The Center for Naval Analysis briefing: **"**Exploring Racial, Ethnic, and Gender Disparities in the Military Justice System**" by by Dr. Elizabeth Clelan, Research Program Director, Navy Human Resources Program**

2 May 2024 | DACODAI public meeting

[00:00:01.150] - Speaker 3

Colonel Retired Walter Kaneakuwa.

[00:00:06.820] - Speaker 5

Aloha, Walt Kaneakuwa from Hawaii. Glad to be here this morning.

[00:00:14.550] - Speaker 3

Professor Thomas Lee. Professor Thomas Lee will be represented by Dr. Salvaj. Apologize for that. Dr. Celia Salvach.

[00:00:45.770] - Speaker 2

So can you hear us? We see your picture on the screen.

[00:00:49.890] - Speaker 4

Oh, I'm sorry, I didn't know that you were calling my name. I apologize. Yes, good morning, Dr. Celia Zalwach. Great to see everybody.

[00:00:57.890] - Speaker 3

Thank you. Okay, great. Dr. Nelson Lim. Okay, we'll get back to Dr. Nelson Lim. Dr. Jeffrey Means.

[00:01:21.510] - Speaker 5

Good morning.

[00:01:22.640] - Speaker 2

Dr.

[00:01:22.820] - Speaker 5

Means. Dr. Jeff Beans.

[00:01:25.180] - Speaker 2

Thank you. Glad to be here.

[00:01:29.010] - Speaker 3

Lieutenant Colonel, retired, Alfredo Sandoval.

[00:01:39.200] - Speaker 2

Good morning, Lieutenant Colonel Sandoval, retiring United States Air Force. Thank you.

[00:01:45.420] - Speaker 3

Thank you. And Ms. Kristenristen Kavanaugh. Okay, we'll go back to Mr. Chris Cavenagh, Mr. Philip Carter. Okay, and then Dr. Nelson Lim. I'm sure they're in the conference. Maybe they're having some technical difficulty as well as for Ms. Cavenagh. Ms. Cavenagh? If not, then let's go ahead and start. Ms. Major General, UV is on.

[00:02:41.420] - Speaker 1

She's on now.

[00:02:43.920] - Speaker 2

Okay, why don't we go ahead and get started with our meeting. And first, I probably should have said this at the very beginning. My apologies that because of some various circumstances at the last minute this week, we had to change this from an in-person and virtual meeting to just a virtual meeting. And we're at a facility that has great audiovisual capabilities, as you can see, at least visually. But we're having a little bit of challenge in getting every mixture, everybody on the committee can hear us and we can hear them. So we will work that issue and get that resolved. But we need to go ahead and start with our agenda. But let me surely turn it back over to you.

[00:03:28.730] - Speaker 3

Yes, thank you, Thank you, General Walsh. I will now cover the committee's request for information. Members, please turn to tab A alpha in your binders as I provide an update on the status of the responses. The committee issued six Requests for Information or RFIs, all of which were for briefing request. The Defense Department, Center for Naval Analysis, Central Intelligence Agency and RAN responded to the committee's request. Members, briefing slides have been provided in your binders. Following the meeting, the RFI responses will be published on the DAKADIRA page for members of the

public to view and download. This morning, the Center of Naval Analysis, I will provide a briefing on racial, ethnic, and gender disparities in the military justice system. The briefing will last approximately 30 minutes, after which the chair will initiate committee's question and answer session. The slide deck for this briefing is located in TAB Alpha. Today's briefer is Dr. Elizabeth Cleland, Research Program Director, Navy Human Resources Program, CNA. Dr. Cleland, if you are ready, please let us know.

[00:04:59.360] - Speaker 1

Yes, ma'am. Good morning, sir.

[00:05:03.140] - Speaker 2

Welcome, and thank you very much for joining us today. And thanks for adhering to our request to hear from the Center for Neighborhood Analysis. We appreciate your comments to us to better inform us on another major aspect dealing with diversity, equity, and inclusion.

[00:05:22.400] - Speaker 1

All right. Well, thank you so much for having me. And just admin note, would you prefer my video on or off? Do you have a preference?

