

A Reporter's Guide to Military Justice



AP PHOTO

Marine Sgt. Clayton J. Lonetree stood trial on 13 counts of espionage in Quantico, Va., in 1987. While most espionage trials are handled in traditional civilian courts, Lonetree's trial was handled by the military, and became one of the most high-profile courts-martial the country had ever seen.

The public and the press demanded details, but the military and the government wanted anything but. When he was found guilty on all counts, Lonetree became the first Marine convicted for spying against the United States.

Lonetree was a Marine Corps embassy guard in Moscow when he met a local woman and started a romantic relationship. The woman turned out to be a Soviet agent. Soon, Lonetree was passing confidential information to a number of Soviet agents while serving in Moscow and later while on duty at the U.S. Embassy in Vienna.

During his court-martial, the military judge presiding over the proceedings closed the courtroom during testimony of some witnesses because it included disclosures of classified information.

continued inside



AP PHOTO
Lynndie England was court-martialed in 2005, and was convicted on six counts stemming from her role in the Abu Ghraib prisoner abuse scandal.

Although Lonetree lost an appeal based on violations of his Sixth Amendment right to a public trial (the trial judge was found to have properly balanced the right of a public trial with the need to protect classified information), the closures and constant secrecy led some to conclude that the military was simply hiding its own mistakes.

The trial was technically open to the media, but journalists were not allowed in the courtroom. Instead, they watched via closed-circuit television from outside the courtroom.

A *St. Petersburg Times* editorial alleging a military coverup described how “reporters were excluded from Lonetree’s trial. They were allowed to watch the proceedings on television, which was frequently turned off for closed sessions when the judge ruled that classified material was being discussed. Often, as the reporters covering the trial have stated, the system was not reactivated when the so-called ‘open’ session was resumed. The public does not know all that went on at the trial.”

The *Chicago Tribune* reported that journalists “are relegated to a building about 100 yards away, where they can view the proceedings on two television monitors. . . . At the mere mention of ‘national security,’ the courtroom is closed and the TV screens are blackened, as they were . . . when the government wanted to protect the identity of an intelligence official who was called to testify.”

Judicial secrecy and allegations of cover-ups or favoritism toward witnesses are cer-

tainly not unique to the military system, and traditional civilian courts are no strangers to controversy. But the complete control that military officials have over their own system of justice and the unusual procedures for handling justice can leave reporters baffled as they try to cover the courts-martial system.

Journalists who hope to understand the process and report meaningfully to their readers and viewers need to master the military justice system so that they understand not just the controlling law, but the procedures and customs that will fundamentally affect how easily they can cover a story.

How does military law work?

As with civilian courts, military courts abide by the U.S. Constitution, treaties and federal statutes. The military, however, is also bound by the Uniform Code of Military Justice (UCMJ), which is the military’s criminal code. Enacted by Congress in 1950, it applies to all military personnel worldwide. The UCMJ has many unique classifications of crimes in addition to the typical misdemeanors and felonies found in the civilian justice system.

In addition, the military courts are bound by the Manual for Courts-Martial, which was created by a presidential Executive Order and sets out procedures governing courts-martial proceedings for all military branches.

Each branch is authorized to supplement the Manual to meet individual needs. The Air Force has Air Force Instructions, the Army has Army Regulation 27-10, the Navy and Marine Corps have the Manual for the Judge

Advocate General, and the Coast Guard supplements the manual with the Military Justice Manual Commandant Instruction M5810.1d. Any reporter covering military courts and the military in general should be familiar with the UCMJ and Manual for Courts-Martial.

What is a court-martial?

A court-martial is the military’s version of a civilian criminal trial. It is designed to specifically try military offenses.

Twelve categories of people are subject to courts-martial, including military personnel, members of certain quasi-military organizations (such as Public Health Service members when serving with the armed forces), military prisoners, prisoners of war, and under very limited circumstances, certain specified categories of civilians. These individuals are subject to the military justice system regardless of where the incident in question occurred.

