Ed. 436 (1796). This case arose in the context of a 1792 statute which provided that disabled veterans of the Revolutionary War who wished to be placed on a pension list should apply to the circuit courts for a determination of their right to receive a pension. The statute allowed the Secretary of War to disregard the court findings if he believed them to be in error. The justices, sitting on circuit, refused to decide the pension claims since their decision was subject to executive review. In other words, their decision was not final and was only of an advisory nature to the executive branch. See C. Wright, Law of Federal Courts, 41 (1976).

At least one perceptive commentator has questioned whether CMA issues advisory opinions in light of specific provisions for executive review in certain cases. Willis, The Constitution, the United States Court of Military Appeals, and the Future, 57 M.L.R. 27, 90 n. 304 (1972). Specifically, Article 71 of the UCMJ provides as follows:

(a) If the sentence of the court-martial extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit. That part of the sentence providing for death may not be suspended.

(b) If in the case of a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned may commute, remit, or suspend the sentence, or any part of the sentence, as he sees fit. (emphasis added.)

These provisions are not the typical statute which provides for clemency as a matter of executive discretion. Rather, the UCMJ envisions the executive branch as an integral and final spoke in the wheel of justice in certain cases.

Under these circumstances, it can be argued that CMA issues advisory opinions. I must admit that, due to time consideration, we have not researched this issue as thoroughly as I had wished. Nevertheless, I believe it is one the commission should consider. I note that if this is an impediment to CMA becoming an Article III Court then the cited sections of the UCMJ would have to be amended to make the review discretionary instead of mandatory or deleted entirely. Alternatively, if this is believed to be a problem, CMA could, as suggested by Justice Clark, refuse to take jurisdiction of such cases and advise Congress that it does not issue advisory opinions. Glidden Co. v. Zdanok, 370 U.S. 530, 587 (1962) (concurring).

III. POWERS OF AN ARTICLE III COURT

For the remainder of my discussion, I will assume that CMA can become an Article III court. This possibility causes great concern in the circles in which work. The concern seems to be how much more power will CMA have if it is

given Article III status? Regardless of the validity of this fear, it seems understandable in light of CMA's past ability to create great turmoil with the stroke of a pen. I refer specifically to two cases: United States v. Booker, 5 M.J. 238 (C.M.A. 1977) and United States v. Ruiz, 23 U.S.C.M.A. 181, 48 C.M.R. 797 (1974). In Booker, the Court held that prior to making a decision to accept or reject nonjudicial punishment, an accused must be told of his right to confer with independent counsel concerning the ramifications of such a decision. The Court ruled that failure to comply with this requirement would render the record of nonjudicial punishment inadmissible at a subsequent court-martial. Booker at 243. In Ruiz, the Court held that an order to provide a urine specimen was illegal notwithstanding the fact that the officer who issued the order contemplated that the test results would be used in administrative discharge proceedings rather than at a court-martial. Ruiz at 798. Booker changed the manner in which summary courts-martial and nonjudicial punishments were handled and documented. Ruiz effectively eliminated a urinalysis program and an administrative discharge program. These two cases allowed CMA to indirectly extend its judicial hand into supervision/control of nonjudicial punishments and administrative discharges. In light of such power, I believe that any proposed increase in power, either real or perceived, should be closely examined.

It is a well settled rule of law that "courts created by statute can have no jurisdiction but such as the statute confers." Sheldon v. Sill, 8 How. 441, 12 L.Ed. 1147 (1850). Hence CMA has that jurisdiction which is granted to it in its enacting statute, 10 U.S.C. § 867. Article 67(b), UCMJ provides, in pertinent part, that:

(b) The Court of Military Appeals shall review the record in:

(1) all cases in which the sentence, as affirmed by a Court of Military Review, extends to death;

(2) all cases reviewed by a Court of Military Review which the Judge Advocate General orders sent to the Court of Military Appeals for review; and

(3) all cases reviewed by a Court of Military Review in which, upon petition of the accused and on good cause shown, the Court of Military Appeals has granted a review.

If Congress were to make CMA an Article III court it does not necessarily follow that CMA's jurisdictional grant would change. It must be understood that while the constitutional status of a court may change the jurisdictional grant would not have to. Hence, in light of the rule of Sheldon v. Sill, it is difficult to imagine that CMA's jurisdictional grant, and hence statutory reach and power, would, ipso facto, be increased.

The Court of Military Appeals also draws its power from another statute, the All Writs Act, found at 28 U.S.C. § 1651(a). It provides that: "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." (emphasis added). It is beyond dispute

that the All Writs Act applies to the Court of Military Appeals. Noyd v. Bond, 395 U.S. 683, 685 n. 7 (1969). The act applies equally to Article III courts. Hence, once again CMA's power would not necessarily increase if it were to become an Article III court. There may, however, be differences in the manner in which CMA and Article III courts apply the All Writs Act. It is appropriate to briefly review some of the leading cases in this area.

The Court of Military Appeals first announced its belief that it was a court within the meaning of the All Writs Act in United States v. Frischholz, 16 U.S.C.M.A. 150, 36 C.M.R. 306 (1966). In Frischholz, the accused filed a Petition for Writ in the Nature of Error Coram Nobis seeking to have his general court-martial conviction reviewed by CMA. The accused had unsuccessfully petitioned the Court for a review of his case some six years earlier. CMA found that rather than seeking coram nobis the accused was really asking for reconsideration of its 1960 decision denying his petition for review. The court did not find good cause for waiving the five day time limit for filing reconsideration motions. Nevertheless, in the interests of justice, the court reviewed the record, found no error, and denied the requested relief. In Frischholz, then, it was a situation where CMA had an arguable jurisdictional basis, Article 67(b)(3), UCMJ, from which to proceed in aid of its jurisdiction under the All Writs Act. In determining that the Court did have power under the All Writs Act, the Court noted that "Part of our responsibility includes the protection and preservation of the Constitutional rights of persons in the armed forces." Id. at 152.

The Court of Military Appeals extended their concept of jurisdiction under the All Writs Act one step further in Gale v. United States, 17 U.S.C.M.A. 40, 37 C.M.R. 304 (1967). In Gale, the accused was pending trial before a general court-martial. Prior to petitioning, CMA, the accused's counsel moved to dismiss the charges on the basis that his client had been denied a speedy trial. The law officer granted the motion and dismissed the charges. The convening authority ordered the law officer to reconsider his ruling. Upon reconsideration, the law officer viewed this order as an appellate reversal of his dismissal and ordered the trial to proceed. Id. at 305-306. The accused then petitioned the court for extraordinary relief and asked that the law officer's original ruling be upheld. The government argued that CMA lacked jurisdiction to act since this case fell outside the grant of jurisdiction under Article 67(b). Clearly, the government's literal reading and argument were correct. The Court of Military Appeals, however, chose to interpret Article 67 as indicating Congress' intent to "confer upon this court a general supervisory power over the administration of military justice." Id. (emphasis added). The Court concluded that "in an appropriate case, this court clearly possesses the power to grant relief to an accused prior to the completion of court-martial proceedings against him." Having reached this conclusion, the Court then found that the accused's facts were not sufficiently extraordinary so as to warrant relief by way of an extraordinary writ. The court then refused to consider the merits of the accused's petition. Id. at 308.

The rule of Gale was further strengthened by the court's holding in United States v. Bevilacqua, 18 U.S.C.M.A. 10, 39 C.M.R. 10 (1968). In Bevilacqua, the accused was sentenced by a special court-martial to a reduction in grade and partial forfeiture of pay. The sentence was approved and ordered executed. The accused then petitioned the Court for a review of his conviction. Once again,

the government argued that the Court was powerless to act in this case, or any case where as here, the sentence as approved is not within those cases set out in Article 67(b). Once again, the Court rejected this argument. It cited Frischholz and Gale and then stated:

These comments and decisions certainly tend to indicate that this court is not powerless to accord relief to an accused who has palpably been denied constitutional rights in any court-martial; and that an accused who has been deprived of his rights need not go outside the military justice system to find relief in the civilian courts of the Federal judiciary.

Id. at 11-12. The court then reviewed the record before it, found no grounds for relief, and denied the petition. Id.

The court seemed to retreat from the Frischholz, Gale, and Bevilacqua trilogy in United States v. Snyder, 18 U.S.C.M.A. 480, 40 C.M.R. 192 (1969). In Snyder, the accused was convicted at a special court-martial and sentenced to a detention of pay and reduction in grade. The convening authority approved the sentence and ordered it executed. The accused petitioned the Judge Advocate General, United States Air Force, for review of his case under Article 69, UCMJ. The accused's claim for relief was denied. The accused then filed a Petition for Review and Writ of Coram Nobis with the court. The accused relied upon the decision in Bevilacqua in petitioning the Court. Id. at 193-94. The Court correctly noted that this case was not reviewable in the ordinary course of appellate review. The Court characterized its holdings in Frischholz, Gale, and Bevilacqua, as recognizing a "responsibility to correct deprivations of constitutional rights within the military system . . ." in those cases "in which we have jurisdiction to hear appeals or to those to which our jurisdiction may extend when a sentence is finally adjudged and approved." Id. at 195 (emphasis added). The court then denied the petition.

Snyder remained a viable precedent under our system of stare decisis for all of seven years before the Court characterized it as "too narrowly focused." McPhail v. United States, 1 M.J. 457 (C.M.A. 1976). In McPhail, the accused was convicted at a special court-martial and sentenced to restriction and hard labor without confinement. The sentence was approved and ordered executed. The accused was denied relief when he petitioned the Judge Advocate General of the Air Force. The accused then petitioned the Court for review of his conviction. This case was, in all significant procedural aspects, on all fours with Snyder. The Court, however, chose to disregard Snyder and instead seized the opportunity to reexamine the extent of its powers under the All Writs Act. After referring to the Frischholz, Gale, and Bevilacqua trilogy, the Court postulated that "an accused who has been deprived of any fundamental right under the Uniform Code need not go outside the military justice system to find relief in the civilian courts of the Federal judiciary." McPhail at 460 (citations omitted). The Court reiterated its belief that it acts as a supervisory authority since it is the highest court in the military judicial system. The Court then reviewed congressional statements and Supreme Court cases to support its conclusions. Finally, the Court recognized that "there are limits" to its authority, but did not define them. Id. at 463. The court concluded by stating that:

Whatever those limits are, as to matters reasonably comprehended within the provisions of the Uniform Code of Military Justice, we have jurisdiction to require compliance with applicable law from all courts and persons purporting to act under its authority.

Id. The court then granted the relief sought by the petitioner.

In sum, these cases establish that the court has not hesitated to review courts-martial which ordinarily might never have been reviewable on direct appeal under Article 67(b), UCMJ. The court has not, as suggested in Snyder, reviewed these cases on the theory that these were cases to which its jurisdiction might extend when a sentence is finally adjudged and approved. Rather, they have theorized that they have a supervisory obligation under Article 67 to review any court-martial in which an accused has been denied his constitutional rights (Bevilacqua); any action of any courts or person purporting to act under the authority of the Uniform Code of Military Justice (McPhail); and any actions which would deprive persons in the Armed Forces of their constitutional rights (Frischholz). The relevant question now becomes, do Article III courts operate under similar concepts?

It is clear that Article III courts do not view their grant of authority under the All Writs Act as broadly as CMA does. Professor E. H. Cooper, University of Michigan, School of Law, a noted authority on Federal Practice and Procedure, presented an address entitled "Extraordinary Writ Practice in Criminal Cases: Analogies for the Military Courts" on 18 May 1983 at the Eighth Annual Homer Ferguson Conference on Appellate Advocacy. (Reprinted at 98 F.R.D. 593). In discussing a court's power under the All Writs Act he noted that "the first and most important limit on writ power is that it can be exercised only in aid of the court's jurisdiction." Id. at 603. He suggested that this limit does not mean much. He opined that to the federal courts of appeals "it means essentially that a writ cannot issue to an inferior tribunal if it is clear that the court of appeals could not ever acquire jurisdiction of an appeal in that particular case Potential appellate jurisdiction, however, clearly is enough." Id. (emphasis added). Hence, Article III courts seek to determine whether a potential of direct appellate reviews exists before finding jurisdiction under the All Writs Act. This is the position adopted by the Court of Military Appeals in Snyder but later repudiated in McPhail.

Professor Cooper recognized that "a much more difficult question is presented by the prospect of cases that never can come before a Court of Military Review or the Court of Military Appeals." Id. at 604. For instance, a case "may progress from an ambiguous posture to one in which it has become clear that these courts will not ever have appellate jurisdiction." Id. (I believe Snyder and McPhail were such cases.) Professor Cooper suggested that even in such circumstances the courts should consider exercising extraordinary writ power as a means of "ensuring individual justice." He opined that the "diffuse notions of 'inherent power' drawn from the particular needs of the military justice system may be enough" to warrant invocation of the power. Id. The Court of Military Appeals could justifiably draw support for its actions in McPhail from Professor Cooper's comments.

As a practicing Staff Judge Advocate, I object to the limits CMA has extended its power under the All Writs Act in such cases as Frischholz, Bevilacqua, and McPhail. My concern has always been that CMA would eventually extend its hand into matters beyond courts-martial. Professor Cooper's remarks, while seemingly limited to use of the writ power over courts-martial, could easily be envisioned by CMA as an exhortation to seek out and correct perceived injustices wherever they may be found.

In retrospect, it appears that Professor Cooper's remarks were a harbinger of things to come. A little over two months after Professor Cooper presented his remarks to the Court of Military Appeals, the Court issued its opinion in Dobzynski v. Green. 16 M.J. 84 (July 25, 1983). In Dobzynski, the accused had successfully urged the suppression of certain evidence at his special court-martial. The charges were then withdrawn by the convening authority and referred to Captain's Mast. The accused, being attached to a vessel, was not allowed to refuse the nonjudicial punishment imposed. The accused then sought review of his nonjudicial punishment by filing a petition for extraordinary relief with the Court of Military Appeals. In an opinion by Judge Fletcher, the Court concluded that "under the facts as herein presented, . . . there is no legal error calling for invocation of our power to grant a petition for extraordinary relief." Id. at 84. Judge Cook concurred with Judge Fletcher. The significance of Judge Fletcher's opinion is that he appeared to assume that had the court found some legal error in the nonjudicial punishment proceeding it could have ordered extraordinary relief. Perhaps even more significant, is the fact that Judge Fletcher did not find it necessary to discuss the legal basis of his assumption.

On the other hand, Chief Judge Everett, in a dissenting opinion, did elaborate upon the court's authority. Chief Judge Everett believed that the nonjudicial punishment was illegal and that the court should grant relief to the accused. The basis upon which he concluded the punishment was illegal is of no consequence to this discussion. Judge Everett found the court had authority to order extraordinary relief under the Court's general supervisory power over the administration of justice as set forth in such cases as Frischholz, Bevilacqua, Gale, and McPhail. Id. at 89-90. Furthermore, as an alternative ground he found that the review could be accomplished as a matter falling within the "Court's potential jurisdiction." Id. He cited Professor Cooper's remarks at the Annual Homer Ferguson Conference as support for his position. Id. at 91. Chief Judge Everett concluded that "the present case in no way involves the issue of whether our court should become engaged in the routine review of nonjudicial punishments" Id. at 92. To those of us familiar with CMA's record, this word of caution was not accorded much weight. We speculated as to how long it would be before CMA flexed its muscles and once again entered into heretofore sacrosanct grounds.

Less than six months later, CMA ordered the government to show cause why the extraordinary relief requested by Mr. Robert L. Jones, formerly of the U.S. Navy, should not be granted. 17 M.J. 289 (Daily Journal, 6 January 1984). The case was briefed, argued, and a decision published on 16 July 1984. Jones v. Commander, Naval Air Force, U.S. Atlantic Fleet, 18 M.J. 198. In Jones, the accused had been acquitted at a general court-martial of various charges. These

charges were then referred to Captain's Mast where the accused received nonjudicial punishment. The accused was then processed for and received an administrative discharge under less than honorable conditions. Mr. Jones then petitioned the Court for extraordinary relief seeking a reversal of his nonjudicial punishment and an annulment of his administrative discharge. Id. at 198-99. Judge Fletcher authored the opinion of the court. Once again, he assumed that the court had the power to grant the requested relief, but concluded that the legal error did not rise "to the level requiring extraordinary relief by this court." Id. at 199. He noted, however, that the "petitioner may well seek relief in the Article III courts." Id. Judge Cook, in a concurring opinion, concluded exactly the opposite. He was willing to take action under the circumstances, but concluded that the court lacked jurisdiction to intervene in nonjudicial punishments. Id. at 199-200. He noted that this limited review was unfortunate. Id.

On the other hand, Chief Judge Everett concluded that the petitioner's nonjudicial punishment was indeed illegal. He therefore dissented from the majority's dismissal of the petition. After reviewing with approval such cases as Frischholz, Gale, and McPhail, Chief Judge Everett concluded that:

In light of these pronouncements, I have no doubt about this court's power to grant extraordinary relief when Article 15 is used in a manner that clearly violates a servicemember's statutory and constitutional rights.

Id. at 201. Chief Judge Everett also stated that he would agree with Judge Fletcher's opinion that the "petitioner may well seek relief in the Article III courts." Id. at 202. He believed, however, that the petitioner should not have to incur the cost of a collateral attack in an Article III court. Id. He would therefore grant Jones extraordinary relief by directing that the nonjudicial punishment be set aside. Id. at 203. Chief Judge Everett was careful to point out that he did not consider whether administrative discharges may be the subject of extraordinary relief from the court. Id. at n. 4.

When I began this discussion on power, I prefaced my remarks with the admonition that we should be particularly alert when discussing increasing the power of a court which with the stroke of a pen destroyed an administrative discharge program (Ruiz) and nonjudicial punishment procedures (Booker). Of particular significance is the fact that these changes were indirect results of the Court's actions. Now, in light of Dobzynski and Jones, we can anticipate direct frontal assaults on these previously sacrosanct areas.

You might well note that these changes I find so alarming have arisen through the actions of an Article I court. One might reasonably argue, therefore, that the dangers I fear will come to pass regardless of the constitutional status of the court. This is the argument that I now turn to.

Inextricably intertwined with a court's real power is society's perception and the Court's perception of its power and the court's willingness to act based on these perceptions. There is no doubt that society perceives an Article III judge to be a more prestigious position than that of an Article I judge. It has been suggested by some that if CMA were made an Article III court, a higher

quality of aspirant could be anticipated. One sees this theme running throughout the words of Justice Douglas.

Judges who sit on Article 1 courts are chosen for administrative or allied skills, not for their qualifications to sit in cases involving the vast interests of life, liberty, or property for whose protection the Bill of Rights and the other guarantees in the main body of the Constitution, including the ban on bills of attainder and ex-post facto laws, were designed. Judges who might be confirmed for an Article 1 court might never pass muster for the onerous and life-or-death duties of Article 3 judges.

Glidden Co. v. Zdanok, 370 U.S. 530, 606 (Douglas, J., dissenting.) Presumably, in light of their comments in Jones, Judge Fletcher and Chief Judge Everett are similarly inclined to view Article III courts as possessing greater remedial powers.

My argument is that with the perception of power comes real power. If CMA, as an Article I court, is willing to reach its judicial hands into courts-martial outside the scope of Article 67, UCMJ, into nonjudicial punishments, and presumably into administrative discharges, then where else will they be willing to reach if made an Article III court. I do not pretend to have a crystal ball with which to gaze into the future. I do, however, have the ability to hypothesize where CMA may go as an Article III court.

I contend that in light of CMA's current position that it has a supervisory obligation under Article 67 to review any action of any courts or persons purporting to act under the authority of the Uniform Code of Military Justice (McPhail) or any action that would deprive persons in the armed forces of their constitutional rights (Frischholz), that if it were given Article III status it would be likely to move into areas heretofore traditionally associated with Article III courts. Such areas can easily be found in a plethora of cases set forth in 28 U.S.C.A. § 1651(a). A brief exploration of several areas will suffice for this discussion.

Prison law. Every accused sentenced to confinement at hard labor is confined pursuant to the authority of the Uniform Code of Military Justice. In recent years a body of law recognizing the constitutional rights of prisoners has emerged: freedom of expression under the First Amendment, Procunier v. Martinez, 416 U.S. 396 (1974); freedom of religion under the First Amendment, Cruz v. Beto, 405 U.S. 319 (1972); freedom from unreasonable searches and seizures under the Fourth Amendment, Bell v. Wolfish, 441 U.S. 520 (1979); United States v. Hinckley, 672 F.2d 115 (D.C. Cir. 1982); and freedom from cruel and unusual punishments under the Eighth Amendment, Holt v. Sarver 309 F.Supp. 362 (E. D. Ark. 1970). Traditionally, the writ of habeas corpus under 28 U.S.C. § 2241 has been utilized as a means to vindicate prisoners' rights. The Court of Military Appeals has asserted that it has the right to issue a writ of habeas corpus in a proper case. Levy v. Resor, 17 U.S.C.M.A. 135, 37 C.M.R. 399, 401 (1967). Hence, under the reasoning of McPhail, Frischholz, and Levy, it is entirely conceivable that CMA would extend its supervisory role to reviewing the conditions of confinement in military correctional facilities.

Review of Article 138, UCMJ, Complaints. Article III courts have not hesitated to compel military officials to vacate administrative discharges when such discharges are a result of the officials' failure to follow the applicable service regulations. Colson v. Bradley, 477 F.2d 639 (8th Cir. 1973). In Colson, the petitioner had filed an Article 138, UCMJ, complaint with his superiors. It was denied and he was discharged. He then filed a petition with the federal courts seeking a review of his Article 138 complaint. The Eighth Circuit found that the Army had not followed its own regulations in reviewing the petitioner's 138 complaint. The court issued a writ of mandamus ordering reinstatement of the petitioner into the service. Under the reasoning of McPhail and Jones, it is conceivable that CMA would extend its supervisory role to reviewing alleged denials of Article 138 complaints and subsequent administrative discharges if it were made an Article III court.

In considering CMA's expansive reading of its powers under the All Writs Act in supervising military justice, I wondered what we might expect from CMA with regard to areas traditionally associated with being an inherent power of a court: rulemaking and supervision of judge advocates' ethics.

Rulemaking. Although there was a substantial basis for inherent rulemaking power in the common law, legislative control over judicial rulemaking was established early on in the federal system. See the Judiciary Act and Process Act of 1789. Presently, in accordance with statutory mandates, the Supreme Court proscribes the federal rules of civil procedure (28 U.S.C. § 2072), criminal procedure (18 U.S.C. §§ 3771 and 3772), evidence (28 U.S.C. § 2076), and appellate procedure (18 U.S.C. §§ 3771 and 3772 and 28 U.S.C. §§ 2072 and 2075). In every instance in which the Supreme Court prescribes rules under these statutes it forwards them to Congress as a condition precedent to the rules taking effect. If, upon receipt, Congress disagrees with the rules it has not hesitated to disapprove them. Hence, Congressional control over Article III courts' judicial rulemaking power is well established in the federal system.

The Military Rules of Evidence and procedure are prescribed by the President of the United States pursuant to the authority vested in him by Article 36, UCMJ (10 U.S.C. § 836). Article 67(a), UCMJ (10 U.S.C. § 867) provides that CMA "may prescribe its own rules of procedure" In light of the well established principle of Congressional control over judicial rulemaking, I do not foresee a change in the military judicial system rulemaking authority if CMA becomes an Article III court. The choice of whom, if anyone, to delegate the power lies with Congress. Thus far, Congress has chose to delegate this authority for the military judicial system to the President. There is nothing to suggest that this might change if CMA becomes an Article III court.

Attorney Certification/Discipline. Authority for Article III courts to administer ethics can be derived from two sources. First, 28 U.S.C. § 2071 provides that "The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business." Traditionally, rules governing the admission, disciplining, and disbarment of attorneys are promulgated pursuant to this grant of authority. Second, it is generally held that courts have the inherent power to suspend or disbar an attorney found guilty of conduct unbecoming the standard of propriety that should be maintained by members of the legal profession. Ex parte Wall, 107

U.S. 265 (1883); 7 Am.Jur.2d, Attorneys at Law, §§ 15-16 (1963). It is also generally held that the highest court of a jurisdiction has the inherent power to regulate the practice of law in the jurisdiction. Goldfarb v. Virginia State Bar, 421 U.S. 773 (1975). Cf. Ex parte Bradley, 7 Wall. 364, 19 L.Ed. 214 (1869). Where, as in the federal and state court systems, the statutory grant merely affirms the highest court's authority in this area, a conflict with the court's inherent power does not arise.

As the highest court in the military judicial system, CMA has promulgated rules for the admission of attorneys to the CMA bar and the disciplining of these attorneys. CMA Rules 11 and 12, respectively. On the other hand, R.C.M. 109, MCM (1984), provides that "Each Judge Advocate General may prescribe rules not inconsistent with this Manual to govern the professional supervision and discipline of military trial and appellate judges, judge advocates, and other lawyers who practice in proceedings governed by the code and this Manual." Where, as in the military justice system, the statutory plan attempts to supersede the highest court's inherent authority in monitoring attorney ethics, a conflict may well arise. In light of CMA's continued reliance on its supervisory authority, when coupled with the perceived increase in power from becoming an Article III court, I believe a real possibility exists that a Pandora's box is about to be opened. I believe this is an area that needs further exploration and consideration by this commission.

IV. ANALYTICAL POSTURE OF CMA AS AN ARTICLE III COURT

Military necessity has been considered extensively by CMA in balancing military needs against individual rights. The most recent and widely publicized area in which the balance was tipped in favor of special military needs was that of urinalysis testing. Murray v. Haldeman, 16 M.J. 74 (CMA 1983). In Murry, CMA indicated that "the military community is unique in many respects and that its system of justice must be responsive to needs not present in civil society." Id. at 79. Consideration for the needs of the military have been evident from such decisions as United States v. Trottier, 9 M.J. 337 (CMA 1980), extending military jurisdiction over off-base drug offenses and United States v. Middleton, 10 M.J. 123 (CMA 1981), which indicated that exigencies of military necessity and unique conditions may exist in the military society which can be considered in analyzing unreasonable search and seizure claims. Accord, United States v. Schneider, 14 M.J. 189 (CMA 1982). It is clear that CMA, as an Article I court, has considered military needs and functions in reaching its decisions. Will this standard of review change if CMA becomes an Article III court?

The same standard of balancing individual constitutional rights against military necessity can be found in recent U.S. Supreme Court decisions. The Supreme Court has consistently demonstrated deference to the special and unique needs of the military. This is apparent in the recent U.S. Supreme Court case of Chappell v. Wallace, _____ U.S. _____, 76 L.Ed.2d 586, 103 Sct 2362 (1983). The court in Chappell held that enlisted military personnel may not sue superior officers for alleged violations of their constitutional rights. The Court strongly reiterated the need to take into account "special factors" of military service. The court said, "military necessity makes demands on its personnel without counterpart in civilian life." Id. at 590 (citations omitted). The Court in Chappell considered strict discipline a necessity for a military

organization's survival and ruled that this outweighed the serviceman's constitutional rights in this case. The Court has given special consideration to the needs of the military in other situations as well. Brown v. Glines, 444 U.S. 348 (1980) (the military is a special society which requires a different application of First Amendment rights); Greer v. Spock, 424 U.S. 828 (1976) (the special military need to promote loyalty, discipline, and morale of troops outweighed a political candidate's freedom of speech on a military installation).

The Courts of Appeals have also demonstrated a sensitivity to the needs of the military. In Goldman v. Secretary of Defense, 734 F.2d 1531 (D.C. Cir. 1984), the free exercise of religion was balanced against military needs. A conflict arose when an ordained Orthodox rabbi wore a yarmulke for religious reasons while in military uniform. Wearing of the yarmulke while in military uniform was a violation of the uniform regulations. The Court stated that "decisions made by the military under a delegation from Congress are entitled to deference, because of the specialized nature of judgments concerning internal military governance." Id. at 1538. The Court deferred to the specialized needs of military for uniform regulation and no violation of the free exercise clause of the First Amendment was found. Similar balancing tests were employed in these cases. Bowman v. Wilson, 672 F.2d 1145 (3d Cir. 1982), Ferguson v. Nicoli, 694 F.2d 101 (5th Cir. 1982), and Curry v. Secretary of the Army, 595 F.2d 873 (D.C. Cir. 1979).

The Court of Military Appeals as an Article I court, has given great deference to the special and unique needs of the military in balancing those needs against individual servicemember's constitutional rights. Article III courts have also considered the military environment in this balancing process and have generally ruled that the military needs outweighed the individual's constitutional rights. In changing CMA's status from an Article I to an Article III court, a concern has been expressed that military needs will be ignored or given less deference. It appears unlikely that CMA would pay less attention to military necessities when other Article III courts (including the highest court of the land) consistently do so. In sum, it appears it is the status of the individual asserting the right -- not the status of the court considering the issue -- which determines the factors to be used in balancing the scales of justice.

V. Costs

I know one of the issues your commission is considering is "what should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals." This issue is part and parcel of the Article III vice Article I question. I had one of my judge advocates research this issue. While he did not offer any value judgments as to what constitutes a "fair" retirement system he did uncover some interesting facts.

A judge of a Court of Appeals receives an annual compensation of \$80,400. His retirement benefits are set forth in 28 U.S.C. § 371(b). A Court of Appeals judge may retire after attaining the age of 65 years and after serving 15 years (or age 70 and 10 years service) and then receive the salary he was receiving when he retired for the remainder of his life. Simply put, this is a very appealing retirement system.

A judge of the Court of Military Appeals receives the same salary as a judge of the Court of Appeals. 10 U.S.C. § 867. Retirement for CMA judges is covered by the Civil Service Retirement System. 5 U.S.C. § 8331, et. seq. The maximum retirement entitlement under the Civil Service system is 80% of the base salary. Presumably, few judges of CMA would have a sufficient term of federal service to warrant the maximum retirement entitlement. Hence, a far more modest entitlement is probably the norm. In any case, the retirement system of an Article III judge is superior to that of a judge of the Court of Military Appeals. As such, it would undoubtedly increase costs to the taxpayer.

In determining the cost of reestablishing CMA as an Article III court, the number of judges to be appointed should be considered. Presently, the court is composed of three judges. If CMA is reestablished as an Article III court the number of judges might have to be increased if the jurisdiction is increased. I note that American Bar Association Standards Relating to Court Organization (1974) state that the highest appellate court in a jurisdiction should have not less than five nor more than nine members. *Id.* at § 1.13. This size, in the ABA's opinion is sufficiently large to provide for consideration of difficult legal questions, the manpower to prepare opinions, and a wider breadth of viewpoint. This latter point is particularly important when we are speaking of institutionalizing for life a court of three judges. I would urge you to consider this factor in your deliberations.

VI. CONCLUSION

I began my remarks with the observation that this would not be the definitive statement on whether CMA should be an Article III court. I know I have not provided all the answers in my brief presentation. I hope, however, that I have raised some questions in your minds as to the wisdom of the proposed change. I believe the proposal is fraught with unseen pitfalls. I urge you to give this issue your most discerning analysis in the months to come. It may be that you are unable to reach a reasoned decision on this issue prior to making your final report. It is far better to move with caution when dealing with the constitutional status of one of our nation's highest courts than to proceed in a whirlwind fashion into the midst of what may prove to be a stormy sea.

Thank you for your kind attention.

STATEMENTS OF B. GEN. RAYMOND W. EDWARDS USMC (RETIRED)

GOOD MORNING. I WOULD LIKE TO THANK THE COMMISSION FOR PERMITTING ME TO TESTIFY BEFORE YOU. IT IS A GREAT HONOR AND PRIVILEGE FOR ME TO TESTIFY AND I SINCERELY HOPE THAT I MIGHT ASSIST THE COMMISSION BY GIVING MY PERSPECTIVE ACCUMULATED FROM 31 YEARS OF EXPERIENCE WITH THE UNIFORM CODE OF MILITARY JUSTICE. IF YOU WILL INDULGE ME FOR A FEW SECONDS, I WILL PROVIDE YOU WITH SOME OF MY BACKGROUND TO ASSIST YOU IN EVALUATING MY TESTIMONY. I JOINED THE MARINE CORPS IN MARCH OF 1953 AND WAS COMMISSIONED IN SEPTEMBER OF 1953. I WAS GIVEN THE MILITARY OCCUPATIONAL SPECIALTY OF AN ARTILLERY OFFICER AND TRAINED AT THE ARMY ARTILLERY SCHOOL AT FORT SELL, OKLAHOMA. AFTER THIS TRAINING, I WAS ASSIGNED TO A FLEET MARINE FORCE ARTILLERY UNIT IN JAPAN WHERE I CAME INTO CONTACT WITH THE ORIGINAL UCMJ AND THE ORIGINAL "RED BOOK" MANUAL FOR COURTS-MARTIAL. AS A JUNIOR OFFICER, I TRIED AND DEFENDED CASES BEFORE SPECIAL COURTS MARTIAL. I CONTINUED MY CAREER AS AN ARTILLERY OFFICER HAVING COMMANDED THREE ARTILLERY ORGANIZATIONS. IN THE MID 1960'S, I ATTENDED LAW SCHOOL AT NIGHT AND UPON COMPLETION MADE MY FIRST TOUR IN VIETNAM AS AN ARTILLERY OFFICER. I THEN GOT INTO THE LEGAL BUSINESS JUST IN TIME TO SEE THE TRANSITION CAUSED BY THE MILITARY JUSTICE ACTS OF 1968 & 1969. AS A LAWYER I HELD ALL THE USUAL JOBS INCLUDING MILITARY JUDGE, STAFF JUDGE ADVOCATE FOR THE 1ST MARINE AIRCRAFT WING WHILE WE WERE STILL ENGAGED IN COMBAT IN VIETNAM, STAFF JUDGE ADVOCATE FOR TWO MAJOR INSTALLATIONS, APPELLATE COURT JUDGE AT THE NAVY-MARINE CORPS COURT OF MILITARY REVIEW, AND FINALLY THE ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY FOR MILITARY LAW UNTIL MY RETIREMENT ON THE 1ST OF JULY THIS YEAR.

IT IS FROM THESE 31 YEARS OF GROWING UP AS BOTH A LINE OFFICER AND LAWYER WITH THE UCMJ AS IT EVOLVED THAT I LOOKED AT THE CHARGE OF THIS COMMISSION. THE MATTER UNDER CONSIDERATION ARE IMPORTANT. THE RECOMMENDATIONS OF THIS COMMISSION CERTAINLY WILL BE INFLUENTIAL IN SHAPING MILITARY JUSTICE INTO THE FORSEEABLE FUTURE. AS WE SHAPE MILITARY JUSTICE, WE CAN NOT LOSE SIGHT OF THE FACT THAT THE COMMANDER IS IN A POSITION WHERE HE IS ACCOUNTABLE FOR EVERYTHING HIS COMMAND DOES OR DOES NOT DO WHETHER IT BE AN INFANTRY BATTALION IN COMBAT, AN AIRCRAFT CARRIER IN THE INDIAN OCEAN, A MISSILE SILO IN KANSAS, OR A MAJOR INSTALLATION, HOME TO MILITARY FAMILIES. AS SUCH, NOT ONLY MUST THE COMMANDER HAVE A SYSTEM TO REGULATE THE INTERPERSONAL RELATIONSHIPS BETWEEN THE MEMBERS OF THE MILITARY SOCIETY THAT IS A CRIMINAL JUSTICE SYSTEM, BUT ALSO A SYSTEM TO ASSIST IN INSTILLING DISCIPLINE IN THE COMMAND, SO THAT WHEN THE COMMAND IS CALLED UPON TO PERFORM ITS STATED MISSION THEY WILL BE TRAINED AND READY TO ACCOMPLISH THE MISSION.

IN SHORT, AS WE EXAMINE EACH PROPOSAL THAT IMPACTS ON THE MILITARY JUSTICE SYSTEM WE MUST HOLD IT UP TO THE LITMUS TEST - "WILL IT ASSIST THE COMMANDER IN FULFILLING THE MISSION OF THE COMMAND?"

ADDRESSING THE SPECIFIC PROPOSALS. FIRST, SENTENCING BY MILITARY JUDGE ALONE. I SUPPORT THIS PROPOSAL IN ALL CASES EXCEPT CAPITAL CASES. OVER THE YEARS WE HAVE DEVELOPED A COMPETENT INDEPENDENT PROFESSIONAL JUDICIARY. THE SCHOOLING GIVEN OUR JUDGES, NOT ONLY AT THE ARMY, NAVY, AND AIR FORCE SCHOOLS, BUT SUCH EDUCATIONAL INSTITUTIONS AS THE NATIONAL JUDICIAL COLLEGE HAS GIVEN US JUDGES WHO UNDERSTAND THE THEORY OF SENTENCING. THE CHANGES TO THE MANUAL FOR COURTS-MARTIAL ENABLE THE MILITARY JUDGE TO HAVE MADE AVAILABLE TO HIM MATTERS CONCERNING THE PERSONAL MAKE-UP OF THE CONVICTED

SERVICE MEMBER. ALL IN ALL, THE TIME HAS COME TO GIVE THE SENTENCING TO THE MILITARY JUDGE. THIS WILL GIVE US MORE CONSISTENT AND ENLIGHTENED SENTENCING TAILORED TO THE ACCUSED AND TO THE OFFENSE, TAKING INTO CONSIDERATION THE INTERESTS OF SOCIETY. THIS IS A MATTER WHICH IS VERY IMPORTANT TO THE ACCUSED AND TO THE COMMAND. THIS CONSISTENCY IN SENTENCING WILL ASSIST THE MILITARY JUSTICE SYSTEM IN MAINTAINING THE RESPECT OF THE MILITARY SOCIETY.

