Provisional Statistical Data on Sexual Assault

Fiscal Year 2014

TABLE OF CONTENTS

BACKGROUND ON DOD SEXUAL ASSAULT DATA 1
What It Captures 1
Reports of Sexual Assault 1
Subject Dispositions 2
Who It Describes 4
When It Happened 4
How It Is Gathered 5
Defense Sexual Assault Incident Database 5
RAND's Military Workplace Survey (RMWS) 6
Survivor Experience Survey (SES) 6
Command Climate Survey (DEOCS) 7
Why It Is Collected 7
PROVISIONAL OVERVIEW OF REPORTS OF SEXUAL ASSAULT MADE IN FY 2014 8
FY 2014 UNRESTRICTED REPORTS OF SEXUAL ASSAULT 14
Crimes Alleged in Unrestricted Reports 14
Investigations of Unrestricted Reports 15
Sexual Assault Subject Dispositions in FY 2014 16
Military Subjects Considered for Disciplinary Action 18
Military Justice 21
Courts-Martial for a Sexual Assault Offense 21
Nonjudicial Punishment 24
Administrative Discharges and Adverse Administrative Actions 25
Probable Cause Only for a Non-Sexual Assault Offense 26
Subjects Outside DoD Legal Authority 28
Provisional Demographics of Victims and Subjects in Completed Investigations 30
Sexual Assaults Perpetrated by Foreign Nationals against Service Members 32
Demographics of Unrestricted Reports in CAIs 32
Demographics of Restricted Reports in CAIs 33
FY 2014 RESTRICTED REPORTS OF SEXUAL ASSAULT 33
Demographics of Restricted Reports of Sexual Assault 34
FY 2014 SERVICE REFERRAL INFORMATION 35
FY 2014 EXPEDITED TRANSFERS 36

LIST OF EXHIBITS

Exhibit 1: Reports of Sexual Assault and Investigations Completed in FY 2014 8
Exhibit 2: Total Reports of Sexual Assault Made to the Department — Unrestricted Reports and Restricted Reports, FY 2007 – FY 2014 10
Exhibit 3: Comparison of Victim-Driven Accounting to Case-Driven Accounting of Unrestricted Reports, CY 2004 – FY 2014 10
Exhibit 4: Service Member Victims in DoD Sexual Assault Reports for Incidents that Occurred in Military Service, CY 2004 – FY 2014 11
Exhibit 5: Estimated Number of Service Members Experiencing Unwanted Sexual Contact Based on Past-Year Prevalence Rates versus Number of Service Member Victims in Reports of Sexual Assault for Incidents Occurring During Military Service, CY 2004 – FY 2014 12
Exhibit 6: Victim Reporting Rates of Sexual Assault by Military Service, FY 2007 – FY 2014 13
Exhibit 7: Offenses Originally Alleged in Unrestricted Reports of Sexual Assault, FY 2014 15
Exhibit 8: FY 2014 Subjects Outside DoD Legal Authority 16
Exhibit 9: Dispositions of Subjects Under DoD Legal Authority, FY 2014 19
Exhibit 10: Percentage of Military Subjects with Misconduct Substantiated, Command Action Precluded, and Command Action Declined, FY 2009 – FY 2014 20
Exhibit 11: Breakdown of Disciplinary Actions Taken Against Subjects for Sexual Assault Offenses, FY 2007 – FY 2014 21
Exhibit 12: Dispositions of Subjects Against Whom Sexual Assault Court-Martial Charges were Preferred, FY 2014 23
Exhibit 13: Dispositions of Subjects Receiving Nonjudicial Punishment, FY 2014 25
Exhibit 14: Dispositions of Subjects for Whom There was Only Probable Cause for Non-Sexual Assault Offenses, FY 2014 27
Exhibit 15: Subjects Investigated for Sexual Assault by the Department Who Were Outside Its Legal Authority, FY 2009 – FY 2014 28
Exhibit 16: Subjects with Unfounded Allegations in Completed DoD Investigations of Sexual Assault, FY 2009 – FY 2014 29
Exhibit 17: Total Reports of Sexual Assault in CAIs: Unrestricted Reports and Restricted Reports, FY 2008 – FY 2014 31
Exhibit 18: Reports of Sexual Assault in CAIs: Comparison of Victim-Driven and Case-Driven Accounting of Unrestricted Reports, FY 2007 – FY 2014 32
Exhibit 19: Total Number of Reports that Were Initially Made as Restricted, the Remaining Number of Restricted Reports, and the Number of Reports that Converted, FY 2007 – FY 2014 34
Exhibit 20: Average Number of Service Referrals per Service Member Victim of Sexual Assault, FY 2007 – FY 2014 35
Exhibit 21: SAFEs Reported by the Military Services involving Service Member Victims, FY 2007 – FY 2014 36

LIST OF TABLES

Table 1: Sample Sizes for DEOCS Respondents 7
Table 2: Sexual Assault Offenses Punishable by the Uniform Code of Military Justice (UCMJ) 14
Table 3: Military Subject Dispositions in FY 2014 18
Table 4: Demographics of Victims in Completed Investigations 30
Table 5: Demographics of Subjects in Completed Investigations 31
Table 6: Demographics of Victims in Restricted Reports 34
Table 7: Expedited Transfers and Denials, FY 2012 – FY 2014 36

PROVISIONAL STATISTICAL DATA ON SEXUAL ASSAULT

BACKGROUND ON DOD SEXUAL ASSAULT DATA

What It Captures

Reports of Sexual Assault

- The Department uses the term "sexual assault" to refer to a range of crimes, including rape, sexual assault, nonconsensual sodomy, aggravated sexual contact, abusive sexual contact, and attempts to commit these offenses, as defined by the UCMJ. When a report is listed under a crime category in this section, it means the crime was the most serious of the infractions alleged by the victim or investigated by investigators. It does not necessarily reflect the final findings of the investigators or the crime(s) addressed by court-martial charges or some other form of disciplinary action against a subject.
- Pursuant to reporting requirements levied by Congress, DoD sexual assault data capture the Unrestricted and Restricted Reports of sexual assault made to the Department during a Fiscal Year (FY) that involves a military subject and/or a military victim.
- In the context of the DoD statistics that follow, an Unrestricted Report of sexual assault is an allegation by one victim against one or more suspects (referred to in the Department as "subjects of investigation" or "subjects") that will be referred for investigation to a Military Criminal Investigation Organization (MCIO; called CID, NCIS, or AFOSI for Army, Navy/Marine Corps, and Air Force, respectively). The number of Unrestricted Reports is based on data entered into the Defense Sexual Assault Incident Database (DSAID) by Sexual Assault Response Coordinators (SARCs). These data are supported by additional information about the incident "pushed" into DSAID from MCIO information systems.
- Data on Restricted Reports are limited, because these are reports of sexual assault made to specified parties within the Department (e.g., SARC, SAPR VA, or healthcare provider) that allow the report to remain confidential, while also enabling the victim to seek care and services. Given the victim's desire for confidentiality, these reports are not investigated and victims are not required to provide many details about these sexual assaults. As a result, the SARC only records very limited data about the victim and the offense in DSAID. Subject identities are not requested or maintained by the Department for Restricted Reports entered into DSAID.
- The Department's sexual assault reporting statistics include data about sexual contact crimes by adults against adults, as defined in Articles 120 and 125 of the UCMJ and Article 80, and attempts to commit these offenses. These data do not include sexual assaults between spouses or intimate partners that fall under the purview of DoD Family Advocacy Program (FAP), nor do these data include sexual harassment which falls under the purview of EO. While most victims and subjects in the following data are aged 18 or older, DoD statistics also capture some victims and subjects aged 16 and 17. Service members who are approved for early enlistment prior to age 18 are included in this category. Since the age of

consent under the UCMJ is 16 years, military and civilian victims aged 16 and older are included if they do not fall under FAP's purview.

- The number of sexual assaults reported to DoD authorities in a given fiscal year *does not* necessarily reflect the number of sexual assaults that occurred in that fiscal year.
  - Civilian research indicates victims only report a small fraction of sexual assaults to law enforcement. For example, of the 1.1 million U.S. civilian women estimated to have experienced nonconsensual vaginal, oral, or anal penetration in 2005, only about 173,800 (16 percent) said they reported the matter to police. For the estimated 301,000 U.S. civilian college-aged women who experienced nonconsensual vaginal, oral, or anal penetration, only about 34,615 (11.5 percent) indicated they reported it to the police.[1] The definition of sexual assault used in this college sample refers to penetrating crimes only. Consequently, it captures fewer crimes than DoD's definition of sexual assault, which encompasses both penetrating and contact (non-penetrating) sexual offenses as well as attempts to commit these offenses.
  - This civilian reporting behavior is mirrored in the U.S. Armed Forces. Over the past eight years, the Department estimates that fewer than 15 percent of military sexual assault victims report the matter to a military authority. However, in FY 2014 the Department estimates that over 20 percent of Service members made a report of sexual assault for an incident that occurred during military service.

Subject Dispositions

Once the investigation of an Unrestricted Report is complete, Congress requires the Military Services to provide the outcome of the allegations against each subject named in an investigation. These are called "subject dispositions."

- The Department holds those Service members who have committed sexual assault appropriately accountable based on the available evidence.
  - Legal authority for the Department is limited to Service members who are subject to the UCMJ and, therefore, its military justice jurisdiction. Except in rare circumstances, a civilian is not subject to the UCMJ for the purpose of court-martial jurisdiction or other military justice discipline. In FY 2014, there were no such civilians tried by a court-martial for allegedly perpetrating sexual assault.
- Each year, the Department lacks jurisdiction over several hundred subjects in its investigations. These are the civilians, foreign nationals, and unidentified subjects who are reported to have sexually assaulted Service members.
- Local civilian authorities in the United States and our host nations overseas hold primary responsibility for prosecuting U.S. civilians and foreign nationals, respectively, for allegedly perpetrating sexual assault against Service members.

[1] Kilpatrick, D., Resnick, H., Ruggiero, K., Conoscenti, L., & McCauley, J. (2007). *Drug-Facilitated, Incapacitated, and Forcible Rape: A National Study.* Washington, DC: DOJ. Publication No.: NCJ 219181. Available at http://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf.

- In a number of cases each year, a civilian authority or host nation will assert its legal authority over a Service member. This typically occurs when Service members are accused of sexually assaulting a civilian or foreign national, or when a Service member sexually assaults another Service member in a location where the state holds primary jurisdiction.
- A civilian authority, such as a state, county, or municipality, may prosecute Service members anytime they commit an offense within its jurisdiction. In some cases, the civilian authority may agree to let the military exercise its UCMJ jurisdiction over its members. Service member prosecutions by civilian authorities are made on a case-by-case and jurisdiction-by-jurisdiction basis.
- A host nation's ability to prosecute a Service member is subject to the Status of Forces Agreement (SOFA) between the United States and the foreign government. SOFAs vary from country to country.
- Upon completion of a criminal investigation, the MCIO agent conducting the investigation provides a report documenting its evidentiary findings to the subject's military commander and the servicing staff judge advocate for review and legal action, as appropriate. However, for crimes of rape, sexual assault, nonconsensual sodomy, and attempts to commit these crimes, a senior military officer who is at least a special court-martial convening authority and in the grade of O-6 (Colonel or Navy Captain) or higher retains initial disposition authority.
  - The special court-martial convening authority is responsible for determining what initial disposition action is appropriate, to include whether further action is warranted and, if so, whether the matter should be resolved by court-martial, nonjudicial punishment, administrative discharge, or other adverse administrative action. The special court-martial convening authority's initial disposition decision is based upon his or her review of the matters transmitted, any independent review, and consultation with a judge advocate. Subordinate unit commanders may provide their own recommendations regarding initial disposition to the convening authority.
    - Commanders at all levels of responsibility do not make disposition decisions in isolation. Military attorneys assist commanders in identifying the charges that can be made, the appropriate means of addressing such charges, and the punishments that can be administered if supported by the evidence.
    - There are many cases each year when disciplinary action is not possible due to legal issues or evidentiary problems with a case. For instance, when the investigation fails to show sufficient evidence of an offense to prosecute or when the victim declines to participate in the justice process, a commander may be precluded from taking disciplinary action against a subject.
    - In the data that follow, when more than one disposition action is involved (e.g., when nonjudicial punishment is followed by an administrative discharge), the subject disposition is only reported once per subject. Dispositions are reported for the most serious disciplinary

action taken, which in descending order is: preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative action.

