

Department of Defense Legal Services Agency

Review of Recent Amendments to the Uniform Code of Military Justice and Sentencing Data Report

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Executive Summary

The last five years saw sweeping changes to the military justice system. The Military Justice Act of 2016 (MJA16) took effect on January 1, 2019, ushering in the most comprehensive reforms to the Uniform Code of Military Justice (UCMJ) in decades.¹ A significant feature of the MJA16 was the amendment to Article 146, UCMJ, and the creation of the Military Justice Review Panel (MJRP) to conduct periodic reviews and assessments of the military justice system.²

This report responds to the first two Article 146 requirements: (1) an initial review and assessment of the last five years of statutory changes to the UCMJ;³ and (2) a collection of data during fiscal year 2020 on the new sentencing procedures.⁴

Part I of the report describes the Services' implementation of five years of UCMJ amendments, beginning with the National Defense Authorization Act for Fiscal Year 2017 (FY17 NDAA) through the National Defense Authorization Act for Fiscal Year 2021 (FY21 NDAA). Part I focuses on: (1) the Services' accomplishments in fiscal years 2019 and 2020, with an emphasis on new training programs and structural reforms; and (2) the Services' ongoing efforts to address new requirements, such as data collection, public access to dockets, and specialized skills in sexual assault prosecutions.

Part II of the report addresses the Article 146 directive to “gather and analyze sentencing data collected from each of the armed forces from general and special courts-martial applying offense-based sentencing [during fiscal year 2020].”⁵ Part II provides the fiscal year 2020 sentencing data requested by Congress, including:

- the number of accused who requested member sentencing and the number who requested sentencing by military judge alone;
- the offenses of which the accused were convicted; and
- the resulting sentence for each offense in each case.

Part III of the report provides a staff assessment of the last five years of UCMJ amendments and the FY20 sentencing data. The MJRP will provide its first comprehensive review and assessment report on the UCMJ to Congress in 2024.⁶ Part III also includes issues that the MJRP may wish to consider in its first comprehensive review. The MJRP's ongoing efforts will continue to inform Congress, stakeholders, and the public about the impacts of UCMJ reforms and the state of the military justice system.

¹ The Military Justice Act of 2016 is set forth in Division E of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, 130 Stat. 2000 (2016), codified at 10 U.S.C. §§ 801–946a.

² Until the MJRP is constituted, the Defense Legal Services Agency (DLSA) professional legal staff will support these efforts.

³ Article 146(f)(1), UCMJ.

⁴ Article 146(f)(2), UCMJ.

⁵ *Supra* note 4.

⁶ Article 146(f)(3), UCMJ.

PART I

REVIEW AND ASSESSMENT OF FIVE YEARS OF AMENDMENTS TO THE UCMJ

I. Introduction

With the passage of the Military Justice Act of 2016,⁷ the UCMJ underwent its most significant reform since its enactment in 1950. The MJA16 addressed nearly every aspect of the military justice system, including court-martial jurisdiction, pretrial investigations, nonjudicial punishment, the size of court-martial panels, selection of members, sentencing reforms, changes to post-trial processing and appellate review, and new punitive articles.⁸ To highlight the significance of the amendments, the late Senator John McCain explained that the legislation:

- Strengthens the structure of the military justice system;
- Enhances fairness and efficiency in pretrial and trial procedures;
- Reforms sentencing, guilty pleas, and plea agreements;
- Streamlines the post-trial process;
- Modernizes military appellate practice;
- Increases transparency and independent review of the military justice system;
- Improves the functionality of punitive articles and proscribes additional acts; and
- Incorporates best practices from federal criminal proceedings where applicable.⁹

Since the MJA16, Congress passed additional UCMJ amendments, including clarifying provisions to the MJA16, new punitive articles, including those addressing domestic violence,¹⁰ and changes to the statute of limitations for crimes involving child victims.¹¹ All amendments from the FY17 NDAA through the FY21 NDAA are the subject of this report and are summarized at Appendix A.

Part I describes the Services' implementation of these changes to military justice practice, including: (1) the Services' accomplishments in FYs 2019 and 2020, with an emphasis on new training programs and structural reforms; and (2) the Services' ongoing efforts to address new requirements, such as data collection, public access to dockets, and specialized skills in sexual assault prosecutions.

⁷ *Supra* note 1.

⁸ See David A. Schlueter, "Reforming Military Justice: An Analysis of the Military Justice Act of 2016," 49 ST. MARY'S LAW JOURNAL 1, 7–8 (2017).

⁹ See "Statement by SASC Chairman John McCain on National Defense Authorization Act Conference Report," press release, Nov. 30, 2016, available at <https://perma.cc/H2MV-A78W>.

¹⁰ Article 128b, UCMJ; see Section 532 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, 132 Stat. 1636 (2018).

¹¹ Article 43, UCMJ; see Section 533 of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, 133 Stat. 1198 (2019).

The implementation of the MJA16 and recent UCMJ amendments comes at a time of heightened focus on the military justice system. Persistent problems with sexual misconduct in the Armed Forces, concerns about racial inequities, and disagreement over the appropriate role of the commander, among other challenges, have fueled congressional and public interest in reforming the military justice system. The Department of Defense is working to improve legal support on these issues and to execute the mandated changes to the military justice mission.¹²

II. Methodology and Scope

Part I describes the Services' implementation of the UCMJ amendments from the FY17 NDAA through the FY21 NDAA.¹³ Congress directed the MJRP to conduct an initial review and assessment of these recent amendments to the UCMJ.¹⁴ With the MJRP not yet established, the Defense Legal Services Agency (DLSA) staff created Part I by summarizing the Services' information published in their annual military justice reports to Congress.¹⁵ Because the MJA16 amendments (enacted in the FY17 NDAA) took effect on January 1, 2019, Part I focuses on FY19 and FY20 implementation efforts.¹⁶ The staff did not independently verify the information reported by the Services.

III. Implementation of Changes in FY 2019 and FY 2020

Training

Article 137, UCMJ, requires all Service members to receive initial and repeated UCMJ training throughout their time in service.¹⁷ Article 137 also requires officers with the authority to convene courts-martial or impose nonjudicial punishment to receive specialized periodic training regarding the purposes and administration of the UCMJ.¹⁸ The extensive changes enacted by the MJA16 required the Services to update curricula and methods of instruction for all personnel, including trial and defense counsel, special victims' counsel (SVCs)/victims' legal counsel (VLCs),¹⁹ paralegals, military judges, and commanders and their staff judge advocates (SJAs).

¹² See, e.g., Honoring Our Duty to Survivors of Military Sexual Assault: Recommendations on Victim Care & Support, INDEPENDENT REVIEW COMMISSION ON SEXUAL ASSAULT IN THE MILITARY, *Hard Truths and the Duty to Change: Recommendations from the Independent Review Commission on Sexual Assault in the Military* 41 (July 2021) [IRC Report], available at <https://media.defense.gov/2021/Jul/02/2002755437/-1/-1/0/IRC-FULL-REPORT-FINAL-1923-7-1-21.PDF/IRC-FULL-REPORT-FINAL-1923-7-1-21.PDF>.

¹³ See Appendix A.

¹⁴ Article 146(f)(1), and (5), UCMJ.

¹⁵ Article 146a, UCMJ, requires the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps to submit to Congress an annual report describing the previous fiscal year's metrics and data on various military justice topics. These reports are due on December 31 of each year. Part I of this report summarizes the Services' FY19 and FY20 reports, which are available on the Joint Service Committee website at <https://jsc.defense.gov/Annual-Reports/>. At the time of this report, the Services have not yet published the FY21 end-of-the-year reports.

¹⁶ In the years between the passage of the MJA16 and its January 1, 2019 effective date, the Services developed their training materials and drafted the implementing Rules for Courts-Martial found in the Manual for Courts-Martial (2019).

¹⁷ Article 137(a) and (b), UCMJ.

¹⁸ *Id.* at (c).

¹⁹ Special victims' counsel (Army, Air Force, and Coast Guard) and victims' legal counsel (Navy and Marine Corps) are counsel assigned to provide legal assistance to a victim throughout legal proceedings. The terms SVC or VLC should not be confused with the special victim prosecutor (SVP) discussed below.

The Services offered this instruction on procedural and substantive changes in the MJA16 through in-person, online, and virtual training programs.

Anticipating the extensive MJA16 changes, the Naval Justice School (NJS) built online training modules for accessibility to and accountability for the training. To improve litigation training for trial and defense counsel, the Navy revised certification requirements, rewrote learning objectives, and consolidated the Basic Trial Advocacy and Trial/Defense Counsel Orientation courses into one comprehensive Military Justice Orientation Course.

For commanders and their SJAs, the NJS created a Smart Pack—a comprehensive product consisting of MJA16 training and reference materials for an SJA or command services attorney to train a convening authority on the MJA16 changes. The Marine Corps developed a similar plan to conduct comprehensive training for commanders, focusing on their roles at all stages of sexual assault cases.

The Army created the Trial Advocacy Center (TAC) at Fort Belvoir, VA, to build expertise across the litigation spectrum. The TAC facility, slated to be operational in late 2021, will include five mock courtrooms and a classroom—with the capacity to hold 100 students—which can be split in half to create two additional mock courtrooms.

In FY19, the Air Force Judge Advocate General’s School (AFJAGS) significantly updated its *The Military Commander and the Law* publication, available online to commanders, to reflect major military justice revisions and incorporate new policy in areas such as the prosecution and prevention of sexual assault.

The Coast Guard conducted a comprehensive two-day in-person training program in three locations to brief all Article 27(b)–certified judge advocates on the MJA16 changes. To ensure a 100% completion rate, the Coast Guard required judge advocates unable to attend an in-person training session to complete the Navy’s online training course.

Judge Advocate General Corps Structure

The extensive UCMJ amendments over the past five years prompted each Service to continually evaluate their military justice operations to ensure responsiveness to the legislative changes. Based on these ongoing assessments, each Service, in varying degrees, has introduced structural changes to JAG Corps personnel and practices.

The Army implemented a comprehensive, systemic change to its military justice practice with its Military Justice Redesign (MJR) in FY19. While acknowledging that historically, trial counsel performed duties as both litigators and legal counsel to commanders, the MJR separated the roles into two distinct positions: trial counsel, who litigate cases referred to court-martial, and military justice advisors, who advise commanders on disciplinary and criminal matters.

The Navy, prior to the MJA16, implemented the Military Justice Litigation Career Track (MJLCT) to develop and retain experienced litigators as trial counsel, defense counsel, victims’ legal counsel, and military judges. In FY19 the Chief of Naval Operations approved the creation of a “rotational assignment” opportunity for judge advocates in the MJLCT program, assigning an MJLCT officer with a U.S. Attorney’s Office for one year before they are assigned a trial counsel billet.

The Marine Corps established an Operational Advisory Group (OAG) to identify efficiencies during the investigation and prosecution of special victim military justice cases.²⁰ The Marine Corps intends to incorporate several OAG recommendations into service regulations.

The Air Force realigned its JAG Corps structure to streamline legal services across three primary domains: Operational and International Law, Civil Law, and Military Justice and Discipline. The Military Justice and Discipline Directorate includes all aspects of the military justice system (with the exception of military judges), including the Special Victims' Counsel Program and the processing of all administrative disciplinary actions.

The Coast Guard implemented a Military Justice subspecialty in FY19 in response to the increasing complexity of military justice cases. Like the Navy's MJLCT, the new subspecialty will help judge advocates gain the military justice expertise required to try complex cases, especially sexual assault cases, and to fill supervisory roles.

Specialization of Judge Advocates

Most changes described above are designed to enhance the expertise of personnel who deal with cases involving sexual assault, national security, and capital offenses. Three Services established separate programs for such cases: the Army trial and defense programs established complex litigation sections to handle complex sexual assault, capital, and national security cases;²¹ the Marine Corps has Complex Trial Teams (CTTs) with highly qualified judge advocates to handle all special victim cases; and the Air Force has a Special Victims Unit with counsel experienced in trying cases with child victims, sexual assault allegations, or domestic violence allegations. Although the Navy does not have a complex litigation section, it soon will pilot a new Complex Case Counsel billet staffed by an O-6.²²

Defense Investigators

Section 540J of the FY20 NDAA required the Services to initiate pilot programs to determine whether the use of defense investigators would make the military justice system more fair, efficient, and effective.²³ The Marine Corps implemented a pilot program to hire defense investigators to safeguard the fairness of the military justice process and protect the accused's discovery rights. The Army received approved funding for twelve defense investigators to be placed across all of the Army's Trial Defense Service (TDS) regions.²⁴ The Navy's four regional defense commands have eight criminal investigators, called defense litigation support specialists (DLSSs), with each DLSS carrying an average of 20 complex cases in FY20. The Air Force created defense investigator positions in their trial defense division. These investigators, like criminal defense investigators in civil jurisdictions, will provide investigative support in sexual assault, national security, and other complex cases.

²⁰ Special victim cases generally encompass those involving sexual assault, domestic violence, child abuse, or child exploitation.

²¹ The Army's Trial Complex Litigation Team (TCLT) and Defense TCLT were established in FYs 2018 and 2019, respectively.

²² The Navy Office of the Judge Advocate General (OJAG) Code 30 is the only legal office in DoD exclusively dedicated to supporting litigation involving classified information.

²³ Section 540J of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, 133 Stat. 1198 (2019).

²⁴ In FY20, the Army hired six of the twelve authorized term employee positions and made offers to another five.

Special Victim Prosecutors

The Services' specialization in military justice positions includes the increased use of special victim prosecutors to handle sexual assault cases. The Army has three civilian special victim litigation experts (SVLEs) to support the special victim prosecutor (SVP), special victim noncommissioned officer (SVN), and special victim witness liaison (SVWL) programs. The Army created five new SVP positions in FY20 and approved additional positions for FY21.

The Navy and Marine Corps revised their Special Victim Investigations and Prosecution (SVIP) policies in FY19 and FY21, respectively, to establish standards for trial counsel detailed to special victim cases and provide guidance for the selection, training, and certification of SVIP trial counsel, paralegals, and administrative support personnel.²⁵

An Air Force judge advocate must go through a multistage certification process before being designated as a circuit trial counsel (CTC), a senior prosecutor. Some CTCs are assigned to a Special Victims Unit (SVU-CTCs) with prosecutors who have specialized experience in trying cases involving child victims, allegations of sexual assault, or allegations of domestic violence. The Air Force reports that, in FY19, 90% of sexual assault cases referred to general court-martial had a CTC detailed to the case; in FY20, it was 100%.

Special Victims' Counsel/Victims' Legal Counsel

The FY18 NDAA expanded training requirements for SVCs,²⁶ while § 541 and § 542 of the FY20 NDAA expanded the use and authorities of SVCs.²⁷ In response to these changes, the Army instituted 22 hours of enhanced specialized training, statutorily mandated for SVC certification, within the Judge Advocate Officer Basic Course. The Army also instituted state-specific training to equip SVCs to advise clients on jurisdictional preference decisions. The Army requires all SVCs to complete a certification course and be certified by The Judge Advocate General (TJAG) of the Army before providing legal representation to clients.

Navy judge advocates must successfully complete either the Army or Air Force's Special Victims' Counsel Certification (SVCC) course to be certified by the Navy TJAG to practice as a VLC. The Navy approved an additional 11 VLC billets in FY21²⁸ and created a Victims' Counsel Assistance Program (VCAP) team, which consists of VLCs with significant military justice litigation experience, including some who are on the appellate practice team. The Navy Judge Advocate General's Corps (JAGC) approved the creation of a Naval Justice School VLC certification course that will commence in April 2022.

²⁵ Department of the Navy, Office of the Judge Advocate General, Naval Legal Service Command Instruction 5817.2 *Special Victim Investigation and Prosecution Policy*, (May 22, 2019); available at https://www.jag.navy.mil/library/instructions/JAG_CNLSINST_5817.2.pdf. U.S. MARINE CORPS, ORDER 5800.16 – VOLUME 16, LEGAL SUPPORT AND ADMINISTRATION MANUAL, MILITARY JUSTICE para. 022303 (14 July 21); available at <https://www.marines.mil/Portals/1/Publications/MCO%205800.16%20Vol%2016.pdf?ver=Kw6Bv7bjXXFICy5ujnlk1Q%3d%3d>.

²⁶ Section 536 of the National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, 131 Stat. 1283 (2017).

²⁷ Sections 541 and 542 of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, 133 Stat. 1198 (2019).

²⁸ In FY20, the Navy VLC Program included 34 JAs designated as VLC with operations in five regions: Pacific; West; Southeast; East; and Europe, Africa, Southwest Asia (EURAFSWA).

The Air Force has the same standards as the other Services for the Air Force TJAG to designate a judge advocate as an SVC. All Air Force SVCs must attend a 10-day certification course at the Air Force JAG School.

The Marine Corps and Coast Guard programs closely mirror the Navy's program, relying on the same Army or Air Force courses for certification.

IV. The Services' Ongoing Implementation Efforts

Although the Services have made progress in implementing the MJA16 and subsequent UCMJ amendments, technological deficiencies and limited resources—in both personnel and funding—have slowed the pace of reform. This is especially true with respect to the new Article 140a, UCMJ, and the expansion of legal services to domestic violence victims.²⁹

Article 140a, UCMJ

Article 140a directs the Secretary of Defense to prescribe uniform standards and criteria for the Services' collection of military justice data; case processing and management; timely, efficient, and accurate production and distribution of records of trial; and facilitation of access to court-martial dockets, filings, and records. In December 2018, the DoD General Counsel promulgated Article 140a standards and criteria and directed the Services to implement case management systems to track 155 specified data points for every case involving a Service member, facilitate the prompt distribution of records of trial to the accused and victim, and make docket information and appropriately redacted filings and records publicly available no later than December 2020.³⁰

- ***Article 140a(1): Data Collection***

The Services report progress modernizing their information technology to meet the data collection requirements of Article 140a(1). The Coast Guard developed an implementation plan and is in the process of updating its case management system. Working with existing resources, the Navy and Marine Corps implemented an interim case management system to address all of the required data fields. To meet short-term requirements, the Air Force adapted its existing case management system, which will be replaced in phases by a new system, under contract, that will address all Article 140a requirements. However, the Air Force and Navy-Marine Corps describe a need for significant additional funding to fully develop a comprehensive, ongoing management system to meet all of the Article 140a requirements. The Army, which manages and tracks courts-martial through its Army Court-Martial Information System (ACMIS) and Military Justice Online (MJO) applications, did not report on how these existing systems satisfy the Article 140a data collection requirements.

²⁹ Section 548 of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, 133 Stat. 1198 (2019).

³⁰ General Counsel of the Department of Defense, *Memorandum for the Secretaries of the Military Departments: Uniform Standards and Criteria Required by Article 140a, Uniform Code of Military Justice (UCMJ)* (Dec. 17, 2018), available at Appendix B.

- ***Article 140a(2): Case Processing and Management***

The Services reported delays at different stages of post-trial processing during FY19 and FY20. Some delays were attributed to creation of the record of trial and others to the time for the military judge to authenticate the record of trial.³¹ During this time, one case was dismissed for denial of speedy review following a determination that, under pre-MJA16 processes, the delay between the convening authority's action and docketing at the Court of Criminal Appeals violated the due process rights of the accused.³²

Pre-MJA16, post-trial processing timelines began with the convening authority's action.³³ The MJA16 established a new Article 60a limiting the convening authority's role in post-trial processing and a new Article 60c giving the military judge the final word in a court-martial with the Entry of Judgment. These changes to the convening authority's post-trial role, taken together with Article 54—which shifts responsibility for authenticating the record from military judge to court reporter—are intended to streamline case processing and minimize delays.

- ***Article 140a(3): Production of Records of Trial***

The Services' ongoing efforts to modernize court reporting technology and policies aim to further reduce post-trial processing times. The Army regionalized court reporting to maximize the efficient use of court reporter talent. The Army and Marine Corps partnered to purchase licenses for an artificial intelligence-supported, speech-to-text (AI STT) transcription program, projected to be fully operational in courtrooms in FY21. The Navy initiated a pilot program to test and field a similar AI STT transcription capability, and is authorized to hire additional personnel to support the program. The Services expect implementation of these changes to reduce the time to create a record of trial and post-trial processing timelines.

- ***Article 140a(4): Public Access to Court-Martial Records***

The Services' FY20 reports express concerns about their limited resources to prepare and upload documents in a timely manner for public access pursuant to Article 140a(4); however, they do report progress toward this end. Docket information, results of trial, and filings and records for the Navy, Marine Corps, and Coast Guard are accessible through the Navy JAGC website,³⁴ while the Army makes these materials available through its JAGC site.³⁵ The Air Force has a system to provide docket information and court-martial results online; however, as of the drafting of this report, there do not appear to be any case records or filings uploaded.³⁶

³¹ The MJA16 amended Article 54 to require a court reporter to certify the record of trial, eliminating the statutory requirement for the military judge to authenticate the record of trial. To the extent the Services still require the military judge to authenticate the record of trial, there may be unnecessary delays in post-trial processing.

³² *United States v. Roberts*, ARMY 20130609 (May 27, 2020).

³³ See *United States v. Moreno*, 63 M.J. 129 (C.A.A.F. 2006).

³⁴ "Military Justice Administration Division," U.S. Navy JAG Corps, <https://jag.navylive.dodlive.mil/Military-Justice/>.

³⁵ "Welcome to the US Army Court-Martial Public Record System," US Army Court-Martial Public Record System, <https://www.jagcnet.army.mil/ACMPRS>.