SECOND, THE POWER TO SUSPEND. THIS PROPOSAL WILL NOT PASS THE LITMUS TEST. THE POWER TO SUSPEND IS AN IMPORTANT TOOL FOR THE COMMANDER. CONTRARY TO THE OPINIONS OF SOME REPORTERS ON THE MILITARY SOCIETY, THE COMMANDER IS MORE INTERESTED IN EFFECTIVE UTILIZATION OF MANPOWER TO ASSURE MISSION EFFECTIVENESS THAN HE IS IN EXTRACTING A POUND OF FLESH. THE POWER TO SUSPEND, PROVIDES THE COMMANDER WITH AN EFFECTIVE TOOL TO REHABILITATE AND UTILIZE THE CONVICTED SERVICE MEMBER. THE CONVENING AUTHORITY IS RESPONSIBLE FOR GOOD ORDER AND DISCIPLINE. HE KNOWS A GREAT DEAL ABOUT THE ACCUSED AND HAS AVAILABLE TO HIM THE RESOURCES NECESSARY TO EVALUATE AND ASSIST IN THE REHABILITATION OF LIKELY CANDIDATES. IN THE MILITARY SOCIETY THE MILITARY JUDGE IS NOT RESPONSIBLE FOR MISSION ACCOMPLISHMENT, NOR DO THE MILITARY JUDGES HAVE THE TOOLS AVAILABLE TO THEM TO MONITOR PROGRESS, A CRITICAL MATTER IN THE HIGHLY MOBILE MILITARY SOCIETY. SUSPENSION IS THE TOOL OF A COMMANDER. LEAVE IT TO THE MAN WITH THE RESPONSIBILITY.

THIRD, EXTENDING THE SENTENCING AUTHORITY OF THE SPECIAL COURT-MARTIAL TO CONFINEMENT AT HARD LABOR TO ONE YEAR. THIS PROPOSAL IS WORTHY OF SUPPORT. FIRST, IT GIVES THE SPECIAL COURT-MARTIAL PARITY TO CIVILIAN COURTS AS A MISDEMEANOR COURT WITH THE ONE YEAR SENTENCE TO CONFINEMENT AT HARD LABOR. SECOND, MANY CASES PRESENTLY BEING REFERRED TO GENERAL

COURTS-MARTIAL WHERE REALISTICALLY THE SENTENCE WOULD BE IN THE 6 TO 12 MONTH CATEGORY WOULD BE REFERRED TO A SPECIAL COURT-MARTIAL. FROM THIS WOULD ACCRUE BENEFITS. THE ACCUSED WOULD BE GOING TO TRIAL WITH A CEILING ON HIS POTENTIAL CONFINEMENT AND HE WOULD NOT BE SUBJECT TO THE CONSIDERABLE DISADVANTAGES OF A GENERAL COURT-MARTIAL CONVICTION AS OPPOSED TO A SPECIAL COURT-MARTIAL CONVICTION. TO THE COMMANDER THERE WOULD BE A CONSIDERABLE SAVINGS IN TIME AND MANPOWER. WE NOW HAVE THE PROCEDURAL AND SUBSTANTIVE SAFEGUARDS IN PLACE IN OUR SPECIAL COURTS-MARTIAL SYSTEM TO PROTECT THE RIGHTS OF THE ACCUSED. ON BALANCE THIS CHANGE WILL ASSIST THE COMMANDER.

FOURTH, TENURE FOR MILITARY JUDGES. THIS IS A PROPOSAL WHICH HAS APPEARED ON THE SCENE APPARENTLY WITHOUT POSITIVE RATIONALE. INDEPENDENT JUDICIARIES HAVE BEEN ESTABLISHED. PREMATURE REMOVAL FROM THE JUDICIARY IS NOT A KNOWN PROBLEM. IF TENURE MEANS A NORMAL DUTY ASSIGNMENT THEN WE ALREADY HAVE TENURE. IF IT MEANS A CAREER AS A MILITARY JUDGE THEN WE MAY WELL BE SHORT SIGHTED. THE CONCEPT OF DEVELOPING A PROTECTED COMMUNITY WITHIN A COMMUNITY HAS DISADVANTAGES. THE MILITARY JUDGE MUST COMPETE FOR PROMOTIONS UNDER DOPMA. IF HE IS GOING TO COMPETE SUCCESSFULLY HE WILL NEED VARIED ASSIGNMENTS. WE HAVE IN PLACE A JUDICIARY INDEPENDENT OF COMMAND. OFFICERS ARE ASSIGNED FOR NORMAL TOURS AND ARE NOT TRANSFERRED EARLY EXCEPT FOR EMERGENCIES OF THE SERVICE. I FAIL TO SEE HOW THIS CHANGE WOULD ASSIST THE COMMANDER. I HAVE NO KNOWLEDGE OF A PROBLEM IN THIS AREA WHICH WOULD CRY OUT FOR THIS CHANGE. IF IT AIN'T BROKE, DON'T TRY TO FIX IT. THIS NOW LEADS US TO THE LAST TWO PROPOSALS WHICH CONCERN ON THEIR FACE THE COURT OF MILITARY APPEALS. I AM FOR A FAIR AND EQUITABLE RETIREMENT SYSTEM FOR THE COURT OF MILITARY APPEALS. I THINK THAT IT IS EXTREMELY IMPORTANT THAT WE ATTRACT KNOWLEDGEABLE, HIGH QUALITY PERSONS TO THE COURT OF MILITARY APPEALS. A FAIR

AND EQUITABLE RETIREMENT SYSTEM WILL GO A LONG WAY IN THIS RECRUITING EFFORT. THE FORM THAT THE RETIREMENT SYSTEM WILL TAKE IS A MATTER THAT EXPERTS IN THIS AREA ARE BETTER QUALIFIED TO ADDRESS THAN I AM.

THE LAST ITEM UNDER CONSIDERATION IS ARTICLE III COURT STATUS FOR THE COURT OF MILITARY APPEALS. THIS IS A MATTER WHICH REQUIRES GREAT STUDY. THE ISSUES ARE MANY. FOR INSTANCE, IF THE HIGHEST COURT IS AN ARTICLE III COURT, ARE THE TRIAL AND INTERMEDIATE APPELLATE COURTS ALSO ARTICLE III COURTS? IF THE COURT OF MILITARY APPEALS IS AN ARTICLE III COURT, WHAT IS ITS SUBJECT MATTER JURISDICTION? I WOULD ASK - WHAT IS THE NEED FOR ARTICLE III STATUS? WHAT ARE THE ADVANTAGES TO ACCRUE FROM ARTICLE III STATUS? TO DATE, NO ONE HAS SHOWN HOW SUCH A CHANGE WOULD ASSIST THE COMMANDER IN CARRYING OUT HIS RESPONSIBILITIES. ASSUMING THAT IF IT MADE THE MILITARY JUSTICE SYSTEM MORE RESPONSIVE AND EFFICIENT IT, WOULD ASSIST THE COMMANDER, I STILL HAVE NOT HEARD HOW ARTICLE III STATUS WOULD IMPROVE THE MILITARY JUSTICE SYSTEM. IT WOULD APPEAR THAT THIS PROPOSAL DOES NOT PASS THE LITMUS TEST.

THANK YOU ONCE AGAIN FOR THE OPPORTUNITY TO TESTIFY. I AM CONFIDENT THAT ALL PROPOSED CHANGES WILL BE STUDIED THOROUGHLY AND THAT THOSE CHANGES THAT WILL IMPROVE THE MILITARY JUSTICE SYSTEM WILL BE SO RECOMMENDED. AN EFFECTIVE MILITARY JUSTICE SYSTEM, RESPONSIVE TO THE NEEDS OF THE COMMANDER, IS AN ABSOLUTE NECESSITY IF WE ARE TO HAVE EFFECTIVE FIGHTING FORCES. I WOULD BE GLAD TO ANSWER ANY QUESTIONS.

PART THREE—MISCELLANEOUS DOCUMENTS

IV. RESEARCH FROM NATIONAL CENTER FOR STATE COURTS, MEMORANDUMS ON ISSUES,
COMMISSION CHARTER, CORRESPONDENCE ON REQUESTS FOR COMMENT AND EXTENSION OF
COMMISSION DEADLINE

National Center for State Courts

300 Newport Avenue
Williamsburg, Virginia 23185
(804) 253-2000

Edward B. McConnell
Executive Director

March 14, 1984

Captain William Burd
Headquarters USAF/JAJM
1900 Half St., SW
Washington, DC 20324

Dear Captain Burd:

I have been able to compile answers to some of the questions we discussed in our phone conversation last week as follows:

1. What portion of sentences passed are suspended? Sentences that are suspended are not identified as such specifically by those states that report sentencing data. Instead, these sentences are reported as probation. There was information on the number of persons placed on probation in six states' annual reports. I have enclosed copies of the relevant pages from the Arizona annual report. South Carolina may have some information available that you can use (Director of South Carolina Court Administration, P.O. Box 11788, Columbia, South Carolina, 29211, (803) 758-2961). The rest of the data I found I have summarized on the enclosed chart. California apparently has a wealth of information available on this topic. They publish the "Sentencing Practices Quarterly" four times a year. It is available from the California Administrative Office of the Courts (State Building, 350 McAllister Street, San Francisco, California, 94102, (415) 557-1581).
2. Extension of jurisdiction in limited jurisdiction courts. I have found one more example of an increase in the criminal jurisdiction of a limited jurisdiction court in addition to the Pennsylvania District Justice Court and Vermont District Court examples I told you about in our phone conversation. Connecticut unified their trial courts a few years ago, so that the former limited jurisdiction courts had an increase in the range of cases they could process. One of the attorneys in our Northeast Regional Office, Doug Dodge, is familiar with all three of these situations and will be happy to discuss them with you in more detail than I have available. His telephone number in Boston is (617) 687-0111.
3. What is the tenure of judges in state courts? I have prepared a table giving the terms for judges in each state. Only four states have what appears to be a form of judicial tenure--


Captain William Burd
March 14, 1984
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Massachusetts, New Hampshire, New Jersey, and Rhode Island. Selection in these states (on reappointment in New Jersey) is for an extended period under standard conditions of good behavior. In every other state, all judges must be re-selected periodically, either through election or appointment. The re-selection procedures may be such in some of these states as to be the practical equivalent of selection for life, but on paper at least, there is periodic review.

I am forwarding your question on how sentences are passed to our Reference and Information Services (RIS). They should be able to send you some information in the next few weeks.

I hope these materials are helpful to you. If you have any more questions, please contact me.

Sincerely,



Mary E. Elsner
Staff Associate
Court Statistics and Information
Management Project

MEE:bwj
Enclosures
cc: Doug Dodge
RIS

Probation Activity in Selected State Courts

ILLINOIS Circuit Court, 1981

Probation or conditional discharge with periodic imprisonment, or with or without other discretionary conditions

<u>Case type</u>	<u># cases put on probation</u>	<u># cases convicted</u>	<u># cases disposed</u>
Felony 1	298		
Felony 2	5,900		
Felony 3	8,961		
Felony 4 (least serious)	2,417		
Total	<u>17,576</u>	<u>28,619</u>	<u>44,096</u>

Probation represents:

61% of convicted cases (guilty at trial or guilty plea)
40% of felony cases disposed

At the end of 1981, there were 67,610 persons under probation supervision in Illinois.

SOUTH DAKOTA Circuit Court, 1980

<u>Case type</u>	<u># cases put on probation</u>	<u># cases disposed</u>
Felony	504	2,581
Misdemeanor (Class 1)	2,790	8,153

Probation represents:

20% of all felony dispositions
34% of all misdemeanor dispositions

TEXAS District Court, 1982

<u>Probations granted:</u>	<u># cases put on probation</u>	<u># cases convicted</u>	<u># cases disposed</u>
Felonies	27,679	56,098	87,571
Misdemeanors	1,804	2,659	6,435

Probation represents:

49% of all convicted felony cases and 32% of all felony cases disposed
68% of all convicted misdemeanor cases and 28% of all misdemeanors disposed

The 29,483 probation cases represented 26,564 defendants.

Probation Activity in Selected State Courts (continued)

TEXAS County Courts, 1982

<u>Case type</u>	<u># cases put on probation</u>	<u># cases convicted</u>	<u># cases disposed</u>
Misdemeanors	44,737	148,515	334,712

Probation represents:

30% of all cases convicted and 13% of all cases disposed. (A slightly larger number of misdemeanor cases received fines only.)

Terms of Judges in State Courts (years)

<u>State</u>	<u>Court of last resort</u>	<u>Intermediate appellate court</u>	<u>General jurisdiction</u>	<u>Limited jurisdiction</u>
Alabama	6	6	6	2-6
Alaska	10	8	6	4a
Arizona	6	6	4	4b
Arkansas	8	8	4-6	2-4
California	12	12	6	6
Colorado	10	8	6	4-6b
Connecticut	8	(e)	8	4
Delaware	12	--	12	4-12b
Dist. of Columbia	15	--	15	--
Florida	6	6	6	4
Georgia	6	6	4	4-6
Hawaii	10	10	10	6
Idaho	6	6	4	--
Illinois	10	10	4-6	--
Indiana	10	10	6	4-6
Iowa	8	6	2-6	--
Kansas	6	4	4	2
Kentucky	8	8	8	4
Louisiana	10	10	6	4-8
Maine	7	--	7	4-7
Maryland	10	10	15	4-10
Massachusetts	to age 70	to age 70	to age 70	--
Michigan	8	6	6	4-6
Minnesota	6	unknown	6	6
Mississippi	8	--	4	4a
Missouri	12	12	6	--
Montana	8	--	6	4-Indefinite
Nebraska	6	--	6	6
Nevada	6	--	6	1-4
New Hampshire	to age 70	--	to age 70	to age 70
New Jersey	7; reappointed to age 70	7; reappointed to age 70	7; reappointed to age 70	3. 5-7; after 10 years, reappointed to age 70
New Mexico	8	8	6	2-4
New York	14	5-14	10-14	4-14 (some vary)
North Carolina	8	8	8	4
North Dakota	10	--	6	4
Ohio	6	6	6	6c

Terms of Judges in State Courts (years) (continued)

<u>State</u>	<u>Court of last resort</u>	<u>Intermediate appellate court</u>	<u>General jurisdiction</u>	<u>Limited jurisdiction</u>
Oklahoma	6	6	4-no fixed term	2
Oregon	6	6	6	6
Pennsylvania	10	10	10	4-10 ^d
Rhode Island	Life	--	Life	2-Life
South Carolina	10	--	6	2-4
South Dakota	8	--	4-8	--
Tennessee	8	8	8	4-8 ^a
Texas	6	6	4	2-4
Utah	10	--	6	4-6
Vermont	6	--	4-6	4
Virginia	12	--	8	6
Washington	6	6	4	4
West Virginia	12	--	8	4 ^a
Wisconsin	10	6	6	2-4 ^a
Wyoming	8	--	6	4 ^a

-- = No court at this level in the state.

^aThe term in some courts at this level is determined by local authorities.

^bThe term in some courts at this level is determined by local ordinance.

^cThe term in some courts at this level varies, according to the mayor's term.

^dJudges in the Pittsburgh Magistrate's Court serve at the pleasure of the mayor.

^e = Judges on the Connecticut Appellate Session are appointed from among the Superior Court judges by the Chief Court Administrator and serve at his pleasure.

National Center for State Courts

300 Newport Avenue
Williamsburg, Virginia 23185
(804) 253-2000

Edward B. McConnell
Executive Director

May 7, 1984

Captain William Burd
HQ USAF/JAJM
1900 Half Street SW
Washington, DC 20324

Reference No. RIX 84.263

Dear Captain Burd:

Mary Elsner with our Court Statistics and Information Management Project asked that we send you the enclosed information on jury sentencing and preliminary sentencing investigations. The attached previously prepared Research and Information Service memorandum, RIS 79.186 (with attachments), lists those states that permitted jury sentencing as of 1979. Since the memo was prepared, both Tennessee and Georgia have modified their laws to disallow the practice. See the enclosed Tennessee bill, which does allow, however, jury sentencing for capital offenses. In Texas the practice is now optional. Also enclosed for your review is a paper prepared by Eckert and Little, "The Impact of Sentencing Reform: A Comparison of Judge and Jury Sentencing Systems."


The enclosed Research and Information Service memorandum, RIS 83.047, and chart displays for each state the requirements for preliminary sentencing investigations.

I hope this will be helpful to you and that you were not inconvenienced by the delay in our response.

In exchange for our services, we ask that you complete and return the enclosed evaluation form.

Please contact us if we can be of any further assistance to you.

Sincerely,



Marilyn M. Roberts
Research and Information Service
Director

MMR:caw
Enclosures

cc: Mr. James R. James, Southeastern Regional Office
Mr. Larry P. Polansky, Executive Officer of the
District of Columbia Courts

National Center for State Courts

300 Newport Avenue
Williamsburg, Virginia 23185
(804) 253-2000

August 06, 1979

MEMORANDUM

Re: Jury Sentencing

by: JoAnn Miller *JM*

Ref. No. RIS 79.186

The Research and Information Service was asked to provide information on states that allow for jury sentencing.

A telephone survey conducted in 1976 by the Virginia Attorney General's Office updated a law review note, "Jury Sentencing in Virginia" (53 Virginia Law Review 968, 1967) and resulted in the following list of eight states that permit jury sentencing:

- Arkansas - full jury sentencing (Criminal Code 41-802, Statutes Annotated §43-2306, 1962),
- Georgia - some form of discretionary sentencing in capital cases (Criminal Code 27-2534),
- Kentucky - full jury sentencing except for a guilty plea (Rules of Criminal Procedure 9.84),
- Missouri - full jury sentencing except for habitual offenders (Rules of Criminal Procedure 27.01, 27.03, 27.07),
- Oklahoma - full jury sentencing except for some categories of murder (Court Rules 22 §§926-7, 982),
- Tennessee- full jury sentencing (Code Annotated 40-2704 and 2707),
- Texas - jury sentencing except in capital cases (Rules 37.07) and
- Virginia - jury sentencing except in capital cases (Rules 3A:25).

Memo: Jury Sentencing
RIS 79.186

8/6/79
p. 2

A 1978 article (see enclosed, Kress, "Who Should Sentence: The Judge, The Legislature or...?" 17 Judges Journal 12, Winter, 1978) reports the same eight states as allowing jury sentencing for all serious crimes. Four states restrict jury sentencing to certain offenses, and Texas allows the offender to select the judge or the jury for sentencing.

In all eight states that permit jury sentencing, provisions exist for sentencing by the judge if the jury cannot agree on a sentence. Georgia, Missouri, Oklahoma, Texas and Virginia specify separate proceedings for the determination of guilt and the determination of sentence.

JM/

Enclosure

National Center for State Courts

300 Newport Avenue
Williamsburg, Virginia 23185
(804) 253-2000

Edward B. McConnell
Executive Director

May 25, 1983

MEMORANDUM

REF. NO. RIS 83.047

BY: Daina Farthing-Capowich *dfc*

RE: Use of Presentence Investigations for Felony Convictions

The Research and Information Service was asked to provide information on the use of presentence investigations and reports following a felony conviction.

In 1967, the President's Commission on Law Enforcement and the Administration of Justice noted that presentence reports were not prepared in all felony cases (Task Force Report: The Courts). Since that time, the American Bar Association and the National Conference of Commissioners on Uniform State Laws have suggested that presentence investigations should be required prior to sentencing every convicted felon. The enclosed excerpt (sections 3-203 and 3-204) from the Model Sentencing and Corrections Act (National Conference of Commissioners on Uniform State Laws, 1979) includes a copy of the proposed standards and related commentary (p. 150-156). The standard promulgated by the ABA is more detailed and recommends that a presentence investigation and report should be authorized by statute and should be explicitly required in all cases in which (1) incarceration for one year or more is possible, (2) the defendant is less than 21 years old, or (3) the defendant is a first offender. It is further recommended that provision be made for the defendant to waive the presentence investigation or the court to specifically find that it possesses sufficient information to exercise its sentencing discretion. A copy of Standard 18-5.1, Presentence Report: General Principles, and the related commentary is enclosed (ABA Standards Relating to the Administration of Criminal Justice: Sentencing Alternatives and Procedures, 1979, p. 111-119).

According to Adult Probation in the United States, 1980 by Dr. William Goldberg, 33 states mandate a presentence investigation (PSI) in felony cases. Many of these states place caveats on the requirement of a PSI (e.g., unless court directs otherwise, defendant waives, no sentencing discretion exists, etc.) The attached chart, developed by the Research and Information Service, notes the provision concerning presentence investigations for each state, Guam and Puerto Rico, and the federal courts.

Information on the actual use of PSIs is somewhat limited. According to a 1981 study conducted by the National Center's Northeastern Regional Office, the New Jersey Department of Probation is required by court rule and statute to conduct PSIs for superior, juvenile and domestic relations, and municipal court judges (see enclosed excerpt from New Jersey Probation Services: Final Report, 1981, p.7). A second study completed in 1981 by the Rhode Island Supreme Court found that presentence reports are used infrequently in that state (less than 20% of the time).

A recent article by Robert Richardson entitled "Some Thoughts on Felony Sentencing," Oklahoma Bar Journal, February 26, 1983, is enclosed that describes the use of PSIs in Oklahoma. Prior to October 1, 1982, a PSI was required by statute before any felony sentencing. In actual practice, however, they were frequently waived as a result of plea bargain agreements. This practice of waiver was not formally authorized until the statute was amended effective October 1, 1982. Analysis demonstrates that PSIs were used in only 8.4% of the cases in which sentences were rendered within the last three years and that such use has steadily decreased. (See, in particular, page 521.) A copy of the amended statute, O. S. Crim. Pro., Title 22, §982, is also enclosed.

An interesting addition to the presentencing process is suggested in Sentencing by J. M. Burns and J. S. Mattina (National Judicial College, 1978). The use of presentence memoranda and conferences is discussed and the relevant New York statutes (and commentary) are presented (see p. 213-215, enclosed). Presentence memoranda and conferences are designed to allow a defendant to be heard prior to the judge's reading of the PSI.

According to From the State Capitals, January 31, 1983 (enclosed), Iowa is considering the use of a statistical formula as a sentencing tool for judges. The formula would be part of a "risk assessment" included in all PSIs.

Another new development in presentence reports is reviewed in the enclosed copy of "Presentence Reports Go Private," by James S. Granelli (NLJ, May 2, 1983). The increased demand from defense attorneys for detailed individual analyses and community-based sentencing recommendations has resulted in the increased use of reports by private probation practitioners and criminologists. Although private PSIs cost defendants \$500-\$2000 or more, many of the persons interviewed indicated that government budget cutbacks and high probation department caseloads make the use of the private system an attractive option for criminal defendants.

DFC/bl
encls.

REQUIREMENTS FOR PRESENTENCE INVESTIGATIONS

Adapted by the Research and Information Service from Adult Probation in the United States, 1980, by William A. Goldberg.

	<u>Discretionary</u>	<u>Mandatory</u>	<u>Comments</u>
Alabama	X		
Alaska		X	Required by court rule in felony cases unless court directs otherwise.
Arizona		X	Required in all cases in which the court has sentencing discretion.
Arkansas	No information provided		
California		X	Required in felony cases.
Colorado		X	Required in felony cases unless court has no sentencing discretion.
Connecticut		X	Mandatory if imprisonment can be over one year.
Delaware	X		
Florida		X	Required if offender is less than 18 or has no prior felony convictions; otherwise discretionary.
Georgia	X		
Hawaii		X	Required in felony cases and if offender is less than 22 yrs. old.
Idaho		X	Required in felony cases when probation officer is available.
Illinois	X		
Indiana		X	Required in felony cases.
Iowa		X	
Kansas		X	Required in felony cases.
Kentucky		X	Required in felony cases.
Louisiana		X	A pre- or post-sentence investigation must be conducted in all felony cases.

	<u>Discretionary</u>	<u>Mandatory</u>	<u>Comments</u>
Maine	X		
Maryland		X	Required in felony cases.
Massachusetts	X		
Michigan		X	Required in felony cases.
Minnesota	X		
Mississippi	X		
Missouri		X	Required unless waived by defendant.
Montana		X	Required in felony cases unless court directs otherwise.
Nebraska		X	Unless impractical.
Nevada		X	
New Hampshire		X	Judge has authority to waive.
New Jersey		X	Required by court rule.
New Mexico	X		
New York		X	Required by court rule.
North Carolina		X	Required in felony cases when probation officer is available; required in all other cases unless directed otherwise by court.
North Dakota		X	Required in felony cases.
Ohio		X	No convicted felon can receive probation unless court receives PSI; discretionary in other cases.
Oklahoma*		X	Required in all felony cases except capital cases.
Oregon		X	Required in felony cases unless waived.
Pennsylvania		X	Unless judge directs otherwise.
Rhode Island		X	Required in cases when sentence over one year is possible.

-3-

	<u>Discretionary</u>	<u>Mandatory</u>	<u>Comments</u>
South Carolina		X	Required for a convicted felon to receive probation; probation officer must be available.
South Dakota	X		
Tennessee		X	Contingent on availability of probation officer; required for a convicted felon to receive probation.
Texas	X		
Utah	X		
Vermont		X	Required in felony cases
Virginia	X		
Washington		X	Required by court rule; exceptions permitted.
West Virginia		X	Required in felony cases.
Wisconsin		X	Mandatory for specified offenses (rape, indecent behavior with a child, etc.), otherwise discretionary
Wyoming	X		
Guam	X		
Puerto Rico		X	Required in felony cases.
United States District Court**		X	Required unless court directs otherwise.

*See Oklahoma Bar Journal article referenced in memo.

**Copy of Federal Rules of Criminal Procedure, Rule 32 enclosed.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, DC 20310-2200

DAJA-CL

MEMORANDUM FOR MILITARY JUSTICE ACT OF 1983 ADVISORY COMMISSION

SUBJECT: Comparison of Sentencing Procedures in Courts-Martial Tried Before Members and by Military Judge Alone

1. References:

- a. MCM, 1984, Part II, Chapter X;
- b. Department of Army Pamphlet 27-9, Military Judges' Benchbook, Chapter 2.

2. Procedure:

- a. In cases where the sentence is imposed by the military judge -

Following announcement of findings, the military judge advises the accused of his/her rights in allocution. Then the military judge confirms the personal data about the accused shown on the charge sheet. Both parties then present evidence and testimony relevant to the sentence. The military judge may then discuss the maximum penalty, including any issues of multiplicity. Finally, the judge hears sentence arguments and closes court to deliberate.

- b. In cases where the sentence is imposed by court members -

Normally, while the members are deliberating on the findings, the military judge will convene an out-of-court (Article 39(a)) hearing to advise the accused of his/her rights in allocution, to rule on admission of real or documentary evidence, and to resolve other evidentiary issues raised by counsel. After the findings are announced, the sentencing hearing, if any, begins with the trial counsel reading the accused's personal data. Both parties then present testimony relevant to the sentence. Then, in another out-of-court session, the judge discusses instructions, the maximum sentence, and the sentence worksheet with counsel. After the members return, counsel argue, the judge instructs the members, and the court closes for deliberation.

DAJA-CL

SUBJECT: Comparison of Sentencing Procedures in Courts-Martial Tried
Before Members and by Military Judge Alone

3. Efficiency: The following estimates of time are drawn from my personal experience. The amount of time consumed in the sentencing phase of trial is essentially the same for both modes of trial up to the point of the out-of-court hearing to discuss instructions. That hearing generally takes five to ten minutes. The instructions themselves take about 20 minutes. Neither is necessary, of course, in a bench trial. In my experience, counsel arguments tend to be longer in cases tried by members. Sentence deliberations in member cases generally last from 30 minutes to two hours, but only 10 to 15 minutes in bench trials. Occasionally, judges announce the sentence without closing the court. A sentence worksheet is unnecessary in a bench trial, but the worksheet is normally a printed form.

4. Record Requirements: For summarized record of trial, the differences in the effort expended in preparing the record for the two modes of sentencing are minimal. For verbatim records, however, they are substantial in that about 30 minutes of hearing and instructions, plus the additional argument, must be transcribed. This also delays post-trial processing of the case.

5. Potential For Error:

a. In my opinion, the potential for error is somewhat, but not significantly, greater in member trials. One common error is in failing to place the maximum sentence on the record. In guilty plea bench trials, this will have been determined during the plea inquiry. If the judge neglects to announce the maximum in a contested bench trial, the appellate courts usually presume that the judge determined the correct maximum. It would be rare for a judge to fail to advise members of the maximum, but any errors in determination of the maximum are preserved.

b. It is also possible for other errors to slip into a trial before members which would be masked in a bench trial. For example, if the trial counsel argues improperly before members, the judge must instruct on the impropriety, although the new MCM attempts to apply waiver through failure to object (R.C.M. 1101(g)). In a bench trial, the judge will normally be presumed to have ignored the improper arguments. Similarly, if the trial counsel argues on mendacity of the accused, it may be error for the judge to fail to give appropriate instructions (United States v. Warren, 13 M.J. 278 (CMA 1982)). In a bench trial, of course, no instruction need be given and no error arises.



GARY V. CASIDA
Major, JAGC
Member, Working Group



REPLY TO
ATTENTION OF

JALS-ZA

21 June 1984

DEPARTMENT OF THE ARMY
UNITED STATES ARMY LEGAL SERVICES AGENCY
NASSIF BUILDING
FALLS CHURCH, VIRGINIA 22041

MEMORANDUM FOR THE MILITARY JUSTICE ACT OF 1983 ADVISORY COMMITTEE

SUBJECT: Suspension Authority by Trial Judges and Appellate Courts

1. During my testimony I neglected to address myself to the question of giving suspension power to trial and appellate judges. I appreciate this additional opportunity to do so.
2. I do not favor suspension powers in the hands of any other authority than that which is also charged with the responsibility for maintaining good order and discipline in the command--the convening authority. The basis of my view is the premise that the military community is a unique society. General George S. Patton, Jr., commented on the nature of that society:

Our profession is most ancient, and like all other old things it has amassed through the ages certain customs and traditions which decorate it and enoble it, which render beautiful the otherwise prosaic occupation of being professional men-at-arms: killers.

Sir John Hackett, a noted British officer and writer, addressed himself to the qualities to be found among the members of that society and has suggested:

A man can be corrupt in almost every possible way and still be a first class mathematician or painter, but he cannot be a good soldier, sailor or airman.

* * *

The other distinct thing is that the military virtues, as Arnold Toynbee called them--fortitude, personal loyalty, consistency and compassion--make any group of men a better group to be in than one in which those qualities are absent.

Finally, as George Washington remarked:

[M]y first wish would be that my military family, and the whole Army, should consider themselves as a band of brothers, willing and ready to die for each other.

JALS-ZA

21 June 1984

SUBJECT: Suspension Authority by Trial Judges and Appellate Courts

As a unique and separate society, the Profession of Arms has its own set of rules, is often actually separated by a fence from its civilian counterpart, and sometimes is geographically deployed far from the shores of the society which brought it into being. Its purpose is to exercise force at the international level in accordance with the political decisions and policies of its Government.

3. As a result of this separateness, we have adopted our own process of eliminating the individual when we have determined he is unfit to participate in the Profession of Arms. Our discharge process—whether punitive or administrative—bears strong resemblance to banishment from the society. Our purpose in the banishment is to purge the body politic of those festering elements whose reliability, for whatever reason, is in doubt. No soldier can effectively maintain a watch to his front when he must keep an eye on the soldier in the foxhole on either flank.

4. Given the above, the question is who should make these determinations. Neither the trial judge nor the appellate judge has the responsibility for the daily discipline and well being of the military society. It is one thing for a commander to voluntarily accept responsibility for an individual whose sentence he suspends in the belief that the individual has rehabilitative value and that his presence will not adversely impact upon the military society. It is an entirely different matter to require the commander to accept the continued presence of a felon based upon the belief of a trial judge or appellate judge that the command will not suffer. As neither the trial or appellate judge has the responsibility for the command, neither should have the authority to determine that the felon will remain in the command. There are procedures in place where suspension recommendations by the sentencing authority can be communicated to the commander. After trial the provisions of Articles 74 and 75, UCMJ, offer adequate relief in appropriate cases. Responsibility and authority must coincide—they cannot be separated.

5. The proposal fails to satisfy the requirement to identify what's broken in the system, doesn't show how the proposal fixes a break, and does substantial damage to other parts of the system.



DONALD W. HANSEN
Brigadier General, USA
Commanding

MEMORANDUM FOR: DoD Study Commission on Military Justice
 FROM: Robert C. Mueller
 SUBJECT: Hypothetical retirement figures for CMA Judges

Pursuant to the request of the Commission, I have prepared figures indicating the amount of annual retirement which would be received by a Judge retiring from the U.S. Court of Military Appeals under certain hypothetical situations. I emphasize that these figures probably reflect very little, as a practical matter, because each Judge coming on this Court and leaving it is "packaged" quite differently, for purposes of retirement, than any of his Brethren.

For instance, as is indicated by the following paragraph, whether a Judge serves his full 15-year term; whether he has any prior civil service and, if so, how much; whether he has any prior military service and, if so, how much; whether he has any prior service as a Member of Congress or as a congressional employee and, if so, how much, all are factors impacting on the dollar amount of retirement to which a Judge would be entitled. With this important caveat in mind, these figures are offered for whatever use they may bring.

The statutory basis upon which retirement for a Judge of the Court of Military Appeals is figured is 5 U.S.C. § 8339. Under that provision, retirement is figured at the following rates: 2 1/2% times the number of years served as a Judge on this Court, a Member of Congress, a congressional employee, or in military service (not exceeding 5 years) creditable under § 8332 (subsection (d)(6)); 1 1/2% times the number of years which, when added to the above total, do not exceed 5 years (subsection (a)(1)); 1 3/4% times the number of years which, when added to the total of all the above, do not exceed 10 years (subsection (a)(2)); and 2% times the number of years exceeding 10 years.

For a Judge who serves at least 10 years of his term on this Court, then, all years served in civil service would be credited at the 2% rate. The following hypotheticals assume a Judge serving his full 15-year term:

(1) No prior federal service at all: \$28,987.50 annually.

15 years	\$77,300 annual salary
x .025	x .375
<u>75</u>	<u>386500</u>
30	541100
<u>.375</u>	<u>231900</u>
	\$28987.500

(2) Five years prior civil service: \$36,717.50 annually.

5 years	\$77,300	\$28,987.50
<u>x .02</u>	<u>x .1</u>	<u>+ 7,730.00</u>
.10	\$7730.0	\$36,717.50

(3) Ten years prior federal service: \$44,447.50 annually.

10 years	\$77,300	\$28,987.50
<u>x .02</u>	<u>x .2</u>	<u>+ 15,460.00</u>
.20	\$15,460.0	\$44,447.50

(4) Fifteen years prior federal service: \$52,177.50 annually.

15 years	\$77,300	\$28,987.50
<u>x .02</u>	<u>x .3</u>	<u>+ 23,190.00</u>
.30	\$23,190.0	\$52,177.50

(5) Twenty years prior federal service: \$59,907.50 annually.

20 years	\$77,300	\$28,987.50
<u>x .02</u>	<u>x .4</u>	<u>+ 30,920.00</u>
.40	\$30,920.0	\$59,907.50

(6) Five years or more of prior creditable military service: \$38,650 annually.

15 years CMA	20 years	\$77,300
<u>+ 5 years mil. svc.</u>	<u>x .025</u>	<u>x .5</u>
20 years total	.500	\$38,650

COURT OF MILITARY APPEALS RETIREMENT

CMA Judge's Annual Salary
\$77,333.00

Retirement

15 or more years service - 2.5% x # of years = % of salary
(e.g. 2.5% x 15 = 37.5% of salary).

11-14 years service - 2% x # of years

6-10 years - 1.75% x # of years

under 6 years service - 1.5% x # of years

Salary = average of 3 highest years of service

5 years of any military service and any active duty while a member of the court (in case of war or national emergency).

Senior Judges

Full salary and benefits if serving on court as Senior Judge.

TAX COURT RETIREMENT

Annual Salary
\$73,100.00

Retirement

Full pay at age 65 with 15 years service
Full pay at age 70 with 10 years service

Senior Judges

Subject to recall 90 or more days per year
Most recalled for more than 90 days

Retired Judges

Same retirement as Senior Judges but no 90 day recall requirement

Note: There are currently six Senior Judges and five fully retired judges; the following chart shows the date the five retired judges became Senior Judges and the date they went into retired status:

Date to Senior Judge	Mar72	May67	Jan76	Apr62	Jun72
Date to Retired Judge	Jul72	Dec81	Feb84	Dec71	Apr74

ARTICLE III COURT RETIREMENT

Annual Salary

District Court \$73,100.00

Circuit Court \$77,300.00

Retirement

Full pay at age 65 with 15 years service

Full pay at age 70 with 10 years service

Senior Judge

28 USC§ 371 Organization of Courts; Resignation or retirement for age.

28 USC§ 294 Once retired, judges shall be known as Senior Judges and shall perform such duties as they are willing and able to undertake when designated and assigned.