Who It Describes

- Unrestricted and Restricted Reports capture sexual assaults committed by and against Service members. However, there are instances in which people outside of the U.S. Armed Forces commit sexual assault against a Service member or can be sexually assaulted by a Service member. Information describing these victims and subjects is also included in the following statistics.
- Prior to FY 2014, an Unrestricted Report of sexual assault included one or more victims, one or more subjects, and one or more crimes. With the advent of the Defense Sexual Assault Incident Database (DSAID)[2], the Department has greater visibility over victim reporting. **Therefore, starting in the current fiscal year, one Unrestricted Report includes only *one* victim, but could still include multiple subjects**.
- Restricted Reports, by policy, have always involved one victim per reported incident.
  - No Personally Identifying Information (PII) is entered into DSAID or maintained for alleged subjects.
  - Subsequent to a change in DoD policy in 2012, military dependents (aged 18 and over) may make Restricted Reports of sexual assault. By law, the official statistics provided to Congress are limited to those reports of sexual assault that involve Service members as either a victim or a subject. Consequently, Restricted Reports by adult military dependents alleged to involve a Service member (other than spouse or intimate partner) as the offender are now included in the Department's annual statistics. Restricted Reports by adult military dependents that did not involve a Service member are recorded, but not included in statistical analyses or reporting demographics.
- Available demographic information on victims and subjects in Unrestricted Reports is only drawn from *completed investigations,* and from victim information in Restricted Reports, as recorded in DSAID.

When It Happened

- Information about the sexual assault reports made in FY 2014 is drawn from reports received by DoD between October 1, 2013 and September 30, 2014. However, additional time trend information is included for the years noted. The quantity and types of information captured by the Department has grown over the years.
- The data that follow are a snapshot in time. In other words, the following information describes the status of sexual assault reports, investigations, and subject dispositions on September 30, 2014 (the last day of FY 2014).

[2] Additional information on DSAID's data collection and reporting process is described below in the "How It Is Gathered" section (p.5).

  - Many investigations extend across FYs. For example, it often takes several months to investigate a report of sexual assault. As a result, those investigations that were opened toward the end of the FY typically carry over into the next FY.
  - Subject dispositions can also extend across FYs. As a result, a substantial portion of dispositions are "pending" or not yet reported at the end of the year. The Department tracks these pending dispositions and requires the Military Services to report on them in subsequent years' reports.
  - Under the Department's SAPR policy, there is no time limit as to when someone can report a sexual assault to a SARC or an MCIO. Consequently, in any given year, the Department may not only receive reports about incidents that occurred during the current year, but also incidents that occurred in previous years.
- Reports made for sexual assaults that occurred prior to a Service member's enlistment or commissioning are also received by the Department. When a report of this nature occurs, the Department provides care and services to the victim, but may not be able to punish the offender if he or she is not subject to military law. Department authorities may assist the victim in contacting the appropriate civilian or foreign law enforcement agency.
- The definition of "sexual assault" in the UCMJ has changed several times over the last several years:
  - For incidents that occurred prior to the changes made to the UCMJ on October 1, 2007, the term "sexual assault" referred to the crimes of rape, nonconsensual sodomy, indecent assault, and attempts to commit these acts.
  - For incidents that occurred between October 1, 2007 and June 27, 2012, the term "sexual assault" referred to the crimes of rape, aggravated sexual assault, aggravated sexual contact, abusive sexual contact, wrongful sexual contact, nonconsensual sodomy, and attempts to commit these acts.
  - For incidents that occur on or after June 28, 2012, the term "sexual assault" refers to the crimes of rape, sexual assault, aggravated sexual contact, abusive sexual contact, nonconsensual sodomy, and attempts to commit these acts.

How It Is Gathered

Defense Sexual Assault Incident Database

- In years prior to FY 2014, the Department's sexual assault data were drawn from incident information collected by SARCs and official investigations conducted by MCIO agents. DoD SAPRO aggregated data provided by the Services in order to perform subsequent DoD-level analyses.
- As of FY 2014, the Defense Sexual Assault Incident Database (DSAID) collects and reports information for DoD and the Services. For each report of sexual assault, SARCs are now required to use DSAID to enter information about the victim and incident. Additionally, DSAID interfaces with MCIO information systems, which "push" additional information about subjects and offense specific information into DSAID. MCIO information systems retain the system of record

for all Unrestricted Reports they investigate. Service-appointed legal officers enter and validate subject case disposition information into DSAID.

- The transition to DSAID alters the way in which sexual assault data are reported in two key ways:
  - Unrestricted Reports were previously recorded as the number of sexual assault *cases*, as organized by the MCIOs. Thus, one case did not necessarily correspond to one victim report. Starting in FY 2014, DSAID accounts for each individual report of sexual assault, such that each report corresponds to one victim. As mentioned previously, Restricted Reports, by policy, have always involved one victim per reported incident.
  - In past FYs, Service affiliation of subjects and victims referred to the Service to which they belonged. Beginning in FY 2014, using DSAID, affiliation of subjects and victims refers to the Service affiliation of SARCs handling the case. This shift will provide valuable insight into the resources each Service expends to respond to reports of sexual assault. However, as in past years, when discussing subject dispositions, affiliation is based on the subjects' Service.
- As in prior FYs, the USD (P&R) submitted data calls to the Military Departments to collect the required statistical and case synopsis data. DoD SAPRO aggregates and analyzes these data.

RAND's Military Workplace Survey (RMWS)

- Prior to 2014, the Department assessed the prevalence of unwanted sexual contact through the Workplace and Gender Relations Survey of Active Duty Members (WGRA) and Reserve Component Members (WGRR), administered by the Defense Manpower Data Center (DMDC).
- In 2014, the Department agreed to a request from the leadership of the Senate Armed Services Committee to arrange for an independent assessment of sexual assault prevalence in the DoD. In accordance with this request, the RAND Corporation (RAND) was contracted to administer the Military Workplace Study (RMWS), which will serve as the 2014 WGRA.
- RAND created and administered two versions of the survey. One version of the survey employed DMDC's prior measure of unwanted sexual contact to estimate the past-year prevalence of sexual assault in the DoD, allowing for trend analysis with previous years' data (WGRA form administered by RAND). The other survey version (RMWS form) employed a newly developed measure of sexual assault that was designed to more closely match offense language and definitions in the Uniform Code of Military Justice (UCMJ).
- See Annex 1 for a full description of the survey methods

Survivor Experience Survey (SES)

- The Survivor Experience Survey (SES) was developed at the direction of the Secretary of Defense. The first of its kind in the United States, the goal of the 2014 SES was to learn about the overall reporting experiences from all current uniformed military members, 18 years of age or older, who made a Restricted or Unrestricted Report for any form of sexual assault, and made their report at least

30 days prior to survey completion, but after 1 October 2013. Survey items were constructed to be Service-specific so as to match the experience of the survivor.
- The SES is a voluntary, anonymous, web-based survey. SARCs invited survivors that met recruitment requirements to take the survey. If survivors chose to participate, they answered questions about their sexual assault reporting experiences and satisfaction with sexual assault prevention and response services.
- See Annex 2 for a full description of the survey methods.

Command Climate Survey (DEOCS)

In FY 2012 and FY 2013, DoD SAPRO worked with the Defense Equal Opportunity Management Institute (DEOMI) and Service representatives to develop questions to help assess SAPR climate for unit commanders. In January of FY 2014, as the old survey was phased out, a new version of the DEOCS survey went into the field with newly developed SAPR questions. Due to this gradual roll-out method, sample sizes in January were too small to pass the reportable threshold. Therefore, figures for FY 2014 span from February to September 2014.

A total of 596,593 respondents completed the SAPR questions on the DEOCS from the beginning of data collection (February 2014) through the end of the period analyzed (September 2014).

Table 1: Sample Sizes for DEOCS Respondents

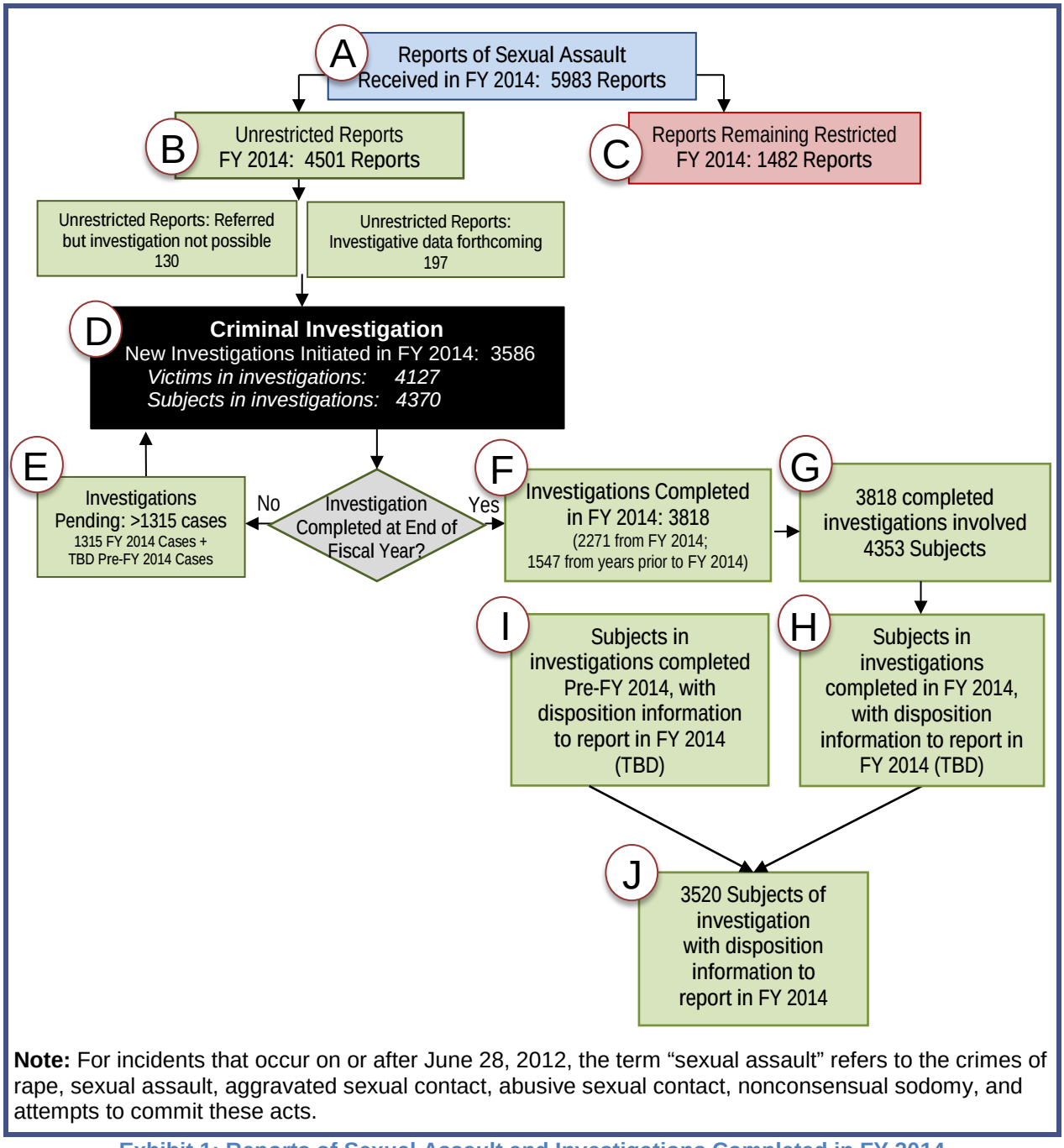
February-September 2014	
Sample size (N)	596,593
Males	507,575
Females	89,018
Junior Enlisted	112,232
NCO	321,960
Remaining Ranks (E7-E9, W1-W5, O1 & Above)	162,401

Why It Is Collected

- Congress requires data about the number of sexual assault reports and the outcome of the allegations made against each subject.
- The Department also collects these data to inform SAPR policy, program development, and oversight.

