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# An Investigation into Equity in Navy Discipline

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**An Investigation into Equity in Navy Discipline**

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## Foreword

This report presents findings from a research project investigating the equity of disciplinary actions taken against members of different racial/ethnic groups in the Navy. This effort was sponsored by the Equal Opportunity Division (PERS-61) of the Bureau of Naval Personnel, and funded by reimbursable work request numbers N0002290POEE528 and N0002289WREE561. The results are expected to benefit the Navy by providing information and a methodology for exploring the equity in discipline issue across racial/ethnic groups.

The authors want to thank CAPT Tzomes and CDR Usher for their leadership throughout the project. The authors also thank CAPT Greene for his review and release of this report.

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## **Executive Summary**

### **Problem**

Navy-wide disciplinary data indicate that minority personnel receive non-judicial punishments (NJPs) and are awarded courts-martial at a higher rate than the majority group. The Navy Personnel Research and Development Center was tasked to collect unit-level disciplinary data and analyze it to confirm or dispute the Navy-wide data, to determine the extent of multiple offenses by the same individuals, and to see whether statistics based solely on punishments that affect pay give a reasonable estimate of overall punishments for infractions.

### **Approach**

Data were collected at 15 San Diego afloat and shore commands from all Report and Disposition of Offense(s) forms and records of completed courts-martial cases for the 6-month period of October 1989 through March 1990. This resulted in a total of 715 NJP cases and 88 courts-martial cases. The previous disciplinary histories, types of current offenses, and disposition of the cases were compared across racial/ethnic group.

### **Results**

Consistent with existing Navy-wide data, Black personnel in this sample had a higher rate of NJP involvement than their White counterparts. The only difference found in the types of offenses was that Blacks more often were charged with violating Article 91, insubordination, than were Whites. No differences were found across groups in the types and extent of punishments given. Additional comparisons revealed that, although first-termers, non-designated personnel, and personnel aboard ships have higher disciplinary rates, any overrepresentation of Blacks among these three groups was not sufficient to account for Blacks' higher rate of disciplinary involvement.

The results also show that multiple offenders account for almost 40 percent of the total number of NJPs; there was no difference in the rates of multiple offenses across racial/ethnic group. Lastly, current annual assessment statistics based solely on punishments that affect pay provide a reasonable estimate of all offenses: punishments affecting pay comprised about 90 percent of the cases overall.

### **Discussion and Conclusions**

The present results confirm those reported in the Annual Military Equal Opportunity Assessments that Black personnel have higher rates of NJP disciplinary involvement than Whites. Differences between Blacks and Whites in terms of their representation among first-termers, non-designated, and shipboard personnel are not sufficient to explain the observed racial/ethnic differences in discipline rates.

Unlike earlier studies of equity in discipline, this effort went one step further by investigating whether there was differential treatment of offenders of different racial/ethnic groups once they were charged with disciplinary offenses. The data collected revealed no differential treatment in

this sample, addressing one major component of the equity in discipline issue. The current effort cannot make any conclusions concerning the other aspect of the differential treatment theory, namely that persons from different ethnic/racial communities commit the same kind and frequency of offenses, but members of minority racial/ethnic groups are more likely to be formally charged with these offenses. The methodology used here could be used by others wishing to explore the equity in discipline issue.

### **Recommendations**

1. It is recommended that the Equal Opportunity Division of the Bureau of Naval Personnel (PERS-61) sponsor research to investigate whether discipline is being equitably administered at the level where decisions on filing report chits occur. Although this study and prior Navy research have not found evidence of differential treatment after a report is filed, the possibility of bias prior to that stage needs to be investigated.

2. It is recommended that PERS-61 begin to track discipline rates by offenders, along with the present tracking of offenses. These additional rates would provide a better understanding of the impact of multiple offenders on the rates.

3. It is recommended that commands track occurrences of charges of insubordination by racial/ethnic group as part of their Command Managed Equal Opportunity (CMEO) Program. Such command attention would help guard against the possibility of racial bias in bringing this charge. Commands should also track occurrences of the General Article (134) to prevent its misuse, in light of the tracking of Article 91.

4. It is recommended that in commands where the Command Assessment Team (CAT) identifies a racial disparity in discipline rates and/or in perceptions of fairness of the system, the team employs the methodology described in this report to monitor the disciplinary process.

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## **Introduction**

### **Problem**

Consistent with a pattern observed over several years, the Fiscal Year 1989 Military Equal Opportunity Assessment for the Navy reported that minorities receive non-judicial punishment (NJPs) and are awarded courts-martial at a higher rate than other groups in the force (Naval Military Personnel Command, 1989). Specifically, over the past 3 fiscal years, Black males have had the highest NJP rates of all racial/ethnic groups. Smaller differences in the NJP rates were reported for Hispanic males, American Native males, and Black females, all being somewhat higher than the rate for the rest of the force. Although discipline rates have been decreasing for all groups over the past 3 years, Blacks continue to have a rate of involvement exceeding their representation in the enlisted force. This pattern has also been found in the other military services (Department of Defense Equal Opportunity Conference, 1989). The FY89 Military Equal Opportunity Assessment report states that the goal in regard to discipline is to ensure that military justice is applied without discrimination, and specifically to ensure fairness in the quantifiable aspects of the military justice system.

### **Purpose**

As a result of the FY89 Military Equal Opportunity Assessment, the Navy Personnel Research and Development Center (NAVPERSRANDCEN) was tasked to: (1) collect command level discipline data to confirm or dispute the results obtained in the Annual Assessment aggregate data, specifically in regard to Blacks and NJPs; (2) to determine the extent to which multiple offenses by the same individual occur, since a current estimate of this information doesn't exist; and (3) to evaluate whether statistics based solely on disciplinary punishments that affect pay, which are the basis of the annual assessment, serve as good indicators of all disciplinary punishments, some of which do not show up on any Navy-wide computerized system.

## **Background**

The equity in discipline issue has surfaced repeatedly over the past 15 years. In particular, non-judicial punishment has been the target of charges of inequity and racial discrimination because of Blacks' higher rate of involvement with the system. "The sequence of events leading to non-judicial punishment allows a great deal of discretion on the part of those reporting and disciplining the offender," (Thomas, Thomas, & Ward, 1974, p. 2). The underlying goal of this project was to help clarify issues related to the possible differential treatment of personnel in the disciplinary process, based on their racial/ethnic group. The crux of the differential treatment theory is that persons may commit the same kind and frequency of offenses, but members of minority racial/ethnic groups are more likely to be formally charged with offenses. Once charged, it is theorized that minorities again experience differential treatment by the chain of command who administers the disciplinary process, receiving fewer dismissals of charges and harsher punishments. Although this study was not designed to definitively answer the question of whether differential treatment occurs, it was expected to provide insight into how to address this issue.

One obstacle to studying equity in discipline for different racial/ethnic groups is the limited availability of detailed discipline information that contains a racial/ethnic group identifier. One attempt in the past to integrate this information into a computerized database system was the Equal Opportunity Management Information System (EOMIS), originally proposed in FY79, but never implemented. Research efforts have also been hampered by the lack of documentation describing the location and form of disciplinary data. To assist future research efforts in this area, a review of the formal disciplinary process and location of disciplinary data is provided.

### **The Formal Disciplinary Process**

The formal disciplinary process is initiated when a Report and Disposition of Offense(s) Form (NAVPERS 1626/7), commonly referred to as a report chit, is completed (Naval Education and Training Center, 1981). The command's legal department usually prepares the report chit after receiving notification of an offense, be it from the Shore Patrol or supervisors at the division or department level. After the report chit is completed by the legal office, a preliminary inquiry is initiated by an officer or petty officer who has been assigned to gather all available facts about the case and background information on the offender. This information is placed on the report chit, including names of witnesses, the opinion of the division officer regarding the case, the offender's performance record, the investigator's recommendation concerning the disposition of the case, and a summary of the evidence supporting this recommendation. The recommendation can be to either: (1) dismiss the case with no punitive action, (2) dispose of the case at Captain's Mast, or (3) refer the case to court-martial for trial. Captain's Mast is also known as NJP under Article 15 of the Uniform Code of Military Justice (UCMJ).

Cases that are not dismissed or referred to court-martial after the preliminary inquiry go to Executive Officer's Inquiry (XOI), where the Executive Officer (XO) reviews the case and either dismisses it or refers it to Captain's Mast, marking the decision on the report chit. At Captain's Mast the case is reviewed once more by the Commanding Officer (CO). The service member and, sometimes, witnesses are questioned, and disposition of the case is made by the CO. The CO has a variety of options that include dismissal of the case, minor reprimand, punishment, or referral to court-martial. The outcome of the Captain's Mast is recorded on the report chit.

### **Records Containing Discipline Data**

#### **Command Level Discipline Data**

The command Unit Punishment Book (UPB) contains the report chits for all NJP cases where punishment was awarded at Captain's Mast. Most commands also place report chits for cases that were dismissed at XOI or Captain's Mast in the UPB for record keeping purposes. The command is supposed to keep report chits in the UPB for 2 years (JAG INSTRUCTION 5800.7C, 3 October 90), so this book provides a source of information for tracking and analyzing NJP disciplinary actions that occurred during this period. In addition, commands keep files on all ongoing and concluded courts-martial cases. A Record of Trial is prepared upon completion of each court-martial. This Record includes the report chit, a Charge Sheet (DD458), and a summary of the trial proceedings (or record of the entire proceedings for special and general courts-martial).

