Data Gleaned from the Department of Defense 2018 Annual Report on Sexual Assault in the Military

Case Dispositions Completed in 2018[a]

Case depositions completed 2018	**482**
Proceeded to trial	**307 (64%)**
Discharge or Resignation in lieu of trial	**90 (19%)**
Charges dismissed	**85 (18%)**

Proceeded to Trial for 2018

Proceeded to trial	**307**
Convicted of any charge	**203 (66%)**
Acquitted of all charges	**104 (34%)**

Proven vs. Unproven for all Case Dispositions for 2018

Case dispositions completed this year	**482**
Proven (convicted of any charge)	**203 (42%)**
Unproven (acquitted, discharged, or dismissed)	**279 (58%)**

Total Proven Guilty for All Unrestricted Reports for 2018

Completed unrestricted reports this year	**4002**
Proven guilty for all unrestricted this year	**203 (.05%)**

a. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **20<u>18</u>**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 24.**

Court-Martial Charges Preferred for Sexual Assault Charge
668 Case Dispositions – FY18

Penetrating Offense Charged – 437 Case Dispositions (65%)

113 cases not completed in F18 (26%)^
324 cases completed in FY18 (74%)^
- 63 Dismissed Cases (19%)*
- 209 Proceeded to Trial (65%)*
  - 123 cases convicted of some charge (59%)
    - 71 convictions for a penetrating offense (58%)
    - 12 convictions for sexual contact offenses (10%)
    - 40 convictions for other offense (33%)
  - 86 cases were acquitted (41%)
- 52 RILO/DILO (16%)*

*As a percentage of Cases Completed
^As a percentage of Case Dispositions

Sexual Contact Offenses Charged - 205 Case Dispositions (31%)

49 cases not completed in F18 (24%)^
156 cases completed in FY18 (76%)^
- 22 Dismissed Cases (14%)*
- 97 Proceeded to Trial (62%)*
  - 79 cases convicted of some charge (81%)
    - 28 convictions for sexual contact offenses (35%)
    - 51 convictions for other offense (65%)
  - 18 cases were acquitted (19%)
- 37 RILO/DILO (24%)*

*As a percentage of Cases Completed
^As a percentage of Case Dispositions

Convictions for Penetration and Sexual Contact combined total 202.
- 123 cases convicted for penetrating offense
- 79 cases convicted for sexual contact
  - 71 convictions for a penetrating offense (35%)#
  - 40 convictions for sexual contact offenses (20%)#
  - 91 convictions for other offense (45%)#

#As a percentage of Convictions for Penetration and Sexual Contact

Bottom Line:
In trials involving charges of penetration or sexual contact (202 completed trials) in FY18 that resulted in conviction:
- 111 were convicted of penetration or sexual contact (55%)
- 91 were convicted of lesser charge (45%)