³⁶ "The Judge Advocate General's Corps Air Force Docket," <https://legalassistance.law.af.mil/AMJAMS/PublicDocket/docket.html>.

Expansion of SVC Services to Domestic Violence Victims

Section 548 of the FY20 NDAA required the Secretary of Defense to implement a program to provide legal services to domestic violence victims who are otherwise eligible for military legal assistance.³⁷ To meet this requirement, the Services extended existing SVC services to domestic violence victims, and discovered the need for additional SVC billets to meet the new demand. The Services added SVC positions and revised training to cover domestic violence issues.³⁸ The Navy formed a Victims' Counsel Assistance Program, with five experienced VLCs providing real-time advice and training to other VLCs.

Recognizing the substantial changes to military justice in the past five years and the need to quickly adapt, some Services initiated their own evaluations of their respective military justice communities and programs, and are actively engaged in developing and implementing solutions to current issues.³⁹ Although the FY19 and FY20 Service reports reference these evaluations, they do not describe the findings, which are beyond the scope of this report.

³⁷ *Supra* note 29.

³⁸ In FY18, the Services reported the following numbers of SVCs/VLCs: Army (100), Navy (33), Marine Corps (25, including two auxiliary VLCs and 5 Marine reserve officer VLCs), and Coast Guard (10). *See supra* note 15, Reports of the Services on Military Justice for Fiscal Year 2018, Dec. 31, 2018. In FY20, the Army added 30 new SVC positions, the Navy approved 11 new VLC billets, the Marine Corps is working to increase its VLC billets, and the Coast Guard grew from 10 to 14 full-time SVC billets. The Air Force did not report the number of SVC billets or whether new billets were added in FY20.

³⁹ The Secretary of the Navy directed a review of the Navy JAG Corps and the Marine Corps legal community, while the Commandant of the Marine Corps approved an independent evaluation of the Marine Corps legal community conducted by the Center for Naval Analyses (CNA). Both of these studies were published in FY20.

PART II

SENTENCING DATA COLLECTION REPORT

I. Introduction

In Article 146(f)(2), UCMJ, Congress directed the MJRP to “gather and analyze sentencing data collected from each of the armed forces from general and special courts-martial applying offense-based sentencing.”⁴⁰ These sentencing data must include:

- the number of accused who request member sentencing and the number who request sentencing by military judge alone;
- the offenses of which the accused were convicted; and
- the resulting sentence for each offense in each case.⁴¹

To facilitate the MJRP’s work, the DLSA staff collected military justice source documents for all cases completed in FY20 that involved a preferred charge under the UCMJ. To determine the statutorily required sentencing data points, the staff analyzed the source documents for the cases in which the MJA16 applied.

With policymakers’ ongoing interest in reforming court-martial sentencing—including the elimination of member sentencing and implementation of sentencing parameters—access to timely and accurate sentencing data is essential.⁴² Indeed, previous committees recommended that DoD collect data to better understand sentencing trends for UCMJ offenses.⁴³

Part II of this report provides the sentencing data requested by Congress. Section II discusses the background of court-martial sentencing, including the MJA16 changes. Section III describes the methodology for collecting and analyzing the sentencing data. Finally, Section IV, along with the relevant appendixes, present the results of the staff’s analysis. Of note, the sentencing data in this report are drawn from only one fiscal year of cases, with many of the cases affected by COVID-19 pandemic protocols. Although these data are informative, the staff recommends that multiple years of data be collected and analyzed before such data are relied on for sentencing parameters.

⁴⁰ *Supra* note 4.

⁴¹ *Id.*

⁴² *See infra* Part II, Section II.C.

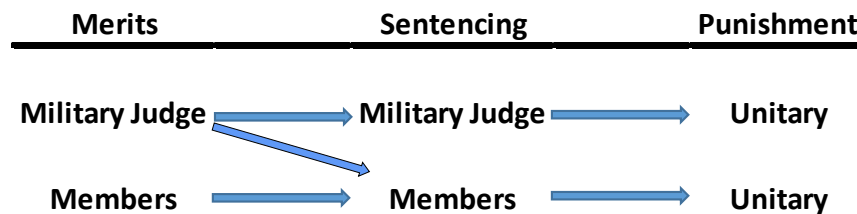
⁴³ In 2014, the Response Systems Panel to Adult Sexual Assault Crimes Panel recommended that the Secretary of Defense “direct the Service Secretaries to provide sentencing data, categorized by offense type . . . into a searchable DoD database, in order to: (1) conduct periodic assessments, (2) identify sentencing trends, or (3) address other relevant issues.” REPORT OF THE RESPONSE SYSTEMS TO ADULT SEXUAL ASSAULT CRIMES PANEL 137 (June 2014). The Military Justice Review Group noted in its 2015 report that “[m]ore accurate [sentencing] data would allow policy makers to know how the sentencing system is functioning, which is a significant prerequisite to evaluating its effectiveness and proposing changes.” REPORT OF THE MILITARY JUSTICE REVIEW GROUP, Part I, 510 (2015) [MJRG REPORT].

II. Background on Court-Martial Sentencing

A. Court-Martial Sentencing Prior to the Military Justice Act of 2016

Before the MJA16 took effect in January 2019, an accused at a general or special court-martial would be tried by a panel of members unless the accused requested a trial by military judge alone.⁴⁴ In noncapital cases, if an accused elected trial by a military judge alone, the military judge would adjudicate findings, conduct a sentencing hearing for any finding of guilt, and adjudge a sentence. If an accused was tried by a panel of members, then the members would adjudicate findings for any not guilty pleas and would sentence the accused on any findings of guilt.⁴⁵ The accused could not request judge-alone sentencing when the court-martial was composed of members for findings. All sentencing in the military was unitary, meaning that one single sentence was adjudged for all offenses of which the accused was found guilty.⁴⁶

Figure 1. Sentencing in Courts-Martial Before January 1, 2019⁴⁷



The sentencing proceeding usually occurred immediately after the announcement of a guilty verdict.⁴⁸ After the government presented sentencing evidence, the accused could elect to present evidence in extenuation or mitigation. The Military Rules of Evidence applied during the sentencing proceeding, unless those rules were relaxed by the military judge.⁴⁹

The maximum punishment for each enumerated military offense was set by the President of the United States through executive order. The sentencing authority exercised broad discretion when imposing sentences. For most offenses, a sentence could range anywhere from no punishment to the maximum punishment.⁵⁰ For a few select offenses—premeditated murder, felony murder, spying, and certain sexual offenses—Congress imposed mandatory minimum punishments.⁵¹

⁴⁴ MANUAL FOR COURTS-MARTIAL, UNITED STATES (2016) [2016 MCM], Rule for Courts-Martial (R.C.M.) 903.

⁴⁵ For any guilty pleas, the military judge would enter findings after determining whether to accept the pleas, unless the plea was to a lesser included offense and the government planned to proceed to trial on the greater offense. Sentencing would still be by members for all offenses in which there were guilty findings. *Id.* at R.C.M. 910.

⁴⁶ *Id.* at R.C.M. 1002(b). To determine the maximum authorized confinement, the court adds the maximum confinement for each individual offense. *Id.* at R.C.M. 1003(c)(1)(C).

⁴⁷ For the arrows going straight across for a military judge and members, Figure 1 represents sentencing options for not guilty pleas. Figure 1 also depicts scenarios where a military judge enters findings of guilty on the merits and members conduct sentencing as requested by an accused. 2016 MCM, *supra* note 44, R.C.M. 910. *See supra* note 45 for guilty plea options.

⁴⁸ MJRG REPORT, *supra* note 43, at 469.

⁴⁹ 2016 MCM, *supra* note 44, R.C.M. 1001.

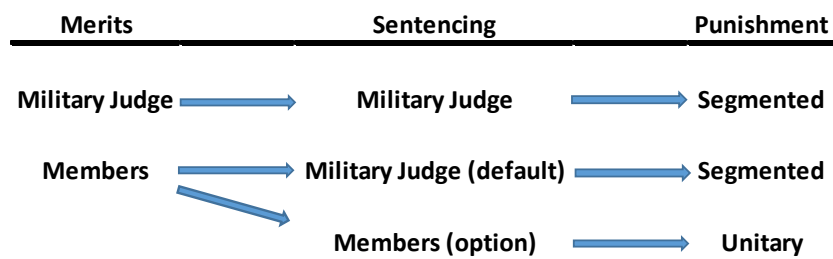
⁵⁰ *Id.* at R.C.M. 1002(a).

⁵¹ *See, e.g.*, Article 118, UCMJ; National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1705, 127 Stat. 672 (2013).

B. Changes to Sentencing in the Military Justice Act of 2016

Congress revised court-martial sentencing in the MJA16.⁵² The MJA16 provides that in all noncapital cases in which an accused requests judge-alone findings, the military judge also sentences the accused.⁵³ In courts-martial composed of members for findings, the accused may elect sentencing by members in lieu of the default—sentencing by a military judge alone.⁵⁴ If the military judge sentences the accused, the judge applies segmented sentencing, also known as offense-based sentencing: that is, a separate term of confinement and fine is adjudged for each specification.⁵⁵ If a sentence has more than one term of confinement, the judge also determines whether the confinement terms will run concurrently or consecutively.⁵⁶ In contrast, in cases in which the accused elects members for sentencing, the members apply unitary sentencing.⁵⁷

Figure 2. Sentencing in Courts-Martial After January 1, 2019⁵⁸



In “straddle” cases in which the accused is charged with offenses that occurred before and after January 1, 2019 (MJA16 effective date),⁵⁹ pursuant to Rule for Courts-Martial (R.C.M.) 902A, the accused could elect to be sentenced under the old (pre-MJA16) or new sentencing systems.⁶⁰

Military sentencing practice continues to require the President to establish, by executive order, maximum punishments for offenses. Other than for the offenses with mandatory minimums, sentences may still be announced within a range from no punishment up to the maximum authorized, at the discretion of the judge or panel members conducting the sentencing. The MJA16 codified in the UCMJ those limited instances involving sexual assault convictions that have a mandatory minimum sentence in the form of a required punitive discharge.⁶¹

⁵² *Supra* note 1.

⁵³ After the MJA16 changes, all pleas of guilty by an accused are heard and accepted or rejected by a military judge alone, even when the same case has contested findings adjudicated by members. In such cases, the accused can elect sentencing by the members who determined findings on the contested charges, or sentencing by a military judge alone.

⁵⁴ MANUAL FOR COURTS-MARTIAL, UNITED STATES (2019) [2019 MCM], R.C.M. 1002(b).

⁵⁵ *Id.* at R.C.M. 1002(d)(2)(A).

⁵⁶ *Id.* at R.C.M. 1002(d)(2)(B).

⁵⁷ *Id.* at R.C.M. 1002(d)(1). Under the MJA16 changes, all sentences other than death that are imposed by members now require the concurrence of at least three-fourths of the members. *See* Article 52(b), UCMJ.

⁵⁸ This figure represents sentencing options for not guilty pleas. *See supra* note 53 for guilty plea options.

⁵⁹ *See infra* Part II, Section III for a discussion of the population of cases analyzed in this report, including the straddle cases.

⁶⁰ 2019 MCM, *supra* note 54, R.C.M. 902A.

⁶¹ Article 56(b), UCMJ.

C. Ongoing Interest in Court-Martial Sentencing Reforms

Following the MJA16 changes, as part of the FY20 NDAA, Congress directed the Secretary of Defense to establish nonbinding sentencing guidelines for UCMJ offenses, using the sentencing data collected by the MJRP, to “provide the sentencing authority with a suggested range of punishments, including suggested ranges of confinement, that will generally be appropriate for a violation of each offense.”⁶² Congress also directed the Secretary to provide an assessment of the feasibility and advisability of implementing sentencing guidelines in panel sentencing cases.⁶³

More recently, in February 2021, the Secretary of Defense established the Independent Review Commission (IRC) on Sexual Assault in the Military, a 90-day commission “charged with conducting an independent, impartial assessment of the military’s current treatment of sexual assault and sexual harassment.”⁶⁴ Among its many recommendations, the IRC recommended that Congress amend the UCMJ to require judge-alone sentencing in all noncapital general and special courts-martial and to establish sentencing parameters, noting that such reforms would reduce sentencing disparities.⁶⁵ In September 2021, the Secretary of Defense released implementation guidance for the IRC’s recommendations, categorizing the IRC’s sentencing recommendations as Tier 1 recommendations that “build the Department’s basic foundation and infrastructure for a best-in-practice sexual assault prevention and response program.”⁶⁶ Both the Senate and House of Representatives introduced versions of the National Defense Authorization Act for Fiscal Year 2022 (FY22 NDAA) to eliminate member sentencing at special and general courts-martial in noncapital cases and establish sentencing parameters and criteria.⁶⁷

The Senate and House versions of the FY22 NDAA, along with the IRC recommendations, mirror earlier sentencing recommendations made by the Military Justice Review Group (MJRG), a 2014 panel of experts that completed a comprehensive review of the military justice system.⁶⁸ Most MJRG recommendations to Congress were incorporated in the MJA16; however, several recommendations to modify court-martial sentencing were not adopted, including: (1) the recommendation to require sentencing by a military judge in all noncapital general and special courts-martial, even when members adjudicated the findings; and (2) the recommendation to establish a board to develop sentencing parameters and criteria for each punitive UCMJ article.⁶⁹

⁶² National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 537, 133 Stat. 1198 (2019).

⁶³ The guidelines and assessment must be provided to the Committees on Armed Services of the Senate and House of Representatives within one year of the date of the MJRP’s first report. *Id.*

⁶⁴ IRC REPORT, *supra* note 12, at 3.

⁶⁵ *Id.* at 46.

⁶⁶ Secretary of Defense, *Memorandum on Commencing DoD Actions and Implementation to Address Sexual Assault and Sexual Harassment in the Military* (Sept. 22, 2021).

⁶⁷ See National Defense Authorization Act for Fiscal Year 2022, H.R. 4350, 117th Cong., § 539F (2021); National Defense Authorization Act for Fiscal Year 2022, S. 2792, 117th Cong., § 544 (2021).

⁶⁸ MJRG REPORT, *supra* note 43, at 13.

⁶⁹ The MJRG explained that a sentencing parameter “would provide an upper and lower limit on the sentence that may be imposed, but one that the military judge could depart from when warranted by the facts of a case and to fashion an individualized sentence for the offender.” Deviation from the range would require written analysis and be subject to appellate review. Sentencing criteria would apply to offenses for which it would be impracticable to set a parameter: they “would consist of factors that aggravate or mitigate the severity of an offense and that the military judge must consider, but would not constrain the development of an appropriate sentence.” *Id.* at 512–28.

III. Methodology

A. Analysis of Source Documents

In December 2020, a request for information (RFI) to the Services requested a list of all military justice cases completed in FY20 that involved a preferred charge under the punitive articles of the UCMJ.⁷⁰ For the RFI, a “completed case” was a case tried to verdict at general court-martial or special court-martial. Cases “tried to verdict” included convictions, acquittals, plea agreements, and cases in which charges were dismissed.

The staff reviewed the completed case spreadsheets to confirm the cases were responsive to the RFI. For each responsive case, the staff requested the following documents from the Services:⁷¹

- Department of Defense Form 458, Charge Sheet;
- Statement of Trial Results;
- Entry of Judgment;
- Promulgation Order; and
- Pretrial Agreement.

From the charge sheets, the staff analyzed the dates of the charges and specifications and referral type to determine whether the case fell under:

- a. pre-MJA16 sentencing system: for offenses that occurred before January 1, 2019; or
- b. post-MJA16 sentencing system: for offenses that occurred after January 1, 2019.

The 490 pre-MJA16 cases were not analyzed for this project, given the statutory requirement for this sentencing report.⁷² This report analyzed 542 post-MJA16 cases and 270 “straddle” cases.

For the 270 “straddle” cases—those in which offenses occurred both before and after January 1, 2019—the staff examined the source documents to determine whether the accused made an affirmative selection regarding the pre-MJA16 or post-MJA16 sentencing system. If the source documents did not indicate the accused’s selection, the staff used the final result to determine which sentencing system applied.⁷³ For 28 of the 270 straddle cases, the source documents did not indicate which sentencing scheme applied. These 28 cases were categorized as indeterminate and, like the pre-MJA16 cases, were not analyzed further for purposes of this project.⁷⁴

⁷⁰ Due to the time required to conduct a criminal investigation and adjudicate a case, the staff requested cases completed in FY20, recognizing that cases tried in FY19 were unlikely to be governed by the MJA16’s segmented sentencing system. In addition, Article 146(f)(2), UCMJ, requires the MJRP to gather and analyze sentencing data from FY20. Military Justice Review Panel Request for Information 1 (Dec. 3, 2020) [MJRP RFI 1] is included at Appendix C.

⁷¹ See MJRP RFI 1 at Appendix C.

⁷² See *infra* Tables 1 and 2.

⁷³ In straddle cases, if members found the accused guilty but a judge determined the sentence, the staff concluded that the accused selected the post-MJA16 sentencing system.

⁷⁴ Generally, the indeterminate cases were: (1) straddle cases that resulted in an acquittal; (2) straddle cases with a judge-alone conviction for a single offense; or (3) straddle cases that had both member findings and sentencing.

Table 1. Application of Pre- and Post-MJA16 Sentencing Systems in FY 2020 Cases

FY20 Cases	Pre-MJA16 / Indeterminate		Post-MJA 16	
	n	%	n	%
Army (N=582)	203	35%	379	65%
Marine Corps (N=229)	90	39%	139	61%
Navy (N=197)	95	48%	102	52%
Air Force (N=284)	125	44%	159	56%
Coast Guard (N=10)	5	50%	5	50%
Total (N=1,302)	518	40%	784	60%

Of the 1,302 total completed cases in FY20, 784 used the post-MJA16 sentencing system. The 784 post-MJA16 cases include 242 straddle cases in which the accused elected the post-MJA16 sentencing system.

Of the 784 post-MJA16 cases, 711 resulted in a conviction.⁷⁵ For these 711 cases:

- In 682 cases, the accused was sentenced by a military judge.
- In 29 cases, the accused was sentenced by a member panel.

Offense-based sentencing only applied in the 682 post-MJA16 cases in which the accused was sentenced by a military judge (see Table 2).

Table 2. Number of FY 2020 Cases Applying Offense-Based Sentencing

Cases Applying Offense-Based Sentencing	
Army	330
Marine Corps	129
Navy	92
Air Force	126
Coast Guard	5
Total	682

⁷⁵ For the 784 cases that applied post-MJA16 sentencing procedures, the staff analyzed the Statement of Trial Results or the Entry of Judgment to determine whether the accused was convicted or the case resulted in a full acquittal. Across the Services, acquittals comprised 72 of the 784 cases in which the post-MJA16 sentencing system applied. Plea agreements comprised 589 of the 711 cases in which a conviction was obtained and the post-MJA16 sentencing system applied. One Air Force case identified under the MJA16 resulted in a dismissal by a judge and was not analyzed further.

B. Analysis of Offense-Based Sentences

Article 146(f)(2), UCMJ, requires analysis of offense-based sentences to determine: (1) the offenses of which the accused were convicted; and (2) the resulting sentence for each offense in each case.⁷⁶ This report defines offenses according to their statutory elements and, to reflect facts that might increase punishment, any aggravating factors prescribed by the President.⁷⁷ The maximum punishment chart at Appendix 12 of the MCM lists the maximum authorized discharge, confinement, and forfeiture for every UCMJ offense.⁷⁸ Some punitive articles consist of a single offense with one set of elements and one permissible maximum punishment, while other punitive articles have multiple related offenses with different sets of statutory elements or aggravating factors and thus different permissible maximum punishments.⁷⁹

The 682 judge-alone sentencing cases included convictions on 2,430 offenses⁸⁰ which were categorized based on Appendix 12 of the MCM.⁸¹ The staff recorded the confinement terms for each case and whether the confinement terms were applied consecutively or concurrently.⁸²

Table 3. Number of Offenses Analyzed for Offense-Based Sentencing

Number of Offenses Analyzed	
Army	1,127
Marine Corps	457
Navy	292
Air Force	531
Coast Guard	23
Total	2,430

⁷⁶ The UCMJ does not define the word “offense.”

⁷⁷ Any statutory element or aggravating factor that exposes an accused to a different maximum punishment constitutes an element of a separate legal offense. *Apprendi v. New Jersey*, 530 U.S. 466, 483 n.10 (2000) (“Put simply, facts that expose a defendant to a punishment greater than that otherwise legally prescribed were by definition “elements” of a separate legal offense.”); *see also Alleyne v. United States*, 570 U.S. 99, 103 (2013) (“Any fact that, by law, increases the penalty for a crime is an ‘element’ that must be submitted to the jury and found beyond a reasonable doubt.”); *Mathis v. United States*, 136 S.Ct. 2243, 2258–59 (2016) (“If statutory alternatives carry different punishments, then under *Apprendi* they must be elements.”).

⁷⁸ 2019 MCM, *supra* note 54, Appendix 12. Appendix 12, MCM, is a reference tool and not the authority for specific punishments.

⁷⁹ For example, Article 120, UCMJ, defines four offenses with four different permissible maximum punishments: the maximum confinement for rape under 120(a) is life; the maximum confinement for sexual assault under 120(b) is 30 years; the maximum confinement for aggravated sexual contact under 120(c) is 20 years; and the maximum confinement for abusive sexual contact under 120(d) is 7 years. *See* 2019 MCM, *supra* note 54, Part IV.

⁸⁰ Data were collected from the Statement of Trial Results and Entry of Judgment in the 682 judge-alone sentencing cases.

⁸¹ The staff included offenses added after 2019 and not contained in Appendix 12 of the 2019 MCM.

