



May 2019

MILITARY JUSTICE

DOD and the Coast Guard Need to Improve Their Capabilities to Assess Racial and Gender Disparities

GAO Highlights

Highlights of [GAO-19-344](#), a report to the Committee on Armed Services, House of Representatives

Why GAO Did This Study

The Uniform Code of Military Justice (UCMJ) was established to provide a statutory framework that promotes fair administration of military justice. Every active-duty servicemember is subject to the UCMJ, with more than 258,000 individuals disciplined from fiscal years 2013-2017, out of more than 2.3 million unique active-duty servicemembers. A key principle of the UCMJ is that a fair and just system of military law can foster a highly disciplined force.

House Report 115-200, accompanying a bill for the National Defense Authorization Act for Fiscal Year 2018, included a provision for GAO to assess the extent that disparities may exist in the military justice system. This report assesses the extent to which (1) the military services collect and maintain consistent race, ethnicity, and gender information for servicemembers investigated and disciplined for UCMJ violations that can be used to assess disparities, and (2) there are racial and gender disparities in the military justice system, and whether disparities have been studied by DOD. GAO analyzed data from the investigations, military justice, and personnel databases from the military services, including the Coast Guard, from fiscal years 2013-2017 and interviewed agency officials.

What GAO Recommends

GAO is making 11 recommendations, including that the services develop the capability to present consistent race and ethnicity data, and DOD include demographic information in military justice annual reports and evaluates the causes of disparities in the military justice system. DOD and the Coast Guard generally concurred with GAO's recommendations.

View [GAO-19-344](#). For more information, contact Brenda S. Farrell at (202) 512-3604 or farrellb@gao.gov.

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MILITARY JUSTICE

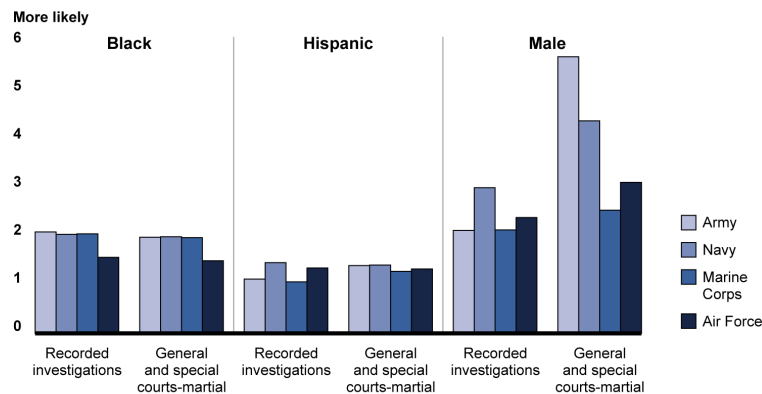
DOD and the Coast Guard Need to Improve Their Capabilities to Assess Racial and Gender Disparities

What GAO Found

The military services collect gender information, but they do not collect and maintain consistent information about race and ethnicity in their investigations, military justice, and personnel databases. This limits their ability to collectively or comparatively assess these data to identify any disparities (i.e., instances in which a racial, ethnic, or gender group was overrepresented) in the military justice system within and across the services. For example, the number of potential responses for race and ethnicity across the military services' databases ranges from five to 32 options for race and two to 25 options for ethnicity, which can complicate cross-service assessments. The services also are not required to and, thus, do not report demographic information in their annual military justice reports—information that would provide greater visibility into potential disparities.

GAO's analysis of available data found that Black, Hispanic, and male servicemembers were more likely than White or female members to be the subjects of investigations recorded in databases used by the military criminal investigative organizations, and to be tried in general and special courts-martial in all of the military services when controlling for attributes such as rank and education. GAO also found that race and gender were not statistically significant factors in the likelihood of conviction in general and special courts-martial for most services, and minority servicemembers were either less likely to receive a more severe punishment than White servicemembers or there was no difference among racial groups; thus, disparities may be limited to particular stages of the process. The Department of Defense (DOD) has taken some steps to study disparities, but has not comprehensively evaluated the causes of racial or gender disparities in the military justice system. Doing so would better position DOD to identify actions to address disparities and help ensure the military justice system is fair and just.

Likelihood that Servicemembers Were Subjects of Recorded Investigations and Tried in General and Special Courts-Martial, Fiscal Years 2013-2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: These analyses, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These multivariate regression analysis results estimate whether a racial or gender group is more likely or less likely to be the subject of an investigation or a trial in general or special courts-martial after controlling for race, gender, rank, and education, and in the Air Force, years of service. GAO made all racial comparisons to White servicemembers and all gender comparisons to females. GAO grouped individuals of Hispanic ethnicity together, regardless of race.

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Abbreviations

DOD	Department of Defense
MCIO	military criminal investigative organization
ODEI	Office of Diversity, Equity and Inclusion
OMB	Office of Management and Budget
UCMJ	Uniform Code of Military Justice

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May 30, 2019

The Honorable Adam Smith
Chairman
The Honorable Mac Thornberry
Ranking Member
Committee on Armed Services
House of Representatives

The Uniform Code of Military Justice (UCMJ) provides the statutory framework of the military justice system and establishes the complete code of military criminal law.¹ It also outlines the jurisdiction and basic procedure of the military justice system, and provides the legal framework for conducting investigations and prosecutions of allegations of misconduct by servicemembers. Every active-duty member of the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard is subject to the UCMJ. According to the *Manual for Courts-Martial*, the purpose of military law is to promote justice, assist in maintaining good order and discipline in the armed forces, promote efficiency and effectiveness in the military establishment, and thereby strengthen the national security of the United States.² The Military Justice Review Group elaborated on this purpose, stating that the current structure and practice of the UCMJ embodies a single overarching principle: a system of military law can foster a highly disciplined force if it is fair and just, and is recognized as such by both members of the armed forces and by the American public.³

The military justice system has rules, proceedings, and consequences that are different from the rights and obligations in the civilian criminal

¹10 U.S.C. §§801-946a.

²The President has implemented the UCMJ through the *Manual for Courts-Martial*, which became effective on May 31, 1951, and was initially prescribed by Executive Order 10214 (Feb. 8, 1951). The *Manual for Courts-Martial* contains the Rules for Courts-Martial, the Military Rules of Evidence, and the UCMJ. Each military service may supplement the *Manual for Courts-Martial* with its own guidance to meet the service's needs when authorized to do so by the President.

³Military Justice Review Group, *Report of the Military Justice Review Group Part I: UCMJ Recommendations*, at 16 (Dec. 22, 2015). The Military Justice Review Group was established at the direction of the Secretary of Defense to conduct a comprehensive review of the UCMJ and the military justice system.

court system.⁴ In addition to articles that punish traditional crimes such as unlawful drug use and assault, the UCMJ includes unique military offenses including desertion, failure to obey orders or regulations, and misbehavior before the enemy, among others. These unique military offenses are specifically proscribed in the military context because of their deleterious effect on morale and mission accomplishment.

In 1995, we reported that studies conducted in the 1970s and 1980s showed no disparities—instances in which a racial, ethnic, or gender group was overrepresented—in discipline rates between Black and White servicemembers⁵ and found no evidence that minority groups received courts-martial or nonjudicial punishments out of proportion to certain types of violations.⁶ In that same report, however, we found that studies published in the 1990s by the Navy and the Defense Equal Opportunity Management Institute showed that Black servicemembers were overrepresented in the number of servicemembers receiving judicial and nonjudicial punishments. In 2017, a non-profit organization reported that Black servicemembers were substantially more likely than White servicemembers to face military justice action.⁷

House Report 115-200, accompanying a bill for the National Defense Authorization Act for Fiscal Year 2018, included a provision for us to review differences in the way that the military services collect and maintain information about the race and gender of servicemembers convicted of violations of the UCMJ and to assess the extent that

⁴Article III of the Constitution of the United States governs the federal judiciary, but does not give it any explicit role in the military. Military courts, referred to as courts-martial, are not considered to be Article III courts and thus are not subject to all of the rules that apply in federal courts. For example, the U.S. Constitution specifically exempts military members accused of a crime from the Fifth Amendment right to a grand jury indictment, from which the Supreme Court has inferred that there is no right to a civil jury in courts-martial. See *Ex parte Milligan*, 71 U.S. (4 Wall.) 2 (1866). Military courts are established pursuant to Article I of the U.S. Constitution and as a result are of limited jurisdiction.

⁵For purposes of this report, we use the term disparities to describe instances in which a racial or gender group was overrepresented among the servicemembers who were investigated or disciplined for violations of the UCMJ.

⁶GAO, *Equal Opportunity: DOD Studies on Discrimination in the Military*, [GAO/NSIAD-95-103](#) (Washington, D.C.: Apr. 7, 1995).

⁷Protect Our Defenders, *Racial Disparities in Military Justice* (May 2017).

disparities may exist in the military justice system.⁸ This report assesses the extent to which (1) the military services collect and maintain information about the race, ethnicity, and gender of servicemembers investigated and disciplined for violations of the UCMJ that can be used to assess disparities; and (2) there are racial or gender disparities in investigations, disciplinary actions, and case outcomes in the military justice system, and whether the Department of Defense (DOD) and the military services have taken steps to study any identified disparities.

For our first objective, we reviewed service guidance, user manuals, and other documentation to determine the types of data officials are required to collect and maintain as well as internal procedures the services follow to input information about race, ethnicity, and gender into their investigations, military justice, and personnel databases. For example, we determined whether the collection of this information was mandatory, and how this information was entered into and recorded in each database. We also interviewed agency officials who manage and use the databases to determine which fields in each database track the race, ethnicity, and gender of the accused; how these data are input in the databases; and their insights regarding the reliability of these data. We also analyzed the data we received from the investigations, military justice, and personnel databases to determine the completeness of the race, ethnicity, and gender information that was recorded in each of the databases. We assessed service systems and procedures for collecting data against DOD and service guidance and relevant federal internal control standards.⁹

For our second objective, we analyzed military justice actions initiated and recorded in service investigations and military justice databases between fiscal years 2013 through 2017—the most recent data available at the time of our review—as well as record-level data from each of the military services’ personnel, investigations, and military justice databases.¹⁰ To prepare the data for our analyses and ensure that we

⁸The scope of our review included all five military services: the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard. Although the Coast Guard is part of the Department of Homeland Security, the Coast Guard is a military service and a branch of the armed forces at all times.

⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

¹⁰We chose this time period because it provided the most recent history of available military justice data.

had consistent profiles for the race, ethnicity, and gender of the servicemembers, we merged records using unique identifiers, such as social security number or DOD employee identification number, that were common among a particular service's databases. Based on discussions with service officials, we treated the personnel databases as the authoritative sources for servicemembers' demographic and administrative data. In addition, as part of our data preparation, we consolidated the various race and ethnicity values in the service personnel databases to the five groups for race and the two groups for ethnicity established by the Office of Management and Budget (OMB) standards for maintaining, collecting, and presenting data on race and ethnicity for federal reporting purposes.¹¹ When military service personnel databases included different or additional possible options for race and ethnicity than the groups established by the OMB standards, we consolidated the options in accordance with the definitions for each race and ethnicity option listed in the OMB standards. We grouped individuals of Hispanic ethnicity together, regardless of their racial identification, so that we could compare those of Hispanic ethnicity to other racial groups. Throughout this objective in our report, we refer to the combined race and ethnicity values as race.

We analyzed data from the military services' investigations, military justice, and personnel databases to determine the extent to which racial and gender groups were the subjects of recorded investigations, tried in courts-martial, and subject to nonjudicial punishments at higher or lower rates than each racial and gender group's proportion of the overall service

¹¹Office of Management and Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 Fed. Reg. 58,782 (Oct. 30, 1997). In 2016, the Office of Management and Budget issued a proposed revision to the standards. See, *Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*, 81 Fed. Reg. 67,398 (Sept. 30, 2016). As of May 2019, the Office of Management and Budget had not issued the revised standards.

population.¹² We analyzed data for trials in general and special courts-martial separately from trials in summary courts-martial because general and special courts-martial result in a criminal conviction if the servicemember is found guilty, while summary courts-martial are not a criminal forum and do not result in a criminal conviction.¹³ Our analyses only counted cases that were ultimately tried at general, special, or summary courts-martial, and excluded those cases where charges were dismissed, withdrawn, or subject to some alternate resolution.

We also conducted bivariate analyses to estimate the association between select attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format.¹⁴ We reviewed relevant literature and interviewed agency officials to determine which demographic attributes would be most appropriate to include in our analyses. Our bivariate analyses examined attributes such as race, gender, age, rank, years of service, education, and offense. We then conducted multivariate regression analyses to test the association between servicemember characteristics, such as race and gender, and the odds of a military justice action, while holding other servicemember

¹²We reviewed investigation data from the military criminal investigative organizations' databases where the subject of the investigation was an active-duty servicemember. We analyzed investigation information from the databases used by the Army's Criminal Investigation Command, which included cases investigated by military police and Criminal Investigation Command; by the Navy and Marine Corps' Naval Criminal Investigative Service, which included cases investigated by the Naval Criminal Investigative Service and military police; by the Air Force's Office of Special Investigations, which included only Office of Special Investigations cases; and by the Coast Guard Investigative Service, which included only Coast Guard Investigative Service cases. This analysis does not include investigations that were recorded in databases that were not used by the military criminal investigative organizations, or investigations performed by other military law enforcement entities or command investigations.

¹³For this review, we used the preferral date, or the date when an accused servicemember was first charged with a violation, to count the number of courts-martial that occurred in a given fiscal year. However, each military service uses the date in which the court-martial judgment was given when reporting the number of each type of court-martial in their annual reports to the Court of Appeals for the Armed Forces. As a result, the number of court-martial cases in a given year analyzed for our review differs from what was reported in the annual reports to the Court of Appeals for the Armed Forces. However, this variation in determining the year in which a case occurred does not impact the findings of racial and gender disparities.

¹⁴For additional explanation of how we conducted our bivariate analyses, see Appendix I, and see Appendix II for all of our bivariate analyses results.

attributes constant, such as gender, rank, and education.¹⁵ Our multivariate regression analyses controlled for attributes such as race, gender, rank, years of service, and education.¹⁶ We conducted data reliability assessments on the datasets we received from the databases in our review. We examined the documentation related to the databases, conducted electronic tests on the data we received, and discussed data reliability with database managers. Based on these actions, for the purposes of our analysis, we found the variables we ultimately reported on to be sufficiently reliable. Our analyses of these data, taken alone, do not establish whether unlawful discrimination has occurred, as that is a legal determination that would involve other corroborating information along with supporting statistics. Further, we did not identify the causes of any racial or gender disparities, and the results of our work alone should not be used to make conclusions about the military justice process. We also reviewed publications about disparities in the military justice system and the civilian justice system and summarized them in order to enhance our understanding of the complexities of the issues, including how others have attempted to measure disparities. A more detailed description of our scope and methodology appears in appendix I.

We conducted this performance audit from November 2017 to May 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁵A multivariate regression analysis examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. For the purposes of consistency, in our multivariate analyses, we made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. See Appendix I for a full explanation of the attributes we used in each service multivariate regression model, and Appendixes IV through VIII for the demographic breakdowns of each of those attributes in each of the military services.

¹⁶We could not include education in our multivariate models for the Army due to variability and overlapping values in the data, which resulted in a data reliability problem, but we were able to control for age.

Background

Overview of the Military Justice System

According to the 2015 report ordered by the Secretary of Defense and issued by the Military Justice Review Group, the military justice system is designed to ensure discipline and order in the armed forces, since crimes committed by servicemembers have the potential to destroy the bonds of trust, seriously damage unit cohesion, and compromise military operations.¹⁷ The jurisdiction of the UCMJ extends to all places and applies to all active-duty servicemembers. UCMJ jurisdiction applies to other individuals as well, such as members of the National Guard or reserves who are performing active-duty service; retired members who are entitled to pay or are receiving hospitalization in a military hospital; prisoners of war in custody of the armed forces; persons serving with or accompanying the armed forces in the field in time of declared war or contingency operations, such as contractors; and members of organizations such as the National Oceanic and Atmospheric Administration and the Public Health Service when assigned to and serving with the armed forces.¹⁸

In creating the military justice system, Congress established three types of military courts, called courts-martial: summary, special, and general. Each of these types respectively is intended to deal with progressively more serious offenses, and each court-martial type may adjudicate more severe maximum punishments as prescribed under the UCMJ.¹⁹ In addition, an accused servicemember can receive nonjudicial punishment under Article 15 of the UCMJ, by which a commander can punish a servicemember without going through the court-martial process. Table 1 provides an overview of nonjudicial punishments and the three different types of courts-martial.

¹⁷Military Justice Review Group, *Report of the Military Justice Review Group Part I: UCMJ Recommendations*, at 17 (Dec. 22, 2015).

¹⁸The phrase “in the field” regarding the jurisdiction of the UCMJ over civilians and contractors has been interpreted to mean an area of actual fighting. See, e.g., *United States v. Ali*, 71 M.J. 256, 264 (C.A.A.F. 2012), cert. denied, 569 U.S. 972 (2013).

¹⁹In addition to the maximum punishments that may be adjudicated by each type of court-martial, various relevant executive orders prescribe a maximum punishment for each offense.

Table 1: Overview of Nonjudicial Punishment and Different Types of Courts-Martial

	Nonjudicial punishment	Summary court-martial	Special court-martial	General court-martial
Purpose	Discipline minor offenses committed by enlisted servicemembers or officers	Adjudicate noncapital offenses committed by enlisted servicemembers Not a criminal forum, so a guilty finding is not a criminal conviction	Adjudicate any noncapital and some capital offenses ^a committed by enlisted servicemembers or officers	Adjudicate any offenses committed by enlisted servicemembers or officers, including capital offenses
Right to counsel	None, but the accused is generally entitled to be accompanied by a spokesperson The accused may demand a court-martial in lieu of nonjudicial punishment (unless serving on a vessel)	None, but the accused must consent to the proceedings, and will generally be allowed to have civilian counsel represent the accused if funded by the accused and counsel's appearance will not delay proceedings	The accused is entitled to an appointed military attorney, a military counsel of his or her own selection (if reasonably available), or may hire civilian counsel	The accused is entitled to an appointed military attorney, a military counsel of his or her own selection (if reasonably available), or may hire civilian counsel
Decided by	Commanding officer (or, for the Coast Guard, officers-in-charge)	One commissioned officer	One military judge and four members on a panel; or, one military judge sitting alone if (1) the accused requests a military judge sitting alone, or (2) the case is referred to a military judge sitting alone (which decreases maximum possible punishment). (If case is referred to military judge sitting alone, and parties consent, military judge may designate a military magistrate to preside.) If a panel, at least 3/4 of members must agree on a guilty verdict ^b	One military judge and eight members on a panel; or, by request of the accused, one military judge sitting alone Panels require twelve members for all capital cases and eight members for all noncapital cases If a panel, at least 3/4 of members must agree on a guilty verdict; capital verdicts must be unanimous ^c

	Nonjudicial punishment	Summary court-martial	Special court-martial	General court-martial
Maximum possible punishments	Depending on the grade of the commander imposing the punishment and of the member being punished, maximum punishments range widely; for example: Officer: Reprimand, restrictions with or without suspension from duties for up to 30 days; arrest in quarters for up to 30 days, forfeiture of one-half month's pay for two months, etc. Enlisted: Reprimand, correctional custody or forfeiture of pay for up to 30 days; reduction in grade; extra duties for up to 14 days; etc. ^d	Confinement for up to 30 days; hard labor without confinement for up to 45 days; forfeiture of 2/3 pay for 1 month; reduction to a lower pay grade	If referred to a court-martial consisting of military judge and panel: Confinement for up to 1 year; hard labor without confinement for up to 3 months; forfeiture of 2/3 pay for up to 1 year; reduction to a lower pay grade; bad conduct discharge ^e If referred to a court-martial consisting of military judge alone: Confinement for up to 6 months; hard labor without confinement for up to 3 months; forfeiture of 2/3 pay for up to 6 months; reduction to a lower pay grade. ^f	Any punishment within the limits prescribed by the <i>Manual for Courts-Martial</i> for the offenses of which the accused is found guilty, including the death penalty for certain offenses

Source: GAO analysis of Uniform Code of Military Justice and Rules for Courts-Martial. | GAO-19-344

Note: The Uniform Code of Military Justice overview provided in this table reflects the changes to the rules as of January 1, 2019. Since the scope of this report covers periods prior to these enacted changes, the table notes explain the rules that were in effect during the period of our review.

^aA capital offense means an offense for which death is an authorized punishment under the UCMJ and the *Manual for Courts-Martial*. A capital offense may be referred to special-court martial if and only if a mandatory punishment is not prescribed that is beyond the punitive power of a special court-martial.

^bPrior to changes effective on January 1, 2019, under the Military Justice Act of 2016, special courts-martial were decided by one military judge and not less than three members on a panel; a panel of not less than three members; or (with the consent of the accused) one military judge sitting alone. Furthermore, in special courts-martial decided by panel members, 2/3 of the panel members were required to agree on a guilty verdict.

^cPrior to changes effective on January 1, 2019, under the Military Justice Act of 2016, general courts-martial were decided by one military judge and not less than five members on a panel; or (with the consent of the accused) one military judge sitting alone. General courts-martial decided by a panel in a capital case were to consist of "not less than" 12 members and required 2/3 of the panel members to agree on a guilty verdict for offenses that did not carry a mandatory capital sentence; offenses with mandatory capital sentences required unanimous verdicts.

^dPrior to changes effective on January 1, 2019, under the Military Justice Act of 2016, one possible nonjudicial punishment was diminished rations of bread and water for 3 days or less, if serving aboard a vessel.

^ePrior to changes effective on January 1, 2019, under the Military Justice Act of 2016, the maximum punishment available to a special court-martial—regardless of its composition—was confinement for up to 1 year; hard labor without confinement for up to 3 months; forfeiture of 2/3 pay for up to 1 year; reduction to a lower pay grade; bad conduct discharge.

^fPrior to changes effective on January 1, 2019, under the Military Justice Act of 2016, cases were not referred to a special court-martial consisting of a military judge sitting alone and, consequently, there was no related requirement for reduced maximum punishments under such circumstances.

The Military Justice Act of 2016 enacted significant reforms to the UCMJ, most of the provisions of which became effective on January 1, 2019.²⁰ These reforms included changes such as limitations on the types of punishments permitted with nonjudicial punishments,²¹ changes to required size of the panel, or jury,²² and changes to what judicial outcomes are subject to automatic appeal.²³ There are some areas where individual services supplement but remain consistent with the UCMJ. For example, the Air Force provides a right to counsel in certain forums where the services are not required to do so.

In addition to the reforms affecting the UCMJ, the Military Justice Act of 2016 also directed changes to military justice data collection and accessibility.²⁴ Specifically, section 5504 of the Military Justice Act of 2016 directed the Secretary of Defense to prescribe uniform standards and criteria pertaining to case management, data collection, and accessibility of information in the military justice system.²⁵ As a result, the DOD Office of General Counsel authorized the establishment of the Article 140A Implementation Subcommittee of the Joint Service Committee on Military Justice to, among other things, assess each service's case management system, recommend what data fields the services should collect, propose uniform definitions for the data fields the services should collect, and recommend standardized methods and data field definitions to improve the collection of data concerning race and

²⁰Military Justice Act of 2016, passed as part of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328 §§5001-5542 (Dec. 23, 2016).

²¹For example, Section 5141 of the Military Justice Act of 2016 removes the authority to restrict a servicemember's diet to bread and water or to diminish rations during confinement as a potential nonjudicial punishment.

²²The number of panel members, or jurors, required for special courts-martial, general courts-martial with noncapital offenses, and general courts-martial with capital offenses were set at 4, 8, and 12 members respectively. A capital offense means an offense for which death is an authorized punishment under the UCMJ and the *Manual for Courts-Martial*.

²³Where the sentence does not also include death, dismissal, dishonorable discharge, or a bad conduct discharge, automatic appellate review is now limited to those cases that result in a sentence of confinement of two years or more, instead of the previous one-year minimum confinement requirement.

²⁴Military Justice Act of 2016, passed as part of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328 §§5001-5542 (Dec. 23, 2016).

²⁵Pub. L. No. 114-328 §5504 (*codified* at 10 U.S.C. §940a). This section is also known as Article 140a of the UCMJ.

ethnicity of individuals involved in the military justice system.²⁶ The subcommittee conducted a study and submitted its recommendations to the Joint Service Committee Voting Group on July 2, 2018, and the Voting Group submitted a report and its agreed upon recommendations to the DOD Office of General Counsel on August 24, 2018.²⁷ The Military Justice Act of 2016 provides that the Secretary of Defense was to carry out this mandate by December 23, 2018, and that the Secretary's decisions shall take effect no later than December 23, 2020. On December 17, 2018, the General Counsel of the Department of Defense issued uniform standards and criteria, which directed that each military justice case processing and management system be capable of collecting uniform data concerning race and ethnicity.

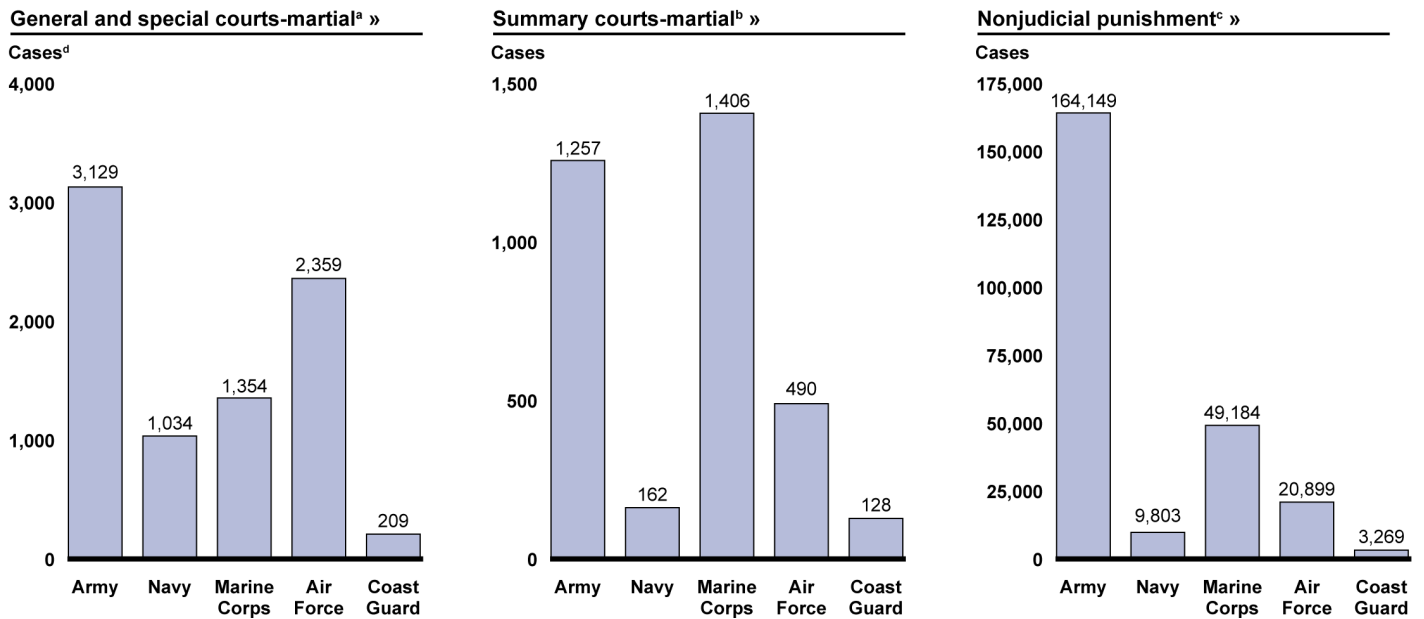
Military Justice Process

From fiscal years 2013 through 2017, more than 258,000 active-duty servicemembers were disciplined for a violation of the UCMJ, out of more than 2.3 million unique active-duty servicemembers who served across all of the military services during this period. Figure 1 shows the number of cases of each type of court-martial and of nonjudicial punishments in each of the military services.

²⁶The Joint Service Committee conducts an annual review of the *Manual for Courts Martial*; prepares proposed amendments to the *Manual for Courts-Martial* and, as appropriate, the UCMJ; and carries out other tasks related to the military justice system as assigned by the Office of the General Counsel of the Department of Defense. The Article 140A Implementation Subcommittee of the Joint Service Committee was comprised of legal and information technology experts from each service branch.

²⁷The Joint Service Committee Voting Group assesses recommendations and proposed amendments to the *Manual for Courts-Martial* during periods of review and presents recommendations to the DOD Office of General Counsel. Among other roles, the Office of General Counsel advises the Secretary of Defense regarding all legal matters and services performed within or involving DOD, including all military justice matters requiring the attention of the Secretary of Defense; oversees the annual review of the *Manual for Courts-Martial*; provides legal advice to DOD organizations and other DOD components; and oversees, as appropriate, legal services performed within DOD. The Deputy General Counsel of Personnel and Health Policy received the recommendations and forwarded them to the General Counsel of the Department of Defense for action.

Figure 1: Servicemembers Disciplined for Uniform Code of Military Justice Violations during Fiscal Years 2013–2017



Total number of servicemembers^e

Army: 886,563
 Navy: 552,388
 Marine Corps: 352,793
 Air Force: 484,466
 Coast Guard: 66,704

Source: GAO analysis of services military justice databases and Court of Appeals for the Armed Forces annual reports for fiscal years 2013-2017. | GAO-19-344

Note: The number of summary courts-martial tried in the Army and the Navy, and the number of nonjudicial punishments in the Army, the Navy, and the Coast Guard were computed using information from the annual reports of the Court of Appeals for the Armed Forces. Nonjudicial punishments are reported as a combined number for the Navy and the Marine Corps in the Court of Appeals for the Armed Forces annual reports. To calculate this reported figure for the Navy, we subtracted the number of Marine Corps nonjudicial punishment cases we identified in the Marine Corps personnel database from the reported totals. All other disciplinary action totals were from GAO's analysis of the services' military justice and personnel databases.

^aGeneral courts-martial are used to adjudicate any offenses committed by enlisted servicemembers or officers, including capital offenses. Special courts-martial are used to adjudicate any noncapital and some capital offenses committed by enlisted servicemembers or officers. A capital offense means an offense for which death is an authorized punishment under the UCMJ and the *Manual for Courts-Martial*.

^bSummary courts-martial are a non-criminal forum used to adjudicate noncapital offenses committed by enlisted servicemembers.

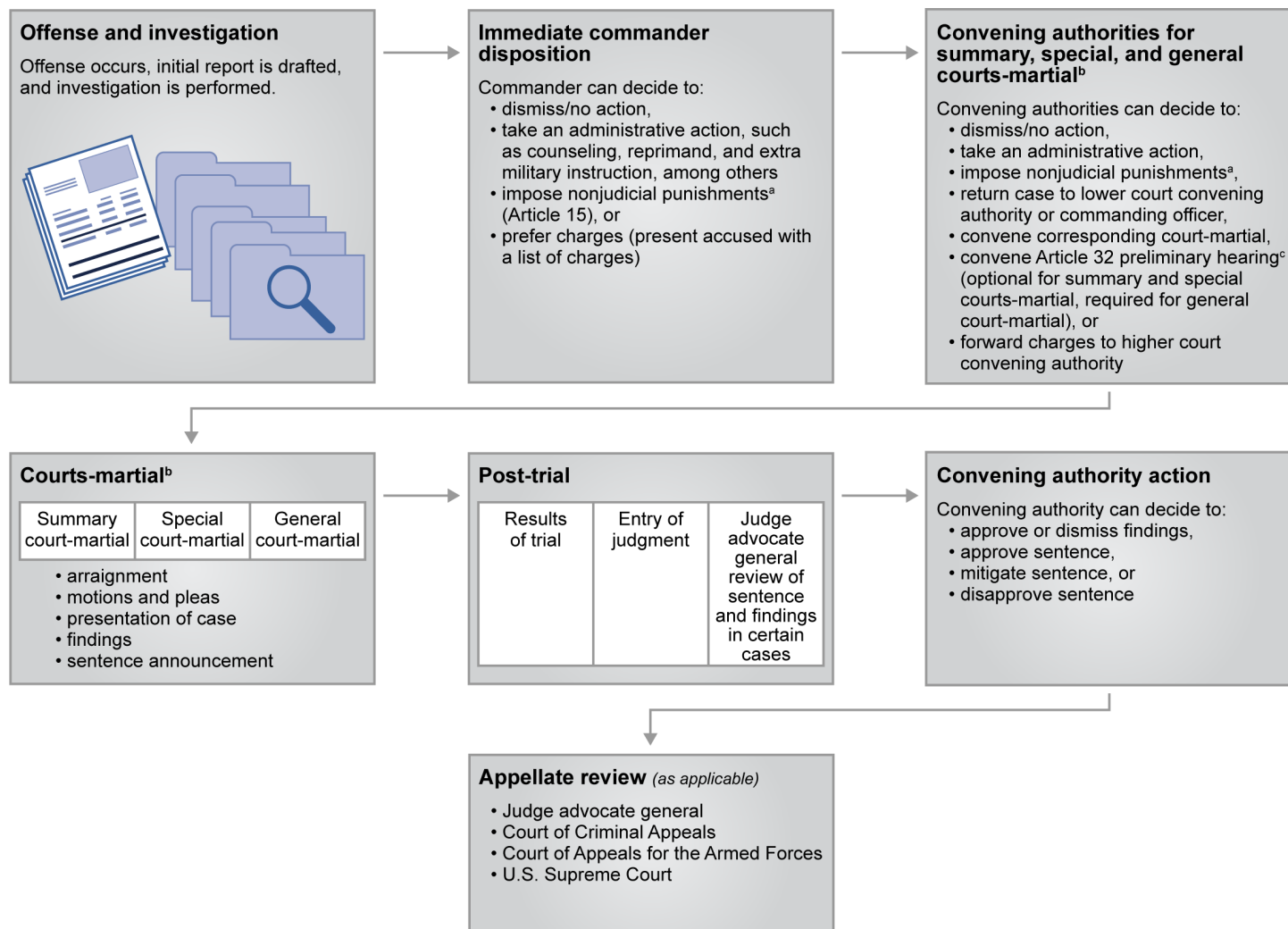
^cNonjudicial punishments are used to discipline minor offenses committed by enlisted servicemembers or officers.

^dThe same servicemember could be involved in multiple cases.

^eThe total number of servicemembers presented in this figure represents the number of unique active-duty servicemembers who served during fiscal years 2013 through 2017.

There are several steps in the discipline of a servicemember who allegedly commits a crime under the UCMJ, which are summarized in figure 2 below.

Figure 2: Overview of the Typical Military Justice Process



Source: GAO analysis of the Rules for Courts-Martial and Manual for Courts-Martial. | GAO-19-344

^aNonjudicial punishments are used to discipline minor offenses committed by enlisted servicemembers or officers.

^bSummary courts-martial are a non-criminal forum used to adjudicate noncapital offenses committed by enlisted servicemembers. Special courts-martial are used to adjudicate any noncapital and some capital offenses committed by enlisted servicemembers or officers. General courts-martial are used to adjudicate any offenses committed by enlisted servicemembers or officers, including capital offenses. A capital offense means an offense for which death is an authorized punishment under the UCMJ and the *Manual for Courts-Martial*.

^cA preliminary hearing is required before referral of charges to a general court-martial, unless waived by the accused, and is intended to determine issues such as whether there is probable cause to believe that the accused committed the offense charged.

The military justice process begins once an offense is alleged and an initial report is made, typically to law enforcement, an investigative entity, or the suspect's chain of command. Policies for initiating criminal investigations by military criminal investigative organizations (MCIO) and procedures for investigating criminal allegations are set forth in DOD and service guidance.²⁸ At this time, the commanding officer or law enforcement will conduct an inquiry or investigation into the accusations and gather all reasonably available evidence. MCIOs have the authority and independent discretion to assume investigative jurisdiction, and do not require approval from any authority outside of the MCIO to conduct such an investigation—commanders outside of the organization are not to impede or interfere with such decisions or investigations by the MCIO. If an MCIO is involved in the inquiry, the investigative entity is to gather all reasonably available evidence and provide the commanding officer with unbiased findings that reflect impartiality as required by DOD instruction.²⁹ According to service officials, during the conduct of the criminal investigation, the subject of the investigation has the right to obtain legal counsel at any time.³⁰

²⁸MCIOs conduct criminal investigations in cases with a DOD nexus, such as if a crime occurred on a DOD installation, or the subject of the investigation is currently affiliated with DOD or was subject to the UCMJ at the time of the offense. The DOD service specific MCIOs are the Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations. In addition, the Coast Guard criminal investigative organization is the Coast Guard Investigative Service. For purposes of this report, we refer to all four of these entities as MCIOs. Instruction and guidance related to initiating an investigation include DOD Instruction 5505.03, *Initiation of Investigations by Defense Criminal Investigative Organizations* (Mar. 24, 2011) (incorporating Change 2, Feb. 13, 2017); Army Regulation 195-2, *Criminal Investigation Activities* (June 9, 2014); Secretary of the Navy Instruction 5430.107, *Mission and Functions of the Naval Criminal Investigative Service* (Dec. 28, 2005); Air Force Instruction 71-101, Vol. 1, *Criminal Investigations Program* (Oct. 8, 2015) (certified current, Dec. 7, 2017); Commandant Instruction 5520.5F, *Coast Guard Investigative Service Roles and Responsibilities* (Nov. 30, 2011).

²⁹DOD Instruction 5505.03, *Initiation of Investigations by Defense Criminal Investigative Organizations* (Mar. 24, 2011) (incorporating change 2, Feb. 13, 2017).

³⁰According to the Rules for Courts-Martial, in cases of pre-trial confinement the accused has the right to retain civilian counsel at no cost to the government, and may request to be assigned military counsel for representation during pretrial confinement proceedings, which must be honored.

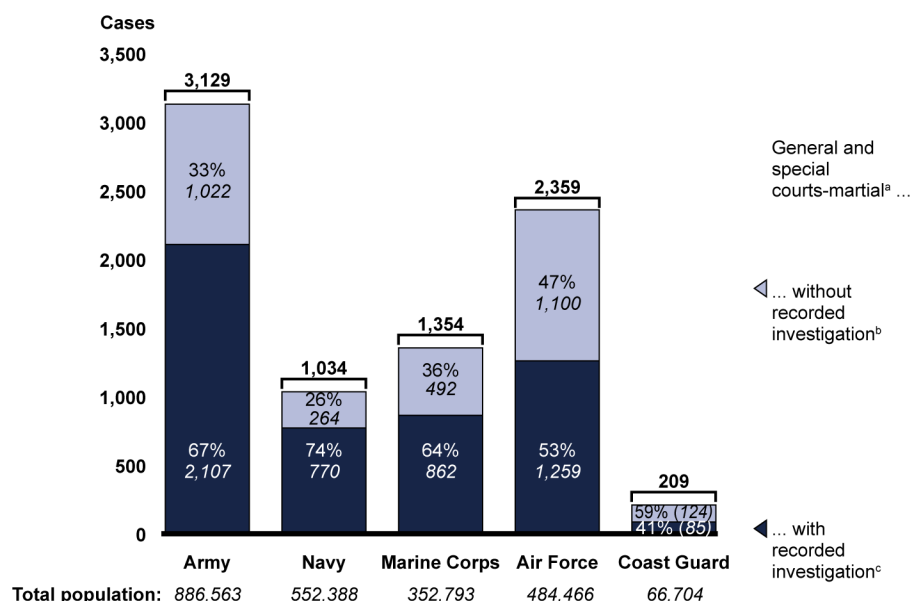
After an investigation, the first step toward initiation of a court-martial is when the accused is presented with a list of charges signed by the accuser under oath, which is called preferral of charges; the accuser who prefers the charges may be anyone subject to the UCMJ. After charges are preferred, the charges are forwarded to an officer with sufficient legal authority to convene a court-martial, also known as the “convening authority.” The convening authority in receipt of preferred charges may, among other actions and depending on the nature of the charges and the level of the convening authority, refer the case to its own court or forward the case to a superior commander for disposition, for example, to a general court-martial convening authority. The general court-martial convening authority would have similar options: to dismiss the charges, refer them to a general or special court-martial, or take some lesser action. Before any case is referred to a general court-martial, the case must proceed through a preliminary hearing under Article 32 of the UCMJ, unless waived by the accused. The Article 32 hearing is presided over by an impartial judge advocate, or another individual with statutory authority, who is appointed by the convening authority and makes a recommendation to the convening authority.

