

**ANNUAL REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY**

**OCTOBER 1, 2013 TO SEPTEMBER 30, 2014  
SUPERVISION OF THE ADMINISTRATION OF  
MILITARY JUSTICE**

**JUDGE ADVOCATE GENERAL**

The Judge Advocate General (JAG) co-chairs the Military Justice Oversight Council (MJOC) with the Staff Judge Advocate to the Commandant of the Marine Corps. MJOC meets quarterly and includes the following additional members: Commander, Naval Legal Service Command (CNLSC); Deputy Judge Advocate General for Reserve Affairs and Operations; Deputy Staff Judge Advocate to the Commandant of the Marine Corps; Chief Judge of the Department of the Navy; Assistant Judge Advocate General for Military Justice (AJAG-MJ); Assistant Judge Advocate General for Operations and Management; and, Deputy Director, Judge Advocate Division, Military Justice and Community Development.

During the reporting period and in accordance with their duties to supervise the administration of military justice under Article 6(a), Uniform Code of Military Justice, JAG and CNLSC regularly inspected U.S. Navy legal offices in the United States, Europe, and the Pacific. These inspections, conducted by subject matter experts, examined the full range of military justice processes.

**ASSISTANT JUDGE ADVOCATE GENERAL, MILITARY JUSTICE**

AJAG-MJ advises JAG in the performance of statutory military justice duties; serves as a member of the Office of the Judge Advocate General (OJAG) Ethics Committee, the Judicial Screening Board, and MJOC; and oversees OJAG's Military Justice Division (Code 20) and National Security Litigation Division (Code 30). AJAG-MJ is dual-hatted as the Officer in Charge of the Navy-Marine Corps Appellate Review Activity (OIC, NAMARA - Code 04) overseeing the Administrative Support Division (Code 40), Appellate Defense Division (Code 45), and Appellate Government Division (Code 46). AJAG-MJ/OIC, NAMARA is responsible for disposition of all records of trial in accordance with statutory and regulatory requirements, as well as applicable appellate court rules of practice and procedure.

## CRIMINAL LAW DIVISION (CODE 20)

Organization. During the reporting period, Code 20 was staffed by eight active duty judge advocates, one Reservist on one-year orders, one Reservist for three months, one Highly Qualified Expert (HQE), three civilian staff members, and an eight-member reserve unit. Additionally, Code 20 was temporarily assisted by two additional active duty judge advocates working exclusively in the preparation of the Sexual Assault Prevention and Response Report to the President of the United States (POTUS Report), and assigned three judge advocates full-time to the joint Military Justice Review Group.

Mission. Code 20 coordinates, reviews, and drafts military justice and sexual assault policy, including all legislative and regulatory proposals affecting military justice and sexual assault prevention and response (SAPR), within the Department of the Navy (DON). Code 20 directly engages with members of Congress and their staffs on proposed amendments to the UCMJ, Manual for Courts-Martial (MCM), Manual of the Judge Advocate General (JAG Manual), and other statutory and regulatory proposals affecting the UCMJ. Code 20 monitors all decisions of military appellate courts; tracks the status of military justice cases; provides legal and policy opinions; staffs requests for JAG certification of cases for review by the U.S. Court of Appeals for the Armed Forces (CAAF); and facilitates Department of Justice (DoJ) processing of executive pardon requests involving military convictions. Code 20 staffs requests for Secretarial designation of general, special, and summary court-martial convening authorities, coordinates court orders and warrants of attachment, and coordinates with DoJ to approve grants of immunity and orders for civilian witnesses to testify at trial by court-martial. Finally, Code 20 provides a representative to the Naval Clemency and Parole Board; provides legal opinions to the Board for Correction of Naval Records upon request; provides informal advice for Navy and Marine Corps judge advocates practicing military justice; processes all Article 69, 73, and 74(b) UCMJ reviews and requests; and acts as the release and initial denial authority on all Freedom of Information Act (FOIA)/Privacy Act (PA) requests for information pertaining to courts-martial.

The Code 20 Division Director sits as a member of the Judicial Screen Board and serves as CNLSC's Special Assistant for Military Justice, advising CNLSC on policies, plans, resources, and procedures affecting NLSC's military justice mission.

The Code 20 Division Director serves as Navy's Representative to the Joint Service Committee (JSC) for Military Justice and functions as Navy's voting group member at regular meetings of the JSC. The JSC is the principal vehicle for staffing amendments to the UCMJ and MCM. The JSC's 2014 Annual Review of the MCM was completed in accordance with the President's requirement, and two Executive Orders were drafted and submitted for the President's approval and signature. Significant staffing of a third Executive Order was also completed. The JSC was tasked by the General Counsel of the Department of Defense with responding to various legislative proposals, committee initiatives, and other reviews, including review of several recommendations from the Defense Legal Policy Board (DLPB) and the Response Systems to Adult Sexual Assault Crimes Panel (RSP).

Code 20 responded to numerous Congressional requests for information, provided technical assistance in drafting legislation, and drafted and reviewed senior leadership testimony before the Senate Armed Services Committee and Personnel Subcommittee. The Director of Code 20 also testified before Congress and participated in over 80 engagements and briefings with Members of Congress or their staffs.

The Director of Code 20 served as the Navy's point of contact for all Navy requests for information and testimony before the RSP. The RSP was created by section 576 of the Fiscal Year 2013 (FY13) National Defense Authorization Act (NDAA) to conduct an independent review and assessment of the systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses under Article 120 of the UCMJ. During this period, the Director of Code 20 testified before the RSP several times on a variety of different subjects. The RSP issued its report and 132 recommendations on June 27, 2014 to improve the effectiveness of such systems. Code 20 continues to play a key role in the evaluation and implementation of those recommendations for military justice provisions, and Departmental and Service recommendations on SAPR.

The Director of Code 20 also serves as the Navy's point of contact for all Navy and Departmental requests for information and testimony before the Judicial Proceedings Panel (JPP), the successor panel to the RSP. Like the RSP, the JPP was created by section 576 of the FY13 NDAA. The JPP's mandate is to conduct an independent review and assessment of judicial proceedings conducted under the UCMJ involving adult sexual

assault and related offenses, since the amendments made to the UCMJ by section 541 of the FY12 NDAA, for the purpose of developing recommendations for improvements to such proceedings. The Director of Code 20 testified before the JPP and Code 20 personnel remain engaged with JPP staff members, providing substantive guidance to support their mandate.

Code 20 was responsible for the Navy's implementation of multiple policy changes to military justice and SAPR dictated by the FY14 NDAA. The NDAA mandated more than 30 changes to military justice and SAPR policy implemented through Presidential Executive Orders, DoD, Secretarial, or Service policy, instruction, or practice.

Code 20 continued to identify and centralize training requirements for military justice litigation and trial advocacy. In coordination with Naval Justice School (NJS), Code 20 led the Litigation Training Coordination Council (LTCC) to develop new curricula. Code 20's attorneys also provided trial advocacy, military justice, sexual assault, and child sexual abuse litigation training to various audiences throughout the year.

In FY14, Code 20 was instrumental in the development of DoD and Navy Special Victims Capability (SVC), now referred to as Special Victims Investigation and Prosecution (SVIP) Capability, as required by section 573 of the FY13 NDAA. To ensure continued and updated training of key SVIP stakeholders, Code 20 worked with OJAG's Technology, Operations and Plans Division (Code 67) to hold the second annual SVIP course with over 260 participants, including First Tour Judge Advocates (FTJAs), Legalmen (LN), paralegals, Sexual Assault and Response Coordinators (SARCs), SAPR Victim Advocates (VAs), and Domestic Violence VAs.

In addition to the SVIP course, Code 20 hosted the inaugural Sexual Assault Policy for the Staff Judge Advocate, a two-day course for staff judge advocates (SJAs) currently providing advice to General Court-Martial Convening Authorities (GCMCAs), Sexual Assault-Initial Disposition Authorities (SA-IDAs), those serving as Region Legal Service Office (RLSO) Command Services Department Heads, and SJAs for Type Commanders (TYCOMs) or other commands that frequently convene courts-martial. The course provided instruction on and encouraged discussion of current legal issues involving sexual assault policy and dispositions that SJAs encounter while advising GCMCAs and SA-IDAs. Among the key topics reviewed were the FY14 NDAA, the status of its implementation, and the resulting SJA

and commander requirements. The course included instruction and discussion of the impact of the legislation on SA-IDAs, UCMJ Article 18 (GCM jurisdiction), Article 32 preliminary hearings, Article 34 advice, Article 56 (maximum punishments), Article 60 (post-trial action), Rules for Court-Martial (R.C.M.) 306 (character of accused during initial disposition of an offense), and the Victim and Witness Assistance Program (VWAP).

Code 20 personnel assisted in the development of Fleet-wide training initiatives on SAPR, to include DON Sexual Assault Prevention and Response Office's (SAPRO) Pre-commissioning, Pre-command, and InterACT SAPR training, and the Bystander Intervention to the Fleet (BI2F) training. The Pre-commissioning and Pre-command SAPR training provides new officers and those assuming command leadership roles necessary training to help prevent and respond to incidents of sexual assault and sexual harassment. The BI2F training focuses on concepts first taught in enlisted advanced skill training ("A" School). BI3F instills the need for intervention and prevention of destructive behavior by utilizing video vignettes and facilitated discussions to engage all service members in educational, face-to-face conversations about many topics, such as alcohol, drugs, fraternization, hazing, sexual harassment, and sexual assault. Code 20 was also involved in the creation of the new DON SAPRO Commander's Guide, providing guidance and support to the Navy's leadership on the topic of responding to sexual assault.