### **Service Record Discipline Data**

In addition to the command-level data in the UPB, individual service jackets also contain disciplinary information/transactions. Unauthorized absences (UAs) are recorded in the service record even before they are punished. All UAs require a service record Page 13 Administrative Remarks entry as a minimum. When a UA goes over 24 hours, the Navy Pay and Personnel Procedures Manual requires the preparation and proper forwarding of a Page 6 (NAVPERS 1070/606) so that the service member's pay can be stopped. Punishments awarded at Mast are recorded, as appropriate, in the member's service record (Memorandum entry on Page 9, Administrative Remarks entry on Page 13, and entry on Page 4 if punishment includes reduction in rate). A Court Memorandum--Page 7 (NAVPERS 1070/607) is prepared to process punishments affecting pay, including forfeiture of pay, reduction in rate, and detention of pay. UAs that involve no punishment, just lost time, are recorded on the Page 6 1060/606 form only. As with NJPs, court-martial related data are recorded in the service record on Pages 4, 7, 9, and 13 depending on the case and the punishment received.

### **Navy Finance Center Discipline Data**

Page 6 and Page 7 information related to disciplinary offenses and punishments affecting pay is transmitted by commands throughout the world to the Navy's Financial Pay System in Cleveland, using either the Source Data System (SDS) computer system, where it is available, or mailed Optical Character Recognition (OCR) hard copy forms. The OCR forms are processed through the Bureau of Naval Personnel (BUPERS) before becoming linked with the Cleveland Financial Pay System.

### **Navy Judge Advocate General Discipline Data**

The Navy's Office of the Judge Advocate General (NAVJAG) also maintains discipline data. Commands count their NJP and court-martial cases quarterly and forward these statistics, through their Officer Exercising General Court-Martial Jurisdiction (OEGCMJ), to the appropriate Judge Advocate General headquarters office. These statistics are not compiled by racial/ethnic group or gender at the unit level. The Naval Legal Services Offices (NLSOs) located at commands around the world also closely track all their cases and services provided, and submit counts regularly to their headquarters command. Although frequencies by racial/ethnic group are noted, detailed information such as the Articles charged and the punishments received is not available.

### **Past Studies of Navy Discipline**

Over the past 20 years, the Navy has conducted several investigations attempting to determine whether the long-standing difference between Black and White disciplinary rates is due to racial bias or can be explained by other factors. One of the first efforts to analyze disciplinary data was conducted by Thomas, Thomas, and Ward (1974). They examined NJP data on 70 ships and found that: (1) Blacks committed somewhat more confrontation and status offenses compared to Whites; whereas, Whites committed more military/civilian crimes compared to Blacks; (2) XO's dismissed more of the charges against Blacks than against Whites; (3) there were no differences between Blacks and Whites in the punishments received; and (4) the overwhelming majority of Blacks believed the military justice system favors Whites.

Additional survey data from Thomas et al. (1974) indicated that Black service members felt their leading petty officers were: (1) less likely to stop their report chits at the division level, (2) less likely to support them if minor offenses were committed, (3) less likely to inform them about changes in their job duties, and (4) less willing to listen to them. "Blacks who saw their supervisors as keeping them informed, being open to suggestions, and showing interest in their career and problems tended to perceive less racial discrimination in discipline and job assignments," (p. 19).

Thus, it appears that supervisor behaviors impact on service members' perceptions of the equity of the disciplinary system. Thomas et al. (1974) provided recommendations to improve Blacks' perceptions of the fairness of the disciplinary system: (1) promote communication channels encouraging the two-way flow of factual information, (2) disseminate information about Captain's Mast proceedings, and (3) assess potential discriminatory acts, with COs taking corrective actions if necessary.

In 1983 Conway revisited the equity in discipline issue by examining court-martial rates and types of punishments awarded to Blacks and Whites. The analyses found no differences in the number of offenders or offenses committed, but did find that in five comparisons, "...offenses of minority personnel (Black and 'Other') resulted in harsher sentences that did White offenses." (Conway, 1983, p. viii). Conway noted that the types of offenses could not be controlled because this information was not recorded in the database. The report recommended that expanded and improved monitoring of the quantifiable aspects of the disciplinary system be developed. In addition, it was recommended that future projects looking at discipline focus on NJPs instead of courts-martial, for NJPs are the most frequent target of charges of discrimination. Lastly, Conway recommended that the specific UCMJ Article violated be entered into the analysis to provide a greater understanding of differences in punishments received.

In 1985 Polan and Thomas further explored the equity in discipline issue by studying: (1) rates of offenders and offenses for first-term personnel by racial/ethnic group, and (2) the nature of the offenses committed. They found that although Blacks received more NJPs than Whites, they were not awarded more courts-martial. Polan and Thomas (1985) also found that about 22 percent of all offenses were committed by repeat offenders, and minorities did not have a higher percentage of repeat offenders compared to Whites.

Horne (1988) examined equity of discipline after the Marine Corps Affirmative Action Plan assessment consistently found an overrepresentation of minorities among marines receiving UCMJ punishments. Horne found that commands with higher numbers of Black marines had NJP rates for Blacks that more closely resembled the NJP rates for Whites at the same command. Several reasons were provided as to why this might be the case, including better working relations, positive role models, and a strong social support network.

Horne (1988) also looked carefully at the methods used to calculate disciplinary rates. He found not only a differential distribution of Blacks compared to Whites among the ranks, with more Blacks than Whites at the lower levels, but also that "...rank is definitely a factor in whether the marine receives NJP," (Horne, 1988, p. 23). Based on this finding, Horne suggested that a more accurate discipline rate could be calculated by comparing the number of NJPs among Black E-1s to E-5s to the population of Black E-1s to E-5s. He emphasized the importance of having an accurate population base when calculating discipline rates, providing an example of how the rate

dropped from 1.33 to 1.08 based on a more accurate population estimate. Further, Horne found variations across commands in the way discipline data were compiled, recorded, and forwarded to headquarters, raising concern as to the accuracy of the overall rates based on these data.

Horne's 1988 study confirmed the finding from earlier Navy studies that Blacks tend to think the discipline system is biased against them. Interviews with marines revealed examples of bias occurring before NJP, highlighting the need to study and evaluate the actions of division heads. Recommendations included encouraging continued efforts to sensitize disciplinary decision makers to the importance of being equitable, along with investigating any incidents reported to be racially biased.

The issue of the fairness of the disciplinary system was again raised by the Chief of Naval Operations (CNO) Study Group on Equal Opportunity in the Navy (1988). This group highlighted the higher rates of other-than-honorable (OTH) and judicial separations received by Blacks and Hispanics compared to Whites. Edwards and Knouse (1991) studied racial/ethnic group differences in the rates of other-than-honorable and judicial separations among first-term enlistees who were ineligible to reenlist. Their results found small differences between the groups on judicial separations, but did find differences in the rates of OTH separations. "In general, Blacks tended to be discharged at a relatively higher rate (than Anglos and Hispanics) for reasons that routinely resulted in OTH separations (e.g., drug abuse); whereas, Anglos tended to be discharged at a relatively higher rate for reasons that did not routinely result in OTH separations (e.g., personality disorder)" (Edwards & Knouse, 1991, p. vi). Edwards and Knouse concluded that the higher rate of separation of Blacks for misconduct reasons was justified because of their more frequent involvement in the disciplinary system compared to Whites and Hispanics.

The most recent research effort to look at the equity in discipline issue was a Navy-wide survey of equal opportunity climate, which found that many enlisted Black males and Black females continue to perceive inequities in the discipline system (Rosenfeld, Culbertson, Kewley, & Magnusson, 1992). In response to the item, "Race/ethnic group makes no difference when punishment is given," 37 percent of the enlisted Black males and 39 percent of the enlisted Black females disagreed; whereas, only 15 percent of enlisted White males and 13 percent of enlisted White females disagreed. A similar pattern was found in response to the item, "Minorities seem to get sent to Captain's Mast more often than others who are charged with the same offense;" 44 percent of the enlisted Black males and 36 percent of the enlisted Black females agreed with the statement in contrast to just 8 percent of the enlisted White males and 6 percent of the enlisted White females.

## **Approach**

Based on the status of the documented discipline data and the lack of a computerized system containing detailed Navy-wide data, a unit level data collection methodology had to be developed. This methodology required access to the source documents, namely the report chits contained in commands' UPBs. Detailed information was obtained on: (1) the administration process from XOI to Captain's Mast, (2) the offenses charged and punishment received, and (3) prior offenses and punishments. In addition, since racial/ethnic data were not recorded on report chits, other source

documents had be used to obtain this information, such as service records or enlisted master record data fields.

