

A stylized map of the world centered on the North Pole, showing the continents of North America, Europe, and Asia. The map is overlaid with several concentric circles and a vertical line representing the North Pole. The text 'Bering Sea' is written in blue at the top, 'Greenland' is written in blue on the left side, and 'Alaska' is written in blue on the right side. The main title 'Overview of the Military Justice System' is written in large, bold, black letters across the center of the map.

# Overview of the Military Justice System

**Military justice system  
governs conduct of more  
than 1.35 million active  
duty military members**



**Larger than the population  
of 10 states (Wyoming,  
Vermont, North Dakota,  
Alaska, South Dakota,  
Delaware, Montana, Rhode  
Island, New Hampshire, and  
Maine) and the District of  
Columbia**

**24/7, 365 days a year**

**Military justice system  
also applies to more than  
800,000 Reservists when  
performing duties and  
National Guardsmen  
when in Federal service.**

**Military justice system also  
sometimes applies to civilians (e.g.):**

**Military justice system also sometimes applies to civilians (e.g.):**

- **Active duty retirees who are entitled to pay;**
- **Civilians accompanying U.S. forces in the field in time of declared war or contingency operations;**
- **“Persons in custody of the armed forces serving a sentence imposed by court-martial.”**

**Rarely used.**

# United States Constitution





# United States Constitution



**Art. I, § 8. cl. 14:**

**“The Congress shall have Power . . . To make Rules for the Government and Regulation of the land and naval Forces”**

# **Pre-UCMJ**

**Separate statutes governed the Army's and Navy's military justice systems**

**Army: Articles of War**

**Navy: Articles for the Government of the Navy  
("Rocks and Shoals")**

UNIFORM CODE  
— of —  
MILITARY JUSTICE

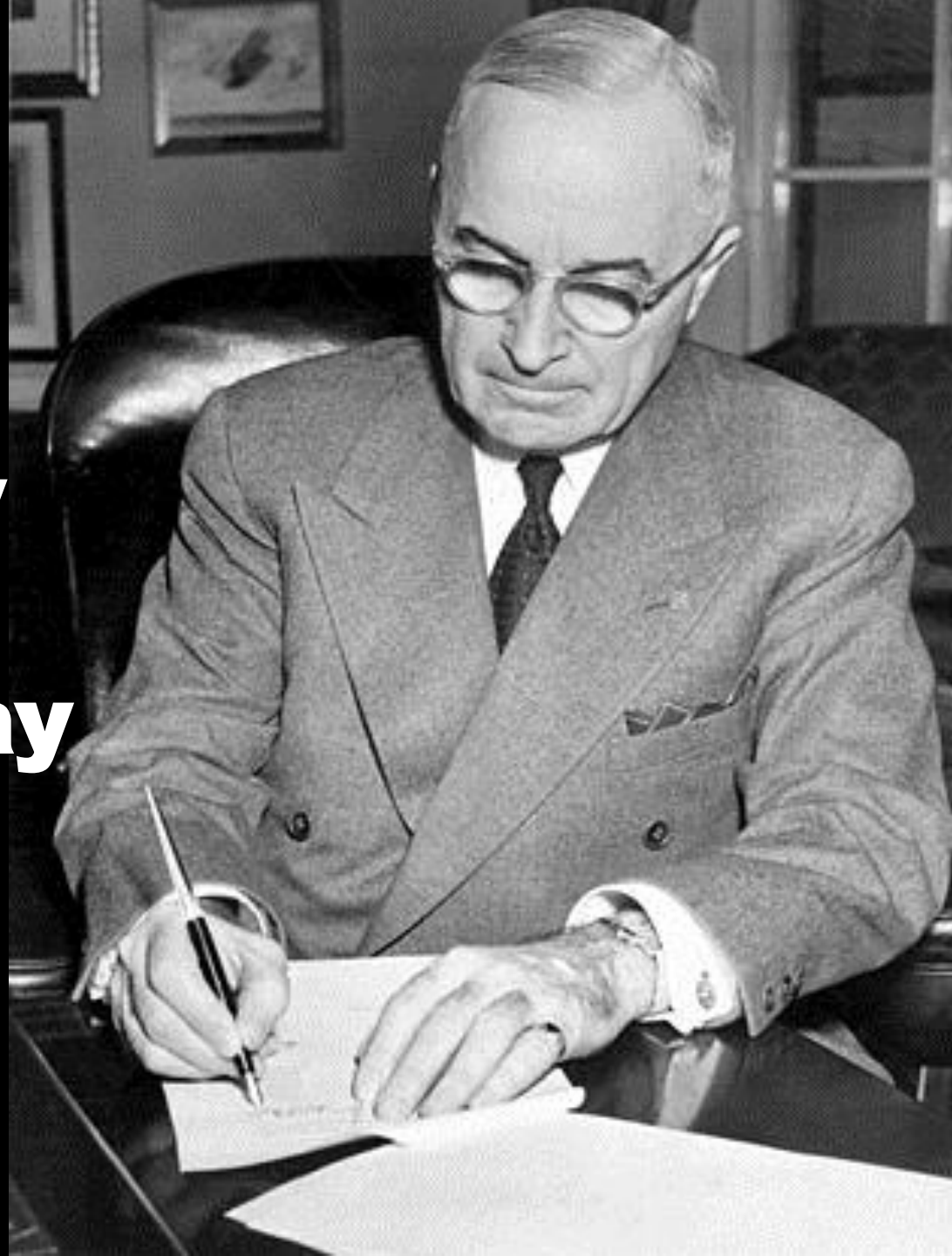


Text, References and Commentary  
based on the Report of the  
Committee on a Uniform Code of  
Military Justice to  
The Secretary of Defense

**Passed by Congress:  
April 26, 1950**



**Signed by  
President  
Truman: May  
5, 1950  
(effective May  
31, 1951)**



# UCMJ

- **Establishes military justice system's structure**
- **Enacts punitive articles**
- **Delegates authority to the President**



# **Military Justice Act of 2016**

**Enacted Dec. 23, 2016**

**Major modification of the military justice system, including to the structure of military trial courts and punitive articles**

