

**Defense Advisory Committee on Investigation, Prosecution, and Defense of  
Sexual Assault in the Armed Forces (DAC-IPAD)  
Public Meeting**

**April 20, 2018**

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**Defense Advisory Committee on  
Investigation, Prosecution, and Defense of  
Sexual Assault in the Armed Forces (DAC-IPAD)  
Public Meeting Agenda**

**April 20, 2018**

**One Liberty Center, Suite 1432  
875 N. Randolph Street, Arlington, Virginia**

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|--------------------------------|--|
| <b>8:30 a.m. – 9:00 a.m.</b>   | <b>Administrative Session (41 C.F.R. § 102-3.160, not subject to notice &amp; open meeting requirements)</b>   |
| <b>9:00 a.m. – 9:15 a.m.</b>   | <b>Public Meeting Begins – Welcome and Introduction</b> <ul style="list-style-type: none"><li>- <i>Designated Federal Official Opens Meeting</i></li><li>- <i>Remarks of the Chair</i></li></ul>   |
| <b>9:15 a.m. – 11:15 a.m.</b>  | <b>Best Practices for Case Management and Data Collection in Civilian Criminal Courts</b> <ul style="list-style-type: none"><li>- <i>Mr. Glenn Schmitt, Director, Office of Research and Data, U.S. Sentencing Commission</i></li><li>- <i>Mr. Wendell Skidgel, Electronic Public Access Staff, Administrative Office of the U.S. Courts</i></li><li>- <i>Ms. Margaret Sheehan McCaleb, Project Director, Next Generation CM/ECF, Case Management Systems Office, Administrative Office of the U.S. Courts</i></li></ul> |
| <b>11:15 a.m. – 12:15 p.m.</b> | <b>Lunch</b>   |
| <b>12:15 p.m. – 1:00 p.m.</b>  | <b>Updates for the Committee from the Case Review, Data, and Policy Working Groups</b>   |
| <b>1:00 p.m. – 3:00 p.m.</b>   | <b>U.S. Department of Justice, Bureau of Justice Statistics Data Collection Methodology and Current Capabilities of the Military Services' Case Management and Data Collection Programs</b>  |



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- *Dr. Allen Beck, Senior Statistical Advisor, Bureau of Justice Statistics,  
U.S. Department of Justice*
- *Lieutenant Colonel Jason Coats, U.S. Army, Operations Branch Chief,  
Criminal Law Division, Office of the Judge Advocate General*
- *Captain Michael Luken, U.S. Navy, Director, U.S. Navy Trial Counsel  
Assistance Program*
- *Major Jesse Schweig, U.S. Marine Corps, Trial Counsel Assistance  
Program, Judge Advocate Division – Military Justice*
- *Major Noel Horton, U.S. Air Force, Executive Officer, Air Force  
Judiciary Directorate, Air Force Legal Operations Agency*
- *Mr. Stephen McCleary, U.S. Coast Guard, Senior Military Justice  
Counsel, Office of Military Justice, Washington D.C.*

**3:00 p.m. – 3:15 p.m.**

**Public Comment**

**3:15 p.m.**

**Public Meeting Adjourned**

**Defense Advisory Committee on  
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Public Meeting Agenda**

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|------------------------------|--|
| <b>2:40 p.m. – 3:40 p.m.</b> | <b>Updates for the Committee from the Data, Case Review, and Policy Working Groups</b> |
| <b>3:40 p.m. – 4:00 p.m.</b> | <b>Public Comment</b>  |
| <b>4:00 p.m.</b>             | <b>Public Meeting Adjourned</b>  |

# **Article 140a (New Provision) – Case Management; Data Collection and Accessibility**

## **10 U.S.C. § 940a**

### ***1. Summary of Proposal***

This proposal would promote the development and implementation of case management, data collection, and data accessibility programs for the military justice system under standards and criteria prescribed by the Secretary of Defense.

### ***2. Summary of the Current Statute***

There is currently no UCMJ provision addressing the standards and criteria for case management, data collection, or data accessibility programs.

### ***3. Historical Background***

The military justice system developed as a highly decentralized process, with the primary responsibility for administration resting with local authorities. As a result, the responsibility for preparing records, collecting data, and providing public access to military justice information has been viewed largely as a local function, with funding responsibilities vested in officials at the installation level. Practices have varied widely among the services, and within the services, in terms of developing and implementing a modernized case management and data collection system.

### ***4. Contemporary Practice***

The UCMJ currently does not require the services to collect and maintain data for the military justice system outside of the broad categories of data collected for the annual reports required by Article 146. Each service collects, manages, and makes disclosure decisions regarding court-martial case information and documents differently through service-specific systems. The services have different programs for providing information on court-martial cases through public affairs channels. Other information typically is released only upon a request that complies with the often time-consuming requirements of the Freedom of Information Act.<sup>1</sup>

### ***5. Relationship to Federal Civilian Practice***

Federal civilian practice currently uses an electronic service called PACER (Public Access to Court Electronic Records) for United States federal court documents. PACER is a fee-based system, with specified opportunities for waiver of fees. In the field of case management, the

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<sup>1</sup> 5 U.S.C. § 552.

Federal district courts use the Case Management/Electronic Case Files (CM/ECF) system. This system allows courts to accept filings and provide access to filed documents online. In the field of data collection, the National Criminal Incident Center maintains a computerized index of criminal incidents, including information on criminal offenders and on property. Civilian law enforcement agencies nationwide use and update this system. Additionally, the United States Sentencing Commission and the Administrative Office of the United States Courts maintain and publish data relating to federal sentences, criminal caseloads, and categories of cases.<sup>2</sup> State courts employ similar systems, with the degree of modernization, centralization, and cost of access varying from state to state.

## 6. Recommendation and Justification

**Recommendation 140a:** Enact a new Article 140a requiring the development and implementation of case management, data collection, and data accessibility programs for the military justice system under standards and criteria prescribed by the Secretary of Defense.

The separate case management, data access, and data collection practices currently in use by the services makes it difficult to collect and analyze military justice data on a system-wide basis very difficult. As noted by the Response Systems Panel in its 2014 Report to Congress, “. . . the lack of uniform, offense-specific sentencing data from military courts-martial makes meaningful comparison and analysis of sentencing outcomes in military and civilian courts difficult, if not impossible.”<sup>3</sup>

This proposal would require the development of standards in the Manual for Courts-Martial outlining the minimum data collection requirements for military justice activities and statistics from across the Department of Defense and the Coast Guard.

A baseline of similarly collected and reported data would help facilitate periodic reviews of the military justice system by the Code Committee or its successor.

This proposal would better align military justice data collection with the Uniform Federal Crime Reporting Act of 1988, the victim and witness notifications mandated under the Crime Victims Fund pursuant to 42 U.S.C. §10601, the Victim's Rights and Restitution Act of 1990, and the Brady Handgun Violence Prevention Act of 1993.

Utilizing the experience of federal and state systems, there are significant opportunities to improve the efficiency of case management and the effectiveness of systemic analysis, by leveraging technology and best practices in the civilian sector. Similar considerations apply to the concept of accessibility. The civilian courts have developed systems that balance public access with the need to protect privacy, sensitive financial data, and classified information. There are well-developed models in the civilian sector which can be applied in a balanced manner to provide timely access to dockets, filings, and rulings.

<sup>2</sup> See United States Sentencing Commission website, at <http://www.ussc.gov/>; Administrative Office of the United States Courts website, at <http://www.uscourts.gov>.

<sup>3</sup> REPORT OF THE RESPONSE SYSTEMS TO ADULT SEXUAL ASSAULT CRIMES PANEL 136-137 (June 2014).

To ensure timely and effective action, the proposal requires the Secretary of Defense to develop a set of standards and criteria that would form the framework for modernization.

The Services would have the capability to add service specific requirements to the baseline. The proposal would require the Secretary of Defense to develop standards and procedures within two years after enactment of the legislation, and the services would be required to implement new systems within four years after enactment of the legislation.

## ***7. Relationship to Objectives and Related Provisions***

This proposal supports the GC Terms of Reference by incorporating the recommendations of the Response Systems Panel concerning military justice data reporting and collection.

This proposal supports MJRG Operational Guidance by adopting standards and procedures applicable to criminal justice data collection in the civilian sector insofar as practicable in military criminal practice.

The collection and analysis of that data will provide a critical foundation to the development of sentencing parameters and guidelines under Article 56, and would facilitate the periodic evaluation of the military justice called for in this report under Article 146. This proposal would enable military justice managers to better take advantage of the opportunities for efficiency created by the amendments proposed in this report.

## ***8. Legislative Proposal***

### **SEC. 1104. MILITARY JUSTICE CASE MANAGEMENT; DATA COLLECTION AND ACCESSIBILITY.**

(a) IN GENERAL.—Subchapter XI of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section (article):

#### **“§940a. Art. 140a. Case management; data collection and accessibility**

“The Secretary of Defense shall prescribe uniform standards and criteria for conduct of each of the following functions at all stages of the military justice system, including pretrial, trial, post-trial, and appellate processes, using, insofar as practicable, the best practices of Federal and State courts:

“(1) Collection and analysis of data concerning substantive offenses and procedural matters in a manner that facilitates case management and decision making within the military justice system, and that enhances the quality of periodic reviews under section 946 of this title (article 146).

“(2) Case processing and management.

“(3) Timely, efficient, and accurate production and distribution of records of trial within the military justice system.

“(4) Facilitation of access to docket information, filings, and records, taking into consideration restrictions appropriate to judicial proceedings and military records.”.

(b) EFFECTIVE DATES.—(1) Not later than 2 years after the date of the enactment of this Act, the Secretary of Defense shall carry out section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a).

(2) Not later than 4 years after the date of the enactment of this Act, the standards and criteria under section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a), shall take effect.

## ***9. Sectional Analysis***

*Section 1104(a)* would create a new section, Article 140a (Case management; data collection, and accessibility), which would require the Secretary of Defense to prescribe uniform standards and criteria for case processing and management, military justice data collection, production and distribution of records of trial, and access to case information. The purpose of this section is to enhance the management of cases, the collection of data

necessary for evaluation and analysis, and to provide appropriate public access to military justice information at all stages of court-martial proceedings. At a minimum, the system developed for implementation should permit timely and appropriate access to filings, objections, instructions, and judicial rulings at the trial and appellate level, and to actions at trial and in subsequent proceedings concerning the findings and sentences of courts-martial.

*Section 1104(b)* provides the timeline for implementation of Section 1104(a). In order to provide appropriate time for implementation, this section would require promulgation of standards by the Secretary of Defense not later than two years after enactment of Section 1104, with an effective date for such standards not later than four years after enactment.

# Article 146 – Code Committee & Article 146a (New Provision) – Annual Reports

## 10 U.S.C. §§ 946-46a

### *1. Summary of Proposal*

This proposal would enhance the efficiency and effectiveness of the UCMJ by establishing a blue ribbon panel of experts to conduct a periodic evaluation of military justice practices and procedures on a regular basis. This proposal also would create a new statute, Article 146a, to retain the valuable informational aspects of the annual reports issued individually by the Court of Appeals for the Armed Forces, the Judge Advocates General, and the Staff Judge Advocate to the Commandant of the Marine Corps.

### *2. Summary of the Current Statute*

Article 146 provides for a Code Committee, consisting of the judges of the Court of Appeals for the Armed Forces, the individual service Judge Advocates General, the Staff Judge Advocate to the Commandant of the Marine Corps, and two members of the public appointed by the Secretary of Defense. The statute requires the Code Committee to meet at least once a year, to make an annual survey, and to submit an annual report to designated congressional and executive branch officials containing military justice data and any recommendations from the Committee regarding sentence uniformity, proposed amendments, or any other matter that the Committee considers appropriate.

### *3. Historical Background*

Congress established the Code Committee under Article 67 of the UCMJ as enacted in 1950, consisting of the Judges of the Court of Military Appeals (the original title of the Court of Appeals for the Armed Forces) and the Judge Advocates General.<sup>1</sup> Since 1950, Congress has added two public members and the Staff Judge Advocate to the Commandant of the Marine Corps to the Committee; Congress also has added various data items for inclusion in Committee's annual reports.<sup>2</sup>

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<sup>1</sup> Act of May 5, 1950, Pub. L. No. 81-506, ch. 169, 64 Stat. 108.

<sup>2</sup> NDAA FY 1990 and 1991, 101 Pub. L. 189, § 1301(c), 103 Stat. 1352 (1989) (restatement and revision of subchapter XI of the UCMJ applicable to the Court of Appeals for the Armed Forces, then known as the Court of Military Appeals); NDAA FY 2013, 112 Pub. L. 239, § 532, 126 Stat. 1632 (2013) (requiring Code Committee to include in its report information concerning the appellate review process, practice of counsel and military judges in certain types of cases, and information on sufficiency of resources available to capably perform military justice functions).



#### 4. Contemporary Practice

Since the UCMJ was enacted in 1950, the Code Committee's mission and function has evolved. Today, the Committee primarily concentrates its efforts on preparing an annual report that focuses mainly on military justice data, recent developments in the law, and related matters. In recent decades the Committee has not served as a vehicle for recommending substantive amendments to the UCMJ or the Manual for Courts-Martial.<sup>3</sup>

From time to time, Congress has established various blue ribbon advisory groups to address specific aspects of the military justice system.<sup>4</sup> The Services and outside entities have also conducted reviews that are often cited by military justice practitioners.<sup>5</sup>

Within the executive branch, the Joint Service Committee on Military Justice exercises the primary responsibility for recommending changes to the UCMJ and the MCM.<sup>6</sup> The members of the Joint Service Committee and its working group all have other major responsibilities, and serve on the Joint Service Committee as a collateral duty. Neither the Code Committee nor the Joint Service Committee has the full-time staffing necessary to conduct comprehensive periodic reviews of a complex governmental process, such as the military justice system, on a regular basis. As a result, the Code Committee has focused on the collection of information required for the annual report, and the Joint Service Committee has focused on targeted issues.

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<sup>3</sup> The Code Committee's annual reports are available at [http://www.armfor.uscourts.gov/newcaaf/ann\\_reports.htm](http://www.armfor.uscourts.gov/newcaaf/ann_reports.htm).

<sup>4</sup> See, e.g., NDAA FY 2013, Pub. L. No. 112-239, § 576(a)(1), 126 Stat. 1632 (2013) (requiring the Secretary of Defense to establish the Response Systems to Adult Sexual Assault Crimes Panel and the follow-on Judicial Proceedings Since Fiscal Year 2012 Amendments Panel).

<sup>5</sup> See REPORT OF THE COMMISSION ON THE 50TH ANNIVERSARY OF THE UNIFORM CODE OF MILITARY JUSTICE (2001) (sponsored by the National Institute on Military Justice and Chaired by former Chief Judge of the Court of Appeals for the Armed Forces Walter T. Cox III, known as the "Cox Commission"), *available at* [http://www.loc.gov/rr/frd/Military\\_Law/pdf/Cox-Commission-Report-2001.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/Cox-Commission-Report-2001.pdf); AD HOC COMMITTEE TO STUDY THE UNIFORM CODE OF MILITARY JUSTICE, REPORT TO HON. WILLIAM R. BRUCKER, SECRETARY OF THE ARMY (Jan 18, 1960) (the "Powell Report"), *available at* [http://www.loc.gov/rr/frd/Military\\_Law/pdf/Powell\\_report.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/Powell_report.pdf).

<sup>6</sup> Exec. Order No. 12,473, 3 C.F.R. 1984 Comp., p. 201 (April 13, 1984) (rescinding the 1969 Manual for Courts-Martial and replacing it with the 1984 Manual, effective August 1, 1984 and requiring that "The Secretary of Defense shall cause this Manual to be reviewed annually and shall recommend to the President any appropriate amendments."). See also MCM, App. 26 (U.S. DEP'T OF DEF. DIR. 5500.17, ROLE AND RESPONSIBILITIES OF THE JOINT SERVICE COMMITTEE (JSC) ON MILITARY JUSTICE (May 3, 2003)), *available at* <http://www.dtic.mil/whs/directives/corres/pdf/550017p.pdf>. The Joint Service Committee reports to the General Counsel of the Department of Defense, and is comprised of voting members from the Judge Advocates General of the Navy, Air Force, Army and Coast Guard, and the Staff Judge Advocate of the Marine Corps. See The Joint Service Committee on Military Justice (JSC), *available at* <http://www.jsc.defense.gov>.

## 5. Relationship to Federal Civilian Practice

Congress has, from time to time, provided legislative authority for the Supreme Court to prescribe rules of procedure for the lower courts of the United States.<sup>7</sup> In 1948, Congress created the Judicial Conference, with the Chief Justice of the United States as the presiding officer.<sup>8</sup> Over time, the work and oversight of the rulemaking process has been delegated by the Court to committees of the Judicial Conference, the principal policy-making body of the United States Courts. The Judicial Conference is required to:

Make a comprehensive survey of the conditions of business in the courts of the United States;

Prepare plans for the assignment of judges to or from courts of appeals or district courts, where necessary;

Submit suggestions to the various courts in the interest of promoting uniformity of management procedures and the expeditious conduct of court business;

Exercise authority provided in the United States Codes for the review of circuit council conduct and disability orders filed under that chapter; and

Carry on a continuous study of the operation and effect of the general rules of practice and procedure in use within the federal courts, as prescribed by the Supreme Court pursuant to law.<sup>9</sup>

The advisory committees on appellate, bankruptcy, civil, criminal, and evidence rules evaluate suggestions for rules amendments in the first instance. If an advisory committee pursues a proposal, it may seek permission from the Standing Committee to publish a draft of the contemplated amendment. Based on comments from the bench, bar, and general public, the advisory committee may then choose to discard, revise, or transmit the amendment as contemplated to the Standing Committee. The Standing Committee independently reviews the findings of the advisory committees and, if satisfied, recommends changes to the Judicial Conference, which in turn recommends changes to the Supreme Court. The Court considers the proposals and, if it concurs, typically promulgates the revised rules by order before May 1, to take effect no earlier than December 1 of the same year unless Congress enacts legislation to reject, modify, or defer the pending rules.

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<sup>7</sup> See 28 U.S.C. § 2071 *et seq.* (2012).

<sup>8</sup> 28 U.S.C. § 331 (2012) (establishing the Judicial Conference of the United States and setting forth its duties and requirements). “The fundamental purpose of the Judicial Conference today is to make policy with regard to the administration of the U.S. Courts.” See Judicial Conference of the United States’ website, *available at* <http://www.uscourts.gov/FederalCourts/JudicialConference.aspx>.

<sup>9</sup> *Id.*

## 6. Recommendation and Justification

**Recommendation 146.1:** Establish a blue ribbon committee—the Military Justice Review Panel—composed of experts in military law and civilian criminal law, to conduct periodic reviews of the military justice system.

The proposed Military Justice Review Panel would be composed of thirteen members. Each of the following officials would select one person to serve on the Panel: the Secretary of Defense (in consultation with the Secretary of Homeland Security), the Attorney General, the Judge Advocates General of the Army, Navy, Air Force, and Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps. The remaining members of the Panel would be selected by the Secretary of Defense based upon the recommendations of the each of the following: the chairman and ranking minority member of the House Armed Services Committee and the Senate Armed Services Committee, the Chief Justice of the United States, and the Chief Judge of the U.S. Court of Appeals for the Armed Forces. The Secretary of Defense would designate one member as the Chair; the Panel would have a full-time staff.

The Panel would issue its first report four years after the effective date of the legislation, focusing on the implementation of any recent amendments to the UCMJ and Manual for Courts-Martial. Eight years after the effective date of the legislation, the Panel would issue its first comprehensive review of the UCMJ and Manual for Courts-Martial. Thereafter, the Panel would issue comprehensive reports every eight years. Within each eight year cycle the Panel would issue targeted reports at the mid-point of each cycle, and could issue additional reports on matters referred to the Panel by the Secretary of Defense or Congress.

This proposal is based on the concept that periodic review needs to be scheduled on a regular basis, but that it should not be so frequent that the constant process of review and change becomes more disruptive than helpful to judges and lawyers who must have a degree of stability in order to engage in effective practice. Accordingly, the comprehensive reviews are scheduled on an eight year schedule.

This proposal also relies on the expectation that the Joint Service Committee will continue to conduct its vital role within the executive branch addressing the type of targeted adjustments in law and regulation that are required on a more frequent basis to address specific issues in the law.

**Recommendation 146.2:** Retain the valuable informational aspects of the annual reports issued individually by the Court of Appeals for the Armed Forces, the Judge Advocates General, and the Staff Judge Advocate to the Commandant of the Marine Corps and set forth those requirements in a new statute, Article 146a.

This proposal would create a new statute, Article 146a. The proposal anticipates that the individual reports will be compiled into a single volume using the procedures currently employed to combine individual reports into a consolidated report under the present version of Article 146.

## ***7. Relationship to Objectives and Related Provisions***

Establishing a blue ribbon panel with the responsibility for periodic review of the UCMJ and MCM will enhance the potential for those responsible for military justice to fulfill their mission in a manner that adjusts to the evolution of legal and national requirements.

## ***8. Legislative Proposal***

### **SEC. 1201. MILITARY JUSTICE REVIEW PANEL.**

Section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), is amended to read as follows:

#### **“§946. Art. 146. Military Justice Review Panel**

“(a) ESTABLISHMENT.—The Secretary of Defense shall establish a panel to conduct independent periodic reviews and assessments of the operation of this chapter. The panel shall be known as the ‘Military Justice Review Panel’, in this section referred to as the ‘Panel’.

“(b) MEMBERS.—(1) The Panel shall be composed of thirteen members.

“(2) Each of the following shall select one member of the Panel:

“(A) The Secretary of Defense (in consultation with the Secretary of Homeland Security).

“(B) The Attorney General.

“(C) The Judge Advocates General of the Army, Navy, Air Force, and Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps.

“(3) The Secretary of Defense shall select the remaining members of the Panel, taking into consideration recommendations made by each of the following:

“(A) The chairman and ranking minority member of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

“(B) The Chief Justice of the United States.

“(C) The Chief Judge of the United States Court of Appeals for the Armed Forces.

“(c) QUALIFICATIONS OF MEMBERS.—The members of the Panel shall be appointed from among private United States citizens with expertise in criminal law, as well as appropriate and diverse experience in investigation, prosecution, defense, victim representation, or adjudication with respect to courts-martial, Federal civilian courts, or State courts.

“(d) CHAIR.—The Secretary of Defense shall select the chair of the Panel from among the members.

“(e) TERM; VACANCIES.—Each member shall be appointed for a term of eight years, and no member may serve more than one term. Any vacancy shall be filled in the same manner as the original appointment.

“(f) REVIEWS AND REPORTS.—

“(1) INITIAL REVIEW OF RECENT AMENDMENTS TO UCMJ.—During fiscal year 2020, the Panel shall conduct an initial review and assessment of the implementation of the amendments made to this chapter during the preceding five years. In

conducting the initial review and assessment, the Panel may review such other aspects of the operation of this chapter as the Panel considers appropriate.

“(2) PERIODIC COMPREHENSIVE REVIEWS.—During fiscal year 2024 and every eight years thereafter, the Panel shall conduct a comprehensive review and assessment of the operation of this chapter.

“(3) PERIODIC INTERIM REVIEWS.—During fiscal year 2028 and every eight years thereafter, the Panel shall conduct an interim review and assessment of such other aspects of the operation of this chapter as the Panel considers appropriate. In addition, at the request of the Secretary of Defense, the Panel may, at any time, review and assess other specific matters relating to the operation of this chapter.

“(4) REPORTS.—Not later than December 31 of each year during which the Panel conducts a review and assessment under this subsection, the Panel shall submit a report on the results, including the Panel’s findings and recommendations, through the Secretary of Defense to the Committees on Armed Services of the Senate and the House of Representatives.

“(g) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate to carry out its duties under this section.

“(h) INFORMATION FROM FEDERAL AGENCIES.—Upon request of the chair of the Panel, a department or agency of the Federal Government shall provide

information that the Panel considers necessary to carry out its duties under this section.

“(i) ADMINISTRATIVE MATTERS.—

“(1) MEMBERS TO SERVE WITHOUT PAY.—Members of the Panel shall serve without pay, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Panel.

“(2) STAFFING AND RESOURCES.—The Secretary of Defense shall provide staffing and resources to support the Panel.

“(j) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel.”.

## **SEC. 1202. ANNUAL REPORTS.**

Subchapter XII of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section (article):

### **“§946a. Art. 146a. Annual reports**

“(a) COURT OF APPEALS FOR THE ARMED FORCES.—Not later than December 31 of each year, the Court of Appeals for the Armed Forces shall submit a report that, with respect to the previous fiscal year, provides information on the number and

status of pending cases and such other matters as the Court considers appropriate regarding the operation of this chapter.

“(b) SERVICE REPORTS.—Not later than December 31 of each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:

“(1) Data on the number and status of pending cases.

“(2) Information on the appellate review process, including—

“(A) information on compliance with processing time goals;

“(B) descriptions of the circumstances surrounding cases in which general or special court-martial convictions were (i) reversed because of command influence or denial of the right to speedy review or (ii) otherwise remitted because of loss of records of trial or other administrative deficiencies; and

“(C) an analysis of each case in which a provision of this chapter was held unconstitutional.

“(3)(A) An explanation of measures implemented by the armed force involved to ensure the ability of judge advocates—

“(i) to participate competently as trial counsel and defense counsel in cases under this chapter;

“(ii) to preside as military judges in cases under this chapter; and



“(iii) to perform the duties of Special Victims’ Counsel, when so designated under section 1044e of this title.

“(B) The explanation under subparagraph (A) shall specifically identify the measures that focus on capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

“(4) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

“(5) Such other matters regarding the operation of this chapter as may be appropriate.

“(c) SUBMISSION.—Each report under this section shall be submitted—

“(1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

“(2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Homeland Security.”.

## ***9. Sectional Analysis***

*Section 1201* would amend Article 146 (Code committee) and retitle the statute as “Military Justice Review Panel.” The Military Justice Review Panel would replace the Code Committee. The Military Justice Review Panel would be an independent, blue ribbon panel of experts tasked to conduct a periodic evaluation of military justice practices and

procedures on a regular basis, thereby enhancing the efficiency and effectiveness of the UCMJ and the Code's implementing regulations.

The proposed Military Justice Review Panel would be composed of thirteen members. Each of the following officials would select one person to serve on the Panel: the Secretary of Defense (in consultation with the Secretary of Homeland Security), the Attorney General, the Judge Advocates General of the Army, Navy, Air Force, and Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps. The remaining members of the Panel would be selected by the Secretary of Defense based upon the recommendations of each of the following: the chairman and ranking minority member of the House Armed Services Committee and the Senate Armed Services Committee, the Chief Justice of the United States, and the Chief Judge of the U.S. Court of Appeals for the Armed Forces. The Secretary of Defense would designate one member as the Chair; the Panel would have a full-time staff.

The Panel would issue its first report four years after the effective date of the legislation, focusing on the implementation of any recent amendments to the UCMJ and Manual for Courts-Martial. Eight years after the effective date of the legislation, the Panel would issue its first comprehensive review of the UCMJ and Manual for Courts-Martial. Thereafter, the Panel would issue comprehensive reports every eight years. Within each eight year cycle, the Panel would issue targeted reports at the mid-point of each cycle, and could issue additional reports on matters referred to the Panel by the Secretary of Defense or Congress.

This proposal is based on the concept that periodic review needs to be scheduled on a regular basis, but that it should not be so frequent that the constant process of review and change becomes more disruptive than helpful to judges and lawyers who must have a degree of stability in order to engage in effective practice. Accordingly, the comprehensive reviews are scheduled on an eight-year schedule.

This proposal also relies on the expectation that the Joint Service Committee will continue to conduct its vital role within the executive branch addressing the type of targeted adjustments in law and regulation that are required on a more frequent basis to address specific issues in the law.

*Section 1202* would create a new section, Article 146a (Annual reports), to retain the valuable informational aspects of the annual reports issued individually by the Court of Appeals for the Armed Forces, the Judge Advocates General, and the Staff Judge Advocate to the Commandant of the Marine Corps. The proposal anticipates that the individual reports will be compiled into a single volume using the procedures currently employed to combine individual reports into a consolidated report under the present version of Article 146.



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

1600 DEFENSE PENTAGON  
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OCT -3 2017

GENERAL COUNSEL

MEMORANDUM FOR CHAIR, JOINT SERVICE COMMITTEE ON MILITARY JUSTICE

SUBJECT: Charter of the Article 140A Implementation Subcommittee of the Joint Service Committee on Military Justice (JSC)

On August 29, 2017, I approved the request of the JSC to form a subcommittee to study implementation of Section 5504 of the National Defense Authorization Act for Fiscal Year 2017. Attached is a charter to guide that subcommittee's work.

I am grateful to you and the other members of the JSC for your ongoing work to strengthen the military justice system as the Department of Defense implements the extensive reforms that Congress enacted last year.

A handwritten signature in black ink, appearing to read "William S. Castle", is positioned above the typed name.

William S. Castle  
Acting General Counsel

Attachment:  
As stated



## CHARTER OF THE ARTICLE 140A IMPLEMENTATION SUBCOMMITTEE OF THE JOINT SERVICE COMMITTEE ON MILITARY JUSTICE

**1. Name of Committee:** Joint Service Committee (JSC) on Military Justice Article 140a Implementation Subcommittee (JSC-140a).

**2. Date Tasking Established:** Upon written approval of this Charter by the Acting General Counsel of the Department of Defense.

**3. Duration:** The JSC-140a is tasked with studying implementation of Section 5504 of the National Defense Authorization Act for Fiscal Year 2017 (NDAA for FY17), Pub. L. No. 114-328, with respect to the objectives stated below and shall submit recommendations to the JSC Voting Group. The JSC Voting Group shall then submit a report to the General Counsel of the Department of Defense via the Deputy General Counsel for Personnel and Health Policy (DGC (P&HP)) no later than December 1, 2017. The DGC P&PH may approve an extension of this deadline as necessary.

**4. Category and Type of Committee:** The JSC was established by Executive Order 12473 and DoD Directive 5500.17. The JSC-140a is created by this charter.

**5. Mission:** The JSC-140a will conduct a study and make recommendations to the JSC Voting Group concerning how to best implement Article 140a of the Uniform Code of Military Justice as enacted by the NDAA for FY17. The JSC Voting Group will assess the subcommittee's recommendations and submit those recommendations with which it concurs, or recommendations with which it concurs as revised, to the General Counsel of the Department of Defense via the DGC P&HP.

**6. Objectives:** In accordance with the Implementation Plan for Section 5504 of the National Defense Authorization Act for Fiscal Year 2017 (NDAA for FY17), Pub. L. No. 114-328 memorandum dated August 29, 2017, JSC-140a shall review:

### a. Case Data Collection

1. Assess the strengths and weaknesses of each Service's case tracking system;
2. Analyze what data fields are currently being collected;
3. Recommend what data fields the Services should collect;
4. Propose uniform definitions for the data fields the Services should collect;
5. Inform the JSC of any required changes to existing case tracking systems to collect the additional data;
6. Make recommendations as to how to collect and report data;

7. Recommend standardized methods to collect data concerning race and ethnicity of individuals involved in the military justice system; and

8. Study the case data collection system or systems currently used in connection with criminal cases tried in United States District Courts.

b. Access to Case Records

1. Assess what records are currently being made available by the Services, the authorized recipients of those records, how the records are provided, and at what point in the military justice process those records are provided;

2. Assess existing administrative burdens associated with the release of court-martial records;

3. Propose uniform standards for the Services to apply when determining what records should be made available, to whom such records should be released, and the point in the military justice process at which those records should be released;

4. Study and conform proposed uniform standards to comparable public document availability in criminal trials in United States District Courts, taking into account, assessing, and offering recommendations concerning the policies and practices of the Court of Appeals for the Armed Forces and each Military Department's Court of Criminal Appeals;

5. Propose a timeline for implementation of rules standardizing access to case records, including the feasibility of implementing access throughout the military justice system at one time versus staggering implementation by various phases of the military justice process;

6. Make an assessment of and recommendation on the use of the Public Access to Court Electronic Records (PACER) service;

7. If PACER is not recommended, or if it is not recommended for some specific level of the military justice system, propose an alternative system and assess the resources needed to establish such a system;

8. Address how to protect against the inappropriate release of personally identifiable information (PII) in connection with availability of court-martial records and recommend any changes to the Uniform Code of Military Justice, the Manual for Courts-Martial, implementing regulations, or rules of court that should be adopted to protect against the inappropriate release of PII;

9. Study and provide recommendations concerning Recommendation 37 included in the Judicial Proceedings Panel's April 2016 Report on Statistical Data Regarding Military Adjudication of Sexual Assault Offenses.

**7. Direction and Control:** The JSC-140a will report to and receive its direction from the JSC, which, in turn, will report to and receive its direction from the General Counsel.

**8. Authority:** 10 U.S.C. § 140; DoD Directive 5500.17.

**9. Staff Arrangements:** The JSC-140a shall consist of legal and information technology experts from each of the Department of Defense Military Services as designated by the Judge Advocates General of the Army, Navy, and Air Force, and the Staff Judge Advocate to the Commandant of the Marine Corps. The Judge Advocate General of the Coast Guard is invited to provide members to the subcommittee as well. The senior judge advocate assigned to the subcommittee will serve as its chair. The subcommittee may invite advisory members who are serving military members or full-time or permanent part-time civilian employees of the Federal Government to participate in the study. Representatives from the Courts of Criminal Appeals, the Court of Appeals for the Armed Forces, and Defense Digital Services, or other legal and information technology experts within the United States Government may be included as advisory members.

**10. Committee Level:** The JSC-140a is a subcommittee of the JSC, with no additional subcommittees.

**11. Correspondence:** The POC for any communications to or from the subcommittee will be the Chair of the JSC, CAPT Warren A. Record, JAGC, USN, for this memorandum, at (202) 685-7057 or by email at [warren.record@navy.mil](mailto:warren.record@navy.mil).

## 28 USCS § 994

Current through PL 115-129, approved 2/26/18

***United States Code Service - Titles 1 through 54 > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE > PART III. COURT OFFICERS AND EMPLOYEES > CHAPTER 58. UNITED STATES SENTENCING COMMISSION***

### **§ 994. Duties of the Commission**

---

- (a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of any Federal statute shall promulgate and distribute to all courts of the United States and to the United States Probation System--
  - (1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including--
    - (A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;
    - (B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;
    - (C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term;
    - (D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively; and
    - (E) a determination under paragraphs (6) and (11) of section 3563(b) of title 18;
  - (2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in *section 3553(a)(2) of title 18, United States Code*, including the appropriate use of--
    - (A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;
    - (B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;
    - (C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, and 3582(c) of title 18;
    - (D) the fine imposition provisions set forth in section 3572 of title 18;
    - (E) the authority granted under [\*rule 11\(e\)\(2\) of the Federal Rules of Criminal Procedure\*](#) to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and
    - (F) the temporary release provisions set forth in section 3622 of title 18, and the prerelease custody provisions set forth in section 3624(c) of title 18; and
  - (3) guidelines or general policy statements regarding the appropriate use of the provisions for revocation of probation set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of supervised release and revocation of supervised release set forth in section 3583(e) of title 18.
- (b)
  - (1) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code.

- (2) If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than the greater of 25 percent or 6 months, except that, if the minimum term of the range is 30 years or more, the maximum may be life imprisonment.
- (c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents [incidence] of an appropriate sentence, and shall take them into account only to the extent that they do have relevance--
- (1) the grade of the offense;
  - (2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;
  - (3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;
  - (4) the community view of the gravity of the offense;
  - (5) the public concern generated by the offense;
  - (6) the deterrent effect a particular sentence may have on the commission of the offense by others; and
  - (7) the current incidence of the offense in the community and in the Nation as a whole.
- (d) The Commission in establishing categories of defendants for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, with respect to a defendant, have any relevance to the nature, extent, place of service, or other incidents [incidence] of an appropriate sentence, and shall take them into account only to the extent that they do have relevance--
- (1) age;
  - (2) education;
  - (3) vocational skills;
  - (4) mental and emotional condition to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;
  - (5) physical condition, including drug dependence;
  - (6) previous employment record;
  - (7) family ties and responsibilities;
  - (8) community ties;
  - (9) role in the offense;
  - (10) criminal history; and
  - (11) degree of dependence upon criminal activity for a livelihood.
- The Commission shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders.
- (e) The Commission shall assure that the guidelines and policy statements, in recommending a term of imprisonment or length of a term of imprisonment, reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant.



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- (f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1) [[28 USCS § 991\(b\)\(1\)](#)], with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.
- (g) The Commission, in promulgating guidelines pursuant to subsection (a)(1) to meet the purposes of sentencing as set forth in *section 3553(a)(2) of title 18, United States Code*, shall take into account the nature and capacity of the penal, correctional, and other facilities and services available, and shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter [[28 USCS §§ 991](#) et seq.]. The sentencing guidelines prescribed under this chapter [[28 USCS §§ 991](#) et seq.] shall be formulated to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons, as determined by the Commission.
- (h) The Commission shall assure that the guidelines specify a sentence to a term of imprisonment at or near the maximum term authorized for categories of defendants in which the defendant is eighteen years old or older and--
- (1) has been convicted of a felony that is--
    - (A) a crime of violence; or
    - (B) an offense described in section 401 of the Controlled Substances Act (*21 U.S.C. 841*), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act ([21 U.S.C. 952\(a\)](#), [955](#), and [959](#)), and chapter 705 of title 46 [[46 USCS §§ 70501](#) et seq.]; and
  - (2) has previously been convicted of two or more prior felonies, each of which is--
    - (A) a crime of violence; or
    - (B) an offense described in section 401 of the Controlled Substances Act (*21 U.S.C. 841*), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act ([21 U.S.C. 952\(a\)](#), [955](#), and [959](#)), and chapter 705 of title 46 [[46 USCS §§ 70501](#) et seq.].
- (i) The Commission shall assure that the guidelines specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant--
- (1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions;
  - (2) committed the offense as part of a pattern of criminal conduct from which the defendant derived a substantial portion of the defendant's income;
  - (3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity;
  - (4) committed a crime of violence that constitutes a felony while on release pending trial, sentence, or appeal from a Federal, State, or local felony for which he was ultimately convicted; or
  - (5) committed a felony that is set forth in section 401 or 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (*21 U.S.C. 841* and [960](#)), and that involved trafficking in a substantial quantity of a controlled substance.
- (j) The Commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury.
- (k) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.
- (l) The Commission shall insure that the guidelines promulgated pursuant to subsection (a)(1) reflect--
- (1) the appropriateness of imposing an incremental penalty for each offense in a case in which a defendant is convicted of--

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- (A) multiple offenses committed in the same course of conduct that result in the exercise of ancillary jurisdiction over one or more of the offenses; and
- (B) multiple offenses committed at different times, including those cases in which the subsequent offense is a violation of section 3146 [28 USCS § 3146] (penalty for failure to appear) or is committed while the person is released pursuant to the provisions of section 3147 [28 USCS § 3147] (penalty for an offense committed while on release) of title 18; and
- (2) the general inappropriateness of imposing consecutive terms of imprisonment for an offense of conspiring to commit an offense or soliciting commission of an offense and for an offense that was the sole object of the conspiracy or solicitation.
- (m) The Commission shall insure that the guidelines reflect the fact that, in many cases, current sentences do not accurately reflect the seriousness of the offense. This will require that, as a starting point in its development of the initial sets of guidelines for particular categories of cases, the Commission ascertain the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served. The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the purposes of sentencing described in *section 3553(a)(2) of title 18, United States Code*.
- (n) The Commission shall assure that the guidelines reflect the general appropriateness of imposing a lower sentence than would otherwise be imposed, including a sentence that is lower than that established by statute as a minimum sentence, to take into account a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense.
- (o) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the Federal criminal justice system. The United States Probation System, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Public Defenders shall submit to the Commission any observations, comments, or questions pertinent to the work of the Commission whenever they believe such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.
- (p) The Commission, at or after the beginning of a regular session of Congress, but not later than the first day of May, may promulgate under subsection (a) of this section and submit to Congress amendments to the guidelines and modifications to previously submitted amendments that have not taken effect, including modifications to the effective dates of such amendments. Such an amendment or modification shall be accompanied by a statement of the reasons therefor and shall take effect on a date specified by the Commission, which shall be no earlier than 180 days after being so submitted and no later than the first day of November of the calendar year in which the amendment or modification is submitted, except to the extent that the effective date is revised or the amendment is otherwise modified or disapproved by Act of Congress.
- (q) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. Such report shall be based upon consideration of a variety of alternatives, including--
  - (1) modernization of existing facilities;
  - (2) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security; and
  - (3) use of existing Federal facilities, such as those currently within military jurisdiction.
- (r) The Commission, not later than two years after the initial set of sentencing guidelines promulgated under subsection (a) goes into effect, and thereafter whenever it finds it advisable, shall recommend to the Congress that it raise or lower

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the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

- (s) The Commission shall give due consideration to any petition filed by a defendant requesting modification of the guidelines utilized in the sentencing of such defendant, on the basis of changed circumstances unrelated to the defendant, including changes in--
  - (1) the community view of the gravity of the offense;
  - (2) the public concern generated by the offense; and
  - (3) the deterrent effect particular sentences may have on the commission of the offense by others.
- (t) The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(1)(A) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples. Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.
- (u) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify in what circumstances and by what amount the sentences of prisoners serving terms of imprisonment for the offense may be reduced.
- (v) The Commission shall ensure that the general policy statements promulgated pursuant to subsection (a)(2) include a policy limiting consecutive terms of imprisonment for an offense involving a violation of a general prohibition and for an offense involving a violation of a specific prohibition encompassed within the general prohibition.
- (w) (1) The Chief Judge of each district court shall ensure that, within 30 days following entry of judgment in every criminal case, the sentencing court submits to the Commission, in a format approved and required by the Commission, a written report of the sentence, the offense for which it is imposed, the age, race, sex of the offender, and information regarding factors made relevant by the guidelines. The report shall also include--
  - (A) the judgment and commitment order;
  - (B) the written statement of reasons for the sentence imposed (which shall include the reason for any departure from the otherwise applicable guideline range and which shall be stated on the written statement of reasons form issued by the Judicial Conference and approved by the United States Sentencing Commission);
  - (C) any plea agreement;
  - (D) the indictment or other charging document;
  - (E) the presentence report; and
  - (F) any other information as the Commission finds appropriate.

The information referred to in subparagraphs (A) through (F) shall be submitted by the sentencing court in a format approved and required by the Commission.

- (2) The Commission shall, upon request, make available to the House and Senate Committees on the Judiciary, the written reports and all underlying records accompanying those reports described in this section, as well as other records received from courts.
- (3) The Commission shall submit to Congress at least annually an analysis of these documents, any recommendations for legislation that the Commission concludes is warranted by that analysis, and an accounting of those districts that the Commission believes have not submitted the appropriate information and documents required by this section.
- (4) The Commission shall make available to the Attorney General, upon request, such data files as the Commission itself may assemble or maintain in electronic form as a result of the information submitted under paragraph (1). Such data files shall be made available in electronic form and shall include all data fields requested, including the identity of the sentencing judge.