When a service person has been accused of an offense, the charges are investigated by the accused’s commander or — if the charge is complicated or severe — military or civilian law enforcement officials. As with the regular court system for civilians, little if any of the information gathered at this stage is publicly available. After the investigation, the officer may do nothing, take administrative action, impose non-judicial punishment, “prefer” charges or send the case to a higher authority to prefer the charges.

“Preferring” the charges is the first step in a court-martial. At this stage, the investigat-

ing officer reads the charges to the accused off of a charge sheet. He or she then signs the list under oath before a commissioned military officer. Once charges have been preferred, they are “referred” to the appropriate court-martial. Typically, which type of the three court-martial proceedings the accused will face depends on the seriousness of the charges.

Summary Courts-Martial: Summary courts-martial review minor charges against enlisted service people, although the accused may object and ask that the case be referred to another type of court-martial. Officers, cadets, aviation cadets, and midshipmen do not face summary court-martial. Summary courts-martial are headed by a commissioned officer who does not need to be a lawyer. Except for the Air Force, which provides all defendants a military attorney, an accused facing summary courts-martial is not entitled to free representation by a military attorney but may hire an attorney at his or her own expense. A guilty finding by a summary court-martial can result in a maximum confinement for 30 days, forfeiture of two-thirds pay for one month, and a reduction to the lowest pay grade.

Special Courts-Martial: The intermediate level of courts-martial is the special courts-martial, which try any serviceperson accused of a non-capital offense and certain capital offenses. Typically, a special courts-martial reviews offenses that would be classified as misdemeanors in the civilian system. The accused has the right to choose for his case to be heard by only a military judge, the military judge plus a three-member panel or a three-member panel without a judge. If the accused is enlisted, he may request that his panel includes enlisted service members. A military attorney is appointed to each case. The maximum punishment for someone found guilty by a special court-martial is a year-long confinement, up to three months of hard labor without confinement, forfeiture of two-thirds pay per month for up to one year, reduction in pay grade and a bad conduct discharge.

General Courts-Martial: General courts-martial are reserved for the most serious offenses, typically classified as felonies in the civilian system. Before a general court-martial is convened, a pre-trial hearing called an Article 32 hearing is held. An Article 32 hearing may be waived by the accused. Article 32 hearings are similar to grand juries in civilian courts in that they investigate the charges to ensure the evidence supports them. Unlike a grand jury, though, the accused and his or her counsel may examine the evidence, cross-examine witnesses, and offer their own arguments. At the end of the hearing, the investigating officer makes

recommendations to a convening authority to convene a courts-martial or dismiss the charges.

The accused has the option to be tried by a military judge alone, or a military judge and a panel of five members. Unlike civilian criminal courts, only capital cases require a unanimous verdict. Cases involving confinement for more than 10 years require a three-fourths majority. All lesser crimes need only a two-thirds consensus to convict. A general court-martial can adjudge any sentence, including death, that is authorized by the Manual for Courts-Martial that is consistent with the offense the accused was found guilty of committing.

Appeals process: Convictions from a summary court-martial may be appealed to a judge advocate who will review whether the legal and factual findings and sentence are correct. If the judge advocate disapproves of the holding, he will send the case to a general court-martial convening authority for a correction. If the convening authority declines to correct the holding of the case, the Judge Advocate General will review it.

Special or general court-martial convictions where the sentence includes death, dismissal from the service, or confinement for at least one year of particular officers are appealed to the branch’s Court of Criminal Appeals. These courts are permitted to review the facts and the appropriateness of the sentence, in addition to reviewing for

legal error. If the sentence includes death, appeal is mandatory. If the branch appeals court affirms the conviction, the accused may appeal to the Court of Appeals for the Armed Forces in Washington, D.C., and, after that, the U.S. Supreme Court. Review of these appeals is discretionary.

Where courts-martial are held

Courts-martial can be convened in any location and have been held in tents or other facilities adapted for the trial and are routinely conducted aboard ships while at sea. Normally, however, courts-martial are conducted in a court room on a military base.