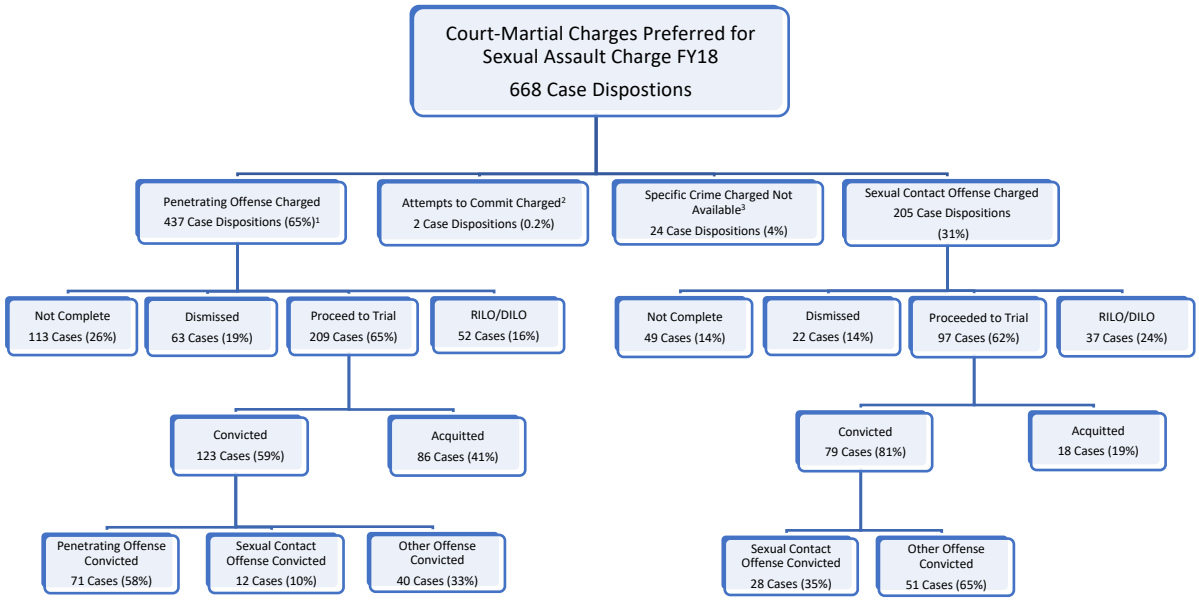


Figure 13. Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred by Crime Charged, FY18

Notes:

1. Percentages for some categories do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent because subjects can receive multiple punishments.
2. One allegation for an attempt to commit a sexual assault was charged, proceeded to trial, and convicted at court-martial. The other allegation for an attempt to commit a sexual assault resulted in a resignation/discharge in lieu of court-martial.
3. In FY18, 24 cases were preferred for court-martial, but the crime charged data was incomplete. These cases are pending and will be reported out next FY.

Table 4. Case Dispositions Reported in FY18 (p.18)

Case Disposition Category	Count of Case Dispositions	Share of Case Dispositions
Sexual Assault Investigation That Can Be Considered for Possible Action by DoD Commanders	2,854	N/A
Evidence Supported Command Action	1,845	65%
Sexual Assault Offense Action	1,211	66%
Court-Martial Charge Preferred (Initiated)	668	55%
Nonjudicial Punishment (Article 15, UCMJ)	267	22%
Administrative Discharge	118	10%
Other Adverse Administrative Action	158	13%
Non-Sexual Assault Offense Action	634	34%
Court-Martial Charge Preferred (Initiated)	72	11%
Nonjudicial Punishment (Article 15, UCMJ)	339	53%
Administrative Discharge	96	15%
Other Adverse Administrative Action	127	20%
Unfounded by Command/Legal Review	74	3%
Commander Action Precluded	935	33%
Victim Died	0	0%
Victim Declined to Participate in the Military Justice Action	173	19%
Insufficient Evidence to Prosecute	735	79%
Statute of Limitations Expired	27	3%

Note: Victims who were assaulted by multiple subjects are counted only once to correspond with the subject who received the most serious disposition.

Evidence Supported Command Action (p.21)

In 1,845 cases, commanders had sufficient evidence and the legal authority to support some form of disciplinary action for an alleged sexual assault offense or other misconduct (Figure 9, Point S). When a subject in an investigation receives more than one disposition, DoD reports only the most serious disciplinary action. The possible actions, listed in descending order of severity, are court-martial charges preferred, nonjudicial punishment, administrative discharge, and other adverse administrative action.

The following outlines the command actions taken in the 1,211 cases for which it was determined a sexual assault offense warranted discipline:

- 55 percent (N=668) of cases were associated with court-martial charges preferred (initiated).
- 22 percent (N=267) of cases entered proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 23 percent (N=276) of cases received an administrative discharge or other adverse administrative action.