**Most provisions won't take effect until a date to be determined by the President no later than **January 1, 2019****





**VOLATILITY  
BEHIND**

# **Uniform Code of Military Justice**

**Dec. 26, 2013 – Dec. 23, 2016  
(excluding Military Justice Act of 2016)**

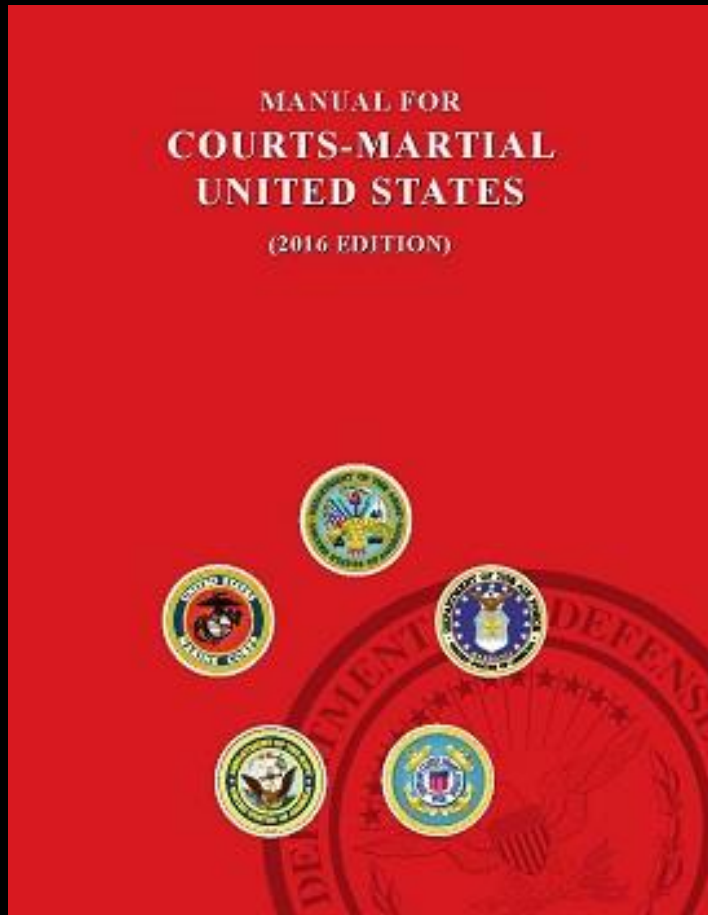
# **Uniform Code of Military Justice**

**Dec. 26, 2013 – Dec. 23, 2016**  
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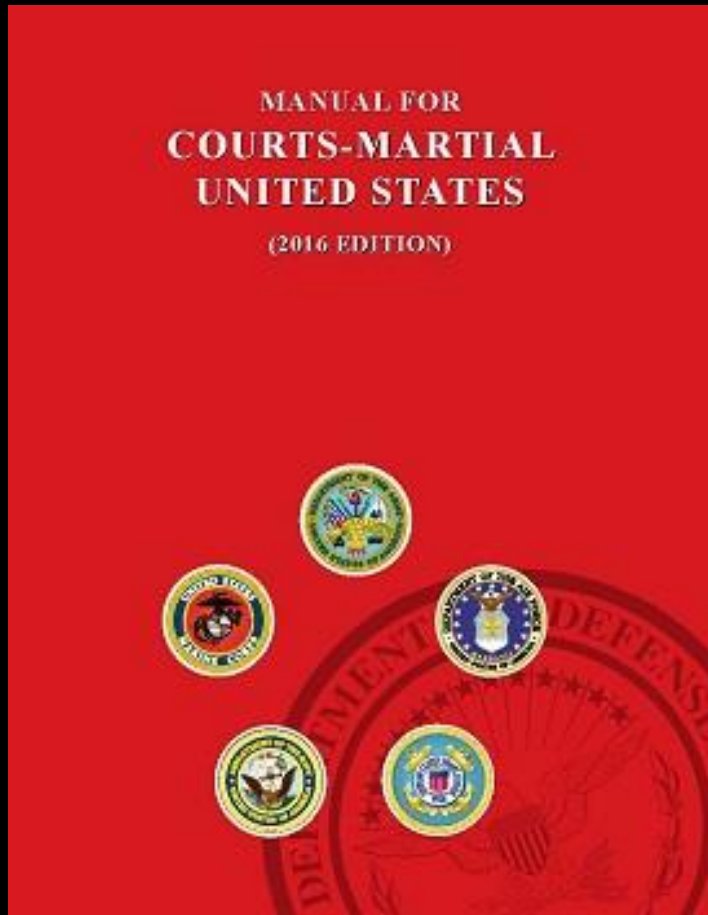
**1 new UCMJ article enacted**  
**(amended twice)**

**17 existing UCMJ articles amended**  
**(6 amended twice)**

**Dec. 26, 2013 – Dec. 23, 2016**



**Dec. 26, 2013 – Dec. 23, 2016**



**4 Executive Orders  
amending Manual  
for Courts-Martial**



# **Military Justice System's structure**

# **Military Justice System's Structure**

**4 levels of disposition (in addition to dismissal of charges and less formal responses, such as counseling):**

- 1. Nonjudicial punishment**
- 2. Summary court-martial**
- 3. Special court-martial**
- 4. General court-martial**



# **Nonjudicial Punishment**

**Imposed by commanders.**

**Service member can refuse  
(except those attached to or  
embarked on vessels).**

**Substantial differences in  
procedures among the Services.**

**Not a criminal conviction.**

# **Nonjudicial Punishment (UCMJ art. 15)**

## **Maximum punishments:**

**Correctional custody for up to 30 days;**

**Restriction for up to 60 days;**

**Forfeiture of up to  $\frac{1}{2}$  pay per month for 2 months;**

**Reduction to lowest pay grade.**

# **Nonjudicial Punishment (UCMJ art. 15)**

**For those attached to or  
embarked in vessels,  