⁸² The MJA16 reorganized the punitive articles by transferring and redesignating 16 UCMJ articles. For cases with a conviction under a punitive article not yet redesignated, the staff converted the pre-MJA16 punitive article into the post-MJA16 article. *See* Appendix E.

IV. Results of Analysis of Court-Martial Sentencing

A. The Number of Accused Who Request Member Sentencing and the Number Who Request Sentencing by Military Judge Alone

Of the 784 FY20 cases studied in this report that applied post-MJA16 sentencing, 711 resulted in a conviction. For these 711 cases resulting in a conviction, Table 4 analyzes the number of accused who requested member sentencing (29, 4%) and the number who requested military judge-alone sentencing (682, 96%).

Table 4. Member Sentencing and Judge-Along Sentencing in FY 2020 Cases

MJA16 with Convictions	Member Sentencing		Judge-Along Sentencing	
	n	%	n	%
Army (N=340)	10	3%	330	97%
Marine Corps (N=131)	2	2%	129	98%
Navy (N=96)	4	4%	92	96%
Air Force (N=139)	13	9%	126	91%
Coast Guard (N=5)	0	0%	5	100%
Total (N=711)	29	4%	682	96%

Of the 711 cases that resulted in a conviction, 54 (7.6%) were tried at a court-martial with members. For these 54 cases tried by members that resulted in a conviction, Table 5 analyzes the number of accused who elected to be sentenced by the members (25, 46%) and the number of accused who were sentenced by the military judge (29, 54%).⁸³

Table 5. Member Sentencing and Judge-Along Sentencing in FY 2020 Contested Cases Tried in Front of Members⁸⁴

MJA16 Contested Cases Tried in Front of Members Resulting in Conviction	Member Sentencing		Judge-Along Sentencing	
	n	%	n	%
Army (N=33)	10	30%	23	70%
Marine Corps (N=5)	2	40%	3	60%
Navy (N=5)	4	80%	1	20%
Air Force (N=11)	9	82%	2	18%
Total (N=54)	25	46%	29	54%

⁸³ There were 43 contested cases tried in front of members that resulted in a full acquittal. In four Air Force cases, a plea agreement was entered and the members conducted sentencing. See Table 4 indicating 29 total cases with member sentencing.

⁸⁴ The Coast Guard did not have any contested cases tried in front of members.

B. The Offenses of Which the Accused Were Convicted, and the Resulting Sentence for Each Offense in Each Case

As discussed earlier, Article 146(f)(2) requires that sentencing data be collected and analyzed for cases involving offense-based sentencing during FY20. Offense-based sentencing applies only in post-MJA16 cases with judge-alone sentencing. For this study, across the Services in FY20, 682 cases involved offense-based sentencing.

Based on the large population of cases analyzed—682 cases with convictions on a total of 2,430 offenses—the data on offense-based sentencing are provided separately in the appendixes. Appendix D presents the data on the minimum, maximum, and median confinement term received for each offense. Appendix E presents the data on the offenses of which the accused were convicted and the resulting confinement term for each offense in each case.

PART III

ASSESSMENT

I. Staff Assessment

A significant feature of the MJA16 was the creation of the MJRP,⁸⁵ a panel of private citizens with criminal justice expertise tasked with conducting independent periodic reviews and assessments of the military justice system. Congress directed the MJRP to evaluate the Services' implementation of the last five years of UCMJ amendments with a report due in December 2021. With the MJRP not yet established, DLSA staff attorneys completed this report. Although the staff collected the sentencing data requested by Congress, the staff could not provide the same robust review of the MJA16 and subsequent amendments that the MJRP would have provided. Given the heightened interest in the military justice system, the challenges of racial inequities, and continued problems with sexual misconduct in the military, the MJRP must be established to provide a thorough, independent assessment of the military justice system.

Without an MJRP, Part I of this report was limited to a summary of the Services' own self-assessments. The staff did not independently verify the Services' reports or question the various stakeholders in the military justice system. To fully assess the recent amendments, among other questions, the staff would have sought the following additional information:

- Are the Services effectively modernizing their information technology to meet the data collection, public access, and transparency requirements of Article 140a, UCMJ?
- How are SJAs and commanders exercising prosecution authority in accordance with the disposition guidance found in Appendix 2.1 of the MCM? Are commanders' decisions to send cases to trial subject to undue influences, resulting in Service members' erosion of trust?
- Are the Services complying with FY19 NDAA provisions for titling individuals suspected of crimes, given the concern about racial disparities in arresting and titling Service members?
- Are the Services complying with new rules for post-trial processing, such as shifting responsibility for authenticating the record from military judge to court reporter?
- Are the Services effectively utilizing the new authorities for military magistrates and pre-trial investigative tools such as warrants and subpoenas?
- How is the case law developing through the courts to shape the interpretation and implementation of the last five years' amendments to the UCMJ?
- Are Service members and the government utilizing the greater access to appellate courts?
- How are the new criminal offenses being reported and investigated? For example, is the new Article 117a, UCMJ (wrongful broadcast or distribution of intimate visual images) being investigated by the MCIOs or at a lower-level?
- Have the Services' specialization programs for judge advocates been implemented in a meaningful way and are they having an impact on prosecution and conviction rates?

⁸⁵ Article 146, UCMJ.

Similarly, Part II of this report was limited to a presentation of the FY20 sentencing data requested by Congress, without additional analysis to provide further insights into recent and proposed sentencing reforms. It is also advisable to consider more than a single year of data in the development of any proposed sentencing parameters. A comprehensive understanding of military sentencing would be enhanced by addressing the following topics:

- Does the data indicate disparities in sentencing based on the demographic factors of the accused and victim, including race, ethnicity, gender, and rank?
- Are the Services implementing the new plea agreement rules uniformly and preserving the military judge's discretion to impose an appropriate sentence?
- How do sentences in cases involving plea agreements compare with sentences in cases without plea agreements?

II. Issues for Assessment in 2024

The MJRP's first comprehensive review of the UCMJ is due to Congress on December 31, 2024.⁸⁶ Once assembled, the MJRP will determine which UCMJ issues to consider for the 2024 report. The Secretary of Defense may also ask the MJRP to consider specific military justice matters.⁸⁷ This report summarizes the Services' FY19 and FY20 information; however, the 2024 MJRP report will benefit from five full years of data and analysis to provide a more informed understanding of the impact of five years of UCMJ changes on the military justice system. In addition to the above topics, the MJRP may consider the following issues in its 2024 comprehensive review:

- How have the Services employed the new pre-referral tools for investigative subpoenas, warrants, and orders for electronic communications?
- How is the new disposition guidance in Article 33 and Appendix 2.1 of the Manual for Courts-Martial (MCM) affecting the disposition of criminal charges?
- What do the data show about offense-based sentencing and sentences imposed by military judges?
- Are plea agreements uniformly administered across the Services in such a way that the military judge maintains discretion to impose an appropriate sentence?
- Are the Services effectively using technology to improve post-trial processing timelines?
- Do the Services' case management systems adhere to the Article 140a requirement for uniform data collection, and what do the data indicate about racial and ethnic disparities in the administration of justice?
- How are the Service Courts of Criminal Appeals applying the amended factual sufficiency review under Article 66(d)?⁸⁸

⁸⁶ *Supra* note 6.

⁸⁷ Article 146(f)(4), UCMJ.

⁸⁸ In the FY21 NDAA, Congress amended Article 66(d) to allow a Service Court of Criminal Appeals to overturn a guilty verdict only upon a specific showing of a factual deficiency, when the finding is clearly against the weight of the evidence, affording greater deference to the fact-finders' verdict. *See* Section 542(b)(1)(B) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283 (2021).

Appendix A. UCMJ Amendments in National Defense Authorization Acts for FYs 2017-2021*

Article	Amendments and New Provisions
Subchapter I: General Provisions	
Article 1	Definitions – [FY17 NDAA § 5101].
Article 2	Persons subject to this chapter – [FY17 NDAA § 5102].
Article 6	Judge advocates and legal officers – [FY17 NDAA § 5103].
Article 6a	Investigation and disposition of matters pertaining to the fitness of military judges – [FY17 NDAA § 5104].
Article 6b	Rights of the victim of an offense under this chapter – [FY17 NDAA § 5105], [FY18 NDAA § 531(a)], [FY21 NDAA § 541].
Subchapter II: Apprehension and Restraint	
Article 10	Restraint of persons charged – [FY17 NDAA § 5121].
Article 12	Prohibition of confinement of members of the armed forces with enemy prisoners and certain others – [FY17 NDAA § 5122].
Subchapter III: Nonjudicial Punishment	
Article 15	Commanding officer’s non-judicial punishment – [FY17 NDAA § 5141].
Subchapter IV: Court-martial Jurisdiction	
Article 16	Courts-martial classified – [FY17 NDAA § 5161].
Article 18	Jurisdiction of general courts-martial – [FY17 NDAA § 5162].
Article 19	Jurisdiction of special courts-martial – [FY17 NDAA § 5163].
Article 20	Jurisdiction of summary courts-martial – [FY17 NDAA § 5164].

Subchapter V: Composition of Courts-martial	
Article 22	Who may convene general courts-martial – [FY17 NDAA § 5181].
Article 25	Who may serve on courts-martial – [FY17 NDAA § 5182].
Article 25a	Number of court-martial members in capital cases – [FY17 NDAA § 5183].
Article 26	Military judge of a general or special court-martial – [FY17 NDAA § 5184].
Article 26a	Military magistrates – [FY17 NDAA § 5185].
Article 27	Detail of trial counsel and defense counsel – [FY17 NDAA § 5186].
Article 29	Assembly and impaneling of members; detail of new members and military judges – [FY17 NDAA § 5187].
Subchapter VI: Pre-trial Procedure	
Article 30	Charges and specifications – [FY17 NDAA § 5201].
Article 30a	Certain proceedings conducted before referral – [FY17 NDAA § 5202], [FY18 NDAA § 531(b)], [FY20 NDAA § 531].
Article 32	Preliminary hearing required before referral to general court-martial – [FY17 NDAA § 5203].
Article 33	Disposition guidance – [FY17 NDAA § 5204].
Article 34	Advice to convening authority before referral for trial – [FY17 NDAA § 5205].
Article 35	Service of charges; commencement of trial – [FY17 NDAA § 5206].
Subchapter VII: Trial Procedure	
Article 37	Command influence – [FY20 NDAA § 532].
Article 38	Duties of trial counsel and defense counsel – [FY17 NDAA § 5221], [FY18 NDAA § 531(c)].
Article 39	Sessions – [FY17 NDAA § 5222].
Article 40	Continuances – [FY17 NDAA § 5223].
Article 41	Challenges – [FY17 NDAA § 5224].
Article 43	Statute of limitations – [FY17 NDAA § 5225], [FY18 NDAA § 531] [FY20 NDAA § 533].

Article 44	Former jeopardy – [FY17 NDAA § 5226].
Article 45	Pleas of the accused – [FY17 NDAA § 5227].
Article 46	Opportunity to obtain witnesses and other evidence in trial by court-martial – [FY17 NDAA § 5228].
Article 47	Refusal of person not subject to chapter to appear, testify, or produce evidence – [FY17 NDAA § 5229].
Article 48	Contempt – [FY17 NDAA § 5230].
Article 49	Depositions – [FY17 NDAA § 5231].
Article 50	Admissibility of sworn testimony from records of courts of inquiry – [FY17 NDAA § 5232].
Article 50a	Defense of lack of mental responsibility – [FY17 NDAA § 5233].
Article 51	Voting and rulings – [FY17 NDAA § 5234].
Article 52	Votes required for conviction, sentencing, and other matters – [FY17 NDAA § 5235].
Article 53	Findings and sentencing – [FY17 NDAA § 5236].
Article 53a	Plea agreements – [FY17 NDAA § 5237], [FY18 NDAA § 531(d)].
Article 54	Record of trial – [FY17 NDAA § 5238].
Subchapter VIII: Sentences	
Article 56	Sentencing – [FY17 NDAA § 5301], [FY18 NDAA § 531(e)].
Article 56a	Repealed. Pub. L. 114-328, div. E, title LVIII, §5301(b), Dec. 23, 2016, 130 Stat. 2920 – [FY17 NDAA § 5301(b)].
Article 57	Effective date of sentences – [FY17 NDAA § 5302].
Article 57a	Repealed. Pub. L. 114-328, div. E, title LVIII, §5302(b)(1), Dec. 23, 2016, 130 Stat. 2923 – [FY17 NDAA § 5302].
Article 58a	Sentences: reduction in enlisted grade – [FY17 NDAA § 5303], [FY18 NDAA § 531(f)].
Article 58b	Sentences: forfeiture of pay and allowances during confinement – [FY17 NDAA § 5302], [FY18 NDAA § 531(g)].

Subchapter IX: Post-trial Procedure and Review of Courts-martial	
Article 60	Post-trial processing in general and special courts-martial – [FY17 NDAA § 5321].
Article 60a	Limited authority to act on sentence in specified post-trial circumstances – [FY17 NDAA § 5322].
Article 60b	Post-trial actions in summary courts-martial and certain general and special courts-martial – [FY17 NDAA § 5323].
Article 60c	Entry of judgment – [FY17 NDAA § 5324], [FY18 NDAA § 531].
Article 61	Waiver of right to appeal; withdrawal of appeal – [FY17 NDAA § 5325].
Article 62	Appeal by the United States – [FY17 NDAA § 5326], [FY18 NDAA § 531(h)].
Article 63	Rehearings – [FY17 NDAA § 5327], [FY18 NDAA § 531(i)].
Article 64	Judge advocate review of finding of guilty in summary court-martial – [FY17 NDAA § 5328].
Article 65	Transmittal and review of records – [FY17 NDAA § 5329].
Article 66	Courts of Criminal Appeals – [FY17 NDAA § 5330], [FY18 NDAA § 531(j)(1),(2)], [FY21 NDAA § 542(a),(b)].
Article 67	Review by the Court of Appeals for the Armed Forces – [FY17 NDAA § 5331].
Article 67a	Review by the Supreme Court – [FY17 NDAA § 5332], [FY21 NDAA § 542(c)].
Article 69	Review by Judge Advocate General – [FY17 NDAA § 5333].
Article 70	Appellate counsel – [FY17 NDAA § 5334].
Article 71	Repealed. Pub. L. 114-328, div. E, title LVIII, §5302(b)(2), Dec. 23, 2016, 130 Stat. 2923 – [FY17 NDAA § 5302].
Article 72	Vacation of suspension – [FY17 NDAA § 5335].
Article 73	Petition for a new trial – [FY17 NDAA § 5336].
Article 75	Restoration – [FY17 NDAA § 5337].
Article 76a	Leave required to be taken pending review of certain court-martial convictions – [FY17 NDAA § 5338].

Subchapter X: Punitive Articles	
Article 79	Conviction of offense charged, lesser included offenses, and attempts – [FY17 NDAA § 5402].
Article 82	Soliciting commission of offenses – [FY17 NDAA § 5403].
Article 83	Malingering – [FY17 NDAA § 5404].
Article 84	Breach of medical quarantine – [FY17 NDAA § 5405].
Article 87	Missing movement; jumping from vessel – [FY17 NDAA § 5406].
Article 87a	Resistance, flight, breach of arrest, and escape – [FY17 NDAA § 5401(2)].
Article 87b	Offenses against correctional custody and restriction – [FY17 NDAA § 5407].
Article 89	Disrespect toward superior commissioned officer; assault of superior commissioned officer – [FY17 NDAA § 5408].
Article 90	Willfully disobeying superior commissioned officer – [FY17 NDAA § 5409].
Article 93a	Prohibited activities with military recruit or trainee by person in position of special trust – [FY17 NDAA § 5410].
Article 95	Offenses by sentinel or lookout – [FY17 NDAA § 5411].
Article 95a	Disrespect toward sentinel or lookout – [FY17 NDAA § 5412].
Article 96	Release of prisoner without authority; drinking with prisoner – [FY17 NDAA § 5413].
Article 98	Misconduct as a prisoner – [FY17 NDAA § 5401(6)].
Article 103	Spies – [FY17 NDAA § 5414].
Article 103a	Espionage – [FY17 NDAA § 5401(7)].
Article 103b	Aiding the enemy – [FY17 NDAA § 5401(5)].
Article 104	Public records offenses – [FY17 NDAA § 5415].
Article 104a	Fraudulent enlistment, appointment, or separation – [FY17 NDAA § 5401(1)].
Article 104b	Unlawful enlistment, appointment, or separation – [FY17 NDAA § 5401(1)].
Article 105	Forgery – [FY17 NDAA § 5401(12)].

Article 105a	False or unauthorized pass offenses – [FY17 NDAA § 5416].
Article 106	Impersonation of officer, noncommissioned or petty officer, or agent or official – [FY17 NDAA § 5417].
Article 106a	Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button – [FY17 NDAA § 5418].
Article 107	False official statements; false swearing – [FY17 NDAA § 5419].
Article 107a	Parole violation – [FY17 NDAA § 5420].
Article 108a	Captured or abandoned property – [FY17 NDAA § 5401(4)].
Article 109a	Mail matter: wrongful taking, opening, etc. – [FY17 NDAA § 5421].
Article 110	Improper hazarding of vessel or aircraft – [FY17 NDAA § 5422].
Article 111	Leaving scene of vehicle accident – [FY17 NDAA § 5423].
Article 112	Drunkeness and other incapacitation offenses – [FY17 NDAA § 5424].
Article 113	Drunken or reckless operation of a vehicle, aircraft, vessel – [FY17 NDAA § 5425].
Article 114	Endangerment offenses – [FY17 NDAA § 5426].
Article 115	Communicating threats – [FY17 NDAA § 5427].
Article 117a	Wrongful broadcast or distribution of intimate visual images – [FY18 NDAA § 533].
Article 118	Murder – [FY17 NDAA § 5428].
Article 119b	Child endangerment – [FY17 NDAA § 5429].
Article 120	Rape and sexual assault generally – [FY17 NDAA § 5430].
Article 120a	Mails: deposit of obscene matter – [FY17 NDAA § 5431].
Article 120b	Rape and sexual assault of a child – [FY17 NDAA § 5430(c)].
Article 121a	Fraudulent use of credit cards, debit cards, and other access devices – [FY17 NDAA § 5432].
Article 121b	False pretenses to obtain services – [FY17 NDAA § 5433].
Article 122	Robbery – [FY17 NDAA § 5434].

Article 122a	Receiving stolen property – [FY17 NDAA § 5435].
Article 123	Offenses concerning Government computers – [FY17 NDAA § 5436].
Article 124	Frauds against the United States – [FY17 NDAA § 5401(14)].
Article 124a	Bribery – [FY17 NDAA § 5437].
Article 124b	Graft – [FY17 NDAA § 5438].
Article 125	Kidnapping – [FY17 NDAA § 5439].
Article 126	Arson; burning property with intent to defraud – [FY17 NDAA § 5440].
Article 128	Assault – [FY17 NDAA § 5441], [FY19 NDAA § 531].
Article 128a	Maiming – [FY17 NDAA § 5401(13)].
Article 128b	Domestic violence – [FY19 NDAA § 532].
Article 129	Burglary; unlawful entry – [FY17 NDAA § 5442].
Article 130	Stalking – [FY17 NDAA § 5443].
Article 131a	Subornation of perjury – [FY17 NDAA § 5444].
Article 131b	Obstructing justice – [FY17 NDAA § 5445].
Article 131c	Misprision of serious offense – [FY17 NDAA § 5446].
Article 131d	Wrongful refusal to testify – [FY17 NDAA § 5447].
Article 131e	Prevention of authorized seizure of property – [FY17 NDAA § 5448].
Article 131f	Noncompliance with procedural rules – [FY17 NDAA § 5401(3)].
Article 131g	Wrongful interference with adverse administrative proceeding – [FY17 NDAA § 5449].
Article 132	Retaliation – [FY17 NDAA § 5450].
Article 134	General article – [FY17 NDAA § 5451].

Subchapter XI: Miscellaneous Provisions	
Article 135	Courts of inquiry – [FY17 NDAA § 5501].
Article 136	Authority to administer oaths – [FY17 NDAA § 5502].
Article 137	Articles to be explained – [FY17 NDAA § 5503].
Article 140a	Case management; data collection and accessibility – [FY17 NDAA § 5504], [FY20 NDAA § 534], [FY21 NDAA § 542].
Article 146	Military Justice Review Panel – [FY17 NDAA § 5521], [FY18 NDAA § 531(k)].
Article 146a	Annual reports – [FY17 NDAA § 5522], [FY21 NDAA § 542(d)].

*** Sources:**

National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, 130 Stat. 2000 (2016).

National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, 131 Stat. 1283 (2017).

John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, 132 Stat. 1636 (2018).

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Appendix B. DoD, OGC, Memorandum: Article 140a Uniform Standards and Criteria (Dec. 2018)



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

DEC 17 2018

GENERAL COUNSEL

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Uniform Standards and Criteria Required by Article 140a, Uniform Code of Military Justice (UCMJ)

Pursuant to Article 140a of the UCMJ, 10 U.S.C. § 940a, as enacted by section 5504 of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, 130 Stat. 2961, and DoD Directive 5145.01, I prescribe the attached uniform standards and criteria for the military justice system, to be implemented no later than December 23, 2020.

I am forwarding a copy of these uniform standards and criteria to the Judge Advocate General of the Coast Guard for adoption with regard to that Military Service as deemed appropriate by the applicable decision makers.