We analyzed general and special courts-martial that were preceded by investigations recorded in databases maintained by MCIOs, which we refer to as recorded investigations, and general and special courts-martial that did not have a record within an MCIO database.³¹ As shown in figure 3 below, the majority of general and special courts-martial, ranging from 53 percent to 74 percent across the services, had a recorded investigation, while the remaining cases would have been investigated by other sources, such as local civilian law enforcement, command

³¹Investigations are recorded in the MCIO databases when a servicemember is the subject of a criminal allegation; for purposes of this report, we say the servicemember had a “recorded investigation” to describe these cases. To conduct our analyses, we used data from the databases used by the Army’s Criminal Investigation Command, which included cases investigated by military police and Criminal Investigation Command; by the Navy and Marine Corps Naval Criminal Investigative Service, which included cases investigated by the Naval Criminal Investigative Service and military police; by the Air Force’s Office of Special Investigations, which included only Office of Special Investigations cases; and by the Coast Guard Investigative Service, which included only Coast Guard Investigative Service cases.

investigations, or in the case of the Air Force, their military law enforcement forces.³²

Figure 3: Number and Percent of General and Special Court-Martial Cases, with and without Recorded Investigations by Service, Fiscal Years 2013–2017



Source: GAO analysis of military services' investigations and military justice databases. | GAO-19-344

^aGeneral courts-martial are used to adjudicate any offenses committed by enlisted servicemembers or officers, including capital offenses. Special courts-martial are used to adjudicate any noncapital and some capital offenses committed by enlisted servicemembers or officers. A capital offense means an offense for which death is an authorized punishment under the UCMJ and the *Manual for Courts-Martial*.

^bGeneral and special courts-martial without a recorded investigation are cases where the servicemember was not the subject of an investigation recorded in the military criminal investigative organization (MCIO) databases; these cases would have been investigated by other entities, such as civilian law enforcement or command investigations.

^cGeneral and special courts-martial with a recorded investigation are cases where the servicemember was the subject of an investigation recorded in an MCIO database.

³²Our analysis of recorded investigations data did not include investigations conducted by a servicemember's command, because those investigations are not recorded in the MCIO databases. Command investigations are included in our analysis of general and special courts-martial cases without a recorded investigation.

Once referred to a general or special court-martial, an accused servicemember may be tried by a military judge alone or by a military judge with a military jury, referred to as members of the court-martial.³³ If the accused servicemember is tried by a military jury, the members of the court-martial determine whether the accused is proven guilty and, if the accused requests sentencing by the members, adjudicate a sentence. Otherwise, the military judge adjudicates the sentence. If the accused is tried by a military judge alone, the judge determines guilt and any sentence. In a summary court-martial, a single commissioned officer who is not a military judge adjudicates minor offenses and a sentence.

Convictions at the general and special court-martial level are subject to a post-trial process and may be appealed to higher courts in cases where the sentence reaches a certain threshold. For example, depending on the forum and the adjudged sentence, the accused may be entitled to appellate review by the service Court of Criminal Appeals, and may be able to request or waive assignment of appellate defense counsel, or waive appellate review entirely. Depending, again, on forum and sentence, some cases that do not qualify for appellate review will receive review by a judge advocate to, among other things, determine that the court had jurisdiction and that the sentence was lawful. Some cases may then be further reviewed by the Court of Appeals for the Armed Forces, as well as by the U.S. Supreme Court at their discretion, if the case was reviewed by the Court of Appeals for the Armed Forces.

The military justice system, like the civilian criminal justice system, provides avenues for accused servicemembers to raise allegations of discrimination, improprieties in investigations, improprieties in disposition, and improprieties in the selection of panel members at the court-martial proceeding, before a military judge and on appellate review. The Military Justice Act of 2016 requires that legal training be provided to all officers,

³³Members may be commissioned officers in all cases, warrant officers in all cases except when the accused is a commissioned officer, or enlisted members when the accused is an enlisted member. If an enlisted accused so requests, at least one-third of the members must be enlisted members.

with additional training for commanders with authority to take disciplinary actions under the UCMJ.³⁴

Definitions of Race, Ethnicity, and Gender

The Office of Management and Budget (OMB) has established standards for collecting, maintaining, and presenting data on race and ethnicity for all federal reporting purposes.³⁵ These standards were developed in cooperation with federal agencies to provide consistent data on race and ethnicity throughout the federal government.³⁶ OMB standards establish the following five categories of race:

- **American Indian or Alaska Native:** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- **Asian:** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **Black or African American:** A person having origins in any of the black racial groups in Africa.

³⁴Specifically, the Military Justice Act of 2016 included a provision that requires that the UCMJ be carefully explained to each officer at the time of or within six months after initial entrance of the officer on active duty, or the initial commissioning of the officer in a reserve component. The act further requires officers with the authority to convene courts-martial or impose nonjudicial punishment to receive periodic training regarding the purpose and administration of the UCMJ. Military Justice Act of 2016, passed as part of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §5503 (Dec. 23, 2016) (*codified at* 10 U.S.C. §937).

³⁵Office of Management and Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 Fed. Reg. 58,782 (Oct. 30, 1997). In 2016, the Office of Management and Budget issued a proposed revision to the standards. See *Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*, 81 Fed. Reg. 67,398 (Sept. 30, 2016). As of May 2019, the Office of Management and Budget had not issued the revised standards.

³⁶According to officials from all of the military services, the racial and ethnic information in their databases is self-reported, and so servicemembers may not follow these definitions when they identify their race and ethnicity. We used these definitions in our analyses so that we could group the various racial and ethnic categories in the services' personnel databases into consistent categories across all of the military services.

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- **Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
 - **White:** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

The OMB standards also establish two categories of ethnicity.

- **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- **Not Hispanic or Latino:** A person not having the above attributes.

In addition to defining race and ethnicity for federal administrative reporting and record keeping requirements, OMB standards provide two methods for federal agencies to follow regarding the collection of data on race and ethnicity.

1. Separate questions shall be used for collecting information about race and ethnicity wherever feasible. In this case, there are 5 categories of race noted above which individuals can select, and individuals can identify with more than one category of race. In addition to race, individuals can select one of the two ethnicity categories above.
2. If necessary, a single question or combined format can be used to collect information about race and ethnicity, where the following categories are provided for individuals: American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and White. In this instance, individuals can also select more than one category.

Information collected on servicemembers' gender is governed by DOD guidance. DOD Instruction 1336.05 provides that information collected on a servicemember's gender is based on reproductive function.³⁷ It provides that there are three options that can be selected when inputting a servicemember's gender: male, female, or unknown.

³⁷DOD Instruction 1336.05, *Automated Extract of Active Duty Military Personnel Records* (July 28, 2009) (incorporating Change 2, effective Mar. 31, 2015).

Racial and Gender Disparities in the Civilian Justice System

Racial and gender disparities in the civilian criminal justice system have been the subject of several studies in the past decade. While the civilian and military justice systems differ from each other, we reviewed information about racial and gender disparities in the civilian criminal justice system to enhance our understanding of the complexities of the issues, including how others had attempted to measure disparities. Some studies have assessed the rates at which minority groups are policed. For example, a Department of Justice study of data from the Bureau of Justice Statistics' 2011 Police-Public Contact survey found that Black drivers were more likely than White or Hispanic drivers to be pulled over in a traffic stop; specifically, the study found that 10 percent of White drivers and 10 percent of Hispanic drivers were pulled over in a traffic stop, compared to 13 percent of Black drivers.³⁸ This study also found that Black and Hispanic drivers were more likely to be searched once they were pulled over by the police; specifically, the study found that 2 percent of White drivers stopped by police were searched, compared to 6 percent of Black drivers and 7 percent of Hispanic drivers.

In addition, U.S. government data shows that racial disparities exist among individuals who are arrested. For example, data from the Federal Bureau of Investigation's Uniform Crime Reporting Program, which compiles data from law enforcement agencies across the country, indicates that in 2016, Black individuals represented 26.9 percent of total arrests nationwide, but comprised 13.4 percent of the U.S. population according to U.S. census data estimates as of July 1, 2017.³⁹ This data also shows that 69.6 percent of all arrested individuals were White, while White individuals comprised 76.6 percent of the U.S. population.

Studies have also identified racial and gender disparities in civilian justice sentencing. In 2010 and 2017, the U.S. Sentencing Commission reported that Black male offenders received longer sentences than similarly situated White male offenders.⁴⁰ Specifically, in 2017, the Commission analyzed federal sentencing data and reported that Black male offenders

³⁸U.S. Department of Justice, Bureau of Justice Statistics, *Police Behavior during Traffic and Street Stops* (September 2013).

³⁹U.S. Department of Justice, Uniform Crime Report, *Crime in the United States 2016*, Table 21; U.S. Census Bureau, *Quick Facts*, population estimates as of July 1, 2017.

⁴⁰U.S. Sentencing Commission, *Demographic Differences in Sentencing: An Update to the 2012 Booker Report* (November 2017); U.S. Sentencing Commission, *Demographic Differences in Federal Sentencing Practices: An Update of the Booker Report's Multivariate Regression Analysis* (March 2010).

received sentences that on average were 19.1 percent longer than similarly situated White males for fiscal years 2012 to 2016. This analysis controlled for factors such as type of offense, race, gender, citizenship, age, education level, and criminal history. This study also found that female offenders of all races received shorter sentences than White male offenders. Similarly, the Commission's 2010 report found that Black offenders received sentences that were 10 percent longer than those imposed on White offenders from December 2007 through September 2009, and male offenders received sentences that were 17.7 percent longer than female offenders, after controlling for the same factors as noted for the 2017 study, among others.

Finally, racial and gender disparities have been identified among incarcerated populations. According to data from the Bureau of Justice Statistics, for prisoners with sentences of 1 year or more under the jurisdiction of state or federal correctional officials in 2016, Black males were six times more likely to be imprisoned than White males, and Hispanic males were 2.7 times more likely to be imprisoned than White males.⁴¹ The racial disparities were more pronounced for younger males, where Black males aged 18 to 19 were approximately 11.8 times more likely than White males of the same age to be imprisoned. The Bureau also reported that Black females were imprisoned at approximately twice the rate of White females. We did not assess the methodologies used in any of these studies or the reliability of the data cited in the studies; these studies are discussed here to provide broader context for the discussion about racial and gender disparities in the military justice system.⁴²

⁴¹U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2016* (January 2018).

⁴²The findings in these studies, taken alone, do not establish whether unlawful discrimination has occurred, as that is a legal determination that would involve other corroborating information along with supporting statistics.

The Military Services Collect and Maintain Gender Information, but Do Not Collect and Maintain Consistent Information about Race and Ethnicity, Limiting Their Ability to Collectively or Comparatively Assess Data to Identify Any Disparities

The military services collect and maintain gender information, but they do not collect and maintain consistent information about race and ethnicity in their investigations, military justice, and personnel databases. This limits the military services' ability to collectively or comparatively assess these demographic data to identify any racial or ethnic disparities in the military justice system within and across the services. The military services use different databases to collect and maintain information for investigations, courts-martial, and nonjudicial punishments. All of the databases collect and maintain gender information, but the Coast Guard's military justice database does not have the capability to query or report on gender data. While the military services' databases collect and maintain complete data for race and ethnicity, the information collected and maintained about race and ethnicity is not consistent among the different databases within and across the services. Moreover, the Coast Guard, the Navy, and the Marine Corps do not collect and maintain complete and consistent servicemember identification data, such as social security number or employee identification number, in their respective military justice databases, although DOD leadership recently directed improvements in this area. Finally, the military services do not report data that provides visibility into disparities in the military justice system, and DOD and the services lack guidance about when potential racial, ethnic, or gender disparities should be further reviewed, and what steps should be taken to conduct such a review if needed.

The Military Services Use Different Databases to Collect and Maintain Information for Investigations, Courts-Martial, and Nonjudicial Punishments

Each military service uses a different database to collect and maintain information on investigations and courts-martials, and, in some services, nonjudicial punishments, as shown in figure 4. For three of the military services—the Army, the Navy, and the Coast Guard—the databases listed in figure 4 include information about some, but not all, of their nonjudicial punishment cases.

Figure 4: Military Services' Investigations, Courts-Martial, and Nonjudicial Punishment Databases

Military service	Investigations databases	Courts-martial databases	Nonjudicial punishment databases
Army	ALERTS	ACMIS MJO	MJO
Navy	CLEOC	CMS	CMS
Marine Corps	CLEOC	CMS MCTFS	CMS MCTFS
Air Force	I2MS	AMJAMS	AMJAMS
Coast Guard	FACTS	Law Manager	Direct Access Law Manager

ACMIS	Army Courts-Martial Information System	CMS	Case Management System
ALERTS	Army Law Enforcement Reporting and Tracking System	FACTS	Field Activity Case Tracking System
AMJAMS	Automated Military Justice Analysis and Management System	I2MS	Investigative Information Management Systems
CLEOC	Consolidated Law Enforcement Operations Center	MCTFS	Marine Corps Total Force System
		MJO	Military Justice Online

Source: GAO analysis of each military service's personnel, investigation, and military justice database information. | GAO-19-344

Note: Depending on the military service, information about nonjudicial punishments can be found in the military justice or the personnel database. The databases listed for nonjudicial punishments collect and maintain information about some but not all nonjudicial punishments, with the exception of AMJAMS and MCTFS, which collect information about all nonjudicial punishments according to Air Force and Marine Corps officials.

Additionally, the nature of the information collected by each of the services' databases varies, as noted below.

Army

- **Investigations.** The Army collects and maintains information on investigations conducted by the Army Criminal Investigation Command in the Army Law Enforcement Reporting and Tracking System database.⁴³ According to Army officials, the Office of the Provost Marshal General and the Army Criminal Investigation Command developed this database to replace a 2003 system, the Army Criminal Investigation and Intelligence System, and a significant

⁴³ According to Army officials, the Army started using an automated system, the Army Criminal Investigative Reporting System (ACIRS), for felony investigations in 1989.

part of the military police's 2002 system, the Centralized Operations Police Suite. The officials said that the Army Law Enforcement Reporting and Tracking System has been operational since 2015, and has become the primary case management system for all Army law enforcement professionals. However, Army officials said that cases involving commander-led investigations are unlikely to be recorded in this database.

- **Courts-martial and nonjudicial punishments.** The Army uses Military Justice Online and the Army Courts-Martial Information System to collect data on court-martial cases. According to Army officials, Military Justice Online, created in 2008, is a document-generating system that primarily is used by the Army's judge advocate general corps and promotes uniformity in case processing among the Army's staff judge advocate offices. Military Justice Online includes information about courts-martial, some nonjudicial punishments, administrative separations, and administrative reprimands of servicemembers. Army officials said that the Army Courts-Martial Information System, which has been used since 1989, serves as the Army trial judiciary's case tracking system and is used by the Army's trial judiciary to track court-martial cases.

Air Force

- **Investigations.** The Air Force military criminal investigative organization, the Office of Special Investigations, uses a system called the Investigative Information Management System to collect and maintain information related to investigations. According to Air Force officials, the Investigative Information Management System has been in use since 2001.
- **Courts-martial and nonjudicial punishments.** The Air Force uses the Automated Military Justice Analysis and Management System, which is designed to be a case management system to collect comprehensive information for both court-martial cases and nonjudicial punishments. According to Air Force officials, the Automated Military Justice Analysis and Management System has been in use since 1974.

Navy and Marine Corps

- **Investigations.** According to Navy officials, the Navy and Marine Corps' joint system for maintaining and collecting information related to investigations is the Consolidated Law Enforcement Operations

Center, which has been in use since 2004. Navy officials said that this database initially contained information regarding Navy and Marine Corps law enforcement incidents and criminal investigations, but began to include investigations conducted by the Naval Criminal Investigative Service in 2012.

- **Courts-martial.** The Navy and the Marine Corps both use the Case Management System to collect and maintain information about military justice matters with involvement by a Navy or Marine Corps legal office, including special and general court-martial cases. This system was initially developed by the Marine Corps to track information about legal services provided by their legal offices. According to Navy and Marine Corps officials, the system has been in use by the Marine Corps since 2010 and by the Navy since 2013. Officials from the Marine Corps said that although the Case Management System has been in use since 2010, the system was not widely used until 2012.
- **Nonjudicial punishments.** The Marine Corps Total Force System, the Marine Corps personnel database, collects and maintains information on summary courts-martial and nonjudicial punishments for cases where there was a conviction or punishment. According to Marine Corps officials, this system has been in use since 1995. Navy officials said that their personnel database records information about nonjudicial punishments if the punishment involved a change in pay or grade. The services' military justice Case Management System includes information on some nonjudicial punishment cases in the Navy and the Marine Corps, which Navy and Marine Corps officials said was for those cases that had involvement by their legal offices.

Coast Guard

- **Investigations.** The Coast Guard Investigative Service uses the Field Activity Case Tracking System to collect and maintain information on servicemembers investigated for violations of the UCMJ. According to Coast Guard officials, this system has been in use since July 2014.
- **Courts-martial.** According to Coast Guard officials, the Coast Guard uses Law Manager to collect and maintain administrative information on court-martial cases. Law Manager has been in use since 2000, but was not used for court-martial data until 2003.
- **Nonjudicial punishments.** Coast Guard officials said that their military justice database contains records of nonjudicial punishments if a case involved their legal offices. In addition, according to Coast

Guard officials, Direct Access, the Coast Guard's personnel database, also collects and maintains information about some court-martial cases and nonjudicial punishments if the punishment resulted in a change in rank or pay or an administrative action against the accused servicemember.

The Military Services Collect and Maintain Gender Data, but the Coast Guard Can Not Query or Report on Gender Data from its Military Justice Database

All of the military services collect and maintain gender information in their investigations, military justice, and personnel databases, but are inconsistent in whether they allow an unknown or unspecified gender, and the Coast Guard's military justice database does not allow Coast Guard officials to query or report on gender data. Table 2 below summarizes how data regarding the servicemember's gender is entered into the services' databases and the number of potential gender options.⁴⁴ Each database identifies at least two potential options—male and female—for data related to the servicemember's gender, while about half of the databases (8 of 15) provide a third option to indicate that the gender is either unknown or not specified.⁴⁵ Each of the military services' investigations, military justice, and personnel databases maintained gender data for almost 100 percent of servicemembers, except we were unable to determine this completion rate for the Coast Guard's military justice database. We could not determine the completeness of the Coast Guard's gender data in its military justice database because, as

⁴⁴The collection and maintenance of information pertaining to the gender identity of transgender servicemembers within the armed forces has changed during the time period of the data collected for our review. The Secretary of Defense released a memorandum in 2015 lifting service restrictions placed on servicemembers based on their gender identity. Secretary of Defense Memorandum, *Transgender Service Members* (July 28, 2015). In October 2016, DOD issued an instruction to establish a process for servicemembers to transition during service and change their gender status within the Defense Enrollment Eligibility Reporting System. DOD Instruction 1300.28, *In-Service Transition for Transgender Service Members* (Oct. 1, 2016). In August 2017, the President issued a memorandum directing DOD to reverse the policy changes regarding transgender servicemembers. Memorandum for the Secretary of Defense and the Secretary of Homeland Security, *Military Service by Transgender Individuals*, 82 Fed. Reg. 41,319 (Aug. 30, 2017). The provisions outlined in the memorandum became effective on January 1, 2018.

⁴⁵One database (the Navy and Marine Corps shared Consolidated Law Enforcement Operations Center database) provides a fourth option—indeterminate. According to Army officials, the criminal investigations databases collect information about gender to support reporting requirements of 3 options associated with the Defense Incident-Based Reporting System, which is a central database used by DOD to provide military crime statistics to the Department of Justice.

previously noted, its military justice database does not have the capability to query on gender data.⁴⁶

Table 2: Collection of Data on Servicemembers’ Gender in Military Services’ Investigations, Military Justice, and Personnel Databases

Service	Database	Gender information	
		Entry method	Number of potential gender options
Army	Army Law Enforcement Reporting and Tracking System (I)	Manual input (drop down)	3 options
	Military Justice Online (MJ)	Auto-populated from Total Army Personnel Database	2 options
	Army Courts-Martial Information System (MJ)	Manual input (drop down)	3 options
	Total Army Personnel Database (P)	Manual input (drop down)	3 options
Navy and Marine Corps Shared	Consolidated Law Enforcement Operations Center (I)	Manual input (drop down)	4 options ^a
Navy	Case Management System (MJ)	Manual input (drop down)	3 options
	Navy Personnel Database (P)	Manual input (drop down)	2 options
Marine Corps	Case Management System (MJ)	Manual input (drop down)	3 options
	Marine Corps Total Force System (P)	Manual input (drop down)	2 options
Air Force	Investigative Information Management System (I)	Auto-populated from Defense Enrollment Eligibility Reporting System	3 options
	Automated Military Justice Analysis and Management System (MJ)	Auto-populated from Military Personnel Data System	2 options
	Military Personnel Data System (P)	Manual input (drop down)	2 options
Coast Guard	Field Activity Case Tracking System (I)	Manual input (drop down)	3 options
	Law Manager (MJ)	Manual input (drop down)	2 options
	Direct Access (P)	Manual input (drop down)	2 options

Legend: (I)=Investigations database; (MJ)=military justice database; (P)=personnel database.

Source: GAO analysis of each military service’s investigations, military justice, and personnel database information. | GAO-19-344

Note: Each database identifies at least two potential options—male and female—for data related to the servicemember’s gender, while about half of the databases provide a third option to indicate that the gender is either unknown or not specified.

^aGender options in the Consolidated Law Enforcement Operations Center database are male, female, unknown, and indeterminate.

⁴⁶The military services differ regarding whether their databases require the collection of information about gender.

Standards for Internal Control in the Federal Government states that management should use quality information and obtain data on a timely basis so they can be used for effective monitoring.⁴⁷ However, the Coast Guard does not have visibility over the gender of servicemembers prosecuted for UCMJ violations without merging data from multiple databases, which can be a labor-intensive and time-consuming process. According to Coast Guard officials, information regarding the gender of servicemembers prosecuted for UCMJ violations can be recorded in its military justice database, but gender is not a field that can be searched on or included in the reports they run using information from their military justice database, because of the way the military justice module in the database was designed. Coast Guard officials told us that the military justice database—Law Manager—was designed to determine the status of court-martial cases, and captures attributes that are generated by relevant UCMJ documents. Those official documents do not require the annotation of demographics such as gender, so this information is not used in Law Manager. A Coast Guard official indicated that it would be feasible to modify Law Manager to make it easier to run reports and queries that include gender information. The ability to query and report on the gender of servicemembers in its military justice database would provide the Coast Guard with more readily available data to identify or assess any gender disparities that may exist in the investigation and trial of military justice cases.

The Military Services Do Not Collect and Maintain Consistent Data for Race and Ethnicity

Each of the military services' databases collect and maintain complete data for race and ethnicity, but the military services do not collect and maintain consistent information regarding race and ethnicity in their investigations, military justice, and personnel databases. Additionally, the military services have not developed a mechanism to aggregate the data into consistent categories of race and ethnicity to allow for efficient analysis and reporting of consistent demographic data. The number of potential responses for race and ethnicity within the 15 databases across the military services ranges from 5 to 32 options for race and 2 to 25 options for ethnicity, which can complicate cross-service assessments. For example, the Army's personnel database maintains 6 options for race

⁴⁷GAO-14-704G.

and 23 options for ethnicity,⁴⁸ whereas the Coast Guard’s personnel database maintains 7 options for race and 3 for ethnicity.⁴⁹ Table 3 summarizes how the databases used by the military services vary in how the servicemember’s race is entered and the number of potential race options.⁵⁰

Table 3: Collection of Data on Servicemembers’ Race in Military Services’ Investigations, Military Justice, and Personnel Databases

Service	Database	Race information	
		Entry method	Number of potential race options
Army	Army Law Enforcement Reporting and Tracking System (I)	Manual input (drop down)	8 options
	Military Justice Online (MJ)	Auto-populated from Total Army Personnel Database	6 options
	Army Courts-Martial Information System (MJ)	Manual input (drop down)	8 options
	Total Army Personnel Database (P)	Manual input (drop down)	6 options
Navy and Marine Corps Shared	Consolidated Law Enforcement Operations Center (I)	Manual input (drop down)	6 options
Navy	Case Management System (MJ)	Manual input (drop down)	7 options
	Navy Personnel Database (P)	Manual input (drop down)	32 options
Marine Corps	Case Management System (MJ)	Manual input (drop down)	7 options
	Marine Corps Total Force System (P)	Manual input (drop down)	6 options

⁴⁸The six options for race available within the Army’s personnel database include American Indian or Alaska Native, Asian/Pacific Islander, Black, Other, Unknown, and White. The options for ethnicity include Aleut, Chinese, Cuban, Eskimo, Filipino, Guamanian, Indian, Japanese, Korean, Latin American with Hispanic Descent, Melanesian, Mexican, Micronesian, None, Other, Other Asian Descent, Other Hispanic Descent, Other Pacific Island Descent, Polynesian, Puerto Rican, United States/Canadian Indian Tribes, Unknown, and Vietnamese.

⁴⁹The options for race in the Coast Guard’s personnel database include American Indian/Alaska Native, Asian, Black or African American, Declined to Respond, Native Hawaiian/Pacific Islander, White, and every potential mixed racial group from the provided races. Additionally, the database has three options for ethnicity: declined to respond, Hispanic or Latino, and Not Hispanic or Latino.

⁵⁰According to Army officials, the criminal investigations databases collect information about race to support reporting requirements of 6 options associated with the Defense Incident-Based Reporting System, which is a central database used by DOD to provide military crime statistics to the Department of Justice. For example, Army officials said that the 8 race options in their investigations database are converted to support the 6 options in the DOD system.

Service	Database	Race information	
		Entry method	Number of potential race options
Air Force	Investigative Information Management System (I)	Auto-populated from Defense Enrollment Eligibility Reporting System	7 options
	Automated Military Justice Analysis and Management System (MJ)	Auto-populated from Military Personnel Data System	5 options
	Military Personnel Data System (P)	Manual input (drop down)	7 options
Coast Guard	Field Activity Case Tracking System (I)	Manual input (drop down)	6 options
	Law Manager (MJ)	N/A; does not track race	N/A; does not track race
	Direct Access (P)	Manual input (drop down)	7 options

Legend: (I)=investigations database; (MJ)=military justice database; (P)=personnel database; N/A= not available.

Source: GAO analysis of each military service's investigations, military justice, and personnel database information. | GAO-19-344

Table 4 shows that the military services' databases also vary in how information about servicemembers' ethnicity is entered into the databases and the number of potential ethnicity options that are collected.⁵¹

Table 4: Collection of Data on Servicemembers' Ethnicity in Military Services' Investigations, Military Justice, and Personnel Databases

Service	Database	Ethnicity information	
		Entry method	Number of potential ethnicity options
Army	Army Law Enforcement Reporting and Tracking System (I)	Manual input (drop down)	3 options
	Military Justice Online (MJ)	N/A; collected as part of race field	N/A
	Army Courts-Martial Information System (MJ)	N/A; collected as part of race field	N/A
	Total Army Personnel Database (P)	Manual input (drop down)	23 options
Navy and Marine Corps Shared	Consolidated Law Enforcement Operations Center (I)	Manual input (drop down)	3 options
Navy	Case Management System (MJ)	N/A; collected as part of race field	N/A
	Navy Personnel Database (P)	Manual input (drop down)	23 options
Marine Corps	Case Management System (MJ)	N/A; collected as part of race field	N/A
	Marine Corps Total Force System (P)	Manual input (drop down)	25 options

⁵¹According to Army officials, the criminal investigations databases collect information about ethnicity to support reporting requirements of 3 options associated with the Defense Incident-Based Reporting System, which is a central database used by DOD to provide military crime statistics to the Department of Justice.

Service	Database	Ethnicity information	
		Entry method	Number of potential ethnicity options
Air Force	Investigative Information Management System (I)	Manual input (drop down)	3 options
	Automated Military Justice Analysis and Management System (MJ)	Auto-populated from Military Personnel Data System	3 options
	Military Personnel Data System (P)	Manual input (drop down)	23 options
Coast Guard	Field Activity Case Tracking System (I)	Manual input (drop down)	2 options
	Law Manager (MJ)	N/A; does not track ethnicity	N/A
	Direct Access (P)	Manual input (drop down)	3 options

Legend: (I)=Investigations database; (MJ)=military justice database; (P)=personnel database; N/A= not available.

Source: GAO analysis of each military service's investigations, military justice, and personnel database information. | GAO-19-344

Although the data collected and maintained was not consistent within and across the military services, each of the military services' databases maintained race and ethnicity data for at least 99 percent of the servicemembers, with the exception of the Coast Guard.⁵² The Coast Guard does not track information about race or ethnicity in its military justice database.⁵³ Coast Guard officials stated that this is because Law Manager was designed to determine the status of court-martial cases, and captures attributes that are needed to generate relevant UCMJ documents, such as court pleadings. Demographic information such as race and ethnicity is not included in these official documents, so this information is not input into Law Manager. Further, four of the databases we reviewed—including both of the Army's military justice databases, and the Navy and the Marine Corps' military justice databases—collect information on race and ethnicity in a combined data field as shown in table 4, whereas the other databases collect and maintain race and ethnicity information in two separate fields.

Standards for Internal Control in the Federal Government states that management should use quality information to achieve the entity's objectives.⁵⁴ Among other things, attributes of this internal control

⁵²According to officials from all of the military services, the information about race and ethnicity in their databases is self-reported by individual servicemembers, and there is no way to verify whether the reported information is accurate.

⁵³The military services differ regarding whether their databases require the collection of information about race and ethnicity.

⁵⁴[GAO-14-704G](#).

principle call for management to identify information requirements; obtain relevant data from reliable sources that are reasonably free from error; ensure that the data it receives is timely and reliable; and process the data obtained into quality information— information that is appropriate, current, complete, and accurate. In addition, federal internal control standards call for management to design the entity’s information system and related control activities to achieve objectives and respond to risks, thereby enabling information to become available to the entity on a timelier basis. Further, the Military Justice Act of 2016 required the Secretary of Defense to prescribe uniform standards and criteria for various items, including data collection and analysis for case management at all stages of the military justice system, including pretrial, trial, post-trial, and appellate processes, by December 2018.⁵⁵

On December 17, 2018, the General Counsel of the Department of Defense issued the uniform standards and criteria required by article 140a of the Military Justice Act of 2016.⁵⁶ As part of these uniform standards, the services were directed to collect data related to race and ethnicity in their military justice databases, and to collect racial and ethnic data in separate data fields. The standards provide that the services may have their military justice databases capture expanded ethnic or racial categories; however, for reporting purposes, expanded categories will aggregate to those categories listed in the standards. For race, the services will choose from six designations: (1) American Indian/Alaska Native, (2) Asian, (3) Black or African American, (4) Native Hawaiian or Other Pacific Islander, (5) White, or (6) Other. For ethnicity, the services will choose from two options: (1) Hispanic or Latino, or (2) Not Hispanic or Latino. These categories are consistent with the OMB standards for collecting and presenting such data. The military services are to implement the Secretary’s direction no later than December 23, 2020.

However, DOD has applied these newly issued standards only to the military justice databases and not to the investigations and personnel databases. DOD officials stated that the investigations and personnel databases do not fall under the charter of the DOD General Counsel,

⁵⁵Military Justice Act of 2016, passed as part of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§5001-5542 (Dec. 23, 2016).

⁵⁶The Coast Guard is a voting member of the Joint Service Committee on Military Justice, and participated in the Joint Service Committee’s subcommittee that developed the recommendations leading to the issuance of these standards. Coast Guard officials told us that they consider these standards to be binding on the Coast Guard.

which issued the standards for the military justice databases. Hence, these uniform standards do not apply to the military services' investigations and personnel databases. We were able to analyze data across the investigations, military justice, and personnel databases by merging data from these databases, but this took multiple, detailed steps and would not be an efficient approach for routine analyses. Taking steps to develop the capability to present the race and ethnicity data in the military services' personnel and investigations databases using the same categories included in the December 2018 standards for the military justice databases would allow for more efficient analysis of consistent demographic data. This could be done through either collecting and maintaining race and ethnicity data in the investigations and personnel databases using the December 2018 uniform standards or developing a capability to aggregate the data into the race and ethnicity categories included in the standards.

The Navy, the Marine Corps, and the Coast Guard Did Not Collect and Maintain Complete Servicemember Identification Data, but Improved Collection Has Been Directed

The Navy, the Marine Corps, and the Coast Guard did not collect and maintain complete servicemember identification data, such as social security number or employee identification number, in their military justice or investigations databases; however, DOD recently directed them to do so.⁵⁷ In the course of conducting our analysis, in some instances, we could not match personnel records with military justice records because the social security number or employee identification number in the military justice database did not match the information in the personnel database. In other instances, we could not match personnel records with military justice records because the military justice records did not contain a social security number or employee identification number to match with information found in their personnel record. As shown in table 5, we initially were unable to match 5 percent of Navy military justice cases, 12 percent of Marine Corps military justice cases, 18 percent of Coast Guard investigation cases, and 6 percent of Coast Guard military justice cases.

⁵⁷While the data we received from the Army and the Air Force did not have servicemember identification numbers for 100 percent of their cases, their data were sufficiently complete for our purposes. The DOD employee identification number is known as the electronic data interchange personal identifier (EDIPI). To conduct our disparities analyses, we merged an accused servicemember's personnel database records with their investigations or military justice database records, to ensure that we had consistent profiles for the race, ethnicity, and gender of servicemembers investigated, prosecuted, and charged with a violation of the UCMJ. We merged the records by matching a servicemember's unique identifiers, such as social security number or employee identification number, in the personnel databases with their social security number or employee identification number in the investigations or military justice database records.

Table 5: Overview of Unmatched Military Justice Cases by Military Service and Database

Military service/database	Total number of cases	Number of unmatched cases	Missing rate	Number of unmatched cases after manual lookup	Missing rate after manual lookup
Navy military justice database	4,809	246	5%	216	4%
Marine Corps military justice database	6,875	848	12%	188	3%
Coast Guard investigative database	1,428	250	18%	23	2%
Coast Guard military justice database	289	16	6%	2	1%

Source: GAO analysis of services' personnel, investigations, and military justice data. | GAO-19-344

Note: We provided the services with lists of our unmatched cases, and service officials manually looked up these data so that we could increase our match rates and complete our analyses.

On December 17, 2018, the General Counsel of the Department of Defense issued the uniform standards and criteria required by article 140a of the Military Justice Act of 2016.⁵⁸ As part of these uniform standards, the services were directed to collect either the social security number or DOD identification number in their military justice databases. The military services are to implement the Secretary's direction no later than December 23, 2020.

The Military Services Do Not Consistently Report Data that Provides Visibility into Any Disparities, and DOD Has Not Identified When Disparities Should Be Examined Further

Although some military services report demographic information about the subjects of military justice actions internally, the military services do not externally report data that provides visibility into, or would enable an analysis of, the extent of racial, ethnic, or gender disparities in the military justice system. Service officials from all of the military services told us that they compile internal quarterly or monthly staff judge advocate reports, which include the total number of each type of court-martial handled by their legal offices and of nonjudicial punishments. According to service officials, in the Air Force and the Army these reports include demographic information about servicemembers involved in these cases, such as the total number of each type of case broken out by the subject's race, ethnicity, or gender, but the Navy, Marine Corps, and Coast Guard

⁵⁸The Coast Guard is a voting member of the Joint Service Committee on Military Justice, and participated in the Joint Service Committee's subcommittee that developed the recommendations leading to the issuance of these standards. Coast Guard officials told us that they consider these standards to be binding for the Coast Guard.

reports do not include this demographic information, and there is no requirement to do so.

Regarding external reporting, the UCMJ directs the Court of Appeals for the Armed Forces, the Judge Advocates General, and the Staff Judge Advocate to the Commandant of the Marine Corps to submit annual reports on the military justice system to the Congressional Armed Services Committees, the Secretary of Defense, the secretaries of the military departments, and the Secretary of Homeland Security.⁵⁹ These reports are to include information on the number and status of pending cases handled in the preceding fiscal year, among other information. The annual reports include the total number of cases each service handled for each type of court-martial and for nonjudicial punishments. However, these annual reports do not include demographic information about servicemembers who experienced a military justice action, such as breakdowns by race or gender, because the reporting requirement does not direct the services to include such information. A DOD official expressed concern about expanding the reporting requirement to have public dissemination of race, ethnicity, and gender information due to the potential for misinterpretation, but stated that such reporting requirements for internal use would be beneficial. However, Congress and members of the public have expressed an interest in this information.

Standards for Internal Control in the Federal Government state that management should externally communicate the necessary quality information to achieve the entity's objectives.⁶⁰ Furthermore, these standards state that management should use quality information to make informed decisions and evaluate the entity's performance. According to DOD guidance, the Joint Service Committee on Military Justice, a committee comprised of representatives from each service's legal office, is responsible for reviewing the *Manual for Courts-Martial* and the UCMJ on an annual basis. The Joint Service Committee can consider suggested changes to the UCMJ or the *Manual for Courts-Martial* or its

⁵⁹The reporting requirement for information about the number and status of pending cases is in UCMJ Article 146a, and requires different reports from each of the services. The Military Justice Act of 2016 amended this reporting requirement as of June 8, 2018. The previous requirement, which had been in UCMJ Article 146 required one combined annual report. The Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps are the senior officials within each service responsible for the overall supervision and administration of military justice within their respective services.

⁶⁰[GAO-14-704G](#).

supplementary materials from the services or from the general public. The Joint Service Committee then determines whether to propose any desired amendments to the UCMJ, or the *Manual for Courts-Martial* or its supplementary materials.⁶¹ If the Joint Service Committee finds that an amendment to either the *Manual for Courts-Martial* or the UCMJ is required, the committee will provide the General Counsel of DOD with a draft executive order containing the recommended amendments or will forward a legislative proposal to amend the UCMJ. While it is unclear whether the committee has ever considered or proposed an amendment to the UCMJ or *Manual for Courts-Martial* that would require the external reporting on an annual basis of demographic information about the race, ethnicity, and gender of servicemembers charged with violations of the UCMJ, no such change has been made. Reporting this information would provide servicemembers and the public with greater visibility into potential disparities and help build confidence that DOD is committed to a military justice system that is fair and just.

Furthermore, DOD has not issued guidance that establishes criteria to specify when any data indicating possible racial, ethnic, or gender disparities in the investigations, trials, or outcomes of cases in the military justice system should be further reviewed, and to describe what steps should be taken to conduct such a review if it were needed. GAO's *Standards for Internal Control in the Federal Government* provides that an agency needs to establish a baseline in order to perform monitoring activities.⁶² The baseline helps the agency understand and address deficiencies in its operations.

While equal employment opportunity enforcement is a very different context than the military justice system, other federal agencies have developed such criteria in the equal employment opportunity context that can indicate when disparities should be examined further. For example, the Department of Justice, the Department of Labor, the Equal Employment Opportunity Commission, and the Office of Personnel Management use a "four-fifths" test to determine when differences between subgroups in the selection rates for hiring, promotion, or other

⁶¹DOD Instruction 5500.17, *Role and Responsibilities of the Joint Service Committee on Military Justice (JSC)* (Feb. 21, 2018).

⁶²[GAO-14-704G](#).

employment decisions are significant.⁶³ These criteria, though inexact, provide an example of the type of criteria that DOD could consider using as a basis for determining when disparities among racial or gender groups in the military justice process could require further review or analysis. By issuing guidance that establishes criteria for determining when data indicating possible racial and gender disparities in the investigations, trials, or outcomes of cases in the military justice system should be further examined, and describes the steps that should be taken to conduct such further examination, DOD and the services would be better positioned to monitor the military justice system to help ensure that it is fair and just, a key principle of the UCMJ.

⁶³According to the Equal Employment Opportunity Commission, under the four-fifths test, a selection rate for any race, sex, or ethnic group that is less than four-fifths or 80 percent of the rate for the group with the highest selection rate will be regarded as substantially different. This is considered a rule of thumb and not a legal definition, but is considered a practical means of keeping the attention of enforcement agencies on discrepancies. It establishes a numerical basis for drawing an initial inference and requiring additional information. Equal Employment Opportunity Commission, *Uniform Guidelines on Employee Selection Procedures*, 44 Fed. Reg. 11,996 (Mar. 2, 1979).