confinement on bread and water  
for 3 days**



# **Summary Courts-Martial (UCMJ art. 20)**

**Enlisted only.**

**May be refused.**

**One-officer “court-martial.”**

**Substantial differences in procedures  
among the Services.**

**Not a criminal conviction.**

# **Summary Courts-Martial (UCMJ art. 20)**

## **Maximum punishments:**

**Confinement for up to 30 days;**

**Restriction for up to 2 months;**

**Forfeiture of up to 2/3 pay for 1 month;**

**Reduction to lowest pay grade.**

**(Can't adjudge discharge)**

# **Special Courts-Martial**

**Resembles federal criminal trial (though jury equivalent will adjudge the sentence if they hear the case on the merits).**

**Convictions are federal criminal convictions.**

**Accused can choose trial by military judge or trial by a panel of at least 3 members.**

**Procedures among the Services are fairly consistent.**

# **Special Courts-Martial**

**Maximum punishments:**

**Bad-conduct discharge (but officers can't be discharged);**

**Confinement for up to 12 months (but officers can't be confined);**

**Forfeiture of 2/3 pay per month for 12 months;**

**Reduction to lowest pay grade (enlisted only).**

# **General Courts-Martial**

**Resembles federal criminal trial (though jury equivalent will adjudge the sentence if they hear the case on the merits).**