Paul C. Ney, Jr.
DoD General Counsel

cc:
Judge Advocates General of the Military Departments
Staff Judge Advocate to the Commandant of the Marine Corps
Judge Advocate General of the Coast Guard



Military Justice Case Management, Data Collection, and Accessibility Standards

I. Case Management System

A. Each Military Service will maintain and operate a military justice case processing and management system. Each system will track every case opened by military law enforcement in which a Service member is identified as a subject until completion through the final disposition within the military justice system, to include direct appellate review. Each military justice case processing and management system will maintain all data collected indefinitely to ensure complete and accurate reporting. Each military justice case processing and management system must ensure accessibility by trial counsel, appellate government counsel, staff judge advocates, military judges, appellate judges, and Service clerks of court to ensure data fields are updated throughout the military justice process.

B. Two or more Military Services may operate a military justice case processing and management system in conjunction with each other.

II. Collection and Analysis of Data Concerning Substantive Offenses and Procedural Matters

A. Each military justice case processing and management system will be capable of collecting information in accordance with the Data Points and Uniform Definitions set out in Appendix A.

B. Each Military Service is responsible for implementing standards to ensure the data entry is complete and accurate. To ensure the collection of uniform data across the Services, each case processing and management system will identify criminal offenses by the appropriate Defense Incident-Based Reporting System (DIBRS) Codes. To ensure the collection of uniform data concerning race and ethnicity, the definitions of race and ethnicity as established by the Office of Management and Budget Statistical Policy Directive No. 15 (OMB 15), Race and

Ethnic Standards for Federal Statistics and Administrative Reporting, will be applied by each military justice case processing and management system. A Military Service may elect to have its military justice case processing and management system capture expanded ethnic or racial categories; however, for reporting purposes, expanded categories will aggregate to those established by OMB 15.

III. Distribution of Records of Trial Within the Military Justice System

A. A request by the accused for a copy of the recording of all open sessions of the court-martial and copies of or access to the evidence admitted at the court-martial will be submitted to the Trial Counsel. All copies of the recordings and/or exhibits will be made available to the accused or defense counsel as soon as practicable after a valid request is received.

B. A request by a victim as defined by Rule for Courts-Martial 1106A(b)(2) for a copy of the recording of all open sessions of the court-martial and copies of or access to the evidence admitted at the court-martial will be submitted to the Trial Counsel. All copies of the recordings and/or exhibits will be made available to the victim or the victim's counsel as soon as practicable after a valid request is received.

C. The accused and any victim as defined in Rule for Courts-Martial 1112(e) will be notified of the opportunity to obtain a copy of the certified record of trial within 10 days of the certification. Each Military Service will implement procedures to ensure adequate notification is provided in writing. Each Military Service will implement procedures to ensure that copies of certified records released to accused or victims do not contain any sealed exhibits, classified information, or information from closed court sessions.

IV. Public Access to Military Justice Docket Information, Filings, and Records

A. To the greatest extent practicable, military justice docket information, filings, and records should be no less accessible to the public than comparable information and documents from the Federal civilian criminal justice system. However, an important legal distinction exists between the military justice system and the federal civilian criminal justice system: the Privacy Act applies to the former but not to the latter. Privacy Act concerns are directly relevant to the manner in which information and documents from the military justice system may be made available to the public.

B. Accordingly, below I issue two alternative uniform standards for public access to military justice docket information, filings, and records. The first set of uniform standards will apply if, as determined by the General Counsel of the Department of Defense, the law is changed to exempt from the Privacy Act the release of military justice docket information, filings, and records. Absent such a determination, the second set of uniform standards will apply.

1. Standards Applicable If the General Counsel of the Department of Defense Determines the Law Is Changed to Exempt from the Privacy Act the Release of Military Justice Docket Information, Filings, and Records

a. The Secretaries of the Military Departments will prescribe procedures to protect from disclosure classified documents, privileged documents, documents filed under seal, and other documents protected by a court order. Procedures shall be created for all cases at the trial level and before the Courts of Criminal Appeals. These standards do not impose any requirement on the Court of Appeals for the Armed Forces.

b. The Secretaries of the Military Departments will prescribe procedures for the redaction of dockets, filings, and court records to remove the following information from the documents:

- i. all social security numbers;
- ii. all taxpayer identification numbers;
- iii. birthdates;
- iv. minors' names;
- v. victims' names;
- vi. all financial account numbers;
- vii. other sensitive information as determined by the Secretaries of the Military Departments.

c. The Secretaries of the Military Departments will prescribe standards to maintain the dockets, filings, and court records on a central publicly accessible website for their respective trial judiciaries. Each Military Department's Court of Criminal Appeals will maintain its docket, filings, and court records on a publicly accessible website.

d. For the purposes of this document and the standards set forth to implement Article 140a across all Military Departments, the following definitions are provided:

- i. Docket – includes information concerning each case docketed with the trial or appellate courts of each Military Department.

- (a). The trial court docket includes the name of the case, the location of the hearing, the type of hearing, the military judge presiding over the hearing, and the counsel assigned to the case. The docket will include hearings only after the case has been referred to a court-martial; Article 32 preliminary hearings are not required to be published in this docket.

(b). The appellate court docket includes a list of all cases pending before the court and an oral argument schedule to include the name of the case, the location of the hearing, the type of hearing, and panel assignment.

ii. Filings – consists exclusively of all motions, notices, petitions, and requests submitted to a trial court or a Court of Criminal Appeals.

iii. Court Records – consists exclusively of the charge sheet, convening order(s), court rulings, Statement of Trial Results, Convening Authority’s Action, Entry of Judgment, and appellate court orders and opinions. Court records do not include the Article 32 Preliminary Hearing Report, a recording of any court session, or any transcript of the proceedings.

e. All dockets, filings, and court records will be made available to the public on a website as soon as practicable.

f. The Military Judge or Court of Criminal Appeals will make the final determination on any request for a protective order to prevent the public disclosure of a filing or court record. The protective order will be published to the public on a website with such redactions as are appropriate.

B. Standards Applicable If the General Counsel of the Department of Defense Does Not Determine the Law Is Changed to Exempt from the Privacy Act the Release of Military Justice Docket Information, Filings, and Records

1. The Secretaries of the Military Departments will implement procedures to ensure all dockets, filings, and court records at the trial and Court of Criminal Appeals levels are redacted to comply with the Privacy Act. These standards do not impose any requirement on the Court of Appeals for the Armed Forces.

2. The Secretaries of the Military Departments will prescribe standards to maintain the dockets, filings, and court records on a central publicly accessible website for their respective trial judiciaries. Each Military Department's Court of Criminal Appeals will maintain its docket, filings, and court records on a publicly accessible website.

3. The Secretaries of the Military Departments will prescribe standards for training the individuals redacting these documents to ensure compliance with the Privacy Act.

4. Each Secretary of a Military Department will provide for the publication of dockets, filings, and court records that are properly redacted in compliance with the Privacy Act and posted on a website that is accessible by the public. Dockets will be updated on an ongoing basis. Filings and court records will be published as soon as practicable after the certification of the record of trial (at the trial court level) or after the Court of Criminal Appeals decision (at the appellate level).

5. For the purposes of this document and the standards set forth to implement Article 140a across all Military Departments, the following definitions are provided:

a. Docket – includes information concerning each case docketed with the trial or appellate courts of each Military Department.

i. The trial court docket includes the name of the case, the location of the hearing, the type of hearing, the military judge presiding over the hearing, and the counsel assigned to the case. The docket will include hearings only after the case has been referred to a court-martial; Article 32 preliminary hearings are not required to be published in this docket.

ii. The appellate court docket includes a list of all cases pending before the court and an oral argument schedule to include the name of the case, the location of the hearing, the type of hearing, and panel assignment.

b. Filings – consists exclusively of all motions, notices, petitions, and requests submitted to a trial court or a Court of Criminal Appeals.

c. Court Records – consists exclusively of the charge sheet, convening order(s), court rulings, Statement of Trial Results, Convening Authority’s Action, Entry of Judgment, and appellate court orders and opinions. Court records do not include the Article 32 Preliminary Hearing Report, a recording of any court session, or any transcript of the proceedings.

**Appendix A
Data Points & Uniform Definitions for Collection by the Services**

Data Point	Uniform Definition
Basic Data (Subject/Accused)	
1. Last name	n/a
2. First name	n/a
3. Middle initial	n/a
4. Pay grade	-E-1 -E-2 -E-3 -E-4 -E-5 -E-6 -E-7 -E-8 -E-9 -W-1 -W-2 -W-3 -W-4 -W-5 -O1E -O2E -O3E -O-1 -O-2 -O-3 -O-4 -O-5 -O-6 -O-7+ -Cadet -Midshipman -Civilian
5. SSN or DOD ID No.	####
6. Date of birth	Format (MM/DD/YYYY)
7. Sex	-M -F
8. Ethnicity	-Hispanic or Latino -Not Hispanic or Latino
9. Race	-American Indian/Alaska Native -Asian -Black or African American -Native Hawaiian or Other Pacific Islander -White -Other

Data Point	Uniform Definition
10. Branch of Service	<ul style="list-style-type: none"> -Army -Air Force -Marine Corps -Navy -Coast Guard -Army National Guard -Air National Guard -USAR -USNR -USAFR -USMCR -USCGR -Other -N/A
11. Pay entry date/Pay date	Format (MM/DD/YYYY)
Investigation	
12. Investigating entity	<ul style="list-style-type: none"> -Chain of command -Military Criminal Investigative Organization -Military police -Civilian -Foreign -N/A
13. Investigation number	Service dependent
14. Date investigation opened	Format (MM/DD/YYYY)
15. Date of earliest offense	Format (MM/DD/YYYY)
16. Date earliest offense reported/discovered	Format (MM/DD/YYYY)
17. Offenses investigated related to the accused	DIBRS code (DODM 7730.47 volume 2)
Victim of Sexual Assault & Domestic Violence	
18. Does any charged offense involve a victim as defined by DoD Directive 1030.1?	<ul style="list-style-type: none"> -Yes -No
19. Number of victims: [questions 20-XX, should be captured for each victim]	##
20. Identification of victim	Initials of first & last names
21. Sex of victim:	<ul style="list-style-type: none"> -M -F
22. Status of victim:	<ul style="list-style-type: none"> -Military -Military-spouse -Civilian-spouse -Civilian-dependent -Civilian-Department/Service employee -Civilian-non-Department/Service employee -Other -Unknown

Data Point

Uniform Definition

23. Is victim a victim of domestic violence, as defined by Enclosure 2 of DoDI 6400.06?	-Yes -No
a. If "Yes," the victim's relation to the accused is:	-Current spouse -Former spouse -Person with whom the accused shares a child in common -Current intimate partner with whom the accused shares a common domicile -Former intimate partner with whom the accused shared a common domicile
24. VWAP notifications & elections (captured for each qualifying victim)	Date served and explained
a. DD Form 2701 – Initial Information for Victims and Witnesses of Crime	Format (MM/DD/YYYY)
b. DD Form 2702 – Court-Martial Information for Victims and Witnesses of Crime	Format (MM/DD/YYYY)
c. DD Form 2703 – Post-trial Information for Victims and Witnesses of Crime	Format (MM/DD/YYYY)
d. DD Form 2704 – Victim/Witness Certification and Election Concerning Prisoner Status	Format (MM/DD/YYYY)
e. Victim election to be notified under DD Form 2704	-Yes -No
f. DD Form 2704-1 – Victim Election of Post-trial Rights	Format (MM/DD/YYYY)
g. Victim election to be notified under DD Form 2704-1	-Yes -No
25. Was the victim notified of the opportunity for SVC services?	-Yes -No -N/A
a. Has an SVC been provided?	-Yes -No, victim requested SVC -No, victim declined -N/A
26. Did the victim request an expedited transfer?	-Yes -No -N/A
a. If "Yes," action on the expedited transfer:	-Approved -Disapproved
27. Was the victim advised, in accordance with Section 534(b), FY15 NDAA, of victim's right to submit a preference regarding exercise of civilian or military jurisdiction over offenses allegedly committed in the United States?	-Yes -No -N/A

Data Point	Uniform Definition
a. Victim jurisdiction preference:	-Military -Civilian -N/A
Pretrial	
<i>Pretrial restraint/confinement</i>	
28. Has pretrial restraint/confinement of the accused been imposed?	-Yes -No
a. Type of pretrial restraint/confinement imposed:	-Conditions on liberty -Restriction in lieu of arrest -Arrest -Confinement
b. If "yes," date imposed:	Format (MM/DD/YYYY)
c. Date pretrial restraint/confinement terminated:	Format (MM/DD/YYYY)
<i>Referral of Charges</i>	
29. Earliest referral date	Format (MM/DD/YYYY)
30. Was there an additional referral?	-Yes -No
a. If "yes," date of additional referral:	Format (MM/DD/YYYY)
31. Offense(s) charged:	DIBRS code (See DODM 7730.47 volume 2)
32. Does any offense involve alcohol and/or illegal use of drugs by the accused?	-N/A -Alcohol only -Illegal use of drugs only -Alcohol AND illegal use of drugs
33. Does any offense involve alcohol and/or illegal use of drugs by a victim?	-N/A -Alcohol only -Illegal use of drugs only -Alcohol AND illegal use of drugs
34. Was a firearm utilized in the commission of an offense?	-Yes -No
<i>Pre-referral judicial proceedings (R.C.M. 309)</i>	
35. Was a pre-referral investigative subpoena requested? If yes, then	-Yes -No
a. Was request granted?	-Yes -No
b. Action by individual subject to subpoena:	-Comply -Seek relief
c. Judge action on a request for relief:	-Ordered to comply -Modify -Quash subpoena
36. Was a pre-referral warrant or order for wire or electronic communications requested?	-Yes -No
a. Was request granted?	-Yes -No
b. Action by individual/service provider subject to warrant or order	-Comply -Seek relief

Data Point	Uniform Definition
c. Judge action on request for relief:	-Order to comply -Modify -Quash subpoena
Action by Chain of Command	
37. Action by commander not authorized to convene courts-martial (R.C.M. 402). If commander takes separate action on individual preferred Specifications, input must reflect data for each Specification.	-N/A -Dismissed -Forwarded to superior commander for disposition -N/A
a. Date of action	Format (MM/DD/YYYY)
38. Action by commander exercising summary court-martial jurisdiction (R.C.M. 403). If commander takes separate action on individual preferred Specifications, input must reflect data for each Specification.	-N/A -Dismissed -Dismissed and forwarded to subordinate commander for disposition -Forwarded to subordinate commander for disposition - Referred to summary court-martial -Preliminary hearing directed under R.C.M. 405 and Article 32
a. Date of action	Format (MM/DD/YYYY)
39. Action by commander exercising special court-martial jurisdiction (R.C.M. 404). If commander takes separate action on individual preferred Specifications, input must reflect data for each Specification.	-N/A -Dismissed -Dismissed and forwarded to subordinate commander for disposition -Forwarded to subordinate commander for disposition -Forwarded to superior commander for disposition -Referred to summary court-martial -Referral to an Article 16(c)(2)(A) Special Court-Martial -Referral to Special Court-Martial -Preliminary hearing directed under R.C.M. 405 and Article 32
40. Date of action:	Format (MM/DD/YYYY)
Article 32 Preliminary Hearing (R.C.M. 405)	
41. Was an Article 32 preliminary hearing ordered?	-Yes -No
42. Did appointing authority grant waiver of Article 32 preliminary hearing?	-Yes -No -N/A
a. Date appointing authority acted on waiver request:	Format (MM/DD/YYYY)
43. Date of Article 32 hearing:	-Format (MM/DD/YYYY) -N/A

Data Point	Uniform Definition
44. Were all victims, as defined by R.C.M. 405(g)(1), provided notice of the preliminary hearing?	-Yes -No -N/A
45. Did any victim, as defined by R.C.M. 405(g)(1), testify at the Article 32 preliminary hearing?	-Yes -No -N/A
46. Did any victim file a petition for writ of mandamus with the Court of Criminal Appeals pursuant to Article 6(b), UCMJ?	-Yes -No
47. Action by Court of Criminal Appeals:	-Relief Granted -Relief Denied
48. Date report submitted by Preliminary Hearing Officer (PHO):	Format (MM/DD/YYYY)
49. PHO determination of whether convening authority has court-martial jurisdiction over the accused:	-Yes -No
50. For each Specification, PHO determination of the following:	
a. Is there a recommendation to modify the Specification?	-Yes -No
b. Does the convening authority have court-martial jurisdiction over the offense?	-Yes -No
c. Does the Specification allege an offense?	-Yes -No
d. Does probable cause exist to believe the accused committed the offense?	-Yes -No
51. Did the PHO determine probable cause existed to believe the accused committed additional, uncharged offenses?	-Yes -No
a. If yes, provide offense(s)	DIBRS code
52. Recommendation as to disposition of the case:	-No action -Administrative action -Non-judicial punishment -Referral to Summary Court-Martial -Referral to an Article 16(c)(2)(A) Special Court-Martial -Referral to Special Court-Martial -Referral to General Court-Martial
<i>SJA Pretrial Advice (R.C.M. 406)</i>	
53. Is Article 34, UCMJ, SJA advice required? If "yes," system must capture the following conclusions by the SJA for each Specification:	-Yes -No
a. Does the Specification allege an offense under the UCMJ?	-Yes -No
b. Is there probable cause to believe the accused committed the offense?	-Yes -No

Data Point	Uniform Definition
c. Did the SJA recommend dismissal of the specification?	-Yes -No
d. Does the convening authority have court-martial jurisdiction over the offense?	-Yes -No
54. SJA conclusion of whether the convening authority has court-martial jurisdiction over the accused:	-Yes -No
55. SJA disposition recommendation	-No action -Administrative action -Non-judicial punishment -Referral to court-martial
56. Date of Article 34, UCMJ, SJA advice	Format (MM/DD/YYYY)
<i>Referral – Action by the GCMCA</i>	
57. Name of Command/GCMCA	Look up by Unit Identification Code
58. Disposition of each Charge and Specification (R.C.M. 407)	-Dismissed -Dismissed and forwarded to subordinate commander for disposition -Forwarded to subordinate commander for disposition -Forwarded to superior commander for disposition -Referred to court-martial
59. When referred to court-martial:	
a. Level of court-martial to which charges were referred:	Dropdown: -Summary Court-Martial - Article 16(c)(2)(A) Special Court-Martial -Special Court-Martial -General Court-Martial
b. If referral is to a Special Court-Martial, did the convening authority consult with a judge advocate, iaw R.C.M. 406A?	-Yes -No
60. Was elevated review by the next higher GCMCA triggered? (A situation in which the SJA and GCMCA both concur that a sex-related offense, as defined by § 1744 of the FY 2014 NDAA and § 541 of the FY 2015 NDAA, should not be referred to trial)	-Yes -No
a. If yes, decision by reviewing GCMCA:	-Referred charges to court-martial -The decision of the subordinate GCMCA was upheld
b. Date of decision by reviewing GCMCA:	Format (MM/DD/YYYY)
61. Was elevated review by the Secretary of the Military Department/Commandant of the USCG triggered? (Either: 1. The SJA recommends referral and the GCMCA declines referral; OR 2. The SJA and GCMCA both concur with non-referral, but the Service Chief Prosecutor seeks Secretarial/Commandant of USCG review when the non-	-Yes -No

Data Point	Uniform Definition
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referral decision involves a sex-related offense, as defined by § 1744 of the FY 2014 NDAA and § 541 of the FY 2015 NDAA)	
a. Decision by Secretary of the Military Department/Commandant of the USCG:	-Referred charges to court-martial -The decision of the subordinate GCMCA was upheld
b. Date of decision by Secretary of the Military Department/Commandant of the USCG:	Format (MM/DD/YYYY)
<i>Plea Agreement (R.C.M. 705)</i>	
62. Is there a plea agreement?	-Yes -No
63. Date plea agreement approved:	Format (MM/DD/YYYY)
64. Does the plea agreement contain an Offer to Plead Guilty? If yes, the following shall be answered for each Charge and Specification referred to court-martial	-Yes -No
a. Plea of the accused	-Plea of Guilty -Plea of Guilty to LIO or other offense -Plea of Not Guilty -Withdrawn and/or Dismissed
b. LIO or other offense— Article, UCMJ	DIBRS code
65. If applicable, was the victim, as defined by R.C.M. 705(e)(3)(B), provided the opportunity to submit views concerning the plea agreement?	-Yes -No -N/A
a. Did victim submit views concerning plea agreement?	-Yes -No
b. Date victim submitted views concerning plea agreement:	Format (MM/DD/YYYY)
66. Is there an agreed-upon composition for sentencing?	-Members -Judge -Magistrate judge -No forum agreed upon
67. Is there an agreement to refer to a particular forum?	-Summary Court-Martial - Article 16(c)(2)(A) Special Court-Martial -Special Court-Martial -None
<i>Enlisted Separation/Officer Resignation in Lieu of Court-Martial</i>	
68. Was a request for Separation/Resignation in Lieu of Court-Martial submitted?	-Yes -No
69. Was request approved?	-Yes -No
a. Date request approved/denied:	Format (MM/DD/YYYY)
70. Characterization of Service	Dropdown: -Honorable -General, Under Honorable Conditions -Other than Honorable