[00:05:30.080] - Speaker 2

No, we do not. Okay.

[00:05:33.740] - Speaker 1

I will turn it on then so I can see you guys and you can see me.

[00:05:39.330] - Speaker 2

Thank you. That's good. We can see you. Thank you.

[00:05:42.600] - Speaker 3

Okay. We will give you a five minute Warning. When do you hit that 30-minute mark.

[00:05:49.100] - Speaker 1

Okay. Well, great. Well, thank you for having me today. Distinguished Committee members, sir, ma'am, I'm very happy to be here. And I'm going to be briefing a study in titled Exploring Racial, Ethnic, and Gender Disparities in the Military Justice System. We at CNA, we conducted it for ODEI within OUSD PNR, and it was to address FY20 NDAA tasking. Just to give you a little bit of information about CNA, we

are an independent nonprofit research and analysis organization that informs the decisions of the Navy, Marine Corps, and DOD leaders. We're the Department of the Navy's federally-funded research and Development Center, or FFRDC. The researchers on this specific study are labor economists and IO psychologists, and we have expertise in analyzing military personnel data as it relates to DEI issues. All in all, we have the relevant technical training, as well as several years at looking at these issues in a variety of military contexts. Next slide, please. The briefing is going to be structured to give you an overview We have two main tasks from the FY20 NDAA. This study was addressing those two tasks, and we have a summary of our findings and recommendations as well in this briefing.

[00:07:12.250] - Speaker 1

Next slide, please. Again, this study addressed two tasks from the FY20 NDAA, and that came directly from recommendations made by GAO to the Secretary of Defense as a result of a 2019 GAO study. That study was titled, Military Justice, DOD in the Coast Guard: Need to improve their Capabilities to Assess Racial and Gender Disparities. The first task in the NDAA was to establish criteria to determine when racial, ethnic, and gender, what we're calling REG disparities in the military justice process, should be reviewed and describe how such a review should be conducted. Then the second task was to conduct an evaluation to identify the causes of REG disparities identified in the military justice system and take steps to address the causes of any such disparities. Each of those tasks is going to map to specific research question posed in the statement of work for this study. For the first task, the specific research question that we address is what data element should be tracked and what disparity indicator should DOD use to monitor trends and and MJS outcomes. For the second task, the specific research questions are going to be, how much of the required data currently exists, and to what extent are they standardized across the services?

[00:08:43.920] - Speaker 1

Do the existing Can the existing MJS data reveal differences in the military justice outcomes by race, ethnicity, gender? Can we identify any specific factors, including bias, that are associated to observed outcome disparities? Task. Our general approach was to start by addressing the first task, and then we were going to use the results of that first task to address the second task. In other words, the evaluation we did to address Task 2 was an application of the process and criteria we identified when we addressed Task 1. Next slide, please. First, I'm going to start with the Task 1 findings. Task 1 findings fall into three categories. We identified policy problems, analytical problems, and potential solutions to those problems. This slide shows that the findings can be thought about according to a logical flow. When starting with the policy problem, we focused on real and perceived bias. To be effective, the MJS must not only be fair, but it also must be perceived as fair. There are persistent perceptions among key audiences that the MJS is not fair and that it is subject to REG bias. Bias can enter the MJS via discretionary decisions made at the institutional and individual levels.

[00:10:16.300] - Speaker 1

Once we introduce this issue of bias, we run up against a fundamental analytical problem, which is that bias is inherently unobservable in administrative data. That's why we use outcome disparities as proxies for bias. But outcome disparities are imperfect proxies for bias, and therefore, there's no widely or generally accepted criteria, either in social science or the courts, to say when a disparity can be said to indicate bias. The good news is that there are solutions to this analytical problem. People who study the civilian justice system have appropriately applied statistical techniques to to the bias identification problem and have developed a systematic assessment process to aid with the criteria problem that I mentioned. In addition, the current MJS reporting requirements that exist provide a schedule for doing appropriate analysis that seems to us feasible from a resource perspective and appropriate from a scientific perspective, but the services are not currently fully executing those requirements, or at least not at the time this study was published in 2022. Next slide, please. Based on those findings on the previous slide, we have one overarching recommendation for how to conduct reviews of REG disparities in the MJS, and that was to follow a process we developed based on lessons learned from the Civilian Justice System and from our social science training and experience.