28 USC§ 372 Early retirement for disability must be certified disability.



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

November 25, 1983

MEMORANDUM FOR THE JUDGE ADVOCATES GENERAL, MILITARY DEPARTMENTS
DIRECTOR, JUDGE ADVOCATE DIVISION, USMC

SUBJECT: Implementation of the Military Justice Act of 1983

The subject legislation, as amended by the House, was passed by the Senate on November 18, 1983. Congressional approval of this legislation reflects great credit on the leadership you have exercised in administering the military justice system.

If approved by the President before December 1, the major substantive changes will become effective on July 1, 1983. I have been advised that implementing rules have been drafted as changes to the proposed revision to the Manual for Courts-Martial, and that the entire revision will be forwarded to me after the public comment period on the implementing changes closes on January 4, 1984. Prompt action is necessary to ensure timely implementation and an orderly transition period.

Several aspects of the legislation require immediate attention upon approval by the President. Section 9(a) amends Article 67(g), requiring the Secretary of Defense to appoint "two members of the public" to serve on the Code Committee. Each public member must be "a recognized authority in military justice or criminal law." Recommendations for these positions should be submitted to me not later than January 16, 1984.

Section 9(b) requires the Secretary of Defense to establish a commission to study various military justice issues. If approved by the President before December 1, the Commission's report must be submitted to the Code Committee by August 1, 1984. The Commission shall consist of nine members appointed by the Secretary of Defense. Further details concerning the Commission's composition and duties are set forth at S. Rep. No. 53, 98th Cong., 1st Sess. 6, 30-32 (1983); H. R. Rep No. 549, 98th Cong., 1st Sess. 17 (1983).

The Air Force, which presently chairs the Joint Service Committee on Military Justice, is designated as Executive Agent for the Commission. This includes responsibilities for

all administrative matters, including compliance with the Federal Advisory Committee Act. A draft charter should be submitted to me by December 15, 1983.

On behalf of the Services, the Air Force, by December 15, 1983, should provide me with a list of nominees for the six governmental positions on the Commission. The nominees shall be persons whose primary experience has been in the field of military justice. Each service shall nominate one representative to the Commission. At least one nominee shall have had extensive experience as trial counsel; one as defense counsel; and one as a military judge. The Court of Military Appeals has been invited to designate a staff member for service on the Commission. The nomination list should include information on the nominees' careers with respect to the foregoing criteria.

The Secretary is required to appoint at least three members of the Commission "from private life who are recognized authorities in military justice or criminal law." Any recommendations for the "private" member positions should be submitted to me directly, and must be received by me not later than December 15, 1983.

Finally, in S. Rep. No. 53, supra, at 32, the Senate Armed Services Committee stated that it "was concerned about the need for an improved data base for analyzing military justice issues. The Committee expects the Secretary of Defense, working with the Code Committee, to establish a uniform process and format to collect data on key operational military justice indicators that will permit useful analysis of military justice trends and issues." The Joint Service Committee on Military Justice shall establish a separate working group to study this matter and make recommendations to the Code Committee not later than June 30, 1984. To ensure appropriate consideration of related disciplinary trends with respect to administrative and correctional matters, there should be close coordination with the Director, Legislation and Legal Policy (Office of the Deputy Assistant Secretary of Defense, Military Personnel and Force Management).



William H. Taft, IV

cc: ASD(MRA&L)
Chief Counsel, US Coast Guard

CHARTER

MILITARY JUSTICE ACT OF 1983 ADVISORY COMMISSION

A. The Commission's Official Designation: Military Justice Act of 1983 Advisory Commission.

B. The Commission's Objectives and Scope of its Activities: To study and provide recommendations concerning:

- Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.
- Whether military judges and the Court of Military Review should have the power to suspend sentences.
- Whether the jurisdiction of the special court-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and what, if any, changes should be made to current appellate jurisdiction.
- Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.
- What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.
- Whether the United States Court of military appeals should be an Article III court under the U.S. Constitution.

C. Period of Time Required: The Commission must render its final report by December 15, 1984.

D. Officials to Whom the Commission Reports: The Commission reports its findings and recommendations, in writing, to the Committees on Armed Services of the Senate and the House of Representatives, and to the Code Committee.

E. Composition of the Commission: The Commission will consist of nine (9) members appointed by the Secretary of Defense. Of the nine, six (6) shall be governmental persons whose primary experience has been in the field of military justice., One of these members may be a designee from the staff of the U.S. Court of Military Appeals. At least three (3) members will be civilians appointed from private life who are recognized authorities in military justice or criminal law.

F. The Agency Responsible for providing the Necessary Support for the Commission: United States Air Force.

G. A Description of the Duties for Which the Commission is Responsible: The Commission shall study and prepare a comprehensive report in support of its recommendations on the matters set forth in paragraph B above. The report shall include the Commission's findings and comments on the following matters:

(1) The experience in the civilian sector with jury sentencing and judge-alone sentencing, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, and impact on the rights of the accused.

(2) The potential impact of mandatory judge-alone sentencing on the Armed Forces, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, impact on the rights of the accused, effect on the participation of members of the Armed Forces in the military justice system, impact on relationships between judge advocates and other members of the Armed Forces, and impact on the perception of the military justice system by members of the Armed Forces, the legal profession, and the general public.

(3) The likelihood of a reduction in the number of general court-martial cases in the event the confinement jurisdiction of the special court-martial is expanded; the additional protections that should be afforded the accused if such jurisdiction is expanded; whether the minimum number of members prescribed by law for a special court-martial should be increased; and whether the appellate review process should be modified so that a greater number of cases receive review by the military appellate courts, in lieu of legal reviews presently conducted in the offices of the Judge Advocates General and elsewhere, especially if the commission determines that the special court-martial jurisdiction should be expanded.

(4) The effectiveness of the present systems for maintaining the independence of military judges and what, if any, changes are needed in these systems to ensure maintenance of an independent military judiciary, including a term of tenure for such judges consistent with efficient management of military judicial resources.

H. The Commission's Chairman: The United States Air Force Representative will serve as Chairman of the Commission.

I. The Estimated Annual Operating Cost: In dollars, cost of travel, per diem, and all costs associated with Commission functions and administrative support, should not exceed \$20,000. Manyears should equate to approximately 2.

J. The Estimated Number and Frequency of Commission Meetings: Approximately 6, bi-monthly.

K. The Commission's Termination Date: December 15, 1984.

The Military Justice Act of 1983 Advisory Commission, which I chair, has been chartered to study various issues of interest to Congress which relate to the Act, and to military justice generally. Meetings of the Commission will commence on April 12, 1984. Among other topics, we expect to address:

- Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.
- Whether military judges and the Courts of Military Review should have the power to suspend sentences.
- Whether the jurisdiction of special courts-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and if so, what, if any, changes should be made to current appellate jurisdiction.
- Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.
- What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.
- Whether the United States Court of Military Appeals should be an Article III court under the U.S. Constitution.

In view of your interest in military justice, I should like to invite you to comment on the issues before the Commission. Any comments you elect to provide may be addressed to me at HQ USAF/JAJM, 1900 Half Street, S.W., Washington, D.C. 20324. If the Commission would be better served by your appearance and testimony, please indicate that to me as well.

Thank you for your continued interest and important contributions.

Sincerely,

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Advisory Commission Report



DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
WASHINGTON, D.C. 20301

15 AUG 1984

Hon. Melvin Price
Chairman
House Armed Services Committee
Room 2110, Rayburn (H.O.B.) Building
Washington, D.C. 20515

Dear Representative Price

The Military Justice Act of 1983 Advisory Commission, which was established by the Secretary of Defense pursuant to Pub. L. 98-209, has been taking testimony and studying those issues of concern to Congress. Our charter and Pub. L. 98-209 provide for a final commission report to Congress by September 1, 1984.

I have informally advised your committee and the Senate Armed Services Committee that additional time would be needed to provide Congress with a significant and useful report. We are aware that H.R. 5167, §1050 extends the time for the filing of the commission report until December 15, 1984, and that there is general support for this provision in both chambers.

In the event the statutory extension is not enacted prior to September 1, 1984, the Secretary of Defense intends to reconstitute the commission as a Department of Defense advisory group with provision for direct transmittal of its report to Congress by December 15, 1984. If this arrangement is in any respect unacceptable, please let me know.

Sincerely,


THOMAS L. HEMINGWAY, Colonel, USAF
Chairman

Military Justice Act of 1983 Advisory Commission



DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
WASHINGTON, D.C. 20301

15 AUG 1984

Hon. John Tower
Chairman
Senate Armed Services Committee
Room SR-176, Russell Building
Washington, D.C. 20510

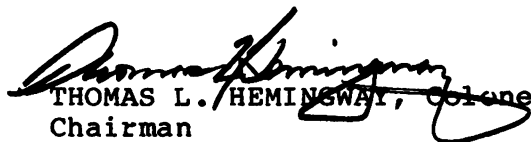
Dear Senator Tower

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Sincerely,


THOMAS L. HEMINGWAY, Colonel, USAF
Chairman
Military Justice Act of 1983 Advisory Commission

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U.S. House of Representatives

COMMITTEE ON ARMED SERVICES

Washington, D.C. 20515

NINETY-EIGHTH CONGRESS

MELVIN PRICE (ILL.), CHAIRMAN

September 6, 1984

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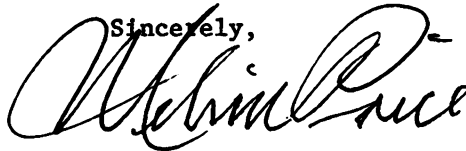
Col. Thomas L. Hemingway, USAF
 Chairman
 Military Justice Act of 1983 Advisory Commission
 Department of Defense
 Washington, D. C. 20301

Dear Colonel Hemingway:

This is in response to your letter of August 15, 1984, concerning the timing of the report of the advisory commission established pursuant to the Military Justice Act of 1983.

The arrangement you propose in your letter is acceptable, and the committee appreciates your courtesy in the matter.

Sincerely,



Melvin Price
 Chairman

MP:jsad

PART FOUR—STATISTICS

V. COURT-MARTIAL RELATED STATISTICS FROM EACH SERVICE

**APPELLATE PROCESSING TIMES
U.S. ARMY**

Date trial concluded to receipt at OTJAG

<u>Calendar Year</u>	Average Number Days	
	<u>GCM</u>	<u>SPCM</u>
1980	85.5	77.2
1981	87.2	75.5
1982	85.3	84.4
1983	66.9	61.0
1984 (Jan-Mar)	63.0	57.0

Date of Receipt at OTJAG to Decision by ACMR

<u>Fiscal Year</u>	<u>GCM</u>	<u>SPCM</u>
1982	96 days	84 days
1983	137 days	116 days

Advisory Commission Report

TRIALS BY JUDGE ALONE
(PERCENT OF TOTAL CASES TRIED)
US ARMY

Fiscal Year	GCM	SPCM
1970	over 80	over 90
1971	about 84	about 95
1972	66	93
1973	67	88
1974	81	91
1975	66	87
1976	64	87
1977	55.4	75.0
1978	50.8	73.8
1979	53.6	67.0
1980	58.5	64.8
1981	57.2	71.4
1982	58.9	68.2
1983	67.4	72.8

LENGTH OF CONFINEMENT AT GCM
(PERCENT OF TOTAL CONVICTIONS)
U.S. ARMY

<u>Fiscal Year</u>	<u>Confinement for 1 year or less</u>	<u>Confinement for 15 months or less</u>
1982	31.0%	36.8%
1983	29.3%	35.1%

Advisory Commission Report

ARMY STRENGTH AT END OF FISCAL YEAR
(Each figure represents 1000)

<u>Fiscal Year</u>	<u>Total Strength</u>	<u>Percent Officers</u>
1940	269 (x 1000)	5.6
1941	1462	6.1
1942	3076	4.9
1943	6994	5.3
1944	7995	5.6
1945	8268	6.2
1946	1891	9.8
1947	991	9.1
1948	554	12.3
1949	660	11.7
1950	593	12.3
1951	1532	8.6
1952	1596	9.3
1953	1534	9.5
1954	1405	9.1
1955	1109	11.0
1956	1026	11.5
1957	998	11.1
1958	899	11.7
1959	862	11.8
1960	873	11.6

<u>Fiscal Year</u>	<u>Total Strength</u>	<u>Percent Officers</u>
1961	859	11.6
1962	1066	10.9
1963	976	11.1
1964	973	11.4
1965	969	11.6
1966	1120	10.5
1967	1442	10.0
1968	1570	10.6
1969	1512	11.4
1970	1323	12.6
1971	1124	13.3
1972	811	14.9
1973	801	14.5
1974	783	13.5
1975	784	13.1
1976	783	12.5
1977	782	12.5
1978	772	12.7
1979	759	12.8
1980	777	12.7
1981	781	13.1
1982	780	13.2
1983	780	13.6

SOURCE: Department of Defense, Selected Manpower Statistics, Fiscal Year 1983

Advisory Commission Report

TOTAL DISCIPLINARY ACTIONS

US ARMY

Fiscal Year	GCM	Total SPCM	BCD's Adjudged at SPCM	SCM	NJP	Discharge in lieu of trial by CM
1951	5,206	27,404	NA	79,226	NA	NA
1952	8,037	53,483	NA	90,950	NA	NA
1953	11,168	65,547	NA	100,881	NA	NA
1954	10,149	54,144	NA	79,498	NA	NA
1955	9,884	45,852	NA	62,613	NA	NA
1956	7,750	36,451	NA	50,702	NA	NA
1957	5,586	34,761	NA	51,978	NA	NA
1958	3,767	28,125	NA	45,156	NA	NA
1959	2,376	20,287	NA	36,224	NA	NA
1960	2,060	20,424	NA	34,682	NA	NA
1961	1,899	23,471	NA	38,049	NA	NA
1962	1,876	26,607	NA	43,542	NA	NA
1963	1,843	26,448	NA	32,316	NA	NA
1964	1,865	24,327	NA	16,926	NA	NA
1965	1,553	24,813	NA	17,090	189,607	NA
1966	1,476	23,121	NA	14,016	171,365	NA
1967	1,902	34,735	NA	13,306	226,562	NA
1968	2,375	43,769	NA	11,541	263,612	NA
1969	2,482	59,597	NA	14,241	301,095	NA

Statistics

Fiscal Year	GCM	Total SPCM	BCD's adjudged at SPCM	SCM	NJP	Discharge in lieu of trial by CM
1970	2,628	41,348	581	15,023	318,200	NA
1971	2,751	27,989	1,191	14,996	272,029	NA
1972	2,047	16,613	1,002	12,927	217,245	NA
1973	1,621	13,851	942	7,326	190,272	NA
1974	1,848	14,814	1,361	5,325	175,292	NA
1975	1,635	10,525	1,266	4,118	169,217	NA
1976	1,147	6,929	1,016	1,999	159,918	NA
1977	1,163	5,068	844	1,976	166,798	9,711
1978	1,021	4,755	810	1,848	154,410	8,346
1979	1,256	3,951	871	2,310	146,411	NA
1980	1,353	4,450	1,385	3,467	151,371	NA
1981	1,426	4,594	1,792	4,418	156,497	NA
1982	1,500	4,205	2,556	4,151	140,191	6,212*
1983	1,581	2,843	2,075	2,856	132,045	5,884*

SOURCE: Records of Clerk of Court, US Army Judiciary

*Does not include discharges approved in lieu of general court-martial, which are not available.

Advisory Commission Report

US ARMY - CY 1982

1982

GENERAL COURTS-MARTIAL

	<u>Judge Only</u>	<u>Enlisted Members</u>	<u>Officer Court</u>	<u>TOTAL</u>
Cases Tried	997 (60.7)	340 (20.7)	306 (18.6)	1643
Convictions	956 (95.9)	283 (83.2)	262 (85.7)	1501
No discharge adjudged	56 (5.9)	74 (26)	45 (17)	175
Dishonorable	388	92	96	576
Bad-Conduct	492	116	105	713
Officer Dismissal	22	0	16	38
TOTAL	<u>958</u>	<u>282</u>	<u>262</u>	<u>1502</u>
No confinement adjudged	32 (3.3)	53 (18.7)	32	117
CHL less than 1 year	250	42	43	335
1 year	88	42	60	190
1-5 years	522	102	93	717
5-10 years	44	28	18	90
10-20 years	17	7	9	33
20 years	8	4	2	14
Life	0	5	5	10
TOTAL	<u>961</u>	<u>283</u>	<u>262</u>	<u>1506</u>
No forfeiture or fine	31 (3.2)	36 (12.7)	48 (18.3)	115
Forfeiture or fine	929	245	214	1388
TOTAL	<u>960</u>	<u>281</u>	<u>262</u>	<u>1503</u>
Reduction in grade	Data unreliable			
Recommended:				
Suspension of discharge	17	2	0	19
Suspension of CHL	16	2	1	19
Suspension of forfeiture	6	0	0	6
Suspension of Reduction	2	0	0	2
TOTALS	<u>41</u>	<u>4</u>	<u>1</u>	<u>46</u>

US ARMY - CY 1982

1982

BCD SPCH

Statistics

1261

	<u>Judge Only</u>	<u>Enlisted Members</u>	<u>Officer Court</u>	<u>TOTAL</u>
Cases Tried	1753 (67)	399 (15)	480 (18)	2632
Convictions	1699 (96.9)	335 (83.9)	410 (85.4)	2444
No discharge adjudged	443 (26)	145 (43.2)	174 (42.4)	762
Dishonorable	1255	191	242	1688
Bad-Conduct	<u>1698</u>	<u>336</u>	<u>416</u>	<u>2450</u>
Officer Dismissal	115 (6.8)	114 (34)	111 (27)	340
TOTAL	1588	224	304	2116
No confinement adjudged	<u>1703</u>	<u>338</u>	<u>415</u>	<u>2456</u>
CHL less than 1 year	231 (13.6)	76 (22.7)	90	397
1 year	1461	254	322	2037
1-5 years	<u>1692</u>	<u>330</u>	<u>412</u>	<u>2434</u>
5-10 years				
10-20 years				
20 years				
Life				
TOTAL				
No forfeiture or fine				
Forfeiture or fine				
TOTAL				
Reduction in grade	Data unreliable			
Recommended:				
Suspension of discharge	64	0	0	64
Suspension of CHL	26	0	1	27
Suspension of forfeiture	2	0	1	3
Suspension of Reduction	6	1	0	7
TOTALS	<u>98</u>	<u>1</u>	<u>2</u>	<u>101</u>

Advisory Commission Report

US ARMY - CY 1982

1982

SPCM (NON-BCD)

	<u>Judge Only</u>	<u>Enlisted Members</u>	<u>Officer Court</u>	<u>TOTAL</u>
Cases Tried	985 (67.7)	245 (16.8)	228 (15.6)	1458
Convictions	913 (92.7)	171 (7.5)	188 (12.9)	1272
No discharge adjudged				
Dishonorable				
Bad-Conduct				
Officer Dismissal				
TOTAL				
No confinement adjudged	306 (33.5)	107 (62.6)	99 (52.7)	512
CHL less than 1 year	607	64	92	763
1 year				
1-5 years				
5-10 years				
10-20 years				
20 years				
Life				
TOTAL	<u>913</u>	<u>171</u>	<u>191</u>	<u>1275</u>
No forfeiture or fine	213 (23.3)	40 (23.4)	47 (25)	300
Forfeiture or fine	681	126	142	949
TOTAL	<u>894</u>	<u>166</u>	<u>189</u>	<u>1249</u>
Reduction in grade	Data unreliable			
Recommended:				
Suspension of discharge	40	0	0	40
Suspension of CHL	8	0	1	9
Suspension of forfeiture	17	0	0	17
Suspension of Reduction	<u>65</u>	<u>0</u>	<u>1</u>	<u>66</u>
TOTALS				

US ARMY - Calendar Year 1983

GENERAL COURTS-MARTIAL

Statistics

	Judge Only	Enlisted Court Members	Officer Court	Total
Cases entered				
Type of trial (% of total)	1220 (68.4)	301 (16.9)	262 (14.7)	1783
Convictions (%)	1158 (94.9)	248 (82.4)	227 (86.6)	1633
No discharge adjudged (% of convictions)	56 (4.8)	43 (17.3)	39 (17.2)	138
Dishonorable	508 (43.9)	94 (37.9)	90 (39.6)	692
Bad-Conduct	577 (49.8)	112 (45.2)	87 (38.3)	776
Officer Dismissal	19 (1.6)	--	11 (4.8)	30
Total	1160	249	227	1636
No confinement adjudged (% of convictions)	37 (3.2)	48 (19.3)	35 (15.5)	120
CHL less than 1 year	273 (23.6)	38 (15.3)	30 (13.2)	341
1 year	113 (9.8)	32 (12.9)	30 (13.2)	175
5 to 10 years	629 (54.3)	84 (33.9)	95 (41.8)	808
10 to 20 years	70 (6.0)	25 (10.1)	18 (7.9)	113
20 years	22 (1.9)	12 (4.8)	6 (2.6)	40
Life	7 (0.6)	8 (3.2)	7 (3.1)	22
Total	1155	249	226	1630
No forfeiture or fine (% of convictions)	53 (4.6)	38 (15.4)	31 (13.9)	122
Forfeiture or fine imposed (% of convictions)	1107 (95.4)	208 (84.6)	192 (86.1)	1507
Total	1160	246	223	1629
No reduction (% of convictions)	134 (11.6)	41 (16.5)	67 (29.5)	242
Reduction imposed (% of convictions)	1025 (88.4)	208 (83.5)	160 (70.5)	1393
Total	1159	249	227	1635
Suspension of Discharge Recommended (% of discharges)	12 (1.1)	1 (0.5)	0	0
Suspension of CHL Recommended (% of CHL Adjudged)	23 (2.1)	1 (0.5)	0	0
Suspension of Forfeiture Recommended (% of FF Adjudged)	7 (0.6)	0	0	0
Suspension of Reduction Recommended (% of reductions)	2 (0.2)	0	0	0
Total	44	2	0	0

Advisory Commission Report

US ARMY - Calendar Year 1983

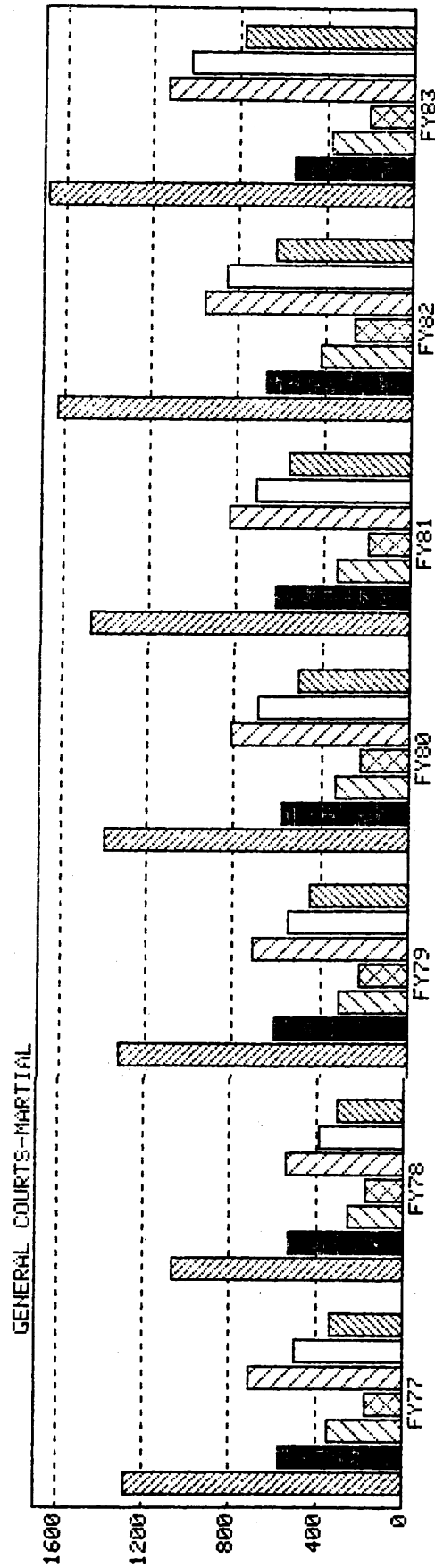
BCD SPECIAL COURTS-MARTIAL				
	Judge Only	Enlisted Court Members	Officer Court	Total
Cases entered				
Type of trial	1698 (76.1)	284	249	2231
Convictions (Rate)	1623 (95.6)	233 (82.0)	215 (86.3)	2071
No discharge adjudged (%)	356 (21.9)	101 (43.2)	89 (41.4)	546
Dishonorable Bad-Conduct Officer Dismissal	1267 (78.1)	133 (56.8)	126 (58.6)	1526
Total	<u>1623</u>	<u>234</u>	<u>215</u>	<u>2072</u>
No confinement adjudged (%)	160 (9.9)	82 (35.0)	59 (27.4)	301
CHL less than 1 year	1462 (90.1)	152 (65.0)	156 (72.6)	1770
1 year				
1 to 5 years				
5 to 10 years				
10 to 20 years				
20 years				
Life				
Total	<u>1622</u>	<u>234</u>	<u>215</u>	<u>2071</u>
No forfeiture on fine (%)	190 (11.7)	50 (21.6)	46 (21.6)	286
Forfeiture on fine imposed (%)	1428 (88.3)	181 (78.4)	167 (78.4)	1776
	<u>1618</u>	<u>231</u>	<u>213</u>	<u>2062</u>
No reduction (%)	227 (14.0)	42 (18.0)	58 (27.0)	327
Reduction imposed (%)	1397 (86.0)	191 (82.0)	157 (73.0)	1745
	<u>1624</u>	<u>233</u>	<u>215</u>	<u>2072</u>
Suspension of Discharge Recommended (%)	44 (3.5)	0	0	0
Suspension of CHL Recommended	19 (1.3)	0	0	0
Suspension of Forfeiture Recommended	1 (.07)	0	0	0
Suspension of Reduction Recommended	<u>6 (.43)</u>	<u>0</u>	<u>0</u>	<u>0</u>
	70	0	0	0

(NON-BCD)
SPECIAL COURTS-MARTIAL

	<u>Judge Only</u>	<u>Enlisted Court Members</u>	<u>Officer Court</u>	<u>Total</u>
Cases entered				770
Type of trial	521 (67.8)	151	97	769
Convictions (Rate)	464 (89.1)	89 (58.9)	76 (78.4)	629
No discharge adjudged (%)				
Dishonorable				
Bad-Conduct				
Officer Dismissal				
Total				
No confinement adjudged (%)				
CHL less than 1 year	195 (42.2)	66 (74.2)	48 (63.2)	309
1 year	267 (57.8)	23 (25.8)	28 (36.8)	318
1 to 5 years				
5 to 10 years				
10 to 20 years				
20 years				
Life				
Total	<u>462</u>	<u>89</u>	<u>76</u>	<u>627</u>
No forfeiture on fine (%)	102 (22.1)	16 (18.4)	21 (28.8)	139
Forfeiture on fine imposed (%)	<u>359 (77.9)</u>	<u>71 (81.6)</u>	<u>52 (71.2)</u>	<u>482</u>
	461	87	73	621
No reduction (%)	98 (21.2)	24 (27.0)	20 (26.3)	142
Reduction imposed (%)	<u>365 (78.8)</u>	<u>65 (73.0)</u>	<u>56 (73.7)</u>	<u>486</u>
	463	89	76	628
Suspension of Discharge Recommended (%)				
Suspension of CHL Recommended	20 (7.5)	0	0	0
Suspension of Forfeiture Recommended	3 (.84)	0	0	0
Suspension of Reduction Recommended	<u>12 (3.2)</u>	<u>1 (1.5)</u>	<u>0</u>	<u>0</u>
	35	1	0	0

Statistics

US Army



▨ Total number of GCM tried in fiscal year indicated

■ Number of cases tried before courts with members

▧ Number of discharges adjudged by courts with members

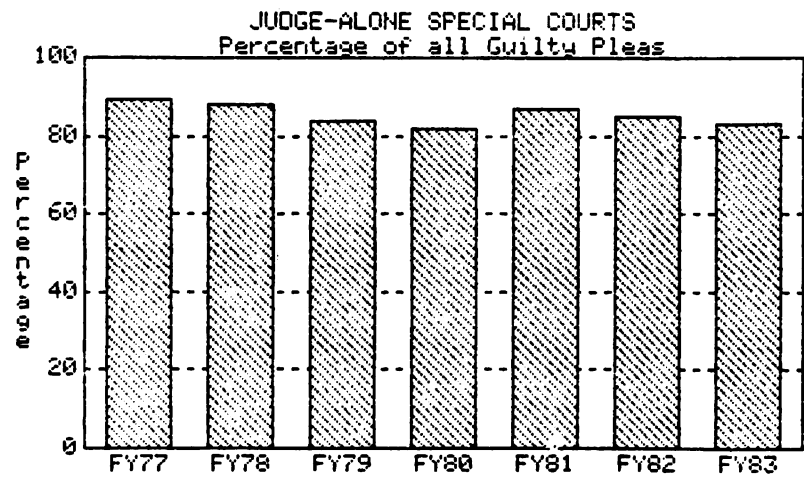
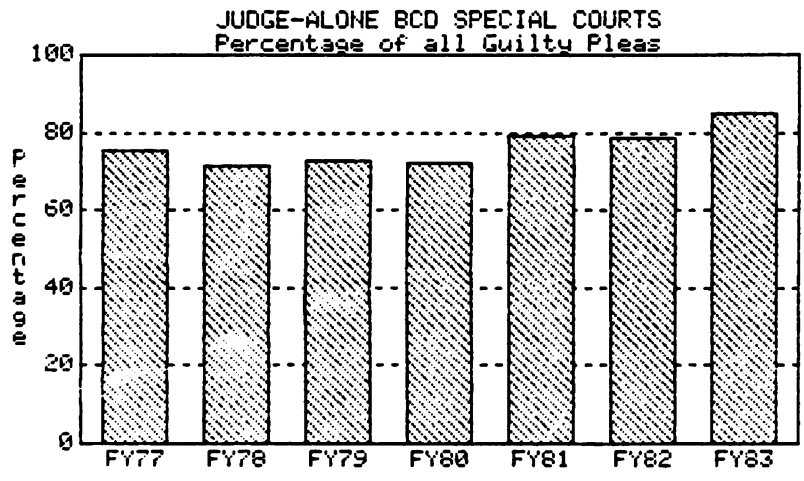
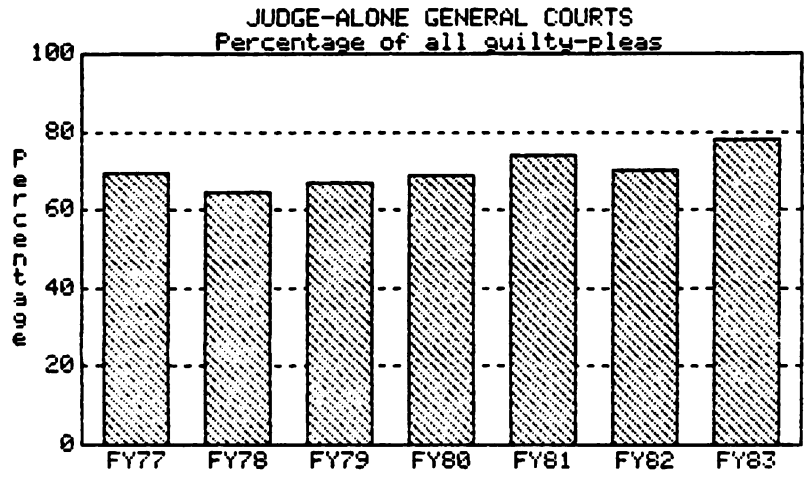
▩ Number of cases with pleas of guilty before courts with members

▤ Number of cases tried by military judge alone

□ Number of discharges imposed by military judges sitting alone

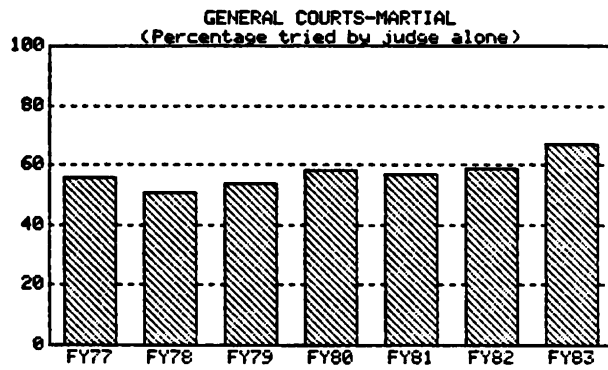
▦ Number of cases with pleas of guilty before military judges sitting alone

THESE GRAPHS DEPICT THE PERCENTAGE OF THE TOTAL NUMBER OF GUILTY PLEA CASES IN THE U. S. ARMY WHICH WERE TRIED BY MILITARY JUDGES SITTING ALONE. (Source: Records of the US Army Trial Judiciary)

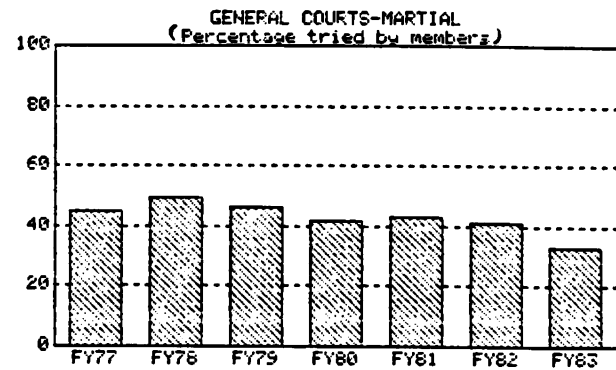


█ % Pleas

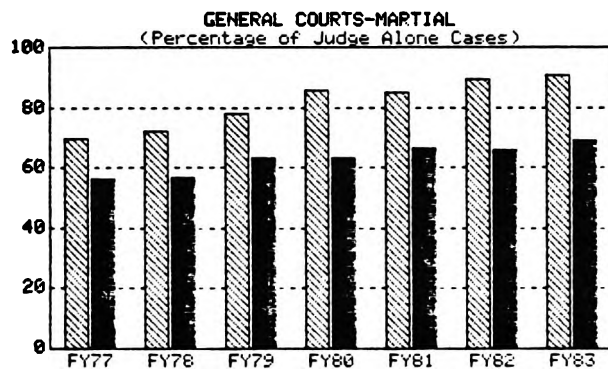
Advisory Commission Report



▨ % J A

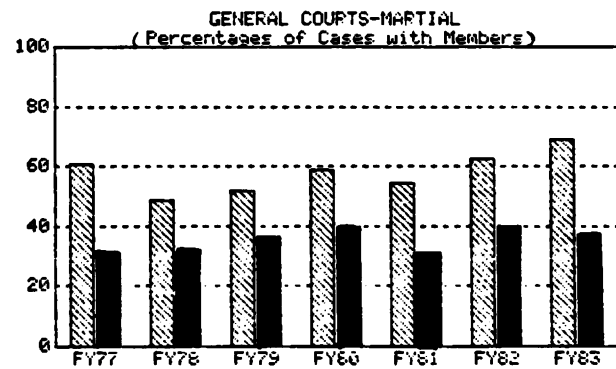


▨ % w/mem



▨ % DisAdj

■ % G Plea

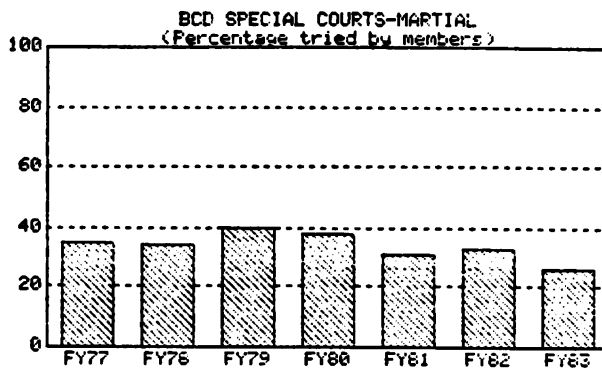
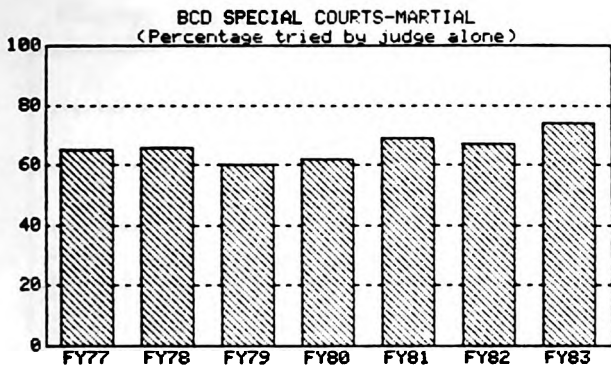


▨ % DisAdj

■ % G Plea

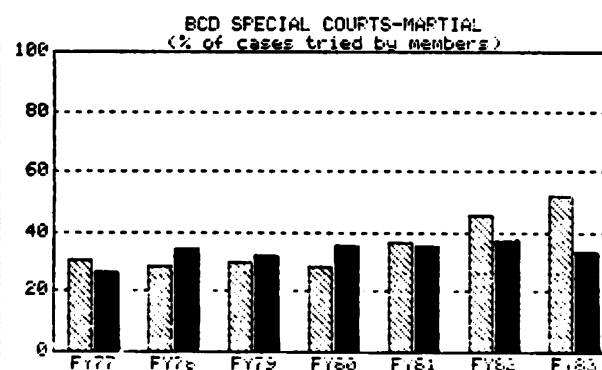
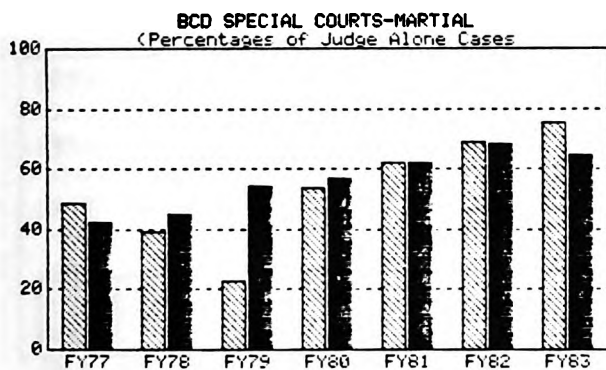
1. The top graphs depict the percentage of the total general courts-martial in the U.S. Army which were tried by military judges sitting alone (left) and by courts composed of members (right) for the period FY 1977 through FY 1983.
2. The bottom graph on the left depicts the percentage of all general courts-martial tried by judge alone where (1) a discharge was adjudged; and (2) where the plea was "guilty."
3. The bottom graph on the right depicts the percentage of all general courts-martial tried by a court composed of members where (1) a discharge was adjudged; and (2) where the plea was "guilty."