In 634 cases, evidence supported command action for other misconduct discovered during the sexual assault investigation (e.g., making a false official statement, adultery, underage drinking, or other crimes under the UCMJ), but not a sexual assault charge. Command actions for these cases follow below:

- 11 percent (N=72) of cases were associated with court-martial charges preferred.
- 53 percent (N=339) of cases entered proceedings for nonjudicial punishment.
- 35 percent (N=223) of cases received an administrative discharge or other adverse administrative action. (Percentages do not sum to 100% due to rounding).

Military Justice (p.21)
The information in this section describes the process that follows a military subject's commander having sufficient evidence to take disciplinary action (Figure 11). Each action taken is based on the evidence identified during a thorough investigation. In addition, since June 2012, initial disposition decisions for the most serious sexual assault crimes have been withheld to the O-6 level (Colonel or Navy Captain), who is also at least a Special Court-Martial Convening Authority (SPCMA). This allows more senior officers to review and decide which initial action should be taken in these cases.

Court-Martial for a Sexual Assault Offense (p.22-23)
As noted previously, 668 cases involved court-martial charges preferred. Figure 12 illustrates what happened to these cases after their commanders preferred court-martial charges. Of the 668 cases with a preferral of court-martial charges for at least one sexual assault charge in FY18, the Military Services completed 482 court-martial outcomes by the end of the FY.

Of the 307 cases that proceeded to trial, 203 (66 percent) resulted in a conviction of at least one charge at court-martial. That conviction could have been for a sexual assault offense or for any other misconduct charged. Most convicted Service members received at least four kinds of punishment: confinement, reduction in rank, fines or forfeitures, and a discharge (enlisted) or dismissal (officers) from service. In FY18, 108 subjects of a sexual assault offense were required to register as a sex offender by law. According to the UCMJ, Service members convicted of a sexual assault who do not receive a punitive discharge at court-martial must receive an administrative discharge. In FY18, the Military Services processed 28 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 85 cases were dismissed; however, commanders used evidence gathered during the sexual assault investigations to impose nonjudicial punishment for other misconduct in 12 of the 85 cases. The punishment may have been for any kind of misconduct for which there was evidence. Five subjects who received nonjudicial punishment for other misconduct after court-martial charges were subsequently discharged from military service.

DoD approved 89 cases for a resignation or discharge in lieu of court-martial (RILO/DILO) and 1 case was approved for cadet/midshipman disenrollment in lieu of court-martial. In FY18, all DILO cases involving enlisted members received a separation Under Other Than Honorable Conditions (UOTHC), the most serious administrative characterization of discharge possible. The UOTHC discharge characterization is recorded on a Service member's DD Form 214, Record of Military Service, and significantly limits separation and post-service benefits from DoD and the Department of Veterans Affairs.

DoD grants requests for RILO/DILO in certain circumstances, occurring only after court-martial charges are preferred against the accused. For such an action to occur, the accused must initiate the process. Requests for a RILO/DILO must include:

- A statement of understanding of both the offense(s) charged and the consequences of administrative separation;
- An acknowledgement that any separation could possibly have a negative characterization;
- An acknowledgement that the accused is guilty of an offense for which a punitive discharge is authorized or a summary of the evidence supporting the guilt of the accused.

These statements are not admissible in court-martial should the request ultimately be disapproved. DILOs involving enlisted personnel are usually approved at the SPCMA level. The Secretary of the Military Department approves RILOs. Figure 12 (on page 24 of Appendix B of Statistics printout) presents the case outcomes for which court-martial charges were preferred and Figure 13 (on page 25 of Appendix B of Statistics printout) shows the outcomes by the type of crime charged (i.e., penetrating versus sexual contact crimes).