PROVISIONAL OVERVIEW OF REPORTS OF SEXUAL ASSAULT MADE IN FY 2014

This section closely follows the flow chart shown in Exhibit 1. Points on the flow chart are labeled with a letter that corresponds to the information in the text that follows.



Note: For incidents that occur on or after June 28, 2012, the term "sexual assault" refers to the crimes of rape, sexual assault, aggravated sexual contact, abusive sexual contact, nonconsensual sodomy, and attempts to commit these acts.

Exhibit 1: Reports of Sexual Assault and Investigations Completed in FY 2014

How many sexual assault reports were made in FY 2014?
5,983 Reports (4,501 Unrestricted Reports + 1,482 Reports Remaining Restricted)

In FY 2014, the Military Services received a total of 5,983 reports of sexual assault involving Service members as either victims or subjects (Exhibit 1, Point A, and Exhibit 2), which represents an 8 percent increase from the reports made in FY 2013. Although many of these reports may be about incidents that occurred in FY 2014, some incidents may have occurred in prior years. Of the 5,983 reports, 513 (or approximately 9 percent) were made for incidents that occurred before the victim entered into military service.

- The Military Services received 4,501 Unrestricted Reports involving Service members as either victims or subjects (Exhibit 1**,** Point B and Exhibit 2), a 7 percent increase from FY 2013. Of the 4,501 Unrestricted Reports, 125 (3 percent) were made for incidents that occurred before the victim entered military service.
- The Military Services initially received 1,824 Restricted Reports involving Service members as either victims or subjects, a 22 percent increase from FY 2013. Three hundred and forty-two (342; 19 percent) of the initial Restricted Reports later converted to Unrestricted Reports. These 342 converted Restricted Reports are now counted with the Unrestricted Reports. There were 1,482 reports remaining restricted at the end of FY 2014 (Exhibit 1, Point C and Exhibit 2). Of the 1,482 reports remaining Restricted, 388 (26 percent) were made for incidents that occurred before the victim entered military service. Per the victim's request, the reports remaining restricted were confidential and were not investigated. The identities of the subjects were not officially recorded with Restricted Reports.
- As stated above, the accounting method for Unrestricted Reporting changed for the first time this year with the advent of DSAID. Therefore, each Unrestricted Report corresponds to one victim. The Department has always reported the number of victims in Unrestricted Reports, but until the advent of DSAID, it had no way of independently collecting this information without the MCIOs' assistance. DSAID now provides the Department with data directly entered by the SARC. Exhibit 2 presents the revised number of Unrestricted Reports from FY 2007 to FY 2014. Exhibit 3 compares the past method of capturing Unrestricted Reports (case-driven accounting) to the DSAID method (victim-driven accounting).

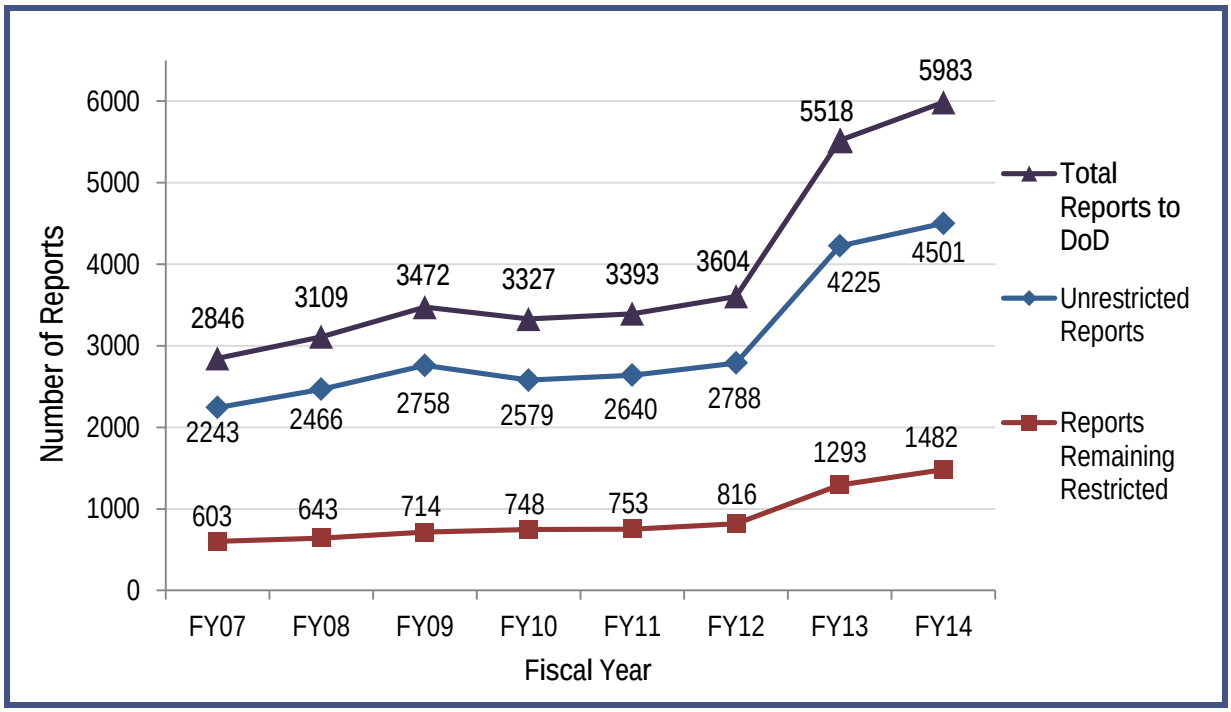


Exhibit 2: Total Reports of Sexual Assault Made to the Department — Unrestricted Reports and Restricted Reports, FY 2007 – FY 2014

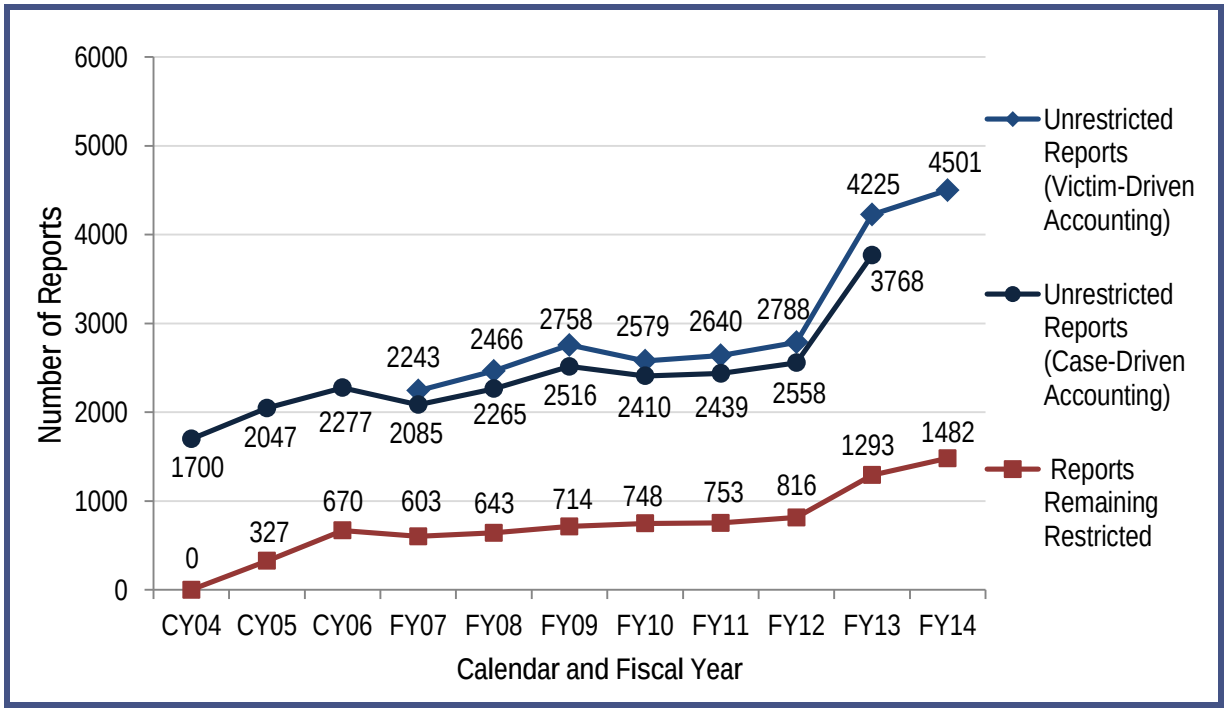


Exhibit 3: Comparison of Victim-Driven Accounting to Case-Driven Accounting of Unrestricted Reports, CY 2004 – FY 2014

Of the 5,983 victims, how many were Service members?
5,121 Service member victims.

Who were the other victims?
The remaining 862 victims were U.S. civilians, foreign nationals, and others who were not on active duty with the U.S. Armed Forces.

Of the 5,983 reports received by the Department, with each report representing one victim, there were a total of 5,121 Service member victims of sexual assault. In FY 2014, 3,357 Service members made an Unrestricted Report and 321 Service members initially made a Restricted Report, but later converted to an Unrestricted Report, for a total of 3,678 Unrestricted Reports by Service members. One thousand four hundred and forty-three (1,443) Service members made and maintained Restricted Reports. Research shows that reporting the crime is the primary link to getting most victims medical treatment and other forms of assistance.[3] The Department's SAPR policy encourages increased reporting of sexual assault, works to improve response capabilities for victims, and works with and encourages victims to willingly participate in the military justice process. This year, there was an 8 percent increase in reporting of sexual assault involving military members as victims and/or subjects over FY 2013. Based on prior, past-year prevalence rates of sexual assault and other factors, the Department attributes this increase in reporting to more victims coming forward to report a crime, and not due to an overall increase in crime.[4] In fact, FY 2014 results of the RAND Military Workplace Study indicate that past-year prevalence of sexual assault decreased for women and stayed about the same for men, as compared with FY 2012 rates. Exhibit 4 demonstrates the increase in the number of Service member victims making reports of sexual assault from Calendar Year (CY) 2004 to FY 2014. The reports were for incidents occurring while in military service.