### **Commands Visited**

Since the data collection procedure required the manual extraction of data from source documents, the number of commands that could be included in the investigation was limited because of time and resource constraints. A total of 15 commands in the San Diego area were included in the investigation. Commands were selected based on: (1) their racial/ethnic group demographics, requiring at least 50 enlisted Blacks so as to ensure a sufficient number of Black NJPs for comparisons with White NJPs; and (2) the type of command, including a variety of shore and afloat commands. The population distribution by racial/ethnic group of the commands in the San Diego area was determined through demographic data analyses on the enlisted master record extract for the first quarter of FY90 (December 1990). Recruit Training Command, Service School Command, and other training commands were excluded because of their atypical demographic distributions, having primarily new recruits and first-term enlistees. Data were collected for a 6-month period, starting in October 1989 and ending in March 1990. It is acknowledged that the small sample is not representative of the total Navy, although there is no evidence to suggest that commands in the study are atypical of Navy commands in general.

### **Data Collection Instruments**

Three data collection instruments were developed (see Appendix A):

1. Unit Punishment Book (UPB) Form. The UPB form was based on the Report and Disposition of Offense(s) (NAVPERS 1626/7) that is used to write up disciplinary offenses. A combination of demographic information and current and prior offense and punishment information was gathered using the UPB Form.

2. Courts-martial Form. The Courts-martial Form combined information from the Report and Disposition of Offense(s), the Charge Sheet (DD Form 458), and the Record of Trial. As with NJPs, demographic data along with current and prior offenses and punishment information were gathered using this form.

3. Legal Personnel Interview. The interview consisted of four open-ended questions intended to elicit comments and discussion concerning disciplinary procedures within the command. The questions addressed evidence of possible bias in the disciplinary system, trends in discipline rates, and command drug testing policies.

### **Procedure**

The Director of the Personal Readiness and Community Support Division (Pers-6) requested approval from the Commander in Chief, U.S. Pacific Fleet as well as the appropriate second echelon commanders for access to commands' UPBs, records of courts-martial, and related discipline files. Researchers at NAVPERSRANDCEN had been specific in their request for shore commands and aviation squadrons but, due to deployments, asked for ships by type. Third echelon points of contact provided the names of ships that were available during the planned data collection

period. The individual commands were then contacted to schedule appointments and arrange site visits.

Two researchers visited the commands for periods of one-half day up to 1 week, depending on the amount of data to be collected. Interviews were conducted with legal officers and legal clerks at each of the 15 commands. Data were collected from all Report and Disposition of Offense(s) forms and records of completed courts-martial cases for the specified 6-month period. Cases that were dismissed at either XO1 or Captain's Mast were also included, and will be referred to as NJP cases in this report. This procedure resulted in a total of 715 NJP cases and 88 courts-martial cases. Since most command legal offices did not have the service records of the offenders readily available so the racial/ethnic group of the offender could be determined, this information was obtained from the most recent computerized enlisted master record. This file was also used to determine whether personnel in the sample had been discharged from the Navy and, if so, the type of discharge they received.

### **Data Analysis**

Frequency data were analyzed using chi-square tests for significance of differences among groups. Quantitative data, such as the amount of pay forfeited or the number of days of extra duty, were analyzed using one-way analysis of variance. Because of the large number of comparisons made, the significance level for all tests was  $p \leq .01$ . A significance level of .01 means that in only 1 of 100 replications would the result obtained be due to chance rather than due to a "true difference." To simplify the presentation of the results, whenever a result is reported to be significant, it is significant at the  $p \leq .01$  level. Whenever two groups are reported to differ significantly, they differ at the  $p \leq .01$  level.

It should be noted that the findings must be interpreted with caution because of the small number of cases in many of the comparisons. In addition, it must be remembered that the sample is not necessarily representative of the entire Navy; thus, the results and conclusions do not generalize to the entire Navy. The data analyses focused on the NJP cases for two reasons: claims of discriminatory treatment usually involve NJPs, and the number of courts-martial cases occurring during the 6-month data collection period were too few to allow detailed analyses by racial/ethnic group.

## **Results**

### **Demographic Information**

Table 1 summarizes the total number of NJP cases by racial/ethnic group, along with demographic information for the service members who were involved in NJPs. Statistical comparisons on the demographic data by racial/ethnic group yielded significant differences among the groups for each of the demographic comparisons; pair-wise comparisons between groups showed that the differences were not between Whites and Blacks, but between the Other group and the Whites, Blacks, and Hispanics. The Other group was the smallest of the groups ( $n = 36$ ), and consisted primarily of Filipino sailors who tended to have different demographic characteristics and service histories than the White, Black, and Hispanic sailors.

**Table 1**  
**Demographic Information on NJP Offenders**

|                               | White<br>(n = 446) | Black<br>(n = 179) | Hispanic<br>(n = 54) | Other<br>(n = 36) | F    | df    | p     |
|-------------------------------|--------------------|--------------------|----------------------|-------------------|------|-------|-------|
| Average paygrade              | 3.10               | 2.82               | 2.85                 | 3.80              | 5.14 | 3,711 | <.01  |
| Average months active service | 41.29              | 37.17              | 36.89                | 64.94             | 4.63 | 3,705 | <.01  |
| Average years of education    | 11.86              | 12.02              | 11.72                | 12.17             | 4.46 | 3,698 | <.01  |
| Average age                   | 23.22              | 23.12              | 23.01                | 27.14             | 7.60 | 3,704 | <.001 |
| Average pay per month         | 939.05             | 901.58             | 914.02               | 1,061.97          | 5.41 | 3,707 | <.001 |

Note. Significant differences were found for comparisons among groups: pair-wise comparisons found that the Other group significantly differed from the White, Black, and Hispanic groups on average months of active service and average age; Other differs from Black and Hispanic groups on average paygrade and average pay per month; Other differs from Hispanics on average years of education.

### **NJP Offenses**

An examination of the distribution of the NJP cases by racial/ethnic group revealed that Blacks were overrepresented in the NJP cases compared to their representation at the commands visited. The percentage of Blacks who had NJPs in the sampled commands was significantly higher than the same percentage for Whites (8% Black, 5% White; ( $\chi^2$ 1, n = 10,589) = 22.25, p ≤ .001).

### **Disposition and Type of Offenses Charged**

A summary of the disposition of the 715 NJP cases, from XO1 to Captain's Mast, is presented in Table 2 by racial/ethnic group. The first row in the Table shows the percentages of cases that were dismissed at XO1. Roughly 30 percent of all cases in each racial/ethnic group were dismissed at XO1, and no significant differences were found among the groups. The Table also shows the numbers of cases that went to Captain's Mast, and the percentages of these cases that were subsequently dismissed; again, no significant differences were found among the groups. Lastly, the Table shows the number of cases in which the service member received punishment at Captain's Mast, and again, no significant differences were found among the groups.

**Table 2**  
**Summary of NJP Cases by Racial/Ethnic Group**

|                            | White<br>(n = 446) | Black<br>(n = 179) | Hispanic<br>(n = 54) | Other<br>(n = 36) |
|----------------------------|--------------------|--------------------|----------------------|-------------------|
| Percent dismissed at XO1   | <b>28%</b>         | <b>29%</b>         | <b>30%</b>           | <b>31%</b>        |
| Those Going to Mast        | 321                | 126                | 38                   | 25                |
| Percent Dismissed at Mast  | <b>8%</b>          | <b>6%</b>          | <b>5%</b>            | <b>4%</b>         |
| Those Receiving Punishment | 295                | 118                | 36                   | 24                |

Note. No significant differences found among groups.



Figure 1 shows the UCMJ Articles that were most often charged by racial/ethnic group. The bars on the Figure represent the percentage of each racial/ethnic group in the sample that had been charged with each of the six offenses listed. The only significant difference found among the group rates was on Article 91, insubordinate conduct toward a warrant officer, noncommissioned officer, or petty officer. Pairwise comparisons found a significant difference between Blacks ( $n = 26, 15\%$ ) and Whites ( $n = 35, 8\%$ ) on this Article ( $\chi^2(1, n = 621) = 6.62, p \leq .01$ ), with a higher percentage of Blacks having been charged.

