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Navy Pattern-of-Misconduct Discharges: A Study of Potential Racial Effects



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13. ABSTRACT (Maximum 200 words) The purpose of this study was to investigate the equity of pattern-of-misconduct discharges for blacks and whites. The Enlisted Training Tracking File and Field Service Records were used to obtain career information and discipline data for a random sample of 322 white and 293 black men who were discharged for pattern of misconduct in fiscal year 1992. The results of this study were: 1. Differences found in the general characteristics of blacks and whites in this sample reflect those found Navy-wide and in another equity-in-discipline report. 2. Race did not consistently affect the number of disciplinary actions that an individual was awarded before being discharged, the speed with which an administrative discharge was initiated, or the dischargee's character of separation. 3. Differences were detected in the types of violations that led to the disciplinary actions and the types and degree of punishment that were awarded. 4. As was found in two previous studies, blacks violated Article 91—Insubordinate conduct—proportionately more often than did whites. 5. The statistically significant results did not reveal a trend favoring blacks or whites. Thus, on average, blacks and whites who are discharged for patterns of misconduct are treated comparably.					
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Foreword

This report documents research that investigated pattern-of-misconduct discharges for potential racial bias. The findings and recommendations provide empirically based information that can be used to enhance the Navy's ability to furnish equal opportunities to its members. The Equal Opportunity Division (PERS-61) of the Chief of Naval Personnel sponsored and funded this research through reimbursable Work Unit N0002293WREE500.

The authors extend special thanks to CAPT Greene for his leadership in this equal opportunity project, Zannette Perry and Kristin David for their valuable assistance creating tables and graphs, Wolfgang Milczewsky for help with the archival Enlisted Master File, and Tom Trent for background information on the moral waivers and education characteristics. Also, FC1 Kevin B. Lennon and Nicole Ellis deserve acknowledgment for their assistance in creating the database.

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Executive Summary

Problem

Relative to whites, black enlisted personnel have consistently higher rates of involvement in the Navy's discipline system. Responses to recent Navy-wide attitude surveys also suggest that blacks perceive the discipline system to be biased against them. Despite the findings of differences in discipline rates and the perception of inequity, researchers have not found systematic bias in the Navy's formal discipline system. Recently the Bureau of Naval Personnel became concerned about disparities in rates of pattern-of-misconduct discharges awarded to blacks and whites.

Purpose

This study investigated pattern-of-misconduct discharges awarded to blacks and whites. The two groups were compared on: (1) general characteristics, (2) number and types of disciplinary actions, (3) time between disciplinary actions, (4) types of offenses committed, and (5) outcomes from the disciplinary actions.

Approach

The Enlisted Training Tracking File was used to identify a random sample of white and black men who were discharged for pattern of misconduct in fiscal year 1992. The names and social security numbers of these men were sent to the National Personnel Records Center, along with a request for each former member's field service record (FSR). The final sample contained 322 white and 293 black males.

Results and Discussion

Within the sample, blacks had a higher percentage of high school graduates, a lower mean on the Armed Forces Qualification Test, and a lower percentage of moral waivers associated with their enlistment than whites. These differences reflect those found Navy-wide for black and white Navy enlistees and in another equity-in-discipline report (Edwards & Knouse, 1991). No other statistically significant difference was detected between the two groups on general characteristics.

Race did not consistently affect the number of disciplinary actions that an individual was awarded before being discharged, the speed with which an administrative discharge was initiated, or the dischargee's character of separation.

Racial differences were, however, detected in the types of violations that led to the disciplinary actions and the punishments that were awarded. Blacks violated *Uniform Code of Military Justice (UCMJ)* Articles 91 (Insubordinate conduct) and 128 (Assault) at higher rates than did whites. Three studies (including the present one) have found that blacks violated Article 91 at a higher rate than did whites. The subjective nature of this offense suggests that determining the basis for this trend warrants further investigation. The findings from this study also showed that, relative to blacks, whites averaged more days of restricted movement and extra duty per non-judicial punishment (NJP)/court-martial, forfeited more money per NJP/court-martial, and had proportionately more NJPs/courts-martial that awarded forfeiture of money and paygrade reductions than did blacks.

Given that proportionately more blacks than whites receive misconduct discharges, questions remain regarding whether bias enters the disciplinary system in the assignment of reasons for discharge. The procedures that are used to assign separation codes should be reviewed by the Judge Advocate General in order to determine whether bias exists.

A discrepancy occurred between the FSR and information that was gathered from a Department of Defense (DOD) database. Nearly 15% of the FSRs indicated that individuals in the original sample were discharged for reasons other than a pattern of misconduct (even though the DOD database identified the individuals as pattern-of-misconduct discharges).

One limitation of this study is lack of an adequate database. More specifically, the database used contained only people who were discharged for patterns of misconduct. Questions will remain about the fairness of discharge policies until personnel receiving a discharge can be compared to personnel who are eligible for a discharge but do not receive it. There currently is no cost-effective way to make this comparison.

Recommendations

1. The Judge Advocate General should examine the procedures that are used to assign separation codes when a member is eligible for discharge for more than one reason.

2. The Chief of Naval Personnel and the Judge Advocate General should investigate the source of the racial differences in *UCMJ* Article 91 violations that have been found in three Navy discipline studies.

3. Either the Judge Advocate General or the Chief of Naval Personnel should establish a discipline database that contains information at the individual level. Such a database would result in findings that are more definitive than those obtained from studies that have been conducted with relatively small subsamples of relevant populations.