Racial and Gender Disparities Exist in Military Justice Investigations, Disciplinary Actions, and Case Outcomes, but Have Not Been Comprehensively Studied to Identify Causes

Racial and gender disparities exist in investigations, disciplinary actions, and punishment of servicemembers in the military justice system, and gender disparities exist in convictions in the Marine Corps. Our analysis of available data from fiscal years 2013 through 2017, which controlled for attributes such as race, gender, rank, education, and years of service, found racial and gender disparities were more likely in actions that first brought servicemembers into the military justice system.⁶⁴ Specifically, we found that:

- Black, Hispanic, and male servicemembers were more likely than White and female servicemembers to be the subjects of recorded investigations in all of the military services, and were more likely to be tried in general and special courts-martial in the Army, the Navy, the Marine Corps, and the Air Force.⁶⁵
- There were fewer statistically significant racial and gender disparities in most military services in general and special courts-martial that were preceded by a recorded investigation than in general and special courts-martial overall. We also found that statistically significant racial

⁶⁴Our findings of racial and gender disparities, taken alone, do not establish whether unlawful discrimination has occurred, as that is a legal determination that would involve other corroborating information along with supporting statistics. We conducted multivariate regression analyses, which analyzed the degree to which one racial or gender group was more likely or less likely than another racial or gender group to be the subject of recorded investigations while controlling for race, gender, rank, and education. In the Air Force, we also controlled for years of service among the lower enlisted ranks (E1-E4) at the request of Air Force officials. In the Army, we could not control for education, but we were able to control for age. A multivariate regression analysis examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. A multivariate regression analysis allows us to test the association between a servicemember's race and the odds of a particular military justice action, while holding other servicemember attributes, such as rank, education, and gender, constant. For the purposes of consistency, in our multivariate regression analyses, we made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. For purposes of this report, we use the term "likelihood" when discussing the odds ratios from the results of our regression analyses. Odds ratios that are statistically significant and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be subject to a particular military justice action. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendix II for the summary statistics and bivariate regression analyses for the racial and gender groups in each of the services, and Appendixes IV through VIII for the demographic breakdowns of the modeled attributes in each of the military services.

⁶⁵We did not analyze general and special courts-martial in the Coast Guard due to the small number of cases adjudicated from fiscal years 2013 through 2017.

and gender disparities in general and special courts-martial that did not follow a recorded investigation were similar to those we identified for general and special courts-martial overall.

- Black and male servicemembers were more likely than White and female servicemembers to be tried in summary courts-martial and to be subjects of nonjudicial punishment in the Air Force and the Marine Corps. The Army and the Navy did not maintain complete data, and the Coast Guard had too few summary courts-martial for us to analyze, and did not maintain complete nonjudicial punishment data.

We identified fewer statistically significant racial or gender disparities in case outcomes—convictions and punishment severity. Specifically:

- Race was not a statistically significant factor in the likelihood of conviction in general and special courts-martial in the Army, the Navy, the Marine Corps, and the Air Force, but gender was a statistically significant factor in the Marine Corps.
- Black servicemembers were less likely to receive a more severe punishment in general and special courts-martial compared to White servicemembers in the Navy but there was no statistically significant difference for Black servicemembers in the Marine Corps, the Army, and the Air Force. Additionally, there were no statistically significant differences for Hispanic servicemembers in the Navy, the Marine Corps, the Army, or the Air Force; and males were more likely than females to receive a more severe punishment in the Marine Corps, the Army, and the Air Force.

Finally, DOD and the military services have taken some steps to study racial and gender disparities in the military justice system over the last several decades, but they have not comprehensively studied the extent or causes of any disparities.

Black, Hispanic, and Male Servicemembers Were More Likely to Be Subjects of Recorded Investigations and Tried in General and Special Courts-Martial

Black, Hispanic, and Male Servicemembers Were More Likely to Be Subjects of Recorded Investigations in All of the Military Services

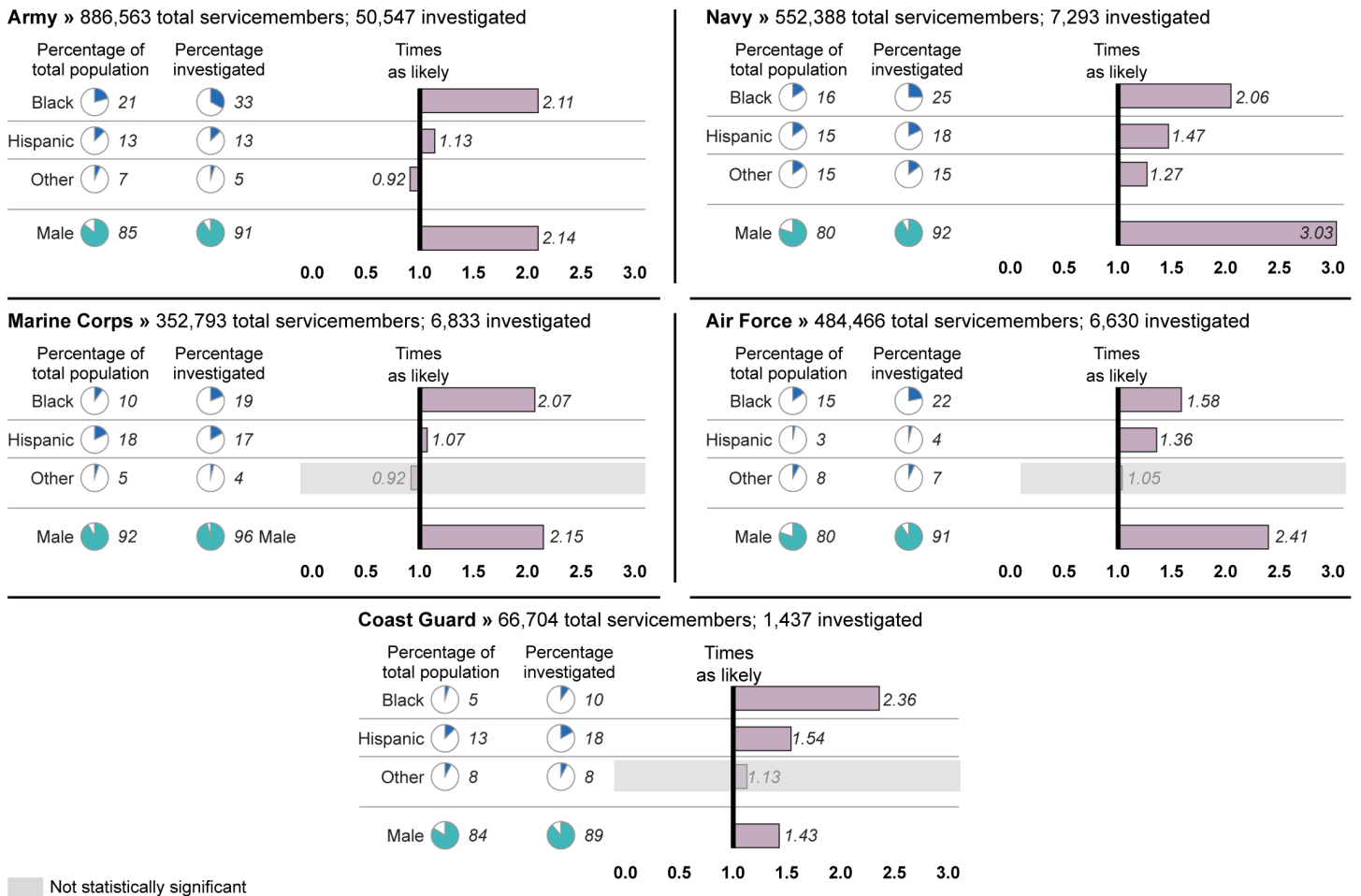
Black, Hispanic, and male servicemembers were more likely than White or female servicemembers to be the subjects of recorded investigations in all of the military services, after controlling for other attributes, as shown in figure 5.⁶⁶ Servicemembers in the Other race category were more likely than White servicemembers to be the subjects of recorded investigations in the Navy, but were less likely in the Army.⁶⁷ Our analyses did not identify any statistically significant differences for servicemembers in the Other race category from the Air Force, the Marine Corps, or the Coast Guard.⁶⁸

⁶⁶These analyses, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Our analysis focused on violations of the UCMJ that were recorded in databases used by service-specific investigative entities known as military criminal investigative organizations (MCIO). MCIOs conduct criminal investigations in cases with a DOD nexus, such as if a crime occurred on a DOD installation, or the subject of the investigation is currently affiliated with DOD or was subject to the UCMJ at the time of the offense. Investigations are recorded in the MCIO databases when a servicemember is the subject of a criminal allegation made by another; for purposes of this report, we say the servicemember had a “recorded investigation” to describe these cases. We used data from the databases used by the Army’s Criminal Investigation Command, which included cases investigated by military police and Criminal Investigation Command; by the Navy and Marine Corps Naval Criminal Investigative Service, which included cases investigated by the Naval Criminal Investigative Service and military police; by the Air Force’s Office of Special Investigations, which included only Office of Special Investigations cases; and by the Coast Guard Investigative Service, which included only Coast Guard Investigative Service cases. This analysis does not include investigations that were recorded in databases that were not used by the MCIOs, or other investigations conducted within the military, such as command investigations. When we merged the military services’ investigation data with their personnel information, we found the data to be sufficiently reliable for assessing gender and racial disparities. See Appendix III for information regarding recorded investigations of drug and sexual assault offenses.

⁶⁷The Other race category includes servicemembers that identify as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

⁶⁸Not identifying any statistically significant findings means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, a recorded investigation.

Figure 5: Likelihood of Recorded Investigations for Alleged Uniform Code of Military Justice Violations by Race and Gender, After Controlling for Rank and Education, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and investigation data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be the subject of an investigation recorded in the services' military criminal investigative organizations databases for alleged violations of the Uniform Code of Military Justice after controlling for race, gender, rank, and education. We also controlled for years of service among the lower enlisted ranks (E1-E4) in the Air Force. In the Army, we could not control for education, but we were able to control for age. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be the subject of a recorded investigation. Not statistically significant means that we could not conclude there was an association between race and the likelihood of a recorded investigation. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure may

Black, Hispanic, and Male Servicemembers Were More Likely to Be Tried in General and Special Courts-Martial

not sum to 100 percent because we excluded from this figure data for White servicemembers and those whose race was unknown.

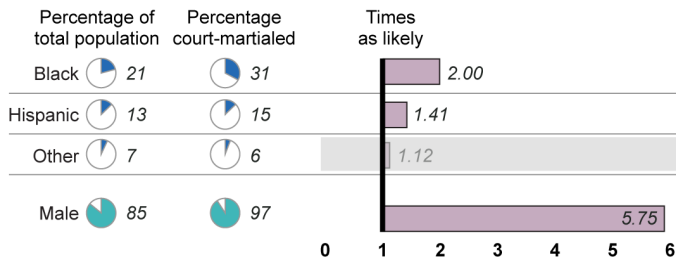
For the Army, the Navy, the Marine Corps, and the Air Force, Black, Hispanic, and male servicemembers were more likely than White and female servicemembers to be tried in general and special courts-martial after controlling for other attributes, as shown in figure 6 below.⁶⁹ Servicemembers in the Other race category were more likely than White servicemembers to be tried in general and special courts-martial in the Navy, but we found no statistically significant differences in the likelihood of servicemembers in the Other race category in the Army, the Marine Corps, and the Air Force to be tried in general and special courts-martial compared to White servicemembers.⁷⁰ We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

⁶⁹These analyses, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. When we merged the military services' military justice data with their personnel information, we found the data to be sufficiently reliable for assessing gender and racial disparities. General and special courts-martial are used to adjudicate more serious violations of the UCMJ, and therefore have the potential for more severe judicial punishment. We conducted multivariate regression analyses, which analyzed the degree to which one racial, ethnic, or gender group was more likely or less likely than another racial, ethnic, or gender group to be tried in general and special courts-martial while controlling for race, gender, rank, and education. In the Air Force, we also controlled for years of service among the lower enlisted ranks (E1-E4). In the Army, we could not control for education, but we were able to control for age. A multivariate regression analysis examines several variables to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendix II for the summary statistics and bivariate regression analyses for the racial and gender groups in each of the services, and see Appendixes IV through VIII for the demographic breakdowns of the modeled attributes in each of the military services. See Appendix III for information regarding general and special courts-martial of drug and sexual assault offenses.

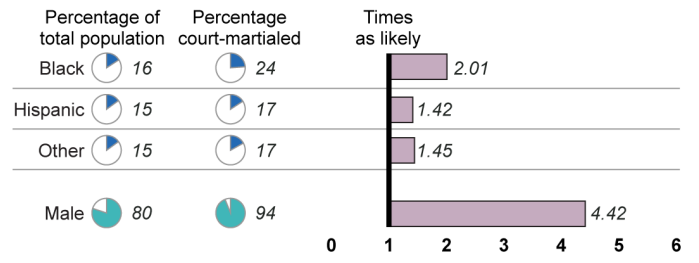
⁷⁰Not identifying any statistically significant findings means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, trial in general and special courts-martial.

Figure 6: Likelihood of Trial in General and Special Courts-Martial by Race and Gender, After Controlling for Rank and Education, Fiscal Years 2013–2017

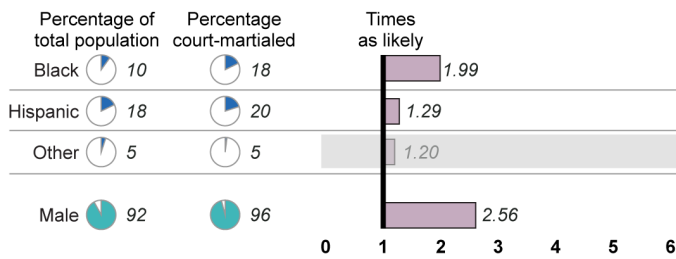
Army » 886,563 total servicemembers; 3,129 court-martialed



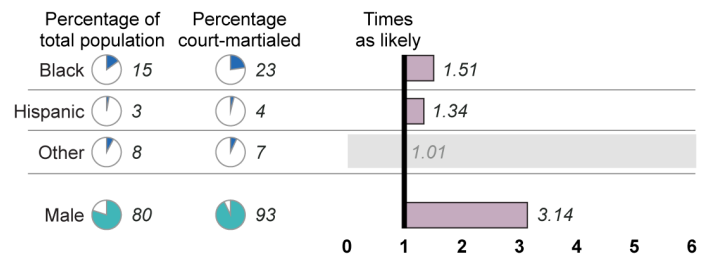
Navy » 552,388 total servicemembers; 1,034 court-martialed



Marine Corps » 352,793 total servicemembers; 1,354 court-martialed



Air Force » 484,466 total servicemembers; 2,359 court-martialed



Not statistically significant

Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be tried in general and special courts-martial after controlling for race, gender, rank, and education. We also controlled for years of service among the lower enlisted ranks (E1-E4) in the Air Force. In the Army, we could not control for education, but we were able to control for age. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in general or special courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in general and special courts-martial. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure may not sum to 100 percent because we excluded from this figure data for White servicemembers and those whose race was unknown.

More Statistically Significant Racial and Gender Disparities Found in General and Special Courts-Martial Cases without a Recorded Investigation than with a Recorded Investigation

When separating general and special court-martial cases into those that either were or were not preceded by an investigation recorded in an MCIO database, we found fewer statistically significant racial and gender disparities in most of the military services in general and special courts-martial that were preceded by a recorded investigation.⁷¹ However, statistically significant racial and gender disparities were also present in general and special courts-martial that did not follow a recorded investigation in all services included in this analysis, which would include cases where the investigation was performed by the servicemember's command.

Specifically, as shown in figure 7 below, we found that Black, Hispanic, Other, and male servicemembers in the Army, Hispanic servicemembers in the Marine Corps, and males in the Air Force were more likely than White or female servicemembers to be tried in general and special courts-martial following a recorded investigation, after controlling for other attributes.⁷² We found no statistically significant differences in the likelihood of any other racial or gender groups to be tried in general and special courts-martial following a recorded investigation in any other services.⁷³ Our analyses of general and special courts-martial with a

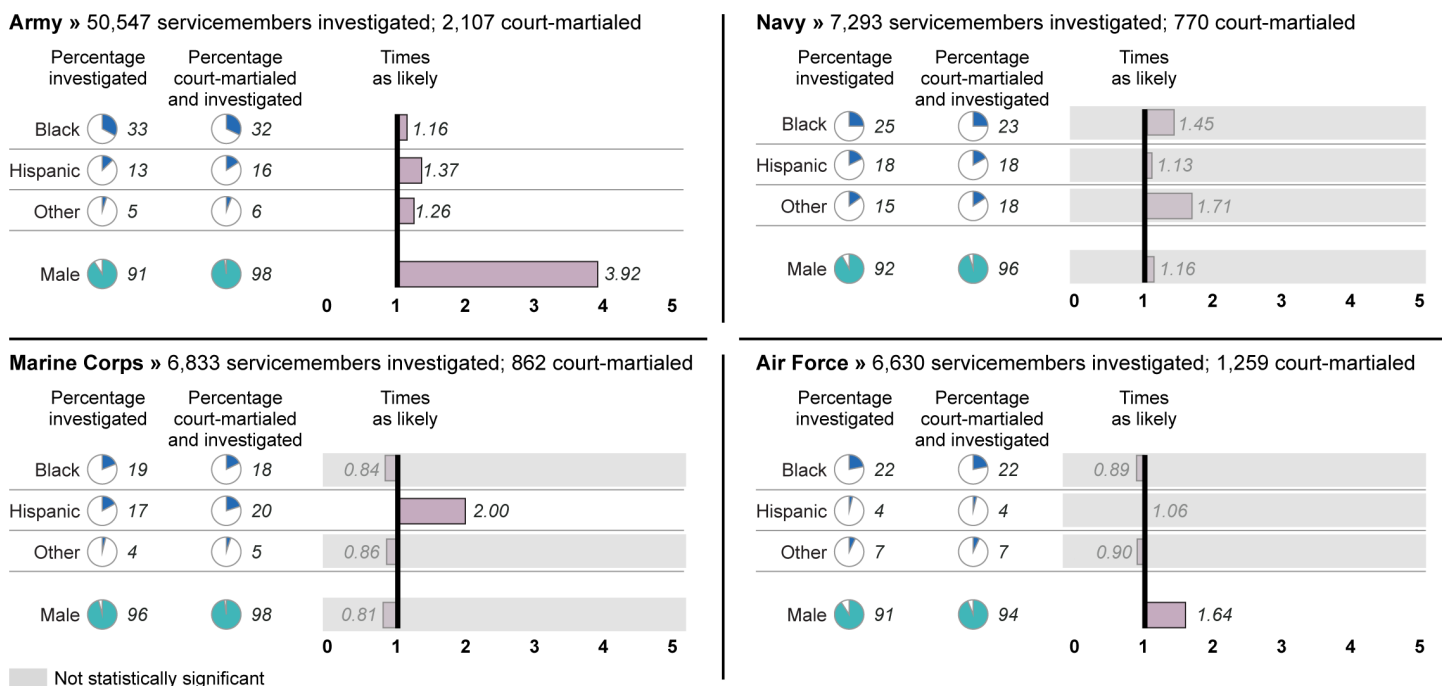
⁷¹Investigations are recorded in the MCIO databases when a servicemember is the subject of a criminal allegation made by another; for purposes of this report, we say the servicemember had a "recorded investigation" to describe these cases. For additional explanation of the databases we used to analyze investigations, please see appendix I. As discussed in the background section above, and in figure 3, the majority of general and special courts-martial, ranging from 53 percent to 74 percent, had a recorded investigation, while the remaining general and special courts-martial cases, ranging from 26 percent to 47 percent, would have been investigated by other sources, such as local civilian law enforcement, command investigations, or in the case of the Air Force, their military law enforcement forces.

⁷²We conducted multivariate regression analyses, which analyzed the degree to which one racial, ethnic, or gender group was more likely or less likely than another racial, ethnic, or gender group to be tried in general and special courts-martial that followed a recorded investigation while controlling for race, gender, rank, and education. In the Air Force, we also controlled for years of service among the lower enlisted ranks (E1-E4). In the Army, we could not control for education, but we were able to control for age. A multivariate regression analysis examines several variables to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendixes II through VI for the demographic breakdowns of the modeled attributes in each of the military services.

⁷³Not identifying any statistically significant findings means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, trial in general and special courts-martial following a recorded investigation.

recorded investigation generally found fewer statistically significant differences compared to the results of our analyses for all special and general courts martial.

Figure 7: Likelihood of Trial in General and Special Courts-Martial Following a Recorded Investigation by Race and Gender, After Controlling for Rank and Education, Fiscal Years 2013–2017



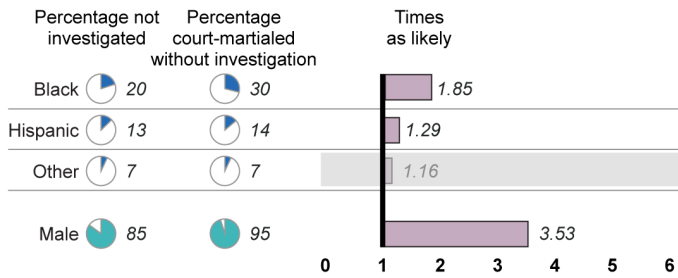
Source: GAO analysis of service personnel, investigations, and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be tried in general and special courts-martial following an investigation recorded in the services' military criminal investigative organizations databases after controlling for race, gender, rank, and education. We also controlled for years of service among the lower enlisted ranks (E1-E4) in the Air Force. In the Army, we could not control for education, but we were able to control for age and investigative entity. In the Navy and the Marine Corps, we also controlled for type of offense, investigative entity, and composition of the deciding panel. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in general and special courts-martial following a recorded investigation. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in general and special courts-martial following a recorded investigation. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure may not sum to 100 percent because we excluded from this figure data for White servicemembers and those whose race was unknown.

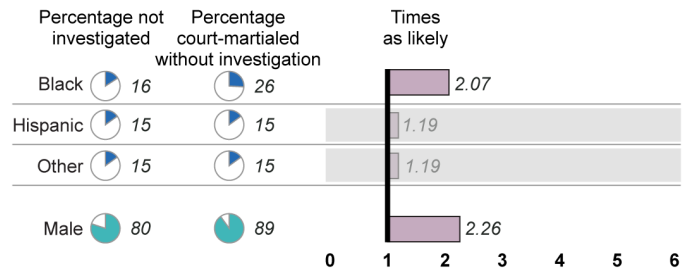
We also found that Black and male servicemembers in all of the military services were more likely than White and female servicemembers to be tried in general and special courts-martial without a recorded investigation after controlling for other attributes, as shown in figure 8 below. Further, Hispanic servicemembers in the Army were more likely than White servicemembers to be tried in general and special courts-martial without a recorded investigation, but we found no statistically significant differences in the likelihood of Hispanic servicemembers to be tried in general and special courts-martial without a recorded investigation in the Marine Corps, the Navy, or the Air Force. We found no statistically significant differences in the likelihood of servicemembers in the Other race category to be tried in general and special courts-martial compared to White servicemembers in all of the military services. Our findings of racial and gender disparities in general and special courts-martial without a recorded investigation found statistically significant differences for Black and male servicemembers consistent with the differences we identified for general and special courts-martial overall, as shown in figure 6 above.

Figure 8: Likelihood of Trial in General and Special Courts-Martial without a Recorded Investigation by Race and Gender, After Controlling for Rank and Education, Fiscal Years 2013–2017

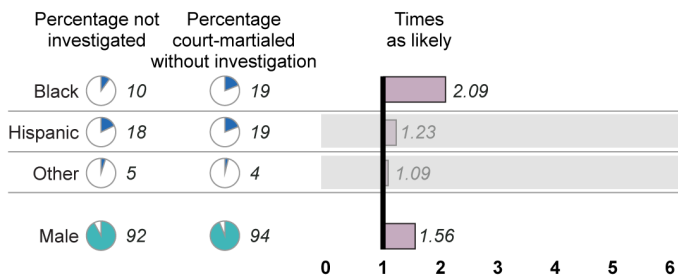
Army » 836,016 servicemembers not investigated; 1,022 court-martialed



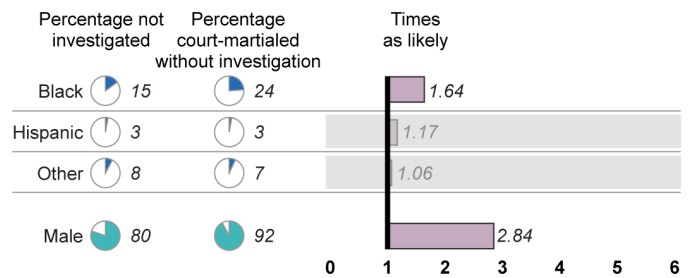
Navy » 545,095 servicemembers not investigated; 264 court-martialed



Marine Corps » 345,960 servicemembers not investigated; 492 court-martialed



Air Force » 477,836 servicemembers not investigated; 1,100 court-martialed



Not statistically significant

Source: GAO analysis of service personnel, investigations, and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be tried in general and special courts-martial without an investigation recorded in the services' military criminal investigative organizations databases after controlling for race, gender, rank, and education. We also controlled for years of service among the lower enlisted ranks (E1-E4) in the Air Force. In the Army, we could not control for education, but we were able to control for age. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in general and special courts-martial without a recorded investigation. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in general and special courts-martial without a recorded investigation. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure may not sum to 100 percent because we excluded from this figure data for White servicemembers and those whose race was unknown.

Black and Male
Servicemembers Were
More Likely to Be Subject
to Summary Courts-
Martial and Nonjudicial
Punishment in the Air
Force and Marine Corps,
and the Other Services
Lack Data

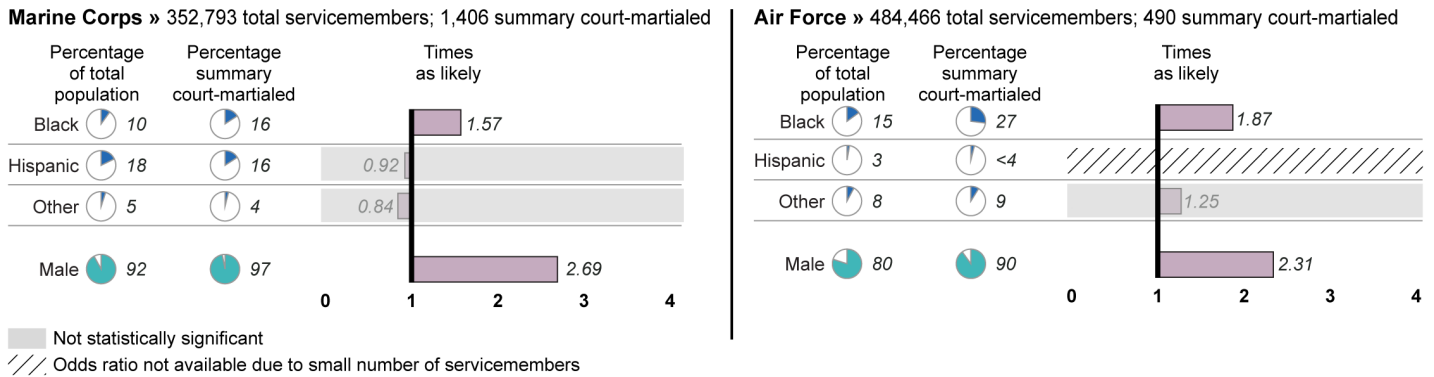
Black and Male
Servicemembers Were More
Likely to Be Tried in Summary
Courts-Martial in the Air Force
and Marine Corps, and the
Army and Navy Lack Data

Black and male servicemembers were more likely than White or female servicemembers to be tried in summary courts-martial in the Air Force and the Marine Corps after controlling for other attributes, as shown in figure 9 below.⁷⁴ We did not identify any statistically significant differences in summary courts-martial rates for servicemembers who identified as Hispanic or in the Other race category in either the Air Force or the Marine Corps.⁷⁵ We could not determine whether there were racial or gender disparities for summary courts-martial in the Army, the Navy, and the Coast Guard due to data limitations.

⁷⁴These analyses, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. When we merged the military services' military justice data with their personnel information, we found the data to be sufficiently reliable for assessing gender and racial disparities. We conducted multivariate regression analyses, which analyzed the degree to which one racial or gender group was more likely or less likely than another racial or gender group to be tried in summary courts-martial while controlling for race, gender, rank, and education. In the Air Force, we also controlled for years of service among the lower enlisted ranks (E1-E4). A multivariate regression analysis examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendix II for the summary statistics and bivariate regression analyses for the racial and gender groups in each of the services, and see Appendixes VI and VII for the demographic breakdowns of each of those attributes in the Marine Corps and the Air Force, respectively.

⁷⁵Not identifying any statistically significant findings means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, trial in summary courts-martial. The Other race category includes servicemembers who identify as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

Figure 9: Likelihood of Trial in Summary Courts-Martial in the Air Force and the Marine Corps by Race and Gender, After Controlling for Rank and Education, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be tried in summary courts-martial after controlling for race, gender, rank, and education. We also controlled for years of service among the lower enlisted ranks (E1-E4) in the Air Force. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in summary courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in summary courts-martial. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure may not sum to 100 percent due to rounding and because we excluded from this figure data for White servicemembers and those whose race was unknown.

We could not analyze Coast Guard cases due to the small number of summary courts-martial adjudicated in the Coast Guard from 2013 through 2017. We could not determine whether disparities existed among servicemembers tried in summary courts-martial in the Army and the Navy because the Army and the Navy did not collect complete summary courts-martial data in their investigations, military justice, or personnel databases. Specifically, as part of our data reliability checks, we identified the total number of summary courts-martial that the Army and the Navy reported in the Court of Appeals for the Armed Forces annual reports for fiscal years 2013 through 2017, and compared these totals to the number

of cases we identified in their military justice databases.⁷⁶ While our comparisons are not exact, due to differences in the dates we used to count the number of cases, we found that approximately 60 percent of the Army's reported summary courts-martial cases and less than 50 percent of the Navy's reported summary courts-martial cases were included in their military justice databases.⁷⁷

Army and Navy officials cited several reasons why complete summary courts-martial information was not collected. First, they said that the services are not required to collect and maintain complete data on summary courts-martial because these cases result in non-criminal convictions under the UCMJ. Summary courts-martial are typically used for minor offenses, and the accused is not guaranteed the right to be represented by a military attorney. As a result, military attorneys may not be involved in summary courts-martial. Army and Navy officials said that if military attorneys are not involved in the case, there is not likely to be a record of the case in their service's military justice database. In contrast, Air Force officials said that they provide a military attorney to represent the accused in summary courts-martial; as a result, Air Force officials said their attorneys create records for these cases in the Air Force's military justice database. The Marine Corps does not maintain summary court-martial data in its military justice database but tracks summary courts-martial in its personnel database.

Officials in the Navy and the Army told us that the lack of complete summary court-martial data in their military justice databases is also in part because these systems were not designed to serve as repositories for complete military justice data. Instead, the officials said that the military justice databases were primarily created to assist attorneys in

⁷⁶According to Army and Navy officials, the total numbers of summary courts-martial included in the Court of Appeals for the Armed Forces annual reports are taken from their internal monthly and quarterly staff judge advocate reports that were discussed earlier in this report.

⁷⁷We could not compare the total number of cases that we identified in the military justice databases precisely against the reported number of cases because we counted cases based on the date of preferral, whereas the cases reported in the Court of Appeals for the Armed Forces annual report are based on the judgment date. However, we combined the total number of cases over a 5-year period, which made differences in which particular fiscal year a case was counted less important for these purposes. We found that while the total number of cases were different, the totals we computed provided a basis for comparison that allowed us to confirm that the military justice databases did not have complete data about summary courts-martial, as Army and Navy officials had told us.

generating trial documents, meeting timeframes, and other aspects of case management. Nevertheless, Army officials said they plan to start collecting more complete summary court-martial information. Specifically, Army officials said that the Army is encouraging their judge advocate general staff to create records for all summary courts-martial in the service's military justice database.

The absence of complete summary court-martial data in the military justice databases of the Army and the Navy limits these services' visibility into any disparities that may exist among servicemembers involved in these types of military justice proceedings. On December 17, 2018, the General Counsel of the Department of Defense issued the uniform standards and criteria required by article 140A of the Military Justice Act of 2016. As part of these uniform standards, the services were directed to collect certain information about all cases in their military justice databases, which a DOD official said includes summary courts-martial cases. The military services are to implement the Secretary's direction no later than December 23, 2020.

Black and Male
Servicemembers Were More
Likely to Be Subject to
Nonjudicial Punishments in the
Air Force and the Marine
Corps, and the Army, Navy,
and Coast Guard Lack Data

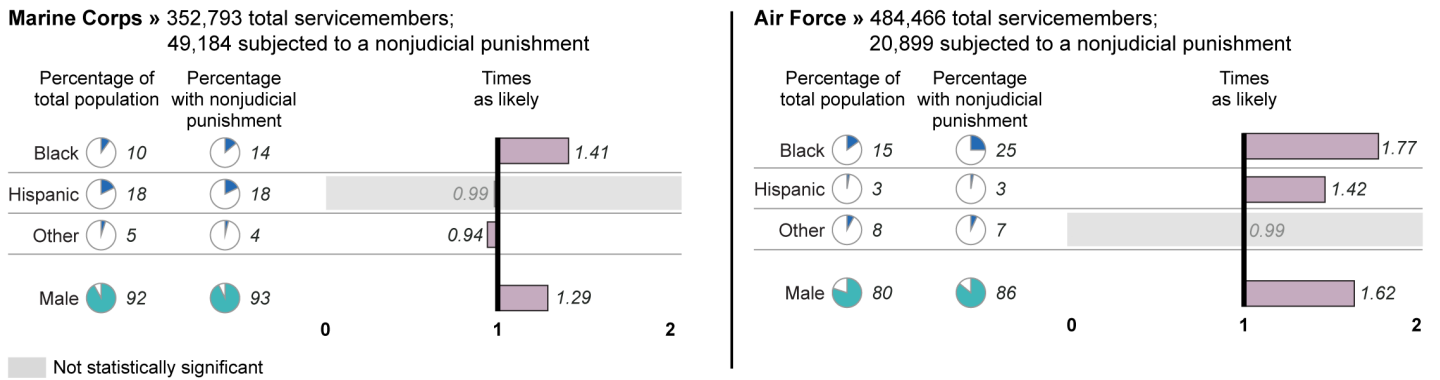
Black and male servicemembers were more likely than White or female servicemembers to be subject to nonjudicial punishments in the Air Force and the Marine Corps, after controlling for other attributes, as shown in figure 10 below.⁷⁸ In the Air Force, we found that Hispanic servicemembers were more likely than White servicemembers to receive nonjudicial punishments, while we observed no statistically significant differences in nonjudicial punishment rates for Hispanic servicemembers in the Marine Corps.⁷⁹ Servicemembers in the Other race category in the Marine Corps were less likely to receive nonjudicial punishments, but we observed no statistically significant differences in nonjudicial punishment rates for servicemembers in the Other race category in the Air Force.⁸⁰

⁷⁸These analyses, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. When we merged the military services' military justice data with their personnel information, we found the data to be sufficiently reliable for assessing gender and racial disparities. We conducted multivariate regression analyses, which analyzed the degree to which one racial or gender group was more likely or less likely than another racial or gender group to receive nonjudicial punishments while controlling for race, gender, rank, and education. In the Air Force, we also controlled for years of service among the lower enlisted ranks (E1-E4). A multivariate regression analysis examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendix II for the summary statistics and bivariate regression analyses for the racial and gender groups in each of the services, and see Appendixes VI and VII for the demographic breakdowns of each of those attributes in the Marine Corps and the Air Force, respectively.

⁷⁹Not identifying any statistically significant findings means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, nonjudicial punishment.

⁸⁰The Other race category includes servicemembers who identify as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

Figure 10: Likelihood of Nonjudicial Punishments in the Air Force and the Marine Corps by Race and Gender, After Controlling for Rank and Education, Fiscal Years 2013–2017



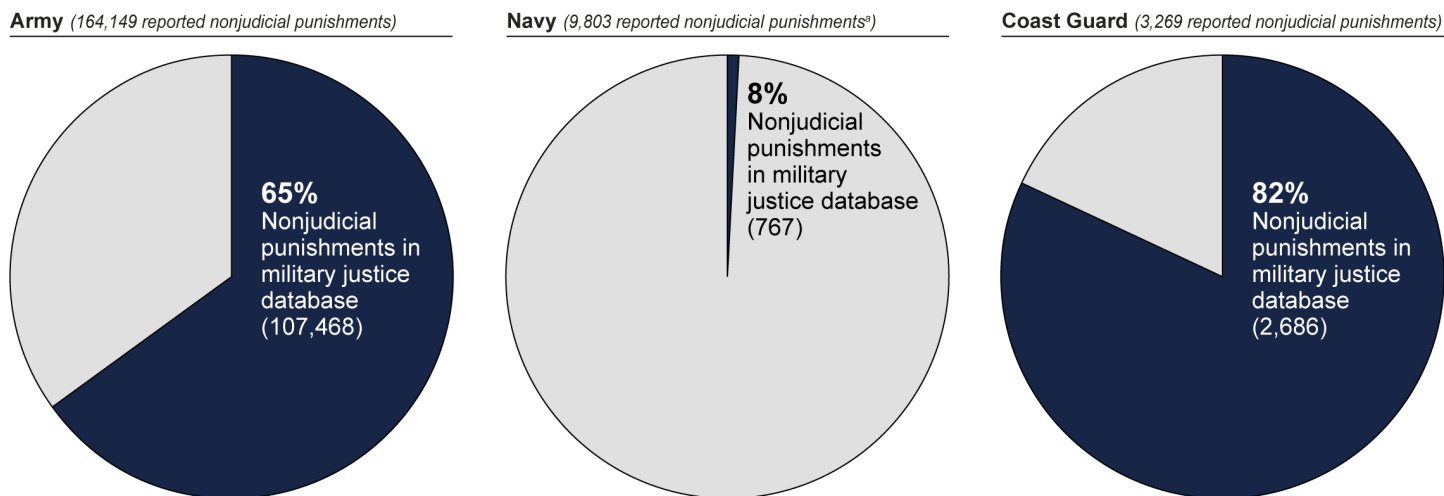
Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be subject to nonjudicial punishments after controlling for race, gender, rank, and education. We also controlled for years of service among the lower enlisted ranks (E1-E4) in the Air Force. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be subject to nonjudicial punishment. Not statistically significant means that we could not conclude there was an association between race and the likelihood of nonjudicial punishment. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure may not sum to 100 percent due to rounding and because we excluded from this figure data for White servicemembers and those whose race was unknown.

However, we could not determine whether there were racial or gender disparities among servicemembers subject to nonjudicial punishments in the Army, the Navy, and the Coast Guard because these services do not collect complete nonjudicial punishment data, such as data on the servicemember’s race, ethnicity, gender, offense, and punishment, in any of their databases. As part of our data reliability checks, we identified the total number of nonjudicial punishments that the Army, the Navy, and the Coast Guard reported in the Court of Appeals for the Armed Forces annual reports for fiscal years 2013 through 2017, and compared these totals to the number of cases we identified in their military justice and

personnel databases.⁸¹ As shown in figure 11 below, we found that 65 percent of the Army’s reported nonjudicial punishments, 8 percent of the Navy’s reported nonjudicial punishments, and 82 percent of the Coast Guard’s reported nonjudicial punishments were recorded in their military justice databases.

Figure 11: Army, Navy, and Coast Guard Reported Nonjudicial Punishments Compared to Nonjudicial Punishments in Military Justice Databases, Fiscal Years 2013–2017



Source: GAO analysis of Court of Appeals for the Armed Forces annual reports for fiscal years 2013-2017 and Army, Navy, and Coast Guard military justice databases. | GAO-19-344

Note: Nonjudicial punishments are reported as a combined number for the Navy and the Marine Corps in the Court of Appeals for the Armed Forces annual reports. To calculate this reported figure for the Navy, we subtracted the number of Marine Corps nonjudicial punishment cases we identified in the Marine Corps personnel database from the reported totals.