Each military branch has circuit trial courts in specific regions that oversee individual bases, installations and commands. But reporters should first check with the local base where a crime occurred or where the accused is being held.

The Army has six geographically located circuits, according to the Army Judiciary Web site (<http://www.jagcnet.army.mil/USATJ>).

The Army’s 1st Judicial Circuit covers the Northeastern and Middle Atlantic States; the 2nd Judicial Circuit covers the Southeast; the 3rd Judicial Circuit covers the Southwest and Midwest; the 4th Judicial Circuit covers the Far West; the 5th Judicial Circuit covers Europe; and the 6th Judicial Circuit covers the Far East.

The Air Force has five trial circuit courts.

What’s a JAG?

Each branch of the military has a legal component, and the Judge Advocate General is the senior legal officer in each branch of the military. As Judge Advocate General of a particular service, the individual is also tasked as legal adviser to the service’s secretary.

The military lawyers who work for the JAG are known as judge advocates, and comprise the judicial staff of the armed forces, generally called the JAG Corps. Judge advocates serve as trial counsels — prosecutors and defense lawyers. Depending on the branch, individual lawyers may be one or the other. A judge advocate may prosecute a court-martial one week, and defend a serviceman in a court-martial the next, although this practice is becoming less common. For instance, in the Air Force, advocates start out as prosecutors and after gaining experience may become

defense attorneys.

A staff judge advocate is typically the chief military lawyer at an installation, but the functions of the position vary with the services. A judge advocate also serves as a legal adviser on a military commander’s staff.

Military judges are drawn from the JAG Corps. A judge advocate can become a military judge if the particular service’s Judge Advocate General certifies that the person is qualified for the duty. Every general courts-martial and most special courts-martial will have a military judge assigned.

The military attempts to guarantee a degree of independence for the judicial system by making the judges and JAG Corps attorneys responsible to a separate chain of command topped by the branch’s Judge Advocate General.

AP PHOTO
Sgt. Maj. Gene McKinney
arrives at Ft. Belvoir, Va.,
on Feb. 3, 1998, for his
court-martial on sexual
misconduct charges.



Access to military justice: the key cases

Though the First Amendment grants a presumptive right of access to courts-martial and pretrial proceedings, reporters often have been frustrated by efforts to keep them out — usually out of a presiding judge's interest in protecting privacy interests or expediting the proceedings.

In June 1997, the U.S. Court of Appeals for the Armed Forces in Washington D.C., made it clear that Article 32 preliminary hearings must be open to the public unless there is a specific and substantial showing that the proceeding needs to be closed. In *ABC Inc. v. Powell*, the highest military court held that a preliminary hearing in the sexual misconduct case against Sgt. Maj. Gene McKinney must be open to the public, unless the Army could show a specific and substantial need for secrecy. The Army had argued that to ensure McKinney's rights to a fair trial and protect alleged victims' privacy, the preliminary hearing must be closed. The hearing was to determine whether there was sufficient evidence to support charges of adultery and indecent assault stemming from the allegations of four female service members.

The ruling came after Army officials at Fort Myer in Arlington, Va., ordered the Article 32 hearing closed. Officials told reporters that access is left to the

local commander's discretion and are often closed, especially with cases attracting media attention. *The Washington Post* quoted Army Chief of Staff Dennis Reimer as saying that Article 32 hearings "are never open," and the Army tried to justify closure by arguing that it would minimize "distraction" from the issues and ensure McKinney's fair trial rights.

The order was challenged by five television networks and the *Post*. McKinney, his main accuser Brenda Hoster, and two military justice groups also argued for open proceedings. The court overruled the closure order and made clear that the presumption is that such hearings must be open unless there is a specific showing of need for closure.

Other key military access rulings:

In *United States v. Grunden*, the U.S. Court of Military Appeals in 1977 applied the Sixth Amendment right to a public trial to courts-martial in a case involving espionage-related charges against an Air Force airman. The court said "as a general rule, the public shall be permitted to attend open sessions of courts-martial." Spectators can be excluded from portions "only to prevent the disclosure of classified information." The court made it clear that asserting "security" or "military necessity" does not automatically overcome the right to an open trial.