4. The Defense Manpower Data Center should investigate the source of the reason-for-discharge discrepancies that are present when the DD214 information is compared to data on the Enlisted Training Tracking File.

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Introduction

Purpose

This study investigated whether pattern-of-misconduct discharges are awarded equitably to black and white personnel. Black and white subsamples of discharges were compared on general characteristics, numbers and types of disciplinary actions, time between disciplinary actions and discharge, types of offenses, and the outcomes from the disciplinary actions.

Background

The current nationwide debate regarding the fairness of the U.S. judicial system (e.g., see Stewart, 1993) is also reflected in the military's long-standing concern for equity in discipline. In both the U.S. population and the military, the central issue is the fairness or equity of discipline across racial and ethnic groups. The military's ongoing concern is demonstrated by the April 1992 Joint Service conference on disparate punishment rates. This conference was held at the Defense Equal Opportunity Management Institute to share research findings and establish a common base throughout the Department of Defense (DOD) for continuing investigations.

The Navy has had an active research program (Conway, 1983; Culbertson & Magnusson, 1992; Edwards & Knouse, 1991; Polan & P. J. Thomas, 1985; P. J. Thomas, E. D. Thomas, & Ward, 1974) on equity in discipline across racial and ethnic groups since the early 1970s. In addition to sponsoring research, the Navy routinely monitors discipline rates in its annual assessment of equal opportunity programs (Bureau of Naval Personnel, 1992a). The Navy's concern regarding this topic is due largely to the fact that a disparity is routinely found in comparisons of discipline rates across various racial and ethnic groups. Relative to whites, blacks (and to a lesser extent Hispanics¹) have consistently higher rates of involvement in the Navy's discipline system (e.g., see CNO Study Group, 1988).

Although a similar but larger race-based difference is present for involvement in the civilian justice system, a racial disparity in the Navy discipline system would not necessarily be expected. The civilian population is different from the Navy population with regard to three factors (employment status, prior involvement with the legal system, and educational status) that are commonly associated with illegal behavior. First, unemployment is nonexistent in the Navy, but blacks in the civilian world have a higher level of unemployment than do whites. Second, the Navy does not admit individuals who have frequent or severe involvement with the civilian justice system. Third, the Navy's population is better educated than the civilian population; almost all Navy recruits are high school graduates. These factors would suggest that race-based disparities in Navy discipline rates should be minimized or eliminated.

Responses to recent Navy-wide attitude surveys also suggest that blacks perceive the discipline system to be biased against them. Opinions expressed on the first two administrations of the biennial Navy Equal Opportunity Sexual Harassment (NEOSH) Survey (Rosenfeld, Culbertson, Booth-Kewley, & Magnusson, 1992; Rosenfeld, Culbertson, & Newell, in process) indicated that

¹Although most Hispanics are white, they are coded as a separate group in the Navy personnel records.

blacks perceived more inequity in the disciplinary system than did whites. This difference was larger than the race-based difference on any other area of equal opportunity assessed with the NEOSH Survey.

Despite the pervasive findings of differences in discipline rates and attitudes, researchers (Conway, 1983; Culbertson & Magnusson, 1992; Edwards & Knouse, 1991; Polan & P. J. Thomas, 1985; P. J. Thomas et al., 1974) have not found systematic bias in the Navy formal discipline system. In their review of 25 years of Navy equal opportunity research, Rosenfeld, M. D. Thomas, Edwards, P. J. Thomas, and E. D. Thomas (1991) concluded, "Although the studies on potential bias in Navy discipline have found a number of racial- and gender-based differences, these differences fail to form a pattern to indicate that discrimination is pervasive in the Navy's formal discipline system" (p. 417).

A recent discipline issue of concern to Navy leadership pertains to disparities in rates of pattern-of-misconduct discharges awarded to blacks and whites. The *Naval Military Personnel Manual* 3630600.1.b specifies the conditions that must be met in order for a member to be separated for a pattern of misconduct. A member may be discharged for a pattern of misconduct if during the current enlistment, the individual has:

- two or more minor civilian convictions,
- three or more punishments under the *Uniform Code of Military Justice (UCMJ)*,
- "any combination of three minor civilian convictions (misdemeanor(s) and or punishment(s)) under the *UCMJ*" (pp. 36-33),
- three or more unauthorized absences of more than 3 days each,
- "nine or more minor violations (e.g., specifications) of the *UCMJ*. . . which have been disciplined by punishment under the *UCMJ*" (pp. 36-33),
- a pattern of failing to pay just debts, or
- a pattern of failing to contribute adequate support for dependents.

Approach

Sample

Identifying the sample and obtaining the archival data required a multistep process. First, the Enlisted Training Tracking File—TRAINTRACK—(Nakada, Milczewsky, & Wax, 1989) was analyzed to determine demographic characteristics of black and white former Navy members who were discharged for a pattern of misconduct in fiscal year 1992. Men from other racial/ethnic groups and all women were excluded from the sample because they constituted a very small portion of the personnel who had received pattern-of-misconduct discharges in fiscal year 1992. In addition, the Director, Equal Opportunity Division, Chief of Naval Personnel (PERS-61) indicated

that no question had been raised regarding the equity of pattern-of-misconduct discharges for groups other than black or white men. For the second stage of sample extraction, two randomly selected groups: 500 black men and 500 white men, were chosen.