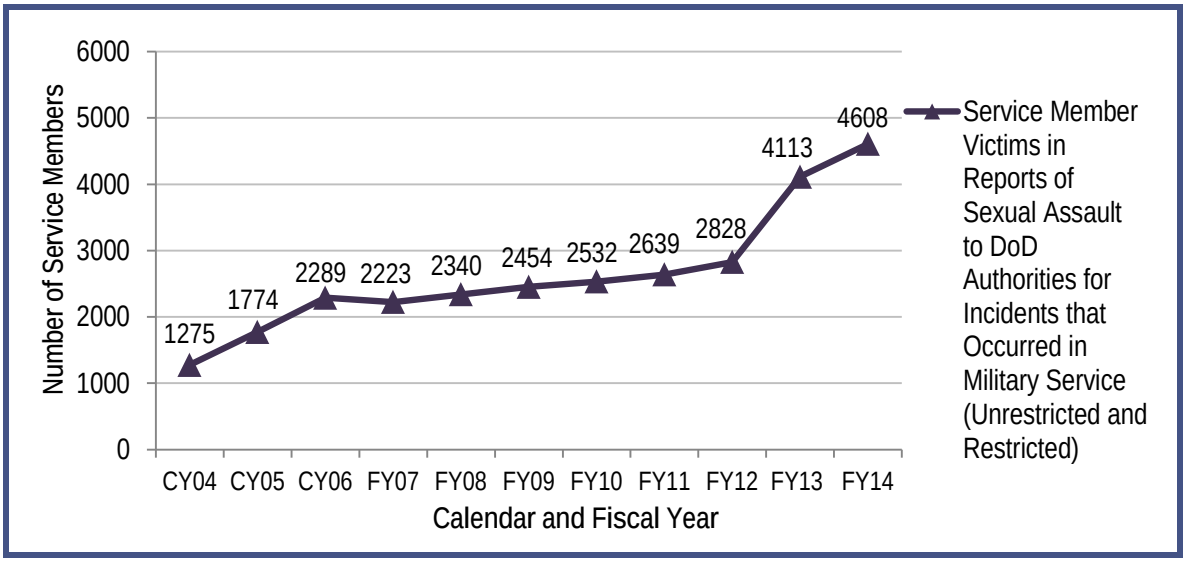
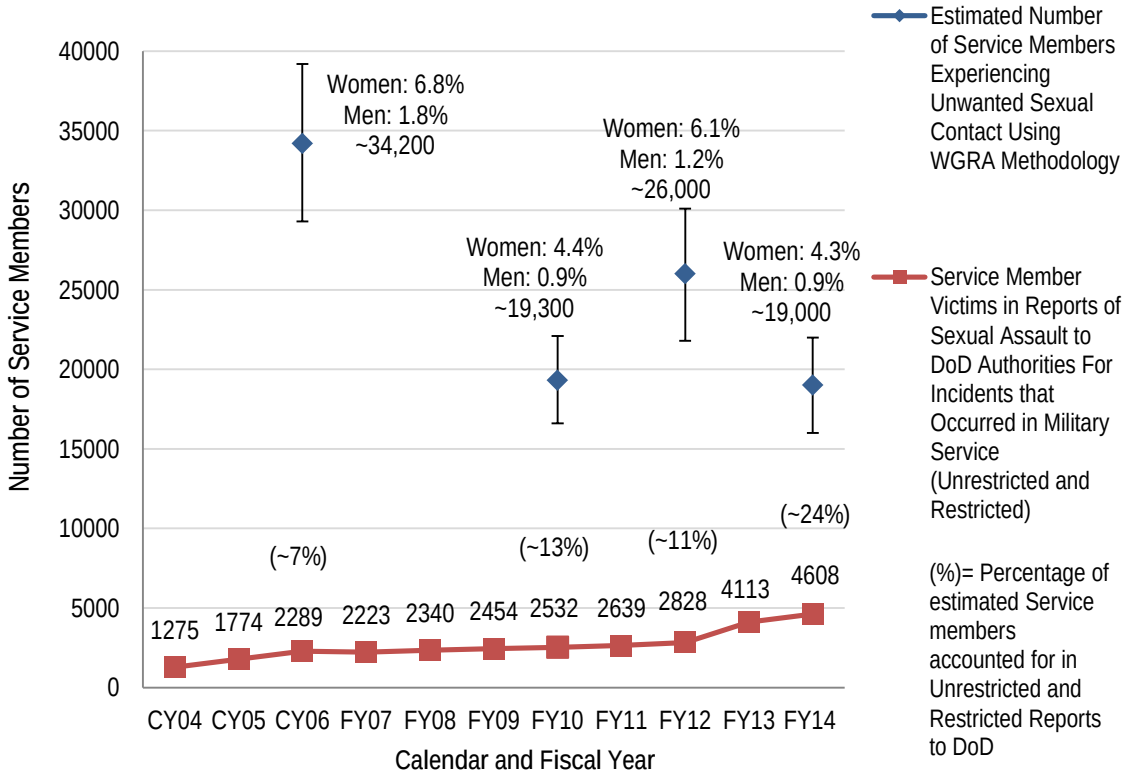


Exhibit 4: Service Member Victims in DoD Sexual Assault Reports for Incidents that Occurred in Military Service, CY 2004 – FY 2014

[3] DOJ (2002). *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992–2000*. Washington, DC: Rennison, Callie Marie.
[4] Since FY 2007, there has been an overall upward trend in reporting behavior.



Notes:

1. This graph depicts the estimated number of Service members who experienced USC in the past year (based on the past-year prevalence rates from the WGRA form administered by RAND), versus the number of Service member victims in actual reports of sexual assault made to the DoD in the years indicated. Note that although 5,121 Service member victims made sexual assault reports in FY 2014, 513 of them made a report for events that occurred prior to their entry into military service. This leaves 4,608 making a report for an incident that occurred during military service.
2. The 2,289 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in CY 2006 accounted for approximately 7 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~34,200) that year, as calculated using data from the 2006 WGRA.
3. The 2,532 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in FY 2010 accounted for approximately 13 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~19,300) that year, as calculated using data from the 2010 WGRA.
4. The 2,828 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in FY 2012 accounted for approximately 11 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~26,000) that year, as calculated using data from the 2012 WGRA.
5. The 4,608 Service member victims in Unrestricted and Restricted Reports of sexual assault to DoD authorities in FY 2014 accounted for approximately 24 percent of the estimated number of Service members who may have experienced unwanted sexual contact (~19,000) that year, as calculated using data from the WGRA form, administered by RAND for the first time.

Exhibit 5: Estimated Number of Service Members Experiencing Unwanted Sexual Contact Based on Past-Year Prevalence Rates versus Number of Service Member Victims in Reports of Sexual Assault for Incidents Occurring During Military Service, CY 2004 – FY 2014

Exhibit 5 demonstrates the difference between the estimated numbers of Service members who indicate experiencing unwanted sexual contact (USC), based on the WGRA form administered by RAND. The "gap" in reporting narrowed this year, given the increase in reports of sexual assault. The Department assesses the increase in reports as unlikely to have resulted from increased crime, given historical and current prevalence rates and other factors.

The Department expects that the "gap" between the survey-estimated number of Service members experiencing USC and the number of Service members accounted for in actual sexual assault reports can be reduced in two ways:

- Over time, prevention initiatives are expected to reduce past-year prevalence rates of USC, as measured by the prevalence surveys like the RAND Military Workplace Study (RMWS) or WGRA. As rates decrease, the estimated number of Service members who experience USC in a given year should also decrease.
- Over time, initiatives that encourage victims to report and improve the military justice system are expected to increase the number of Service members who choose to make an Unrestricted or Restricted Report.

Although reports to DoD authorities are unlikely to account for all USC estimated to occur in a given year, it is the Department's intent to narrow the gap between prevalence and reporting in order to reduce the underreporting of sexual assault in the military community.

Exhibit 6 shows the rates of victim reporting by Military Service during the past eight FYs. Victim reporting rates are calculated using the number of Service member victims in Unrestricted and Restricted Reports and active duty Military Service end strength for each year on record with DMDC.

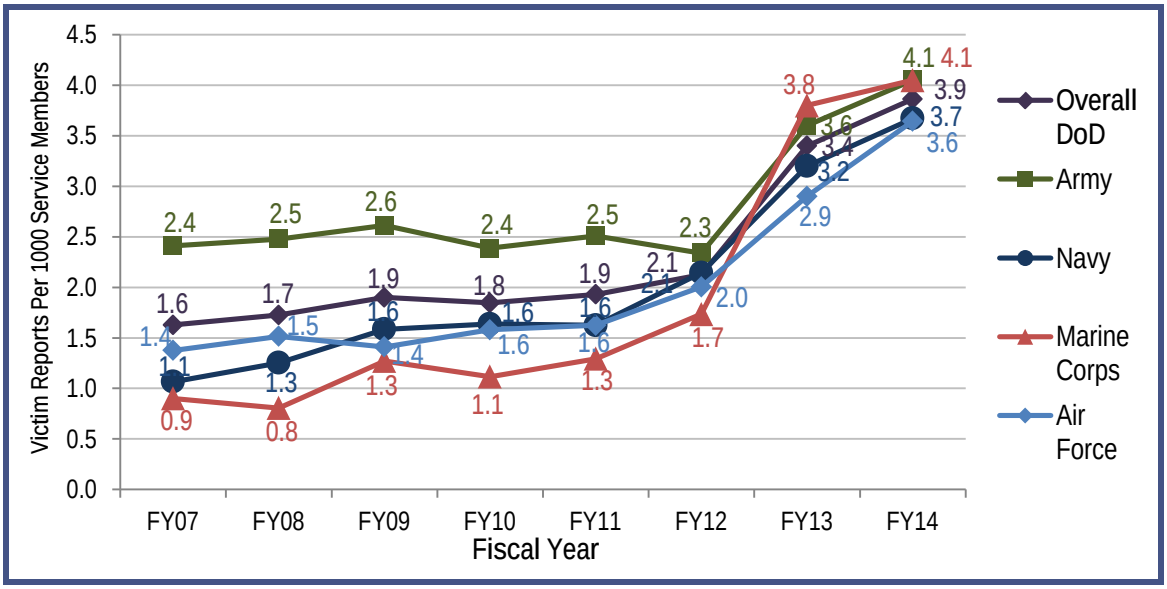


Exhibit 6: Victim Reporting Rates of Sexual Assault by Military Service, FY 2007 – FY 2014

FY 2014 Unrestricted Reports of Sexual Assault

Data from Unrestricted Reports are collected and reported to the Department by SARCs and MCIOs. In FY 2014, there were 4,501 Unrestricted Reports of sexual assault involving Service members as either the subject or victim of a sexual assault (Exhibit 1, Point B); 3,678 (82 percent) of the 4,501 Unrestricted Reports involved Service members as victims. Each year, the majority of sexual assault reports received by MCIOs involve the victimization of Service members by other Service members.

Why show a reporting rate?
A reporting rate allows for the comparison of reports across groups of different sizes. Reporting rates also allow for year after year comparisons, even when the total number of people in a group has changed.

Crimes Alleged in Unrestricted Reports

The DoD SAPR program uses the term "sexual assault" to refer to the range of crimes in military law that constitute contact sexual offenses between adults. Since 2004, there have been three versions of Article 120, Uniform Code of Military Justice (UCMJ), which defines some of those crimes. Table 2 depicts how the UCMJ's characterization of "sexual assault" has been revised over time.[5]

Table 2: Sexual Assault Offenses Punishable by the Uniform Code of Military Justice (UCMJ)

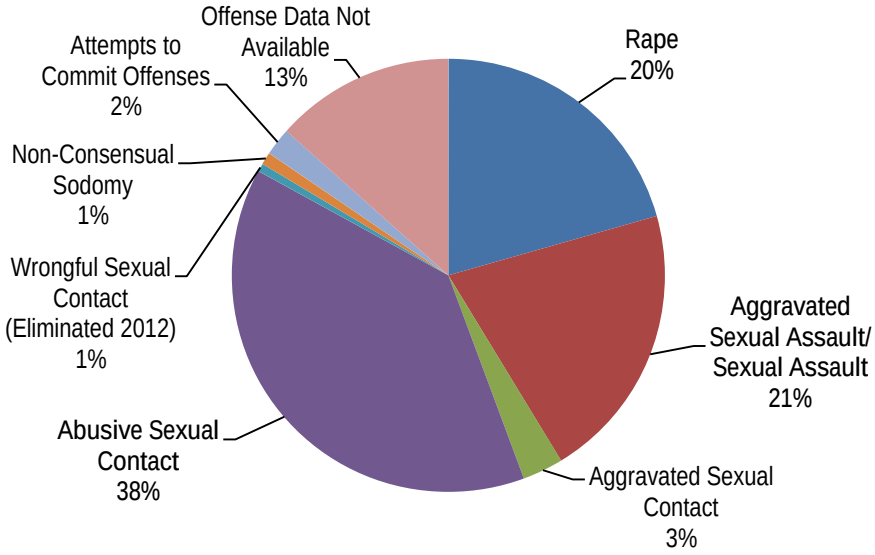
Sexual Assault Offenses	Prior to FY 2008	FY 2008 to June 27, 2012	June 28, 2012 to Present
Rape (Article 120)	✓	✓	✓
Sexual Assault (Article 120)	N/A	N/A	✓
Aggravated Sexual Assault (Article 120)	N/A	✓	N/A
Aggravated Sexual Contact (Article 120)	N/A	✓	✓
Abusive Sexual Contact (Article 120)	N/A	✓	✓
Wrongful Sexual Contact (Article 120)	N/A	✓	N/A
Nonconsensual Sodomy (Article 125)	✓	✓	✓
Indecent Assault (Article 134)	✓	N/A	N/A
Attempts to commit (Article 80)	✓	✓	✓

In the 4,501 Unrestricted Reports made to the Department in FY 2014, the majority of offenses alleged were in three categories: rape; aggravated sexual assault/sexual assault; and abusive sexual contact. MCIOs categorize Unrestricted Reports by the most serious offense *alleged* in the report, which may not ultimately be the same offense for which evidence supports a misconduct charge,

What crimes are alleged in most reports?
Most Unrestricted Reports of sexual assault involve three crimes: rape, aggravated sexual assault/sexual assault, and abusive sexual contact.