In *United States v. Hershey*, the U.S. Court of Military Appeals reaffirmed in 1985 that

the right of public access to criminal trials extends to courts-martial, but found that fair trial rights were not denied by clearing the courtroom while a child testified about her father. Although the court said a stringent test must be applied before closing a proceeding, it was appropriate to consider factors such as the age and psychological maturity of the witness, the nature of the crime, the desires of the victim, and the interests of parents and relatives.

In *United States v. Travers*, the U.S. Court of Military Appeals in 1987 upheld a denial of closure of a pre-sentencing hearing, which the defendant requested to protect him from the embarrassment he would feel after his actions as an informant were revealed. The court said that "the presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest." Such a determination must be articulated on the record based on specific findings.

Citations:

ABC Inc. v. Powell, 47 M.J. 363 (1997)
United States v. Travers, 25 M.J. 61 (1987)
United States v. Hershey, 20 M.J. 433
(C.A.M. 1985)
United States v. Grunden, 2 M.J. 116 (1977)

AP PHOTO/CHARLIE HALL
**Coast Guard Cadet
Webster M. Smith,
second from right,
was court-martialed
in June 2006. Smith
was sentenced to
six months in jail for
extortion, assault and
other charges.**



The five locations are headquartered at Ramstein Airbase in Germany near Kaiserslautern, Yokota Air base, west of Tokyo, Lackland Air Force Base in Texas, Travis Air Force Base near Fairfield, California and Bolling Air Force Base in Washington D.C. Courts-martial are sometimes held at those locations, but a large majority of trials are held where the offense occurred.

The Navy and Marines have six joint judicial areas and circuits that are part of the Navy-Marine Corps Trial Judiciary. The circuits are broken up into the following regions: Northern with the circuit judge located in Washington, D.C., Central with the circuit judge located in Norfolk, Va., Eastern with the judge at Camp Lejeune, N.C., Southern with the judge in Jacksonville, Fla., Western with the current judge at Camp Pendleton Calif., and Westpac with the current judge located in Pearl Harbor, Hawaii. The location of the circuit judge may shift in both the Western and Westpac circuits depending on the location of the individual who is designated as circuit judge.

The Coast Guard has nine districts — oddly numbered now after years of consolidations and closures — and two maintenance and logistics commands. The 1st District is in Boston; the 5th in Portsmouth, Va., the 7th in Miami, the 8th in New Orleans, the 9th in Cleveland, the 11th in Alameda, Calif., the 13th in Seattle, Wash., the 14th in Honolulu, Hawaii and the 17th in Juneau, Alaska. There is also a Pacific Area Maintenance and Logistics Command and

an Atlantic Area Maintenance and Logistics Command.

Reporters seeking statistical information and other important data regarding trials held by the individual branches should review the Annual Reports located on the court of appeals for the armed forces Web site.

Covering courts-martial: Finding the docket

Reporters' First Amendment right of access to military judicial proceedings encompasses the right to know what cases and proceedings are pending and when they are to be convened, said attorney Matthew Freedus, a partner at Feldesman, Tucker Leifer Fidell LLP in Washington, D.C., and a former Navy judge advocate.

But unlike the federal system where a docket of upcoming judicial matters is spelled out and usually easy to locate, dockets can be elusive in the military justice system. Generally, dockets are not posted in a particular public location as in civilian courthouses. The availability of a docket for an individual base depends on the commander's policies. Some, but not most, may even be available online.

To get a copy of a docket or learn about upcoming proceedings, reporters should request the docket from the public affairs officer or the installations' law center.

Reporters covering the Navy and Marine Corps should be aware that each judicial circuit within the Navy and Marine Corps publishes a docket that is distributed on a

regular basis to the prosecution and defense. According to a Navy Judge Advocate General spokesperson, "It is usually updated weekly and can be obtained by a reporter contacting the region PAO."