The names and social security numbers of the 1,000 former Navy members were submitted to the National Personnel Records Center (in St. Louis, MO), along with a request for each former member's field service record (FSR). Microfiche FSRs were received for 721 of the 1,000 former members. The primary reasons for the unavailability of the remaining 279 FSRs were that (1) most of the missing FSRs had not been received at the National Personnel Records Center despite nearly 9 months elapsing since the end of fiscal year 1992 and (2) a small percentage of the FSRs had already been loaned to another Navy command. An additional 106 FSRs were eliminated because examination of the Certificate of Release or Discharge from Active Duty (DD214) revealed that the reason for separation was something other than pattern of misconduct (i.e., the reason-for-separation data in the TRAINTRACK file had been changed after the DD214 had been filed, or the information in the TRAINTRACK file was incorrect). Thus, the final sample consisted of 293 black males (47.6% of the sample) and 322 white males (52.4%).

Sources and Types of Data

Data were obtained from two sources: the TRAINTRACK file and FSRs. Data available from both sources were typically extracted from the TRAINTRACK file in order to save time. Data from the TRAINTRACK file included birthdate, whether the individual had at least 12 years of education (see Laurence, 1993, for a discussion regarding the confusion encountered in defining who is a high school graduate), dates of enlistment and discharge, Armed Forces Qualification Test (AFQT) score, rate at the time of discharge, and separation code.²

A quality check was included at this stage to ensure that the sample included only those former personnel who had been discharged for a pattern of misconduct. If the DD214 in the FSR indicated that the former member had been discharged for a pattern of misconduct, data were extracted from the following forms:

- Enlistment Application—DD1966
- Enlisted Performance Record—NAVPERS 1070/609 (page 9)
- Court Memorandum—NAVPERS 1070/607 (page 7)
- Administrative Remarks—NAVPERS 1070/613 (page 13)

The only piece of information taken from the DD1966 was the waiver code that an individual received at the time of enlistment.

²Navy separation codes consist of three letters. The last two letters refer to the reason for separation. FSRs examined in this study all had "KA"—pattern of misconduct—for the last two letters of the separation code. The first letter of the three-letter code pertains to the means of (rather than the reason for) separation. A "G" indicates that separation was an "involuntary discharge (board action)," an "H" indicates "involuntary discharge (in lieu of further board processing)," and "J" indicates "involuntary discharge." Additional information on separation codes is available in NAVMILPERSCOMINST 1900.1B, Certificate of Release or Discharge from Active Duty, DD Form 214 (1 July 1979).

Most of the information from the FSRs came from pages 7, 9, and 13. Although the page 9s often lacked a complete record of the dates and number of disciplinary actions, they provided a general framework for chronologically ordering civil convictions, courts-martial, and non-judicial punishments (NJPs). NJPs are also referred to as Article 15s or, in the Navy, as Captain's Mast. In addition to the disciplinary information, researchers extracted the ratings on the most recent Enlisted Performance Record Traits from the page 9s.

All of the remaining discipline data were extracted from page 7s, page 13s, records of Administrative Discharge Boards, and messages from a command to the Chief of Naval Personnel documenting the reasons for requesting an administrative discharge. The latter two sources of information were used when a FSR did not have a page 7 or page 13 to document NJPs, courts-martial, or civilian convictions. The information extracted for each disciplinary action included date of the hearing, type of disciplinary action (i.e., NJP, court-martial, or civilian conviction), *UCMJ* articles violated, and type and severity of punishment. The Appendix contains a copy of the data-coding form. Such data were extracted for up to the six most recent NJPs, courts-martial, or civil convictions. Limiting coding to only six disciplinary actions was based on Edwards and Knouse's (1991) finding that less than 5% of the dischargees in that study had six or more disciplinary actions. The *total* number of NJPs, courts-martial, and civilian convictions was, however, counted and recorded when more than six disciplinary actions had occurred.

Analyses

Four sets of analyses were performed. In the initial set of analyses, characteristics of the two groups were examined to determine the comparability of the black and white subsamples. In the other three sets of analyses, various aspects of the disciplinary process were examined for equity. These three general areas of analyses were numbers of, types of, and reasons for disciplinary actions; time between disciplinary action and discharge; and outcomes from the disciplinary actions.

Percentages and/or arithmetic means were computed on each variable for each subsample. In analyses comparing percentages, chi-square tests of independence were the statistic of choice for determining the significance of potential relationships between race and other variables of interest. In analyses comparing means, *t*-tests for two independent groups were used to test for statistical significance. To balance the considerations of the exploratory nature of this research and the large number of statistical tests conducted, the probability level for each test was set to the more stringent .01 level, rather than the commonly used .05 level of significance.

Results

Comparability of the Two Samples

Table 1 displays the general characteristics of the two groups. Statistically significant differences between the groups were found for 3 of the 15 variables.

Table 1
General Characteristics of the Two Subsamples

	Whites (N = 322)	Blacks (N = 293)	p
General Demographics			
Percentage in sample	52.4	47.6	ns
Mean age when discharged	22.2	22.7	ns
Personnel Quality			
Percentage w/ at least 12 yrs of education	81.1	90.1	.005
Mean AFQT score	57.3	41.4	.001
Percentage receiving moral waivers	29.5	16.7	.001
Quality and Length of Navy Service			
Percentage who were rated when discharged	54.3	47.8	ns
Mean paygrade when discharged	1.2	1.2	ns
Mean number of years of total active duty	2.9	2.8	ns
Mean number of years of current enlistment	2.6	2.6	ns
Mean Ratings on Enlisted Performance Record Traits			
Rate Knowledge	2.8	2.8	ns
Reliability	2.4	2.4	ns
Military Bearing	2.6	2.6	ns
Personal Behavior	2.4	2.3	ns
Directing	2.4	1.6	ns
Overall Evaluation	2.6	2.6	ns

Note. AFQT = Armed Services Qualification Test, ns = not significant.