[00:11:57.480] - Speaker 1

The recommendation contains three key to highlight. The first is that assessments using the process should be implemented on an ongoing basis. Bias isn't something you can address one time and expect it to be solved. Both society and the system evolve over time, and the people within the system turn over and get replaced by new people, so assessments must be done continuously. Next, we presented the process as six ordered steps, but it's likely that for any given assessment, some steps might be repeated based on results of later steps. So you see those six steps here listed on the slide. So this is especially likely to be true of the steps might be repeated if we're talking about steps one through five, and if they're carried out effectively because they imply the need to work with key stakeholders throughout the life of an assessment, and interim results may be changing priorities throughout the assessment. So finally, Secondly, because of the lack of widely accepted criteria for deciding when disparities equate to bias, it's very important to set decision-making criteria explicitly from the start and to ensure that the results of perceived and legitimate are perceived as legitimate by all stakeholders.

[00:13:20.650] - Speaker 1

The stakeholders need to be a part of that process if they're going to perceive the results as legitimate. Those are findings for for task one of the analysis. So onto the next slide, please. So now we're going to get into the data analysis task that the NDAA required. So I'm going to spend a lot of time on this slide. I know it's very busy. There's a lot of information here, but that's part of the point. So for the data analysis task, we developed a chart that depicts the flow of a case or incident through the the MJAS. I show you this before I show you any of our analytical results because it lays the foundation for most of the things we'll be discussing, and it lets me introduce some key ideas from the start. First, it shows the complexity of the MJS. The chart is a very, very simplified, simplified depiction of the MJAS, but it's still pretty complicated. It's got multiple paths. It's got the NJP path, which is the disciplinary path. And then there's

three judicial paths. You have your summary court martial, your special court martial, and your general court martial for your judicial path.

[00:14:37.570] - Speaker 1

It's got four basic phases. We have our incident processing phase, we have our pre-trial, pre-hearing phase, we have our adjudication and sentencing phase and our post trial, post hearing phase. Then on each path, there are multiple steps within each phase, although we only show a few on this chart. Secondly, this It shows the sequential nature of the MJS, which is essentially a series of outcomes that occur in ordered steps and phases so that movement through the system is determined by the outcome at each successive step along the relevant path. In other words, experiencing each outcome is conditional on a particular experience from the previous outcome. Third, it shows the role of discretion in the MJS. Entry into the system and movement step to step occur as a result of discretionary decisions made by different parties. At the beginning, members of each service enter the system. Some who enter the system are actual offenders, which is noted by the orange box in this flowchart, but some are not, which is noted by the green box. And some who offend don't enter the system at all. So whether the person even enters in first place is a result of a discretionary decision about making reports to the command by either individuals or investigative or law enforcement personnel.

[00:16:11.500] - Speaker 1

Then the CEO makes a disposition decision in the second column, and so on and so on until the case is resolved. Finally, this chart is going to hint at the segmentation of the system across multiple organizations. This segmentation is then reflected collected in the MJS data that we're going to be using for the analysis. Each service implements the system in its own way and maintains its own data systems. And within each service, decision making and data management responsibilities are distributed across investigative organizations, law enforcement agencies, legal offices, and commands. So this chart shows us a lot, although it's very complicated. Next slide, please. So this slide provides some examples of where discretion, which I spoke about on the previous slide, where discretion and bias has a potential to enter along some points of that previous flow chart. For example, for many alleged incident types, upon initial accusation, a commander has a discretion to decide whether and how to investigate the incident and the initial disposition decision. You will see that there are several other examples of where discretion can enter that are also listed on this slide. Where there is discretion, there's a potential for bias, and that bias could be implicit or explicit, intentional or unintentional.

