



JUDICIAL PROCEEDINGS PANEL

Trends and Statistics

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JPP Tasks

- Review and evaluate current trends in response to sexual assault crimes whether by courts-martial proceedings, non-judicial punishment and administrative actions, including the number of punishments by type, and the consistency and appropriateness of the decisions, punishments, and administrative actions based on the facts of individual cases
- Identify any trends in punishments rendered by military courts, including general, special, and summary courts-martial, in response to sexual assault, including the number of punishments by type, and the consistency of the punishments, based on the facts of each case compared with the punishments rendered by Federal and State criminal courts
- Review and evaluate court-martial convictions for sexual assault in the year covered by the most-recent report of the Judicial Proceedings Panel and the number and description of instances when punishments were reduced or set aside upon appeal and the instances in which the defendant appealed following a plea agreement, if such information is available



Preliminary Staff Research

- JPP Staff:
 - Identified information needed to support the Panel's review and where to find it
 - Reviewed DoD SAPRO annual reports
 - Met with military investigative organizations, military justice offices, appellate courts, and DoD SAPRO
- Determined current reports and investigative/court-martial tracking systems did/could not:
 - Uniformly track information across Services; or
 - Perform complex search queries necessary to provide information to accurately and completely analyze sexual assault courts-martial trends



Current Systems

DoD SAPR Annual Reports:

Include:

1. Most serious offense charged
2. Finding as to most serious offense charged: guilty/not guilty
3. *Sentence (not specified as Adjudged or Approved)*
4. *Court-martial type (sometimes provided)*

Do Not Include:

1. All offenses
2. All findings of guilt
3. Sentence (adjudged and approved)
4. Court-Martial type (for all cases)
5. Disposition of all sex offenses
6. Pleas Forum
7. Motions (including 412/513)
8. Pretrial Agreement (terms and caps)
9. Clemency



Obtaining Court-Martial Data

Information Sought:

1. All offenses charged
2. Court-martial type (SCM, SPCM, GCM)
3. Pleas
4. Findings as to each charge
5. Forum (military judge vs. panel)
6. Pretrial agreement (terms and caps)
7. Sentence (adjudged and approved)
8. Clemency
9. Article 32 recommendation
10. Staff judge advocate advice
11. Motions (including 412/513)

Notes:

- a) Standardized forms used in courts-martial to record most info
- b) No verbatim record of trial in acquittals or when sentence does not include either a punitive discharge or confinement > 6 months
- c) Records of proceedings pertaining to MRE 412 and 513 are sealed by military judge (limits access to facts and circumstances)



Obtaining Court-Martial Data

- Requests based on SAPRO FY12, FY13, FY14 Annual Reports
- Requested court-martial documents for all cases listed in SAPR report as having a sexual assault offense preferred in the FY
- Limitations
 - USCG not included in SAPR report; similar info request made by JPP
 - Does not include sexual assaults between spouses or intimate partners
 - Case identification issues (Pre-DSAID & DSAID)



Obtaining Court-Martial Data

Overall Response Rate for Cases Identified in DoD SAPR Annual Reports

FY12			FY13			FY14		
Requested	Identified	% Received from Cases Identified	Requested	Identified	% Received from Cases Identified	Requested	Identified	% Received from Cases Identified
612	624	93%	865	865	95%	876	871	89%

Total			
Requested	Identified	Received	% Received
2353	2360	2175	92%



Obtaining Court-Martial Data: by Military Service

	FY12			FY13			FY14		
	Identified	Received	%	Identified	Received	%	Identified	Received*	%
Army	422	388	92%	445	415	93%	381	320	84%
Air Force	54	54	100%	169	169	100%	132	131	99%
Navy	99	91	92%	110	98	89%	175	145	83%
Marines	29	28	97%	113	109	96%	171	167	98%
Coast Guard	20	20	100%	28	28	100%	12	12	100%



Obtaining Court-Martial Data

- Requested specific procedural documents from case records
- Obtaining case documents
 - JPP staff scanned records of trial at appellate courts & Suitland, MD
 - Provided by Service HQs
 - Provided by field offices
- Services remain release authority for all court documents
 - Subject to FIOA exemptions
 - Panel must request released copy from Service to view specific records



Documenting Court-Martial Info

JPP Staff Compilation of Case Data for Panel Analysis

TOTAL			
Identified	Received	Not Entered	In Database
2360	2175	380	1795

- Records in JPP database
 - Complete through final action by convening authority
 - Not duplicate case (multiple SA reports in SAPR report may be involved in same court-martial)
 - Validated to include sexual assault offense
- 380 cases “Not Entered”
 - Duplicate case
 - No sexual assault offense indicated in case documents
 - Case not yet completed or case record missing/incomplete
- Grouped in JPP database by case disposition date



Comparisons with Civilian Punishment Data

- JPP Staff requested data from the U.S. Sentencing Commission and the Bureau of Justice Statistics for comparison
- Requested sentencing analysis for rape and sexual assault convictions:
 - First-time offenders
 - Only adult victims
- U.S. Sentencing Commission: FY12, FY13, and FY14
- Bureau of Justice Statistics: Most recent data is for convictions in State Courts in 2006 and 2009



Non-Judicial Punishment & Adverse Administrative Actions

	FY12	FY13	FY14
NJP	192	246	338
Adverse Admin Action	114	164	201

- Case records not available to JPP for review/analysis
 - Personnel records (Privacy Act)
 - Records not centrally maintained
- JPP's NJP & admin action info taken from DoD SAPR Annual Reports
 - Total case reports where NJP and/or admin action is indicated
 - NJP & admin action info not uniformly reported in SAPR Annual Report case reports



Appellate Data

	FY12	FY13	FY14
Appellate Cases	15	37	45

- Appellate decisions reached in the fiscal year
- No connection to FY courts-martial data (appellate review timing)
- Different avenues for case to reach appellate review
 - Automatic appellate review based on sentence
 - TJAG review and certification
- JPP review of appellate issues:
 - Review of Art. 120 or related offense
 - Appellate relief granted/denied relevant to sexual assault offense (including factual sufficiency)



Questions/Discussion