

Lore of the Corps

The History of the Paperback Manual for Courts-Martial*

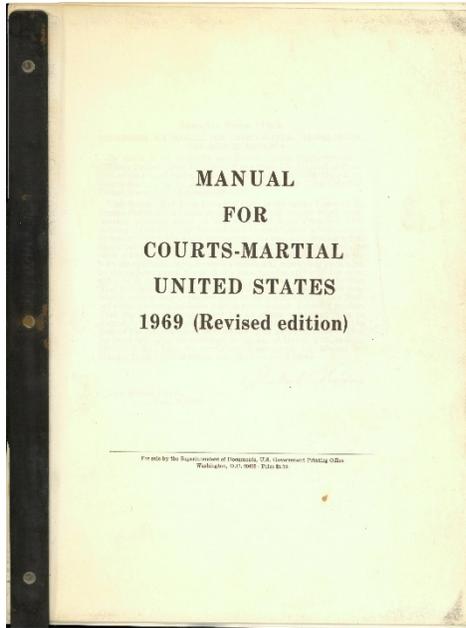
By Fred L. Borch
Regimental Historian & Archivist

The paperback *Manual for Courts-Martial (MCM)* used by judge advocates, legal administrators, paralegals and civilian practitioners today has been in existence for twenty years. What follows is the story of how that happened—since the *MCM* was in either a hardcover book or hardcover loose-leaf format for the first 100 years of its existence.

For nearly seventy-five years, the *MCM*, first published in 1895, was a hardcover book. Even with the enactment of the Uniform Code of Military Justice (UCMJ) in 1950, the complementary *MCM* was issued as a six inch by nine inch hardcover book when published in 1951.¹

The first break with this tradition occurred in 1969, when the new *MCM* complementing the Military Justice Act of 1968 was published in a loose-leaf format. While still having a stiff board cover, the pages of the new *MCM* were hole-punched along the left side in three places and housed in a maroon-in-color three-post binder. The center post in this binder could be unscrewed and the book disassembled so that additional pages could be added to the *MCM*. As a result, in the 1970s and early 1980s, when legislative changes to the UCMJ or executive orders amending Rules for Courts-Martial or similar provisions were made, additional pages were printed and distributed to the field. Practitioners then slipped these changes into the *MCM* binder. Some judge advocates attempted to update the 1951 *MCM* by taping or pasting new provisions into their *MCMs*, but this was hardly an ideal situation.²

In 1984, when the armed forces published a new *MCM*, the loose-leaf format adopted in 1969 was continued. The only difference was that the 1984 *MCM* was now contained in a two-ring binder type hardcover notebook.³



In 1991, Colonel (COL) Francis A. Gilligan, then serving as the Chief, Criminal Law Division, in the Office of The Judge Advocate General (OTJAG), recognized that the *MCM* was not user-friendly. This was chiefly because there had been nineteen changes to the *MCM* since 1984, and it was now difficult to know for certain if all these changes had been posted correctly. Additionally, judge advocates in the field complained that the over-sized *MCM* (it measured ten inches wide by eleven inches tall by six inches in thickness) was too large to carry comfortably under either arm). It definitely would not fit into a standard size brief case. The result was that Army lawyers and other military justice practitioners began dividing the *MCM* in 1984 into two or more parts so that it was easier to carry and use. But this was also an undesirable situation. Finally, the 1984 edition of the *MCM* was expensive to produce: It cost roughly \$100 a copy.⁴

Colonel Gilligan was familiar with West Publishing's softcover *Federal Criminal Rules of Procedure*, which West published on a yearly basis and was used by United States Attorneys and criminal law practitioners. He wondered if it would be possible to transform the *MCM* into a similar paperback format. After consulting with the Army Publications and Printing Command, then located in the Hoffman Building in Alexandria, Virginia, Gilligan learned that not only had electronic publishing advanced to the point where the Army could produce a paperback *MCM*, but it would result in a truly phenomenal cost savings: It cost \$2 for a paperback *MCM* versus \$100 for the loose-leaf hardcover notebook *MCM*.⁵

Another advantage of the new softcover *MCM* would be that it would be more suitable for deployments, and the Army of the mid-1990s was very much aware after the Persian Gulf

* The author would like to thank retired Colonel Francis A. Gilligan for his help in preparing this *Lore of the Corps*.

¹ See A MANUAL FOR COURTS-MARTIAL, ETC. (1895); A MANUAL FOR COURTS-MARTIAL AND OF PROCEDURE UNDER MILITARY LAW (1898); A MANUAL FOR COURTS-MARTIAL, ETC. (1905); A MANUAL FOR COURTS-MARTIAL, ETC. (1908); A MANUAL FOR COURTS-MARTIAL, U.S. ARMY (1917); A MANUAL FOR COURTS-MARTIAL, U.S. ARMY (1921); A MANUAL FOR COURTS-MARTIAL, U.S. ARMY (1928); MANUAL FOR COURTS-MARTIAL, UNITED STATES (1951).

