Judicial Proceedings Panel
Minutes of September 18, 2015 Public Meeting

AUTHORIZATION: The Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (JPP), is a federal advisory committee established pursuant to Section 576(a)(2) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, as amended by section 1731(b) of the NDAA for FY 2014 and section 546 of the NDAA for FY 2015, and in accordance with the Federal Advisory Committee Act of 1972, the Government in Sunshine Act of 1976, and governing federal regulations.

EVENT: The JPP held a public meeting on September 18, 2015, from 9:11 a.m. to 3:35 p.m. The Panel began the meeting to deliberate the issues regarding restitution and compensation for sexual assault victims and retaliation against individuals who report incidents of sexual assault within the military. During the afternoon session the Panel received information on crime data collection in the civilian and military criminal justice systems.

LOCATION: The meeting was held at the Holiday Inn Arlington, Arlington Ballroom, 4610 N. Fairfax Drive, Arlington, VA 22203.

MATERIALS: A verbatim transcript of the meeting, as well as preparatory materials provided to the JPP members prior to, during and after the meeting, are incorporated herein by reference and listed individually below. The meeting transcript and materials received by the Panel are available on the JPP website: http://jpp.whs.mil.

PARTICIPANTS

Participating JPP Members:
The Honorable Elizabeth Holtzman, Chair
The Honorable Barbara Jones
Professor Thomas W. Taylor
Mr. Victor Stone

JPP Members Not in Attendance:
Vice Admiral (Ret.) Patricia Tracey

Attending JPP Staff:
Colonel Kyle Green, United States Air Force, JPP Staff Director
Mr. Doug Nelson, Staff Advisor-Attorney
Ms. Julie Carson, Staff Advisor-Attorney
Ms. Meghan Tokash, Staff Advisor-Attorney

Other Participants:
Ms. Maria Fried, Office of the General Counsel, Department of Defense, Designated Federal Officer

Presenters:
Mr. Glenn R. Schmitt, Director, Office of Research and Data at the United States Sentencing Commission
Dr. Howard N. Snyder, Deputy Director, Bureau of Justice Statistics, United States Department of Justice
Dr. Cassia C. Spohn, Foundation Professor and Director, Arizona State University School of Criminology and Criminal Justice
Dr. James P. Lynch, Professor and Chair, Department of Criminology and Criminal Justice, University of Maryland
Major General Camille M. Nichols, U.S. Army, Director, Department of Defense Sexual Assault Prevention and Response Office
Dr. Nathan W. Galbreath, Senior Executive Advisor, Department of Defense Sexual Assault Prevention and Response Office

Public Comments:
No public comment

MEETING MINUTES

The DFO opened the public meeting at 9:11a.m. The Honorable Elizabeth Holtzman provided opening remarks, reviewed the tasks of the JPP, and summarized the agenda for the meeting.

Deliberations: Restitution and Compensation for Sexual Assault Victims

The Panel continued its review of issues relating to restitution and compensation for sexual assault victims, specifically the ramifications of making restitution an authorized punishment, and the creation of a compensation program similar to those adopted by States. Mr. Nelson reported back to the Panel information he obtained while attending the 2015 VOCA National Training Conference. This year's conference focused on serving American victims of crime living outside the U.S., handing multijurisdictional victim compensation cases, and recent changes in compensation rules in which the perpetrator is a family member. The Panel discussed its views and recommendations on the tasks assigned for JPP consideration, including adding restitution as an authorized court-martial punishment, amending Article 139 of the UCMJ to provide claims for bodily harm, and otherwise providing compensation from a compensation fund or from court-martial forfeitures to sexual assault victims Based on its deliberations, the Panel requested the staff draft recommendations and propose language for a DoD compensation program.

Deliberations: Retaliation against Victims of Sexual Assault Crimes

The Panel also deliberated on issues relating to retaliation against individuals who report incidents of sexual assault within the military. Col Green, Ms. Carson and Ms. Tokash provided the Panel members with information requested by the Panel to assist them in their deliberations on this topic. The Panel discussed methods for reporting retaliation and whether the process should be standardized; they also discussed how reports of retaliation are and should be investigated. The Panel requested additional information from DoD and the Services about

Inspector General procedures and results, and the members agreed to continue their discussions of the remaining issues at a future meeting.

Civilian Crime Data Collection and Analysis; Comparing Data in Federal and State Jurisdictions:

Following a break for lunch, the Panel heard from Mr. Glenn Schmitt and Dr. Howard Snyder who briefed the Panel with overviews of crime data collection by the U.S. Sentencing Commission and the Department of Justice, respectively. Each explained how their agency collects and analyzes data from various state and federal courts regarding the prosecution of criminal cases within their jurisdiction. Both described the sources of authority by which they receive crime records and data and discussed the benefits and challenges in different methods of data collection and analysis.