Further, as part of the SAPR Cross Functional Team (CFT), Code 20 met monthly with Navy's major stakeholders to discuss SAPR-related policy, training, military justice, and victim services developments across the Fleet.

Code 20 assisted in preparation of the POTUS Report, a comprehensive report directed by the President detailing major improvements in the prevention of sexual assault through initiatives and military justice reforms. In preparation for this report and subsequent Annual Reports to Congress on Sexual Assault, Code 20 collaborated with the Twenty-First Century Sailor Office (N17) to develop the Sexual Assault Disposition Report (SADR), which streamlined the process of obtaining accurate disposition data on Unrestricted Reports of sexual assault in the Navy. Code 20's role in data entry and Navy's program initiatives overview ensured Navy met the deadline for submission of the POTUS Report.

The data input for the POTUS Report was derived from the new Defense Sexual Assault Incident Database (DSAID), a comprehensive database launched in 2013 that tracks and reports sexual assault incidents. In 2014, Code 20 provided five fully-qualified DSAID Legal Officers (LOs), who personally reviewed and entered over 1,000 SADRs and dispositions of sexual assault cases for FY14. In FY14, DSAID was the sole source for disposition data on incidents of adult sexual assault for purposes of the POTUS Report as well as the forthcoming Annual Report to Congress on Sexual Assault. Code 20 continues to participate in the ongoing DSAID Change Control Board whose purpose is to improve and enhance DSAID capabilities.

Code 20, along with Code 67, participated in the ongoing development of the Naval Justice Information System (NJIS). This involved regular participation in the NJIS Board of Governance and various technical working groups. When implemented, this comprehensive system will manage cases at all phases and will be used to integrate law enforcement, investigations, and corrections, as well as command and judicial actions. During the reporting period, a contractor was selected to build NJIS, and configuration is currently underway.

Finally, during the reporting period, Code 20 reviewed 24 records of trial under Article 69(a), UCMJ; 5 records under Article 69(b), UCMJ; and 3 petitions under Article 73, UCMJ.

#### **ADMINISTRATIVE SUPPORT DIVISION (CODE 40)**

Organization. During the reporting period, Code 40 was staffed with one officer, two civilians and six enlisted Marine Corps staff members.

Mission. Code 40 provides administrative and logistical support services to NAMARA and the Navy-Marine Corps Court of Criminal Appeals (NMCCA). Code 40 personnel review for completeness all records of trial forwarded to NAMARA for appellate review pursuant to Articles 66 and 69, UCMJ; promulgate decisions of the NMCCA in accordance with the JAG Manual and the MCM; manage the OJAG court-martial central filing system, including original records of trial maintained at NAMARA; manage and retrieve archived records of trial stored at the Washington National Records Center in Suitland, Maryland; and administer all NMCCA and CAAF mandates and judgments on remand back to commands worldwide for corrective action. During FY14, Code 40 reviewed and examined 365 records of trial for

completeness prior to forwarding the records for appellate review pursuant to Articles 66 and 69, UCMJ.

**APPELLATE DEFENSE DIVISION (CODE 45)**

Organization. Code 45 was staffed with 11 active-duty Navy and Marine Corps judge advocates, 1 civilian attorney, and 4 civilian support personnel. 20 Navy and Marine Corps Reserve judge advocates supported Code 45.

Mission. Code 45 represents Navy and Marine Corps appellants before the NMCCA, CAAF, and the U.S. Supreme Court. Code 45 provides assistance to trial defense counsel in the field by helping to file extraordinary writs before the NMCCA and CAAF, providing general training, and providing advice on specific cases in litigation. Code 45 also works closely with the Defense Counsel Assistance Program (DCAP) by coordinating training and advice provided to counsel in the field.

<b>NMCCA</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
Briefs Filed	159	161	191	143	161
Other Substantive Pleadings	847	693	632	522	587
Total Cases Filed	744	531	488	374	387
Oral Arguments	15	20	19	15	15
<b>CAAF</b>					
Petitions with Supplemental Briefs Filed	69	81	117	90	79
Briefs Filed	21	20	19	13	7
Oral Arguments	11	7	12	9	2
<b>U.S. Supreme Court Petitions</b>	6	2	3	2	4

In FY14, a total of 373 new cases were docketed at the NMCCA and received in Code 45. Code 45 filed 387 initial pleadings with 15 oral arguments at the NMCCA. The initial pleadings include 161 briefs, 224 merit submissions, and 2 summary

assignments. In addition to this, Code 45 filed 69 reply briefs, 17 responses to government motions, 4 supplemental briefs, 3 responses to court orders, 255 motions (other than motions for enlargement) and 13 petitions for extraordinary relief at the NMCCA.

Code 45 filed 79 supplemental briefs to petitions at the CAAF, resulting in 7 full briefs and 2 oral arguments. Code 45 also filed 2 petitions for extraordinary relief at the CAAF.

Assistance to Trial Defense Counsel. Code 45 provides advice and support to Navy and Marine Corps trial defense counsel around the world. Code 45's experienced appellate attorneys respond to short-fused questions from trial defense counsel and assist in preparing and filing extraordinary writs. Code 45 also provides training on recent appellate developments and important trial issues.

#### **APPELLATE GOVERNMENT DIVISION (CODE 46)**

a. Organization. The Division was staffed with 10 active duty judge advocates, 1 civilian attorney, and 2 civilian administrative employees.

b. Reserve Support. Reserve support continues to be critical to mission accomplishment. Code 46 is supported by Navy Reserve NAMARA Government (Minneapolis, Minnesota). Reserve judge advocates contributed an average of two briefs per month.

c. Mission. Under Article 70, UCMJ, the primary mission of Appellate Government Division is to represent the United States before the NMCCA and CAAF. The Division also provides interlocutory appeal and prophylactic appellate support and advice to trial counsel, staff judge advocates, and review officers throughout the Navy and Marine Corps for all types of pretrial, court-martial, and post-trial matters.

i. Appellate Throughput. A summary of FY14 appellate activity is provided in the following chart. These calculations are based on input from the Court-Martial Tracking and Information System (CMTIS) database. The calculations in CMTIS for "Briefs Filed" include Government briefs, answers to supplements, and supplemental briefs. "Other Pleadings" include responses to extraordinary writs, motion responses, responses to Court Orders, and Petitions for Reconsideration. The number of NMCCA briefs filed by the Government increased to 159. Issues

and briefing continued to be highly complex, including multiple cases involving various iterations of recurring issues: whether Article 31(b) warnings must be given to off-duty reservists; whether and who re-initiates communications after a request for counsel in light of *United States v. Hutchins*; re-referral after withdrawal, and what constitutes proper and improper withdrawal; what constitutes testimonial evidence in light of *Crawford v. Washington* with regard to chain of custody evidence; interlocutory appeals when the judge both forcibly rests the Government's case and denies a continuance; lesser-included offenses under Article 120; and, when the basis for a search authorization can support a search for other crimes. CAAF briefing was lower this fiscal year; absent certification, Government CAAF litigation depends on granted defense petitions— and a low of 79 defense petitions were filed this year, compared to 90 in FY13, and 117 in FY12. Three Article 62 appeals taken from trial court decisions were filed.

	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>NMCCA</b>						
Briefs Filed	154	163	188	198	152	159
Other Pleadings	313	373	144	439	439	479
Oral Arguments	14	15	20	19	15	16
<b>CAAF</b>						
Briefs Filed	28	24	22	24	9	12
Other Pleadings	60	102	70	111	98	72
Oral Arguments	23	11	7	12	11	3

ii. Appellate Outreach and Shaping. Code 46 provides direct legal services to Marine Corps and Navy judge advocates around the world, responding to hundreds of questions from the field on trial and appeal matters. To better protect convictions on appeal, Code 46 advocates the need for unity of legal positions taken by the United States before trial and appellate courts. Code 46 augments delivery of legal advice on appellate issues affecting ongoing trials through routine postings on the Code 46 blog site. Appellate and trial prosecution working together helps ensure that legal precedent favorable to the United States is developed, positions are not waived prior to appellate litigation, and inconsistent positions are not taken by trial or appellate counsel. Robust and continuous coordination between the Trial Counsel Assistance Program (TCAP), trial counsel, and Code 46 positions the United States to achieve better appellate success.

iii. External Training. Code 46 continues to train trial counsel in the field. In coordination with NJS, Code 46 attorneys trained trial counsel during NJS's semiannual Trial Counsel Orientation Course. Training included: handling interlocutory appeals, ex writs, *DuBay* hearings and remands; protecting the record to withstand appellate scrutiny; and explaining the fundamental areas of intersection between trial and post-trial processing, and appellate review. These trial counsel training sessions are indispensable in building solid working relationships between trial and appellate litigators. Additionally, the sessions provide opportunities for appellate counsel to share previous lessons learned with trial counsel in an effort to prevent identical or analogous mistakes that adversely affect the United States.

d. Continuing Legal Education. This year, Code 46 counsel attended appellate advocacy training at the D.C. Bar Association's Appellate Advocacy Seminar, advanced appellate training at the annual American Bar Association's (ABA) Appellate Judges' Education Institute, and CAAF's annual conference.

