



JUDICIAL PROCEEDINGS PANEL

Trends and Statistics

**Nonjudicial Punishment and
Administrative Actions**



JPP Statutory Task

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.



Foundational Issues

- 1. Are sexual assault charges being resolved at the appropriate level?*
- 2. Are disposition decisions consistent for similar charges?*



Source Data

- Data taken from Service Enclosures to the DoD Annual Report on Sexual Assault in the Military for fiscal years 2012 through 2014.
- Case records not available to JPP for review/analysis
 - Personnel records (Privacy Act)
 - Records not centrally maintained



Nonjudicial Punishment

- Nonjudicial punishment is a commander's disciplinary tool authorized under Article 15, UCMJ.
- Intended for minor offenses.
 - Minor offense – ordinarily maximum punishment would not include DD or confinement for more than one year
 - Commander's discretion
- Service member has right to demand trial by court-martial in lieu of nonjudicial punishment in most cases, so must be able to prove offenses beyond a reasonable doubt.
- Possible punishments include loss of rank, restriction, or forfeitures of pay.



Nonjudicial Punishment Data

- Nonjudicial punishment data taken from case synopses included in Service Enclosures to DoD Annual Report on Sexual Assault in the Military for fiscal years 2012 through 2014.
 - Each synopsis lists all sexual assault cases that reached disposition for that year.

Data gathered:

1. Cases that originated as nonjudicial punishment actions
 2. A sexual assault offense was alleged and type of offense (contact v. penetrative)
 3. Decision (found to have committed sexual assault offense, found to have committed only a non-sexual assault offense, or member found not to have committed any offense)
- Punishment data not included as difficult to discern from synopses and punishments are low-level and not as relevant as forum.



Nonjudicial Punishment Data

- A total of 691 nonjudicial punishment actions initiated for sexual assault offenses for fiscal years 2012 through 2014

	Initiated for sexual assault offense	Found to have committed sexual assault offense
FY 2012	192	155
FY 2013	201	189
FY 2014	298	255



Nonjudicial Punishment Data

	Initiated for contact offense	Initiated for penetrative offense	Found to have committed contact offense	Found to have committed penetrative offense	Found to have committed only non-sexual assault offense	Found not to have committed any offense
Army FY 12	144	5	124	0	11	14
Army FY 13	135	0	126	0	5	4
Army FY 14	192	0	163	0	15	14
Navy FY 12	24	3	17	0	6	4
Navy FY 13	37	1	35	0	3	0
Navy FY 14	69	0	59	0	0	10
USMC FY 12	0	2	0	0	2	0
USMC FY 13	1	0	1	0	0	0
USMC FY 14	2	0	2	0	0	0
Air Force FY 12	14*					
Air Force FY 13	27	0	27	0	0	0
Air Force FY 14	35	0	31	0	0	4

* The Air Force did not include NJP actions in their FY 12 case summaries. It is therefore not possible to determine the breakout of their 14 reported NJP actions.



Nonjudicial Punishment Data

- Vast majority were contact offenses: primarily abusive sexual contact and wrongful sexual contact. In no case was a member found to have committed a penetrative offense at nonjudicial punishment.
- Army reported in FY 2012 – 2014 SAPRO reports that “vast majority” of offenses were “unwanted touching over clothing.”
- Air Force reported in FY 2014 SAPRO report that all NJP actions for sexual assault offenses involved touching the victim through clothing and kissing the victim without consent.



Adverse Administrative Actions

- Can include letters of reprimand or counseling, denial of reenlistment, removal from a promotion list, and various other corrective actions.
- Used to correct or document behavior when court-martial or NJP is not available or not appropriate.
- Adverse administrative actions can occur as an isolated action or in conjunction with other administrative, nonjudicial, or judicial actions.
- The Services reported the following adverse administrative action totals for sexual assault offenses:

FY 12 – 65

FY 13 – 83

FY 14 - 123



Administrative Discharges

Applicable Legislation:

- 2014 NDAA provides for mandatory punitive discharge (BCD or DD) or dismissal upon conviction at a general court-martial of a penetrative sexual assault offense or attempt to commit.
- Prior to this, the 2013 NDAA required Services to enact policies requiring administrative discharge processing of members convicted of rape, sexual assault, forcible sodomy, or attempts to commit these acts, but who did not receive a punitive discharge.

Service Policy:

- Service policies more expansive than this requirement and generally require discharge processing for members found to have committed any sexual assault offense.
 - Army requires discharge processing when member is convicted of a sexual assault offense.



Administrative Discharge Data

Issues:

- DoD SAPRO policy states that each case may be placed into only one disposition category, based on the seriousness of the action taken, even if more than one action was taken.
 - Disposition actions in order of decreasing severity: court-martial, nonjudicial punishment, administrative discharge, and other administrative actions.
- Administrative discharges frequently are initiated following court-martial or nonjudicial punishment action, rather than as a stand-alone action.
- If a member receives nonjudicial punishment action and is subsequently administratively discharged, that case will only be counted as a nonjudicial punishment for disposition and the administrative discharge may or may not be noted.
- Discharge processing can be lengthy and if not completed by the closeout of the annual report, may not have been reported.



Administrative Discharge Data

The Services reported the following administrative discharge totals for sexual assault offenses:

FY 12 = 65

FY 13 = 143

FY 14 = 229

2014	
UOTHC	107
General	76
Honorable	11
Uncharacterized	18
Pending	17

- Characterization data not available for 2012 and 2013.



Questions/Discussion