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- (x) The provisions of section 553 of title 5, relating to publication in the Federal Register and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.
- (y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.

## History

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(Added Oct. 12, 1984, [P.L. 98-473](#), Title II, Ch II, § 217(a), [98 Stat. 2019](#); Dec. 26, 1985, [P.L. 99-217](#), § 3, [99 Stat. 1728](#); July 11, 1986, [P.L. 99-363](#), § 2, [100 Stat. 770](#); Oct. 27, 1986, [P.L. 99-570](#), Title I, Subtitle A, §§ 1006(b), 1008, [100 Stat. 3207-7](#); Nov. 10, 1986, [P.L. 99-646](#), §§ 6(b), 56, [100 Stat. 3592](#), 3611; Dec. 7, 1987, [P.L. 100-182](#), §§ 16(b), 23, [101 Stat. 1269](#), 1271; Nov. 18, 1988, [P.L. 100-690](#), Title VII, Subtitle B, § 7083, Subtitle C, §§ 7103(b), 7109, [102 Stat. 4408](#), 4418, 4419; Sept. 13, 1994, [P.L. 103-322](#), Title II, Subtitle D, § 20403(b), Title XXVIII, § 280005(c)(4), Title XXXIII, § 330003(f)(1), [108 Stat. 1825](#), 2097, 2141; April 30, 2003, [P.L. 108-21](#), Title IV, § 401(h), (k), [117 Stat. 672](#), 674; March 9, 2006, [P.L. 109-177](#), Title VII, Subtitle C, § 735, [120 Stat. 271](#); Oct. 6, 2006, [P.L. 109-304](#), § 17(f)(1), [120 Stat. 1708](#).)

UNITED STATES CODE SERVICE

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Current through PL 115-129, approved 2/26/18

*United States Code Service - Titles 1 through 54 > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE > PART III. COURT OFFICERS AND EMPLOYEES > CHAPTER 58. UNITED STATES SENTENCING COMMISSION*

### § 995. Powers of the Commission

---

(a) The Commission, by vote of a majority of the members present and voting, shall have the power to--

- (1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter [28 USCS §§ 991 et seq.];
- (2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382);
- (3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chair;
- (4) procure for the Commission temporary and intermittent services to the same extent as is authorized by [section 3109\(b\) of title 5, United States Code](#);
- (5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;
- (6) without regard to [31 U.S.C. 3324](#), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;
- (7) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services, notwithstanding the provisions of [31 U.S.C. 1342](#), however, individuals providing such services shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code [5 USCS §§ 8101 et seq.], with respect to job-incurred disability and title 28, United States Code, with respect to tort claims;
- (8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;
- (9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;
- (10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;
- (11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;
- (12) establish a research and development program within the Commission for the purpose of--
  - (A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and
  - (B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

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- (13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;
  - (14) publish data concerning the sentencing process;
  - (15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in *section 3553(a) of title 18, United States Code*;
  - (16) collect systematically and disseminate information regarding effectiveness of sentences imposed;
  - (17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;
  - (18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;
  - (19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;
  - (20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy;
  - (21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties;
  - (22) perform such other functions as are required to permit Federal courts to meet their responsibilities under *section 3553(a) of title 18, United States Code*, and to permit others involved in the Federal criminal justice system to meet their related responsibilities;
  - (23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and
  - (24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code [[5 USCS §§ 4501](#) et seq.].
- (b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter [[28 USCS §§ 991](#) et seq.], and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a)(1) and (2) [[28 USCS § 994\(a\)\(1\)](#) and (2)], the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b) [[28 USCS § 994\(b\)](#)]. The Commission shall, with respect to its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, utilize existing resources of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.
- (c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.
- (d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994 [[28 USCS § 994](#)], the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.
- (e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

## History

(Added Oct. 12, 1984, [P.L. 98-473](#), Title II, Ch II, § 217(a), [98 Stat. 2024](#); Nov. 18, 1988, *P.L. 100-690*, Title VII, Subtitle C, §§ 7104, 7105, 7106(b), *102 Stat. 4418*; Dec. 1, 1990, *P.L. 101-650*, Title III, § 325(b)(5), [104 Stat. 5121](#); Sept. 13, 1994, *P.L. 103-322*, Title XXVIII, § 280005(c)(1), *108 Stat. 2097*; Jan. 7, 2008, *P.L. 110-177*, Title V, § 501(a), *121 Stat. 2541*.)

UNITED STATES CODE SERVICE

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Bureau of Justice Statistics

# SPECIAL REPORT

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## State Court Processing Statistics

# Profile of Intimate Partner Violence Cases in Large Urban Counties

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In the state courts of 16 large urban counties, 3,750 cases of intimate partner violence (IPV) were filed in May 2002. These cases represent 83% of the 4,562 domestic violence cases filed in the 16 counties.<sup>1</sup> A case was defined as intimate partner violence if it involved an allegation of intentional physical violence committed, attempted, or threatened between spouses, ex-spouses, common-law spouses, boy-friends or girlfriends, present or past. For more information on the definitions of domestic violence and intimate partner violence used in this report, see the *Methodology*.

More than half of IPV defendants were convicted, and of those convicted, more than 80% were sentenced to incarceration in either prison or jail. This report examines the case characteristics that are associated with an increased likelihood of conviction.

This report is based on data collected in the study *Processing of Domestic Violence Cases in State Courts*, conducted by the Bureau of Justice Statistics (BJS). Findings are based on information documented in prosecutor files and court records of 3,750 intimate partner violence cases. Cases were tracked for one year following the defendant's first court appearance in May 2002.

### Most cases of intimate partner violence involved a female victim and a male defendant

Victims in intimate partner violence cases were generally female (86%), while defendants were generally male (86%) (table 1). The majority of IPV cases (84%) involved a male defendant and a female victim. Twelve percent of cases involved a female defendant and a male victim (not shown in table). In 4% of IPV cases, the defendant and victim were of the same gender.

<sup>1</sup>See appendix table 1 for distribution of victim-offender relationships for all 4,562 domestic violence cases in the study.

## Highlights

Among 3,750 cases of intimate partner violence filed in the state courts of 16 large urban counties in May 2002:

- Most involved a female victim and a male defendant (84%).
- Most involved a charge of assault, either aggravated (12%) or simple (78%); an additional 5% were charged with intimidation, including stalking.
- Nearly half (46%) involved a defendant with a prior history of abuse toward the same victim.
- Approximately 1 in 4 cases involved the use of a weapon, such as a gun, a knife, or other blunt object.
- Defendants charged with a felony (44%) were twice as likely to have used a weapon as defendants charged with a misdemeanor (22%).
- A witness to the incident was present in nearly half of intimate partner violence cases; half of those witnesses were children.
- A history of abuse between the victim and defendant, among other characteristics, was associated with a higher likelihood that the case resulted in a conviction.



**Table 1.****Demographic characteristics of intimate partner violence victims and defendants in 16 large counties, May 2002**

| Demographic characteristic  | Percent of intimate partner violence— |             |
|-----------------------------|---------------------------------------|-------------|
|                             | Victims                               | Defendants  |
| <b>Total</b>                | <b>100%</b>                           | <b>100%</b> |
| <b>Gender</b>               |                                       |             |
| Male                        | 14.0%                                 | 86.3%       |
| Female                      | 86.0                                  | 13.7        |
| <b>Race/Hispanic origin</b> |                                       |             |
| White non-Hispanic          | 37.1%                                 | 33.6%       |
| Black non-Hispanic          | 26.4                                  | 33.5        |
| Hispanic                    | 33.6                                  | 30.8        |
| Other non-Hispanic          | 2.8                                   | 2.0         |
| <b>Age at offense</b>       |                                       |             |
| 17 or younger               | 2.7%                                  | 0.2%        |
| 18-24                       | 26.1                                  | 24.2        |
| 25-34                       | 34.9                                  | 34.8        |
| 35-54                       | 34.0                                  | 38.2        |
| 55 or older                 | 2.3                                   | 2.6         |

Note: Among the 3,750 cases of intimate partner violence, data on a defendant's gender were reported for 99.4%; race/Hispanic origin for 85.6%; age for 99.2%. Data on a victim's gender were reported for 100% of cases; race/Hispanic origin for 94.5%; age for 94.4%.

**Table 2.****Most serious charges filed against intimate partner violence defendants in 16 large counties, by charge type, May 2002**

| Most serious arrest charge         | All cases    | Percent of defendants charged with a— |              |
|------------------------------------|--------------|---------------------------------------|--------------|
|                                    |              | Felony                                | Misdemeanor  |
| <b>Total</b>                       | <b>100%</b>  | <b>100%</b>                           | <b>100%</b>  |
| Murder                             | 0.2          | 1.0                                   | --           |
| Rape/sexual assault                | 1.7          | 8.5                                   | 0.2          |
| Robbery                            | 0.2          | 1.3                                   | --           |
| Aggravated assault                 | 12.2         | 66.1                                  | --           |
| Simple assault                     | 77.9         | --                                    | 95.6         |
| Intimidation <sup>a</sup>          | 4.9          | 10.1                                  | 3.7          |
| Other violent offense <sup>b</sup> | 2.8          | 13.0                                  | 0.5          |
| <b>Total cases</b>                 | <b>3,750</b> | <b>693</b>                            | <b>3,057</b> |

Note: Aggravated assault is defined as felony assault. Simple assault is defined as misdemeanor assault.

--No cases reported.

<sup>a</sup>Includes stalking and harassment.

<sup>b</sup>Includes offenses such as kidnapping and false imprisonment/criminal confinement.

IPV victims and defendants had similar race and ethnic profiles. Roughly equal percentages of victims and defendants were white, black, and Hispanic. This was comparable to the distribution of race and Hispanic origin across all violent felony defendants in the 16 counties in 2002.<sup>2</sup>

Fifty-nine percent of defendants and 58% of victims in IPV cases were between the ages of 18 and 34 at the time of the incident. Intimate partner violence involving victims age 55 or older accounted for less than 3% of cases. Because these cases were processed in adult courts, very few defendants (0.2%) were under age 18.

**The majority of IPV defendants were charged with a misdemeanor**

A misdemeanor was the most serious charge filed against the majority of defendants in intimate partner violence cases. Most misdemeanor charges (96%) were for simple assault (table 2). Intimidation made up most of the remaining misdemeanor IPV charges.

Aggravated assault made up two-thirds (66%) of felony IPV charges. About 9% of felony IPV charges were for rape or sexual assault and about 1% were for murder. Together, 9 in 10 defendants in intimate partner violence cases were charged with either simple (78%) or aggravated (12%) assault.

**Most intimate partner violence incidents occurred in the victim's residence**

Prosecutor files indicated that 58% of IPV incidents occurred in a residence shared by the victim and defendant (table 3). Another 21% of IPV incidents occurred in a residence occupied by the victim, but not by the defendant. A greater percentage of misdemeanor (60%) than felony cases (49%) arose from incidents that occurred in a shared residence. Less than 2% of felony or misdemeanor cases occurred in the workplace.

<sup>2</sup>See *Felony Defendants in Large Urban Counties, 2002*, February 2006, NCJ 210818, available at <http://www.ojp.usdoj.gov/bjs/abstract/fdluc02.htm>. (Last accessed September 24, 2009.)

### A third of defendants in intimate partner violence cases were using alcohol or drugs

Thirty-three percent (33%) of defendants in IPV cases were using alcohol or drugs at the time of the incident. The percentage did not vary by whether a defendant was charged with a felony or a misdemeanor (table 4).

The majority of defendants using alcohol or drugs at the time of the incident were under the influence of alcohol only. Defendants charged with a felony (28%) IPV were as likely as defendants charged with a misdemeanor (29%) to have been under the influence of alcohol.

### Defendants used a weapon in 1 in 4 intimate partner violence cases

A weapon was used by the defendant in 26% of IPV cases (table 5). Felony IPV (44%) was more likely to be characterized by weapon use than misdemeanor IPV (21%). About 6% of the defendants charged with a felony used a firearm, while about 15% used a knife or other sharp object.

Female defendants (41%) were more likely than male defendants (24%) to use a weapon during an incident of intimate partner violence (not shown in table). Additionally, female defendants (12%) were twice as likely as male defendants (5%) to use a knife or sharp object, and three times more likely (17%) than male defendants (6%) to use a blunt object such as a pipe or rock during an IPV incident.

Prosecutor files indicated that about three-quarters (74%) of IPV defendants did not use a weapon. These include cases in which defendants may have used hands, fists, or feet as a personal weapon.

**Table 3.**

### Location of incident in intimate partner violence cases in 16 large counties, by charge type, May 2002

| Location of incident                     | All cases    | Percent of defendants charged with a— |              |
|--|--------------|---------------------------------------|--------------|
|  |              | Felony                                | Misdemeanor  |
| Total                                    | 100%         | 100%                                  | 100%         |
| <b>Residential</b>                       | 85.0         | 83.8                                  | 85.3         |
| Residence shared by victim and defendant | 58.1         | 48.9                                  | 60.2         |
| Victim's residence                       | 21.1         | 25.3                                  | 20.2         |
| Defendant's residence                    | 4.2          | 7.5                                   | 3.4          |
| Other residence <sup>a</sup>             | 1.6          | 1.9                                   | 1.6          |
| <b>Victim or defendant's workplace</b>   | 1.2          | 1.6                                   | 1.1          |
| <b>Private or public vehicle</b>         | 7.0          | 8.8                                   | 6.6          |
| <b>Public place</b>                      | 5.9          | 4.5                                   | 6.2          |
| <b>Other location<sup>b</sup></b>        | 1.0          | 1.2                                   | 0.9          |
| <b>Total cases<sup>c</sup></b>           | <b>3,717</b> | <b>683</b>                            | <b>3,034</b> |

<sup>a</sup>Includes incidents that occurred at the home of a relative or a friend.

<sup>b</sup>Includes incidents that occurred in a hotel or motel room, at a shelter, or threats made over the telephone.

<sup>c</sup>Excludes cases for which the location of incident was not reported.

**Table 4.**

### Alcohol and drug use among defendants in intimate partner violence cases in 16 large counties, by charge type, May 2002

| Alcohol or drug use   | All cases    | Percent of defendants charged with a— |              |
|---|--------------|---------------------------------------|--------------|
|   |              | Felony                                | Misdemeanor  |
| Total   | 100%         | 100%                                  | 100%         |
| <b>Defendant was using alcohol or drugs at the time of the incident</b>     | 32.8         | 32.9                                  | 32.7         |
| Alcohol only  | 28.6         | 28.0                                  | 28.7         |
| Drugs only  | 1.8          | 2.5                                   | 1.6          |
| Alcohol and drugs   | 1.0          | 1.7                                   | 0.9          |
| Other substance*  | 1.4          | 0.7                                   | 1.6          |
| <b>Defendant was not using alcohol or drugs at the time of the incident</b> | 67.2         | 67.1                                  | 67.3         |
| <b>Total cases</b>  | <b>3,750</b> | <b>693</b>                            | <b>3,057</b> |

\*Includes unknown substances.

**Table 5.**

### Weapon use among defendants in intimate partner violence cases in 16 large counties, by charge type, May 2002

| Weapon use   | All cases    | Percent of defendants charged with a— |              |
|--|--------------|---------------------------------------|--------------|
|  |              | Felony                                | Misdemeanor  |
| Total  | 100%         | 100%                                  | 100%         |
| <b>Primary weapon defendant used during the incident</b> | 26.0         | 44.1                                  | 21.9         |
| Firearm  | 2.0          | 6.2                                   | 1.0          |
| Knife/sharp object                                       | 5.8          | 14.5                                  | 3.9          |
| Hard object/wall   | 5.7          | 8.8                                   | 4.9          |
| Blunt object   | 7.1          | 8.4                                   | 6.9          |
| Other weapon*  | 3.1          | 3.3                                   | 3.1          |
| Unknown weapon   | 2.3          | 2.8                                   | 2.2          |
| <b>Defendant did not use a weapon</b>                    | 74.0         | 55.9                                  | 78.1         |
| <b>Total cases</b>                                       | <b>3,750</b> | <b>693</b>                            | <b>3,057</b> |

\*Includes flammable items, ropes, telephone cords, belts, and other items.

**Table 6.**

**Most severe injury to victim in intimate partner violence cases in 16 large counties, by charge type, May 2002**

| Type of injury                  | All cases    | Percent of defendants charged with a— |              |
|---------------------------------|--------------|---------------------------------------|--------------|
|                                 |              | Felony                                | Misdemeanor  |
| <b>Total</b>                    | <b>100%</b>  | <b>100%</b>                           | <b>100%</b>  |
| <b>Any injury</b>               | 89.2         | 86.0                                  | 90.0         |
| More severe injury              | 8.6          | 22.8                                  | 5.4          |
| Gunshot/stab wound              | 0.7          | 2.6                                   | 0.2          |
| Rape/sexual assault             | 1.7          | 8.3                                   | 0.2          |
| Severe lacerations/burns        | 4.8          | 8.7                                   | 4.0          |
| Other major injury <sup>a</sup> | 1.4          | 3.2                                   | 1.0          |
| Less severe injury <sup>b</sup> | 60.7         | 45.3                                  | 64.2         |
| Unknown injury                  | 19.9         | 17.9                                  | 20.3         |
| <b>Not injured/unknown</b>      | 10.8         | 14.0                                  | 10.0         |
| <b>Total cases</b>              | <b>3,750</b> | <b>693</b>                            | <b>3,057</b> |

<sup>a</sup>Includes loss of teeth, broken bones, and loss of consciousness.

<sup>b</sup>Includes minor cuts, redness, bruises, and complaints of pain.

**Nearly 9 in 10 victims of IPV sustained an injury during the incident; about 1 in 10 suffered a severe injury**

Eighty-nine percent of IPV victims were injured as a result of the incident (table 6). Most victims sustained injuries that were of a less severe nature, such as minor cuts, redness, bruises, and complaints of pain. Nine percent of victims sustained more severe injuries, including gunshot and stab wounds, rape or sexual assault, severe lacerations, and broken bones.

The overall prevalence of any victim injury was comparable between felony and misdemeanor cases; however, victims of felony IPV (23%) were more likely than victims of misdemeanor IPV (5%) to suffer more severe injuries. Nearly 3% of all felony IPV victims suffered a gunshot or a stab wound, 8% were raped or sexually assaulted, and 9% suffered severe lacerations or burns.

**Table 7.**

**Witness to the incident in intimate partner violence cases in 16 large counties, by charge type, May 2002**

| Presence of witness        | All cases    | Percent of defendants charged with a— |              |
|----------------------------|--------------|---------------------------------------|--------------|
|                            |              | Felony                                | Misdemeanor  |
| <b>Total</b>               | <b>100%</b>  | <b>100%</b>                           | <b>100%</b>  |
| Witness to the incident    | 49.9         | 53.8                                  | 49.0         |
| Direct/eyewitness          | 43.0         | 45.0                                  | 42.5         |
| Indirect witness*          | 8.1          | 9.2                                   | 7.9          |
| No witness to the incident | 50.1         | 46.2                                  | 51.0         |
| <b>Total cases</b>         | <b>3,750</b> | <b>693</b>                            | <b>3,057</b> |

Note: Percents do not sum to 100% because prosecutorial files may indicate both direct and indirect witnesses to the incident.

\*Includes individuals with knowledge of the incident but did not visually witness the incident.

**A direct witness was present in more than 40% of intimate partner violence cases; half of those witnesses were children**

Half of intimate partner violence cases were witnessed by a third party (table 7). The majority of those witnesses were direct eyewitnesses to the violence.

Children were witnesses to the violence in 22% of IPV cases (table 8). These child witnesses accounted for half of the direct eyewitnesses to the violence (not shown in table). In another 14% of IPV cases, a child was present at the time of the incident, but did not directly witness the violence.

**Table 8.**

**Children present during the incident in intimate partner violence cases in 16 large counties, by charge type, May 2002**

| Presence of children              | All cases    | Percent of defendants charged with a— |              |
|-----------------------------------|--------------|---------------------------------------|--------------|
|                                   |              | Felony                                | Misdemeanor  |
| <b>Total</b>                      | <b>100%</b>  | <b>100%</b>                           | <b>100%</b>  |
| Child was present during incident | 36.4         | 36.9                                  | 36.3         |
| Child witnessed violence          | 22.0         | 22.7                                  | 21.8         |
| Child did not witness violence    | 14.4         | 14.3                                  | 14.5         |
| Child not present during incident | 63.6         | 63.1                                  | 63.7         |
| <b>Total cases</b>                | <b>3,750</b> | <b>693</b>                            | <b>3,057</b> |

### Physical evidence was obtained in about 7 in 10 intimate partner violence cases

Physical evidence, such as photos, tapes of the 911 call, and forensic evidence, was obtained in 68% of IPV cases (table 9). Photographic evidence and the tape of a 911 call were the most common forms of physical evidence obtained. Physical evidence was obtained in a higher percentage of felony (75%) than misdemeanor (66%) cases.

The types of evidence obtained differed slightly between felony and misdemeanor IPV cases. Prosecutor files were more likely to indicate that forensic evidence had been obtained in felony intimate partner violence cases (10%) than in misdemeanor IPV cases (2%). Felony cases were also more likely to result in a weapon being recovered (11%) and medical records being obtained (10%) than misdemeanor IPV cases.

In addition to physical evidence, a statement was obtained from a witness to the incident in just under half of IPV cases. Felony cases were more likely than misdemeanor cases to feature a witness statement. In about 1 in 10 cases of IPV, the prosecution obtained a statement from the defendant.

### Nearly 1 in 4 intimate partner violence victims had reported prior violence by the same defendant to police

One factor known to affect outcomes in criminal cases is a defendant's prior criminal history. While the survey did not collect information on a defendant's entire criminal history, two measures of prior domestic violence were documented from information recorded in prosecutor files: 1) history of abuse between the victim and the defendant in the case, and 2) whether the victim reported any prior violence to the police.

Forty-six percent of intimate partner violence cases involved a defendant with a prior history of abuse toward the same victim, and 24% of victims of IPV had reported prior violence to police (table 10). These percentages were similar for both felony and misdemeanor IPV.

**Table 9.**

**Evidence obtained in intimate partner violence cases in 16 large counties, by charge type, May 2002**

| Type of evidence             | All cases    | Percent of defendants charged with a— |              |
|------------------------------|--------------|---------------------------------------|--------------|
|                              |              | Felony                                | Misdemeanor  |
| <b>Total</b>                 | <b>100%</b>  | <b>100%</b>                           | <b>100%</b>  |
| <b>Any evidence obtained</b> | 83.5         | 90.9                                  | 81.8         |
| Physical evidence            | 67.9         | 74.9                                  | 66.3         |
| Photos of victim/defendant   | 46.5         | 44.9                                  | 46.9         |
| Tape of 911 call             | 25.9         | 30.4                                  | 24.9         |
| Photos of scene              | 12.2         | 19.8                                  | 10.5         |
| Weapon recovered             | 4.7          | 10.7                                  | 3.3          |
| Medical records              | 3.4          | 10.4                                  | 1.8          |
| Forensic evidence            | 3.3          | 9.8                                   | 1.8          |
| Other evidence               | 8.3          | 11.3                                  | 7.7          |
| Statement from witness       | 45.9         | 58.0                                  | 43.1         |
| Statement from defendant     | 10.2         | 12.7                                  | 9.7          |
| <b>No evidence obtained</b>  | 16.5         | 9.1                                   | 18.2         |
| <b>Total cases</b>           | <b>3,750</b> | <b>693</b>                            | <b>3,057</b> |

Note: Detail does not sum to total because more than one type of evidence was obtained in some cases.

**Table 10.**

**History and reporting of prior violence between victim and defendant in intimate partner violence cases in 16 large counties, by charge type, May 2002**

| Percent of cases in which—                                | All cases    | Defendants charged with a— |              |
|---|--------------|----------------------------|--------------|
|   |              | Felony                     | Misdemeanor  |
| There was a history of abuse between victim and defendant | 46.3%        | 46.6%                      | 46.3%        |
| Victim reported prior violence by defendant to police     | 23.5         | 26.1                       | 22.9         |
| <b>Total cases</b>  | <b>3,750</b> | <b>693</b>                 | <b>3,057</b> |

### Most convictions for intimate partner violence were for a misdemeanor charge

Fifty-six percent of intimate partner violence cases filed with the court in the 16 participating counties resulted in a conviction (table 11). Most of those convictions were for a misdemeanor. A third (33%) of the cases were discontinued by the prosecution or dismissed by the court; less than 1% ended in acquittal. Another 9% of defendants were in a pretrial diversion or deferred adjudication status one year after their initial appearance.<sup>3</sup>

The percentage of cases filed with the court that led to a conviction varied across the 16 counties, ranging from a low of 17% to a high of 89%. One factor contributing to differences in conviction rates was the difference in case filing practice utilized by prosecutors in the counties. In 9 of the 16 jurisdictions, prosecutors indicated they generally screened cases to determine whether to pursue a conviction prior to a defendant's initial court appearance. In the remaining seven jurisdictions, the decision whether to pursue a conviction was made after the case was filed in court. The conviction rate was 72% among the nine jurisdictions that screened cases prior to filing (See *Methodology*, table 17). Comparatively, 37% of cases filed led to a conviction in jurisdictions that did not screen before the initial filing. For more information on case screening policies and differences in case outcomes by jurisdiction, see the *Methodology*.

### Most convicted defendants in intimate partner violence cases received a jail sentence

More than 80% of defendants convicted in intimate partner violence cases received either a jail (75%) or prison (7%) sentence (table 12). Forty-four percent of defendants convicted of felony IPV were sentenced to prison for one year or more. A jail sentence was imposed on 4 in 5 defendants convicted of a misdemeanor and on about half of defendants convicted of a felony. About 1 in 5 convicted defendants were not incarcerated, receiving a probation sentence instead.

### Cases resulting in a conviction were more likely to have a third party witness the incident

The characteristics of cases that resulted in a conviction were compared to the characteristics of cases in which prosecution was declined or that resulted in a dismissal or acquittal. Excluded from the analysis were 1) cases that resulted in pretrial diversion or deferred adjudication; 2) cases for which the final outcome was unknown; and 3) cases whose outcome was pending as of one year after the initial court filing. A total of 409 cases were excluded from the analysis.

<sup>3</sup>Cases in pretrial diversion or deferred adjudication status generally have not reached a final adjudication outcome. Many defendants who successfully complete the requirements of a diversion program have their case dismissed. Defendants who do not complete program requirements are generally convicted.

**Table 11.**

### Adjudication outcome in intimate partner violence cases in 16 large counties, by charge type, May 2002

| Adjudication outcome                        | All cases    | Percent of defendants charged with a— |              |
|---|--------------|---------------------------------------|--------------|
|   |              | Felony                                | Misdemeanor  |
| <b>Total</b>                                | <b>100%</b>  | <b>100%</b>                           | <b>100%</b>  |
| Convicted                                   | 56.0         | 60.5                                  | 54.9         |
| Felony                                      | 9.0          | 46.5                                  | 0.4          |
| Misdemeanor                                 | 45.6         | 13.7                                  | 52.8         |
| Unknown                                     | 1.4          | 0.3                                   | 1.7          |
| Dismissal/nolle prosequi                    | 33.0         | 31.4                                  | 33.4         |
| Acquittal                                   | 0.6          | 0.9                                   | 0.6          |
| Pretrial diversion or deferred adjudication | 8.6          | 5.6                                   | 9.3          |
| Case pending <sup>a</sup>                   | 1.8          | 1.6                                   | 1.8          |
| <b>Total cases<sup>b</sup></b>              | <b>3,729</b> | <b>685</b>                            | <b>3,044</b> |

<sup>a</sup> As of May 31, 2003.

<sup>b</sup> Excludes cases for which adjudication outcomes were not available.

**Table 12.**

### Most severe sentence imposed on convicted defendants in 16 large counties, by conviction charge, May 2002

| Most severe sentence           | All cases <sup>a</sup> | Percent of defendants charged with a— |              |
|--------------------------------|------------------------|---------------------------------------|--------------|
|                                |                        | Felony                                | Misdemeanor  |
| <b>Total</b>                   | <b>100%</b>            | <b>100%</b>                           | <b>100%</b>  |
| Prison                         | 7.4                    | 43.9                                  | 0.2          |
| Jail                           | 75.3                   | 46.4                                  | 81.2         |
| Probation                      | 17.3                   | 9.7                                   | 18.7         |
| <b>Total cases<sup>b</sup></b> | <b>2,010</b>           | <b>330</b>                            | <b>1,630</b> |

Note: Table excludes cases pending as of May 31, 2003.

<sup>a</sup>Includes cases for which a conviction charge was unknown.

<sup>b</sup>Excludes the 3.6% of cases that resulted in conviction for which sentencing data were not available.



A third party witnessed the incident in more than half (56%) of the cases that resulted in a conviction, compared to 41% of cases that were adjudicated by dismissal, acquittal, or nolle prosequi (table 13). The prosecution obtained physical evidence and a statement by the defendant in a slightly larger percentage of cases that resulted in conviction than those that did not. Cases that led to a conviction were also more likely to have a history of abuse between the victim and the defendant, as well as a child present at the time of the incident. A somewhat higher percentage of convicted defendants were using alcohol or drugs at the time of the incident, compared to defendants who were not convicted.

### Cases in which the defendant made a formal statement were twice as likely to result in conviction

The survey collected information about the characteristics of intimate partner violence cases that may influence the likelihood that a case will result in conviction. Logistic regression analysis was used to assess the unique contribution of various case characteristics to the probability of conviction (table 14). The analysis produced estimates of the association between each independent variable (the case characteristics) and the dependent variable (the likelihood of conviction). See the *Methodology* for more information about logistic regression techniques.

In general the logistic regression analysis yielded patterns of influence on the probability of conviction similar to that of the bivariate results. The presence of a statement from the defendant was the case characteristic with the greatest impact on the likelihood of conviction. The odds ratio indicated that cases in which prosecutors obtained a statement from the defendant were twice as likely to result in conviction than cases in which there was no statement. Additionally, the presence of a third-party witness to the incident increased the likelihood of conviction by 1.7 times, as did a documented history of abuse between the victim and defendant. Whether physical evidence was obtained was also positively, although less strongly, associated with the likelihood of a conviction. Other case characteristics, such as whether a child was present at the time of the incident and whether the defendant used a weapon, had little independent impact on the probability of a conviction.<sup>4</sup>

<sup>4</sup>Other factors potentially related to the probability of conviction were also included in the logistic regression model but are not reported in table 14. See the *Methodology* for more detail.

**Table 13.**

### Characteristics of intimate partner violence cases in 16 large counties, by adjudication outcome, May 2002

| Case characteristics                                  | Adjudication outcome                   |                             |            |              |
|---|--|-----------------------------|------------|--------------|
|   | Dismissal/acquittal/<br>nolle prosequi | Any conviction <sup>a</sup> | Felony     | Misdemeanor  |
| <b>Incident characteristics</b>                       |  |                             |            |              |
| Defendant used alcohol or drugs                       | 29.0%                                  | 34.7%                       | 34.1%      | 35.1%        |
| Child present at time of incident                     | 30.8                                   | 40.1                        | 38.6       | 40.3         |
| Weapon used in incident                               | 25.7                                   | 26.7                        | 46.1       | 23.1         |
| Victim injured in incident                            | 91.6                                   | 90.6                        | 78.7       | 92.7         |
| Witness to the incident                               | 40.6                                   | 56.4                        | 59.9       | 55.9         |
| Direct/eyewitness                                     | 36.7                                   | 47.0                        | 47.0       | 47.0         |
| Indirect witness                                      | 4.2                                    | 11.2                        | 13.5       | 11.1         |
| <b>Prior history</b>                                  |  |                             |            |              |
| History of abuse between victim and defendant         | 40.4%                                  | 51.9%                       | 53.3%      | 52.1%        |
| Victim reported prior violence by defendant to police | 24.1                                   | 24.9                        | 28.7       | 24.5         |
| <b>Evidence obtained</b>                              |  |                             |            |              |
| Any physical evidence obtained                        | 63.4%                                  | 70.6%                       | 81.4%      | 68.5%        |
| Statement from witness                                | 44.9                                   | 45.3                        | 57.2       | 43.0         |
| Statement from defendant                              | 5.5                                    | 13.1                        | 18.6       | 12.1         |
| <b>Total cases<sup>b</sup></b>                        | <b>1,255</b>                           | <b>2,086</b>                | <b>334</b> | <b>1,699</b> |

<sup>a</sup>Includes cases in which conviction charge was unknown.

<sup>b</sup>Excludes cases with pretrial diversion or deferred adjudication, cases with an unknown adjudication outcome, and cases pending as of May 31, 2003.

**Table 14.**

### Logistic regression analysis of the effect of case characteristics on the probability of conviction in intimate partner violence cases in 16 large counties, May 2002

| Case characteristics                              | Odds ratio <sup>*</sup> |
|---|-------------------------|
| Statement from defendant                          | 2.04                    |
| Witness to the incident                           | 1.73                    |
| History of abuse                                  | 1.69                    |
| Physical evidence obtained                        | 1.54                    |
| Victim injured in incident                        | 1.28                    |
| Defendant using drugs/alcohol at time of incident | 1.11                    |
| Statement from victim                             | 1.05                    |
| Child present at time of incident                 | 1.01                    |
| Weapon used in incident                           | 0.99                    |

Note: Table presents the results of a logistic regression analysis with the dependent variable indicating the predicted probability that any conviction was obtained. A total of 3,341 cases were included in the logistic regression analysis. Excluded from the analysis were all cases that resulted in pretrial diversion or deferred adjudication, cases with an unknown adjudication outcome, and cases pending as of May 31, 2003. Also excluded from the analysis were cases for which data were unavailable for one or more variables included in the statistical model. Other variables potentially related to the probability of conviction were also included in the logistic regression analysis. These included defendant race and gender, whether the defendant was charged with a felony or misdemeanor, and a variable that accounted for individual county-level effects. See the *Methodology* for more detail.

<sup>\*</sup>An odds ratio greater than 1 indicates that the variable is associated with an increased likelihood that the case resulted in conviction. Variables with larger odds ratios have a larger effect on the probability of conviction than variables with smaller odds ratios.

## About 1 in 8 intimate partner violence cases involved a female defendant and male victim; another 1 in 20 involved a defendant and victim of the same gender

Some case characteristics differed based on the gender of the defendant and victim. Cases with male defendants and female victims were more likely than others to entail a history of abuse between victim and defendant (table 15). A child was also more likely to have witnessed the violence in these cases. Defendant weapon use was more prevalent in cases with female defendants and male victims than in other cases.

A larger percentage of cases with male defendants and female victims resulted in conviction than cases with female defendants and male victims or same-gender cases (table 16). Female defendants convicted of IPV against male defendants were relatively less likely to receive an incarceration sentence.

**Table 15.**

### Incident characteristics of intimate partner violence cases in 16 large counties, by defendant and victim gender, May 2002

| Incident characteristic                               | Intimate partner violence cases involving a— |                                  |                                     |
|---|--|----------------------------------|-------------------------------------|
|   | Male defendant and female victim             | Female defendant and male victim | Defendant and victim of same gender |
| Percent of cases in which—                            |  |                                  |                                     |
| Defendant was using drugs or alcohol                  | 33.4%  | 28.1%                            | 34.2%                               |
| Weapon was used in incident                           | 23.2   | 41.3                             | 35.6                                |
| Victim was injured in incident                        | 91.0   | 90.2                             | 94.5                                |
| Witness to the incident                               | 50.9   | 46.7                             | 37.7                                |
| Child was present at time of incident                 | 38.0   | 29.5                             | 21.2                                |
| Any evidence was obtained                             | 83.0   | 88.0                             | 82.9                                |
| History of abuse existed between victim and defendant | 48.7   | 34.0                             | 32.2                                |
| Victim reported prior violence by defendant to police | 24.7   | 17.0                             | 16.4                                |
| <b>Total cases</b>                                    | <b>3,140</b>                                 | <b>441</b>                       | <b>146</b>                          |

**Table 16.**

### Case processing characteristics of intimate partner violence cases in 16 large counties, by defendant and victim gender, May 2002

| Case processing characteristic                              | Percent of intimate partner violence cases involving a— |                                  |                                     |
|---|---|----------------------------------|-------------------------------------|
|   | Male defendant and female victim                        | Female defendant and male victim | Defendant and victim of same gender |
| <b>Total</b>  | <b>100%</b>   | <b>100%</b>                      | <b>100%</b>                         |
| <b>Most serious arrest charge</b>                           |   |                                  |                                     |
| Felony  | 19.1%   | 14.5%                            | 16.4%                               |
| Misdemeanor   | 80.9  | 85.5                             | 83.6                                |
| <b>Adjudication outcome*</b>                                |   |                                  |                                     |
| Convicted   | 59.8%   | 40.3%                            | 43.7%                               |
| Felony  | 9.9   | 4.9                              | 5.6                                 |
| Misdemeanor   | 48.5  | 33.6                             | 37.3                                |
| Unknown   | 1.4   | 1.9                              | 0.7                                 |
| Dismissal/nolle prosequi/acquittal                          | 32.6  | 43.7                             | 44.4                                |
| Pretrial diversion or deferred adjudication                 | 7.7   | 16.0                             | 12.0                                |
| <b>Most severe sentence imposed on convicted defendants</b> |   |                                  |                                     |
| Prison  | 7.5%  | 5.0%                             | 10.9%                               |
| Jail  | 76.2  | 65.8                             | 67.3                                |
| Probation   | 16.3  | 29.2                             | 21.8                                |
| <b>Total cases</b>  | <b>3,140</b>  | <b>441</b>                       | <b>146</b>                          |

\*Excludes cases with an unknown outcome and those pending as of May 31, 2003.

## Methodology

### Data Collection

This report is based on data collected from the study *Processing of Domestic Violence Cases in State Courts*, conducted by the Bureau of Justice Statistics. Data were collected by the Pretrial Services Resource Center, Washington, D.C., under grant 2002-BJ-CX-0001. State prosecutors and courts in 40 of the 75 largest counties were asked to participate in a pilot study examining how domestic violence (DV) cases are handled by the justice system. These counties were identified because they had participated in the State Court Processing Statistics, 2002 data collection, which collected case processing information on a sample of felony cases filed in state courts. Of the counties asked to participate in the study on domestic violence case processing, prosecutors and courts in the following 16 counties agreed:

| State      | County   |
|------------|--|
| Arizona    | Pima   |
| California | Alameda, Orange, Riverside, San Diego, Santa Clara |
| Florida    | Dade, Palm Beach, Pinellas                         |
| Georgia    | Fulton   |
| Indiana    | Marion   |
| Ohio       | Franklin   |
| Tennessee  | Shelby   |
| Texas      | El Paso, Tarrant, Travis                           |

Note: See appendix table 2 for the distribution of intimate partner violence cases by participating jurisdiction.

In each of the 16 counties, the prosecutor's office or the court clerk's office compiled a list of domestic violence cases filed in state court in May 2002. In 7 of the 16 counties, the case list was provided by a specialized DV prosecution unit. In the remaining 9 counties, the case list was generated by examining all cases opened in May 2002 to identify those that contained a domestic violence charge.

Domestic violence was defined as "intentional physical violence committed, attempted, or threatened between family members, intimate partners, or household cohabitants." Family members included persons related by blood or marriage. Intimate partners included marital relations, such as spouses, ex-spouses, and common-law spouses, as well as boyfriends or girlfriends, present or past. A case was classified as domestic violence if 1) it met the above definition, based on the relationship of the victim to the defendant, and 2) the underlying charge was for a violent offense or for a violation of a protection order. For a small number of cases, the prosecutor's files either could not be located or were not available for legal reasons, such as the case was still pending at the time of data collection or the case file was sealed to comply with statutory regulations.

State prosecutors and courts in the participating counties provided data on 4,562 defendants whose most serious arrest charge was a domestic violence offense (DV). Approximately 83% of the 4,562 identified DV cases, or 3,750 cases, involved a victim and defendant who were intimate partners. See appendix table 2 for the distribution of intimate partner violence cases by participating jurisdiction.

### Data sources

Data on the 3,750 intimate partner violence cases (IPV) are based on the information contained in both prosecutor files and court records. Prosecutor files were the primary source of information on characteristics of the violent incident, including victim and defendant demographics, measures of the severity of the incident, such as weapon use by the defendant and whether the victim was injured, history of abuse between the victim and defendant, and the presence of witnesses to the incident. Court records



were the primary source of information on case processing data, such as charges filed against the defendant, adjudication outcomes, and sentencing information. Case processing data were documented for one year following the defendant's first appearance in court in May 2002.

This study also captured information about the general case screening practices employed by prosecutors at the time of the data collection in the 16 participating jurisdictions. Prosecutors in 9 of the 16 jurisdictions indicated that cases were reviewed prior to a defendant's initial court appearance to determine whether the case would be pursued for prosecution. In the remaining seven jurisdictions, case review by prosecutors did not occur until after the case was filed with the court. State law in some of the seven jurisdictions mandates case filing upon arrest. Counties in which prosecutors review cases after initial filing have a rate of dismissal (49%) that is nearly two and a half times greater than the comparable rate in counties that screen prior to court filing (21%) (table 17).

### Multivariate statistical techniques

This report analyzes the characteristics and outcomes of intimate partner violence cases through both bivariate and multivariate statistical techniques. While bivariate statistics provide a descriptive overview of intimate partner violence case characteristics and outcomes, multivariate analysis can help identify the impacts that specific case characteristics, such as presence of a witness, evidence obtained, and prior history of violence between victim and defendant have on the probability of a conviction. A logistic regression model was used to estimate the impact of case characteristics on the probability of a conviction.

Also included in the model were a defendant's race and gender, whether the defendant was charged with a felony or misdemeanor, and individual county-level effects. To account for county-level effects, a model predicting the probability of conviction was first run at the county level, and the residuals produced from that analysis were added to the main individual-level model. Incorporating the estimates of the residuals, which were statistically significant,

**Table 17.**

### Adjudication outcome in intimate partner violence cases in 16 large counties, by prosecutor screening practice, May 2002

| Adjudication outcome                     | Prosecutors screened cases—                      |   |
|--|--|---|
|  | Prior to defendant's initial appearance in court | After defendant's initial appearance in court |
| Total                                    | 100%   | 100%  |
| Conviction                               | 71.5   | 37.0  |
| Dismissal/nolle prosequi/acquittal       | 20.9   | 49.2  |
| Pretrial diversion/deferred adjudication | 5.1  | 12.8  |
| Case pending*                            | 2.5  | 0.9   |

Note: Adjudication outcomes available for 99.4% of all intimate partner violence cases.

\*As of May 31, 2003.

into the model allowed for the ability to isolate the impact of case characteristics on the likelihood of a conviction while accounting for the independent county effects.