Despite obtaining usable FSRs on only 61.5% of the originally requested sample, the sample sizes for the two racial groups were approximately equal. Also, the mean age for the two groups was not significantly different.

The black and white subsamples were significantly different on all three of the personnel quality indices. Relative to the white subsample, the black group had a higher percentage of individuals with at least 12 years of education³, a lower mean on the AFQT, and a lower percentage of moral waivers. Edwards and Knouse (1991) found the same differences in their discipline study. In both studies, the race-related differences reflected differences in the Navy enlisted population. Edwards and Knouse discussed some of the reasons for the differences.

No difference was detected between the two groups with regard to any of the four variables measuring the quality and length of Navy service or the six mean ratings on the Enlisted Performance Record Traits.

³On 30 September 1992, 5.4% of enlisted Navy personnel had their educational status classified as less than high school graduate (Bureau of Naval Personnel, 1992b). Percentages were not reported for the simultaneous examination of race and educational attainment.

Numbers of, Types of, and Reasons for Disciplinary Actions

At least three considerations underlie discharges for misconduct and the decision about whether the individual will be discharged for a pattern of misconduct. First, multiple disciplinary actions must have occurred. Second, most of the disciplinary actions will have been NJPs; but some civil convictions, summary courts-martial, and special courts-martial may also have been included. The third consideration regarding disciplinary actions is the nature of the military or civilian regulations that were violated. Statistics concerning these three considerations are reviewed in this section.

Numbers and Types of Disciplinary Actions

Table 2 summarizes the numbers and types of disciplinary actions that were awarded to the black and white subsamples. The bottom row of Table 2 presents the mean number of disciplinary actions. The subsample means were not statistically different for any of the four black-white comparisons: NJPs, courts-martial, civil convictions, or total disciplinary actions. The upper portion of Table 2 shows how the various disciplinary actions were distributed. The columns of percentages show that most of the disciplinary actions were NJPs. Less than 15% of each group had at least one court-martial, and less than 10% of each group had a civilian conviction. The total and cumulative total disciplinary actions columns indicate that discharge typically occurred as soon as the former members were awarded their third or fourth disciplinary action. Over 70% of the individuals in each group had four or fewer disciplinary actions when they were discharged.

Table 2

Non-Judicial Punishments, Courts-Martial, and Civil Convictions: Frequency-of-Occurrence Percentages and Means

Number of Actions	Non-Judicial Punishments		Courts-Martial		Civil Convictions		Total Disciplinary Actions		Cumulative Total Disciplinary Actions	
	White %	Black %	White %	Black %	White %	Black %	White %	Black %	White %	Black %
0	0.0	0.3	85.7	86.3	91.3	91.1	0.0	0.0	0.0	0.0
1	3.1	3.1	11.8	11.3	6.2	7.5	0.6	0.7	0.6	0.7
2	9.3	10.2	2.5	2.4	2.5	1.4	2.8	2.4	3.4	3.1
3	45.7	38.9					46.0	41.6	49.4	44.7
4	28.0	24.6					31.4	29.7	80.8	74.4
5	9.9	14.0					13.4	15.4	94.2	89.8
6	2.2	6.5					3.7	7.2	97.9	97.0
7 or more	1.8	2.3					2.1	3.0	100.0	100.0
Mean number committed	3.48	3.66	0.17	0.16	0.11	0.10	3.76	3.92		

Reasons for Disciplinary Actions

The next set of analyses simultaneously considered all of the *UCMJ* articles that had been violated in the former members' six or less most recent NJPs and courts-martial. Simultaneously examining all of the offenses in all (i.e., up to six) of the NJPs and courts-martial has the advantage of increasing the sample size for these analyses and, thereby, increasing the stability of the findings. The sample size becomes the total number of coded NJPs and courts-martial, rather than the number of people in the sample.

Figure 1 displays the articles that were violated in at least 5% of the NJPs/courts-martial by at least one of the groups. Violation of Article 86 (Unauthorized absence) was found in 60% of the NJPs and courts-martial for both of the groups. Approximately 90% of each subsample had at least one NJP or court-martial that included a violation of *UCMJ* Article 86. For the single most recent NJP or court-martial, violation of Article 86 was the only breach of regulations for 30.4% of the black subsample and 34.8% of the white subsample.