(Source: Records of the U.S. Army Trial Judiciary)



▨ % J A

▨ % w/mems



▨ % DisAdj

■ % G Plea

▨ % DisAdj

■ % G Plea

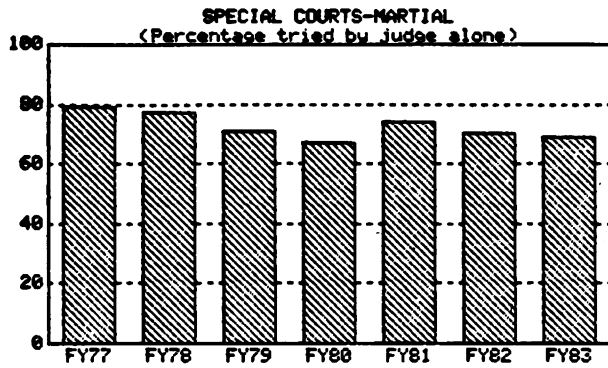
1. The top graphs depict the percentage of the total special courts-martial capable of adjudging a bad conduct discharge in the U. S. Army which were tried by judge alone (left) and by courts composed of members (right) for the period FY 1977 through FY 1983.

2. The bottom graph on the left depicts the percentage of all BCD Special Courts-martial tried by judge alone where (1) a discharge was adjudged; and (2) where the plea was "guilty."

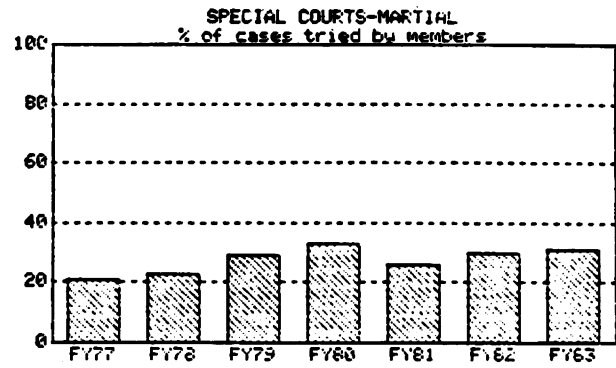
3. The bottom graph on the right depicts the percentage of all BCD Special Courts-martial tried by a court composed of members where (1) a discharge was adjudged; and (2) where the plea was "guilty."

(Source: Records of the U.S. Army Trial Judiciary)

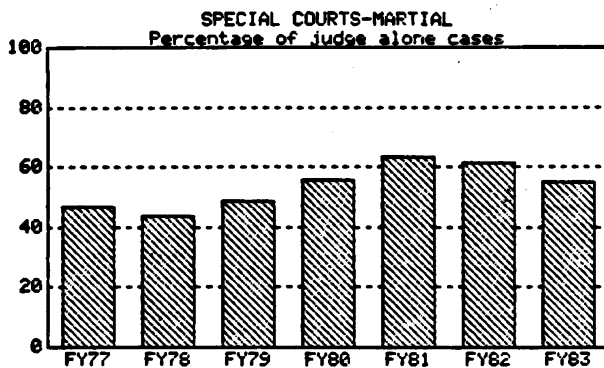
Advisory Commission Report



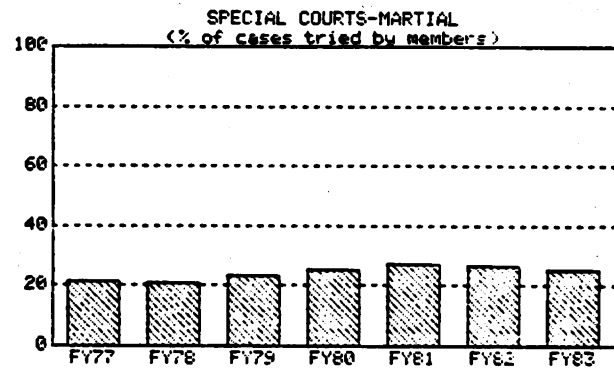
▨ % J A



▨ % Memz



▨ % G Plea



▨ % G Plea

1. The top graphs depict the percentage of the total special courts-martial (non BCD) in the U. S. Army which were tried by judge alone (left) and by courts composed of members (right) for the period FY 1977 through FY 1983.
2. The bottom graph on the left depicts the percentage of all special courts-martial (non BCD) tried by judge alone in which the plea was "guilty."
3. The bottom graph on the right depicts the percentage of the special courts-martial (non BCD) in the U.S. Army which were tried by courts-martial composed of members where the plea was "guilty."

(Source: Records of the U. S. Army Trial Judiciary)

(Navy statistics do not include Marine Corps data.)

NAVY

I. TOTAL DISCIPLINARY ACTIONS

FY	GCM	SPCM	BCD AT			DISCHARGE
			SPCM	SCM	NJP	LIEU OF CM
1952	2005	NA	1977	NA	NA	NA
1953	2152	15502	3258	38042	NA	NA
1954	2025	16054	3739	36743	NA	NA
1955	1083	10140	2265	24959	NA	NA
1956	1020	10845	1949	21829	NA	NA
1957	1158	13383	2201	27370	NA	NA
1958	918	12218	2645	26266	NA	NA
1959	608	8749	2032	23874	NA	NA
1960	479	8851	2071	22016	NA	NA
1961	299	8769	1673	21075	NA	NA
1962	284	8676	1440	21168	NA	NA
1963	313	8545	1521	16168	NA	NA
1964	246	7754	1222	7214	93428	NA
1965	135	7469	1085	7536	89919	NA
1966	142	8698	1221	8276	93192	NA
1967	171	8965	1849	8299	95633	NA
1968	228	7195	1635	6755	75942	NA
1969	260	5706	1225	5964	72967	NA
1970	385	5480	1210	5958	68948	NA

Advisory Commission Report

FY	GCM	SPCM	BCD AT		NJP	DISCHARGE
			SPCM	SCM		LIEU OF CM
1971	341	5701	1381	6181	65291	NA
1972	203	3306	478	4890	60049	NA
1973	191	3634	336	4658	79783	1300
1974	187	5016	373	3978	112766	1491
1975	171	5061	617	3609	106898	2298
1976	240	4072	821	3611	96934	2358
1977	229	3715	808	4584	88860	2333
1978	113	3480	878	4074	97956	1590
1979	134	3275	1178	4746	97085	1553
1980	165	3149	1606	5208	90664	2162
1981	211	3478	2058	4627	88512	1841
1982	364	3604	3428	4171	88601	1207
1983	566	3439	3986	3231	79157	864

NAVY

II. TRIALS BY JUDGE ALONE

(Percentage of Total Cases Tried)

FY	GCM	SPCM
1973	67.9	89.3
1974	52.8	92.0
1975	36.0	89.0
1976	63.6	89.3
1977	61.5	90.1
1978	54.3	90.9
1979	59.3	93.5
1980	57.8	92.8
1981	50.8	90.6
1982	70.7	93.3
1983	72.4	91.6

Advisory Commission Report

NAVY

III. LENGTH OF CONFINEMENT AT GCM

(Percent of Total Convictions)

FY	CHL-1 year or less	CHL-15 months or less
1971	65.4	70.7
1972	54.7	56.6
1973	50.8	53.9
1974	57.2	60.4
1975	33.3	35.7
1976	57.1	59.6
1977	55.4	59.4
1978	65.5	73.4
1979	44.8	47.0
1980	26.7	28.5
1981	38.4	40.8
1982	53.8	56.9
1983	41.0	44.0

R

IV. NAVAL PERSONNEL STRENGTH AT END OF FISCAL YEAR

(in thousands)

FY	TOTAL STRENGTH	% OFFICERS
1941	284(x1000)	9.9(%)
1942	641	10.6
1943	1742	10.0
1944	2981	9.0
1945	3381	9.5
1946	984	13.8
1947	499	10.0
1948	419	10.3
1949	450	10.2
1950	382	11.3
1951	737	9.1
1952	824	9.6
1953	794	9.9
1954	726	10.3
1955	661	10.9
1956	670	10.4
1957	677	10.6
1958	641	10.9
1959	626	11.2
1960	618	11.3

Advisory Commission Report

FY	TOTAL STRENGTH	% OFFICERS
1961	627	11.2
1962	666	11.3
1963	665	11.4
1964	668	11.4
1965	671	11.6
1966	745	10.7
1967	752	10.9
1968	765	11.1
1969	776	10.9
1970	693	11.7
1971	623	12.0
1972	588	12.4
1973	565	12.6
1974	546	12.0
1975	535	11.8
1976*	528	11.9
1977	530	11.9
1978	530	11.7
1979	524	11.8
1980	527	12.7
1981	541	12.0
1982	553	12.1
1983	570	12.3

* Figures reflect personnel strength as of 30 September 1976.

Navy and Marine Corps
PERCENT OF CASES TRIED BY MILITARY JUDGE ALONE

<u>Year</u>	<u>GCM</u>	<u>% of Total</u>	<u>BCD SPCM</u>	<u>% of Total</u>	<u>Non BCD SPCM</u>	<u>% of Total</u>
1973	441	70%	1,863	93%	8,798	93%
1974	415	64%	2,468	93%	10,353	94%
1975	420	68%	2,511	94%	8,777	92%
1976	361	65%	1,834	92%	6,954	92%
1977	220	59%	1,672	92%	5,900	91%
1978	196	61%	1,358	90%	5,322	91%
1979	142	52%	1,904	93%	4,807	90%
1980	231	58%	2,978	91%	5,190	90%
1981	266	59%	3,420	93%	4,998	88%

Advisory Commission Report

Navy and Marine Corps
 PERCENT OF CASES TRIED BY MILITARY JUDGE ALONE

<u>Year</u>	<u>GCM</u>	<u>% of Total</u>	<u>BCD</u> <u>SPCM</u>	<u>% of Total</u>	<u>Non BCD</u> <u>SPCM</u>	<u>% of Total</u>
1973	441	70%	1,863	93%	8,798	93%
1974	415	64%	2,468	93%	10,353	94%
1975	420	68%	2,511	94%	8,777	92%
1976	361	65%	1,834	92%	6,954	92%
1977	220	59%	1,672	92%	5,900	91%
1978	196	61%	1,358	90%	5,322	91%
1979	142	52%	1,904	93%	4,807	90%
1980	231	58%	2,978	91%	5,190	90%
1981	266	59%	3,420	93%	4,998	88%

U.S. Marine Corps
Legal Personnel Strength Report

<u>Year</u>	<u>Lawyers</u>	<u>Admin O</u>	<u>Enlisted</u>	<u>Total</u>
1970	286	10	262	558
1971	248	10	317	575
1972	307	21	446	774
1973	289	17	409	715
1974	277	11	361	649
1975	275	20	327	622
1976	330	19	344	693
1977	344	20	367	731
1978	349	24	370	743
1979	326	25	348	699
1980	320	22	568	910
1981	334	20	644	998
1982	345	22	646	1013
1983	361	29	702	1092

Advisory Commission Report

U.S. Marine Corps Disciplinary Actions

Year	No. of GCM (No. GCM/1000)	No. BCD SPOM (No. BCD SPOM/1000)	No. BCD SPOM Non	AGN SumCt/ SumCt (No./1000)	AGN Deck Ct & SumCt (No./1000)	No. of NJP (NJP/1000)	No. Discharge In lieu of trial
1940	99/(3.49)			1274/(44.95)	922/(32.53)		
1941	203/(3.73)			2110/(36.82)	1794/(33.00)		
1942	949/(6.65)			6338/(44.44)	7025/(49.26)		
1943	1247/(4.04)			12354/(40.04)	13544/(43.90)		
1944	1699/(3.57)			15464/(32.51)	21693/(45.61)		
1945	2126/(4.48)			11796/(24.85)	11976/(25.23)		
1946	2172/(13.95)						
1947	1046/(11.24)			4021/(43.21)	5729/(61.57)		
1948	1020/(12.00)			4178/(49.16)	5189/(61.06)		
1949	1050/(12.21)			4165/(48.45)	5673/(65.99)		
1950	1084/(14.59)			3923/(52.81)	5238/(70.52)		
1951	585/(3.04)			4088/(21.22)	5386/(27.96)		
1952	1173/(5.06)		411/(1.77)				
1953	1668/(6.69)		1292/(5.18)	7413/(29.74)	10553/(42.54)		
1954	1995/(8.91)		1532/(6.84)	6594/(29.14)	10938/(48.86)		
1955	1462/(7.13)		1755/(8.55)	7456/(36.34)	11835/(57.68)		
1956	1511/(7.53)		1805/(8.99)	5451/(27.15)	9145/(45.55)		
1957	982/(4.89)		1158/(5.77)	4709/(23.44)	6666/(33.19)		
1958	650/(3.43)		1162/(6.13)	4203/(22.18)	8020/(42.32)		
1959	456/(2.60)		1207/(6.87)	2782/(15.82)	6903/(39.32)		
1960	326/(1.91)		1357/(7.95)	3551/(20.81)	7630/(44.72)		
1961	201/(1.14)		1319/(7.46)	3828/(21.64)	7878/(44.53)		
1962	211/(1.10)		1343/(7.03)	4323/(22.64)	8084/(42.33)		
1963	240/(1.27)		1285/(6.77)	4373/(23.05)	6588/(34.73)		
1964	194/(1.02)		1153/(6.08)	3687/(19.43)	3571/(18.82)		
1965	204/(1.07)		1073/(5.64)	3547/(18.65)	3516/(18.48)		
1966	213/(.81)		920/(3.52)	3808/(14.55)	3658/(13.98)		
1967	382/(1.34)		1041/(3.65)	5688/(19.87)	5056/(17.72)		
1968	604/(1.97)		1420/(4.62)	5690/(18.52)	5435/(17.69)		7
1969	669/(2.16)		1583/(5.11)	7257/(24.94)	7114/(22.97)		486
1970	932/(3.59)		1781/(6.86)	6891/(26.53)	7351/(28.30)		6221
1971	587/(2.76)		1326/(6.24)	5329/(25.09)	7916/(37.27)		2218
1972	670/(3.38)		1515/(7.64)	4497/(22.68)	6418/(32.38)		1390
1973	597/(3.04)		1668/(8.51)	4600/(23.46)	6664/(33.98)		1351
1974	422/(2.24)		1742/(9.23)	5855/(31.01)	4963/(26.29)		329
1975	520/(2.65)		2302/(11.75)	5360/(27.35)	4939/(25.21)		1806
1976	401/(2.08)		1606/(8.35)	4206/(21.87)	3984/(20.71)		1827
1977	251/(1.51)		1109/(5.79)	3547/(17.46)	2866/(14.96)		2219
1978	127/(.67)		714/(3.74)	2507/(13.14)	2084/(10.93)		2594
1979	165/(.89)		565/(3.05)	2180/(11.77)	2113/(11.41)		1635
1980	155/(.82)		873/(4.63)	2379/(12.62)	2292/(12.16)		1201
1981	216/(1.13)		1222/(6.41)	2228/(11.69)	2812/(14.75)		2035
1982	243/(1.26)		1016/(5.28)	1793/(9.32)	3210/(16.69)		1877
1983	304/(1.57)		1274/(6.56)	1491/(7.68)	3147/(16.21)		2257

U.S. Marine Corps
Fiscal Year End Strength

<u>Year</u>	<u>Total M.C Strength</u>	<u>Officers</u>	<u>% Officers to total</u>
1940	28345	1800	6.35
1941	54359	3339	6.14
1942	142613	7138	5.01
1943	308523	21384	6.93
1944	475604	32788	6.89
1945	474680	37067	7.81
1946	155679	14208	9.13
1947	93053	7506	8.07
1948	84988	6907	8.13
1949	85965	7250	8.43
1950	74279	7254	9.77
1951	192620	15150	7.87
1952	231967	16413	7.08
1953	249219	18731	7.52
1954	223868	18593	8.31
1955	205170	18417	8.98
1956	200780	17809	8.87
1957	200861	17434	8.68
1958	189495	16741	8.83
1959	175571	16065	9.15
1960	170621	16203	9.50
1961	176909	16132	9.12
1962	190962	16861	8.83
1963	189683	16737	8.82
1964	189777	16843	8.88
1965	190213	17258	9.07
1966	261716	20512	7.84
1967	285269	23592	8.27
1968	307252	24555	7.99
1969	309771	25698	8.30
1970	259737	24941	9.60
1971	212369	21765	10.25
1972	198238	19843	10.01
1973	196098	19282	9.83
1974	188802	18740	9.93
1975	195951	18591	9.49
1976	192336	18819	9.78
1977	191641	18584	9.70
1978	190755	18328	9.61
1979	185187	18166	9.81
1980	188469	18198	9.66
1981	190620	18363	9.63
1982	192380	18975	9.86
1983	194089	19983	10.30

Advisory Commission Report

APPELLATE PROCESSING TIMES
UNITED STATES AIR FORCEDate Trial Concluded to Receipt at OTJAG

<u>Calendar Year</u>	<u>GCM</u>	<u>SPCM</u>
1979	116 Avg Days	97 Avg Days
1980	118 Avg Days	113 Avg Days
1981	118 Avg Days	108 Avg Days
1982	112 Avg Days	105 Avg Days
1983	112 Avg Days	97 Avg Days
1984 (A/O October 84)	84 Avg Days	112 Avg Days

APPELLATE PROCESSING TIMES
UNITED STATES AIR FORCEDate of Receipt at OTJAG to Decision by ACMR

<u>Calender Year</u>	<u>GCM</u>	<u>SPCM</u>
1975	119 Days	110 Days
1976	128 Days	88 Days
1977	104 Days	70 Days
1978	154 Days	121 Days
1979	271 Days	162 Days
1980	91 Days	123 Days
1981	138 Days	141 Days
1982	93 Days	76 Days
1983	159 Days	124 Days
1984	NOT AVAILABLE	NOT AVAILABLE

Advisory Commission Report

LENGTH OF CONFINEMENT AT GCM
(PERCENT OF TOTAL CONVICTIONS)
UNITED STATES AIR FORCE

<u>Calendar Year</u>	<u>Confinement for 1 year or less</u>	<u>Confinement for 15 months or less</u>
1975	69.5%	75.3%
1976	65.7%	68.6%
1977	63.6%	66.5%
1978	66.9%	68.5%
1979	62.5%	67.0%
1980	61.2%	65.1%
1981	70.9%	75.1%
1982	61.9%	66.6%
1983	59.9%	65.4%
1984	46.9%	60.0%

(A/O 28 Oct 84)

USAF STRENGTH AT END OF CALENDER YEAR

<u>Calender Year</u>	<u>Total Strength</u>	<u>Percent Officers</u>
1975	612,260	17.8%
1976	593,924	17.8%
1977	581,580	17.9%
1978	573,421	17.3%
1979	553,864	17.5%
1980	546,881	18.2%
1981	551,036	18.3%
1982	566,651	18.2%
1983	578,109	18.3%
1984	582,438	18.3%

Advisory Commission Report

TRIALS BY JUDGE ALONE
(PERCENT OF TOTAL CASES TRIED)
UNITED STATES AIR FORCE

<u>Calender Year</u>	<u>GCM</u>	<u>SPCM</u>
1975	60.3	60.1
1976	50.9	51.5
1977	46.6	44.8
1978	33.9	41.9
1979	44.0	46.1
1980	49.8	54.9
1981	61.5	57.3
1982	55.6	60.7
1983	55.9	61.3
1984	51.1	58.1

(A/O 28 Oct 84)

TOTAL DISCIPLINARY ACTIONS
UNITED STATES AIR FORCE

<u>Calendar Year</u>	<u>GCM</u>	<u>Total SPCM</u>	<u>BCDs Adjudged at SPCM</u>	<u>SCM</u>	<u>NJP</u>	<u>Discharge in lieu of trial by CM</u>
1975	239	1518	259	77	29,165	NOT AVAILABLE
1976	169	924	161	49	23,801	NOT AVAILABLE
1977	352	1756	121	44	20,651	213
1978	124	843	135	29	22,290	200
1979	200	1031	201	34	24,901	186
1980	289	1367	292	51	30,980	212
1981	361	1352	335	52	32,409	246
1982	428	1561	440	78	32,451	259
1983	431	1227	417	29	29,914	235
1984 (A/O 28 Oct 84)	311	829	295	23	20,245	199

Advisory Commission Report

SENTENCE COMPARISON

MILITARY JUDGE ALONE - COURT MEMBERS

1. 10,270 General and Special Courts-Martial 1977 to 1983.

CATEGORY	YEAR	GCM		SPCM					
		No.	%	No.	%	No.	%		
2. Number Tried By:									
	1977	72	46	86	54	355	42	487	58
	1978	47	33	95	67	367	41	533	59
	1979	102	46	118	54	535	49	562	51
	1980	199	54	169	46	785	56	620	44
	1981	198	56	153	44	853	58	606	42
	1982	251	57	188	43	886	61	574	39
	1983	188	57	143	43	662	60	436	40
	SUBTOTAL	1057		952		4443		3818	
	TOTAL			2009				8261	
	% OF TOTAL	53		47		54		46	
3. Number of Convictions By:	1977	69	50	69	50	332	45	408	55
	1978	46	35	84	65	349	43	454	57
	1979	100	49	103	51	514	52	482	48
	1980	192	58	136	42	768	58	545	42
	1981	197	58	140	42	830	61	530	39
	1982	249	59	174	41	864	63	498	37
	1983	186	59	130	41	643	63	379	37
	SUBTOTAL	1039		836		4300		3296	
	TOTAL			1875				7596	
	% OF TOTAL	55		45		57		43	
4. Number of Acquittals By:	1977	3		17		23		79	
	1978	1		11		18		79	
	1979	2		15		21		80	
	1980	7		33		17		75	
	1981	1		13		23		76	
	1982	2		14		22		76	
	1983	2		13		19		57	
	TOTAL	18		116		143		522	
	% OF TOTAL TRIED BY:	1.7		12.2		3.2		13.7	

CATEGORY	YEAR	GCM		SPCM	
		Judge No.	Members No.	Judge No.	Members No.
5. Guilty Pleas*	1977	39	24	215	166
	1978	15	21	200	201
	1979	40	29	284	230
	1980	70	24	484	269
	1981	110	45	469	239
	1982	117	60	535	222
	1983	113	49	400	166
		SUBTOTAL	504	252	2587	1493
	TOTAL	756		4080	
	% OF TOTAL TRIED BY:	47.7	26.5	58.2	39.1
* = Includes only those cases where the pleas were guilty to all charges and specifications.					
6. Number of Discharges, BCD, DD, and Dismissal	1977	60	43	36	82
	1978	33	47	44	106
	1979	85	77	92	139
	1980	158	100	158	151
	1981	165	108	211	158
	1982	226	137	239	192
	1983	164	105	208	143
		TOTAL	891	617	988	971
	% OF NON-ACQUITITAL CASES WHERE A PUNITIVE DISCHARGE WAS ADJUDGED:	85.8	73.8	23.0	29.5
7. Months Confinement at Hard Labor	1977	1312	954	795	490
	1978	478	1189	810	605
	1979	1996	2503	1364	777
	1980	4021	3529	2177	1020
	1981	3658	1888	2115	1029
	1982	5862	5223	2657	1141
	1983	5898	4715	1892	860
		TOTAL:	23225	20001	11810	5922
8. Average CHL Per Case in Months	1977	19.0	13.8	2.4	1.2
	1978	10.4	14.1	2.3	1.3
	1979	20.0	24.3	2.7	1.6
	1980	20.9	25.9	2.8	1.9
	1981	18.5	13.5	2.5	1.9
	1982	23.5	30.0	3.1	2.3
	1983	31.7	36.3	2.9	2.9
		OVERALL AVERAGE PER CASE:	22.4	23.9	2.7	2.3

Advisory Commission Report

<u>CATEGORY</u>	<u>YEAR</u>	<u>GCM</u>		<u>SPCM</u>	
		<u>Judge No.</u>	<u>Members No.</u>	<u>Judge No.</u>	<u>Members No.</u>
9. Reduction in Grade, Total Stripes Reduced	1977	123	146	347	531
	1978	81	174	379	585
	1979	180	206	531	589
	1980	344	263	934	678
	1981	412	286	1101	782
	1982	513	373	1191	762
	1983	362	272	979	638
	TOTAL	2015	1720	5462	4565
10. Average Stripes Reduced Per Case	1977	1.8	2.1	1.0	1.3
	1978	1.8	2.1	1.1	1.3
	1979	1.8	2.0	1.0	1.2
	1980	1.8	1.9	1.2	1.2
	1981	2.1	2.0	1.3	1.5
	1982	2.1	2.1	1.4	1.5
	1983	1.9	2.1	1.5	1.7
	OVERALL AVERAGE PER CASE	1.9	2.1	1.3	1.4
11. Number of Cases in Which Total Forfeitures were Adjudged	1977	24	21		
	1978	9	21		
	1979	31	40		
	1980	58	43		
	1981	66	54		
	1982	121	70		
	1983	82	65		
	TOTAL	391	314		
	% OF ALL CONVICTIONS	37.6	37.6		
12. Average Partial Forfeitures	1977	\$ 1920	\$ 1021	\$ 365	\$ 491
	1978	1544	1491	376	542
	1979	3312	3055	688	780
	1980	2616	5760	772	924
	1981	3766	3666	920	960
	1982	4030	4524	996	1136
	1983	5644	6324	1012	1096
	TOTAL \$:	22832	25841	5129	5929
	OVERALL AVERAGE \$:	3262	3692	733	847
13. Total Life Sentences		3	5		

SENTENCE COMPARISONS - JUDGE ALONE VS. COURTS WITH MEMBERS

- Analysis of all courts-martial for the past seven years (1977 - 1983) shows that there is virtually no difference in severity of sentence between courts-martial composed of judge alone and those having members. The increasing trend in forfeiture amounts is primarily attributable to corresponding increases in military pay.
- The table below shows the comparison for the four most recent years (1980 - 1983). The comparison is virtually identical to that for the full seven year period. The higher number of acquittals in trials before courts-martial with members is not surprising as defense counsel generally prefer to take complicated and disputed issues to courts-martial with members.
- The general trend for all courts over the past four years has been to stiffer sentences.

1980 - 1983

	<u>General Courts</u>		<u>Special Courts</u>	
	<u>Judge Alone</u>	<u>Members</u>	<u>Judge Alone</u>	<u>Members</u>
Total Cases Tried	836	653	3186	2236
Total Cases Convicted	824	580	3105	1952
Acquittal Rate	1.4%	11.2%	2.5%	12.7%
Punitive Discharge Rate	86.5%	77.6%	26.3%	33.0%
Average Months CHL	23.6	26.5	2.8	2.1
Average Stripes Reduced	2.0	2.1	1.4	1.5
% of Sentences With Total Forfeitures	39.7%	40.0%	NA	NA
Average Partial Forfeitures	\$4014	\$5069	\$925	\$1029

Note: There were nearly twice as many guilty pleas before judge alone cases than before court members.

Advisory Commission Report

COURT-MARTIAL RATES PER THOUSAND

	<u>Officer</u>	<u>Airman</u>	<u>Overall</u>
1978	.07	2.08	1.73
1979	.16	2.75	2.29
1980	.21	3.77	3.12
1981	.25	3.85	3.19
1982	.46	4.36	3.65
1983	.45	3.48	2.92

ARTICLE 15 RATES PER THOUSAND

	<u>Officer</u>	<u>Airman</u>	<u>Overall</u>
1978	1.38	46.69	39.13
1979	1.14	54.23	45.07
1980	2.07	68.80	56.65
1981	2.41	71.45	58.81
1982	2.66	69.42	57.27
1983	3.16	62.66	51.74

1978 - 1983
OFFICER ADVERSE ACTIONS

	<u>78</u>	<u>79</u>	<u>80</u>	<u>81</u>	<u>82</u>	<u>83</u>
<u>UCMJ ACTIONS</u>						
Courts-Martial Convictions	4	9	17	18	41	38
Article 15	131	109	206	243	274	335
<u>ADVERSE ACTIONS</u>						
In Lieu of Court-Martial	5	8	11	20	30	32
TOTAL	140	126	234	275	345	405

U.S.: COAST GUARD

YEAR	TOTAL COURTS GCM, SPCM, SCM	MEMBERS GCM/SPCM	MJ ALONE GCM/SPCM	TOTAL NJP	TOTAL FORCE STRENGTH
1977	277	04 43	01 41	2,430	39,606
1978	241	03 29	00 29	2,615	39,106
1979	171	02 34	00 13	3,086	39,413
1980	239	02 35	01 32	2,697	39,804
1981	252	02 36	00 22	1,635	39,602
1982	239	03 50	05 29	2,478	37,564
1983	206	05 49	05 19	3,142	38,175
1984 (End 3rd Qtr.)	131	04 23	02 08	2,509	38,101

Questionnaires



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

4 JUN 1984

MEMORANDUM FOR General and Special Court-Martial Convening
Authorities

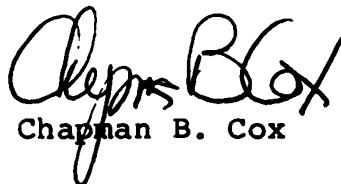
SUBJECT: Military Justice Questionnaire

The enclosed questionnaire is part of a survey conducted by the Military Justice Act of 1983 Advisory Commission. The Commission was established by the Secretary of Defense pursuant to the direction of the United States Congress. The Commission is studying specific proposed legislative changes to the military justice system and is required to report directly to the Armed Services Committees of the Senate and the House of Representatives. The purpose of the survey is to provide the Commission with data from commanders and military justice practitioners which will be included in the Commission's report and used in the Commission's recommendations to Congress. Separate questionnaires are being mailed to military judges, judges of the courts of review, staff judge advocates and legal officers, trial counsel, defense counsel, and general and special court-martial convening authorities.

This survey is being conducted through the Department of Defense Manpower Data Center (DMDC). The Commission has developed the questionnaires and will collect the data. DMDC will analyze the data. The Air Force is executive agent for the Commission and is responsible for the administration of the survey.

Please fill out the enclosed questionnaire and return it to the Military Justice Division of the Office of The Judge Advocate General of the Air Force (AF/JAJM) in the envelope provided within two weeks.

I appreciate your assistance in this effort. Your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.


Chapman B. Cox

Attachment
Questionnaire

Military Justice Act of 1983 Advisory Commission Survey

This survey is sponsored by the Military Justice Act of 1983 Advisory Commission, and is being conducted through the Defense Manpower Data Center (DMDC). Its purpose is to provide the Commission with information from commanders and military justice practitioners to be included in a report the Commission must submit to Congress.

The serial number which appears at the top of the first page of the questionnaire is a sequence number and will be used for record management purposes only. Neither the Commission nor DMDC will release any individually identifiable data; only group statistics will be reported. Your participation in this survey is voluntary. Failure to respond to the questions will not result in any penalty. However, your participation is encouraged so that the data will be complete and representative.

INSTRUCTIONS FOR COMPLETING THIS SURVEY

1. Read each question carefully. Circle the number next to your answer.

Example: What is your current grade?

	Circle One
0-2	1
0-3	2
0-4	③
0-5	4
0-6	5
0-7	6

2. If you have written comments, make your comments on the comments page at the end of the questionnaire. Indicate the question number with your comment.

3. If you have any questions about these instructions, please call Captain W. Mike Burd, AF/JAJM at AUTOVON 223-5770 or commercial (202) 693-5770.

QUESTIONNAIRE—COMMANDERS

A. BACKGROUND INFORMATION

- | | | | |
|---|---|---|---|
| 1. What branch of military service are you a member of? | | 7. How much wartime or national emergency service have you experienced without regard to whether such service was in actual combat? | |
| Army | 1 | None | 1 |
| Navy | 2 | 1-12 months | 2 |
| Marine Corps | 3 | 13-24 months | 3 |
| Air Force | 4 | 25-36 months | 4 |
| Coast Guard | 5 | 37-48 months | 5 |
| | | More than 48 months | 6 |
| 2. What is your current grade? | | 8. Approximately how many times have you imposed non-judicial punishment since 1968? | |
| 0-4 | 1 | Under 25 | 1 |
| 0-5 | 2 | 26-50 | 2 |
| 0-6 | 3 | 51-100 | 3 |
| 0-7 | 4 | 101-300 | 4 |
| 0-8 | 5 | Over 300 | 5 |
| 0-9 | 6 | 9. Approximately how many times have you referred a case to trial by <i>summary court-martial</i> in your career? | |
| 0-10 | 7 | Under 25 | 1 |
| 3. How many years of total active service? | | 26-50 | 2 |
| 5-10 | 1 | 51-100 | 3 |
| 11-15 | 2 | 101-300 | 4 |
| 16-20 | 3 | Over 300 | 5 |
| 21-25 | 4 | 10. Approximately how many times have you referred a case to trial by <i>special court-martial</i> during your career? | |
| over 25 | 5 | Under 25 | 1 |
| 4. Which one of the following broad categories best describes your military career? | | 26-50 | 2 |
| Seagoing Line Officer | 1 | 51-100 | 3 |
| Air Line Officer | 2 | 101-300 | 4 |
| Ground Line Officer | 3 | Over 300 | 5 |
| Administrative/Logistical Officer | 4 | 11. Approximately how many times have you referred a case to trial by <i>general court-martial</i> during your career? | |
| Medical/Dental Officer | 5 | None | 1 |
| Other | 6 | Under 10 | 2 |
| 5. What is the aggregate amount of time you have served as a commanding officer? | | 10-25 | 3 |
| Less than 1 year | 1 | 26-50 | 4 |
| 1-3 years | 2 | 50-75 | 5 |
| 4-6 years | 3 | 76-100 | 6 |
| 7-10 years | 4 | Over 100 | 7 |
| More than 10 years | 5 | | |
| 6. How much combat have you experienced? | | | |
| None | 1 | | |
| 1-6 months | 2 | | |
| 7-13 months | 3 | | |
| 14-24 months | 4 | | |
| 25-30 months | 5 | | |
| 31-40 months | 6 | | |

12. Approximately how many special and general courts-martial have you reviewed as convening or reviewing authority in your career?
- None 1
 - 1-50 cases 2
 - 51-100 cases 3
 - 101-200 cases 4
 - 201-400 cases 5
 - More than 400 cases 6
13. Approximately how many special or general courts-martial have you actually sat on (to completion) as a member of the court in your career?
- None 1
 - 1-5 2
 - 6-10 3
 - 11-20 4
 - 21-40 5
 - 41-50 6
 - 51-100 7
 - More than 100 8
14. Have you ever prosecuted or defended a general or special court-martial?
- Yes 1
 - No 2
15. What is the character of your present command?
- Seagoing Command 1
 - Air Command 2
 - Ground Command 3
 - Administrative/Logistical Support Command.. 4
 - Medical/Dental Command 5
 - Other 6
16. What is the highest level of court-martial convening authority your current command possesses?
- Special court-martial 1
 - General court-martial 2
17. How long have you been in your current assignment?
- Less than one year 1
 - 1-3 years 2
 - Over three years 3
18. Approximately how many SPCMs have been tried in your command during your current tour?
- None 1
 - Fewer than 20 2
 - 20-100 3
 - 101-300 4

- Over 300 5
19. Approximately how many GCMs have been tried in your command during your current tour?
- None 1
 - Fewer than 10 2
 - 10-20 3
 - 21-100 4
 - Over 100 5
20. Approximately what percent of your average working day do you spend on military justice matters?
- 1-5 percent 1
 - 6-10 percent 2
 - 11-15 percent 3
 - 16-20 percent 4
 - 21-25 percent 5
 - More than 25 percent 6

B. GUARANTEED TERMS OF OFFICE FOR MILITARY JUDGES

Congress has directed that the concept of guaranteed terms of office for military judges be studied. This concept could involve assignment for a normal tour length, or assignment for a minimum number of years or assignment until retirement. If this concept is adopted, assume that a military judge could be removed during the applicable period for misconduct, incompetence, physical disability or voluntary reassignment, but for no other reason.