[00:17:44.420] - Speaker 1

Overarching all of this, institutional bias could enter through seemingly neutral policies that have a disparate impact. Next slide, please. Now What are our method for measuring outcome disparities in this study? There's going to be a little bit of math here, so please bear with me, but it's important to understand this in order to understand our results. So we're going to rely on something called odds ratios by using logistic regression models, where we're going to be controlling for a variety of other factors

besides race, ethnicity, and gender that might explain observed disparities. We're going to be controlling for things like occupation, education, education levels, marital status, etc. Then we're going to interpret the odds ratio outputs on just those race, ethnicity, and gender coefficients. Let me give you an example of what I mean here. So intuitively, an odds ratio is measuring the odds of an event occurring in one group compared to the event occurring in another group. So for example, if out of every If every 10 cases of Black service members brought to trial, on average, three cases are found guilty and seven cases are found not guilty, then the odds of a Black service member being found guilty is three to seven.

[00:19:14.480] - Speaker 1

If out of every 10 cases of White service members brought to trial, five cases are guilty and five are not guilty, then the odds of a White service member being found guilty at a trial is five to five or one over one. Then when we take the ratio of that, so remember, the odds of a Black service member being found guilty was three to seven. The odds of a white service member being found guilty was one to one. You take that ratio, the overall odds ratio is three sevenths. So this odds ratio is less than one. So the odds of being found guilty is lower in the black population compared to the white population. I know that's a lot of math, but overall, If an odds ratio is close to one, there's not going to be any statistical association between race, ethnicity, and gender of interest in whatever MJS outcome we're looking at. If an odds ratio is greater than one, there's going to be a positive association or positive disparity. By positive here, I don't mean necessarily good. I mean that the odds of that event occurring in the minority population is higher than in the majority population.

[00:20:31.460] - Speaker 1

Then if an odds ratio is less than one, then there's going to be a negative association or what we're calling a negative disparity. A member of the race, ethnicity, gender group of interests is less likely to experience that outcome compared to the reference group. Again, odds ratio greater than one, minority population is more likely to experience that outcome, odds ratio less than one, less likely to experience that outcome. Okay, next slide, please. So if we observe a disparity in the enlisted populations or the NJP populations, there's a lot more people in those populations compared to the officer populations or the judicial system populations. So we know that it's affecting more people than in these other groups. So I also mention here that because of this, we're going to focus our analysis on the enlisted population because the sample sizes in the officer population were not large enough for statistical inference. You're going to see the color coding that we use in our charts. So positive versus negative disparities are going to be indicated. For example, the largest positive disparities are going to be notated in red, and that means there's a large impact on the minority group.

[00:21:57.000] - Speaker 1

For race, that's black. For ethnicity, that's Hispanic, and for gender, that's female. Where there's a dark yellow, that means there's the largest negative disparities and it indicates a large impact on the reference group. So for race, that's White, for ethnicity, that's non-Hispanic, and for gender, that's male. So we also

characterize our outcomes by high and low discretion outcomes. And these are placed into relevant categories based on statute, policy, or regulation. For example, if a statute or policy or regulation indicates that something must be done, we're going to classify that as low discretion because the policy is saying this is something that must happen. If we expect bias, then we would expect stronger disparities for outcomes that are associated with more discretion. You see listed here, we categorize things versus low discretion versus high discretion. For offense types, drug and sex-related offenses are going to be low discretion offenses because policy and regulations say these are the must do things for drug and sex-related offenses. High discretion offenses are going to be military-specific offenses. There's more discretion in the system for those types of offenses. For investigation type, if something has a professional LEA investigation, it's going to be a low discretion offense.

[00:23:25.480] - Speaker 1

For high discretion, it's going to be when a command investigation takes place. And for the forum in the military justice system, so special court martial and general court martial is going to be lower discretion than a summary court martial or an NJP. Okay, next slide, please. So last slide before I get to the actual results, but this stuff is very important to understand the results. So this slide is going to provide an overview of what information was included in our models to include the comparison populations, the types of outcomes, and the explanatory factors. The time period of the data we're looking at is 2014 to 2020. We're going to estimate each of our models separately by service. And so there's two additional types of models. There's going to be an unconditional model, which is our first observed outcome in the system. And these outcomes are going to be compared to the entire population of that the enlisted population of that service. And then for all subsequent outcomes, they're going to be able to be conditional. Conditional on being observed in the previous outcome, what percentage experience the subsequent outcome? So this is important because it matters what population you're comparing the outcome to.