The findings from this study are based on a complete enumeration of the cases processed in the month of May in the 16 counties agreeing to participate in the study. Given this approach to data collection, BJS did not compute confidence intervals for the estimates, nor did BJS conduct statistical significance tests to compare the estimates across different subgroups and to evaluate the logistic regression analysis. Findings in this report may not be representative of those that

would have been obtained by examining cases processed throughout the entire year, or from other counties that did not participate in the study.

The logistic regression analyses were limited and intended to reflect the effects of selected factors that were available in the data collected. Other factors could potentially be related to the probability of conviction. For example, information about whether the defendant was arrested at the scene of the crime and the defendant's prior criminal history was unavailable. If data on these variables were available, the logistic regression results could be altered.

## Appendix Table 1.

### Relationship of victim to defendant in domestic violence cases in 16 large counties, by charge type, May 2002

| Victim was defendant's—              | All cases    | Percent of domestic violence defendants charged with a— |              |
|--------------------------------------|--------------|---|--------------|
|                                      |              | Felony  | Misdemeanor  |
| <b>Total</b>                         | <b>100%</b>  | <b>100%</b>   | <b>100%</b>  |
| <b>Intimate partner</b>              | 83.4         | 74.6  | 85.7         |
| Spouse                               | 33.3         | 26.3  | 35.1         |
| Boyfriend or girlfriend              | 50.1         | 48.3  | 50.6         |
| <b>Non-intimate family member</b>    | 15.5         | 23.1  | 13.5         |
| Parent or guardian                   | 3.1          | 3.8   | 2.9          |
| Son or daughter                      | 6.2          | 11.7  | 4.8          |
| Sibling                              | 3.5          | 2.8   | 3.7          |
| Other family member                  | 2.7          | 4.8   | 2.1          |
| <b>Non-intimate household member</b> | 1.1          | 2.3   | 0.8          |
| <b>Total cases*</b>                  | <b>4,562</b> | <b>940</b>  | <b>3,622</b> |

\*Excludes the 1.4% of cases for which data on victim-defendant relationship were unavailable.

## Appendix Table 2.

### Number of defendants in intimate partner violence cases in 16 large counties, by county, state, and charge type, May 2002

| County and State | All cases    | Number of defendants charged with a— |              |
|------------------|--------------|--------------------------------------|--------------|
|                  |              | Felony                               | Misdemeanor  |
| Pima, AZ         | 41           | 12                                   | 29           |
| Alameda, CA      | 139          | 8                                    | 131          |
| Orange, CA       | 298          | 24                                   | 274          |
| Riverside, CA    | 317          | 110                                  | 207          |
| San Diego, CA    | 301          | 69                                   | 232          |
| Santa Clara, CA  | 276          | 57                                   | 219          |
| Dade, FL         | 392          | 83                                   | 309          |
| Palm Beach, FL   | 117          | 26                                   | 91           |
| Pinellas, FL     | 299          | 93                                   | 206          |
| Fulton, GA       | 123          | 19                                   | 104          |
| Marion, IN       | 298          | 85                                   | 213          |
| Franklin, OH     | 375          | 19                                   | 356          |
| Shelby, TN       | 177          | 24                                   | 153          |
| El Paso, TX      | 237          | 34                                   | 203          |
| Tarrant, TX      | 147          | 0                                    | 147          |
| Travis, TX       | 213          | 30                                   | 183          |
| <b>Total</b>     | <b>3,750</b> | <b>693</b>                           | <b>3,057</b> |

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The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Michael D. Sinclair is acting director.

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This report in portable document format and in ASCII and its related statistical data and tables are available at the BJS World Wide Web Internet site: <<http://www.ojp.usdoj.gov/bjs/abstract/pipvcluc.htm>>.

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## DEPARTMENT OF DEFENSE CRIME DATA REPORTING

### I. DoD Statutory and Policy Crime Data Reporting Requirements

- A. Under Secretary of Defense (Personnel & Readiness) Memorandum, Subject: "Working Agreement on Implementing the Defense Incident-Based Reporting System (DIBRS) for Criminal and Related Offenses within the Department of Defense," **September 9, 1994**
- B. DoDI 7730.47, "Defense Incident-Based Reporting System (DIBRS)," Jan. 23, 2014
  1. This 2014 instruction replaced the original DoD Directive (DoDD) 7730.47, "Defense Incident Based Reporting System (DIBRS)," issued **Oct. 15, 1996**.
  2. DIBRS is DoD's centralized reporting system to the Federal Bureau of Investigation's National Incident-Based Reporting System (NIBRS) pursuant to 28 U.S.C. § 534 and is maintained at the Defense Manpower Data Center (DMDC), in Monterey, California.
  3. Implements statutory reporting requirements of:
    - The Uniform Federal Crime Reporting Act of 1988 (28 U.S.C. § 534)
    - The Victims' Rights and Restitution Act of 1990 – victim and witness assistance notifications ( 42 U.S.C. § § 10601 – 10608)
    - The Brady Handgun Violence Prevention Act of 1994 and The Lautenberg Amendment to the Gun Control Act (18 U.S.C. § 922)
    - The Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Program (42 U.S.C. § § 16901 – 16928)
    - Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188) (June 12, 2002)
  4. The Director, Department of Human Resources Activity (DoDHRA) under the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) oversees the functions of DMDC.
  5. According to this policy, DoD Component Heads (Service Secretaries) must:
    - Ensure compliance and establish policies and procedures to implement DIBRS within their Components and the Combatant Commands;
    - Report monthly to DIBRS according to the procedures in DoD Manual 7730.47-M Volumes I and II.
  6. In order to be considered DIBRS compliant (and to be certified by the FBI to submit data to NIBRS), the DoD Services must:

- Successfully submit a minimum of the five NIBRS data segments (Administrative, Offense, Property, Offender/Arrestee, Victim) to DIBRS on a monthly basis;
- Maintain a 4% or less data submission error rate for the monthly submissions;
- Correct and return submission errors within 30 days of notification of the error.

C. DoD Manual 7730.47-M, Volume 1, “Defense Incident-Based Reporting System (DIBRS): Data Segments and Elements,” Dec. 7, 2010, (Ch 1, Apr. 4, 2017)

**1. Uniform Crime Reporting Act of 1988**

- Requires law enforcement agencies, including those within the Department of Defense, to report NIBRS data to the Department of Justice for inclusion in the FBI-maintained system pursuant to FBI handbook.
- Using a series of the 58 established data elements (i.e., data fields within each segment), LE can describe the details of each component of the crime. For each data element, reporting agencies may choose the most appropriate data value (i.e., a specific code representing one of the acceptable entries for each data element).
- Law enforcement agencies reporting crimes to the Federal Bureau of Investigation can clear, or "close," the offenses in one of two ways: by arrest or by exceptional means.
- In the UCR Program, a law enforcement agency reports that an offense is cleared by arrest, or solved for crime reporting purposes, when three specific conditions have been met. The three conditions are that at least one person has been:
  - Arrested; and
  - Charged with the commission of the offense; and
  - Turned over to the court for prosecution (whether following arrest, court summons, or police notice).
- Cleared by exceptional means: In certain situations, elements beyond law enforcement's control prevent the agency from arresting and formally charging the offender. When this occurs, the agency can clear the offense exceptionally. Examples of exceptional clearances include, but are not limited to, the death of the offender; the victim's refusal to cooperate with the prosecution after the offender has been identified; or the denial of extradition because the offender committed a crime in another jurisdiction and is being prosecuted for that offense. In the UCR Program, the recovery of property alone does not clear an offense.

**2. Victim Rights and Restitution Act of 1990**

- Victims and selected witnesses must be notified of their rights at certain phases of a criminal case, from the time of initial contact by law enforcement through the

investigation phase, prosecution phase, and, if the case results in confinement, the change in confinement status.

- The confinement authority must advise the victim or witness of an inmate's status, including length of sentence, anticipated earliest release date, place of confinement, the possibility of transfer, the possibility of parole or clemency, release from confinement, escape, and death.
- DoD Instruction (DoDI) 1030.02 requires the use of DD Form 2705, "Victim/Witness Notification of Inmate Status," for this purpose.
- DIBRS requires that the number of victim-witness notifications be reported to DMDC in accordance with The Victim's Rights and Restitution Act of 1990, as amended.

### **3. The Brady Handgun Violence Prevention Act of 1993**

- DIBRS shall be used to centralize the collection of information that is reportable by the DoD Components pursuant to The Brady Handgun Violence Prevention Act of 1993, which requires the Department of Defense to report these eight categories to the FBI for purposes of prohibiting firearm purchases:
  - 1) Persons who have been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;
  - 2) Persons who are fugitives from justice;
  - 3) Persons who are unlawful users of, or addicted to, any controlled substance;
  - 4) Persons who have been adjudicated as mental defectives or who have been committed to a mental institution;
  - 5) Persons who have been discharged from the U.S. Armed Forces under dishonorable conditions;
  - 6) Persons who, having been citizens of the United States, have renounced their U.S. citizenship;
  - 7) Persons convicted in any court of a misdemeanor crime of domestic violence;
  - 8) Persons who are under indictment or information for a crime punishable by imprisonment for a term exceeding 1 year.

### **4. Database on Domestic Violence**

- 10 U.S.C. § 1562 requires the Department of Defense to establish a central database of information on incidents of domestic violence involving members of the Military Services. The Military Departments must maintain and report annually any information received on:

- 1) Each domestic violence incident reported to a commander, a law enforcement authority of the Military Services, or a family advocacy program of the Department of Defense.
- 2) The number of those incidents that involve evidence determined sufficient for supporting disciplinary action and, for each such incident, a description of the allegations and the action taken by command authorities in the incident.
- 3) The number of those incidents that involve evidence determined insufficient for supporting disciplinary action and, for each such case, a description of the allegation.

#### 5. Intent for DIBRS to Be Used for Executive and Congressional Data Requests

- In addition to meeting the mandatory statutory requirements, the DoD must ensure a common interface between the functional areas that make up overall DoD law enforcement.
- Specifically, the Military Services and OSD have been faced with increasing requests from Congress, the Department of Justice, and other agencies for statistical data on criminal offenses and other high-interest issues including suicide, fraternization, drug abuse, sexual assault, and sexual harassment.
- These requests necessitate improvements in the ability of the Department of Defense to track a crime or incident through the law enforcement, criminal investigation, command action, judicial, and corrections phases.

#### 6. DIBRS' Expanded Functionality Requirements:

- Allow DoD to respond to requests based on a standard data system that can track a criminal incident from initial allegation to final disposition;
- Allow DoD to account for cases that are processed administratively through separation or other actions;
- Provide the flexibility to track non-criminal incidents or incidents that are hard to identify from the name of the offense, which is often the case with sexual harassment;
- Ensure that overall law enforcement data compilations using inputs from the various functional areas are based on consistent data definitions and data collection requirements;
- Enable the DoD Components and organizations involved in law enforcement to transfer information electronically between the functional areas.

7. Functional organizations with DIBRS reporting responsibilities:

- **Military law enforcement agencies**

- 1) Typically responsible for initiating the reporting process.
- 2) DIBRS reporting process shall be triggered when law enforcement officials respond to a credible report of a criminal incident.
- 3) If the crime is determined to be outside the jurisdiction of the law enforcement organization, the DIBRS reporting responsibility shall be passed to the appropriate agency, such as the FBI, or the local authority that has accepted investigative jurisdiction of the case.
- 4) A DIBRS incident report shall be considered cleared for purposes of NIBRS reporting upon apprehension, arrest, or an equivalent stage in the investigative process.

- **Commanders**

- 1) Initiate reporting process for incidents in which military law enforcement not involved in investigation.
- 2) Command action: the commander may refer the case to staff agencies, dispose of the case pursuant to administrative or non-judicial authority, or refer the case to court-martial or to an appropriate convening authority for ultimate disposition.
- 3) Once the action is complete, the commander taking final action on the case shall report the final disposition action to DIBRS.

- **Judge advocates**

- 1) Judicial function officials shall report the results of the trial and the identifying information for offenders qualifying pursuant to The Brady Handgun Violence Prevention Act of 1993, as amended.
- 2) Legal organizations with DIBRS reporting responsibilities shall forward data to DIBRS on a monthly basis.

- **Confinement facility officials**

- 1) Confinement facility officials are responsible for entering DIBRS data on prisoners confined in the facility, regardless of the member's branch of Service.
- 2) The Army, as the Executive Agent for Level III Corrections pursuant to DoDD 1325.04, shall be responsible for updating DIBRS entries for those military prisoners transferred from Army facilities to the Federal Bureau of Prisons.
- 3) DIBRS reporting shall document significant changes in the confinement status and release from confinement.
- 4) Correctional facilities shall also report data concerning victim and witness notifications and entries documenting that sex offender registration



processing has been completed if required by the appropriate officials involved in the case.

- 5) Confinement facilities shall submit DIBRS data reports to a DoD Component central confinement repository on a monthly basis.
- 6) Data gathered from the monthly submission of these reports shall be consolidated to complete confinement and victim and witness assistance reports currently prepared for the Department of Defense, the Congress, and the Department of Justice.

D. DIBRS System of Records Notice (SORN), Oct. 7, 2007, 72 FR 56062

1. System location: Naval Postgraduate School Computer Center, Monterey, CA
2. Routine uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, and the DoD “blanket uses,” these records of information contained therein may specifically be disclosed outside the DoD as follows:
  - To compile crime statistics so that such information can be both disseminated to the general public and used to develop statistical data for use by law enforcement agencies.
  - To compile information on those individuals for whom receipt or possession of a firearm would violate the law so that such information can be included in the National Instant Criminal Background Check System which may be used by firearm licensees (importers, manufactures or dealers) to determine whether individuals are disqualified from receiving or possessing a firearm.
  - To compile information on those individuals for whom access to a biological agent or toxin would violate the law so that such information can be included in a database which may be used to determine whether individuals are disqualified from accessing such agents or toxins.

E. SecDef Memorandum, “Final Recommendations of the Ft. Hood Follow-on Review,” Aug. 18, 2010

1. Recommendation 2.10: Establishment of Consolidated Law Enforcement Database
  - The Independent Review recommended establishing a consolidated database to enable organizations across the Department to query, retrieve, and post criminal investigation and law enforcement data in a single repository. In August 2008, the Secretary of Defense directed that the existing Naval Criminal Investigative Service (NCIS) system be used as the basis for establishing a consolidated Law Enforcement Defense Data Exchange (D-DEx). Each of DoD's thirteen law enforcement agencies are participating in the development of D-DEx.

- The Under Secretary of Defense for Personnel and Readiness, in coordination with the Military Departments and other Defense Law Enforcement Agencies, will complete development of D-DEx and identify program funds to deploy D-DEx DoD-wide in FY2011.

F. DoDI 5525.16, “Law Enforcement Defense Data Exchange (LE D-DEx),” Aug. 29, 2013

1. Establishes policy and assigns responsibilities for law enforcement criminal justice information (CJI) sharing through the LE D-DEx, by the law enforcement agencies (LEAs) of DoD in accordance with the authority in Secretary of Defense Correspondence Action Report, “Lead for Integrating DoD Crime Databases into a Federal System,” Aug. 2, 2005.
  - Designates the LE D-DEx as the authorized DoD integrated CJI sharing system in accordance with the authority in Secretary of Defense Memorandum, “Final Recommendations of the Ft. Hood Follow-on Review,” Aug. 18, 2010.
2. LE D-DEx is DoD’s CJI portal to externally share CJI with the Federal Bureau of Investigation’s (FBI) Law Enforcement National Data Exchange (N-DEx), under the provisions of the Memorandum of Understanding among the Federal Bureau of Investigation and Participating State, Local, Tribal, and Federal Agencies for an Information Sharing Initiative and its Addendum, January 30, 2008.
3. DoDI must be reissued, cancelled, or certified current within 5 years of its publication to be considered current in accordance with DoDI 5025.01.

G. DoD IG Report: Evaluation of DIBRS Reporting and Accuracy (Oct. 29, 2014)

1. DoD IG evaluated the Defense Criminal Investigative Organizations’ (DCIOs) process for reporting accurate criminal incident data to DIBRS in accordance with DoD Manual 7730.47-M (Vol. 1) (Dec. 7, 2010)
2. **Finding: As of October 2014 – DMDC has never submitted DIBRS criminal incident data to the FBI for inclusion in the annual Uniform Crime Reports, as required by Federal law.**
3. In response to the DoD IG recommendations that the Director, DHRA, obtain FBI certification for DIBRS, review and submit data to NIBRS as required by DoD policy and Federal law, and ensure error corrections are tracked to completion, DHRA indicated that DoD has put its “limited resources toward developing a new [criminal justice information] CJI reporting system,” adding that “[t]he CJI is piloting a new process to extract UCR (DIBRS) data from law enforcement agency databases thereby removing the need for the DIBRS database.” Further, DHRA responded that “to the extent priorities permit and resources are available, the Department will continue to provide a forum for the exchange of information, best practices, and the continuing operation of the DIBRS.”

## II. DoD Statutory and Policy Sexual Assault Data Collection and Reporting Requirements

### A. Defense Sexual Assault Incident Database (DSAID)

1. In 2008, Congress required DoD to implement a centralized, case-level database for the collection and maintenance of uniform data on sexual assaults involving members of the Armed Forces. (Pub. L. 110-417, § 563))
2. The statute required the Secretary of Defense to report to Congress by April 14, 2009 on the current status of DIBRS development and how DIBRS will relate to DSAID. DSAID was required to be implemented by Jan. 2010. (Pub. L. 110-417, § 563(c)).
3. DSAID was used for the first time to generate data for the DoD annual report to Congress in 2014. (DoD SAPRO FY 2014 Annual Report on Sexual Assault in the Military)

### B. FY 2011–2015 National Defense Authorization Act Data Reporting Requirements

1. Total reported sexual assaults with Service member victim (FY11 NDAA § 1631 (b) (1))
2. Total unrestricted reports with Service member victim that were substantiated (FY11 NDAA § 1631 (b)(1))
3. Total reported sexual assaults with Service member subject (FY11 NDAA § 1631 (b)(2))
4. Total unrestricted reports with Service member subject that were substantiated (FY11 NDAA § 1631 (b)(2))
5. A synopsis of each substantiated case, organized by offense, and action taken in the case including the type of disciplinary or administrative sanction imposed including court-martial sentences, NJP and administrative separations. (FY11 NDAA § 1631 (b) (3), FY13 NDAA §575 (a))
  - Dismissals (after Article 32) and date
  - Administrative separations and RILOs including characterization of discharge (H/G/OTH)
  - Whether accused was previously accused of substantiated sexual assault or admitted under moral waiver related to prior sexual misconduct
  - Branch of Service of each accused and victim
  - Nature of NJP
  - Whether alcohol involved in any way
  - Expedited transfers, denials and reasons for denial
6. Analysis and assessment of trends in the incidence, disposition, and prosecution of sexual assaults by units, commands, and installations. (FY13 NDAA § 575 (b))

7. Analysis of the disposition of the most serious offenses occurring during sexual assaults committed by members of the Armed Force, including numbers of reports identifying offenses that were disposed of by each of the following: (FY15 NDAA § 542 (a))
  - Convictions by court-martial, including most serious charge preferred and most serious charge convicted
  - Acquittals of all charges at court-martial
  - NJP
  - Administrative action, including by type
  - Dismissal of all charges including by reason for dismissal and by stage of proceedings in which dismissal occurred

C. GAO Report (GAO-17-99), Military Personnel: DoD Has Processes for Operating and Managing Its Sexual Assault Incident Database (Jan. 2017).

1. DoD's cost estimate for DSAID was \$12.6 million. Through fiscal year 2018, DoD projects it will have spent a total of approximately \$31.5 million on implementing and maintaining DSAID.
2. Generally, victim data are manually input into DSAID by SARCs and investigative data are collected by each Military Service's MCIO and transferred into DSAID through an automated interface process.
3. As of July 19, 2016 DSAID had 1009 users, including 938 SARCS; 34 program managers; 11 SAPRO analysts; 25 legal officers; and 1 SAPRO super user.
4. DSAID has a quality assurance tool that allows users to run point-in-time reports that identify missing data in DSAID; validate accuracy if selected data fields; and perform cross-checks of selected data fields to identify potential conflicts of information. Officials from the Services' HQ SAPR offices distribute quality assurance reports monthly to their installations and request SARCs correct any issues identified before the next monthly report is generated.
5. Challenge 1: slow system speed causes SARCs to spend an inordinate amount of time on data input. SARCs reported it is cumbersome to perform required DSAID functions along with their other job responsibilities. Computers frequently time out before data input complete. DSAID times out before a full report can be generated.
6. Challenge 2: Not user friendly. Easy to skip data fields and pages because the logic flow is not intuitive.
7. Challenge 3: DoD is limited in its ability to make changes to DSAID's workflow because it is a commercial-off-the-shelf system which does not allow for such customization. Changes that do occur have to be voted on by a control board and require extensive analysis of cost, alternatives, and life cycle management before they can be implemented.
8. Challenge 4: Problems with automated interfaces with MCIO systems. MCIOs do not capture same data and MCIO weekly interface will overwrite what SARC or program manager has entered.

9. Challenge 5: DSAID is not useful for case management. No functionality to input case notes to manage individual cases and missing other basic elements of standard case management systems such as ability to document victim outreach or record unique incident details that may inform referrals for care or other support services.
10. Challenge 6: Not usable for data queries and reporting by SARCs and local program managers. They have to maintain their own separate databases and “dashboards” to track key data points, thereby duplicating the data entered in DSAID.

**Written Information Provided by the Military Services:  
HOW THE SERVICES MANAGE AND COLLECT MILITARY JUSTICE DATA  
ON SEXUAL ASSAULT CASES  
Updated March 2018**

- a. How is information about the military justice processing of sexual assault cases, from initiation of adverse action (NJP or administrative separation) or preferral of charges through appeal of conviction, managed by the JAG Corps in your Service? How is individual and collective case data tracked, monitored, collected or evaluated at the command or Service level?*

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| <b>USA</b> | <p>The Army collects and manages information about the military justice processing of all cases, including sexual assault, primarily through monthly Military Justice Reports (MJR) and the Army Courts-Martial Information System (ACMIS). Additionally, the military justice processing of all special victims (sexual assault and family abuse) cases is tracked through the Special Victim Prosecutors Application and the military justice processing of sexual assault cases responsive to the Annual Report to Congress is tracked in the Defense Sexual Assault Incident Database (DSAID). At the Department of the Army level, leadership from the prosecution, defense, Special Victim Counsel, trial judiciary, and The Judge Advocate General's Legal Center and School meet regularly to discuss both data and anecdotal observations. Throughout the year, general officers of the JAG Corps conduct inspections of Staff Judge Advocate offices under Article 6, Uniform Code of Military Justice. Collectively, these systems allow the Army to identify issues, evaluate trends, assess the overall health of our system, and inform revisions to policy, practice, and the Uniform Code for Military Justice.</p> <p>At the Major Command level (Forces Command, Training and Doctrine Command), Staff Judge Advocates collect information for commanders to conduct similar assessments and report findings to superior commands as necessary.</p> <p>At the local level, each individual Staff Judge Advocate (SJA) office maintains internal tracking mechanisms which track individual cases from investigation through final disposition at the command level. SJAs are responsible, upon request, for providing information on the status of any individual case.</p> <p>A more detailed discussion of the databases other than DSAID follows:</p> <p>MJR: The MJR is a monthly report compiled through Military Justice Online (MJO). The MJR, which is not limited to sexual assault, includes the numbers of courts-martial, non-judicial punishment, administration separations, reprimands, and civil felony convictions processed by each installation. The MJO is the platform for the creation, processing, and certification of all administrative and courts-martial documents, and military justice reports.</p> <p>ACMIS: The ACMIS is a secure, web-based management tool on JAGCNET developed to give the Clerk of Court the ability to monitor, track, and document general and special courts-martial from trial termination through appellate review. The</p> |
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|                    | <p>ACMIS has data going back to 1 January 1989. After trial termination, whether after arraignment, the announcement of sentence, or some point in between, the military judge enters a Court-Martial Case Report in ACMIS. This begins the process of data collection and entry that continues after the record of trial is received by the clerk and throughout the appellate process. The ACMIS contains no data on courts-martial terminated prior to arraignment. For those cases which are tracked, ACMIS has the data to answer most questions that might arise about any court-martial.</p> <p>SVP Application: The Special Victim Prosecutors (SVP) use an internal application on the JAG Corps website JAGCNET (<a href="http://www.JAGCNET.army.mil">www.JAGCNET.army.mil</a>) to track pending special victim investigations and adverse actions within their jurisdiction. This assists the Chief of the Trial Counsel Assistance Program (TCAP) with managing the workload of SVPs in the field, among many other uses.</p>  |
| <p><b>USAF</b></p> | <p>The Air Force uses a database called the Automated Military Justice Administration and Management System (AMJAMS) to track the processing of all military justice cases, from investigation through action, whether resulting in NJP or court-martial. All unrestricted reports of sexual assault are entered into AMJAMS by the legal office at the installation level when the legal office is notified of the allegation by the SARC or AFOSI at the start of the investigation. The AMJAMS case is regularly reviewed by the Air Force legal offices in the chain of command and continually updated by the installation-level legal office until action is complete. An NJP is considered complete when the GCMCA legal review is finished. A court-martial is considered complete after the convening authority takes action and when the installation-level legal office is notified that the Record of Trial has been accepted as final for appellate review. AMJAMS case information includes, but is not limited to, background information on the allegations; charges preferred and referred; important dates and significant case events; and updates on case status. Appellate decisions are also annotated in AMJAMS. In addition, an AMJAMS case that involves an allegation of sexual assault is flagged as a Special Interest Report (SIR), and the SIR is sent directly to the Numbered Air Force (NAF), Major Command (MAJCOM), and Headquarters Air Force (AFLOA/JAJM) military justice offices for review and tracking. An updated SIR is sent when a significant case event occurs, such as referral of charges.</p> <p>If a sexual assault investigation ultimately results in an administrative discharge of an enlisted member, outside of an alternate disposition from a court-martial, then the discharge processing is tracked through the Web-Based Administrative Separation Program (WASP). The Air Force does not have a database to track administrative discharges of officers, outside of an alternate disposition from a court-martial.</p> <p>Staff Judge Advocates at every level of command—installation, NAF, and MAJCOM—are responsible for oversight of their military justice cases. SJA responsibilities include ensuring AMJAMS cases are managed with the entry of complete and accurate data and updated in a timely fashion to provide accurate and timely reports to the chain of command. Additionally, AFLOA/JAJM oversees AMJAMS, receives and reviews SIRs, and has access to all cases in AMJAMS. On at least a quarterly basis, closed AMJAMS cases and closed-cases reports are reviewed</p> |



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|             | <p>by all levels of command and their legal offices—installation, NAF, and MAJCOM.</p> <p>AMJAMS can generate reports using various criteria, including charged offenses. These reports are reviewed and the data analyzed at all levels of command, including Headquarters Air Force, to assess the health of the military justice system. For sexual assault cases in particular, AMJAMS data is provided to the Air Force SAPRO for analysis and entry into DSAID.</p>  |
| <b>USN</b>  | <p>By instruction, accused's commands are required to complete the Sexual Assault Disposition Report (SADR) within 2 days of disposition of a case. The SADR is a comprehensive form that allows us to link unrestricted reports of sexual assault in DSAID to investigative activity and military justice outcome information. DSAID thereby tracks the life of the case starting with information derived from the DD Form 2910, NCIS investigations from the Consolidated Law Enforcement Operations Center (CLEOC) and case disposition (which includes though final trial court action).</p> <p>Post trial court action is managed through NAMARA (Navy and Marine Corps Appellate Review Activity) which utilizes CMS- the Case Management System – which originated with Trial Counsel at the beginning of the military justice process.</p>  |
| <b>USMC</b> | <p>The Military Justice Case Management System (CMS) is the primary military justice data management system for the Marine Corps. CMS covers cases in the pre-Request for Legal Services (RLS), pretrial, and trial phases, and from date of notification, receipt of an RLS, or other notification of a military justice case through the date of sentencing or alternate disposition of a case through appeal. The local Legal Service Support Team (LSST), Legal Service Support Section (LSSS) or Staff Judge Advocate's office is responsible for accurately entering data immediately upon receipt of an RLS, notification of a special victim case from the Naval Criminal Investigative Service (NCIS), or information indicating an accused servicemember has been placed in pretrial confinement. Per DTM 14-003, the MCIO (NCIS for Navy/Marine Corps) will notify the responsible legal office and other appropriate individuals within 24 hours of determining that an allegation meets the criteria of a special victim offense. Trial counsel enter notification of these cases in the pre-RLS section of CMS and continue to enter additional data and milestones as the case progresses.</p> <p>The purpose of CMS was to establish a common operating picture for the tracking of courts-martial through the military justice system. CMS provides commanders and SJAs with the visibility and oversight necessary to meet their legal requirements for timely processing and post-trial review of courts-martial. Previously, our legal service support sections (LSSS) and law centers used a wide variety of local databases to track their cases with different reports used at each phase of the process (pretrial, court reporters, and post-trial review). The proliferation of local reports led to challenges in accurately accounting for each case from the trial teams to the appellate courts. To improve tracking and timely processing of our courts, Judge Advocate Division established CMS, which went on-line 23 December 2009, and its use became mandatory as of 17 February 2010. Per the Legal Administrative Manual (LEGADMINMAN), the Trial Counsel (TC) is responsible for ensuring that</p> |



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|             | <p>information in CMS is continually updated, current, and accurate for those cases the TC is detailed. Ultimately, the Regional Trial Counsel (RTC) is responsible for supervising the maintenance and updating of the case entries into CMS for all cases in the LSSS. CMS may produce reports of on-going cases by region, phase of the case, or in some instances by type of offense, such as the Sexual Assault (SA) report that tracks all SA cases – that includes both adult sexual assault cases falling under the Sexual Assault Prevention and Response Program and intimate partner and child victim cases falling under the Family Advocacy Program. Detailed information concerning CMS may be found in the links below references (c) and (d). The Defense Sexual Assault Incident Database (DSAID) tracks certain sexual assault cases for the Annual Report to Congress (discussed below).</p> <p>Pursuant to Article 6, Uniform Code of Military Justice (UCMJ), the Staff Judge Advocate to the Commandant of the Marine Corps conducts a Legal Services Inspection (LSI) throughout the year to access the provision of legal services at SJA and LSSS offices, access trends and provide oversight. Additionally, Staff Judge Advocates (SJAs) and leaders at the LSSSs collect conduct similar assessments and make any necessary changes.</p>  |
| <b>USCG</b> | <p><b>(Past CG Practice; Pre-DSAID/FACTS)</b></p> <p>For those sexual assault matters in which court-martial charges were not preferred and the matter was resolved at NJP, information concerning the matter is first collected and documented by the Servicing Personnel Office (SPO) of the member. The SPO is roughly equivalent to a battalion-level administrative support unit. Following the incident, details of the NJP are entered by the SPO into the Coast Guard’s human resources database known as Direct Access. Coast Guard Headquarters may query Direct Access to obtain service-wide NJP statistics. For those sexual assault matters in which court-marital charges were not preferred and the matter was finally resolved through an administrative separation, information concerning the matter is also documented by the separated member’s SPO and entered into the Direct Access system.</p> <p>For those sexual assault matters in which court-martial chargers are preferred, Coast Guard Policy requires that the matter be entered and tracked within the Coast Guard’s Law Manager database application (a commercial database application adapted for military justice cases). The Law Manager database contains fields and functionality, which enable Coast Guard Servicing Legal Offices to enter all details of a military justice matter from investigation through trial and the appellate process. Information regarding these cases should be entered into the Law Manager database regardless of final outcome, whether there is a conviction, acquittal or alternative disposition (such as NJP or administrative separation). Coast Guard Headquarters conducts regular queries of the Law Manager database to identify and monitor these sexual assault cases. As a means to check the accuracy of the information contained in Law Manager, Coast Guard Headquarters tracks and monitors military justice matters in parallel with Law Manager through a separate database developed with Microsoft Access.</p> |

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|  | <p><b>(Future Practice)</b></p> <p>The Coast Guard has developed a new law enforcement database (FACTS) and will be implementing DSAID. One of the goals of using these newer systems is to transition away from a charge-preferral, or outcome initiated data management system, to one that is based purely on a report of sexual assault or the initiation of an investigation. Tracking and monitoring all sexual cases in one dataset, regardless of outcome or pathway to that outcome, will greatly enhance Coast Guard information awareness and data analysis.</p> |
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- b. How do the Service's SAPR legal officers obtain and aggregate information about the judicial processing of sexual assault cases to input and/or validate information in DSAID in advance of any quarterly or annual reports? Are individual case documents uploaded or linked to DSAID? If not, is the military justice information that is input into DSAID obtained from court-martial documents or other case summaries?***

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| <b>USA</b>  | <p>The Criminal Investigation Command (CID) provides the Criminal Law Division (CLD) of the Office of The Judge Advocate General with a spreadsheet of all subjects who made an unrestricted report of sexual assault. This spreadsheet is distributed to every SJA in the Army with a set of instructions and a template for submitting judicial processing/disposition data on every subject within their jurisdiction. Information provided by the SJAs is consolidated at CLD and entered into DSAID at the HQDA level. For quality control, all disposition data provided by the SJAs is compared to disposition data on the DA Form 4833 provided by commanders to CID and discrepancies are sent to the installation SJA office for resolution. DSAID does not have the capability to upload or link disposition documents with individual cases.</p>  |
| <b>USAF</b> | <p>Air Force Sexual Assault Prevention and Response Office (SAPRO) legal personnel, consisting of judge advocates and a paralegal, collect on a bi-monthly basis case disposition information from installation Sexual Assault Response Coordinators (SARC) and legal offices. The information is captured on a SAPRO form that uses DSAID data fields and sent via email. SARCs are trained on this data collection and use of the form. In addition, AFLOA/JAJM provides AMJAMS case data to SAPRO legal personnel, who use the AMJAMS data as well as information drawn from the Air Force Office of Special Investigations (AFOSI) to validate the information collected from the SARC forms and ensure the accuracy of the data entered into DSAID. No actual case documents are uploaded or directly linked to DSAID, although the data entered into DSAID is obtained from case documents.</p> |
| <b>USN</b>  | <p>The primary sources of information that DSAID Legal Officers use to obtain disposition data, including case tracking and adjudication, are Sexual Assault Disposition Reports (SADRs). After the disposition is completed for each allegation</p>  |

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|             | <p>of sexual assault, the Commanding Officer of the Subject (or the Victim in the case of an unknown/foreign/civilian Subject) is required to submit a SADR. The SADR contains the case disposition data, including whether the case was preferred to court-martial, resolved at NJP or ADSEP, or disposed of in another way that did not include punitive or administrative measures. The information on the SADRs is input by Legal Officers into DSAID. NCIS is the record keeping authority for SADRs, and maintains the submissions on file. SADRs (or any other case documents) are not uploaded into DSAID by Legal Officers. Occasionally, if information is lacking on a SADR, Legal Officers will reach out to the command, NCIS, CNIC, or the specific RLSO to obtain further case information.</p> <p>This information includes the court-martial type, most serious sexual assault offense charged, most serious sexual assault offense convicted of, and a detailed breakdown of the sentence adjudged. The fields relating to military justice on the SADR are highly specific and are designed to capture information as it must be entered into DSAID. However, other DSAID fields require more nuanced and subjective information. Court-martial documents do not serve as the basis for these fields because they do not contain the requisite information. For example, the case synopsis contains information about the victim's initial report, details of the reported sexual assault, and actions by the convening authority. This information is not part of the court-martial documents. Rather, it comes from the NCIS report of investigation and the commander's involvement or communications with the victim, the Sexual Assault Response Coordinator, the counsel involved in the case, and the SJA.</p> |
| <b>USMC</b> | <p>Marine Corps Legal Officers (LO) obtain information about the processing of a sexual assault case directly from the commander who is the disposition authority for the case. This information is provided via a Sexual Assault Disposition Report (SADR). The SADR is a form with fields that correspond to the fields that the Legal Officers must complete in the DSAID. Each SADR is prepared by the office of the SJA that has cognizance over the case, is reviewed and signed by the SJA or his/her deputy, and is signed by the commanding officer or commanding general who is the disposition authority (SA-IDA). This form is submitted to the Judge Advocate Division's Military Justice Branch (JMJ) where it is saved, reviewed, and entered into DSAID. An LO reviews each submitted SADR to verify it is complete. If the form has discrepancies or omissions, it is returned for corrective action and resubmission. Once the LO determines that a SADR is complete, the LO enters the information into the DSAID LO module. On a weekly basis, the LOs meet to review all the disposition information entered into DSAID over the previous week. During this process, to ensure accuracy, the LOs compare the disposition information entered into DSAID against the information on the SADR submitted by the command.</p> <p>Legal Officers normally do not review individual case documents before entering disposition information into DSAID. Similarly, case documents are not linked or attached to DSAID. These documents are not currently required by DSAID. Moreover, DSAID does not allow document uploads.</p>   |

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|             | <p>The military justice information that is input into DSAID is obtained from the SADR, which contains information taken directly from court-martial documents; however, this information is generally available to the LOs if needed to verify data or answer a question. The SJA offices use court-martial documents to provide specific, objective data relating to the court-martial charges and results. This information includes the court-martial type, most serious sexual assault offense charged, most serious sexual assault offense convicted of, and a detailed breakdown of the sentence adjudged. The fields relating to military justice on the SADR are highly specific and are designed to capture information as it must be entered into DSAID. However, other DSAID fields require more nuanced and subjective information. Court-martial documents do not serve as the basis for these fields because they do not contain the requisite information. For example, the case synopsis contains information about the victim's initial report, details of the reported sexual assault, and actions by the convening authority. This information is not part of the court-martial documents. Rather, it comes from the NCIS report of investigation and the commander's involvement or communications with the victim, the Sexual Assault Response Coordinator, the counsel involved in the case, and the SJA.</p> |
| <b>USCG</b> | <p>The Coast Guard Sexual Assault Prevention and Response Program is primarily responsible for DSAID entries. Currently they obtain that information from the servicing legal office that prosecuted a case or the Coast Guard Investigative Service. The Coast Guard is currently working with DoD SAPRO to allow the FACTS law enforcement database to interface with DSAID and allow transfer of information regarding judicial outcomes in FACTS to DSAID.</p>   |

*c. Are case documents and/or case disposition information from sexual assault cases (whether the case is resolved via administrative separation, NJP, or court-martial) maintained electronically for tracking purposes? If not, are documents and disposition information maintained in some other way?*

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| <b>USA</b> | <p>There is no single centralized repository for all case documents and disposition documents.</p> <p>For all cases which proceed to court-martial, promulgating orders and final orders are maintained electronically by the Clerk of Court beginning with those published after 1 January 1990. All general and BCD special court-martial records of trial that terminated after 1977 are stored with the National Archives and Record Administration [NARA] in Suitland, MD upon completion of appellate review. Documents related to non-judicial punishment and administrative actions are added to a Soldier's personnel records if required by regulation, and are maintained by individual SJA offices and local unit files in accordance with Army recordkeeping requirements.</p> |
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| <b>USAF</b> | <p>Air Force case documents, whether resulting in court-martial, NJP, administrative separation, or some combination thereof, are maintained in hard copy and electronically depending on the document. Official copies of both hard-copy and electronic documents are maintained in accordance with the Air Force Records Information Management System (AFRIMS) disposition schedule.</p> <p>Court-martial records are maintained in hard copy at the relevant legal offices. In addition, Records of Trial for all general and special courts-martial are kept permanently.</p> <p>NJP case files are maintained in hard copy at the installation legal office for three years after final review and at the Air Force Personnel Center (AFPC) in the member's personnel file for 30 years after final review.</p> <p>Administrative separation case files are maintained in hard copy at the installation legal office. Actions that do not result in separation are maintained for one year after retention or until reassignment of the member. Actions that result in separation are maintained for three months after the date of separation. Also, the basis for an administrative separation is indicated by a specific code on the DD Form 214, Certificate of Release or Discharge from Active Duty, which is maintained permanently by AFPC.</p> <p>Air Force case disposition information for courts-martial, NJP, and administrative separations are stored indefinitely in AMJAMS and WASP, the two electronic databases managed by the Air Force JAG Corps discussed previously.</p> |
| <b>USN</b>  | <p>Court-martial records are maintained at the Region Legal Service Office (RLSO) where the court-martial was held. As required by the Manual for Courts-Martial the original records of trial are forwarded to OJAG Code 40 and are maintained for the appellate process. After completion of appellate review, Code 40 will send the original record to the National Records Center to be maintained indefinitely. Following Navy procedures, two years after completion of the appellate process the copy of the record maintained at the RLSO is destroyed. For cases that do not require appellate review the RLSO keeps records that have been reviewed Article 64, UCMJ, and section 0153 of the Manual of the Judge Advocate General (JAGMAN). These records are kept locally and then transferred to the records custodian (via OJAG Code 46) National Personnel Records Center where they are kept for 15 years. Records of non-judicial punishment, administrative separation or other administrative actions are uploaded to the appropriate Personnel Command code and are maintained at the command.</p>  |
| <b>USMC</b> | <p>Prior to completion of trial, court-martial records are maintained at the Legal Service Support Section (LSSS) or Legal Service Support Team (LSST) where the court-martial is held. After the court-martial and convening authority's action, the regional LSSS supporting the court-martial maintains a copy of the record of trial and forward the original as described below:</p>   |