Officials from these services cited several reasons why they did not have complete information about all nonjudicial punishments. First, they said that the services are not required to track nonjudicial punishment cases because they are non-criminal punishments that are typically imposed for less serious offenses. Army and Navy officials noted that complete records of these punishments are not recorded at least in part because

⁸¹Nonjudicial punishments are reported as a combined total for the Navy and the Marine Corps in the Court of Appeals for the Armed Forces annual reports. As a result, to calculate this reported figure for the Navy, we subtracted the number of Marine Corps nonjudicial punishment cases that we had identified in the Marine Corps personnel database from the reported totals.

nonjudicial punishments are not meant to follow servicemembers throughout their career, but instead are intended to incentivize servicemembers to correct their behavior. Because nonjudicial punishments are not criminal punishments, the process afforded to servicemembers in nonjudicial punishment proceedings differs as well. For example, the servicemember is not guaranteed the right to representation by a military attorney. Army and Navy officials noted that their military justice databases contain records of nonjudicial punishments if there was legal involvement by the Judge Advocate General's Corps in the case. Similarly, Coast Guard officials said that their military justice database contains records of nonjudicial punishment if a case originated as a criminal case involving a judge advocate, for example, if charges were preferred. According to Air Force and Marine Corps officials, the Air Force maintains complete nonjudicial punishment data in its military justice database, and the Marine Corps maintains complete nonjudicial punishment data in its personnel database.⁸²

Standards for Internal Control in the Federal Government state that management should use quality information to achieve an entity's objectives. Additionally, management should identify information requirements; ensure that the data it receives are timely and reliable; and process the data obtained into quality information.⁸³ Officials from the Army, the Navy, and the Coast Guard expressed concerns regarding the feasibility of collecting and maintaining information about all nonjudicial punishments. Army officials stated that the collection and maintenance of all nonjudicial punishment data would be a substantial administrative burden due to the number of nonjudicial punishments awarded to servicemembers every week. Navy officials also stated that it would be a significant challenge to collect and maintain information about all nonjudicial punishments in either the Navy's military justice database or its personnel database. They stated that there are few individuals who have access and can input data into the military justice database, and to expand the scope of criminal justice data collected in that manner, more people would have to be hired or assigned to assist with data entry. Similarly, Coast Guard officials said that tracking all nonjudicial punishment cases would be a difficult addition to their current data

⁸²Marine Corps officials said that commanders fill out a form for all executed administrative actions, nonjudicial punishments, and all types of courts-martial, and information from those forms are then recorded in the personnel database.

⁸³[GAO-14-704G](#).

collection and maintenance workload. Coast Guard officials further stated that in addition to providing commanders with an essential means of providing good order and discipline, nonjudicial punishment also may promote positive change. Some Coast Guard officials stated concerns that recording all nonjudicial punishments in a database may inhibit the rehabilitative component of nonjudicial punishment.

While the Army, Navy, and Coast Guard officials expressed these concerns, none of these military services had formally assessed the feasibility of collecting data on nonjudicial punishments. The absence of complete nonjudicial punishment data limits the military services' visibility into the vast majority of legal punishments imposed on servicemembers under the UCMJ every year. Without such data, these three services will remain limited in their ability to assess or identify disparities among populations subject to this type of punishment.

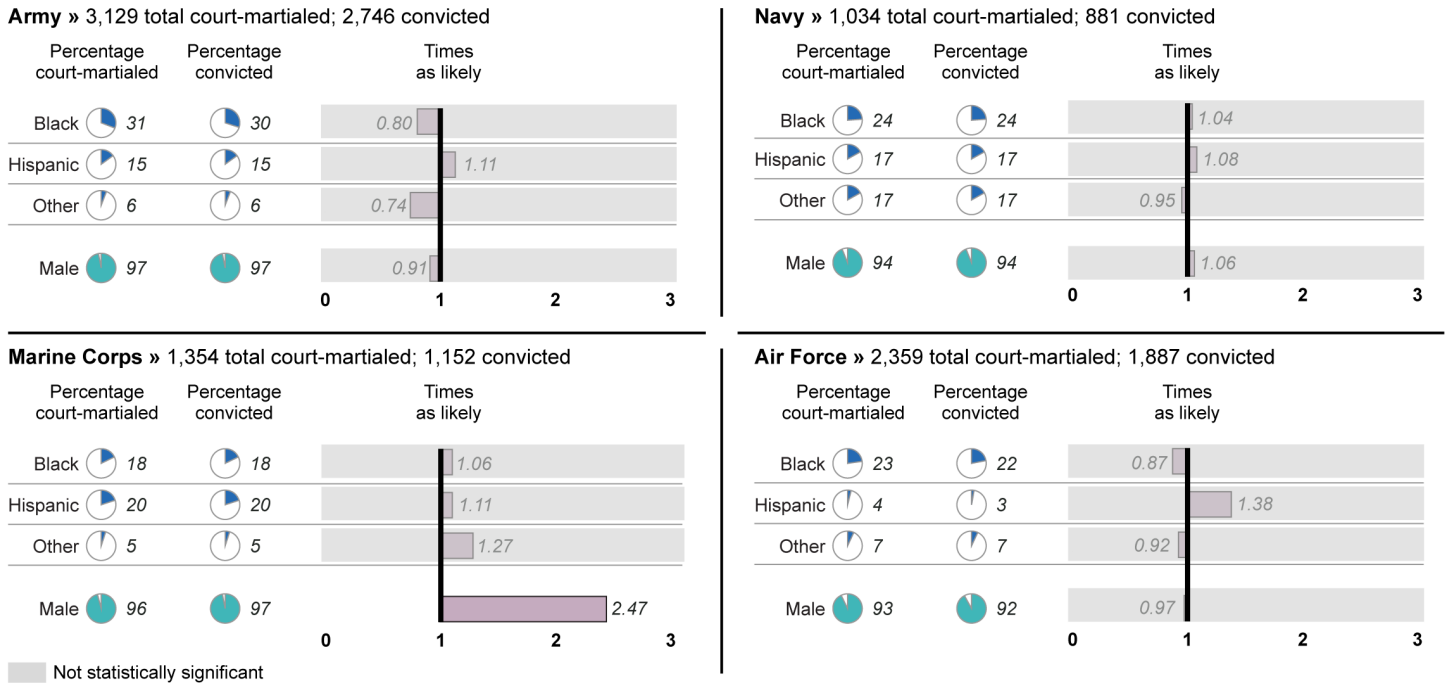
Few Statistically Significant Racial or Gender Disparities Exist in Likelihood of Conviction or Severity of Punishment, but the Coast Guard Does Not Collect and Maintain Complete Data

Race Was Not a Statistically Significant Factor in Convictions in General and Special Courts-Martial, but Gender Was in the Marine Corps

Among the servicemembers convicted in general and special courts-martials, we found no statistically significant differences regarding the likelihood of conviction among racial groups in the Army, the Navy, the Marine Corps, and the Air Force, while controlling for other attributes, as shown in figure 12 below.⁸⁴ In the Marine Corps, male servicemembers were more likely to be convicted compared to female servicemembers. We found no statistically significant differences in the likelihood of convictions between males and females in the Army, the Air Force, and the Navy.

⁸⁴We conducted multivariate regression analyses, which analyzed the degree to which one racial or gender group was more likely or less likely than another racial or gender group to be convicted in general and special courts-martial, while controlling for race, gender, education, rank, and offense type. In the Air Force, we also controlled for years of service among the lower enlisted ranks (E1-E4) and composition of the deciding panel. In the Army, we could not control for education, but we were able to control for age and composition of the deciding panel. A multivariate regression analysis examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. Not identifying any statistically significant findings means that we could not conclude there was an association between race or gender and the likelihood of an outcome, in this case, conviction in general and special courts-martial. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendix II for the summary statistics and bivariate regression analyses for the racial and gender groups in each of the services, and see Appendixes IV through VII for the demographic breakdowns of the modeled attributes in each of the military services.

Figure 12: Likelihood of Conviction in General and Special Courts-Martial by Race and Gender, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be convicted in general and special courts-martial after controlling for race, gender, rank, education, and offense type. We also controlled for years of service among the lower enlisted ranks (E1-E4) and composition of the deciding panel in the Air Force. In the Army, we could not control for education, but we were able to control for age and composition of the deciding panel. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be convicted in general and special courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of conviction in general and special courts-martial. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure do not sum to 100 percent because we excluded from this figure data for White servicemembers and those whose race was unknown.

Minority Servicemembers Were Either Less Likely to Receive a More Severe Punishment or There Were No Differences Among Racial Groups, but Punishment Severity Varied by Gender Among the Services

In the military services that maintained complete punishment data—the Army, the Navy, the Marine Corps, and the Air Force—we found that minority servicemembers were either less likely to receive a more severe punishment in general and special courts-martial compared to White servicemembers, or there were no statistically significant differences in punishments among racial groups.⁸⁵ Our findings regarding gender varied among the services. Male servicemembers were more likely to receive a more severe punishment compared to females in the Marine Corps, the Army, and the Air Force; for the Navy, we found there were no statistically significant differences in punishments between males and females.⁸⁶

Navy and Marine Corps: Among servicemembers that were convicted in general and special courts-martial in the Marine Corps, we found no statistically significant differences regarding minority servicemembers being more likely or less likely to receive a dismissal or discharge punishment versus some other punishment, while controlling for other attributes, as shown in figure 13 below.⁸⁷ In the Navy, among servicemembers that were convicted in general and special courts-martial, Black servicemembers were less likely than White servicemembers to receive a discharge or dismissal. We found no statistically significant differences regarding Hispanic servicemembers or those of Other races in the Navy. In the Marine Corps, among servicemembers that were convicted in general and special courts-

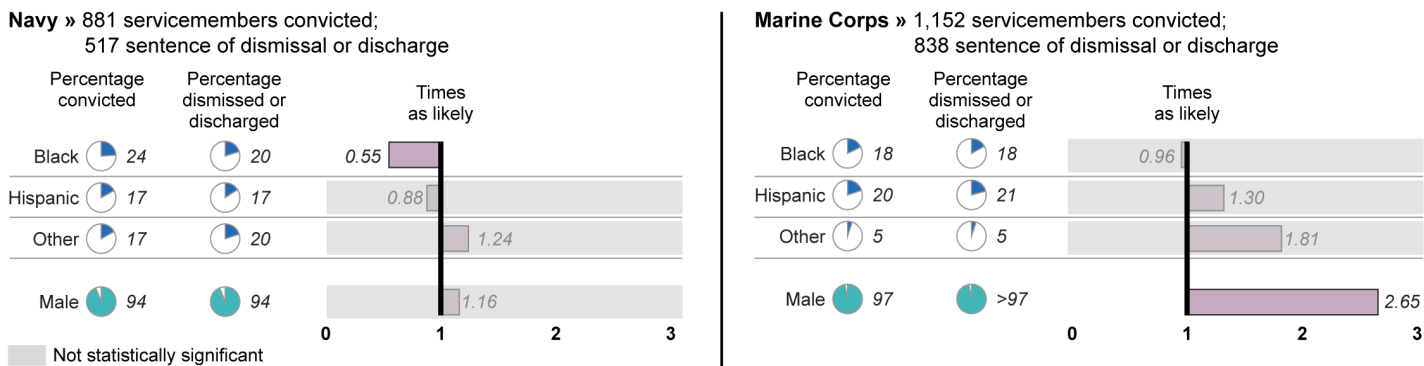
⁸⁵Not identifying any statistically significant findings means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, punishment severity.

⁸⁶We measured the severity of punishments in two groups for the Navy and the Marine Corps, and in three groups for the Air Force and the Army, which are defined in Appendix I. We could not create a third punishment group for confinement without dismissal or discharge for the Navy and the Marine Corps because of the small number of cases with confinement that did not also include some sort of discharge. Based on discussions with service officials, we determined that a sentence resulting in a dismissal or discharge was the most severe punishment outcome.

⁸⁷We conducted multivariate regression analyses to analyze the degree to which one racial, ethnic, or gender group was more likely or less likely than another group to receive a more severe punishment in general and special courts-martial while controlling for race, gender, education, rank, and offense type. A multivariate regression analysis examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendix II for the summary statistics and bivariate regression analyses for the racial and gender groups in each of the services, and see Appendixes V and VI for the demographic breakdowns of the modeled attributes in the Navy and the Marine Corps.

martial, male servicemembers were more likely than female servicemembers to receive a discharge or dismissal. In the Navy, there were no statistically significant differences in punishments between males and females.

Figure 13: Likelihood of Dismissal or Discharge in General and Special Courts-Martial by Race and Gender in the Navy and the Marine Corps, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to be to be dismissed or discharged after conviction in general and special courts-martial after controlling for race, gender, rank, education, and offense type. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be dismissed or discharged after conviction in general and special courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of dismissal or discharge after conviction in general and special courts-martial. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure do not sum to 100 percent because we excluded from this figure data for White servicemembers and those whose race was unknown.

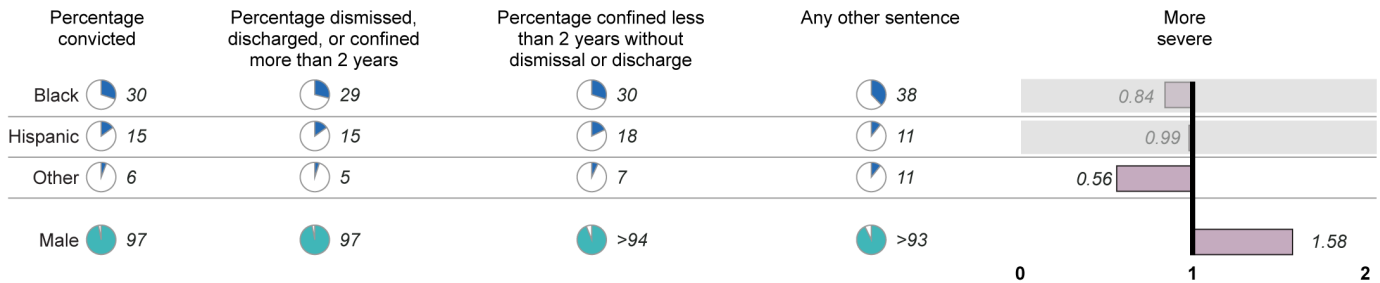
Army and Air Force: We found no statistically significant differences regarding Black or Hispanic servicemembers being more likely or less likely to receive a more severe punishment in the Air Force or the Army,

while controlling for other attributes, as shown in figure 14 below.⁸⁸ We also found that servicemembers in the Other race group were less likely to receive a more severe punishment compared to White servicemembers in the Army, but punishment results for servicemembers in the Other race group in the Air Force were not statistically significant. Additionally, we found that male servicemembers were more likely to receive a more severe punishment compared to female servicemembers in the Army and the Air Force.

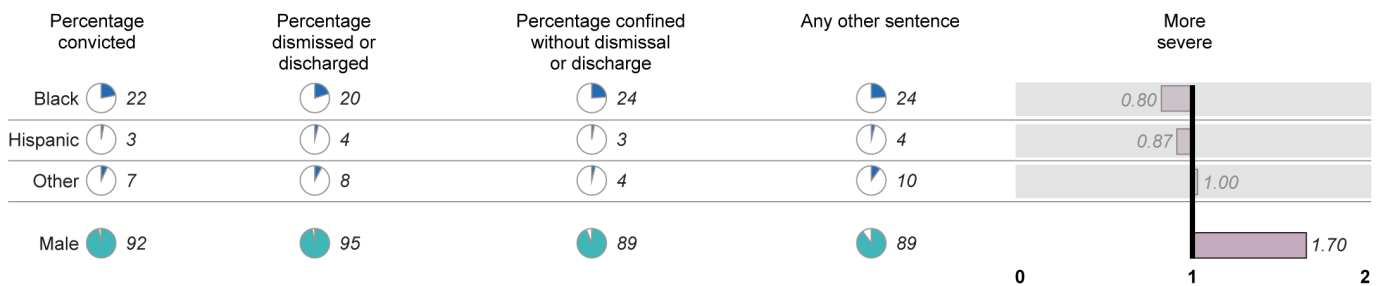
⁸⁸We conducted ordered logistic regression analyses to analyze the degree to which one racial, ethnic, or gender group was more likely or less likely than another group to receive a more severe outcome in general and special courts-martial, while controlling for race, gender, education, rank, composition of the deciding panel, and offense type. In the Air Force, we controlled for years of service among the lower enlisted ranks (E1-E4). In the Army, we could not control for education, but we were able to control for age. Using the three punishment groups listed in table 8 in Appendix I, based on discussions with service officials, we determined that a sentence resulting in a dismissal or discharge was the most severe punishment outcome. An ordered logistic regression is an extension of the logistic regression model that applies to dependent variables where there are more than two response categories. See Appendix I for a more detailed explanation of how we conducted our ordered logistic regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendixes IV and VII for the demographic breakdowns of the modeled attributes in the Army and the Air Force.

Figure 14: Likelihood of More Severe Punishment in General and Special Courts-Martial by Race and Gender in the Army and the Air Force, Fiscal Years 2013–2017

Army » 2,746 servicemembers convicted; 2,079 sentence of dismissal, discharge, or confinement more than 2 years; 365 sentence of confinement less than 2 years without dismissal or discharge; 302 any other sentence



Air Force » 1,887 servicemembers convicted; 992 sentence of dismissal or discharge; 656 sentence of confinement without dismissal or discharge; 239 any other sentence



Not statistically significant

Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial ordered logistic regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than the reference category to receive a more severe punishment after conviction in general and special courts-martial after controlling for race, gender, offense type, and composition of the deciding panel. We also controlled for education and years of service among the lower enlisted ranks (E1-E4) in the Air Force. In the Army, we also controlled for age and rank. We made all racial comparisons with White servicemembers and all gender comparisons with female servicemembers as the reference categories. Odds ratios that are statistically significant ($p < 0.05$) and greater than 1.00 or lower than 1.00 indicate the likelihood that individuals with that characteristic would receive a more severe or less severe punishment, respectively, than the reference category. Not statistically significant means that we could not conclude there was an association between race and the likelihood of a more severe punishment after conviction in general and special courts-martial. Punishment severity in the Air Force, ordered from most to least severe, was (3) any type of dismissal or discharge (regardless of any confinement); (2) confinement without dismissal or discharge, and (1) all other possible sentencing options. In the Army, it was (3) any type of dismissal or discharge or confinement of more than 2 years, (2) confinement of less than 2 years without dismissal or discharge, and (1) all other possible sentencing options. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The racial breakdowns in this figure do not sum to 100 percent because we excluded from this figure data for White servicemembers and those whose race was unknown.

Coast Guard Did Not Collect and Maintain Complete Case Outcome Data

We could not determine disparities in case outcomes—convictions and punishment severity—in the Coast Guard’s general and special courts-martial for fiscal years 2013 through 2017 because the Coast Guard did not collect and maintain complete conviction and punishment data in its military justice database.⁸⁹ Specifically, 16 percent of all Coast Guard cases were missing conviction and punishment data. When broken down by court-martial type, 20 percent of general court-martial cases, 15 percent of special court-martial cases, and 4 percent of summary court-martial cases were missing conviction and punishment data. Coast Guard officials acknowledged that incomplete conviction and punishment data entry is a consistent problem. They said that data entry had improved recently. On December 17, 2018, the General Counsel of the Department of Defense issued the uniform standards and criteria required by article 140a of the Military Justice Act of 2016.⁹⁰ As part of these uniform standards, the services were directed to collect information about the findings for each offense charged, and the sentence or punishment imposed. The military services are to implement the Secretary’s direction no later than December 23, 2020.

⁸⁹Although we could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017, case outcomes could potentially be analyzed in the Coast Guard using a longer period of time than what we used in our review.

⁹⁰The Coast Guard is a voting member of the Joint Service Committee on Military Justice, and according to Coast Guard officials, they participated in the Joint Service Committee’s subcommittee that developed the recommendations leading to the issuance of these standards. A Coast Guard official told us that they consider these standards to be binding on the Coast Guard.

DOD and the Military Services Have Conducted Some Assessments of Military Justice Disparities, but Have Not Studied the Causes of Disparities

DOD and the military services have conducted some assessments of disparities in the military justice system. We previously reported in 1995 on DOD studies on discrimination and equal opportunity, and found DOD and the services conducted seven reviews of racial disparities in discipline rates between 1974 and 1993.⁹¹ Since our 1995 report through 2016, DOD and service assessments of military justice disparities have been limited. Officials in the Office of Diversity, Equity and Inclusion (ODEI) noted DOD has not conducted any department-wide assessments of racial or gender disparities in military justice during this period. The military services' diversity offices also were not able to identify any service-specific reviews of disparities in military justice.

However, the military services have some initiatives to examine and address disparities in military justice. For example, Air Force officials said that in May 2016, the Air Force conducted a servicewide data call to solicit information about cases involving a challenge to a member of a court-martial based on race or a motion for selective prosecution. The officials said that a thorough review revealed no evidence of selective prosecution in Air Force courts-martial.⁹² In addition, the Air Force has conducted analyses of its own military justice data. Specifically, the Air Force routinely analyzes military justice data using a rates-per-thousand analysis to identify whether certain demographic groups are tried by court-martial or subject to nonjudicial punishments at higher rates than others.⁹³ These Air Force analyses found that Black and male servicemembers were more likely than White and female servicemembers to be subject to courts-martial and nonjudicial punishments from fiscal years 2013 through 2017, which is consistent

⁹¹[GAO/NSIAD-95-103](#). For example, studies conducted in the 1970s and 1980s showed no disparities in discipline rates between Black and White servicemembers and found no evidence that minority groups received courts-martial or nonjudicial punishment out of proportion to certain types of violations. Studies published by the Navy and the Defense Equal Opportunity Management Institute in the 1990s found that Black servicemembers were overrepresented in the populations of servicemembers receiving judicial and nonjudicial punishments. See Appendix I of [GAO/NSIAD-95-103](#) for a summary of each of the studies' findings and recommendations.

⁹²A claim of selective prosecution is one that alleges that the decision to prosecute was based, at least in part, on an unjustifiable standard, such as race, gender, religion, sexual orientation, or other arbitrary classification. See, for example, *United States v. Armstrong*, 517 U.S. 456, 464 (1996).

⁹³A rates-per-thousand analysis computes the number of servicemembers within a demographic group that are subject to a particular military justice action, divided by the total number of servicemembers of that demographic group, multiplied by 1,000.

with what we found.⁹⁴ However, the other services do not routinely conduct such analyses.

Moreover, DOD has conducted climate surveys to address servicemembers' perceptions of bias. In 2013, for example, DOD conducted service-wide equal opportunity surveys that queried servicemembers on whether they believed they received nonjudicial punishment or a court martial they should not have, and whether they believed their race or ethnicity was a factor. The survey responses showed that 1.3 percent of servicemembers indicated experiencing a perceived undue punishment, a result that was unchanged from the 2009 survey.⁹⁵ Minority members were more likely to indicate experiencing perceived undue punishment than White members, but there were no significant differences between racial or ethnic groups who indicated experiencing undue punishment. ODEI officials told us that their office did not make any recommendations related to military justice as a result of these 2013 survey results because the findings were too small to warrant such steps. Moreover, ODEI officials said that while they have not completed their analysis of the 2017 survey data, the question about receiving nonjudicial punishment or court-martial had been removed from the 2017 survey. ODEI officials explained that the question was removed because the perception of unfair punishment was not the goal of the survey, although they said that the question could be reinstated for future surveys if the goals for the survey change.

In June 2017, ODEI initiated a review of the military justice system following the publication of a report by a non-profit organization that found racial disparities in military justice actions.⁹⁶ According to ODEI officials, their review assesses disparities in the military justice system using a similar analysis to that in the non-profit organization's report, which analyzed rates of military justice actions per thousand servicemembers. ODEI officials told us they also observed racial and gender disparities among servicemembers involved in the military justice system in their

⁹⁴In addition, in 2017, the Air Force assembled a working group called the Disciplinary Actions Analysis Team to examine the barriers certain demographic groups face to career success, including barriers to training opportunities, promotion, and retention. The working group is in the early stages of organizing and has not yet published any findings or recommendations for service leadership.

⁹⁵Defense Manpower Data Center, *2013 Workplace and Equal Opportunity Survey of Active Duty Members Overview Report* (October 2014).

⁹⁶Protect Our Defenders, *Racial Disparities in Military Justice* (May 2017).

own analysis of the service data. The officials said that the report on the results of their review will not directly address the issue of whether bias exists in the military justice process or the causes of any disparities, but will serve as a precursor to a future research study that looks more comprehensively into the issue of whether bias exists in the military justice system. ODEI officials said that their report should be issued in 2019.

Standards for Internal Control in the Federal Government state that management uses quality information to make informed decisions and evaluate the entity's performance in achieving key objectives and addressing risks. The standards further provide that management should evaluate issues identified through monitoring activities and determine appropriate corrective actions.⁹⁷ Officials from DOD and the military services acknowledged that they do not know the cause of the racial and gender disparities that have been identified in the military justice system. This is because they have not conducted a comprehensive evaluation to identify potential causes of these disparities and make recommendations about any appropriate corrective actions to remediate the cause(s) of the disparities. By conducting a comprehensive analysis into the causes of disparities in the military justice system, DOD and the military services would be better positioned to identify actions to address disparities, and thus help ensure that the military justice system is fair and just, a key principle of the UCMJ.

Conclusions

The single overarching principle of the UCMJ is that a system of military law can foster a highly disciplined force if it is fair and just, and is recognized as such by both members of the armed forces and by the American public. DOD and the military services collect and maintain data on the race, ethnicity, and gender of all servicemembers. However, these data vary within and across the services, limiting the ability to collectively or comparatively assess military justice data to identify any disparities. DOD has recently taken steps to address this issue by directing the military services to, no later than December 23, 2020: collect uniform race and ethnicity data in their military justice databases, or aggregate any expanded ethnic or racial categories to the categories listed in the standards; collect either the social security number or DOD identification number in their military justice databases; and collect complete summary

⁹⁷ [GAO-14-704G](#).

courts-martial information. It will be important for the military services to complete these actions to allow for efficient analysis and reporting of consistent military justice data.

However, the newly issued standards apply only to the military justice databases and not to the investigations and personnel databases. The ability to query and report on the gender of servicemembers in its military justice database would provide the Coast Guard with more readily available data to identify or assess any gender disparities that may exist in the investigation and trial of military justice cases without merging data from multiple databases. Moreover, taking steps to develop the capability to present the race and ethnicity data from the military services' personnel and investigations databases using the same categories included in the December 2018 standards for the military justice databases would enable DOD and the military services to more easily and efficiently assess the extent to which there are any racial or ethnic disparities throughout the military justice process.

Further, DOD's annual reports about the number and status of pending military justice cases do not include demographic information, such as breakdowns by race or gender, about servicemembers who experienced a military justice action. Reporting this information would provide servicemembers and the public with greater visibility into potential disparities and help build confidence that DOD is committed to a military justice system that is fair and just. Moreover, DOD does not have guidance that establishes criteria to determine when data indicating possible disparities among racial, ethnic, or gender groups in the investigations, trials, or outcomes of cases in the military justice system should be further reviewed, or describes the steps that should be taken to conduct such further review. By establishing such criteria, DOD and the services would be better positioned to monitor the military justice system to help ensure that it is fair and just, a key principle of the UCMJ.

Our analysis of available data identified racial and gender disparities in all of the military services for servicemembers with recorded investigations, and for four of the military services for trials in special and general courts-martial, but these disparities generally were not present in the convictions or punishments of cases.⁹⁸ These findings suggest disparities may be

⁹⁸Our findings of racial and gender disparities, taken alone, do not establish whether unlawful discrimination has occurred, as that is a legal determination that would involve other corroborating information along with supporting statistics.

limited to particular stages of the military justice process for the period covered by our analysis. However, we were unable to determine whether there were disparities among servicemembers subject to nonjudicial punishments in the Army, the Navy, and the Coast Guard because these services do not collect complete nonjudicial punishment data, such as data on the servicemember's race, ethnicity, gender, offense, and punishment for all nonjudicial punishments, in any of their databases. The absence of complete nonjudicial punishment data in the Army, the Navy, and the Coast Guard limits their visibility into the vast majority of legal punishments imposed on servicemembers under the UCMJ every year. Without such data, these three services will remain limited in their ability to assess or identify disparities among populations subject to this type of punishment.

Finally, DOD recently conducted a study of racial and gender disparities in the military justice system, and expects to complete its report in 2019. However, this study will not assess the causes of the racial and gender disparities identified in the military justice system. Our findings of racial and gender disparities, taken alone, do not establish whether unlawful discrimination has occurred, as that is a legal determination that would involve other corroborating information along with supporting statistics. By conducting a comprehensive evaluation of the causes of these disparities, DOD and the military services would be better positioned to identify actions to address disparities, and thus help ensure that the military justice system is fair and just, a key principle of the UCMJ.

Recommendations for Executive Action

We are making a total of 11 recommendations, including 3 to the Secretary of Homeland Security, 3 to the Secretary of Defense, 2 to the Secretary of the Army, 2 to the Secretary of the Navy, and 1 to the Secretary of the Air Force.

The Secretary of Homeland Security should ensure that the Commandant of the Coast Guard modifies the Coast Guard's military justice database so that it can query and report on gender information. (Recommendation 1)

The Secretary of the Army should develop the capability to present servicemembers' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases, either by (1) modifying the Army's investigations and personnel databases to collect and maintain the data in accordance with

the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Army.
(Recommendation 2)

The Secretary of the Air Force should develop the capability to present servicemembers' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases, either by (1) modifying the Air Force's investigations and personnel databases to collect and maintain the data in accordance with the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Air Force. (Recommendation 3)

The Secretary of the Navy should develop the capability to present servicemembers' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases, either by (1) modifying the Navy's investigations and personnel databases to collect and maintain the data in accordance with the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Navy.
(Recommendation 4)

The Secretary of Homeland Security should ensure that the Commandant of the Coast Guard develops the capability to present servicemembers' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases, either by (1) modifying the Coast Guard's investigations and personnel databases to collect and maintain the data in accordance with the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Coast Guard.
(Recommendation 5)

The Secretary of Defense should ensure that the Joint Service Committee on Military Justice, in its annual review of the UCMJ, considers an amendment to the UCMJ's annual military justice reporting requirements to require the military services to include demographic information,

including race, ethnicity, and gender, for all types of courts-martial. (Recommendation 6)

The Secretary of Defense, in collaboration with the Secretaries of the military services and the Secretary of Homeland Security, should issue guidance that establishes criteria to specify when data indicating possible racial, ethnic, or gender disparities in the military justice process should be further reviewed, and that describes the steps that should be taken to conduct such a review. (Recommendation 7)

The Secretary of the Army should consider the feasibility, to include the benefits and drawbacks, of collecting and maintaining complete information for all nonjudicial punishment cases in one of the Army's databases, such as information on the servicemembers' race, ethnicity, gender, offense, and punishment imposed. (Recommendation 8)

The Secretary of the Navy should consider the feasibility, to include the benefits and drawbacks, of collecting and maintaining complete information for all nonjudicial punishment cases in one of the Navy's databases, such as information on the servicemembers' race, ethnicity, gender, offense, and punishment imposed. (Recommendation 9)

The Secretary of Homeland Security should ensure that the Commandant of the Coast Guard considers the feasibility, to include the benefits and drawbacks, of collecting and maintaining complete information for all nonjudicial punishment cases in one of the Coast Guard's databases, such as information on the servicemembers' race, ethnicity, gender, offense, and punishment imposed. (Recommendation 10)

The Secretary of Defense, in collaboration with the Secretaries of the military services and the Secretary of Homeland Security, should conduct an evaluation to identify the causes of any disparities in the military justice system, and take steps to address the causes of these disparities as appropriate. (Recommendation 11)

Agency Comments and Our Evaluation

We provided a draft of this report to DOD and the Department of Homeland Security for review and comment. Written comments from DOD and the Department of Homeland Security are reprinted in their entirety in appendixes X and XI, respectively. DOD and the Department of Homeland Security provided additional technical comments, which we incorporated in the report, as appropriate. In written comments, DOD concurred with six recommendations, and partially concurred with two recommendations that were directed to the Secretary of Defense. The Department of Homeland Security concurred with the three recommendations directed to the Secretary of Homeland Security.

DOD concurred with our six recommendations to present servicemembers' race and ethnicity data in each of the military services' respective investigations and personnel databases using the same categories of race and ethnicity established for their military justice databases; consider an amendment to the UCMJ's annual military justice reporting requirements to require the military services to include demographic information for all types of courts-martial; and consider the feasibility of collecting and maintaining complete information for all nonjudicial punishment cases.

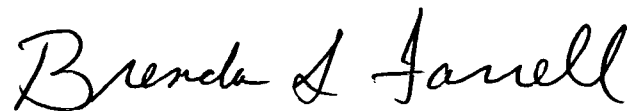
DOD partially concurred with two of our recommendations, agreeing with the content, but requesting that we modify the recommendations to direct them to more appropriate entities. Specifically, DOD concurred with our recommendations that guidance should be issued to establish criteria specifying when data indicating possible racial, ethnic, or gender disparities require further review and the steps that will be taken to conduct the review; and to conduct an evaluation to identify the causes of any racial or gender disparities in the military justice system and, if necessary, take remedial steps to address the causes of these disparities. For both recommendations, DOD suggested that the Secretary of Homeland Security be added, and that we remove the DOD Office for Diversity, Equity and Inclusion and the Commandant of the Coast Guard, as they fall under the Secretary of Defense and the Secretary of Homeland Security, respectively. We agree with DOD's suggestions, and we have modified both recommendations accordingly. In an email correspondence, the Department of Homeland Security and the Coast Guard concurred with the updates.

In its written comments, the Department of Homeland Security concurred with our three recommendations to modify the Coast Guard's military justice database so that it can query and report on gender information, to present servicemembers' race and ethnicity data in its investigations and

personnel databases using the same categories of race and ethnicity established for the military justice database, and to consider the feasibility of collecting and maintaining complete information for all nonjudicial punishment cases.

We are sending copies of this report to the appropriate congressional committees, the Acting Secretary of Defense, and the Acting Secretary of Homeland Security. In addition, this report will also be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your members of your staff have any questions regarding this report, please contact me at (202) 512-3604 or farrellb@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made significant contributions to this report are listed in Appendix XII.



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Appendix I: Objectives, Scope, and Methodology

The objectives of this report were to assess the extent to which (1) the military services collect and maintain information about the race, ethnicity, and gender of servicemembers investigated and disciplined for violations of the Uniform Code of Military Justice (UCMJ) that can be used to assess disparities; and (2) there are racial and gender disparities in investigations, disciplinary actions, and case outcomes in the military justice system, and whether the Department of Defense (DOD) and the military services have taken steps to study any identified disparities.

Methods Used to Address Both Objectives

To address both of our objectives, we analyzed data collection, data maintenance, and military justice disciplinary actions involving active-duty servicemembers in the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard. Although the Coast Guard is part of the Department of Homeland Security, the Coast Guard is a military service and a branch of the armed forces at all times.

- We analyzed military justice actions initiated and recorded in service investigations and military justice databases between fiscal years 2013 through 2017. We chose this time period because it provided the most recent history of available military justice data at the time of our review.
- We requested record-level data from each of the military services' personnel, investigations, and military justice databases, which resulted in a total of 15 data requests.

Table 6 below provides an overview of the databases included in our review, broken out by database type.

Table 6: Military Service Personnel, Investigations, and Military Justice Databases

Military service	Personnel database	Investigations database	Military justice database
Army	Total Army Personnel Database (TAPDB)	Army Law Enforcement Reporting and Tracking System (ALERTS)	Army Court-Martial Information System (ACMIS) Military Justice Online (MJO)
Navy	Navy Personnel Database (NPDB)	Consolidated Law Enforcement Operations Center (CLEOC)	Case Management System (CMS)
Marine Corps	Marine Corps Total Force System (MCTFS)	Consolidated Law Enforcement Operations Center (CLEOC)	Case Management System (CMS)
Air Force	Military Personnel Data System (MilPDS)	Investigative Information Management Systems (I2MS)	Automated Military Justice Analysis and Management System (AMJAMS)
Coast Guard	Direct Access	Field Activity Case Tracking System (FACTS)	Law Manager

Source: GAO analysis of DOD and military service database information. | GAO-19-344

We sent individual data requests that were tailored based on our conversations with service officials and our own analysis of the availability of data. In addition to requesting the race, ethnicity, and gender of servicemembers subject to military justice actions, we also requested other demographic and administrative attribute data—such as rank, age, years of service, duty station, and occupation—from the services’ personnel databases to include in our statistical models. We identified these attributes by reviewing relevant literature and interviewing agency officials.

Personnel databases. We requested and received monthly snapshots with record-level data on all active-duty servicemembers in each of the military services from fiscal years 2013 through 2017. Specifically, we requested demographic and administrative data, including race, ethnicity, gender, rank, education, age or date of birth, years of service, occupation, location or duty station, deployed status, administrative or disciplinary actions and dates, character of service separation, and servicemembers’ unique identifiers (social security number and employee identification number).

Investigations databases. We requested and received record-level data on all investigations recorded in a military service military criminal investigative organization (MCIO) database that were initiated from fiscal years 2013 through 2017, where the subject of the investigation was an active-duty servicemember. For each case, we requested certain attribute data on the investigation subject, including race, ethnicity, gender, rank, age or date of birth, service and component, offense(s) investigated, case

initiation date, investigation source, investigating entity, investigation outcome and date, incident location, and the subject's unique identifier, such as social security number or employee identification number. In some services not all of these attributes were available or requested. For example, since the Air Force database only included investigations conducted by the Air Force Office of Special Investigations, we did not request information about the investigating entity. In addition, the Navy Criminal Investigative Service provided us with data about and we analyzed closed cases only, whereas the Army and the Air Force MCIOs provided us with data about and we analyzed all cases in their database during the period of our review.

Military justice databases. We requested and received record-level data on all cases where a servicemember was subject to disciplinary proceedings under the Uniform Code of Military Justice (UCMJ) from fiscal years 2013 through 2017. For each case where charges were preferred against a servicemember during this period, we requested demographic and administrative data on the servicemember as well as key information related to their case, including race, ethnicity, gender, rank, age or date of birth, component, case type and forum, offense(s) charged, case disposition and date, appeals status, case outcome or sentence, disciplinary action taken, date charges were first preferred, and the servicemember's unique identifier, such as social security number or employee identification number.¹ We received general and special courts-martial data from all of the services from their military justice databases. For the Army, in addition to data from their military justice database, Military Justice Online, we also received courts-martial data from a separate database, called the Army Court-Martial Information System (ACMIS), which is used by the service's trial judiciary to track courts-martial.

For summary courts-martial and nonjudicial punishments, the services varied in the extent that and the location where they collected and maintained complete data for these two military justice actions, as is discussed further earlier in this report.

- In the Air Force, summary courts-martial and nonjudicial punishment data is maintained in the service's military justice database, the Automated Military Justice Analysis and Management System.

¹The preferral date is the date when an accused servicemember was first charged with a violation of the UCMJ.

- The Marine Corps did not collect and maintain complete data about summary courts-martial or nonjudicial punishments in its military justice database, however, its personnel database included information about all summary courts-martial and nonjudicial punishments imposed on servicemembers during the period of our review.
- The Army and the Navy did not collect and maintain complete data about summary courts-martial or nonjudicial punishments in their military justice databases, or other databases. In these services, summary courts-martial and nonjudicial punishments were recorded in their military justice databases if these actions had involvement by the services' legal offices. Further, summary courts-martial and nonjudicial punishments were recorded in the personnel databases used by these services only if these actions resulted in an administrative action against the accused, such as a forfeiture of pay or reduction in grade.
- The Coast Guard did not collect and maintain complete data about nonjudicial punishments in its military justice database or other databases; nonjudicial punishments were recorded in its military justice database if a legal office was involved in the action. Further, nonjudicial punishments were recorded in the Coast Guard's personnel database if they resulted in an administrative action against the accused, such as a forfeiture of pay or reduction in grade.

Methods Used to Evaluate Collection and Maintenance of Data

To evaluate the extent to which the military services collect and maintain race, ethnicity, and gender data about servicemembers investigated and disciplined for violations of the UCMJ, we first reviewed service guidance, user manuals, and other documents related to the services' investigations, military justice, and personnel databases. We reviewed these documents to determine:

- the types of data officials are required to collect and maintain; and
- the internal procedures the services follow in inputting information about race, ethnicity, and gender data into each type of database.

For example, we determined whether collection of this information was mandatory, and how this information was entered into and recorded in each database. Specifically, we determined whether information about race, ethnicity, and gender was entered into each database manually, using a drop-down menu, or was auto-populated from another database. Further, we identified the number of possible response options that each database contained for each of these demographic fields.

