



JUDICIAL PROCEEDINGS PANEL

Courts-Martial Statistics



JPP Task

(Sec. 576 of the FY13 NDAA)

“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.”



JPP Task

(Sec. 576 of the FY13 NDAA)

“Identify any trends in punishments rendered by military courts, including general, special, and summary courts-martial, in response to sexual assault, including the number of punishments by type, and the consistency of the punishments, based on the facts of each case compared with the punishments rendered by Federal and State criminal courts.”



JPP Task

(Sec. 576 of the FY13 NDAA)

“Review and evaluate court-martial convictions for sexual assault in the year covered by the most-recent report of the Judicial Proceedings Panel and the number and description of instances when punishments were reduced or set aside upon appeal and the instances in which the defendant appealed following a plea agreement, if such information is available.”



Court-Martial Data Collection

- JPP Staff requested the military Services provide all sexual assault cases tried (findings or sentence adjudged), dismissed, or resolved in an alternate forum in FY15
- Cases involve at least one preferred charge of sexual assault
- JPP staff requested specific court-martial documents to determine the procedural history of each case



Court-Martial Data Collection

- Differences between the FY15 data set and previous data:
 - This year the staff requested all cases; prior JPP case data did not include sexual assaults between spouses or intimate partners
 - One year of data (FY15) vs. three years (FY12-FY14)
- Case file documents verify that every case analyzed by the JPP was tried or resolved in FY15



Court-Martial Data Collection

FY 15 Total		
Number of Cases Identified by Services	Number of Cases in JPP Database	Percentage Analyzed by JPP
963	738	77%

FY12-14 Total		
Number of Cases Identified by Services	Number of Cases in JPP Database	Percentage Analyzed by JPP
2,360	1,761	74%



Court-Martial Data Collection

FY15 Data by Military Service			
Military Service	Number of Cases Identified By Service	Number of Cases in JPP Database	Percentage Analyzed by JPP
Army	469	322	69%
Air Force	202	170	84%
Navy	135	121	90%
Marine Corps	120	94	78%
Coast Guard	37	31	84%



Court-Martial Data Analysis

- Entered information from case documents into the JPP's electronic database
- Provided the aggregate data to Dr. Cassia Spohn for analysis
- Dr. Spohn analyzed data for 738 cases



Other Information for the JPP's Consideration

- Request for Information from DoD:
 - Implementation status of JPP Recommendations 37 and 38
 - DoD's Sexual Assault Data Initiative (May 2016) involving the Defense Digital Service
- Statistics from the FY15 DoD SAPRO Annual Report
- Article 140a, Case Management; Data Collection and Accessibility
 - Proposed by DoD in December 2015
 - Covers all cases, not just sexual assault, at all stages of the military justice process
 - Will take effect in 4 years



Questions?



JUDICIAL PROCEEDINGS PANEL

Appellate Review of Court-Martial Convictions



JPP Statutory Task

(Sec. 576 of the FY13 NDAA)

“Review and evaluate court-martial convictions for sexual assault in the years covered by the most-recent report required by subsection (c)(2) and the number and description of instances when punishments were reduced or set aside upon appeal and the instances in which the defendant appealed following a plea agreement, if such information is available.”



Military Appellate Review Process

- Under UCMJ, an accused convicted by court-martial is entitled to automatic review of the trial (UCMJ Articles 65 through 76)
- Review by Service Courts of Criminal Appeals (CCAs) occurs when:
 - The sentence includes confinement for one year or more; or includes death, dismissal, dishonorable discharge, or a bad-conduct discharge
 - A case is referred to the CCA by the Service TJAG
 - Note: the FY17 NDAA makes significant changes to the appellate review process



Appellate Data Collection

Data gathered:

- Cases reviewed by the CCAs that involve a conviction under Article 120 or Article 125 involving adult victims, and attempts
- Opinion or summary disposition issued by an appellate court

How JPP Staff gathered the data:

- CCA opinions are made publicly available by each of the military appellate courts on their websites
- Cases that are summarily affirmed without an opinion were requested separately by the JPP if not available on the CCA websites



Appellate Data

Adult Sexual Assault Cases Reviewed by the Service Courts of Criminal Appeals in Fiscal Year 2015

Military Service	Sexual Assault Convictions Relief Granted (Sexual Assault Conviction Set Aside or Sentence Reduced)	Sexual Assault Convictions that did not Result in Relief for the Sexual Assault Conviction	Total Sexual Assault Convictions Reviewed
Army	14	93	107
Air Force	4	39	43
Marine Corps	3	20	23
Navy	5	33	38
Coast Guard	0	2	2
TOTAL	26	187	213



Appellate Data

Analysis:

- Most cases involving relief indicated a charge or specification was set aside
- Most common reasons for appellate action:
 - Unreasonable multiplication of charges
 - Factual insufficiency
 - Post-trial delay
 - Apparent UCI in counsel's argument
 - Improper admission of MRE 413 evidence (other SA offense)



Appellate Data

Relief Granted by Service Courts of Criminal Appeals Following a Plea of Guilty

Service	Number of Cases
Army	2*
Air Force	0
Marine Corps	0
Navy	0
Coast Guard	0
TOTAL	2

*Sentencing relief granted due to dilatory post-trial processing



Civilian Conviction and Punishment Data

- JPP reviewed FY12-14 Sentencing Commission data for the 2016 data report
- Sentencing Commission had relatively few cases to report
- Most recent nationally-representative state court data:
 - Study of violent felony convictions in state courts in 2009 (Bureau of Justice Statistics report)



Non-Judicial Punishment (NJP) & Adverse Administrative Actions

- Case records not available to JPP for review/analysis
 - Personnel records (Privacy Act)
 - Records not centrally maintained
 - Records disposition/destruction date varies
- NJP & Administrative Action information taken from DoD SAPR Annual Reports
 - Total case reports where NJP and/or administrative action is indicated
 - NJP & administrative action information not uniformly reported in SAPR Annual Report case reports



Questions?