e. Training Initiatives. Expanding last year's "Joint Government Appellate Training," Code 46 included appellate defense counsel and included more experienced and distinguished appellate practitioners. In September 2014, at Joint Base Myers-Henderson Hall, Code 46 arranged two days of training for every military appellate litigator and interested trial and defense counsel, featuring a variety of speakers that included some of the nation's top appellate jurists, litigators, and teachers. Speakers included: Chief Judge James Baker; Judge Patricia Millett, United States Court of Appeals for the District of Columbia Circuit ("Appellate Brief Writing"); Professor Orin Kerr of George Washington Law School ("Fourth Amendment in the Digital Age"); former CAAF Judge Andrew Effron ("Military Appellate Practice"); an appellate Federal Public Defender; and, an attorney from the U.S. Solicitor General's office. In coordination with NJS, Code 46 facilitated the approval of up to 11.2 hours of CLE credit, subject to the approval of each attendee's state bar requirements.

f. Community Outreach. Appellate Government Counsel continue to conduct robust outreach to the community. As in previous years, Code 46 appellate counsel, the Director, and Deputy served as appellate moot court judges at the ABA's National Appellate Advocacy Competition. This year, the Director and Code 46 counsel served as moot court judges for

student competitors at the George Mason Law School Upper Class Appellate Competition, as well as at the National Asian-Pacific, American Bar Association, American University's Washington College of Law, Thomas Tang International Appellate Moot Court Competition. Several Code 46 attorneys also volunteered their time to teach local students about law, democracy, and human rights.

g. Electronic Records of Trial. During FY14, Code 46 continued the expansion of the Department of the Navy's electronic record of trial program, which at year's end included approximately 95% of the trial records docketed at NAMARA.

h. Leveraging SharePoint. Finally, Code 46 continues to operate on a fully paperless and "virtual" office utilizing a discussion board, a Military Justice Wikipedia, and a routinely updated Military Justice Blog. Trial counsel and appellate government counsel from other Services are also able to participate and contribute to the blog, the discussion board, and the Military Justice Wikipedia.

**ASSISTANT JUDGE ADVOCATE GENERAL,  
CHIEF JUDGE, DEPARTMENT OF THE NAVY**

The Assistant Judge Advocate General, Chief Judge, Department of the Navy (CJDON) (AJAG 05) is the senior supervisory jurist in the DON, overseeing the trial and appellate judiciaries. The CJDON serves as the Rules Counsel for the judiciaries and the community sponsor for the Navy JAG Corps' Military Justice Litigation Career Track (MJLCT). The CJDON is selected by a competitive flag selection board and serves for three years, with appointment as the Assistant Judge Advocate General of the Navy in the third year of service. The CJDON is eligible to retire in the grade of rear admiral (lower half).

**THE NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS (CODE 51)**

The United States Navy-Marine Corps Court of Criminal Appeals (NMCCA) is responsible for all cases referred under Articles 62(b), 66(b), 69(d), and 73, UCMJ. The Court may also entertain petitions for extraordinary relief. During FY14, the Court was comprised of eight Navy and Marine Corps appellate judges during the majority of the year. NMCCA was also supported by seven Navy Reserve and three Marine Corps Reserve appellate judges, three Navy and Marine Corps junior officer law clerks, four student summer law clerks, three Fall Semester

part-time student law clerks, and a mid-grade officer senior law clerk.

Legal issues addressed included: the quantum of independent evidence needed to corroborate the essential facts in an admission by an accused so as to raise the required inference of truth in order for the admission to be admissible; whether members of the Individual Ready Reserve are entitled to the protections of Article 31(b), UCMJ; whether a certificate of correction prepared by trial counsel was in substantial compliance with R.C.M. 1103(i)(1)(B); whether a military judge erred in post-trial ordering a new trial based upon a finding that evidence previously known to the accused was newly discovered and unavailable despite due diligence, where she failed to consider the accused's awareness of this evidence and failed to evaluate due diligence with respect to other potential sources of impeachment evidence; whether a military judge abused his discretion by excluding the testimony of a forensic psychologist that the accused has a suggestible personality that made it more likely for him to falsely confess in response to coercive interrogation tactics and thereby denied the appellant his constitutional right to present a defense; whether a military judge's legal conclusion that the CAAF's decision in *United States v. Hutchins* created an expansion of the *Edwards per se* rule and required suppression of the accused's oral and written statements; whether an accused was entitled to day-for-day pretrial confinement credit and additional administrative credit for the period during which he was confined to a military hospital for psychiatric evaluation and treatment; whether remedial action taken by military judges in cases in which there was apparent unlawful command influence was adequate; whether a military judge erred when he used a state statute to determine the maximum punishment for a violation of Clause 2 of Article 134; whether a military judge abused her discretion by denying the Government an overnight recess and resting the Government's case; whether a requirement in Chief of Naval Operations Instruction (OPNAVINST) 3120.32C, that Sailors must self-report to their commanding officer any civilian arrest or criminal charge, is superseded by superior regulatory authority and violates the individual's right against self-incrimination; whether a superior commander may adopt a panel convened by a subordinate commander even though the latter may possess the same authority to convene a court-martial; whether comments made by a military judge during an out-of-court training session reflected actual or implied bias on his part in cases he presided over both before and after he made the comments; and whether an accused's rights under the Fourth Amendment were

violated when federal agents participated in the execution of a search warrant issued by a county judge to local law enforcement.

The Court hosted its fourth annual NMCCA Judicial Training course in FY14. Like the first two years of this top-rated training session, the Court brought two distinguished legal practitioners to the Court for three days to train active-duty, Reserve, and civilian Court personnel. Topics included recent developments in search and seizure case law, the role of victim's legal counsel at trial and during the appellate process, statutory construction, collegiality, judicial ethics, the exclusionary rule, and Article 120, UCMJ.

NMCCA continues to maintain a website at <http://www.jag.navy.mil/nmcca.htm>. All of NMCCA's opinions are available for download at the website. In addition, the Court maintains audio files from oral arguments heard before it as well as a docket for upcoming oral arguments. Finally, application for admission to the NMCCA bar and rules of the court are maintained on the site.

#### **NAVY-MARINE CORPS TRIAL JUDICIARY (CODE 52)**

The Navy-Marine Corps Trial Judiciary (NMCTJ) has the core mission of detailing certified and trained military judges to all Navy and Marine Corps general and special courts-martial. The trial judiciary is organized into eight geographic judicial circuits, with thirteen active duty Marine Corps judges and ten active duty Navy judges. Trial judges are stationed throughout the world, typically in Fleet and Marine force concentration areas, and travel to other OCONUS and CONUS locations as required to conduct trials. The active duty judiciary is supported by Reserve units from both Services, with a total of eighteen Reserve trial judges.

In 2014, the trial judiciary confronted novel issues arising from the creation of the Victims' Legal Counsel (VLC) program and from other provisions of the FY14 NDAA. In courtrooms across our enterprise, trial judges are helping define the evolving role of the VLC and the parameters of their representation. Additionally, trial judges are at the forefront of implementing many of the changes mandated by the NDAA and addressing their impact on courts-martial (e.g., guardianship of victims, changes in Article 32 hearing procedures).

The caseload at the trial level continues to decline, but the percentage of contested cases continues to rise, as highlighted by a comparison of the past two years. FY13 closed with the NMCTJ presiding over 1170 arraignments (291 GCMS and 879 SPCMs), of which 450 (38%) fell out prior to trial as alternative dispositions, withdrawals, or dismissals. Of the 720 cases that went to trial in FY13, approximately 37% (266) of the 720 cases were contested trials, and 91 cases resulted in acquittals (34%). By comparison, FY14 closed with the NMCTJ presiding over 993 initial arraignments (301 GCMS and 692 SPCMs). Approximately 300 (30%) cases did not go to trial as a result of alternative dispositions, withdrawals, or dismissals. Of the 692 cases that went to trial, approximately 41% (286) were contested cases. Those contested cases resulted in 128 acquittals (44%).

In addition to the primary mission, our trial judges continued to take on several collateral assignments. Due to turnover in the USCG trial judiciary, the NMCTJ provided judges for four U.S. Coast Guard courts-martial in FY14. Additionally, trial judges occasionally presided as Investigating Officers at Article 32 hearings, typically in cases where the charges were either unusually grave or complex. Finally, the trial judiciary continues to support the mission of the Office of Military Commissions Trial Judiciary (OMC-TJ). In April, CAPT Kirk Waits (Circuit Judge for Europe, Africa and Southwest Asia (EURAFSWA)) was detailed to the OMC case of *United States v. al Iraqi* and shortly thereafter began a series of trips to Guantanamo Bay to conduct the arraignment and initial pretrial sessions.

Our trial judges attended the 2014 Joint Military Judges Annual Training (JMJAT) held at the Air Force JAG School in February, where they received timely training on the new Article 120 statute, forensic psychiatric issues in child sexual assault cases, and judicial ethics. In February 2015, the NMCTJ will host JMJAT in San Diego.

#### **NAVAL LEGAL SERVICE COMMAND (NLSC)**

CNLSC also serves as the Deputy Judge Advocate General of the Navy.

