Sexual Assault in the Military

Case Characteristics, Case Outcomes and Punishments
Roadmap for Presentation

- Descriptive overview of all cases
  - Case characteristics, characteristics of accused and victim
  - Disposition
  - Outcome
  - Punishment

- Additional analyses to determine factors associated with
  - Disposition
  - Outcome
  - Punishment

- Multivariate analysis to identify significant predictors of outcomes and punishments
Overview of Process

• Military services provided documents for cases involving a preferred charge of sexual assault that were completed in fiscal years 2012, 2013 and 2014
• JPP staff used these documents to develop a comprehensive database
• Data converted into an EXCEL file and imported into SPSS for analysis
  • Descriptive characteristics of cases, dispositions, outcomes, and sentences
  • Bivariate analysis of relevant explanatory factors and dispositions, outcomes, sentences
  • Multivariate analysis of dispositions, outcomes, sentences
Limitations

• Not clear if this is the universe of cases from these FYs
• Data collection constrained by information included in case documents
  • Potentially relevant information not included
    • Characteristics of the victim other than sex and whether military or civilian
    • Relationship between accused and victim
    • Whether victim made a prompt report
    • Whether victim was willing to cooperate
    • Behavior of victim at time of alleged assault
    • Evidence (physical evidence, witnesses, results of forensic medical exam)
      • Accused’s defense (mistaken identity, consent, incident fabricated)
  • Going forward, may want to develop a document that captures this information
Overview of Findings

• Most cases generated by Army, followed by Air Force, Navy, Marine Corps, Coast Guard
• Typical accused was a male enlisted member
• Typical victim was a female member of one of the military services
• Most cases involved multiple charges (average was 5.77) and many involved multiple victims (average was 1.28)
Overview of Findings: Dispositions

- Three quarters of cases that went to court martial went to general court martial
- Type of disposition varied by fiscal year, military service of the accused, type of offense charged
Overview of Findings: Outcomes

• Among cases in which charges were preferred, conviction rate (for a sex offense or a non-sex offense) was 51.2% for penetrative offenses and 59.7% for contact offenses

• Among cases referred to trial, conviction rate (for a sex offense or a non-sex offense) was 70.3% for penetrative offenses and 79.9% for contact offenses
Overview of Findings: Punishments

- Large majority of those who were convicted received a term of confinement: 95.2% for penetrative offenses and 67.6% for contact offenses
- Average sentence was about two and a half years
  - Penetrative offenses 54.8 months
  - Contact offenses 14.7 months
Overview of Findings

• Multivariate analyses revealed that outcomes and punishments in sexual assault cases were affected primarily by type of offense, number of victims, and number of charges
• Some differences by military service
• Outcomes and punishments generally did not vary by fiscal year, rank of accused, gender or status of victim
Descriptive Data

• 1,761 cases, all of which involve at least one count of a penetrative or contact sexual offense
  • 1,275 (72.4%) cases in which most serious charge was a penetrative offense
  • 486 (27.6%) cases in which most serious charge was a contact offense

• Fiscal Year
  • 2012  426  24.2%
  • 2013  662  37.6%
  • 2014  673  38.2%

• Military Service of Accused
  • Army  814  46.2%
  • Air Force  342  19.4%
  • Navy  304  17.3%
  • Marine Corps  247  14.0%
  • Coast Guard  54  3.1%
Descriptive Data

• Characteristics of Accused
  • Rank
    • Enlisted 1641 93.2%
    • Officer 120 6.8%
  • Sex
    • Male 1750 99.4%
    • Female 11 0.6%

• Characteristics of Victim(s)
  • Status
    • All Military 1296 73.8%
    • All Civilian 407 23.2%
    • Military & Civilian 54 3.1%
  • Sex
    • All Female 1619 92.0%
    • All Male 127 7.2%
    • Female & Male 14 0.9%
Descriptive Data

- Number of Victims
  - Range = 1 – 11; mean = 1.28
- Number of Charges/Specifications
  - Range = 1 – 30; mean = 5.77
  - 10.1% involved one charge only
Case Dispositions

• Of cases that went to court martial
  • General Court Martial 998 78.6%
  • Special Court Martial 163 12.8%
  • Summary Court Martial 109 8.6%

• Type of Trial Forum
  • Military Judge 514 42.0%
  • Panel of Military Members 600 49.1%
  • Summary Court Martial Officer 109 8.9%

