

Foreword

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Welcome to the second consecutive¹ symposium on recent developments in military justice. This collection of articles, by the members of the criminal law and procedure department at The Judge Advocate General's School, provides a comprehensive overview and critical analysis of what's new in military justice. Not all articles fit in this month's issue, so the rest of the symposium, which will include articles on search, seizure, and urinalysis, fifth amendment and Article 31, unlawful command influence, and instructions, will run in the May issue.

These are not "year in review" articles because they do not necessarily address every case of the past year. Each article is not so much a digest as a treatment of an area by the person who studies and teaches it. The primary focus is on the justice practitioner, the counsel, judges, and SJAs who work in the military justice system. The pieces are, however, designed to be both "practitioner" pieces, in that they speak directly to those who work in the system, as well as analytical works that deliver the authors' best sense of the state of the law and its likely path in the future.

There have been no changes to the *Manual for Courts-Martial* since last March's symposium. Accordingly, the authors focus on the more than 200 opinions issued by the CAAF and the service courts as well as a few important civilian cases. The recent symposiums follow in the rich tradition of the "COMA Watch" articles of the past,² but the authors also address significant opinions of the service courts that might ripen into CAAF opinions or which provide law that is binding on a particular service and instructive to all.

The 1997 CAAF term is well underway and the court has begun to regularly issue opinions. This is unlike its practice in recent years when most opinions have been issued during the

last days of September. In addition, the approval of Judge Effron to replace the late Judge Wiss means that this will be the first term in almost two years that all five members of the court will be engaged throughout the term. This should decrease the burden on Senior Judge Everett and the federal judges who sit on the CAAF from time to time. A "regular lineup" of judges may also yield a more cohesive court with more clarity to its opinions and fewer of the concurrences, partial concurrences, and dissents that have become increasingly common.

Finally, a word about citations. As most practitioners know, the military courts changed their names in 1994; regular readers are familiar with the footnotes that have accompanied articles since then that explain this change. In short, nothing but the names of the courts have changed. The service courts became known as courts of criminal appeals, instead of courts of military review, and the Court of Military Appeals became the Court of Appeals for the Armed Forces. Along with the name changes came a change in citation forms. The service courts simply carry different parenthetical identifying information. For example, the old N.M.C.M.R. became N.M.Ct.Crim.App. For the Court of Appeals for the Armed Forces, however, there is no longer any parenthetical information provided in the West's Military Justice Reporters. If an M.J. citation is followed by only a date in the parenthesis (*e.g.*, 45 M.J. 168 (1996)), then the opinion is from the CAAF. The citation will only carry information designating the court if it is one of the service courts. In addition, some of the opinions in the articles have not been published yet in the Military Justice Reporter and still carry slip opinion citations. This is because of a recent delay in the transmission of CAAF opinions to West Publishing.

1. There is always a presumption attached to labeling something "annual," and while that is permissible no sooner than the second year, we will await further iterations before attaching that adjective. *Cf. Military Justice Symposium*, ARMY LAW., Mar. 1996.

2. See, *e.g.*, Criminal Law Division, *Significant Decisions of the Court of Military Appeals: 1982-1983*, 103 MIL. L. REV. 79 (1984).