At the conclusion of FY14, NLSC was comprised of 426 judge advocates, 1 Civil Engineer Corps officer, 1 Limited Duty (Law) officer, 176 LNs, and 223 civilians. NLSC provided a wide range of legal services to afloat and ashore commands, active-duty

naval personnel, family members, retirees, and eligible beneficiaries from the other Services at 99 offices worldwide.

In FY14, NLSC completed the second year of its major realignment. In 2012, NLSC disestablished all eight Naval Legal Service Offices and the legal assistance function was realigned to the nine Region Legal Service Offices (RLSOs). At the same time, four new Defense Service Offices (DSOs) were established to provide defense and personal representation services to service members, including representation at courts-martial and administrative boards. Defense counsel also provide other representational services, including advice on non-judicial punishment and adverse administrative personnel actions. In FY14, Navy Victims' Legal Counsel Program (VLCP) became fully operational; additional details are provided below.

In FY14, NLSC provided legal advice, services, and training to the Fleet through 13 commands, and their associated branch offices and detachments: four DSOs provided defense and personal representation; and nine RLSOs provided prosecution, command services, and legal assistance. Through these 13 commands, NLSC provided counsel for court-martial prosecution and defense, administrative boards, physical evaluation boards, legal advice to local commanders and their staffs, and legal assistance to active duty members, retirees and their family members.

In October 2013, NLSC transitioned to the new military justice Case Management System (CMS) to comply with a Congressional mandate that DON implement a single court-martial tracking system by July 1, 2013. All RLSOs received training prior to the October 1st transition and over the past year were provided additional refresher training. CMS is used to track all special victims' cases, as required by DOD Directive Type Memorandum (DTM) 14-003; all cases where an accused is placed in pretrial restraint, restriction, or confinement; and when the RLSO has substantial involvement in a case in anticipation of a possible court-martial. CMS also is used to track each officer Board of Inquiry. RLSO commands have found CMS to be highly effective in tracking all cases and providing accurate information to local convening authorities and NLSC headquarters.

NLSC held 137 general courts-martial, 175 special courts-martial, 602 administrative boards and 194 Boards of Inquiry that were completed in FY14. NLSC personnel also provided 17,312 command services, 11,533 personal representation services, and saw 37,458 legal assistance clients. NLSC

continued to be the primary source for personnel to meet the JAG Corps' Individual Augmentation (IA) requirements and provided two-thirds of its personnel requirements in support of Overseas Contingency Operations. During FY14, nine judge advocates from NLSC deployed to Afghanistan, Bahrain, and Guantanamo Bay, Cuba, in direct support of operations.

#### **DEFENSE COUNSEL ASSISTANCE PROGRAM (DCAP)**

DCAP is aligned under NLSC and reports to the Chief of Staff, Defense Service Offices (COS-DSO). DCAP consists of a Director, who is qualified as a "Specialist II" in the Military Justice Litigation Career Track (MJLCT), a Deputy Director who is qualified as a "Specialist I", and a civilian Highly Qualified Expert (HQE) who assists in training curriculum development and advises defense counsel on complex litigation and sexual assault cases. The HQE is a retired Marine Corps lieutenant colonel with more than 30 years of experience as a prosecutor, military judge, assistant federal public defender and civilian military criminal defense attorney. In order to ensure maximum availability for counsel situated throughout the world, DCAP personnel are stationed in three offices: San Diego, Norfolk and the District of Columbia. DCAP primarily supports the Navy trial defense bar. Although normally utilized as a reach-back resource for defense counsel, DCAP personnel may be assigned cases. For instance, DCAP's HQE was assigned to assist a trial team in a case involving allegations of pre-meditated murder that was ultimately referred as a non-capital case.

During this reporting period, DCAP personnel assisted detailed defense counsel across the spectrum of trial practice including trial strategy, motions practice, argument development, investigations, discovery, requests for witnesses and expert assistants, voir dire strategies and questions, complex legal research, preparing clients and witnesses for testimony, and trial preparation. DCAP personnel were available for on-site visits during trial preparation and were often in courtrooms to assist "behind the bar" during trial. DCAP also provided advice on post-trial matters and frequently consulted with defense counsel concerning professional responsibility and ethics issues.

DCAP planned, organized and executed a wide array of training for defense counsel. DCAP planned and spearheaded the Defending Sexual Assault Cases course sponsored by the Center for American and International Law in Plano, Texas. This course brought together military and civilian experts to provide

comprehensive training on defending service members accused of sexual assault. Additionally, in conjunction with NJS and the Marine Corps defense bar, DCAP organized the Defense Counsel Orientation course which was offered twice over the past year. This course brought together military and civilian defense counsel from all experience levels and was designed to prepare new defense counsel to represent court-martial clients. DCAP personnel served as instructors at both courses.

Further, DCAP conducted thirteen field assist visits around the world, providing training to DSOs and their detachment offices, developed video-based training on trial advocacy and defense specific areas, developed topical resources and provided written advisories and, maintained an online site for the dissemination and exchange of information between members of the Navy defense bar. Finally, DCAP continued to collect and consolidate helpful resources, ensuring materials developed by counterpart offices in our fellow Services, Code 20, and the NJS were available to the Navy defense bar.

#### **TRIAL COUNSEL ASSISTANCE PROGRAM (TCAP)**

TCAP is aligned under NLSC and reports to the Chief of Staff, Region Legal Service Offices (COS-RLSO). TCAP is directed by a Navy O-5, an MJLCT-designated "Expert" who previously served as a military judge, Naval Legal Service Office (NLSO) Commanding Officer, an Executive Officer and Senior Defense Counsel during the Trial Defense Command pilot program, a Senior Trial Counsel and an Assistant Senior Defense Counsel. The Deputy Director is a GS-15 civilian who specializes in sexual assault prosecution and victims' rights. A former state prosecutor with extensive experience, she served as the Director of the National Center for the Prosecution of Violence Against Women and is a noted author in the field. She led efforts to enhance SAPR policies and training, improve VWAP, and was engaged in numerous initiatives involving sexual assault litigation training and evaluation. The Assistant Director is a senior O-4 MJLCT-designated "Specialist II" who has completed tours as a defense counsel, prosecutor, carrier SJA, and NJS instructor, and received an LL.M. in Litigation from the George Washington University Law School. TCAP's Highly Qualified Expert (HQE) is a former civilian prosecutor who has 17 years of experience, most notably as a prosecutor specializing in crimes against children and as an instructor and course coordinator for the National District Attorneys Association.

TCAP's mission is to provide advice, assistance, support, resources and training for Navy trial counsel worldwide. The program supports and enhances the proficiency of the Navy prosecution bar, providing experienced reach-back and technical expertise. TCAP provides a full spectrum of advice and serves as a resource for trial counsel in the field through every phase of trial, including pretrial investigation, court-martial litigation and post-trial processing. TCAP counsel regularly assist and advise trial counsel on all aspects of prosecution, including drafting charges, trial preparation and motions practice, discovery issues, securing and preparing expert witnesses, devising trial strategy, and professional responsibility issues. TCAP collaboratively engages trial counsel in the field with regular case review conferences. Likewise, TCAP coordinates with Code 46 to ensure court-martial prosecutions are effectively postured to withstand appellate review.

When requested, TCAP provides more in-depth case assistance. For example, TCAP counsel have been detailed as trial counsel and assistant trial counsel when an advanced level of proficiency is demanded. In the past year, the TCAP Director served as trial counsel on a high-profile homicide case; the Assistant Director served as trial counsel in a high-profile sexual assault case and as a trial counsel in a premeditated murder case; and the civilian Deputy Director and the HQE have provided on-scene expert assistance in several complex sexual assault and child exploitation cases.

TCAP is also responsible for monitoring all high-visibility cases. The Director TCAP monitors the relative experience levels of trial counsel through on-site, periodic observations of Navy judge advocates in the performance of their prosecution functions and provides recommendations for improvement as well as resource recommendations to COS-RLSO as necessary.

In addition to case assistance and advice, TCAP provides resources to assist trial counsel. TCAP maintains an online repository of useful resources such as sample motions and responses, foundation questions, articles and manuals on prosecution, case disposition tracking, and an expert witness database. TCAP has expanded its expert witness database to ensure the ability of trial counsel to secure experts in all disciplines for the government and defense. The TCAP website also has a trial counsel discussion board that enables real-time response to demands from the field and leverages enterprise knowledge for remote offices. TCAP monitors questions and

responds to postings on the site and ensures that trial counsel are aware of all available resources. The discussion board also facilitates a closer prosecution bar by enabling discussions between trial counsel worldwide.

Finally, TCAP plays a significant role in trial counsel training. TCAP partners with NJS and Code 20 in the development of litigation training for trial counsel. TCAP personnel routinely serve as instructors on a variety of courses at the NJS schoolhouse, online, and in-person at offices worldwide. TCAP coordinated the planning and execution of Prosecuting Alcohol Facilitated Sexual Assault (PAFSA) course, an advanced trial advocacy course. TCAP provided targeted on-site mobile training teams to all nine RLSOs which focused on trial advocacy and prosecution of special victims offenses, as well as on-site case consultation and assistance. TCAP also provided a series of online training sessions that focused on the prosecution of special victims offenses and other evidentiary topics.