Data Point	Uniform Definition
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<i>Inquiry Into Mental Capacity/Mental Responsibility of the Accused (R.C.M. 706)</i>	
71. R.C.M. 706 inquiry requested?	-Yes -No
72. R.C.M. 706 inquiry request approved?	-Yes -No
a. Date R.C.M. 706 inquiry request approved/denied:	Format (MM/DD/YYYY)
73. R.C.M. 706 inquiry completed date:	Format (MM/DD/YYYY)
74. Determination of the R.C.M. 706 inquiry:	
a. As a result of the accused suffering from a severe mental disease or defect, was the accused unable to appreciate the nature and quality or wrongfulness of his or her conduct?	-Yes -No
b. As a result of a present mental disease or defect, is the accused unable to understand the nature of the proceedings against the accused or to conduct or cooperate intelligently with the defense?	-Yes -No
75. The court found the accused incompetent to stand trial pursuant to R.C.M. 909	-Yes -No -N/A
Trial	
<i>Forum (R.C.M. 903)</i>	
76. Composition of the Court for merits phase:	-Members -Officer members at the accused's election - Members with 1/3 enlisted representation at the accused's election - Military Judge alone - Magistrate judge
<i>Pleas (R.C.M. 910)</i>	
77. Plea(s) of the accused to each Charge and Specification:	-Guilty -Not guilty of an offense as charged, but guilty of a named lesser included offense (LIO) or other offense -Guilty with exceptions, with or without substitutions, not guilty of the exceptions, but guilty of the substitutions, if any -Not guilty
a. In the case of guilty of LIO or other offense:	DIBRS Code
<i>Findings (R.C.M. 918)</i>	
78. Prior to findings, whether the convening authority caused any of the Charges or Specifications to be withdrawn and or dismissed. For each Charge and Specification, as applicable:	-Withdrawn -Withdrawn and dismissed

Data Point	Uniform Definition
79. Mistrial (R.C.M. 915):	-Yes -No
a. If mistrial, date of mistrial:	Format (MM/DD/YYYY)
80. Finding as to each Specification:	-Guilty -Not guilty of an offense as charged, but guilty of a named LIO or other offense -Guilty with exceptions, with or without substitutions, not guilty of the exceptions, but guilty of the substitutions, if any -Not guilty only by reason of lack of mental responsibility -Not guilty -Not guilty pursuant to R.C.M. 917 -Withdrawn and dismissed
81. In the case of guilty of LIO or other offense:	DIBRS code
82. Finding as to each Charge:	-Guilty -Not guilty, but guilty of violation of Article ____ -Not guilty by reason of lack of mental responsibility -Not guilty
83. Date of Findings:	Format (MM/DD/YYYY)
<i>Sentence (if applicable)</i>	
84. Composition of court for sentencing phase:	- Members - Officer members at the accused's election - Members with 1/3 enlisted representation at the accused's election - Military Judge alone - Magistrate judge
85. Did a crime victim of an offense of which the accused has been found guilty exercise his/her right to be heard at the presentencing (R.C.M. 1001(c)) relating to that offense? System must capture victim who exercised right.	-N/A -Yes -No
86. Date sentence adjudged:	Format (MM/DD/YYYY)
87. Sentence adjudged (if sentenced by military judge, for most offenses committed on or after 01 Jan 2019, those parts of the sentence adjudging a fine or confinement, subparagraphs e. and h. below, must be included for each Specification in which there was a finding of guilty). System must capture whether part of sentence was impacted by plea agreement.	
a. No punishment	-No punishment adjudged

Data Point	Uniform Definition
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b. Reprimand:	-None adjudged; -Adjudged
c. Reduction to the grade of:	-None adjudged -E-1 -E-2 -E-3 -E-4 -E-5 -E-6 -E-7 -E-8
d. Forfeitures:	-None adjudged -\$ #####.## per month for ## months
e. Fine:	-None adjudged -\$ #####.##
f. Restriction to specific limits:	-None adjudged ## months ## days
g. Hard labor w/out confinement:	-None adjudged ## months ## days
h. Confinement:	-None adjudged -Life without eligibility for parole -Life ## years ## months ## days -FOR JUDGE ALONE: must include "To be served: consecutively or concurrently" if sentence is imposed for more than one specification
i. Punitive discharge:	-None adjudged -Bad-Conduct Discharge -Bad-Conduct Discharge (mandated) -Dishonorable Discharge -Dishonorable Discharge (mandated) -Dismissal
j. Death	-Yes -No
88. Days of pretrial confinement credit:	## days
89. Days of judicially ordered credit	## days
90. Total days of credit	## days
91. Did the military judge recommend a suspension of any portion of the sentence?	-Yes -No
92. Did the Government submit a request to The Judge Advocate General to appeal the sentence either because	-Yes -No

Data Point	Uniform Definition
it violates the law or is plainly unreasonable (Article 56(d), UCMJ, and R.C.M 1117)?	
a. Did any victim, as defined in R.C.M. 1001, submit matters for consideration to The Judge Advocate General	-Yes -No
b. Action by The Judge Advocate General on the Government's request to appeal the sentence:	-Denied -Approved
c. Decision by the Court of Criminal Appeals on Government's appeal of sentence:	-Denied -Set aside and remanded, sentence as adjudged is unlawful -Set aside and remanded, sentence as adjudged is plainly unreasonable
Post-trial	
<i>Processing Related to Conviction and Sentence</i>	
93. Is DNA collection and submission required in accordance with 10 U.S.C. § 1565 and DoDI 5505.14?	-Yes -No
94. Is sex offender registration reporting required in accordance with appendix 4 to enclosure 2 of DoDI 1325.07?	-Yes -No
95. Did this case involve a crime of domestic violence as defined in enclosure 2 of DoDI 6400.06?	-Yes -No
96. Does this case trigger a firearm possession prohibition in accordance with 18 U.S.C. § 922?	-Yes -No
97. Date confinement ordered:	Format (MM/DD/YYYY)
98. Law enforcement agency notified of disposition for criminal indexing purposes:	-Yes -No
<i>Deferment and Waiver (R.C.M 1103)</i>	
99. Deferment:	-N/A -Deferment requested by accused, approved -Deferment requested by accused, denied -Deferment of confinement ordered without request from accused
100. Date of action on deferment:	Format (MM/DD/YYYY)
101. Did the convening authority waive automatic forfeitures by operation of Article 58(b), UCMJ?	-Yes -No
<i>Post-trial Motions and Proceedings (R.C.M. 1104)</i>	
102. Did any post-trial Article 39(a) sessions occur?	-Yes -No
103. Did any post-trial Article 39(a) impact any part of the findings or sentence?	-Yes -No
<i>Post-trial Action by the Convening Authority</i>	
104. Was a copy of the recording of all open sessions of the court-martial and copies/access to admitted evidence at the court-martial and the appellate exhibits provided,	-Yes -No

Data Point	Uniform Definition
upon request, to the accused or accused's counsel (R.C.M. 1106)?	
105. Accused action regarding submission of matters pursuant to R.C.M. 1106:	-Submitted -Expressly waived right to submit matters -Failed to submit matters
106. Was notice provided to all qualifying crime victims of their right to submit matters pursuant to R.C.M. 1106A (DD Form 2703)? Must capture by victim.	-N/A -Yes -No
107. Was a copy of the recording of all open sessions of the court-martial and copies/access to admitted evidence at the court-martial and the appellate exhibits provided, upon request, to any qualifying victim (R.C.M. 1106A)? System must capture each victim provided.	-Yes -No
108. Were matters submitted by crime victims pursuant to R.C.M. 1106A? System must capture each victim who submitted matters.	-N/A -Yes -No
109. Was any portion of the sentence suspended or remitted by the convening authority prior to the entry of judgment (R.C.M. 1107)?	-Yes -No
a. If the convening authority suspended any portion of the sentence, was that suspension later vacated (R.C.M. 1108)?	-Yes -No
b. Were any victims of the underlying offense(s) for which the probationer received a suspended sentence, or any victim of the alleged offense that is the subject of the vacation hearing, provided notice of the vacation hearing?	-N/A -Yes -No
110. Did the convening authority take any action impacting a finding of guilty, pursuant to R.C.M. 1110?	-Yes -No
111. Did the convening authority take any action impacting a portion of the sentence, pursuant to R.C.M. 1109 and/or 1110?	-Yes -No
Entry of Judgment (R.C.M. 1111)	
112. Date of Entry of Judgment:	Format (MM/DD/YYYY)
113. Date copy of Entry of Judgment provided to accused:	Format (MM/DD/YYYY)
114. Was a copy of the Entry of Judgment provided to any crime victim or crime victim's counsel, upon request?	-N/A -Yes -No
Preparation and Forwarding to Court of Criminal Appeals	
115. Type of Transcript Prepared (R.C.M. 1114):	-Transcript not prepared -Verbatim -Summarized
116. Date record of trial certified as containing all required contents pursuant to R.C.M. 1112(b):	Format (MM/DD/YYYY)
117. Date copy of certified record of trial was provided to accused or counsel (R.C.M. 1112(e)):	Format (MM/DD/YYYY)

Data Point	Uniform Definition
118. Date copy of certified record of trial was provided to victim, or counsel for the victim, of an offense of which the accused was charged if the victim testified during the proceedings (R.C.M. 1112(e)):	Format (MM/DD/YYYY)
119. Date copy of certified record of trial was provided to any victim, or counsel for any victim, named in a Specification of which the accused was charged, upon request, without regard to the findings of the court-martial (R.C.M. 1112(e)):	Format (MM/DD/YYYY)
120. Date certified record of trial forwarded to appropriate reviewing authority:	Format (MM/DD/YYYY)
<i>Waiver or Withdrawal of Appellate Review (R.C.M. 1115)</i>	
121. Date waiver or withdrawal submitted by accused:	-N/A -Format (MM/DD/YYYY)
122. Determination of review in cases in which the accused has waived or withdrawn appellate review (R.C.M. 1201):	
a. Whether the court had jurisdiction over the accused and the offense	-Yes -No
b. Whether each charge and specification stated an offense	-Yes -No
c. Whether the sentence was within the limits prescribed as a matter of law	-Yes -No
d. Date of review:	Format (MM/DD/YYYY)
<i>Review by The Judge Advocate General</i>	
123. For each certified record of trial received by The Judge Advocate General pursuant to R.C.M. 1201 and Article 69, UCMJ, the following determinations will be made:	
a. Whether the court had jurisdiction over the accused and the offense	-Yes -No
b. Whether each charge and specification stated an offense	-Yes -No
c. Whether the sentence was within the limits prescribed as a matter of law	-Yes -No
d. Whether the response contained any response to an allegation of error made in writing by the accused	-Yes -No
124. Was a remedy granted by The Judge Advocate General?	-Yes -No
125. Date accused notified of results of review conducted by The Judge Advocate General:	Format (MM/DD/YYYY)
a. Date application submitted for relief to The Judge Advocate General after final review (R.C.M. 1201(h))	-N/A - Format (MM/DD/YYYY)
126. Action by The Judge Advocate General upon an application for relief	-N/A -Relief granted -Relief denied

Data Point	Uniform Definition
127. Was any remission or suspension of any unexecuted portion of any sentence by The Judge Advocate General pursuant to R.C.M. 1201(i) and Article 74, UCMJ?	-Yes -No
128. Date action taken by The Judge Advocate General under R.C.M. 1201(h) or (j) referred or submitted to or requested by the Court of Criminal Appeals (R.C.M. 1201(k)):	-N/A -Format (MM/DD/YYYY)
129. Action taken by the Court of Criminal Appeals upon such a referral or submission:	-Affirmed -Reversed
a. Date of Action by the Court of Criminal Appeals:	Format (MM/DD/YYYY)
<i>Review by Court of Criminal Appeals (R.C.M. 1203)</i>	
130. Court of Criminal Appeals determined accused lacks mental capacity to understand and to conduct or cooperate intelligently in the appellate proceedings:	-Yes -No
131. Action on findings of guilty, by Charge and its Specification(s)	-Affirmed -Affirmed in part, remanded -Affirmed in part, dismissed -Reversed
132. Action on sentence	-Affirmed -Affirmed in part, remanded -Affirmed in part, reassessed -Set aside, remanded -Set aside, reassessed
133. Date of opinion of the Criminal Court of Appeals	Format (MM/DD/YYYY)
134. Date accused notified of opinion of the Criminal Court of Appeals	Format (MM/DD/YYYY)
135. Decision of the Criminal Court of Appeals upon a request for reconsideration	-N/A -Denied -Granted
136. Decision upon reconsideration:	-N/A -Relief denied -Relief granted
137. Date of certification by The Judge Advocate General to the Court of Appeals for the Armed Forces (C.A.A.F.):	-N/A -Format (MM/DD/YYYY)
138. Date of petition by accused to C.A.A.F.:	-N/A -Format (MM/DD/YYYY)
139. Date record of trial forwarded to C.A.A.F.:	-N/A -Format (MM/DD/YYYY)
<i>Review by the Court of Appeals for the Armed Forces (R.C.M. 1204)</i>	
140. Action on petition by the accused for review:	-Denied -Granted
141. Date of action on petition:	Format (MM/DD/YYYY)
142. Opinion of the Court of Appeals for the Armed Forces (C.A.A.F.) regarding findings and sentence:	-Affirmed -Affirmed in part, remanded -Affirmed in part, dismissed -Reversed
143. Date of opinion of C.A.A.F.	Format (MM/DD/YYYY)

Data Point	Uniform Definition
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144. Decision of C.A.A.F. upon a request for reconsideration	-N/A -Denied -Granted
a. Date of decision on request for reconsideration	Format (MM/DD/YYYY)
145. Decision of C.A.A.F. upon reconsideration	-Relief denied -Relief granted
a. Date of reconsideration decision:	Format (MM/DD/YYYY)
<i>Review by the Supreme Court of the United States (R.C.M. 1205)</i>	
146. Date petition for writ of certiorari filed:	-N/A -Format (MM/DD/YYYY)
147. Petition for writ of certiorari filed by:	-United States -Accused
148. Action on petition for writ of certiorari:	-N/A -Denied -Granted
149. Date of action on petition for writ of certiorari	Format (MM/DD/YYYY)
150. If certiorari was granted, was the C.A.A.F. opinion summarily vacated and remanded?	-Yes -No
151. If certiorari was granted, was briefing ordered?	-Yes -No
152. If certiorari was granted, was oral argument held?	-Yes -No
153. If certiorari was granted, the outcome was:	-Dismissed as improvidently granted -Affirmed -Affirmed in part, reversed in part -Reversed -Other
<i>Action by the Service Secretary</i>	
154. Upon final judgment involving the dismissal of a commissioned officer, cadet, or midshipmen, action by the Service Secretary or designee	-Approved and ordered executed -Substituted, for good cause, for an administrative form of discharge -Remitted -Suspended
a. Date of action on the dismissal	Format (DD/MM/YYYY)
<i>Action by the President of the United States</i>	
155. Action upon a sentence to death by the President	-Approved -Commutated to life without eligibility for parole -Commutated to life -Commutated to confinement for a term of years
a. Date of action by the President	Format (MM/DD/YYYY)

Appendix C. Military Justice Review Panel Request for Information Set 1

The Military Justice Review Panel (MJRP) Article 146, Uniform Code of Military Justice

Request for Information

RFI Set 1

Military Justice Documents for Cases Completed in Fiscal Year 2020

Date of Request December 3, 2020

I. Purpose

- A. The Military Justice Review Panel (“MJRP” or “the Panel”) is a 13-member panel of 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. The MJRP was established by Congress in section 5521 of the National Defense Authorization Act for Fiscal Year 2017 (FY17 NDAA) (Public Law 114-328), which amended Article 146 of the Uniform Code of Military Justice.
- B. The MJRP’s authorizing legislation as amended by section 531(k) of the FY18 NDAA (Public Law 115-91), requires that during fiscal year 2020, the Panel gather and analyze sentencing data collected from each of the armed forces from general and special courts-martial applying offense-based sentencing under section 856 of title 10, U.S. Code (Article 56). The sentencing data shall include the number of accused who request member sentencing and the number who request sentencing by military judge alone, the offenses which the accused were convicted of, and the resulting sentence for each offense in each case.

II. Requested Response Dates

Suspense	Information Requested	Proponent
15 Jan 21	Spreadsheet Data	Military Services – Please provide the list of cases meeting the RFI criteria (III-A) to the MJRP using the format in Attachment 1.
19 Feb 21	Documents	Military Services – Please provide the specified case documents in PDF format for the cases meeting the RFI criteria (III-B) to the MJRP.

III. Military Justice Cases in Fiscal Year 2020 (FY20)

- A. **Spreadsheet Data:** The MJRP requests the Military Services use the information from the Services’ case management systems to identify *all cases completed** in fiscal year 2020 that involve a preferred charge under the punitive articles of the UCMJ. The MJRP requests the Services identify the cases by accused (DoD ID# or SS# | Last Name | First Name | Location) in a Microsoft Excel file, *see* Attachment 1.

* The term “completed” means that the case was tried to verdict at general court-martial or special court-martial. The term “tried to verdict” means the accused

MJRP Request for Information

RFI Set 1 – continued

was convicted, acquitted, and/or charges were dismissed, including pursuant to a pretrial agreement.

Please provide completed list to the MJRP by January 15, 2021.

B. Documents: For general courts-martial and special courts-martial cases tried to verdict, identified in the Spreadsheet Data Request (III-A) above, please provide copies of the following documents, as applicable to each individual case. If your Service does not use the specified DD form, please provide Service-equivalent documents:

1. DD Form 458, *Charge Sheet*
2. DD Form 2707-1, *Report of Result of Trial* (if applicable)
3. *Statement of Trial Results* (if applicable)
4. *Convening Authority Action* (if applicable)
5. *Promulgation Order* (if applicable)
6. *Entry of Judgment* (if applicable)
7. *Pretrial Agreement – Parts I & II* (if applicable)

Please provide requested documents to the MJRP February 19, 2021.

MJRP Request for Information

RFI Set 1 – continued

ATTACHMENT 1 – Service Responses to MJRP RFI Set 1, Spreadsheet Data

[Military Service] – FY20:

DoD ID#	Last Name	First Name	Location
ID/SS#	Doe	John	E-ROT/ Installation/ Service CCA

Appendix D. Summary of Confinement by Offense in FY20

The following tables contain a summary of the confinement sentences by offense for FY20 cases involving offense-based sentencing. The tables indicate the number of convictions for each offense as well as the minimum, maximum, and median confinement term in months for each offense. Offenses for which a conviction was not obtained are omitted from the tables.

The median illustrates the middle point in the data set: half of the values are below the median and half the values are above. The median is used in these tables rather than the mean (average) because the value of the mean can be distorted by outliers.

For example, there were three instances in the Army in which an accused was convicted for the offense “Missing movement through design” under Article 87, UCMJ. Of these three convictions, the minimum confinement term received by an accused for this offense was 0 months and the maximum confinement term received was 3 months. The median confinement term was 1 month (the three confinement terms received for this offense were 0 months, 1 month, and 3 months).