• Article 32 Hearing Held
  • Yes 1260 72.4%
  • Waived 93 5.3%
  • No 387 22.2%

• Accused placed in pretrial confinement 175 13.8%
Cases Referred to Trial

- 1,269 of 1,761 (72%) referred to trial
- Of cases dismissed prior to referral, 75% were dismissed after an Article 32 hearing
- 30% of sexual assault cases referred to trial involved a pretrial agreement and only a small fraction of those pretrial agreements involved a plea to a sexual assault offense
Case Outcomes—Penetrative Offenses in which Charges Preferred (N = 1275)

- Convicted of penetrative offense 24.5%
- Convicted of contact offense 16.7%
  - Convicted of sex offense 41.2%
- Convicted of non-sex offense 10.0%
  - Overall conviction rate 51.2%
- Alternative disposition 11.8%
- Acquitted of all charges 21.6%
- Dismissed without further action 15.5%
Case Outcomes: Contact Offenses in which Charges Preferred (N = 486)

- Convicted of contact offense 28.8%
- Convicted of non-sex offense 30.9%
- Overall conviction rate 59.7%
- Alternative disposition 17.1%
- Acquitted of all charges 15.0%
- Dismissed without further action 8.2%
Case Outcomes—Penetrative Offenses Referred to Trial (N = 928)

- Convicted of penetrative offense 33.6%
- Convicted of contact offense 22.9%
- Convicted of non-sex offense 13.8%
  - Overall conviction rate 70.3%
- Acquitted of all charges 29.7%
Case Outcomes—Contact Offenses
Referred to Trial (N = 363)

- Convicted of contact offense 38.6%
- Convicted of non-sex offense 41.3%
  - Overall conviction rate 79.9%
- Acquitted of all charges 20.1%
Sentences—Penetrative Offenses

• Approved sentence included
  • Confinement 95.2%
  • Punitive separation 90.7%
  • Confinement & separation 88.2%
• Mean approved sentence = 54.8 months
Sentences—Contact Offenses

- Approved sentence included
  - Confinement 67.6%
  - Punitive separation 50.2%
  - Confinement & separation 44.6%
- Mean approved sentence = 14.7 months
Comparing Outcomes and Punishments in Civilian and Military Justice Systems

• Difficult to do—apples and oranges
  • Especially comparing preferred cases in military to cases in which charges filed in state courts
    • Filing standard may be proof beyond a reasonable doubt; if so, weak/problematic cases not charged and therefore cases adjudicated in two systems may vary systematically on relevant factors
Comparing Outcomes and Punishments in Rape Cases

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall Conviction Rate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preferred Cases</td>
<td>51.2%</td>
<td>68%</td>
</tr>
<tr>
<td>Referred Cases</td>
<td>70.3%</td>
<td></td>
</tr>
<tr>
<td>Acquittals</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preferred Cases</td>
<td>21.6%</td>
<td>3%</td>
</tr>
<tr>
<td>Referred Cases</td>
<td>29.7%</td>
<td></td>
</tr>
<tr>
<td>Dismissals</td>
<td>15.5%</td>
<td>24%</td>
</tr>
<tr>
<td>Sentence Included Confinement</td>
<td>95.2%</td>
<td>89% (5% in jail)</td>
</tr>
<tr>
<td>Mean Confinement Sentence</td>
<td>54.8 months</td>
<td>142 months</td>
</tr>
</tbody>
</table>
Bivariate Analysis

• Examination of relationship between independent (i.e., predictor) variables and dependent (i.e., outcomes) variables

• Test to determine if relationship is statistically significant at .05 level of probability
  • If so, can say that there is a relationship between the variables; relationship not due to chance
Factors Associated with Disposition by General Court Martial

- Most serious offense charged (P < .05)
  - Penetrative offense 92.1%
  - Contact offense 44.0%
- Fiscal year (P < .05)
  - 2012 85.1%
  - 2013 79.2%
  - 2014 73.2%
- Military service (P < .05)
  - Air Force 82.7%
  - Army 83.0%
  - Coast Guard 53.7%
  - Marine Corps 65.2%
  - Navy 77.4%
Case Outcomes (Preferred Cases) and Fiscal Year

• Penetrative offenses (P < .05)
  • Overall conviction rate is lower in 2014 (43.7%) and 2013 (53%) than in 2012 (59.4%)
  • Dismissal more likely in 2014 (19.1%) and 2013 (16.1%) than in 2012 (9.3%)
• Contact offenses (Not significant)
Case Outcomes (Preferred Cases) and Military Service of Accused