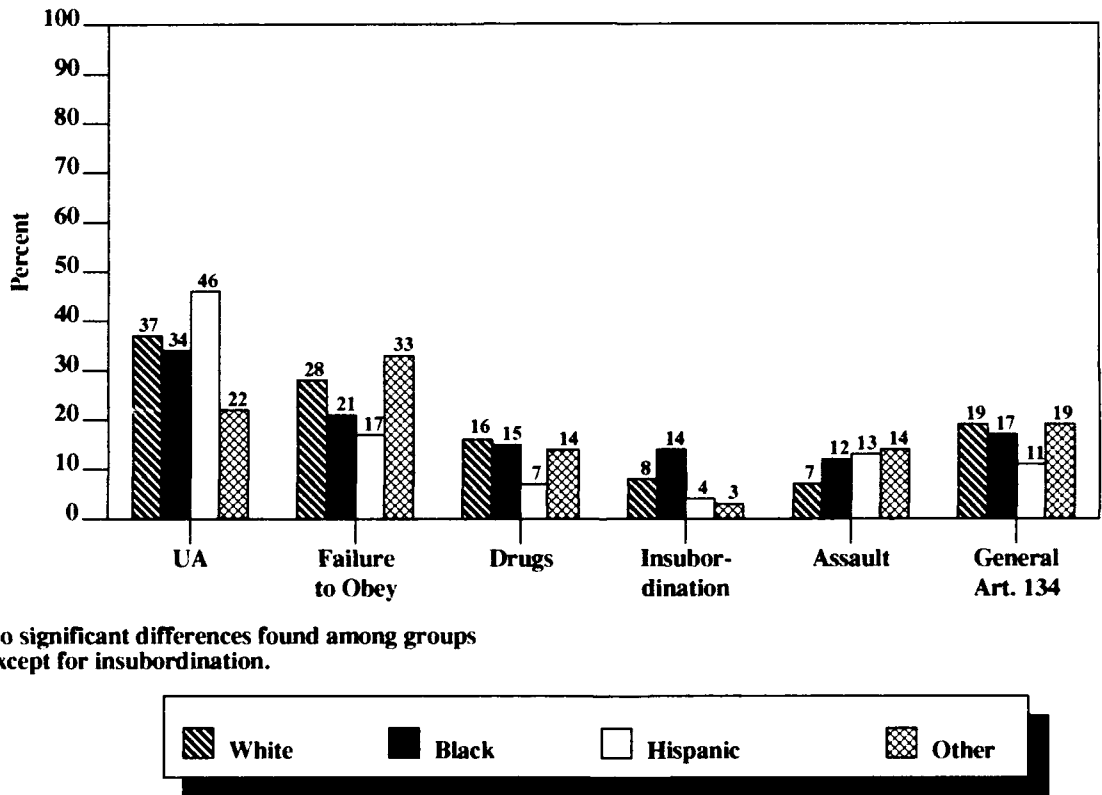


Figure 1. Group rates for most common UCMJ charges.

To see whether the severity of offenses differed by racial/ethnic group, the offenses were grouped into the four classes described by Nellum & Associates (1973) and used in the Thomas, et al. (1974) study. For example, Class 1 comprised 10 major military and civilian offenses ranging from murder to housebreaking. Three of the offenses in this sample fell into this class: larceny (UCMJ Article 121), assault (128), and burglary (129). The only significant difference found by racial/ethnic group was on these Class 1 offenses ( $\chi^2(3, n = 715) = 11.42, p \leq .01$ ). The number and percentage of each group having a Class 1 offense were: White ( $n = 44, 10\%$ ); Black ( $n = 28, 16\%$ ), Hispanic ( $n = 13, 24\%$ ), and Other ( $n = 6, 17\%$ ). Pairwise comparisons found a significant difference between Whites and Hispanics on Class 1 offenses ( $\chi^2(1, n = 500) = 9.63, p \leq .01$ ). The

number of Class 1 cases was small, particularly in the Hispanic and Other groups, suggesting that this finding should be interpreted with caution.

**Drug Offenses.** It should be noted that no significant differences were found among the racial/ethnic groups on Article 112A, wrongful use or possession of controlled substances. The three drugs most commonly used by the offenders charged with Article 112A were methamphetamine/amphetamine ( $n = 39$ ), cocaine ( $n = 26$ ), and marijuana ( $n = 17$ ). No significant differences were found between Blacks and Whites on the number who tested positive on these three drugs.<sup>1</sup> Caution is needed in interpreting these results because of the very small numbers of cases.

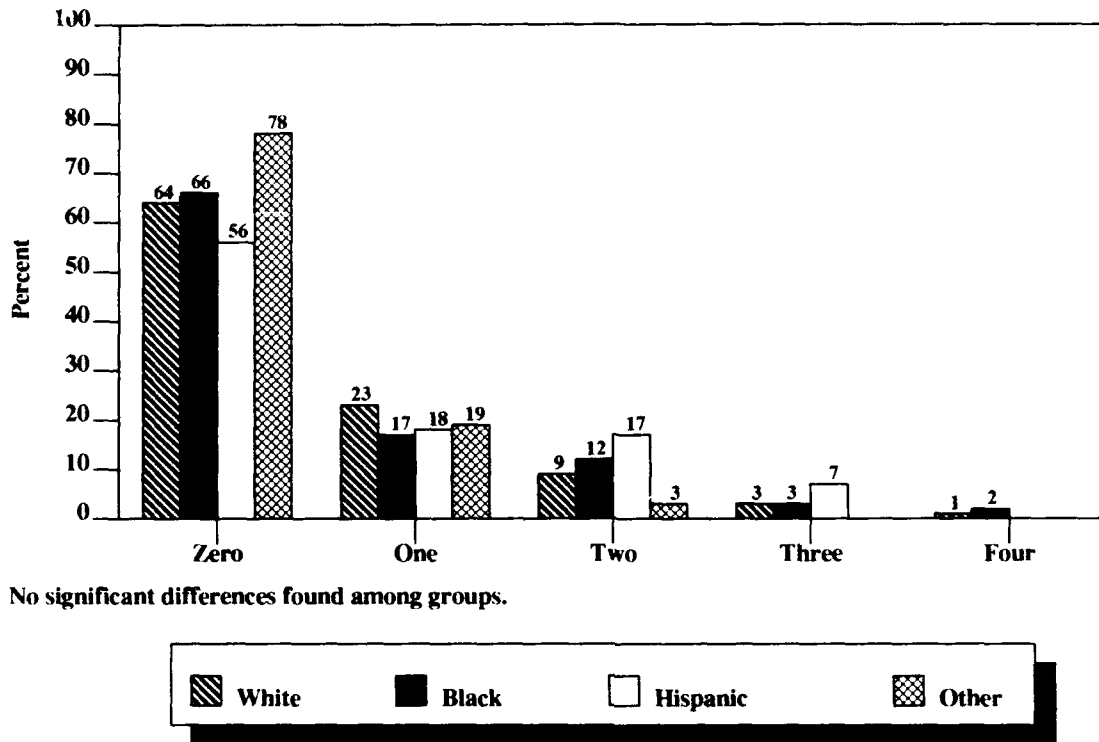
The results of the interview question asking legal personnel to describe their command's drug testing policy revealed that most commands had fairly standard random, command-wide testing, and occasional unit sweeps of all personnel. But commands differed considerably in their policies for testing individuals. Some commands tested people who were 10 minutes late for work if a legitimate excuse was not provided, while other commands did no individual drug testing even after a UA of more than 24 hours.

### **Multiple Offenses**

One of the taskings for this project was to determine the extent to which multiple offenses committed by the same individual occur. To explore this issue, the prior offense records of all people in the sample were analyzed. Figure 2 summarizes the group rates for the number of prior offenses for each of the racial/ethnic groups. The bars represent the percentages of each racial/ethnic group who had zero through four prior offenses respectively. No significant differences were found among the groups. For the individuals in this sample, almost 40 percent had prior offenses, which suggests that multiple offenders account for a significant portion of the total number of offenses. Note that the prior offenses reflect only those committed during the current enlistment, because service members start over with a clean discipline record when they reenlist.

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<sup>1</sup>The small number of cases allowed comparisons between only Blacks and Whites on the three most commonly used drugs.



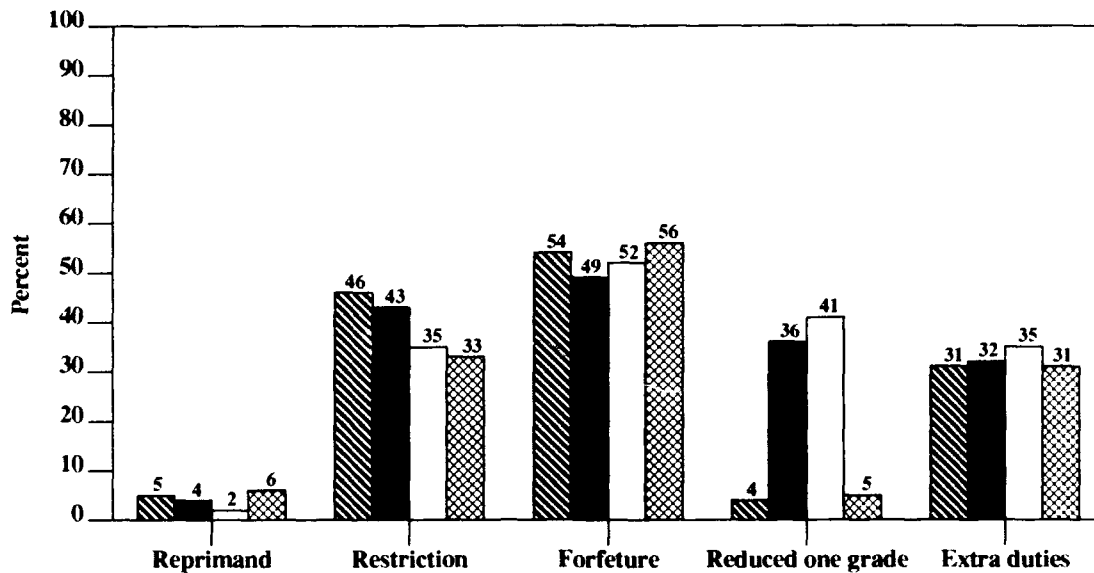
**Figure 2. Group rates for number of prior offenses.**

**NJP Punishments**

Punishments were compared across UCMJ Articles without controlling for possible differences in the type of offenses. As Figure 1 and the analysis by class of offense indicated, however, the groups were fairly similar in their offenses. More detailed data analyses to take into account the type of offense were not feasible because of the small sample size.