Second, we interviewed service officials who manage and use the military justice, investigations, and personnel databases to discuss:

- which fields in each database track the race, ethnicity, and gender of servicemembers; and
- how these data are input and their insights regarding the reliability of these data.

Specifically, we interviewed officials from the legal branches of the military services, including the Army Office of the Judge Advocate General, the Navy Judge Advocate General's Corps, the Marine Corps' Judge Advocate Division, the Air Force Judge Advocate General's Corps, and the Coast Guard Office of the Judge Advocate General. In addition, we spoke with officials in the military criminal investigative organizations (MCIO), including the Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, and the Coast Guard Investigative Service. We also interviewed officials from the manpower and personnel offices of the services with responsibility for the services' personnel databases, including the Army's Human Resources Command and the Office of the Deputy Chief of Staff; the Navy's Personnel Command; the Marine Corps Manpower and Reserve Affairs Manpower Information Systems Branch; the Air Force Personnel Center; and the Coast Guard's Personnel Service Center.

Finally, we analyzed the data we received from the investigations, military justice, and personnel databases to determine the completeness of the race, ethnicity, and gender information that was recorded in each of the databases. We assessed the military services' systems and procedures for collecting data against DOD and service guidance and relevant federal internal control standards.²

Methods Used to Evaluate Racial, Ethnic, and Gender Disparities

To evaluate the extent to which there are racial, ethnic, and gender disparities in investigations, disciplinary actions, and case outcomes, we analyzed data from the military services' investigations, military justice, and personnel databases to determine summary statistics and we then conducted bivariate and multivariate regression analyses.

²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

Investigations. We focused on alleged violations of the UCMJ that were recorded in databases used by service-specific MCIOs. Investigations are recorded in the MCIO databases when a servicemember is the subject of a criminal allegation made by another person; for purposes of this report, we say the servicemember had a “recorded investigation” to describe these cases. We analyzed investigation information from the databases used by each of the military services’ MCIOs. Specifically, we analyzed data from the Army’s Criminal Investigation Command, which included cases investigated by military police and Criminal Investigation Command; the Navy and Marine Corps’ Naval Criminal Investigative Service, which included cases investigated by the Naval Criminal Investigative Service and military police; the Air Force’s Office of Special Investigations, which included only Office of Special Investigations cases; and the Coast Guard Investigative Service, which included only Coast Guard Investigative Service cases. Our analysis of recorded investigations data did not include investigations conducted by a servicemember’s command, because those investigations are not recorded in the MCIO databases.

Military Justice Discipline. We included in our definition of servicemembers disciplined for a violation of the UCMJ those servicemembers with cases that resulted in a trial in any type of court-martial (general, special, and summary), or servicemembers who were subject to a nonjudicial punishment from fiscal years 2013 through 2017. We analyzed data for trials in general and special courts-martial separately from trials in summary courts-martial because general and special courts-martial result in a criminal conviction if the servicemember is found guilty, while summary courts-martial are not a criminal forum and do not result in a criminal conviction. We analyzed general and special courts-martial cases together due to the small number of cases for some racial or gender groups. In addition, we also separated general and special courts-martial into cases that either were or were not preceded by an investigation recorded in an MCIO database. Our analysis of general and special courts-martial cases without a recorded investigation included those general and special courts-martial that were investigated by a servicemember’s command or other law enforcement entities.

We used the preferral date, or the date when an accused servicemember was first charged with a violation, to count the number of courts-martial that occurred in a given fiscal year. However, each military service uses the date in which the court-martial judgment was given when reporting the number of each type of court-martial in their annual reports to the Court of Appeals for the Armed Forces. As a result, the number of court-martial

cases in a given year analyzed for our review differs from what was reported in the annual reports. In discussions with officials after we had completed our preliminary analyses, they recommended that we use the referral date instead of the preferral date, so that our total number of cases would be more consistent with the number of cases that they reported. However, changing the date for grouping cases would have required us to request new military justice data from each of the military services, and conduct additional work. Above all, using the preferral date would not impact the findings of racial and gender disparities. In addition, our analyses only counted cases that were ultimately tried at general, special, or summary courts-martial, and excluded those cases where charges were dismissed, withdrawn, or subject to some alternate resolution. For nonjudicial punishments, we used the date that the punishment was imposed.

To prepare the data for our analyses and ensure that we had consistent profiles for the race, ethnicity, and gender of the servicemembers, we merged records from the military services' investigations, military justice, and personnel databases. We merged records using servicemembers' unique identifiers, such as social security number or employee identification number, that were common among a particular service's databases. In some instances—a small proportion of cases—we could not match personnel records with military justice records because the social security number or employee identification number in the military justice database did not match the information in the personnel database. In other instances, we could not match personnel records with military justice records because the military justice records did not contain a social security number or employee identification number to match with information found in their personnel record. We first tried to match these cases using the servicemembers' name and date of birth; however, in some cases we were unable to match personnel records with investigations or military justice cases. As a result, we compiled lists of those cases we were unable to match, and we provided the services with lists of these cases. Service officials manually looked up this data and provided us with the missing social security numbers or employee identification numbers for these cases so that we could complete our analyses. These manual look up efforts increased our match rates so that we had a data set that we determined was sufficiently complete to perform our analyses.

For servicemembers who were the subjects of military justice actions, we used the attribute data that was available in the personnel database at the time an investigation or disciplinary action was initiated (the preferral

date for courts-martial). For our total service populations, which included servicemembers who were not the subject of a military justice action, we used their attribute data from the “median” snapshot of the five fiscal years of personnel data we received. Based on discussions with service officials, we treated the personnel databases as the authoritative sources for servicemembers’ demographic and administrative data. For some services when needed, if we identified a discrepancy in the race or gender value for a servicemember between the data in the personnel and military justice databases, we used the value recorded in the personnel database because service officials had told us that the personnel databases were the official sources for demographic data such as race and gender, and would be more likely to contain more reliable data for these fields than the investigations or military justice databases. For some services where there were cases where an attribute value was missing in the personnel database, we used the military justice or investigative database as a secondary source for this information. In merging the records from the personnel, military justice, and investigations databases, we created a single data file for each service that contained attribute data for all active-duty servicemembers, as well as complete information on the investigation and discipline of servicemembers who were the subject of a military justice action from fiscal years 2013 through 2017.

In using this methodology to merge the records, the total number of servicemembers we use in our report when discussing the total service populations for each service is greater than the total active-duty force end strength of that service in any given fiscal year. This is because our total service populations represent the number of unique individuals who served on active duty from fiscal years 2013 through 2017.

In addition, as part of our data preparation, we consolidated the various race and ethnicity values in the service personnel databases to the five groups for race and the two groups for ethnicity established by Office of Management and Budget (OMB) standards for maintaining, collecting, and presenting data on race and ethnicity for all federal reporting purposes.³ The five race groups in the standards are American Indian or

³Office of Management and Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 Fed. Reg. 58,782 (Oct. 30, 1997). In 2016, the Office of Management and Budget issued a proposed revision to the standards. See *Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*, 81 Fed. Reg. 67,398 (Sept. 30, 2016). As of May 2019, the Office of Management and Budget had not issued the revised standards.

Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White. The two ethnic groups are Hispanic or Latino and Not Hispanic or Latino. First, we collapsed race and ethnicity data into a single combined field. Specifically, we grouped individuals of Hispanic ethnicity together, regardless of their racial identification, so that we could compare those of Hispanic ethnicity to other racial groups. We did this in part because of the ways in which some of the services record these data in their databases. For example, the Navy's and the Marine Corps' military justice databases do not have separate fields for race and ethnicity; instead, the values are tracked in a single field. Throughout the discussion for objective 2 of this report, we refer to the combined race and ethnicity values as race.

We then consolidated races to the five racial groups in the OMB standards. When military service personnel databases included different or additional possible options for race and ethnicity than the groups established by the OMB standards, we consolidated the options in accordance with the definitions for each race and ethnicity listed in the OMB standards. Given the small number of cases in some racial groups, we collapsed certain racial groups into an "Other" group in order to report statistically reliable results. The "Other" group includes individuals who identified as Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, and multiple races.

Summary statistics. We analyzed data from the military services' investigations, military justice, and personnel databases to determine the extent to which racial and gender groups were the subjects of recorded investigations, tried in courts-martial, and subject to nonjudicial punishments (for Army and Marine Corps, services for which we had complete data) at higher rates or lower rates than each racial and gender group's proportion of the overall service populations. Other than our analysis of recorded investigations, we did not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

To conduct this analysis, we used data on all active-duty servicemembers to identify what proportion each racial group (White, Black, Hispanic, and Other) and gender group (male, female) made up of the overall service population from fiscal years 2013 through 2017. We then used data from the services' military justice or personnel databases to calculate the representation of each racial and gender group as a percent of the population subjected to each type of military justice action.

We also examined the rates at which certain racial and gender groups were charged with drug offenses (Article 112a) and sexual assault offenses (Article 120) compared to their proportions of the overall service populations.⁴ See Appendix III for information regarding recorded investigations and general and special courts-martial of drug and sexual assault offenses. We analyzed these two specific UCMJ offenses because officials from some services told us that an investigation into these offenses may frequently be mandatory, and thus could potentially mitigate the risk of bias.⁵ To conduct this analysis, we used offense data from the services' military justice databases to determine each racial and gender group's representation in the population that was the subject of a military justice action for a drug, sexual assault, or other offense type.

Bivariate and Multivariate Regression Analyses. We developed a logistic regression model using the data we received from the services' investigations and military justice databases to determine the extent that certain attributes were associated with higher rates of investigation or discipline of servicemembers. We conducted bivariate logit analyses to estimate the association between select attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format, except for the two offense outcome variables. Table 7 below lists all of the dependent and independent variables we used in our analyses.

⁴The drug offenses we analyzed were charges under UCMJ Article 112a, wrongful use, possession, distribution, etc. of a controlled substance. In addition, the sexual assault offenses we analyzed were any charges under UCMJ Article 120, which includes rape and sexual assault generally, rape and sexual assault of a child, and other sexual misconduct.

⁵Service officials stated that some drug (Article 112a) offenses are initiated as a result of random urinalysis tests, and in those cases a positive result will trigger an investigation regardless of the servicemember's race, ethnicity, or gender. According to Department of Defense Instruction 5505.18, all allegations of adult sexual assault are immediately reported to the appropriate MCIO, and that MCIO will initiate a criminal investigation into that allegation if the offense occurred within its jurisdiction.

Table 7: Independent and Dependent Variables Included in GAO’s Regression Analyses

Independent variables
Age
Education
Gender
Offense
Race/Ethnicity
Rank
Years of service
Outcome (dependent) variables
Recorded investigations
Recorded investigations for drug, sexual assault, and all other offenses
General and special courts-martial
General and special courts-martial for drug, sexual assault, and all other offenses
General and special courts-martial following a recorded investigation
General and special courts-martial without a recorded investigation
Case outcome (conviction or acquittal in general and special courts-martial)
Punishment severity
Summary courts-martial
Nonjudicial punishment

Source: GAO summary of variables analyzed from services’ investigations, military justice, and personnel databases. | GAO-19-344

To conduct our statistical analyses, we created groups for each demographic and administrative attribute (independent variable) that we tested in our regression model. We created these groups based on input and guidance from service officials. While the modeling subgroups we created are largely consistent across services, some values are different for certain services. Table 8 summarizes the modeling groups we constructed for each service for each attribute included in our regression analyses.

Appendix I: Objectives, Scope, and Methodology

Table 8: Modeling Groups Used in Regression Analyses for Each Military Service

Attribute	Army	Navy	Marine Corps	Air Force	Coast Guard	
Race	White	White	White	White	White	
	Black	Black	Black	Black	Black	
	Hispanic	Hispanic	Hispanic	Hispanic	Hispanic	
	Other	Other	Other	Other	Other	
	Unknown	Unknown	Unknown	Unknown	Unknown	
Gender	Male	Male	Male	Male	Male	
	Female	Female	Female	Female	Female	
Age	< 25 years	< 21 years	< 21 years	< 21 years	< 25 years	
	25-30 years	21-25 years	21-25 years	21-25 years	25-30 years	
	30-40 years	26-30 years	26-30 years	26-30 years	30-40 years	
	40 or more years	30-40 years	30-40 years	30-40 years	31-35 years	> 40 years
		> 40 years	> 40 years	> 40 years	> 35 years	
Rank	E1-E4	E1-E4	E1-E4	E1-E4	E1-E4	
	E5-E9	E5-E9	E5-E9	E5-E6	E5-E9	
	Officers	Officers	Officers	E7-E9 Officers	Officers	
Years of service	0-4 years	< 2 years	< 2 years	0-4 years	0-2 years	
	4-8 years	3-4 years	3-4 years	4-6 years	2-4 years	
	8-12 years	5-6 years	5-6 years	> 6 years	4-6 years	
	> 12 years	7-10 years	7-10 years		6-10 years	
		11-15 years	11-15 years	10-15 years		
> 15 years		> 15 years	> 15 years			
Education	High school or less	High school or less	High school or less	High school and some college	High school or less	
	More than high school	More than high school	More than high school	Associates degree	More than high school	
	Unknown	Unknown	Unknown	Bachelor's degree	Unknown	
				Post-bachelor's degree		
			Unknown			
Outcome	Conviction	Conviction	Conviction	Conviction		
	Acquittal	Acquittal	Acquittal	Acquittal		
Punishment severity	Any type of dismissal or discharge or confinement > 2 years	Dismissal or any kind of discharge	Dismissal or any kind of discharge	Any type of dismissal or discharge (regardless of any confinement)		
	Confinement < 2 years without dismissal or discharge	All other possible sentencing options	All other possible sentencing options	Confinement without dismissal or discharge		
	All other possible sentencing options			All other possible sentencing options		

Appendix I: Objectives, Scope, and Methodology

Attribute	Army	Navy	Marine Corps	Air Force	Coast Guard
Offenses	Drug offenses (Article 112a) Sexual assault offenses (Article 120) All other offenses	Drug offenses (Article 112a) Sexual assault offenses (Article 120) All other offenses	Drug offenses (Article 112a) Sexual assault offenses (Article 120) All other offenses	Drug offenses (Article 112a) Sexual assault offenses (Article 120) All other offenses	Drug offenses (Article 112a) Sexual assault offenses (Article 120) All other offenses

Source: GAO analysis. | GAO 19-344

When analyzing the severity of punishments, we developed two groups for the Navy and the Marine Corps, and three groups for the Air Force and the Army, as shown in table 9 below. We did not create a third punishment group for confinement without dismissal or discharge for the Navy and the Marine Corps because of the small number of cases with confinement that did not also include some sort of discharge. Based on discussions with service officials, we determined that a sentence resulting in a dismissal or discharge was the most severe punishment outcome.

Table 9: Groups Used to Measure Punishment Severity

Navy and Marine Corps	Army	Air Force
1. dismissal or any kind of discharge	1. any type of dismissal or discharge or confinement of more than 2 years	1. any type of dismissal or discharge (regardless of any confinement)
2. all other possible sentencing options	2. confinement of less than 2 years without dismissal or discharge	2. confinement without dismissal or discharge
	3. all other possible sentencing options	3. all other possible sentencing options

Source: GAO analysis. | GAO-19-344

Typically, a logistic regression model is appropriate when the model outcome is a binary (yes/no) response. Because the punishment groups for the Army and the Air Force were not binary, they could not be analyzed using a multivariate logistic regression. Instead, we used an ordered logit model, also called an ordered logistic regression model, to analyze punishment severity in the Army and the Air Force. An ordered logistic regression is an extension of the logistic regression model that applies to dependent variables where there are more than two response categories. This model allowed us to examine the degree to which a racial or gender group was more likely or less likely than another group to receive a more severe punishment in general and special courts-martial, while controlling for other attributes, such as gender, education, rank, composition of panel, and offense type. To conduct this analysis, we

reviewed outcome data from the services' personnel, investigations, and military justice databases.

Based on our bivariate analyses, we determined which variables were significantly associated with military justice actions, and that appeared to be statistically significant predictors of an individual's likelihood to be subject to a military justice action.⁶ Appendix IX includes a summary of those indicators for each of the services. We also examined correlation matrices of the independent variables to determine where there were high correlations between two variables. Where variables were highly correlated, we chose one variable over the others or created a hybrid variable combining those two variables. Specifically, we excluded age and years of service for most of the military services, due to high correlation with the rank variable. Based on our discussions with service officials, they indicated that rank would be the preferred variable to include in our analyses if selecting only one variable among rank, age, and years of service. However, for the Air Force, based on discussion with Air Force officials, we did control for years of service among the lower enlisted ranks (E1-E4). In addition, we could not include education for the Army due to variability and overlapping values in the data. Further, we chose not to model attributes such as occupation and location due to the great variability in these data and the difficulty in creating groups and reaching agreement about those groups with service officials.

Based on these results, we then conducted a series of multivariate logistic regression models. Multivariate logistic regression modeling is a statistical method that examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. A multivariate regression analysis analyzes the potential influence of each individual factor on the likelihood of a binary outcome (e.g., a specific military justice action) while simultaneously accounting for the potential influence of the other factors. This type of modeling allowed us to test the association between servicemember characteristics, such as race or gender, and the odds of a military justice action (shown as the outcome variables in table 7 above), while holding other servicemember attributes constant (such as gender,

⁶For purposes of this report, we use the term "likelihood" when discussing the odds ratios from the results of our regression analyses. Odds ratios that are statistically significant and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be subject to a particular military justice action.

rank, and education, shown as the independent variables in table 7 above). We conducted a separate regression for each of the military justice actions listed as an outcome variable. We selected this type of model because it could account for the attributes simultaneously. For the purposes of consistency, in our multivariate regression analyses, we made all racial comparisons with White servicemembers as the reference category. Similarly, we made all gender comparisons with female servicemembers as the reference category.

A logistic regression model provides an estimated odds ratio, where a value greater than one indicates a higher or positive association; in this case, between the race, ethnicity, or gender of a servicemember (the independent variables) and the likelihood of being the subject of a military justice action (the dependent, or outcome, variable). An estimated odds ratio less than one indicates lower odds or likelihood of being the subject of a military justice action when a factor—here, a specific demographic or administrative attribute—is present. The statistical significance of the logistic regression model results is determined by a p-value of less than 0.05. As a result, in our report we state that odds ratios that are statistically significant and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be the subject of a particular outcome or military justice action. In cases where the p-value was greater than 0.05, we report that we could not identify any statistically significant differences, which means that we could not conclude that there was an association between race or gender and the likelihood of a military justice action.

We report the results from our regression models as odds ratios. We generally report multivariate results from testing associations between key attributes—including race, ethnicity, gender, rank, and education—on a servicemember’s likelihood of being investigated and disciplined for a UCMJ violation. In the body of this report, we focused on race and gender disparities among servicemembers investigated and disciplined for violations of the UCMJ, while holding other factors constant; however, our analyses of recorded investigations and general and special courts-martial for drug and sexual assault offenses are discussed in Appendix III. In all of these analyses for the Air Force, we also controlled for years of service among the lower enlisted ranks (E1-E4). In the analyses we conducted for the Army, we could not control for education, but we were able to control for age.

All regression models are subject to limitations. For our analyses, the limitations included:

- Results of our analyses are associational and do not imply a causal relationship. We did not identify the causes of any racial or gender disparities, and the results of our work alone should not be used to make conclusions about the military justice process. Our analyses of these data in finding the presence or absence of racial or gender disparities, taken alone, do not establish the presence or absence of unlawful discrimination, as that is a legal determination that would involve other corroborating information along with supporting statistics.
- We could not assess some attributes that potentially could be related to a servicemember's likelihood of facing a military justice action in the data analyzed for this review. For example, a servicemember's socioeconomic background or receipt of a waiver upon entering the service could potentially be related to the likelihood of being investigated, tried in a court-martial, or subject to a nonjudicial punishment. However, we were unable to test these associations because most services indicated they did not have information about socioeconomic status or waivers in the databases that we requested data from. Furthermore, while some other attributes may have been available—such as marital status of the subject or the number of dependent children—we did not include these attributes in our data requests because we prioritized analyzing other demographic factors based on our background research and conversations with service officials.
- As outlined above, we incorporated input from service officials to the extent possible as we prepared our modeling groups for the demographic and administrative attributes we tested, such as rank, education, and years in service. However, this process was necessarily imprecise. Our modeling results may have been impacted by our discretionary decisions to include certain values in the groups we created for these variables.

Data reliability. We conducted data reliability assessments on the datasets we received from the databases in our review. We examined the documentation officials provided to us on each database and conducted electronic tests on the data we received to check for completeness and accuracy. We also sent data reliability questionnaires to database managers about how the data are collected and their appropriate uses, and had discussions with database managers to discuss the reliability of the data in their databases. When we determined that particular fields were not sufficiently reliable, we excluded them from our analysis. For example, we did not use data in our analysis where a substantial number

of values were missing. We also checked to see that the values for variables were internally consistent and that results were not affected unduly by outlier values that might suggest miscoded values. For the purposes of our analysis, we found the variables we ultimately reported on to be sufficiently reliable. Furthermore, due to the sensitivity of the information analyzed in this report, we did not include information in instances where the number of servicemembers subjected to a particular military justice action was fewer than 20, to protect privacy.

Literature review. To assess the extent to which disparities in the military justice system and the civilian justice system had been previously assessed, we conducted a literature review. To identify relevant publications about disparities in the military justice system and the civilian justice system, we performed a literature search of a number of bibliographic databases, including ProQuest Academic, ProQuest Dialog, Scopus, EBSCO, and HeinOnline. We also searched two think tank search engines: Policy File and the Think Tank Search (from the Harvard Kennedy School). We received the following types of publications: scholarly/peer reviewed material, dissertations, and association/think tank/nonprofit publications. To identify publications by DOD and the services related to the military justice system, we reviewed prior GAO reports and asked officials at the DOD Office of Diversity, Equity and Inclusion, and in the services' respective diversity and inclusion offices to identify relevant publications. We concluded our searches in October 2018. We also asked the service Judge Advocate General offices for publications relevant to disparities in military justice. We also identified publications in our own background information search. We reviewed those publications that assessed racial, ethnic, or gender disparities among servicemembers in the military justice system. While the civilian and military justice systems differ from each other, we selected a few nationwide studies examining disparities in the civilian justice system to summarize in the background section of our report, in order to enhance our understanding of the complexities of the issues, including how others have attempted to measure disparities. We did not assess the methodologies used in any of these studies or the reliability of the data cited in the studies; the studies related to the civilian justice system are discussed in our report to provide broader context for the discussion about racial and gender disparities in the military justice system.

We conducted this performance audit from November 2017 to May 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform an audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Summary Statistics and Bivariate Results for Regression Analyses

This appendix contains several figures that show the underlying data and analyses used throughout the report relating to investigations and military justice disciplinary actions from fiscal years 2013 through 2017. Our analyses of the services' investigations, military justice, and personnel databases, as reflected in these tables, taken alone, do not establish the presence or absence of unlawful discrimination. We could not analyze Coast Guard general, special, and summary courts-martial due to the small number of cases adjudicated in the Coast Guard from fiscal years 2013 through 2017. In addition, we could not analyze nonjudicial punishments in the Army, the Navy, and the Coast Guard because these services do not collect complete nonjudicial punishment information. The following figures and information are included in this appendix:

- Figure 15: Rate and Likelihood of Recorded Investigations for Alleged Violations of the Uniform Code of Military Justice by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017¹
- Figure 16: Rate and Likelihood of Trial in General and Special Courts-Martial by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017
- Figure 17: Rate and Likelihood of Trial in General and Special Courts-Martial Following a Recorded Investigation by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017
- Figure 18: Rate and Likelihood of Trial in General and Special Courts-Martial without a Recorded Investigation by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017
- Figure 19: Rate and Likelihood of Trial in Summary Courts-Martial in the Air Force and the Marine Corps by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017
- Figure 20: Rate and Likelihood of Nonjudicial Punishments in the Air Force and the Marine Corps by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017

¹For purposes of this report, we use the term “likelihood” when discussing the odds ratios from the results of our regression analyses. Odds ratios that are statistically significant and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be subject to a particular military justice action.

- Figure 21: Rate and Likelihood of Conviction in General and Special Courts-Martial by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017
- Figure 22: Rate and Likelihood of Dismissal or Discharge in General and Special Courts-Martial in Navy and Marine Corps by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017
- Figure 23: Rate and Likelihood of More Severe Punishment in General and Special Courts-Martial in Army and Air Force by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017

Rate and Likelihood of Recorded Investigations by Race and Gender

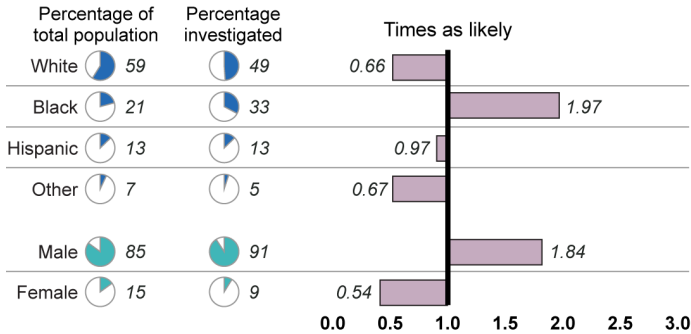
As shown in figure 15 below, our analysis of data contained in the military services' military criminal investigations databases found that Black servicemembers were subjects of recorded investigations at a higher rate compared to their proportion of the overall service population in all of the military services.² Hispanic servicemembers were the subjects of recorded investigations at a higher rate compared to their proportion of the overall service population in the Navy and the Air Force, at a lower rate in the Marine Corps, and at the same rate in the Army.³ Additionally, we found that males were the subjects of recorded investigations at higher rates than their share of the general service population in all of the military services.

²Our analysis focused on violations of the UCMJ that were recorded in databases used by service specific investigative entities known as military criminal investigative organizations (MCIO). MCIOs conduct criminal investigations in cases with a DOD nexus, such as if a crime occurred on a DOD installation, or the subject of the investigation is currently affiliated with DOD or was subject to the UCMJ at the time of the offense. Investigations are recorded in the MCIO databases when a servicemember is the subject of a criminal allegation made by another; for purposes of this report, we say the servicemember had a "recorded investigation" to describe these cases.

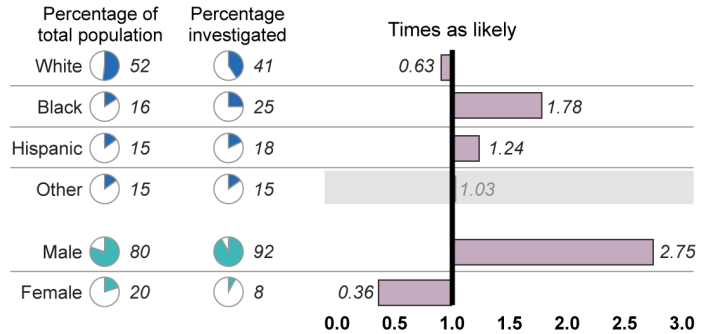
³The degree to which a racial or gender group was determined to have a higher or lower rate was calculated through a comparison between the racial and gender compositions of those who were the subjects of recorded investigations and the racial and gender compositions of the military services' total populations.

Figure 15: Rate and Likelihood of Recorded Investigations for Alleged Violations of the Uniform Code of Military Justice by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017

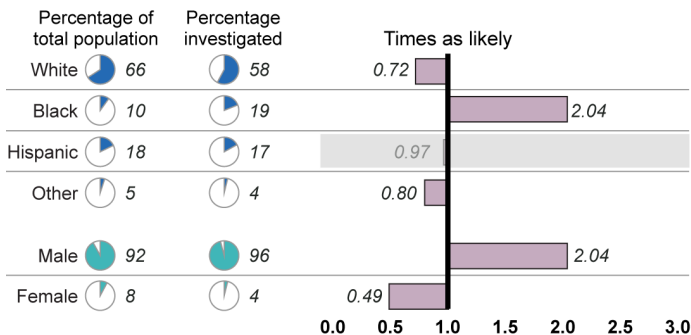
Army » 886,563 total servicemembers; 50,547 investigated



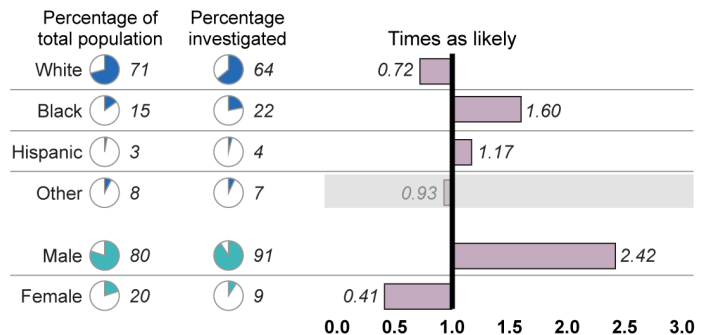
Navy » 552,388 total servicemembers; 7,293 investigated



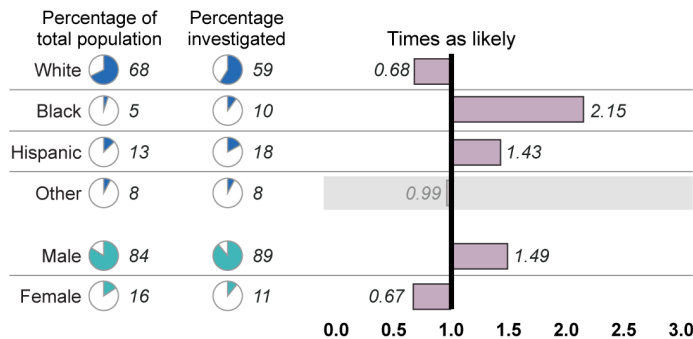
Marine Corps » 352,793 total servicemembers; 6,833 investigated



Air Force » 484,466 total servicemembers; 6,630 investigated



Coast Guard » 66,704 total servicemembers; 1,437 investigated



Not statistically significant

Source: GAO analysis of service personnel and investigation data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than all other groups to be the subject of an investigation recorded in the services' military criminal investigative organizations databases for alleged violations of the Uniform Code of Military Justice. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be the subject of a recorded investigation. Not statistically significant means that we could not conclude there was an

association between race and the likelihood of a recorded investigation. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding and/or exclusion of data for those with an unknown race.

In addition, figure 15 above also shows the results of our bivariate analyses, which calculated the degree to which one racial or gender group was more likely or less likely than another racial or gender group to be the subject of recorded investigations.⁴ Our bivariate analyses found that Black and male servicemembers in all of the military services were statistically significantly more likely to be the subjects of recorded investigations for alleged UCMJ violations than servicemembers of all other races or females. Hispanic servicemembers were statistically significantly more likely in the Navy, the Air Force, and the Coast Guard, and were statistically significantly less likely in the Army to be the subjects of recorded investigations than servicemembers of all other races. Servicemembers in the Other race category were statistically significantly less likely than servicemembers of all other races to be the subjects of recorded investigations in the Army and the Marine Corps. Our bivariate analyses did not show any statistically significant differences for servicemembers in the Other race category in the Navy, the Air Force, or the Coast Guard, or Hispanic servicemembers in the Marine Corps.⁵

Rate and Likelihood of Trial in General and Special Courts-Martial

As shown in figure 16 below, Black, Hispanic, and male servicemembers in all of the military services included in this analysis were represented at a higher rate than their proportions of the overall service population.⁶ White and female servicemembers in all of the military services were represented at a lower rate than their proportions of the overall service population. Servicemembers in the Other race category were represented at a higher rate in the Navy, at a lower rate in the Army and the Air Force,

⁴We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

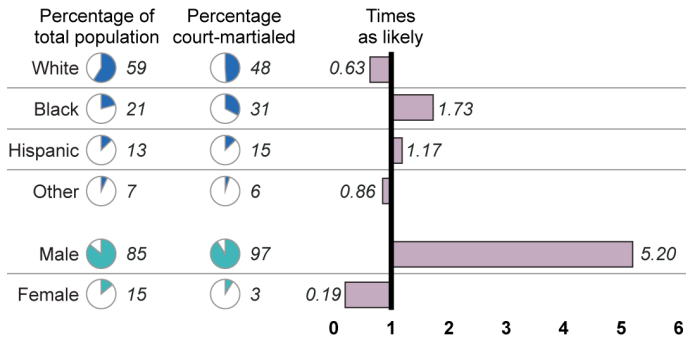
⁵Not identifying any statistically significant findings means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, a recorded investigation.

⁶The degree to which a racial or gender group was determined to have a higher or lower rate was calculated through a comparison between the racial and gender compositions of those tried in general and special courts-martial and the racial and gender compositions of the military services' total populations.

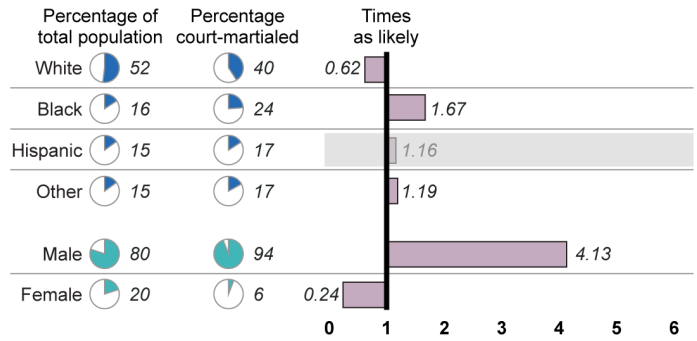
and at the same rate in the Marine Corps compared to their proportion of the overall service population.⁷ We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

Figure 16: Rate and Likelihood of Trial in General and Special Courts-Martial by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017

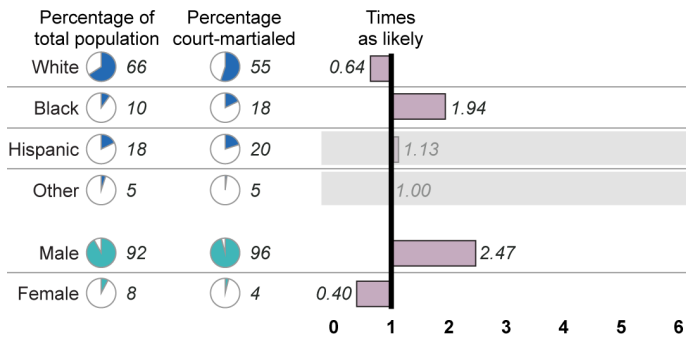
Army » 886,563 total servicemembers; 3,129 court-martialed



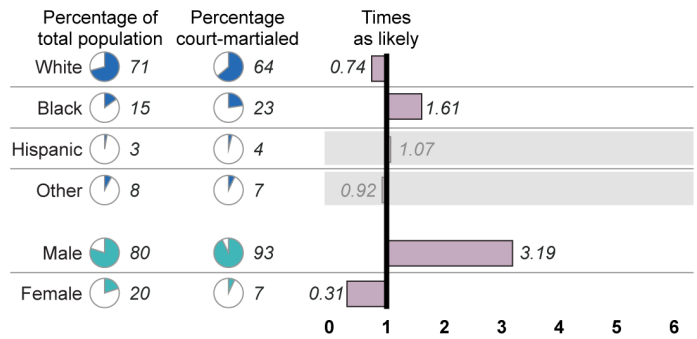
Navy » 552,388 total servicemembers; 1,034 court-martialed



Marine Corps » 352,793 total servicemembers; 1,354 court-martialed



Air Force » 484,466 total servicemembers; 2,359 court-martialed



Not statistically significant

Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than all other groups to be tried in general and special courts-martial. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in general and special courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in general and special courts-martial. The Other race category includes

⁷The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding and/or exclusion of data for those with an unknown race.

The bivariate regression analysis results in figure 16 above calculate the degree to which one racial or gender group was more likely or less likely than servicemembers of all other races and genders to be tried in general and special courts-martial.⁸ We found that Black and male servicemembers in all of the military services were more likely to be tried in general and special courts-martial than servicemembers of all other races or females. Our bivariate analyses found that Hispanic servicemembers in the Army were more likely to be tried in general and special courts-martial than servicemembers of all other races. We found no statistically significant differences in the likelihood of Hispanic servicemembers to be tried in general and special courts-martial compared to servicemembers of all other races in the Navy, the Marine Corps, and the Air Force. White and female servicemembers in all of the military services were less likely to be tried in general and special courts-martial than servicemembers of other races or males. Furthermore, servicemembers in the Other race category were more likely in the Navy and less likely in the Army to be tried in general and special courts-martial than servicemembers of other races. We found no statistically significant differences in the likelihood of servicemembers in the Other race category to be tried in general and special courts-martial in the Marine Corps and the Air Force compared to servicemembers of other races.

Rate and Likelihood of Trial in General and Special Courts-Martial Following a Recorded Investigation

As shown in figure 17 below, for trials in general and special courts-martial that followed a recorded investigation, Black servicemembers were represented at a lower rate in the Army, the Navy, and the Marine Corps, and at the same rate in the Air Force compared to their proportions of the service population that had recorded investigations.⁹ Hispanic servicemembers in trials of general and special courts-martial

⁸We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

⁹The degree to which a racial or gender group was determined to have a higher or lower rate was calculated through a comparison between the racial and gender compositions of those tried in general and special courts-martial following a recorded investigation and the racial and gender compositions of the populations with recorded investigations in the military services.

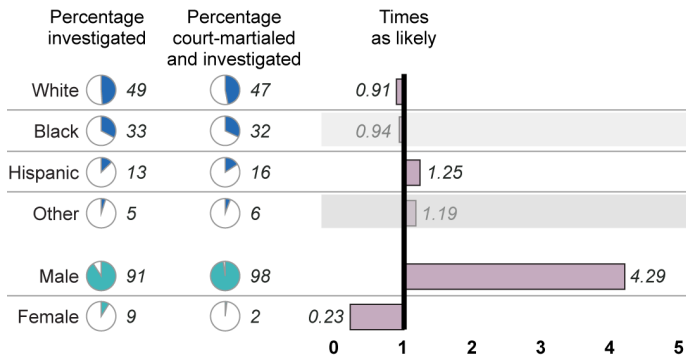
following a recorded investigation were represented at a higher rate than their proportion of the overall service population that had recorded investigations in the Army and the Marine Corps, and at the same rate in the Navy and the Air Force. White servicemembers were represented at a lower rate in the Army, the Navy, and the Marine Corps, and at the same rate in the Air Force compared to their proportions of the service population with recorded investigations. Servicemembers in the Other race category were represented at a higher rate in the Army, the Navy, and the Marine Corps, and at the same rate in the Air Force compared to their proportions of the overall service population with recorded investigations.¹⁰ We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

Male servicemembers with trials in general and special courts-martial that followed a recorded investigation were represented at a higher rate in all of the military services compared to their proportions of the service population that had recorded investigations. Females were represented at a lower rate in all of the military services compared to their proportions of the service population that had recorded investigations.

