

UNITED STATES SENTENCING COMMISSION
ONE COLUMBUS CIRCLE, N.E.
SUITE 2-500, SOUTH LOBBY
WASHINGTON, D.C. 20002-8002
(202) 502-4500
FAX (202) 502-4699



December 10, 2015

Col. Kyle W. Green
Staff Director
Judicial Proceedings Panel
875 N. Randolph Street
Arlington, VA 22203-1995

Dear Colonel Green:

In your letter to the U.S. Sentencing Commission of October 26, 2015, you requested that the Commission provide information to the Judicial Proceedings Panel (JPP) regarding sexual abuse crimes in which the offender was sentenced in the United States Courts during the period fiscal year 2012 through fiscal year 2014. Specifically, you requested information concerning sentences imposed for offenses described in Title 18, United States Code, sections 2241(a) and (b), 2242, and 2244(a) and (b). You requested that we limit our analysis to cases in which the offender was a first-time offender and where the victim was an adult.

During fiscal years 2012 through 2014, there were 382 cases in which one of the statutes you specified was one of or the only count of conviction. Because the Commission does not regularly record the age of the victim in any case, Commission staff undertook a special coding project to ascertain the age of the victim or victims in these cases. We found 116 cases over that three-year time period in which all (or the only) victims were adults.

In only nine of these cases did the offender have no prior criminal history. Of the offenders in those nine cases:

- one was convicted under 18 U.S.C. §2241(a) and the sentence imposed was life;
- two were convicted under 18 U.S.C. §2242 and the sentences imposed were 36 and 70 months;
- four were convicted under 18 U.S.C. §2244(a) and the average sentence imposed was 22 months (with a low of 12 months and a high of 36 months); and
- two were convicted under 18 U.S.C. §2244(b) and the sentences imposed were 12 months and 30 months.

We appreciate that your request for data in which the offender had no prior criminal history was to assist the JPP in comparing our data to offenders convicted in military courts-martial, the vast majority of whom have no prior criminal history. However, we understand that in some circumstances, persons may be allowed to enlist in the military despite the fact of prior, low-level convictions for such crimes as public disorder, underage alcohol use, or traffic crimes in which no person was injured. We thought it might be helpful, therefore, to expand our analysis to include cases in which the federal offender had been convicted of similar low-level crimes.

To do this, Commission staff expanded our analysis to include offenders in Criminal History Category I under the sentencing guidelines (who are offenders with no prior criminal convictions and offenders with one criminal history point for a prior conviction in which the sentence imposed was between zero and 59 days). We also included offenders in Criminal History Category II (who are offenders with no more than three criminal history points), however, offenders in CHC II were included in the analysis only if their prior convictions were the kind of low-level crimes described above.

Our expanded analysis comprised 94 offenders. The average sentence in those cases was 78 months and the median sentence was 55 months. The sentences ranged from a high of life imprisonment to a low of 0 months. Because of the wide range of these sentences, however, I thought it would be helpful to set out the sentences by the statute of conviction. Of the offenders in these cases:

- 25 offenders were convicted under 18 U.S.C. §2241(a), and the average sentence imposed was 156 months (the median sentence was 121 months);
- 30 offenders were convicted under 18 U.S.C. §2242, and the average sentence imposed was 84 months (median of 78);
- 34 offenders were convicted under 18 U.S.C. §2244(a), and the average sentence imposed was 31 months (median of 24); and
- eight offenders were convicted under 18 U.S.C. §2244(b) and the average sentence imposed was 32 months (median of 24).

We hope that this information is helpful to the JPP in its work. Should you or the members of the JPP have question about our analysis or wish to request further analyses, please don't hesitate to contact me directly.

Sincerely,



Glenn R. Schmitt
Director
Office of Research and Data



JUDICIAL PROCEEDINGS PANEL
875 N. RANDOLPH STREET
ARLINGTON, VA 22203-1995

October 26, 2015

Kenneth Cohen, Esq.
Staff Director,
United States Sentencing Commission
One Columbus Circle, N.W.
Washington, D.C. 20002

Dear Mr. Cohen,

I request the U.S. Sentencing Commission provide a statistical analysis of its felony sentencing data for fiscal years 2012, 2013, and 2014 to the Judicial Proceedings Panel on Military Sexual Assault regarding a specific category of sexual abuse crimes.

The Judicial Proceedings Panel is an advisory committee under the Federal Advisory Committee Act. The Secretary of Defense established the Judicial Proceedings Panel on Military Sexual Assault to review and assess judicial proceedings conducted under the Uniform Code of Military Justice involving adult sexual assault and related offenses in compliance with Section 576(a)(2) of the National Defense Authorization Act for Fiscal Year 2013 (hereinafter "the Act."). The Judicial Proceedings Panel has been directed to "identify trends in punishments rendered in military courts...compared with the punishments rendered by Federal and State Criminal Courts."

In support of this task within its charter, the Judicial Proceedings Panel respectfully requests information concerning the sentences received upon conviction for offenses listed in Title 18, United States Code, Sections 2241(a) and (b), 2242, and 2244(a) and (b), by first-time offenders, involving only adult victims, in the fiscal years 2012, 2013, and 2014.

Thank you for your kind assistance with this matter. We look forward to hearing from you and are standing by to answer any questions or discuss the Panel's request for the Department of Justice's assistance.

My point of contact for this matter is Ms. Meghan Peters, Staff Attorney, Judicial Proceedings Panel, who may be reached at (703) 693-3843 or by e-mail at meghan.peters.civ@mail.mil.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kyle W. Green".

Kyle W. Green
Colonel, United States Air Force
Staff Director
Judicial Proceedings Panel