

Racial Disparity in Military Justice



Protect Our Defenders (POD) submitted a series of Freedom of Information Act (FOIA) requests to each military service branch seeking demographic information on military justice and disciplinary proceedings. POD received responses from four of the service branches, and analyzed this previously unpublished data to assess the prevalence of racial and ethnic disparities within the military's disciplinary and criminal justice systems.

POD's analysis of the data shows that, for every year reported and across all service branches, **black service members were substantially more likely than white service members to face military justice or disciplinary action.** These disparities have not improved, and in some cases have increased, in recent years.

In its official response to POD's request, the Air Force explicitly acknowledged that:

"Diversity is a national security imperative, and we understand, in order to recruit and retain a diverse population of Airmen, they must have confidence that our system is free of any unlawful discrimination."

FINDINGS

Overall, **black service members were at least 1.29 times and as much as 2.61 times more likely than white service members to have an action taken against them in an average year.**

- In the **Air Force**, black airmen on average are 1.71 times (71%) more likely to face court-martial or Non-Judicial Punishment (NJP) than white airmen.
- In the **Marine Corps**, black Marines are, on average, 1.32 times (32%) more likely to receive a guilty finding at a court-martial or NJP proceeding than white Marines, with the size of the disparity becoming more significant the more serious the disciplinary action was.
- In the **Navy**, black sailors are on average 1.40 times (40%) more likely than white sailors to be referred to special or general court-martial.
- In the **Army**, black soldiers are on average 1.61 times (61%) more likely to face a special or general court-martial compared to white service members.

In contrast to civilian society, the military serves an imperfect "control" for factors associated with criminal involvement, including rigorous recruiting standards and background checks, educational requirements, and screenings for illicit drug use. Service members also enjoy full employment with a steady income.

Despite these equalizing factors, **racial disparities are present at every level of military disciplinary and justice proceedings**, particularly between black and white service members. These findings raise questions about racial bias and discrimination among decision-makers in the military justice system.

BOTTOM LINE

Military leadership has been aware of significant racial disparity in its justice process for years, and has made no apparent effort to find the cause of the disparity or remedy it. The leadership has vigorously opposed any suggestion that the commander-controlled justice system is hindered by conflicts of interest or bias and has gone to great lengths to tout the fairness of the system. However, the military's own data raises serious challenges to the idea that the system in its current form is capable of delivering impartial justice.

To view *Racial Disparity in Military Justice*, go to www.protectourdefenders.com/disparity