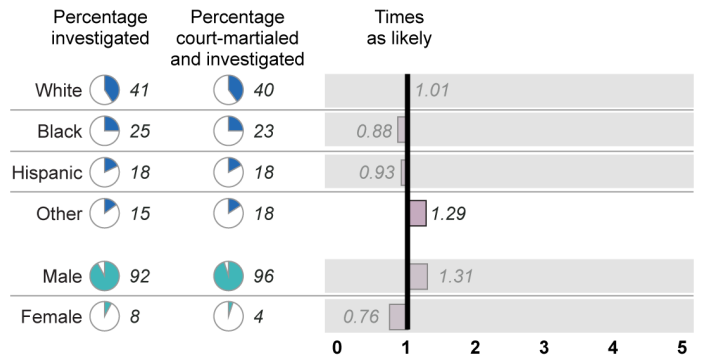
¹⁰The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

Figure 17: Rate and Likelihood of Trial in General and Special Courts-Martial Following a Recorded Investigation by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017

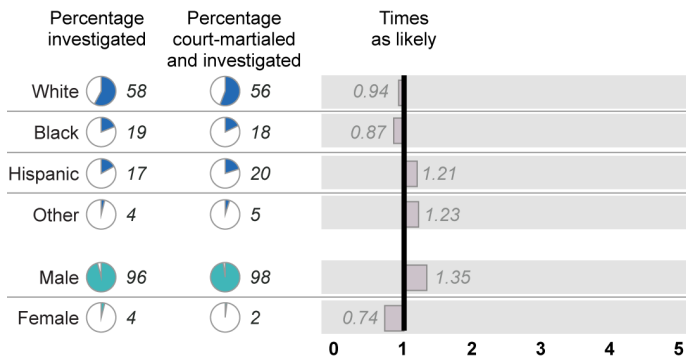
Army » 50,547 servicemembers investigated; 2,107 court-martialed



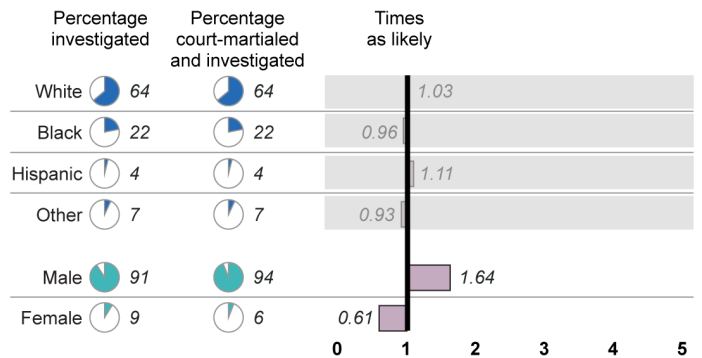
Navy » 7,293 servicemembers investigated; 770 court-martialed



Marine Corps » 6,833 servicemembers investigated; 862 court-martialed



Air Force » 6,630 servicemembers investigated; 1,259 court-martialed



Not statistically significant

Source: GAO analysis of service personnel, investigations, and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than all other groups to be tried in general and special courts-martial following an investigation recorded in the services' military criminal investigative organizations databases. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in general and special courts-martial following a recorded investigation. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in general and special courts-martial following a recorded investigation. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding and/or exclusion of data for those with an unknown race.

As shown in figure 17 above, our bivariate regression analyses showed that, in the Army, White servicemembers were statistically significantly less likely to be tried in general and special courts-martial following a recorded investigation than servicemembers of all other races, whereas Hispanic servicemembers were statistically significantly more likely to be tried following a recorded investigation.¹¹ In the Navy, servicemembers in the Other race category were statistically significantly more likely to be tried in general and special courts-martial following a recorded investigation than servicemembers of all other races. Males were more likely, and females were less likely, to be tried in general and special courts-martial following a recorded investigation in the Army and the Air Force. The remaining odds ratios shown in figure 17 above were not statistically significant.¹²

Rate and Likelihood of Trial in General and Special Courts-Martial without Recorded Investigation

We identified racial and gender disparities in the rate and likelihood of trial in general and special courts-martial in cases without a recorded investigation in all of the military services. Specifically, as shown in figure 18 below, for trials in general and special courts-martial without a recorded investigation, Black and male servicemembers in all of the military services were represented at a higher rate than their proportion of the service population that did not have a recorded investigation.¹³ Hispanic servicemembers were represented at a higher rate in the Army and the Marine Corps, and at the same rate in the Navy and the Air Force compared to their proportions of the service population that did not have a recorded investigation. Servicemembers in the Other race category were represented at a lower rate in the Marine Corps and the Air Force, and at the same rate in the Army and the Navy compared to their proportion of

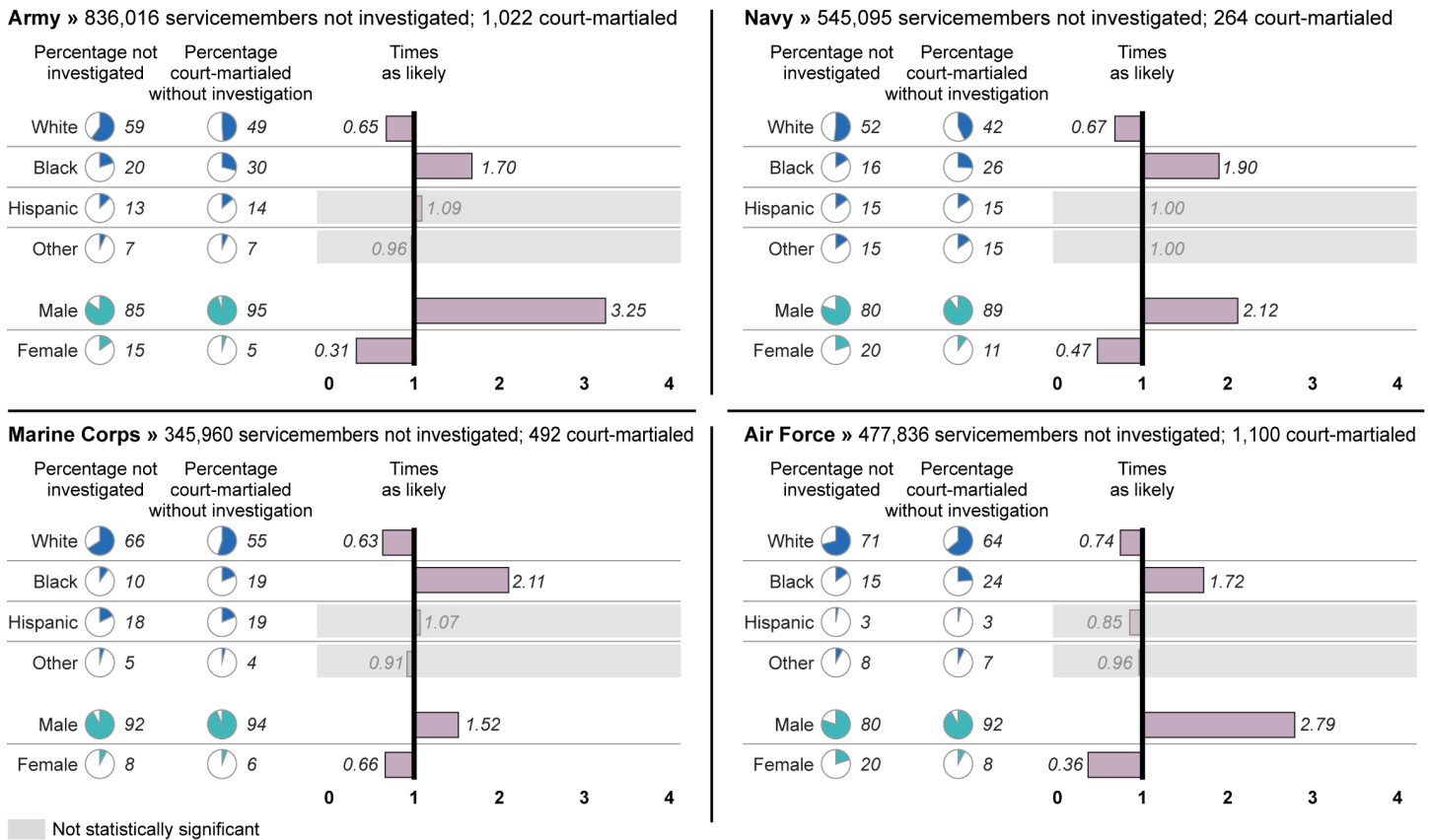
¹¹We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

¹²Not identifying any statistically significant differences means that we could not conclude there was an association between race and the likelihood of an outcome, in this case, trial in general and special courts-martial without a recorded investigation.

¹³The degree to which a racial or gender group was determined to have a higher or lower rate was calculated through a comparison between the racial and gender compositions of those tried in general and special courts-martial without a recorded investigation and the racial and gender compositions of the overall population without recorded investigations in the military services.

the overall service population that did not have a recorded investigation.¹⁴ White and female servicemembers in all of the military services were represented at a lower rate than their proportions of the overall service population without a recorded investigation. We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

Figure 18: Rate and Likelihood of Trial in General and Special Courts-Martial without a Recorded Investigation by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017



Source: GAO analysis of service personnel, investigations, and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than all other

¹⁴The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

groups to be tried in general and special courts-martial without an investigation recorded in the services' military criminal investigative organizations databases. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in general and special courts-martial without a recorded investigation. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in general and special courts-martial without a recorded investigation. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding and/or exclusion of data for those with an unknown race.

The bivariate regression analysis results in figure 18 above calculate the degree to which one racial or gender group was more likely or less likely than servicemembers of all other races and genders to be tried in general and special courts-martial without a recorded investigation.¹⁵ We found that Black and male servicemembers in all of the military services were more likely to be tried at special and general courts-martial that were not preceded by a recorded investigation than servicemembers of all other races or females. White and female servicemembers in all of the military services were less likely to be tried at special and general courts-martial that were not preceded by a recorded investigation than servicemembers of all other races and males. We found no statistically significant differences in the likelihood of Hispanic servicemembers or servicemembers in the Other race category in any of the military services being tried in general and special courts-martial without a recorded investigation compared to servicemembers of all other races.

Rate and Likelihood of Trial in Summary Courts- Martial in the Air Force and the Marine Corps

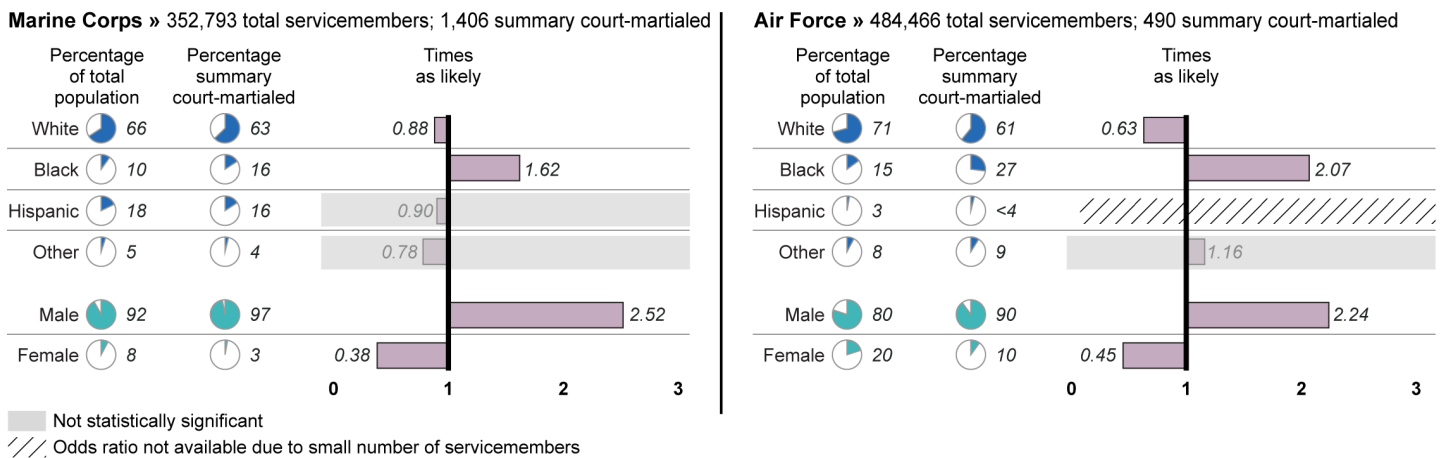
We identified racial and gender disparities in the rate and likelihood of trial in summary courts-martial in the Air Force and the Marine Corps. Specifically, as shown in figure 19 below, Black and male servicemembers were tried in summary courts-martial for UCMJ violations at higher rates than their share of the overall service population in the Air Force and the Marine Corps.¹⁶ White and Hispanic servicemembers were tried in summary courts-martial at lower rates than

¹⁵We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

¹⁶The degree to which a racial, ethnic, or gender group was determined to have a higher or lower rate was calculated through a comparison between the racial, ethnic, and gender compositions of those tried in summary courts-martial and the racial, ethnic, and gender compositions of the military services' total populations.

their share of the overall service population in both services. Servicemembers that were included in the Other race category were tried at higher rates in the Air Force, and at lower rates in the Marine Corps.¹⁷ We could not determine whether there were any racial or gender disparities for summary courts-martial in the Army and the Navy because these services did not collect complete summary court-martial data—information about all summary court-martial cases, to include demographic information about the subject—in their investigative, military justice, or personnel databases, as discussed above in the report. We could not analyze Coast Guard cases due to the small number of summary courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

Figure 19: Rate and Likelihood of Trial in Summary Courts-Martial in the Air Force and the Marine Corps by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than all other groups to be tried in summary courts-martial. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be tried in summary courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of trial in summary courts-martial. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding, exclusion of data for those with an unknown race, and/or to ensure protection of sensitive statistical information.

¹⁷The Other race category includes servicemembers that identify as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

The bivariate regression analysis results in figure 19 above calculate the degree to which one racial or gender group was more likely or less likely than servicemembers of all other races and genders to be tried in summary courts-martial.¹⁸ We found that Black servicemembers in the Marine Corps and the Air Force were more likely to be tried in summary courts-martial than servicemembers of all other races. We also found that male servicemembers were more likely than their female counterparts to be tried in summary courts-martial in the Marine Corps and the Air Force. We observed no statistically significant differences in summary court-martial rates for servicemembers in the Other race category in either the Marine Corps or the Air Force, or for Hispanic servicemembers in the Marine Corps.¹⁹

Rate and Likelihood of Nonjudicial Punishments in the Air Force and the Marine Corps

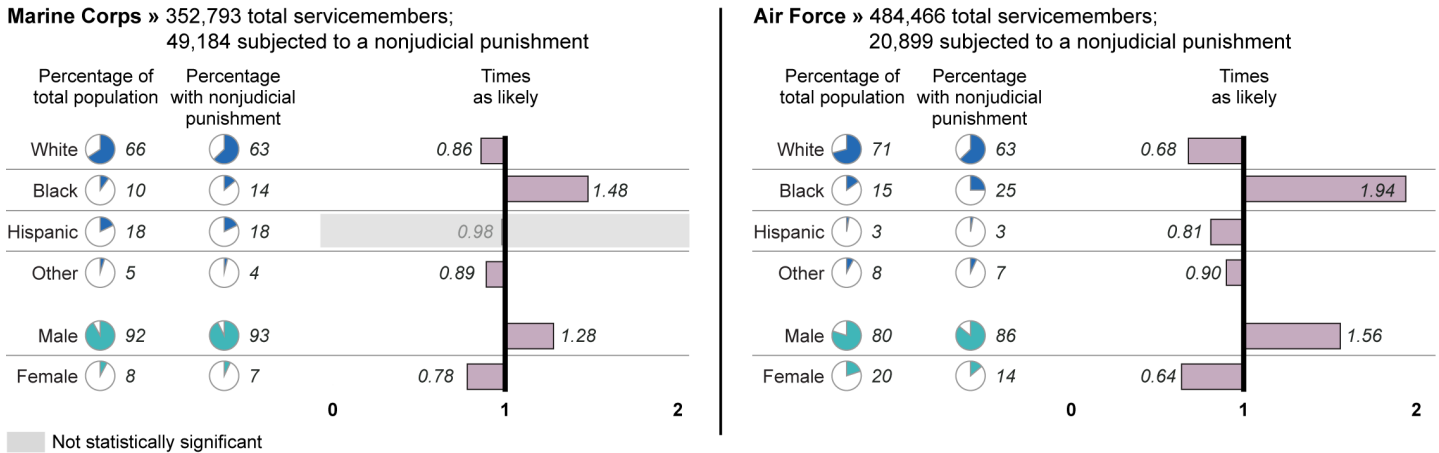
As shown in figure 20 below, we found that Black and male servicemembers were subject to nonjudicial punishment for UCMJ violations at a higher rate than their share of the overall service population in the Marine Corps and the Air Force. White servicemembers were subject to nonjudicial punishments at lower rates than their share of the overall service population in both services, and Hispanic servicemembers were subject to nonjudicial punishments in a proportion equal to their share of the general service population in both services. Servicemembers that were included in the Other race category were subject to nonjudicial punishment at lower rates than their share of the overall service population in the Marine Corps and the Air Force.²⁰ We could not analyze nonjudicial punishments in the Army, the Navy, and the Coast Guard because these services do not collect complete nonjudicial punishment information.

¹⁸We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

¹⁹The Other race category includes servicemembers who identify as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Statistical insignificance indicates that we could not conclude there was an association between race and the likelihood of an outcome, in this case, trial in summary courts-martial.

²⁰The Other race category includes servicemembers that identify as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

Figure 20: Rate and Likelihood of Nonjudicial Punishments in the Air Force and the Marine Corps by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely than all other groups to be subject to nonjudicial punishments. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be subject to nonjudicial punishment. Not statistically significant means that we could not conclude there was an association between race and the likelihood of nonjudicial punishment. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding and/or exclusion of data for those with an unknown race.

The bivariate regression analyses in figure 20 above calculate the degree to which one racial or gender group was more likely or less likely than another racial or gender group to be subject to nonjudicial punishment.²¹ We found that Black and male servicemembers were more likely than servicemembers of all other races or female servicemembers to receive nonjudicial punishments in the Marine Corps and the Air Force. We also found that Hispanic servicemembers in the Air Force were less likely to be subject to nonjudicial punishment, but we observed no statistically significant difference for Hispanic servicemembers in the Marine Corps. Servicemembers in the Other race category were less likely to be subject

²¹We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

to nonjudicial punishment than servicemembers of all other races in the Marine Corps and the Air Force.²²

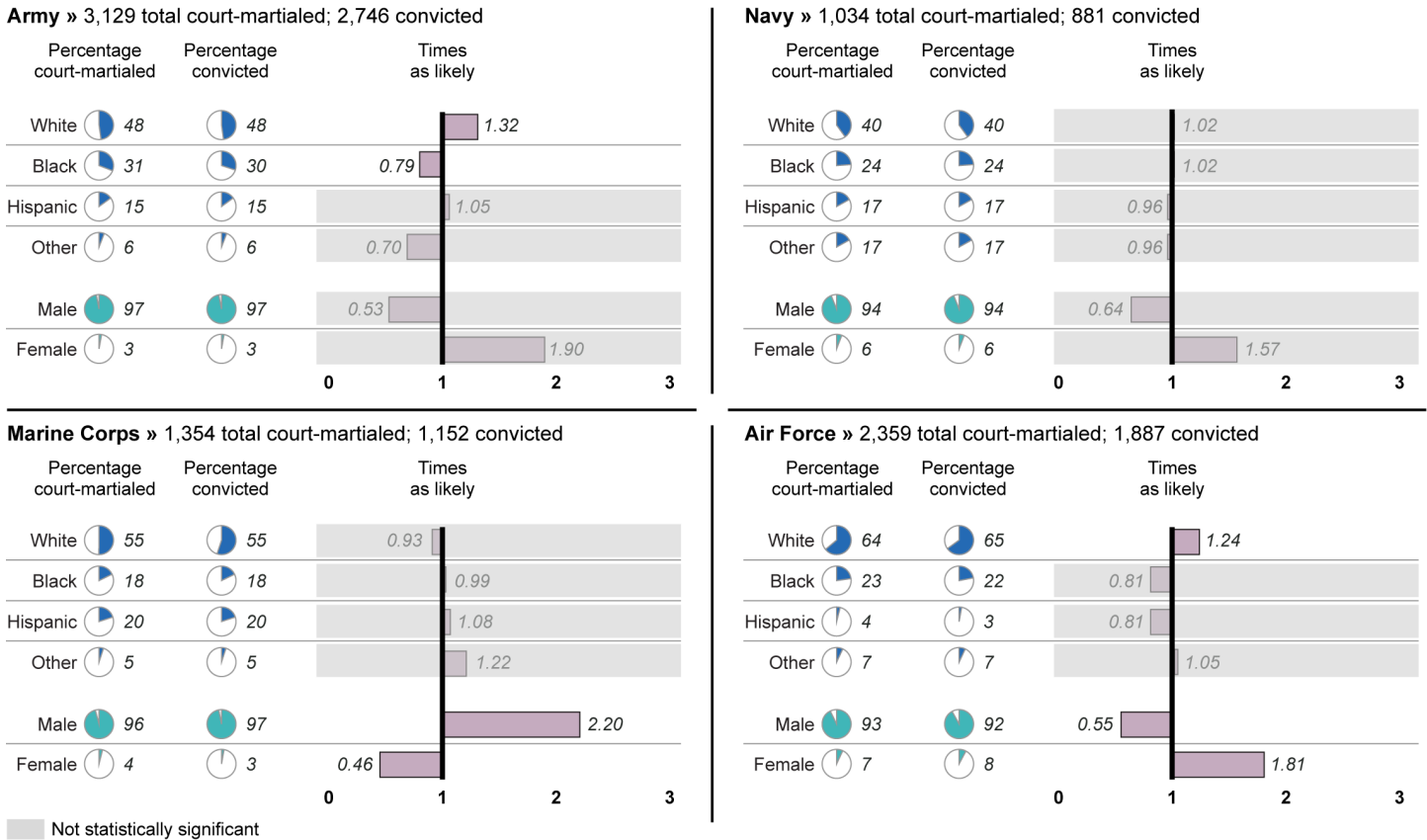
Rate and Likelihood of Conviction in General and Special Courts-Martial

As shown in figure 21 below, we found that Black servicemembers were convicted in general and special courts-martial at a lower rate in the Army and the Air Force, and at an equal rate in the Navy and the Marine Corps compared to their proportion of the overall general and special courts-martial population.²³ In the Army, the Navy, and the Marine Corps, Hispanic servicemembers were convicted in general and special courts-martial at an equal rate compared to their proportion of the overall general and special courts-martial population. Compared to their proportion of the overall general and special courts-martial population, Hispanic servicemembers were convicted at a lower rate in the Air Force. We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

²²The Other race category includes servicemembers that identify as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

²³The degree to which a racial or gender group was determined to have a higher or lower rate was calculated through a comparison between the racial and gender compositions of those convicted in general and special courts-martial and the racial and gender compositions of the service population that were tried in general and special courts-martial.

Figure 21: Rate and Likelihood of Conviction in General and Special Courts-Martial by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely to be convicted in general and special courts-martial compared to all other racial or gender groups. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be convicted in general and special courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of conviction in general and special courts-martial. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding and/or exclusion of data for those with an unknown race.

As shown in figure 21 above, bivariate regression analyses found that, in the Army, White servicemembers were statistically significantly more likely to be convicted, whereas Black servicemembers were statistically

significantly less likely to be convicted in general and special courts-martial compared to all other servicemembers.²⁴ White servicemembers in the Air Force were also statistically significantly more likely to be convicted in general and special courts-martial compared to all other servicemembers. In the Marine Corps, we found that males were more likely to be convicted than females, whereas in the Air Force, males were less likely to be convicted than females. The remaining odds ratios shown in figure 21 above were not statistically significant.²⁵

Rate and Likelihood of More Severe Punishment

As shown in figures 22 and 23 below, we found that Black servicemembers received a more severe punishment at a lower rate compared to their share of the convicted service population in the Army, the Navy, and the Air Force.²⁶ We also found that Hispanic servicemembers received a more severe punishment at a lower rate compared to their share of the convicted service population in the Air Force, but at a higher rate in the Marine Corps. We found that male servicemembers in the Marine Corps and the Air Force received a more severe punishment at a higher rate, and at the same rate in the Army and the Navy, compared to their share of the convicted service population. Females received a more severe punishment at a lower rate in the Air Force and the Marine Corps, and at the same rate in the Army and the Navy, compared to their share of the convicted service population. We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

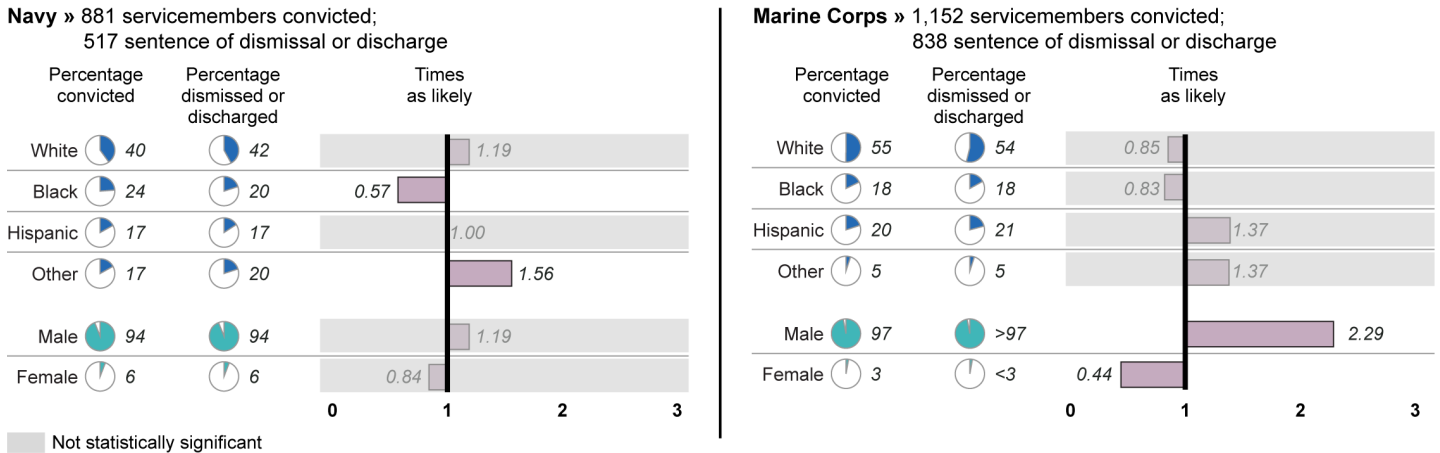
²⁴We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

²⁵Not identifying any statistically significant findings means that we could not conclude there was an association between race or gender and the likelihood of an outcome, in this case, conviction in general and special courts-martial.

²⁶We measured the severity of punishments in two groups for the Navy and the Marine Corps, and in three groups for the Air Force and the Army, which are defined in Appendix I. We did not create a third punishment group for confinement without dismissal or discharge for the Navy and the Marine Corps because of the small number of cases with confinement that did not also include some sort of discharge. Based on discussions with service officials, we determined that a sentence resulting in a dismissal or discharge was the most severe punishment outcome.

Appendix II: Summary Statistics and Bivariate Results for Regression Analyses

Figure 22: Rate and Likelihood of Dismissal or Discharge in General and Special Courts-Martial in Navy and Marine Corps by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017



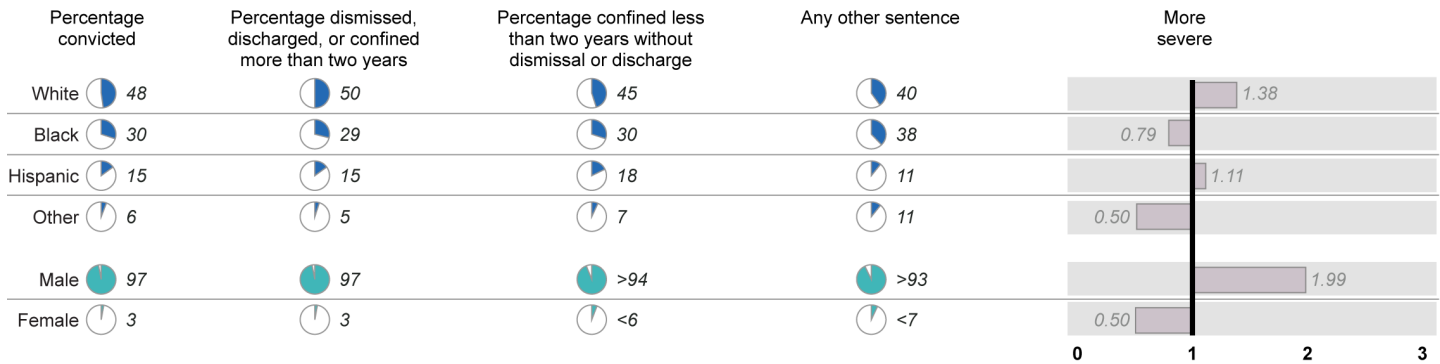
Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These bivariate regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely to be dismissed or discharged after conviction in general and special courts-martial compared to all other racial or gender groups. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be dismissed or discharged after conviction in general and special courts-martial. Not statistically significant means that we could not conclude there was an association between race and the likelihood of dismissal or discharge after conviction in general and special courts-martial. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding, exclusion of data for those with an unknown race, and/or to ensure protection of sensitive statistical information.

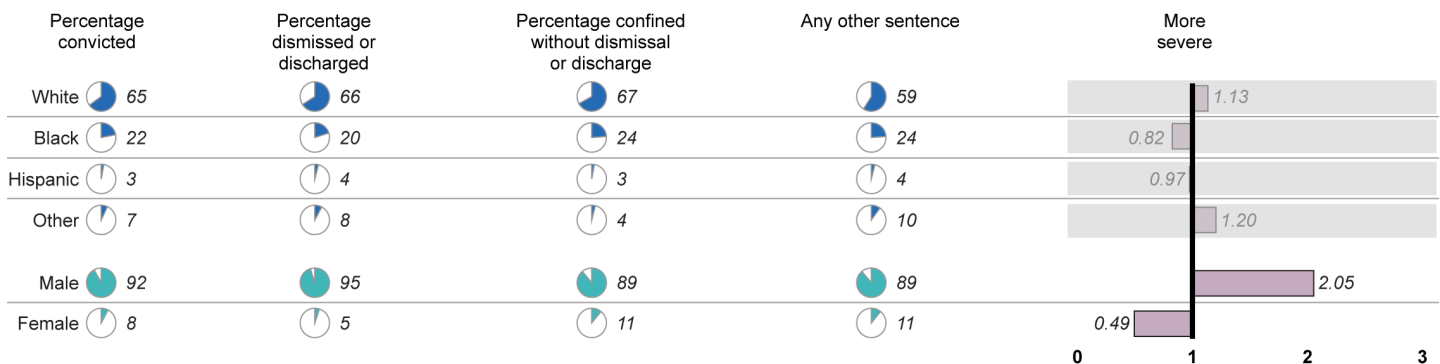
Appendix II: Summary Statistics and Bivariate Results for Regression Analyses

Figure 23: Rate and Likelihood of More Severe Punishment in General and Special Courts-Martial in Army and Air Force by Race and Gender, without Controlling for Any Other Attributes, Fiscal Years 2013–2017

Army » 2,746 servicemembers convicted; 2,079 sentence of dismissal, discharge, or confinement more than 2 years; 365 sentence of confinement less than 2 years without dismissal or discharge; 302 any other sentence



Air Force » 1,887 servicemembers convicted; 992 sentence of dismissal or discharge; 656 sentence of confinement without dismissal or discharge; 239 any other sentence



■ Not statistically significant

Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These regression analysis results demonstrate the degree to which a racial or gender group is more likely or less likely to receive a more severe punishment after conviction in general and special courts-martial compared to all other racial or gender groups. Because the punishment groups for the Army and the Air Force consisted of 3 outcome categories, we used an ordered logit regression model to analyze punishment severity in the Army and the Air Force. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to receive a more severe punishment. Not statistically significant means that we could not conclude there was an association between race and the likelihood of a more severe punishment. Punishment severity in the Air Force, ordered from most to least severe, was (3) any type of dismissal or discharge (regardless of any confinement); (2) confinement without dismissal or discharge, and (1) all other possible sentencing options. In the Army, it was (3) any type of dismissal or discharge or confinement of more than 2 years, (2) confinement of less than 2 years without dismissal or discharge, and (1) all other possible sentencing options. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to

rounding, exclusion of data for those with an unknown race, and/or to ensure protection of sensitive statistical information.

The bivariate regression analyses in Figures 22 and 23 above calculated the degree to which one racial or gender group was more likely or less likely than another racial or gender group to be dismissed or discharged after a conviction in general and special courts-martial.²⁷ In the Navy, we found that Black servicemembers were statistically significantly less likely to be dismissed or discharged after conviction in general and special courts-martial compared to all other servicemembers. We found no statistically significant differences regarding minority servicemembers being more likely or less likely to be dismissed or discharged after conviction in general and special courts-martial in the Marine Corps, or to receive a more severe punishment in the Army or the Air Force.²⁸ We found that males in the Marine Corps and the Air Force were more likely to be dismissed or discharged or receive a more severe punishment after conviction than females, but we did not find any statistically significant differences regarding male servicemembers in the Army or the Navy.

²⁷We conducted bivariate logit analyses (which we refer to as bivariate analyses) to estimate the association between the attribute factors (or independent variables) and the outcome variables (the dependent variable) in a binary format. For additional explanation of how we conducted our bivariate analyses, see Appendix I.

²⁸Not identifying any statistically significant findings means that we could not conclude there was an association between race or gender and the likelihood of an outcome, in this case, punishment severity.

Appendix III: Analysis of Drug Offenses, Sexual Assault Offenses, and All Other Offenses

This appendix contains several figures that show the underlying data related to drug and sexual assault offenses from fiscal years 2013 through 2017 for the Army, the Navy, the Marine Corps, and the Air Force.¹ Across most military services, Black, Hispanic, and male servicemembers were the subjects of recorded investigations and tried in general and special courts-martial at higher rates than their shares of the overall service population for drug offenses, sexual assault offenses, and all other offenses.² We found that the likelihood of conviction varied among the services for these two offenses.³ We analyzed these two specific Uniform Code of Military Justice (UCMJ) offenses separately from all other offenses because service officials told us that an investigation into these offenses may frequently be mandatory, and thus could potentially mitigate the risk of bias.⁴ We analyzed data for these offenses for recorded investigations, trials in general and special courts-martial, and convictions from fiscal years 2013 through 2017 to assess the extent to which racial and gender disparities may exist.⁵ Our analyses of the

¹We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

²The drug offenses we analyzed were charges under UCMJ Article 112a, wrongful use, possession, or distribution of a controlled substance. In addition, the sexual assault offenses we analyzed were any charges under UCMJ Article 120, which includes rape and sexual assault generally, rape and sexual assault of a child, and other sexual misconduct.

³For purposes of this report, we use the term “likelihood” when discussing the odds ratios from the results of our regression analyses. Odds ratios that are statistically significant and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be subject to a particular military justice action.

⁴Service officials stated that some drug (Article 112a) offenses are initiated as a result of random urinalysis tests, and in those cases a positive result will trigger an investigation regardless of the servicemember’s race, ethnicity, or gender. According to Department of Defense Instruction 5505.18, all allegations of adult sexual assault are immediately reported to the appropriate military criminal investigative organization (MCIO), and that MCIO will initiate a criminal investigation into that allegation if the offense occurred within its jurisdiction.

⁵We were unable to present an analysis of UCMJ offenses tried in summary courts-martial due to data limitations. The Air Force was the only service that maintained offense data for summary courts-martial for fiscal years 2013 through 2017. The data for summary courts-martial in the Marine Corps personnel database did not include information about the offense type. See Appendix VII for our analysis of the Air Force summary courts-martial offense data. Furthermore, all analyses presented in this section examine the number of instances in which an offense was investigated or tried in general and special courts-martial. Multiple offenses may be involved in an investigation or court-martial of a servicemember; if a case involved both a drug offense and a sexual assault offense, it was counted in both groups for purposes of this analysis. See Appendixes II through VI for the demographic breakdowns of each of those offenses in each of the military services.

services' investigation, military justice, and personnel databases, as reflected in these figures, taken alone, do not establish the presence or absence of unlawful discrimination.

The following figures and information are included in this appendix:

- Figure 24: Recorded Investigation Rates for Drug Offenses, Sexual Assault Offenses, and All Other Offenses by Race and Gender, Fiscal Years 2013–2017
- Figure 25: General and Special Courts-Martial Trial Rates for Drug Offenses, Sexual Assault Offenses, and All Other Offenses by Race and Gender, Fiscal Years 2013–2017
- Figure 26: Likelihood that Charges of Drug Offenses and Sexual Assault Offenses Resulted in Convictions in General and Special Courts-Martial, After Controlling for Race, Gender, Rank, and Education, Fiscal Years 2013–2017

Recorded Investigations of Drug and Sexual Assault Offenses

We identified racial and gender differences in recorded investigation rates for drug offenses, sexual assault offenses, and all other offenses compared with the total service populations.⁶ Our analysis focused on alleged UCMJ violations for these offenses that were recorded in the Military Criminal Investigative Organization (MCIO) investigations databases. Other investigations conducted within the military, such as command investigations, were not considered in this analysis. For example, as shown in figure 24 below, Black servicemembers were the subjects of recorded investigations for drug offenses, sexual assault offenses, and all other offenses at a higher rate than their share of the overall service population across all military services.⁷ Hispanic

⁶Investigations are recorded in the MCIO databases when a servicemember is the subject of a criminal allegation made by another; for purposes of this report, we say the servicemember had a “recorded investigation” to describe these cases. The remaining general and special courts-martial cases would have been investigated by other sources, such as local civilian law enforcement, command investigations, or in the case of the Air Force, their military law enforcement security forces, and thus would not be recorded in the MCIO databases. For additional explanation of the databases we used to analyze investigations, please see Appendix I.

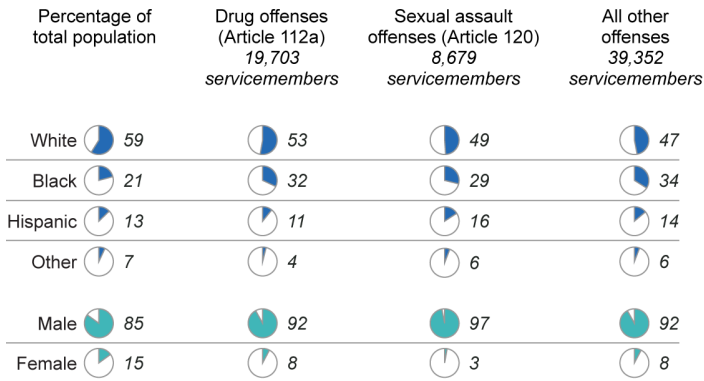
⁷The degree to which a racial or gender group was determined to have a higher or lower rate was calculated through a comparison between the racial and gender compositions of those investigated for drug or sexual assault offenses and the racial and gender compositions of the military services' total populations.

Appendix III: Analysis of Drug Offenses, Sexual Assault Offenses, and All Other Offenses

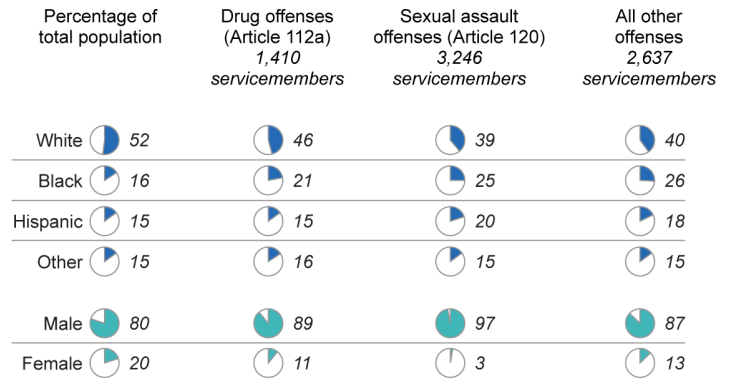
servicemembers were the subjects of recorded investigations for drug offenses, sexual assault offenses, and all other offenses at a higher rate than their share of the overall service population in the Air Force, but were the subjects of recorded investigations for drug offenses at a lower rate than their share of the overall service population in both the Army and the Marine Corps. Male servicemembers were the subjects of recorded investigations for drug offenses and sexual assault offenses at a higher rate than their share of the overall service population across all of the military services.