**Types of Punishment Received**

Figure 3 shows the most common punishments received by racial/ethnic group, with the percentages of each group who received those punishments represented by the heights of the bars. Additional punishment information, such as the average number of days on restriction, average pay forfeited, and average days of extra duty is summarized by racial/ethnic group in Table 3. No significant differences were found by racial/ethnic group for any punishment encountered in the sample.



No significant differences found among groups.



Figure 3. Group rates for most common punishments.

Table 3

Summary of Punishment Information

|                         | White<br>(n = 446) | Black<br>(n = 179) | Hispanic<br>(n = 54) | Other<br>(n = 36) |
|-------------------------|--------------------|--------------------|----------------------|-------------------|
| Average Days Restricted | 34                 | 31                 | 34                   | 37                |
| Average Pay Forfeited   | \$483              | \$456              | \$455                | \$415             |
| Average Days Extra Duty | 31                 | 30                 | 30                   | 31                |
| Punishment Suspended    | 25%                | 21%                | 22%                  | 33%               |

Note. No significant differences found among groups.

### Punishments Affecting Pay

One of the project's taskings was to evaluate whether statistics based on disciplinary punishments that affect pay, as are those used in the Military Equal Opportunity Assessment for the Navy, serve as good indicators of all disciplinary punishments, some of which do not show up on any Navy-wide computerized system. In addition, to further analyze the equity in discipline issue, there was interest in determining whether there were differences among racial/ethnic groups in those receiving punishment affecting pay versus punishments not affecting pay. Comparing punishments, again not controlling for the Articles charged, the following percentage of each racial/ethnic group who received punishment affecting their pay were 90 percent for Whites ( $n = 416$ ), 84 percent for Blacks ( $n = 180$ ), 86 percent for Hispanics ( $n = 49$ ), and 96 percent for Others ( $n = 35$ ). Once more, comparisons among groups revealed no significant differences.

### Discharge Data

Many cases that enter the disciplinary system, particularly multiple offenders, conclude with the service member being administratively discharged from the Navy (see Edwards & Knouse, 1991, for more information on this topic). To complete the picture for those cases for which NJP data were collected, the individuals were matched with a computerized enlisted master record extract containing updated discharge information. The resulting discharge data are summarized in Table 4. No significant differences were found between Blacks and Whites on type of discharge.<sup>2</sup> Blacks had a slightly higher percentage of offenders who were not discharged compared to Whites, but this difference was not significant.

Table 4

#### Discharges by Racial/Ethnic Group

|              | White<br>( $n = 86$ ) | Black<br>( $n = 22$ ) | Hispanic<br>( $n = 9$ ) | Other<br>( $n = 0$ ) |
|--------------|-----------------------|-----------------------|-------------------------|----------------------|
| Honorable    | 28%<br>24             | 14%<br>3              | 22%<br>2                | ---<br>---           |
| Disciplinary | 72%<br>62             | 86%<br>19             | 78%<br>7                | ---<br>---           |
| No Discharge | 80%<br>360            | 86%<br>157            | 82%<br>45               | 100%<br>36           |

**Note.** Disciplinary percentages include those still in process for discharge; no significant differences found between Blacks and Whites on types of discharge.

<sup>2</sup>The small number of cases allowed comparison between only Blacks and Whites on the type of discharge.

## Additional Comparisons of NJP Data

There were several hypotheses aimed at trying to explain Blacks' higher rate of involvement with the disciplinary system. As the research by Home (1988) showed, lower ranking personnel were more frequently involved in the military justice system. Thus, if more Black service members are in lower ranks compared to Whites, it is possible that rank explains the Blacks' higher rate of involvement. Analyses were conducted with the current data, comparing first-termers to reenlistees, to determine if a similar trend existed. Along similar lines, several additional hypotheses concerning other variables that could possibly explain Blacks' higher involvement in the disciplinary system were proposed; the two variables tested here were rating (either designated or nondesignated) and location (either ship or shore).

### Comparisons by Term of Enlistment

Comparisons were made between NJP offenders in their first enlistment (first-termers) and those in their second or subsequent term of enlistment (reenlistees). First-termers accounted for 75 percent ( $n = 538$ ) of all NJPs received in the sample, whereas first-termers comprise only 55 percent of the total population at the 15 commands visited. This command percentage is similar to first-termers' representation in the Navy, where they comprise 54 percent of the total active-duty enlisted force (Navy Military Personnel Command, 1990). When comparing the disposition of offenses, from XOI to Captain's Mast, it was found that reenlistees had significantly more cases dismissed at Captain's Mast (5% first-termers, 14% reenlistees;  $\chi^2(1, n = 510) = 11.67, p \leq .01$ ). Comparing the offenses and punishments of first-termers and reenlistees revealed that first-termers had significantly greater ( $p < .01$ ) numbers of:

1. Prior offenses.
2. Class 2 confrontation or status offenses (Articles 89-92, 95, and 116-117) in both current and prior offenses.
3. Punishments involving restriction or forfeiture of pay.
4. Punishments involving correctional custody and bread and water (punishments applied to E-1s through E-3s only).

The final comparisons regarding term of enlistment focused on racial/ethnic group, comparing first-term Blacks ( $n = 136$ ) with first-term Whites ( $n = 336$ ), and Black reenlistees ( $n = 43$ ) with White reenlistees ( $n = 110$ ). The percentage of the first-term Blacks in the sampled commands who had NJPs significantly differed from the same percentage for Whites (10% Black, 7% White;  $\chi^2(1, n = 5,937) = 13.28, p \leq .01$ ). No significant differences were found between these two groups of first-termers in cases dismissed at XOI or Captain's Mast. The only significant difference found when comparing all offenses and punishments was for the current offense of insubordinate conduct, where more first-term Blacks (17%) were charged with Article 91 compared to first-term Whites (8%) ( $\chi^2(1, n = 469) = 7.43, p \leq .01$ ).

The percentage of Black reenlistees in the sampled commands who had NJPs differed significantly from the same percentage for Whites (5% Black, 3% White;  $\chi^2(1, n = 4,652) = 6.63,$

$p \leq .01$ ). No significant differences were found on the cases dismissed at XOJ or Captain's Mast. When comparing offenses and punishments, the only significant difference was on the current drug offense, Article 112A, where significantly more Black reenlistees (30%) were charged with this offense compared to White reenlistees (12%) ( $\chi^2 (1, n = 153) = 7.43, p \leq .01$ ). No significant differences were found between Black and White reenlistees in either current or prior punishments. Because of the small number of cases, these findings should be viewed with caution.

### Comparisons by Designated/Nondesignated Status

Although term of enlistment (Conway, 1983; Polan & Thomas, 1985) and rank (Home, 1988) have been considered in earlier discipline studies, the differences in the disciplinary histories of designated and nondesignated personnel have yet to be investigated. If Blacks are overrepresented in the nondesignated category compared to Whites, it is possible that the higher NJP rate for Blacks is related to their nondesignated status and not their racial/ethnic group.

Nondesignated personnel accounted for 23 percent ( $n = 163$ ) of all the NJPs in the sample, whereas designated personnel comprised only 10 percent of the population at the sampled commands. This latter percentage is somewhat lower than the percentage of nondesignated personnel in the entire Navy, including Recruit Training Centers and other training commands, which is 17 percent (Navy Military Personnel Command, 1990). When comparing the disposition of offenses, from XOJ to Captain's Mast, designated personnel had significantly more cases dismissed at XOJ (31%) compared to nondesignated personnel (21%) ( $\chi^2 (1, n = 710) = 5.99, p \leq .01$ ). Comparing the offenses and punishments of nondesignated and designated members found that nondesignated members had significantly greater ( $p \leq .01$ ) numbers of:

1. Prior offenses.
2. Prior class 3 UA offenses (Articles 86 and 87).
3. Punishments involving restriction or bread and water.

The final comparisons regarding rating focused on racial/ethnic group, comparing nondesignated Black ( $n = 58$ ) with nondesignated White ( $n = 87$ ) offenders, and designated Black ( $n = 121$ ) with designated White ( $n = 358$ ) offenders. The percentage of nondesignated Blacks who had NJPs in the sampled commands compared to the same percentage for Whites was not significantly different (16% Black, 12% White). When comparing the cases dismissed at XOJ and Captain's Mast, no significant differences were found between the two nondesignated groups. Further comparisons of current and prior offenses and punishments found no significant differences.