▪

**Convictions are federal criminal convictions.**

**Accused can choose trial by military judge or trial by a panel of at least 5 members (no trial by military judge alone in capital cases).**

**Procedures among the Services are fairly consistent.**



# **General Courts-Martial**

**Maximum punishments:**

**Dishonorable discharge (or dismissal for officers);**

**Confinement for up to the maximum for the offense;**

**Total forfeiture of pay and allowances;**

**Reduction to lowest pay grade (enlisted only);**

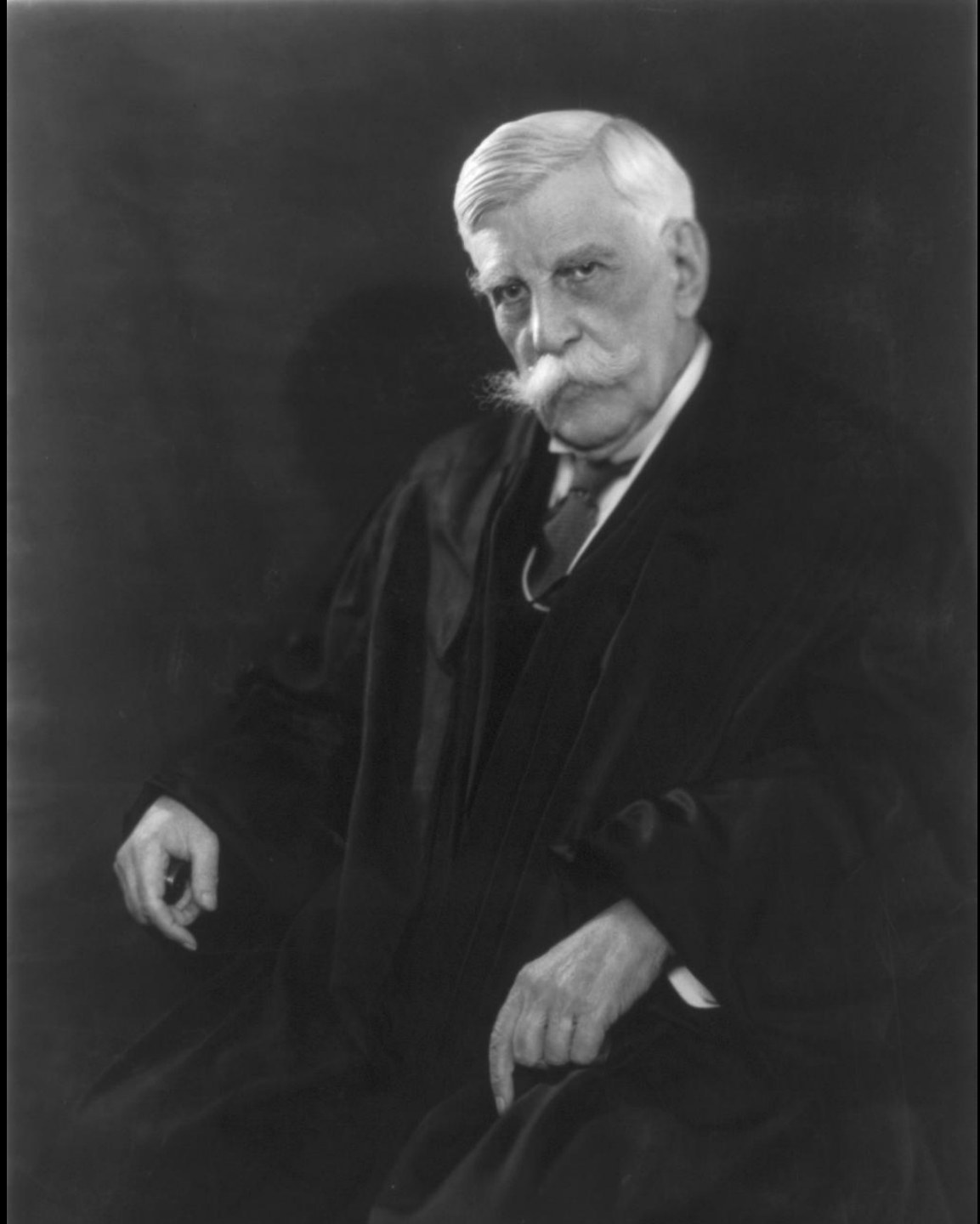
**Death if statutorily authorized for the offense.**