#### **VICTIMS' LEGAL COUNSEL (VLC) PROGRAM**

In August 2013, the Navy established the Navy VLC Program, designed to provide independent legal counsel to eligible sexual assault victims. The VLC Program is aligned under NLSC. VLC assist victims in understanding and exercising their reporting options. VLC work with victims through the investigation and military justice processes, advocate for the victim's rights and interests, and help victims obtain access to other support resources. VLC complement the care and support victims receive through other resources, such as the SAPR, the Family Advocacy Program (FAP), VWAP, and services offered by Victim Advocates, Chaplains, and healthcare providers.

Victims' Legal Counsel operate outside the chain of command of the victim and the accused and independent of both trial and defense counsel. The program consists of 29 specially trained and certified Navy judge advocates, 11 of which are reservists, 10 administrative personnel, and is led by a senior O-6 Chief of Staff and an O-5 Deputy Chief of Staff. VLC are assigned at 23 naval installations around the world, including Annapolis, MD; Washington, D.C.; Oceana, VA; Norfolk, VA; Groton, CT; Mayport, FL; Jacksonville, FL; Pensacola, FL; San Antonio, TX; Great Lakes, IL; Coronado, CA; San Diego, CA; Lemoore, CA; Ventura, CA; Bremerton, WA; Everett, WA; Pearl Harbor, HI; Guam; Bahrain; Naples, Italy; Rota, Spain; Gulfport, MS; and Yokosuka, Japan.

In accordance with federal law, to be eligible for VLC services, one must be a victim of sexual assault and otherwise eligible for legal assistance services from a military attorney. Generally this includes Navy active-duty and Reserve personnel, other service personnel and retirees when assaulted by an active-duty Navy member, adult and minor dependents of active-duty Navy members when assaulted by an active-duty member, and some overseas DON civilians. VLC services are available to victims filing Restricted Reports, Unrestricted Reports, or declining to file an official report of sexual assault.

Offenses covered within the VLC Program include Rape, Sodomy, Sexual Assault, Wrongful Sexual Contact, Stalking (120a), Rape and Sexual Assault of a Child (120b), Other Sexual Misconduct (120c) and attempts of any of the above. All communications between VLC and their clients are confidential and privileged. Victims are not required to contact or consult with a VLC - the choice remains with the victim. Declining VLC services at the outset does not preclude a victim from requesting VLC services at a later time. VLC support is available in-person and via remote means if necessary, including by telephone, email, and video-teleconferencing.

VLC began providing services to minor dependents assaulted by active duty perpetrators on June 24, 2014 as directed by the FY14 NDAA. VLC, as far as reasonably possible, maintain a normal attorney-client relationship with a minor client. This means that VLC assess each client's capacity separately and continually to determine if a particular client has the considered judgment and capacity to direct VLC services. In order to educate VLC on the nuances involved in representing minors and clients with diminished capacity, VLC leadership worked with the ABA's Center on Children and the Law, developing specialized web based training on child representation. Areas of instruction included determining whether a minor or diminished capacity victim has considered judgment and the capacity to direct their representation, developmentally appropriate communication methods, child development stages and general child capacity/communication skills at different stages.

VLC provide personal representation advice to victims involved in collateral misconduct connected with a report of sexual assault. Collateral misconduct resulting in administrative processing or court martial necessitates assignment of a separate military defense counsel. VLC also provide basic legal assistance services directly connected to a report of sexual assault, including notarizations and powers of

attorney. Assistance with more substantive matters are referred to the nearest military legal assistance office.

As of 30 September 2014, Navy VLC have aided 731 sexual assault victims, participated on the victim's behalf at 351 military justice proceedings, and conducted 830 outreach briefs on VLC services to 24,581 personnel.

### **NAVAL JUSTICE SCHOOL (NJS)**

Organization. Naval Justice School (NJS) reports to CNLSC for administrative and operational control. The main NJS facility is located in Newport, Rhode Island. Teaching detachments are based in San Diego, California, and Norfolk, Virginia. A two-person branch office is located at the U.S. Army's Judge Advocate General's Legal Center and School (TJAGLCS) in Charlottesville, Virginia.

Mission. To oversee formal training of Sea Service judge advocates and paralegals to ensure their career-long professional development and readiness, to provide comprehensive formal training to all Sea Service judge advocates and other legal personnel in order to promote justice and ensure the delivery of quality legal advice and other services to the commander, to train commanders and senior officers in the practical aspects of military law to enable them to perform their command and staff duties, and to train other personnel to assist in the sound administration of military justice.

In FY14, NJS provided instruction to more than 14,500 students worldwide, including more than 3,551 in in-resident courses ranging in length from 1 day to 13 weeks.

In addition to teaching NJS courses, NJS instructors provided out-of-house teaching in military justice, administrative law, and operational law to other commands on board Naval Station Newport including the Naval War College, Naval Leadership and Ethics Center, Officer Development School, Senior Enlisted Academy, Surface Warfare Officers School, Officer Candidate School, and Limited Duty/Chief Warrant Officer Indoctrination School.

Academic Programs. NJS has eight "core" courses that include training in military justice. These courses are:

1. Basic Lawyer Course (BLC). This ten-week course, offered three times annually, provides accession training for

all judge advocates in the Navy, Marine Corps, and Coast Guard. The course includes extensive training in military justice and court-martial advocacy, as well as training in legal assistance, administrative law, standards of conduct, and operational law. Teaching methods include lecture, seminar, and practical exercises. Upon graduation, judge advocates are certified per Article 27(b), UCMJ. FY14 graduates: 136.

2. Legalman Accession Course. This 11-week course, offered twice in FY14, trains Navy enlisted personnel selected for conversion to the Legalman rating. The course provides ten ABA-approved credits towards a paralegal degree or certificate in partnership with Roger Williams University (RWU). In addition to military-specific training in military justice, court reporting, administrative investigations, and administrative separations, the course includes four RWU courses taught by NJS officer instructors: Ethics, Legal Research and Writing I, Introduction to Law, and Emerging Legal Technologies. Five weeks of military-specific training within the course also constitutes the Reserve Legalman Accession Course. FY14 graduates: 58 active duty and 9 Reservists.

3. Basic Legal Services Specialist Course. This 11-week course, offered three times annually, provides accession-level training to junior enlisted Marines seeking the Military Occupational Specialty of Marine Corps Legal Services Specialist. Curriculum consists of training in military justice, post-trial review, and legal administration. FY14 graduates: 96.

4. Legal Services Court Reporter Course. This 13-week course, offered twice annually, provides court reporter training to Legal Services Specialists, grades E-3 to E-7, seeking the Military Occupational Specialty of Marine Corps Legal Services Court Reporter. The curriculum consists of court reporter training in closed-mask capture of legal proceedings at 225 words per minute, court-reporting grammar and punctuation, speech-recognition technology, digital recording software, and the production of verbatim and summarized courts-martial records of proceedings. FY14 graduates: 21.

5. Senior Officer Course in Military Justice and Civil Law (SOC). This three-day course is designed for commanding officers, executive officers, and officers in charge and is open to other officers in grades O-4 and above with NJS approval. The SOC trains officers in the execution of the legal responsibilities of command with instruction in military justice

(including sexual assault case disposition), administrative law, and civil law. In FY14, NJS provided 39 offerings of the SOC in Newport, San Diego, Norfolk, Camp Pendleton, Camp Lejeune, Parris Island, Quantico, Pensacola, and Hawaii. Per NAVADMIN 302/12, this course is mandatory for O-6s en route to command. FY14 graduates: 1165.

6. Legal Officer Course (LOC). This three-week course prepares non-lawyer Legal Officers to perform a host of military law functions in commands not large enough to warrant assignment of a judge advocate. In FY14, NJS provided 16 offerings of the LOC in San Diego and Norfolk. FY14 graduates: 506.

7. Legal Clerk Course (LCC). Legal Clerks are typically assigned to assist non-lawyer Legal Officers within a command as a collateral duty. This two-week course provides training in the preparation of legal forms and reports, service record entries, nonjudicial punishment, and court-martial procedures. In FY14, NJS provided 17 offerings of the LCC in San Diego and Norfolk. FY14 graduates: 387.

8. Senior Enlisted Leadership Course in Military Justice and Civil Law (SELC). This three-day course provides senior enlisted leaders of all services training in a wide range of military law with primary focus on military justice matters. In FY14, NJS provided 12 offerings of the SELC in San Diego and Norfolk. FY14 graduates: 334.

Continuing Legal Education. In addition to the "core" courses, NJS provided 16 in-resident specialty courses, many of which are pre-approved for continuing legal education (CLE) credit from state bar associations. Many of these courses focus on military justice. In FY14, these resident courses reached more than 424 legal professionals.

The semi-annual Trial Counsel and Defense Counsel Orientation courses teach Navy and Marine Corps counsel how to effectively prepare, manage, and try cases from the investigation stage through sentencing, with a particular focus on the practical aspects of defense and prosecution. The Basic Trial Advocacy Course is designed to develop important trial advocacy skills in judge advocates in their first trial billets and in judge advocates transitioning to trial billets from non-trial billets.

NJS also offers specialized instruction focused on sexual assault litigation. Prosecuting Alcohol-Facilitated Sexual

Assaults (PAFSA) is a week-long course that has been taught in conjunction with AEquitas, the Prosecutor's Resource on Violence Against Women. It focuses on substantive aspects of prosecuting alcohol-facilitated sexual assaults and includes small-group practical exercises to hone skills such as conducting direct and cross examinations of sexual assault nurse examiners, toxicologists, victims, and the accused. Defending Sexual Assault Cases (DSAC) is a week-long course that provides training on sexual assault litigation for defense counsel. DSAC is taught in conjunction with the Center for American and International Law in Plano, Texas.