The principal arguments in favor of this concept are that it encourages military judges to be impartial, it fosters assumptions in others of impartiality and ensures that a more experienced judiciary will result from extended tours for military judges.

The principal arguments against the concept are that it adversely affects flexibility in personnel assignments to meet unexpected or dynamic situations and that it creates a situation where commands would be subject to the whim and caprice of a military judge whose actions are contrary to command authority, good order and discipline, but whose actions may be within permissible judicial discretion.

21. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judges' superior for court-related decisions?
- Yes 1
No 2
22. If yes, how often?
- Once..... 1
Seldom..... 2
Sometimes 3
Frequently..... 4

Briefly describe the incident(s) on comments page at the end of this questionnaire. Indicate the question number with your comments.

23. If your answer to #21 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?
- Usually findings 1
Usually sentence 2
Usually other grounds..... 3
About equally on all the above 4
24. If your answer to #21 is yes, did the criticism impact on the judges' subsequent decisions?
- Yes 1
No 2
Don't know 3
25. To what extent do you believe that a guaranteed term of office would create the *appearance* of a more independent and fair military judiciary?
- Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4
26. To what extent do you believe that a guaranteed term of office would, *actually*, create a more independent and fair military judiciary?
- Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4

27. To what extent do you believe that a guaranteed term of office would contribute to a more professionally competent military judiciary?
- Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4
28. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?
- Yes 1
No 2
No opinion 3
29. Would guaranteed terms of office for military judges give judges too much independence?
- Yes 1
No 2
No opinion 3
30. If a guaranteed term of office provision were enacted, what length of time should it contain for the judges of the Courts of Military Review?
- Normal tour length..... 1
3-5 years..... 2
6-10 years..... 3
Over 10 years..... 4
31. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?
- Normal tour length..... 1
3-5 years..... 2
6-10 years..... 3
Over 10 years..... 4
32. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?
- Normal tour length..... 1
3-5 years..... 2
6-10 years..... 3
Over 10 years..... 4
33. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?
- Yes 1
No 2
No opinion 3

34. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?
- Yes 1
 No 2
 No opinion 3
35. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?
- Yes 1
 No 2
 No opinion 3
36. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?
- Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
37. On balance, do you favor some provision for guaranteed terms of office for military trial judges?
- Yes 1
 No 2
38. On balance, do you favor some provision for guaranteed terms of office for CMR judges?
- Yes 1
 No 2

the community in respect to the gravity of the case; court-martial duty is useful for training officers in the duties of command; and dissatisfaction with sentences might lead to animosity toward judges in the Armed Forces.

39. How informed are military judges regarding local military events and problems?
- Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
40. Are military judges aware of the disciplinary impact of their sentences on the command?
- Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
41. Are the officers of your command detailed as court members aware of the disciplinary impact of their sentences on the command?
- Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
42. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?
- Military judges 1
 Members 2
 No difference 3
 Don't know 4
43. How often do members give an inappropriate sentence (unreasonably lenient or harsh)?
- Never 1
 Seldom 2
 Sometimes 3
 Usually 4
 Always 5
44. How often do judges give an inappropriate sentence (unreasonably lenient or harsh)?
- Never 1
 Seldom 2
 Sometimes 3
 Usually 4
 Always 5

C. SENTENCING ONLY BY MILITARY JUDGE IN NONCAPITAL CASES

Congress has directed study of the concept that all sentencing in special and general courts-martial, except for capital cases, be done by the military judge.

The principal arguments in favor of the concept are that: almost all civilian jurisdictions use judge alone sentencing; the trial is more expeditious and error free; military judges possess more expertise in sentencing; and, because they are exposed to a large number of cases, their sentencing will be more rational, equitable and stable.

The principal arguments against the concept are that: court members sentencing has been traditional in the Armed Forces; members may better reflect the sense of

45. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system, and the command?
- Officer panels..... 1
 Officer and enlisted panels..... 2
 Military judges..... 3
 All are equally qualified..... 4
46. Can court members or military judges better determine an appropriate sentence for a given accused?
- Military judges..... 1
 Court members..... 2
 No difference..... 3
47. How often do convening authorities select the "best qualified" personnel for courts-martial duty?
- Never..... 1
 Seldom..... 2
 Sometimes..... 3
 Usually..... 4
 Always..... 5
48. How often do you believe convening authorities select court members for such duty based primarily upon their relative expendability?
- Never..... 1
 Seldom..... 2
 Sometimes..... 3
 Usually..... 4
 Always..... 5
49. How meaningful or valuable an experience do you consider court-martial duty in terms of leadership and management training for junior officers?
- Not at all..... 1
 Slightly..... 2
 Somewhat..... 3
 Greatly..... 4
50. Do you believe that duty as a court-martial member better prepares a junior officer to command?
- Yes..... 1
 No..... 2
 No opinion..... 3
51. If your answer to #50 is "yes", then, if members continue to judge findings to the same extent as is now the case, would the switch to judge-alone sentencing adversely effect the preparation of junior officers for command?
- Not at all..... 1
 Slightly..... 2
 Somewhat..... 3
 Greatly..... 4
52. In relation to the requirements of present and future *combat operations* how important do you consider duty as a court-martial member?
- Not at all..... 1
 Not as important..... 2
 About the same importance..... 3
 More important..... 4
 Much more important..... 5
53. In relation to the requirements of present and future *peacetime training* how important do you consider duty as a court-martial member?
- Not important at all..... 1
 Not as important..... 2
 About the same importance..... 3
 More important..... 4
 Much more important..... 5
54. Would a change to military judge alone sentencing deprive an accused of a substantial right?
- Yes..... 1
 No..... 2
 No opinion..... 3
55. Would a change to military judge alone sentencing *appear* to deprive an accused of a substantial right?
- Yes..... 1
 No..... 2
 No opinion..... 3
56. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?
- Yes..... 1
 No..... 2
 No opinion..... 3
57. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?
- Reduce frequency..... 1
 No effect..... 2

- Increase frequency..... 3
- Merely shift focus to military judge..... 4
- 58. Knowing that an accused currently has the option to reject members' sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?
 - Yes 1
 - No 2
 - No opinion 3

If yes, describe these powers on comments page at the end of this questionnaire. Indicate the question number with your comments.

- 59. If mandatory judge alone sentencing were adopted, would there be an appearance that command authority had been diminished?
 - Yes 1
 - No 2
 - No opinion 3
- 60. In general, do you favor reduction of commanders' responsibility and corresponding authority regarding military justice matters?
 - Yes 1
 - No 2
 - Depends upon the circumstances 3

If you answered 3 please explain your answer on comments page at the end of this questionnaire. Indicate the question number with your comments.

- 61. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?
 - Not at all 1
 - Slight 2
 - Some 3
 - Great..... 4
- 62. An accused has traditionally had the option to be tried and sentenced by members. How important a factor is this tradition in determining whether military judges should adjudge all sentences in noncapital cases?
 - Not important 1
 - Somewhat important 2
 - Very important 3

- 63. If military judges were given sole sentencing authority and court members tried only the issue of guilt should the system used to select court members be changed to require random selection of court members?
 - Yes 1
 - No 2
 - No opinion 3
- 64. If random selection of members were used under these circumstances, should selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused who meet present statutory qualifications of age, experience, etc?
 - All members not junior to the accused..... 1
 - All members not junior to the accused meeting present qualifications. 2
 - No opinion 3
- 65. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or military judge for sentencing?
 - Yes 1
 - No 2
 - No opinion 3
- 66. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court-members be provided by law?
 - Yes 1
 - No 2
 - No opinion 3
- 67. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where members have already arrived at findings?
 - Yes 1
 - No 2
 - No opinion 3
- 68. If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?
 - Yes 1
 - No 2
 - No opinion 3

- 69. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?
 - Yes 1
 - No 2
 - No opinion 3
- 70. On balance, do you favor sentencing only by military judges in all non-capital cases?
 - Yes 1
 - No 2

D. POWER OF SUSPENSION FOR MILITARY JUDGES AND COURTS OF MILITARY REVIEW

Congress has directed the study of a proposal which would empower military trial judges and the Courts of Military Review to suspend any or all portions of an adjudged sentence. Under present law only the convening and supervisory authorities have suspension power. These authorities would continue to have suspension power under the proposal.

The principal arguments in favor of the proposal are that civilian judges have suspension authority; suspension power permits close tailoring of the sentence to the particular offender; and that military judges and the Courts of Military Review would no longer be trapped into either approving an unsuspended discharge which is perceived as inappropriately harsh or disapproving the unsuspended discharge which is perceived as inordinately lenient.

The principal arguments against the proposal are that the convening and supervisory authorities have much better information with which to assess the chances that an accused would benefit from probation than either the military judge or the Courts of Military Review; unlike civilian life, there is one military person, the commander, who is responsible for supervising the accused and who must deal with effects of additional misconduct, and suspension authority should follow that responsibility; that Courts of Military Review could cause accuseds to be returned to duty from extended appellate leave by suspending sentences; and the commander is uniquely situated to evaluate the advisability of retaining an accused in the context of manpower availability and military need.

- 71. In approximately what percentage of the special/general courts-martial convened in your command have military judges recommended that a portion or all of the sentence be suspended?
 - 0% 1
 - 1-5% 2
 - 6-10% 3
 - 11-15% 4
 - Over 15% 5
 - Don't know 6
- 72. What percentage of the suspension recommendations have you or your supervisory authority followed?
 - No recommendations 1
 - 0% 2
 - 1-25% 3
 - 26-50% 4
 - 51-75% 5
 - 76-95% 6
 - Over 95% 7
- 73. Currently does a military judge have adequate information upon which to base a suspension decision?
 - Yes 1
 - No 2
 - No opinion 3
- 74. Do convening and supervisory authorities have better information upon which to base a suspension than military judges?
 - Yes 1
 - No 2
 - No opinion 3
- 75. Could military judges be given the same information as convening and supervisory authorities through modification of current military law?
 - Yes 1
 - No 2
 - Don't know 3
- 76. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?
 - Yes 1
 - No 2
 - No opinion 3

77. How important a factor should manpower/personnel requirements be when considering whether an accused's sentence should be suspended?
- Not at all 1
 Slight 2
 Somewhat..... 3
 Great..... 4
78. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?
- Yes 1
 No..... 2
 No opinion 3
79. Would there be an *appearance* that command authority was diminished?
- Yes 1
 No..... 2
 No opinion 3
80. If judge alone sentencing were required, does it logically follow that military judges also should have the power to suspend?
- Yes 1
 No..... 2
 No opinion 3
81. Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?
- Not at all 1
 Slight 2
 Somewhat..... 3
 Great..... 4
82. By the time cases reach the Court of Military Review many accuseds are on appellate leave. Is this a factor in determining whether Courts of Military Review should have authority to suspend punitive discharges?
- Not at all 1
 Slight 2
 Somewhat..... 3
 Great..... 4

83. Considering the additional support requirements which might result, if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy and counselling?
- Yes 1
 No..... 2
 No opinion 3

If yes, specify on comments page at the end of this questionnaire. Indicate question number with your comments.

84. If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?
- Appropriate judicial authority..... 1
 Appropriate convening/supervisory authority. 2
 Both 1 and 2..... 3
85. On balance, should a military judge be able to suspend all or part of a sentence adjudged by *court members*?
- Yes 1
 No..... 2
86. On balance, should a military judge be able to suspend all or part of a sentence adjudged by *him/her*?
- Yes 1
 No..... 2
87. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?
- Yes 1
 No..... 2
88. Should court members be given the power to suspend their own sentences?
- Yes 1
 No..... 2
 No opinion 3

E. INCREASE JURISDICTIONAL MAXIMUM PUNISHMENT OF SPCM TO ONE YEAR

Congress has directed study of the question whether the confinement authority of the special court-martial should be expanded from six months to one year and what changes, if any, should be made to current appellate jurisdiction resulting from the expanded punishment.

The principal arguments in favor of the increase in punishment are that: the change would make the military justice system more consistent with the federal criminal justice system which uses the one year mark to differentiate between felonies and misdemeanors; the historical six-month limitation was based upon the relatively few protective rights afforded an accused at SPCM and the absence of lawyer involvement in the process at the time of the code's inception, neither of which factors is true today; many prospective GCM cases could be resolved at SPCM with greater efficiency (administrative and manpower burdens, such as Article 32 investigations, would be reduced); reduces the potential confinement to which an accused could be subject; and provides an alternative to a punitive discharge in SPCM sentencing.

Principal arguments against the proposal are that: as few as two of a minimum of three court members should not be given the power to confine a person for one year; the ratio of GCMs to SPCM cases tried is so low that significant savings is doubtful; the accused will lose certain rights when special court-martial jurisdiction is increased (e.g., Article 32 investigations, lawyer defense counsel under limited circumstances, verbatim record of trial, minimum of five members, five days between service of charges and trial, mandatory military judge); a less experienced officer (who may not have a military lawyer available for advice) may be the convening authority; and GCM military judges are generally senior in grade to SPCM military judges and there may be some distinction in the selection process between them.

89. What percentage of cases in your command are GCMs, of the total of GCMs and SPCMs?
- None 1
 - Under 10% 2
 - 10-20% 3
 - 21-50% 4
 - 51-75% 5
 - Over 75% 6
 - Don't know 7
90. In what percentage of GCM cases is the adjudged sentence to confinement six to *twelve* months?
- 0-5% 1
 - 6-10% 2

- 11-20% 3
- 21-40% 4
- 41-60% 5
- Over 60% 6
- Don't know 7

91. In what percentage of GCM cases is the adjudged sentence to confinement six to *fifteen* months?
- 0-5% 1
 - 6-10% 2
 - 11-20% 3
 - 21-40% 4
 - 41-60% 5
 - Over 60% 6
 - Don't know 7
92. If SPCMs are allowed to impose longer terms of confinement would cases currently tried at SPCM generally receive longer sentences?
- Not at all 1
 - Slightly 2
 - Somewhat 3
 - Greatly 4
93. Would increasing the confinement power of SPCMs cause many accuseds to receive punitive discharges which would not be imposed under current conditions?
- Not at all 1
 - Slightly 2
 - Somewhat 3
 - Greatly 4
94. If special courts-martial could impose sentences of up to one year's confinement would the number of punitive discharges decrease?
- Yes if sentencing by military judge only 1
 - Yes if sentencing by members 2
 - Yes regardless of who sentences 3
 - No if sentencing by military judge only 4
 - No if sentencing by members 5
 - No regardless of who sentences 6
 - Both 1 and 5 7
 - Both 2 and 4 8
95. If special court-martial jurisdiction were increased would you favor requiring the detailing of a military judge in every case?
- Yes 1
 - No 2
 - No, but without military judge, confinement should be limited to six months. 3

96. If special court-martial jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?
- Yes 1
 No 2
 No, but without representation by lawyer defense counsel, confinement should be limited to six months. 3
97. Would you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?
- Yes 1
 No 2
 No, but if there is no investigation requirement, confinement should be limited to six months. 3
98. If SPCM jurisdictional authority were increased, would you favor increasing to five the minimum number of required court members?
- Yes 1
 No 2
 No, but if there are fewer than five members, confinement should be limited to six months. 3
99. If SPCM jurisdictional authority were increased, would you favor increasing to five the number of days required as a waiting period before trial?
- Yes 1
 No 2
 No, but if trial before five days, confinement should be limited to six months. 3
100. If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?
- Yes 1
 No 2
 Verbatim record only if BCD or over six months confinement adjudged. 3
101. Will increasing the jurisdiction of SPCMs reduce the number of GCMs?
- Yes 1
 No 2
- No opinion 3
102. If so, is this a desirable end?
- Yes 1
 No 2
 No opinion 3
103. Assuming that SPCM jurisdiction was increased, what percentage of cases which you either referred to trial by GCM or forwarded with the recommendation that they be referred for trial by GCM would you have referred to SPCM?
- Under 10% 1
 10-25% 2
 26-50% 3
 51-75% 4
 Over 75% 5
104. Would increasing the jurisdiction of SPCMs cause under referral of a significant number of cases?
- Yes 1
 No 2
 No opinion 3
105. If so, should certain serious offenses be precluded from trial by special courts-martial?
- Yes 1
 No 2
 No opinion 3
106. On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to one year?
- Yes 1
 No 2
107. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for an offense, rather than the jurisdiction of the court, would determine the trial forum (i.e. Felony and Misdemeanor courts)?
- Yes 1
 No 2
 No opinion 3



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

4 JUN 1984

MEMORANDUM FOR Staff Judge Advocates

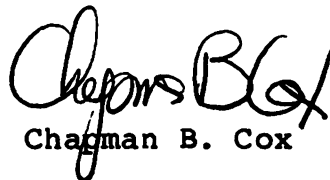
SUBJECT: Military Justice Questionnaire

The enclosed questionnaire is part of a survey conducted by the Military Justice Act of 1983 Advisory Commission. The Commission was established by the Secretary of Defense pursuant to the direction of the United States Congress. The Commission is studying specific proposed legislative changes to the military justice system and is required to report directly to the Armed Services Committees of the Senate and the House of Representatives. The purpose of the survey is to provide the Commission with data from commanders and military justice practitioners which will be included in the Commission's report and used in the Commission's recommendations to Congress. Separate questionnaires are being mailed to military judges, judges of the courts of review, staff judge advocates and legal officers, trial counsel, defense counsel, and general and special court-martial convening authorities.

This survey is being conducted through the Department of Defense Manpower Data Center (DMDC). The Commission has developed the questionnaires and will collect the data. DMDC will analyze the data. The Air Force is executive agent for the Commission and is responsible for the administration of the survey.

Please fill out the enclosed questionnaire and return it to the Military Justice Division of the Office of The Judge Advocate General of the Air Force (AF/JAJM) in the envelope provided within two weeks.

I appreciate your assistance in this effort. Your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.


Chapman B. Cox

Attachment
Questionnaire

Military Justice Act of 1983 Advisory Commission Survey

This survey is sponsored by the Military Justice Act of 1983 Advisory Commission, and is being conducted through the Defense Manpower Data Center (DMDC). Its purpose is to provide the Commission with information from commanders and military justice practitioners to be included in a report the Commission must submit to Congress.

The serial number which appears at the top of the first page of the questionnaire is a sequence number and will be used for record management purposes only. Neither the Commission nor DMDC will release any individually identifiable data; only group statistics will be reported. Your participation in this survey is voluntary. Failure to respond to the questions will not result in any penalty. However, your participation is encouraged so that the data will be complete and representative.

INSTRUCTIONS FOR COMPLETING THIS SURVEY

1. Read each question carefully. Circle the number next to your answer.

Example: What is your current grade?

	Circle One
0-2	1
0-3	2
0-4	③
0-5	4
0-6	5
0-7	6

2. If you have written comments, make your comments on the comments page at the end of the questionnaire. Indicate the question number with your comment.
3. If you have any questions about these instructions, please call Captain W. Mike Burd, AF/JAJM at AUTOVON 223-5770 or commercial (202) 693-5770.

QUESTIONNAIRE—STAFF JUDGE ADVOCATES

A. BACKGROUND INFORMATION

1. Of what branch of military service are you a member?

Army	1
Navy	2
Marine Corps	3
Air Force	4
Coast Guard	5
2. What is your current grade?

0-3.....	1
0-4.....	2
0-5.....	3
0-6.....	4
0-7.....	5
3. How many years of total active service?

5-10.....	1
11-15.....	2
16-20.....	3
21-25.....	4
over 25.....	5
4. What is your current assignment location?

CONUS.....	1
Outside CONUS.....	2
5. Do you have any prior enlisted/officer non-judge advocate experience?

No.....	1
Officer	2
Enlisted.....	3
Officer and enlisted	4
6. How many years non-judge advocate experience do you have?

None	1
Less than 2 years	2
2-6 years.....	3
7-10 years.....	4
Over 10 years.....	5
7. Have you had substantial experience as trial counsel, defense counsel or military judge at any time in your career?

No.....	1
Trial counsel and/or defense counsel	2
Military judge	3
Both 2 and 3.....	4

8. What is the highest level of court-martial convening authority that your commander is authorized to exercise?

GCM.....	1
SPCM	2
None	3
9. How long have you been in your current assignment?

Less than one year.....	1
1-3 years.....	2
Over three years	3
10. How many SPCM have been tried in your command during your current tour?

None	1
Fewer than 20.....	2
21-100.....	3
101-300.....	4
Over 300.....	5
11. How many GCM have been tried in your command during your current tour?

None	1
Fewer than 10.....	2
11-20.....	3
21-100.....	4
Over 100.....	5

B. GUARANTEED TERMS OF OFFICE FOR MILITARY JUDGES

Congress has directed that the concept of guaranteed terms of office for military judges be studied. This concept could involve assignment for a normal tour length, or assignment for a minimum number of years or assignment until retirement. If this concept is adopted, assume that a military judge could be removed during the applicable period for misconduct, incompetence, physical disability or voluntary reassignment, but for no other reason.

The principal arguments in favor of this concept are that it encourages military judges to be impartial, it fosters assumptions in others of impartiality and it ensures that a more experienced judiciary will result from extended tours for military judges.

The principal arguments against the concept are that it adversely affects flexibility in personnel assignments to meet unexpected or dynamic situations and that it creates a situation where commands would be subject to the whim and caprice of a military judge whose actions are contrary to command authority, good order and discipline, but whose actions may be within permissible judicial discretion.

12. Are you aware of any instances in which a military judge has been threatened with reassignment or actually reassigned because of the military judge's decisions?

- Yes 1
- No 2

13. If yes, how often?

- Once..... 1
- Seldom..... 2
- Sometimes 3
- Frequently..... 4

Briefly describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with your comments.

14. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judge's superior for court-related decisions?

- Yes 1
- No 2

15. If yes, how often?

- Once..... 1
- Seldom..... 2
- Sometimes 3
- Frequently..... 4

Briefly describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with your comments.

16. If your answer to #14 is yes, did the criticism relate to the judge's actions on findings, sentence or other grounds?

- Usually findings 1
- Usually sentence 2
- Usually other grounds..... 3

About equally on all of the above..... 4

17. If your answer to #14 is yes, did the criticism impact on the judges' subsequent decisions?

- Yes 1
- No 2
- Don't know 3

18. To what extent do you believe that a guaranteed term of office would create the *appearance* of a more independent and fair military judiciary?

- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4

19. To what extent do you believe that a guaranteed term of office would *actually* create a more independent and fair military judiciary?

- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4

20. To what extent do you believe that experience as a military judge with a guaranteed term of office would contribute to a more professionally competent military judiciary?

- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4

21. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

- Yes 1
- No 2
- No opinion 3

22. Would guaranteed terms of office for military judges give judges too much independence?

- Yes 1
- No 2
- No opinion 3

23. How do you view assignment as a military judge in terms of career enhancement?

- Not very career enhancing 1
- Somewhat career enhancing..... 2
- Very career enhancing 3

24. Is O-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- Yes 1
 No 2
 No opinion 3
25. Is O-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- Yes 1
 No 2
 No opinion 3
26. If there were flag and general officer billets on the *Courts of Military Review*, would judicial duty be more career enhancing?
- Yes 1
 No 2
 No opinion 3
27. If there were flag and general officer billets on the *Courts of Military Appeals*, would judicial duty be more career enhancing?
- Yes 1
 No 2
 No opinion 3
28. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?
- Much more attractive..... 1
 Somewhat more attractive..... 2
 No effect..... 3
 Somewhat less attractive..... 4
 Much less attractive 5
29. If a guaranteed term of office provision were enacted, what length of time should it contain for judges of the Courts of Military Review?
- Normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
 Over 10 years..... 4
30. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?
- Normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
31. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?
- Normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
 Over 10 years..... 4
32. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?
- Yes 1
 No 2
 No opinion 3
33. How would guaranteed terms of office affect your view of military judge assignments?
- Much more attractive..... 1
 Somewhat more attractive..... 2
 No effect..... 3
 Somewhat less attractive..... 4
 Much less attractive 5
34. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?
- Yes 1
 No 2
 No opinion 3
35. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?
- Yes 1
 No 2
 No opinion 3
36. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?
- Not at all 1
 Slightly 2
 Somewhat..... 3
 Greatly 4
37. On balance, do you favor some provision for guaranteed terms of office for military trial judges?
- Yes 1

- No..... 2
38. On balance, do you favor some provision for guaranteed terms of office for CMR judges?
- Yes..... 1
- No..... 2

C. SENTENCING ONLY BY MILITARY JUDGES IN NONCAPITAL CASES

Congress has directed study of the concept that all sentencing in special and general courts-martial, except for capital cases, be done by the military judge.

The principal arguments in favor of the concept are that: almost all civilian jurisdictions use judge-alone sentencing; the trial is more expeditious and error free; military judges possess more expertise in sentencing; and, because they are exposed to a large number of cases, their sentencing will be more rational, equitable and stable.

The principal arguments against the concept are: court member sentencing has been traditional in the Armed Forces; members may better reflect the sense of the community in respect to the gravity of the case; court-martial duty is helpful for training officers in the duties of command; and dissatisfaction with sentences might led to animosity toward judges in the Armed Forces.

39. What percentage of cases tried in the past year within your command were tried by military judge alone?
- Less than 10%..... 1
- 10%-25% 2
- 26%-50% 3
- 51%-75% 4
- Over 75% 5
40. In your experience, in what percentage of cases with court members does an accused request enlisted members?
- Less than 10%..... 1
- 10%-25% 2
- 26%-50% 3
- 51%-75% 4
- Over 75% 5
41. How informed are the military judges who serve your command regarding local military community events and problems?
- Not at all 1
- Slightly 2
- Somewhat..... 3

- Greatly 4
- Don't know..... 5
42. Are military judges aware of the disciplinary impact of their sentences on the command?
- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4
- Don't know 5
43. Are the officers of your command who are detailed as court members aware of the disciplinary impact of their sentences on the command?
- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4
- Don't know 5
44. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?
- Military judges..... 1
- Members..... 2
- No difference 3
- Don't know 4
45. How often do *members* give an inappropriate sentence (unreasonably lenient or harsh)?
- Never 1
- Seldom..... 2
- Sometimes 3
- Usually..... 4
- Always..... 5
46. How often do *military judges* give an inappropriate sentence (unreasonably lenient or harsh)?
- Never 1
- Seldom..... 2
- Sometimes 3
- Usually..... 4
- Always..... 5
47. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?
- Yes 1
- No 2
- No opinion 3

48. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?
- No effect..... 1
 Reduce frequency..... 2
 Increase frequency..... 3
 Merely shift the focus to the military judge..... 4
49. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system, and the command?
- Officer panels..... 1
 Officer and enlisted panels..... 2
 Military judges..... 3
 All are equally qualified..... 4
50. Can court members or military judges better determine an appropriate sentence for a given accused?
- Military judges..... 1
 Court members..... 2
 No difference..... 3
51. How often do convening authorities select the "best qualified" personnel for court-martial duty?
- Never..... 1
 Seldom..... 2
 Sometimes..... 3
 Usually..... 4
 Always..... 5
52. How often do convening authorities of your command select court members for such duty based primarily upon their relative expendability?
- Never..... 1
 Seldom..... 2
 Sometimes..... 3
 Usually..... 4
 Always..... 5
53. In relation to the requirements of present and future *combat operations*, how important is duty as a court-martial member considered to be in your command?
- Not important at all..... 1
 Not as important..... 2
 About the same importance..... 3
 More important..... 4
 Much more important..... 5
54. In relation to the requirements of present and future *peacetime training*, how important is duty as a court-martial member considered to be in your command?
- Not important at all..... 1
 Not as important..... 2
 About the same importance..... 3
 More important..... 4
 Much more important..... 5
55. What is your sense of the military grade profile of the typical *special* court-martial panels which actually hear cases at your and/or your subordinate commands?
- Don't know..... 1
 One O-4/O-5 and rest below O-4..... 2
 50% split between O-4/O-5 and those below O-4..... 3
 Normally all are below O-4..... 4
 Normally all are above O-4..... 5
56. What is your sense of the military grade profile of the typical *general* court-martial panels which actually hear cases at your and/or your subordinate commands?
- Don't know..... 1
 One O-6, two O-5, three O-4, three below O-4..... 2
 One O-5, three O-4, rest below O-4..... 3
 One or more O-4, rest below O-4..... 4
 Two O-5, rest split evenly between O-4 and those below O-4..... 5
 Three O-5, three O-4, three below O-4..... 6
 One O-6, three O-5, four O-4, one below O-4..... 7
57. Would a change to military judge alone sentencing deprive an accused of a substantial right?
- Yes..... 1
 No..... 2
 No opinion..... 3
58. Would a change to military judge alone sentencing *appear* to deprive an accused of a substantial right?
- Yes..... 1
 No..... 2
 No opinion..... 3
59. Knowing that an accused currently has the option to reject member-sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

Yes 1
 No 2
 No opinion 3

If yes, describe these powers on the comments page at the end of the questionnaire. Indicate the question number with your comments.

60. If mandatory judge alone sentencing were adopted, would there be an *appearance* that command authority had been diminished?

Yes 1
 No 2
 No opinion 3

61. How often do court members doubts on the merits end up expressed in a "compromise" sentence?

Never 1
 Seldom 2
 Sometimes 3
 Usually 4
 Always 5

62. Is mandatory sentencing by military judges more likely to produce consistent sentences in similar cases than sentencing by members?

Yes 1
 No 2
 No opinion 3

63. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?

Not at all 1
 Slight 2
 Somewhat 3
 Great 4

64. If the military judge perceives resentment, would this cause the judge to render an inappropriately lenient or harsh sentence?

Yes 1
 No 2
 No opinion 3

65. If military judges were given sole sentencing authority and court members tried only the issue of guilt, should the system used to select court members be changed to require random selection of court members?

Yes 1
 No 2
 No opinion 3

66. If random selection of members were used under these circumstances, should the selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command, not junior to the accused, who meet present statutory qualifications of age, experience, etc.?

All members not junior to the accused 1
 All members not junior to the accused who meet present qualifications. 2

67. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or judge for sentencing?

Yes 1
 No 2
 No opinion 3

68. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court members, be provided by law?

Yes 1
 No 2
 No opinion 3

69. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where the members have already arrived at findings?

Yes 1
 No 2
 No opinion 3

70. If Congress promulgates sentencing guidelines for Federal courts, should similar guidelines be extended to courts-martial?

Yes 1
 No 2
 No opinion 3

71. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?

Yes 1
 No 2
 No opinion 3

72. On balance, do you favor sentencing only by military judges in all non-capital cases?
- Yes 1
 No 2

D. POWER OF SUSPENSION FOR MILITARY JUDGES AND COURTS OF MILITARY REVIEW

Congress has directed the study of a proposal which would empower military trial judges and the Courts of Military Review to suspend any or all portions of an adjudged sentence. Under present law, only the convening and supervisory authorities have suspension power. These authorities would continue to have suspension power under this proposal.

The principal arguments in favor of the proposal are that civilian judges have suspension authority; suspension power permits close tailoring of the sentence to the particular offender; and that military judges and the Courts of Military Review would no longer be trapped into either approving an unsuspended discharge which is perceived as inappropriately harsh or disapproving the unsuspended discharge which is perceived as inordinately lenient.

The principal arguments against the proposal are that the convening and supervisory authorities have much better information with which to assess the chances that an accused would benefit from probation than either the military judge or the Courts of Military Review; unlike civilian life, there is one military person, the commander, who is responsible for supervising the accused and who must deal with the effects of additional misconduct, and suspension authority should follow that responsibility; the Courts of Military Review could cause accuseds to be returned to duty from extended appellate leave by suspending sentences; and the commander is uniquely situated to evaluate the advisability of retaining an accused in the context of manpower availability and military needs.

73. In approximately what percentage of the special/general courts-martial convened in your or a subordinate command have military judges recommended that a portion or all of the sentence be suspended?
- 0% 1
 1-5% 2
 6-10% 3
 11-15% 4
 Over 15% 5

74. What percentage of the suspension recommendations have been followed by your convening and supervisory authorities?
- No recommendations 1
 0% 2
 1-25% 3
 26-50% 4
 51-75% 5
 76-95% 6
 Over 95% 7

75. Under current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?
- Yes 1
 No 2
 No opinion 3

76. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?
- Yes 1
 No 2
 No opinion 3

77. Could military judges be given the same information as convening and supervisory authorities through modification of the MRE and other provisions of the Manual for Courts-Martial?
- Yes 1
 No 2
 No opinion 3

78. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?
- Yes 1
 No 2
 No opinion 3

79. How important a factor should manpower and personnel requirements be when considering whether an accused's sentence should be suspended?
- Not at all 1
 Slight 2
 Somewhat 3
 Great 4

- 80.** Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?
- Yes 1
 No 2
 No opinion 3
- 81.** Would there be an *appearance* that command authority was diminished?
- Yes 1
 No 2
 No opinion 3
- 82.** If judge alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?
- Yes 1
 No 2
 No opinion 3
- 83.** Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?
- Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
- 84.** By the time cases reach the Court of Military Review, many accused are on appellate leave. Is this a factor in deciding whether the Courts of Military Review should have the authority to suspend punitive discharges?
- Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
- 85.** Considering the additional support requirements that might result, if suspension power is given to military judges and/or Courts of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy, and counselling?
- Yes 1
 No 2
 No opinion 3

If yes, specify on the comments page at the end of this questionnaire. Indicate the question number with your comments.

- 86.** If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?
- Appropriate judicial authority 1
 Appropriate convening/supervisory authority 2
 Both 1 & 2 3
 No opinion 4
- 87.** On balance, should a military judge be able to suspend all or part of a sentence adjudged by *court members*?
- Yes 1
 No 2
- 88.** On balance, should a military judge be able to suspend all or part of a sentence adjudged by *him/her*?
- Yes 1
 No 2
- 89.** On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?
- Yes 1
 No 2
- 90.** Should court members be given the power to suspend their own sentences?
- Yes 1
 No 2

E. INCREASE JURISDICTIONAL MAXIMUM PUNISHMENT OF SPCM TO ONE YEAR

Congress has directed study of the question whether the confinement authority of the special court-martial should be expanded from 6 months to one year and what changes, if any, should be made to current appellate jurisdiction resulting from the expanded punishment.

The principal arguments in favor of the increase in punishment are that: the change would make the military justice system more consistent with the federal criminal justice system which uses the one-year mark to differentiate between felonies and misdemeanors; the historical six-month limitation was based upon the relatively few protective rights afforded an accused at SPCM and the

absence of lawyer involvement in the process at the time of the Code's inception, neither of which factors is true today; many prospective GCM cases could be resolved at SPCM with greater efficiency (administrative and manpower burdens, such as Article 32 investigations, would be reduced); reduces potential confinement to which an accused could be subject; and provides an alternative to a punitive discharge in special court-martial sentencing.

Principal arguments against the proposal are that: as few as two of a minimum of three court members should not be given the power to confine a person for one year; the ratio of GCM to SPCM cases tried is so low that significant savings is doubtful; the accused will lose certain rights when SPCM jurisdiction is increased (e.g., Art. 32 investigations, lawyer defense counsel under limited circumstances, verbatim record of trial, minimum of five members, five days between service of charges and trial, mandatory military judge); a less experienced officer (who may not have a military lawyer available for advice) may be the convening authority; and GCM military judges are generally senior in grade to SPCM military judges and there may be some distinction in the selection process between them.

91. What percentage of cases in your command are GCMs, of the total of GCMs and SPCMs?

None 1
 Under 10% 2
 10-20% 3
 21-50% 4
 51-75% 5
 Over 75% 6

92. In what percentage of GCM cases is the adjudged sentence to confinement six to *twelve* months?

0-5% 1
 6-10% 2
 11-20% 3
 21-40% 4
 41-60% 5
 Over 60% 6

93. In what percentage of GCM cases is the adjudged sentence to confinement six to *fifteen* months?

0-5% 1
 6-10% 2
 11-20% 3
 21-40% 4
 41-60% 5
 Over 60% 6

94. If SPCM are allowed to impose longer terms of confinement, would cases *currently* tried at SPCM generally receive longer sentences?

Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4

95. Would increasing the confinement power of SPCM cause many accused to receive punitive discharges which would not be imposed under current conditions?

Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4

96. If special courts-martial could impose sentences of up to one year confinement, would the number of punitive discharges decrease?