Figure 24: Recorded Investigation Rates for Drug Offenses, Sexual Assault Offenses, and All Other Offenses by Race and Gender, Fiscal Years 2013–2017

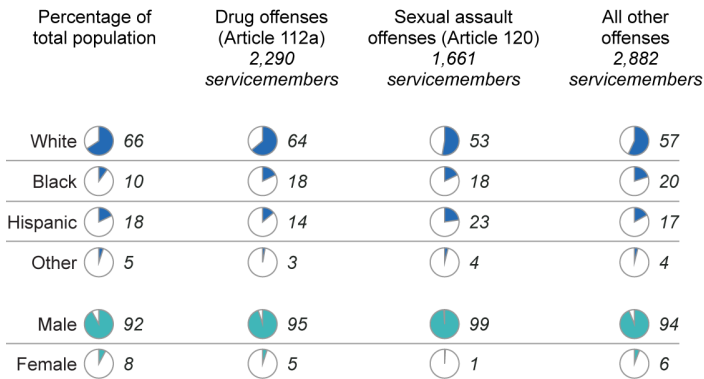
Army » 886,563 total servicemembers



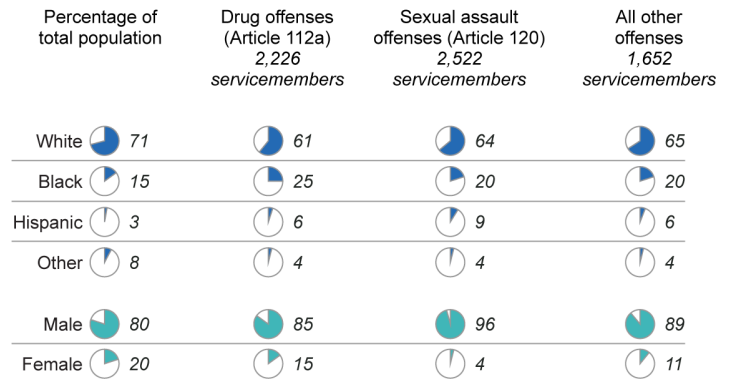
Navy » 552,388 total servicemembers



Marine Corps » 352,793 total servicemembers



Air Force » 484,466 total servicemembers



Source: GAO analysis of service personnel and investigation data. | GAO-19-344

Note: These analyses, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The degree to which the representation of a racial or gender group is determined to be higher or lower in the population subject to an investigation recorded in the

military services' military criminal investigative organizations databases is calculated by subtracting the group's percentage of the military service's total population from the percentage that group represents within the population that was the subject of a recorded investigation. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not sum to 100 percent due to rounding and/or exclusion of data for those with an unknown race.

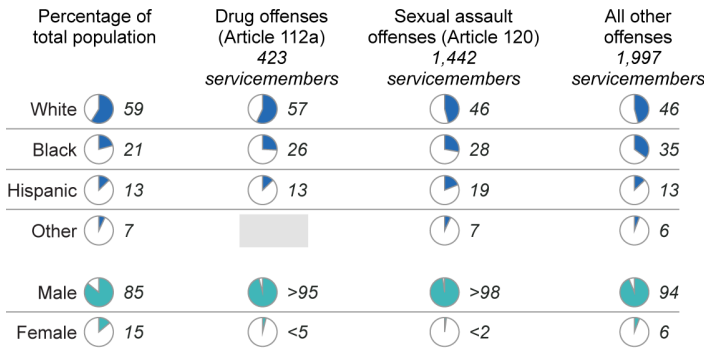
General and Special Courts-Martial Trials for Drug and Sexual Assault Offenses

We found that White servicemembers were tried for drug offenses, sexual assault offenses, and all other offenses in general and special courts-martial at lower rates than their share of the overall service population across all of the military services. Black servicemembers were tried for drug offenses, sexual assault offenses, and all other offenses in general and special courts-martial at a higher rate than their share of the overall service population in all of the military services. Hispanic servicemembers were tried for drug offenses in general and special courts-martial at a lower rate in the Navy and the Marine Corps, and at a higher rate in the Air Force, compared to their share of the overall service population. Hispanic servicemembers were tried for sexual assault offenses at a higher rate than their proportion of the overall service population in all of the military services. Female servicemembers were tried for drug offenses, sexual assault offenses, and all other offenses in general and special courts-martial at lower rates than their share of the general service population in the Army, the Navy, and the Air Force, and were tried for sexual assault offenses and all other offenses at lower rates than their share of the overall service population in the Marine Corps. Figure 25 below shows the gender and racial composition of general and special court-martial trials for drug offenses, sexual assault offenses, and all other offenses. We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

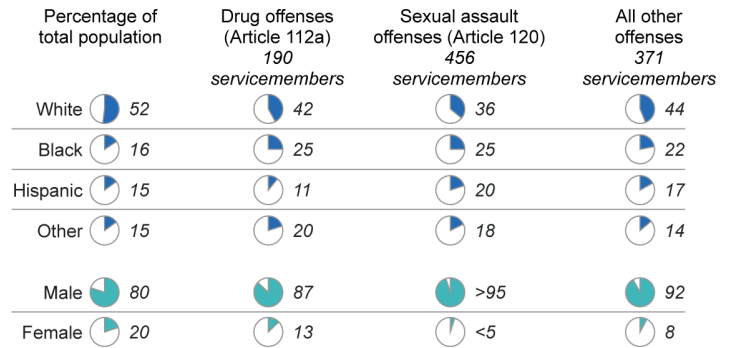
Appendix III: Analysis of Drug Offenses, Sexual Assault Offenses, and All Other Offenses

Figure 25: General and Special Courts-Martial Trial Rates for Drug Offenses, Sexual Assault Offenses, and All Other Offenses by Race and Gender, Fiscal Years 2013–2017

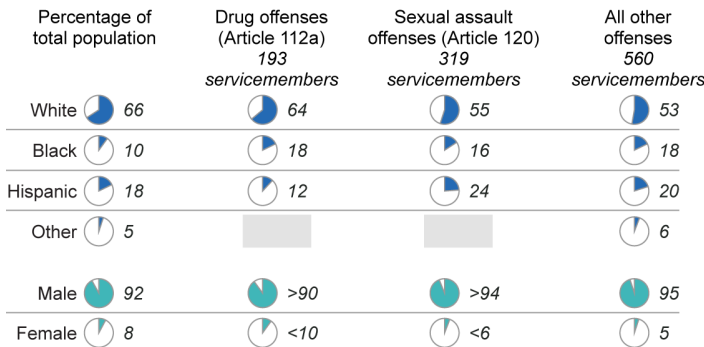
Army » 886,563 total servicemembers



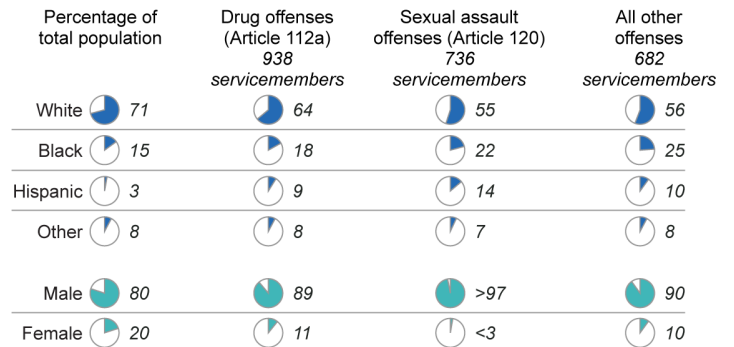
Navy » 552,388 total servicemembers



Marine Corps » 352,793 total servicemembers



Air Force » 484,466 total servicemembers



Populations with fewer than 20 servicemembers

Source: GAO analysis of service personnel and military justice data. | GAO-19-344

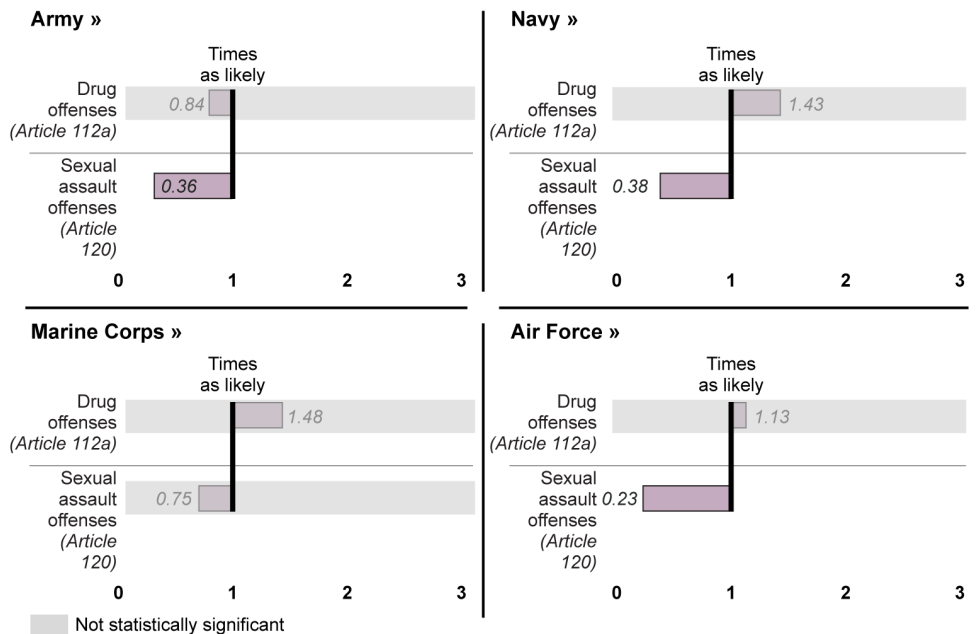
Note: These analyses, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The degree to which the representation of a racial or gender group is determined to be higher or lower in the population tried in special or general courts-martial is calculated by subtracting the group's percentage of the military service's total population from the percentage that group represents within the population tried. The Other race category includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. Percentages in this figure may not add up to 100 percent due to rounding, exclusion of data for those with an unknown race, and/or to protect privacy.

Likelihood of Conviction for Drug and Sexual Assault Offenses

We conducted multivariate regression analyses to calculate the degree to which servicemembers charged with drug offenses and sexual assault offenses were more likely or less likely than a composite variable comprised of all other offenses to be convicted in general and special courts-martial, while controlling for other attributes, such as race, gender,

education, and rank.⁸ As shown in figure 26 below, we did not identify any statistically significant difference in conviction rates for drug offenses compared to all other offenses in the Army, the Navy, the Marine Corps, and the Air Force. Sexual assault offenses were less likely to result in a conviction in the Army, the Navy, and the Air Force, and there was no statistically significant difference for the Marine Corps. We could not analyze Coast Guard cases due to the small number of general and special courts-martial adjudicated in the Coast Guard from fiscal years 2013 through 2017.

Figure 26: Likelihood that Charges of Drug Offenses and Sexual Assault Offenses Resulted in Convictions in General and Special Courts-Martial, After Controlling for Race, Gender, Rank, and Education, Fiscal Years 2013–2017



Source: GAO analysis of service personnel and military justice data. | GAO-19-344

Note: The information presented in this figure, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These partial multivariate regression analysis results demonstrate the degree to which a servicemember was more likely or less likely than

⁸A multivariate regression analysis examines several variables simultaneously to estimate whether each of these variables are more likely or less likely to be associated with a certain outcome. See Appendix I for a more detailed explanation of how we conducted our multivariate regression analysis, and a full explanation of the attributes we used in each service model. In addition, see Appendixes IV through VIII for the demographic breakdowns of the modeled attributes in each of the military services.

**Appendix III: Analysis of Drug Offenses,
Sexual Assault Offenses, and All Other
Offenses**

the reference category to be convicted in general and special courts-martial after being charged with drug offenses or sexual assault offenses after controlling for race, gender, rank, and education. We also controlled for years of service among the lower enlisted ranks (E1-E4) in the Air Force. In the Army, we could not control for education, but we were able to control for age. We made all offense comparisons to a composite variable that contains all other offenses. Odds ratios that are statistically significant (p-value < 0.05) and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be convicted. Not statistically significant means that we could not conclude there was an association between race and the likelihood of a recorded investigation.

Appendix IV: Army Data and Analyses

This appendix contains several tables that show the underlying data and analyses used throughout this report relating to Army personnel and military justice disciplinary actions from fiscal years 2013 through 2017. We did not include populations that contained fewer than 20 servicemembers in the total populations presented in these tables to ensure the protection of sensitive information. As a result, the total populations presented in this appendix may vary among the different tables and may vary from the total populations presented in the body of the report. Our analyses of the Army's investigations, military justice, and personnel databases, as reflected in these tables, taken alone, do not establish the presence or absence of unlawful discrimination.

The following tables and information are included in this appendix:

- Table 10: Total Population of the Army by Race, Fiscal Years 2013–2017
- Table 11: Summary Statistics by Race for Army Military Justice Actions, Fiscal Years 2013–2017
- Table 12: Summary Statistics by Gender for Army Military Justice Actions, Fiscal Years 2013–2017
- Table 13: Summary Statistics by Rank for Army Military Justice Actions, Fiscal Years 2013–2017
- Table 14: Summary Statistics by Age for Army Military Justice Actions, Fiscal Years 2013–2017
- Table 15: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Army Military Justice Actions, Fiscal Years 2013–2017
- Table 16: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Army Military Justice Actions, Fiscal Years 2013–2017
- Table 17: Odds Ratios for Army Multivariate Regression Analyses

Table 10: Total Population of the Army by Race, Fiscal Years 2013–2017

Race	Population	
	Number	Percent
American Indian or Alaskan Native	7,873	1
Asian or Pacific Islander	47,644	5
Black	183,379	21
Hispanic	117,413	13
Other	8,434	1
White	521,820	59
Total population	886,563	100%

Source: GAO analysis of Army personnel data. | GAO-19-344

Note: The total populations presented in this table represent the number of unique active-duty servicemembers who served during fiscal years 2013 through 2017.

Table 11: Summary Statistics by Race for Army Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other	
	N	N	%	N	%	N	%	N	%	
Total population	886,563	521,820	59%	183,379	21%	117,413	13%	63,951	7%	
Recorded investigations	50,547	24,819	49%	16,648	33%	6,547	13%	2,533	5%	
General and special courts-martial	3,129	1,488	48%	972	31%	473	15%	196	6%	
General and special courts-martial with a recorded investigation	2,107	988	47%	668	32%	327	16%	124	6%	
General and special courts-martial without a recorded investigation	1,022	500	49%	304	30%	146	14%	72	7%	
Acquittals (general and special courts-martial)	383	159	42%	136	36%	56	15%	32	8%	
Convictions (general and special courts-martial)	2,746	1,329	48%	836	30%	417	15%	164	6%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Army investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The total populations presented in this table represent the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Army's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding.

Table 12: Summary Statistics by Gender for Army Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N	N	%	N	%	
Total population	866,563	755,862	85%	130,701	15%	
Recorded investigations	50,547	46,092	91%	4,455	9%	
General and special courts-martial	3,129	3,028	97%	101	3%	
General and special courts-martial with a recorded investigation	2,107	2,059	98%	48	2%	
General and special courts-martial without a recorded investigation	1,022	969	95%	53	5%	
Convictions (general and special courts-martial)	2,746	2,652	97%	94	3%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Army investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total populations presented in this table represent the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Army's military criminal investigative organization's database.

Table 13: Summary Statistics by Rank for Army Military Justice Actions, Fiscal Years 2013–2017

	Population		Rank E1-E4		Rank E5-E9		Officers	
	N	N	%	N	%	N	%	
Total population	866,563	507,498	57%	251,488	28%	127,577	14%	
Recorded investigations	50,547	35,669	71%	12,952	26%	1,926	4%	
General and special courts-martial	3,129	1,777	57%	1,172	37%	180	6%	
General and special courts-martial with a recorded investigation	2,107	1,203	57%	776	37%	128	6%	
General and special courts-martial without a recorded investigation	1,022	574	56%	396	39%	52	5%	
Acquittals (general and special courts-martial)	383	177	46%	174	45%	32	8%	
Convictions (general and special courts-martial)	2,746	1,600	58%	998	36%	148	5%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Army investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total populations presented in this table represent the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Army's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding.

Table 14: Summary Statistics by Age for Army Military Justice Actions, Fiscal Years 2013–2017

	Population	< 25 years		25-30 years		30-40 years		> 40 years	
	N	N	%	N	%	N	%	N	%
Total population	866,563	457,494	52%	172,427	19%	178,014	20%	78,628	9%
Recorded investigations	50,547	31,744	63%	9,498	19%	7,646	15%	1,659	3%
General and special courts-martial	3,129	1,330	43%	767	25%	802	26%	230	7%
General and special courts-martial with a recorded investigation	2,107	972	46%	467	22%	533	25%	135	6%
General and special courts-martial without a recorded investigation	1,022	358	35%	300	29%	269	26%	95	9%
Acquittals (general and special courts-martial)	383	145	38%	83	22%	121	32%	34	9%
Convictions (general and special courts-martial)	2,746	1,185	43%	684	25%	681	25%	196	7%

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Army investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total populations presented in this table represent the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Army's criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding.

Table 15: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Army Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other	
	N		N	%	N	%	N	%	N	%
Recorded investigations for drug offenses (Article 112a)	19,703		10,464	53%	6,401	32%	2,108	11%	730	4%
Recorded investigations for sexual assault offenses (Article 120)	8,679		4,237	49%	2,541	29%	1,398	16%	503	6%
Recorded investigations for all other offenses	39,352		18,503	47%	13,231	34%	5,390	14%	2,228	6%
General and special courts-martial for drug offenses (Article 112a)	404		240	57%	110	26%	54	13%	<20	
General and special courts-martial for sexual assault offenses (Article 120)	1,442		665	46%	410	28%	269	19%	98	7%
General and special courts-martial for all other offenses	1,997		925	46%	693	35%	260	13%	119	6%

Legend: “N” refers to the population size for each group.

Source: GAO analysis of Army investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. This table summarizes the number of instances in which an offense was investigated or tried in a general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Army’s criminal investigative organization’s database. The summary statistics for servicemembers tried in general and special courts-martial for drug offenses (Article 112a) were omitted from this table to protect privacy because a gender group had fewer than 20 servicemembers. Percentages in this table may not add up to 100 due to rounding.

Table 16: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Army Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N	N	%	N	%	
Recorded investigations for drug offenses (Article 112a)	19,703	18,085	92%	1,618	8%	
Recorded investigations for sexual assault offenses (Article 120)	8,679	8,412	97%	267	3%	
Recorded investigations for all other offenses	1,531	1,401	92%	130	8%	
General and special courts- martial for all other offenses	1,997	1,873	94%	124	6%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Army investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. This table summarizes the number of instances in which an offense was investigated or tried in a general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Army's criminal investigative organization's database. The summary statistics for servicemembers tried in general and special courts-martial for drug offenses (Article 112a) and sexual assault offenses (Article 120) were omitted from this table to protect privacy, because a gender group had fewer than 20 servicemembers.

Multivariate Regression Analyses of Army Data

The multivariate results listed below in table 17 show the odds ratios for the multivariate regression analyses of the Army data. We used logistic regression to assess the relationship between the independent variables, such as race, education, rank, or gender, with the probability of being subject to a military justice action. Logistic regression allows for the coefficients to be converted into odds ratios. Odds ratios that are statistically significant and greater than 1.00 indicate that individuals with that characteristic are more likely to be subject to a military justice action. For example, an odds ratio of 1.55 for Black servicemembers would mean that they are 1.55 times more likely to be subject to a military justice action compared to White servicemembers. Odds ratios that are statistically significant and lower than 1.00 indicate that individuals with that characteristic are less likely to be subject to a military justice action. We excluded years of service from the Army analyses due to high correlation with the rank variable.

Table 17: Odds Ratios for Army Multivariate Regression Analyses

	Black	Hispanic	Other	Male	E5-E9	Officers
Likelihood of being subject of recorded investigations	2.11**	1.13**	0.92**	2.14**	0.91**	0.30**
Likelihood of trial in general and special courts-martial	2.00**	1.41**	1.12	5.75**	0.93	0.34**
Likelihood of trial in general and special courts-martial with a recorded investigation	1.16**	1.37**	1.26*	3.92**	1.28**	1.32*
Likelihood of trial in general and special courts-martial without a recorded investigation	1.85**	1.29**	1.16	3.53**	0.74**	0.22**
Likelihood of conviction in general and special courts-martial	0.8	1.11	0.74	0.91	0.76	0.58*
Likelihood of receiving a more severe punishment when convicted in general and special courts-martial	0.84	0.99	0.56**	1.58*	0.34**	0.76

Legend: ** next to the odds ratio indicate that the finding has a strong degree of statistical significance with a p-value less than 0.01.

* next to the odds ratio indicates that the finding is statistically significant with a p-value between 0.01 and 0.05.

If the space next to the odds ratio is blank, then the finding was not statistically significant.

"N" refers to the population size for each group.

Source: GAO analysis of Army investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These multivariate regression analysis results demonstrate the degree to which a racial, gender, or rank group is more likely than the reference category to be subject of a recorded investigation, tried in general and special courts-martial, and convicted in general and special courts-martial. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Army's military criminal investigative organization's database. We used an ordered logistic regression analysis to calculate the likelihood of receiving a more severe punishment as a result of being convicted in general and special courts-martial. All racial categories listed are in reference to White servicemembers, all gender groups listed are in reference to female servicemembers, and all rank groups are in reference to servicemembers between ranks E1-E4. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

Appendix V: Navy Data and Analyses

This appendix contains several tables that show the underlying data and analyses used throughout this report relating to Navy personnel and military justice disciplinary actions from fiscal years 2013 through 2017. We did not include populations that contained fewer than 20 servicemembers in the populations presented in these tables to ensure the protection of sensitive information. As a result, the populations presented in this appendix may vary among the different tables and may vary from the populations presented in other places in this report. Our analyses of the Navy's investigations, military justice, and personnel databases, as reflected in these tables, taken alone, do not establish the presence or absence of unlawful discrimination.

The following tables and information are included in this appendix:

- Table 18: Navy Population of the Navy by Race, Fiscal Years 2013–2017
- Table 19: Summary Statistics by Race for Navy Military Justice Actions, Fiscal Years 2013–2017
- Table 20: Summary Statistics by Gender for Navy Military Justice Actions, Fiscal Years 2013–2017
- Table 21: Summary Statistics by Rank for Navy Military Justice Actions, Fiscal Years 2013–2017
- Table 22: Summary Statistics by Education for Navy Military Justice Actions, Fiscal Years 2013–2017
- Table 23: Summary Statistics by Age for Navy Military Justice Actions, Fiscal Years 2013–2017
- Table 24: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Navy Military Justice Actions, Fiscal Years 2013–2017
- Table 25: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Navy Military Justice Actions, Fiscal Years 2013–2017
- Table 26: Odds Ratios for Navy Multivariate Regression Analyses

Table 18: Total Population of the Navy by Race, Fiscal Years 2013–2017

Race	Population	
	Number	Percent
American Indian or Alaska Native	11,938	2
Asian	26,780	5
Black or African American	87,415	16
Hispanic	83,609	15
Mixed	38,282	7
Native Hawaiian or Pacific Islander	4,699	1
Unknown	12,571	2
White	287,094	52
Total population	552,388	100

Source: GAO analysis of Navy personnel data. | GAO-19-344

Note: The total populations presented in this table represent the number of unique active-duty servicemembers who served during fiscal years 2013 through 2017.

Table 19: Summary Statistics by Race for Navy Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other	
	N	N	Percent	N	Percent	N	Percent	N	Percent	
Total population	539,817	287,094	52%	87,415	16%	83,609	15%	81,699	15%	
Recorded investigations	7,193	2,954	41%	1,816	25%	1,316	18%	1,107	15%	
General and special courts-martial	1,018	417	40%	247	24%	177	17%	177	17%	
General and special courts-martial with a recorded investigation	759	306	40%	178	23%	137	18%	138	18%	
General and special courts-martial without a recorded investigation	259	111	42%	69	26%	40	15%	39	15%	
Acquittals (general and special courts-martial)	151	61	40%	36	24%	27	18%	27	18%	
Convictions (general and special courts-martial)	867	356	40%	211	24%	150	17%	150	17%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with an unknown race, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 20: Summary Statistics by Gender for Navy Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N		N	%	N	%
Total population	552,388		442,184	80%	110,204	20%
Recorded investigations	7,293		6,681	92%	612	8%
General and special courts-martial	1,034		975	94%	59	6%
General and special courts-martial with a recorded investigation	770		739	96%	31	4%
General and special courts-martial without a recorded investigation	264		236	89%	28	11%
Convictions (general and special courts-martial)	881		828	94%	53	6%

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database.

Table 21: Summary Statistics by Rank for Navy Military Justice Actions, Fiscal Years 2013–2017

	Population		Rank E1-E4		Rank E5-E9 and officers	
	N		N	%	N	%
Total population	552,388		273,247	49%	279,141	51%
Recorded investigations	7,293		4,170	57%	3,123	43%
General and special courts-martial	1,034		523	51%	511	49%
General and special courts-martial with a recorded investigation	770		390	51%	380	49%
General and special courts-martial without a recorded investigation	264		133	50%	131	50%
Acquittals (general and special courts-martial)	153		68	44%	85	56%
Convictions (general and special courts-martial)	881		455	52%	426	48%

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database. Although we analyzed officers separately from enlisted servicemembers, for reporting purposes we combined servicemembers in rank categories E5-E9 with officers to protect privacy in instances when the number of servicemembers was fewer than 20.

Table 22: Summary Statistics by Education for Navy Military Justice Actions, Fiscal Years 2013–2017

	Population	High school or less		More than high school		Unknown education	
	N	N	%	N	%	N	%
Total population	552,388	403,581	73%	122,824	22%	25,983	5%
Recorded investigations	7,293	6,221	85%	931	13%	141	2%
General and special courts-martial	1,034	858	83%	152	15%	24	2%
General and special courts-martial with a recorded investigation	754	639	83%	115	15%	<20	
General and special courts-martial without a recorded investigation	256	219	83%	37	14%	<20	
Acquittals (general and special courts-martial)	149	112	73%	37	24%	<20	
Convictions (general and special courts-martial)	881	746	85%	115	13%	20	2%

Legend: <20 refers to education groups that have zero or fewer than 20 servicemembers, to protect privacy.

“N” refers to the population size for each group.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown education level, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal year 2013 through 2017. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Navy’s military criminal investigative organization’s database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to ensure protection of privacy.

Table 23: Summary Statistics by Age for Navy Military Justice Actions, Fiscal Years 2013–2017

	Population	< 21 Years		21-25 years		26-30 years		> 30 years	
	N	N	%	N	%	N	%	N	%
Total population	552,388	82,562	15%	180,939	33%	115,945	21%	172,869	31%
Recorded investigations	7,293	979	13%	3,041	42%	1,535	21%	1,671	23%
General and special courts-martial	1,034	93	9%	391	38%	220	21%	330	32%
General and special courts-martial with a recorded investigation	770	63	8%	292	38%	170	22%	245	32%

Appendix V: Navy Data and Analyses

	Population	< 21 Years		21-25 years		26-30 years		> 30 years	
General and special courts-martial without a recorded investigation	264	30	11%	99	38%	50	19%	85	32%
Acquittals (general and special courts-martial)	148	<20	—	56	37%	44	29%	48	31%
Convictions (general and special courts-martial)	881	88	10%	335	38%	176	20%	282	32%

Legend: <20 refers to age groups that have zero or fewer than 20 servicemembers

"N" refers to the population size for each group.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers were not included in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database. Although we analyzed age categories of 30-40 years separately from greater than 40 years, for reporting purposes, we combined servicemembers in these two age categories to protect privacy during instances when the number of servicemembers in an age category was fewer than 20. Percentages in this table may not add up to 100 due to rounding or the exclusion of information to ensure protection of privacy.

Table 24: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Navy Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other	
	N	N	%	N	%	N	%	N	%	
Recorded investigations for drug offenses (Article 112a)	1,394	648	46%	303	21%	213	15%	230	16%	
Recorded investigations for sexual assault offenses (Article 120)	3,196	1,259	39%	816	25%	638	20%	483	15%	
Recorded investigations for all other offenses	2,603	1,047	40%	697	26%	465	18%	394	15%	
General and special courts-martial for drug offenses (Article 112a)	186	79	42%	48	25%	21	11%	38	20%	
General and special courts-martial for sexual assault offenses (Article 120)	451	166	36%	115	25%	89	20%	81	18%	
General and special courts-martial for all other offenses	364	165	44%	83	22%	64	17%	52	14%	

Legend: “N” refers to the population size for each group.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown race, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Navy’s criminal investigative organization’s database. This table summarizes the number of instances in which an offense was investigated or tried in general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 25: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Navy Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N	N	%	N	%	
Recorded investigations for drug offenses (Article 112a)	1,410	1,257	89%	153	11%	
Recorded investigations for sexual assault offenses (Article 120)	3,246	3,140	97%	106	3%	
Recorded investigations for all other offenses	2,637	2,284	87%	353	13%	
General and special courts-martial for drug offenses (Article 112a)	190	166	87%	24	13%	
General and special courts-martial for all other offenses	371	340	92%	31	8%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Navy's criminal investigative organization's database. This table summarizes the number of instances in which an offense was investigated or tried in general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. The summary statistics for servicemembers tried in general and special courts-martial for sexual assault offenses (Article 120) were omitted from this table to protect privacy because a gender group had fewer than 20 servicemembers.

Multivariate Regression Analyses of Navy Data

The multivariate results listed below in table 26 show the odds ratios for the multivariate regression analyses of Navy data. We used logistic regression to assess the relationship between the independent variables, such as race, education, rank, or gender, with the probability of being subject to a military justice action. Logistic regression allows for the coefficients to be converted into odds ratios. Odds ratios that are statistically significant and greater than 1.00 indicate that individuals with that characteristic are more likely to be subject to a military justice action. For example, an odds ratio of 1.55 for Black servicemembers would mean that they are 1.55 times more likely to be subject to a military justice action compared to White servicemembers. Odds ratios that are statistically significant and lower than 1.00 indicate that individuals with that characteristic are less likely to be subject to a military justice action. We excluded age and years of service from the Navy multivariate regression analyses due to high correlation with the rank variable.

Table 26: Odds Ratios for Navy Multivariate Regression Analyses

	Black	Hispanic	Other	Unknown race	Male	High school or less	Unknown education	Rank E1-E4	Officers
Likelihood of being subject of recorded investigations	2.06**	1.47**	1.27**	0.75**	3.03**	1.44**	1.07	1.13**	0.51**
Likelihood of trial in general and special courts-martial	2.01**	1.42**	1.45**	0.91	4.42**	1.23*	1.18	0.88	0.41**
Likelihood of trial in general and special courts-martial with a recorded investigation	1.45	1.13	1.71	1.13	1.16	0.93	1.63	0.97	2.94
Likelihood of trial in general and special courts-martial without a recorded investigation	2.07**	1.19	1.19	1.05	2.26**	1.35	1.6	0.86	0.42*
Likelihood of conviction in general and special courts-martial	1.04	1.08	0.95	1.08	1.06	1.83*	1.58	1.02	0.82
Likelihood of dismissal or discharge when convicted in general and special courts-martial	0.55**	0.88	1.24	0.9	1.16	1.48	0.7	1.21	1.34

Legend: ** next to the odds ratio indicate that the finding has a strong degree of statistical significance with a p-value less than 0.01.

* next to the odds ratio indicates that the finding is statistically significant with a p-value between 0.01 and 0.05.

If the space next to the odds ratio is blank, then the finding was not statistically significant.

Source: GAO analysis of Navy investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These multivariate regression analysis results demonstrate the degree to which a racial, gender, education, or rank group is more likely than the reference category to be subject of a recorded investigation, tried in general and special courts-martial, convicted in general and special courts-martial, and receive a more severe punishment following a conviction. All racial categories listed are in reference to White servicemembers, all gender groups listed are in reference to female servicemembers, all education groups listed are in reference to servicemembers with more than a high school education, and all rank groups are in reference to servicemembers between ranks E5 and E9. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

Appendix VI: Marine Corps Data and Analyses

This appendix contains several tables that show the underlying data and analyses used throughout this report relating to Marine Corps personnel and military justice disciplinary actions from fiscal years 2013 through 2017. We did not include populations that contained fewer than 20 servicemembers in the populations presented in these tables to ensure the protection of sensitive information. As a result, the populations presented in this appendix may vary among the different tables and may vary from the populations presented in other places in this report. Our analyses of the Marine Corps investigations, military justice, and personnel databases, as reflected in these tables, taken alone, do not establish the presence or absence of unlawful discrimination.

The following tables and information are included in this appendix:

- Table 27: Total Population of the Marine Corps by Race, Fiscal Years 2013–2017
- Table 28: Summary Statistics by Race for Marine Corps Military Justice Actions, Fiscal Years 2013–2017
- Table 29: Summary Statistics by Gender for Marine Corps Military Justice Actions, Fiscal Years 2013–2017
- Table 30: Summary Statistics by Rank for Marine Corps Military Justice Actions, Fiscal Years 2013–2017
- Table 31: Summary Statistics by Education for Marine Corps Military Justice Actions, Fiscal Years 2013–2017
- Table 32: Summary Statistics by Age for Marine Corps Military Justice Actions, Fiscal Years 2013–2017
- Table 33: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Marine Corps Military Justice Actions, Fiscal Years 2013–2017
- Table 34: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Marine Corps Military Justice Actions, Fiscal Years 2013–2017
- Table 35 Odds Ratios for Marine Corps Multivariate Regression Analyses

Table 27: Total Population of the Marine Corps by Race, Fiscal Years 2013–2017

Race	Population	
	Number	Percent
American Indian or Alaska Native	3,451	1%
Asian	9,580	3%
Black or African American	36,529	10%
Hispanic	63,044	18%
Native Hawaiian or Pacific Islander	3,426	1%
Unknown	4,680	1%
White	232,083	66%
Total population	352,793	100%

Source: GAO analysis of Marine Corps personnel data. | GAO-19-344

Note: The total populations presented in this table represent the number of unique active-duty servicemembers who served during fiscal years 2013 through 2017.

Table 28: Summary Statistics by Race for Marine Corps Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other		Unknown	
	N	N	%	N	%	N	%	N	%	N	%	
Total population	352,793	232,083	66%	36,529	10%	63,044	18%	16,457	5%	4,680	1%	
Recorded investigations	6,833	3,985	58%	1,286	19%	1,193	17%	258	4%	111	2%	
General and special courts-martial	1,354	749	55%	247	18%	268	20%	63	5%	27	2%	
General and special courts-martial with a recorded investigation	848	479	56%	152	18%	175	20%	42	5%	< 20		
General and special courts-martial without a recorded investigation	479	270	55%	95	19%	93	19%	21	4%	< 20		
Acquittals (general and special courts-martial)	190	115	57%	37	18%	38	19%	< 20		< 20		
Convictions (general and special courts-martial)	1,152	634	55%	210	18%	230	20%	55	5%	23	2%	
Summary courts-martial	1,389	886	63%	221	16%	230	16%	52	4%	< 20		
Nonjudicial punishments	49,184	30,853	63%	6,815	14%	8,656	18%	2,081	4%	779	2%	

Legend: <20 refers to racial groups that have zero or fewer than 20 servicemembers, to protect privacy.

"N" refers to the population size for each group.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown race, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 29: Summary Statistics by Gender for Marine Corps Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N	N	%	N	%	
Total population	352,793	323,491	92%	29,302	8%	
Recorded investigations	6,833	6,539	96%	294	4%	
General and special courts-martial	1,354	1,306	96%	48	4%	
General and special courts-martial with a recorded investigation	862	842	98%	20	2%	
General and special courts-martial without a recorded investigation	492	464	94%	28	6%	
Convictions (general and special courts-martial)	1,152	1,117	97%	35	3%	
Summary courts-martial	1,406	1,359	97%	47	3%	
Nonjudicial punishments	49,184	45,828	93%	3,356	7%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database.

Table 30: Summary Statistics by Rank for Marine Corps Military Justice Actions, Fiscal Years 2013–2017

	Population	Rank E1-E4		Rank E5-E9 and officers	
	N	N	%	N	%
Total population	352,800	247,195	70%	105,605	30%
Recorded investigations	6,833	5,127	75%	1,706	25%
General and special courts-martial	1,354	859	63%	495	37%
General and special courts-martial with a recorded investigation	862	568	66%	294	34%
General and special courts-martial without a recorded investigation	492	291	59%	201	41%
Acquittals (general and special courts-martial)	202	110	54%	92	46%
Convictions (general and special courts-martial)	1,152	749	65%	403	35%
Summary courts-martial	1,408	1,098	78%	310	22%
Nonjudicial punishments	49,184	34,362	70%	14,822	30%

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database. Although we analyzed officers separately from enlisted servicemembers, for reporting purposes we combined servicemembers in rank categories E5-E9 with officers to protect privacy in those instances when the number of officers was fewer than 20.

Table 31: Summary Statistics by Education for Marine Corps Military Justice Actions, Fiscal Years 2013–2017

	Population		High school or less		More than high school		Unknown education	
	N	N	%	N	%	N	%	
Total population	352,793	307,568	87%	41,678	12%	3,547	1%	
Recorded investigations	6,833	6,452	94%	312	5%	69	1%	
General and special courts-martial	1,342	1,265	93%	77	6%	< 20		
General and special courts-martial with a recorded investigation	853	806	94%	47	5%	< 20		
General and special courts-martial without a recorded investigation	489	459	93%	30	6%	< 20		
Acquittals (general and special courts-martial)	187	187	93%	< 20		< 20		
Convictions (general and special courts-martial)	1,142	1,078	94%	64	6%	< 20		
Summary courts-martial	1,394	1,357	97%	37	3%	< 20		
Nonjudicial punishments	49,184	46,182	94%	2,509	5%	493	1%	

Legend: <20 refers to education groups that have zero or fewer than 20 servicemembers, to protect privacy.

"N" refers to the population size for each group.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown education level, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or in other tables in this appendix. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 32: Summary Statistics by Age for Marine Corps Military Justice Actions, Fiscal Years 2013–2017

	Population		< 21 years		21-25 years		26-30 years		> 30 years	
	N	N	%	N	%	N	%	N	%	
Total population	352,793	114,326	32%	141,427	40%	48,688	14%	48,352	14%	
Recorded investigations	6,833	1,986	29%	3,229	47%	954	14%	664	10%	
General and special courts-martial	1,354	323	24%	568	42%	248	18%	215	16%	
General and special courts-martial with a recorded investigation	862	210	24%	389	45%	139	16%	124	14%	
General and special courts-martial without a recorded investigation	492	113	23%	179	36%	109	22%	91	18%	
Acquittals (general and special courts-martial)	202	22	11%	91	45%	46	23%	43	21%	
Convictions (general and special courts-martial)	1,152	301	26%	477	41%	202	18%	172	15%	
Summary courts-martial	1,406	496	35%	613	44%	179	13%	118	8%	
Nonjudicial punishments	49,184	11,414	23%	22,288	45%	8,166	17%	7,316	15%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database.

Table 33: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Marine Corps Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other		Unknown race	
	N	N	%	N	%	N	%	N	%	N	%	
Recorded investigations for drug offenses (Article 112a)	2,290	1,471	64%	403	18%	327	14%	64	3%	25	1%	
Recorded investigations for sexual assault offenses (Article 120)	1,661	881	53%	295	18%	390	23%	65	4%	30	2%	
Recorded investigations for all other offenses	2,882	1,633	57%	588	20%	476	17%	129	4%	56	2%	
General and special courts-martial for drug offenses (Article 112a)	193	132	64%	36	18%	25	12%	< 20		< 20		
General and special courts-martial for sexual assault offenses (Article 120)	319	185	55%	53	16%	81	24%	< 20		< 20		
General and special courts-martial for all other offenses	560	307	53%	103	18%	117	20%	33	6%	< 20		

Legend: <20 refers to racial groups that have zero or fewer than 20 servicemembers, to protect privacy.

"N" refers to the population size for each group.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown race, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. This table summarizes the number of instances in which an offense was investigated or tried in general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. The term "recorded investigation" refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Navy's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 34: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Marine Corps Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N	N	%	N	%	
Recorded investigations for drug offenses (Article 112a)	2,290	2,181	95%	109	5%	
Recorded investigations for sexual assault offenses (Article 120)	1,661	1,639	99%	22	1%	
Recorded investigations for all other offenses	2,882	2,719	94%	163	6%	
General and special courts-martial for all other offenses	575	549	95%	26	5%	

Legend: “N” refers to the population size for each group.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. This table summarizes the number of instances in which an offense was investigated or tried in general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. The term “recorded investigation” refers to an investigation where a servicemember was the subject of a criminal investigation that was recorded in the Navy’s military criminal investigative organization’s database. Although we analyzed gender data for general and special courts-martial for drug offenses and sexual assault offenses, we omitted those data from this table to protect privacy because a gender group had fewer than 20 servicemembers.

Multivariate Regression Analyses of Marine Corps Data

The multivariate results listed below in table 35 show the odds ratios for the multivariate regression analyses of Marine Corps data. We used logistic regression to assess the relationship between the independent variables, such as race, education, rank, or gender, with the probability of being subject to a military justice action. Logistic regression allows for the coefficients to be converted into odds ratios. Odds ratios that are statistically significant and greater than 1.00 indicate that individuals with that characteristic are more likely to be subject to a military justice action. For example, an odds ratio of 1.55 for Black servicemembers would mean that they are 1.55 times more likely to be subject to a military justice action compared to White servicemembers. Odds ratios that are statistically significant and lower than 1.00 indicate that individuals with that characteristic are less likely to be subject to a military justice action. We excluded age and years of service from the Marine Corps multivariate regression analyses due to high correlation with the rank variable.

