

150. Provide any statistics or information you have on the following:⁶

- A. The number of instances when the convening authority's referral decision did not align with the Article 32 investigating officer's (IO) recommendation.
- (1) In particular, how often (by number and percentage of like cases) did the IO recommend going forward, but the convening authority declined to refer to courts-martial?
 - (2) How many cases did the IO recommend against going to trial, but the convening authority decided to refer the case to a court-martial anyway?
- B. Prosecution and conviction rates for other crimes such as robbery, burglary, homicide.

USA	<p>Answer A1:</p> <p>While the Army does not centrally track this statistic, responses from the field indicate that over the last year, there were a total of three instances where the IO recommended going forward, but the convening authority declined to refer to court-martial. As with RFI 138, the data are the result of an inquiry to the field with over 80% of jurisdictions reporting confident data, and almost all of the Army's largest jurisdictions are included. Out of the three reported instances, one Division reported two non-referrals. Both of those cases involved sexual assault allegations that had significant evidentiary issues. It is noteworthy that in one of the non-referred cases, there was a co-accused where one IO recommended going forward while the other IO found no reasonable grounds existed to establish the offense.</p> <p>Answer A2:</p> <p>Responses from the field indicate a total of 37 instances where the IO recommended against going to trial, but the convening authority decided to refer to court-martial anyway.</p> <p>Answer B:</p> <p>The Army does not track prosecution rates for other crimes such as robbery, burglary and homicide. The Fiscal Year 2012 conviction rates for other crimes are as follows:</p> <ul style="list-style-type: none">○ Murder: 62.5%○ Larceny: 91.2%○ Robbery: 100%○ Burglary: 66.7%○ Aggravated Assault: 77.0%○ Drug Offenses: 93.3%
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⁶ Question 19 is to follow up from the panel members' questions asked at the RSP Public Meeting on December 12, 2013.

USAF	<p>Answer A1:</p> <p>In FY13 there was one case involving sexual assault in which the IO recommended going forward with the case, and the convening authority did not refer the charges to court. The one case amounts to 1 of 169 (or 0.6%) of similar cases that were preferred and presented to the convening authority for disposition.</p> <p>Answer A2:</p> <p>In FY13 there were three sexual assault cases in which the IO recommended against going to trial, but the convening authority referred the cases to trial. In two of the cases, the accused was eventually acquitted. In the third case, the convening authority granted a defense request for discharge in lieu of further proceedings after the victim expressed a desire to not participate further in the case. The three cases amount to 3 of 169 (or 1.8%) of similar cases that were preferred and presented to the convening authority for disposition.</p> <p>Answer B:</p> <p>The Air Force does not have a system that is able to track and calculate prosecution rates. However, conviction rates can be calculated by reviewing queries of cases tried in the Automated Military Justice Analysis and Management System (AMJAMS). Over the past 3 years these rates are as follows:</p> <ul style="list-style-type: none"> -Robbery <ul style="list-style-type: none"> 2011 – 0 tried 2012 – 100% (3 tried, 3 convicted) 2013 – 100% (1 tried, 1 convicted) -Burglary <ul style="list-style-type: none"> 2011 – 100% (8 tried, 8 convicted) 2012 – 80% (5 tried, 4 convicted) 2103 – 100% (2 tried, 2 convicted) -Homicide (includes Murder [Art. 118], Manslaughter [Art. 119], Negligent Homicide [Art. 134]) <ul style="list-style-type: none"> 2011 – 100% (9 tried, 9 convicted) 2012 – 80% (10 tried, 8 convicted) 2013 – 100% (7 tried, 7 convicted) -All crimes other than adult and child sexual assault offenses <ul style="list-style-type: none"> 2011 – 93% (678 tried, 629 convicted) 2012 – 93% (609 tried, 564 convicted) 2013 – 93% (591 tried, 549 convicted)
USN	<p>Answer A: This statistic is not maintained by the Navy.</p> <p>Answer B: This information is not maintained by the Navy.</p>
USMC	<p>Answer A:</p>

	<p>The Marine Corps does not currently track these statistics. However, in January 2013, HQMC (JAD) sent an RFI to the Marine Corps Legal Services Support Sections (LSSS) to determine whether and how often convening authorities were making decisions against the advice of Article 32 Investigating Officers and/or their staff judge advocates. The responsive information provided us the following information. In FY12, Marine Corps LSSSs received 2,575 Requests for Legal Services (RLS) on military justice cases from commands within the Department of the Navy. These RLS include cases across the military justice spectrum – from very minor misconduct to the most serious felony-level cases the Marine Corps prosecutes. The Marine Corps found that convening authorities took action consistent with their SJA's recommendation for all cases that were disposed of during FY12.</p> <p>Answer A2:</p> <p>The Marine Corps does not currently track these statistics.</p> <p>Answer B:</p> <p>The Marine Corps does not currently track these statistics.</p>
USCG	<p>Answer A:</p> <p>In Fiscal Year 2013, the Coast Guard conducted 14 Article 32 investigations, with only one instance in which the Article 32 IO recommended against going to trial but the convening authority referred the case (approximately 7%). There were no instances in Fiscal Year 2013 of the Article 32 IO recommending trial and the convening authority declining to refer the case to a courts-martial (0%).</p> <ul style="list-style-type: none"> • To date, in Fiscal Year 2014, the Coast Guard has conducted 23 Article 32 investigations, with 100% alignment between the Article 32 IO recommendation and the convening authority's subsequent action. <p>Answer B:</p> <p>The following tabular data is presented for all possible offenses under the UCMJ:</p> <p>General and Special Courts-Martial Cases: FY13 GCM</p> <p>Preferred Alternative Disposition Referred & Dismissed Referred & Tried 14 0 5* 9 (64%) 89% convicted (1 Acquittal)</p>

<p>SPCM Preferred Alternative Disposition Referred & Dismissed Referred & Tried 28 14† 0 14 (50%) 86% convicted (2 Acquittals) * 1 Case disposed at NJP †9 cases re-referred to SCM; 2 cases disposed of at NJP; 3 cases were withdrawn ILO discharge</p> <p>General and Special Courts-Martial Cases: FY14 (as of April 2014) GCM</p> <p>Preferred Alternative Disposition Referred & Dismissed Referred & Tried 12 0 4* 8 (67%) 100% convicted (0 Acquittals)</p> <p>SPCM Preferred Alternative Disposition Referred & Dismissed Referred & Tried 27 14† 0 13 (48%) 54% convicted (3 Acquittals) *1 Case disposed at NJP †9 cases re-referred to SCM; 5 cases disposed of at NJP</p>