In contrast, when the percentage of designated Blacks who had NJPs in the sampled commands was compared to the same percentage for Whites, a significant difference was found (6% Black, 5% White,  $\chi^2 (1, n = 9,503) = 9.14, p \leq .01$ ). No difference was found on the disposition of cases at XOJ or Captain's Mast. Lastly, when comparing offenses and punishments, significantly more Black designated personnel had a current charge of Article 107, false official statements, compared to White designated personnel (9% Black, 3% White;  $\chi^2 (1, n = 479) = 7.47, p \leq .01$ ). No differences were found between Black and White designated personnel in current or prior

punishments. Again, these findings should be viewed with caution because of the small number of cases.

### **Comparisons by Ship versus Squadron/Shore Commands**

Although location has not been investigated in past studies of equity in Navy discipline, it was believed that personnel located on ships would have more disciplinary offenses compared to those at shore commands, primarily due to characteristics of the shipboard environment, along with being away from home for long periods of time. Again, if Blacks are overrepresented in the population of shipboard personnel compared to Whites, it is possible that the higher disciplinary rate for Blacks is related to being on a ship and not their racial/ethnic group.

NJP cases from six ships ( $n = 454$ ) were compared to those from the two aircraft squadrons located at a Naval Air Station and the seven shore commands ( $n = 261$ ) to see if the shipboard operating environment explained Black's higher rate of NJPs. Although there were about an equal number of commands in the two categories, 64 percent of the NJP cases were from ships versus only 36 percent from shore commands. When comparing these percentages to the population of the ships versus shore commands and squadrons, it was found that only 48 percent of the personnel were stationed on ships versus 52 percent of the personnel stationed at shore commands.

When comparing the disposition of cases on ships versus shore commands, it was found that shore commands had significantly more cases dismissed at both XO (38% shore, 23% ship,  $\chi^2(1, n = 708) = 18.36, p \leq .01$ ), and Captain's Mast (12% shore, 5% ship,  $\chi^2(1, n = 506) = 9.09, p \leq .01$ ) compared to ships. In addition, ships had a significantly greater percentage of cases involving prior offenders (42%) compared to shore commands (25%) ( $\chi^2(1, n = 711) = 20.02, p \leq .01$ ).

Comparing the offenses of personnel stationed on ship versus shore commands revealed that shipboard personnel had significantly greater ( $p < .01$ ) numbers of:

1. Current offenses involving missing movement (Article 7) and assault (Article 128).
2. Prior offenses involving absence without leave (Article 86), insubordinate conduct (Article 91), assault (Article 128), and the general Article (134).
3. Current punishments involving reprimands, restriction, and forfeiture of pay.
4. Prior punishments involving reprimands, forfeiture of pay, reduction in grade, and extra duties.

The final comparisons regarding location focused on racial/ethnic group, comparing Blacks ( $n = 119$ ) with Whites ( $n = 275$ ) stationed on ships, and Blacks ( $n = 60$ ) with Whites ( $n = 171$ ) stationed at shore commands. The percentage of Blacks who had NJPs on ships in the sampled commands compared to the same percentage for Whites differed significantly (10% Black, 7% White;  $\chi^2(1, n = 1,103) = 14.29, p \leq .01$ ). No differences were found between Blacks and Whites on ships in the disposition of cases at XO or Captain's Mast. Lastly, when comparing offenses and punishments, no significant differences were found.



In contrast to the ship finding, when the percentage of Blacks at shore commands who had NJPs was compared to the same percentage for Whites, no significant difference was found (6% Black, 4% White). In addition, there were no differences between Blacks and Whites at shore commands in the disposition of cases at XOI or Captain's Mast, or the offenses charged or punishments received.

### **Comparisons by Gender**

The data collected in this investigation confirmed the Annual Military Equal Opportunity Assessment reports that females typically have much lower NJP rates compared to males. Only 65 of the 715 NJP cases (9%) involved women; whereas, women comprised 14 percent of the population of the sampled commands. Although women were less involved with the disciplinary system, they did not differ dramatically from men on their types of offenses. One difference that was found was that women had significantly more current larceny offenses (Article 121) ( $\chi^2 (1, n = 715) = 21.27, p \leq .01$ ). Women also had significantly fewer prior offenses (17%) compared to men (38%) ( $\chi^2 (1, n = 715) = 10.94, p \leq .001$ ).

In terms of punishment, significantly more women received reprimands (11%) compared to men (4%) ( $\chi^2 (1, n = 715) = 6.13, p \leq .01$ ) while men received significantly more average days of restriction (male  $M = 34.46$ , female  $M = 26.75$ ;  $F(1,309) = 7.15, p \leq .01$ ), and average pay forfeited (male  $Mean \$483.25$ , female  $Mean \$320.18$ ,  $F(1,373) = 7.62, p \leq .01$ ). Lastly, significantly more men had received a reduction in grade as a previous punishment compared to women. As noted in the previous section on comparisons by racial/ethnic group, the nature of the offenses and prior records of the offenders could not be controlled for in order to make matched comparisons. Because of the small number of cases, these gender results must be interpreted with caution.

### **Four Assessments of NJP Rates**

The NJP disciplinary rates included in the annual Military Equal Opportunity Assessment for the Navy have consistently shown a higher rate of involvement for Blacks with the Navy's disciplinary system (NMPC, 1989). In addition, the rates for all groups have been declining over the past 5 years. This finding is consistent with data released by the U.S. Court of Military Appeals that state that NJPs have been declining for all services over the past 3 years (Willis, 1989). The decline has been attributed to the services getting better recruits, plus results from the military's drug testing program.

Since aggregate rates are used to track the performance of the Navy's disciplinary system, the importance of having appropriately computed, accurate rates is obvious. Prompted by Home's (1988) examination of different methods for calculating discipline rates, and the current project's taskings, the NJP data collected at the 15 commands were used to demonstrate the results of using different methods to calculate rates.

Figure 4 presents four sets of NJP disciplinary rates by racial/ethnic group based on the present 6 months of data, doubled to produce estimated annual rates. The first set of bars represents rates by racial/ethnic group based on just those offenses that resulted in punishments affecting pay. If an individual has several NJPs during the year, that individual is counted more than once in this rate calculation. This method is closest to that used in the annual Military Equal Opportunity

Assessment calculations. The second set of bars represents the rates obtained by counting NJPs that resulted in any kind of punishment, not just punishments affecting pay. The rates for Hispanics and Blacks showed a greater increase than did Whites and Others, over the first set of bars. This is because the Hispanics and Blacks in the sample were more likely (but not significantly so) than the White and Other groups to be given punishments not affecting their pay.

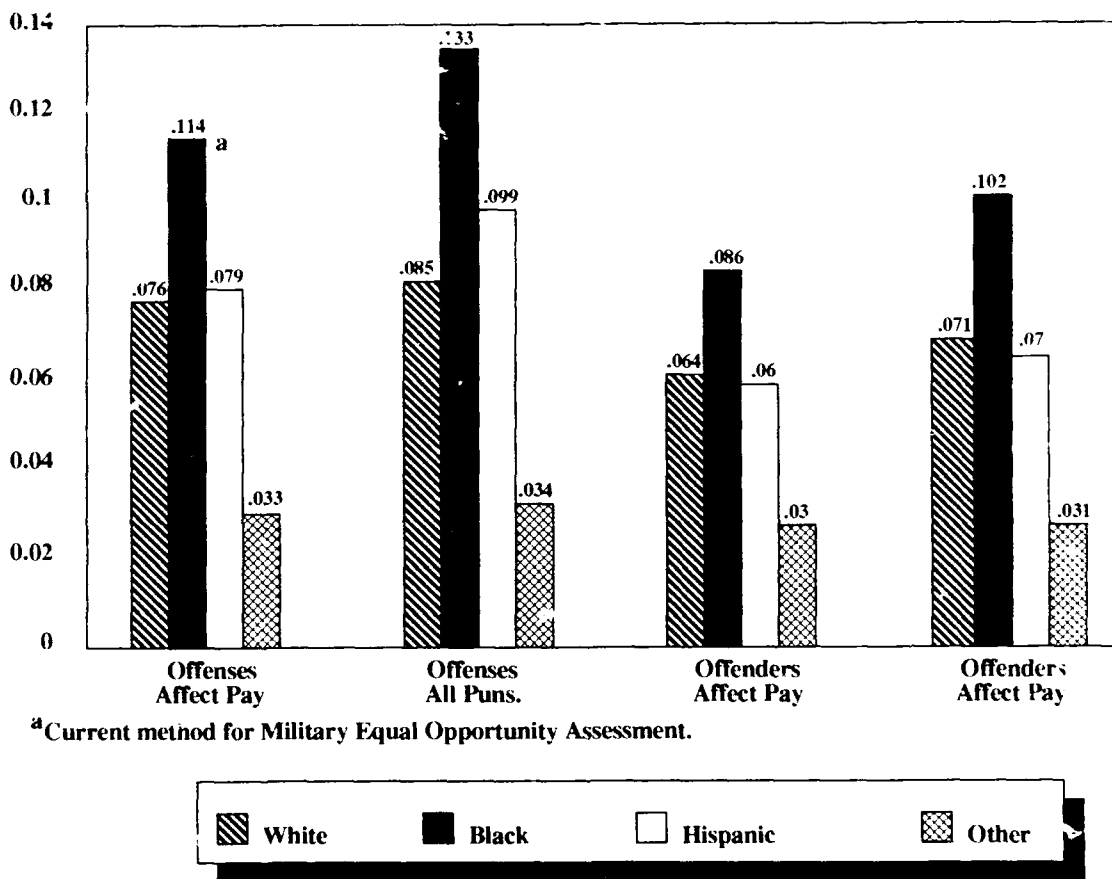


Figure 4. Four methods of computing NJP rates.