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|  | <p>General courts-martial convictions and acquittals: Records of all trials by general court-martial shall, immediately after completion of the convening authority's action, be forwarded to the Office of the Judge Advocate General of the Navy (OJAG) (Code 40) and will be maintained throughout the appellate process at Code 40. Two years after completion of appellate review, Code 40 will send the original record to the Washington National Records Center (WNRC) to be maintained indefinitely. At that time, copies, including those at the LSSS, will be destroyed.</p> <p>Special courts-martial convictions: Records of trial by special court-martial that involve an officer accused, or that include as part of the approved sentence a suspended or unsuspended bad-conduct discharge, confinement for one year, or that have been returned for further action by the appropriate appellate authority, shall, after completion of final action, be forwarded to Code 40, and will be maintained throughout the appellate process at Code 40. Two years after completion of appellate review, Code 40 will send the original record to the WNRC to be maintained indefinitely. At that time, copies, including those at the LSSS, will be destroyed.</p> <p>All other special courts-martial convictions and summary courts-martial convictions: The regional LSSS maintains all records of trial that have been reviewed locally under Article 64, UCMJ, and section 0153 of the Manual of the Judge Advocate General (JAGMAN) on behalf of commands. The original records of proceeding are retained at the LSSS for a period of three years after final action. At the termination of the three-year retention period, the LSSS must contact the OJAG (Code 64) records custodian to coordinate the transfer of the original records of proceedings to the National Personnel Records Center where they will be maintained until destroyed after 15 years.</p> <p>Special and summary courts-martial acquittals: Court-martial records that end in acquittals will be retained in the same manner as special and summary courts-martial that are reviewed pursuant to Article 64, UCMJ. They are maintained by the regional LSSS on behalf of commands for a period of three years after final action. At the termination of such retention period, the LSSS must contact the OJAG (Code 64) records custodian to coordinate the transfer of the original records of proceedings to the National Personnel Records Center where they will be maintained until destroyed after 15 years. Before 2012, court-martial records were maintained in hard copy only. Since 2012, records will be maintained both electronically and in hard copy.</p> <p>Certain case documents are also required to be uploaded into CMS. These include the Prosecution Merit Memorandum (PMM) – that discusses the merits and recommends disposition, SADR, preferred charge sheet, and report of result of trial.</p> <p>Records of non-judicial punishment, administrative separation, or other administrative actions will be found in the Marine's official military personnel file and, if part of the case file, maintained at the local LSST or SJA's office for two years.</p> |
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| <b>USCG</b> | <p><b>(Current practice)</b></p> <p>Maintenance of documents and case disposition information related to sexual assault allegations varies depending on the type of final disposition and whether court-martial charges were preferred in the matter. For those cases in which charges were not preferred, but which were disposed of at NJP or administrative separation, most case documentation will be held by the member's SPO. Details related to the matter are entered by the SPO into the Direct Access system.</p> <p>For those cases in which charges were preferred, the servicing legal offices will maintain documents and case disposition information. This information is entered into the Law Manager application. If such a case results in a conviction at trial, the case documentation will be assembled into the record of trial, which is sent to Coast Guard Headquarters. Coast Guard Headquarters reviews and catalogs all records of trials before sending them for review, as appropriate, by the Coast Guard Court of Criminal Appeals.</p> <p>The Coast Guard Investigative Service (CGIS) also maintains hard-copy case information for every reported sexual assault that they investigate regardless of final disposition. CGIS case file information is also maintained within their FACTS database, which can track cases from report through disposition at trial.</p> |
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*d. Other than annual reports produced through DoD SAPRO via information aggregated in DSAID, what other internal or external reports are produced that summarize and/or explain the processing of sexual assault cases through the military justice system? How is information within the reports developed?*

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| <b>USA</b>  | <p>Internally, reports of sexual assault cases processed through the military justice system are produced using data from the ACMIS, MJO, and various military police databases to assist senior leaders in assessing trends and performance.</p> <p>The only other formal reports produced by the Army regarding military justice are (1) the Annual Historical Summary of The Judge Advocate General's Corps, United States Army, presented by The Judge Advocate General to the American Bar Association (ABA Report), and (2) the Annual Report submitted to the Committees on Armed Services of the United States Senate and the United States House of Representatives and to the Secretary of Defense, Secretary of Homeland Security, and the Secretaries of the Army, Navy and Air Force pursuant to the Uniform Code of Military Justice (CAAF Report).</p> |
| <b>USAF</b> | <p>The Air Force does not produce internal or external reports specific to the processing of sexual assault cases through the military justice system other than the annual report produced by the SAPRO using information aggregated in DSAID.</p>   |

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| <b>USN</b>  | <p>When required military justice reports, including as necessary sexual assault cases, are processed by OJAG Code 67 using data from CMS and data as reported to the Trial Counsel Assistance Program. Additionally, commands submit the Quarterly Criminal Activity Report (QCAR) as required by JAGINST 5800.9. The QCAR contains statistics on the number of court-martials and NJPs conducted.</p> <p>Since June 2013 the Navy has published courts-martial results. And, like other services, the Navy produces various annual reports including the American Bar Association report and the CAAF Report. In addition, the Navy has produced reports for the President (POTUS Report 2014) and in response to specific queries of congress. Depending on the nature of the request or requirement the Navy will utilize information held be Code 67, TCAP, or reported in the QCAR.</p>   |
| <b>USMC</b> | <p>Every quarter the SJAs for General Court-Martial Convening Authorities submit disposition information to Judge Advocate Division via the Quarterly Criminal Activity, Disciplinary Infractions, and Courts-Martial Report (QCAR) as directed by JAGINST 5800.9. The QCAR contains information on the number of court-martials and NJPs for sexual assault and other offenses. Other internal reports are produced using data from CMS as well as data reported by the local LSSSs or SJAs for tracking and oversight as directed.</p> <p>Concerning external reports each month, the Marine Corps publishes general and special courts-martial results online on the Marine Corps' homepage at:<br/> <a href="http://www.hqmc.marines.mil/Portals/61/Docs/COURTSMARTIAL081515.pdf">http://www.hqmc.marines.mil/Portals/61/Docs/COURTSMARTIAL081515.pdf</a></p> <p>External formal reports include: (1) Report of The Staff Judge Advocate to the Commandant of the Marine Corps presented to the American Bar Association (ABA report); and (2) the Report to the Court of Appeals for the Armed Forces (CAAF). Information from CMS is used to create both reports.</p> |
| <b>USCG</b> | <p>The Office of the Judge Advocate General of the Coast Guard prepares a Monthly Good Order and Discipline Report that tracks courts-martial as well aggregate NJP information and information on civilian disciplinary proceedings. In addition, the Office of the Judge Advocate General prepares a monthly court-martial report that tracks every case in which charges have been preferred through final disposition (including alternative disposition). The reports are generated from Law Manager in conjunction with the Office of Military Justice stand alone database and to a lesser degree from FACTS, Direct Access queries for NJP information, and from the Office of Civilian Human Resources for civilian discipline information.</p>  |



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*e. Is there any additional information the Services wish to provide to the Panel regarding processing and oversight of judicial resolution of sexual assault cases?*

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| <b>USA</b>  | None.   |
| <b>USAF</b> | The Air Force appreciates the opportunity to provide additional information and answer any further questions at the October public meeting of the Panel.  |
| <b>USN</b>  | Development of the Naval Justice Information System (NJIS) is in final stages. Once complete, NJIS will be a web-based application for the DoN criminal/military justice communities, including law enforcement, criminal investigations, command actions, judicial actions, and corrections (which currently uses Corrections Management Information System (CORMIS)). NJIS will be an integrated “cradle-to-grave” DON information system for reporting data ranging from an initial incident to the details of investigation, prosecution, and confinement. Additionally, NJIS will be used to document court-martial and non-judicial punishments, manage desertion activities, and track the review process of the Navy and Marine Corps appellate leave/appellate review activities (NAMALA/NAMARA). NJIS is designed to replace CLEOC, CMS, and CORMIS.  |
| <b>USMC</b> | <p>The LSSS OIC is ultimately responsible for the provision of trial services within the LSSA. Individual LSSTs provide direct legal services to designated commands. The LSST OIC is directly responsible for the provision of trial services, except for cases detailed by the RTC, to commands supported by the LSST. The SJA remains responsible for updating and providing advice to the commander on the status of the case. The RTC Office provides complex trial services, as required, across the LSSA; supervision, mentorship, training, and litigation support to LSSTs; and Complex Trial Counsel (CTC) to assist in prosecuting high-profile, complex, special victim cases, and other significant cases. The RTC is responsible for the functional supervision, legal training, and mentoring of all personnel who provide trial services within the LSSA. The RTC supervises all members of the RTC Office, as well as the STC, SAUSA, and TC of the co-located LSST. The RTC and the LSST OIC supervise the STC, SAUSA, and TC at other LSSTs. Additionally all sexual assault cases are monitored from start to finish by four Prosecution Highly Qualified Experts (HQE’s) within the Marine Corps.</p> <p>The HQE/GS-15 is an experienced civilian attorney who has the primary duty of providing training, mentoring, and case-specific expertise to TC detailed to special victim and other complex cases throughout the region in order to enhance the government’s ability to meet its burden of production and proof. The HQE’s/GS-15’s primary functions are to consult and advise on the prosecution of special victim and other complex cases and to develop and implement training and standing operating procedures for the investigation and prosecution of complex cases. The HQE/GS-15 may perform other related duties, including preparation of reports and analysis of TC performance in courts-martial, as assigned. The HQE’s bring a total of approximately 84 years of legal experience and the majority of that experience occurred while prosecutors in civilian practice focusing in the areas of sexual assault, domestic</p> |

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|  | <p>violence, and child abuse. HQE's review every case of sexual assault and provide training and guidance based on their review of actions during the pendency of cases as well as the disposition of each case. HQE's participate in all areas of trial preparation with Trial Counsel, including collaboration on PMMs, preparing charging documents, interviewing witnesses, preparing government motions and responses to defense motions, determining appropriate experts, and organizing all evidence to present the strongest case to the members. HQE's provide consistent guidance to Trial Counsel and assure continuity throughout the USMC in the disposition of sexual assault cases.</p> <p>In addition to the hiring of HQEs, the Marine Corps has instituted a number of process improvements designed to formalize and facilitate the higher standards for military justice practice. They include new detailing and qualification standards, heightened sexual assault disposition authority, an upgraded case management system, and standardization of trial forms. These improvements promote the proper detailing of counsel and the efficient handling of complex cases such as sexual assault.</p> <p>New rules for the detailing of trial counsel require minimum standards of courtroom experience, successful completion of an intermediate level prosecution of sexual assault course, and experience specifically as an assistant trial counsel in a sexual assault case before a trial counsel may be detailed as the lead attorney on a sexual assault court-martial.</p> <p><u>Naval Justice Information System:</u></p> <p>The Marine Corps along with the Navy is currently in the final stages of development of the Naval Justice Information System (NJIS). NJIS will be a web-based application that supports the information and reporting requirements of the Department of the Navy (DON) criminal/military justice communities, to include law enforcement, criminal investigations, command actions, judicial actions, and corrections.</p> <p>NJIS will be an integrated "cradle-to-grave" DON information system for reporting data ranging from an initial incident to the details of investigation, prosecution, and confinement. Additionally, NJIS will be used to document court-martial and non-judicial punishments, manage desertion activities, and track the review process of the Navy and Marine Corps appellate leave/appellate review activities (NAMALA/NAMARA). Once fully deployed, NJIS will replace the Consolidated Law Enforcement Operations Center (CLEOC), CMS, and the Corrections Management Information System (CORMIS).</p> <p><b>REFERENCES</b></p> <p>a. MARADMIN 062/10 - Implementation of Case Management System for Courts-Martial</p> <p><a href="http://www.marines.mil/News/Messages/MessagesDisplay/tabid/13286/Article/112156/implementation-of-case-management-system-for-courts-martial.aspx">http://www.marines.mil/News/Messages/MessagesDisplay/tabid/13286/Article/112156/implementation-of-case-management-system-for-courts-martial.aspx</a></p> |
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|             | <p>b. MCO P5800.16 – Marine Corps Manual for Legal Administration<br/> <a href="http://www.marines.mil/Portals/59/MCO%20P5800.16A%20W%20CH%201-7.pdf">http://www.marines.mil/Portals/59/MCO%20P5800.16A%20W%20CH%201-7.pdf</a></p> <p>c. Case Management System Manual 2015 v.2<br/> <a href="http://www.hqmc.marines.mil/Portals/135/Docs/JAI/Case%20Management%20System%20Manual%202015v2.pdf">http://www.hqmc.marines.mil/Portals/135/Docs/JAI/Case%20Management%20System%20Manual%202015v2.pdf</a></p> <p>d. Case Management System Quick User Guide v.1<br/> <a href="http://www.hqmc.marines.mil/Portals/135/Docs/JAI/CMS%20Quick%20User%20Guide%20040615.pdf">http://www.hqmc.marines.mil/Portals/135/Docs/JAI/CMS%20Quick%20User%20Guide%20040615.pdf</a></p> <p>e. ALNAV 061/14 Implementation of the Sexual Assault Disposition Report:<br/> <a href="http://www.public.navy.mil/bupersnpc/reference/messages/Documents/ALNAVS/ALN2014/ALN14061.txt">http://www.public.navy.mil/bupersnpc/reference/messages/Documents/ALNAVS/ALN2014/ALN14061.txt</a></p> <p>f. CAAF FY14 Annual Report<br/> <a href="http://www.armfor.uscourts.gov/newcaaf/annual/FY14AnnualReport.pdf">http://www.armfor.uscourts.gov/newcaaf/annual/FY14AnnualReport.pdf</a></p> <p>g. FY15 Practice Advisory 5-15: Special Victim Cases-SADR<br/> <a href="http://www.hqmc.marines.mil/Portals/135/Docs/Practice%20Advisories/PA%205-15%20SVCSADR%209%20Mar%20With%20Encl.pdf">http://www.hqmc.marines.mil/Portals/135/Docs/Practice%20Advisories/PA%205-15%20SVCSADR%209%20Mar%20With%20Encl.pdf</a></p> <p>h. FY15 Practice Advisory 6-15: New LSAM Requirements for Military Justice<br/> <a href="http://www.hqmc.marines.mil/Portals/135/FY15%20Practice%20Advisory%206-15%20New%20LSAM%20Requirements%20for%20Military%20Justice.pdf">http://www.hqmc.marines.mil/Portals/135/FY15%20Practice%20Advisory%206-15%20New%20LSAM%20Requirements%20for%20Military%20Justice.pdf</a></p> <p>i. SECNAV M-5210.1, Records Management Manual<br/> <a href="http://doni.daps.dla.mil/SECNAV%20Manuals1/5210.1.pdf">http://doni.daps.dla.mil/SECNAV%20Manuals1/5210.1.pdf</a></p> <p>j. JAGINST 5800.7F, JAGMAN<br/> <a href="http://www.jag.navy.mil/library/instructions/jagman2012.pdf">http://www.jag.navy.mil/library/instructions/jagman2012.pdf</a></p> <p>k. Quarterly Criminal Activity, Disciplinary Infractions and Courts-Martial Report,<br/> <a href="http://www.jag.navy.mil/library/instructions/58009c.pdf">http://www.jag.navy.mil/library/instructions/58009c.pdf</a></p> <p>l. ALNAV 065/14 Naval Justice Information System<br/> <a href="http://www.public.navy.mil/bupersnpc/reference/messages/Documents/ALNAVS/ALN2014/ALN14065.txt">http://www.public.navy.mil/bupersnpc/reference/messages/Documents/ALNAVS/ALN2014/ALN14065.txt</a></p> |
| <b>USCG</b> | None.  |

Q89a: How is information about the military justice processing of sexual assault cases, from initiation of adverse action (NJP or administrative separation) or preferral of charges through appeal of conviction, managed by the JAG Corps in your Service? How are individual and collective case data tracked, monitored, collected or evaluated at the command or Service level?

**Update to information provided by the Army to JPP RFI 89:**

Since 2015, the Army has continued to develop our two primary military justice databases, Military Justice Online (MJO) and Army Court-Martial Information System (ACMIS). MJO allows users at the Special Court-Martial Convening Authority (SPCMCA) and General Court-Martial Convening Authority (GCMCA) levels to generate, process, and manage five categories of actions—investigations, reprimands, administrative separations, non-judicial punishment (NJP), and courts-martial—through action by the GCMCA. ACMIS provides the trial judiciary and the Army Court of Criminal Appeals (ACCA) Clerk of Courts the ability to monitor, track, and document every step required to maintain official Courts-Martial Case Reports (CMCRs)—from case initiation (arraignment) to final action.

Substantial improvements to both systems have focused on the enhancement of data collection items, document upload functions, and reporting capabilities. For the future, the Army has implemented the initial steps to link the military justice databases (MJO and ACMIS) with the Army's sole law enforcement database (Army Law Enforcement Reporting and Tracking System (ALERTS)). This coordinated effort is intended to establish comprehensive, efficient reporting of criminal justice information both internally and externally to meet statutory reporting requirements to the Federal Bureau of Investigation.

Specifically, since 2015, ACMIS, which has an existing capability to upload disposition documents (promulgating orders), has added the capability to upload appellate documents. In order to improve tracking and reporting of criminal justice information, ACMIS can now distinguish between felony and misdemeanor specifications and has specific capabilities for identifying domestic violence offenses.

Since 2015, the Army has released seven versions of MJO, with an eighth version anticipated to be released in early April 2018. Highlights of improvements include: 1) collection of new data elements related to retaliation, victim jurisdiction preferences and declinations; 2) enhanced functionality to export officer elimination documents to Human Resources Command; 3) Advanced Action Search feature, which allows users with GCMCA Administrator or above access to search across multiple jurisdictions to locate MJO actions and disposition documents; 4) substantial enhancements to Custom Reporting Features that allow Chiefs of Justice at the installation level to generate reports involving approximately 800 data fields for export and provide greater report flexibility and performance.

Q89a: How is information about the military justice processing of sexual assault cases, from initiation of adverse action (NJP or administrative separation) or preferral of charges through appeal of conviction, managed by the JAG Corps in your Service? How are individual and collective case data tracked, monitored, collected or evaluated at the command or Service level?

**Update to information provided by the Air Force to JPP RFI 89:**

The Air Force uses a database called the Automated Military Justice Administration and Management System (AMJAMS) to track the processing of all military justice cases, from investigation through action, whether resulting in NJP, court-martial, other administrative action, or no action. AMJAMS is overseen and administered by the Air Force Legal Operations Agency, Military Justice Division (AFLOA/JAJM). All unrestricted reports of sexual assault are entered into AMJAMS by the legal office at the installation level when the legal office is notified of the allegation by the SARC or AFOSI at the start of the investigation. The AMJAMS case is regularly reviewed by the Air Force legal offices in the chain of command and continually updated by the installation-level legal office until action is complete. Once the investigation is complete, the case is marked in AMJAMS for court-martial, NJP, no action, or other administrative action. A case marked as “no action” or “other administrative action” is considered complete and is no longer updated in AMJAMS. An NJP is considered complete when the GCMCA legal review is finished. A court-martial is considered complete after the convening authority takes action and when the installation-level legal office is notified that the Record of Trial has been accepted as final for appellate review. AMJAMS case information includes, but is not limited to, background information on the allegations; charges preferred and referred; important dates and significant case events; and updates on case status. Appellate decisions are also annotated in AMJAMS. In addition, an AMJAMS case that involves an allegation of sexual assault is flagged as a Special Interest Report (SIR), and the SIR is sent directly to the Numbered Air Force (NAF), Major Command (MAJCOM), and Headquarters Air Force (AFLOA/JAJM) military justice offices for review and tracking. An updated SIR is sent when a significant case event occurs, such as referral of charges.

If a sexual assault investigation ultimately results in an administrative discharge of an enlisted member, outside of an alternate disposition from a court-martial, then the discharge processing is tracked through the Web-Based Administrative Separation Program (WASP). The Air Force does not have a database to track administrative discharges of officers, outside of an alternate disposition from a court-martial.

Staff Judge Advocates at every level of command—installation, NAF, and MAJCOM—are responsible for oversight of their military justice cases. SJA responsibilities include ensuring AMJAMS cases are managed with the entry of complete and accurate data and updated in a timely fashion to provide accurate and timely reports to the chain of command. Additionally, AFLOA/JAJM receives and reviews SIRs, and has access to all cases in AMJAMS. On at least a quarterly basis, closed AMJAMS cases and closed-cases reports are reviewed by all levels of command and their legal offices—installation, NAF, and MAJCOM.

AMJAMS can generate reports using various criteria, including charged offenses. These reports are reviewed and the data analyzed at all levels of command, including Headquarters Air Force, to assess the health of the military justice system. For sexual assault cases in particular, AMJAMS data is provided to the Air Force SAPRO for analysis and entry into DSAID.

Q89a: How is information about the military justice processing of sexual assault cases, from initiation of adverse action (NJP or administrative separation) or preferral of charges through appeal of conviction, managed by the JAG Corps in your Service? How are individual and collective case data tracked, monitored, collected or evaluated at the command or Service level?

**Update to information provided by the Navy to JPP RFI 89:**

In the Navy sexual assault case information is managed in two ways: (1) the DoD requires certain adult sexual assault cases be tracked in the victim-based Department of Defense Sexual Assault Incident Database (DSAID) from the investigation stage through disposition and appeal for an annual report to Congress, and (2) cases in the court-martial process are tracked in the accused-based Military Justice Case Management System (CMS).

By instruction, accused's commands are required to complete the Sexual Assault Disposition Report (SADR) within 2 days of disposition of a case. The SADR is a comprehensive form that allows the Navy to link unrestricted reports of sexual assault in DSAID to investigative activity and military justice outcome information. DSAID thereby tracks the life of the case starting with information derived from the DD Form 2910, NCIS investigations from the Consolidated Law Enforcement Operations Center (CLEOC) and case disposition (which includes though final trial court action).

CMS is the primary military justice data management system for the Navy (CMS is a Marine Corps developed program also used by the Marine Corps). CMS covers cases from initial notification to a Region Legal Service Office (RLSO) by law enforcement/command through disposition of the case, to include alternate disposition, trial and post-trial appeal. The servicing RLSO's Trial Department is responsible for accurately entering data immediately upon notification of an investigation including special victim cases (SVCs) from the Naval Criminal Investigative Service (NCIS), or information indicating an accused servicemember has been placed in pretrial confinement. Per DTM 14-003, the MCIO (NCIS for Navy/Marine Corps) will notify the responsible legal office and other appropriate individuals within 24 hours of determining that an allegation meets the criteria of a special victim offense. Trial counsel (TC) enter notification of these cases in CMS and continue to enter additional data and milestones as the case progresses.

The purpose of CMS was to establish a common operating picture for the tracking of courts-martial through the military justice system. CMS provides practitioners with the visibility and oversight necessary to meet their legal requirements for timely processing and post-trial review of courts-martial. The Trial Department personnel (TC, trial paralegal and trial administrative support personnel) are responsible for ensuring that information in CMS is updated, current, and accurate for those cases. CMS allows the RLSO to produce reports of on-going cases by region, phase of the case, name of the accused and name of alleged victims. TC use CMS to not only track cases but also allow RLSO leadership to identify trends in workload to best appoint resources to efficiently and effectively prosecute criminal cases.

Post-trial court action is managed through NAMARA (Navy and Marine Corps Appellate Review Activity) which utilizes CMS – the Case Management System – which originated with Trial Counsel at the beginning of the military justice process.

Q89b: How do the Service's SAPR legal officers obtain and aggregate information about the judicial processing of sexual assault cases to input and/or validate information in DSAID in advance of any quarterly or annual reports? Are individual case documents uploaded or linked to DSAID? If not, is the military justice information that is input into DSAID obtained from court-martial documents or other case summaries?

**Update to information provided by the Army to JPP RFI 89:**

There is no ability to upload or link documents to DSAID. Since 2015, the Army has increased the use of document-based disposition reporting through ACMIS reports and the Advanced Action Search feature in MJO. The Army Legal Officers utilize ACMIS and MJO in conjunction with the now quarterly data call to the installation military justice offices for the information needed to complete DSAID entries.

Q89b: How do the Service's SAPR legal officers obtain and aggregate information about the judicial processing of sexual assault cases to input and/or validate information in DSAID in advance of any quarterly or annual reports? Are individual case documents uploaded or linked to DSAID? If not, is the military justice information that is input into DSAID obtained from court-martial documents or other case summaries?

**Update to information provided by the Air Force to JPP RFI 89:**

Air Force Sexual Assault Prevention and Response Office (SAPRO) legal personnel collect, on a weekly basis, case disposition information from installation Sexual Assault Response Coordinators (SARC) and legal offices. The information is captured on a SAPRO form that uses DSAID data fields and sent via email. SARCs are trained on this data collection and use of the form. In addition, AFLOA/JAJM provides AMJAMS case data to SAPRO legal personnel, who use the AMJAMS data as well as information drawn from the Air Force Office of Special Investigations (AFOSI) to validate the information collected from the SARC forms and ensure the accuracy of the data entered into DSAID. No actual case documents are uploaded or directly linked to DSAID, although the data entered into DSAID is obtained from case documents.



Q89b: How do the Service's SAPR legal officers obtain and aggregate information about the judicial processing of sexual assault cases to input and/or validate information in DSAID in advance of any quarterly or annual reports? Are individual case documents uploaded or linked to DSAID? If not, is the military justice information that is input into DSAID obtained from court-martial documents or other case summaries?

**Update to information provided by the Navy to JPP RFI 89:**

The primary sources of information that DSAID Legal Officers use to obtain disposition data, including case tracking and adjudication, are SADR. After disposition is complete for each allegation of sexual assault, the Commanding Officer of the Subject (or the Victim in the case of an unknown/foreign/civilian Subject) is required to submit a SADR. The SADR contains the case disposition data, including whether the case was preferred to court-martial, resolved at NJP or ADSEP, or disposed of in another way that did not include punitive or administrative measures. The information on the SADR is input by Legal Officers into DSAID. NCIS is the record keeping authority for SADR, and maintains the submissions on file. SADR (or any other case documents) are not uploaded into DSAID by Legal Officers. Occasionally, if information is lacking on a SADR, Legal Officers will reach out to the command, NCIS, CNIC or the specific RLSO to obtain further case information.

This information includes the court-martial type, most serious sexual assault offense charged, most serious sexual assault offense convicted of, and a detailed breakdown of the sentence adjudged. The fields relating to military justice on the SADR are highly specific and are designed to capture information as it must be entered into DSAID. However, other DSAID fields require more nuanced and subjective information. Court-martial documents do not serve as the basis for these fields because they do not contain the requisite information. For example, the case synopsis contains information about the victim's initial report, details of the reported sexual assault, and actions by the convening authority. This information is not part of the court-martial documents. Rather, it comes from the NCIS report of investigation and the commander's involvement or communications with the victim, the Sexual Assault Response Coordinator, the counsel involved in the case, and the SJA.

Q89c: Are case documents and/or case disposition information from sexual assault cases (whether the case is resolved via administrative separation, NJP, or court-martial) maintained electronically for tracking purposes? If not, are documents and disposition information maintained in some other way?

**Update to information provided by the Army to JPP RFI 89:**

Both ACMIS and MJO have the capability to maintain case disposition information on all cases electronically. The effort described in Q1, to link MJO/ACMIS with ALERTS, is intended to allow for comprehensive tracking of documented disposition information, for both internal and external reporting requirements.

Q89c: Are case documents and/or case disposition information from sexual assault cases (whether the case is resolved via administrative separation, NJP, or court-martial) maintained electronically for tracking purposes? If not, are documents and disposition information maintained in some other way?

**Update to information provided by the Air Force to JPP RFI 89:**

Air Force case documents, whether resulting in court-martial, NJP, administrative separation, or some combination thereof, are maintained in hard copy and electronically depending on the document. Official copies of both hard-copy and electronic documents are maintained in accordance with Air Force Instruction 36-2608, *Military Personnel Records System*, and the Air Force Records Information Management System (AFRIMS) disposition schedule.

A copy of all courts-martial Records of Trial are maintained in hard copy form at the relevant base legal office and destroyed in accordance with the disposition schedule (currently one year after appellate review is complete). The original Record of Trial for all courts-martial is maintained permanently by AFLOA/JAJM, even though the disposition schedule may not require it.

NJP case files are maintained in hard copy at the installation legal office for three years after final review and at the Air Force Personnel Center (AFPC) in the member's personnel file, as scanned electronic media, for 30 years after final review.

Involuntary administrative separation case files are maintained in hard copy at the installation legal office. Actions that do not result in separation are maintained for one year after retention or until reassignment of the member, whichever is sooner. Actions that result in separation are maintained permanently in the member's personnel file, as scanned electronic media, at AFPC. Also, the basis for an administrative separation is indicated by a specific code on the DD Form 214, Certificate of Release or Discharge from Active Duty, which is maintained permanently by AFPC.

Air Force case disposition statistical data for courts-martial, NJP, and administrative separations are stored indefinitely in AMJAMS and WASP, the two electronic databases managed by the Air Force JAG Corps discussed previously.

Q89c: Are case documents and/or case disposition information from sexual assault cases (whether the case is resolved via administrative separation, NJP, or court-martial) maintained electronically for tracking purposes? If not, are documents and disposition information maintained in some other way?

**Update to information provided by the Navy to JPP RFI 89:**

Court-martial records are maintained at the Region Legal Service Office (RLSO) where the court-martial was held. As required by the Manual for Courts-Martial the original records of trial are forwarded to OJAG Code 40 and are maintained for the appellate process. After completion of appellate review, Code 40 will send the original record to the National Records Center to be maintained indefinitely. Following Navy procedures, two years after completion of the appellate process the copy of the record maintained at the RLSO is destroyed. For cases that do not require appellate review the RLSO keeps records that have been reviewed under Article 64, UCMJ, and section 0153 of the Manual of the Judge Advocate General (JAGMAN). These records are kept locally and then transferred to the records custodian National Personnel Records Center where they are kept for 15 years. Records of non-judicial punishment, administrative separation or other administrative actions are uploaded to the appropriate Personnel Command code and are maintained at the command.

Q89d: Other than annual reports produced through DoD SAPRO via information aggregated in DSAID, what other internal or external reports are produced that summarize and/or explain the processing of sexual assault cases through the military justice system? How is information within the reports developed?

**Update to information provided by the Army to JPP RFI 89:**

No update, as the Army continues to use ACMIS, MJO and ALERTS to evaluate trends in the processing of all cases, including sexual assault, for Army senior leadership. Enhanced capabilities in those systems have allowed for improved analysis of data.

Q89d: Other than annual reports produced through DoD SAPRO via information aggregated in DSAID, what other internal or external reports are produced that summarize and/or explain the processing of sexual assault cases through the military justice system? How is information within the reports developed?

**Update to information provided by the Air Force to JPP RFI 89:**

The Air Force does not produce internal or external reports specific to the processing of sexual assault cases through the military justice system other than the annual report produced by the SAPRO using information aggregated in DSAID.

Q89d: Other than annual reports produced through DoD SAPRO via information aggregated in DSAID, what other internal or external reports are produced that summarize and/or explain the processing of sexual assault cases through the military justice system? How is information within the reports developed?

**Update to information provided by the Navy to JPP RFI 89:**

When required military justice reports, including as necessary sexual assault cases, are processed by OJAG Code 67 using data from CMS and data as reported to the Trial Counsel Assistance Program. Additionally, commands submit the Quarterly Criminal Activity Report (QCAR) as required by JAGINST 5800.9. The QCAR contains statistics on the number of courts-martial and NJPs conducted.

Since June 2013 the Navy has published courts-martial results. And, like other services, the Navy produces various annual reports including the American Bar Association report and the CAAF Report. In addition, the Navy has produced reports for the President (POTUS Report 2014) and in response to specific queries of congress. Depending on the nature of the request or requirement the Navy will utilize information held be Code 67, TCAP, or reported in the QCAR.

Q89e: Is there any additional information the Services wish to provide to the Panel regarding sexual assault case management and data collection that would inform the Committee's discussions regarding Article 140a, UCMJ?

**Update to information provided by the Army to JPP RFI 89:**

The Service working group to implement Article 140a continues to meet regularly to develop uniform standards and criteria for the collection and analysis of data, case processing and management, and timely, efficient, accurate production and distribution of records of trial, and access to docket information, filings and records. Representatives from the Article 140a committee have coordinated with DAC-IPAD staff to provide periodic updates.



Q89e: Is there any additional information the Services wish to provide to the Panel regarding sexual assault case management and data collection that would inform the Committee's discussions regarding Article 140a, UCMJ?

**Update to information provided by the Air Force to JPP RFI 89:**

The Air Force appreciates the opportunity to provide additional information and answer any further questions at the April public meeting.

Q89e: Is there any additional information the Services wish to provide to the Panel regarding sexual assault case management and data collection that would inform the Committee's discussions regarding Article 140a, UCMJ?

**Update to information provided by the Navy to JPP RFI 89:**

In a combined effort the Navy and Marine Corps continue to develop the Naval Justice Information System (NJIS). Once complete, NJIS will be a web-based application for the DoN criminal/military justice communities, including law enforcement, criminal investigations, command actions, judicial actions, and corrections (which currently uses Corrections Management Information System (CORMIS)). NJIS will be an integrated "cradle-to-grave" DON information system for reporting data ranging from an initial incident to the details of investigation, prosecution, and confinement. Additionally, NJIS will be used to document court-martial and non-judicial punishments, manage desertion activities, and track the review process of the Navy and Marine Corps appellate leave/appellate review activities (NAMALA/NAMARA). NJIS is designed to replace CLEOC, CMS, and CORMIS.

In addition, the Military Justice Act of 2016 through its addition of Article 140a, UCMJ, requires the Secretary of Defense prescribe uniform standards and criteria for the collection and analysis of data at all stages of the military justice system.

The Joint Service Committee on Military Justice (JSC) is currently studying how to define the Article 140a standards and criteria and whether it should be document-based. The JSC will make recommendations to the DoD. The DoD's evaluation of those recommendations may impact the manner and type of information collected by the Services.



# **Air Force Automated Military Justice Analysis and Management System (AMJAMS) and Records of Trial**



AFLOA/IAJM

## Introduction and Systems of Record Notice (SORN)

The Automated Military Justice Analysis and Management System (AMJAMS) collects detailed data during all stages of military justice actions on offenses, procedural matters, and processing timelines, as well as information on the participants in the investigatory, court-martial, appellate, and nonjudicial punishment (NJP) processes. It is an essential instrument for advising commanders and leaders on the status of discipline and the timely processing of cases, which are key components of readiness. The tools, reports, and information from AMJAMS provide effective management and analysis tools for use by practitioners at installations, headquarters, major commands, the judiciary, and the appellate divisions. The capability to collect immense amounts of military justice data facilitates immediate case management and historical reviews of cases, trends, and issues. AMJAMS supports efforts to eliminate or highlight excessive processing delays and provides the capability to monitor the current status (and upcoming tasks) of military justice actions from the investigation stage through completion of the appellate process. It also allows the user to print standard legal AF and DoD forms associated with nonjudicial punishment and courts-martial.

Additionally, AMJAMS supports schedule and event entries, such as a hearing, rehearing, and *Dubay* hearings for the trial judiciary and judiciary personnel. The system also enables access to information with a public-facing, web-based docket and pushes detailed updates on pending and recently completed courts-martial.

AMJAMS is also an essential tool to facilitate access to records of trial (ROTs), quality control over ROT production, and the use of ROTs by appellate courts, Air Force boards, and non-DoD inquiries.

AMJAMS is also used as a resource to track the status of records of trial as they are assembled, forwarded for review under Article 64a and Article 66, UCMJ, and ultimately closed. The system provides users with the ability to monitor each case—via reports—to ensure it meets applicable post-trial processing requirements (*e.g.*, meet the time standards enumerated in *United States v. Moreno*, 63 MJ 129 (C.A.A.F. 2006)). The system and an accompanying checklist are also used to ensure each ROT is complete before it is permanently staged or forwarded to appellate courts for review. Errors and incomplete records of trial are monitored and documented by the Appellate Records Branch at the Military Justice Division of the Air Force Legal Operations Agency (AFLOA/JAJM). Installation staff judge advocates are provided with a listing of any errors or incompleteness to ensure lessons learned are provided via a detailed receipt for each ROT. Inspectors from the Inspections and Standardization Directorate (AF/JAI) are also provided with these error receipts to assist them in identifying common problems with military justice processes across the Air Force.

AMJAMS is registered within the Department of Defense System of Record Notices (SORN). The most recent SORN was published on 22 July 2010, 75 FR 42720. The AMJAMS SORN identifier is: F051 AFJA I.

## Ownership

The United States Air Force owns the source code for the system. AFLOA/JAJM is the release authority for the data that is collected and stored in AMJAMS and the reports it generates. The Legal Information Services (AFLOA/JAS) is responsible for the system itself including the code, modifications, and updates.

AFLOA/JAS provides a broad range of system and software products to the Air Force and DoD. The Directorate provides a formalized life-cycle management process for the development and sustainment of information technology. It utilizes a systems engineering process that incorporates DoD and Air Force

requirements and includes the Software Engineering Institute's Capability Maturity Model to maintain compliance with security and industry standards.

## Operation of AMJAMS

AMJAMS is a web-based application designed to provide information about military justice actions throughout the entire Article 15 or court-martial life-cycle. Data entry tracks a military justice proceeding through process-driven screens that represent unique actions. Formerly, AMJAMS used a Microsoft (MS) Windows-based graphical user interface (also known as a GUI), and prior to that a DOS-based, menu-driven, and screen-oriented interface designed to automate the hard copy forms.

The newest web version of AMJAMS provides globally dispersed users with the ability to enter, validate, and correct data. System functionality has been improved by incorporating the entire appellate process. Additional benefits to the user include the capability to generate electronic forms as a by-product of data entry. The system does not serve as a repository for completed forms.

The AMJAMS web client, because it operates in a web browser, requires a network connection. The user cannot create and edit cases when a network connection is unavailable.

## Login Security

Authorized individuals use their Common Access Card (CAC) to logon to AMJAMS. The login process ensures access, modifications, and AMJAMS activity are attributable (and recorded) to a particular authorized user. AFLOA/JAS can track access and changes to any record and identify who made it and when it was made.

## Purpose

The purpose of AMJAMS is to collect data pertaining to investigations, NJP, trials by court-martial, appellate processes, and related military justice activity. The information collected is guided by Air Force Instruction (AFI) 51-201, *Administration of Military Justice*, Chapter 12, and its use is mandated by regulation to:

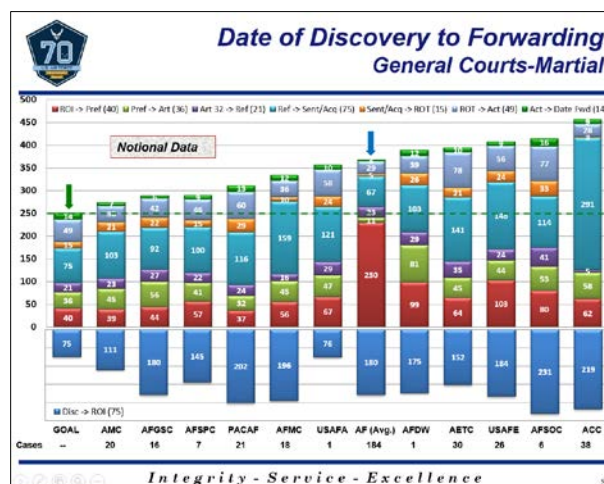
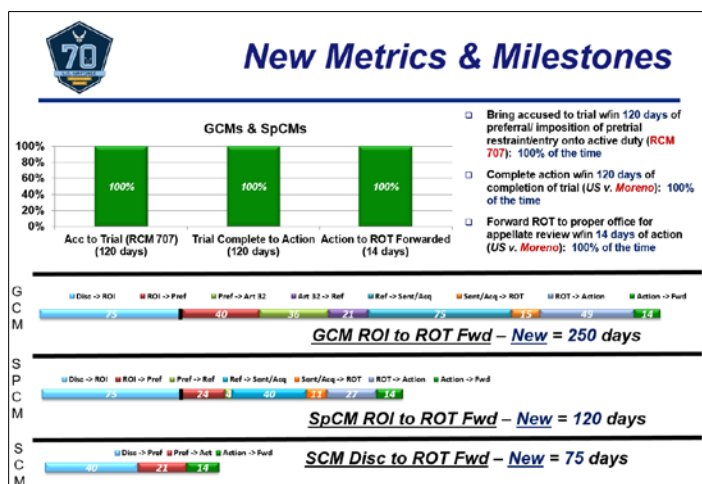
- Conduct statistical studies that measure disciplinary rates and trends and evaluate military justice involvement as it affects the quality of the force and the personnel needs of the service;
- Provide various management reports to judge advocate personnel at all levels to assist in military justice management, record control, and decision-making;
- Provide statistical data to the DoD concerning military justice;
- Provide raw data to the Defense Incident Based Reporting System; and,
- Reply to inquiries concerning military justice, passively through a publicly accessed docket webpage and actively through specific queries, or actively through the retrieval of standardized ROTs that are staged and stored by AFLOA/JAJM.

## Conduct Statistical Studies

As with all governmental organizations, the Air Force needs to account for resource investments, system and program effectiveness, and operational impacts of systems in an enterprise environment. AMJAMS's ability to deliver statistical data supports accountability goals. Statistical studies on disciplinary rates, trends, and processes help ensure the Air Force balances timeliness, effectiveness, and rights. Such interests are echoed in military justice case law. In *Moreno*, the Court of Appeals for the Armed Forces expressed concern about the

need to effectively track military justice actions, “Our separate system of military justice often provides different and diminished constitutional rights in light of the need for prompt disposition of disciplinary matters. It...calls for, if anything, even greater diligence and timeliness than is found in the civilian system (at 142).” AMJAMS delivers thousands of data points for study and analysis at all levels of the operational legal mission.

One recent study examined twenty years of AMJAMS’s historical processing data for NJP and courts-martial. The study was conducted in concert with AF/A9 utilizing descriptive statistics to better understand the data, provide an analytical foundation to establish baseline measures, and explore recommendations for metrics development. AMJAMS’s extensive collection of data allowed the AF JAG Corps to establish processing metrics that better identify training gaps, personnel and resource gaps, and deficiencies. The resulting metrics allowed Air Force personnel, at all levels, to evaluate military justice involvement and measure its process alongside historical trends. AFLOA/JAJM assembles metric reports each quarter and distributes them to Air Force leadership and the major commands; in addition, the reports are provided to responsible officials prior to Article 6, UCMJ, visits and functional inspections by AF/JAI. The following are slides depicting case processing and management metrics and data analysis to enable effective case management and resource decision-making.



## Provide Management Reports

AMJAMS permits users to produce two types of reports: dynamic and static. Personnel can generate “dynamic” reports over his or her respective bases, or dozens of types of “static” reports for all locations. Such dynamic reports are customizable and available for AMJAMS’s case types: Pending Case (investigations), Article 15, and Court-Martial.

AMJAMS Welcome David Stazel  
INVESTIGATION QUERY

AMJAMS Welcome David Stazel  
ARTICLE 15 QUERY

AMJAMS Welcome David Stazel  
COURT-MARTIAL QUERY

Automated Military Justice Analysis and Management System

Main Menu

- Home
- Inv Query
- A15 Query
- CM Query
- Misc Queries
- Dynamic Query
- Reports
- Static Reports
- Slides
- Admin Menu
- Change Password
- Report Access
- Case Access
- User Activity
- View Log

Report Status

0 of 20 report(s) are running.

Court-Martial Query

Go! Reset

MAICOM: [SJ-AC10 - HQ Air Education and Training Command]

GCM: [Any]

Base: [Any]

Race: [Any]

Ethnicity: [Any]

Gender: [Any]

PAS code: [Any]

Component: [Any]

Rank: [Any]

Match cases having [Any] of the specified race categories

There are also an array of static reports to select from:

AMJAMS Welcome John Hartsell

Automated Military Justice Analysis and Management System

Main Menu

- Home
- Inv Query
- A15 Query
- CM Query
- Dynamic Query
- Reports
- Slides
- Report Access

Report Status

0 of 20 report(s) are running.

Notice

This is an unclassified Department of Defense computer system. Use of this system constitutes consent to monitoring. Unauthorized use may subject you to criminal prosecution. Please read the warning before continuing.

Reports

Activity Report

Category: [Base]

Report: [Activity Report]

Date range presets:

Begin date:

End date:

Case type:

AF summary: ☐ Run Air Force summary version of the report

Location: [A Andrews - 2WAAJXF]

Database: [AMJAMS]

Go!

