

Lore of the Corps

The United States Court of Military Appeals: The First Year (1951-1952)

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The United States Court of Military Appeals (COMA) was the three-judge forerunner of today's five-judge United States Court of Appeals for the Armed Forces (CAAF). This is the story of COMA's origins and its first year in operation.

As a result of a multitude of complaints about military justice during World War I, including controversial trials like the Houston Riots courts-martial,¹ Congress began modifying the Articles of War to give an accused more procedural and evidentiary rights at trial.



The first three COMA judges, 1951. Left to right are George W. Latimer, Robert E. Quinn, and Paul W. Brosman

In February 1919, Brigadier General Samuel T. Ansell, who had served as Acting Judge Advocate General during World War I, proposed that Congress create a "military appeals court of three judges, appointed by the President with lifetime tenure during good behavior."² The court would review every general court-martial in which the accused had been found guilty and sentenced to death, a dishonorable discharge or dismissal, or imprisonment for more than six months. This idea was too radical for its time, however, and

it could not overcome opposition from the military and the War Department.³

Some twenty years later, millions of Americans in uniform during World War II experienced firsthand—or else observed—that the military criminal legal system could be both arbitrary and capricious. Additionally, "The public became aware of many miscarriages of justice both through the press and from relatives in the armed forces."⁴

Their concerns soon reached Congress, which decided that "drastic modifications and improvements were necessary" in the military criminal legal system.⁵ The result was the end of the Articles of War, Rules for the Government of the Navy, and disciplinary laws of the Coast Guard—and the creation of a new Uniform Code of Military Justice (UCMJ) on May 5, 1950.⁶

This new UCMJ created a civilian court consisting of three judges appointed from civilian life by the President—and with the advice and consent of the Senate—for terms of fifteen years. But, the law also provided that the terms of the original three appointees should be terms of fifteen, ten, and five years, respectively. Finally, the law also provided that not more than two of the judges would be appointed from the same political party.⁷

On May 22, 1951, President Harry S. Truman nominated Robert E. Quinn of Rhode Island, George W. Latimer of Utah, and Paul W. Brosman of Illinois.⁸ Quinn was appointed Chief Judge and received the fifteen-year term of office.⁹ Latimer was appointed an Associate Judge with a ten-year term; Brosman was appointed an Associate Judge with a five-year term. The Senate confirmed all three on June 19, 1951, and the following day, the first three COMA judges were administered the oath of office by Judge Matthew F. McGuire of the U.S. District Court for the District of Columbia.¹⁰

The court started operating on July 25, 1951. In its first open session, the COMA admitted forty-seven attorneys as

¹ For more on the Houston Riots and their impact on military justice, see Fred L. Borch, "The Largest Murder Trial in the History of the United States": *The Houston Riots Courts-Martial of 1917*, *ARMY LAW.*, Feb. 2011, at 1. See also, GARNER L. CHRISTIAN, *BLACK SOLDIERS IN JIM CROW TEXAS 1899-1917* (1995).

² *JUDGE ADVOCATE GENERAL'S CORPS, U.S. ARMY, THE ARMY LAWYER: A HISTORY OF THE JUDGE ADVOCATE GENERAL'S CORPS, 1775-1975*, at 134-35 (1975).

³ *Id.* at 136.

⁴ Pamphlet from the United States Court of Military Appeals 2 (1965) (on file with author) [hereinafter *Court of Military Appeals*].

⁵ *Id.*

⁶ 10 U.S.C. §§ 801-940 (1950).

⁷ *Court of Military Appeals, supra* note 4, at 2.

⁸ *Id.* at 3.

⁹ *Id.*

¹⁰ *Id.*

the first members to its bar. Not surprisingly, among those admitted that first day were The Judge Advocate Generals of the Army, Navy, and the Air Force, and the Assistant General Counsel of the Department of the Treasury (the Coast Guard was part of the Treasury at this time).

As for its location? The COMA moved into a structure located at 5th and E Streets, Northwest, Washington, D.C., on October 31, 1952. This building had formerly been the home of the U.S. Court of Appeals for the District of Columbia and had been built and occupied in 1910. Today, the CAAF still occupies this historic structure on Judiciary Square.¹¹

What happened to the first three COMA judges? Latimer's term expired on May 1, 1961, and he returned to private practice.¹² Latimer later garnered considerable publicity as the lead defense counsel for Lieutenant William "Rusty" Calley.¹³ Brosman died suddenly of a heart attack in his chambers at the COMA on December 21, 1955. As for Chief Judge Quinn, he completed his full fifteen-year term and continued to be active on the court until 1971.¹⁴

Congress expanded the three-judge COMA to five judges in 1989, and in 1994, re-designated the institution as the Court of Appeals for the Armed Forces. But while the highest military appellate court may be different today, its prestige today rests on the foundation laid by COMA in its first year of operation.

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.*

¹¹ *Id.* at 6.

¹² *Id.* at 2.

¹³ For more on Latimer's role in the Calley court-martial, see RICHARD HAMMER, *THE COURT MARTIAL OF LT. CALLEY* (1971).

¹⁴ Court of Military Appeals, *supra* note 4, at 2; *Judges*, UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES, <http://www.armfor.uscourts.gov/newcaaf/judges.htm> (last visited Feb. 29, 2016).