ARMY

Art.	Offenses-Convicted	# Convict.	MIN sentence (months)	MAX sentence (months)	Median sentence (months)
78	Accessory after the fact	3	4	12	6
80	Attempts	26	0	108	10
81	Conspiracy	18	0	58	6
82	Soliciting commission of offenses				
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	3	1	1.7	1
85	Desertion				
	Terminated by apprehension	10	2	6.17	6.09
	Terminated otherwise	2	0.17	4	2.09
86	Absence without leave				
	Failing to go to, or going from appointed place of duty	22	0	1	0.03
	Absence from unit, organization, or other place of duty				
	<i>Not more than 3 days</i>	4	0	1	0.3
	<i>More than 3, not more than 30 days</i>	22	0	3	0.49
	<i>More than 30 days</i>	12	0	4.03	0.67
	<i>More than 30 days and terminated by apprehension</i>	9	0.33	3.5	1.5
87	Missing movement; jumping from vessel				
	Missing movement through design	3	0	3	1
87a	Resistance, flight, breach of arrest, and escape				
	Resisting apprehension	8	0	7	0.47
	Flight from apprehension	3	0	2	1.5
	Escape from custody, pretrial confinement, or confinement pursuant to Article 15	2	5	10	7.5

87b	Offenses against correctional custody and restriction				
	Breach of restriction	1	1	1	1
89	Disrespect toward superior commissioned officer; assault of superior commissioned officer				
	Disrespect toward superior commissioned officer				
	<i>In command</i>	3	0.17	1	1
	<i>In rank</i>	1	2.5	2.5	2.5
90	Willfully disobeying superior commissioned officer				
	Other than in time of war	49	0	6	1
91	Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer				
	Striking or assaulting superior noncommissioned or petty officer	1	1	1	1
	Contempt or disrespect to superior noncommissioned officer or petty officer	10	0.07	4.03	0.37
	Contempt or disrespect to other noncommissioned officer or petty officer	2	0.23	0.5	0.37
92	Failure to obey order or regulation				
	Violation of or failure to obey general order or regulation	54	0	8	0.8
	Violation of or failure to obey other lawful order	18	0	4	1
	Dereliction in the performance of duties				
	<i>Through neglect or culpable inefficiency</i>	3	0	0	0
	<i>Willful</i>	2	0.33	0.5	0.42
93	Cruelty and maltreatment	7	0.83	2.17	1
93a	Prohibited activities with military recruit or trainee by person in position of special trust	2	0.67	1	0.84
105	Forgery	2	1.33	1.5	1.42
107	False official statements; false swearing				
	False official statements	34	0	40	0.33
108	Military property of U.S. — loss, damage, destruction, or wrongful disposition				
	Selling or otherwise disposing				
	<i>Of a value of \$1,000 or less</i>	5	4	8	4
	<i>Of a value of more than \$1,000 or any firearm or explosive</i>	6	8	48	30
	Damaging, destroying, losing, or suffering to be lost, damaged, destroyed, sold, or wrongfully disposed - through neglect, of a value or damage of				
	<i>\$1,000 or less</i>	1	1.5	1.5	1.5
	<i>More than \$1,000</i>	5	0	6	0.5

109	Property other than military property of U.S. — waste, spoilage, or destruction				
	Wasting or spoiling, non-military property — real property valued at \$1,000 or less	1	0.7	0.7	0.7
	Damaging any property other than military property of the U.S.; inflicting damage of \$1,000 or less	2	0	0.67	0.34
	Destroying any property other than military property of the U.S. valued at \$1,000 or less	1	4.03	4.03	4.03
111	Leaving scene of vehicle accident	2	1.5	1.5	1.5
112	Drunkenness and other incapacitation offenses				
	Drunk on duty	1	1	1	1
	Incapacitation for duty from drunkenness or drug use	1	0	0	0
112a	Wrongful use, possession, etc., of controlled substances				
	Wrongful use, possession, manufacture, or introduction of controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	82	0	24	3
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	47	0	15	1
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	40	0	22	2.34
	<i>Phenobarbital and Schedule IV and V controlled substances</i>	1	0	0	0
113	Drunken or reckless operation of a vehicle, aircraft, or vessel				
	Resulting in personal injury	1	0.7	0.7	0.7
	No personal injury involved	28	0	5	0.1
114	Endangerment offenses	10	0.33	24	6.84
115	Communicating threats				
	Threats and false threats generally	21	0	18	1.5
116	Riot or breach of peace				
	Breach of peace	3	0.33	2	0.5
117	Provoking speeches or gestures	1	0.17	0.17	0.17
118	Murder				
	Article 118 (2) or (3)	1	LWOP	LWOP	LWOP

119	Manslaughter				
	Involuntary manslaughter	1	27	27	27
119b	Child endangerment				
	Endangerment by design resulting in harm	1	3	3	3
	Other cases by culpable negligence	1	9	9	9
120	Rape and sexual assault generally				
	Rape	2	96	252	174
	Sexual assault	27	0	72	18
	Abusive sexual contact	24	0	36	6
120b	Rape and sexual assault of a child				
	Sexual assault of a child	14	18	432	252
	Sexual abuse of a child				
	<i>Cases involving sexual contact</i>	20	3	144	100.5
	<i>Other cases</i>	14	2	96	12.5
120c	Other Sexual Misconduct				
	Indecent recording	3	1	18	2
121	Larceny and wrongful appropriation				
	Larceny				
	<i>Property of a value of \$1,000 or less</i>	45	0	9	1
	<i>Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	19	0.17	50	2.83
	<i>Property other than military property of a value of more than \$1,000 or any motor vehicle, aircraft, vessel, firearm, or explosive not included in d(1)(b)</i>	13	0	8	1.5
	Wrongful appropriation				
	<i>Of a value of \$1,000 or less</i>	1	7	7	7
	<i>Of any motor vehicle, aircraft, vessel, firearm, explosive, or military property of a value of more than \$1,000</i>	15	0	1.33	1
121a	Fraudulent use of credit cards, debit cards, and other access devices				
	To obtain property of a value of \$1,000 or less	5	0.17	3	3
124	Frauds against the U.S.				
	Article 124 (1) and (2)	1	0.17	0.17	0.17
	Article 124 (3) and (4)				
	<i>When amount is more than \$1,000</i>	1	1.33	1.33	1.33
126	Arson; burning property with intent to defraud				
	Simple arson, where property value is \$1,000 or less	2	0.1	1.5	0.8
127	Extortion	1	6	6	6

128	Assault				
	Simple assault				
	<i>Generally</i>	2	0.67	0.73	0.7
	<i>When committed with an unloaded firearm</i>	1	2.83	2.83	2.83
	Battery				
	<i>Assault consummated by battery</i>	65	0	6	1
	<i>Assault upon a commissioned officer of the armed forces of the U.S. or of a friendly foreign power, not in execution of office</i>	3	0.5	1.33	0.63
	<i>Assault upon noncommissioned or petty officer, not in execution of office</i>	2	0.5	0.63	0.57
	<i>Assault upon a sentinel or lookout in the execution of duty, or upon any person who, in the execution of office, is performing security police, military police, shore patrol, master at arms, or other military or civilian law enforcement duties</i>	12	0.47	36	1.5
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or an immediate family member</i>	49	0	9	1.5
	Aggravated assault				
	<i>Aggravated assault with a dangerous weapon</i>				
	When committed with a loaded firearm	7	1.67	40	18
	Other cases	3	4.03	12	8
	<i>Aggravated assault in which substantial bodily harm is inflicted</i>				
	When the injury is inflicted with a loaded firearm	1	40	40	40
	When the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	6	1	18	8.5
	Other cases	5	1	6.03	2
	<i>Aggravated assault in which grievous bodily harm is inflicted</i>				
	When the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	2	14	25	19.5
	Other cases	2	0	1.5	0.75
	<i>Aggravated assault by strangulation/suffocation</i>				
	Aggravated assault by strangulation	8	0	12	4.5
128b	Domestic violence	14	0	6	4
129	Burglary; unlawful entry				
	Burglary (with intent to commit an offense punishable under Article 118-120, 120b-121, 122, 125-128a, or 130)	16	0	36	1.2
	Unlawful entry	4	0	54	3.5
131b	Obstructing justice	27	0	8	1.5
133	Conduct unbecoming an officer and a gentleman	8	2	6	3.5

134	General Article				
	Animal abuse				
	<i>Abuse, neglect, or abandonment of an animal</i>	1	6.33	6.33	6.33
	Child pornography				
	<i>Possessing, receiving, or viewing</i>	21	5	40	18
	<i>Distributing child pornography</i>	7	8	120	60
	<i>Producing child pornography</i>	6	10	288	72
	Debt, dishonorably failing to pay	5	0.17	0.17	0.17
	Disorderly conduct, drunkenness				
	<i>Disorderly conduct</i>				
	Under such circumstances as to bring discredit upon the military Service	2	1	1.5	1.25
	<i>Drunk and disorderly</i>				
	Under such circumstances as to bring discredit upon the military Service	11	0	2	0.33
	Extramarital sexual conduct	4	0	1.5	1
	Firearm, discharging—through negligence	2	0	0.33	0.17
	Fraternization	2	0	0.33	0.17
	Homicide, negligent	1	30	30	30
	Indecent conduct	5	1.5	9	1.5
	Indecent language				
	<i>Communicated to any child under the age of 16 yrs.</i>	1	2	2	2
	<i>Other cases</i>	7	0.7	2	1.5
	Pandering and prostitution				
	<i>Prostitution and patronizing a prostitute</i>	3	0	4.03	0
	U.S. Code offense, non-capital	6	0	10	5.5

MARINE CORPS

Art.	Offenses-Convicted	# Convict.	MIN sentence (months)	MAX sentence (months)	Median sentence (months)
80	Attempts	23	1	48	14
81	Conspiracy	8	2	18	4
82	Soliciting commission of offenses				
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	2	22	96	59
86	Absence without leave				
	Failing to go to, or going from appointed place of duty	13	0	1	0
	Absence from unit, organization, or other place of duty				
	<i>Not more than 3 days</i>	1	0	0	0
	<i>More than 3, not more than 30 days</i>	5	2	6	4
	<i>More than 30 days</i>	1	3.8	3.8	3.8
87a	Resistance, flight, breach of arrest, and escape				
	Resisting apprehension	1	4	4	4
	Flight from apprehension	1	5	5	5
87b	Offenses against correctional custody and restriction				
	Breach of restriction	2	0	1	0.5
89	Disrespect toward superior commissioned officer; assault of superior commissioned officer				
	Disrespect toward superior commissioned officer, in command	1	0.03	0.03	0.03
90	Willfully disobeying superior commissioned officer				
	Other than in time of war	7	0	6	4
91	Insubordinate conduct toward warrant office, noncommissioned officer, or petty officer				
	Contempt or disrespect to superior noncommissioned officer or petty officer	2	0.17	4.93	2.55
92	Failure to obey order or regulation				
	Violation of or failure to obey general order or regulation	33	0	18	4
	Violation of or failure to obey other lawful order	11	0	10	2.87
	Dereliction in performance of duties:				
	<i>Through neglect or culpable inefficiency resulting in death or grievous bodily harm</i>	1	3	3	3
	<i>Willful</i>	4	0	3	1.5
	<i>Willful dereliction of duty resulting in death or grievous bodily harm</i>	1	6	6	6
95a	Disrespect toward sentinel or lookout	4	0	0	0
104a	Fraudulent enlistment, appointment, or separation				
	Fraudulent enlistment or appointment	2	1	24	12.5

105a	False or unauthorized pass offenses				
	Possessing or using with intent to defraud or deceive, or making, altering, counterfeiting, tampering with, or selling	1	12	12	12
107	False official statements; false swearing				
	False official statements	16	0	18	2.5
108	Military property of U.S. — loss, damage, destruction, or wrongful disposition				
	Damaging, destroying, losing, or suffering to be lost, damaged, destroyed, sold, or wrongfully disposed				
	<i>Through neglect, of a value or damage of more than \$1,000</i>	1	0	0	0
	<i>Willfully, of a value or damage of \$1,000 or less</i>	2	6	6	6
109	Property other than military property of U.S. — waste, spoilage, or destruction				
	Wasting or spoiling, non-military property — real property of a value of \$1,000 or less	2	9	9	9
	Damaging any property other than military property of the U.S. of value of \$1,000 or less	2	0.03	0.03	0.03
112a	Wrongful use, possession, etc. of controlled substances				
	Wrongful use, possession, manufacture, or introduction of controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	60	0	30	3
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	19	0	14	3.33
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	45	0.83	30	11
113	Drunken or reckless operation of a vehicle, aircraft, or vessel				
	Resulting in personal injury	2	0	6	3
	No personal injury involved	4	1	6	3.1
114	Endangerment offenses	3	4	12	5
115	Communicating threats				
	Threats and false threats generally	5	2	9	6
116	Riot or breach of peace				
	Breach of the peace	1	1	1	1

117	Provoking speeches or gestures	1	2.87	2.87	2.87
117a	Wrongful broadcast or distribution of intimate visual images	1	6	6	6
119	Manslaughter				
	Involuntary manslaughter	2	54	69	61.5
119b	Child endangerment				
	Other cases by culpable negligence	1	6	6	6
120	Rape and sexual assault generally				
	Rape	1	72	72	72
	Sexual Assault	5	15	28	18
	Abusive Sexual Contact	2	6	6	6
120b	Rape and sexual assault of a child				
	Rape of a Child	1	180	180	180
	Sexual Assault of a Child	7	24	96	96
	Sexual Abuse of a Child				
	<i>Cases Involving Sexual Contact</i>	7	96	96	96
	<i>Other Cases</i>	1	24	24	24
120c	Other sexual misconduct				
	Indecent recording	4	12	12	12
121	Larceny and wrongful appropriation				
	Larceny				
	<i>Property of a value of \$1,000 or less</i>	4	0	6	6
	<i>Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	6	0.47	3.33	2
	<i>Property other than military property of a value of more than \$1,000 or any motor vehicle, aircraft, vessel, firearm, or explosive not included in d(1)(b)</i>	1	18	18	18
121a	Fraudulent use of credit cards, debit cards, and other access devices				
	To obtain property during any 1 year period the aggregate value of which is greater than \$1,000	3	0	5.33	2.1
123	Offenses concerning government computers				
	Unauthorized access of a Government computer and obtaining classified or other protected information	1	3.33	3.33	3.33
124	Frauds against the U.S.				
	Article 124 (3) and (4)				
	<i>When amount is more than \$1,000</i>	2	3.33	3.33	3.33
127	Extortion	1	6	6	6

128	Assault				
	Simple assault				
	<i>Generally</i>	1	3	3	3
	Battery				
	<i>Assault consummated by battery</i>	28	0	6	3.17
	<i>Assault upon noncommissioned or petty officer, not in execution of office</i>	1	0	0	0
	<i>Assault upon a sentinel or lookout in the execution of duty, or upon any person who, in the execution of office, is performing security police, military police, shore patrol, master at arms, or other military or civilian law enforcement duties</i>	4	2.87	5	3
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or an immediate family member</i>	9	6	12	6
	Aggravated assault				
	<i>Aggravated assault with a dangerous weapon</i>				
	When committed upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	1	30	30	30
	<i>Aggravated assault in which substantial bodily harm is inflicted</i>				
	Other cases (not when the injury is inflicted with a loaded firearm or when the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member)	3	18	36	18
	<i>Aggravated assault in which grievous bodily harm is inflicted</i>				
	When the injury is inflicted with a loaded firearm	1	6	6	6
	When the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	2	10	24	17
	Other cases	1	5	5	5
	<i>Aggravated assault by strangulation/suffocation</i>				
	Aggravated assault by strangulation	4	6	24	9
128b	Domestic violence	2	5	13	9
129	Burglary; unlawful entry				
	Burglary (with intent to commit any offense other than under Article 118-120, 120b-121, 122, 125-128a, or 130 of the UCMJ)	1	2	2	2
	Unlawful entry	4	1	3	3
131b	Obstructing justice	10	1.5	14	5

134	General Article				
	Child pornography				
	<i>Possessing, receiving, or viewing</i>	7	13	36	24
	<i>Distributing child pornography</i>	1	43	43	43
	<i>Producing child pornography</i>	2	46	48	47
	Disorderly conduct, drunkenness				
	<i>Disorderly conduct</i>				
	Under such circumstances as to bring discredit upon the military Service	1	1	1	1
	<i>Drunk and disorderly</i>				
	Under such circumstances as to bring discredit upon the military Service	3	1	4	3
	Extramarital sexual conduct	7	0	12	10
	Firearm, discharging—through negligence	3	1	3	3
	Homicide, negligent	2	12	12	12
	Indecent conduct	1	4	4	4
	Pandering and prostitution				
	<i>Prostitution and patronizing a prostitute</i>	1	1	1	1
	U.S. Code offense, non-capital	20	0	18	7

NAVY

Art.	Offenses-Convicted	# Convict.	MIN sentence (months)	MAX sentence (months)	Median sentence (months)
80	Attempts	11	0	36	6
81	Conspiracy	9	1	24	8
82	Soliciting commission of offenses				
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	6	0	36	0.92
83	Malingering				
	Feigning illness, physical disablement, mental lapse, or mental derangement (Other than in time of war)	1	1.17	1.17	1.17
85	Desertion				
	Terminated by apprehension	1	3.13	3.13	3.13
86	Absence without leave				
	Failing to go to, or going from appointed place of duty	2	0	0.67	0.34
	Absence from unit, organization, or other place of duty				
	<i>Not more than 3 days</i>	2	0	1	0.5
	<i>More than 3, not more than 30 days</i>	7	0.23	6	1
	<i>More than 30 days</i>	2	1.17	2.1	1.64
	<i>More than 30 days and terminated by apprehension</i>	2	1.4	2.7	2.05
87	Missing movement; jumping from vessel				
	Missing movement				
	<i>Through design</i>	3	1.8	3	1.8
	<i>Through neglect</i>	5	0.1	2.7	0.23
87b	Offenses against correctional custody and restriction				
	Breach of restriction	2	0.53	1	0.77
90	Willfully disobeying superior commissioned officer				
	Other than in time of war	2	0	1.17	0.59
91	Insubordinate conduct toward warrant office, noncommissioned officer, or petty officer				
	Willfully disobeying the lawful order of a noncommissioned officer or petty officer	1	1	1	1
92	Failure to obey order or regulation				
	Violation of or failure to obey general order or regulation	14	0	3.07	1.5
	Violation of or failure to obey other lawful order	3	1.17	6	2
	Dereliction in the performance of duties				
	<i>Willful</i>	1	1	1	1

95	Offenses by Sentinel or lookout				
	Drunk or sleeping on post, or leaving post before being relieved				
	<i>In all other places, not in time of war or while receiving special pay under 37 USC 310</i>	1	0.5	0.5	0.5
107	False official statements; false swearing				
	False official statements	7	0.33	6	1.7
108	Military property of U.S. — loss, damage, destruction, or wrongful disposition				
	Damaging, destroying, losing, or suffering to be lost, damaged, destroyed, sold, or wrongfully disposed - willfully, of a value or damage \$1,000 or less	1	1	1	1
109	Property other than military property of U.S. — waste, spoilage, or destruction				
	Damaging any property other than military property of the U.S. of a value \$1,000 or less	1	3	3	3
109a	Mail matter: Wrongful taking, opening, etc.	6	1	1	1
112a	Wrongful use, possession, etc., of controlled substances				
	Wrongful use, possession, manufacture, or introduction of controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	61	0	18	3.33
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	23	0	4	1
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	33	1.73	36	7
113	Drunken or reckless operation of a vehicle, aircraft, or vessel				
	No personal injury involved	4	0	4	1.09
114	Endangerment offenses	1	3.7	3.7	3.7
115	Communicating threats				
	Threats and false threats generally	1	2	2	2
117a	Wrongful broadcast or distribution of intimate visual images	3	1.33	4.67	1.33
120	Rape and sexual assault generally				
	Abusive sexual contact	1	12	12	12

120c	Other sexual misconduct				
	Indecent viewing	1	9	9	9
	Indecent recording	2	12	12	12
121	Larceny and wrongful appropriation				
	Larceny				
	<i>Property of a value of \$1,000 or less</i>	10	0	12	12
	<i>Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	2	2	6	4
	Wrongful appropriation				
	<i>Of a value of more than \$1,000</i>	1	0	0	0
121a	Fraudulent use of credit cards, debit cards, and other access devices				
	To obtain property of a value of \$1,000 or less	2	12	12	12
	To obtain property during any 1 year period the aggregate value of which is greater than \$1,000	2	9	10	9.5
128	Assault				
	Simple assault				
	<i>Generally</i>	2	1	3	2
	Battery				
	<i>Assault consummated by a battery</i>	12	0	6	3
	<i>Assault upon commissioned officer of the armed forces of the U.S. or of a friendly foreign power, not in execution of office</i>	1	0	0	0
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or an immediate family member</i>	7	0.37	10	10
	Aggravated assault				
	<i>Aggravated assault with a dangerous weapon</i>				
	When committed with a loaded firearm	1	1	1	1
	Other cases	2	3	12	7.5
	<i>Aggravated assault in which substantial bodily harm is inflicted</i>				
	Other cases (not when the injury is inflicted with a loaded firearm or when the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member)	1	24	24	24
	<i>Aggravated assault by strangulation/suffocation</i>				
	Aggravated assault by strangulation	1	7	7	7
129	Burglary; unlawful entry				
	Unlawful entry	4	0	6	4
131b	Obstructing justice	3	0.33	9	2
133	Conduct unbecoming an officer and a gentleman	2	0	2	1

134	General Article				
	Child pornography				
	<i>Possessing, receiving, or viewing</i>	7	19	60	20
	<i>Distributing child pornography</i>	1	20	20	20
	Disorderly conduct, drunkenness				
	<i>Drunk and disorderly</i>				
	Under such circumstances as to bring discredit upon the military Service	4	0	3	2.5
	Firearm, discharging—through negligence	2	2.5	3	2.75
	Indecent language				
	<i>Other cases</i>	2	2.5	6	4.25
	Pandering and prostitution				
	<i>Prostitution and patronizing a prostitute</i>	1	0	0	0
	U.S. Code offense, non-capital	2	1.5	1.5	1.5

AIR FORCE

Art.	Offenses-Convicted	# Convict.	MIN sentence (months)	MAX sentence (months)	Median sentence (months)
80	Attempt	15	0.5	120	12
81	Conspiracy	2	0.5	12	6.25
82	Soliciting commission of offenses				
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	5	0	96	1
86	Absence without leave				
	Failing to go to, or going from appointed place of duty	7	0	1	0.17
	Absence from unit, organization, or other place of duty				
	<i>Not more than 3 days</i>	4	0.07	1	0.62
	<i>More than 3, not more than 30 days</i>	3	3	4.5	3
	<i>More than 30 days and terminated by apprehension</i>	1	1.47	1.47	1.47
87a	Resistance, flight, breach of arrest, and escape				
	Resisting apprehension	1	4	4	4
	Flight from apprehension	1	0	0	0
87b	Offenses against correctional custody and restriction				
	Breach of restriction	2	0.67	1	0.84
89	Disrespect toward superior commissioned officer; assault of superior commissioned officer				
	Disrespect toward superior commissioned officer				
	<i>In command</i>	2	0.67	0.83	0.75
	<i>In rank</i>	2	0.5	2	1.25
90	Willfully disobeying superior commissioned officer				
	Other than in time of war	6	1	6	1.5
92	Failure to obey order or regulation				
	Violation of or failure to obey general order or regulation	5	0.63	6	1
	Violation of or failure to obey other lawful order	14	0	5	1
	Dereliction in the performance of duties				
	<i>Through neglect or culpable inefficiency</i>	4	0.5	1.5	0.75
	<i>Willful</i>	14	0	5	1
93a	Prohibited activities with military recruit or trainee by person in position of special trust	1	3	3	3
104a	Fraudulent enlistment, appointment, or separation				
	Fraudulent enlistment or appointment	1	3	3	3
107	False official statements; false swearing				
	False official statements	15	0	4	1
	False swearing	1	0	0	0