Nonjudicial Punishment (p.26)
Commanders administer nonjudicial punishments in accordance with Article 15 of the UCMJ, which empowers commanding officers to impose penalties on Service members when there is sufficient evidence of what the law considers to be a relatively minor offense under the UCMJ. Nonjudicial punishment allows commanders to address some types of sexual assault and other misconduct by Service members that may not warrant prosecution in a military or civilian court. Some of the corrective actions within a commander's purview to administer include demotions, forfeitures, and restrictions on liberty. Nonjudicial punishments may support a rationale for administratively discharging military subjects with a less than honorable discharge. The Service member may demand trial by court-martial instead of accepting nonjudicial punishment by the commander, unless the subject is attached to or embarked on a vessel.

Of the 1,211 cases dispositions that were associated with disciplinary actions on a sexual assault offense, 267 cases were addressed with nonjudicial punishment. Figure 14 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in FY18. In FY18, 86 percent of the 207 cases with completed nonjudicial punishment proceedings were associated with guilty verdicts under the authority of Article 15 in the UCMJ. Nearly all the administered nonjudicial punishments were for sexual contact offenses. Most cases with a nonjudicial punishment received the following punishments: a forfeiture of pay, reduction in rank, and/or extra duty. Available Military Service data indicated that for 74 cases the nonjudicial punishment served as grounds for a subsequent administrative discharge.

Characterizations of the 74 discharges are outlined below.

Honorable	5 Cases
General	33 Cases
Under Other Than Honorable Conditions	24 Cases
Uncharacterized	12 Cases
Total:	**74 Cases**

Administrative Discharges and Adverse Administrative Actions (p.27**)**
A legal review of evidence sometimes indicates that the court-martial process or nonjudicial punishments are not appropriate means to address allegations of misconduct against the accused. However, commanders have other means at their disposal to hold alleged offenders appropriately accountable. Commanders may use an administrative discharge to address an individual's misconduct, lack of discipline, or poor suitability for continued military service. There are three characterizations of administrative discharges: Honorable, General, and UOTHC. General and UOTHC discharges may limit those discharged from receiving full entitlements and benefits from both DoD and the Department of Veterans Affairs. In FY18, 118 cases in sexual assault investigations were associated with an administrative discharge.

Characterizations of the discharges are outlined below.

Honorable	0 Cases
General	36 Cases
UOTHC	48 Cases
Uncharacterized	24 Cases
Pending	10 Cases
Total:	**118 Cases**

In FY18, commanders took adverse administrative actions in 158 cases that were investigated for a sexual assault offense. Commanders typically use adverse administrative actions when available evidence does not support a more severe disciplinary action. Adverse administrative actions can have a serious impact on a Service member's military career, have no equivalent form of punishment in the civilian sector, and may consist of Letters of Reprimand, Letters of Admonishment, Letters of Counseling, or discharge. These actions may also include, but are not limited to: denial of re-enlistment, cancellation of a promotion, and cancellation of new or special duty orders.

Probable Cause Only for a Non-Sexual Assault Offense (p.28)
Sometimes the sexual assault investigations conducted by MCIOs do not find sufficient evidence to support disciplinary action against the subject on a sexual assault charge but do uncover other forms of chargeable misconduct. In FY18, commanders took action in 634 cases that MCIOs originally investigated for sexual assault allegations, but for which evidence only supported action on non-sexual assault misconduct, such as making a false official statement, adultery, assault, or other crimes (Figure 15).

Figure 12. Case Dispositions with Sexual Assault Charges Preferred FY18 (p.24)