My Reports

| Report                 | Time                  | Size |
|------------------------|-----------------------|------|
| Individual Case Report | Mon Oct 16 10:11 2017 | 19K  |

An example of a static report is the Base Judicial Activity Report for NJP by base:

# Base Judicial Activity Report - Article 15

Report 203

Prepared For AF [ ] 18 Apr 2011

For Period 01 Jan 2011 Thr

| Ranking | Location      | Article 15s | Rate Per<br>1000 | Attorney<br>Consulted /<br>Percent | Personal<br>Hearing | Punishment<br>Appealed /<br>Percent |
|---------|---------------|-------------|------------------|------------------------------------|---------------------|-------------------------------------|
| 001.    | Osan          | 70          | 13.18            | 67 / 95.71%                        | 31                  | 5 / 7.14%                           |
| 002.    | Ramstein      | 63          | 5.86             | 59 / 93.65%                        | 28                  | 9 / 14.29%                          |
| 003.    | Kadena        | 61          | 9.20             | 61 / 100.00%                       | 31                  | 6 / 9.84%                           |
| 004.    | Nellis        | 59          | 6.11             | 57 / 96.61%                        | 27                  | 8 / 13.56%                          |
| 005.    | Minot         | 55          | 10.25            | 51 / 92.73%                        | 36                  | 3 / 5.45%                           |
| 006.    | Hurlburt      | 51          | 6.24             | 49 / 96.08%                        | 19                  | 3 / 5.88%                           |
| 007.    | Davis-Monthan | 51          | 7.56             | 48 / 94.12%                        | 36                  | 12 / 23.53%                         |
| 008.    | Andrews       | 50          | 7.83             | 48 / 96.00%                        | 14                  | 3 / 6.00%                           |
| 009.    | Spangdahlem   | 47          | 10.25            | 47 / 100.00%                       | 26                  | 6 / 12.77%                          |
| 010.    | Elmendorf     | 47          | 8.18             | 45 / 95.74%                        | 21                  | 5 / 10.64%                          |
| 011.    | Shaw          | 47          | 7.88             | 46 / 97.87%                        | 24                  | 7 / 14.89%                          |
| 012.    | Goodfellow    | 43          | 10.71            | 42 / 97.67%                        | 21                  | 1 / 2.33%                           |
| 013.    | Keesler       | 43          | 8.08             | 43 / 100.00%                       | 32                  | 3 / 6.98%                           |
| 014.    | Little Rock   | 43          | 8.34             | 43 / 100.00%                       | 15                  | 3 / 6.98%                           |



Another static report is the Executive Summary for Courts-Martial Report. It facilitates case management, timely processing, and decision-making in the military justice system. It reflects each case's progress, parties, offenses, speedy trial clock, delays, ROT production, post-trial processing timelines, case status notes, and more. Military justice practitioners are taught and encouraged to routinely utilize reports as they manage their respective workload and disciplinary programs.

| Executive Summary for Courts-Martial  |                            |                              |  |                             |                                  |   |                            |                              |                            | For Period 01 Jan 2017 through 31 Dec 2017 |
|---|----------------------------|------------------------------|--|-----------------------------|----------------------------------|---|----------------------------|------------------------------|----------------------------|--|
| Prepared For Maxwell [0J 1 PNQS] 31 Jan 2017  |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| General Court-Martial   |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| Name<br>Rank (Case ID)  | [75]<br>ROI<br>Date        | [40]<br>Charges<br>Preferred | [38]<br>A32 Rpt<br>Completed   | [21]<br>Charges<br>Referred | [75]<br>Sentence or<br>Acquittal | [15]<br>ROT<br>Completed  | [49]<br>CA Action          | [14]<br>Action to<br>ROT Fwd | [250]<br>ROI to<br>ROT Fwd |  |
| Major (450570)  | 03 Jul 2016<br>12 Jun 2016 | 22 Jul 2016<br>19 Jul 2016   | 24 Aug 2016<br>09 Aug 2016   | 30 Aug 2016<br>31 Aug 2016  | 23 Oct 2016<br>15 Nov 2016       | 30 Nov 2016<br>28 Nov 2016  | 25 Dec 2016<br>21 Dec 2016 | 10 Jan 2017<br>03 Jan 2017   | 17 Feb 2017<br>03 Feb 2017 |  |
| Unit: Air Force Reserve Officer Training Corps  |                            |                              | Discovery Date: 10 Jan 2017  |                             |                                  | Case Last Updated: 10 Jan 2017  |                            |                              |                            |  |
| Metric Target Dates   |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| Acc to Trial Date: 10 Nov 2016  |                            |                              | Trial to Action Date: 18 Jan 2017  |                             |                                  | Action to ROT Forward Date: 04 Jan 2017   |                            |                              |                            |  |
| Case Details  |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| Offenses: 133-C- P C Conduct unbecoming - unprofessional relationship. [4]<br>092-A0 P C Violate other general order [1]<br>134-B4 P C Fraternization. [1]<br>092-A3 P C Unprofessional relationship [2]  |                            |                              |  |                             |                                  |   |                            | Status of Offenses: TRIED    |                            |  |
| Current Case Status: <div style="background-color: black; width: 600px; height: 60px; display: inline-block;"></div>  |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| RCM 707 Details   |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| RCM 707 Trigger Date: 20 Dec 2016   |                            |                              | RCM 707 Event: Preferal  |                             |                                  |   |                            |                              |                            |  |
| Approved Delays:  |                            | Date Began                   | Date Ended   | Tot Days                    | Requested By                     | Approved By   |                            |                              |                            |  |
|   |                            | 06 Jul 2016                  | 09 Aug 2016  | 34                          | DEF                              | MJ  |                            |                              |                            |  |
|   |                            | 31 Aug 2016                  | 25 Oct 2016  | 55                          | DEF                              | MJ  |                            |                              |                            |  |
|   |                            | 19 Oct 2016                  | 10 Jan 2017  | 83                          | DEF                              | MJ  |                            |                              |                            |  |
| Case Participants   |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| Trial Counsel:  |                            |                              | Defense Counsel:   |                             |                                  | Pretrial Hearing Officer:   |                            |                              |                            |  |
| Captain <div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div> Trial Counsel<br>Captain <div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div> Assistant Trial Counsel<br><div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div> Civilian Counsel |                            |                              | Captain <div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div> Area Defense Counsel<br>Maj <div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div> Senior Defense Counsel |                             |                                  | Lieutenant Colonel <div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div> |                            |                              |                            |  |
| Military Judge:   |                            |                              | Special Victims Counsel:   |                             |                                  |   |                            |                              |                            |  |
| Colonel Armand Hammer   |                            |                              | Capt <div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div>  |                             |                                  |   |                            |                              |                            |  |
| Sentence  |                            |                              |  |                             |                                  |   |                            |                              |                            |  |
| Adjudged: REPR FFM 2 FFAMT \$3500   |                            |                              |  |                             | Approved: No Approved Sentence   |   |                            |                              |                            |  |

## Provide Statistical Data

Military justice data is routinely requested from the Air Force. Some queries ask for totals of a particular offense during a particular time frame by forum; some ask for totals of offenses by forum and disposition; some ask for punishments; some examine career fields and locations; and some seek demographic data. AMJAMS allows the Air Force to craft dynamic, tailored data pulls or utilize static reports for certain standard information. This is a static report on Air Force wide courts-martial and Article 15 statistics which includes race & gender:

| Military Justice Statistics (Fact Sheet)                |  |        |  |                            |                              |
|---|--|--------|--|----------------------------|------------------------------|
| Report 201  |  |        |  |                            |                              |
| Prepared For AF [     ]                                 |  |        | For Period 01-Jan-2011 through 10-Jun-2011 |                            |                              |
|   |  | Number | Average Strength                           | Year To Date Rate Per 1000 | Projected Year Rate Per 1000 |
| <b>Courts-Martial Statistics</b>                        |  |        |  |                            |                              |
|   | Total  | 358    | 332952                                     | 1.08                       | 2.15                         |
|   | GCM  | 119    | 332952                                     | 0.36                       | 0.71                         |
|   | SPCM   | 183    | 332952                                     | 0.55                       | 1.10                         |
|   | SCM  | 56     | 332952                                     | 0.34                       | 0.34                         |
| Race  | White  | 203    | 244014                                     | 0.83                       | 1.66                         |
|   | Black  | 49     | 48035                                      | 1.02                       | 2.04                         |
|   | Other  | 106    | 40902                                      | 2.59                       | 5.18                         |
| Sex   | Male   | 321    | 269110                                     | 1.19                       | 2.39                         |
|   | Female   | 37     | 63841                                      | 0.58                       | 1.16                         |
| Rank  | Officers                                       | 9      | 66587                                      | 0.14                       | 0.27                         |
|   | Cadets   | 0      | 0  | 0.00                       | 0.00                         |
|   | Enlisted                                       | 349    | 266365                                     | 1.31                       | 2.62                         |
| Discharge (In Lieu)                                     | Officers (AFI 36-3207)                         | 1      | 66587                                      | 0.02                       | 0.03                         |
|   | Cadets   | 0      | 0  | 0.00                       | 0.00                         |
|   | Enlisted (AFI 39-3208)                         | 19     | 266365                                     | 0.07                       | 0.14                         |
| <b>Top Seven Offenses (Specifications Tried by CM)</b>  |  |        |  |                            |                              |
| 112AC1  | Use of I, II or III controlled substances      |        | 100  | 0.30                       | 0.60                         |
| 092-C2  | Dereliction of duty: Willful                   |        | 45   | 0.14                       | 0.27                         |
| 134-Z-  | Other Offenses under Article 134               |        | 44   | 0.13                       | 0.26                         |
| 112AC3  | Wrongful use of marijuana                      |        | 38   | 0.11                       | 0.23                         |
| 107-B-  | Make false official statement                  |        | 37   | 0.11                       | 0.22                         |
| 092-B-  | Fail to obey lawful order                      |        | 33   | 0.10                       | 0.20                         |
| 112AD1  | Distribute I, II or III controlled substances. |        | 29   | 0.09                       | 0.17                         |
| <b>Article 15 Statistics</b>                            |  |        |  |                            |                              |
|   | Total  | 3140   | 332952                                     | 9.43                       | 18.86                        |
| Race  | White  | 1702   | 244014                                     | 6.98                       | 13.95                        |
|   | Black  | 592    | 48035                                      | 12.32                      | 24.65                        |
|   | Other  | 846    | 40902                                      | 20.68                      | 41.37                        |
| Sex   | Male   | 2701   | 269110                                     | 10.04                      | 20.07                        |
|   | Female   | 433    | 63841                                      | 6.78                       | 13.56                        |
| Rank  | Officers                                       | 79     | 66587                                      | 1.19                       | 2.37                         |
|   | Cadets   | 24     | 0  | 0.00                       | 0.00                         |
|   | Enlisted                                       | 3034   | 266365                                     | 11.39                      | 22.78                        |
| <b>Top Seven Offenses (Specifications Tried by A15)</b> |  |        |  |                            |                              |
| 092-C2  | Dereliction of duty: Willful                   |        | 830  | 2.49                       | 4.99                         |
| 096-A2  | Failure to go                                  |        | 561  | 1.68                       | 3.37                         |
| 092-B-  | Fail to obey lawful order                      |        | 382  | 1.15                       | 2.29                         |
| 107-B-  | Make false official statement                  |        | 366  | 1.10                       | 2.20                         |
| 111-A2  | Drunken driving: otherwise                     |        | 257  | 0.77                       | 1.54                         |
| 092-A0  | Violate other general order                    |        | 255  | 0.77                       | 1.53                         |
| 092-C1  | Dereliction of duty: Neglect                   |        | 242  | 0.73                       | 1.45                         |

## **Provide Raw Data to the Defense Incident-Based Reporting System**

The National Incident-Based Reporting System (NIBRS) is an incident-based system used for the collecting and reporting of information on crimes known to the police. Local, state, and federal agencies generate NIBRS data from their records management systems. NIBRS was created in 1988 to allow the law enforcement community to meet the needs of uniform crime reporting. DoD feeds information into NIBRS through the Defense Incident-Based Reporting System (DIBRS), a comprehensive database established in 1996 to track criminal and other high-interest incidents involving personnel from cradle to grave. DoDI 7730.47. The system was designed to meet reporting requirements mandated by Congress in the Uniform Federal Crime Reporting Act of 1988; the Brady Handgun Violence Prevention Act of 1994; and recurring requests for overall DoD law enforcement data.

Within DIBRS there are eight reporting segments: administrative, offense, property, victim, offender/arrestee, commander's action, results of trial, and corrections. Security Forces and the Air Force Office of Special Investigations (AFOSI) are primarily responsible for these segments and, in most cases, will initiate the reporting process when they receive a credible report of a criminal incident. The judge advocate community is responsible for capturing the data in the "Results of Trial" segment. The data for this segment is gathered through the use of AMJAMS. AMJAMS is routinely coded with the most up-to-date DIBRS codes, which are automatically inserted into a system-generated Report of Result of Trial.

## **AMJAMS Resources, Training, and Communicating Updates**

AMJAMS guidance is published in AFI 51-201, Chapter 12. AMJAMS training is provided through a number of courses at The Air Force Judge Advocate General's School. The training is tailored to the skill level of the audience and is taught by instructors from the school and system experts from JAS and JAJM. The courses that contain AMJAMS training include: Paralegal Apprentice Course, Paralegal Craftsman Course, Military Justice Administration Course, and Staff Judge Advocate Course. As a dynamic system, AMJAMS requires periodic updates and modifications. JAS maintains an electronic listing of all AMJAMS users and it communicates to the expansive audience via email. This ensures users of the system are informed of changes to the system, scheduled outages, and upcoming training opportunities beyond the standard Air Force JAG School curriculum. Focused training modules are also recorded and accessible to users through the Air Force JAG Corps' dedicated webpages.

## **Standardized Inputs and Minimization of Error**

AMJAMS attempts to standardize user inputs and minimize human-user error through technical and training resources. The technical resources include standardized pull-down menus, calendars, data-field labels, and the use of mandatory precursor inputs in order to continue updating a record. As discussed above, users are trained on how to use the system, and they are provided with detailed guidance in AFI 51-201, Chapter 12. Users are also provided with a checklist to reference while managing a case. Effective AMJAMS usage is a mandatory item that is examined during the Air Force inspection process; inspectors consult with AFLOA/JAJM on AMJAMS issues and errors for a particular installation before any inspection is initiated by AF/JAI. Moreover, slides, reports, and data on military justice case processing and management; AMJAMS and ROT errors; and court dockets are provided to TJAG and DJAG before every Article 6, UCMJ visit.

## History and Development of AMJAMS

AMJAMS is a mature system that has outgrown many of the technical and practical hurdles that can plague newly launched systems. AMJAMS was developed as a Major Command-level system and was implemented worldwide on the B3500 computer in July 1974. On 27 June 1977, the Air Force Data System Design Center (AFDSDC) authorized the conversion of AMJAMS from the B3500 to the H6000 Command-level computer. The original AMJAMS system consisted of a set of Common Business Oriented Language (COBOL) programs that were run as a batch process using Job Control Language (JCL) on a Honeywell H6000 computer. In November 1992, AFDSDC authorized both the enhancement of AMJAMS to AMJAMS II and the conversion from the H6000 to a SUN SPARCstation.

The batch processing of the original system was based on “card” images or record input completed at the base level by manually entering the data into a personal computer (PC), saving the entries to a floppy disk, and then forwarding them to a consolidating MAJCOM for a validation process. The MAJCOM added financial and personnel data, visually examined the data, and corrected any detected errors. The data was then transmitted via the Automatic Digital Network (AUTODIN) to the headquarters system for further validation and data correction. The multiple steps in this process invited the introduction of potential errors, which would continue to the next step, resulting in different databases at all levels.

The current iteration of AMJAMS was accomplished in five phases.

Phase I: Involved the conversion of the COBOL programs and associated JCL streams into American National Standards Institute (ANSI) C and Bourne Shell, respectively. This facilitated complete duplication of the AMJAMS process to a then state-of-the-art-computing environment. Phase I also eliminated redundant processing of AMJAMS data and provided complete access and total visibility of a single database at all times to all users of the system. Formerly, the AMJAMS system consisted of separate databases at the MAJCOM and HQ levels, resulting in multiple copies of the same data, as well as non-synchronized databases.

Phase II: The phase for which the initial End User Manual (EUM) was written, included modification, allowing the UNIX-based client to be ported to a PC environment. This involved the development of a new on-line interface into a single master database, resulting in the elimination of all higher-level data validation. Phase II significantly reduced input labor and increased data integrity, timeliness, and the usefulness of the data at all levels.

Phase III: Enhanced the reports and validation processing for AMJAMS by providing on-line transaction capability and the ability to view the results of standard, requested reports on-line. Phase III provided the “owner” of the data the ability to enter, validate, and correct data at a single point, thereby eliminating negative redundancy and ensuring integrity of the data. Phase III modification also maintained all cases, past and present, on-line to the user. In this way, two decades of historical data was preserved and maintained as part of the system.

Phase IV: Re-engineered AMJAMS to a Microsoft Windows-based application with on-line documentation.

Phase V: Translated AMJAMS to the World Wide Web as an internet application.

## Account Requests

AFLOA/JAS allows users to have edit access to information pertinent to their office assignment and any subordinate offices, and read-only access to information concerning all other offices. Authorizations are on an individual, not an office, basis. To provide a level of information security, requests for user accounts must originate from the office's Staff Judge Advocate, Deputy Staff Judge Advocate, Law Office Superintendent, Chief of Military Justice, or Non-commissioned Officer in charge of Military Justice.

## Interfaces to Other Systems

The AMJAMS system has been designed to access Air Force Personnel Center (AFPC) data resident on the server system. When a case is created, the application prefills the member's personnel data. This reduces the data entry requirements for the user, minimizes potential input errors, and standardizes the fields pertinent to personnel information. The AFPC data is updated monthly.

## Screen Standards

Each AMJAMS screen conforms to a standard, both in appearance and function-key usage. The following image depicts an example of the screen standards:

The screenshot displays the AMJAMS system interface for a case titled "364503 [A15] Artie Soo Jingleheimerschmidt III". The top header bar contains the following information:

- Date input: 01 Jun 2009
- Base input:
- Case ID: 364503 / 364503
- App review:
- Date closed:
- GCM input:
- ACM number:

The left-hand navigation pane shows a tree view of the case components:

- Article 15
  - Member
  - Narrative Description
  - Special Interest Report
- Investigation
  - Investigation Info
  - Pending Offenses
  - Investigation Personnel
  - Restraint
  - Disposition
- Case Information
- Offenses
- Special Identifiers
- A15 Personnel
- Punishment
  - Imposed
  - Suspended
  - Appealed
- Progress
- Subsequent Action
  - Subsequent Action Personnel
  - Subsequent Suspension
  - Mitigated
  - Remitted

The main content area features a tabbed interface with the following tabs: Member, Race, Career / Pay, Duty Status, Priors, and CC. The "Member" tab is currently selected. The "Member" tab contains the following fields:

- Name**
  - Last
  - First
  - Middle
  - Cadency
- Demographics**
  - Date of birth
  - Age at case input
  - Gender
  - Education
  - Marital status
  - Number of dependents

A "Fill From AFPC" button is located above the Name fields.

**Header:** The header line contains the AMJAMS case id [364503], case type [A15], First name and last name.



**Status Bar:** The Status Bar resides below the header. The user does not have the option to edit these fields. The status bar contains the following fields:

|                                    |             |                 |                           |
|------------------------------------|-------------|-----------------|---------------------------|
| Date input: 29 Oct 2009            | Base input: | Case ID: 400521 | Final Action: 06 Feb 2012 |
| Date closed: 21 Dec 2010           | GCM input:  |                 | ACM number: 37802         |
| Disposition: ROT forwarded to JAJM |             |                 |                           |

**Date input:** This field represents the date of the initial entry.

**Base input:** This field represents the date of the local SJA review or the date the ROT is forwarded.

**Case ID:** This field represents the ID number automatically assigned to the case when the case is created.

**Date Appellate Review Completed:** This field represents the date the Appellate Review was completed.

**Date closed:** This field represents the date the case was closed and will no longer show up on the installation's Cases in Progress Report.

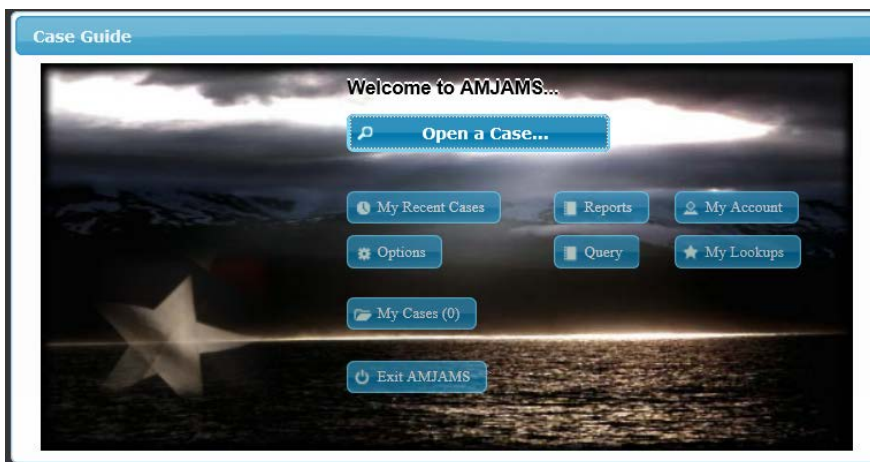
**GCM Input Completed:** This field represents the date the ROT is reviewed at the General Court-Martial Convening Authority's (GCMCA) legal office or the date the ROT is forwarded to JAJM.

**Appellate Court-Martial (ACM) Number:** This field appears in the Court-Martial and Appellate windows of AMJAMS. This field represents a Court-Martial five-digit computerized number assigned from HQ.

**Disposition:** This field represents the status of the case, *e.g.*, GCMCA found legally sufficient.

## Case Guide

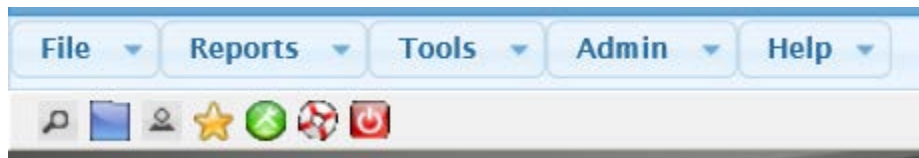
The Case Guide window provides easy access to the feature most often used in AMJAMS. It is the first screen a user sees when opening AMJAMS.



All of the actions on the Case Guide may be invoked using on-screen buttons as well as the dropdown menus.

## Menus

The AMJAMS main menu contains the following items: File, Reports, Tools, Admin, and Help.



## Open Case

The Open Case dialog box is used to create new cases and to edit existing cases.

| CaseID | SSN         | Location         | Type | Sub | Input Date  | ACM # | Closed Date |    |
|--------|-------------|------------------|------|-----|-------------|-------|-------------|----|
| 427571 | ***_**_**** | Wright-Patterson | CM   | GCM | 21 May 2012 | 38301 | 21 Mar 2013 | Yc |
| 428868 | ***_**_**** | Wright-Patterson | CM   | GCM | 11 Jul 2012 |       | 11 Mar 2013 | Yc |
| 433508 | ***_**_**** | Wright-Patterson | CM   | GCM | 20 Dec 2012 | 38602 | 21 May 2014 | Yc |
| 419687 | ***_**_**** | Wright-Patterson | CM   | GCM | 8 Aug 2011  | 38184 | 11 Sep 2012 | Yc |
| 414653 | ***_**_**** | Wright-Patterson | CM   | GCM | 8 Feb 2012  | 38225 | 20 Apr 2012 | Yc |

There is also a search function. A user can enter all or a portion of a case's key information; after clicking Find Now or pressing the Enter key, the Search Results appear. A user may also search by Case ID, Member's Name, or ACM Number. To create a new case, a user clicks the New Case tab.

## New Case Tab

The New Case tab is used to create a new Pending Case (Investigation).



## Case Window

400521 [GCM] WILLIE A WONKA

Date input: 29 Oct 2009    Base input:    Case ID: 400521    Final Action: 06 Feb 2012  
 Date closed: 21 Dec 2010    GCM input:    ACM number: 37802  
 Disposition: ROT forwarded to JAJM

**Member**    Race    Career / Pay    Duty Status    Priors    Commander

Name  
 Last: Wonka  
 First: Willie  
 Middle: A.  
 Cadency: [v]

Demographics  
 Date of birth: 27 Nov 1978  
 Age at case input: 30.9  
 Gender: Male [v]  
 Education: Awarded Bachelors Degree - 16 [v]  
 Marital status: Married [v]  
 Number of dependents: 4  
 Fill From AFPC

The case window allows users to interact with an AMJAMS case. It is made up of the window's title, the header, the case tree (and optional case tree filter) on the left, the case item tabs on the right, and the footer for printing forms associated with the current case item (users can adjust colors and backgrounds to suit the user's preference).

## Case Tree

On the Case Window, the case tree appears on the left. It provides a chronological view of the case. Below is a case tree from an NJP case.

Article 15

- Member
- Narrative Description
- Special Interest Report
- Investigation
  - Investigation Info
  - Pending Offenses
  - Investigation Personnel
  - Disposition
- Case Information
- Offenses
- Special Identifiers
- A15 Personnel
- Punishment
  - Imposed
  - Progress



The case tree behaves much like a typical tree-view control.

### Select

Select an item in the tree by clicking the item label (not the icon) and its details are displayed on the right.

### Expand and Collapse

Expand and collapse folders by clicking the plus/minus icons.

## Forms

AMJAMS provides a variety of DoD and AF Forms which are auto-populated with certain fields or which are completed or updated once it converts the form into a word-processing document. The system does not upload forms and does not serve as a repository for completed forms.

The screenshot shows a window titled "Forms" with a close button. Below the title bar is a text box that reads: "These are the forms and memoranda AMJAMS is able to produce. You can use this dialog to print a blank form. To produce a filled-in form, open a case and click **Display Form** at the bottom of the case window."

Below the text box is a table with the following columns: ID, Form, Form Title, and Printable From Caseltem(s). The table lists 12 forms, with the last one partially obscured by a second, larger table.

| ID | Form           | Form Title                                     | Printable From Caseltem(s)                         |
|----|----------------|--|--|
| 2  | DD Form 458    | Charge Sheet                                   | Additional Charges Preferred (136), Charges Pre    |
| 3  | AF Form 3212   | Record of Supplementary Action Under Article 1 | Mitigated (45), Remitted (46), Set Aside (53), Sub |
| 4  | AF Form 366    | Vacation Action                                | Suspension Vacated (52)                            |
| 6  | AF Form 304    | Request For Appellate Defense Counsel          | Posttrial (94)                                     |
| 8  | DD Form 1722   | Request for Trial Before Military Judge Alone  | Article 39a (30)                                   |
| 10 | AF Form 3070 A | New AF Form 3070A (AB - SSgt) - Apr 2015 Vers  | Offenses (48)                                      |
| 11 | AF Form 3070 B | New AF Form 3070B (TSgt - CMSgt) - Apr 2015    | Offenses (48)                                      |
| 12 | AF Form 3070 C | AF Form 3070C (Officer) - Oct 2006 Version     | Offenses (48)                                      |

Below this table is a second, larger table with the same columns. It lists 10 forms, with the last one partially obscured by a third, even larger table.

| ID | Form              | Form Title                                   | Printable From Caseltem(s)                         |
|----|-------------------|--|--|
| 14 | FirstIndorse Mem  | First Indorsement to DD Form 458             | Additional Charges Preferred (136), Charges Pre    |
| 15 | Matters Memo      | Submission of Matters to Convening Authority | Submission of Matters (29)                         |
| 17 | AF Form 835       | Sentence Worksheet (General Court-Martial)   | Adjudged Sentence (35)                             |
| 18 | AF Form 1092      | Court-Martial Findings Worksheet             | Adjudged Sentence (35)                             |
| 19 | AF Form 1093      | Sentence Worksheet (Special Court-Martial)   | Adjudged Sentence (35)                             |
| 20 | 24 Hr Ltr Adj Mer | 24 Hr Letter Adjudged Memo                   | Adjudged Sentence (35)                             |
| 21 | 24 Hr Ltr App Me  | 24 Hr Letter Approved Memo                   | Posttrial Action (71), Subsequent Posttrial Action |
| 24 | DD Form 2329      | Record of Trial by Summary Court-Martial     | Preliminary Proceeding (192)                       |
| 25 | ResultOfTrialMem  | Report of Result of Trial Memorandum         | Trial (00)   |

At the bottom right of the window, it says "View 1 - 18 of 18".

## Facilitate Access to Military Justice Matters and Records of Trial

IAJMS's mission is diverse and AMJAMS is critical to accomplishing that mission. The Division prepares opinions and policy positions for SecAF, CSAF, and TJAG. It also assembles reports on military justice issues requested by the White House, Congress, DoD, and the Air Staff. IAJMS represents the Air Force on the DoD Joint Service Committee on Military Justice and to Federal Advisory Committees examining military justice issues. As the Air Force custodian for ROTs, IAJMS also responds to queries and Freedom of Information Act requests of individual citizens and special-interest groups. AMJAMS is the keystone tool to maintain quality control over ROTs, to identify responsive cases, to locate corresponding information, and to maximize trial-record transparency. In 2017, AMJAMS was used to help process and release 24,000 pages of court records in

response to more than 560 requests by members of Congress, the media, law enforcement entities, and individuals. The division also provides AMJAMS data, and AMJAMS reports in support of such requests. AMJAMS's statistical analysis capabilities and case data also provide crucial inputs allowing JAJM to perform other functions.

ROTs in the Air Force are uniformly managed according to regulation; they are prepared in accordance with the MCM and service regulations. Air Force Manual (AFMAN) 51-203, *Records of Trial*, is more than one hundred pages long and it provides for the assignment of responsibilities, detailing of requirements, and the provision of templates and examples. The AFMAN is published by JAJM and it complements the post-trial capabilities of AMJAMS.

Air Force court reporters are tasked with the transcription of certain hearings. The Air Force employs both civilian and enlisted court reporters. The primary duty of the court reporter is to record verbatim all sessions of any proceeding to which he or she is assigned, travel in support of any judicial and administrative proceedings, and accurately transcribe and assemble Records of Trial; Article 32, Uniform Code of Military Justice, preliminary hearings; *DuBay* hearings; contingency confinement hearings; proceedings in revision; courts of inquiry; and other proceedings as required. Court reporters may be assigned to record or transcribe the following proceedings: Administrative Discharge Boards, Flying Evaluation Boards, Medical Evaluation Boards, Command Directed Investigations, Accident Investigation Boards, Safety Investigation Boards, Board of Inquiries, and other similar proceedings.

Court reporters are tasked with ensuring that they have all of the exhibits at the close of each hearing and trial session. The court reporter who recorded the proceeding is ultimately responsible for attesting to the quality, and authenticity of the transcript, as well as the method used to transcribe the proceeding. Even when the record is transcribed by another court reporter, the assigned court reporter will review the record for accuracy and sign an attestation to be inserted in the record after the court reporter chronology.

Digital recording is the primary method of recording court-martial proceedings. The use of standardized software and methodology ensures audio is easily transferrable to any Air Force or sister service court reporter at any base or post for transcription assistance. The software that is currently approved for use by the Air Force Trial Judiciary is For the Record Gold and Dragon Naturally Speaking. Court reporters must use both a primary and backup system to ensure a record can be accurately prepared. Once a transcribed hearing is authenticated, court reporters upload it to a web-based application managed by JAJM. The AFCCA and appellate counsel have access to the electronic transcripts which enables them to identify issues and workload before the official ROT arrives at JAJM. The official ROT, with exhibits, sealed materials, and pleadings is then assembled and ultimately mailed to JAJM.

While electronic transcripts are immensely convenient, electronic ROTs are a more complicated issue. ROTs frequently include evidence in the form of disks, hard drives, flash drives, and tape. They also include photographic evidence of medical examinations, child pornography, adult pornography, and injuries. ROTs also include sessions, pleadings, medical records, school and/or police records, and exhibits that pertain to victim and/or mental health issues that are sealed by order of the judge. Courts-martial of personnel accused of compromising promotion/upgrade examinations require distinct, controlled handling. Finally, classified trials take on tremendous handling complications when a ROT is assembled.

Practitioners use AMJAMS to track post-trial activity with respect to the ROT; a folder is designated for portion of the court-martial process.

**ROT Authentication:** Contains a number of fields which allow all levels (from the installation, through the GCMCA/JA office, to AFLOA/JAJM) to track the ROT's progress. The fields include the date when the ROT was completed. This allows JAJM staff to ensure it receives, stores, and retrieves the complete ROT. Another field lists the total number of ROT pages, ROT volumes, dates the ROT was provided to the judge and the date he or she authenticated it.

**64A:** Records when the ROT was forwarded to the GCMCA/JA, the date it was received by the GCMCA/JA, and the date it was reviewed.

**Post-trial Progress:** Allows the installation to track appellate counsel election, document ROT quality control, and input the date it forwards the ROT for appellate review.

The screenshot displays the AMJAMS software interface. On the left is a sidebar with a tree view of folders and documents. The 'Posttrial Progress' folder is selected and highlighted in yellow. The main content area on the right is titled 'Posttrial Progress' and contains several input fields and dropdown menus. The fields are organized into sections: 'Appellate counsel waived' and 'Appellate review waived' (both with 'No' selected in dropdowns); 'Quality Control' (containing 'Date ROT QC performed' and 'ROT QC done by' both set to '12 Jan 2007' and 'kbrooks' respectively); and 'Date ROT forwarded for appellate review (Metric input)' set to '16 Jan 2007'.

AMJAMS also allows installations to track punishment-deferment requests and forfeiture coordination with finance officials.

The Appellate Review folder includes four individual tabs: ROT Information, ROT progress, ROT contents, and Comments. JAJM uses these tabs to manage the appellate process as it relates to the ROT.

**ROT Information:** Documents when the ROT was received, whether it was complete or not, whether it needs corrections, and documents its permanent ACM number to track the case through appeals, storage, and retrieval (if requested, e.g. FOIA).

**ROT Progress:** Tracks the date a complete and accurate ROT was provided to the AFCCA for docketing. It also tracks dates and destinations in the event the ROT was sent back to a convening authority for correction.

**ROT Contents:** Documents information about the ROT itself to ensure details about the ROT's contents are maintained in a permanent location. It lists the page count, number of volumes, number of audio tapes, and number of DVDs (if applicable). These details allow AFCCA personnel and JAJM FOIA

personnel to ensure they receive the full ROT. The tab also tracks rehearing and *Dubay* hearing information.

Comments: Allows JAJM to capture information about ROT details which may need separate documentation.

The screenshot displays the JAJM software interface. At the top, a header bar contains case information: 'Date input: 12 Apr 2006', 'Base input: GCM input:', 'Case ID: 361191', 'Final Action: 26 Jan 2009', 'Date closed: 16 Jan 2007', and 'ACM number: 36918'. Below this, a sidebar on the left shows a hierarchical tree view of document categories, including 'General Court-Martial', 'Investigation', 'Pretrial', 'Trial', 'Posttrial', 'Appellate Review', and 'AFCCA'. The 'ROT Info' tab is selected in the main content area. This tab contains several sections: 'The record of trial is' with a dropdown menu set to 'complete'; 'ROT Incomplete' with fields for 'Date received', 'Date returned', and 'Correction'; 'ROT Complete' with fields for 'Date received' (set to '19 Jan 2007') and 'ACM number' (set to '36918'); and 'Recent ACM Numbers' with a dropdown for 'Select a court type to filter the results' set to 'General' and a button labeled 'Recent ACM Numbers'.

The Appellate Review tab is essential to JAJM's ability to manage ROT movement, quality control, contents, permanent storage, and retrieval.

JAJM also serves as the action agency for the preparation of advisory opinions on military justice issues raised in applications submitted to the Air Force Board for Correction of Military Records. AMJAMS plays an active role in accomplishing these military justice tasks which all require data pertinent to investigations, NJP, courts-martial, and appellate work.

## Facilitate Access to Court-Martial Docket Information

AMJAMS facilitates public access to trial docket information. The docket is accessed through the publicly available website for The Air Force Judge Advocate General's Corps. It receives a direct XML feed from AMJAMS each hour. It lists upcoming trials, locations, the accused, offenses charged, points of contact at each installation, and summaries of outcomes.

The screenshot displays the website for The Judge Advocate General's Corps. The navigation bar includes links for HOME, NEWS, LIBRARY, CONTACT, and ABOUT US. The main content area is divided into two sections: 'Docket' and 'Trial Results'. The 'Trial Results' section is active, showing a table of trial results. A modal window titled 'Trial Result Details' is open, displaying information for the case 'U.S. v. Captain M SCOTT'.

**Trial Result Details:**

**U.S. v. Captain M SCOTT**  
**Type of Court-Martial:** General Court-Martial **Forum:** Officers only  
**Location:** Davis-Monthan AFB, Arizona **Verdict:** Guilty  
**Trial Completion Date:** 24-Jun-2017  
**Offense(s):**  
 Article 128, Simple assault  
 Article 128, Assault - aggravated inflicting grievous bodily harm  
 Article 134, Fraternization  
**Sentence:**  
 Discharge: DIS,  
 Confinement for 8 months  
**For more information, contact:**  
 Davis-Monthan AFB Public Affairs at 520-228-3202  
**Sentence Legend:**  
 Red = reduction to the abbreviated enlisted rank listed

## Protected Data and Security

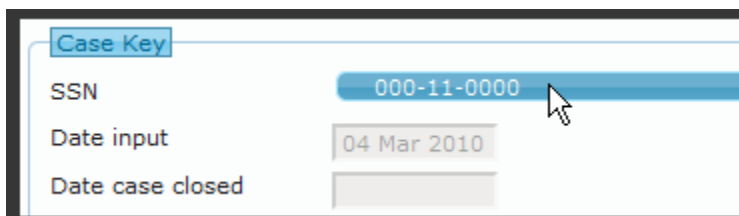
AMJAMS does not contain classified data or produce classified output products. The system does contain sensitive data and produces reports that are For Official Use Only.

The Staff Judge Advocate (SJA) at each processing location ensures that AMJAMS inputs/outputs are properly handled and protected. Judge Advocate personnel who handle AMJAMS data, should be familiar with the Privacy Act of 1974 (Title 5 USC, Sec 552a) and the Freedom of Information Act (Title 5 USC, Sec 552(b)).

Certain data protected by the Privacy Act of 1974 is obscured in AMJAMS until the user moves the mouse over the item. For example, on the Case Key region, the SSN is initially obscured.

The screenshot shows a 'Case Key' form. The 'SSN' field is obscured with a series of asterisks. The 'Date input' field shows '04 Mar 2010'. The 'Date case closed' field is empty. A mouse cursor is pointing at the 'Date case closed' field.

The user hovers the mouse over the SSN field to reveal the value.



The screenshot shows a web-based form titled "Case Key". It contains three input fields: "SSN" with the value "000-11-0000", "Date input" with the value "04 Mar 2010", and "Date case closed" which is empty. A mouse cursor is hovering over the SSN field, which is highlighted with a blue background.

## Conclusion

Since 1974, the Air Force JAG Corps has employed AMJAMS to assist Corps personnel with the administration and management of the military justice system. It is essential to advising commanders at all levels, CSAF, and SecAF on the status of discipline and the timely processing of cases, which are key components of readiness. The architecture for AMJAMS has evolved over time to keep pace with technology and legal profession standards, but the stability of uniform terminology, fields, standards, and management practices have ensured the value of its historical data and its utility as a military justice management and case processing system. Despite its evolution, adaptability, and web-based platform, AMJAMS remains a legacy system that can be difficult to modernize. It admittedly lacks some of the benefits associated with cloud-based systems and those which are more robust and powerful. Nevertheless, the code is owned by the Air Force and its mortality is not dependent upon costly, privately-owned licenses with an unpredictable lifespan. Moreover, the staff required to maintain it is limited and fiscally beneficial for the Service. The Air Force JAG Corps enjoys the benefit of four decades of data continuity, but is keenly aware of the evolutionary creep of information technology advances. Accordingly, efforts have begun to survey future replacement options.

Applications that are more powerful, adaptable, scalable, and which (most critically) offer the ability to preserve and envelop existing historical data offer obvious advantages. Consistent with our desire to safeguard historical data and leverage advances in information technology, the Air Force JAG Corps has assembled acquisition teams to chart military justice processes and requirements, explore fiscally prudent acquisition initiatives, and examine similar options and initiatives pursued by other governmental entities to identify the best readily employable system that can deliver the essential functionality of AMJAMS while also delivering state-of-the-art transparency and modernization. The initiative has maintained momentum and has refined its strategy since 2011. Called the Disciplinary Case Management System (DCMS), an effort to formally solicit “white papers” and produce a prototype is underway. In the meantime, AMJAMS users are formally trained in its current capabilities, its utility is inspected, and its use remains a fully operational, economical, and essential part of Air Force military justice management.

AMJAMS provides the Air Force with technology facilitating the collection, management, processing, and analysis of investigatory, court-martial, appellate, and NJP information. These capabilities are complemented by trained users, process checklists and regulations, and the oversight of inspectors and JAG Corps leadership. AMJAMS standardizes military justice processes and the production, distribution, and storage of records of trial. It also facilitates transparency, while also balancing the protections of the Privacy Act, by delivering a public docket with relevant information on pending cases and court-martial outcomes. Moreover, its web-based utility is accompanied by an ability to comport with DoD security requirements and CAC access limitations. Its SORN is current, its license is bought and paid for, and the number of personnel required to maintain is less than five full-time employees. It has been a critical, adaptable keystone in the Air Force’s ability to deliver

military justice case management, data collection, and accessibility through almost forty years of advances in the law and technology.





# DAC-IPAD Court-Martial Database

## Documents and Data Elements

### **I. Background**

Congress tasked the Judicial Proceedings Panel with identifying any trends in punishments rendered by military courts, including general, special, and summary courts-martial, administrative actions and nonjudicial punishment 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 as well as appeals of any cases where punishments were set aside.

After a review of available databases, the JPP concluded that no existing database within DoD could provide it with the information necessary to conduct its statutory tasks, therefore the Panel developed its own sexual assault case database, implementing the best practices recommendations of the U.S. Sentencing Commission, which was to make it document-based.

To create the system, the JPP requested key sexual assault case documents from which to extract the data necessary for its analysis. The JPP collected and analyzed data from fiscal years 2012 through 2015. Following the recommendation of the JPP, the DAC-IPAD has continued this data project and has refined the existing data and collected and analyzed case documents through fiscal year 2016.