[5] Since June 28, 2012, misconduct addressed by the offense "Aggravated Sexual Assault" is captured by the offense "Sexual Assault". Likewise, misconduct previously addressed by "Wrongful Sexual Contact" is now captured by the offense "Abusive Sexual Contact."

if any. Exhibit 7 shows the proportions of offenses as originally alleged in Unrestricted Reports in FY 2014.



Note: Percentages listed do not sum to 100% due to rounding of percentages to the nearest whole point.

Exhibit 7: Offenses Originally Alleged in Unrestricted Reports of Sexual Assault, FY 2014

Investigations of Unrestricted Reports

According to DoD policy, all Unrestricted Reports must be referred for investigation by an MCIO. However, reports received for incidents prior to military service usually cannot be investigated by MCIOs when the alleged offender is not subject to military law. In FY 2014, MCIOs initiated 3,586 sexual assault investigations (Exhibit 1, Point D). The length of an investigation depends on a number of factors, including:

- The offense alleged;
- The location and availability of the victim, subject, and witnesses;
- The amount and kind of physical evidence gathered during the investigation; and
- The length of time required for crime laboratory analysis of evidence.

Depending on these and other factors, investigation length may range from a few months to over a year. For example, the average length of a sexual assault investigation in FY 2014 was 4.7 months. Consequently, sexual assault investigations and their outcomes can span multiple reporting periods. Of the 3,818 sexual assault investigations completed during FY 2014 (Exhibit 1, Point F), 2,271 were opened in FY 2014 and 1,547 were opened in years prior to FY 2014.

- The outcomes of 1,315 ongoing sexual assault investigations that were opened in FY 2014 but not completed by September 30, 2014, along with the outcomes of pre-FY 2014 investigations that were not completed by the end of FY 2014, will be documented in future reports (Exhibit 1, Point E).

MCIOs reported that 49 of the 4,353 subjects in investigations completed in FY 2014 had a previous investigation for a sexual assault allegation.

Sexual Assault Subject Dispositions in FY 2014

Congress requires the Department to report on the dispositions (outcomes) of the sexual assault allegations made against Service members. At the end of FY 2014, there were 3,520 subjects with disposition information to report (Exhibit 1, Point J).

The goals of a criminal investigation are to identify which crimes have been committed, who has been victimized, and who may be held accountable for the crime. The Department seeks to hold those Service members who have committed sexual assault appropriately accountable based on the available evidence. However, in order to comply with Congressional and White House reporting requirements, the Department's sexual assault data represent a twelve-month snapshot in time. Consequently, at the end of FY 2014, some subject dispositions were still in progress and will be reported in forthcoming years' reports.

The 3,520 subjects from DoD investigations for whom dispositions were reported in FY 2014 included Service members, U.S. civilians, foreign nationals, and subjects that could not be identified (Exhibit 1 and Exhibit 8, Point J).

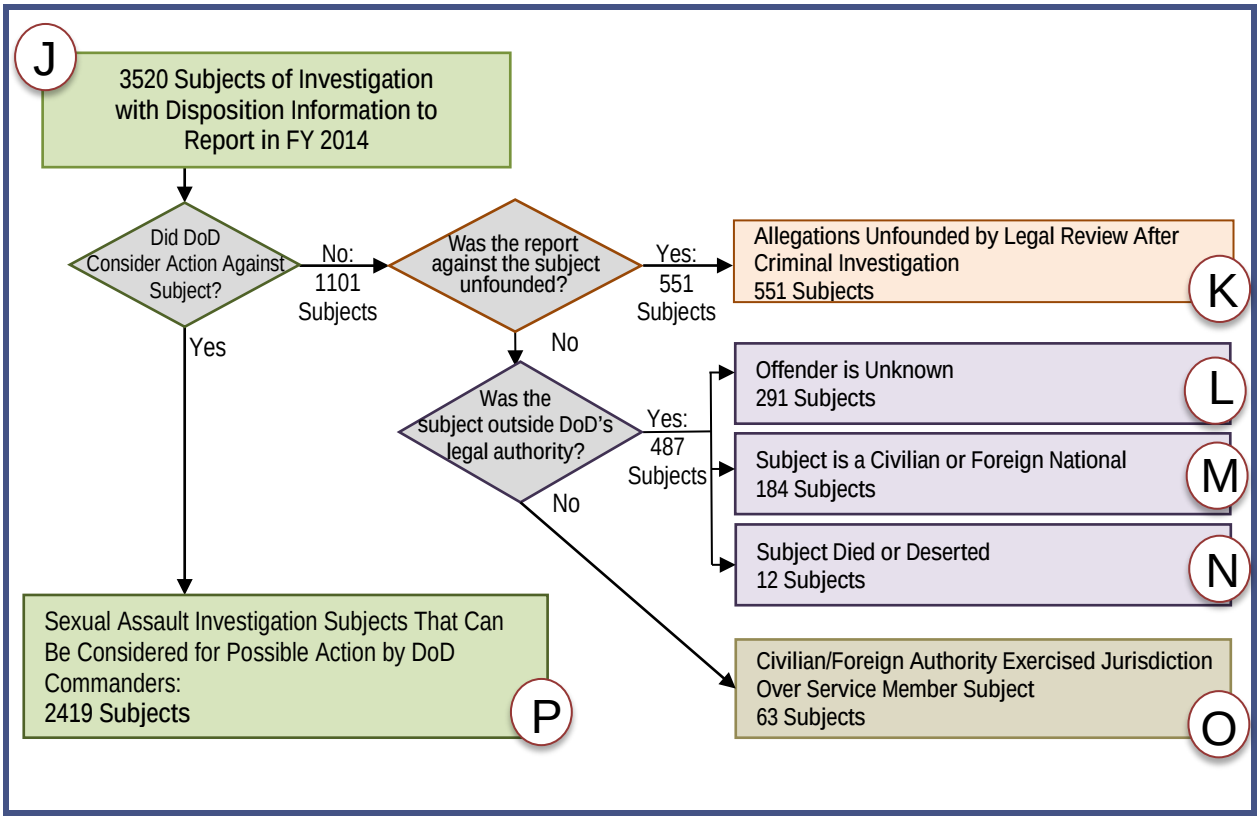


Exhibit 8: FY 2014 Subjects Outside DoD Legal Authority

Can the Department take action against everyone it investigates?
No. In FY 2014, the Department could not take action against 1,101 subjects because they were outside the Department's legal authority, a civilian/foreign authority exercised jurisdiction over a Service member subject, or the allegations of sexual assault against them were unfounded.

A key difference between the civilian and military legal systems is that in the civilian system, a prosecuting attorney may review the evidence and, if appropriate, file charges against all identified suspects within the attorney's area of legal authority. **However, for the vast majority of cases in the military justice system, commanders are limited to taking legal or disciplinary action against only those Service members who are subject to the UCMJ.** Each year, the Department lacks jurisdiction over several hundred subjects in its sexual assault reports/investigations. In FY 2014, the Department could not consider taking action against 1,101 subjects because the allegations of sexual assault against them were unfounded, because the subjects were outside of the Department's legal authority (for example, they could not be identified, they were civilian or foreign nationals or they had died or deserted), or because the subjects were Service members being prosecuted by a civilian/foreign authority.

When at the end of a criminal investigation a legal review of the available evidence indicates the individual accused of sexual assault did not commit the offense, the offense did not occur, or the offense was improperly reported as a sexual assault, the allegations against the subject are considered to be unfounded. As a result, no action is taken against the accused.

- Allegations against 551 subjects were deemed unfounded (false or baseless) by a legal review after criminal investigation in FY 2014 (Exhibit 8**,** Point K).

The Department's legal authority extends only to those persons subject to the UCMJ. As a result, 487 subjects of DoD investigations fell outside its authority for disciplinary action:

- There were 291 subjects who remained unidentified despite a criminal investigation (Exhibit 8**,** Point L).
- The Department could not take action against 184 civilians or foreign nationals because they were not subject to military law (Exhibit 8**,** Point M).
- Twelve subjects died or deserted before disciplinary action could be taken against them (Exhibit 8, Point N).

While a Service member is always under the legal authority of the Department, sometimes a civilian authority or foreign government will exercise its legal authority over a Service member who is suspected of committing a crime within its jurisdiction. This year, a civilian or foreign authority addressed the alleged misconduct of 63 Service member subjects (Exhibit 8**,** Point O).

Military Subjects Considered for Disciplinary Action

In FY 2014, 2,419 subjects investigated for sexual assault were Service members under the authority of the Department (Exhibit 9, Point P, and Table 3). However, legal factors sometimes prevent disciplinary action from being taken against some subjects. For example, commanders were unable to take disciplinary action against 600 of these military subjects because there was insufficient evidence of an offense to prosecute, the victim declined to participate in the military justice process, or the statute of limitations had expired (Exhibit 9, Point U and Table 3).

What percentage of Service member subjects who received disciplinary action for sexual assault had court-martial charges preferred against them in FY 2014?
66%
In FY 2007, only 30% of subjects receiving disciplinary action had court-martial charges preferred against them.