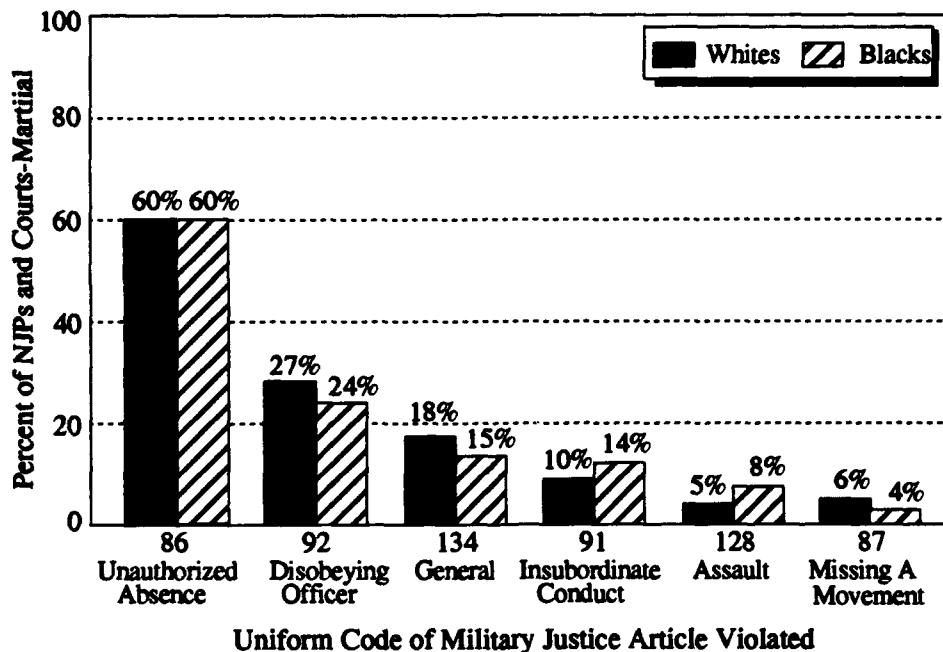


Figure 1. Frequently violated articles in the six-or-less most recent non-judicial punishments (NJPs) and courts-martial.

Five other articles were violated by at least 5% of one of the subsamples in their six-or-less most recent NJPs/courts-martial. Those articles were 92 (Disobeying a superior commissioned officer), 134 (General), 91 (Insubordinate conduct), 128 (Assault), and 87 (Missing a movement). The black-white difference in percentage of cases involving one of those five violations varied from 2% to 4%. For three of the five *UCMJ* articles (92, 134, and 87), whites had rates that were *not* significantly higher than those for blacks. This same nonsignificant trend was found for Articles 92 and 134 in one prior study (Culbertson & Magnusson, 1992). For the other two articles, the black and white

rates were significantly different. In the six-or-less most recent cases of NJPs/courts-martial, blacks violated Article 91 in 14% of the cases whereas whites violated that article in 10% of the cases ($\chi^2 [1, N = 2263] = 8.07, p \leq .01$). Similarly, the black percentage (8%) was significantly higher than the white rate (5%) for violation of Article 128 ($\chi^2 [1, N = 2263] = 7.82, p \leq .01$).

The significant difference for Article 91 is consistent with statistically significant findings from two other studies (Culbertson & Magnusson, 1992; Polan & P. J. Thomas, 1985) and a 6% point difference in another study (Edwards & Knouse, 1991). Although nonsignificant, Culbertson and Magnusson also found that more blacks were punished under Article 128 (Assault).

Another set of analyses was performed on alcohol-related incidents although the findings are not displayed in a table or figure. These incidents were examined by noting the number of times that NJPs, courts-martial, or page 13 entries cited alcohol-related problems. Relative to blacks, whites were significantly more likely ($\chi^2 [1, N = 615] = 11.99, p \leq .01$) to have one or more alcohol-related incidents documented in their FSRs. More specifically, 39% of the whites and 26% of the blacks in this study had at least one alcohol-related incident.

Time Between Disciplinary Actions and Discharge

Table 3 presents the mean number of months that elapsed between discharge and the disciplinary actions that preceded the pattern-of-misconduct discharge. Although the *N*s in each column should be successively smaller as the number of disciplinary actions increase, data-quality problems influenced the results. Foremost among these problems was the absence of documentation on the disciplinary actions that occurred nearest to the discharge date. One explanation for this lack of data is that the NJP or court-martial may have occurred after the command requested permission to discharge the individual. In such cases, the paperwork on the NJP/court-martial may not have been filed before the FSR was submitted for archiving. Similarly, the data were not available in the secondary source (the message to the Chief of Naval Personnel requesting the administrative discharge).

Table 3
Time Between Discharge Date and Date of Last Six Disciplinary Actions

Disciplinary Action	Whites		Blacks		<i>p</i>
	<i>N</i>	# of Months to Discharge	<i>N</i>	# of Months to Discharge	
Most Recent	285	3.29	264	3.25	ns
Second Most Recent	300	7.35	270	8.23	ns
Third Most Recent	294	13.30	271	13.60	ns
Fourth Most Recent	151	19.33	154	18.31	ns
Fifth Most Recent	58	24.57	69	18.30	.001
Sixth Most Recent	19	28.95	30	21.97	ns

Note. ns = not significant.

Only one of the six differences in disciplinary action-to-discharge time was significantly different. For the period between the fifth most recent disciplinary action and discharge, blacks had a significantly shorter mean number of months than did whites ($t [127] = 3.17, p \leq .005$). Together, these six findings suggest that the Navy was treating blacks and whites similarly with regard to the speed with which they were being discharged from the Navy following disciplinary incidents.

Outcomes From the Disciplinary Actions

Outcomes of the disciplinary actions occur at two levels. One level is concerned with the outcome of a single disciplinary action (i.e., the punishment that was awarded each time that an individual appeared at an NJP or court-martial). A second level of analyses considers the collective outcome (i.e., the character of separation awarded upon discharge from the Navy).

Punishments Awarded

As in Figure 1, punishment statistics were computed across the six-or-less most recent NJPs and courts-martial. Blacks and whites were, respectively, awarded 1,103 and 1,160 NJPs/courts-martial. For each NJP or court-martial, blacks received an average of 2.43 types of punishment (e.g., extra duty, restriction, and reduction in rank), and whites averaged 2.47 types of punishment; these rates were not statistically different. Three of the punishments: restricted movement, forfeiture of money, and extra duty, were awarded in at least 5 of every 10 NJPs and courts-martial. The two least frequently awarded punishments were issuing a warning but not awarding any additional punishment, and placing the former member on 3 days of bread and water.