Yes if sentencing by MJ only 1
 Yes if sentencing by members 2
 Yes regardless of who sentences 3
 No if sentencing by MJ only 4
 No if sentencing by members 5
 No regardless of who sentences 6
 Both 1 & 5 7
 Both 2 & 4 8

97. What percentage of SPCMs in your command are tried without military judges?

None 1
 Under 5% 2
 5-10% 3
 Over 10% 4

98. What percentage of SPCMs in your command involve the use of officer defense counsel who are not lawyers?

None 1
 Under 5% 2
 5-10% 3
 Over 10% 4

99. How important is the Article 32 investigation as a discovery tool for the defense?

Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4

- 100.** If SPCM jurisdiction were increased, would you favor requiring the detail of a military judge in every case?
- Yes 1
 No 2
 No, but without a military judge, confinement should be limited to six months. 3
- 101.** If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?
- Yes 1
 No 2
 No, but without representation by lawyer defense counsel, confinement should be limited to six months. 3
- 102.** Do you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?
- Yes 1
 No 2
 No, but if there is no investigation, confinement should be limited to six months. 3
- 103.** If SPCM jurisdiction were increased, would you favor increasing to five the minimum number of required court members?
- Yes 1
 No 2
 No, but if there are fewer than 5, confinement should be limited to six months. 3
- 104.** If SPCM jurisdiction were increased, would you favor increasing to five the number of days required as a waiting period before trial?
- Yes 1
 No 2
 No, but if trial before 5 days, confinement should be limited to six months. 3
- 105.** If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?
- Yes 1
 No 2
 Verbatim record only if BCD or over 6 months confinement adjudged. 3
- 106.** If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the Office of the Judge Advocate General?
- Yes 1
 No 2
 No opinion 3
- 107.** Do SPCM military judges whom you know have sufficient experience to adjudge up to 1 year of confinement at a special court-martial?
- Yes 1
 No 2
 No opinion 3
- 108.** Will increasing the jurisdiction of SPCMs reduce the number of GCMs?
- Yes 1
 No 2
 No opinion 3
- 109.** If so, is this a desirable end?
- Yes 1
 No 2
 No opinion 3
- 110.** Would increasing the jurisdiction of SPCM's cause under-referral of a significant number of cases?
- Yes 1
 No 2
 No opinion 3
- 111.** If so, should certain serious offenses be precluded from trial by special courts-martial?
- Yes 1
 No 2
 No opinion 3
- 112.** On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to 1 year?
- Yes 1
 No 2
- 113.** Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for the offense, rather than the jurisdictional limit of the court, determined the trial forum, i.e. felony and misdemeanor courts?
- Yes 1
 No 2
 No opinion 3



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

4 JUN 1984

MEMORANDUM FOR Military Judges

SUBJECT: Military Justice Questionnaire

The enclosed questionnaire is part of a survey conducted by the Military Justice Act of 1983 Advisory Commission. The Commission was established by the Secretary of Defense pursuant to the direction of the United States Congress. The Commission is studying specific proposed legislative changes to the military justice system and is required to report directly to the Armed Services Committees of the Senate and the House of Representatives. The purpose of the survey is to provide the Commission with data from commanders and military justice practitioners which will be included in the Commission's report and used in the Commission's recommendations to Congress. Separate questionnaires are being mailed to military judges, judges of the courts of review, staff judge advocates and legal officers, trial counsel, defense counsel, and general and special court-martial convening authorities.

This survey is being conducted through the Department of Defense Manpower Data Center (DMDC). The Commission has developed the questionnaires and will collect the data. DMDC will analyze the data. The Air Force is executive agent for the Commission and is responsible for the administration of the survey.

Please fill out the enclosed questionnaire and return it to the Military Justice Division of the Office of The Judge Advocate General of the Air Force (AF/JAJM) in the envelope provided within two weeks.

I appreciate your assistance in this effort. Your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.


Chapman B. Cox

Attachment
Questionnaire

Advisory Commission Report

Military Justice Act of 1983 Advisory Commission Survey

This survey is sponsored by the Military Justice Act of 1983 Advisory Commission, and is being conducted through the Defense Manpower Data Center (DMDC). Its purpose is to provide the Commission with information from commanders and military justice practitioners to be included in a report the Commission must submit to Congress.

The serial number which appears at the top of the first page of the questionnaire is a sequence number and will be used for record management purposes only. Neither the Commission nor DMDC will release any individually identifiable data; only group statistics will be reported. Your participation in this survey is voluntary. Failure to respond to the questions will not result in any penalty. However, your participation is encouraged so that the data will be complete and representative.

INSTRUCTIONS FOR COMPLETING THIS SURVEY

1. Read each question carefully. Circle the number next to your answer.

Example: What is your current grade?

	Circle One
0-2	1
0-3	2
0-4	③
0-5	4
0-6	5
0-7	6

2. If you have written comments, make your comments on the comments page at the end of the questionnaire. Indicate the question number with your comment.
3. If you have any questions about these instructions, please call Captain W. Mike Burd, AF/JAJM at AUTOVON 223-5770 or commercial (202) 693-5770.

QUESTIONNAIRE—MILITARY JUDGES

A. BACKGROUND INFORMATION

1. What branch of military service are you a member of?

Army	1
Navy	2
Marine Corps	3
Air Force	4
Coast Guard	5

2. What is your current grade?

0-3	1
0-4	2
0-5	3
0-6	4

3. How many years of total active service?

3-5	1
6-10	2
11-15	3
16-20	4
21-25	5
Over 25	6

4. What is your current assignment location?

CONUS	1
Outside CONUS	2

5. Do you have any prior enlisted/officer non judge advocate experience?

No	1
Officer	2
Enlisted	3
Officer and Enlisted	4

6. How many years of non judge advocate experience do you have?

None	1
Less than 2 years	2
2-6 years	3
7-10 years	4
Over 10 years	5

7. Have you had substantial experience as trial or defense counsel at any time in your career?

No	1
Trial counsel	2
Defense counsel	3
Both	4

8. Over what types of courts-martial are you authorized to preside?

SPCM only	1
Both SPCM and GCM	2

9. How long have you been a military judge (cumulative time)?

Less than 1 year	1
1-3 years	2
4-6 years	3
7-10 years	4
Over 10 years	5

10. How long have you been in your current assignment?

Less than one year	1
1-3 years	2
Over three years	3

11. How many SPCM cases have you presided over?

Under 10	1
10-30	2
31-75	3
76-150	4
151-300	5
Over 300	6

12. How many GCMs have you presided over?

None	1
Less than 10	2
11-20	3
21-50	4
51-90	5
Over 90	6

B. GUARANTEED TERMS OF OFFICE FOR MILITARY JUDGES

Congress has directed that the concept of guaranteed terms of office for military judges be studied. This concept could involve assignment for a normal tour length, or assignment for a minimum number of years or assignment until retirement. If this concept is adopted, assume that a military judge could be removed during the applicable period for misconduct, incompetence, physical disability or voluntary reassignment, but for no other reason.

The principal arguments in favor of the concept are that it encourages military judges to be impartial, it fosters assumptions in others of impartiality, and ensures that a more experienced judiciary will result from extended tours for military judges.

The principal arguments against the concept are that it adversely affects flexibility in personnel assignments to meet unexpected or dynamic situations and that it creates a situation where commands would be subject to the whim and caprice of a military judge whose actions are contrary to command authority, good order and discipline, but whose actions may be within permissible judicial discretion.

13. Are you aware of any instances in which a military judge has been threatened with reassignment or actually reassigned because of the military judge's court-related decisions?

Yes 1
No 2

14. If yes, how often?

Once..... 1
Seldom..... 2
Sometimes 3
Frequently..... 4

Briefly describe the incident(s) on comments page at the end of this questionnaire. Indicate the question number with your comments.

15. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander, has criticized a military judge directly or indirectly or through the military judges' superior for court-related decisions?

Yes 1
No 2

16. If yes, how often?

Once..... 1
Seldom..... 2
Sometimes 3
Frequently..... 4

Briefly describe the incident(s) on comments page at the end of this questionnaire. Indicate the question number with your comments.

17. If your answer to #15 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?

Usually findings 1
Usually sentence 2
Usually other grounds..... 3
About equally on all of the above..... 4

18. If your answer to #15 is yes, did the criticism impact on the judges' subsequent decisions?

Yes 1
No 2
Don't know 3

19. To what extent do you believe a guaranteed term of office would create the *appearance* of a more independent and fair military judiciary?

Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4

20. To what extent do you believe that a guaranteed term of office would, *actually*, create a more independent and fair military judiciary?

Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4

21. To what extent do you believe that a guaranteed term of office would contribute to a more professionally competent military judiciary?

Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4

22. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?

Yes 1
No 2
No opinion 3

23. Would guaranteed terms of office for military judges give judges too much independence?

Yes 1
No 2
No opinion 3

24. How do you view assignment as a military judge in terms of career enhancement?

Not very career enhancing 1

- Somewhat career enhancing..... 2
 Very career enhancing..... 3
25. Is 0-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- Yes 1
 No 2
 No opinion 3
26. Is 0-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- Yes 1
 No 2
 No opinion 3
27. If there were flag or general officer billets on the *Courts of Military Review* would judicial duty be more career enhancing?
- Yes 1
 No 2
 No opinion 3
28. If there were flag or general officer billets on the *Court of Military Appeals* would judicial duty be more career enhancing?
- Yes 1
 No 2
 No opinion 3
29. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?
- Much more attractive..... 1
 Somewhat more attractive..... 2
 No effect..... 3
 Somewhat less attractive..... 4
 Much less attractive 5
30. If a guaranteed term of office provision were enacted what length of time should it contain for the judges of the Courts of Military Review?
- Normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
 Over 10 years..... 4
31. If a guaranteed term of office provision were enacted what length of time should it contain for GCM judges?
- Normal tour length..... 1
- 3-5 years..... 2
 6-10 years..... 3
 Over 10 years..... 4
32. If a guaranteed term of office provision were enacted what length of time should it contain for SPCM judges?
- Normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
 Over 10 years..... 4
33. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?
- Yes 1
 No 2
 No opinion 3
34. How would guaranteed terms of office affect your view of military judge assignments?
- Much more attractive..... 1
 Somewhat more attractive..... 2
 No effect..... 3
 Somewhat less attractive..... 4
 Much less attractive 5
35. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?
- Yes 1
 No 2
 No opinion 3
36. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?
- Yes 1
 No 2
 No opinion 3
37. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?
- Not at all 1
 Slightly 2
 Somewhat..... 3
 Greatly 4

38. On balance, do you favor some provision for guaranteed terms of office for military trial judges?
 Yes 1
 No 2
39. On balance, do you favor some provision for guaranteed terms of office for CMR judges?
 Yes 1
 No 2

C. SENTENCING ONLY BY MILITARY JUDGE IN NONCAPITAL CASES

Congress has directed study of the concept that all sentencing in special and general court-martial, except for capital cases, be done by the military judge.

The principal arguments in favor of the concept are that: almost all civilian jurisdictions use judge alone sentencing; the trial is more expeditious and error free; military judges possess more expertise in sentencing; and, because they are exposed to a large number of cases, their sentencing will be more rational, equitable and stable.

The principal arguments against the concept are that: court members sentencing has been traditional in the Armed Forces; members may better reflect the sense of the community in respect to the gravity of the case; court-martial duty is useful for training officers in the duties of command; and dissatisfaction with sentences might lead to animosity toward judges in the Armed Forces.

40. Do you try cases primarily at a single location or do you ride a circuit?
 Single location 1
 Circuit 2
41. What percentage of cases that you tried in the past year were military judge alone?
 Less than 10% 1
 10-25% 2
 26-50% 3
 51-75% 4
 Over 75% 5
42. In your experience, in what percentage of cases with court members does an accused request enlisted members?
 Less than 10% 1
 10-25% 2

- 26-50% 3
 51-75% 4
 Over 75% 5
43. How informed are you regarding local military community events and problems?
 Not at all 1
 Slightly 2
 Somewhat informed 3
 Greatly informed 4
44. Are military judges aware of the disciplinary impact of their sentences on the command?
 Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
45. Are the officers who are detailed as court members aware of the disciplinary impact of their sentences on the command?
 Not at all 1
 Slightly 2
 Somewhat 3
 Greatly 4
46. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?
 Military judges 1
 Members 2
 No difference 3
 Don't know 4
47. In cases where you sat as military judge where an accused was sentenced by members, upon hearing the sentence, in what percentage of the cases did you conclude that you were in close agreement with the sentence?
 0-25% 1
 26-50% 2
 51-75% 3
 Over 75% 4
48. How often do members give an inappropriate sentence (unreasonably lenient or harsh)?
 Never 1
 Seldom 2
 Sometimes 3
 Usually 4
 Always 5

49. How often do judges give an inappropriate sentence (unreasonably lenient or harsh)?
- Never..... 1
Seldom..... 2
Sometimes..... 3
Usually..... 4
Always..... 5
50. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?
- Yes..... 1
No..... 2
No opinion..... 3
51. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system and the command?
- Officer panels..... 1
Officer and enlisted panels..... 2
Military judges..... 3
All are equally qualified..... 4
52. Can court members or military judges better determine an appropriate sentence for a given accused?
- Military judges..... 1
Court members..... 2
No difference..... 3
53. How often do convening authorities select the "best qualified" personnel for courts-martial duty?
- Never..... 1
Seldom..... 2
Sometimes..... 3
Usually..... 4
Always..... 5
54. How often do convening authorities select court members for such duty based primarily upon their relative expendability?
- Never..... 1
Seldom..... 2
Sometimes..... 3
Usually..... 4
Always..... 5
55. What is your sense of the military grade of the typical *special court-martial* panels which actually hear cases, to which you have been detailed?
- Don't know..... 1
One 0-4/0-5 and rest below 0-4..... 2
50% split between 0-4/0-5 and those below 0-4/0-5..... 3
Normally all below 0-4..... 4
Normally all above 0-4..... 5
56. What is your sense of the military grade of the typical *general court-martial* panels which actually hear cases to which you have been detailed?
- Don't know..... 1
One 0-6, two 0-5, three 0-4, three below 0-4.. 2
One 0-5, three 0-4, rest below 0-4..... 3
One or more 0-4, rest below 0-4..... 4
Two 0-5, rest split evenly between 0-4 and those below 0-4..... 5
Three 0-5, three 0-4, three below 0-4..... 6
One 0-6, three 0-5, four 0-4, one below 0-4 7
57. Would a change to military judge alone sentencing deprive an accused of a substantial right?
- Yes..... 1
No..... 2
No opinion..... 3
58. Would a change to military judge alone sentencing *appear* to deprive an accused of a substantial right?
- Yes..... 1
No..... 2
No opinion..... 3
59. How often do you believe that court members' doubts on the merits wind up expressed in a "compromise" sentence?
- Never..... 1
Seldom..... 2
Sometimes..... 3
Usually..... 4
Always..... 5
60. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?
- Yes..... 1
No..... 2
No opinion..... 3

61. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?

- Reduce frequency..... 1
- No effect..... 2
- Increase frequency..... 3
- Merely shift focus to military judge..... 4

62. Knowing that an accused currently has the option to reject members' sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?

- Yes 1
- No 2
- No opinion 3

If yes, describe the powers on comments page at the end of this questionnaire. Indicate the question number with your comments.

63. If mandatory judge alone sentencing were adopted, would there be an *appearance* that command authority had been diminished?

- Yes 1
- No 2
- No opinion 3

64. Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?

- Not at all 1
- Slight 2
- Some 3
- Great..... 4

65. If the military judge perceives resentment would this cause the judge to render either an inappropriately lenient or harsh sentence?

- Yes 1
- No 2
- No opinion 3

66. If military judges were given sole sentencing authority, and court members tried only the issue of guilt should the system used to select court members be changed to require random selection of court members?

- Yes 1
- No 2
- No opinion 3

67. If random selection of members were used under these circumstances, should selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused who meet present statutory qualifications of age, experience, etc?

- All members not junior to the accused..... 1
- All members not junior to the accused meeting present qualifications. 2
- No opinion 3

68. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or military judge for sentencing?

- Yes 1
- No 2
- No opinion 3

69. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court-members be provided by law?

- Yes 1
- No 2
- No opinion 3

70. As another alternative, should the military judge have the discretion to send a case to the members for sentencing, in his discretion, where members have already arrived at findings?

- Yes 1
- No 2
- No opinion 3

71. If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?

- Yes 1
- No 2
- No opinion 3

72. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?

- Yes 1
- No 2
- No opinion 3

73. On balance, do you favor sentencing only by military judge in all noncapital cases?
- Yes 1
 No 2

D. POWER OF SUSPENSION FOR MILITARY JUDGES AND COURTS OF MILITARY REVIEW

Congress has directed the study of a proposal which would empower military trial judges and the Courts of Military Review to suspend any or all portions of an adjudged sentence. Under present law only the convening and supervisory authorities have suspension power. These authorities would continue to have suspension power under the proposal.

The principal arguments in favor of the proposal are that civilian judges have suspension authority; suspension power permits close tailoring of the sentence to the particular offender; and that military judges and the Courts of Military Review would no longer be trapped into either approving an unsuspended discharge which is perceived as inappropriately harsh or disapproving the unsuspended discharge which is perceived as inordinately lenient.

The principal arguments against the proposal are that the convening and supervisory authorities have much better information with which to assess the chances that an accused would benefit from probation than either the military judge or the Courts of Military Review; unlike civilian life, there is one military person, the commander, who is responsible for supervising the accused and who must deal with effects of additional misconduct, and suspension authority should follow that responsibility; that Courts of Military Review could cause accuseds to be returned to duty from extended appellate leave by suspending sentences; and the commander is uniquely situated to evaluate the advisability of retaining an accused in the context of manpower availability and military need.

74. In what percentage of special/general courts-martial have you recommended suspension of all or part of a sentence?
- 0% 1
 1-5% 2
 6-10% 3
 11-15% 4
 Over 15% 5

75. Approximately what percentage of the suspension recommendations have been followed by either the convening or supervisory authority?
- 0% 1
 1-25% 2
 26-50% 3
 51-75% 4
 76-95% 5
 Over 95% 6

76. In determining whether to recommend suspension of all or part of a sentence, were you affected by likelihood of its being followed?
- Never 1
 Seldom 2
 Sometimes 3
 Usually 4
 Always 5

77. Under the current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?
- Yes 1
 No 2
 No opinion 3

78. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?
- Yes 1
 No 2
 No opinion 3

79. Could military judges be given the same information as convening and supervisory authorities through modification of the Military Rules of Evidence and other provisions of the Manual for Courts-Martial?
- Yes 1
 No 2
 No opinion 3

80. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?
- Yes 1
 No 2
 No opinion 3

81. How important a factor should manpower/personnel requirements be when considering whether an accused's sentence should be suspended?
- Not at all 1
Slight 2
Somewhat..... 3
Great..... 4
82. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?
- Yes 1
No 2
No opinion 3
83. Would there be an *appearance* that command authority was diminished?
- Yes 1
No 2
No opinion 3
84. If judge-alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?
- Yes 1
No 2
No opinion 3
85. Is the possession of sentence suspension powers by civilian judges a persuasive argument for adopting a similar provision for courts-martial?
- Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4
86. By the time cases reach the Court of Military Review many accuseds are on appellate leave. Is this a factor in determining whether Courts of Military Review should have authority to suspend punitive discharges?
- Not at all 1
Slight 2
Somewhat..... 3
Great..... 4
87. Considering the additional support requirements that might result, if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example restitution, therapy and counselling?
- Yes 1
No 2
No opinion 3
- If yes, specify on the comments page at the end of this questionnaire. Indicate the question number with your comments.
88. If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?
- Appropriate judicial authority..... 1
Appropriate convening/supervisory authority. 2
Both 1 and 2..... 3
89. On balance, should a military judge be able to suspend all or part of a sentence adjudged by *court members*?
- Yes 1
No 2
90. On balance, should a military judge be able to suspend all or part of a sentence adjudged by *him/her*?
- Yes 1
No 2
91. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?
- Yes 1
No 2
92. Should court members be given the power to suspend their own sentences?
- Yes 1
No 2
No opinion 3

E. INCREASE JURISDICTIONAL MAXIMUM PUNISHMENT OF SPCM TO ONE YEAR

Congress has directed study of the question whether the confinement authority of the special court-martial should be expanded from 6 months to one year and what changes, if any, should be made to current appellate jurisdiction resulting from the expanded punishment.

The principal arguments in favor of the increase in punishment are that: the change would make the military justice system more consistent with the federal criminal justice system which uses the one year mark to differentiate between felonies and misdemeanors; the historical six-month limitation was based upon the relatively few protective rights afforded an accused at SPCM and the absence of lawyer involvement in the process at the time of the code's inception, neither of which factors is true today; many prospective GCM cases could be resolved at SPCM with greater efficiency (administrative and manpower burdens such as Article 32 investigations, would be reduced); reduces the potential confinement to which an accused could be subject; and provides an alternative to a punitive discharge in special courts-martial sentencing.

Principal arguments against the proposal are that: as few as two of a minimum of three court members should not be given the power to confine a person for one year; the ratio of GCMs to SPCM cases tried is so low that significant savings is doubtful; the accused will lose certain rights when special court-martial jurisdiction is increased (e.g., Article 32 investigations, lawyer defense counsel under limited circumstances, verbatim record of trial, minimum of five members, five days between service of charges and trial, mandatory military judge); a less experienced officer (who may not have a military lawyer available for advice) may be the convening authority; and the GCM military judges are generally senior in grade to SPCM military judges and there may be some distinctions in the selection process between them.

93. What percentage of cases to which you have been detailed are GCMs of the total of GCM and SPCMs?
- None 1
 - Under 10% 2
 - 10-20% 3
 - 21-50% 4
 - 51-75% 5
 - Over 75% 6
94. What percentage of GCM cases is the adjudged sentence to confinement six to *twelve* months?
- 0-5% 1
 - 6-10% 2
 - 11-20% 3

- 21-40% 4
- 41-60% 5
- Over 60% 6

95. What percentage of GCM cases is the adjudged sentence to confinement six to *fifteen* months?
- 0-5% 1
 - 6-10% 2
 - 11-20% 3
 - 21-40% 4
 - 41-60% 5
 - Over 60% 6
96. If SPCMs are allowed to impose longer terms of confinement, would cases currently tried at SPCM generally receive longer sentences?
- Not at all 1
 - Slightly 2
 - Somewhat 3
 - Greatly 4
97. Would increasing the confinement power of SPCMs cause many accuseds to receive punitive discharges which would not be imposed under current conditions?
- Not at all 1
 - Slightly 2
 - Somewhat 3
 - Greatly 4
98. If special courts-martial could impose sentences of up to one year's confinement would the number of punitive discharges decrease?
- Yes, if sentencing by MJ alone 1
 - Yes, if sentencing by members 2
 - Yes, regardless of who sentences 3
 - No, if sentencing by MJ alone 4
 - No, if sentencing by members 5
 - No, regardless of who sentences 6
 - Both 1 and 5 7
 - Both 2 and 4 8
99. What percentage of special courts-martial in your circuit are tried without military judges?
- None 1
 - Under 5% 2
 - 5-10% 3
 - Over 10% 4
100. What percentage of special courts-martial in your circuit involve the use of officer defense counsel who are not lawyers?
- None 1
 - Under 5% 2

- 5-10%..... 3
Over 10%..... 4
- 101.** How important is the Article 32 investigation as a discovery tool for the defense?
Not at all 1
Slightly 2
Somewhat..... 3
Greatly 4
- 102.** If SPCM jurisdiction were increased, would you favor requiring the detailing of a military judge in every case?
Yes 1
No 2
No, but without military judge, confinement should be limited to 6 months. 3
- 103.** If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?
Yes 1
No 2
No, but without representation by lawyer defense counsel, confinement should be limited to 6 months. 3
- 104.** Would you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?
Yes 1
No 2
No, but if there is no investigation requirement, confinement should be limited to 6 months 3
- 105.** If SPCM jurisdictional authority were increased, would you favor increasing to five the minimum number of required court members?
Yes 1
No 2
No, but if there are fewer than five members, confinement should be limited to 6 months..... 3
- 106.** If SPCM jurisdictional authority were increased, would you favor increasing to five the number of days required as a waiting period before trial?
Yes 1
No 2
No, but if trial before 5 days, confinement should be limited to 6 months..... 3
- 107.** If SPCM jurisdictional authority is increased, would you favor the requirement of a verbatim record of trial?
Yes 1
No 2
Verbatim record only if BCD or over 6 months confinement adjudged..... 3
- 108.** Do special court-martial judges whom you know have sufficient experience to adjudge up to 1 year's confinement at a SPCM?
Yes 1
No 2
No opinion 3
- 109.** If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the office of the Judge Advocate General?
Yes 1
No 2
No opinion 3
- 110.** If your answer to question # 110 was "yes" would you favor a change in the selection requirements for SPCM judges equivalent to that of GCM judges?
Yes 1
No 2
- 111.** Will increasing the jurisdiction of SPCMs reduce the number of GCMs?
Yes 1
No 2
No opinion 3
- 112.** If so, is this a desirable end?
Yes 1
No 2
No opinion 3
- 113.** Would increasing the jurisdiction of SPCM cause under-referral of a significant number of cases?
Yes 1
No 2
No opinion 3
- 114.** If so, should certain serious offenses be precluded from trial by special courts-martial?
Yes 1

115. On balance, do you favor increasing jurisdictional maximum punishment of special courts-martial to one year?

No 2
 No opinion 3

Yes 1
 No 2

116. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for an offense, rather than the jurisdictional limit of the court, would determine the trial forum? (*i.e.*, Felony and Misdemeanor Courts).

Yes 1
 No 2
 No opinion 3

Advisory Commission Report



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

4 JUN 1984

MEMORANDUM FOR Judges of the Courts of Military Review

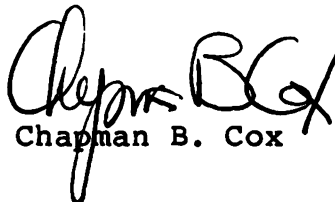
SUBJECT: Military Justice Questionnaire

The enclosed questionnaire is part of a survey conducted by the Military Justice Act of 1983 Advisory Commission. The Commission was established by the Secretary of Defense pursuant to the direction of the United States Congress. The Commission is studying specific proposed legislative changes to the military justice system and is required to report directly to the Armed Services Committees of the Senate and the House of Representatives. The purpose of the survey is to provide the Commission with data from commanders and military justice practitioners which will be included in the Commission's report and used in the Commission's recommendations to Congress. Separate questionnaires are being mailed to military judges, judges of the courts of review, staff judge advocates and legal officers, trial counsel, defense counsel, and general and special court-martial convening authorities.

This survey is being conducted through the Department of Defense Manpower Data Center (DMDC). The Commission has developed the questionnaires and will collect the data. DMDC will analyze the data. The Air Force is executive agent for the Commission and is responsible for the administration of the survey.

Please fill out the enclosed questionnaire and return it to the Military Justice Division of the Office of The Judge Advocate General of the Air Force (AF/JAJM) in the envelope provided within two weeks.

I appreciate your assistance in this effort. Your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.


Chapman B. Cox

Attachment
Questionnaire

Military Justice Act of 1983 Advisory Commission Survey

This survey is sponsored by the Military Justice Act of 1983 Advisory Commission, and is being conducted through the Defense Manpower Data Center (DMDC). Its purpose is to provide the Commission with information from commanders and military justice practitioners to be included in a report the Commission must submit to Congress.

The serial number which appears at the top of the first page of the questionnaire is a sequence number and will be used for record management purposes only. Neither the Commission nor DMDC will release any individually identifiable data; only group statistics will be reported. Your participation in this survey is voluntary. Failure to respond to the questions will not result in any penalty. However, your participation is encouraged so that the data will be complete and representative.

INSTRUCTIONS FOR COMPLETING THIS SURVEY

1. Read each question carefully. Circle the number next to your answer.

Example: What is your current grade?

	Circle One
0-2	1
0-3	2
0-4	③
0-5	4
0-6	5
0-7	6

2. If you have written comments, make your comments on the comments page at the end of the questionnaire. Indicate the question number with your comment.
3. If you have any questions about these instructions, please call Captain W. Mike Burd, AF/JAJM at AUTOVON 223-5770 or commercial (202) 693-5770.

QUESTIONNAIRE—COURTS OF MILITARY REVIEW

A. BACKGROUND INFORMATION

1. What branch of military service are you a member of?

Army	1
Navy	2
Marine Corps	3
Air Force	4
Coast Guard	5

2. What is your current grade?

0-4	1
0-5	2
0-6	3
0-7	4

3. How many years of total active service?

8-10	1
11-15	2
16-20	3
21-25	4
Over 25	5

4. Do you have any prior enlisted/officer non judge advocate experience?

No	1
Officer	2
Enlisted	3
Officer and Enlisted	4

5. How many years non judge advocate experience do you have?

None	1
Less than 2 years	2
2-6 years	3
7-10 years	4
Over 10 years	5

6. Have you had substantial experience as trial or defense counsel at any time in your career?

No	1
Trial counsel	2
Defense counsel	3
Both	4

7. Do you have any prior experience as a military trial judge?

Yes	1
No	2

8. If yes, how many years?

- | | |
|---------------|---|
| None | 1 |
| Under 3 | 2 |
| 3-6 | 3 |
| 7-10 | 4 |
| Over 10 | 5 |

9. If yes, to question 7 over what types of courts-martial were you authorized to preside?

- | | |
|------------------|---|
| SPCM only | 1 |
| GCM & SPCM | 2 |

10. How long have you been an appellate judge?

- | | |
|------------------------|---|
| Less than 1 year | 1 |
| 1-3 years | 2 |
| 4-6 years | 3 |
| 7-10 years | 4 |
| Over 10 years | 5 |

B. GUARANTEED TERMS OF OFFICE FOR MILITARY JUDGES

Congress has directed that the concept of guaranteed terms of office for military judges be studied. This concept could involve assignment for a normal tour length, or assignment for a minimum number of years or assignment until retirement. If this concept is adopted assume that a military judge could be removed during the applicable period for misconduct, incompetence, physical disability, or voluntary reassignment, but for no other reason.

The principal arguments in favor of this concept are that it encourages military judges to be impartial, it fosters assumptions in others of impartiality, and ensures that a more experienced judiciary will result from extended tours for military judges.

The principal arguments against the concept are that it adversely affects flexibility in personnel assignments to meet unexpected or dynamic situations and that it creates a situation where commands would be subject to the whim and caprice of a military judge whose actions are contrary to command authority, good order and discipline, but whose actions may be within permissible judicial discretion.

11. Are you aware of any instances in which an appellate judge has been threatened with reassignment or actually reassigned because of the judge's court-related decisions?

- Yes 1
- No 2

12. If yes, how often?

- Once..... 1
- Seldom..... 2
- Sometimes 3
- Frequently..... 4

Briefly describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with your comments.

13. Are you aware of any instances in which a military trial judge has been threatened with reassignment or actually reassigned because of the judge's court-related decisions?

- Yes..... 1
- No 2

14. If yes, how often?

- Once..... 1
- Seldom..... 2
- Sometimes 3
- Frequently..... 4

Briefly describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with your comments.

15. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for said commander, has criticized an appellate judge directly or indirectly or through the appellate judges' superior for court-related decisions?

- Yes 1
- No 2

16. If yes, how often?

- Once..... 1
- Seldom..... 2
- Sometimes 3

Frequently..... 4

Briefly describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with your comments.

17. If your answer to #15 is yes, did the criticism relate to the judges' actions on findings, or sentence or other grounds?

- Usually findings 1
- Usually sentence 2
- Usually other grounds..... 3
- About equally on all of the above..... 4

18. If your answer to #15 is yes, did the criticism impact on the judges' subsequent decisions?

- Yes 1
- No 2
- Don't know 3

19. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a trial judge directly or indirectly or through the trial judges' superior for court-related decisions?

- Yes 1
- No 2

20. If yes, how often?

- Once..... 1
- Seldom..... 2
- Sometimes 3
- Frequently..... 4

Describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with our comments.

21. If your answer to #19 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?

- Usually findings 1
- Usually sentence 2
- Usually other grounds..... 3
- About equally on all of the above..... 4

22. If your answer to #19 is yes, did the criticism impact on the judges' subsequent findings or sentences?
- Yes 1
No 2
Don't know 3
23. To what extent do you believe a guaranteed term of office would create the *appearance* of a more independent and fair military judiciary?
- Not at all 1
Slightly 2
Somewhat 3
Greatly 4
24. To what extent do you believe that a guaranteed term of office would, *actually*, create a more independent and fair military judiciary?
- Not at all 1
Slightly 2
Somewhat 3
Greatly 4
25. To what extent do you believe that a guaranteed term of office would contribute to a more professionally competent military judiciary?
- Not at all 1
Slightly 2
Somewhat 3
Greatly 4
26. Would guaranteed terms of office for military judges give military judges too much independence?
- Yes 1
No 2
No opinion 3
27. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?
- Yes 1
No 2
No opinion 3
28. How do you view assignment as an appellate judge in terms of career enhancement?
- Not very career enhancing 1
Somewhat career enhancing 2
Very career enhancing 3
29. Is 0-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- Yes 1
No 2
No opinion 3
30. Is 0-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- Yes 1
No 2
No opinion 3
31. If there were flag and general officer billets on the *Court of Military Review*, would judicial duty be more career enhancing?
- Yes 1
No 2
No opinion 3
32. If there were flag and general officer billets on the *Court of Military Appeals* would judicial duty be more career enhancing?
- Yes 1
No 2
No opinion 3
33. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?
- Much more attractive 1
Somewhat more attractive 2
No effect 3
Somewhat less attractive 4
Much less attractive 5
34. If a guaranteed term of office provision were enacted what length of time should it contain for the judges of the Courts of Military Review?
- Normal tour length 1
3-5 years 2
6-10 years 3
Over 10 years 4
35. If a guaranteed term of office provision were enacted what length of time should it contain for GCM judges?
- Normal tour length 1
3-5 years 2
6-10 years 3

- Over 10 years..... 4
- 36. If a guaranteed term of office provision were enacted what length of time should it contain for SPCM judges?
 - Normal tour length..... 1
 - 3-5 years..... 2
 - 6-10 years..... 3
 - Over 10 years..... 4
- 37. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?
 - Yes..... 1
 - No..... 2
 - No opinion 3
- 38. How would guaranteed terms of office affect your view of military judge assignments?
 - Much more attractive..... 1
 - Somewhat more attractive..... 2
 - No effect..... 3
 - Somewhat less attractive..... 4
 - Much less attractive 5
- 40. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?
 - Yes..... 1
 - No..... 2
 - No opinion 3
- 41. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?
 - Yes..... 1
 - No..... 2
 - No opinion 3
- 42. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?
 - Not at all 1
 - Slightly 2
 - Somewhat..... 3
 - Greatly 4
- 43. On balance, do you favor some provision for guaranteed terms of office for military trial judges?
 - Yes..... 1

- No..... 2
- 44. On balance, do you favor some provision for guaranteed terms of office for CMR judges?
 - Yes..... 1
 - No..... 2

C. SENTENCING ONLY BY MILITARY JUDGE IN NONCAPITAL CASES

Congress has directed study of the concept that all sentencing in special and general courts-martial, except for capital cases, be done by the military judge.

The principal arguments in favor of the concept are that: almost all civilian jurisdictions use judge alone sentencing; the trial is more expeditious and error free; military judges possess more expertise in sentencing; and, because they are exposed to a large number of cases, their sentencing will be more rational, equitable and stable.

The principal arguments against the concept are that: court members sentencing has been traditional in the Armed Forces; members may better reflect the sense of the community in respect to the gravity of the case; court-martial duty is useful for training officers in the duties of command; and dissatisfaction with sentences might lead to animosity towards judges in the Armed Forces.

- 45. How informed are military judges regarding local military events and problems?
 - Not at all 1
 - Slightly 2
 - Somewhat..... 3
 - Greatly 4
- 46. Are military judges aware of the disciplinary impact of their sentences on the command?
 - Not at all 1
 - Slightly 2
 - Somewhat..... 3
 - Greatly 4
- 47. Are the officers who are detailed as court-members aware of the disciplinary impact of their sentences on the command?
 - Not at all 1
 - Slightly 2
 - Somewhat..... 3
 - Greatly 4

48. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?
- Military judges..... 1
 Members..... 2
 No difference 3
 Don't know 4
49. How often do members give an inappropriate sentence (unreasonably lenient or harsh)?
- Never..... 1
 Seldom..... 2
 Sometimes 3
 Usually..... 4
 Always..... 5
50. How often do judges give an inappropriate sentence (unreasonably lenient or harsh)?
- Never..... 1
 Seldom..... 2
 Sometimes 3
 Usually..... 4
 Always..... 5
51. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?
- Yes 1
 No 2
 No opinion 3
52. Who possesses more knowledge about the ramifications of a particular sentence on the accused, the military corrections system and the command?
- Officer panels..... 1
 Officer and enlisted panels..... 2
 Military judges..... 3
 All are equally qualified..... 4
53. Can court members or military judges better determine an appropriate sentence for a given accused?
- Military judges..... 1
 Court members 2
 No difference 3
54. How often do convening authorities select the "best qualified" personnel for courts-martial duty?
- Never..... 1
 Seldom..... 2
 Sometimes 3
 Usually..... 4
 Always..... 5
55. How often do convening authorities select court members for such duty based primarily upon their relative expendability?
- Never..... 1
 Seldom..... 2
 Sometimes 3
 Usually..... 4
 Always..... 5
56. Would a change to military judge alone sentencing deprive an accused of a substantial right?
- Yes 1
 No 2
 No opinion 3
57. Would a change to military judge alone sentencing *appear* to deprive an accused of a substantial right?
- Yes 1
 No 2
 No opinion 3
58. How often do court members' doubts on the merits wind up expressed in a "compromise" sentence?
- Never..... 1
 Seldom..... 2
 Sometimes 3
 Usually..... 4
 Always..... 5
59. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?
- Yes 1
 No 2
 No opinion 3
60. What effect would vesting military judges with sole sentencing power have on the exercise of unlawful command influence?
- Reduce frequency..... 1
 No effect..... 2
 Increase frequency..... 3
 Merely shift focus to military judge..... 4

- 61.** Knowing that an accused currently has the option to reject members' sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?
- Yes 1
 No 2
 No opinion 3

If yes, describe these powers on comments page at the end of this questionnaire. Indicate question number with your comments.