[00:24:55.640] - Speaker 1

So for example, for the army, we can observe all of those who are brought to NJP, and then those who are found guilty. In that case, the first observation or the unconditional observation that we must compare the entire population to would be those brought to NJP. Then the conditional observation would be those who are found guilty because we would just be comparing those who are found guilty to those who are brought to NJP. For the other services besides the army, so the Air Force, for example, we're only going to be able to observe those who are found guilty of NJP. We're missing that step in the data of those who are brought to NJP. Therefore, our unconditional observation that we must compare to the entire population are those who are found guilty of NJP. And because we're missing that step in the process, we don't know if the reason... If we're observing a positive disparity there, for example, the reason might be because more being brought to NJP, vice being found guilty, but we're only able to observe for the first time those who are being found guilty. Next slide, please. So now we get to the main findings for task two, in which we collected, assessed, and analyzed data for the Air Force, the Army, the Navy, the Marine Corps, and the Coast Guard.

[00:26:17.840] - Speaker 1

We didn't study the Space Force because our data only went through 2020, and it was too new and too small. So the figure on the slide captures most of the important results of both our data assessment and our data analysis to identify outcome disparities in the DOD services in the Coast Guard. Starting with the data, the gray shading in the figure identifies by phase the outcomes we couldn't consistently observe and analyze. These were outcomes in the incident processing phase. How people entered the system, there wasn't a lot of data there. The types of investigations, not a whole lot of data, and the full set of disposition decisions. In the post-hearing and post-trial phase, again, not a lot of data. So that includes appeals and their results. What's not directly shown in the figure is that data for NJP outcomes were incomplete and there was substantial variation across the services and what we could observe in the provided data extract. So again, the gray is where we don't have good data for modeling purposes. So turning to the actual disparities themselves. We found that across the four DOD services in the Coast Guard, there were black, white differences noted in red, so greater than one, positive disparity affecting the minority group more.

[00:27:44.480] - Speaker 1

This is happening in the early phases of the military justice system. In particular, black service members were more likely than white service members to enter the system, regardless of the outcome used to indicate entry, so whether that was investigation, being to NJP, or being referred to court martial. In contrast, ethnic and gender disparities were generally depicted in yellow, so less than one, less affected. Hispanic service members and women were less likely or similarly likely to experience various outcomes throughout the MJS process. An important finding was consistent with the GAO findings, and that was that conditional on being referred to court martial or tried by court martial, the racial, ethnic, and gender disparities and guilty findings were generally negative. This suggests that cases brought against Black, Hispanic, and female service members may be fundamentally different than cases brought against white, non-Hispanic, and male service members, respectively. So next slide, please. Here's an example for just the findings for one service, the Air Force, and all of the other services are in backup if when we get to the Q&A, you want to see the other services. Each of these rows represents a separate model with outcome variables listed in the far left column.

[00:29:16.780] - Speaker 1

We see the most significant disparities depicted in red in the first observed outcome in the MJS system. Again, unfortunately for the Air Force, we can only observe those that were found of NJP, but not everyone who'd entered the NJP process. You see, again, the red disparities are happening in those first observed outcomes of the process. Next slide, please. This slide is talking about the justice outcome. On this slide, we're actually able to observe those tried by court martial and then those found guilty in the Air Force. We see black airmen are more likely to be tried, but less likely to be found guilty than white airmen. Therefore, there's something fundamentally different about the cases being brought to court marshals for black airmen compared to white airmen. So you would expect if the cases, if they were going to be found guilty at the same rates, you would be seeing green showing up in those court martial guilty finding

variables, outcome variables, and we're seeing yellow, which means they're less likely to be found guilty. Next slide, please. So on this slide, we summarize our findings from task 2 of the study. So first, DOD and the services should address disparities rather than bias, per se, because disparities can create a perception of bias regardless of their true causes.