Table 35: Odds Ratios for Marine Corps Multivariate Regression Analyses

	Black	Hispanic	Other	Unknown race	Male	High school or less	Unknown education	Rank E1-E4	Officers
Likelihood of being subject of recorded investigations	2.07**	1.07*	0.92	1.6**	2.15**	1.68**	1.89**	1.02	0.35**
Likelihood of trial in general and special courts-martial	1.99**	1.29**	1.2	1.7**	2.56**	1.4*	NA	0.57**	0.17**
Likelihood of trial in general and special courts-martial with a recorded investigation	0.84	2**	0.86	NA	0.81	0.91	NA	0.58**	NA
Likelihood of trial in general and special courts-martial without a recorded investigation	2.09**	1.23	1.09	NA	1.56*	1.35	NA	0.47**	NA
Likelihood of conviction in general and special courts-martial	1.06	1.11	1.27	1.18	2.47**	0.98	NA	1.52**	NA
Likelihood of dismissal or discharge when convicted in general and special courts-martial	0.96	1.30	1.81	2.48	2.65**	2.00*	NA	3.03**	NA
Likelihood of trial in summary courts-martial	1.57**	0.92	0.84	1.17	2.69**	1.9**	NA	1.09	NA
Likelihood of receiving nonjudicial punishments	1.41**	0.99	0.94**	1.35**	1.29**	1.52**	1.71**	0.7**	0.16**

Legend: ** next to the odds ratio indicates that the finding has a strong degree of statistical significance with a p-value less than 0.01.

* next to the odds ratio indicates that the finding is statistically significant with a p-value between 0.01 and 0.05.

If the space next to the odds ratio is blank, then the finding was not statistically significant.

NA indicates that the odds ratio for that group is not available because the number of servicemembers was too small to produce reliable findings.

Source: GAO analysis of Marine Corps investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These multivariate regression analysis results demonstrate the degree to which a racial, gender, education, or rank group is more likely than the reference category to be the subject of a recorded investigation, tried in general and special courts-martial, convicted in general and special courts-martial, receive a more severe punishment following a conviction, tried in summary courts-martial, or subject to nonjudicial punishments. All racial categories listed are in reference to White servicemembers, all gender groups listed are in reference to female servicemembers, all education groups listed are in reference to servicemembers with more than a high school education, and all rank groups are in reference to servicemembers between ranks E5 and E9. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races.

Appendix VII: Air Force Data and Analyses

This appendix contains several tables that show the underlying data and analyses used throughout this report relating to Air Force personnel and military justice disciplinary actions from fiscal years 2013 through 2017. We did not include populations that contained fewer than 20 servicemembers in the populations presented in these tables to ensure the protection of sensitive information. As a result, the populations presented in this appendix may vary among the different tables and may vary from the populations presented in other places in this report. Our analyses of the Air Force's investigations, military justice, and personnel databases, as reflected in these tables, taken alone, do not establish the presence or absence of unlawful discrimination.

The following tables and information are included in this appendix:

- Table 36: Total Population of the Air Force by Race, Fiscal Years 2013–2017
- Table 37: Summary Statistics by Race for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 38: Summary Statistics by Gender for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 39: Summary Statistics by Rank for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 40: Summary Statistics by Education for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 41: Summary Statistics by Age for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 42: Summary Statistics by Rank and Years of Service Hybrid Variable for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 43: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 44: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Air Force Military Justice Actions, Fiscal Years 2013–2017
- Table 45: Odds Ratios for Air Force Multivariate Regression Analyses

Table 36: Total Population of the Air Force by Race, Fiscal Years 2013–2017

Race	Total population	
	Number	Percent
American Indian/Alaska Native	2,802	1%
Asian	16,273	3%
Black	73,836	15%
Hawaiian/Pacific Islander	5,000	1%
Hispanic	16,844	3%
Multiple	13,165	3%
Unknown	12,891	3%
White	343,655	71%
Total population	484,466	100%

Source: GAO analysis of Air Force personnel data. | GAO-19-344

Note: The total populations presented in this table represent the number of unique active-duty servicemembers who served during fiscal years 2013 through 2017.

Table 37: Summary Statistics by Race for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other		Unknown	
	N	N	%	N	%	N	%	N	%	N	%	
Total population	484,466	343,655	71%	73,836	15%	16,844	3%	37,243	8%	12,888	3%	
Recorded investigations	6,630	4,232	64%	1,470	22%	268	4%	476	7%	184	3%	
General and special courts-martial	2,359	1,518	64%	534	23%	86	4%	165	7%	56	2%	
General and special courts-martial with a recorded investigation	1,259	809	64%	274	22%	54	4%	85	7%	37	3%	
General and special courts-martial without a recorded investigation	1,081	709	64%	260	24%	32	3%	80	7%	<20	—	
Acquittals (general and special courts-martial)	404	265	61%	111	26%	<20	—	28	6%	<20	—	
Convictions (general and special courts-martial)	1,887	1,235	65%	416	22%	66	3%	130	7%	40	2%	
Summary courts-martial	473	297	61%	133	27%	<20	—	43	9%	<20	—	
Nonjudicial punishments	20,899	13,117	63%	5,274	25%	596	3%	1,470	7%	442	2%	

Legend: <20 refers to racial groups that have zero or fewer than 20 servicemembers, to protect privacy.

"N" refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown race, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 38: Summary Statistics by Gender for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N	N	%	N	%	
Total population	484,466	387,970	80%	96,496	20%	
Recorded investigations	6,630	6,006	91%	624	9%	
General and special courts-martial	2,359	2,188	93%	171	7%	
General and special courts-martial with a recorded investigation	1,259	1,179	94%	80	6%	
General and special courts-martial without a recorded investigation	1,100	1,009	92%	91	8%	
Convictions (general and special courts-martial)	1,887	1,738	92%	149	8%	
Summary courts-martial	490	441	90%	49	10%	
Nonjudicial punishments	20,899	17,991	86%	2,908	14%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force's military criminal investigative organization's database.

Table 39: Summary Statistics by Rank for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population	Rank E1-E4		Rank E5-E6		Rank E7-E9 and officers	
	N	N	%	N	%	N	%
Total population	484,466	224,739	46%	127,516	26%	132,211	23%
Recorded investigations	6,630	4,248	64%	1,556	23%	826	12%
General and special courts-martial	2,359	1,764	75%	396	17%	199	8%
General and special courts-martial with a recorded investigation	1,259	1,034	82%	135	11%	90	7%
General and special courts-martial without a recorded investigation	1,100	730	66%	261	24%	109	9%
Acquittals (general and special courts-martial)	435	221	51%	167	38%	47	10%
Convictions (general and special courts-martial)	1,887	1,531	81%	216	11%	140	8%
Nonjudicial punishments	20,899	16,151	77%	3,707	18%	1,041	5%

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force's military criminal investigative organization's database. Although we analyzed officers separately from enlisted servicemembers, for reporting purposes we combined servicemembers in rank categories E7-E9 with officers in this table to protect privacy in those instances when the number of servicemembers was fewer than 20. The summary statistics for servicemembers tried in summary courts-martial were omitted from this table to protect privacy because a rank group had fewer than 20 servicemembers. Percentages in this table may not add up to 100 due to rounding.

Table 40: Summary Statistics by Education for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population		High school and some college		Associates degree		Bachelor's degree		Post-bachelor's degree		Unknown education	
	N	N	%	N	%	N	%	N	%	N	%	
Total population	484,466	206,029	43%	156,762	32%	54,551	11%	59,161	12%	7,963	2%	
Recorded investigations	6,630	3,511	53%	2,268	34%	448	7%	377	6%	26	1%	
General and special courts-martial	2,345	1,392	59%	724	31%	138	6%	91	4%	<20		
General and special courts-martial with a recorded investigation	1,256	692	55%	437	35%	78	6%	49	4%	<20		
General and special courts-martial without a recorded investigation	1,089	700	64%	287	26%	60	5%	42	4%	<20		
Acquittals (general and special courts-martial)	418	210	48%	168	39%	40	9%	<20		<20		
Convictions (general and special courts-martial)	1,876	1,167	62%	547	29%	94	5%	68	4%	<20		
Summary courts-martial	481	417	85%	64	13%	<20		<20		<20		
Nonjudicial punishments	20,899	15,205	73%	4,475	21%	654	3%	377	2%	188	1%	

Legend: <20 refers to education groups that have zero or fewer than 20 servicemembers, to protect privacy. "N" refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown education level, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 41: Summary Statistics by Age for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population		< 21 years		21-25 years		26-30 years		31-35 years		> 35 years	
	N	N	%	N	%	N	%	N	%	N	%	
Total population	484,466	70,019	14%	119,557	25%	114,941	24%	73,072	15%	106,877	22%	
Recorded investigations	6,630	512	8%	2,214	33%	1,906	29%	989	15%	1,009	15%	
General and special courts-martial	2,359	282	12%	759	32%	676	29%	335	14%	307	13%	
General and special courts-martial with a recorded investigation	1,259	49	4%	414	33%	420	33%	198	16%	178	14%	
General and special courts-martial without a recorded investigation	1,100	233	21%	345	31%	256	23%	137	12%	129	12%	
Acquittals (general and special courts-martial)	435	32	7%	126	29%	134	31%	79	18%	64	15%	
Convictions (general and special courts-martial)	1,887	251	13%	627	33%	523	28%	253	13%	233	12%	
Summary courts-martial	471	160	33%	242	49%	69	14%	<20		<20		
Nonjudicial punishments	20,899	6,078	29%	7,614	36%	4,090	20%	1,811	9%	1,306	6%	

Legend: <20 refers to age groups that have zero or fewer than 20 servicemembers, to protect privacy.

"N" refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers in certain age groups, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force's military criminal investigative organization's database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 42: Summary Statistics by Rank and Years of Service Hybrid Variable for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population	Rank E1-E4 and 0-4 years of service		Rank E1-E4 and 4-6 years of service		Rank E1-E4 and > 6 years of service	
	N	N	%	N	%	N	%
Total population	224,726	180,899	37%	35,495	7%	8,332	2%
Recorded investigations	4,248	2,189	33%	1,222	18%	837	13%
General and special courts-martial	1,764	925	39%	362	15%	477	20%
General and special courts-martial with a recorded investigation	1,034	375	30%	272	22%	387	31%
General and special courts-martial without a recorded investigation	730	550	50%	90	8%	90	8%
Acquittals (general and special courts-martial)	221	123	28%	67	15%	31	7%
Convictions (general and special courts-martial)	1,531	794	42%	296	16%	441	23%
Nonjudicial punishments	16,151	12,964	62%	2,205	11%	982	5%

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Rank and years of service were highly correlated variables, which usually results in selecting just one of the variables to analyze in our multivariate analyses. Based on discussion with Air Force officials, we developed this hybrid rank and years of service variable that controlled for years of service among the lower enlisted ranks (E-1 through E-4). The total population presented in this table represents the number of servicemembers in ranks E1 through E4 that also had the reported number of years of service among unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force's military criminal investigative organization's database. The summary statistics for servicemembers tried in summary courts-martial were omitted from this table to protect privacy because a rank group had fewer than 20 servicemembers. Percentages in this table do not add up to 100 because the table only shows populations in lower enlisted ranks, but the percentages were computed based on the rank group's proportion of the total Air Force population.

Table 43: Offenses Investigated and Tried in General and Special Courts-Martial by Race for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other		Unknown race	
	N	N	%	N	%	N	%	N	%	N	%	
Recorded investigations for drug offenses (Article 112a)	2,226	1,360	61%	558	25%	126	6%	79	4%	103	5%	
Recorded investigations for sexual assault offenses (Article 120)	2,522	1,623	64%	504	20%	218	9%	109	4%	68	3%	
Recorded investigations for all other offenses	1,652	1,074	65%	336	20%	105	6%	68	4%	69	4%	
General and special courts-martial for drug offenses (Article 112a)	925	599	65%	164	18%	85	9%	77	8%	<20	—	
General and special courts-martial for sexual assault offenses (Article 120)	718	407	57%	155	22%	102	14%	54	8%	<20	—	
General and special courts-martial for all other offenses	670	380	57%	167	25%	71	11%	52	8%	<20	—	

Legend: <20 refers to race groups that have zero or fewer than 20 servicemembers, to protect privacy.

“N” refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown race, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. This table summarizes the number of instances in which an offense was investigated or tried in general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force’s military criminal investigative organization’s database. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 44: Offenses Investigated and Tried in General and Special Courts-Martial by Gender for Air Force Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N		N	%	N	%
Recorded investigations for drug offenses (Article 112a)	2,226		1,903	85%	323	15%
Recorded investigations for sexual assault offenses (Article 120)	2,519		2,414	96%	105	4%
Recorded investigations for all other offenses	1,651		1,472	89%	179	11%
General and special courts-martial for drug offenses (Article 112a)	938		837	89%	101	11%
General and special courts-martial for all other offenses	682		617	90%	65	10%

Legend: “N” refers to the population size for each group.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. This table summarizes the number of instances in which an offense was investigated or tried in general and special courts-martial. Multiple offenses may be incorporated into the investigation or court-martial of a single servicemember. As such, a single case could be included in multiple offense groups in this table. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force’s criminal investigative organization’s database. The summary statistics for servicemembers tried in general and special courts-martial for sexual assault offenses (Article 120) were omitted from this table to protect privacy because a gender group had fewer than 20 servicemembers. There were 3 cases with missing gender among recorded investigations for sexual assault offenses (Article 120) and there was 1 case with missing gender among recorded investigations for all other offenses.

**Multivariate Regression
Analyses of Air Force Data**

The multivariate results listed below in table 45 show the odds ratios for the multivariate regression analyses of Air Force data. We used logistic regression to assess the relationship between the independent variables, such as race, education, rank, or gender, with the probability of being subject to a military justice action. Logistic regression allows for the coefficients to be converted into odds ratios. Odds ratios that are statistically significant and greater than 1.00 indicate that individuals with that characteristic are more likely to be subject to a military justice action. For example, an odds ratio of 1.55 for Black servicemembers would mean that they are 1.55 times more likely to be subject to a military justice action compared to White servicemembers. Odds ratios that are statistically significant and lower than 1.00 indicate that individuals with that characteristic are less likely to be subject to a military justice action. We controlled for years of service among the lower enlisted ranks (E1-E4), but excluded age from the Air Force multivariate regression analyses due to high correlation with the rank and years of service variables.

Table 45: Odds Ratios for Air Force Multivariate Regression Analyses

	Black	Hispanic	Other	Male	High school or some college	Associates degree	Rank E1-E4 and 0-4 years of service	Rank E1-E4 and 4-6 years of service	Rank E1-E4 and > 6 years of service
Likelihood of being subject of recorded investigations	1.58**	1.36**	1.05	2.41**	1.55**	1.54**	1.14**	3.22**	9.74**
Likelihood of trial in general and special courts-martial	1.51**	1.34**	1.01	3.14**	1.41**	1.40**	1.98**	3.88**	21.60**
Likelihood of trial in general and special courts-martial with a recorded investigation	0.89	1.06	0.90	1.64**	0.54*	0.65*	2.57**	3.54**	9.58**
Likelihood of trial in general and special courts-martial without a recorded investigation	1.64**	1.17	1.06	2.84**	2.66**	1.71**	1.31**	1.14	5.17**
Likelihood of conviction in a general and special courts-martial	0.87	1.38	0.92	0.97	0.69	0.63*	2.77**	2.65**	11.15**
Likelihood of receiving a more severe punishment when convicted in general and special courts-martial	0.80*	0.87	1.00	1.70**	0.51**	0.41**	1.95**	4.12**	3.43**
Likelihood of trial in summary courts-martial	1.87**	NA	1.25	2.31**	5.72**	3.09*	7.64**	8.02**	8.51**
Likelihood of receiving nonjudicial punishments	1.77**	1.42**	0.99	1.62**	3.95**	2.34**	2.34**	2.00**	4.05**

Legend: ** next to the odds ratio indicates that the finding has a strong degree of statistical significance with a p-value less than 0.01.

* next to the odds ratio indicates that the finding is statistically significant with a p-value between 0.01 and 0.05.

If the space next to the odds ratio is blank, then the finding was not statistically significant.

“N” refers to the population size for each group.

“NA” indicates that the odds ratio for that group were not available because the number of servicemembers was too small to produce reliable findings.

The double line separates the multivariate analyses from the ordered logistic regression analysis.

Source: GAO analysis of Air Force investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These multivariate regression analysis results demonstrate the degree to which a racial, gender, or rank group combined with length of service is more likely than the reference category to be subject of a recorded investigation, tried in general and special courts-martial, convicted in general and special courts-martial, tried in summary courts-martial, and receive nonjudicial punishments. We used an ordered logistic regression analysis to calculate the likelihood of receiving a more severe punishment as a result of being convicted in general and special courts-martial. All racial categories listed are in reference to White servicemembers, all gender groups listed are in reference to female servicemembers, all education groups listed are in reference to servicemembers with more than a high school education, and all rank groups are in reference to servicemembers between ranks E5 and E9. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Air Force’s military criminal investigative organization’s database.

Appendix VIII: Coast Guard Data and Analyses

This appendix contains several tables that show the underlying data and analyses used throughout this report relating to Coast Guard personnel and military justice disciplinary actions from fiscal years 2013 through 2017. We did not include populations that contained fewer than 20 servicemembers in the populations presented in these tables to ensure the protection of sensitive information. As a result, the populations presented in this appendix may vary among the different tables and may vary from the populations presented in other places in this report. Our analyses of the Coast Guard's investigations, military justice, and personnel databases, as reflected in these tables, taken alone, do not establish the presence or absence of unlawful discrimination.

The following tables and information are included in this appendix:

- Table 46: Total Population of the Coast Guard by Race, Fiscal Years 2013–2017
- Table 47: Summary Statistics by Race for Coast Guard Military Justice Actions, Fiscal Years 2013–2017
- Table 48: Summary Statistics by Gender for Coast Guard Military Justice Actions, Fiscal Years 2013–2017
- Table 49: Summary Statistics by Rank for Coast Guard Military Justice Actions, Fiscal Years 2013–2017
- Table 50: Summary Statistics by Education for Coast Guard Military Justice Actions, Fiscal Years 2013–2017
- Table 51: Summary Statistics by Age for Coast Guard Military Justice Actions, Fiscal Years 2013–2017
- Table 52: Odds Ratios for Coast Guard Multivariate Regression Analyses

Table 46: Total Population of the Coast Guard by Race, Fiscal Years 2013–2017

Race	Population	
	Number	Percent
American Indian/Alaskan Native	1,234	2%
Asian	879	1%
Black or African American	3,404	5%
Hispanic	8,534	13%
Multiple races	3,253	5%
Unknown race	4,357	7%
White	45,043	68%
Total population	66,704	100%

Source: GAO analysis of Coast Guard personnel data. | GAO-19-344

Note: The total populations presented in this table represent the number of unique active-duty servicemembers who served during fiscal years 2013 through 2017.

Table 47: Summary Statistics by Race for Coast Guard Military Justice Actions, Fiscal Years 2013–2017

	Population		White		Black		Hispanic		Other		Unknown race	
	N	N	%	N	%	N	%	N	%	N	%	
Total population	66,704	45,043	68%	3,404	5%	8,534	13%	5,366	8%	4,357	7%	
Recorded investigations	1,437	845	59%	144	10%	253	18%	114	8%	81	6%	
General and special courts-martial	175	133	64%	< 20		42	20%	< 20		< 20		

Legend: <20 refers to race groups that have zero or fewer than 20 servicemembers, to protect privacy.

“N” refers to the population size for each group.

Source: GAO analysis of Coast Guard investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers were not included in the total populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Coast Guard’s criminal investigative organization’s database or was recorded in the Coast Guard’s military justice database as an investigation. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 48: Summary Statistics by Gender for Coast Guard Military Justice Actions, Fiscal Years 2013–2017

	Population		Male		Female	
	N	N	Percent	N	Percent	
Total population	66,704	56,117	84%	10,587	16%	
Recorded investigations	1,437	1,278	89%	159	11%	

Legend: “N” refers to the population size for each group.

Source: GAO analysis of Coast Guard investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Coast Guard’s criminal investigative organization’s database or was recorded in the Coast Guard’s military justice database as an investigation. The summary statistics for servicemembers tried in general and special and summary courts-martial were omitted from this table protect privacy because a gender group had fewer than 20 servicemembers.

Table 49: Summary Statistics by Rank for Coast Guard Military Justice Actions, Fiscal Years 2013–2017

	Population		Rank E1-E4		Rank E5-E9 and officers	
	N	N	Percent	N	Percent	
Total population	66,704	28,939	43%	37,765	57%	
Recorded investigations	1,437	622	43%	815	57%	
General and special courts-martial	209	81	39%	128	61%	

Legend: “N” refers to the population size for each group.

Source: GAO analysis of Coast Guard investigations, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The populations presented in this table represent the unique records of active-duty servicemembers during fiscal years 2013 through 2017. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Coast Guard’s criminal investigative organization’s database or was recorded in the Coast Guard’s military justice database as an investigation. Although we analyzed officers separately from enlisted servicemembers, for reporting purposes we combined servicemembers in rank categories E5-E9 with officers in this table to protect privacy in those instances when the number of officers was fewer than 20.

Table 50: Summary Statistics by Education for Coast Guard Military Justice Actions, Fiscal Years 2013–2017

	Population		High school or less		More than high school		Unknown education	
	N	N	Percent	N	Percent	N	Percent	
Total population	66,704	43,985	66%	20,931	31%	1,788	3%	
Recorded investigations	1,437	1,073	75%	325	23%	39	3%	
General and special courts-martial	202	171	82%	31	15%	< 20		

Legend: <20 refers to education levels that have zero or fewer than 20 servicemembers, to protect privacy. "N" refers to the population size for each group.

Source: GAO analysis of Coast Guard investigation, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. Populations that contained fewer than 20 servicemembers, including servicemembers with unknown education level, were not included in the populations presented in this table to protect privacy. As a result, the populations presented in this table may vary from the populations presented in the body of the report or from other tables in this appendix. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal year 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Coast Guard's criminal investigative organization's database or was recorded in the Coast Guard's military justice database as an investigation. Percentages in this table may not add up to 100 due to rounding, the exclusion of information identified as unknown or missing, and/or to protect privacy.

Table 51: Summary Statistics by Age for Coast Guard Military Justice Actions, Fiscal Years 2013–2017

	Population		<25 years		25-30 years		30-40 years		≥40 years	
	N	N	Percent	N	Percent	N	Percent	N	Percent	
Total population	66,704	19,108	29%	15,524	23%	20,927	31%	11,145	17%	
Recorded investigations	1,437	399	28%	357	25%	510	35%	171	12%	
General and special courts-martial	209	44	21%	61	29%	82	39%	22	11%	

Legend: "N" refers to the population size for each group.

Source: GAO analysis of Coast Guard investigation, military justice, and personnel data. | GAO-19-344

Note: The information presented in this table, taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. The total population presented in this table represents the number of unique active-duty servicemembers during fiscal years 2013 through 2017. The term "recorded investigation" refers to where a servicemember was the subject of a criminal investigation that was recorded in the Coast Guard's criminal investigative organization's database or was recorded in the Coast Guard's military justice database as an investigation.

Multivariate Regression Analyses of Coast Guard Data

The multivariate results listed below in table 52 show the odds ratios for the multivariate regression analyses of Coast Guard data. We used logistic regression to assess the relationship between the independent variables, such as race, education, rank, or gender, with the probability of being subject to a military justice action. Logistic regression allows for the coefficients to be converted into odds ratios. Odds ratios that are statistically significant and greater than 1.00 indicate that individuals with that characteristic are more likely to be subject to a military justice action. For example, an odds ratio of 1.55 for Black servicemembers would mean that they are 1.55 times more likely to be subject to a military justice action compared to White servicemembers. Odds ratios that are statistically significant and lower than 1.00 indicate that individuals with that characteristic are less likely to be subject to a military justice action. We excluded age and years of service from the Coast Guard analyses due to high correlation with the rank variable.

Table 52: Odds Ratios for Coast Guard Multivariate Regression Analyses

	Black	Hispanic	Unknown race	Other	Male	High school or less	Unknown education	Rank E5-E9	Officers
Recorded investigations	2.36**	1.54**	1.03	1.13	1.43**	1.45**	1.52*	1.22**	0.71**

Legend: ** next to the odds ratio indicate that the finding has a strong degree of statistical significance with a p-value less than 0.01. * next to the odds ratio indicates that the finding is statistically significant with a p-value between 0.01 and 0.05. If the space next to the odds ratio is blank, then the finding was not statistically significant.

Source: GAO analysis of Coast Guard investigations and personnel data. | GAO-19-344

Note: The information presented in this table taken alone, should not be used to make conclusions about the presence or absence of unlawful discrimination. These multivariate regression analysis results demonstrate the degree to which a racial, gender, education, or rank group is more likely than the reference category to be subject of a recorded investigation. The term “recorded investigation” refers to where a servicemember was the subject of a criminal investigation that was recorded in the Coast Guard’s criminal investigative organization’s database or was recorded in the Coast Guard’s military justice database as an investigation. All racial categories listed are in reference to White servicemembers, all gender groups listed are in reference to female servicemembers, all education groups listed are in reference to servicemembers with more than a high school education, and all rank groups are in reference to servicemembers between ranks E1 and E4. The Other race group includes individuals who identified as American Indian/Alaska Native, Asian, Native Hawaiian/Other Pacific Islander, and multiple races. We could not perform a multivariate regression analysis on general and special courts-martial due to the small number of adjudications in the Coast Guard during 2013 through 2017.

Appendix IX: Key Indicators for Military Justice Actions

We found that age, rank, length of service, and education were indicators of a servicemember's likelihood of being the subject of a recorded investigation, court-martial, or nonjudicial punishment across the military services.¹ To analyze age, rank, length of service, and education, we used bivariate regression analyses to determine which sub-population of each attribute was most likely to be subject to a recorded investigation, court-martial, or nonjudicial punishment. This appendix contains several tables that show the rank, education, length of service, and age groups most likely to be subject to a recorded investigation, tried in general and special courts-martial, tried in summary court-martial, and receive a nonjudicial punishment for all services from fiscal years 2013 through 2017. For the Coast Guard, we could not analyze age, rank, length of service, and education as indicators for courts-martial or nonjudicial punishment due to the small number of recorded military justice cases from fiscal years 2013 through 2017. Our analyses of the services' investigations, military justice, and personnel databases, as reflected in these tables, taken alone, do not establish the presence or absence of unlawful discrimination.

The following tables and information are included in this appendix:

- Table 53: Servicemember Rank Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Rank Groups
- Table 54: Overview of Servicemember Education Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Education Groups
- Table 55: Servicemember Length of Service Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Length of Service Groups

¹Investigations are recorded in the military services' criminal investigative organizations' databases when a servicemember is the subject of a criminal allegation made by another. For purposes of this report, we state that the servicemember had a "recorded investigation" to describe these cases. For additional explanation of the databases we used to analyze investigations, please see Appendix I. For purposes of this report, we use the term "likelihood" when discussing the odds ratios from the results of our regression analyses. Odds ratios that are statistically significant and greater than 1.00 or lower than 1.00 indicate that individuals with that characteristic are more likely or less likely, respectively, to be subject to a particular military justice action.

- Table 56: Servicemember Age Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Age Groups

Table 53: Servicemember Rank Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Rank Groups

Service	Investigations	Summary courts-martial	General and special courts-martial	Nonjudicial punishments (NJP)
Army	E1-E4 1.85 times more likely	No results due to incomplete summary courts-martial data	E5-E9 1.51 times more likely	No results due to incomplete NJP data.
Navy	E1-E4 1.37 times more likely	No results due to incomplete summary courts-martial data	E5-E9 1.39 times more likely	No results due to incomplete NJP data
Marine Corps	E1-E4 1.29 times more likely	E1-E4 1.52 times more likely	E5-E9 1.96 times more likely	E5-E9 1.56 times more likely
Air Force	E1-E4 2.08 times more likely	E1-E4 16.04 times more likely	E1-E4 3.42 times more likely	E1-E4 4.16 times more likely
Coast Guard	E5-E9 1.36 times more likely	No results due to small number of cases	No results due to small number of cases	No results due to small number of cases

Source: GAO analysis of each military service's personnel, investigations, and military justice database information. | GAO-19-344

Note: The results presented in this table were calculated through a bivariate regression model that compared servicemembers in one rank group with a composite variable of servicemembers in all other rank groups. We grouped the ranks in the Army, Navy, Marine Corps, and Coast Guard as; rank group 1: E1-E4, rank group 2: E5-E9, rank group 3: officers and warrant officers. We grouped the ranks in the Air Force as; rank group 1: E1-E4, rank group 2: E5-E6, rank group 3: E7-E9, rank group 4: officers and warrant officers.

Table 54: Servicemember Education Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Education Groups

Service	Investigations	Summary courts-martial	General and special courts-martial	Nonjudicial punishments (NJP)
Army	No results due to data reliability issues	No results due to data reliability issues	No results due to data reliability issues	No results due to data reliability issues
Navy	High school or less 2.16 times more likely	No results due to incomplete summary courts-martial data	High school or less 1.80 times more likely	No results due to incomplete NJP data
Marine Corps	High school or less 2.52 times more likely	High School or Less 3.93 times more likely	High school or less 2.09 times more likely	High school or less 2.49 times more likely
Air Force	High school/Some college 1.53 times more likely	High school/Some college 7.73 times more likely	High school/Some college 1.95 times more likely	High school/Some college 3.82 times more likely
Coast Guard	High school or less 1.56 times more likely	No results due to small number of cases	No results due to small number of cases	No results due to small number of cases

Source: GAO analysis of each military service's personnel, investigations, and military justice database information. | GAO-19-344

Appendix IX: Key Indicators for Military Justice Actions

Table 55: Servicemember Length of Service Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Length of Service Groups

Service	Investigations	Summary courts-martial	General and special courts-martial	Nonjudicial punishments (NJP)
Army	0-4 years 1.36 times more likely	No results due to incomplete summary courts-martial data	4-8 years 1.90 times more likely	No results due to incomplete NJP data
Navy	3-4 years 1.62 times more likely	No results due to incomplete summary courts-martial data	3-4 years 1.37 times more likely	No results due to incomplete NJP data
Marine Corps	5-6 years 1.63 times more likely	5-6 years 1.34 times more likely	5-6 years 1.96 times more likely	7-10 years 1.69 times more likely
Air Force	Over 6 years 9.07 times more likely	0-4 years 5.02 times more likely	Over 6 years 15.08 times more likely	Over 6 years 3.06 times more likely
Coast Guard	6-10 years 1.27 times more likely	No results due to small number of cases	No results due to small number of cases	No results due to small number of cases

Source: GAO analysis of each military service's personnel, investigations, and military justice database information. | GAO-19-344

Table 56: Servicemember Age Groups Most Likely to Be Subject to Investigations, Courts-Martial, and Nonjudicial Punishments when Compared with All Other Age Groups

Service	Investigations	Summary courts-martial	General and special courts-martial	Nonjudicial punishments (NJP)
Army	Under 25 years old 1.63 times more likely	No results due to incomplete summary courts-martial data	30-40 years old 1.37 times more likely	No results due to incomplete NJP data
Navy	21-25 years old 1.48 times more	No results due to incomplete summary courts-martial data	21-25 years old 1.25 times more likely	No results due to incomplete NJP data
Marine Corps	21-25 years old 1.35 times more likely	21-25 years old 1.15 times more likely	26-30 years old 1.4 times more likely	31-40 years old 1.32 times more likely
Air Force	21-25 years old 1.54 times more likely	21-25 years old 2.98 times more likely	21-25 years old 1.44 times more likely	Less than 21 years old 2.56 times more likely
Coast Guard	30-40 years old 1.12 times more likely	No results due to small number of cases	No results due to small number of cases	No results due to small number of cases

Source: GAO analysis of each military service's personnel, investigations, and military justice database information. | GAO-19-344

Appendix X: Comments from the Department of Defense



FORCE RESILIENCY

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

MAY 15 2019

Ms. Brenda S. Farrell
Director, Defense Capabilities and Management
441 G St NW
Washington, DC 20548

Dear Ms. Farrell

This transmits the Department of Defense (DoD) response to the Government Accountability Office (GAO) Draft Report GAO-19-344, "MILITARY JUSTICE: DoD Needs to Improve Its Capability to Assess Racial and Gender Disparities," dated April 11, 2019 (GAO Code 102463). My point on contact is Ms. Mary Cullinan, who may be reached at mary.b.cullinan.civ@mail.mil, or (703) 695-8118.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth P. Van Winkle".

Elizabeth P. Van Winkle, Ph.D.
Executive Director, Force Resiliency

Enclosure:
As stated

GAO DRAFT REPORT DATED APRIL 11, 2019
GAO-19-344 (GAO CODE 102463)

“MILITARY JUSTICE: DOD NEEDS TO IMPROVE ITS CAPABILITY TO ASSESS
RACIAL AND GENDER DISPARITIES”

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION

The Department of Defense commends GAO for its analysis. Any racial or gender discrimination is anathema to the operation of a criminal justice system. The Department understands GAO’s findings to mean that race and gender were not statistically significant factors in the likelihood of conviction in general and special courts-martial for most Services. Also, minority Service members were either less likely to receive a more severe punishment than white Service members or there was no difference among racial groups. These findings are consistent with the Department’s commitment to operating a colorblind military justice system. However, the GAO’s analysis of available data found gender and racial disparities in some phases of the military’s accountability system. Consistent with the Department’s commitment to operating an accountability system free from invidious discrimination, we will conduct a detailed analysis to identify the causes of any such disparities and will continue to ensure our system operates free from discrimination.

RECOMMENDATION 2: The GAO recommends that the Secretary of the Army should develop the capability to present servicemembers’ race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases, either by (1) modifying the Army’s investigations and personnel databases to collect and maintain the data in accordance with the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Army.

DoD RESPONSE: Concur.

RECOMMENDATION 3: The GAO recommends that the Secretary of the Air Force should develop the capability to present servicemembers’ race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases, either by (1) modifying the Air Force’s investigations and personnel databases to collect and maintain the data in accordance with the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Air Force.

DoD RESPONSE: Concur.

RECOMMENDATION 4: The GAO recommends that the Secretary of the Navy should develop the capability to present servicemembers' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for the military justice databases, either by (1) modifying the Navy's investigations and personnel databases to collect and maintain the data in accordance with the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Navy.

DoD RESPONSE: Concur.

RECOMMENDATION 6: The GAO recommends that the Secretary of Defense should ensure that the Joint Service Committee on Military Justice, in its annual review of the UCMJ, considers an amendment to the UCMJ's annual military justice reporting requirements to require the military services to include demographic information, including race, ethnicity, and gender, for all types of courts-martial.

DoD RESPONSE: Concur.

RECOMMENDATION 7: The GAO recommends that the Secretary of Defense, in collaboration with the DOD Office for Diversity, Equity, and Inclusion and the Secretaries of the military services and the Commandant of the Coast Guard, should issue guidance that establishes criteria to specify when data indicating possible racial, ethnic, or gender disparities in the military justice process should be further reviewed, and that describes the steps that should be taken to conduct such a review.

DoD RESPONSE: Partially concur.

The Department concurs that guidance should be issued to establish criteria specifying when data indicating possible racial, ethnic, or gender disparities requires further review and the steps that will be taken to conduct the review. However, since the Secretary of Defense does not independently issue guidance to the Coast Guard, suggest the Secretary of Homeland Security be added to this recommendation. Also, recommend removing the DoD Office for Diversity, Equity, and Inclusion and the Commandant of the Coast Guard as they fall under the Secretary of Defense and the Secretary of Homeland Security respectively.

RECOMMENDATION 8: The GAO recommends that the Secretary of the Army should consider the feasibility, to include the benefits and drawbacks, of collecting and maintaining complete information for all nonjudicial punishment cases in one of their databases, such as information on the servicemembers' race, ethnicity, gender, offense, and punishment imposed.

DoD RESPONSE: Concur.

RECOMMENDATION 9: The GAO recommends that the Secretary of the Navy should consider the feasibility, to include the benefits and drawbacks, of collecting and maintaining

complete information for all nonjudicial punishment cases in one of their databases, such as information on the servicemembers' race, ethnicity, gender, offense, and punishment impose.

DoD RESPONSE: Concur.

RECOMMENDATION 11: The GAO recommends that the Secretary of Defense should ensure that the DOD Office for Diversity, Equity, and Inclusion, in collaboration with the service Secretaries and the Commandant of the Coast Guard, conducts an evaluation to identify the causes of any disparities in the military justice system, and takes steps to address the causes of these disparities as appropriate.

DoD RESPONSE: Partially concur.

The Department concurs with the recommendation to conduct an evaluation to identify the causes of any racial or gender disparities in the military justice system, and, if necessary, take remedial steps to address the causes of these disparities as appropriate. The Department suggests, however, that the Secretary of Homeland Security be added to this recommendation and the DoD Office for Diversity, Equity, and Inclusion and the Commandant of the Coast Guard be removed.

Appendix XI: Comments from the Department of Homeland Security



May 10, 2019

Brenda S. Farrell
Director, Defense Capabilities and Management
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report: GAO-19-344, "MILITARY JUSTICE: DOD Needs to Improve Its Capability to Assess Racial and Gender Disparities"

Dear Ms. Farrell:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department acknowledges GAO's finding that the ability to readily assess military justice data in order to identify disparities is limited by how the armed services collect and maintain data on race, ethnicity, and gender of servicemembers. The Coast Guard is committed to taking appropriate steps to develop the capability to present race and ethnicity data using the uniform standards established in December 2018 by the revised Uniform Code of Military Justice to allow for the efficient analysis and reporting of consistent military justice data.

The draft report contained ten recommendations, including three for DHS with which the Department concurs. Attached find our detailed response to each recommendation. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim H. Crumpacker".

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations
Contained in GAO-19-344**

GAO recommended that the Secretary of Homeland Security ensure that the Commandant of the Coast Guard:

Recommendation 1: Modifies the Coast Guard's military justice database so that it can query and report on gender information.

Response: Concur. The Coast Guard Office of Military Justice will implement modifications to the military justice database to support queries and reporting of gender information. Estimated Completion Date (ECD): December 31, 2019.

Recommendation 5: Develops the capability to present servicemembers' race and ethnicity data in its investigations and personnel databases using the same categories of race and ethnicity established in the December 2018 uniform standards for military justice databases, either by (1) modifying the Coast Guard's investigations and personnel databases to collect and maintain the data in accordance with the uniform standards, (2) developing the capability to aggregate the data into the race and ethnicity categories included in the uniform standards, or (3) implementing another method identified by the Coast Guard.

Response: Concur. Under the uniform standards adopted by the Department of Defense to comply with Article 140A of the revised Uniform Code of Military Justice, the Coast Guard Office of Military Justice will implement modifications to the military justice database to support the tracking of race, ethnicity and gender information. The Coast Guard Investigative Service database presently uses the same standards for race, ethnicity and gender data as those mandated in the uniform standards. Implementing this recommendation for the Coast Guard's military justice database will be accomplished as part of a larger-long term initiative to adapt the database to capture all of the data elements that the Article 140A standards require. The Coast Guard will provide an update on the progress to implement this recommendation by December 30, 2019. ECD: September 31, 2020.

Recommendation 10: Considers the feasibility, to include the benefits and drawbacks, of collecting and maintaining complete information for all nonjudicial punishment cases in one of their databases, such as information of the servicemembers' race, ethnicity, gender, offense, and punishment imposed.

Response: Concur. Through a military justice and personnel work group, the Coast Guard Office of Military Justice will consider the feasibility of collecting and maintaining complete information for all nonjudicial punishment cases which may include updating applicable policies or databases. ECD: To Be Determined.

Appendix XII: GAO Contact and Staff Acknowledgments

GAO Contact

Brenda S. Farrell, (202) 512-3604 or farrellb@gao.gov.

Staff Acknowledgments

In addition to the contact named above, key contributors to this report were Kimberly C. Seay, Assistant Director; Parul Aggarwal; Christopher Allison; Renee S. Brown; Vincent M. Buquicchio; Won (Danny) Lee; Amie M. Lesser; Serena C. Lo; Dae B. Park; Samuel J. Portnow; Clarice Ransom; Christy D. Smith; Preston Timms; and Schuyler Vanorsdale.

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