NJS also continues to provide Basic and Advanced Staff Judge Advocate (SJA) Courses. The SJA courses incorporate military justice training relevant to SJAs including search and seizure, investigations, charging, preferral, convening courts, referral, VWAP, SA-IDA, and post-trial processing.

Legalman Paralegal Education Program (LPEP). Begun in 2010, LPEP is a government-funded education program leading to an Associates of Science degree in Paralegal Studies. The program is mandatory for all LNs in order to meet minimum occupational standards for the LN rating. Following completion of the LN Accession course, students normally complete a semester of in-resident courses with RWU before checking into their first permanent duty station as an LN. Upon checking in, they normally participate in distance learning with RWU until completing the degree requirements. In FY14, 79 students attended LPEP as in-resident students, and an additional 298 students were enrolled in the distance learning option.

Online Legal Education. In FY13, NJS entered into a partnership with TJAGLCS to expand the scope and reach of legal education for the Sea Services. Since that time the Online Legal Education department at NJS has been offering a variety of training and education courses utilizing the Blackboard learning management system. These systems are accessible 24/7 and offer on-demand training and education coupled with points of contact for feedback and instructor interaction.

In addition, NJS partnered with TJAGLCS to start offering full courses online via Blackboard. "NJS Online" gives military practitioners worldwide access to specialty courses. These courses range from on-demand short courses covering specific topics to multi-week courses on large practice areas such as post-trial processing, ethics, and law of the sea. Instructors deliver training using a variety of online teaching tools,

including assigned readings, recorded videos, live interactive sessions using DCO, discussion boards, practical assignments, and knowledge checks. Each fiscal year, NJS Online provides more than 10,000 hours of instruction to more than 2,000 students worldwide.

NJS Online now offers a first-of-its-kind foundation-level course. The Trial Counsel Online course provides entry-level training for practitioners assuming a trial counsel billet for the first time. This course is now a prerequisite for all USMC trial counsel.

Publications. NJS publishes an annual Naval Law Review. NJS also publishes a course catalog, the USN/USMC Commander's Quick Reference Handbook for Legal Issues (Quickman), as well as various study guides in support of its academic programs.

Coordination. Through the Interservice Legal Education Review Committee (ISLERC), Commanding Officer, NJS, the Dean of Students for TJAGLCS, and the Commandant, Air Force Judge Advocate General's School normally meet semi-annually to discuss new initiatives and opportunities for cross-training and to increase cooperation and efficiency in the training of legal personnel within the Department of Defense. Due to fiscal constraints, two meetings were held via video tele-conference (VTC) in FY14.

## **NAVY ACTIVITIES**

### **1. Military Justice Litigation Career Track (MJLCT)**

In 2007, to improve the overall quality of Navy court-martial litigation, the JAG Corps established the MJLCT. The MJLCT is a career track for judge advocates with demonstrated military justice knowledge and advocacy skills. The track combines continued courtroom experience, training and education, with oversight by and access to senior, seasoned litigation mentors to help judge advocates develop the skills needed to become preeminent trial lawyers. Military Justice Litigation Qualified (MJLQ) officers are detailed to lead trial and defense departments at each of our nine RLSOs and four DSOs, which provide Navy prosecutors and defense counsel, respectively. These officers provide proven experience in the courtroom, personally conducting, adjudicating, or overseeing litigation in sexual assault and other complex cases.

At the close of FY14, there were 69 Navy MJLCT officers, of which 41 were filling the 53 MJLCT-designated billets. Additional officers are serving in billets at the Office of Military Commissions, on board aircraft carriers, at NJS, in VLC positions, and attending post-graduate school to obtain LL.M. degrees in Trial Advocacy. The "billet-fill rate" has held relatively stable for the last two years.

The promotion rate for MJLCT officers continues to be monitored, and the in-zone MJLCT officers were selected for promotion by the FY15 promotion selection boards at a rate better than the overall in-zone selection rate. The FY15 O-6, O-5 and O-4 promotion selection boards selected six of the six MJLCT officers in-zone for promotion, a 100% selection rate.

MJLQ recognizes judge advocates with demonstrated abilities in the areas of military justice knowledge and advocacy skills.

SPECIALIST I MJLQ is the entry point for the MJLCT. A judge advocate may be qualified as SPECIALIST I after demonstrating military justice litigation proficiency and MJLCT potential. Candidates will normally be eligible for SPECIALIST I after their fourth year of active duty.

Following SPECIALIST I qualification, a judge advocate may qualify as SPECIALIST II after obtaining sufficient additional qualitative and quantitative military justice litigation experience as well as professional development as a naval officer. Candidates will normally be eligible for SPECIALIST II after their tenth year of active duty.

Following SPECIALIST II qualification, a judge advocate may qualify as EXPERT after obtaining significant additional quantitative and qualitative military justice litigation experience as well as demonstrated leadership of junior judge advocates. For this reason, EXPERT is ordinarily reserved for those judge advocates who have reached the senior-most MJLCT positions. Candidates will normally be eligible for EXPERT after their sixteenth year of active duty.

SPECIALIST II and EXPERT MJLQ are community management tools to guide the detailing, training, and professional development needs of MJLQ judge advocates and ensure the community maintains its ability to execute this core function across the community billet structure. Senior MJLQ judge advocates, in coordination with the AJAG 05, who serves as the MJLCT community sponsor, seek to provide all MJLQ judge

advocates with training and duty assignment opportunities that facilitate their professional development within the MJLCT, the JAG Corps, and the Navy.

Military justice litigation proficiency warranting qualification includes significant quantitative and qualitative criminal courtroom litigation experience and demonstrated proficiency in military justice procedure. As judge advocates seek MJLCT advancement, they will be required to demonstrate increased courtroom experience, continued growth in litigation leadership, and familiarity with the broader mission of the Navy. MJLQ judge advocates are encouraged to explore the wide variety of naval experiences that contribute to the development of a broad understanding of the duties of judge advocates, and to seek out detailing to non-litigation billets even after MJLQ. Accordingly, applicants for EXPERT MJLQ should generally have served at least two years in a non-litigation billet prior to their application for qualification.

## 2. Sexual Assault Initiatives

In FY14, the Navy continued to execute a multifaceted approach to address sexual assault awareness and training, prevention, victim response, and investigation and accountability. Navy judge advocates were integral in all levels of ongoing sexual assault prevention and response initiatives, including reviewing numerous SAPR training products.

On August 14, 2013, the Secretary of Defense implemented seven initiatives to strengthen the Department of Defense's overall sexual assault prevention and response programs, and he directed implementation of several measures designed to gain greater consistency of effort and enhance oversight, investigative quality, pretrial investigations, and victim support. One such measure required that judge advocates serve as Investigating Officers for all Article 32 hearings on sexual assault offense charges. Although it had been the practice in the Navy for over 20 years, the Navy formally adopted this requirement on December 4, 2013, and expanded it to all UCMJ offenses except in exceptional circumstances when in the interests of justice a line officer may be appointed.

Navy was integral in working with other Services on the implementation of several other new statutes, rules, regulations, instructions and policies with respect to sexual

assault, many of which significantly improved victim rights and military justice practice.

Navy prosecutors continue to attend and TCAP personnel provide training at a more robust NCIS Advanced Adult Sexual Assault Investigations Training Program (AASAITP), a course focused on improving multi-disciplinary coordination of sexual assault investigations. Regional Senior Trial Counsel meet with NCIS regularly (at least monthly) to coordinate case investigation and prosecution and foster early engagement by the response team.

### 3. Synthetic Drugs

To help detect and prevent the alarming trend of synthetic compound abuse by service members, testing for synthetic cannabinoids continued through FY14 at the Navy Drug Screening Laboratories (NDSL). This testing at NDSLs only tests those compounds designated as controlled substances under the Controlled Substances Act. Because usage is not limited to these compounds, prevalence testing, command directed and probable cause testing, and investigative testing requested by Military Criminal Investigative Organizations continued to be conducted at the Armed Forces Medical Examiners System (AFMES).

### 4. Additional Information

#### a. Compliance With Processing Time Goals

In FY14, no Navy case was dismissed on speedy trial grounds. 7 Navy cases exceeded 120 days from sentencing to convening authority's (CA) action (*Moreno 1* guideline). Delay in these cases was primarily due to voluminous records of trial as well as defense requests for extensions in submitting matters in clemency. No Navy cases exceeded 30 days from date of CA's action to docketing at NMCCA (*Moreno 2* guideline). Neither NMCCA nor CAAF granted relief in any Navy or Marine Corps case for unreasonable post-trial delay. Furthermore, no NMCCA cases exceeded the *Moreno 3* guideline of 18 months from docketing to decision.

b. Circumstances Surrounding Cases In Which Court-Martial Convictions Were Reversed As A Result Of Unlawful Command Influence (UCI), Or Denial Of The Right To A Speedy Review, Or Otherwise Due To Loss Of Records Of Trial Or Other Administrative Deficiencies

There was one DON appellate case in which a conviction was reversed based on UCI, *United States v. Howell*, No. 201200264, 2014 CCA LEXIS 321 (N-M. Ct. Crim. App. May 22, 2014)). No other cases were reversed due to UCI, denial of the right to a speedy review, or loss of records of trial or other administrative deficiencies.