109	Property other than military property of U.S. — waste, spoilage, or destruction				
	Damaging any property other than military property of the U.S. of \$1,000 or less	5	0.33	1.5	1
111	Leaving scene of vehicle accident	3	0	1.23	1
112a	Wrongful use, possession, etc., of controlled substances				
	Wrongful use, possession, manufacture, or introduction of a controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	128	0	12	2
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	46	0	7	1
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	29	0.17	12	3
113	Drunken or reckless operation of a vehicle, aircraft, or vessel				
	Resulting in personal injury	1	0.5	0.5	0.5
	No personal injury involved	8	0	5	0.67
114	Endangerment offenses	3	0	9	1
115	Communicating threats				
	Threats and false threats generally	15	1	36	3
116	Riot or breach of peace				
	Breach of peace	1	2	2	2
117a	Wrongful broadcast or distribution of intimate visual images	2	2	3	2.5
119b	Child endangerment				
	Endangerment by culpable negligence resulting in harm	1	6	6	6
120b	Rape and sexual assault of a child				
	Sexual Abuse of a Child				
	<i>Cases Involving Sexual Contact</i>	2	48	72	60
	<i>Other Cases</i>	3	24	48	48
120c	Other sexual misconduct				
	Indecent recording	10	2	50	18
	Broadcasting or distributing of an indecent recording	1	2	2	2

121	Larceny and wrongful appropriation				
	Larceny				
	<i>Property of a value of \$1,000 or less</i>	6	0.13	4	0.42
	<i>Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	1	2.5	2.5	2.5
	<i>Property other than military property of a value of more than \$1,000 or any motor vehicle, aircraft, vessel, firearm, or explosive not included in d(1)(b)</i>	2	46	46	46
123a	Making, drawing, or uttering check, draft, or order without sufficient funds				
	For the procurement of any article or thing of value, with intent to defraud, in the face amount of				
	<i>\$1,000 or less</i>	21	6	6	6
	<i>More than \$1,000</i>	22	6	46	18
125	Kidnapping	1	24	24	24
128	Assault				
	Simple assault				
	<i>When committed with an unloaded firearm</i>	1	6	6	6
	Battery				
	<i>Assault consummated by a battery</i>	29	0	6	2
	<i>Assault upon a sentinel or lookout in the execution of duty, or upon any person who, in the execution of office, is performing security police, military police, shore patrol, master at arms, or other military or civilian law enforcement duties</i>	4	0.33	3	1.75
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or immediate family member</i>	13	1	24	3
	Aggravated assault				
	<i>Aggravated assault with a dangerous weapon</i>				
	<i>When committed with a loaded firearm</i>	1	4.33	4.33	4.33
	<i>When committed upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member</i>	1	36	36	36
	<i>Aggravated assault in which grievous bodily harm is inflicted</i>				
	<i>Other cases (not when the injury is inflicted with a loaded firearm or when the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member)</i>	2	22	22	22
	<i>Aggravated assault by strangulation/suffocation</i>				
	<i>Aggravated assault by strangulation</i>	1	11	11	11
128b	Domestic violence	14	0.33	6	2.67
129	Burglary; unlawful entry				
	Unlawful entry	3	3	4	4

131b	Obstructing justice	9	0	12	6
133	Conduct unbecoming an officer and a gentleman	5	0	0.33	0.33
134	General article				
	Child pornography				
	<i>Possessing, receiving, or viewing</i>	5	3	72	13
	<i>Distributing child pornography</i>	1	36	36	36
	Disorderly conduct, drunkenness				
	<i>Drunk and disorderly</i>				
	Under such circumstances as to bring discredit upon the military Service	3	0.33	1	0.7
	Other cases (not when aboard ship or under such circumstances as to bring discredit upon the military Service)	2	2	3	2.5
	Extramarital sexual conduct	6	2	8	2.5
	Fraternization	3	1	2	2
	Indecent conduct	2	5	6	5.5
	Pandering and prostitution				
	<i>Prostitution and patronizing a prostitute</i>	3	4	4	4
	U.S. Code offense, non-capital	2	0.23	36	18.12
	Novel (Other)	4	0.7	4	2.25

COAST GUARD

Art.	Offenses-Convicted	# Convict.	MIN sentence (months)	MAX sentence (months)	Median sentence (months)
86	Absence without leave				
	Failing to go to, or going from the appointed place of duty	1	0.17	0.17	0.17
90	Willfully disobeying superior commissioned officer				
	Other than in time of war	2	4	4	4
92	Failure to obey order or regulation				
	Violation of or failure to obey general order or regulation	1	0	0	0
	Dereliction in the performance of duties				
	<i>Willful</i>	2	3	3	3
107	False official statements; False swearing				
	False official statements	5	0.33	3	2
112a	Wrongful use, possession, etc., of controlled substances				
	Wrongful use, possession, manufacture, or introduction of controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	1	0	0	0
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	1	4	4	4
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance				
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	1	4	4	4
120c	Other sexual misconduct				
	Indecent recording	2	2	3	2.5
128	Assault				
	Battery				
	<i>Assault consummated by a battery</i>	1	4	4	4
131b	Obstructing justice	1	4	4	4
134	General article				
	Extramarital sexual conduct	1	3	3	3
	Firearm, discharging—through negligence	1	0.5	0.5	0.5
	Homicide, negligent	1	8	8	8
	U.S. Code offense, non-capital	2	3	3	3

Appendix E. Offense-Based Sentencing Data

The following tables contain the confinement term for each offense for every FY20 case involving offense-based sentencing, as required by Article 146(f)(2), UCMJ. Any confinement term marked with an asterisk indicates that the offense was charged under a pre-MJA16 punitive article but was categorized by the staff under the post-MJA16 article number for purposes of this report. Offenses for which a conviction was not obtained are omitted from the tables.

For example, there were three instances in the Army in which an accused received a conviction for the offense “Missing movement through design” under Article 87, UCMJ. In one instance, the accused was sentenced to 0 months of confinement. In the second instance, the accused was sentenced to 1 month of confinement. In the third instance, the accused was sentenced to 3 months of confinement.

ARMY

Art.	Offenses-Convicted	Amount of Confinement Received (in months)
78	Accessory after the fact	4, 6, 12
80	Attempts	0, 0.47, 1, 1, 1, 1, 1.5, 1.5, 4, 6, 9, 9, 10, 10, 10, 15, 18, 18, 18, 24, 24, 36, 60, 60, 60, 108
81	Conspiracy	0, 1, 1, 1, 1, 1.5, 1.5, 3, 6, 6, 6, 12, 18, 18, 24, 36, 42, 58
82	Soliciting commission of offenses	
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	1*, 1, 1.7
85	Desertion	
	Terminated by apprehension	2, 2.5, 5.17, 6, 6, 6.17, 6.17, 6.17, 6.17, 6.17
	Terminated otherwise	0.17, 4
86	Absence without leave	
	Failing to go to, or going from appointed place of duty	0, 0, 0, 0, 0, 0, 0, 0, 0, 0.03, 0.03, 0.03, 0.03, 0.03, 0.03, 0.03, 0.03, 0.17, 0.17, 1
	Absence from unit, organization, or other place of duty	
	<i>Not more than 3 days</i>	0, 0.17, 0.43, 1
	<i>More than 3, not more than 30 days</i>	0, 0.03, 0.17, 0.17, 0.23, 0.33, 0.33, 0.33, 0.47, 0.47, 0.47, 0.5, 0.5, 0.5, 0.67, 0.67, 1, 1, 1, 1.83, 2, 3
	<i>More than 30 days</i>	0, 0, 0.33, 0.33, 0.5, 0.67, 0.67, 0.67, 0.7, 1, 2.67, 4.03
	<i>More than 30 days and terminated by apprehension</i>	0.33, 0.47, 0.5, 1.5, 1.5, 2, 2.33, 2.67, 3.5
87	Missing movement; jumping from vessel	
	Missing movement through design	0, 1, 3

87a	Resistance, flight, breach of arrest, and escape	
	Resisting apprehension	0, 0, 0.33, 0.33, 0.6, 0.6, 1, 7
	Flight from apprehension	0, 1.5, 2
	Escape from custody, pretrial confinement, or confinement pursuant to Article 15	5, 10
87b	Offenses against correctional custody and restriction	
	Breach of restriction	1
89	Disrespect toward superior commissioned officer; assault of superior commissioned officer	
	Disrespect toward superior commissioned officer	
	<i>In command</i>	0.17, 1, 1
	<i>In rank</i>	2.5
90	Willfully disobeying superior commissioned officer	
	Other than in time of war	0, 0, 0, 0, 0, 0.03, 0.03, 0.1, 0.1, 0.1, 0.17, 0.17, 0.23, 0.23, 0.33, 0.33, 0.33, 0.47, 0.5, 0.5, 0.5, 0.7, 1, 1, 1.5, 1.5, 1.83, 2, 2, 2.17, 3, 3, 3, 3, 3, 3, 3, 3, 3.17, 4, 4, 4, 4, 4, 5, 6, 6, 6
91	Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer	
	Striking or assaulting superior noncommissioned or petty officer	1
	Contempt or disrespect to superior noncommissioned officer or petty officer	0.07, 0.17, 0.23, 0.23, 0.33, 0.4, 0.5, 0.6, 0.6, 4.03
	Contempt or disrespect to other noncommissioned officer or petty officer	0.23, 0.5
92	Failure to obey order or regulation	
	Violation of or failure to obey general order or regulation	0, 0, 0, 0, 0, 0, 0, 0, 0.1, 0.1, 0.17, 0.17, 0.17, 0.17, 0.17, 0.17, 0.3, 0.33, 0.33, 0.4, 0.47, 0.47, 0.47, 0.47, 0.5, 0.6, 1, 1, 1, 1, 1, 1, 1.5, 1.5, 1.5, 1.5, 1.5, 1.5, 2, 2, 2, 2, 2.4, 3, 3, 3.33, 4.03, 6, 6, 6, 6, 8
	Violation of or failure to obey other lawful order	0, 0, 0, 0.1, 0.3, 0.5, 0.5, 1, 1, 1, 2, 3, 3, 3, 3.33, 3.33, 4, 4
	Dereliction in the performance of duties	
	<i>Through neglect or culpable inefficiency</i>	0, 0, 0
	<i>Willful</i>	0.33, 0.5
93	Cruelty and maltreatment	0.83, 1, 1, 1, 1, 1.33, 2.17
93a	Prohibited activities with military recruit or trainee by person in position of special trust	0.67, 1
105	Forgery	1.33*, 1.5
107	False official statements; false swearing	
	False official statements	0, 0, 0, 0, 0, 0, 0, 0, 0, 0, 0, 0, 0.1, 0.17, 0.33, 0.33, 0.33, 0.33, 0.33, 0.47, 0.5, 0.5, 1, 1, 2, 3, 4, 4, 4, 5.97, 12, 40

113	Drunken or reckless operation of a vehicle, aircraft, or vessel	
	Resulting in personal injury	0.7
	No personal injury involved	0, 0, 0, 0, 0, 0, 0, 0, 0, 0, 0, 0, 0.03, 0.1, 0.1, 0.23, 0.23, 0.3, 0.5, 0.5, 0.5, 1, 1.33, 1.5, 1.5, 4, 4, 5
114	Endangerment offenses	0.33, 1, 1, 2.5, 2.67, 11, 12, 12, 12, 24
115	Communicating threats	
	Threats and false threats generally	0, 0, 0.33, 0.5, 1, 1, 1, 1, 1, 0.47, 1.5, 2, 2, 4, 6, 6, 6, 6*, 7, 9, 18
116	Riot or breach of peace	
	Breach of peace	0.33, 0.5, 2
117	Provoking speeches or gestures	0.17
118	Murder	
	Article 118 (2) or (3)	LWOP
119	Manslaughter	
	Involuntary manslaughter	27
119b	Child endangerment	
	Endangerment by design resulting in harm	3
	Other cases by culpable negligence	9
120	Rape and sexual assault generally	
	Rape	96, 252
	Sexual assault	0, 6, 6, 6, 12, 12, 12, 12, 12, 13, 14, 18, 18, 18, 18, 18, 18, 18, 22, 24, 28, 28, 36, 36, 40, 72
	Abusive sexual contact	0, 0, 0, 0, 0.23, 0.47, 1, 3, 4.03, 6, 6, 6, 6, 6, 6, 6, 6.5, 9, 9, 12, 12, 12, 13, 36
120b	Rape and sexual assault of a child	
	Sexual assault of a child	18, 20, 24, 42, 48, 60, 72, 432, 432, 432, 432, 432, 432, 432
	Sexual abuse of a child	
	<i>Cases involving sexual contact</i>	3, 6, 6, 12, 12, 12, 60, 70, 72, 96, 105, 132, 132, 132, 132, 144, 144, 144, 144, 144
	<i>Other cases</i>	2, 4, 6, 6, 6, 6, 10, 15, 15, 36, 48, 84, 84, 96
120c	Other Sexual Misconduct	
	Indecent recording	1, 2, 18

121	Larceny and wrongful appropriation	
	Larceny	
	<i>Property of a value of \$1,000 or less</i>	0, 0, 0, 0.07, 0.07, 0.1, 0.17, 0.17, 0.17, 0.17, 0.33, 0.5, 0.67, 0.67, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 2, 3, 4, 8, 9, 9
	<i>Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	0.17, 0.83, 1, 1, 1, 1, 1.5, 1.5, 2.03, 2.83, 3.33, 6, 6, 8, 18, 24, 36, 50, 50
	<i>Property other than military property of a value of more than \$1,000 or any motor vehicle, aircraft, vessel, firearm, or explosive not included in d(1)(b)</i>	0, 0.17, 0.17, 0.67, 0.67, 0.83, 1.5, 2.17, 3, 4, 4, 4, 8
	Wrongful appropriation	
	<i>Of a value of \$1,000 or less</i>	7
	<i>Of any motor vehicle, aircraft, vessel, firearm, explosive, or military property of a value of more than \$1,000</i>	0, 0.33, 0.33, 0.33, 0.5, 0.5, 0.67, 1, 1, 1, 1, 1, 1, 1, 1.33
121a	Fraudulent use of credit cards, debit cards, and other access devices	
	To obtain property of a value of \$1,000 or less	0.17, 0.17, 3, 3, 3
124	Frauds against the U.S.	
	Article 124 (1) and (2)	0.17*
	Article 124 (3) and (4)	
	<i>When amount is more than \$1,000</i>	1.33*
126	Arson; burning property with intent to defraud	
	Simple arson, where property value is \$1,000 or less	0.1, 1.5
127	Extortion	6

128	Assault	
	Simple assault	
	<i>Generally</i>	0.67, 0.73
	<i>When committed with an unloaded firearm</i>	2.83
	Battery	
	<i>Assault consummated by battery</i>	0, 0, 0, 0, 0, 0, 0.33, 0.33, 0.33, 0.33, 0.33, 0.47, 0.5, 0.5, 0.5, 0.5, 0.5, 0.6, 0.67, 0.67, 0.67, 0.67, 0.67, 0.67, 0.67, 0.67, 0.67, 0.67, 0.67, 0.7, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1.5, 2, 2, 2, 2, 2.17, 2.83, 2.83, 2.83, 3, 3, 3.17, 4, 4, 4.03, 5, 6, 6, 6, 6, 6, 6, 6
	<i>Assault upon a commissioned officer of the armed forces of the U.S. or of a friendly foreign power, not in execution of office</i>	0.5, 0.63, 1.33
	<i>Assault upon noncommissioned or petty officer, not in execution of office</i>	0.5, 0.63
	<i>Assault upon a sentinel or lookout in the execution of duty, or upon any person who, in the execution of office, is performing security police, military police, shore patrol, master at arms, or other military or civilian law enforcement duties</i>	0.47, 0.47, 0.47, 0.47, 1, 1, 2, 6, 7, 7, 24, 36
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or an immediate family member</i>	0, 0, 0.03, 0.23, 0.23, 0.33, 0.33, 0.33, 0.37, 0.47, 0.47, 0.5, 0.7, 0.83, 1, 1, 1, 1, 1, 1, 1, 1, 1.5, 1.5, 1.5, 1.83, 2, 2, 2, 2.5, 2.5, 2.5, 2.5, 2.5, 3, 3, 3, 3, 3, 3, 3, 3, 4, 4, 4, 6, 6, 8, 9
	Aggravated assault	
	<i>Aggravated assault with a dangerous weapon</i>	
	When committed with a loaded firearm	1.67, 3, 3, 18, 39, 39, 40
	Other cases	4.03, 8, 12
	<i>Aggravated assault in which substantial bodily harm is inflicted</i>	
	When the injury is inflicted with a loaded firearm	40
	When the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	1, 1.5, 7, 10, 11, 18
	Other cases	1, 1, 2, 2, 6.03
	<i>Aggravated assault in which grievous bodily harm is inflicted</i>	
	When the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	14, 25
	Other cases	0, 1.5
	<i>Aggravated assault by strangulation/suffocation</i>	
	Aggravated assault by strangulation	0, 1, 2.5, 4, 5, 5.97, 11, 12

128b	Domestic violence	0, 1.5, 2, 2, 2, 3, 4, 4, 5, 5, 6, 6, 6, 6
129	Burglary; unlawful entry	
	Burglary (with intent to commit an offense punishable under Article 118-120, 120b-121, 122, 125-128a, or 130)	0, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 1.2, 2, 3, 18, 24, 36
	Unlawful entry	0, 1, 6, 54
131b	Obstructing justice	0, 0, 0.23, 0.33, 0.67, 0.67, 1, 1, 1.5, 1.5, 1.5, 1.5, 1.5, 1.5, 2, 2, 2, 2.5, 3, 3, 4, 4, 4, 6, 6, 8, 8
133	Conduct unbecoming an officer and a gentleman	2, 2, 2, 3, 4, 6, 6, 6
134	General Article	
	Animal abuse	
	<i>Abuse, neglect, or abandonment of an animal</i>	6.33
	Child pornography	
	<i>Possessing, receiving, or viewing</i>	5, 5, 8, 9, 12, 12, 12, 13, 14, 18, 18, 18, 18, 24, 25, 25, 29, 35, 35, 36, 40
	<i>Distributing child pornography</i>	8, 24, 24, 60, 84, 96, 120
	<i>Producing child pornography</i>	10, 24, 48, 96, 140, 288
	Debt, dishonorably failing to pay	0.17, 0.17, 0.17, 0.17, 0.17
	Disorderly conduct, drunkenness	
	<i>Disorderly conduct</i>	
	Under such circumstances as to bring discredit upon the military Service	1, 1.5
	<i>Drunk and disorderly</i>	
	Under such circumstances as to bring discredit upon the military Service	0, 0.1, 0.17, 0.23, 0.33, 0.33, 0.5, 0.67, 0.83, 1, 2
	Extramarital sexual conduct	0, 1, 1, 1.5
	Firearm, discharging—through negligence	0, 0.33
	Fraternization	0, 0.33
	Homicide, negligent	30
	Indecent conduct	1.5, 1.5, 1.5, 3, 9
	Indecent language	
	<i>Communicated to any child under the age of 16 yrs.</i>	2
	<i>Other cases</i>	0.17, 1, 1.5, 1.5, 2, 2, 2
	Pandering and prostitution	
	<i>Prostitution and patronizing a prostitute</i>	0, 0, 4.03
	U.S. Code offense, non-capital	0, 0, 2, 9, 9, 10

MARINE CORPS

Art.	Offenses-Convicted	Amount of Confinement Received (in months)
80	Attempts	1, 2, 3, 3.33, 4, 8, 9, 10, 12, 12, 13, 14, 18, 18, 18, 18, 18, 18, 20, 24, 48, 48
81	Conspiracy	2, 3.33, 3.33, 4, 4, 4.1, 6, 18
82	Soliciting commission of offenses	
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	22, 96
86	Absence without leave	
	Failing to go to, or going from appointed place of duty	0, 0, 0, 0, 0, 0, 0, 0, 0, 0.17, 1, 1, 1
	Absence from unit, organization, or other place of duty	
	<i>Not more than 3 days</i>	0
	<i>More than 3, not more than 30 days</i>	2, 3.8, 4, 4, 6
	<i>More than 30 days</i>	3.8
87a	Resistance, flight, breach of arrest, and escape	
	Resisting apprehension	4
	Flight from apprehension	5
87b	Offenses against correctional custody and restriction	
	Breach of restriction	0, 1
89	Disrespect toward superior commissioned officer; assault of superior commissioned officer	
	Disrespect toward superior commissioned officer, in command	0.03
90	Willfully disobeying superior commissioned officer	
	Other than in time of war	0, 1, 2, 4, 4, 4.67, 6
91	Insubordinate conduct toward warrant office, noncommissioned officer, or petty officer	
	Contempt or disrespect to superior noncommissioned officer or petty officer	0.17, 4.93
92	Failure to obey order or regulation	
	Violation of or failure to obey general order or regulation	0, 0, 0, 0, 0, 0.23, 0.5, 1, 1, 1, 1, 1, 2, 2.5, 2.67, 3, 4, 4, 4, 5, 5, 6, 6, 6, 6, 6, 6, 6, 9, 12, 12, 13, 18
	Violation of or failure to obey other lawful order	0, 0.33, 1, 1, 2, 2.87, 6, 6, 6, 6, 10
	Dereliction in performance of duties:	
	<i>Through neglect or culpable inefficiency resulting in death or grievous bodily harm</i>	3
	<i>Willful</i>	0, 1, 2, 3
	<i>Willful dereliction of duty resulting in death or grievous bodily harm</i>	6
95a	Disrespect toward sentinel or lookout	0, 0, 0, 0
104a	Fraudulent enlistment, appointment, or separation	
	Fraudulent enlistment or appointment	1*, 24*