[00:30:57.720] - Speaker 1

And we talked about from the first task, the perception of bias matters for people to trust the NJS system. Our findings suggests that the services should begin by studying and understanding outcome disparities that occur in the incident processing phase that were largely unobservable to us. We especially couldn't observe how people enter the system and how commanders make their initial disposition decisions. The other important disparity to address is one related to guilty findings. Why are minority service members less likely to be found guilty? What is different about the cases brought against them? Finally, given that disparities do exist, it also makes sense to support the proper use of discretion across a full range of MJS outcomes with both training and assessments. Next slide, please. Okay, great. I think this is my last slide, so that's great. Our recommendations for data and analysis fall into categories. We have general and specific recommendations. The general recommendations are to provide the services with sufficient funding to do the things they're being asked to do, both in terms of collecting and storing the data and analyzing it. Both things require costly human and IT resources. Then we're going to double down on our recommendation from task one and further specify that assessment should be done at the service level.

[00:32:30.060] - Speaker 1

Possible. Finally, the services should continue their efforts to collect the complete NJP information. The specific recommendations are if the services are going to continue to maintain separate data systems for each MJS organization, the data system should all include common case control numbers so that data can be merged across the systems to create cohesive data sets that follow a case from inception through resolution. That was one of our biggest challenges is because of the segmentation of the system, it was very hard to say, Okay, this investigation, for instance, is associated with this court martial proceeding and marrying the two up. So data on offender characteristics, this is another recommendation, should come from authoritative personnel records, and they should not be separately entered into each data set. So we saw cases where the person doing the investigation was observing the race, ethnicity, and gender, and entering that into the data system, and they might have gotten it wrong. It wasn't coming from their personnel records, those characteristics. Another recommendation is that outcome indicator should be structured so that they cover all potential values, and it ensures accurate analysis. Finally, we recommend in these data systems that drop-down menus be used as much as possible to minimize the inaccuracies that are going to come from hand entry of the data.

[00:34:07.270] - Speaker 1

Sorry, one more slide. In summary, our study highlights the importance of understanding where discretion exists in the system, the importance of being able to observe and measure MJS data, the importance of

identifying what you're looking for, how you're going to measure it, and how to interpret it before you start to even collect the data, and that there are disparities that we can explain through the variables that we can observe and include in our models. So this does leave open the possibility of bias. Thank you.

[00:34:42.730] - Speaker 2

Okay, Dr. Cleland, thank you very much. Just to note, I'm an engineer and a scientist, so I appreciate it and followed the math and the analysis process for you. So it is very, very thorough. And obviously, for those who are steeped in those things, it really is proof that you did a thorough analysis of the issue. Let me just ask, we have about 15 minutes for questions from our committee members. But my first question is, you did this in response to the NDAA. Was there any response back from Congress for this particular study? Any response back to your both the process you use and the data analysis and recommendations?

[00:35:32.390] - Speaker 1

Sir, not that I'm aware of. I know I'm pretty sure that it was submitted to the Hill, but we at CNA have not heard back. It was submitted by the sponsoring office, ODEI, within OSD PNR. I'm not sure if anyone's on the line.

[00:35:50.190] - Speaker 2

I'm sure. Any response from the services in terms of the conclusion, and particularly, how they've adhered to your recommendations?

[00:35:59.630] - Speaker 1

No, sir. Not that we personally have received. I don't know if OSD, PNR have received responses back from the services, but the report is publicly available. I don't know if it got blasted out to the services, specifically once our results came out, but it was released on our website and sent to the Hill, et cetera. So we haven't heard back from the services.

[00:36:24.260] - Speaker 2

The military justice system was one that the doctor and I identified as what we wanted to follow up on. We'll follow up just to get some impression from the services as to their reaction to the CNA report and the recommendations. Let me see if any other members have questions.