### **II. Sexual Assault Case Documents Currently Collected by the DAC-IPAD**

1. Charge Sheet(s)
2. Article 32 preliminary hearing report or waiver
3. Article 34 pretrial advice of the Staff Judge Advocate
4. Pretrial agreement stipulation of fact
5. Record of trial cover sheet
6. Dismissal order
7. Request for trial by judge alone or panel of military members
8. Exhibit index
9. Report of Result of Trial (findings and sentence; terms of a pretrial agreement)
10. Staff Judge Advocate's post-trial recommendation to the Convening Authority
11. Court-Martial Order (findings and sentence as approved by the Convening Authority)
12. Resignation/discharge in lieu of trial – request from defense and decision by CA
13. Victim input on case disposition
14. Notice of representation or notice of appearance by Special Victim's Counsel
15. Appellate opinions or summary disposition

# DAC-IPAD Court-Martial Database

## Documents and Data Elements

### III. Sexual Assault Case Data Elements

#### A. Administrative

1. Case Number: Unique DAC-IPAD case number
2. Fiscal Year: Date of case disposition
  - Date of adjudged sentence or acquittal
  - Date on which all charges dismissed
  - Date on which the request for discharge in lieu of court-martial approved
3. Case Location/General Court-Martial Convening Authority: Charge Sheet, Block 5 (Unit, Organization, or Ship Name)
4. Special Victims' Counsel Involvement: Y/N
5. Accused Ordered Into Pretrial Confinement: Y/N
6. Key Dates
  - Preferral of charges
  - Article 32 preliminary hearing
  - Referral
  - Findings or sentence adjudged
  - Convening Authority action on the court-martial
  - Appellate review complete

#### B. Victim(s)

1. Gender(s)
  - All Females
  - All Males
  - Females & Males
2. Status
  - All Military
  - All Civilian
  - Military & Civilian

#### C. Accused

1. Military Service
2. Gender

#### D. Offense

1. All Offenses listed on the Charge Sheet (sex offenses and non-sex offenses)
2. Whether the offense occurred after June 24, 2014 (mandatory minimum in effect for penetrative offenses)
3. Most Serious Charged Sexual Assault (SA) by Type: Penetrative or Contact Offense

## DAC-IPAD Court-Martial Database

### Documents and Data Elements

- E. Article 32 Hearing
  - 1. Applicable: Y/N
  - 2. Waived: Y/N
  - 3. Recommended disposition for every offense charged
  - 4. If dismissal/alternate disposition recommended, note rationale if available
  - 5. Whether victim appeared: Y/N
  - 6. Hearing or Waiver occurred after December 26, 2014 (effective date for current Article 32 preliminary hearing procedures)
- F. Article 34 Pretrial Advice
  - 1. Whether applicable: Y/N (Only Required for General Court-Martial)
  - 2. Advice from Staff Judge Advocate (SJA) as to every offense charged
    - If SJA recommends dismissal/alternate disposition, note rationale if available
- G. Pretrial Agreement (PTA): Y/N
  - 1. Accused pleading guilty to one or more sexual assault offenses
  - 2. Other terms of the PTA (confinement/punitive separation/referral to a specific forum for disposition/other)
- H. Disposition of all charges at the point of Referral/GCMCA decision on disposition
  - 1. Charges Referred to General court-martial
  - 2. Charges Referred to Special court-martial
  - 3. Charges Referred to Summary court-martial
  - 4. Charges dismissed (note whether before or after referral)
    - Dismissal reason, if known: (Victim non-participation/Other/Information not available)
  - 5. Charges resolved by Alternate Disposition
- I. Trial forum: Military Judge / Members / Summary Court-martial Officer
- J. Plea entered as to every offense
  - 1. Not Guilty Plea to any SA Offense
  - 2. If plea is Guilty of a lesser included offense, choose from Offense Listing
- K. Court-Martial Outcome:
  - 1. Findings as to every offense tried
  - 2. Found guilty of any SA offense
  - 3. Found guilty of lesser included offense

## DAC-IPAD Court-Martial Database

### Documents and Data Elements

4. Most serious sex offense found guilty: penetrative or contact offense
  5. Full acquittal
  6. Any charges dismissed by military judge
  7. Withdrawn by Gov't pursuant to a PTA
- L. Sentenced adjudged (confinement and/or punitive separation/other type)
- M. Sentence approved by the Convening Authority pursuant to a pretrial agreement or clemency granted (ex: forfeitures deferred or waived)
- N. Automatic appellate review required by Service Court of Criminal Appeals (CCA): Y/N
1. Findings/sentence affirmed
  2. Findings/sentence relief granted
  3. Rehearing ordered/authorized
  4. Fiscal year of decision
  5. Appellate issue(s) related to SA offense

## Summary of JPP Findings and Recommendations on Military Justice Case Data for Sexual Assault Offenses

*Prepared by DAC-IPAD Staff for the  
April 20, 2018 Public Meeting of the DAC-IPAD*

Recommendation 37 [April 2016]: The Department of Defense collect and analyze case adjudication data using a standardized, document-based collection model, similar to systems used by the Judicial Proceedings Panel or U.S. Sentencing Commission, that incorporates uniform definitions and categories across all of the military Services.

- DoD does not collect sufficient adjudication data to fully assess how adult sexual assault cases are resolved through the military justice system.
- Other than case information entered by Service legal officers into DoD's database, DoD does not centrally collect and manage information about military justice processing in sexual assault cases. The military Services, however, have Service-specific systems, tailored to a decentralized, command-driven military justice system, to collect and manage information for cases that occur in their Service.
- The JPP developed an electronic database, modeled on the database used by the U.S. Sentencing Commission, for collecting and analyzing information from court-martial case documents. This system was used to accumulate procedural information from court-martial documents for the data analysis in this report.
- Collecting standard information from court-martial documents regarding dispositions, charges, outcomes, and punishments imposed in adult sexual assault cases could improve Service-level analysis and could be incorporated into DoD's reports to Congress.
- Because the Judge Advocate General's Corps administer military justice in each of the military Services, case adjudication data could be compiled and analyzed by the Services in a manner compatible with DoD's electronic database and congressional reporting requirements.
- At a minimum, analysis of how adult sexual assault cases are resolved through the military justice system would be improved by the collection of the following case information:
  - all sexual assault charges that were preferred and the outcome of each charge, including whether the charge was referred to court-martial, dismissed, or resolved by alternate means;
  - type of court-martial held;
  - pleas of the accused;
  - trial forum;
  - findings;

- sentence; and
- convening authority action on the findings and sentence.
- Because procedural data do not provide complete information about a case, they must be supplemented by potentially relevant case facts and evidentiary issues. Such information may include characteristics of the victim, the relationship between the accused and victim, whether the victim made a prompt report, whether the victim was willing to cooperate, whether the victim engaged in any risk-taking behavior around the time of the incident, and the presence of eyewitnesses or physical evidence.

Recommendation 38 [April 2016]: The Department of Defense include legal disposition information related to all adult sexual assault complaints in one annual DoD report, changing its policy that excludes adult-victim cases that are handled by the Family Advocacy Program from Sexual Assault Prevention and Response Office reports.

- DoD SAPRO annually provides Congress with a description of the resolution of each unrestricted report of sexual assault covered by DoD's sexual assault prevention and response policy; however, that policy precludes reporting on adult sexual assault cases involving victims who are Service members' spouses, intimate partners, or family members over the age of consent under the UCMJ (16 years of age), for whom the DoD Family Advocacy Program (FAP) provides victim advocacy services.
- FAP does not collect or report case adjudication data for the sexual assault reports it receives, even when FAP provides victim advocacy services through completion of a court-martial for a sexual assault crime. Because these cases are excluded from DoD's reports on the legal resolution of sexual assault cases, it is not possible to accurately determine how many sexual assault cases are handled through the military justice system.
- Requiring sexual assault case disposition and adjudication data from FAP to be reported by DoD in its annual report to Congress would ensure a complete accounting of all adult sexual assault cases involving a military member.
- The Response Systems to Adult Sexual Assault Crimes Panel, in its June 2014 report to the Secretary of Defense, examined this issue and similarly recommended it be corrected.

Recommendation 52 [April 2017]: The Secretary of Defense and the military Services use a standardized, document-based collection model for collecting and analyzing case adjudication data in order to implement Article 140a, Uniform Code of Military Justice (*Case Management; Data Collection and Accessibility*)

- Document-based case adjudication data collection is a best practice utilized and recommended by the U.S. Sentencing Commission. The JPP's document-based approach to data collection involves obtaining relevant case documents from the

military Services (e.g. charge sheet, report of result of trial) and recording the relevant case history data into a centralized database for analysis.

- In its April 2016 report, the JPP recommended that the Department of Defense collect and analyze case adjudication data using a standardized, document-based collection model similar to the systems used by the JPP or the U.S. Sentencing Commission.
- Article 140a, enacted in the National Defense Authorization Act for Fiscal Year 2017, requires the establishment within four years of uniform standards and criteria for collecting military justice data across all of the military Services.

Recommendation 53 [April 2017]: The new military justice data collection system required to be developed pursuant to Article 140a, Uniform Code of Military Justice (*Case Management; Data Collection and Accessibility*), should be designed so as to become the exclusive source of sexual assault case adjudication data for DoD's annual report to Congress on DoD's sexual assault prevention and response initiatives.

- DoD SAPRO's data collection and reporting on the legal disposition of adult-victim sexual assault cases do not describe the results of sexual assault reports made within DoD with sufficient clarity or thoroughness for Congress or DoD to understand how these cases are handled within the military justice system.
- Military justice personnel should be involved in providing the information collected pursuant to Article 140a, which would improve the accuracy and level of detail currently contained in DoD's reports on sexual assault cases.
- DOD SAPRO should rely solely on the Article 140a data for its sexual assault case adjudication data when developing the DoD SAPRO annual report to Congress.
- To the extent possible, DoD should avoid developing a source of data under Article 140a that does not communicate with other sources of data within DoD, such as DoD SAPRO's sexual assault incident database.

Recommendation 54 [April 2017]: The successor federal advisory committee to the JPP, the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, should consider continuing to analyze adult-victim sexual assault court-martial data on an annual basis as the JPP has done, and should consider analyzing the following patterns that the JPP discovered in its analysis of fiscal year 2015 court-martial data:

- a. Cases involving military victims tend to have less punitive outcomes than cases involving civilian victims;
- b. The conviction and acquittal rates for sexual assault offenses vary significantly among the military Services; and

c. If a Service member is charged with a sexual assault offense, and pleads not guilty, the probability that he or she will be convicted of a sexual assault offense is 36%, and the probability that he or she will be convicted of any offense (i.e., either a sex or a non-sex offense) is 59%.

- Because the data required to meet the JPP's congressional tasks were not available or collected by any entity within DoD, including the annual DoD SAPRO report, the JPP independently collected the needed information directly from case files maintained by the military Services.
- The JPP heard testimony from civilian experts from the Bureau of Justice Statistics and the U.S. Sentencing Commission on best practices for collecting accurate and reliable information about case adjudication.
- In 2014, the JPP, in collaboration with the Washington Headquarters Service, developed a document-based database containing information on more than 2,500 military sexual assault cases adjudicated in fiscal years 2012 to 2015.
- In order to understand the data collected, the JPP retained a nationally recognized criminologist who was not affiliated with DoD or any military Service to perform an in-depth statistical analysis of the data.
- The JPP's charter ends on September 30, 2017, and no similar project or method currently exists to continue this in-depth study of sexual assault cases in the military justice system once the JPP concludes.





PERSONNEL AND  
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

APR 5 2017

Elizabeth Holtzman, Chair  
Judicial Proceedings Panel  
One Liberty Center  
875 North Randolph Street  
Arlington, VA 22203-1995

Dear Chairperson Holtzman:

This letter is in response to your Request for Information, Set 11, dated March 6, 2017.

In Question 164A, you requested the status of implementation of Judicial Proceedings Panel (JPP) recommendations 37 and 38. New requirements set forth in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 pertaining to the collection and analysis of military justice data will influence our way forward on these recommendations. As such, how we will implement the recommendations in light of the NDAA requirements remains pre-decisional.

In Question 164B, you asked the following questions:

1. Will legal disposition information for cases reported by the Family Advocacy Program (FAP) be included in the next annual report from the Sexual Assault Prevention and Response Office (SAPRO)?

Answer: No. Given that FAP's mission is clinical in nature with a mission towards rehabilitation, FAP is not required to collect data on legal disposition of its cases and does not monitor such information. Responsibility for collecting information on alleged offender accountability and associated outcomes (including legal disposition, if appropriate) remains with the Office of the Judge Advocate General within each military Department.

2. Section 544 of the NDAA for FY 2017, Extension of the Requirement for Annual Report Regarding Sexual Assaults and Coordination with Release of FAP Report, provides that the SAPRO and FAP annual reports to Congress shall be issued simultaneously. How does Section 544 affect SAPRO's coordination with the FAP office regarding the inclusion of legal disposition data on FAP cases in the annual SAPRO report, if at all?

Answer: Section 544 of the NDAA for FY 2017 requires that the annual report regarding sexual assaults and the FAP report be submitted simultaneously. *The FY16 Annual Report on Sexual Assault in the Military* will include an appendix that summarizes the number of domestic abuse related sexual assault reports. In addition, the FAP will

release its annual report on the same day that SAPRO releases its annual report later this spring. However, FAP data in either report document will not include legal disposition of cases. The means for collecting and reporting legal disposition information pertaining to these allegations in the future remains pre-decisional.

In Question 165, Results of the DoD Sexual Assault Data Collection Initiative, you requested the information gathered as part of the “comprehensive discovery sprint” and the recommendations made to the Secretary of Defense in response to this partnership, to include subsequent actions, orders, or policies implemented.

Answer: The recommendations made by the Defense Digital Services to the Secretary of Defense reflect the internal deliberative process of the DoD and are exempt from disclosure in accordance with Exemption 5 of the Freedom of Information Act.

We continue to support and appreciate the work that the JPP is doing to improve military justice. Dr. Nate Galbreath, the Deputy Director of the DoD Sexual Assault Prevention and Response Office, and Ms. Kathy Robertson, Family Advocacy Program Director, will be my representatives at the meeting on April 7, 2017.



A. M. Kurta  
Performing the Duties of the Under Secretary of  
Defense for Personnel and Readiness





SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

FEB 17 2017

MEMORANDUM FOR DEPUTY SECRETARY OF DEFENSE

SUBJECT: Establishment of Cross-Functional Teams to Address Improved Mission Effectiveness and Efficiencies in the DoD

It is my expressed intent to field a larger, more capable, and more lethal Joint force. It is incumbent on each of us to accomplish this task in the most cost-effective, efficient manner possible. If we are to ask the American taxpayers to provide more resources to our Nation's defense, we must do the same—by making our business operations more efficient and freeing up funds for higher priority programs. In this regard, I support and am guided by the provisions and intent of Title IX of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Public Law 114-328), which task the Department to conduct a thorough review of how we conduct our business operations with an eye toward becoming more effective and efficient.

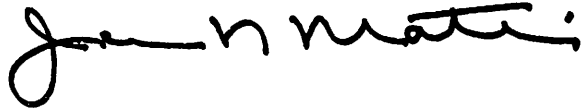
Accordingly, I would like you to lead an effort to identify a series of key areas for review with an explicit goal of identifying business services and tasks that no longer merit individual military department approaches. I recognize the military services have unique competencies in specific operating domains that ensure the delivery of essential mission capabilities in combat that when combined into a Joint package, present potential adversaries with insurmountable challenges. However, we have sometimes allowed our focus on service uniqueness to extend into business operations, leading to duplication of effort and costs we can no longer afford. To achieve greater Departmental efficiency and savings, we must now pursue cross-enterprise consolidation of business activities.

I find the work done by you, the Deputy Chief Management Officer (DCMO) and Chief Information Officer (CIO) staffs in 2014-2015 to be a good place to start. You highlighted potential savings to be had by consolidating work in several discrete lines of business. In keeping with the framework used by the Defense Business Board for its study on "Transforming DoD's Core Business Processes for Revolutionary Change," I direct you to further this work by exploring efficiencies across the following core business functions: human resource management; financial management (to include improvements in cost accounting); real property management; acquisition and contract management; logistics and supply chain management; health care management; base services (including retail operations, base lodging, and Morale, Welfare, and Recreation (MWR) services); and cyber and information technology management. I would like you to establish accountable, cross-functional teams to address these lines of business, and any others you deem worthy of review. As the teams consider horizontal consolidations, they should keep a clear sight picture on maintaining or improving overall mission performance outcomes.



OSD001246-17/CMD001796-17

These reviews should be conducted in coordination with the heads of the relevant Office of the Secretary of Defense and DoD components. Please advise me of any other areas and tasks you will undertake by the end of February and be prepared to bring decisions forward for consideration in the FY 2019 program cycle.

A handwritten signature in black ink, appearing to read "John Mattis". The signature is fluid and cursive, with a prominent "J" and "M".

cc:

Secretaries of the Military Departments  
Chairman of the Joint Chiefs of Staff  
Under Secretaries of Defense  
Deputy Chief Management Officer  
Chief, National Guard Bureau  
General Counsel of the Department of Defense  
Director of Cost Assessment and Program Evaluation  
Inspector General of the Department of Defense  
Director of Operational Test and Evaluation  
Chief Information Officer of the Department of Defense  
Assistant Secretary of Defense for Legislative Affairs  
Assistant to the Secretary of Defense for Public Affairs  
Director of Net Assessment  
Director, Strategic Capabilities Office  
Directors of Defense Agencies  
Directors of DoD Field Activities

**Defense Advisory Committee on  
Investigation, Prosecution, and Defense of  
Sexual Assault in the Armed Forces (DAC-IPAD)**

**April 20, 2018**

**DAC-IPAD Public Meeting**

**Biographies of Presenters**

**Best Practices for Case Management and Data Collection in Civilian Criminal Courts**

**9:15 a.m. – 12:00 p.m.**

**Mr. Glenn Schmitt** is the Director, Office of Research and Data, U.S. Sentencing Commission. He leads a staff of 45 employees who collect, review, and analyze over 370,000 documents from more than 80,000 federal cases each year. Under his direction, Commission staff prepares numerous analyses used by the Sentencing Commissioners, and by Congress and the Courts. Before joining the Commission, Mr. Schmitt was the Deputy Director and Acting Director of the National Institute of Justice in the U.S. Department of Justice. From 1994 to 2001 he served as a counsel to the House Judiciary Committee. He has served in the U.S. Army Reserve for 22 years, and currently holds the rank of colonel in the Judge Advocate General's Corps.

**Mr. Wendell Skidgel** has served as the Attorney Advisor for the Administrative Office of the U.S. Courts' Electronic Public Access program office since 2006. He has extensive knowledge of the Federal Courts' Public Access to Court Electronic Records (PACER) and Case Management/Electronic Case Files (CM/ECF) systems. He served as the I.T. Director for the United States Bankruptcy Court for the District of Massachusetts and prior to attending law school was the Systems Manager for the First Circuit Court of Appeals. He holds a J.D. from Boston University School of Law and baccalaureate degrees in Mathematics and Computer Science from Eastern Nazarene College.

**Ms. Margaret Sheehan McCaleb** is the Project Director of the Next Generation (NextGen) of Case Management/Electronic Case Files (CM/ECF) system at the Administrative Office of the U.S. Courts, where she has worked since 1990. She has been the project director for four years, beginning with the design and development phase of the first releases of NextGen CM/ECF to the federal appellate, district, and bankruptcy courts. Ms. McCaleb previously served for 10 years as project manager for the appellate version of the CM/ECF software, from the beginning of the requirements phase through the design, development, and deployment to all federal appellate courts. Prior to that, she served as a senior analyst for the bankruptcy version of CM/ECF, as CM/ECF was initially designed and developed beginning in 1997. Ms. McCaleb graduated from Rosemont College in 1978 *cum laude* and received her M.A. degree from Catholic University in 1980.

**Dr. Allen Beck** is the Senior Statistical Advisor, Bureau of Justice Statistics, U.S. Department of Justice.

## **Current Capabilities of the Military Services' Case Management and Data Collection Programs**

**1:00 p.m. – 2:30 p.m.**

**Lieutenant Colonel Jason Coats**, U.S. Army, is Chief of the Operations Branch, Criminal Law Division, Office of The Judge Advocate General. In this position, he oversees the Military Justice Online application as well as other criminal law applications for The Judge Advocate General's Corps. Lieutenant Colonel Coats served as a trial counsel and senior trial counsel with the 10th Mountain Division at Fort Drum, New York. He graduated from the United States Military Academy in 2000, received his J.D. degree from the University of Cincinnati College of Law in 2007 and earned an L.L.M. in military law at The Judge Advocate General's Legal Center and School in Charlottesville, Virginia, in 2012.

**Captain Michael Luken**, U.S. Navy, is the Trial Counsel Assistance Program Director. He is also currently assigned as the Senior Legal Advisor to the Consolidated Disposition Authority related to the USS JOHN S MCCAIN and USS FITZGERALD ship collisions. Previously, Captain Luken served as the Senior Trial Counsel at Trial Service Office - Southeast, where he prosecuted a number of serious cases. He was assigned to Commander, Patrol Reconnaissance Force, U.S. Pacific Fleet in Kaneohe Bay, Hawaii as the Staff Judge Advocate (SJA). He was the assistant officer-in-charge / senior defense counsel at the Naval Legal Service Office Pacific, Detachment Pearl Harbor where he was again detailed to a number of serious courts-martial throughout the Pacific in Yokosuka and Okinawa, Japan; San Diego, California; and Hawaii. Captain Luken was the staff judge advocate to commander, Logistics Group Western Pacific / CTF-73 in Singapore. He worked in the OPLAW Division for the SJA Office while deployed in Iraq. He also served as the executive officer (XO) at Region Legal Service Office Mid-Atlantic in Norfolk, Virginia and as a military judge for the U.S. Navy-Marine Corps Trial Judiciary, Central Circuit in Norfolk, Virginia. As military judge, he presided within the Navy's busiest trial circuit presiding over felony and misdemeanor courts-martial. He attended George Washington University School of Law where he successfully completed his masters of law degree with highest honors - litigation and dispute resolution in April 2011. Captain Luken was designated as a "Military Justice Expert" in 2015. He is slated to return the judiciary in August 2018 as the circuit military judge for the Navy-Marine Corps Trial Judiciary, Central Circuit in Norfolk, Virginia.

**Major Jesse Schweig**, U.S. Marine Corps, has been on active duty for 8 years and has served as a defense counsel, trial counsel, senior trial counsel, complex trial counsel, and battalion judge advocate. He has been detailed to more than 100 cases as a defense counsel and more than 200 cases as a trial counsel. He has tried more than 40 cases involving a wide variety of charges, to include the Special Victim Investigation and Prosecution Capability (SVIP) subject areas of child pornography, sexual assault, homicide, child abuse, and severe domestic violence. He has served as an instructor for the Naval Justice School, the Family Advocacy Program, the Trial Counsel Assistance Program, and the Trial Counsel Orientation Program. Maj Schweig has also been a guest speaker on the subject of military law at both the Emory Riddle and University of North Carolina schools of law.

**Major Noel Horton**, U.S. Air Force, is the Executive Officer, U.S. Air Force Judiciary Directorate (AFLOA/JAJ) at Joint Base Andrews, Maryland. AFLOA/JAJ exercises oversight and supervision over personnel responsible for prosecution and defense of members facing action under the Uniform Code of Military Justice, administration of military actions in the Air Force, and processing court-martial clemency requests submitted to The Judge Advocate General of the Air Force or the Secretary of the Air Force. Prior to his current position, Major Horton served as the Chief of Policy and Precedent and later as the Chief of Justice and Court Activities within the Air Force Military Justice Division (AFLOA/JAJM). While he has taken on separate primary duties, he still serves in an invaluable capacity providing input and analysis on processes and requests for information from outside entities. AFLOA/JAJM provides fair and responsive counsel on military justice matters to senior leaders and guidance on military justice policy and processes to legal offices at every level of command within the Air Force. In his positions within AFLOA/JAJ and AFLOA/JAJM, among other responsibilities, he has coordinated responses to inquiries on ongoing and prior military justice actions submitted by the media or members of the public under the Freedom of Information Act or by Congress, POTUS, the DOD, and Air Force senior leaders. He graduated from the U.S. Air Force Academy (distinguished graduate) in 2005 and received his J.D. from the University of Washington School of Law (with honors) in 2011.

**Mr. Stephen McCleary**, U.S. Coast Guard, is the Senior Military Justice Counsel and Chief Prosecutor in the Coast Guard's Office of Military Justice. He served for 22 years on active duty in the Coast Guard, with his last position as the executive assistance to the Judge Advocate General. Prior to that he was the chief of the office of military justice, was a military judge for five years, and served two tours as a staff judge advocate, including one at the Coast Guard's Recruit Training Center in Cape May, New Jersey. He also served as a defense counsel assigned to the Navy, and had extensive experience as a trial counsel.

**Statement of**  
**Glenn R. Schmitt**  
**Director, Office of Research and Data**  
**United States Sentencing Commission**  
  
**to the**  
  
**Defense Advisory Committee on Investigation, Prosecution, and Defense**  
**of Sexual Assault in the Armed Forces**  
  
**April 20, 2018**

Members of the Committee:

It is my pleasure to speak to you today about the work of the United States Sentencing Commission and, in particular, its Office of Research and Data, which I lead.

The United States Sentencing Commission is an independent agency in the judicial branch of government. Its principal purposes are (1) to establish sentencing policies and practices for the federal courts, including guidelines to be consulted regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress and the executive branch in the development of effective and efficient crime policy; and (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues.

The Commission was established by the Sentencing Reform Act of 1984, which, among other things, abolished parole in the federal criminal justice system and replaced it with a system of determinate sentencing. That act created the Commission, a bipartisan agency led by Commissioners appointed by the President and confirmed by the Senate, to provide advice to federal judges when determining the sentences to be imposed on persons convicted of federal crimes. The Commission does this principally through the promulgation of sentencing guidelines, which are amended each year to account for the changing nature of crime and the persons who commit them.

To support its work, Congress authorized the Commission to (1) establish a research and development program to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on federal sentencing practices; (2) to collect and disseminate information concerning sentences actually imposed and the relationship of such sentences to the factors set forth in section 3553(a) of title 18, United States Code; (3) to publish data concerning the sentencing process; and (4) to collect and disseminate information regarding the effectiveness of sentences imposed.



## Document Submission

Central to the Commission's work is its data collection effort. In fiscal year 2017, the Commission received documentation on almost 67,000 original sentencing. The Commission also received information on over 5,000 resentencings and other modifications of sentence, and 7,800 appeals. In total, Commission staff reviewed more than 325,000 court documents. The Commission has a staff of approximately 45 persons who enter this data into the Commission database, ensure that it accurate and complete, and then use it for a myriad of analyses. Since 1987, the Commission has amassed a database of approximately 1.6 million offender records.

To facilitate the Commission's work, Congress has required by statute<sup>1</sup> that the courts provide the following five documents to the Commission within 30 days after entry of judgment in a criminal case: (1) the indictment or other charging document; (2) any written plea agreement; (e) the presentence report (PSR); (4) the judgment and commitment order (J&C); and (5) the written statement of reasons (SOR). The Commission is required to submit to Congress at least annually an analysis of these documents and to report to Congress if any districts have not submitted the required information and documents.

As you might expect, compliance with the statutory directive to submit documents to the Commission is high. The Commission estimates that it receives documents for 99.8 percent of the cases for which documents are required to be submitted to the Commission, and that it receives 99.7 percent of all documents required to be submitted in those cases. Because of this, we consider our data to be the population and not a sample of the data on federal sentencing.

## Data Collection

Data from the five core documents submitted to the Commission are extracted and coded for input into computerized databases by Commission staff. For each case in its Offender Dataset, the Commission routinely collects information in the following areas: case identifiers, demographic information about the offender, the statutes of conviction and the maximum and any minimum penalty that applied at sentencing, all guideline provisions applied by the court in the case, the type and length of sentence imposed, and the reasons given by the court for sentences outside the guideline range. In addition, when particular research questions arise, the Commission reanalyzes these documents to collect additional information.

The Commission also maintains additional datasets to study a variety of other sentence issues. The Organizational Dataset captures information on organizations sentenced under Chapter Eight of the Guidelines Manual. The data includes organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines. The Appeals Dataset tracks appellate review of sentencing decisions. The data includes district; circuit; dates of appeal and opinion; legal issues; and the disposition of the case. The Resentencing Dataset, begun in fiscal year 2008, tracks information on the number and type of resentencings and other modifications of sentence.

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<sup>1</sup> 28 U.S.C. § 994(w)(1).

The Commission's computerized datasets, excluding offender and judge identifiers, are made available to the public through the Commission's website and through the Inter-University Consortium for Political and Social Research at the University of Michigan (ICPSR) so that other researchers can use this data in their work. The Commission also disseminates this data through a wide variety of publications and through Commissioner or staff presentations at professional conferences and other events.

### Commission Analysis

The Commission's research staff performs analyses for a number of stakeholders, foremost of which are the members of the Commission. Each year the commissioners identify several subject areas as priority areas for study. The Commission's staff meet with them monthly to provide data and legal analyses relating to those subjects and analyses of proposals to amend the sentencing guidelines. Also, Members of Congress may request that Commission staff provide analyses of Commission data, or estimates of the impact of pending legislation, to inform their work. United States Judges may also request that the Commission's research staff provide data analyses of cases similar to those pending before them as a way to inform the judge's decision about the sentences to impose. Finally, the Commission performs data analyses for Executive Branch agencies when they are acting in a policy-making (as opposed to advocacy) role.

While the analyses performed for these stakeholders are confidential, the Commission also provides separate analyses of Commission data to the public through its many publications.

The Commission's data is regarded as one of the most complete and accurate datasets in social science research. There are several reasons for this:

1. Our data is a universe and not a population. Because the courts are required to provide to us the source materials that we use, our datasets reflect the total information available regarding the areas for which we collect data.
2. Our dataset is extremely accurate. Only Commission staff input data into our dataset. The Courts provide only the source materials but do not place any information into the datasets themselves. Although technology would allow us to pull some data from data collected by the courts, or to allow other court staff to push data into our system, we do not allow that. By limiting the number of people who are involved in our data coding and cleaning processes we can ensure that data is collected in a consistent manner, by our highly trained staff. The result is data that is very accurate.
3. Our data is extremely thorough. We are fortunate that Congress has authorized and appropriated the funding for such a large staff of social science professionals. Obviously, the more people who are available to work on a project the more data can be collected about the issue under study.

4. Our research staff are experts. Our social science staff all have advanced degrees in criminology or related fields, with a thorough understanding of research and analytical methods. As a result, our data is collected with a view toward the research questions that will be asked of us by the members of the Commission, by the courts, and by Congress.

These key factors – mandated data submission to a single agency, collection and analysis by a single staff dedicated solely to this task, which is large enough for the amount of data to be collected, and who have education and training in the social sciences -- are what makes our data exceptional.

#### Limitations in Commission Data.

Despite the quality and completeness of Commission data, there are still limits to what it tells us about federal criminal cases. These limitations might be instructive to you as you consider the data that you would recommend be collected from courts-martial.

As the name of our agency suggests, the Sentencing Commission generally collects data only about the sentencing process. The Commission does not collect data on investigations by law enforcement agencies or decisions by prosecutors as to when to seek an indictment against a defendant. The Commission also does not collect data on cases that are filed but later dismissed, or on cases in which the defendant was acquitted. We also do not collect data about charges that are filed but later dropped as part of a plea agreement, even when the offender is convicted in that case. And the Commission does not collect data on program participation by offenders while in prison or while on supervised release.

Other government agencies do collect some of this data. The Executive Office for United States Attorneys collects some information about the prosecutorial decision-making process. The Federal Bureau of Prisons collects information about program participation by offenders. And the Probation and Pre-trial Services Office of the Administrative Office of the United States Courts keeps records regarding program participation while offenders are on supervised release. However, in general, this data is collected for operational purposes, not research purposes, and often is not as complete as researchers might like. Also, those agencies may have concerns about the public release of some of this data. Indeed, much of this data is not public. Therefore, from a research perspective, because all data is not collected by researchers and not available to a single research staff, it is not integrated in any comprehensive analysis of the federal criminal justice system.

Also, Commission data does not include information about facts that have no statutory or guideline relevance. For example, the Commission does not collect information about the victims of crimes, other than the number of victims in fraud and alien smuggling cases, and some victim impact information in fraud cases. This is because, generally speaking, the identity of the victim (*e.g.*, gender, age, relationship to the defendant) has no legal bearing under the statutes making conduct illegal or the sentencing guidelines that apply to them. Additionally, while the Commission does record the criminal history score that a court assigns to an offender under the sentencing guidelines, the Commission did not collect information about the specific type of

prior crimes committed until 2016. This is because the type of prior crime does not affect the criminal history score, only the sentence imposed for it. Finally, the Commission does not collect information about offender characteristics, such as previous employment history, mental health and drug abuse history, support to dependents, and military service, again because the substantive federal statutes and the related sentencing guidelines do not take those factors into account.

Of course, judges may legally consider any or all of these factors when imposing a sentence.<sup>2</sup> Interestingly, Congress directed the Commission to not consider some of these factors when creating the sentencing guidelines.<sup>3</sup> From a research point of view, however, it would be interesting to know which factors matter most to judges and to what degree. And certainly, DOD leadership and Congress may have an interest in this information. The Commission's decision to not collect this information should not be viewed as evidence of what constitutes "best practices" in research. Rather, the decision was made based on Congress' direction that many of these factors not be considered by the Commission and based on the factors on which the sentencing guidelines rely in determining a sentencing range. However, as this committee considers what information the Defense Department wishes to collect about the crimes prosecuted at courts-martial, you may wish to expand the data collection beyond what the Commission currently collects.

The Commission is happy to provide technical advice to this committee, to the Department of Defense, or to the Services as you and they work through a data collection program for military crimes. The Commission appreciates the invitation to provide information to this committee. I would be happy to answer any questions you might have about the work of the Commission.

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<sup>2</sup> See 18 U.S.C. §§ 3553(a); 3661.

<sup>3</sup> See 28 U.S.C. § 994(e).

# **Defense Advisory Committee on Investigation, Prosecution and Defense of Sexual Assault in the Armed Forces**

**April 20, 2018**

Good Morning. As Margaret mentioned, my name is Wendell Skidgel. I am a senior attorney for the judiciary's Electronic Public Access Program at the Administrative Office of the U.S. Courts. The mission of the Judiciary's Electronic Public Access Program is to facilitate and improve public access to court records and court information, in accordance with federal law, rules, judiciary policies, and user needs. Although I am here today to discuss access to court records through the judiciary's Public Access to Court Electronic Records system (PACER), I would be remiss not to mention that the program is broader than just PACER, encompassing the Judiciary's public websites, and implementing the Judicial Conference's privacy policies.

PACER was established in 1988 as a dial-up service. During the past decade, through the widespread adoption of the judiciary's Case Management/Electronic Case Files (CM/ECF) system, PACER has evolved into an Internet-based service. In other words, PACER is a portal into CM/ECF, and CM/ECF is integral to public access. PACER provides access to reports, docket sheets for 53 million cases, and more than 1.1 billion documents that have been filed with the courts through CM/ECF.

## **Fees**

As directed by Congress, the program is funded entirely through user fees set by the Judicial Conference. The fees are published in the *Electronic Public Access Fee Schedule*, available on [uscourts.gov](http://uscourts.gov). All users (attorneys, data brokers, government agencies) are charged

the same rate of ten cents per page. There is a cap of \$3.00 (30 pages) that applies to any single document or case-specific report (transcripts of court proceedings are excluded from this cap). Users with bills of \$15 or less (150 pages) during a quarter are not charged (approximately 75% of active users pay no fee each quarter).

In fiscal year 2017, the program generated about \$146 million in fee revenue, approximately 90% of which came from less than 3% of PACER users. The revenue is used to support PACER and cover costs associated with CM/ECF systems used by the federal courts throughout the country. Revenue is also used to finance other expenses related to electronic public access to the courts, including network security and court websites.

### **Exemptions**

Judiciary employees, and those paid out of judiciary funds (such as Criminal Justice Act attorneys;) are exempt from fees. Additionally, individual courts may, upon a showing of cause, grant exemptions for certain classes of users (researchers and non-profit 501(c)(3) entities) to access that court's data without charge.

### **Authentication**

Other than users who view case information using public terminals at the courthouse, PACER users must register to use the system. All PACER access requires user authentication through a log-in and password. Usage information is collected and stored as set forth in the PACER Privacy and Security Notice and the PACER log-in banner. This provides a deterrent to those who would use PACER to obtain information for nefarious purposes. I can tell you that

the Administrative Office does respond promptly to grand jury subpoenas for information on PACER usage. The information that we have provided has been used quite effectively in court.

### **Program Services and Support**

There are more than 2.3 million PACER user accounts, approximately one quarter of which are active each year. In addition to court staff, users include: members of the bar; city, state and federal employees; and the public. In 2017, PACER Service Center staff established more than 250,000 new accounts, fielded 183,000 calls, and responded to more than 50,000 emails.

### **Public Information on the Privacy Policy and Rules**

The Judiciary proactively works to strike a balance between providing public access to court files and protecting sensitive information, as evidenced by the evolution of national policies, rules, and procedures over the years. And we have not done so in a vacuum – we seek expert advice and input from various interested parties, including those with widely divergent agendas and viewpoints. Information about the judiciary’s privacy policy for electronic case files is located at [www.privacy.uscourts.gov](http://www.privacy.uscourts.gov).

Examples of documents that are not available via remote electronic access nor to the public at the courthouse include:

- unexecuted summonses or warrants of any kind (e.g., search warrants, arrest warrants);
- pretrial bail or presentence investigation reports;
- statements of reasons in the judgment of conviction;
- juvenile records;
- documents containing identifying information about jurors or potential jurors;
- financial affidavits filed in seeking representation pursuant to the Criminal Justice Act;
- ex parte requests for authorization of investigative, expert or other services pursuant to the Criminal Justice Act; and

sealed documents (e.g., motions for downward departure for substantial assistance, plea agreements indicating cooperation or victim statements).

### **CM/ECF Log-in Banner and Redaction Reminder**

The CM/ECF log-in screen contains a notice of redaction responsibility and provides links to the Federal Rules on privacy. To successfully access CM/ECF and file a case document with a court, users must check a box acknowledging their requirement to comply with the redaction rules.

### **Redaction Software**

Ensuring the redaction of information identified in the privacy policy is a challenge. Algorithms can be developed to identify Social Security Numbers in most, but certainly not all, cases. Unfortunately, it is far more difficult – and in some instances not presently possible – to develop algorithms to identify other types of highly sensitive information, such as the name of a minor. While technology is a wonderful tool, it certainly is not an adequate substitute for filer vigilance with respect to protecting sensitive information from disclosure.

Thank you.



## **Defense Advisory Committee on Investigation, Prosecution and Defense of Sexual Assault in the Armed Forces**

**April 20, 2018**

Good Morning. My name is Margaret Sheehan McCaleb. I am the Project Director for the Next Generation of the Case Management/Electronic Case Files (CM/ECF) system at the Administrative Office of the U.S. Courts (AO). CM/ECF is the online system that all federal appellate, district, and bankruptcy courts use to manage their cases and which attorneys use to file their motions, briefs, and all case-related documents over the Internet.

The development of CM/ECF began in 1995 when a District Court contacted the AO for help in managing very large cases involving attorneys from around the country. The court asked if the AO could develop a method for the attorneys to file case documents electronically. A prototype was developed and successfully used by the court. The benefits to both filing attorneys and the court were apparent: attorneys could file documents 24/7, and from their own offices, and the documents could be viewed simultaneously by opposing counsel, judges, and all court staff. Subsequently, the AO worked with four district and five bankruptcy pilot courts to refine the electronic filing component and to develop a case management component, to allow court staff to electronically manage the case information. These nine pilot courts began live operations between November 1996 and March 1998. In 2001, the national rollout of CM/ECF was launched to the district and bankruptcy courts and the development of the appellate court version of CM/ECF began. By 2012, all 204 federal appellate, district, and bankruptcy courts were using CM/ECF.

Because there are variations in the business processes among each of the three court types, there are three separate, but related, versions of CM/ECF, one each for appellate, district, and bankruptcy. For example, there is no need to file claims information in an appellate or district court, but

that information is necessary for bankruptcy cases. Similarly, appellate courts track three-judge panels and the work of those panels, but that functionality is not needed for bankruptcy courts.

Because there are also variations among the courts within a given type, the nationally-supported versions of CM/ECF include tables that allow individual courts to customize the application to meet their local rules and procedures. For example, in district courts, there are seven possible ways to display the case number. In addition to the year and number, some district courts use an office code, the judge's initials, and the case type (criminal or civil), in various combinations. A table in the database allows that configuration to be set for each court. There are hundreds of examples of other means of configuring the system that allow courts to make their own determinations for options such as the information displayed on particular screens and reports, the order of the information, and which modules in the system will be used and by whom.

CM/ECF allows judges, chambers staff, and clerk's office staff to manage cases electronically, keeping track of deadlines, hearings, trials, motions filed, and more. It also provides automatic notification of filings. For example, when an attorney files a motion, a notice is emailed to all attorneys in the case and the document is automatically added to the docket sheet (court staff also receive the email notification). When an attorney receives the email that a document has been filed, he or she can click on a link to view and download the document.

Courts have developed quality control processes that are used for documents that attorneys file, to ensure, for example, that the document is filed with the right case or that the title of the document matches the docket event that the attorney selected when uploading the document into the system. Each court establishes its own procedures to determine how quality control is conducted.

When a criminal case is opened, court staff enter the data and file the indictment into the system, using the information from the documents emailed or delivered to the clerk's office from the

U.S. Attorney's office or from the arresting official. Basic case information is stored, such as party name, attorney name and address (including the email address), the divisional office in the district, the date filed, the citation for the alleged offense (from the Federal Rules of Criminal Procedure), the number of counts, and the offense level. Demographic information is not captured because it is not relevant to the processing of a case. As the case progresses, other information is entered into the database, such as hearing and trial dates, and deadlines for responses or replies, including data that is for court use only, such as the length of a trial. Throughout the life of the case, when an attorney files a document, federal court rules provide that it is the responsibility of that attorney to redact any personal information, such as social security numbers, before the document is filed. A warning to this effect has been placed on the attorney login page.

In the current version of CM/ECF, all attorneys have a separate login and password for each court in which he or she practices. In the Next Generation of CM/ECF, which is currently in use in 23 courts, each attorney needs only one login and password, which can be used in all federal courts in which the attorney has permission to file. The single login feature will be used by all courts within the next three years.

Over fifty-three million cases are now managed in CM/ECF across all court types and nearly one million attorneys have filed in the system. Any public user who registers can access all non-restricted information in any case in any court. My colleague, Wendell Skidgel, will talk about that public-facing part of CM/ECF, which is PACER, and about policy issues that the courts addressed when moving to the CM/ECF system.