² MANUAL FOR COURTS-MARTIAL, UNITED STATES (rev. ed. 1969).

³ MANUAL FOR COURTS-MARTIAL, UNITED STATES (1984).

⁴ Telephone interview with Francis A. Gilligan, Colonel Retired, U.S. Army, June 29, 2016 [hereinafter Telephone Interview].

⁵ *Id.*

War of 1991 that the future required rapid deployments and that judge advocates deploying with their units would benefit from a smaller softcover book.

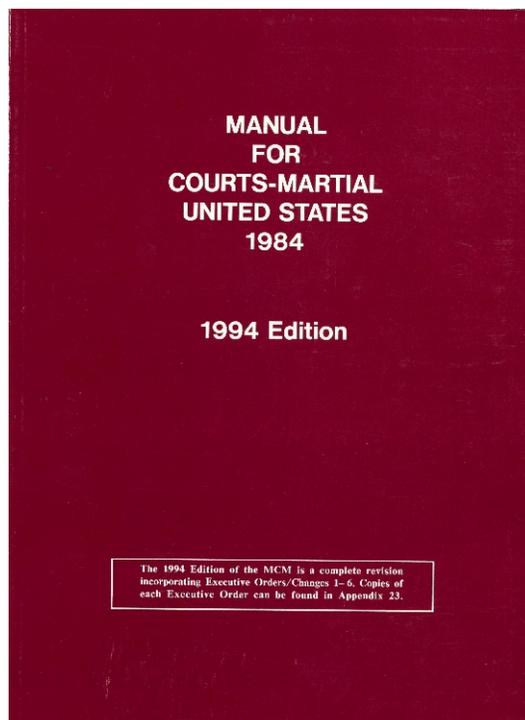
Colonel Gilligan, with the approval of the then Judge Advocate General, Major General John L. Fugh, proposed the metamorphosis of the *MCM* to the Joint Service Committee (JSC) on Military Justice. After obtaining unanimous approval from the five members of the JSC, the next step was the Office of the General Counsel (OGC), Department of Defense (DoD), since the new paperback *MCM* would need DoD GC approval. After Leigh Bradley, the Associate Deputy General Counsel with responsibility for military justice matters at the OGC's office, approved the concept, COL Gilligan began the *MCM* transformation process.⁶

While the Army Publications and Printing Command worked on the project, COL Gilligan left the Pentagon and OTJAG's Criminal Law Division and retired from active duty. His successors at OTJAG's Criminal Law Division, COLs Richard "Dick" Black and COL Charles "Charlie" E. Trant, pushed the project along. The details were worked out by the Joint Service Committee on Military Justice Working Group, which included Army Lieutenant Colonel Fred Borch, Air Force Major Regina Quinn, and Navy Lieutenant Kristen Henriksen.⁷ The working group took delivery of the first paperback *MCM*, 1984 (1994 edition) on September 28, 1994.⁸

Two weeks later, on October 11, 1994, Major General Michael J. Nardotti awarded now retired COL Gilligan the Department of the Army Commander's Award for Public Service. The citation for the award lauded Gilligan's great vision in developing a redesigned paperback *MCM*, and noted that the transformation from a hardcover notebook to a smaller softcover book had resulted in a savings of \$5.2 million dollars to the Department of the Army, Department of Defense, and the federal government.⁹

The plan was to annually publish a new *MCM* since it was the practice for the president to sign an executive order amending the *MCM* on a yearly basis and any statutory changes to it likewise occurred. But that has not happened, and the *MCM* was been re-published only every three or four years. As a result, the current in-print version of the *MCM* is often out-of-date. Consequently, practitioners must consult the Internet to ensure that they have the most up-to-date version of a particular *MCM* provision. Despite this inconvenience, the paperback *MCM* has been a success

tremendous and is likely to remain in this all-paper format for the foreseeable future.¹⁰



Manual for Courts-Martial, 1994 Edition

More historical information can be found at

The Judge Advocate General's Corps
Regimental History Website
<https://www.jagcnet.army.mil/8525736A005BE1BE>

Dedicated to the brave men and women who have served our Corps with honor, dedication, and distinction.

⁶ E-mail from Paul S. Koffsky, Deputy General Counsel (Personnel & Health Policy), Dep't of Def., to author (July 15, 2016) (on file with author).

⁷ The Joint Service Committee on Military Justice, established by Department of Defense Directive 5500.17, is responsible for conducting an annual review of the Manual for Courts-Martial in light of judicial and legislative developments in civilian and military practice. See *The Joint Service Committee on Military Justice*, U.S. DEP'T OF DEF.,

http://www.dod.gov/dodgc/images/jsc_mission.pdf (last visited July 25, 2016).

⁸ MANUAL FOR COURTS-MARTIAL, UNITED STATES (1994).

⁹ U.S. Dep't of Army, DA Form 5231, Commander's Award for Public Service, Colonel Francis A. Gilligan (Retired) (Oct. 11, 1994).

¹⁰ Telephone Interview, *supra* note 4.