In *United States v. Howell*, NMCCA reversed the conviction of SSgt Howell, USMC, who was convicted of rape and associated forcible sex offenses. SSgt Howell moved for dismissal, alleging UCI based on the Commandant of the Marine Corps' Heritage Brief. The second of three military judges on the case concluded that there was an appearance of UCI. He concluded that the voir dire process, the passage of time, and the availability of defense witnesses removed any taint, but suggested that the judge who ultimately presided over the case should publish the Commandant's White Letter 3-12 (which disclaimed any intent to influence courts-martial and encouraged Members to act independently) and ask additional voir dire questions to cleanse any residual appearance of UCI. However, the final military judge did not utilize any of the recommended remedial measures. The NMCCA decided that without those remedial measures, the taint of apparent UCI had not been cured.

#### c. Cases In Which A Provision Of The UCMJ Was Held Unconstitutional

There were no DON appellate cases in which a provision of the UCMJ was held to be unconstitutional.

#### d. Measures Implemented By Each Armed Force To Ensure The Ability Of Judge Advocates To Competently Participate As Trial And Defense Counsel In, And Preside As Military Judges Over, Capital Cases, National Security Cases, Sexual Assault Cases, And Proceedings Of Military Commissions

#### Diversity of Skills

Our MJLCT career litigation attorneys rotate between prosecution, defense, and judicial assignments. Many MJLQ officers also serve as military and appellate judges, giving them a unique perspective on how to formulate and articulate well-reasoned arguments when advising junior litigators. Likewise, having served as both trial and defense attorneys, our career litigators have a better understanding of the strengths and weaknesses of their cases. They are also detailed to other assignments, such as operational and staff judge advocate

billets, to round out their experience in the fleet. As a result, our litigators understand the importance of each role in our military justice system - insight which serves our community well as these attorneys move into senior litigation positions and provide training and mentorship to junior officers.

MJLCT officers have reached the highest levels of leadership within the JAG Corps, to include positions as commanding officers, division directors, and one of our Assistant Judge Advocates General. MJLCT officers are heavily involved in the daily prosecution, defense, and judgment of cases throughout the Service, and are serving at the Office of Military Commissions and VLC as well. These officers continue to be detailed into repeated tours of litigation-intensive billets that will improve the effectiveness and efficiency of the court-martial process. Several of our MJLCT officers have tried more than 100 contested members cases, several more have tried more than 50 contested trials, and half of the community has tried at least 20 contested cases. The experience is drawn from work as prosecutors, defense counsel, and trial judges, and some MJLCT officers have extensive contested case experience in all three areas of practice - prosecution, defense, and the judiciary. Some also have extensive appellate experience.

Almost a quarter of the MJLCT community has experience in areas of capital litigation, national security/classified information cases, and military commissions, and nearly every MJLCT officer has experience in litigating sexual assault cases. Each area of practice - prosecution, defense, and bench - currently has MJLCT members who have extensive experience in sexual assault, capital, classified, and commissions cases, and every practice area has ready access to these experts for support if the need arises.

#### Training and Education

Additionally, NJS provides judge advocates with tiered military justice training taught by active component judge advocates and supplemented by reserve judge advocates employed as local, state, and federal prosecutors. Training is centrally-managed under the oversight of a Litigation Training Coordination Council comprised of two Assistant Judge Advocates General, military justice experts from the prosecution and defense, policy advisors, instructors, and senior judges. Course requirements are established by a board of advisors from the Navy, Marine Corps, and Coast Guard who have extensive experience in litigation and training.

In addition to basic and intermediate level trial advocacy courses, NJS, Code 20, TCAP, and DCAP coordinate specialized training for Navy trial and defense counsel on litigating complex sexual assault crimes, using resources such as the National District Attorneys Association (NDAA); the National Institute of Justice (NIJ), a Department of Justice (DOJ) agency established to help foster science-based criminal justice practice; AEquitas, the Prosecutor's Resource on Violence Against Women, a Department of Justice (DoJ)-funded resource created to provide prosecutors with support, training, mentorship, and resources to improve the quality of justice in sexual violence cases; the Center for American and International Law; and the National Criminal Defense College.

Every year the JAG Corps sends mid-level career litigators to civilian post-graduate schools to earn a Master of Laws (LL.M.) in litigation or trial advocacy. Of the 69 career litigators in the MJLCT at the end of FY14, over half have earned an LL.M. in trial advocacy.

OJAG's National Security Litigation Division (Code 30) provides blocks of instruction on National Security cases in periodic NJS courses as needed, and has received approval to hold a National Security Litigation Course in 2015, the only course in DoD focused entirely on investigating and litigating cases involving classified information. Code 30 is working closely with Naval Special Warfare Command (NSW) to minimize leaks of classified information in the NSW community and hold appropriately accountable those who improperly publish information. Code 30 personnel also served as panelists for the National Security Case panel at Navy Office of General Counsel (OGC) Conference. Code 30 advised on over 30 individual cases involving national security information, provided advice and assistance to the DoJ Counter Espionage Section on two ongoing potential espionage cases, and supported NCIS in moving forward on a cold espionage case. Code 30 personnel also continued to provide ad hoc training, advice, and assistance to staff judge advocates, trial counsel, and defense counsel working through cases that involve classified information. Code 30 continues to publish and update the only National Security Case primer in DoD, and maintains close contacts with the intelligence community, DoJ National Security Division, and the Federal Bureau of Investigation's National Security Law Branch to facilitate cooperation between the Departments in all cases.

#### Trial Counsel

Senior Trial Counsel (typically O-4 or above) are the nucleus of the Navy's SVIP capability and are prepared to prosecute other complex cases including capital and national security cases. They are hand-selected by the JAG to fill one of nine Senior Trial Counsel billets. All Senior Trial Counsel are MJLQ officers. Upon reporting, all Senior Trial Counsel complete a two week special victims investigation course and participate in additional specialized training including: litigating complex cases, prosecuting alcohol-facilitated sexual assaults, TCAP targeted mobile training, and monthly online special victims offense or litigation training. All Senior Trial Counsel regularly provide information to TCAP on all pending felony-level investigations and prosecutions. Additionally, uniformed members of TCAP may also be detailed to cases as necessary and were so detailed to high-profile or complex cases in FY14.

Sexual assault cases are typically detailed to "core attorneys" assigned to each RLSO. A RLSO core attorney is a judge advocate (O-3 or above) who has completed at least one full two-year tour as a First Tour Judge Advocate (FTJA) prior to assuming the duties of a prosecutor. All trial counsel are supervised by a Senior Trial Counsel, an Executive Officer (O-5 judge advocate), and a Commanding Officer (O-6 judge advocate) and have access to 24/7 support from TCAP.

Trial counsel receive military commission training from the Office of the Military Commissions once assigned to that office.

#### Defense Counsel

In addition to basic judge advocate training received by trial counsel as well, Navy defense counsel receive Basic Trial Advocacy training and attend Defense Counsel Orientation prior to or shortly after arriving at a DSO to serve as a core defense counsel. The JAG Corps also funds several defense counsel to attend Defending Sexual Assault Cases, a weeklong course held once a year, with the intent for all defense counsel to attend early in their tour. Defending Sexual Assault Cases is a course designed to deal with the legal issues and complexities involved in a sexual assault case and includes practical exercises along with lectures. Among the faculty are renowned evidence professors, experienced civilian defense attorneys, and expert witnesses. The course allows for fulsome discussion of issues that pervade the average sexual assault case and includes practical exercises focusing on the facts of an actual trial.

Students are given extensive access to experienced practitioners and expert witnesses and frequently use this time to consult with other attorneys on themes and issues with their current cases. Defense counsel will attend this course within their first year of reporting. Defense counsel also may attend training in intermediate trial advocacy and litigating complex cases.

Additionally, DCAP sends Defense Mobile Training Teams (DMTTs) to each DSO at least twice yearly to work closely with the command and individual counsel, with a focus on practical issues in defense work and trial advocacy based on current or recent case scenarios.

Finally, resources permitting, Navy defense counsel have access to relevant legal seminars aimed at the criminal defense attorney. Capital Litigation training is provided by the National Legal Aid and Defender Association, which provides week long seminars on litigation and mitigation. The Navy periodically sends defense counsel to this course to maintain capital litigation capability in case it is needed.

Sexual assault cases are typically detailed to "core attorneys" assigned to a DSO. A DSO core attorney is a judge advocate (O-3 or above), certified to practice by the JAG in accordance with Article 27b, UCMJ, and a member in good standing with a state bar, that have completed at least one full tour prior to assuming the duties of a defense counsel. Detailing of counsel is within the discretion of the DSO Commanding Officer (O-6 judge advocate), who takes into consideration such matters as competence, experience, and training, existing caseload, and availability of counsel, as well as case specifics and opportunities for training of counsel. A Commanding Officer may detail a second, more experienced counsel to a particular case in part to provide the opportunity for practical mentoring. Additionally, uniformed members of DCAP may also be detailed to cases.

Defense counsel receive military commission training from the Office of the Military Commissions once assigned to that office.