Federal Judicial Center

Criminal Integrated Database (IDB): 1996 to Present

Codebook

August 2016



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## Introduction

In 2011, the Administrative Office of the United States Courts (AOUSC) began implementing the NewSTATS (New Streamline Timely Access to Statistics) Project with respect to criminal data. The project's goals were to modernize the system for collecting, processing, analyzing, and reporting statistics of the federal court system. Based on the records for criminal defendants in NewSTATS, the criminal data in the Integrated Data Base (IDB) were updated back to fiscal year 1996. This was chosen as the starting point because it was the earliest complete fiscal year of data loaded into NewSTATS by the AOUSC.

The revised IDB data include all criminal defendants filed on or after October 1, 1995 and any defendants filed before October 1, 1995 still pending on that date. Each data set corresponds to a fiscal year snapshot that includes one extract record for each unique defendant filed or terminated during that fiscal year or pending at the end of it. A fiscal year runs from October 1 of the prior calendar year to September 30 (e.g., FY 2015 runs from October 1, 2014 to September 30, 2015). Each record in each fiscal year snapshot data set contains both the filing and, if applicable, closing data for one unique defendant.

- For records filed during the period and pending at the end of the period, the record contains the filing data but the closing data are blank (set to missing).
- For records filed prior to the current period and pending at the end of the period, the record contains the filing data but the closing data are blank (set to missing).
- For records filed during the period and closed during the period, the record contains both the filing data and the closing data.
- For records filed prior to the current period and closed during the period, the record contains both the filing and the closing data.

The defendant record in the IDB is the "current" record for a defendant in the AOUSC's NewSTATS Data Base as of the end of the snapshot period. That is, it includes the most recent record for the defendant submitted to the AOUSC as of the end of the snapshot period. The information contained in this record may differ from the original record or other earlier records for the defendant transmitted from the court to the AOUSC, as well as from records for the defendant subsequently transmitted to the AOUSC from the courts. The current record for a defendant includes certain fields of information retained from the original record.

### Comparison to Published Tables

The data records used in the IDB are the records used by the Judiciary Data and Analysis Office (JDAO) of the AOUSC to prepare the detailed statistical tables presented in the appendix of the Annual Report of the Director for that year. The "D" tables in that appendix are based on criminal data.

The published tables do not count intra-districts transfers as new filings or as terminations to avoid double-counting defendants within a district. Inter-district transfers, in contrast, are counted in both the originating district and the destination district. The inclusion of inter-district transfers in the counts on the "D" tables varies according to the table. To match to the published filing statistics on those tables including inter-district transfers, the user should select cases using the fields FISCAL YEAR and COUNT FILINGS INCLUDING TRANSFERS. For those tables excluding inter-district transfers, the user

should select cases using the fields FISCAL YEAR and COUNT FILINGS EXCLUDING TRANSFERS. Counts obtained with the criminal NewSTATS data should match the published tables. However, FJC processing of the records for the IDB may have altered values (for example, recoding out-of-range values into a separate "missing" category). Although such discrepancies are not expected to be substantial, researchers should be aware they may exist.

In FY 2005, the AOUSC revised the nature of offense classification system it uses to group similar citations together in order to report on types of offenses committed. Published tables through 2004 use the old nature of offense classification system which relied upon the AO codes. The revised classification system in place since 2005 uses the D2 codes. Data in the IDB for 1996 through 2004 have been updated to include the D2 codes to allow for the mapping of defendants to both the current and historical offense classification systems.

### **Multi-Year Analyses**

The IDB data include the record in existence at the time the snapshot for the published tables was created, not necessarily the most current record for the defendant. It is also possible the IDB data do not include complete information for every defendant filed, although this problem is negligible (e.g., perhaps 100 defendants a year). If the court fails to send a termination record for a defendant until after the data for the fiscal year of the termination have been processed for publication, the termination record will not appear in any fiscal year snapshot. It will appear as if the defendant never terminated. Similarly, if a defendant is filed and terminated in one fiscal year, but the records are not sent until after the data for that fiscal year have been processed for publication, the records will not appear in any fiscal year snapshot.

### **Code Changes Over Time**

The data underwent a number of modifications upon migration to NewSTATS. Some fields were discontinued, while new fields were added. Codes also changed for several variables. Data in the IDB back to FY 1996 have been updated to reflect the most current version of codes as used in NewSTATS. Where possible, fields not in existence prior to March 2012 have been calculated using the NewSTATS logic applied to the FY 1996 through FY 2011 data. The field descriptions in this codebook identify the current codes in place, and, where appropriate, if a variable does or does not have data prior to or beginning with FY 2012. The researcher must be careful to account for changes in values and interpretations when doing multi-year analyses particularly for data preceding FY 1996. Researchers conducting multiyear analyses should note the following:

- For some fields there is not a consistent correspondence between a coded value and a single interpretation over time. This means that the same coded value may represent different situations depending on when the information was recorded.
- Field values and their interpretation are generally dependent on the codes and interpretation in place at the time the filing or termination record was created.
- Unless limitations are noted, we believe the listed correspondence between a coded value and its interpretation is consistent from 1996 forward. If there were interpretation changes, dates provided in the field descriptions identify which sets of codes were valid during which time periods. These dates are approximations based both on observation of patterns in the data, and on the release dates of new forms or other documentation that used the new codes. A value

may have been valid prior to the listed date but we cannot confirm it. Conversely, the assumption is made that a value continues to have the same interpretation until a change is documented. Values that are supposedly no longer valid are sometimes found in the data because a record was created when an older set of codes and values were valid. They also may be found as a result of coding habit or the use of an outdated form.

- When processing records for the IDB, values that were valid at any time are accepted; any attempts to reconcile valid values against the time period for which they are considered valid were not exhaustive.
- The Code Book most reliably documents changes in field values and interpretation since 2012.

### **IMPORTANT NOTE**

FJC and Administrative Office staff have reviewed historical documents and have taken significant measures to ensure the accuracy of this Codebook. Users finding any unexplained data anomalies or interpretational problems are encouraged to notify either Kristin Garri ([kgarri@fjc.gov](mailto:kgarri@fjc.gov)) or George Cort ([gcort@fjc.gov](mailto:gcort@fjc.gov)).

## Record Format

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>      | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|------------------------|-----------------------------------|---|---------------|
| 1                   | Fiscal Year            | FISCALYR                          | The fiscal year of the data file obtained from the AOUSC  | YYYY          |
| 2                   | Circuit                | CIRCUIT                           | The code of the federal judicial circuit where the case was located   | A2            |
| 3                   | District               | DISTRICT                          | The code of the federal judicial district where the case was located  | A2            |
| 4                   | Office                 | OFFICE                            | The code of the district office where the case was located  | A2            |
| 5                   | Docket Number          | DOCKET                            | Docket number assigned by the district to the case  | A7            |
| 6                   | Defendant Number       | DEFNO                             | A unique number assigned to each defendant in a case which cannot be modified by the court                  | A3            |
| 7                   | Court Defendant Number | CTDEF                             | A unique number assigned to each defendant in a case which can be modified by the court                     | A3            |
| 8                   | Defendant Name         | NAME                              | The defendant's name as reported on the indictment, information, or other charging documents                | A35           |
| 9                   | Reopen Sequence Number | REOPSEQ                           | A sequential number indicating whether a case is an original proceeding or a reopen                         | N5            |
| 10                  | Case Type – Regular    | TYPereg                           | Case type associated with the current defendant record  | A2            |
| 11                  | Case Type – Transfer   | TYPetrn                           | Case type associated with the originating case if the current case was a transfer                           | A2            |
| 12                  | Case Type – Magistrate | TYPEmag                           | Case type associated with a magistrate case if the current case was merged from a magistrate case           | A2            |
| 13                  | Defendant Logical Key  | DEFLGKY                           | A concatenation of district, office, docket number, case type, defendant number, and reopen sequence number | A18           |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>           | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|-----------------------------|-----------------------------------|---|---------------|
| 14                  | Case Logical Key            | CASLGKY                           | A concatenation of district, office, docket number, case type, and reopen sequence number   | A15           |
| 15                  | Magistrate Docket Number    | MAGDOCK                           | The docket number originally given to a case assigned to a magistrate judge and subsequently merged into a criminal case  | A7            |
| 16                  | Magistrate Defendant Number | MAGDEF                            | A unique number assigned to each defendant in a magistrate case   | A3            |
| 17                  | Status Code                 | STATUSCD                          | The status of the defendant as assigned by the AOUSC  | A2            |
| 18                  | Fugitive Status             | FUGSTAT                           | A code indicating the fugitive status of a defendant  | A1            |
| 19                  | Fugitive Start Date         | FGSTRDATE                         | The date upon which a defendant became a fugitive   | YYYYMMDD      |
| 20                  | Fugitive End Date           | FGENDDATE                         | The date upon which a fugitive defendant was taken into custody   | YYYYMMDD      |
| 21                  | Filing Date                 | FILEDATE                          | The date when a case was first docketed in the district court   | YYYYMMDD      |
| 22                  | Filing Year                 | FPOSTYR                           | The year when a case was first docketed in the district court   | YYYY          |
| 23                  | Filing Month                | FPOSTMO                           | The month when a case was first docketed in the district court  | N2            |
| 24                  | Proceeding Date             | PROCDATE                          | The date upon which proceedings in a case commenced on charges pending in the district court where the defendant appeared, or the date of the defendant's felony-waiver of indictment | YYYYMMDD      |
| 25                  | Proceeding Code             | PROCCD                            | A code used to identify the nature of the proceeding  | N2            |
| 26                  | First Appearance Date       | APPDATE                           | The date when a defendant first appeared before a judicial officer in the district court where a charge was pending   | YYYYMMDD      |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>        | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>   | <b>FORMAT</b> |
|---------------------|--------------------------|-----------------------------------|--|---------------|
| 27                  | First Appearance Code    | APPCD                             | A code indicating the event by which a defendant appeared before a judicial officer in the district court where a charge was pending | A2            |
| 28                  | Filing Judge             | FJUDGE                            | The statistical code associated with the judge assigned to the case at the time of filing or with the presiding judge                | A4            |
| 29                  | Filing Counsel           | FCOUNSEL                          | A code indicating the type of legal counsel assigned to a defendant  | N2            |
| 30                  | Filing Title/Section 1   | FTITLE1                           | The title and section of the U.S. Code applicable to the offense committed which carried the highest severity                        | A20           |
| 31                  | Filing Offense Level 1   | FOFFLVL1                          | A code indicating the level of offense associated with FTITLE1   | N2            |
| 32                  | AO Filing Offense Code 1 | FOFFCD1                           | The four digit AO offense code associated with FTITLE1   | A4            |
| 33                  | D2 Filing Offense Code 1 | D2FOFFCD1                         | The four digit D2 offense code associated with FTITLE1   | A4            |
| 34                  | Filing Severity Code 1   | FSEV1                             | A code indicating the severity associated with FTITLE1   | A3            |
| 35                  | Filing Title/Section 2   | FTITLE2                           | The title and section of the U.S. Code applicable to the offense committed which carried the second highest severity                 | A20           |
| 36                  | Filing Offense Level 2   | FOFFLVL2                          | A code indicating the level of offense associated with FTITLE2   | N2            |
| 37                  | AO Filing Offense Code 2 | FOFFCD2                           | The four digit AO offense code associated with FTITLE2   | A4            |
| 38                  | D2 Filing Offense Code 2 | D2FOFFCD2                         | The four digit D2 offense code associated with FTITLE2   | A4            |
| 39                  | Filing Severity Code 2   | FSEV2                             | A code indicating the severity associated with FTITLE2   | A3            |
| 40                  | Filing Title/Section 3   | FTITLE3                           | The title and section of the U.S. Code applicable to the offense committed which carried the third highest severity                  | A20           |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>        | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>   | <b>FORMAT</b> |
|---------------------|--------------------------|-----------------------------------|--|---------------|
| 41                  | Filing Offense Level 3   | FOFFLVL3                          | A code indicating the level of offense associated with FTITLE3   | N2            |
| 42                  | AO Filing Offense Code 3 | FOFFCD3                           | The four digit AO offense code associated with FTITLE3   | A4            |
| 43                  | D2 Filing Offense Code 3 | D2FOFFCD3                         | The four digit D2 offense code associated with FTITLE3   | A4            |
| 44                  | Filing Severity Code 3   | FSEV3                             | A code indicating the severity associated with FTITLE3   | A3            |
| 45                  | Filing Title/Section 4   | FTITLE4                           | The title and section of the U.S. Code applicable to the offense committed which carried the fourth highest severity | A20           |
| 46                  | Filing Offense Level 4   | FOFFLVL4                          | A code indicating the level of offense associated with FTITLE4   | N2            |
| 47                  | AO Filing Offense Code 4 | FOFFCD4                           | The four digit AO offense code associated with FTITLE4   | A4            |
| 48                  | D2 Filing Offense Code 4 | D2FOFFCD4                         | The four digit D2 offense code associated with FTITLE4   | A4            |
| 49                  | Filing Severity Code 4   | FSEV4                             | A code indicating the severity associated with FTITLE4   | A3            |
| 50                  | Filing Title/Section 5   | FTITLE5                           | The title and section of the U.S. Code applicable to the offense committed which carried the fifth highest severity  | A20           |
| 51                  | Filing Offense Level 5   | FOFFLVL5                          | A code indicating the level of offense associated with FTITLE5   | N2            |
| 52                  | AO Filing Offense Code 5 | FOFFCD5                           | The four digit AO offense code associated with FTITLE5   | A4            |
| 53                  | D2 Filing Offense Code 5 | D2FOFFCD5                         | The four digit D2 offense code associated with FTITLE5   | A4            |
| 54                  | Filing Severity Code 5   | FSEV5                             | A code indicating the severity associated with FTITLE5   | A3            |
| 55                  | County                   | COUNTY                            | The FIPS code used to indicate the county or parish where an offense was committed                                   | A5            |
| 56                  | Transfer District        | TRANDIST                          | The code of the judicial district in which an intra-district transfer took place                                     | A4            |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>           | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|-----------------------------|-----------------------------------|---|---------------|
| 57                  | Transfer Office             | TRANOFF                           | The code of the district office from which an intra-district transfer took place                                    | A2            |
| 58                  | Transfer Docket Number      | TRANDOCK                          | The docket number originally assigned by the district in which an intra-district transfer took place                | A7            |
| 59                  | Transfer Defendant Number   | TRANDEF                           | The unique number originally assigned to a defendant by the district in which an intra-district transfer took place | A3            |
| 60                  | Update Date                 | UPDATE                            | The date of the last action taken on the record   | YYYYMMDD      |
| 61                  | Disposition Date            | DISPDATE                          | The date upon which judicial proceedings before the court concluded   | YYYYMMDD      |
| 62                  | Sentencing Date             | SENTDATE                          | The date upon which the final sentence is recorded on the docket  | YYYYMMDD      |
| 63                  | Termination Date            | TERMDATE                          | The date upon which the case was closed   | YYYYMMDD      |
| 64                  | Interval One                | INT1                              | The number of days from the earlier of filing date or first appearance date to proceeding date                      | N3            |
| 65                  | Interval Two                | INT2                              | The number of days from proceeding date to disposition date   | N3            |
| 66                  | Interval Three              | INT3                              | The number of days from disposition date to sentencing date   | N3            |
| 67                  | Termination Office          | TERMOFF                           | The code of the district office where the case was terminated   | A2            |
| 68                  | Termination Judge           | TJUDGE                            | The statistical code associated with the judge who terminated the case  | A4            |
| 69                  | Termination Counsel         | TCOUNSEL                          | A code indicating the type of legal counsel assigned to a defendant at the time the case was closed                 | N2            |
| 70                  | Termination Title/Section 1 | TTITLE1                           | The title and section of the U.S. Code applicable to the offense that carried the most severe disposition and       | A20           |



| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>              | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|--------------------------------|-----------------------------------|---|---------------|
|                     |                                |                                   | penalty under which the defendant was disposed  |               |
| 71                  | Termination Offense Level 1    | TOFFLVL1                          | A code indicating the level of offense associated with TTITLE1  | N2            |
| 72                  | AO Termination Offense Code 1  | TOFFCD1                           | The four digit AO offense code associated with TTITLE1  | A4            |
| 73                  | D2 Termination Offense Code 1  | D2TOFFCD1                         | The four digit D2 offense code associated with TTITLE1  | A4            |
| 74                  | Termination Severity 1         | TSEV1                             | A code indicating the severity associated with TTITLE1  | A3            |
| 75                  | Termination Disposition Code 1 | DISP1                             | The code indicating the nature or type of disposition associated with TTITLE1   | N2            |
| 76                  | Prison Time 1                  | PRISTIM1                          | The number of months a defendant was sentenced to prison under TTITLE1  | N4            |
| 77                  | Prison Code 1                  | PRISCD1                           | A code indicating whether the prison sentence associated with TTITLE1 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge    | A4            |
| 78                  | Probation Months 1             | PROBMON1                          | The number of months of probation imposed upon a defendant under TTITLE1  | N4            |
| 79                  | Probation Code 1               | PROBCD1                           | A code indicating whether the probation sentence associated with TTITLE1 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge | A4            |
| 80                  | Supervised Release 1           | SUPVREL1                          | A period of supervised release imposed upon a defendant under TTITLE1   | N3            |
| 81                  | Fine Amount 1                  | FINEAMT1                          | The fine imposed upon the defendant at sentencing under TTITLE1   | N8            |
| 82                  | Termination Title/Section 2    | TTITLE2                           | The title and section of the U.S. Code applicable to the offense under which the  | A20           |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>              | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|--------------------------------|-----------------------------------|---|---------------|
|                     |                                |                                   | defendant was disposed that carried the second most severe disposition and penalty  |               |
| 83                  | Termination Offense Level 2    | TOFFLVL2                          | A code indicating the level of offense associated with TTITLE2  | N2            |
| 84                  | AO Termination Offense Code 2  | TOFFCD2                           | The four digit AO offense code associated with TTITLE2  | A4            |
| 85                  | D2 Termination Offense Code 2  | D2TOFFCD2                         | The four digit D2 offense code associated with TTITLE2  | A4            |
| 86                  | Termination Severity 2         | TSEV2                             | A code indicating the severity associated with TTITLE2  | A3            |
| 87                  | Termination Disposition Code 2 | DISP2                             | The code indicating the nature or type of disposition associated with TTITLE2   | N2            |
| 88                  | Prison Time 2                  | PRISTIM2                          | The number of months a defendant was sentenced to prison under TTITLE2  | N4            |
| 89                  | Prison Code 2                  | PRISCD2                           | A code indicating whether the prison sentence associated with TTITLE2 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge    | A4            |
| 90                  | Probation Months 2             | PROBMON2                          | The number of months of probation imposed upon a defendant under TTITLE2  | N4            |
| 91                  | Probation Code 2               | PROBCD2                           | A code indicating whether the probation sentence associated with TTITLE2 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge | A4            |
| 92                  | Supervised Release 2           | SUPVREL2                          | A period of supervised release imposed upon a defendant under TTITLE2   | N3            |
| 93                  | Fine Amount 2                  | FINEAMT2                          | The fine imposed upon the defendant at sentencing under TTITLE2   | N8            |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>              | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|--------------------------------|-----------------------------------|---|---------------|
| 94                  | Termination Title/Section 3    | TTITLE3                           | The title and section of the U.S. Code applicable to the offense under which the defendant was disposed that carried the third most severe disposition and penalty  | A20           |
| 95                  | Termination Offense Level 3    | TOFFLVL3                          | A code indicating the level of offense associated with TTITLE3  | N2            |
| 96                  | AO Termination Offense Code 3  | TOFFCD3                           | The four digit AO offense code associated with TTITLE3  | A4            |
| 97                  | D3 Termination Offense Code 3  | D2TOFFCD3                         | The four digit D2 offense code associated with TTITLE3  | A4            |
| 98                  | Termination Severity 3         | TSEV3                             | A code indicating the severity associated with TTITLE3  | A3            |
| 99                  | Termination Disposition Code 3 | DISP3                             | The code indicating the nature or type of disposition associated with TTITLE3   | N2            |
| 100                 | Prison Time 3                  | PRISTIM3                          | The number of months a defendant was sentenced to prison under TTITLE3  | N4            |
| 101                 | Prison Code 3                  | PRISCD3                           | A code indicating whether the prison sentence associated with TTITLE3 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge    | A4            |
| 102                 | Probation Months 3             | PROBMON3                          | The number of months of probation imposed upon a defendant under TTITLE3  | N4            |
| 103                 | Probation Code 3               | PROBCD3                           | A code indicating whether the probation sentence associated with TTITLE3 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge | A4            |
| 104                 | Supervised Release 3           | SUPVREL3                          | A period of supervised release imposed upon a defendant under TTITLE3   | N3            |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>              | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|--------------------------------|-----------------------------------|---|---------------|
| 105                 | Fine Amount 3                  | FINEAMT3                          | The fine imposed upon the defendant at sentencing under TTITLE3   | N8            |
| 106                 | Termination Title/Section 4    | TTITLE4                           | The title and section of the U.S. Code applicable to the offense under which the defendant was disposed that carried the fourth most severe disposition and penalty   | A20           |
| 107                 | Termination Offense Level 4    | TOFFLVL4                          | A code indicating the level of offense associated with TTITLE4  | N2            |
| 108                 | AO Termination Offense Code 4  | TOFFCD4                           | The four digit AO offense code associated with TTITLE4  | A4            |
| 109                 | D4 Termination Offense Code 4  | D2TOFFCD4                         | The four digit D2 offense code associated with TTITLE4  | A4            |
| 110                 | Termination Severity 4         | TSEV4                             | A code indicating the severity associated with TTITLE4  | A3            |
| 111                 | Termination Disposition Code 4 | DISP4                             | The code indicating the nature or type of disposition associated with TTITLE4   | N2            |
| 112                 | Prison Time 4                  | PRISTIM4                          | The number of months a defendant was sentenced to prison under TTITLE4  | N4            |
| 113                 | Prison Code 4                  | PRISCD4                           | A code indicating whether the prison sentence associated with TTITLE4 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge    | A4            |
| 114                 | Probation Months 4             | PROBMON4                          | The number of months of probation imposed upon a defendant under TTITLE4  | N4            |
| 115                 | Probation Code 4               | PROBCD4                           | A code indicating whether the probation sentence associated with TTITLE4 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge | A4            |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>              | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>   | <b>FORMAT</b> |
|---------------------|--------------------------------|-----------------------------------|--|---------------|
| 116                 | Supervised Release 4           | SUPVREL4                          | A period of supervised release imposed upon a defendant under TTITLE4  | N3            |
| 117                 | Fine Amount 4                  | FINEAMT4                          | The fine imposed upon the defendant at sentencing under TTITLE4  | N8            |
| 118                 | Termination Title/Section 5    | TTITLE5                           | The title and section of the U.S. Code applicable to the offense under which the defendant was disposed that carried the fifth most severe disposition and penalty   | A20           |
| 119                 | Termination Offense Level 5    | TOFFLVL5                          | A code indicating the level of offense associated with TTITLE5   | N2            |
| 120                 | AO Termination Offense Code 5  | TOFFCD5                           | The four digit AO offense code associated with TTITLE5   | A4            |
| 121                 | D5 Termination Offense Code 5  | D2TOFFCD5                         | The four digit D2 offense code associated with TTITLE5   | A4            |
| 122                 | Termination Severity 5         | TSEV5                             | A code indicating the severity associated with TTITLE5   | A3            |
| 123                 | Termination Disposition Code 5 | DISP5                             | The code indicating the nature or type of disposition associated with TTITLE5  | N2            |
| 124                 | Prison Time 5                  | PRISTIM5                          | The number of months a defendant was sentenced to prison under TTITLE5   | N4            |
| 125                 | Prison Code 5                  | PRISCD5                           | A code indicating whether the prison sentence associated with TTITLE5 was concurrent or consecutive in relation to the other counts in the indictment or information or multiple counts of the same charge | A4            |
| 126                 | Probation Months 5             | PROBMON5                          | The number of months of probation imposed upon a defendant under TTITLE5   | N4            |
| 127                 | Probation Code 5               | PROBCD5                           | A code indicating whether the probation sentence associated with TTITLE5 was concurrent or consecutive in relation to the other counts in the indictment or  | A4            |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>                      | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>  | <b>FORMAT</b> |
|---------------------|--|-----------------------------------|---|---------------|
|                     |  |                                   | information or multiple counts of the same charge   |               |
| 128                 | Supervised Release 5                   | SUPVREL5                          | A period of supervised release imposed upon a defendant under TTITLE5   | N3            |
| 129                 | Fine Amount 5                          | FINEAMT5                          | The fine imposed upon the defendant at sentencing under TTITLE5   | N8            |
| 130                 | Prison Total                           | PRISTOT                           | The total prison time for all offenses of which the defendant was convicted and prison time was imposed           | N4            |
| 131                 | Probation Total                        | PROBTOT                           | The total probation time for all offenses of which the defendant was convicted and probation was imposed          | N4            |
| 132                 | Fine Total                             | FINETOT                           | The total fine imposed at sentencing for all offenses of which the defendant was convicted and a fine was imposed | N8            |
| 133                 | Count Filings Including Transfers      | CTFILTRN                          | A count of defendants filed including inter-district transfers  | N1            |
| 134                 | Count Filings Excluding Transfers      | CTFIL                             | A count of defendants filed excluding inter-district transfers  | N1            |
| 135                 | Count Filings Without Reopens          | CTFILWOR                          | A count of original proceedings commenced   | N1            |
| 136                 | Count Filings Reopens                  | CTFILR                            | A count of defendants filed whose proceedings commenced by reopen, remand, appeal, or retrial                     | N1            |
| 137                 | Count Terminations Including Transfers | CTTRTRN                           | A count of defendants terminated including inter-district transfers   | N1            |
| 138                 | Count Terminations Excluding Transfers | CTTR                              | A count of defendants terminated excluding inter-district transfers   | N1            |
| 139                 | Count Terminations Without Reopens     | CTTRWOR                           | A count of original proceedings terminated  | N1            |

| <b>FIELD NUMBER</b> | <b>FIELD NAME</b>                           | <b>SHORT FIELD NAME (for SAS)</b> | <b>DESCRIPTION</b>   | <b>FORMAT</b> |
|---------------------|---|-----------------------------------|--|---------------|
| 140                 | Count Terminations Reopens                  | CTTRR                             | A count of defendants terminated whose proceedings commenced by reopen, remand, appeal, or retrial | N1            |
| 141                 | Count Pending Including Long Term Fugitives | CTPN                              | A count of defendants pending as of the last day of the period including long term fugitives       | N1            |
| 142                 | Count Pending Without Long Term Fugitives   | CTPNWOF                           | A count of defendants pending as of the last day of the period excluding long term fugitives       | N1            |
| 143                 | Source                                      | SOURCE                            | The source from which the data were loaded into the AOUSC's NewSTATS database                      | A10           |
| 144                 | Version                                     | VER                               | A sequential number indicating the iteration of the defendant record                               | N2            |
| 145                 | Date Loaded                                 | LOADDATE                          | The date the record was loaded into the AOUSC's NewSTATS database                                  | YYYYMMDD      |
| 146                 | Tape Year                                   | TAPEYEAR                          | Statistical year ID label on data file obtained from the AOUSC which represents termination year   | YYYY          |
| 147                 | ID  | ID                                | A unique code for each record in the criminal IDB  | N8            |

## Detailed Field Descriptions

### FISCAL YEAR (FISCALYR)

Each fiscal year is a 12-month period running from October 1 of the prior calendar year to September 30 (e.g., FY 2015 runs from October 1, 2014 to September 30, 2015).

### CIRCUIT (CIRCUIT)

Conforms with the format established in Volume XI, Guide to Judiciary Policies and Procedures, Appendix A.

|                          |                       |
|--------------------------|-----------------------|
| 0 - District of Columbia | 6 - Sixth Circuit     |
| 1 - First Circuit        | 7 - Seventh Circuit   |
| 2 - Second Circuit       | 8 - Eighth Circuit    |
| 3 - Third Circuit        | 9 - Ninth Circuit     |
| 4 - Fourth Circuit       | 10 - Tenth Circuit    |
| 5 - Fifth Circuit        | 11 - Eleventh Circuit |

-8 = Missing

### DISTRICT (DISTRICT)

Conforms with the format established in Volume XI, Guide to Judiciary Policies and Procedures, Appendix A.

|                               |                          |
|-------------------------------|--------------------------|
| 00 - Maine                    | 47 - Ohio - Northern     |
| 01 - Massachusetts            | 48 - Ohio - Southern     |
| 02 - New Hampshire            | 49 - Tennessee - Eastern |
| 03 - Rhode Island             | 50 - Tennessee - Middle  |
| 04 - Puerto Rico              | 51 - Tennessee - Western |
| 05 - Connecticut              | 52 - Illinois - Northern |
| 06 - New York - Northern      | 53 - Illinois - Central  |
| 07 - New York - Eastern       | 54 - Illinois - Southern |
| 08 - New York - Southern      | 55 - Indiana - Northern  |
| 09 - New York - Western       | 56 - Indiana - Southern  |
| 10 - Vermont                  | 57 - Wisconsin - Eastern |
| 11 - Delaware                 | 58 - Wisconsin - Western |
| 12 - New Jersey               | 60 - Arkansas - Eastern  |
| 13 - Pennsylvania - Eastern   | 61 - Arkansas - Western  |
| 14 - Pennsylvania - Middle    | 62 - Iowa - Northern     |
| 15 - Pennsylvania - Western   | 63 - Iowa - Southern     |
| 16 - Maryland                 | 64 - Minnesota           |
| 17 - North Carolina - Eastern | 65 - Missouri - Eastern  |



|                               |                               |
|-------------------------------|-------------------------------|
| 18 - North Carolina - Middle  | 66 - Missouri - Western       |
| 19 - North Carolina - Western | 67 - Nebraska                 |
| 20 - South Carolina           | 68 - North Dakota             |
| 22 - Virginia - Eastern       | 69 - South Dakota             |
| 23 - Virginia - Western       | 7- - Alaska                   |
| 24 - West Virginia - Northern | 70 - Arizona                  |
| 25 - West Virginia - Southern | 71 - California - Northern    |
| 26 - Alabama - Northern       | 72 - California - Eastern     |
| 27 - Alabama - Middle         | 73 - California - Central     |
| 28 - Alabama - Southern       | 74 - California - Southern    |
| 29 - Florida - Northern       | 75 - Hawaii                   |
| 3A - Florida - Middle         | 76 - Idaho                    |
| 3C - Florida - Southern       | 77 - Montana                  |
| 3E - Georgia - Northern       | 78 - Nevada                   |
| 3G - Georgia - Middle         | 79 - Oregon                   |
| 3J - Georgia - Southern       | 80 - Washington - Eastern     |
| 3L - Louisiana - Eastern      | 81 - Washington - Western     |
| 3N - Louisiana - Middle       | 82 - Colorado                 |
| 36 - Louisiana - Western      | 83 - Kansas                   |
| 37 - Mississippi - Northern   | 84 - New Mexico               |
| 38 - Mississippi - Southern   | 85 - Oklahoma - Northern      |
| 39 - Texas - Northern         | 86 - Oklahoma - Eastern       |
| 40 - Texas - Eastern          | 87 - Oklahoma - Western       |
| 41 - Texas - Southern         | 88 - Utah                     |
| 42 - Texas - Western          | 89 - Wyoming                  |
| 43 - Kentucky - Eastern       | 90 - District of Columbia     |
| 44 - Kentucky – Western       | 91 - Virgin Islands           |
| 45 - Michigan - Eastern       | 93 - Guam                     |
| 46 - Michigan - Western       | 94 - Northern Mariana Islands |

-8 = Missing data

#### **OFFICE (OFFICE)**

Conforms with the format established in Volume XI, Guide to Judiciary Policies and Procedures, Appendix A.

-8 represents missing data.

#### **DOCKET NUMBER (DOCKET)**

The first 2 positions represent the calendar year, and the last 5 positions is the sequence number, expanded with leading zeroes if necessary.

-8 represents missing data.

**DEFENDANT NUMBER  
(DEFNO)**

This number is system generated and cannot be modified by the court. It is different from COURT DEFENDANT NUMBER in that COURT DEFENDANT NUMBER can be edited to reassign defendant numbers among defendants in a multi-defendant case. For example, if a court has a multi-defendant case with defendants 1, 2, 3, and 4, and defendant 3 is removed from the case, the DEFENDANT NUMBER would still number the remaining defendants 1, 2, and 4, while the COURT DEFENDANT NUMBER could be updated to renumber defendant 4 to 3.

-8 represents missing data.

**COURT DEFENDANT NUMBER  
(CTDEF)**

This number is assigned by the court and can be modified to uniquely identify the defendants in a case. It is different from DEFENDANT NUMBER in that DEFENDANT NUMBER cannot be edited as it is system generated. For example, if a court has a multi-defendant case with defendants 1, 2, 3, and 4, and defendant 3 is removed from the case, the DEFENDANT NUMBER would still number the remaining defendants 1, 2, and 4, while the COURT DEFENDANT NUMBER could be updated to renumber defendant 4 to 3. Or, it could be updated to renumber the defendants such that the lead defendant in a case who has a DEFENDANT NUMBER not equal to 1 becomes 1.

The COURT DEFENDANT NUMBER is set to missing for all data sets prior to FY 2012.

-8 represents missing data.

**DEFENDANT NAME  
(NAME)**

Formatted "Last, First, MI." Juveniles are not named.

-8 represents missing data. This field is converted to missing (-8) on public use files.

**REOPEN SEQUENCE NUMBER  
(REOPSEQ)**

Starting in fiscal year 2012, the AOUSC began incrementing reopens to account for additional reopens beyond the first. "0" represents an original proceeding, "1" represents the first reopen, "2" represents the second reopen, etc.

All reopened cases terminated prior to FY 2012 have a REOPEN SEQUENCE NUMBER equal to 1.

**CASE TYPE  
(TYPEREG, TYPETRN, TYPEMAG)**

MJ - Magistrate  
CR - Criminal

-8 represents missing data.

**MAGISTRATE DOCKET NUMBER, MAGISTRATE DEFENDANT NUMBER  
(MAGDOCK, MAGDEF)**

-8 represents missing data.

**STATUS CODE  
(STATUSCD)**

This field was modified in FY 2012. It had previously included a defendant's fugitive status. That information is now tracked under the variable FUGITIVE STATUS. Data from FY 1996 through FY 2011 have been updated with the most recent codes.

E - Pending  
J - Termination

**FUGITIVE STATUS  
(FUGSTAT)**

This field was created in FY 2012. Prior to FY 2012, FUGITIVE STATUS was included in the variable STATUS CODE. Data from FY 1996 through FY 2011 have been updated with the most recent codes.

N - Not a fugitive  
Y - Fugitive one year or less  
Z - Fugitive more than one year

**FUGITIVE DATE  
(FGSTRTDATE, FGENDDATE)**

These fields were created in FY 2012. They are set to missing in all data sets prior to FY 2012.

01/01/1900 represents missing data.

**FILING DATE  
(FILEDATE)**

Until 2011, the AOUSC used FILING DATE to calculate median times from filing to disposition. Beginning in FY 2012, the AOUSC began using PROCEEDING DATE rather than FILING DATE for this calculation.

01/01/1900 represents missing data.

**FILING YEAR  
(FPOSTYR)**

The year of the FILING DATE.

-8 represents missing data.

**FILING MONTH  
(FPOSTMO)**

The month of the FILING DATE.

-8 represents missing data.

**PROCEEDING DATE  
(PROCDATE)**

PROCEEDING DATE is used by the AOUSC to determine the count of filings in a given 12-month period. For example, a defendant with a PROCEEDING DATE between October 1, 2014 and September 30, 2015 would be counted as a filing for FY 2015.

In FY 2012, the AOUSC began using PROCEEDING DATE rather than FILING DATE to calculate median times from filing to disposition.

01/01/1900 represents missing data.

**PROCEEDING CODE  
(PROCCD)**

Prior to FY 2012, PROCEEDING CODE '13' was treated as an inter-district transfer. Therefore, defendants filed before FY 2012 with a PROCEEDING CODE of '13' have a count of 0 in the field COUNT FILINGS EXCLUDING TRANSFERS, while defendants filed in FY 2012 and onward have a count of 1 in the field COUNT FILINGS EXCLUDING TRANSFERS.

- 1 - Indictment filed
- 2 - Misdemeanor information, or notice of criminal contempt under 42(b)FRCrP
- 3 - Felony information with waiver of indictment
- 4 - Remand from Appellate Court for resentencing
- 5 - Removal from state court
- 6 - Case reopening
- 7 - Appeal from magistrate judge's final decision on merit of case
- 8 - Adult Rule 20(a)/21 transfer
- 9 - Juvenile proceeding/FJDA cases
- 10 - Consent to trial before a magistrate judge on complaint
- 11 - Remand from appellate court for retrial
- 12 - Retrial after mistrial
- 13 - Juvenile to be tried as an adult (FJDA Rule 20/21 transfer prior to FY12)
- 14 - Violation notice
- 16 - Superseding indictment
- 17 - Superseding information
- 18 - Superseding felony information with waiver of indictment
- 19 - Indictment unsealed
- 20 - Indictment

- 21 - Felony waiver not signed
- 22 - Sealed misdemeanor information
- 23 - Misdemeanor information unsealed
- 24 - Sealed felony information with waiver of indictment
- 25 - Felony information unsealed
- 26 - Sealed indictment
- 27 - Review of crack cocaine sentences

-8 = Missing data

#### **FIRST APPEARANCE DATE (APPDATE)**

01/01/1900 represents missing data.

#### **FIRST APPEARANCE CODE (APPCD)**

If started out as a magistrate judge case:

- A - Arrest
- B - Appeared on summons
- C - In U.S. custody
- D - Appeared on complaint

If started out as a criminal case:

- 1 - First appearance before a judicial officer after indictment or information filed, or appearance after Rule 40 transfer in district where charge(s) pending
- 2 - Papers received in district after Rule 20(a)/21 transfer

If return after Rule 20 aborted in other district, or other circumstance in which guilty plea withdrawn:

- 3 - Guilty plea withdrawn

-8 = Missing data

#### **JUDGE (FJUDGE, TJUDGE)**

For codes created prior to January 2016, the first 2 positions are taken from the last two digits of the district code. The last 2 are assigned by the AOUSC in order of seniority. Unassigned judge codes are assigned codes 97, 98 and 99. Codes created on or after January 1, 2016 no longer incorporate the district code or account for seniority. The 4-character alphanumeric codes are assigned sequentially by the AOUSC irrespective of judge type and judge location.

UNK - Unknown

This field is converted to missing (-8) on public use files.

**COUNSEL  
(FCOUNSEL, TCOUNSEL)**

- 0 - Type of counsel not reported
- 1 - Criminal Justice Act (CJA) appointment
- 2 - Private counsel
- 3 - Pro se
- 4 - Self (expired 1990)
- 5 - None/other
- 6 - Public defender/community defender
- 7 - Pro bono

-8 = Missing data

**FILING TITLE/SECTION 1-5  
(FTITLE1, FTITLE2, FTITLE3, FTITLE4, FTITLE5)**

Title and section come from the United States Code. The list of citations used by the courts is maintained by the AOUSC. The AOUSC collects the top 5 most severe charges. The most severe offense is indicated in FILING TITLE/SECTION 1, followed by the next most severe offense in FILING TITLE/SECTION 2, etc.

-8 represents missing data.

**FILING OFFENSE LEVEL 1-5  
(FOFFLVL1, FOFFLVL2, FOFFLVL3, FOFFLVL4, FOFFLVL5)**

Petty offenses assigned to magistrate judges are not reported to the AOUSC.

- 1 - Petty offense
- 3 - Class A misdemeanor
- 4 - Felony

-8 = Missing data

**AO FILING OFFENSE CODE 1- 5  
(FOFFCD1, FOFFCD2, FOFFCD3, FOFFCD4, FOFFCD5)**

Each title and section of the U.S. Code is assigned a four digit AO offense code by the AOUSC. The codes are used to group similar citations together and provide a basic classification of types of offenses committed. These codes were actively maintained by the AOUSC until FY 2005 when the D2 offense codes were created.

-8 represents missing data.

**D2 FILING OFFENSE CODE 1-5****(D2FOFFCD1, D2FOFFCD2, D2FOFFCD3, D2FOFFCD4, D2FOFFCD5)**

These codes were created in FY 2005 to replace the AO offense codes. Each title and section of the U.S. Code is assigned a four digit D2 offense code by the AOUSC. The codes are used to group similar citations together and provide a basic classification of types of offenses committed.

-8 represents missing data.

**FILING SEVERITY CODE 1-5****(FSEV1, FSEV2, FSEV3, FSEV4, FSEV5)**

A 3 digit code indicating maximum possible sentence of imprisonment, type of crime, and the maximum possible fine for a given title and section as dictated by the U.S. Code. It is used to sort the filing charges by level of severity and as a basis for assigning each charge to one of the top 5 filing title/section fields. FILING TITLE/SECTION 1 contains the most severe charge; FILING TITLE/SECTION 2 is the next most severe charge, etc. Severity codes range from a low of 'A00' to a high of '939'. An example of a severity code would be '235', where 2 represents imprisonment of four to five years, 3 represents a crime against a person, and 5 represents a fine of \$5,001 to \$10,000.

| PRISON SENTENCE        | TYPE OF CRIME       | FINE                  |
|------------------------|---------------------|-----------------------|
| A = NONE               | 0 = NONE            | 0 = NONE              |
| B = 6 MOS AND UNDER    | 1 = MORAL TURPITUDE | 1 = \$1-\$100         |
| C = 7 MOS - 1YEAR      | 2 = PROPERTY        | 2 = \$101-\$500       |
| 0 = 1YR 1 day - 2 YRS  | 3 = PERSONAL        | 3 = \$501-\$1,000     |
| 1 = 2YRS 1 day - 3 YRS |                     | 4 = \$1,001-\$5,000   |
| 2 = 4 - 5 YRS          |                     | 5 = \$5,001-\$10,000  |
| 3 = 6 - 10 YRS         |                     | 6 = \$10,001-\$20,000 |
| 4 = 11 - 15 YRS        |                     | 7 = \$20,001-\$50,000 |
| 5 = 16 - 20 YRS        |                     | 8 = \$50,001-\$99,999 |
| 6 = 21 - 25 YRS        |                     | 9 = \$100,000 OR MORE |
| 7 = OVER 25 YEARS      |                     |                       |
| 8 = LIFE               |                     |                       |
|                        |                     |                       |

|           |  |  |
|-----------|--|--|
| 9 = DEATH |  |  |
|-----------|--|--|

-8 represents missing data.

**COUNTY  
(COUNTY)**

The FIPS county code is a five-digit Federal Information Processing Standard (FIPS) code which uniquely identifies counties and county equivalents in the United States. The first two digits represent the state, and the last 3 digits represent the county.

88888 - Outside home state

99999 - Outside U.S.

-8 = Missing data

**TRANSFER DISTRICT, TRANSFER OFFICE, TRANSFER DOCKET NUMBER, TRANSFER DEFENDANT  
NUMBER  
(TRANDIST, TRANOFF, TRANDOCK, TRANDEF)**

Used only to identify intra-district transfers not otherwise tracked.

-8 represents missing data.