The presenters discussed the sources and limits of authority by which their agencies collect and analyze data, specifically observing that they did not collect or analyze data from the military justice system. They discussed the importance in mandating case data submission and collection to ensuring consistent and complete information for analysis. They also discussed agency budgets and the resources devoted to compiling and analyzing criminal case data.

How Criminologists Study the Justice System:

Dr. Cassia Spohn and Dr. James Lynch presented an overview of the methodology that is employed in the study of the various criminal justice systems. Dr. Spohn explained the importance that social science research has in providing insights regarding case processing outcomes in sexual assault cases. Dr. Lynch followed by comparing the differences between the military and civilian criminal justice systems.

The presenters discussed what they learned in their research about discretionary decision making processes in criminal investigations and the importance in obtaining representative population samples when reaching conclusions or making generalizations in crime data analysis. They also discussed previous conclusions in national and non-military crime research that found most sexual assault crimes are committed by individuals who knew their victims.

Overview of Data Collection on Sexual Assault by the Department of Defense Sexual Assault Prevention and Response Office:

In the last session of the day, Major General Camille Nichols and Dr. Nathan Galbreath briefed the Panel about sexual assault crime data that is currently tracked by DoD SAPRO. Major General Nichols presented an overview of DoD SAPRO protocols and capabilities in the collection and tracking of the data. Dr. Galbreath then discussed SAPRO reporting requirements and efforts to obtain the information on all sexual assault cases as well as the final disposition or outcome of each case. Dr. Galbreath presented and explained case flow charts which SAPRO uses to track and assess the processing of sexual assault cases from the time an assault is reported until the case is resolved.

Dr. Galbreath said DoD SAPRO now requests the Services Judge Advocates General representatives update case summary data quarterly, and General Nichols noted the data is certified and validated at the end of each year to generate the annual reports produced by DoD SAPRO. The presenters also noted that SAPRO does not collect information about post-trial sentences, including how much confinement time is actually served out of the sentence that was imposed. The presenters told the Panel that the annual SAPR report indicates how many cases resulted in a conviction on a sexual assault charge where a sexual assault charge was alleged. Dr. Galbreath said his office could provide information about the processing time for cases from the time a sexual assault report was made until the investigation was completed or until a sentence was adjudged.

Having received no requests for public comment, the DFO closed the meeting at 3:35 p.m.

CERTIFICATION

I hereby certify, to the best of my knowledge, the foregoing minutes are accurate and complete.

Elizabeth Holtzman
Chair
Judicial Proceedings Panel

MATERIALS

Meeting Records:
1. Transcript of September 18, 2015 JPP meeting, prepared by Neal R. Gross and Co., Inc.

Meeting Materials:
2. Public Meeting Table of Contents
3. Meeting Agenda
4. Presenter Biographies

Deliberation Materials:
5. JPP Staff Minutes of 2015 VOCA National Training Conference (24–27 Aug 2015)
6. Possible Changes if Restitution were made an Automatic Court-Martial Punishment
7. Questions to Consider During JPP Deliberations on Establishing a Uniform DoD Compensation Program
8. Basic Compensation Program Information
9. JPP Deliberation Guide for Issues of Retaliation

Read-Ahead Materials:
10. Summary of Read-Ahead Materials
11. 28 U.S.C. § 994 (United States Sentencing Commission)

12. U.S.S.C. Overview of Federal Criminal Cases for FY 2014
13. U.S.S.C. Preliminary Quarterly Sentencing Update, 2nd Quarterly Release (Jun 2015)
14. Bureau of Justice Statistics Report on Sex Offenses and Offenders: An analysis of Data on Rape and Sexual Assault (1997)
15. Bureau of Justice Statistics Report on Sex Assault of College-Age Females, 1995-2013 (2014)
16. Bureau of Justice Statistics Report: Profile of Intimate Partner Violence Cases in Large Urban Counties in 2002 (2009)
17. *Race and Prosecution in Manhattan*, The Vera Institute (Jul 2014)
18. *Policing and Prosecuting Sexual Assault in Los Angeles City and County*, Dr. Cassia Spohn and Dr. Katharine Tellis (2012)
19. Bureau of Justice Special Report: Profile of Intimate Partner Violence Cases in Large Urban Counties, Erica Smith and Donald Farole (Oct. 2009)

Review and Presentation Materials:

20. Bureau of Justice Statistics Report: Profile of Intimate Partner Violence Cases in Large Urban Counties in 2002 (Full Report), provided by JPP staff
21. Civilian Data Collection: Comparing Crime and Prosecution Data from State and Federal Jurisdictions, presentation presented by Dr. Howard N. Snyder
22. Social Science Research on Sexual Assault, presentation presented by Dr. Cassia Spohn
23. DoD SAPRO Director's Remarks, JPP Public Meeting, 18 Sep 2015, provided by DoD SAPRO
24. Judicial Process of Sexual Assault Crimes Charts, provided by DoD SAPRO