#### Military Judges

The required courses for a trial judge's judicial education begin with the three-week Military Judge Course, provided by the TJAGLCS. This course provides the foundation and requirements

for being certified as a military trial judge by JAG and also the foundation that will enable a judge to begin duty on the bench. The course covers court-martial process, evidence, procedure, constitutional rights, judicial problem solving, and judicial methodology. It includes demonstrations and practical exercises. Appellate judges attend the same school for certification as a trial military judge.

In prior years, all trial judges attended the Joint Military Judges' Annual Training (JMJAT). The 2013 course was postponed indefinitely due to the impact of sequestration and the continuing resolution. The 2014 course will be hosted by the Navy; on odd years the training is held at the Air Force JAG School, on even years it is hosted by the NMCTJ in conjunction with the National Judicial College at Reno, Nevada. JMJAT is the venue for continuing baseline education and training for all trial judges, and it is vehicle for discussing current topics of judicial training interest, such as the new Article 120, presiding over cases involving third party representatives such as VLC, advanced evidence, sentencing methodology, and judicial ethics.

The NMCCA instituted a two-day, in-house annual training course four years ago to provide a venue for continuing education for active and Reserve appellate judges. The course serves as training for newly assigned judges and a refresher for experienced judges. The course focuses on court processes, opinion writing, ethics, appellate burdens of proof and persuasion, and advanced evidence. The FY14 course included search and seizure law, statutory construction, the exclusionary rule, digital evidence, and again, specific instruction on the development of Article 120. Appellate judges also attend the annual Fulton Appellate Judges conference, which is an inter-service, one-day event (the host rotates from service to service). The content focuses on both appellate judicial topics, and more broad issues of current interest in law and policy." Additional training through the New Appellate Judges Seminar hosted by New York University School of Law, and the Appellate Judges Education Institute hosted by Southern Methodist University School of Law, are also available for NMCCA judges when funding permits, but it is not required for appellate judges.

The required continuing legal education (CLE) for trial judges progresses each year with two courses per year, for the next three years. The NMCTJ judges use and attend the National Judicial College (NJC) because the NJC is the only fully-

accredited University that presents an average of 30 to 40 judicially-oriented courses annually. These courses serve to broaden judicial experiences by exposing judges to judicial perspective from around the country which permit trial judges to explore the varying and complex dynamics of our justice system. This education is designed to enable judges to practice at a higher level than that provided by the basic judge education provided by the U.S. Army. This training has and will continue to decrease the judge-induced error rate across the NMCTJ. The NJC's courses cover a multitude of current judicial topics, ranging from judicial writing and advanced evidence, to handling capital cases and general jurisdiction. This CLE requirement is not imposed on the appellate judiciary, because members of the appellate court include judges who previously served as trial judges subject to this requirement, and because appellate review generally is bound by what has been presented in a record of trial rather than based in the independent training that is intended to assist trial judges in creating the records of trial that will later be reviewed on appeal. Additionally, the in-house training conducted by NMCCA, in partnership with judicial educators from around the country, serves as an effective substitute for outside CLE.

Military judges receive specialized training in capital litigation, national security cases, sexual assault cases, and military commissions, some "just in time," and others as part of a CLE program. Legal education in areas encountered while litigating sexual assault cases is part of the initial pipeline training for every judge, and is picked up in various CLE programs after the initial training, both at the trial and the appellate level. Capital litigation courses for judges are available via the National Judicial College, and specialized training in classified information cases is available to judges just as it is for litigants. The judiciary currently holds a handful of practitioners who have tried classified information and national security cases, as well as officers with extensive experience in military commissions.

e. The Independent Views Of The Judge Advocates General And The Staff Judge Advocate To The Commandant Of The Marine Corps On The Sufficiency Of Resources Available Within Their Respective Armed Forces, Including Total Workforce, Funding, Training, And Officer And Enlisted Grade Structure, To Capably Perform Military Justice Functions

As of the date this report was submitted, the Navy judge advocate, enlisted, and civilian communities were adequately

resourced. However, budget reductions continue to cause challenges in funding training, and sequestration could further impact operational readiness. In particular, a 30% reduction in the Navy's Centrally Managed Training Funding budget over the last few years has diminished training opportunities. Additionally, emerging requirements may affect this assessment. The Navy provided additional billets to meet VLC requirements, and while Reserve support was critical to initial program implementation, the need for experienced counsel to fill VLC program and supervisory trial and defense litigation billets nevertheless taxed the JAG Corps manpower. The adequacy of resources over the mid and long-term is largely dependent on new legislation and directive policies, most of which continues to place significant demands on judge advocate resources. As an example, collection and verification of data and preparation of the POTUS Report required 2,549 man-hours of OJAG personnel, mostly judge advocates. JAG will continue to work with Navy to ensure that the JAG Corps is adequately resourced to meet these challenges as they emerge.

#### **CONCLUSION**

Military justice remained a principal focus of effort for the Navy in FY14. The aforementioned initiatives, particularly the establishment of the VLC program and continued enhancement of SVIP capability, the emphasis on training, the implementation of several new military justice provisions, and the development of common case-tracking systems, will optimize the Navy's military justice capabilities. We are committed to ensuring that our military justice system remains fair, effective, and efficient. With significant developments on the horizon – including reducing sexual assault in our ranks, focusing more specifically on destructive behaviors, to include sexual harassment and gender discrimination, implementation of over 100 recommendations of the RSP, and developing case management and tracking systems – continued careful self-reflection and close monitoring of the military justice system will remain priorities in FY15.

#### **MARINE CORPS ACTIVITIES**

The Marine Corps will submit a separate CAAF report for FY14.

## APPENDIX - U.S. NAVY/MARINE CORPS MILITARY JUSTICE STATISTICS

Report Period: FY 2014

### **PART 1 - BASIC COURTS-MARTIAL STATISTICS (Persons)**

TYPE COURT	TRIED		CONVICTED		ACQUITTALS		RATE OF INCREASE (+)/ DECREASE (-) OVER LAST REPORT
	USN	USMC	USN	USMC	USN	USMC	
GENERAL	137	132	101	100	36	32	+5%
BCD SPECIAL	175	248	164	199	11	49	-9%
NON-BCD SPECIAL	0	0	0	0	0	0	0
SUMMARY	44	504	43	501	1	3	-2%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT							-3%

### **PART 2 – DISCHARGES APPROVED**

GENERAL COURTS-MARTIAL (CA LEVEL) NUMBER OF DISHONORABLE DISCHARGES	92	
NUMBER OF BAD-CONDUCT DISCHARGES	74	
SPECIAL COURTS-MARTIAL (CA LEVEL) NUMBER OF BAD-CONDUCT DISCHARGES	196	

### **PART 3 – RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG**

FOR REVIEW UNDER ARTICLE 66 – GENERAL COURTS-MARTIAL	150	
FOR REVIEW UNDER ARTICLE 66 – BCD SPECIAL COURTS-MARTIAL	185	
FOR EXAMINATION UNDER ARTICLE 69 – GENERAL COURTS-MARTIAL	39	

### **PART 4 – WORKLOAD OF THE U.S. NAVY-MARINE CORPS CRT OF CRIMINAL APPEALS**

TOTAL ON HAND BEGINNING OF PERIOD	187	
GENERAL COURTS-MARTIAL	102	
BCD SPECIAL COURTS-MARTIAL	85	
REFERRED FOR REVIEW	373	
GENERAL COURTS-MARTIAL	178	
BCD SPECIAL COURTS-MARTIAL	195	
TOTAL CASES REVIEWED	402	
GENERAL COURTS-MARTIAL	145	
BCD SPECIAL COURTS-MARTIAL	257	
TOTAL PENDING AT CLOSE OF PERIOD	158	
GENERAL COURTS-MARTIAL	99	
BCD SPECIAL COURTS-MARTIAL	59	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD	-7%	

### **PART 5 – APPELLATE COUNSEL REQUESTS BEFORE U.S. NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS (CCA)**

NUMBER	373	
PERCENTAGE	100%	

### **PART 6 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES (CAAF)**

PERCENTAGE OF CCA-REVIEWED CASES FORWARDED TO CAAF (84)	+23%	
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	+4.5%	
PERCENTAGE OF TOTAL PETITIONS GRANTED (57)	+68%	
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	+20.5%	
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CCA	+14%	
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD	+5%	

**APPENDIX - U.S. NAVY/MARINE CORPS MILITARY JUSTICE STATISTICS - CONT'D**

<b>PART 7 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ</b>		
TOTAL PENDING BEGINNING OF PERIOD		30
RECEIVED		39
DISPOSED OF		37
GRANTED	0	
DENIED	37	
NO JURISDICTION	0	
WITHDRAWN	0	
TOTAL PENDING AT END OF PERIOD		32
<b>PART 8 – ORGANIZATION OF COURTS</b>		
TRIALS BY MILITARY JUDGE ALONE		225
GENERAL COURTS-MARTIAL		77
SPECIAL COURTS-MARTIAL		148
TRIALS BY MILITARY JUDGE WITH MEMBERS		81
GENERAL COURTS-MARTIAL		60
SPECIAL COURTS-MARTIAL		21
<b>PART 9 – COMPLAINTS UNDER ARTICLE 138, UCMJ</b>		
NUMBER OF COMPLAINTS		55
<b>PART 10 – STRENGTH</b>		
AVERAGE ACTIVE DUTY STRENGTH		511,847
<b>PART 11 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)</b>		
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED		13,307
RATE PER 1,000		26
RATE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS PERIOD		+6%