# **Special & General Courts- Martial**

**2/3 majority necessary to convict; less than 2/3 vote for conviction results in acquittal**

**2/3 majority necessary for sentences other than death (unanimity required) or confinement for more than 10 years (3/4 majority required)**

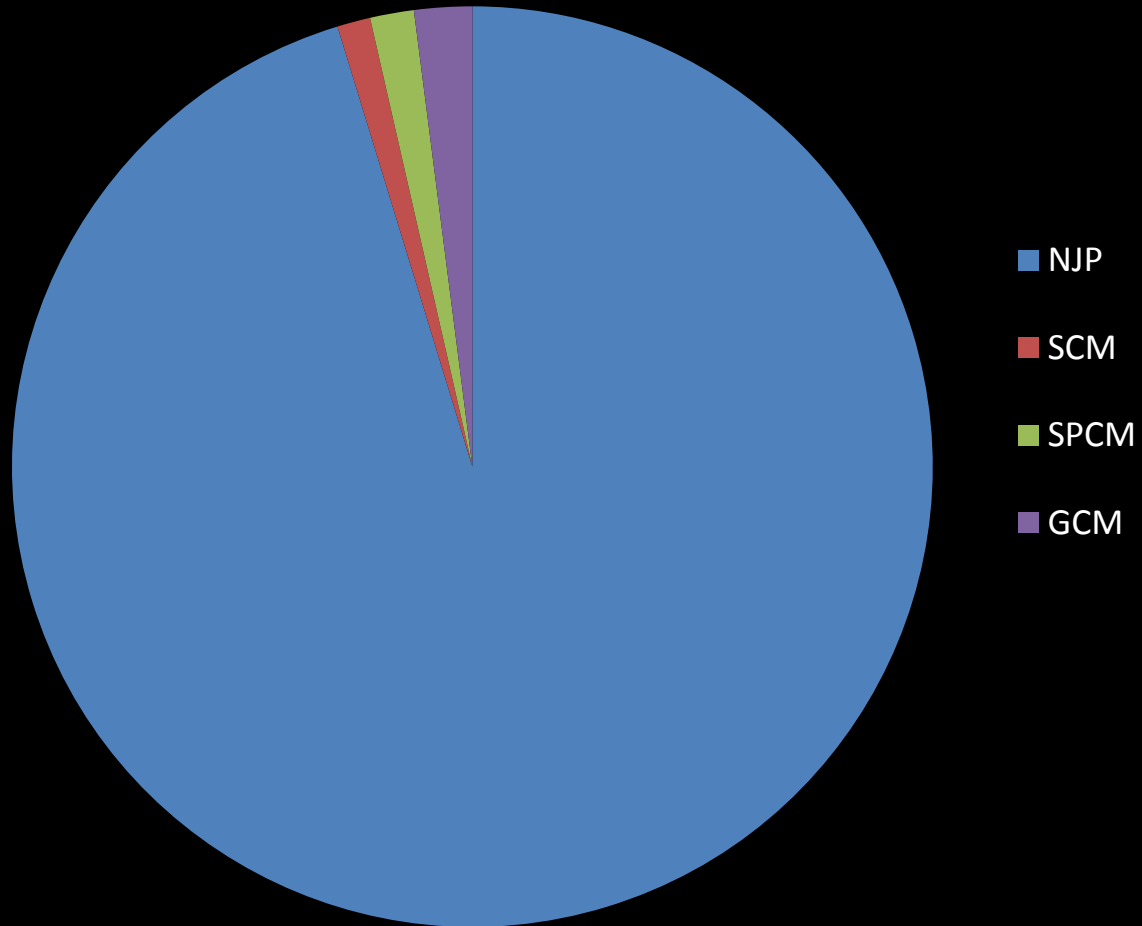
**“The life of the  
law has not  
been logic; it  
has been  
experience.”**



# **Military Justice Statistics FY 2015**

<b>General courts-martial:</b>	<b>1,104</b>
<b>Special courts-martial:</b>	<b>836</b>
<b>Summary courts-martial:</b>	<b>634</b>
<b>Nonjudicial punishment:</b>	<b>51,792</b>