Subsequent analyses compared blacks and whites to determine if any type of punishment was administered differently to one of the groups (see Table 4). Relative to rates for whites, nonsignificantly higher percentages of NJPs/courts-martial for blacks resulted in restricted movement, extra duty, suspended punishment, and/or 3 days of bread and water. Blacks and whites received a warning as punishment at the same rate. For the remaining three types of punishment, a higher percentage of whites than blacks received the award, with two of the differences between blacks and whites being significant. Whites forfeited money ($\chi^2 [1, N = 2263] = 8.21, p \leq .01$) and/or a paygrade ($\chi^2 [1, N = 2263] = 6.43, p \leq .01$) proportionately more often than did blacks.

A second set of analyses compared the average amount of punishment that was administered. In these other analyses, the N per group was the number of NJPs/courts-martial that had included a given punishment (i.e., a fraction of the total numbers of NJPs and courts-martial). For example, only the NJPs or courts-martial that awarded extra duty would be used to compute the mean number of days of extra duty that were awarded.

Three statistically significant differences were detected. Relative to blacks, whites received an average of nearly 3 days more restricted movement ($t [1468] = 3.67, p \leq .01$) and two more days of extra duty ($t [1301] = 2.62, p \leq .01$) when those punishments were awarded. Also, a difference was detected in terms of the amount of money that was forfeited. In addition to whites receiving forfeiture of money more often, whites paid \$57.00 more per NJP/court-martial than did blacks ($t [1359] = 3.53, p \leq .01$). This latter difference appears to be caused by the combination of several factors. First, a forfeiture amount is commonly based on a proportion of the member's salary for one or more months (e.g., 1/2 of the member's base pay for 2 months). Second, (although data were

Table 4

Non-Judicial Punishments and Courts-Martial: Percentage of Cases Awarding a Given Punishment and the Mean Punishment per Case

Type of Punishment	Whites	Blacks	<i>p</i>
Restricted Movement			
Percentage of cases awarding this punishment	63.3	66.6	ns
Mean days	32.4	29.6	.01
Forfeit Money			
Percentage of cases awarding this punishment	62.7	57.3	.01
Mean dollars	460.9	13.9	.01
Extra Duty			
Percentage of cases awarding this punishment	55.9	59.2	ns
Mean days	30.6	28.6	.01
Paygrade Reduction			
Percentage of cases awarding this punishment	33.0	28.0	.01
Suspended Punishment			
Percentage of cases awarding this punishment	15.7	16.0	ns
Confinement			
Percentage of cases awarding this punishment	11.2	9.1	ns
Mean days	33.4	30.3	ns
Three Days of Bread and Water			
Percentage of cases awarding this punishment	4.1	5.5	ns
Warning			
Percentage of cases awarding this punishment	1.0	1.0	ns

Note. ns = not significant.

not gathered) the average paygrade of blacks and whites at the time of each incident would not have been equal. This conclusion is based on the fact that whites received significantly more paygrade reductions than did blacks and the average paygrade for the two groups was equal (see Table 1) at the time of discharge. As a result of these factors (i.e., whites being at higher average paygrades than blacks and forfeiture being commonly based on paygrade), whites forfeited proportionately more money than did blacks.

Character of Separation

Table 5 presents both the number of people who received each character of separation and the rates for each type of separation. Although blacks received proportionally more other-than-honorable separations than did whites and whites received proportionally more honorable-general separations, no significant relationship was detected between character of separation and race. In summary, the general lack of significant differences suggests that no bias was present in the awarding of punishment.

Table 5
Character-of-Separation Rates^a

Means of Separation	Character-of-Separation									
	Honorable		Honorable General		Other Than Honorable		Entry-Level/Uncharacterized		Total	
	N	%	N	%	N	%	N	%	N	%
Involuntary Discharge (board action)										
White	3	1.0	28	9.0	19	6.0	1	0.3	51	15.8
Black	3	1.0	28	10.0	31	11.0	0	0.0	62	21.2
Involuntary Discharge (in lieu of further board processing)										
White	1	0.3	24	7.0	239	74.0	2	1.0	266	82.6
Black	1	0.3	11	4.0	217	74.0	0	0.0	229	78.2
Involuntary Discharge										
White	1	0.3	4	1.0	0	0.0	0	0.0	5	1.6
Black	1	0.3	1	0.3	0	0.0	0	0.0	2	0.7
Overall										
White	5	1.6	56	17.4	258	80.1	3	0.9	322	100.0
Black	5	1.7	40	13.7	248	84.6	0	0.0	293	100.0

^aThe percentages are the fractions of subsample's total population.

Discussion and Conclusions

In this study of pattern-of-misconduct discharges, race did not consistently affect the number of chances (i.e., disciplinary actions) that individuals were given before being discharged, the speed with which administrative discharges were initiated, or the discharges' character of separation. Racially based differences were, however, detected in the types of violations (i.e., laws and *UCMJ* articles broken) that were committed and the types and degrees of punishment that were awarded.

One troubling finding from this research, also found in two prior Navy discipline studies (Culbertson & Magnusson, 1992; Polan & P. J. Thomas, 1985), was that blacks were charged with violating *UCMJ* Article 91—Insubordinate conduct—proportionately more often than were whites. The subjective/perceptual nature of such violations leads to various questions:

- Are blacks relatively more insubordinate than are whites?
- Are there cultural differences in the manner in which blacks and whites communicate? If so, do white supervisors interpret as insubordination words that are not considered to be disrespectful by blacks?
- Does the pre-NJP and pre-court-martial disciplinary system operate differently for blacks and whites? Perhaps, the insubordinate conduct of whites is tolerated more than the insubordinate conduct of blacks. That is, formal report chits may not be filed equally for whites and blacks.