James W. Crawley, a military reporter for Media General News Service's Washington bureau who also serves as vice president of the journalists' association Military Reporters and Editors, recommends that reporters tell the base public affairs office that they want to know about every case that gets filed, and recommends establishing a relationship with the office. Reporters may have an easier time getting information after they have been covering a particular place for a period of time.

Getting the public affairs office to release docket information, however, can be an uphill battle, Crawley adds. "If the public affairs office is unable to tell you when proceedings are to be held, you could call everyday, tell the office you want to go see a court-martial today and send someone on a daily basis until they realize that they need to provide you with the docket," Crawley suggests.

Tom Roeder of *The (Colorado Springs) Gazette* concurs. If you want access, "You have to ask for it. You have to be aggressive in pursuing access to military courts or you won't get it."

Getting on base

Courts-martial are "public" proceedings — if reporters can get to them. Of course, hearings held in battlefield conditions or

onboard ships raise much more difficult access issues.

Once journalists identify a hearing to cover, they should alert the base or installation public affairs officer that they want access to the base for the hearing. Since military bases are not open to the public, the public affairs officer will likely ask for a reporter's Social Security number, date of birth, the type of vehicle he or she intends to drive to the base, and its tag number and state. The public affairs office can prepare temporary vehicle passes in advance in most cases and provide a windshield placard upon arrival. Once on base, be prepared to show proper identification.

Although the public has a right of access to military court proceedings, bases and military installations typically are not open to the public, so reporters should expect to be escorted while on base. Recording devices and cameras can be brought to the base but the rules for court-martial ban them from the courtroom.

The right of access

Though the military justice system works differently than the civilian system, the news media has the same qualified First Amendment right of access to military proceedings as they do to attend civilian criminal court proceedings. Under narrow circumstances, entire Article 32 hearings or courts-martial, or just parts of those proceedings, may be closed — but the closure must be supported by either a particular evidentiary rule or a written determination by the presiding authority that a particular testimonial privilege outweighs the public's right of access and that the closure is narrowly tailored to protect the privacy interests at stake.

Courts uphold closure where military law requires it. For instance, Military Rule of Evidence 513, dealing with the psychotherapist-patient privilege, authorizes a military judge to conduct a closed hearing when litigating the issue of whether patient records may be released to the defense. And courts generally uphold the closure of military proceedings where disclosure of information will likely harm national security or where the case concerns a sexual assault. Even in these types of cases a determination on the record must be made based on the specific facts of the case.

The Military Court of Appeals has never affirmed the blanket closure of an entire trial.

And the appeals court has repeatedly ruled that reporters may not be shut out when someone is merely concerned about embarrassment or generalized "security" interests, or when claims of "military necessity" are made without supporting facts.

Reporters have successfully overturned decisions that improperly denied them access. Sandra Jontz, a reporter for *Stars and Stripes* in Naples, Italy, was denied access to an Article 32 hearing. (*Stars and Stripes* is a military-funded daily newspaper given independent status as a "First Amendment newspaper.")

The pretrial proceeding was held to investigate allegations of indecent acts with a minor, sexual harassment, and fraternization against a chief petty officer with the Naval Computer and Telecommunications Station in Naples. Before the hearing started, Jontz was told it would be closed. Jontz said

she wanted the opportunity to object on the record before the investigating officer and would attend the hearing to do so. Her request, however, was denied.

"The parties wanted to keep the nature of the offense [sexual misconduct with a minor by an officer] quiet," Max Lederer explained. Lederer is the chief operating officer and general counsel for *Stars and Stripes*, and is a former Army judge advocate. "The officer was embarrassed, the victim's family did not want the incident to become common knowledge, and the command was embarrassed by the incident."

Embarrassment, however, is not a sufficient basis for closing a courtroom. The newspaper "filed a writ with the Navy-Marine Corps Court of Criminal Appeals. Within days of when we filed and publishing a story regarding the process the Navy senior legal officer dismissed the Article 32 hearing," Lederer explained.

"It was readily apparent [to us] that the local authorities had exceeded their authority," Lederer continued, "but the local authorities will do this if they think they can get away with it. Reporters should not assume that decisions are being made for the right reasons even if the reasons appear to be moral and are sympathetic."