Table 3: Military Subject Dispositions in FY 2014

Subject Disposition Category	Military Subject Dispositions Reported in FY14
Military Subjects in Sexual Assault Cases Reviewed for Possible Disciplinary Action	2,419
Evidence Supported Commander Action	1,764
Sexual Assault Offense Action	1,380
Court-Martial Charge Preferred (Initiated)	*910*
Nonjudicial Punishment (Article 15, UCMJ)	*283*
Administrative Discharge	*85*
Other Adverse Administrative Action	*102*
Evidence Only Supported Action on a Non-sexual Assault Offense	384
Court-Martial Charge Preferred (Initiated)	*41*
Nonjudicial Punishment (Article 15, UCMJ)	*235*
Administrative Discharge	*23*
Other Adverse Administrative Action	*85*
Unfounded by Command/Legal Review	55
Commander Action Precluded	600
Victim Died	*0*
Victim Declined to Participate in the Military Justice Action	*244*
Insufficient Evidence to Prosecute	*345*
Statute of Limitations Expired	*11*

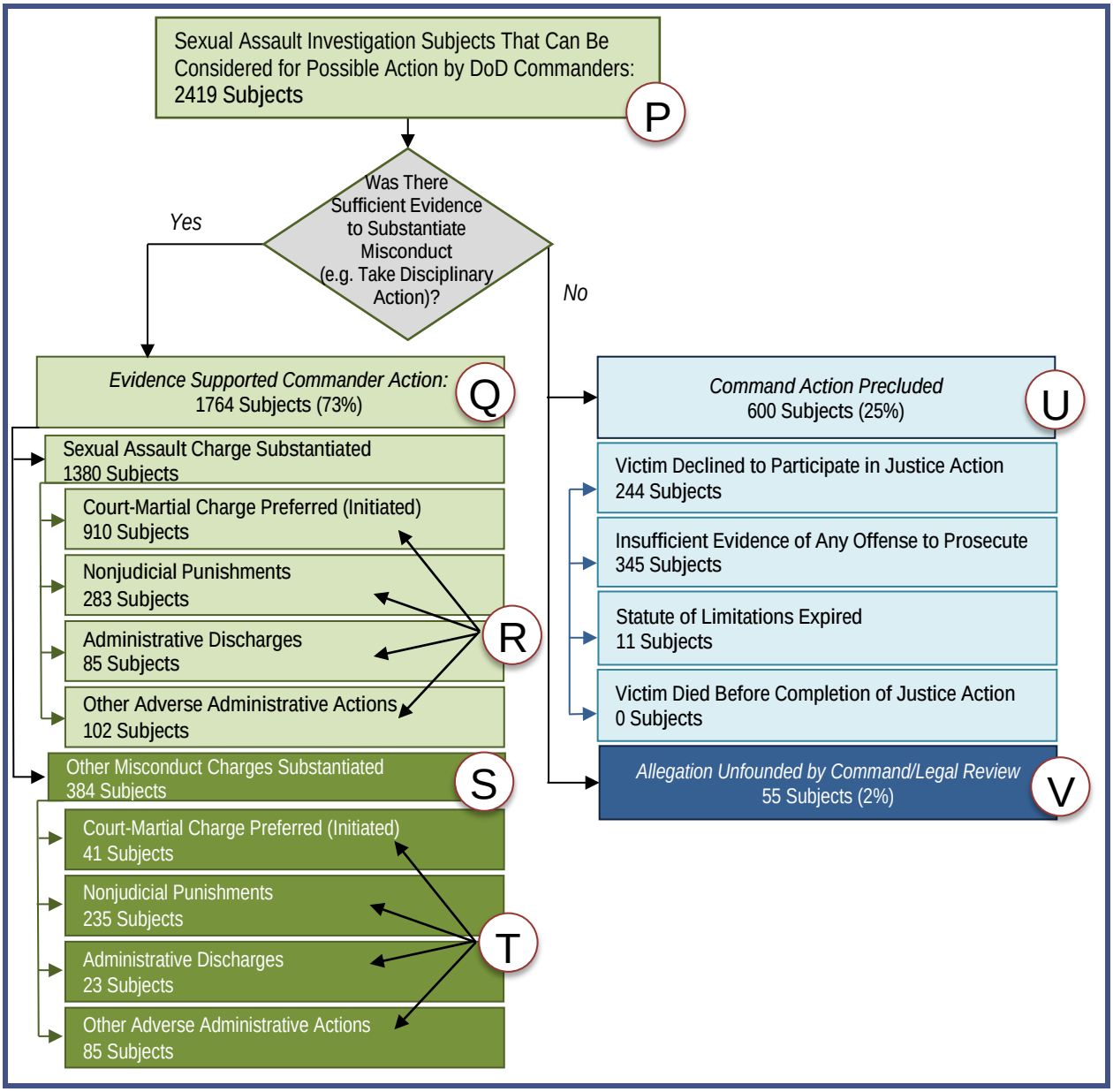


Exhibit 9: Dispositions of Subjects Under DoD Legal Authority, FY 2014

In addition, commanders declined to take action against 55 military subjects because, after a review of the facts of the case with a military attorney, they determined the allegations against those subjects were false or baseless (unfounded; Exhibit 9, Point V and Table 3). Since FY 2009, the percentage of Service member subjects for whom command action was precluded or declined has decreased. Exhibit 10 illustrates that DoD authorities were able to hold a larger percentage of Service member subjects appropriately accountable in FY 2014 than in FY 2009.

For 1,764 military subjects, commanders had sufficient evidence and the legal authority to support some form of disciplinary action for a sexual assault offense or other misconduct (Exhibit 9, Point Q and Table 3). When a subject receives more than one

disposition, only the most serious disciplinary action is reported (in descending order: preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative action).

The following represents the command actions taken for the 1,380 subjects for whom it was determined a sexual assault offense warranted discipline: 66 percent (910 subjects) had courts-martial charges preferred (initiated) against them, 21 percent (283 subjects) were entered into proceedings for nonjudicial punishment under Article 15 of the UCMJ, and 14 percent (187 subjects) received a discharge or another adverse administrative action (Exhibit 9, Point R and Table 3).

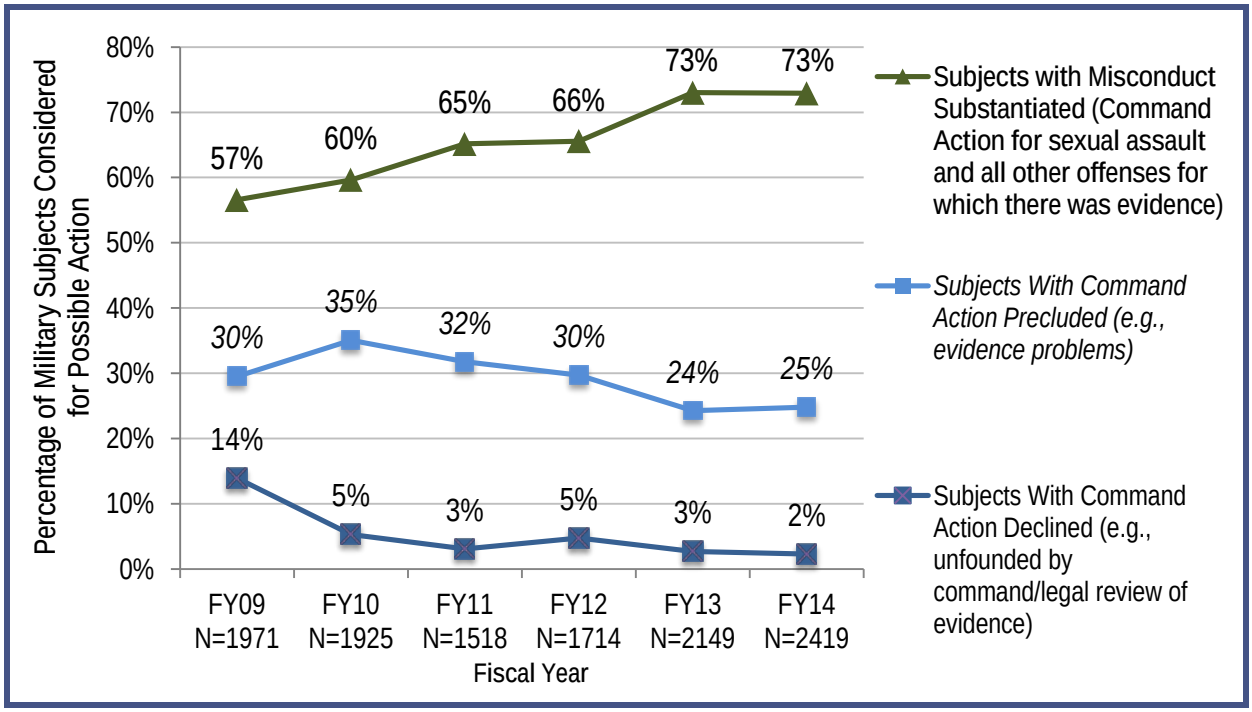
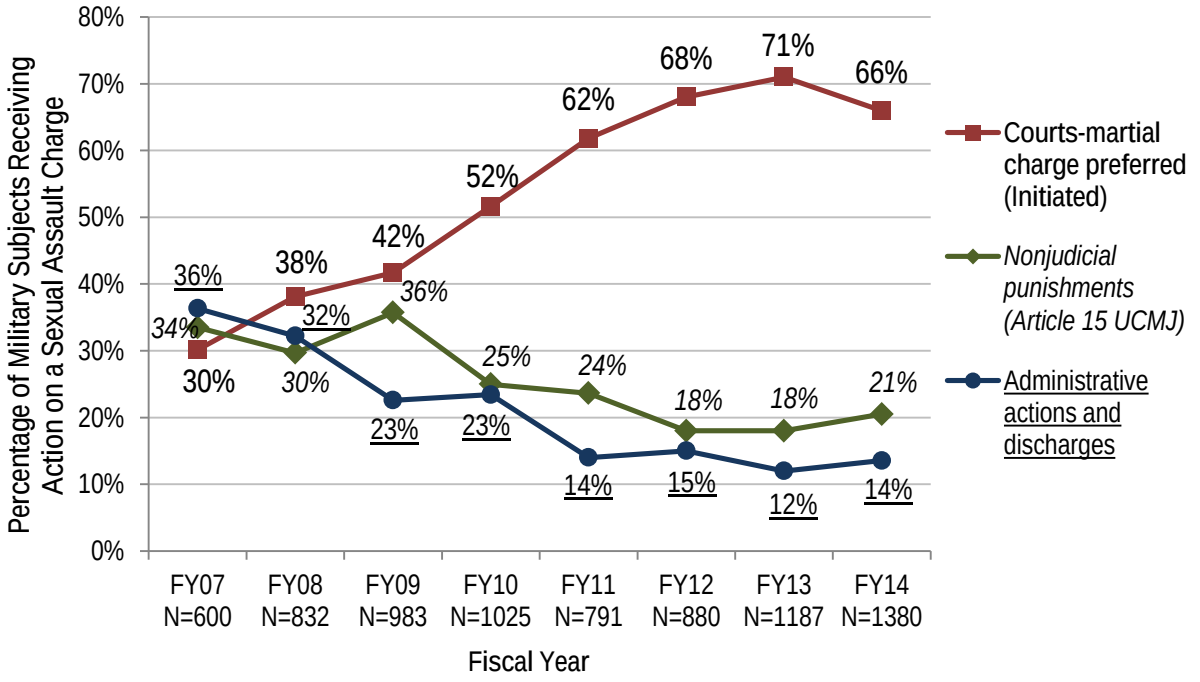


Exhibit 10: Percentage of Military Subjects with Misconduct Substantiated, Command Action Precluded, and Command Action Declined, FY 2009 – FY 2014

For 384 subjects, evidence supported command action for other misconduct discovered during the sexual assault investigation (such as making a false official statement, adultery, underage drinking, or other crimes under the UCMJ), but not a sexual assault charge (Exhibit 9, Point S and Table 3). Of these 384 military subjects for whom probable cause existed only for a non-sexual assault offense: 11 percent (41 subjects) had court-martial charges preferred against them, 61 percent (235 subjects) were entered into proceedings for nonjudicial punishment, and 28 percent (108 subjects) received some form of adverse administrative action or discharge (Exhibit 9**,** Point T and Table 3).

Military Justice

The following information describes what happens once a military subject's commander finds that there is sufficient evidence to take disciplinary action. Exhibit 11 shows that, from FY 2007 to FY 2014, commanders' preferral of court-martial charges against military subjects for sexual assault offenses increased from 30 percent of subjects in FY 2007 to 66 percent of subjects in FY 2014. During the same period, nonjudicial punishment, other adverse administrative actions, and administrative discharges decreased substantially.



Notes:

1. Percentages are of subjects found to warrant disciplinary action for a sexual assault offense only. Other misconduct (false official statement, adultery, etc.) is not shown.
2. Percentages listed for some years exceed 100% due to rounding of percentages to the nearest whole point.

