



## UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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### Brief History

George Washington established the Judge Advocate General's Corps in 1775. The primary source of law governing the colonial army was, at that time, the recently enacted Articles of War. Article of War 104 controlled review of court-martial convictions and sentences for legal error. This review was performed by judge advocates as a staff function for the commander who convened the court. The convening commander had final approval authority for all court-martial convictions except those involving a general officer or a cadet and, in peacetime, the dismissal of an officer or a death sentence. The commanding general of an army, or the commander of a territorial department or division, could approve the dismissal of an officer or a death sentence in wartime.



The Acting Judge Advocate General of the Army created the first formal Boards of Review to review court-martial cases through the promulgation of War Department General Order Seven in 1918. Congress gave statutory authority to these Boards in 1920, vesting in them the power to review all cases requiring confirmation by the President and those in which the sentence included dismissal, a dishonorable discharge, or confinement in a penitentiary, with the exception of those cases in which the accused pled guilty. The Judge Advocate General's office reviewed all other court-martial cases. Cases found legally insufficient by The Judge Advocate General were referred to a Board of Review. The Boards of Review had fact-finding authority only in cases in which the President was the reviewing or confirming authority.

Congress enacted the Uniform Code of Military Justice (UCMJ) in 1950 to establish uniform procedures among the service branches. The UCMJ provided for one or more Boards of Review for each of the armed forces, including the newly formed Air Force. The Boards were granted broad power to review court-martial records of trial, determine questions of law and fact, weigh evidence, and reduce sentences. Each Board of Review was comprised of three lawyers; typically senior judge advocates. The UCMJ also established the Court of Military Appeals, comprised entirely of civilian judges, to hear appeals from decisions of the respective Boards of Review.

The Boards of Review were renamed the Courts of Military Review in 1968, and again renamed the Courts of Criminal Appeals in 1994. The Court of Military Appeals was renamed the United States Court of Appeals for the Armed Forces in 1994. The decisions of the Courts of Criminal Appeals and the United States Court of Appeals for the Armed Forces have been subject to review by the United States Supreme Court since 1984.

Congress established the Courts of Criminal Appeals pursuant to its authority to promulgate rules for the government and regulation of the armed forces under Article I of the Constitution. Worldwide jurisdiction and the power to review cases for both legal and factual sufficiency make the military Courts of Criminal Appeals unique within the hierarchy of federal courts.

### **Establishment**

The United States Air Force Court of Criminal Appeals is an independent appellate judicial body authorized by Congress and established by The Judge Advocate General of the Air Force pursuant to his exclusive authority under 10 U.S.C. 866(a) (1994). The Court hears and decides appeals of Air Force court-martial convictions and appeals *pendente lite*. Its appellate judges are assigned to the Court by The Judge Advocate General. The Judge Advocate General instructs convening authorities to take action in accordance with the Court's decisions.

### **Jurisdiction**

The jurisdiction of the Air Force Court of Criminal Appeals includes:

- (a) all trials by court-martial in which the sentence includes confinement for one year or longer, a bad-conduct or dishonorable discharge, dismissal of a commissioned officer or cadet, or death;
- (b) all cases reviewed by The Judge Advocate General of the Air Force and forwarded for review under UCMJ Article 69(d);
- (c) certain government appeals of orders or rulings of military trial judges that terminate proceedings, exclude evidence, or which concern the disclosure of classified information; and
- (d) petitions for new trial referred by The Judge Advocate General; and
- (e) petitions for extraordinary relief, including writs of mandamus, writs of prohibition, writs of habeas corpus, and writs of error coram nobis.

### **Independence**

The UCMJ prohibits any unlawful or improper influence on military tribunals. The Judge Advocate General has exclusive functional supervision over the appellate judges. No appellate judge writes or reviews the fitness, effectiveness, or efficiency report of any other appellate judge, and no convening authority or commanding officer may censure, reprimand or admonish any member of the Court with respect to his or her judicial acts.