What should I do if I am shut out of a hearing or court-martial?

Under the First Amendment and Rules for Courts-Martial 405 and 806, convening authorities may not eject reporters from an Article 32 hearing or courts-martial without

a written explanation identifying specific reasons why the right to privacy outweighs the public right of access.

Reporters who are asked to leave a proceeding or who are told upon arrival that it has been closed should "immediately request the written ruling — the decision is supposed to be in writing — from the military judge or investigating officer," Lederer recommends.

Whether or not the ruling is in writing, object orally and in writing to the closure.

The 1997 case *ABC Inc. v. Powell* (see sidebar) is an excellent decision to cite, according to Crawley, because the language makes clear that both courts-martial and pre-trial proceedings are presumptively open.

Also, request the opportunity for the media organization to present its objection orally and in writing on the record of the proceeding and to respond to the positions of the parties. "These are also procedural due process rights established by military case law," Lederer said.

If the authority refuses to do so, and reporters who have access to counsel should seek out an attorney who can appeal the decision to the military appellate court.

Be prepared to experience more frustration at Article 32 hearings than at courts-martial, because investigating officers in Article 32 hearings often have no legal training — they are not required to — and are often ignorant of the public's right of access.

It may be difficult to get a presiding officer to reconsider a decision to close a session, but it is not impossible. At one court-martial hearing reporter Tom Roeder attended, the government wanted a CIA operative to testify in a closed session but Roeder and other media publications insisted the testimony take place in an open courtroom. "We objected on the record during a trial and got the judge to reconsider what he had decided," Roeder said. "Getting to watch the CIA guy testify from behind a curtain was just awesome."

Once admitted to a proceeding, reporters may take written notes of the proceedings while in the courtroom and sketch artists may draw court participants. Audio and visual recording devices, however, except for those



Sandra Jontz



James W. Crawley

necessary for preparation of the record of trial or for use as an aid to the introduction of evidence at the court-martial, are prohibited.

A reporter's ability to talk to witnesses in Article 32 hearings and courts-martial depends on being able to locate the witness and on his or her willingness to talk. Most service people, and therefore, most witnesses, live on base or installation, on which the public is not permitted to freely roam. But if a witness can be contacted, there are no rules barring interviewing them, although, as with civilian courts, gag orders can be entered in individual cases that may limit what witnesses can say about a case.

Records and evidence

Though reporters have a right of access to the record of a court-martial and Article 32 hearing, the process for gaining access can be long.

"The military generally does not provide any documents submitted to the court prior to the close of the hearing so the best method is to be present at the hearing," Lederer said. "In the military system the closure of proceedings by the military judge is not the final step. The record of trial has to go through a review process by the judge, local staff judge advocate and then is sent to the convening authority for implementation. The military argues that the record is not final and releasable until this process is complete." According to Lederer, this process "can take months."

Reporters should ask the presiding official for access to inspect evidence. If a journalist's request for evidence or access to a witness is denied, he or she may appeal the denial to the convening authority and then follow the convening authority's chain of command up to the service level. This process, however, is slow and unlikely to be successful, according

to Lederer. Alternatively, reporters may take the objection directly to the service Court of Criminal Appeals.

Court documents, such as a record of trial, may be obtained by contacting the clerk of a military court, or through the Freedom of Information Act (the military is subject to FOIA, unlike civilian courts, and no exemption applies to records of closed cases). Again, however, individual documents in the record may not be released if the military judge seals that portion. This may occur, for example, in a child pornography case. The military judge routinely orders any images of child pornography that were admitted into evidence to be sealed, with authorization to open such exhibits limited to the convening authority, his staff judge advocate, the appellate courts, and appellate counsel. The purpose behind this is to ensure that the judicial system is not a party to the further dissemination of these images. ♦

Military reporting tips

Experiences will vary base-to-base and branch-to-branch because there is no militarywide blanket rule. Openness depends on the command. With this in mind, here are some tips from those who have covered the military:

Know the law. Be familiar with your rights to attend proceedings and be prepared to assert those rights when challenged. In addition to a familiarity with cases cited as authority for access, be prepared to point to other authority if there is no Court of Appeals for the Armed Forces opinion. Specifically, in that situation know what the authority is for that particular service court.