These and other questions about the causes of the race-based difference in violating Article 91 will be exceedingly difficult to investigate. The primary reason for this difficulty is that the necessary data are not available. There is no way to estimate the number of times that a report chit could be filed but is not. Even the data that are available have research limitations. For example, the race of the person submitting a report chit is not available; therefore, it is impossible to determine if black and white supervisors are reporting violations of Article 91 at similar rates.

Both groups received the same average number (i.e., approximately 2.45) of different types of punishment per NJP/court-martial. This finding stands in contrast to the findings that whites had higher rates (than blacks) for two types of punishment and significantly higher mean amounts of punishment for three types of punishment. Together, these findings suggest that blacks and whites are probably receiving an equal number of punishments but commanding officers are electing to award some types of punishment more often to members of one or the other group. As explained in the Results section, paygrade (or some other rate-relevant characteristics) could have influenced the amount and type of punishment that was awarded. That is, the average white offender by virtue of being at a higher level paygrade may be held accountable at a higher level than is the average black offender, and thus awarded some punishments more often (e.g., a reduction in paygrade) and/or a larger amount of punishment (more days of extra duty or restriction or more money forfeited). At any rate, the punishment findings from this study highlight one reason why few researchers have examined types and amounts of punishment (Culbertson & Magnusson, 1992); there is no way to equate one punishment with the type(s) and amount(s) of another punishment.

Collectively, the statistically significant (and overwhelming number of nonsignificant) results did not reveal a trend favoring blacks or whites. Thus, these findings support Edwards and Knouse's (1991) conclusions—Many race-related discrepancies in disciplinary rates (e.g., average number of NJPs per racial group and percentage of other-than-honorable separations) are less pronounced, or disappear, when reasons for separation are held constant. Another way to state this conclusion is that, on average, blacks and whites who are discharged for pattern of misconduct are treated the same.

A question that is not answered by this study is whether pattern-of-misconduct discharges are applied equally across racial groups. Given that proportionally more blacks than whites receive misconduct discharges (e.g., see CNO Study Group's [1988] Figure I-8 and Edwards & Knouse's [1991] Table 2), questions remain regarding whether bias enters the disciplinary system in the assignment of reasons for discharge. Often when a member is being discharged for a pattern of misconduct, the member's command indicates numerous reasons (e.g., pattern of misconduct, commission of a serious crime, or drug abuse) why the Chief of Naval Personnel should grant the command authority to discharge the member. In an earlier study Edwards and Knouse had recommended, "The Judge Advocate General should examine the procedures that are used to assign separation codes. Although the differences in character-of-separation rates were generally small once the reasons for separation were held constant, the proportion of each racial/ethnic group receiving discharges for a given reason or type of reason was often different" (p. 22).

This study could only examine the disciplining of persons who were eligible for pattern-of-misconduct discharges and did receive them; funding, time, and logistical considerations did not permit the examination of people who were eligible but did not receive pattern-of-misconduct

discharges. The number of people who would fall into the latter category can be estimated by examining Table 2. Over 50% of each racial group received more than the three disciplinary actions that would minimally qualify them for pattern-of-misconduct discharges. (In fact, two individuals each received 12 disciplinary actions in a single enlistment before they were discharged.) In essence, questions will remain about the fairness of discharge policies until data on people receiving a type of discharge and people who are eligible for the discharge but do not receive it can be analyzed.

Another disturbing finding was more general in scope. Nearly 15% (106 of 721) of the initially selected sample were discharged for reasons other than a pattern of misconduct; this outcome is surprising given that a DOD database had all of the sample listed as pattern-of-misconduct discharges. This lack of agreement between information in the database and reason for discharge listed on the DD214s (in the FSRs) may be due to data entry errors, changes in reasons after the member was discharged, recoding of response categories, or some other explanation. At any rate, the widespread use of this database and the possibility that other portions of the database contain similar "errors" make it imperative that the source of these discrepancies be found.

None of the questions raised in this section can be fully answered soon. The primary reason for this conclusion is the lack of an adequate database for conducting the research. Discipline data is one type of Navy personnel data that has remained a problem for policy-makers and researchers. As a result, some of the unanswered questions regarding equity in the administration of discipline will remain because studies such as the present one are conducted on very limited databases. Implicit in the prior two paragraphs is an acknowledgment of the limitations of the database that was used in this study. More specifically, this database contained only people who were discharged for patterns of misconduct.

Recommendations

1. The Judge Advocate General should examine the procedures that are used to assign separation codes when a member is eligible for discharge for more than one reason.
2. The Chief of Naval Personnel and the Judge Advocate General should investigate the source of the racial differences in *UCMJ* Article 91 violations that have been found in three Navy discipline studies.
3. Either the Judge Advocate General or the Chief of Naval Personnel should establish a discipline database that contains information at the individual level. Such a database would result in findings that are more definitive than those obtained from studies that have been conducted with relatively small subsamples of relevant populations.
4. The Defense Manpower Data Center should investigate the source of the reason-for-discharge discrepancies that are present when the DD214 information is compared to data on the TRAINTRACK files.