The last two sets of bars represent rates based on the number of offenders, not offenses. Individuals who had more than one NJP or some combination of NJP(s) and court(s)-martial during the year were counted only once. The third set of bars shows the rates by racial/ethnic group based on offenders whose punishments affected their pay. These rates are the lowest of the four sets, and the size of the absolute difference between the Whites and Blacks is also the smallest. The fourth set of bars shows rates by racial/ethnic group based on the number of offenders who received any kind of punishment. As the Figure shows, the method of rate calculation can affect the size of the difference between different racial/ethnic groups. Statistical tests were conducted comparing the

rates for Blacks and Whites using the four methods. In all cases, a significant difference was found, but the difference was the smallest using method three, offenders whose punishment affected pay.

### Courts-martial Cases

A total of 88 courts-martial cases had been completed in the 15 commands during the October 1989-March 1990 period. Table 5 summarizes the types of courts-martial cases by racial/ethnic group. A statistical comparison was made of the types of courts-martial for only Whites and Blacks because of the small number of cases. No significant differences were found. In addition, no differences were found between Whites and Blacks receiving courts-martial on current offenses and punishments, or the number of prior offenses.

**Table 5**  
**Summary of Courts-martial Cases by Racial/Ethnic Group**

|                        | White<br>(n = 55) | Black<br>(n = 12) | Hispanic<br>(n = 7) | Other<br>(n = 4) |
|------------------------|-------------------|-------------------|---------------------|------------------|
| Summary courts-martial | 36%<br>20         | 59%<br>13         | 43%<br>3            | 25%<br>1         |
| Special courts-martial | 64%<br>35         | 36%<br>8          | 57%<br>4            | 75%<br>3         |
| General courts-martial | ---               | 5%<br>1           | ---                 | ---              |

Note: No significant differences found between Whites and Blacks on type of courts-martial.

### Discussion

Unlike earlier studies of equity in discipline, this study went one step further by investigating the equity in discipline issue using source documents that provided detailed information about offenders' current and prior offenses and punishments. These data allowed the analysis of whether there was differential treatment of offenders of different racial/ethnic groups once they were charged with disciplinary offenses. The analyses in general supported the conclusion of no differential treatment in the formal system due to racial/ethnic group, addressing one major component of the equity in discipline issue. It must be remembered that the small sample size does not allow generalizing these results to the Navy overall. In addition, the current effort cannot make any conclusions concerning the other aspect of the differential treatment theory, namely that persons commit the same kind and frequency of offenses, but members of minority racial/ethnic groups are more likely to be formally charged with these offenses.

The data collected at the unit level confirmed the Military Equal Opportunity Assessment findings that Blacks have a higher rate of involvement with the Navy disciplinary system than

Whites. In fact, when several additional breakdowns were analyzed, in most cases Blacks still had a higher rate of NJPs than would be expected from their representation in the population group under study. The data collected also allowed the determination of the percentage of multiple offenders, and the percentage of punishments that did not affect the offender's pay, and thus may not be tracked by a Navy-wide computer system. The results will be discussed in the order they were presented.

### **NJP Offenses**

The results revealed very few differences in the disposition of cases, types of current or prior offenses, or in the total number of offenses across the four racial/ethnic groups for the commands in the sample. One significant difference that was found was that Blacks had significantly more charges of Article 91, insubordinate conduct, compared to Whites. This is a finding similar to that of Thomas, et al. (1974), who reported that Blacks were more often charged with confrontation or status offenses, which include Article 91 offenses. Since data were not available on additional variables that might help to understand this finding, such as the racial/ethnic group of the alleged victim of insubordination, or the racial/ethnic group of the supervisor disciplining the offender, interpreting the cause of this difference would be speculation. But this difference in the charging of insubordinate conduct does raise concern that racial bias could be operating.

When comparing the racial/ethnic groups overall, the data yielded no differences between racial/ethnic groups in regard to drug offenses (Article 112A). But when just Black and White reenlistees were compared on Article 112A offenses, Blacks had significantly more charges of this offense. As the interview data revealed, commands differed considerably in their policies for testing individuals. Because the potential for differential application of policies to different racial/ethnic groups is of concern, it is important that standardized policies exist. Edwards and Knouse (1991) found that Blacks were separated from the Navy for drug involvement at a higher rate than Hispanics and Whites. What must be questioned is whether Blacks are using drugs more than Hispanics and Whites, or whether they are being subjected to drug testing at a differential rate than others.

While almost 40 percent of all NJP cases involved multiple offenders, no significant differences were found between the different racial/ethnic groups on the number of prior NJPs or courts-martial they had. Polan and Thomas (1985) found a somewhat lower percentage of multiple offenders in comparison to the present finding. In contrast, Edwards and Knouse (1991) found higher percentages of repeat offenders in their study of service members who had received Other-than-Honorable discharges. Edwards and Knouse also reported differences by racial/ethnic group. Perhaps these differences were because their sample consisted of personnel discharged with a separation code that prevents reenlistment. The findings from all these studies suggest that multiple offenders do account for a large number of the disciplinary cases.

### **NJP Punishments**

The punishments awarded for both current and prior offenses did not differ among the racial/ethnic groups. It must be remembered that the nature of the offenses, number of specifications, and prior offense and punishment history of the offenders could not be controlled for in the present analyses of punishments because of the sample size. Since the four racial/ethnic groups were

similar in their types of offenses (except insubordination), and number of prior offenses, the present comparisons seem reasonable.

As noted previously, determining whether punishments affecting pay have the same racial/ethnic distribution of all punishments is important because the disciplinary rates in the Military Equal Opportunity Assessment are based only on those offenses where pay is affected. The present results show that such cases reflect roughly 90 percent of all NJPs at the commands visited, and this percentage did not differ significantly across racial/ethnic groups. While these commands cannot be considered to be representative of the entire Navy, these results suggest that the method currently used in the Navy's annual Military Equal Opportunity Assessments for computing discipline rates is reasonably accurate.

### **Additional Comparisons**

The finding that a higher percentage of Blacks were involved with NJPs relative to their percentage in the commands visited remains puzzling. In order to see whether any other variables might help account for the overrepresentation of Blacks among the NJP offenders, the additional comparisons were undertaken.

The data showed that three-fourths of all the NJP cases involved first-termers, a finding that is similar to that of earlier studies (Home, 1988). The comparisons of Black and White first-termers and reenlistees presented evidence that term of enlistment does not explain Blacks' higher rate of involvement with the disciplinary system: both first-term and reenlistee Blacks had a higher rate of involvement with the disciplinary system compared to Whites. In addition, when controlling for first-term status, Blacks still had significantly more charges of insubordinate conduct toward a warrant officer, noncommissioned officer, or petty officer compared to Whites. The data collected here do not provide an explanation for this difference.

When comparing NJP cases by designated/nondesignated status, it was believed that nondesignated personnel would be involved with the discipline system more than designated individuals for several reasons, such as less ownership and conformity to Navy rules and regulations, frustrations arising from routine job tasks, limited career advancement opportunities, and in general, less positive attitudes towards the Navy. Although nondesignated personnel were overrepresented in the NJP cases compared to their representation at the sampled commands, no racial difference was found. It was noteworthy that both White and Black nondesignated personnel had no significant differences in disciplinary rates, offenses, or punishments. Both White and Black nondesignated personnel had significantly more unauthorized absence offenses compared to designated personnel. This finding lends support to the notion that these nondesignated individuals, whatever their racial/ethnic group, may tend to get into trouble more often because they have not adapted to Navy life. Thus, being in a nondesignated status could explain Blacks' higher rate of involvement with the discipline system if proportionally more Black service members are nondesignated compared to White service members.

Somewhat more striking differences were found on the ship versus shore comparisons. Shipboard personnel were overrepresented in the NJP sample, perhaps because disciplinary offenses are not as likely to be dismissed on ships as compared to shore commands. Personnel on ships had significantly more prior offenses than those ashore, suggesting that they engaged in more

disciplinary behavior, although it cannot be assumed that all prior offenses occurred on ships. Since ships tend to have proportionally more first-term and nondesignated personnel, both of which have been shown to have higher rates of involvement, it is not surprising that ships have higher rates of NJPs compared to shore commands. In regard to the interaction between race and ship/shore status, Blacks' rate of involvement with the disciplinary system was significantly higher than Whites' rate aboard ships but not at shore commands.

In summary, the additional comparisons found that first-termers, nondesignated personnel, and those on ships are more likely to be involved with the disciplinary system. If Blacks are overrepresented among these populations compared to Whites, it is possible that these variables, and not their racial/ethnic group, explain Blacks higher rate of involvement. But when these additional variables were controlled for with the data from the 15 commands, racial/ethnic differences still existed; the only case where this was not true was for nondesignated personnel and those at shore commands.