- Penetrative Offenses (P < .05)
  - Conviction for Penetrative or Contact Sex Offenses
    - Army: 45.1%
    - Coast Guard: 41.1%
    - Navy: 39.6%
    - Marine Corps: 38.2%
    - Air Force: 35.9%
  - Acquitted of all charges (8.8% for Coast Guard to 26.1% for Air Force)
  - All charges dismissed (9% for Army to 26.5% for Coast Guard)

- Contact Offenses (could not calculate statistical significance due to small cell sizes)
Case Outcomes (Preferred Cases) and Status of Accused

- Penetrative Offenses
  - No differences in case outcomes between enlisted members and officers

- Contact Offenses
  - No differences in case outcomes between enlisted members and officers
Case Outcomes (Preferred Cases) and Gender and Status of Victim(s)

- Penetrative Offenses
  - No differences in outcomes between cases with female victims and cases with male victims
  - Conviction rate higher for cases with both military and civilian victims

- Contact Offenses
  - No differences in outcomes between cases with female victims and cases with male victims
  - No differences in outcomes based on the status of the victim
Factors Associated with Confinement Sentence

- Likelihood of confinement affected by
  - Type of conviction charge
    - Penetrative (95.2%) v. contact (67.6%)
  - Status of Victim
    - Military + Civilian (87%) v. civilian (78.8%) v. military (72%)
  - Type of court martial
    - General court martial (81.7%) v. special court martial (69.7%) v. summary court martial (30.0%)
- Likelihood of confinement not affected by fiscal year, military service of accused, rank of accused, gender of victim
Factors Associated with Length of Confinement Sentence

- Sentence length (months) varied by
  - Type of conviction charge
    - Penetrative (54.8) v. contact (14.7)
  - Status of victim
    - Military + civilian (60.16) v. civilian (34.59) v. military (26.73)
  - Type of court martial
    - General court martial (36.45) v. special court martial (4.01) v. summary court martial (0.78)
- Sentence length not affected by fiscal year, military service of accused, rank of accused, or gender of victim
Multivariate Analyses of Outcomes and Sentences

- Modeled outcomes, controlling for
  - Fiscal year
  - Military service of accused
  - Rank of Accused
  - Gender of Victim
  - Status of Victim
  - Number of Victims
  - Type of preferred/conviction charge
  - Type of court martial (analyses of sentences only)
Significant Predictors of Conviction for a Penetrative Offense

• Military service of accused
  • Those from the Coast Guard about half as likely as those from the Army to be convicted of penetrative offense; no differences in likelihood of conviction between those in Army and those in other services

• Number of victims (more victims = greater likelihood of conviction)
Significant Predictors of Conviction (for any offense)

- Fiscal year (conviction less likely in 2014 than in earlier years)
- Sex of victim (conviction less likely if victim female)
- Number of victims (more victims = higher likelihood of conviction)
- Number of charges (more charges = higher likelihood of conviction)
- Individuals charged with penetrative offenses less likely than those charged with contact offenses to be convicted
Significant Predictors of Acquittal

- Military service of accused
  - Acquittal 1.6 times more likely if accused was in Air Force (compared to those in Army)
- Number of victims (more victims = lower likelihood of acquittal)
- Number of charges (more charges = lower likelihood of acquittal)
- Individuals charged with penetrative offenses 1.4 times more likely than those charged with contact offenses to be acquitted
Significant Predictors of Dismissal

- Military service of the accused
  - Compared to those in the Army, those in Air Force were 1.7 times more likely to have case dismissed; those in Navy were 3 times more likely to have case dismissed; those in Marine Corps were 4.9 times more likely to have case dismissed; and those in Coast Guard were 2.9 times more likely to have case dismissed
- Number of charges (more charges = lower likelihood of case dismissal)
- Individuals charged with penetrative offenses were 2.4 times more likely than those charged with contact offenses to have case dismissed
Significant Predictors of Sentence of Confinement

• Victim a member of the military (less likely to get sentence of confinement)
• Number of charges (more charges = greater likelihood of confinement)
• Individuals convicted of penetrative offenses were 11.8 times more likely than those convicted of contact offenses to receive a confinement sentence
Significant Predictors of Sentence Length

- Number of victims
  - Each additional victim = additional 9.7 months
- Number of charges
  - Each additional charge = additional 2.1 months
- Accused convicted of penetrative offense
  - Sentence 43.3 months longer than if convicted of contact offense