- 62.** If mandatory judge alone sentencing were adopted, would there be an *appearance* that command authority had been diminished?
- Yes 1
 No 2
 No opinion 3
- 63.** Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?
- Not at all 1
 Slight 2
 Some 3
 Great 4
- 64.** If the military judge perceives resentment, would this cause the judge to render either an inappropriately lenient or harsh sentence?
- Yes 1
 No 2
 No opinion 3
- 65.** If military judges were given sole sentencing authority, and court members tried only the issue of guilt should the system used to select court members be changed to require random selection of court members?
- Yes 1
 No 2
 No opinion 3
- 66.** If random selection of members was used under these circumstances, should selection be from a

- pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused who meet present statutory qualifications of age, experience etc.?
- All members not junior to accused 1
 All members not junior to the accused meeting present qualifications 2
 No opinion 3

- 67.** As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or military judge for sentencing?
- Yes 1
 No 2
 No opinion 3
- 68.** As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court members be provided by law?
- Yes 1
 No 2
 No opinion 3
- 69.** As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where members have already arrived at findings?
- Yes 1
 No 2
 No opinion 3
- 70.** If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?
- Yes 1
 No 2
 No opinion 3
- 71.** If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?
- Yes 1
 No 2
 No opinion 3

72. On balance, do you favor sentencing only by military judges in all non-capital cases?
- Yes 1
No 2

D. POWER OF SUSPENSION FOR MILITARY JUDGES AND COURTS OF MILITARY REVIEW

Congress has directed the study of a proposal which would empower military trial judges and the Courts of Military Review to suspend any or all portions of an adjudged sentence. Under present law only the convening and supervisory authorities have suspension power. These authorities would continue to have suspension power under the proposal.

The principal arguments in favor of the proposal are that civilian judges have suspension authority; suspension power permits close tailoring of the sentence to the particular offender; and that military judges and the Courts of Military Review would no longer be trapped into either approving an unsuspended discharge which is perceived as inappropriately harsh or disapproving the unsuspended discharge which is perceived as inordinately lenient.

The principal arguments against the proposal are that the convening and supervisory authorities have much better information with which to assess the chances that an accused would benefit from probation than either the military judge or the Courts of Military Review; unlike civilian life, there is one military person, the commander, who is responsible for supervising the accused and who must deal with effects of additional misconduct, and suspension authority should follow that responsibility; that Courts of Military Review could cause accuseds to be returned to duty from extended appellate leave by suspending sentences; and the commander is uniquely situated to evaluate the advisability of returning an accused in the context of manpower availability and military need.

73. Under the current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would the military judge have adequate information upon which to base a suspension decision?
- Yes 1
No 2
No opinion 3

74. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?
- Yes 1
No 2
No opinion 3

75. Could military judges be given the same information as convening and supervisory authorities through modification of the Military Rules of Evidence and other provisions of the Manual for Courts-Martial?
- Yes 1
No 2
No opinion 3

76. Generally is there adequate information contained in the record of trial upon which an appellate court could base a suspension decision?
- Yes 1
No 2
No opinion 3

77. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?
- Yes 1
No 2
No opinion 3

78. How important a factor should manpower/personnel requirements be when considering whether an accused's sentence should be suspended?
- Not at all 1
Slight 2
Somewhat 3
Great 4

79. Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?
- Yes 1
No 2
No opinion 3

80. Would there be an *appearance* that command authority was diminished?
- Yes 1
No 2

- No opinion 3
- 81.** If judge alone sentencing were required does it logically follow that military judges should also have the power to suspend?
 - Yes 1
 - No 2
 - No opinion 3
- 82.** Is the possession of sentence suspending power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?
 - Not at all 1
 - Slightly 2
 - Somewhat..... 3
 - Greatly 4
- 83.** By the time cases reach the Court of Military Review many accuseds are on appellate leave. Is this a factor in determining whether Courts of Military Review should have authority to suspend punitive discharges?
 - Not at all 1
 - Slight 2
 - Somewhat..... 3
 - Great..... 4
- 84.** Considering the additional support requirements that might result, if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy and counselling?
 - Yes 1
 - No 2
 - No opinion 3

- 86.** On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?
 - Yes 1
 - No 2
- 87.** On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?
 - Yes 1
 - No 2
- 88.** On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?
 - Yes 1
 - No 2
- 89.** Should court members be given the power to suspend their own sentences?
 - Yes 1
 - No 2

E. INCREASE JURISDICTIONAL MAXIMUM PUNISHMENT OF SPCM TO ONE YEAR

Congress has directed study of the question whether the confinement authority of the special court-martial should be expanded from six months to one year and what changes, if any, should be made to current appellate jurisdiction resulting from the expanded punishment.

The principal arguments in favor of the increase in punishment are that: the change would make the military justice system more consistent with the federal criminal justice system which uses the one year mark to differentiate between felonies and misdemeanors; the historical six-month limitation was based upon the relatively few protective rights afforded an accused at SPCM and the absence of lawyer involvement in the process at the time of the code's inception, neither of which factors is true today; many prospective GCM cases could be resolved at SPCM with greater efficiency (administrative and manpower burdens such as Article 32 investigations, would be reduced); reduces the potential confinement to which an accused could be subject; and provides an alternative to a punitive discharge in special courts-martial sentencing.

Principal arguments against the proposal are that: as few as two of a minimum of three court members should not be given the power to confine a person for one year;

If yes, specify on the comments page at the end of this questionnaire. Indicate the question number with your comments.

- 85.** If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?
 - Appropriate judicial authority..... 1
 - Appropriate convening/supervisory authority..... 2
 - Both 1 and 2..... 3

the ratio of GCMs to SPCM cases tried is so low that significant savings is doubtful; the accused will lose certain rights when special court-martial jurisdiction is increased (e.g., Article 32 investigations, lawyer defense counsel under limited circumstances, verbatim record of trial, minimum of five members, five days between service of charges and trial, mandatory military judge); a less experienced officer (who may not have a military lawyer available for advice) may be the convening authority; and GCM military judges are generally senior in grade to SPCM military judges and there may be some distinction in the selection process between them.

91. If SPCMs are allowed to impose longer terms of confinement, would cases currently tried at SPCM generally receive longer sentences?

- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4

92. Would increasing the confinement power of SPCM could cause many accuseds to receive punitive discharges which would not be imposed under current conditions?

- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4

93. If special courts-martial could impose sentences of up to one year's confinement, would the number of punitive discharges decrease?

- Yes, if sentencing by military judge only 1
- Yes, if sentencing by members 2
- Yes, regardless of who sentences 3
- No, if sentencing by military judge only 4
- No, if sentencing by members 5
- No, regardless of who sentences 6
- Both 1 and 5 7
- Both 2 and 4 8

94. How important is the Article 32 investigation as a discovery tool for the defense?

- Not at all 1
- Slightly 2
- Somewhat..... 3
- Greatly 4

95. If SPCM jurisdiction were increased would you favor requiring the detailing of a military judge in every case?

- Yes 1

- No 2
- No, but without military judge, confinement should be limited to 6 months..... 3

96. If SPCM jurisdiction were increased would you favor requiring representation by lawyer defense counsel?

- Yes 1
- No 2
- No, but without representation by lawyer defense counsel, confinement should be limited to 6 months. 3

97. Do you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?

- Yes 1
- No 2
- No but if there is no investigation requirement, confinement should be limited to 6 months 3

98. If SPCM jurisdictional authority were increased, would you favor increasing to five the minimum number of required court members?

- Yes 1
- No 2
- No, but if there are fewer than 5 members confinement should be limited to 6 months..... 3

99. If SPCM jurisdictional authority were increased, would you favor a provision increasing to five the number of days required as a waiting period before trial?

- Yes 1
- No 2
- No, but if trial before 5 days, confinement should be limited to 6 months..... 3

100. If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?

- Yes 1
- No 2
- Verbatim record only if BCD or over 6 months confinement adjudged..... 3

101. If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the Office of the Judge Advocate General?

- Yes 1

- | | |
|---|---|
| <p>No 2
 No opinion 3</p> <p>102. Do special court-martial judges whom you know have sufficient experience to award up to 1 year of confinement at a SPCM?</p> <p>Yes 1
 No 2
 No opinion 3</p> <p>103. Will increasing the jurisdiction of SPCMs reduce the number of GCMs?</p> <p>Yes 1
 No 2
 No opinion 3</p> <p>104. If so, is this a desirable end?</p> <p>Yes 1
 No 2
 No opinion 3</p> <p>105. Would increasing the jurisdiction of SPCMs cause under referral of a significant number of cases?</p> <p>Yes 1</p> | <p>No 2
 No opinion 3</p> <p>106. If so, should certain serious offenses be precluded from trial by special courts-martial?</p> <p>Yes 1
 No 2
 No opinion 3</p> <p>107. On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to one year?</p> <p>Yes 1
 No 2</p> <p>108. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for an offense, rather than the jurisdictional limit of the court, would determine the trial forum (<i>i.e.</i>, Felony and Misdemeanor Courts)?</p> <p>Yes 1
 No 2
 No opinion 3</p> |
|---|---|



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

4 JUN 1984

MEMORANDUM FOR Trial Counsel

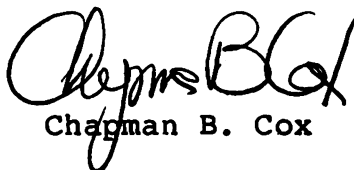
SUBJECT: Military Justice Questionnaire

The enclosed questionnaire is part of a survey conducted by the Military Justice Act of 1983 Advisory Commission. The Commission was established by the Secretary of Defense pursuant to the direction of the United States Congress. The Commission is studying specific proposed legislative changes to the military justice system and is required to report directly to the Armed Services Committees of the Senate and the House of Representatives. The purpose of the survey is to provide the Commission with data from commanders and military justice practitioners which will be included in the Commission's report and used in the Commission's recommendations to Congress. Separate questionnaires are being mailed to military judges, judges of the courts of review, staff judge advocates and legal officers, trial counsel, defense counsel, and general and special court-martial convening authorities.

This survey is being conducted through the Department of Defense Manpower Data Center (DMDC). The Commission has developed the questionnaires and will collect the data. DMDC will analyze the data. The Air Force is executive agent for the Commission and is responsible for the administration of the survey.

Please fill out the enclosed questionnaire and return it to the Military Justice Division of the Office of The Judge Advocate General of the Air Force (AF/JAJM) in the envelope provided within two weeks.

I appreciate your assistance in this effort. Your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.


Chapman B. Cox

Attachment
Questionnaire

Military Justice Act of 1983 Advisory Commission Survey

This survey is sponsored by the Military Justice Act of 1983 Advisory Commission, and is being conducted through the Defense Manpower Data Center (DMDC). Its purpose is to provide the Commission with information from commanders and military justice practitioners to be included in a report the Commission must submit to Congress.

The serial number which appears at the top of the first page of the questionnaire is a sequence number and will be used for record management purposes only. Neither the Commission nor DMDC will release any individually identifiable data; only group statistics will be reported. Your participation in this survey is voluntary. Failure to respond to the questions will not result in any penalty. However, your participation is encouraged so that the data will be complete and representative.

INSTRUCTIONS FOR COMPLETING THIS SURVEY

1. Read each question carefully. Circle the number next to your answer.

Example: What is your current grade?

	Circle One
0-2	1
0-3	2
0-4	③
0-5	4
0-6	5
0-7	6

2. If you have written comments, make your comments on the comments page at the end of the questionnaire. Indicate the question number with your comment.
3. If you have any questions about these instructions, please call Captain W. Mike Burd, AF/JAJM at AUTOVON 223-5770 or commercial (202) 693-5770.

QUESTIONNAIRE—TRIAL COUNSEL

A. BACKGROUND INFORMATION.

1. What branch of military service are you a member of?
- Army 1
Navy 2
Marine Corps 3
Air Force 4
Coast Guard 5
2. What is your current grade?
- 0-2 1
0-3 2
0-4 3
0-5 4
0-6 5
3. How many years of total active service?
- 0-3 1
4-5 2
6-10 3
11-15 4
16-20 5
21-25 6
over 25 7
4. What is your current assignment location?
- CONUS 1
Outside CONUS 2
5. Do you have any prior enlisted/officer non-judge advocate experience?
- no 1
officer 2
enlisted 3
officer and enlisted 4
6. How many years non-judge advocate experience do you have?
- none 1
less than 2 years 2
2-6 years 3
7-10 years 4
over 10 years 5
7. How long have you been a trial counsel?
- less than 6 months 1

- 6 months-1 year 2
1-2 years 3
2-3 years 4
3-4 years 5
over 4 years 6

8. How many SPCM cases have you tried as trial counsel?
- less than 20 1
20-50 2
51-100 3
over 100 4
9. How many GCM cases have you tried as trial counsel?
- none 1
less than 10 2
11-25 3
26-50 4
over 50 5
10. Are you a full-time trial counsel?
- yes 1
no 2

B. GUARANTEED TERMS OF OFFICE FOR MILITARY JUDGES

Congress has directed that the concept of guaranteed terms of office for military judges be studied. This concept could involve assignment for a normal tour length, or assignment for a minimum number of years or assignment until retirement. If this concept is adopted, assume that a military judge could be removed during the applicable period for misconduct, incompetence, physical disability, or voluntary reassignment, but for no other reason.

The principal arguments in favor of this concept are that it encourages military judges to be impartial, it fosters assumptions in others of impartiality and it ensures that a more experienced judiciary will result from extended tours for military judges.

The principal arguments against the concept are that it adversely affects flexibility in personnel assignments to meet unexpected or dynamic situations and that it creates a situation where commands would be subject to the whim and caprice of a military judge whose actions are contrary to command authority, good order and disci-

pline, but whose actions may be within permissible judicial discretion.

- 11. Are you aware of any instances in which a military judge has been threatened with reassignment or actually reassigned because of the military judge's decisions?
 yes 1
 no 2
- 12. If yes, how often?
 once 1
 seldom 2
 sometimes 3
 frequently 4

Briefly describe the incident(s) on the comments page at the end of the questionnaire. Indicate the question number with your comment.

- 13. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judge's superior for court-related decisions?
 yes 1
 no 2
- 14. If yes, how often?
 once 1
 seldom 2
 sometimes 3
 frequently 4

Briefly describe the incident(s) on the comments page at the end of the questionnaire. Indicate the question number with your comment.

- 15. If your answer to number 13 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds.
 usually findings 1
 usually sentence 2
 usually on other grounds 3
 about equally on all of the above 4
- 16. If your answer to number 13 is yes, did the criticism impact on the judges' subsequent decisions?

- yes 1
- no 2
- don't know 3

- 17. To what extent do you believe that a guaranteed term of office would create the *appearance* of a more independent and fair military judiciary?
 not at all 1
 slightly 2
 somewhat 3
 greatly 4

- 18. To what extent do you believe that a guaranteed term of office would *actually* create a more independent and fair military judiciary?
 not at all 1
 slightly 2
 somewhat 3
 greatly 4

- 19. To what extent do you believe that experience as a military judge with a guaranteed term of office would contribute to a more professionally competent military judiciary?
 not at all 1
 slightly 2
 somewhat 3
 greatly 4

- 20. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?
 yes 1
 no 2
 no opinion 3

- 21. Would guaranteed terms of office for military judges give judges too much independence?
 yes 1
 no 2
 no opinion 3

- 22. How do you view assignment as a military judge in terms of career enhancement?
 not very career enhancing 1
 somewhat career enhancing 2
 very career enhancing 3

- 23. Is 0-6 assignment to military judge duty considered the type of duty that is career-enhancing for competition for selection for flag or general officer rank?

- yes..... 1
no..... 2
no opinion 3
24. Is 0-6 assignment to duty at the Court of Military Review considered the type of duty that is career-enhancing for competition for selection to flag or general officer rank?
- yes..... 1
no..... 2
no opinion 3
25. If there were flag and general officer billets on the *Court of Military Review*, would judicial duty be more career enhancing?
- yes..... 1
no..... 2
no opinion 3
26. If there were flag and general officer billets on the *Court of Military Appeals*, would judicial duty be more career enhancing?
- yes..... 1
no..... 2
no opinion 3
27. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?
- much more attractive..... 1
somewhat more attractive..... 2
no effect..... 3
somewhat less attractive 4
much less attractive..... 5
28. If a guaranteed term of office provision were enacted, what length of time should it contain for judges of the Courts of Military Review?
- normal tour length..... 1
3-5 years..... 2
6-10 years..... 3
over 10 years..... 4
29. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?
- normal tour length..... 1
3-5 years..... 2
6-10 years..... 3
over 10 years..... 4
30. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?
- normal tour length..... 1
3-5 years..... 2
6-10 years..... 3
over 10 years..... 4
31. If a guaranteed term of office provision were enacted should new judges be required to complete a probationary period?
- yes..... 1
no..... 2
no opinion 3
32. How would guaranteed terms of office affect your view of military judge assignments?
- much more attractive..... 1
somewhat more attractive..... 2
no effect..... 3
somewhat less attractive 4
much less attractive..... 5
33. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?
- yes..... 1
no..... 2
no opinion 3
34. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?
- yes..... 1
no..... 2
no opinion 3
35. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?
- no..... 1
slightly..... 2
somewhat 3
greatly 4
36. On balance, do you favor some provision for guaranteed terms of office for military trial judges?
- yes..... 1
no..... 2

37. On balance, do you favor some provision for guaranteed terms of office for CMR judges?
- yes..... 1
no..... 2

41. How informed are military judges before whom you have tried cases regarding local military community events and problems?
- not at all 1
slightly..... 2
somewhat 3
greatly..... 4
don't know 5

C. SENTENCING ONLY BY MILITARY JUDGES IN NONCAPITAL CASES

Congress has directed study of the concept that all sentencing in special and general courts-martial, except for capital cases, be done by the military judge.

The principal arguments in favor of the concept are that: almost all civilian jurisdictions use judge alone sentencing; the trial is more expeditious and error free; military judges possess more expertise in sentencing; and, because they are exposed to a large number of cases, their sentencing will be more rational, equitable, and stable.

Arguments against the concept are that: court member sentencing has been traditional in the Armed Forces; members may better reflect the sense of the community in respect to the gravity of the case; court-martial duty is useful for training officers in the duties of command; and dissatisfaction with sentences might lead to animosity toward judges in the Armed Forces.

38. Do you try cases primarily at a single location or do you ride a circuit?

- single location..... 1
circuit..... 2

39. What percentage of cases that you tried in the past year were before military judge alone?

- less than 10% 1
10-25% 2
26-50% 3
51-75% 4
over 75% 5

40. In your experience, in what percentage of cases with court members does an accused request enlisted members?

- less than 10% 1
10-25% 2
26-50% 3
51-75% 4
over 75% 5

42. Are military judges aware of the disciplinary impact of their sentences on the command?
- not at all 1
slightly..... 2
somewhat 3
greatly..... 4
don't know 5

43. Are the officers who are detailed as court members aware of the disciplinary impact of their sentences on the command?

- not at all 1
slightly..... 2
somewhat 3
greatly..... 4
don't know 5

44. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?

- military judges 1
members 2
no difference 3
don't know 4

45. How often do members give an inappropriate sentence (unreasonably lenient or harsh)?

- never 1
seldom..... 2
sometimes 3
usually..... 4
always..... 5

46. How often do military judges give an inappropriate sentence (unreasonably lenient or harsh)?

- never 1
seldom..... 2
sometimes 3
usually..... 4
always..... 5

47. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?
- yes..... 1
no..... 2
no opinion..... 3
48. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?
- reduce frequency..... 1
no effect..... 2
increase frequency..... 3
merely shift the focus of unlawful command influence to the military judge. 4
49. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system, and the command?
- officer panels..... 1
officer and enlisted panels..... 2
military judges..... 3
all are equally qualified..... 4
50. Can court members or military judges better determine an appropriate sentence for a given accused?
- military judges..... 1
court members..... 2
no difference..... 3
51. How often do convening authorities select the "best qualified" personnel for court-martial duty?
- never..... 1
seldom..... 2
sometimes..... 3
usually..... 4
always..... 5
52. How often do convening authorities select court members for such duty based primarily upon their relative expendability?
- never..... 1
seldom..... 2
sometimes..... 3
usually..... 4
always..... 5
53. What is your sense of the military grade profile of the typical *special court-martial* panel before whom you have tried cases?
- don't know..... 1
one 0-4/0-5 and rest below 0-4..... 2
50% split between 0-4/0-5 and those below 0-4..... 3
normally all are below 0-4..... 4
normally all are above 0-4..... 5
54. What is your sense of the military grade profile of the typical *general court-martial* panel before whom you have tried cases?
- don't know..... 1
one 0-6, two 0-5, three 0-4, three below 0-4... 2
one 0-5, three 0-4, five below 0-4..... 3
one or more 0-4, rest below 0-4..... 4
two 0-5, rest split evenly between 0-4 and those below 0-4..... 5
three 0-5, three 0-4, three below 0-4..... 6
one 0-6, three 0-5, four 0-4, one below 0-4..... 7
55. Would a change to military judge alone sentencing deprive an accused of a substantial right?
- yes..... 1
no..... 2
no opinion..... 3
56. Would a change to military judge alone sentencing *appear* to deprive an accused of a substantial right?
- yes..... 1
no..... 2
no opinion..... 3
57. Knowing that an accused currently has the option to reject members sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive *the command* of any important powers?
- yes..... 1
no..... 2
no opinion..... 3
- If yes, describe these powers on comments sheet at the end of the questionnaire. Indicate the question number with your comments.
58. If mandatory judge alone sentencing were adopted, would there be an *appearance* that command authority had been diminished?
- yes..... 1

- no 2
no opinion 3
- 59.** How often do court members' doubts on the merits end up expressed in a "compromise" sentence?
- never 1
seldom..... 2
sometimes 3
usually..... 4
always..... 5
- 60.** Is mandatory sentencing by military judges more likely to produce consistent sentences in similar cases than sentencing by members?
- yes 1
no 2
no opinion 3
- 61.** Would there be resentment among commanders against military judges in particular and judge advocates in general if military judges are given sole sentencing authority?
- not at all 1
slight 2
somewhat 3
great 4
- 62.** If the military judge perceives resentment, would this cause the judge to render either an inappropriately lenient or harsh sentence?
- yes 1
no 2
no opinion 3
- 63.** If military judges were given sole sentencing authority and court members tried only the issue of guilt, should the system used to select court members be changed to require random selection of court members?
- yes 1
no 2
no opinion 3
- 64.** If random selection of members were used under these circumstances, should the selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command not junior to the accused, who meet present statutory qualifications of age, experience, etc.?
- all members not junior to the accused 1
all members not junior to the accused who meet present qualifications..... 2
- 65.** As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or judge for sentencing?
- yes 1
no 2
no opinion 3
- 66.** As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court members be provided by law?
- yes 1
no 2
no opinion 3
- 67.** As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where the members have already arrived at findings?
- yes 1
no 2
no opinion 3
- 68.** How often does defense counsel use the power of his client to request trial by military judge alone as bargaining leverage with the convening authority, staff judge advocate or trial counsel?
- never 1
seldom..... 2
sometimes 3
usually..... 4
always..... 5
- 69.** If Congress promulgates sentencing guidelines for federal courts, should similar guidelines be extended to courts-martial?
- yes 1
no 2
no opinion 3
- 70.** If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge sentencing?
- yes 1
no 2
no opinion 3
- 71.** What effect would giving military judges sole sentencing authority have on your trial preparation?
- no significant change..... 1

- require more preparation 2
 require less preparation 3

72. On balance, do you favor sentencing only by military judges in noncapital cases?

- yes 1
 no 2

D. POWER OF SUSPENSION FOR MILITARY JUDGES AND COURTS OF MILITARY REVIEW

Congress has directed the study of a proposal which would empower military trial judges and the Courts of Military Review to suspend any or all portions of an adjudged sentence. Under present law, only the convening and supervisory authorities have suspension power. These authorities would continue to have suspension power under this proposal.

The principal arguments in favor of the proposal are that civilian judges have suspension authority; suspension power permits close tailoring of the sentence to the particular offender; and that military judges and the Courts of Military Review would no longer be trapped into either approving an unsuspended discharge which is perceived as inappropriately harsh or disapproving the unsuspended discharge which is perceived as inordinately lenient.

The principal arguments against the proposal are that the convening and supervisory authorities have much better information with which to assess the chances that an accused would benefit from probation than either the military judge or the Courts of Military Review; unlike civilian life, there is one military person, the commander, who is responsible for supervising the accused and who must deal with the effects of additional misconduct, and suspension authority should follow that responsibility; the Courts of Military Review could cause accuseds to be returned to duty from extended appellate leave by suspending sentences; and the commander is uniquely situated to evaluate the advisability of retaining an accused in the context of manpower availability and military needs.

73. In approximately what percentage of the special/general courts-martial that you have tried have military judges recommended that a portion or all of the sentence be suspended?

- 0% 1
 1-5% 2
 6-10% 3
 11-15% 4

- over 15% 5
74. What percentage of the suspension recommendations have been followed by either the convening authority or supervisory authority?
- no recommendation 1
 0% 2
 1-25% 3
 26-50% 4
 51-75% 5
 76-95% 6
 over 95% 7
75. Under current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?
- yes 1
 no 2
 no opinion 3
76. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?
- yes 1
 no 2
 no opinion 3
77. Could military judges be given the same information as convening and supervisory authorities through modification of Military Rules of Evidence and other provisions of the MCM?
- yes 1
 no 2
 no opinion 3
78. Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?
- yes 1
 no 2
 no opinion 3
79. How important a factor should manpower personnel requirements be when considering whether an accused's sentence should be suspended?
- not at all 1
 slight 2
 somewhat 3
 great 4

- 80.** Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?
- yes..... 1
 no..... 2
 no opinion 3
- 81.** Would there be an *appearance* that command authority was diminished?
- yes..... 1
 no..... 2
 no opinion 3
- 82.** If judge alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?
- yes..... 1
 no..... 2
 no opinion 3
- 83.** Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?
- not at all 1
 slightly..... 2
 somewhat 3
 greatly..... 4
- 84.** By the time cases reach the Court of Military Review, many accuseds are on appellate leave. Is this a factor in deciding whether the Courts of Military Review should have the authority to suspend punitive discharges?
- not at all 1
 slight 2
 somewhat 3
 great..... 4
- 85.** Considering the additional support requirements that might result if suspension power is given to military judges and/or the Court of Military Review, should judges also be given authority to impose conditional terms of the suspension, for example, restitution, therapy, and counselling?
- yes..... 1
 no..... 2
 no opinion 3

If yes, specify on the comments page. Indicate the question number with your comments.

- 86.** If the military judge or CMR suspends all or part of a sentence, who should be able to vacate the suspension?
- appropriate judicial authority..... 1
 appropriate convening/supervisory authority... 2
 both..... 3
 no opinion 4
- 87.** What effect would giving military judges suspension power have on your trial preparation?
- require less preparation 1
 no significant change..... 2
 require more preparation 3
- 88.** On balance, should a military judge be able to suspend all or part of a sentence adjudged by *court members*?
- yes..... 1
 no..... 2
- 89.** On balance, should a military judge be able to suspend all or part of a sentence adjudged by *him/her*?
- yes..... 1
 no..... 2
- 90.** On balance, should the Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?
- yes..... 1
 no..... 2
- 91.** Should court members be given the power to suspend their own sentences?
- yes..... 1
 no..... 2

E. INCREASE JURISDICTIONAL MAXIMUM PUNISHMENT OF SPCM TO ONE YEAR.

Congress has directed study of the question whether the confinement authority of the special court-martial should be expanded from six months to one year and what changes, if any, should be made to current appellate jurisdiction resulting from the expanded punishment.

The principal arguments in favor of the increase in punishment are that: the change would make the military justice system more consistent with the federal criminal

justice system which uses the one-year mark to differentiate between felonies and misdemeanors; the historical six-month limitation was based upon the relatively few protective rights afforded an accused at SPCM and the absence of lawyer involvement in the process at the time of the Code's inception, neither of which factors is true today; many prospective GCM cases could be resolved at SPCM with greater efficiency (administrative and manpower burdens, such as Article 32 investigations, would be reduced); reduces potential confinement to which all accused could be subject; and provides an alternative to a punitive discharge in special court-martial sentencing.

Principal arguments against the proposal are that: as few as two of a minimum of three court members should not be given the power to confine a person for one year; the ratio of GCM to SPCM cases tried is so low that significant savings is doubtful; the accused will lose certain rights when special court-martial jurisdiction is increased (e.g., Article 32 investigations, lawyer defense counsel under limited circumstances, verbatim record of trial, minimum of five members, five days between service of charges and trial, mandatory military judge); a less experienced officer (who may not have a military lawyer available for advice) may be the convening authority; and GCM military judges are generally senior in grade to SPCM military judges, and there may be some distinctions in the selection process between them.

92. What percentage of cases to which you have been detailed are GCMs, of the total of GCMs and SPCMs?
- none 1
 - under 10% 2
 - 10-20% 3
 - 21-50% 4
 - 51-75% 5
 - over 75% 6
93. In what percentage of GCM cases to which you have been detailed is the adjudged sentence to confinement six to *twelve* months?
- 0-5% 1
 - 6-10% 2
 - 11-20% 3
 - 21-40% 4
 - 41-60% 5
 - over 60% 6
94. What percentage of GCM cases is the adjudged sentence to confinement six to *fifteen* months?
- 0-5% 1
 - 6-10% 2

- 11-20% 3
 - 21-40% 4
 - 41-60% 5
 - over 60% 6
95. If SPCMs are allowed to impose longer terms of confinement, would cases *currently* tried at SPCM generally receive longer sentences?
- not at all 1
 - slightly 2
 - somewhat 3
 - greatly 4
96. Would increasing the confinement power of SPCMs cause many accuseds to receive punitive discharges which would not be imposed under current conditions?
- not at all 1
 - slight 2
 - somewhat 3
 - great 4
97. If special courts-martial could impose sentences of up to one year confinement, would the number of punitive discharges decrease?
- yes, if sentencing by MJ only 1
 - yes, if sentencing by members 2
 - yes, regardless of who sentences 3
 - no, if sentencing by MJ only 4
 - no, if sentencing by members 5
 - no, regardless of who sentences 6
 - both 1 and 5 7
 - both 2 and 4 8
98. What percentage of SPCMs you have tried are tried without military judges?
- none 1
 - under 5% 2
 - 5-10% 3
 - over 10% 4
99. What percentage of SPCMs you have tried involve the use of officer defense counsel who are not lawyers?
- none 1
 - under 5% 2
 - 5-10% 3
 - over 10% 4
100. How important is the Article 32 investigation as a discovery tool for the defense?
- not at all 1
 - slightly 2
 - somewhat 3

- greatly..... 4
- 101.** If SPCM jurisdiction were increased, would you favor requiring the detail of a military judge in every case?
- yes..... 1
 no..... 2
 no, but without a military judge, confinement should be limited to six months. 3
- 102.** If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?
- yes..... 1
 no..... 2
 no, but without representation by lawyer defense counsel, confinement should be limited to six months. 3
- 103.** Do you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?
- yes..... 1
 no..... 2
 no, but if there is no investigation confinement should be limited to six months. 3
- 104.** If SPCM jurisdiction were increased, would you favor increasing to five the minimum number of required court members?
- yes..... 1
 no..... 2
 no, but if there are fewer than five, confinement should be limited to six months. 3
- 105.** If SPCM jurisdiction were increased, would you favor increasing to five the number of days required as a waiting period before trial?
- yes..... 1
 no..... 2
 no, but if trial before five days, confinement should be limited to six months 3
- 106.** If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?
- yes..... 1
 no..... 2
 verbatim record only if BCD or over six months confinement adjudged 3
- 107.** If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year would you favor requiring examination of the record of trial in the office of the Judge Advocate General?
- yes..... 1
 no..... 2
 no opinion 3
- 108.** Do SPCM military judges whom you know have sufficient experience to adjudge up to one year of confinement at a special court-martial?
- yes..... 1
 no..... 2
 no opinion 3
- 109.** Will increasing the jurisdiction of SPCMs reduce the number of GCMs?
- yes..... 1
 no..... 2
 no opinion 3
- 110.** If so, is this a desirable end?
- yes..... 1
 no..... 2
 my previous answer was "no"..... 3
- 111.** What effect would increasing the jurisdiction of SPCMs to one year confinement have on your trial preparation?
- less preparation 1
 no significant change..... 2
 more preparation 3
- 112.** Would increasing the jurisdiction of SPCMs cause under-referral of a significant number of cases?
- yes..... 1
 no..... 2
 no opinion 3
- 113.** If so, should certain serious offenses be precluded from trial by special courts-martial?
- yes..... 1
 no..... 2
 no opinion 3
- 114.** On balance, do you favor increasing the jurisdictional maximum punishment of SPCM to one year?
- yes..... 1
 no..... 2

115. Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for the offense, rather than the jurisdictional limit of the court, deter-

mined the trial forum, i.e. felony and misdemeanor courts?
yes..... 1
no..... 2



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301

4 JUN 1984

MEMORANDUM FOR Defense Counsel

SUBJECT: Military Justice Questionnaire

The enclosed questionnaire is part of a survey conducted by the Military Justice Act of 1983 Advisory Commission. The Commission was established by the Secretary of Defense pursuant to the direction of the United States Congress. The Commission is studying specific proposed legislative changes to the military justice system and is required to report directly to the Armed Services Committees of the Senate and the House of Representatives. The purpose of the survey is to provide the Commission with data from commanders and military justice practitioners which will be included in the Commission's report and used in the Commission's recommendations to Congress. Separate questionnaires are being mailed to military judges, judges of the courts of review, staff judge advocates and legal officers, trial counsel, defense counsel, and general and special court-martial convening authorities.

This survey is being conducted through the Department of Defense Manpower Data Center (DMDC). The Commission has developed the questionnaires and will collect the data. DMDC will analyze the data. The Air Force is executive agent for the Commission and is responsible for the administration of the survey.

Please fill out the enclosed questionnaire and return it to the Military Justice Division of the Office of The Judge Advocate General of the Air Force (AF/JAJM) in the envelope provided within two weeks.

I appreciate your assistance in this effort. Your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.


Chapman B. Cox

Attachment
Questionnaire

Military Justice Act of 1983 Advisory Commission Survey

This survey is sponsored by the Military Justice Act of 1983 Advisory Commission, and is being conducted through the Defense Manpower Data Center (DMDC). Its purpose is to provide the Commission with information from commanders and military justice practitioners to be included in a report the Commission must submit to Congress.

The serial number which appears at the top of the first page of the questionnaire is a sequence number and will be used for record management purposes only. Neither the Commission nor DMDC will release any individually identifiable data; only group statistics will be reported. Your participation in this survey is voluntary. Failure to respond to the questions will not result in any penalty. However, your participation is encouraged so that the data will be complete and representative.

INSTRUCTIONS FOR COMPLETING THIS SURVEY

1. Read each question carefully. Circle the number next to your answer.

Example: What is your current grade?

	Circle One
0-2	1
0-3	2
0-4	③
0-5	4
0-6	5
0-7	6

2. If you have written comments, make your comments on the comments page at the end of the questionnaire. Indicate the question number with your comment.
3. If you have any questions about these instructions, please call Captain W. Mike Burd, AF/IAJM at AUTOVON 223-5770 or commercial (202) 693-5770.

QUESTIONNAIRE—DEFENSE COUNSEL**A. BACKGROUND INFORMATION.**

1. What branch of military service are you a member of?

Army	1
Navy	2
Marine Corps	3
Air Force	4
Coast Guard	5

2. What is your current grade?

0-2.....	1
0-3.....	2
0-4.....	3
0-5.....	4
0-6.....	5

3. How many years of total active service?

0-3.....	1
----------	---

- 4-5..... 2
- 6-10..... 3
- 11-15..... 4
- 16-20..... 5
- 21-25..... 6
- over 25..... 7

- 4. What is your current assignment location?
 - CONUS..... 1
 - Outside CONUS..... 2

- 5. Do you have any prior enlisted/officer non-judge advocate experience?
 - no 1
 - officer 2
 - enlisted..... 3
 - officer and enlisted 4

- 6. How many years non-judge advocate experience do you have?
 - none 1
 - less than 2 years 2
 - 2-6 years..... 3
 - 7-10 years..... 4
 - over 10 years..... 5

- 7. How long have you been a defense counsel?
 - less than 6 months..... 1
 - 6 months-1 year..... 2
 - 1-2 years..... 3
 - 2-3 years..... 4
 - 3-4 years..... 5
 - over 4 years..... 6

- 8. How many SPCM cases have you defended?
 - none 1
 - less than 20 2
 - 20-50..... 3
 - 51-100..... 4
 - over 100..... 5

- 9. How many GCM cases have you defended?
 - none 1
 - less than 10 2
 - 11-25..... 3
 - 26-50..... 4
 - over 50..... 5

- 10. Are you a full time defense counsel?
 - yes..... 1
 - no 2

- 11. Is your officer effectiveness or fitness report written by a full time defense counsel?
 - yes..... 1
 - no 2

B. GUARANTEED TERMS OF OFFICE FOR MILITARY JUDGES.

Congress has directed that the concept of guaranteed terms of office for military judges be studied. This concept could involve assignment for a normal tour length, or assignment for a minimum number of years or assignment until retirement. If this concept is adopted, assume that a military judge could be removed during the applicable period for misconduct, incompetence, physical disability or voluntary reassignment, but for no other reason.