Exhibit 11: Breakdown of Disciplinary Actions Taken Against Subjects for Sexual Assault Offenses, FY 2007 – FY 2014

Courts-Martial for a Sexual Assault Offense

As noted previously, of the 1,380 military subjects against whom disciplinary action was initiated for a sexual assault offense, 910 had court-martial charges preferred against them (Exhibit 9, Point R and Table 3). Exhibit 12 illustrates what happened to these subjects after their commanders preferred court-martial charges. The dispositions and the sentences imposed by courts-martial are for those subjects with at least one sexual

What percentage of Service member subjects charged and tried for sexual assault offenses were convicted in FY 2014, and what kind of punishment did they receive?
72% of Service members tried for a sexual assault offense were convicted of at least one charge at trial. Most subjects received four kinds of punishment: **Confinement, a Fine or Forfeiture of Pay, Reduction in Rank, and a Punitive Discharge or Dismissal.**

assault charge adjudicated in FY 2014. Of the 910 subjects who had court-martial charges preferred against them for at least one sexual assault charge in FY 2014, 735 subjects' court-martial outcomes were completed by the end of the FY:

- Court-martial charges against 149 subjects were dismissed. However, commanders used evidence gathered during the sexual assault investigations to take nonjudicial punishment against 41 of the 149 subjects (nonjudicial punishment was initiated but dismissed for six of these subjects, leaving 35 subjects with a nonjudicial punishment imposed). The punishment may have been for any kind of misconduct for which there was evidence. The 35 subjects who received nonjudicial punishment were adjudged five categories of punishment: reductions in rank, fines or forfeitures of pay, restriction, extra duty, and reprimand.
- Ninety subjects were granted a resignation or discharge instead of court-martial.
- Of the 496 subjects whose cases proceeded to trial: 359 subjects (72 percent) were convicted on any charge at court-martial. 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.
- Initial data indicate that sex offender registration was required for at least 175 military members convicted for a qualifying offense at court-martial.
- One hundred and thirty-seven subjects (28 percent) were acquitted of all charges.

Resignations and discharges in lieu of court-martial are granted by the Department in certain circumstances and may only occur after court-martial charges have been preferred against the accused. For such an action to occur, the accused must initiate the process. Resignation or discharge in lieu of court-martial requests include a statement of understanding of the offense(s) charged and the consequences of administrative separation, an acknowledgement that any separation could possibly have a negative characterization, and 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. Discharges of enlisted personnel in lieu of court-martial are usually approved at the Special Court-Martial Convening Authority level. Resignations of officers in lieu of court-martial are approved by the Secretary of the Military Department.

In FY 2014, 75 of 85 enlisted members who received a discharge in lieu of court-marital were separated Under Other Than Honorable Conditions (UOTHC), the lowest characterization of discharge possible administratively (information was not available for the other ten subjects). The UOTHC discharge characterization is recorded on the Service member's DD Form 214, Record of Military Service, and significantly limits separation and post-service benefits from the Department and DVA. Military Service policies, codified in the FY 2013 NDAA, direct that those Service members who are convicted of a sexual assault, but who do not receive a punitive discharge at court-martial, should be processed for administrative discharge. This year, the Service documented that 47 convicted subjects that did not receive a punitive discharge or dismissal will be processed for administrative separation from military service.

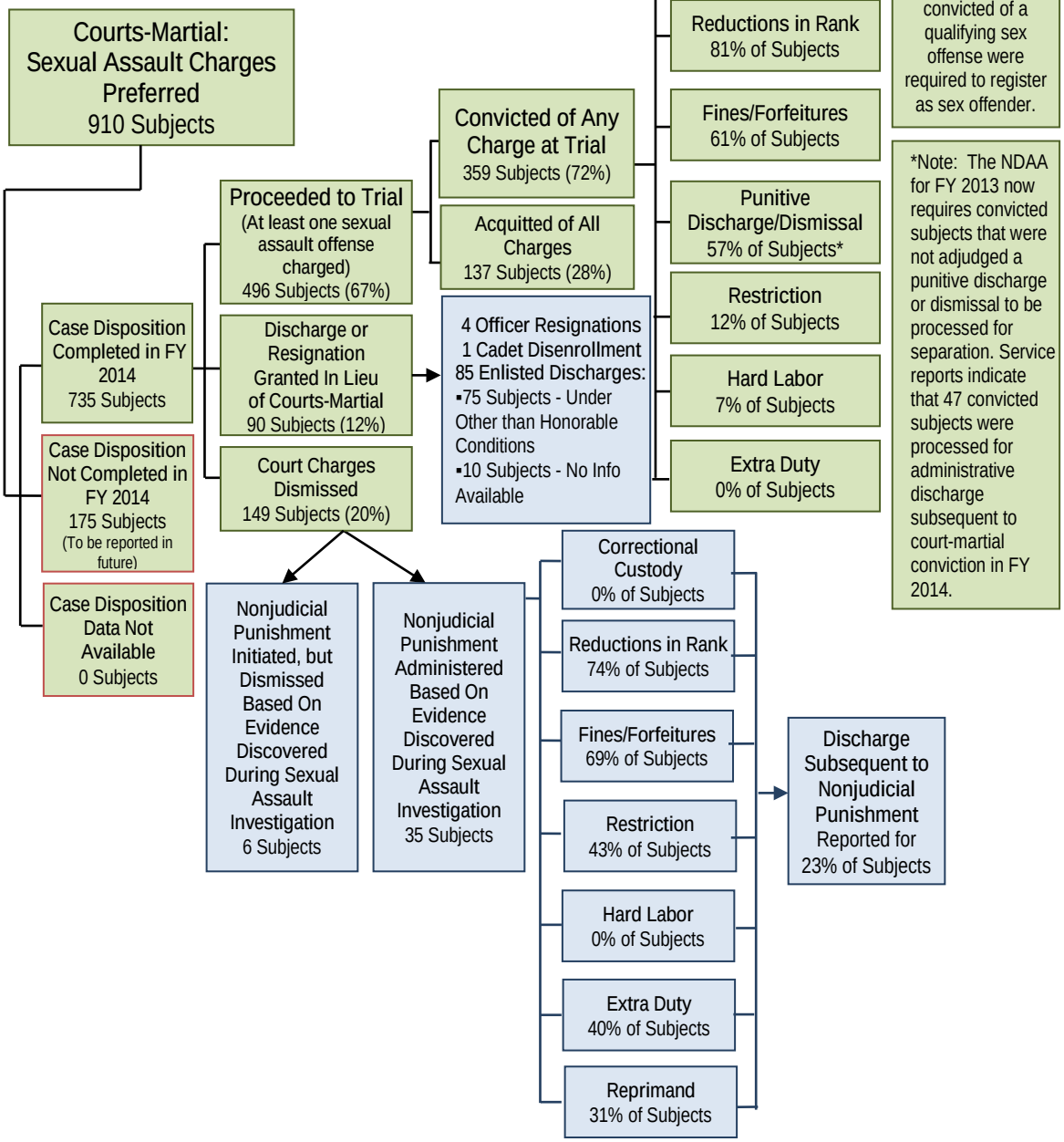


Exhibit 12: Dispositions of Subjects Against Whom Sexual Assault Court-Martial Charges were Preferred, FY 2014

Notes:

1. Percentages listed for some categories do not sum to 100% due to rounding of percentages to the nearest whole point.
2. The Military Services reported that 910 subjects of sexual assault investigations had court-martial charges preferred against them for a sexual assault offense.
3. Of the 910 subjects who had court-martial charges preferred against them, 175 subjects were still pending court action at the end of FY 2014.
4. Of the 735 subjects whose courts-martial were completed and reported in FY 2014, 496 subjects proceeded to trial, 90 subjects were granted a discharge or resignation in lieu of court-martial, and 149 subjects had court-martial charges dismissed.

Exhibit 12 notes, continued:

5. In cases in which a discharge or resignation in lieu of court-martial is requested and approved, the characterization of the discharge is UOTHC, unless a higher characterization is justified (see also the discussion of administrative discharge characterizations in the "Administrative Discharges and Adverse Administrative Actions" section of the report). Of the 149 subjects with dismissed charges, commanders imposed nonjudicial punishment on 35 subjects. Most of these 35 subjects received two kinds of punishment: a reduction in rank and a fine or forfeiture of pay.
6. Of the 496 subjects whose cases proceeded to trial, 359 (72%) were convicted of at least one charge. Conviction by courts-martial may result in a combination of punishments. Consequently, convicted Service members could be adjudged one or more of the punishments listed. However, in most cases, they received at least four kinds of punishment: confinement, a reduction in rank, a fine or forfeiture of pay, and a punitive discharge (bad conduct discharge, dishonorable discharge, or dismissal (officers). The NDAA for FY 2013 now requires mandatory administrative separation processing for all Service members convicted of a sexual assault offense.

Nonjudicial Punishment

Nonjudicial punishment is administered in accordance with Article 15 of the UCMJ and empowers commanding officers to impose penalties on Service members when there is sufficient evidence of a 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. With nonjudicial punishment a commander can take a variety of corrective actions, including demotions, fines/forfeitures, and restrictions on liberty. Nonjudicial punishment may support a rationale for discharging military subjects with a less than an honorable discharge. The Service member may demand trial by court-martial instead of accepting nonjudicial punishment by the commander.

Do military commanders use nonjudicial punishment as their primary means of discipline for sexual assault crimes?
No
Only 21% of subjects who received disciplinary action for a sexual assault crime received nonjudicial punishment in FY 2014. Most subjects (66%) had court-martial charges preferred against them.

Of the 1,380 military subjects who received disciplinary action on a sexual assault offense, 283 received nonjudicial punishment (Exhibit 9**,** Point R and Table 3).

Exhibit 13 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in FY 2014. Of the 258 subjects whose nonjudicial punishments were completed in FY 2014, 90 percent of subjects were found guilty by the commander and received punishment. Nearly all of the administered nonjudicial punishments were for a contact (non-penetrating) sex offense. Most subjects who received nonjudicial punishment received at least three kinds of punishment: reduction in rank, a fine or forfeiture of pay, and extra duty. Available Military Service data indicated that for 59 subjects (25 percent of those administered nonjudicial punishment) the nonjudicial punishment served as grounds for a subsequent administrative discharge. Characterizations of these discharges were as follows:

Honorable Discharge	7 Subjects
General Discharge	24 Subjects
Under Other Than Honorable	20 Subjects
Uncharacterized	8 Subjects
Total	**59 Subjects**

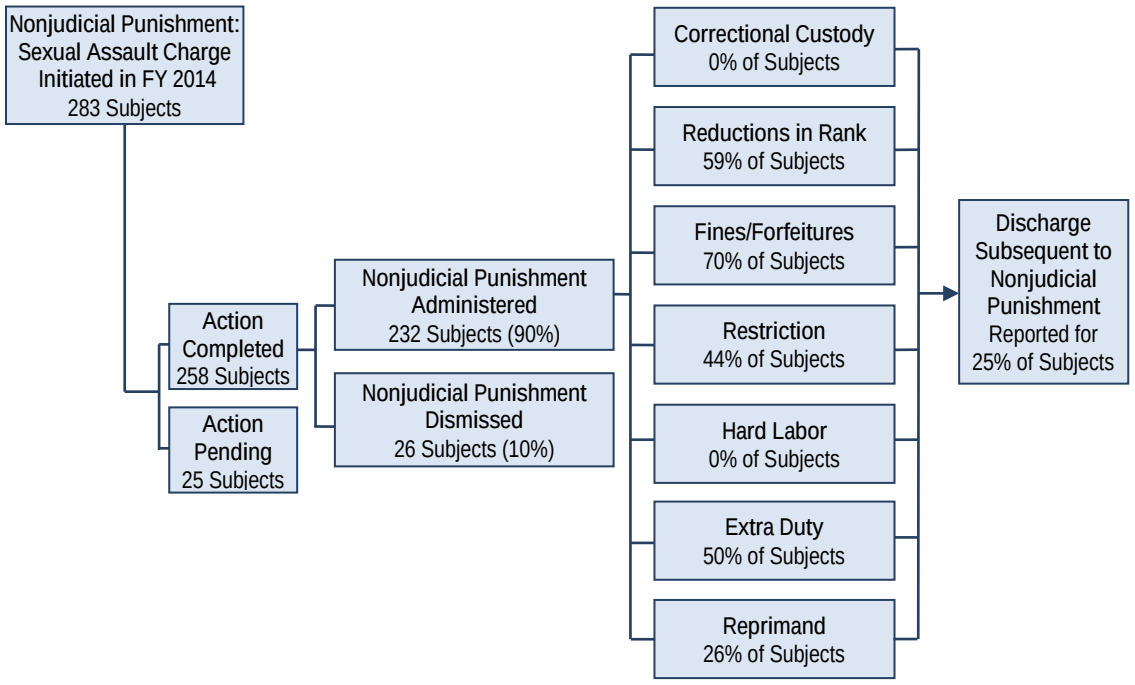


Exhibit 13: Dispositions of Subjects Receiving Nonjudicial Punishment, FY 2014

Notes:

1. The Military Services reported that 283 subjects of sexual assault investigations disposed in FY 2014 were considered for nonjudicial punishment.
2. Of the 283 subjects considered for nonjudicial punishment, 25 subjects were still pending action at the end of FY 2014.
3. Of the 258 subjects whose nonjudicial punishments were completed in FY 2014, 232 subjects (90%) were found guilty by the commander and issued punishment. The remaining 26 subjects (10%) were found not guilty.
4. Nonjudicial punishment may result in a combination of penalties. Consequently, Service members found guilty can be administered one or more kinds of punishments. However, for most of the cases, convicted Service members received at least three kinds of punishment: a reduction in rank, fines/forfeitures, and extra duty.
5. For 59 subjects (25% of those punished), the nonjudicial punishment contributed to the rationale supporting an administrative discharge.

