

# Racial Disparities in the Department of the Air Force Military Justice System

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## ISSUE

Although the existence of racial disparities within the military justice system has been well documented, the causes of these disparities have not been determined. Identifying the factors that are causing disparities is crucial to developing tailored policy options to reduce these disparities. This study sought to answer the following questions within the context of the Department of the Air Force's (DAF's) military justice system:

- How might disparities within the DAF military justice system arise?
- How much of the racial disparity in Article 15s and court-martial referrals is explained by potential racial differences in offending rates and career fields in which the consequences of offending could be more dire?
- Are there further racial disparities among individuals issued an Article 15 or referred to a court-martial in terms of how their cases are adjudicated?



## APPROACH

- We used information obtained from stakeholder interviews and policy reviews to develop process maps of the entire military discipline process, which yielded key insights into how racial disparities can arise.
- We merged detailed personnel data from the Air Force Personnel Center on all active-duty enlisted airmen in the DAF (fiscal years 2010 through 2019) with DAF discipline data from the Automated Military Justice Analysis and Management System (AMJAMS) to determine the extent to which racial differences in Article 15s and court-martial referral rates can be explained by career field, as well as an extensive set of personnel variables that can potentially proxy for offending behavior.
- We used AMJAMS data to determine whether, conditional on being issued an Article 15 or referred to a court-martial, there are racial disparities in the punishments airmen receive.



## CONCLUSIONS

- Among enlisted male airmen rank E1–E4 (where discipline is most concentrated), Black airmen were 86 percent more likely to be issued an Article 15 or referred to a court-martial than White airmen.
- The disparities between White airmen and other race/ethnicity groups were markedly smaller: Article 15 and court-martial referrals were 27 percent more likely for American Indian/Alaska Native airmen,

8 percent more likely for Hispanic airmen, equally likely for Hawaiian Native/Pacific Islander airmen, and *less likely* for Asian airmen than White airmen.

- Conditional on being issued an Article 15 or referred to a court-martial, there are no further racial disparities against Black airmen in the punishments received. Black airmen referred to a court-martial are actually less likely to be convicted than White airmen and face lower sentences, conditional on conviction. Among airmen issued an Article 15, there are no racial differences in punishments received.
- About one-fifth of the Article 15 and court-martial referral disparity between Black and White airmen is explained by racial differences in career field and variables that might proxy for offending rates, including ZIP code characteristics of the airman's home of record and their Armed Forces Qualification Test scores. A key strength of this study is that we were able to rule out many of the factors that have long been considered probable causes of the racial disparity at this stage.
- The remaining four-fifths of the disparity in Article 15s and court-martial referrals is unexplained. Although definitive explanations are lacking, the results are consistent with a situation in which disparate treatment may be at least partly responsible for the disparity.
- Although the analyses presented here cannot definitively determine that disparate treatment is a cause of the disparity, any alternative reasoning put forward must explain why there are significant unexplained disparities in Article 15 and court-martial referral rates but Black airmen do better among those referred to a court-martial.



## RECOMMENDATIONS

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- Collecting detailed data on administrative actions would allow for a more complete understanding of the nature and extent of racial disparities within the DAF's military justice system. Efforts to collect data on administrative actions are underway in the DAF, although the data are not currently collected in a centralized database that can be linked to other personnel and military discipline datasets.
- Having a diverse group of individuals make discipline decisions might mitigate disparities and increase trust in the process. This is especially true given that the analyses presented in this report indicate the biggest disparities occur in terms of who is issued an Article 15 or referred to a court-martial; at this stage of the system, there is a lone decisionmaker who, despite consulting with trusted advisers, ultimately wields a lot of discretion.
- Countermeasures to reduce individual biases within the discipline system should go beyond traditional trainings. In particular, these preventive measures should focus on making changes to the system such that the impacts of individual biases are mitigated.
- Evidence-based reforms are needed to ensure that the policies implemented are effective in reducing disparities in the DAF military justice system. Rigorous evaluation assessments of policy impacts should be conducted to ensure implemented policies are having the desired effect.



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