The principal arguments in favor of this concept are that it encourages military judges to be impartial, it fosters assumptions in others of impartiality and it insures that a more experienced judiciary will result from extended tours for military judges.

The principal arguments against the concept are that it adversely affects flexibility in personnel assignments to meet unexpected or dynamic situations and that it creates a situation where commands would be subject to the whim and caprice of a military judge whose actions are contrary to command authority, good order and discipline, but whose actions may be within permissible judicial discretion.

- 12. Are you aware of any instances in which a military judge has been threatened with reassignment or actually reassigned because of the military judge's decisions?
 - yes..... 1
 - no 2

- 13. If yes, how often?
 - once 1
 - seldom..... 2
 - sometimes 3
 - frequently 4

Briefly describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with your comments.

14. Are you aware of any instances in which a convening authority or a subordinate commander or staff officer acting for the commander has criticized a military judge directly or indirectly or through the military judge's superior for court-related decisions?
- yes 1
no 2
15. If yes, how often?
- once 1
seldom..... 2
sometimes 3
frequently 4
- Briefly describe the incident(s) on the comments page at the end of this questionnaire. Indicate the question number with your comments.
16. If your answer to #14 is yes, did the criticism relate to the judges' actions on findings, sentence or other grounds?
- usually findings 1
usually sentence 2
usually other grounds..... 3
about equally on all of the above 4
17. If your answer to #14 is yes, did the criticism impact on the judges' subsequent decisions?
- yes 1
no 2
don't know 3
18. To what extent do you believe a guaranteed term of office would create the *appearance* of a more independent and fair military judiciary?
- not at all 1
slightly 2
somewhat 3
greatly..... 4
19. To what extent do you believe that a guaranteed term of office would *actually* create a more independent and fair military judiciary?
- not at all 1
slightly 2
somewhat 3
greatly..... 4
20. To what extent do you believe that experience as a military judge with a guaranteed term of office would contribute to a more professionally competent military judiciary?
- not at all 1
slightly 2
somewhat 3
greatly..... 4
21. Would guaranteed terms of office create a significant risk of protecting irresponsible judges?
- yes 1
no 2
no opinion 3
22. Would guaranteed terms of office for military judges give judges too much independence?
- yes 1
no 2
no opinion 3
23. How do you view assignment as a military judge in terms of career enhancement?
- not very career enhancing 1
somewhat career enhancing 2
very career enhancing 3
24. Is 0-6 assignment to military judge duty considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- yes 1
no 2
no opinion 3
25. Is 0-6 assignment to duty at the Court of Military Review considered the type of duty that is career enhancing for competition for selection to flag or general officer rank?
- yes 1
no 2
no opinion 3
26. If there were flag or general officer billets on the *Courts of Military Review* would judicial duty be more career enhancing?
- yes 1
no 2
no opinion 3

27. If there were flag or general officer billets on the *Court of Military Appeals* would judicial duty be more career enhancing?
- yes..... 1
 no 2
 no opinion 3
28. What effect, if any, would guaranteed terms of office have on attracting highly competent lawyers to the judiciary?
- much more attractive 1
 somewhat more attractive..... 2
 no effect..... 3
 somewhat less attractive 4
 much less attractive..... 5
29. If a guaranteed term of office provision were enacted, what length of time should it contain for judges of the Courts of Military Review?
- normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
 over 10 years..... 4
30. If a guaranteed term of office provision were enacted, what length of time should it contain for GCM judges?
- normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
 over 10 years..... 4
31. If a guaranteed term of office provision were enacted, what length of time should it contain for SPCM judges?
- normal tour length..... 1
 3-5 years..... 2
 6-10 years..... 3
 over 10 years..... 4
32. If a guaranteed term of office provision were enacted, should new judges be required to complete a probationary period?
- yes..... 1
 no 2
 no opinion 3
33. How would guaranteed terms of office affect your view of military judge assignments?
- much more attractive 1
 somewhat more attractive..... 2
 no effect..... 3
 somewhat less attractive 4

- much less attractive..... 5
34. Should military judges enjoy greater protection in their offices than other officers who also depend upon independence of action in the performance of their duties, such as chaplains, doctors and inspectors general?
- yes..... 1
 no 2
 no opinion 3
35. Should a provision for guaranteed terms of office require mandatory selection for promotion from the primary zone regardless of the quality of the judge's performance?
- yes..... 1
 no 2
 no opinion 3
36. Would a mandatory selection provision adversely affect the general relationship between judge advocates and other officers?
- not at all 1
 slightly..... 2
 somewhat 3
 greatly..... 4
37. Do you believe your clients would feel that a military judge is more independent from command influence under a system of guaranteed terms of office?
- yes..... 1
 no 2
 no opinion 3
38. On balance, do you favor some provision for guaranteed terms of office for trial judges?
- yes..... 1
 no 2
39. On balance, do you favor some provision for guaranteed terms of office for CMR judges?
- yes..... 1
 no 2

C. SENTENCING ONLY BY MILITARY JUDGES IN NONCAPITAL CASES.

Congress has directed study of the concept that all sentencing in special and general courts-martial, except for capital cases, be done by the military judge.

The principal arguments in favor of the concept are that: almost all civilian jurisdictions use judge alone sentencing; the trial is more expeditious and error free; military judges possess more expertise in sentencing; and, because they are exposed to a large number of cases, their sentencing will be more rational, equitable and stable.

The principal arguments against the concept are that: court member sentencing has been traditional in the Armed Forces; members may better reflect the sense of the community in respect to the gravity of the case; court-martial duty is useful for training officers in the duties of command; and dissatisfaction with sentences might lead to animosity toward judges in the Armed Forces.

- 40. Do you defend cases primarily in a single location or do you ride a circuit?
 - single location 1
 - circuit..... 2
- 41. What percentage of the cases you tried in the past year were by military judge alone?
 - under 25%..... 1
 - 26-50% 2
 - 51-75% 3
 - over 75% 4
- 42. In your experience, in what percentage of cases with court members does an accused request enlisted members?
 - less than 10% 1
 - 10-25% 2
 - 26-50% 3
 - 51-75% 4
 - over 75% 5
- 43. How informed are the military judges before whom you have tried cases regarding local military community events and problems?
 - not at all 1
 - slightly 2
 - somewhat 3
 - greatly..... 4
 - don't know 5
- 44. Are military judges aware of the disciplinary impact of their sentences on the command?
 - not at all 1
 - slightly 2
 - somewhat 3
 - greatly..... 4
 - don't know 5

- 45. Are the officers who are detailed as court members aware of the disciplinary impact of their sentences on the command?
 - not at all 1
 - slightly 2
 - somewhat 3
 - greatly..... 4
 - don't know 5
- 46. Do sentences adjudged by military judges or by court members more fairly reflect the sense of justice of the military community?
 - military judges 1
 - members 2
 - no difference 3
 - don't know 4
- 47. How often do court members give an inappropriate sentence (unreasonably lenient or harsh)?
 - never..... 1
 - seldom..... 2
 - sometimes 3
 - usually..... 4
 - always..... 5
- 48. How often do military judges give an inappropriate sentence (unreasonably lenient or harsh)?
 - never..... 1
 - seldom..... 2
 - sometimes 3
 - usually..... 4
 - always..... 5
- 49. Does the accused's option of being tried and sentenced by members serve as a substantial check on military judges who might otherwise impose harsher sentences?
 - yes..... 1
 - no 2
 - no opinion 3
- 50. What effect would vesting military judges with sole sentencing authority have on the exercise of unlawful command influence?
 - reduce frequency 1
 - no effect..... 2
 - increase frequency 3
 - merely shift the focus to the military judge 4
- 51. Who possesses more knowledge about the ramifications of a particular sentence upon the accused, the military corrections system and the command?

- officer panels..... 1
- officer and enlisted panels..... 2
- military judges 3
- all are equally qualified 4
- 52. Can court members or military judges better determine an appropriate sentence for a given accused?
 - military judges 1
 - members 2
 - no difference 3
- 53. How often do convening authorities select the "best qualified" personnel for courts-martial duty?
 - never..... 1
 - seldom..... 2
 - sometimes 3
 - usually..... 4
 - always..... 5
- 54. How often do convening authorities select court members for such duty based primarily upon their relative expendability.
 - never..... 1
 - seldom..... 2
 - sometimes 3
 - usually..... 4
 - always..... 5
- 55. What is your sense of the military grade profile of the typical *SPCM* panels which actually hears cases at which you have been detailed?
 - don't know 1
 - one 0-4/0-5 and rest below 0-4 2
 - 50% split between 0-4/0-5 and those below 0-4 3
 - normally all below 0-4..... 4
 - normally all above 0-4 5
- 56. What is your sense of the military grade profile of the typical *GCM* panels which actually hears cases at which you have been detailed?
 - don't know 1
 - one 0-6, two 0-5, three 0-4, three below 0-4 ... 2
 - one 0-5, three 0-4, rest below 0-4 3
 - one or more 0-4, rest below 0-4 4
 - two 0-5, rest split evenly between 0-4 and below 0-4..... 5
 - three 0-5, three 0-4, three below 0-4 6
 - one 0-6, three 0-5, four 0-4, one below 0-4 7
 - other 8

- 57. Would a change to military judge alone sentencing deprive an accused of a substantial right?
 - yes..... 1
 - no 2
 - no opinion 3
- 58. Would a change to military judge alone sentencing *appear* to deprive an accused of a substantial right?
 - yes..... 1
 - no 2
 - no opinion 3
- 59. Knowing that an accused currently has the option to reject member-sentencing by selecting trial by military judge alone, would mandatory judge alone sentencing deprive the command of any important powers?
 - yes..... 1
 - no 2
 - no opinion 3

If yes, briefly describe what powers on the comments page at the end of this questionnaire. Indicate the question number with your comments.

- 60. If mandatory judge alone sentencing were adopted, would there be an *appearance* that command authority had been diminished?
 - yes..... 1
 - no 2
 - no opinion 3
- 61. How often do court members' doubts on the merits wind up expressed in a "compromise" sentence?
 - never 1
 - seldom..... 2
 - sometimes 3
 - usually..... 4
 - always..... 5
- 62. Is mandatory sentencing by military judge more likely to produce consistent sentences in similar cases than sentencing by members?
 - yes..... 1
 - no 2
 - no opinion 3

63. Would there be resentment among accused against military judges in particular and judge advocates in general if military judges were given sole sentencing authority?
- not at all 1
 slight 2
 some 3
 great 4
64. If the military judge perceives resentment, would this cause the judge to render an inappropriately lenient or harsh sentence?
- yes 1
 no 2
 no opinion 3
65. If military judges were given sole sentencing authority and court members tried only the issue of guilt, should the system used to select court members be changed to require random selection of court members?
- yes 1
 no 2
 no opinion 3
66. If random selection of members were used under these circumstances, should the selection be from a pool of all members of the command not junior to the accused or from a pool of all members of the command, not junior to the accused, who meet present statutory qualifications of age, experience, etc?
- all members not junior to the accused 1
 all members not junior to the accused meeting present qualifications. 2
67. In what percentage of cases have you recommended that your client request trial by military judge alone?
- none 1
 less than 10% 2
 10-25% 3
 26-50% 4
 51-75% 5
 76-100% 6
68. In cases where you have recommended trial by military judge alone, what percentage of those cases have your clients followed your advice?
- 0-25% 1
 26-50% 2
 51-75% 3
 76-100% 4
69. Are decisions to request trial by military judge alone based primarily upon findings or sentence considerations?
- findings 1
 sentence 2
 no difference 3
70. How often do you use the power of your client to request trial by military judge alone as bargaining leverage with the convening authority, staff judge advocate or trial counsel?
- never 1
 seldom 2
 sometimes 3
 usually 4
 always 5
71. What effect would giving military judges sole sentencing authority have on your trial preparation?
- no significant change 1
 require more preparation 2
 require less preparation 3
72. What effect would giving military judges sole sentencing authority have on your recommendations to clients to request trial by military judge alone on findings?
- no significant change 1
 increase recommendations for trial by judge alone 2
 decrease recommendations for trial by judge alone 3
73. What effect would giving military judges sole sentencing authority have on your recommendations to clients to request enlisted members on the court?
- no significant change 1
 increase recommendations for enlisted membership 2
 decrease recommendations for enlisted membership 3
74. As another alternative, should an accused be afforded the right to elect either members or military judge for findings and then afforded the right to elect either members or judge for sentencing?
- yes 1
 no 2
 no opinion 3

- 75. As another alternative, should the current system be retained but mandatory minimum sentences, applicable to judges and court members, be provided by law?
 - yes..... 1
 - no 2
 - no opinion 3
- 76. As another alternative, should the military judge be permitted to send a case to the members for sentencing, in his discretion, where the members have already arrived at findings?
 - yes..... 1
 - no 2
 - no opinion 3
- 77. If Congress promulgates sentencing guidelines for Federal courts, should similar guidelines be extended to courts-martial?
 - yes..... 1
 - no 2
 - no opinion 3
- 78. If sentencing guidelines were adopted, would this be a substantial argument for mandatory judge alone sentencing?
 - yes..... 1
 - no 2
 - no opinion 3
- 79. On balance, do you favor sentencing only by military judges in all noncapital cases?
 - yes..... 1
 - no 2

D. POWER OF SUSPENSION FOR MILITARY JUDGES AND COURTS OF MILITARY REVIEW.

Congress has directed the study of a proposal which would empower military trial judges and the Courts of Military Review to suspend any or all portions of an adjudged sentence. Under present law only the convening and supervisory authorities have suspension power. These authorities would continue to have suspension power under this proposal.

The principal arguments in favor of the proposal are that civilian judges have suspension authority; suspension power permits close tailoring of the sentence to the particular offender; and that military judges and the Courts of Military Review would no longer be trapped into either approving an unsuspended discharge which is per-

ceived as inappropriately harsh or disapproving the unsuspended discharge which is perceived as inordinately lenient.

The principal arguments against the proposal are that the convening and supervisory authorities have much better information with which to assess the chances that an accused would benefit from probation than either the military judge or the Courts of Military Review; unlike civilian life, there is one military person, the commander, who is responsible for supervising the accused and who must deal with effects of additional misconduct and suspension authority should follow that responsibility; Courts of Military Review could cause accuseds to be returned to duty from extended appellate leave by suspending sentences; and the commander is uniquely situated to evaluate the advisability of retaining an accused in the context of manpower availability and military need.

- 80. In what percentage of court-martial cases that you have defended have the military judge or court members recommended suspension of all or part of a sentence?
 - none 1
 - 1-5%..... 2
 - 6-10%..... 3
 - 11-15%..... 4
 - over 15%..... 5
- 81. What percentage of the suspension recommendations have been followed by either the convening authority or supervisory authority?
 - no recommendations..... 1
 - 0 2
 - 1-25%..... 3
 - 26-50%..... 4
 - 51-75%..... 5
 - 76-95%..... 6
 - over 95%..... 7
- 82. Under current Military Rules of Evidence and other provisions of the Manual for Courts-Martial, would a military judge have adequate information upon which to base a suspension decision?
 - yes..... 1
 - no 2
 - no opinion 3
- 83. Do convening and supervisory authorities have better information upon which to base a suspension decision than military judges?
 - yes..... 1

- no 2
no opinion 3
- 84.** Could military judges be given the same information as convening and supervisory authorities through modification of the Military Rules of Evidence and other provisions of the Manual for Courts-Martial?
- yes 1
no 2
no opinion 3
- 85.** Do military trial and appellate judges possess sufficient experience to accurately assess the appropriateness of suspending sentences?
- yes 1
no 2
no opinion 3
- 86.** How important a factor should manpower and personnel requirements be when considering whether an accused's sentence should be suspended?
- not at all 1
slight 2
somewhat 3
great 4
- 87.** Knowing that convening and supervisory authorities would continue to have the discretion to suspend or limit sentences as a matter of command discretion, would giving suspension power to military judges significantly diminish the authority of the convening and supervisory authorities?
- yes 1
no 2
no opinion 3
- 88.** Would there be an *appearance* that command authority was diminished?
- yes 1
no 2
no opinion 3
- 89.** If judge alone sentencing were required, does it logically follow that the military judge also should have the power to suspend?
- yes 1
no 2
no opinion 3
- 90.** Is the possession of sentence suspension power by civilian judges a persuasive argument for adopting a similar provision for courts-martial?
- not at all 1
slightly 2
- 91.** By the time cases reach the Court of Military Review, many accused are on appellate leave. Is this a factor in deciding whether the Courts of Review should have the authority to suspend punitive discharges?
- not at all 1
slight 2
somewhat 3
great 4
- 92.** Considering the additional support requirements that might result, if suspension power is given to military judges and/or Courts of Military Review, should judges also be given the authority to impose conditional terms of the suspension, for example, restitution, counseling and therapy?
- yes 1
no 2
no opinion 3
- If yes, specify on the comments page at the end of this questionnaire. Indicate your question number with your comments.
- 93.** If the military judge or Court of Review suspends all or part of a sentence, who should be able to vacate the suspension?
- appropriate judicial authority 1
appropriate convening/supervisory authority... 2
both 1 and 2 3
no opinion 4
- 94.** What effect would giving military judges suspension power have on your trial preparation?
- require less preparation 1
no significant change 2
require more preparation 3
- 95.** What effect would giving military judges suspension power over their own sentences have on your recommendations to clients to request trial by military judge alone?
- decrease recommendations for trial by judge alone 1
no significant change 2

- increase recommendations for trial by judge alone 3
- 96. On balance, should a military judge be able to suspend all or part of a sentence adjudged by court members?
 - yes..... 1
 - no..... 2
- 97. On balance, should a military judge be able to suspend all or part of a sentence adjudged by him/her?
 - yes..... 1
 - no..... 2
- 98. On balance, should Courts of Military Review be able to suspend all or part of a sentence adjudged by the trial court?
 - yes..... 1
 - no..... 2
- 99. Should court members be given the power to suspend their own sentences?
 - yes..... 1
 - no..... 2

Principal arguments against the proposal are that: as few as two of a minimum of three court members should not be given the power to confine a person for one year; the ratio of GCM to SPCM cases tried is so low that significant savings is doubtful; the accused will lose certain rights when SPCM jurisdiction is increased (e.g., Art. 32 investigations, lawyer defense counsel under limited circumstances, verbatim record of trial, minimum of five members, five days between service of charges and trial, mandatory military judge); a less experienced officer (who may not have a military lawyer available for advice) may be the convening authority; and GCM military judges are generally senior in grade to SPCM military judges and there may be some distinction in the selection process between them.

- 100. What percentage of cases to which you have been detailed are GCMs of the total of GCMs and SPCMs?
 - none 1
 - under 10%..... 2
 - 10-20%..... 3
 - 21-50%..... 4
 - 51-75%..... 5
 - over 75%..... 6

- 101. What percentage of GCM cases to which you have been detailed is the adjudged sentence to confinement six to *twelve* months?
 - 0-5%..... 1
 - 6-10%..... 2
 - 11-20%..... 3
 - 21-40%..... 4
 - 41-60%..... 5
 - over 60%..... 6

- 102. What percentage of GCM cases is the adjudged sentence to confinement six to *fifteen* months.
 - 0-5%..... 1
 - 6-10%..... 2
 - 11-20%..... 3
 - 21-40%..... 4
 - 41-60%..... 5
 - over 60%..... 6

- 103. If SPCMs are allowed to impose longer terms of confinement, would cases *currently* tried at SPCM generally receive longer sentences?
 - not at all 1
 - slightly..... 2
 - somewhat 3
 - greatly 4

E. INCREASE JURISDICTIONAL MAXIMUM PUNISHMENT OF SPCM TO ONE YEAR.

Congress has directed study of the question whether the confinement authority of the special court-martial should be expanded from six months to one year and what changes, if any, should be made to current appellate jurisdiction resulting from the expanded punishment.

The principal arguments in favor of the increase in punishment are that: the change would make the military justice system more consistent with the federal criminal justice system which uses the one-year mark to differentiate between felonies and misdemeanors; the historical six-month limitation was based upon the relatively few protective rights afforded an accused at SPCM and the absence of lawyer involvement in the process at the time of the Code's inception, neither of which factors is true today; many prospective GCM cases could be resolved at SPCM with greater efficiency (administrative and manpower burdens, such as Article 32 investigations, would be reduced); reduces potential confinement to which an accused could be subject; and provides an alternative to a punitive discharge in special court-martial sentencing.

104. Would increasing the confinement power of SPCMs cause many accused to receive punitive discharges which would not be imposed under current conditions?
- not at all 1
slightly 2
somewhat 3
greatly 4
105. If SPCMs could impose sentences of up to one year confinement, would the number of punitive discharges decrease?
- yes, if sentencing by MJ only 1
yes, if sentencing by members 2
yes, regardless of who sentences 3
no, if sentencing by MJ only 4
no, if sentencing by members 5
no regardless of who sentences 6
both 1 and 5 7
both 2 and 4 8
106. What percentage of SPCMs you have been detailed to are tried without military judge?
- none 1
under 5% 2
5-10% 3
over 10% 4
107. What percentage of SPCMs you have been detailed to involve the use of officer defense counsel who are not lawyers?
- none 1
under 5% 2
5-10% 3
over 10% 4
108. How important is the Article 32 investigation as a discovery tool for the defense?
- not at all 1
slightly 2
somewhat 3
greatly 4
109. If SPCM jurisdiction were increased, would you favor requiring the detail of a military judge in every case?
- yes 1
no 2
no, but without a military judge, confinement should be limited to six months 3
110. If SPCM jurisdiction were increased, would you favor requiring representation by lawyer defense counsel?
- yes 1
no 2
no, but without representation by lawyer defense counsel, confinement should be limited to six months 3
111. Do you favor extending Article 32 investigation requirements to SPCM cases if jurisdiction is increased?
- yes 1
no 2
no, but if there is no investigation, confinement should be limited to six months 3
112. If SPCM jurisdiction were increased, would you favor increasing to five the minimum number of required court members?
- yes 1
no 2
no, but if there are fewer than five, confinement should be limited to six months 3
113. If SPCM jurisdiction were increased, would you favor increasing to five the number of days required as a waiting period before trial?
- yes 1
no 2
no, but if trial before five days, confinement should be limited to six months 3
114. If SPCM jurisdiction were increased, would you favor the requirement of a verbatim record of trial?
- yes 1
no 2
verbatim record only if BCD or over six months confinement adjudged 3
115. If SPCM jurisdiction were increased, in those cases where there is no punitive discharge and confinement is between six months and one year, would you favor requiring examination of the record of trial in the Office of The Judge Advocate General?
- yes 1
no 2
no opinion 3

- 116.** Do SPCM judges whom you know have sufficient experience to adjudge up to one year of confinement at a SPCM?
- yes..... 1
 - no..... 2
 - no opinion 3
- 117.** Would increasing the jurisdiction of SPCMs reduce the number of GCMs?
- yes..... 1
 - no..... 2
 - no opinion 3
- 118.** If so, is this a desirable end?
- yes..... 1
 - no..... 2
 - no opinion 3
- 119.** What effect would increasing the jurisdiction of SPCMs to one year confinement have on your trial preparation?
- require less preparation..... 1
 - no significant change..... 2
 - require more preparation 3
- 120.** What effect would increasing the jurisdiction of SPCMs to one year confinement have on your recommendations to clients regarding appropriate pleas to enter?
- increase recommendations for not guilty pleas..... 1
 - no significant change..... 2
 - increase recommendations for guilty pleas..... 3
- 121.** Under the present sentencing structure, what effect would increasing the jurisdiction of SPCMs to one year confinement have on your recommendations to clients to request trial by military judge alone?
- decrease recommendations for trial by judge alone 1
 - no significant change..... 2
- increase recommendations for trial by judge alone 3
- 122.** Under the present sentencing structure, what effect would increasing the jurisdiction of SPCMs to one year confinement have on your recommendations to clients to request enlisted members on the court?
- decrease recommendations for enlisted membership..... 1
 - no significant change..... 2
 - increase recommendations for enlisted membership..... 3
- 123.** Would increasing the jurisdiction of SPCMs cause underreferral of a significant number of cases?
- yes..... 1
 - no..... 2
 - no opinion 3
- 124.** If so, should certain serious offenses be precluded from trial by SPCM?
- yes..... 1
 - no..... 2
 - no opinion 3
- 125.** On balance, do you favor increasing the jurisdictional maximum punishment of SPCMs to one year?
- yes..... 1
 - no..... 2
- 126.** Would you favor a change in the conceptual approach to the military justice system so that the maximum punishment for the offense, rather than the jurisdictional limit of the court, determined the trial forum, i.e. felony and misdemeanor courts?
- yes..... 1
 - no..... 2
 - no opinion 3

Correspondence on Navy Data



DEPARTMENT OF DEFENSE
MANPOWER DATA CENTER

Ser: 84E-322
3 December 1984

REPLY TO: DMDC

- ☐ 4TH FLOOR
1600 N. WILSON BOULEVARD
ARLINGTON, VIRGINIA 22209
- ☐ 550 CAMINO EL ESTERO, SUITE 200
MONTEREY, CA 93940

Thomas L. Hemingway, Colonel, USAF
Chairman, Military Justice Act
of 1983 Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, D.C. 20301

Dear Col. Hemingway:

This is in response to your letter of 28 November 1984 regarding the Navy Judge Advocate General's (JAG's) data collection procedures in the Survey of Military Justice Practitioners, specifically 1) sending the Convening Authorities questionnaire to only a part of the population specified in your instructions, and 2) asking respondents of surveys to send information copies of the completed questionnaires back to the Navy JAG office. Both steps are contrary to good survey procedure and may adversely affect the quality of the data received.

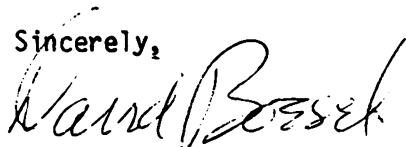
Based on the information in Colonel Cushman's 19 October, 1984 letter to you, it appears that the Navy JAG has redefined the population for one part of the survey by including only those who are considered "substantially involved" in convening courts martial," i.e., all court-martial convening authorities under the cognizance of Echelon Two commanders and area coordinators. Whether this is an appropriate definition of the population for the purposes of the study, DMDC cannot say. Nor do we know whether this redefined population is comparable to the convening authorities surveyed in the Army and Air Force. These are issues for the Commission to decide.

The Navy JAG's request for information copies of the questionnaire poses a serious problem because it raises the issue of confidentiality. From a technical standpoint the question is not whether the confidentiality of the data was actually compromised, but whether it appeared to respondents that it might be. Given that each questionnaire had an identifying number, and given the Navy JAG's evident interest in the results of the survey, it would be surprising if many Navy and Marine Corps respondents did not conclude that an effort would be made to determine how individuals answered their questionnaires. This perception may have biased the data by causing respondents to provide answers that conformed to their expectations of what Navy JAG authorities wanted to hear. While we do not know for certain that respondents reacted in this way, we note that

standard survey procedures are designed to assure that responses are not biased by such influences, and standard survey procedures were not followed in this case.

In sum, the data on Navy Convening Authorities might be viewed as representing the opinions of a subset of the population initially defined by the Commission, were it not for the fact that doubt has been cast on all the Navy data by the confidentiality problem. Hence we recommend that these data be interpreted with caution, if used at all.

Sincerely,

A handwritten signature in cursive script that reads "David Boesel".

David Boesel, Chief
Personnel Survey Branch

Advisory Commission Report

DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
WASHINGTON, D.C. 20301



28 November 1984

David Boesel
Chief, Personnel Surveys
Defense Manpower Data Center
1600 Wilson Blvd, Rm 402
Rosslyn, VA 22209

Dear Mr Boesel

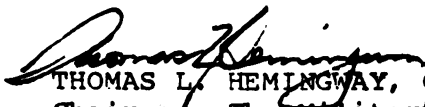
As you know, the Military Justice Act of 1983 Advisory Commission recently completed its survey of convening authorities and military justice practitioners in each of the services.

We have learned that the Navy only distributed approximately 1,100 of the requested 2,200 convening authority questionnaires and instructed their lawyer respondents to send completed copies of their questionnaires to their military law branch of their Judge Advocate General's office.

I requested that the Navy provide an explanation of these circumstances. My letter and the response from the Navy is attached. I request that you study this situation and advise the Commission what effect the Navy actions have on the validity of their data.

The deadline for our report to Congress is 15 December 1984. Your prompt attention will be greatly appreciated.

Sincerely,


THOMAS L. HEMINGWAY, Colonel, USAF
Chairman, The Military Justice Act of 1983
Advisory Commission

2 Atch
1. Ltr to Navy
2. Navy Response



DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
WASHINGTON, D.C. 20301

4 OCT 1984

Rear Admiral Thomas E. Flynn
The Judge Advocate General
Department of the Navy
200 Stovall St
Alexandria, VA 22332

Dear Admiral Flynn

The Military Justice Act of 1983 Advisory Commission, with the approval of the General Counsel of the Department of Defense and the guidance of the Defense Manpower Data Center (DMDC), has been conducting a survey of military justice practitioners and all general and special court-martial convening authorities in each service. Each service was advised that questionnaires were to be sent to all members of the respondent categories (military judges, judges of the courts of review, staff judge advocates, trial counsel, defense counsel and general and special court-martial convening authorities).

The Air Force, as executive agent for the commission, had questionnaires and return envelopes printed, including 2,200 convening authority questionnaires requested by the Navy. These 2,200 convening authority questionnaires were assigned control numbers (0873-3072) and delivered to the Navy along with 640 other questionnaires for the other respondent categories.

DMDC supervised the development of the survey to ensure its validity. The validity of the survey is dependent upon each potential respondent receiving a questionnaire with neutral instructions and assurance of confidentiality.


I have recently been informed that the Navy distributed only 1,061 of its 2,200 convening authority questionnaires. This fact alone raises serious questions about the validity of the Navy convening authority responses which must be addressed by the commission.

Therefore, I respectfully request your assistance by directing that action be taken to assess the validity of the data collected and determine if there is any way to prevent rejection of the results and their exclusion from the final report. Please have your staff provide me, in writing, a detailed explanation of: the total number of general court-martial convening authorities and special court-martial convening authorities in the Navy; why the Navy requested 2,200 convening authority questionnaires and only distributed 1,061 of those; exactly when and where each individual convening authority questionnaire was sent and where unused questionnaires are stored. Since, apparently, questionnaires were sent to some convening authorities and not others, provide detailed explanation of how and why the surveyed commands were selected.

Advisory Commission Report

A related matter which requires clarification is the fact that your staff judge advocates were directed to forward a copy of their completed questionnaires to Code 20 in your office. Please advise me if other respondent categories were given similiar instructions. It would also be useful to know the reason such instructions were given.

Sincerely


THOMAS L. HEMINGWAY, Colonel, USAF
Chairman, Military Justice Act of 1983
Advisory Commission

cc: DOD/GC
DMDC



DEPARTMENT OF DEFENSE
MANPOWER DATA CENTER

Ser: 84E-322
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Advisory Commission Report

Your letter of 21 May 1984 expressed the Commission's interest in receiving testimony from senior commanders and judge advocates in each service. As the Navy's senior judge advocate, the Judge Advocate General of the Navy, Rear Admiral James J. McHugh, JAGC, USN, intended to testify. In order to accurately represent the collective opinion of all judge advocates, we determined that Admiral McHugh should be provided with a separate printout of the Navy judge advocates' responses to the questionnaires, or in the alternative, we should retrieve our responses once they had been tabulated. We were informed that it was highly improbable that the results, if they could be provided at all, could be made available prior to the Admiral's testimony before the Commission. Recognizing the importance of his testimony and the apparent inability to obtain pertinent information from other sources, each judge advocate, including trial counsel, defense counsel, staff judge advocates, military judges, and commanding officers of Naval Legal Service Offices, was requested to send a copy of his or her response to the Office of the Judge Advocate General, Code 20. The sole purpose of this request was to enable the Judge Advocate General to take the pulse of field judge advocates prior to testifying before the Commission. At that time, Admiral McHugh did not realize that the questionnaires had been serialized by the Commission and, in fact, had been informed that the copies returned to us would not identify the respondent. It was never our intent to compromise the "confidentiality" of the questionnaires, and no attempt has been made, nor will be made, to identify the response of any particular judge advocate.

I have discussed this letter personally with Admiral McHugh who concurs in its content. I trust this information will be of assistance to you.

Sincerely,



CHARLES A. CUSHMAN
Colonel, U. S. Marine Corps
Assistant Judge Advocate General
(Military Law)

Copy to:
DOD/GC
DMDC



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, D.C. 20380

JA
28 Jan 1985

Colonel Thomas L. Hemingway, USAF
Chairman, Military Justice Act
of 1983 Advisory Commission
Department of Defense
Washington Headquarters Services
Washington, D.C. 20301

Dear Colonel Hemingway:

This letter concerns the questionnaires which were mailed out by the Military Justice Act of 1983 Advisory Commission.

The final pages in Volume III of the Commission's four volume report consist of four letters which address a questionnaire distribution problem.

You asked the Judge Advocate General of the Navy by letter of 4 October 1984 to explain the disparity between the larger number of questionnaires requested for distribution to Navy convening authorities with the number actually mailed. You also questioned a Navy request that their staff judge advocates provide an information copy of completed questionnaires to the Navy JAG office.

On 19 October 1984 the Assistant Judge Advocate General of the Navy (Military Law) responded to that inquiry. On 28 November, as the Chairman of the Commission, you wrote Mr. Boesel requesting that he advise the Commission "what effect the Navy actions have on the validity of the data". The fourth and last of the letters included in Volume III is his reply of 3 December.

With that background, I come to the point of this letter: he referred to "Marine Corps respondents" in paragraph 3 of the 3 December letter. For the record I wish to clarify that U.S. Marine Corps distribution and questionnaire processing occurred separate from the Navy's. (Only U.S. Marine Corps trial and appellate judges received their questionnaires from the Navy.)

Attached is a copy of a memorandum which my office enclosed with each mailed questionnaire. No one in this Headquarters sought or obtained copies or other disclosure of Marine Corps questionnaires. All known convening authorities were sent a copy. We received no "information" copies, nor did we seek any.

Advisory Commission Report

I have read the entire report and appreciate the speedy and detailed data performed by the Commission. With the compressed time schedule you all faced, the report was particularly superb! I trust you will appreciate that the above clarification is not intended to derogate from the overall excellence of the Commission's work.

Very sincerely,



WALTER DONOVAN
Brigadier General, U.S. Marine Corps
Director, Judge Advocate Division

Enclosure

Copy to:

Chief Judge Everett, COMA

RAdm Flynn, JAG Navy

Mr. A. Efron, DoD General Counsel's Office

Mr. Boesel, DoD Manpower Data Center



29 June 1984

MEMORANDUM FOR RECIPIENTS OF QUESTIONNAIRES FROM DOD ADVISORY
COMMISSION ON MILITARY JUSTICE

1. The DoD Advisory Commission consists of 9 members: one from each service plus civilians. They are distributing questionnaires among all services. Six groups are receiving questionnaires: trial counsel, defense counsel, SJAs, special and general court-martial trial judges, Navy and Marine Corps Court of Military Review appellate judges, and convening authorities. Each group is being canvassed for its views on four issues under study by the Commission: tour lengths (tenure) for judges, sentencing by the military judge alone, suspension of sentences by the trial and appellate courts, and extending from 6 months to 1 year the maximum permissible confinement which a special court-martial may adjudge.
2. The phrasing of the questionnaires, although they all address these four issues, has been modified to fit each particular group of recipients.
3. The Commandant is aware of these questionnaires and encourages your forthright responses. Although tabulations will be compiled, there will be no report made of recipients who do not reply, or who do not reply fully. For your convenience a preaddressed return envelope is provided to ensure prompt return to the central DoD office which will analyze responses.
4. There is no preordained correct answer which CMC expects; rather, your frank responses will assist him in reaching an informed judgment on what the Corps position should be. It is quite possible, for example, that the issue of sentencing by judge alone may result in a less than categorical response of yes or no; there might be a proposal that the judges have sentencing power but only as to certain offenses or only as to certain offenders.
5. Questions number 21 and 22 could prompt turmoil in that they ask your knowledge of events which might be violations of Article 37, UCMJ. In this regard please omit names, locations, commands, dates and other identifiers. The Commission is interested solely in factual scenarios.
6. A prompt reply is requested. If PCS, leave, or mission commitments prevent timely reply the acting CO or deputy may respond.

Semper Fidelis,

W. Donovan
W. DONOVAN

Brigadier General, U.S. Marine Corps
Director, Judge Advocate Division
Headquarters, U.S. Marine Corps

ALF Collections Vault



3 0000 139 852 630