Case Disposition Category	Case Dispositions	Share of Case Dispositions
Court-Martial: Sexual Assault Charges Preferred in FY18	668	
Case Dispositions Not Completed in FY18 (to be reported in the future)	186	
Case Dispositions Completed in FY18	482	
Proceeded to Trial (at least one sexual assault offense charged)	307	64%
Convicted of Any Charge at Trial	203	66%
Confinement	157	77%
Reductions in Rank	152	75%
Fines / Forfeitures	111	55%
Punitive Discharge / Dismissal	137*	67%
Restriction	17	8%
Hard Labor without Confinement	8	4%
Reprimand	22	11%
Acquitted of All Charges	104	34%
Discharge or Resignation Granted in Lieu of Court-Martial	90	19%
Officer Resignations	5	
Cadet Disenrollment	1	
Enlisted Discharges (Under Other than Honorable Conditions)	84	
Court Charges Dismissed	85	18%
Nonjudicial Punishment Initiated, but Dismissed Based on Evidence Discovered During Sexual Assault Investigation	1	
Nonjudicial Punishment Imposed Based on Evidence Discovered During Sexual Assault Investigation	12	
Correctional Custody	0	0%
Reductions in Rank	9	75%
Forfeitures	9	75%
Restriction	5	42%
Discharge Subsequent to Nonjudicial Punishment	5	42%
Extra Duty	3	25%
Admonition / Reprimand	4	33%

Note: Victims who were assaulted by multiple subjects are counted only once to correspond with the subject who received the most serious disposition.

*Note: DoD requires convicted subjects that were not adjudged a punitive discharge or dismissal to be processed for separation. Service reports indicate that 28 convicted Subjects were processed for administrative discharge subsequent to court-martial conviction in FY18.

Data Gleaned from SAPR Annual Reports 2012-2018

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Case depositions completed this year	460	707	735	813	619	663	**482**	4,479
Proceeded to trial	302 (66%)	484 (68%)	496 (67%)	543 (67%)	389 (63%)	406 (61%)	**307 (64%)**	2,927 (65%)
Discharge or Resignation in lieu of trial	70 (15%)	90 (13%)	90 (12%)	159 (22%)	133 (22%)	152 (23%)	**90 (19%)**	784 (17%)
Charges dismissed	88 (19%)	133 (19%)	149 (28%)	111 (14%)	97 (16%)	105 (16%)	**85 (18%)**	768 (17%)

Proceeded to Trial for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Proceeded to trial	302	484	496	543	389	406	**307**	2,927
Convicted of any charge	238 (79%)	370 (76%)	359 (72%)	413 (76%)	261 (67%)	284 (70%)	**203 (66%)**	2,128 (72%)
Acquitted of all charges	64 (21%)	114 (23%)	137 (28%)	130 (24%)	128 (33%)	122 (30%)	**104 (34%)**	799 (27%)

Proven vs. Unproven for all Case Dispositions for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Case depositions completed this year	460	707	735	813	619	663	**482**	4,479
Proven (convicted of any charge)	238 (52%)	370 (52%)	359 (49%)	413 (51%)	261 (42%)	284 (43%)	**203 (42%)[h]**	2,128 (47%)
Unproven (acquitted, discharged, or dismissed)	222 (48%)	337 (48%)	376 (51%)	400 (49%)	358 (58%)	379 (57%)	**279 (58%)**	2,351 (53%)

Total Proven Guilty for All Unrestricted Reports for that Year

	2012[a]	2013[b]	2014[c]	2015[d]	2016[e]	2017[f]	2018[g]	Totals
Completed unrestricted reports this year	1,714	3,234	3,520	3,386	3,677	4,779	**4002**	24,312
Proven guilty for all unrestricted this year	238 (14%)	370 (11%)	359 (10%)	413 (12%)	261 (.07%)	284 (.06%)	**203 (.05%)**	2,128 (.09)

a. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2012**: Volume 1. **Page 79.**
b. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2013**. Provisional Statistical Data on Sexual Assault. **Page 77 and 83.**
c. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2014**. Provisional Statistical Data on Sexual Assault. **Page 8 and 23.**
d. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2015**. **Page 8 and 24.**
e. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2016**: Appendix B: Statistical Data on Sexual Assault. **Page 15 and 24.**
f. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2017**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 25.**
g. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year **2018**: Appendix B: Statistical Data on Sexual Assault. **Page 14 and 24.**
h. This is a calculation of 203 / 482 as compared to the studies 203 / 307