Learn how the military justice system works. In addition to cultivating relationships with the public affairs officers, when you first arrive on the beat it is a good idea to ask for a meeting with those running the military justice system on base. This includes the chief military judge and both the chief defense attorney and chief prosecutor on base. Also, many civilian military attorneys who were once officers of the Judge Advocate General's Corps and who prosecuted or defended military accused are good sources to cultivate — primarily because they are not bound by openness rules set by base commanders.

Be prepared to object. If you are in a proceeding and are asked to leave, be prepared to object. Ask to make your objection on the record and ask for a decision on your

objection on the record. You should make your objection as broad and comprehensive as possible to increase the chance of having the decision to close overturned, according to Matthew Freedus, a lawyer who handles many military cases.

Stay in contact. Cultivate the public affairs officers. One of a journalist's first points of contact should be the base public affairs office. Let those people know that you want certain information on a regular basis. Be prepared to make repeated requests. Let them know that you will want to cover certain proceedings from time to time, but you need to know what is happening in order to decide which hearings to cover. Request a copy of the court's docket. Cultivate relationships with civilian military attorneys because they are more likely to tip you off, according to *Stars and Stripes* reporter Terry Boyd.

Have reference materials. Both journalists and public affairs officers suggested that military reporters should be familiar with the Manual for Courts-Martial and the Uniform Code of Military Justice. Both are available online, but Media General military reporter James W. Crawley suggests keeping a hard copy for easy reference. Also, having a copy will make formulating requests less frustrating, more accurate and decrease delays in receiving the requested information. Also, if you are looking for a general understanding, the Web site of the Court of Appeals for the Armed Forces is a good source (www.armfor.uscourts.gov/index.html). Also, for statistical

information, a reporter can make a request from the public affairs office or can obtain statistics on the military justice system for all branches from the Annual Reports available on the Appeals Court Web site (www.armfor.uscourts.gov/Annual.htm). Also, groups like Military Reporters and Editors have a variety of materials that can serve to educate a military reporter. MRE also has a listserv for military reporters that can be used to seek out advice from other reporters in similar situations (www.militaryreporters.org).

Play all sides. If the government denies you access, Crawley suggests talking to the defense attorney. Many of the civilian military attorneys are former judge advocates who no longer serve in the armed forces.

Be persistent. Get to know the personnel and policies of the specific branch and base you are covering. The ease with which you are able to receive information depends on the commander of the base. Follow-up with the public affairs office until you get answers to your questions. Certain branches are more cooperative than others and unfortunately the level of cooperation varies from command to command. Reporter Tom Roeder echoed the advice of many journalists who cover military justice — a reporter needs to be aggressive with the military justice system, and if you don't ask for access you won't get it.

Your First Amendment Newsstand



The Reporters Committee for Freedom of the Press is committed to helping journalists understand the laws that affect news-gathering. And we have a wide array of publications that can help.

We've got special reports like **Homefront Confidential**, an examination of access and information policy issues in a post-September 11 world.

Our **Reporter's Privilege Compendium** offers a detailed look at each state's shield laws and court decisions that affect the ability of reporters to keep their sources and information confidential.

For help with gaining access to government records and meetings, we've got **How to Use the Federal FOI Act**. Or for state

law help, there's the **Open Government Guide**, a complete guide to each state's open records and meetings acts. Also, **Access to Electronic Records** tracks developments in the states regarding computerized release of data.

And of course, there's the **First Amendment Handbook**, a guide to almost every aspect of media law with practical advice for overcoming barriers encountered every day by journalists.

For these and many more publications, visit our Web site. Read these guides online — for no charge — or purchase a copy to read in print.

Visit our online First Amendment newsstand at:
www.rcfp.org/publications