105a	False or unauthorized pass offenses	
	Possessing or using with intent to defraud or deceive, or making, altering, counterfeiting, tampering with, or selling	12
107	False official statements; false swearing	
	False official statements	0, 0, 1.67, 2, 2.5, 2.5, 2.5, 2.5, 2.5, 3, 4, 5, 5, 6, 10, 18
108	Military property of U.S. — loss, damage, destruction, or wrongful disposition	
	Damaging, destroying, losing, or suffering to be lost, damaged, destroyed, sold, or wrongfully disposed	
	<i>Through neglect, of a value or damage of more than \$1,000</i>	0
	<i>Willfully, of a value or damage of \$1,000 or less</i>	6, 6
109	Property other than military property of U.S. — waste, spoilage, or destruction	
	Wasting or spoiling, non-military property — real property of a value of \$1,000 or less	9, 9
	Damaging any property other than military property of the U.S. of value of \$1,000 or less	0.03, 0.03
112a	Wrongful use, possession, etc. of controlled substances	
	Wrongful use, possession, manufacture, or introduction of controlled substance	
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	0, 0, 0, 0.83, 1, 1, 1, 1.5, 1.5, 1.67, 1.67, 1.83, 2, 2, 2, 2, 2, 2, 2, 2, 2, 2.5, 2.5, 3, 3, 3, 3, 3, 3, 3, 3, 3, 3, 3.8, 3.8, 3.8, 3.8, 4, 4, 4, 4, 4, 4, 4.93, 6, 6, 6, 6, 8, 11, 11, 11, 12, 12, 12, 13, 13, 13, 13, 20, 30
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	0, 0, 1, 1, 1, 1, 2, 2, 3.33, 3.33, 4.93, 5, 5, 6, 7, 8, 8, 8, 14
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance	
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	0.83, 0.83, 2, 3, 3, 3, 3, 3, 3.33, 3.33, 3.33, 3.33, 3.5, 4, 4, 4, 5, 5, 5, 5, 6, 10, 11, 11, 11, 11, 12, 12, 12, 14, 14, 18, 18, 18, 18, 18, 18, 18, 18, 20, 20, 20, 20, 25, 30
113	Drunken or reckless operation of a vehicle, aircraft, or vessel	
	Resulting in personal injury	0, 6
	No personal injury involved	1, 2.87, 3.33, 6
114	Endangerment offenses	4, 5, 12
115	Communicating threats	
	Threats and false threats generally	2, 2.87, 6, 6, 9
116	Riot or breach of peace	
	Breach of the peace	1
117	Provoking speeches or gestures	2.87

117a	Wrongful broadcast or distribution of intimate visual images	6
119	Manslaughter	
	Involuntary Manslaughter	54, 69
119b	Child endangerment	
	Other cases by culpable negligence	6
120	Rape and sexual assault generally	
	Rape	72
	Sexual Assault	15, 18, 18, 24, 28
	Abusive Sexual Contact	6, 6
120b	Rape and sexual assault of a child	
	Rape of a Child	180
	Sexual Assault of a Child	24, 34, 96, 96, 96, 96, 96
	Sexual Abuse of a Child	
	<i>Cases Involving Sexual Contact</i>	96, 96, 96, 96, 96, 96, 96
	<i>Other Cases</i>	24
120c	Other sexual misconduct	
	Indecent recording	12, 12, 12, 12
121	Larceny and wrongful appropriation	
	Larceny	
	<i>Property of a value of \$1,000 or less</i>	0, 6, 6, 6
	<i>Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	0.47, 2, 2, 2, 2.5, 3.33
	<i>Property other than military property of a value of more than \$1,000 or any motor vehicle, aircraft, vessel, firearm, or explosive not included in subpara d(1)(b)</i>	18
121a	Fraudulent use of credit cards, debit cards, and other access devices	
	To obtain property during any 1 year period the aggregate value of which is greater than \$1,000	0, 2.1, 5.33
123	Offenses concerning government computers	
	Unauthorized access of a Government computer and obtaining classified or other protected information	3.33
124	Frauds against the U.S.	
	Article 124 (3) and (4)	
	<i>When amount is more than \$1,000</i>	3.33, 3.33
127	Extortion	6

128	Assault	
	Simple assault	
	<i>Generally</i>	3
	Battery	
	<i>Assault consummated by battery</i>	0, 2, 2, 2, 2.5, 2.5, 2.5, 2.5, 2.5, 2.67, 3, 3, 3, 3, 3.33, 4, 4, 4, 4, 4, 4, 4.1, 5, 5, 6, 6, 6, 6
	<i>Assault upon noncommissioned or petty officer, not in execution of office</i>	0
	<i>Assault upon a sentinel or lookout in the execution of duty, or upon any person who, in the execution of office, is performing security police, military police, shore patrol, master at arms, or other military or civilian law enforcement duties</i>	2.87, 3, 3, 5
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or an immediate family member</i>	6, 6, 6, 6, 6, 6, 8, 11, 12
	Aggravated assault	
	<i>Aggravated assault with a dangerous weapon</i>	
	When committed upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	30
	<i>Aggravated assault in which substantial bodily harm is inflicted</i>	
	Other cases (not when the injury is inflicted with a loaded firearm or when the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member)	18, 18, 36
	<i>Aggravated assault in which grievous bodily harm is inflicted</i>	
	When the injury is inflicted with a loaded firearm	6
	When the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	10, 24
	Other cases	5
	<i>Aggravated assault by strangulation/suffocation</i>	
	Aggravated assault by strangulation	6, 6, 12, 24
128b	Domestic violence	5, 13
129	Burglary; unlawful entry	
	Burglary (with intent to commit any offense other than under Article 118-120, 120b-121, 122, 125-128a, or 130 of the UCMJ)	2
	Unlawful entry	1, 3, 3, 3
131b	Obstructing justice	1.5, 3, 4, 4, 4, 6, 8, 9, 11, 14

134	General Article	
	Child pornography	
	<i>Possessing, receiving, or viewing</i>	13, 18, 18, 24, 36, 36, 36
	<i>Distributing child pornography</i>	43
	<i>Producing child pornography</i>	46, 48
	Disorderly conduct, drunkenness	
	<i>Disorderly conduct</i>	
	Under such circumstances as to bring discredit upon the military Service	1
	<i>Drunk and disorderly</i>	
	Under such circumstances as to bring discredit upon the military Service	1, 3, 4
	Extramarital sexual conduct	0, 1, 4.67, 10, 12, 12, 12
	Firearm, discharging—through negligence	1, 3, 3
	Homicide, negligent	12, 12
	Indecent conduct	4
	Pandering and prostitution	
	<i>Prostitution and patronizing a prostitute</i>	1
	U.S. Code offense, non-capital	0, 0, 3.27, 3.27, 3.93, 6, 6, 6, 7, 7, 7, 11, 12, 12, 18, 18, 18, 18, 18, 18

NAVY

Art.	Offenses-Convicted	Amount of Confinement Received (in months)
80	Attempts	0, 2, 2, 2.5, 2.5, 6, 12, 18, 28, 30, 36
81	Conspiracy	1, 1.17, 3, 4, 8, 9, 13, 18, 24
82	Soliciting commission of offenses	
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	0, 0, 0.33, 1.5, 3, 36
83	Malingering	
	Feigning illness, physical disablement, mental lapse, or mental derangement (Other than in time of war)	1.17
85	Desertion	
	Terminated by apprehension	3.13
86	Absence without leave	
	Failing to go to, or going from appointed place of duty	0, 0.67
	Absence from unit, organization, or other place of duty	
	<i>Not more than 3 days</i>	0, 1
	<i>More than 3, not more than 30 days</i>	0.23, 0.43 0.5, 1, 1, 3, 6
	<i>More than 30 days</i>	1.17, 2.1
	<i>More than 30 days and terminated by apprehension</i>	1.4, 2.7
87	Missing movement; jumping from vessel	
	Missing movement	
	<i>Through design</i>	1.8, 1.8, 3
	<i>Through neglect</i>	0.1, 0.1, 0.23, 0.7, 2.7
87b	Offenses against correctional custody and restriction	
	Breach of restriction	0.53, 1
90	Willfully disobeying superior commissioned officer	
	Other than in time of war	0, 1.17
91	Insubordinate conduct toward warrant office, noncommissioned officer, or petty officer	
	Willfully disobeying the lawful order of a noncommissioned officer or petty officer	1
92	Failure to obey order or regulation	
	Violation of or failure to obey general order or regulation	0, 0, 0, 0, 0, 1, 1, 2, 2.5, 3, 3, 3, 3, 3.07
	Violation of or failure to obey other lawful order	1.17, 2, 6
	Dereliction in the performance of duties	
	<i>Willful</i>	1
95	Offenses by Sentinel or lookout	
	Drunk or sleeping on post, or leaving post before being relieved	
	<i>In all other places, not in time of war or while receiving special pay under 37 USC 310</i>	0.5

107	False official statements; false swearing	
	False official statements	0.33, 1.17, 1.5, 1.7, 2, 4, 6
108	Military property of U.S. — loss, damage, destruction, or wrongful disposition	
	Damaging, destroying, losing, or suffering to be lost, damaged, destroyed, sold, or wrongfully disposed - willfully, of a value or damage \$1,000 or less	1
109	Property other than military property of U.S. — waste, spoilage, or destruction	
	Damaging any property other than military property of the U.S. of a value \$1,000 or less	3
109a	Mail matter: Wrongful taking, opening, etc.	1, 1, 1, 1, 1, 1
112a	Wrongful use, possession, etc., of controlled substances	
	Wrongful use, possession, manufacture, or introduction of controlled substance	
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	0, 0, 0, 0, 0, 0.17, 0.33, 1, 1, 1, 1.1, 1.1, 1.1, 1.17, 2, 2, 2, 2, 2, 2, 2, 2, 2, 2.67, 3, 3, 3, 3, 3, 3.33, 3.33, 4, 4, 4, 5, 5, 5, 5, 5, 6, 6, 6, 6, 6, 6, 6, 6, 6.67, 8, 9, 10, 10, 10, 12, 18, 18, 18
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	0, 0, 0.17, 0.23, 0.23, 0.33, 0.33, 0.5, 0.5, 1, 1, 1, 1, 1, 1, 1, 1, 1.8, 2, 2, 2, 4
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance	
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	1.73, 1.73, 1.73, 1.73, 2.33, 2.33, 3, 3, 3, 3.33, 4, 4, 4, 7, 7, 7, 7, 8, 10, 10, 10, 10, 12, 12, 12, 18, 18, 18, 18, 24, 36, 36
113	Drunken or reckless operation of a vehicle, aircraft, or vessel	0, 1, 1.17, 4
	No personal injury involved	
114	Endangerment offenses	3.7
115	Communicating threats	
	Threats and false threats generally	2
117a	Wrongful broadcast or distribution of intimate visual images	1.33, 1.33, 4.67
120	Rape and sexual assault generally	
	Abusive sexual contact	12
120c	Other sexual misconduct	
	Indecent viewing	9
	Indecent recording	12, 12

121	Larceny and wrongful appropriation	
	Larceny	
	<i>Property of a value of \$1,000 or less</i>	0, 0, 0, 12, 12, 12, 12, 12, 12, 12
	<i>Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	2, 6
	Wrongful appropriation	
	<i>Of a value of more than \$1,000</i>	0
121a	Fraudulent use of credit cards, debit cards, and other access devices	
	To obtain property of a value of \$1,000 or less	12, 12
	To obtain property during any 1 year period the aggregate value of which is greater than \$1,000	9, 10
128	Assault	
	Simple assault	
	<i>Generally</i>	1, 3
	Battery	
	<i>Assault consummated by a battery</i>	0, 1, 1.43, 2.5, 2.97, 3, 3, 4, 6, 6, 6, 6
	<i>Assault upon commissioned officer of the armed forces of the U.S. or of a friendly foreign power, not in execution of office</i>	0
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or an immediate family member</i>	0.37, 1.17, 2, 10, 10, 10, 10
	Aggravated assault	
	<i>Aggravated assault with a dangerous weapon</i>	
	When committed with a loaded firearm	1
	Other cases	3, 12
	<i>Aggravated assault in which substantial bodily harm is inflicted</i>	
	Other cases (not when the injury is inflicted with a loaded firearm or when the injury is inflicted upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member)	24
	<i>Aggravated assault by strangulation/suffocation</i>	
	Aggravated assault by strangulation	7
129	Burglary; unlawful entry	
	Unlawful entry	0, 2, 6, 6
131b	Obstructing justice	0.33, 2, 9
133	Conduct unbecoming an officer and a gentleman	0, 2

134	General Article	
	Child pornography	
	<i>Possessing, receiving, or viewing</i>	19, 19, 20, 20, 36, 60, 60
	<i>Distributing child pornography</i>	20
	Disorderly conduct, drunkenness	
	<i>Drunk and disorderly</i>	
	Under such circumstances as to bring discredit upon the military Service	0, 2, 3, 3
	Firearm, discharging—through negligence	2.5, 3
	Indecent language	
	<i>Other cases</i>	2.5, 6
	Pandering and prostitution	
	<i>Prostitution and patronizing a prostitute</i>	0
	U.S. Code offense, non-capital	1.5, 1.5

AIR FORCE

Art.	Offenses-Convicted	Amount of Confinement Received (in months)
80	Attempt	0.5, 0.67, 3, 3, 4, 6, 6, 12, 12, 12, 30, 46, 96, 120, 120
81	Conspiracy	0.5, 12
82	Soliciting commission of offenses	
	Solicitation of all other offenses (not espionage; desertion; mutiny or sedition; or misbehavior before the enemy)	0, 1, 1*, 60, 96
86	Absence without leave	
	Failing to go to, or going from appointed place of duty	0, 0, 0, 0.17, 0.47, 0.9, 1
	Absence from unit, organization, or other place of duty	
	<i>Not more than 3 days</i>	0.07, 0.23, 1, 1
	<i>More than 3, not more than 30 days</i>	3, 3, 4.5
	<i>More than 30 days and terminated by apprehension</i>	1.47
87a	Resistance, flight, breach of arrest, and escape	
	Resisting apprehension	4
	Flight from apprehension	0
87b	Offenses against correctional custody and restriction	
	Breach of restriction	0.67, 1
89	Disrespect toward superior commissioned officer; assault of superior commissioned officer	
	Disrespect toward superior commissioned officer	
	<i>In command</i>	0.67, 0.83
	<i>In rank</i>	0.5, 2
90	Willfully disobeying superior commissioned officer	
	Other than in time of war	1, 1, 1.5, 1.5, 6, 6
92	Failure to obey order or regulation	
	Violation of or failure to obey general order or regulation	0.63, 1, 1, 1, 6
	Violation of or failure to obey other lawful order	0, 0, 0, 0, 0.13, 1, 1, 1, 1, 1, 2, 3, 4, 5
	Dereliction in the performance of duties	
	<i>Through neglect or culpable inefficiency</i>	0.5, 0.5, 1, 1.5
	<i>Willful</i>	0, 0, 0, 0.17, 1, 1, 1, 1, 1, 2, 3, 4, 4, 5
93a	Prohibited activities with military recruit or trainee by person in position of special trust	3
104a	Fraudulent enlistment, appointment, or separation	
	Fraudulent enlistment or appointment	3*
107	False official statements; false swearing	
	False official statements	0, 0, 0, 0, 0.17, 0.67, 1, 1, 1, 2.5, 2.5, 2.5, 2.5, 3, 4
	False swearing	0*

120c	Other sexual misconduct	
	Indecent recording	2, 2, 3, 4, 18, 18, 18, 20, 20, 50
	Broadcasting or distributing of an indecent recording	2
121	Larceny and wrongful appropriation	
	Larceny	
	<i>Property of a value of \$1,000 or less</i>	0.13, 0.4, 0.4, 0.43, 0.57, 4
	<i>Military property more than \$1,000 or any military motor vehicle, aircraft, vessel, firearm, or explosive</i>	2.5
	<i>Property other than military property of a value of more than \$1,000 or any motor vehicle, aircraft, vessel, firearm, or explosive not included in subpara d(1)(b)</i>	46, 46
123a	Making, drawing, or uttering check, draft, or order without sufficient funds	
	For the procurement of any article or thing of value, with intent to defraud, in the face amount of	
	<i>\$1,000 or less</i>	6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6
	<i>More than \$1,000</i>	6, 7, 7, 8, 10, 10, 12, 14, 16, 18, 18, 18, 20, 24, 30, 34, 36, 40, 42, 44, 46, 46
125	Kidnapping	24
128	Assault	
	Simple assault	
	<i>When committed with an unloaded firearm</i>	6
	Battery	
	<i>Assault consummated by a battery</i>	0, 0.17, 0.17, 0.17, 0.33, 0.67, 1, 1, 1, 1, 1, 1.5, 1.5, 2, 3, 3, 4, 4, 4, 5, 5, 5, 5, 6, 6, 6, 6, 6
	<i>Assault upon a sentinel or lookout in the execution of duty, or upon any person who, in the execution of office, is performing security police, military police, shore patrol, master at arms, or other military or civilian law enforcement duties</i>	0.33, 0.5, 3, 3
	<i>Assault consummated by a battery upon a child under 16 years, spouse, intimate partner, or immediate family member</i>	1, 1, 1, 1.5, 2.5, 3, 3, 5, 6, 6, 10, 11, 24
	Aggravated assault	
	<i>Aggravated assault with a dangerous weapon</i>	
	When committed with a loaded firearm	4.33
	When committed upon a child under the age of 16 years, spouse, intimate partner, or an immediate family member	36
	<i>Aggravated assault in which grievous bodily harm is inflicted</i>	
	Other cases (not when injury inflicted with loaded firearm or when inflicted on child under 16, spouse, intimate partner, or immediate family member)	22, 22
	<i>Aggravated assault by strangulation/suffocation</i>	
	Aggravated assault by strangulation	11

128b	Domestic violence	0.33, 0.67, 0.67, 0.67, 1.33, 2, 2.33, 3, 3.33, 3.33, 4, 6, 6, 6
129	Burglary; unlawful entry	
	Unlawful entry	3, 4, 4
131b	Obstructing justice	0, 2, 2, 3*, 6, 11, 12, 12, 12
133	Conduct unbecoming an officer and a gentleman	0, 0, 0.33, 0.33, 0.33
134	General article	
	Child pornography	
	<i>Possessing, receiving, or viewing</i>	3, 3, 13, 36, 72
	<i>Distributing child pornography</i>	36
	Disorderly conduct, drunkenness	
	<i>Drunk and disorderly</i>	
	Under such circumstances as to bring discredit upon the military Service	0.33, 0.7, 1
	Other cases (not when aboard ship or under such circumstances as to bring discredit upon the military Service)	2, 3
	Extramarital sexual conduct	2, 2, 2, 3, 6, 8
	Fraternization	1, 2, 2
	Indecent conduct	5, 6
	Pandering and prostitution	
	<i>Prostitution and patronizing a prostitute</i>	4, 4, 4
	U.S. Code offense, non-capital	0.23, 36
	Novel (Other)	0.7, 1.5, 3, 4

COAST GUARD

Art.	Offenses-Convicted	Amount of Confinement Received (in months)
86	Absence without leave	
	Failing to go to, or going from the appointed place of duty	0.17
90	Willfully disobeying superior commissioned officer	
	Other than in time of war	4, 4
92	Failure to obey order or regulation	
	Violation of or failure to obey general order or regulation	0
	Dereliction in the performance of duties	
	<i>Willful</i>	3, 3
107	False official statements; False swearing	
	False official statements	0.33, 0.33, 2, 3, 3
112a	Wrongful use, possession, etc., of controlled substances	
	Wrongful use, possession, manufacture, or introduction of controlled substance	
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	0
	<i>Marijuana (possession of less than 30 grams or use), phenobarbital, and Schedule IV and V controlled substances</i>	4
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance	
	<i>Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances</i>	4
120c	Other sexual misconduct	
	Indecent recording	2, 3
128	Assault	
	Battery	
	<i>Assault consummated by a battery</i>	4
131b	Obstructing justice	4*
134	General article	
	Extramarital sexual conduct	3
	Firearm, discharging—through negligence	0.5
	Homicide, negligent	8
	U.S. Code offense, non-capital	3, 3

Appendix F. Acronyms and Abbreviations

ACMIS	Army Court-Martial Information System
AFJAGS	Air Force Judge Advocate General’s School
AI STT	artificial intelligence–supported, speech-to-text
CNA	Center for Naval Analyses
CTC	circuit trial counsel
CTT	Complex Trial Team
DLSA	Defense Legal Services Agency
DLSS	defense litigation support specialist
DoD	Department of Defense
FY	fiscal year
IRC	Independent Review Commission
JAG	Judge Advocate General
JAGC	Judge Advocate General’s Corps
LWOP	life without parole
MCM	Manual for Courts-Martial
MJA16	Military Justice Act of 2016
MJLCT	Military Justice Litigation Career Track
MJO	Military Justice Online
MJR	Military Justice Redesign
MJRG	Military Justice Review Group
MJRP	Military Justice Review Panel
NDAA	National Defense Authorization Act
NJS	Naval Justice School
OAG	Operational Advisory Group
OJAG	Office of the Judge Advocate General
R.C.M.	Rule or Rules for Courts-Martial

RFI	request for information
SASC	Senate Armed Services Committee
SJA	staff judge advocate
SVC	special victims' counsel
SVCC	Special Victims' Counsel Certification
SVIP	Special Victim Investigations and Prosecution
SVL	special victim witness liaison
SVLE	special victim litigation expert
SVN	special victim noncommissioned officer
SVP	special victim prosecutor
SVU	Special Victims Unit
SVWL	special victim witness liaison
TAC	Trial Advocacy Center
TDS	Trial Defense Service
TJAG	the Judge Advocate General
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code
VCAP	Victims' Counsel Assistance Program
VLC	victims' legal counsel

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