### **NJP Rate Calculations**

The comparison of rates based on different methods of computation provided examples to help clarify the issues of the impact of multiple offenses by the same individual on aggregate statistics, and the extent to which punishments affecting pay are a good indicator of all punishments. The differences between rates produced by the four different methods are noticeable but do not lead to different conclusions. Thus, the current method of counting offenses for the Navy's annual Military Equal Opportunity Assessment is substantiated and provides a basis for comparison with historical rates.

## **Conclusions**

The present results confirm those reported in the Navy's Military Equal Opportunity Assessments that Black personnel have higher rates of NJP disciplinary involvement than Whites do. Comparisons of the disciplinary administration process once formally charged found no differences among the racial/ethnic groups. Detailed analyses of current and prior articles and punishments found few differences between Blacks and Whites. Additional analyses by term of enlistment, nondesignated/designated status, and ship/shore location could not explain the observed racial/ethnic differences in discipline rates.

The data collected confirmed that multiple offenders accounted for a substantial proportion of the total number of NJPs. In addition, the data showed that a high percentage of all punishments involve service members' pay. Lastly, the rate calculations demonstrated the impact of multiple offenses on the overall rates compared to rates calculated by offenders, and the smaller difference in rates calculated using punishments that do and do not affect pay.

Unlike earlier studies of equity in discipline, this effort went one step further by investigating whether there was differential treatment of offenders of different racial/ethnic groups once they were charged with disciplinary offenses. The data collected revealed no differential treatment in this sample, addressing one major component of the equity in discipline issue. The current effort cannot make any conclusions concerning the other aspect of the differential treatment theory,

namely that persons from different ethnic/racial communities commit the same kind and frequency of offenses, but members of minority racial/ethnic groups are more likely to be formally charged with these offenses. The methodology used here could be used by others wishing to explore the equity in discipline issue.

## **Recommendations**

1. It is recommended that the Equal Opportunity Division of the Bureau of Naval Personnel (PERS-61) sponsor research to investigate whether discipline is being equitably administered at the level where decisions on filing report chits occur. Although this study and prior Navy research have not found evidence of differential treatment after a report is filed, the possibility of bias prior to that stage needs to be investigated.

2. It is recommended that PERS-61 begin to track discipline rates by offenders, along with the present tracking of offenses. These additional rates would provide a better understanding of the impact of multiple offenders on the rates.

3. It is recommended that commands track occurrences of charges of insubordination by racial/ethnic group as part of their Command Managed Equal Opportunity (CMEO) Program. Such command attention would help guard against the possibility of racial bias in bringing this charge. Commands should also track occurrences of the General Article (134) to prevent its misuse, in light of the tracking of Article 91.

4. It is recommended that in commands where the Command Assessment Team (CAT) identifies a racial disparity in discipline rates and/or in perceptions of fairness of the system, the team employs the methodology described in this report to monitor the disciplinary process.

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**Appendix**  
**Data Collection Forms**

UPB FORM

INFORMATION CONCERNING ACCUSED

COMMAND UIC \_\_\_\_\_ COMMAND NAME \_\_\_\_\_ Date collected \_\_\_\_\_
NAME (Last, First) \_\_\_\_\_
SSN \_\_\_\_\_ Gender \_\_\_\_\_ Race/Ethnic \_\_\_\_\_
RATE \_\_\_\_\_ GCT \_\_\_\_\_ /AFQT \_\_\_\_\_
GRADE \_\_\_\_\_ AGE \_\_\_\_\_
BR&CLASS \_\_\_\_\_ MARITAL STATUS \_\_\_\_\_
TOTAL ACTIVE SERVICE \_\_\_\_\_ NO. DEPENDENTS \_\_\_\_\_
FIRST ENLISTMENT \_\_\_\_\_ PAY/MONTH \_\_\_\_\_
EDUCATION \_\_\_\_\_ In PROCESS for ADMIN DISCH

DETAILS OF CURRENT OFFENSE

ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_

PRE-MAST CONFINEMENT (days) \_\_\_\_\_ XO DISMISSED \_\_\_\_\_ XO REFERRED TO MAST \_\_\_\_\_

PREVIOUS OFFENSES

OIC NJP CO NJP SCM SPCM GCM DATE TOTAL NUMBER
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
PUNISHMENT \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
PUNISHMENT \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
PUNISHMENT \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
PUNISHMENT \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
PUNISHMENT \_\_\_\_\_
ARTICLE \_\_\_\_\_ SPEC \_\_\_\_\_ DESCR \_\_\_\_\_
PUNISHMENT \_\_\_\_\_

ACTION OF COMMANDING OFFICER

DATE of MAST \_\_\_\_\_

- a \_\_\_\_\_ Dismissed ALL
b \_\_\_\_\_ Dismissed Article(s)
c \_\_\_\_\_ Reprimand/Admonition
d \_\_\_\_\_ Restrict for \_\_\_\_\_ days
e \_\_\_\_\_ Forfeiture \_\_\_\_\_ pay for \_\_\_\_\_ MO(S)
f \_\_\_\_\_ Detention \_\_\_\_\_ pay per \_\_\_\_\_ MO(S) detained for \_\_\_\_\_ MO(S)
g \_\_\_\_\_ Confinement for \_\_\_\_\_ days
h \_\_\_\_\_ Correctional custody for \_\_\_\_\_ days
i \_\_\_\_\_ Reduction to next inferior pay grade
j \_\_\_\_\_ Extra duties for \_\_\_\_\_ days
k \_\_\_\_\_ ART 32 investigation
l \_\_\_\_\_ Awarded SCM
m \_\_\_\_\_ Awarded SPCM
n \_\_\_\_\_ Recommended for GCM
o \_\_\_\_\_ Suspension \_\_\_\_\_
p \_\_\_\_\_ Previous suspension \_\_\_\_\_
q \_\_\_\_\_ Bread & Water for \_\_\_\_\_

4/30/90

INFORMATION CONCERNING ACCUSED

COMMAND UIC \_\_\_\_\_ COMMAND NAME \_\_\_\_\_ Date collected \_\_\_\_\_

NAME (Last, First) \_\_\_\_\_

SSN \_\_\_\_\_ Gender \_\_\_\_\_ Race/Ethnic \_\_\_\_\_

RATE \_\_\_\_\_ GCT \_\_\_\_\_ /AFQT \_\_\_\_\_

GRADE \_\_\_\_\_ AGE \_\_\_\_\_

BR&CLASS \_\_\_\_\_ MARITAL STATUS \_\_\_\_\_

TOTAL ACTIVE SERVICE \_\_\_\_\_ NO. DEPENDENTS \_\_\_\_\_

FIRST ENLISTMENT \_\_\_\_\_ PAY/MONTH \_\_\_\_\_

EDUCATION \_\_\_\_\_ In PROCESS for ADMIN DISCH \_\_\_\_\_

CHARGES

| Charge | Specs | Plea/Find | Descr |
|--------|-------|-----------|-------|
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |
| _____  | _____ | _____     | _____ |

PREVIOUS OFFENSES

| OIC   | NJP   | CO    | NJP   | SCM   | SPCM  | GCM   | DATE  | ARTICLE | SPEC  | DESCR | TOTAL NUMBER |
|-------|-------|-------|-------|-------|-------|-------|-------|---------|-------|-------|--------------|
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____   | _____ | _____ | _____        |

SENTENCE

PRE-TRIAL CONFINEMENT (No. of days) \_\_\_\_\_ DATE SENTENCE ADJUDGED \_\_\_\_\_

a \_\_\_\_\_ Dismissed ALL n \_\_\_\_\_ Recommended for GCM

t \_\_\_\_\_ Dismissed Article(s) \_\_\_\_\_ o \_\_\_\_\_ Suspension \_\_\_\_\_

c \_\_\_\_\_ Reprimand/Admonition p \_\_\_\_\_ Previous suspension \_\_\_\_\_

d \_\_\_\_\_ Restrict for \_\_\_\_\_ days vacated \_\_\_\_\_

e \_\_\_\_\_ Forfeiture \_\_\_\_\_ pay for \_\_\_\_\_ MO(S) q \_\_\_\_\_ Bread and water for \_\_\_\_\_

f \_\_\_\_\_ Detention \_\_\_\_\_ pay per \_\_\_\_\_ MO(S) detained for \_\_\_\_\_ MO(S) r \_\_\_\_\_ Reduced > 1 grade - No reduced \_\_\_\_\_

g \_\_\_\_\_ Confinement for \_\_\_\_\_ days s \_\_\_\_\_ Fined - Amount \_\_\_\_\_

h \_\_\_\_\_ Correctional custody for \_\_\_\_\_ days t \_\_\_\_\_ Hard labor no confinement - No days \_\_\_\_\_

i \_\_\_\_\_ Reduction to next inferior pay grade u \_\_\_\_\_ Confinement at hard labor - No days \_\_\_\_\_

j \_\_\_\_\_ Extra duties for \_\_\_\_\_ days v \_\_\_\_\_ Discharge - Type \_\_\_\_\_ 5/4/90

## Distribution List

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