[00:36:44.230] - Speaker 3

I have a question. This is Lisa Carenton-Furman, a retired colonel of US Air Force. Did you look at whether or not an individual was actually in two or more categories of race, ethnicity, and gender, say an

Afro Latina or something? I mean, Did you look at that as well? I'd be really interested in seeing the statistics for the intersectionality of an individual's identity.

[00:37:08.000] - Speaker 1

Yeah, I do not believe we had interaction terms in our models like you suggest, but we controlled. So if they were a Black service member, we controlled for the fact of whether they were female or Hispanic as well. But we didn't control for Black females, white males, etc. Those interactions We don't have coefficients there, unfortunately.

[00:37:35.900] - Speaker 2

Okay. Other questions? Dr. Souvet?

[00:37:43.550] - Speaker 4

Go ahead, Cee. Yes. Thank you so much, Dr. Cleland. Thank you for an excellent presentation. You had mentioned at the end, and I'm looking at your slide, so that's why I'm looking at my other screen. So you had mentioned the importance of understanding where discretion exists in the system. You had mentioned that that could relate to bias. And your final statement was this does leave open the possibility of bias. I'm curious, based on your findings, what meaning might we take away from that that you want us to know?

[00:38:20.720] - Speaker 1

Yes, ma'am. So again, bias cannot be 100% identified in administrative data. That's why we're looking at these outcome disparities. But the concerning thing for us, especially in the race category, was the fact that these folks were entering at higher rates, yet being found guilty at lower rates. That red to yellow was the most concerning part, because you could imagine what if certain populations offend at higher rates? So that wouldn't necessarily be bias, that would just be a higher rate of offense. Bias. So that would be read, but not necessarily bias. But even if populations offended at higher rates, you would still expect the likelihood of them being found guilty to be the same rate. If if bias wasn't present in the system. But the fact that they're entering the system at higher rates, yet being found guilty at lower means maybe the cases aren't as strong, maybe there's not as much evidence there et cetera, et cetera. And so that just leaves the question, Hey, we need to go and do some more digging there of what's going on between the entering the system and then the verdict part. Why are we seeing that discrepancy there?

[00:39:46.360] - Speaker 4

Thank you so much, Dr. Cleland. That was something I was concerned about, and I really appreciate your insight. Thank you.

[00:39:53.730] - Speaker 1

Thank you.

[00:39:57.120] - Speaker 2

Other questions? General Bagby?

[00:40:03.460] - Speaker 5

Well, thank you, Dr. Cleland. Very wonderful presentation. Very comprehensive. Like General Hiles, I've got an undergraduate degree in NECON and minor in math, so I understand the analytics there. So thank you. One of your slide, slide 6, incident processing and initial reporting. My command experience reflects that most discretion exist in the incident processing and initial reportings phase because a first-line leader can overlook certain things for certain people, and others, they might go in and put them into the other phases of the process. And then down on slide 11, there's very little data on that particular phase. And I guess my question for you, how do we go about gathering that empirical data so we can track that and better assess what levels of discretion are applied or are not applied at that first level of incident processing?

[00:41:10.350] - Speaker 1

Yes, sir. So that was one of the biggest frustrations in the study was the fact that we couldn't observe those pieces where the discretion was probably more likely to be taking place. The first that unconditional first observed outcome, we had to compare to the full population, and it was not visible to us. How do we get that data? I think that's a very tough question. I think the systems and the people who are going to be entering the data in that system have to be resourced appropriately. What we found is there's this divers system. Apologies, I can't remember what the acronym stands for, but it's basically at the DOD level where all this data is is supposed to be housed. And the skeleton is there. The variables, the fields that would be helpful are in the system. They're just not filled in. To me, that says that there's something happening with Maybe people aren't collecting the data to put it into the system because they don't have the resources to do so. The information just isn't kept. I think that's the biggest thing is how do you resource the services who are going to be the ones that are going to be entering this data into the larger DOD system appropriately?

[00:42:37.920] - Speaker 1

Again, the skeleton is there. The theory is there of what we should be collecting, but the actual data being entered is not. So does that answer your question?