# Actions under the UCMJ FY 2015



# **Military Justice Statistics FY 2015**

<b>General courts-martial:</b>	<b>1,104</b>
<b>Special courts-martial:</b>	<b>836</b>
<b>Summary courts-martial:</b>	<b>634</b>
<b>Nonjudicial punishment:</b>	<b>51,792</b>

# **Military Justice Statistics FY 2015**

**Military personnel size dropped 4.65% from FY 2000 to FY 2015**

<b>General courts-martial:</b>	<b>1,104</b>
<b>(down 31% from FY 2000:</b>	<b>1,607)</b>
<b>Special courts-martial:</b>	<b>836</b>
<b>(down 73% from FY 2000:</b>	<b>3,117)</b>
<b>Summary courts-martial:</b>	<b>634</b>
<b>(down 76.5% from FY 2000:</b>	<b>2,699)</b>
<b>Nonjudicial punishment:</b>	<b>51,792</b>
<b>(down 35.9% from FY 2000:</b>	<b>80,816)</b>

# **Military Justice Statistics FY 2015**

**Military personnel size dropped 36.7% from FY 1990 to FY 2015**

<b>General courts-martial:</b>	<b>1,104</b>
<b>(down 65.5% from FY 1990:</b>	<b>3,202)</b>
<b>Special courts-martial:</b>	<b>836</b>
<b>(down 87.5% from FY 1990:</b>	<b>6,705)</b>
<b>Summary courts-martial:</b>	<b>634</b>
<b>(down 84.5% from FY 1990:</b>	<b>4,104)</b>
<b>Nonjudicial punishment:</b>	<b>51,792</b>
<b>(down 64.8% from FY 1990:</b>	<b>146,527)</b>



# **General Court-Martial Process**

**(USMC example, assuming a conviction and sentence including either a punitive discharge or a year or more of confinement)**

**Discretionary review by United States Supreme Court  
(but only if reviewed by CAAF)**

**Discretionary (usually) review by Court of Appeals for the Armed Forces**

**Automatic appeal to Navy-Marine Corps Court of Criminal Appeals**

**Convening authority's action  
(by Division Commanding General)**

**General court-martial  
(referred by Division Commanding General)**

**Article 32 investigation  
(ordered by Regiment Commanding Officer)**

**Charges preferred**

**Naval Criminal Investigative Service investigates**

**VLC offered**

**Sexual assault reported**

# **Punitive articles**

# **Punitive Articles**

**65 punitive articles (many include more than one offense)**

# **Punitive Articles**

**Many military specific offenses, such as:**

- **absence without leave;**
- **desertion;**
- **violation of a lawful order; and**
- **misbehavior before the enemy.**

# **Punitive Articles**

**Many common law offenses,  
such as:**

- **murder;**
- **rape;**
- **burglary; and**
- **robbery.**

# **Punitive Articles**

## **Article 134: “The General Article”**

**Includes three theories of liability:**

**(1) “[A]ll disorders and neglects to the prejudice of good order and discipline in the armed forces.”**

**(2) “[C]onduct of a nature to bring discredit upon the armed forces.”**

**(3) “[C]rimes and offenses not capital.”**

# **Punitive Articles**

## **Article 134: “The General Article”**

**The President has identified 53 non-exclusive offenses under Article 134, including:**

- (1) Adultery;**
- (2) False or unauthorized pass offenses;**
- (3) Fraternization;**
- (4) Breaking restriction;**
- (5) Negligent homicide;**
- (6) Kidnapping;**
- (7) Obstructing justice;**
- (8) Pandering and prostitution; and**
- (9) Communicating a threat.**

**Delegation of  
authority to the  
president**



# **Delegation of Authority to the President**

## **Article 36:**

- Delegates to the President authority to prescribe pretrial, trial, and post-trial procedures, including rules of evidence.**
- The President is directed to “apply the principles of law and rules of evidence generally recognized in the trial of criminal cases in the United States district courts” to the extent practicable and not in conflict with the UCMJ.**

# **Delegation of Authority to the President**

## **Article 56:**

- **Delegates to the President authority to prescribe maximum punishments for court-martial offenses (except for death-eligible offenses).**

MANUAL FOR  
**COURTS-MARTIAL**  
**UNITED STATES**

(2016 EDITION)



# **Manual for Courts-Martial**

**Five parts:**

**I. Preamble**

**II. Rules for Courts-Martial**

**III. Military Rules of Evidence**

**IV. Punitive Articles (including maximum punishments)**

**V. Nonjudicial Punishment Procedure**

