

Staff Summary of Reading Materials for JPP Members in Preparation for the October 9th Public Meeting

A. Materials Relevant to Courts-Martial Sentencing

1. Court-Martial Process Flow Chart (1 page)

Congress tasked the JPP with “identifying trends in punishments rendered by military courts...compared with the punishments rendered by Federal and State criminal courts” (FY13 NDAA). This quick-reference chart, prepared by the JPP Staff, serves to guide the discussion about military case processing and decisions regarding disposition and punishment.

2. Colonel James E. Baker, *Is Military Justice Sentencing On the March? Should it be? And if so, Where should it Head? Court-Martial Sentencing Process, Practice, and Issues* GEORGETOWN UNIVERSITY LAW CENTER (December 2014) (17 pages)

This article explains the structure of the military justice system and the procedural rules applicable to sentencing at courts-martial and appeals. The author frames the issues central to an informed discussion of sentencing practices with consideration for the overarching purpose of the military justice system, the unique nature of military culture and its mission.

- The purpose of military law is to promote justice, maintain good order and discipline, promote efficiency and effectiveness in the military establishment and thereby strengthen the national security of the United States. (Preamble, UCMJ)
- The military does not have sentencing guidelines.
- Military sentences are imposed in the aggregate and appellate courts review sentence appropriateness.
- Appeal of a conviction is a matter of right where the sentence includes a punitive discharge or one year or more of confinement.
- Military justice policy should be driven by reliable, empirical data.

B. Materials Relevant to Military Justice Data Management, Analysis and Reporting

3. Section 563 of the Fiscal Year 2009 National Defense Authorization Act (FY13 NDAA) (2 pages)

This statute establishes the purpose of the Defense Sexual Assault Incident Database and specifies that the database shall be used to develop and implement congressional reports

4. Defense Sexual Assault Incident Database (DSAID) Case Data Flow Overview (9 pages)

Provides a step-by-step outline of how sex assault incident information is captured in this DoD database maintained by the DoD Sexual Assault Prevention and Response Office

5. Summary of Statutory Sexual Assault Case Reporting Requirements for DoD (3 pages)

The JPP Staff has prepared a list of DoD reporting requirements contained in each NDAA since 2005 that codify the scope of DoD’s annual report to Congress and the information captured in DSAID

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6. Fiscal Year 2014 Department of Defense Sexual Assault Prevention and Response Office (SAPRO) Report, Appendix A (Statistics) (48 pages)

Provided as an illustration of the detailed statistics reported by DoD SAPRO and the sexual assault case disposition information available for completed cases that result in disciplinary action each year. See Table 4 on p. 22 for reference.

7. 2014 POTUS Report Excerpt Containing Coast Guard Statistics on Military Justice (14 pages)

Military justice and sexual assault data from the Coast Guard are not captured in DoD SAPRO reports. The Coast Guard provided statistics for the 2014 POTUS report – this excerpt is an illustration of the metrics and data used by the Coast Guard to assess its adjudicative response to sexual assault crimes.

8. UCMJ Article 146, Code Committee (2 pages)

Statute established requirement for a committee (consisting of the Judges of the U.S. Court of Appeals for the Armed Forces (CAAF) and the senior military legal advisors of the Services) to submit a report annually to Congress, the Secretary of Defense, the Service Secretaries, and Secretary of Homeland Security concerning the work of the CAAF and pending courts-martial cases in each Service.

9. Annual Report Pursuant to UCMJ Article 146 (aka “CAAF Report”) for Fiscal Year 2014 (143 pages)

The 2014 report mandated by Article 146 is illustrative of the descriptive synopses of appellate and trial-level caseload within each Military Service for the previous fiscal year. Reports for other years are available at here: http://www.armfor.uscourts.gov/newcaaf/ann_reports.htm.

10. Lisa M. Schenck, *Informing the Debate about Sexual Assault in the Military Services: Is the Department of Defense Its Own Worst Enemy?* OHIO STATE JOURNAL OF CRIMINAL LAW (2014) (95 pages)

This article provides an overview of DoD’s efforts to collect sexual assault crime data and suggests changes to DoD’s data gathering methods. The author argues against using statistical comparisons with civilian jurisdictions as a measure of the Military Services’ response to sexual assaults and recommends revised reporting requirements.

11. Examples of Periodic, Public Releases by the Military Services of Individual Courts-Martial Results

The Military Services periodically release the outcome of completed courts-martial for sexual assault and other UCMJ offenses. The documents below are provided as examples of the format and content of a typical release of court-martial information online

a. Army: August 2015 Courts-Martial Results Published in the Army Times (5 pages)

b. Navy Courts-Martial Results Published Online (2 pages)