[00:42:48.670] - Speaker 5

It does. I appreciate that. I understand the resource in your bed level and services have to do that, but very good. And again, thank you very much, Dr.

[00:42:56.700] - Speaker 1

Thelen.thank you.Thank you.

[00:42:59.200] - Speaker 2

Other Any other questions, comments? One of the challenges of this electronic virtual method is that don't necessarily see everybody, certainly not virtually or even their hands up. So let me just see. Any other questions or comments from anybody? Does it look like we have any? Dr. Cleman, again, this was excellent. A preamble in some respects on your both your process and how you analysis and studies like this, but also what the results were. I guess one conclusion that I come to, it's not exact in the way you said it. Because there's discrepancy does not necessarily mean there's bias. And so it really requires organizations to look at the data thoroughly to make sure they understand why there might be discrepancies, at least to first order principle, if you will, as to why there might be a discrepancy. And then from there, be able to try to make an educated decision as to whether or not it's an issue that needs to be addressed or whether it's just the law of numbers, if you will, in terms of the data itself. So I think people a lot of time want to immediately go to there's bias in the system when that might not be the case.

[00:44:22.080] - Speaker 2

And I think looking at things thoroughly and having the data first, obviously, is really a first principle in trying understand what the situation might be.

[00:44:32.930] - Speaker 1

Yes, sir. Yes, sir. I agree with that point. And we were very careful to say leaves open the possibility of bias. And that's the issue is because even if bias doesn't exist, going back to the first point, the perception of bias, the potential for bias to be there could undermine the whole system. So because of the results, if the potential for bias is still there because the results, that's a problem and needs to be further investigated. So agree with your comment. Just said the opposite way, but very true.

[00:45:09.780] - Speaker 2

Yeah, in your term, the old one of perception is reality in some respect So that's something you always need to keep in mind.

[00:45:17.640] - Speaker 1

Yes, sir.

[00:45:19.650] - Speaker 2

Okay. Dr. Cleveland, thank you very much. And thanks for your responsiveness. And thank you for all the excellent work at the Center for NIVA Analysis. We appreciate that.

[00:45:29.180] - Speaker 1

All right. Thank for having me. Have a good day. Thank you.

[00:45:33.190] - Speaker 2

Okay, we built into our schedule about 10, 15 minutes for a break, if you will, bio break or break. So Sherley, go ahead.

[00:45:42.180] - Speaker 3

Yes, I just have a special announcement. The reason why we are having not so good reception through this virtual process is because we are at max capacity utilizing this virtual system. So as a And as a result, I'd like to follow up with our committee members that were not able to identify themselves or introduce themselves because of that fact. I'd like to call on Ms. Cavenagh. Please introduce yourself, ma'am.

[00:46:21.700] - Speaker 1

Kristen Cavenagh, our vice chair. Thanks, Shirley.

[00:46:25.760] - Speaker 3

Yes, Ms. Ma'am. She is our vice chair. Also, I'd like to call on Major General Retired James Johnson.

[00:46:34.920] - Speaker 2

Hi, this is James Johnson.

[00:46:36.390] - Speaker 5

Thank you very much.

[00:46:37.040] - Speaker 2

Really enjoyed that last presentation.

[00:46:41.450] - Speaker 3

And we also have Dr. We also have Dr. Means, Jeffrey Means..

[00:46:56.750] - Speaker 2

I'm Dr.

[00:46:58.300] - Speaker 5

Jeff Means.

[00:46:59.170] - Speaker 2

We're still glad to be here.

[00:47:01.000] - Speaker 4

And Lieutenant Colonel Sandoval.

[00:47:06.300] - Speaker 3

We apologize for the inconvenience here.

[00:47:10.150] - Speaker 2

Yes, sir. Yes, sir.

[00:47:14.880] - Speaker 3

Thank you. All right. Okay.

[00:47:19.380] - Speaker 2

We're going to go ahead and take a break, and we will reconvene with a presentation from the Office of Force Resilience, Violence Prevention Still. And we will do that at 10:15 Eastern. So wherever time zone you are, it will be 10:15 Eastern when we reconvene. Thank you.