**UPDATE DATE  
(UPDATE)**

This field was discontinued in March 2012. It is set to missing for all defendants terminated after February 2012.

01/01/1900 represents missing data.

**DISPOSITION DATE, SENTENCING DATE  
(DISPDATE, SENTDATE)**

01/01/1900 represents missing data.

**TERMINATION DATE  
(TERMDATE)**

TERMINATION DATE is equal to DISPOSITION DATE if all counts are dismissed or end in an acquittal, or SENTENCING DATE if the defendant is found guilty on any counts. This field is used by the AOUSC to determine the count of defendants terminated in a given 12-month period. For example, a defendant with a TERMINATION DATE between October 1, 2014 and September 30, 2015 would be counted as a termination for FY 2015. The AOUSC also uses TERMINATION DATE for calculating median times from filing to disposition.

01/01/1900 represents missing data.



**INTERVAL ONE  
(INT1)**

The number of days between either the date upon which a defendant first appeared before a judicial officer in a district court where charges were pending, or the date a case was initially docketed, depending on which occurred first, and the date proceedings commenced in the district court either by indictment or information.

-8 represents missing data.

**INTERVAL TWO  
(INT2)**

The number of days between the date proceedings commenced in the district court either by indictment or information and the date upon which proceedings were concluded.

-8 represents missing data.

**INTERVAL THREE  
(INT3)**

The number of days between the date upon which proceedings were concluded and the date upon which a defendant was sentenced.

-8 represents missing data.

**TERMINATION OFFICE  
(TERMOFF)**

Conforms with the format established in Volume XI, Guide to Judiciary Policies and Procedures, Appendix A.

-8 represents missing data.

**TERMINATION TITLE/SECTION 1-5  
(TTITLE1, TTITLE2, TTITLE3, TTITLE4, TTITLE5)**

Title and section come from the United States Code. The list of citations used by the courts is maintained by the AOUSC. The AOUSC collects the top 5 most severe charges at disposition. The most severe offense at disposition is indicated in TERMINATION TITLE/SECTION 1, followed by the next most severe offense at disposition in TERMINATION TITLE/SECTION 2, etc.

-8 represents missing data.

**TERMINATION OFFENSE LEVEL 1-5  
(TOFFLVL1, TOFFLVL2, TOFFLVL3, TOFFLVL4, TOFFLVL5)**

Petty offenses assigned to magistrate judges are not reported to the AOUSC.

- 1 - Petty offense
- 3 - Class A misdemeanor
- 4 - Felony

-8 = Missing data

**AO TERMINATION OFFENSE CODE 1-5  
(TOFFCD1, TOFFCD2, TOFFCD3, TOFFCD4, TOFFCD5)**

Each title and section of the U.S. Code is assigned a four digit AO offense code by the AOUSC. The codes are used to group similar citations together and provide a basic classification of types of offenses committed. These codes were actively maintained by the AOUSC until FY 2005 when the D2 offense codes were created.

-8 represents missing data.

**D2 TERMINATION OFFENSE CODE 1-5  
(D2TOFFCD1, D2TOFFCD2, D2TOFFCD3, D2TOFFCD4, D2TOFFCD5)**

These codes were created in FY 2005 to replace the AO offense codes. Each title and section of the U.S. Code is assigned a four digit D2 offense code by the AOUSC. The codes are used to group similar citations together and provide a basic classification of types of offenses committed.

-8 represents missing data.

**TERMINATION SEVERITY 1-5  
(TSEV1, TSEV2, TSEV3, TSEV4, TSEV5)**

A 3 digit code indicating maximum possible sentence of imprisonment, type of crime, and the maximum possible fine for a given title and section as dictated by the U.S. Code. Filing severity is used to sort the charges at filing into FILING TITLE/SECTION 1, FILING TITLE/SECTION 2, etc., but at termination, disposition and the actual penalty are used to sort charges into TERMINATION TITLE/SECTION 1, TERMINATION TITLE/SECTION 2, etc. Severity codes range from a low of 'A00' to a high of '939'. An example of a severity code would be '235', where 2 represents imprisonment of four to five years, 3 represents a crime against a person, and 5 represents a fine of \$5,001 to \$10,000.

| PRISON SENTENCE     | TYPE OF CRIME       | FINE            |
|---------------------|---------------------|-----------------|
| A = NONE            | 0 = NONE            | 0 = NONE        |
| B = 6 MOS AND UNDER | 1 = MORAL TURPITUDE | 1 = \$1-\$100   |
| C = 7 MOS - 1YEAR   | 2 = PROPERTY        | 2 = \$101-\$500 |
|                     |                     |                 |

|                        |              |                       |
|------------------------|--------------|-----------------------|
| 0 = 1YR 1 day - 2 YRS  | 3 = PERSONAL | 3 = \$501-\$1,000     |
| 1 = 2YRS 1 day - 3 YRS |              | 4 = \$1,001-\$5,000   |
| 2 = 4 - 5 YRS          |              | 5 = \$5,001-\$10,000  |
| 3 = 6 - 10 YRS         |              | 6 = \$10,001-\$20,000 |
| 4 = 11 - 15 YRS        |              | 7 = \$20,001-\$50,000 |
| 5 = 16 - 20 YRS        |              | 8 = \$50,001-\$99,999 |
| 6 = 21 - 25 YRS        |              | 9 = \$100,000 OR MORE |
| 7 = OVER 25 YEARS      |              |                       |
| 8 = LIFE               |              |                       |
| 9 = DEATH              |              |                       |

-8 represents missing data.

**TERMINATION DISPOSITION CODE 1-5  
(DISP1, DISP2, DISP3, DISP4, DISP5)**

The AOUSC uses TERMINATION DISPOSITION CODE 1 when reporting a defendant's final disposition.

0 - Rule 20(a)/21 transfers

1 - Dismissed, or government motion for judgement of acquittal granted, or and disposition other than a conviction not covered by another code. Used for any disposition of a court alleging only criminal forfeiture. Also, used if the case is remanded or appeal affirmed, or denied (if dismissed without prejudice, disposition code "15" is used, not this code.)

2 - Acquitted by court or defendant motion for judgement of acquittal granted, or judgement of acquittal on court's initiative.

3 - Acquitted by jury

4 - Convicted/final plea of guilty

5 - Convicted/final plea of nolo contendere

8 - Convicted by court after trial

9 - Convicted by jury after trial

10 - NARA Titles I and III

11 - Nolle prosequi

12 - Pretrial diversion

13 - Mistrial

14 - Statistically closed

15 - Dismissed without prejudice

16 - Not guilty by reason of insanity (court trial)

17 - Guilty but insane (court trial)

- 18 - Not guilty by reason of insanity (jury trial)
- 19 - Guilty but insane (jury trial)
- 20 - Dismissal superseded
- 21 - Reassigned from judge to magistrate

-8 = Missing data

**PRISON TIME 1-5**  
**(PRISTIM1, PRISTIM2, PRISTIM3, PRISTIM4, PRISTIM5)**

Possible values are number of months or the following:

- 1 - Imprisonment of less than one month
- 2 - Guilty/no sentence imposed
- 3 - Sealed sentence
- 4 - Life imprisonment
- 5 - Death

-8 = Missing data

**PRISON CODE 1-5**  
**(PRISCD1, PRISCD2, PRISCD3, PRISCD4, PRISCD5)**

One of the codes below followed by a 3 digit number to indicate the counts involved:

- C - Concurrent
- S - Consecutive
- M - Single count or multiple counts on a single offense

-8 = Missing data

**PROBATION MONTHS 1-5**  
**(PROBMON1, PROBMON2, PROBMON3, PROBMON4, PROBMON5)**

Possible values are number of months or the following:

- 1 - Probation of less than one month

-8 = Missing data

**PROBATION CODE 1-5**  
**(PROBCD1, PROBCD2, PROBCD3, PROBCD4, PROBCD5)**

One of the codes below followed by a 3 digit number to indicate the counts involved:

- C - Concurrent
- S - Consecutive
- M - Single count or multiple counts on a single offense

-8 = Missing data

**FINE AMOUNT 1-5**  
**(FINEAMT1, FINEAMT2, FINEAMT3, FINEAMT4, FINEAMT5)**

Fine does not include restitution or special assessment costs.

**PRISON TOTAL**  
**(PRISTOT)**

The prison code of each conviction is taken into account when calculating the total prison time.

Possible values are number of months or the following:

- 1 - Imprisonment of less than one month
- 2 - Guilty/no sentence imposed
- 3 - Sealed sentence
- 4 - Life imprisonment
- 5 - Death

-8 = Missing data

**PROBATION TOTAL**  
**(PROBTOT)**

The probation code of each conviction is taken into account when calculating the total probation time.

Possible values are number of months or the following:

- 1 - Probation of less than one month

-8 = Missing data

**FINE TOTAL**  
**(FINETOT)**

-8 represents missing data.

**COUNTS**  
**(CTFILTRN, CTFIL, CTFILWOR, CTFILR, CTRTRN, CTRR, CTRRWOR, CTRRR, CTPN, CTPNWOF)**

These fields were created in FY 2012. Counts for FY 2005 through FY 2011 have been calculated.

Possible values are 0 or 1.

**SOURCE**  
**(SOURCE)**

This field was modified in FY 2012 to account for the loading of data directly from CM/ECF. Data sets from FY 1996 through FY 2011 have a SOURCE of DSNAPSHOT or FUGITIVE, while data sets from FY 2012 forward have a SOURCE of CMECF or MASTER.

CMECF - Data received from court via CM/ECF transmission  
DSNAPSHOT - Defendant snapshots from Legacy Mainframe system  
FUGITIVE - Fugitive defendant snapshots from Legacy Mainframe system  
MASTER - Live Legacy Database

**VERSION  
(VER)**

This field was created in FY 2012. It increments with each update received to a defendant record. "0" indicates the first time the defendant record is written to the AOUSC's database, "1" is the first update, "2" is the second update, etc.

VERSION is set to missing for all records in data sets prior to FY 2012.

-8 represents missing data.

**DATE LOADED  
(LOADDATE)**

All data loaded from the AOUSC's legacy mainframe defendant snapshots have a DATE LOADED of March 3, 2012. All data loaded from the AOUSC's legacy mainframe live database have a DATE LOADED of March 21, 2012. Data began to be loaded directly from CM/ECF on March 21, 2012.

**TAPE YEAR  
(TAPEYEAR)**

Possible values are fiscal year of termination for terminated defendants or '2099' for pending defendants.



# **Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD)**

Case Review Working Group

April 20, 2018



# Staff Case Review

| Service     | No Action Taken |          | Preferred |          |
|-------------|-----------------|----------|-----------|----------|
|             | Reported        | Reviewed | Reported  | Reviewed |
| Air Force   | 240             | 233      | 117       | 0        |
| Army        | 621             | 44       | 148       | 0        |
| Navy        | 262             | 21       | 65        | 0        |
| Marines     | 186             | 15       | 66        | 0        |
| Coast Guard | 8               | 8        | 12        | 0        |
| TOTALS      | 1,317           | 321      | 408       | 0        |





# Working Group Case Review

| Service     | No Action Taken |          | Preferred |          |
|-------------|-----------------|----------|-----------|----------|
|             | Reported        | Reviewed | Reported  | Reviewed |
| Air Force   | 21              | 21       | 10        | 0        |
| Army        | 53              | 28       | 13        | 0        |
| Navy        | 23              | 3        | 6         | 0        |
| Marines     | 16              | 6        | 6         | 0        |
| Coast Guard | 2               | 2        | 2         | 0        |
| TOTALS      | 115             | 60       | 37        | 0        |

Numbers requested based on random sample computation.



# TOTALS

| Category        | Cases | Subtotals | Anticipated completion dates |
|-----------------|-------|-----------|------------------------------|
| No Action Taken | 1,317 | 1,725     | August 2018                  |
| Preferred       | 408   |           |                              |
| Admin Action    | 201   | 330       | September 2018               |
| NJP             | 129   |           |                              |
| Total           | 2,055 | 2,055     | September 2018               |



# ISSUES IDENTIFIED

1. Victims and Subjects experience adverse effects from lengthy investigations
2. Influence of an alleged victim's desire to go forward on Command legal decision
3. Prosecutor case analysis and additional investigation is generally not captured in command action documentation



## ISSUES IDENTIFIED

4. Apparent inconsistency between Judge Advocate's probable cause determination and command action submission
5. Lengthy delays between final investigative ROI, command disposition action, and investigative case closure
6. Full investigation triggered by third party and command required reporting
7. Usefulness of character interviews in case files

# Types of Reports

System MUST serve a tool for the Senior Trial Counsel (STC)/Trial Counsel (TC) to manage their workload.

# Types of TC Reports

- Active Cases Report (STC tracks all cases onboard)
- Active Cases Report by TC (Indiv. TC can track their cases status with paralegal)
- Counsel Report (Workload distribution)
- Docketing Worksheet (Quick form for docketing meetings)
- Prosecution Merit Memo (PMM) Report
- VWAP/SACMG Report (Victim name v. Accused name)

# Types of HQ Weekly Reports

- New High Visibility (HIVIZ) cases
- Upcoming HIVIZ cases
- Cases preferred >1 year – We can identify whether we have systemic issues with detailing or how we object to continuances
- Speedy trial tracker – Provides a protective layer against losing cases based on speedy trial
- Completed cases by disposition – Provides trends in sentences
- Post-Trial processing – Tracks post-trial cases to assure we meet *Moreno* requirements

# Types of Metric Reports

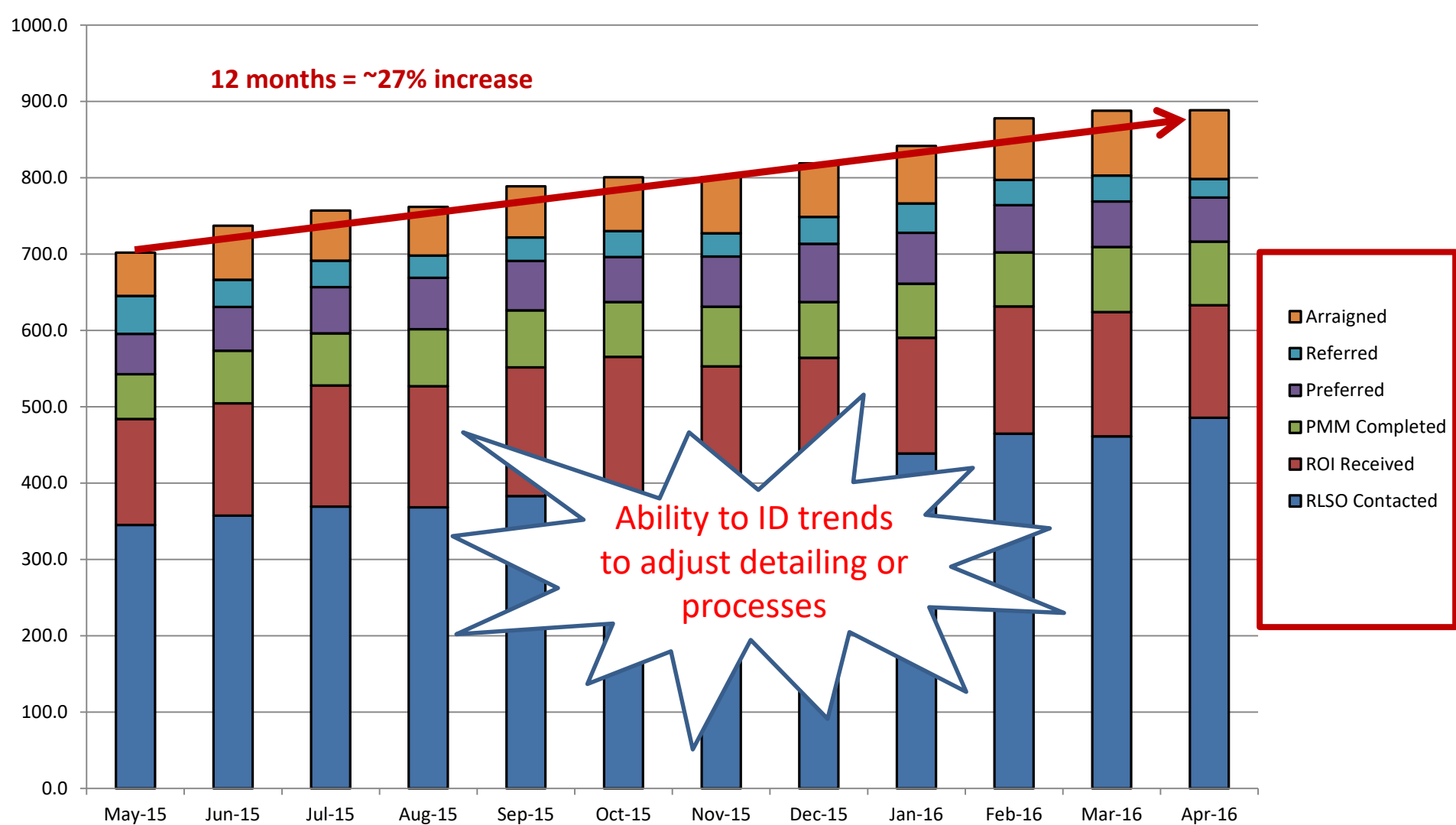
- Cases Onboard – USN wide & for each office
  - # Cases onboard and stage
  - Total Case Disposition and Type (GCM, SPCM, Alt)
  - Total Cases Tried by Quarter and Type
  - Case to TC ratios



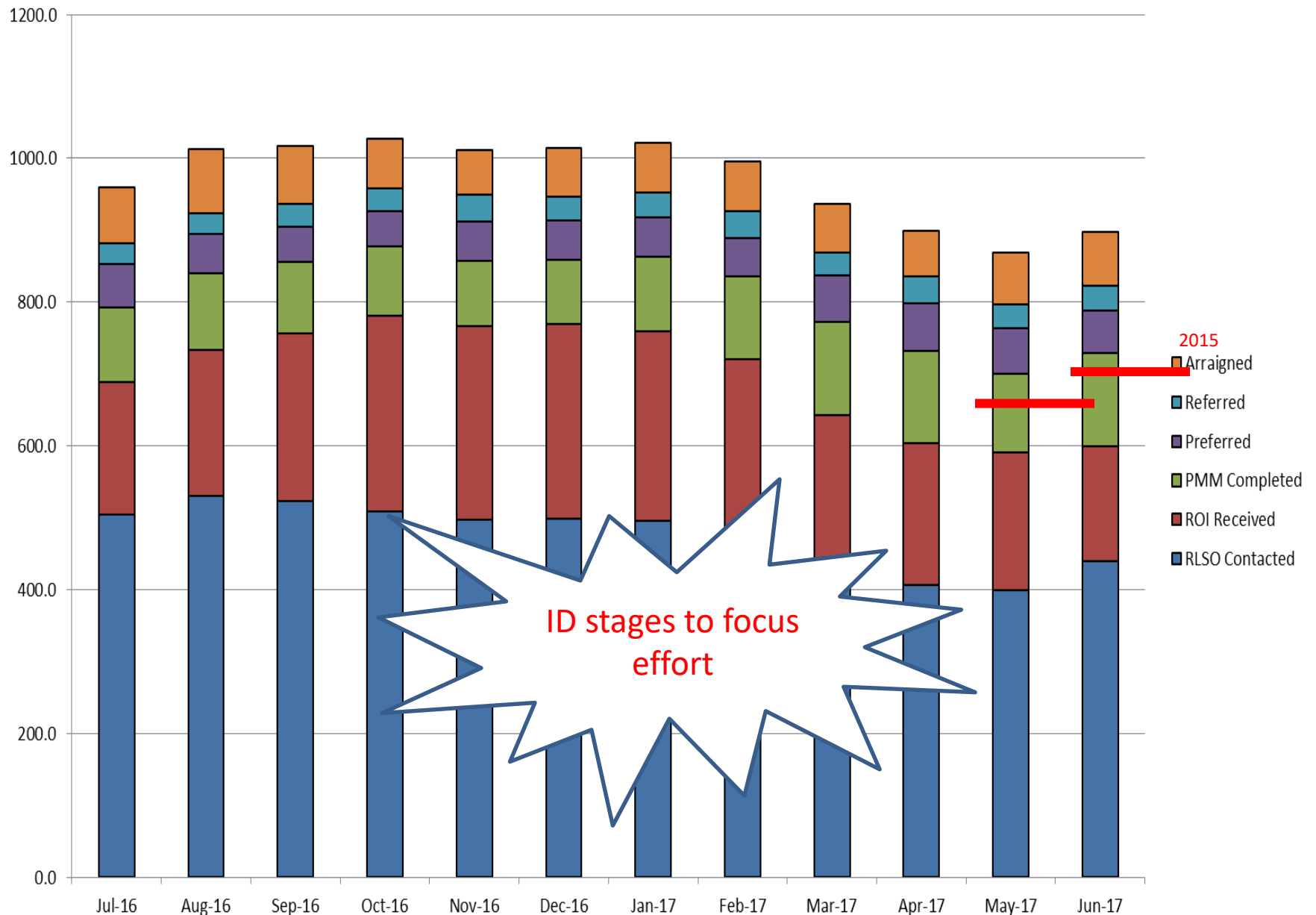
# Average Number of Undisposed Cases Onboard on a Typical Day

## All of NLSC

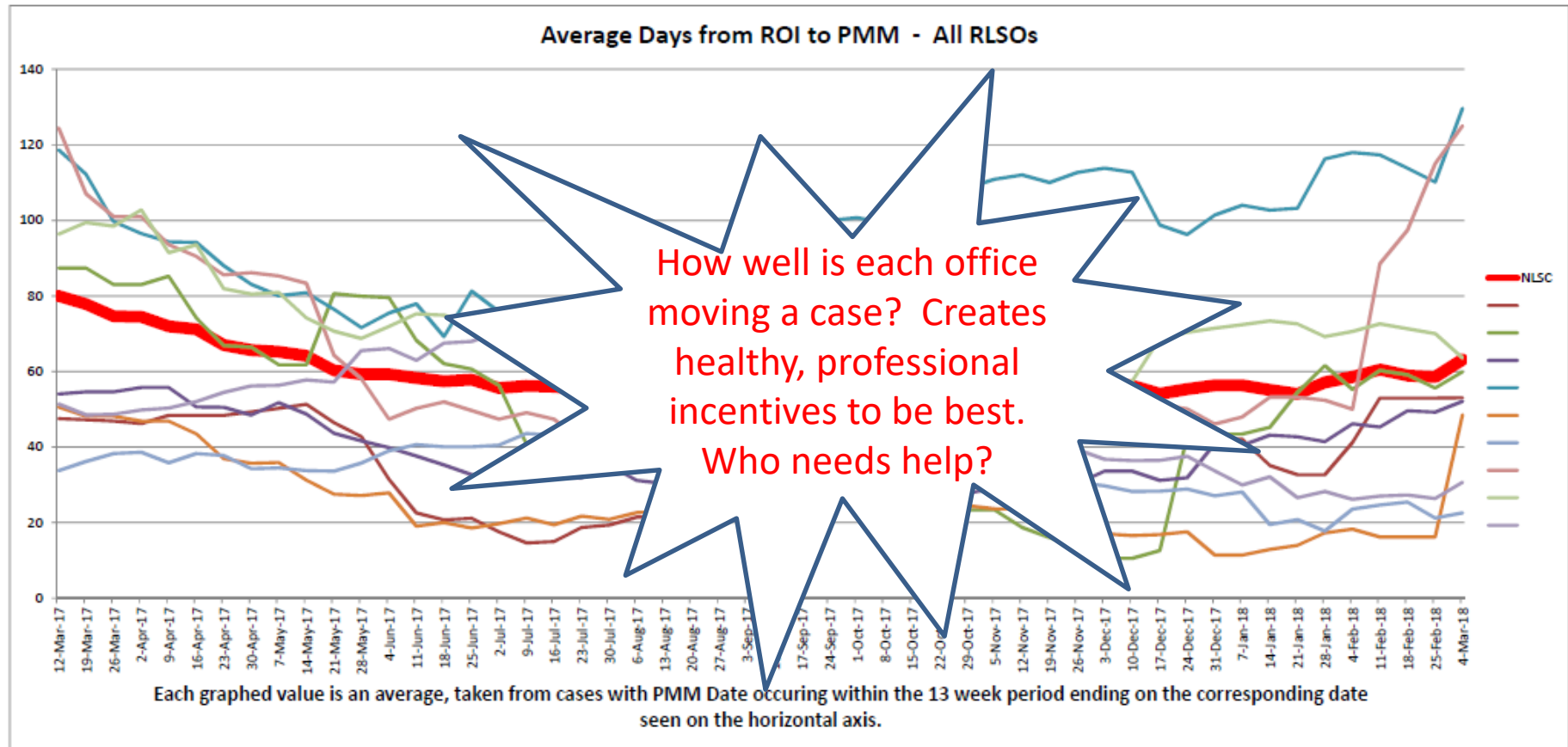
Based on the past 12 months ending April 2016



## Cases Onboard on an Average Day within the Given Month - NLSC



# Metrics by Stage - Trends



# CMS USN Screen Shot Sampling

Military Justice &gt; Accused Information

**Personal Data**

|  |                                  |                                  |   |   |                                   |                      |
|--|----------------------------------|----------------------------------|---|---|-----------------------------------|----------------------|
| Last Name*   | First Name*                      | MI                               | Suffix                                  | Race*                                   | Gender*                           | DOD ID               |
| <input type="text"/>   | <input type="text"/>             | <input type="text" value="S"/>   | <input type="text" value="Jr."/>        | <input type="text" value="Black"/>      | <input type="text" value="Male"/> | <input type="text"/> |
| Service*   | Pay Grade*                       | Rate/Designator/MOS*             | AFADBD*                                 | EAS*                                    |                                   |                      |
| <input type="text" value="USN"/>   | <input type="text" value="E-4"/> | <input type="text" value="MA3"/> | <input type="text" value="03/04/2015"/> | <input type="text" value="03/03/2019"/> |                                   |                      |
| Work Phone   | Home Phone                       | Cell Phone                       | Work Email                              | Civilian Email                          |                                   |                      |
| <input type="text"/>   | <input type="text"/>             | <input type="text"/>             | <input type="text"/>                    | <input type="text"/>                    |                                   |                      |
| Accused Command: <input type="text" value="Naval Security Force Bahrain"/> |                                  |                                  |   | LSSS: <input type="text" value="None"/> |                                   |                      |
| Is this case the result of an NJP refusal?                                 |                                  |                                  |   | <input type="text" value="Pending"/>    |                                   |                      |

**Confinement Data**

|                                      |                                |                      |                      |                     |
|--------------------------------------|--------------------------------|----------------------|----------------------|---------------------|
| Pretrial Restraint?                  | Type:                          | Date of Restraint    | Restraint End Date   | Days in Restraint 0 |
| <input type="text" value="-"/>       | <input type="text" value="-"/> | <input type="text"/> | <input type="text"/> |                     |
| Previous Confinement                 |                                |                      |                      |                     |
| <input type="text"/>                 |                                |                      |                      |                     |
| IHCA?<br>(Not for Military Purposes) | IHCA Date of Arrest            | IHCA Date of Release | Days IHCA 0          |                     |
| <input type="text" value="-"/>       | <input type="text"/>           | <input type="text"/> |                      |                     |
| Total Days in Pre-Trial Restraint 0  |                                |                      |                      |                     |

**\* Do not click Save more than once**[Return Home](#)[Save](#)[Save and Close](#)[Refresh](#)[Delete](#)

Military Justice &gt; Case Information

**Unit or Organization**

RLSO\*

EURAFSWA

Location\*

Bahrain

Forward Deployed Case?

No

**Court Information**

Court Type

Art. 32

Convening Authority

1. Pending

Court-Martial Location

Case Screened

Civilian Authority declines to prosecute:

 **Case Dates**

Date RLSO Contacted

Substantially Completed ROI Received Date

 ?

RLSO Recommendation to Command/PMM

Date Preferred

Preferred Chgs to Defense

Date Referred

Date Accused Served

Motions Date(s)

1. 2. 

? Does this case require Special Crime Reporting:\*

Pending

Arraignment

Trial Date

Post Trial Session

Date forwarded to law enforcement:

Control+Click to Select all that apply:

922(g)(1): GCM conviction for an offense punishable by greater than 1 year of confinement

922(g)(2): Fugitive from justice (see additional requirements in 27 CFR 478.11)

922(g)(3): Unlawful use of controlled substance

922(g)(4): Mental Incompetence

922(g)(6): Dishonorable Discharge

922(g)(8): Civilian restraining order (see additional requirements in statute and 27 CFR 478.11)

922(g)(9): Misdemeanor Crime of Domestic Violence conviction

922(n): Referral of charge(s) punishable by more than one year confinement to GCM

Comments:

**RCM 707 Data**

RCM 707 Date:

RCM 707 Clock:

Excludable Delay **Alternate Disposition Data**Alternative Disposition 

Alternative Disposition Date

Type of Alternative Disposition **Art. 62.Ex Writ Data**

Art. 62 Interlocutory Appeal

Date of Adverse Ruling

Date Appeal Sent to Code 46

Date of Court's Ruling

Days to Ruling

Proceedings Stayed

☐ Hi-Viz ?**Current Case Status:**

180412: Reviewing ROI.

**Executive Summary:**

750 Character max limit. Number of characters: 0

**Case Description:****Case Chronology:**

# Victim Witness Information VWAP

Victim/Witness Notified of:

- ☐ Assistance with Employer/Creditor notification
- ☐ Assistance with travel, parking, childcare, and translations
- ☐ Courtroom security procedures
- ☐ Private waiting area
- ☐ Right to input on civilian or UCMJ prosecution of case

Victim/Witness:  
 Service:  
 Last Name:  
 Address:  
 Sex:  
 Race:  
 Aggravated Assault:  
 Circumstances:

Victim Type:  
 Rank:  
 First Name:  
 Phone Number:  
 Age:  
 Relationship:  
 Email Address:  
 Injury Type:

☐ Retiree ☐ Federal Employee ☐ Dependent ☐ Contractor ☐ Other

## VWAP Notifications & Elections

### Date Served and Explained

DD 2701:  
 DD 2702:  
 DD 2703:  
 DD 2704:  
 Post-Trial Rights Election  
 Form:

### Serving Official

For DD2701:  
 For DD2702:  
 For DD2703:  
 For DD2704:  
 For Post-Trial Rights  
 Election Form:

Victim Elections - Does the victim wish to be notified of:  
 A Change in Confinement Status:  
 Appellate Actions:

☐ ☐ ?

## Post Trial Victim Rights

Qualified for Victim Legal Counsel?  
 Victim Legal Counsel  
 VWAC  
 Date Victim Received Art. 54(e) rights  
 advisement:  
 Date Record of Trial was mailed to Victim:  
 SJAR/Legal Officer's Recommendation (LOR)  
 ?  
 Victims 1105 Matters ?  
 Date Victim 1105 Matters Received  
 Date Served CAA Action  
 Victim Tracking Completed:

Date notified of right to Victim Legal  
 Counsel:  
 VLC Phone Number  
 Did the Victim request a Record of Trial?  
 ?  
 Method of Service  
 Date SJAR/LOR Served  
 10 Day Expires ?  
 CA's Action ?  
 Type of Receipt

Notes:

Military Justice &gt; Charges

**Offense Types:**

- ☐ Alcohol Related ☐ Drug Related ☐ Hate Crime (Sexual Orientation) ☐ Novel Specification Under Art. 134  
☐ Child Pornography ☐ Fraternization ☐ Hazing ☐ Orders Violation ☐ Sexual Harassment  
☐ Domestic Violence (adult) ☐ Gang Related ☐ Lautenberg ☐ Retaliation Offense ☐ UA/Des Due to War  
☐ Domestic Violence (child) ☐ Hate Crime ☐ Law of Armed Conflict Offense ☐ Sex Offense (adult)

**Charges****No documents found**

Refresh screen to update charges.

Enter charges as you would like them to appear on the main report here. For example: Art. 92x2, Art. 121x3

**\* Do not click Save more than once****\* Indicates a required field.****If a field is locked, it is because:****1) You did not fill out a prior required field or****2) You need to refresh the case.****Refresh by clicking the Refresh button.**

Case Year

04/01/2018

Created By:

jordan.lee

Last Edited By:

holly.harris

Archive

Date Created:

02/28/2018

Date Last Edited:

04/12/2018

Archive Date

Destroy Date



# RLSO - Active Case Report

27 cases onboard (total)

## Cases Pending Investigation

| Name<br>Accused Command:<br>TC:<br>RCVD                             | Offense Type   | Last Completed Status   | Description  | Status |
|---|--|---|--|--------|
|   |  | Three labeled fields that vary depending on Latest Completed Status |  |        |
| 1<br>USN<br>10/23/2017  | E-5 Alcohol Related Sex Offense (adult)                | Received<br>Since Recv<br>No PTR<br>707 Clock                       | 10/23/2017 Blue (E-5) on Blue (E-4) alleged sexual assault   |        |
| USN<br>12/8/2017  | E-7 Domestic Violence (adult) Lautenberg<br><br>Hi-Viz | Received<br>Since Recv<br>No PTR<br>707 Clock                       | 12/8/2017 Blue (E7) domestic assault on civilian spouse.<br>129  |        |
| USN<br>2/21/2018  | E-5 Alcohol Related Sex Offense (adult)                | Received<br>Since Recv<br>No PTR<br>707 Clock                       | 2/21/2018 Blue (E5) on Blue (E5) aboard Kadena AB, Okinawa.<br>54  |        |
| USN<br>9/11/2017  | E-4 Drug Related Sex Offense (adult)<br><br>Hi-Viz     | Received<br>Since Recv<br>No PTR<br>707 Clock                       | 9/11/2017 Blue on Blue sexual assault in hotel in Williams, AZ.  |        |
| Phillips, KS<br>DIA DET PACOM PEARL HARBOR<br><br>USN<br>11/21/2017 | E-3 Alcohol Related Sex Offense (adult)                | Received<br>Since Recv<br><br>707 Clock                             | 11/21/2017 Blue (E-3) on Blue (E-2) alleged alcohol facilitated sexual assault in V/s barracks room<br>146 |        |

|   |                           |            |            |  |  |
|---|---------------------------|------------|------------|--|--|
| <div> <div></div> <div>E-5</div> </div> <div>USS CHEYENNE (SSN 773)</div> <div>USN</div> <div>3/23/2018</div> | Sex Offense (adult)       | Received   | 3/23/2018  | Blue (E-5) on Blue (E-5) alleged male on male sexual assault |  |
|   |                           | Since Recv | 24         |  |  |
|   |                           | No PTR     |            |  |  |
|   |                           | 707 Clock  |            |  |  |
| <div> <div></div> <div>E-6</div> </div> <div>NIOC HAWAII</div> <div>USN</div> <div>12/8/2017</div>            | Sex Offense (adult)       | Received   | 12/8/2017  | Blue (E-6) on Blue (E-5),                                    |  |
|   |                           | Since Recv | 129        |  |  |
|   |                           | No PTR     |            |  |  |
|   |                           | 707 Clock  |            |  |  |
| <div> <div></div> <div>E-4</div> </div> <div>NIOC HI</div> <div>USN</div> <div>12/18/2017</div>               | Domestic Violence (child) | Received   | 12/18/2017 | Blue on dependent child.                                     |  |
|   |                           | Since Recv | 119        |  |  |
|   |                           | No PTR     |            |  |  |
|   |                           | 707 Clock  |            |  |  |
|   | Hi-Viz                    |            |            |  |  |

### Cases with Substantially Completed Investigation (ROI)

| Name<br>Accused Command:<br>TC:<br>RCVD | Offense Type | Last Completed Status   | Description | Status |
|---|--------------|---|-------------|--------|
|   |              | Three labeled fields that vary depending on Latest Completed Status |             |        |

|  |                                  |           |          |  |  |
|--|----------------------------------|-----------|----------|--|--|
| <div> <div></div> <div>E-6</div> </div> <div>USN</div> <div>1/26/2018</div>                        | Drug Related Sex Offense (adult) | ROI       | 4/2/2018 | Blue (E6) on Green (Army E4) sexual assault at V/s off-base residence. |  |
|  |                                  | Since ROI | 14       |  |  |
|  |                                  | No PTR    |          |  |  |
|  |                                  | 707 Clock |          |  |  |
| <div> <div></div> <div>O-4</div> </div> <div>USN</div> <div>5/1/2017</div>                         | Sex Offense (child)              | ROI       | 4/4/2018 | Blue (O-4) on civilian child dependent.                                |  |
|  |                                  | Since ROI | 12       |  |  |
|  |                                  | No PTR    |          |  |  |
|  |                                  | 707 Clock |          |  |  |
|  | Hi-Viz                           |           |          |  |  |
| <div> <div></div> <div>E-4</div> </div> <div>NIOC HAWAII</div> <div>USN</div> <div>3/22/2018</div> | Sex Offense (adult)              | ROI       | 4/9/2018 | Blue (E-3) on civilian spouse alleged sexual assaults.                 |  |
|  |                                  | Since ROI | 7        |  |  |
|  |                                  |           |          |  |  |
|  |                                  | 707 Clock |          |  |  |

|                   |   |           |           |                             |  |
|-------------------|---|-----------|-----------|-----------------------------|--|
| USN<br>3/26/2018  | E-6<br>Sexual Harassment Sex<br>Offense (adult) | ROI       | 3/26/2018 |                             |  |
|                   |   | Since ROI | 21        |                             |  |
|                   |   | No PTR    |           |                             |  |
|                   |   | 707 Clock |           |                             |  |
| USN<br>3/28/2017  | E-4   | ROI       | 3/26/2018 | Potential BAH/COLA fraud.   |  |
|                   |   | Since ROI | 21        |                             |  |
|                   |   | No PTR    |           |                             |  |
|                   |   | 707 Clock |           |                             |  |
| USN<br>12/22/2017 | E-6<br>Sex Offense (child)                      | ROI       | 2/26/2018 | Blue (E-6) on CIV (14 y/o). |  |
|                   |   | Since ROI | 49        |                             |  |
|                   |   | No PTR    |           |                             |  |
|                   |   | 707 Clock |           |                             |  |

### Cases with Completed PMM or Recommendation

| Name<br>Accused Command:<br>TC:<br>RCVD | Offense Type | Last Completed Status   | Description | Status |
|---|--------------|---|-------------|--------|
|   |              | Three labeled fields that vary depending on Latest Completed Status |             |        |

|                  |   |           |           |   |  |
|------------------|---|-----------|-----------|---|--|
| USN<br>9/6/2017  | E-7<br>Sex Offense (child)                      | PMM       | 1/23/2018 | Blue on civilian minor.                         |  |
|                  |   | Since PMM | 83        |   |  |
|                  |   | No PTR    |           |   |  |
|                  |   | 707 Clock |           |   |  |
| USN<br>9/25/2017 | E-3<br>Sexual Harassment Sex<br>Offense (adult) | PMM       | 3/27/2018 | Blue (E-3) on Blue (E-3) Abusive Sexual Contact |  |
|                  |   | Since PMM | 20        |   |  |
|                  |   | No PTR    |           |   |  |
|                  |   | 707 Clock |           |   |  |
| USN<br>10/6/2017 | E-2<br>Sex Offense (adult)                      | PMM       | 3/14/2018 | Blue on Blue alleged sexual assault.            |  |
|                  |   | Since PMM | 33        |   |  |
|                  |   |           |           |   |  |
|                  |   | 707 Clock |           |   |  |

|                  |  |                  |          |                           |  |
|------------------|--|------------------|----------|---------------------------|--|
| USN<br>5/5/2017  | E-5 Alcohol Related Sex<br>Offense (adult) | PMM              | 6/7/2017 | Blue (E-5) on civilian.   |  |
|                  |  | Since PMM        | 313      |                           |  |
|                  |  | No PTR           |          |                           |  |
|                  |  | 707 Clock        |          |                           |  |
| USN<br>9/27/2017 | E-6 Sex Offense (adult)                    | PMM              | 4/6/2018 | Blue (E-6) on Blue (E-3). |  |
|                  |  | Since PMM        | 10       |                           |  |
|                  |  | No PTR           |          |                           |  |
|                  |  | 707 Clock        |          |                           |  |
| USN<br>2/26/2018 | E-9 Sex Offense (adult)                    | PMM              | 4/6/2018 | Blue (CMDM) on CIV        |  |
|                  |  | Since PMM        | 10       |                           |  |
|                  |  | No PTR           |          |                           |  |
|                  |  | Hi-Viz 707 Clock |          |                           |  |

### Preferred Cases (Non-SCM)

| Name<br>Accused Command:<br>TC:<br>RCVD | Offense Type | Last Completed Status   | Description | Status |
|---|--------------|---|-------------|--------|
|   |              | Three labeled fields that vary depending on Latest Completed Status |             |        |

|            |                         |               |           |  |
|------------|-------------------------|---------------|-----------|--|
| 10/31/2017 | E-6 Sex Offense (child) | Preferral     | 3/21/2018 |  |
|            |                         | No PTR        |           |  |
|            |                         | 707 Clock     | 20        |  |
|            |                         | Hi-Viz Art 32 | Yes       |  |

### Referred GCM

| Name<br>Accused Command:<br>TC:<br>RCVD | Offense Type | Last Completed Status   | Description | Status |
|---|--------------|---|-------------|--------|
|   |              | Three labeled fields that vary depending on Latest Completed Status |             |        |

|           |  |         |           |  |
|-----------|--|---------|-----------|--|
| 6/19/2017 | E-4 Child Pornography Sex<br>Offense (adult) | Arraign | 2/14/2018 |  |
|           |  | No PTR  |           |  |
|           |  |         | 5/23/2018 |  |
|           |  | Trial   | 7/9/2018  |  |

# PMM Report (Cases older than 30 days)

The criteria for this report is cases older than 30 days since ROI, no preferral, and with no alternate disposition date or alternate disposition type entered.

|   | Last Name | Pay Grade | Date RLSO Contacted | Contact to ROI | Date ROI Received | Days Since ROI | Date PMM Sent to Command | TC      | Current Case Status |
|---|-----------|-----------|---------------------|----------------|-------------------|----------------|--------------------------|---------|---------------------|
| 1 |           | 5         |                     |                |                   |                |                          |         | 180410 -            |
| 2 |           | E-7       | 06-Sep-17           | 90             | 05-Dec-17         | 132            | 23-Jan-18                | LT, USN | 180410 -            |
| 3 |           | E-2       | 06-Oct-17           | 95             | 09-Jan-18         |                | 14-Mar-18                | LT, USN | 180410 - NSTR.      |
| 4 |           | E-3       | 25-Sep-17           | 149            | 21-Feb-18         | 54             | 27-Mar-18                | LT, USN | 180410 -            |
| 5 |           | E-6       | 22-Dec-17           | 66             | 26-Feb-18         | 49             | PENDING                  | LT, USN | 180410 - NSTR.      |
| 6 |           | E-9       | 26-Feb-18           | 1              | 27-Feb-18         | 48             | 06-Apr-18                | LT, USN | 180406 -            |