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Appendix
Coding Sheet for Pattern of Misconduct Study

Coding Sheet for Pattern of Misconduct Study

DD214

_____-_____-_____- SSN (Block 3) _____ Name

DD1966/1

_____- Waiver Code (Block 20e)

Alcohol Concerns

_____-_____-_____- Most recent incident (date: year, month, day)

_____-_____-_____- Second most recent incident

_____-_____-_____- Third most recent incident

Page 13: Drug Usage (Also possibly on Pages 7 & 9 and Medical Record)

_____- Most Recent Drug Used (1 = Weed/THC, 2 = Coke, 3 = Crack, 4 = Methamp/Speed,
5 = Barbs/Downers, 6 = PCP, 7 = LSD, 8 = Polydrug, 9 = Unspecified)

_____- Most Recent Drug Offense (1 = Use/Fail Test, 2 = Intro, 3 = Distrib, 4 = Sell,
5 = Drug-Related Incident, 6 = Use & Intro, 7 = Possession)

_____- Second Most Recent Drug Used (use above codes)

_____- Most Recent Drug Offense (use above codes)

Other Concerns Affecting Enlistment (Number incidents mentioned in non-NJP/CM; else, blank)

_____- Obesity/PRT failures

_____- Psychological issues (e.g., Enuresis/Sleep disorders, suicide thoughts, etc.)

_____-_____-_____- Date of Fifth Most Recent Offense (give as year, month, day)

_____- Type of judicial action (1 = NJP, 2 = GCM, 3 = SPCM, 4 = SUCM, 5 = Civilian)

_____-_____-_____-_____-_____- UCMJ Violated

_____- Warning/Admonition, but other punishment (1 = Yes)

_____- Number of Paygrades Reduced

\$_____-_____- Total Monetary Payment (_____- E-level X _____- Fraction of Salary X _____- Months)

_____-_____-_____-_____-_____- <--- Number of Days

Confined Restr Move Hrd Labor Xtra Duty B & H₂O Suspension

_____-_____-_____- Date of Sixth Most Recent Offense (give as year, month, day)

_____- Type of judicial action (1 = NJP, 2 = GCM, 3 = SPCM, 4 = SUCM, 5 = Civilian)

_____-_____-_____-_____-_____- UCMJ Violated

_____- Warning/Admonition, but other punishment (1 = Yes)

_____- Number of Paygrades Reduced

\$_____-_____- Total Monetary Payment (_____- E-level X _____- Fraction of Salary X _____- Months)

_____-_____-_____-_____-_____- <--- Number of Days

Confined Restr Move Hrd Labor Xtra Duty B & H₂O Suspension

Page 9: Non-Judicial Punishments (NJPs) and Courts-Martial: General, Special, & Summary

_____, _____, _____, _____, _____, _____ Performance Record Traits (Block 4: Most recent)

_____, _____, _____, _____, _____, _____ Performance Record Traits (BI 4: 2nd most recent)

_____, _____, _____, _____, _____, _____ Number of NJPs, GCMs, SPCMs, SUCMs, Civils (Block 4: Count the number of times listed)

N G Sp Su Civ

Page 7: Court Memos, Page 9: Performance Records, Page 13: Comments

_____, _____, _____ Date of Most Recent Offense (give as year, month, day)

____ Type of judicial action (1 = NJP, 2 = GCM, 3 = SPCM, 4 = SUCM, 5 = Civilian)

_____, _____, _____, _____, _____, _____ UCMJ Violated

____ Warning/Admonition, but other punishment (1 = Yes)

____ Number of Paygrades Reduced

\$ _____, _____ Total Monetary Payment (____ E-level X ____ Fraction of Salary X ____ Months)

_____, _____, _____, _____, _____, _____ <--- Number of Days

Confined Restr Move Hrd Labor Xtra Duty B & H₂O Suspension

_____, _____, _____ Date of Second Most Recent Offense (give as year, month, day)

____ Type of judicial action (1 = NJP, 2 = GCM, 3 = SPCM, 4 = SUCM, 5 = Civilian)

_____, _____, _____, _____, _____, _____ UCMJs

____ Warning/Admonition, but no other formal punishment (1 = Yes)

____ Number of Paygrades Reduced

\$ _____, _____ Total Monetary Payment (____ E-level X ____ Fraction of Salary X ____ Months)

_____, _____, _____, _____, _____, _____ <--- Number of Days

Confined Restr Move Hrd Labor Xtra Duty B & H₂O Suspension

_____, _____, _____ Date of Third Most Recent Offense (give as year, month, day)

____ Type of judicial action (1 = NJP, 2 = GCM, 3 = SPCM, 4 = SUCM, 5 = Civilian)

_____, _____, _____, _____, _____, _____ UCMJs

____ Warning/Admonition, but no other formal punishment (1 = Yes)

____ Number of Paygrades Reduced

\$ _____, _____ Total Monetary Payment (____ E-level X ____ Fraction of Salary X ____ Months)

_____, _____, _____, _____, _____, _____ <--- Number of Days

Confined Restr Move Hrd Labor Xtra Duty B & H₂O Suspension

_____, _____, _____ Date of Fourth Most Recent Offense (give as year, month, day)

____ Type of judicial action (1 = NJP, 2 = GCM, 3 = SPCM, 4 = SUCM, 5 = Civilian)

_____, _____, _____, _____, _____, _____ UCMJs

____ Warning/Admonition, but no other formal punishment (1 = Yes)

____ Number of Paygrades Reduced

\$ _____, _____ Total Monetary Payment (____ E-level X ____ Fraction of Salary X ____ Months)

_____, _____, _____, _____, _____, _____ <--- Number of Days

Confined Restr Move Hrd Labor Xtra Duty B & H₂O Suspension

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