Administrative Discharges and Adverse Administrative Actions

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, military commanders have other means at their disposal to hold offenders appropriately accountable. Administrative discharges may be used to address an individual's misconduct, lack of discipline, or poor suitability for continued service. There are three characterizations of administrative discharges: Honorable, General, and Under Other Than Honorable (UOTHC). General and UOTHC discharges may limit those discharged from receiving full entitlements and benefits from both the DoD and DVA. Commanders processed 85 subjects in sexual assault investigations for administrative discharge in FY 2014 (Exhibit 9, Point R and Table 3). Twelve members have faced an administrative discharge board and are pending

characterizations or were retained. Characterizations of the completed discharges were as follows:

Honorable Discharge	3 Subjects
General Discharge	22 Subjects
Under Other Than Honorable	39 Subjects
Uncharacterized	9 Subjects
Total	**73 Subjects**

In FY 2014, commanders took adverse administrative actions against 102 subjects investigated for a sexual assault offense (Exhibit 9, Point R and Table 3). Adverse administrative actions are typically used when available evidence does not support more serious disciplinary action. Adverse administrative actions can have a serious impact on one's military career, have no equivalent form of punishment in the civilian sector, and may consist of Letters of Reprimand, Letters of Admonishment, and Letters of Counseling. These actions may also include but are not limited to denial of re-enlistment, the cancellation of a promotion, and the cancellation of new or special duty orders. Cadets and midshipmen are subject to an administrative disciplinary system at Military Service Academies. These systems address misconduct that can ultimately be grounds for disenrollment from the Academy and, when appropriate, a requirement to reimburse the government for the cost of education.

Probable Cause Only for a Non-Sexual Assault Offense

The sexual assault investigations conducted by MCIOs sometimes do not find sufficient evidence to support disciplinary action against the subject on a sexual assault charge, but may uncover other forms of chargeable misconduct. When this occurs, the Department seeks to hold those Service members who have committed other misconduct appropriately accountable based on the available evidence. In FY 2014, commanders took action against 384 subjects who were originally investigated for sexual assault allegations, but for whom evidence only supported action on non-sexual assault misconduct, such as making a false official statement, adultery, assault, or other crimes (Exhibit 9; Exhibit 14, Point S; and Table 3).

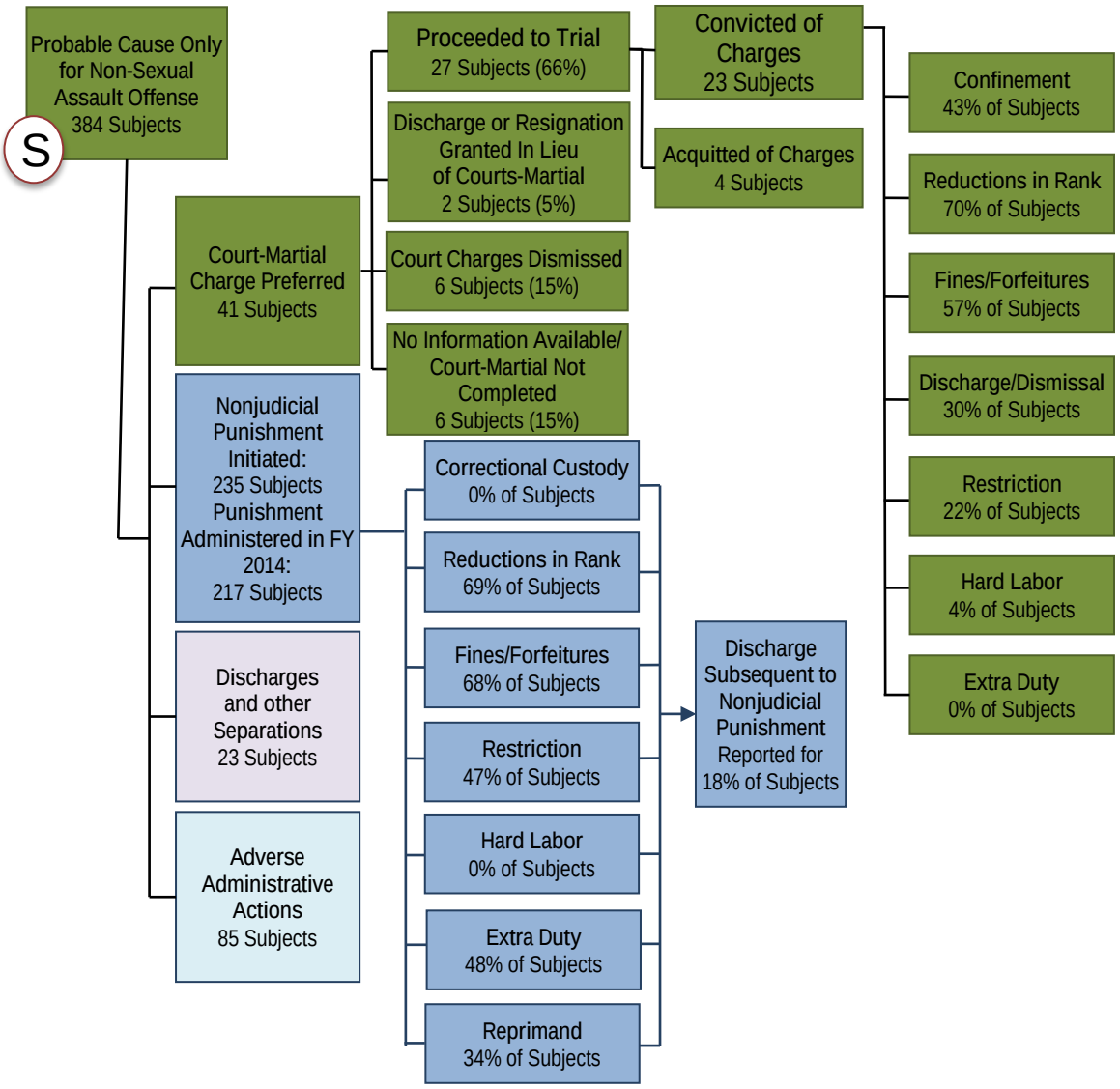


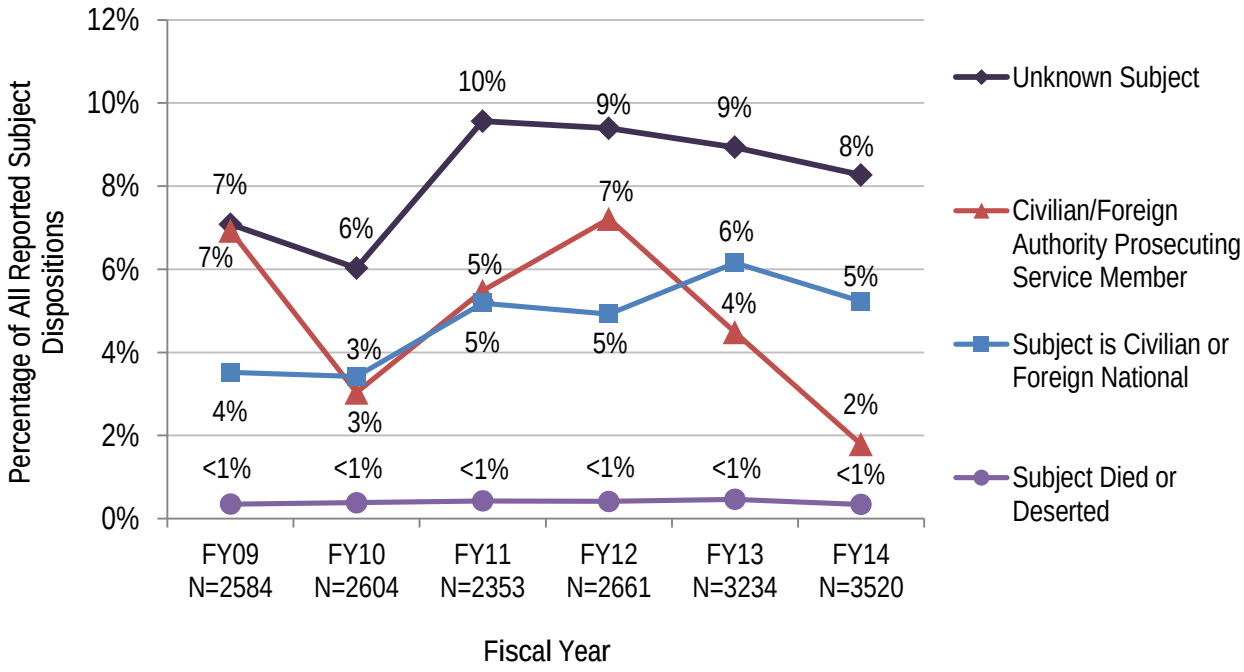
Exhibit 14: Dispositions of Subjects for Whom There was Only Probable Cause for Non-Sexual Assault Offenses, FY 2014

Notes:

1. The Military Services reported that investigations of 384 subjects only disclosed evidence of misconduct not considered to be a sexual assault offense under the UCMJ.
2. Of the 384 subjects, 41 subjects had court-martial charges preferred against them, 235 subjects were entered into nonjudicial punishment proceedings, 23 subjects received a discharge or separation, and 85 subjects received adverse administrative action.
3. Of the 27 subjects whose cases proceeded to courts-martial, 23 subjects were convicted of the charges against them. Most convicted Service members were adjudged a reduction in rank and a fine or forfeiture of pay.
4. Of the 235 subjects considered for nonjudicial punishment, 217 were ultimately found guilty. Most subjects received two kinds of punishment: a reduction in rank and fines/forfeitures.
5. Some categories do not sum to 100% due to rounding to the nearest whole percentage.

Subjects Outside DoD Legal Authority

As previously discussed, each year the Department does not have jurisdiction over several hundred subjects in its sexual assault investigations. When the subject of an investigation is a U.S. civilian, a foreign national, or an unidentified subject, they fall outside the Department's legal authority to take any action. Civilian authorities in the United States and the governments of our host nations have primary responsibility for prosecuting U.S. civilians and foreign nationals, respectively, who are accused of perpetrating sexual assault against Service members. In a small percentage of cases each year, a state or host nation will assert its legal authority over a Service member to address alleged misconduct. This typically occurs when a Service member is accused of sexually assaulting a civilian or foreign national at a location where the civilian or foreign authorities possess jurisdiction.



Notes:

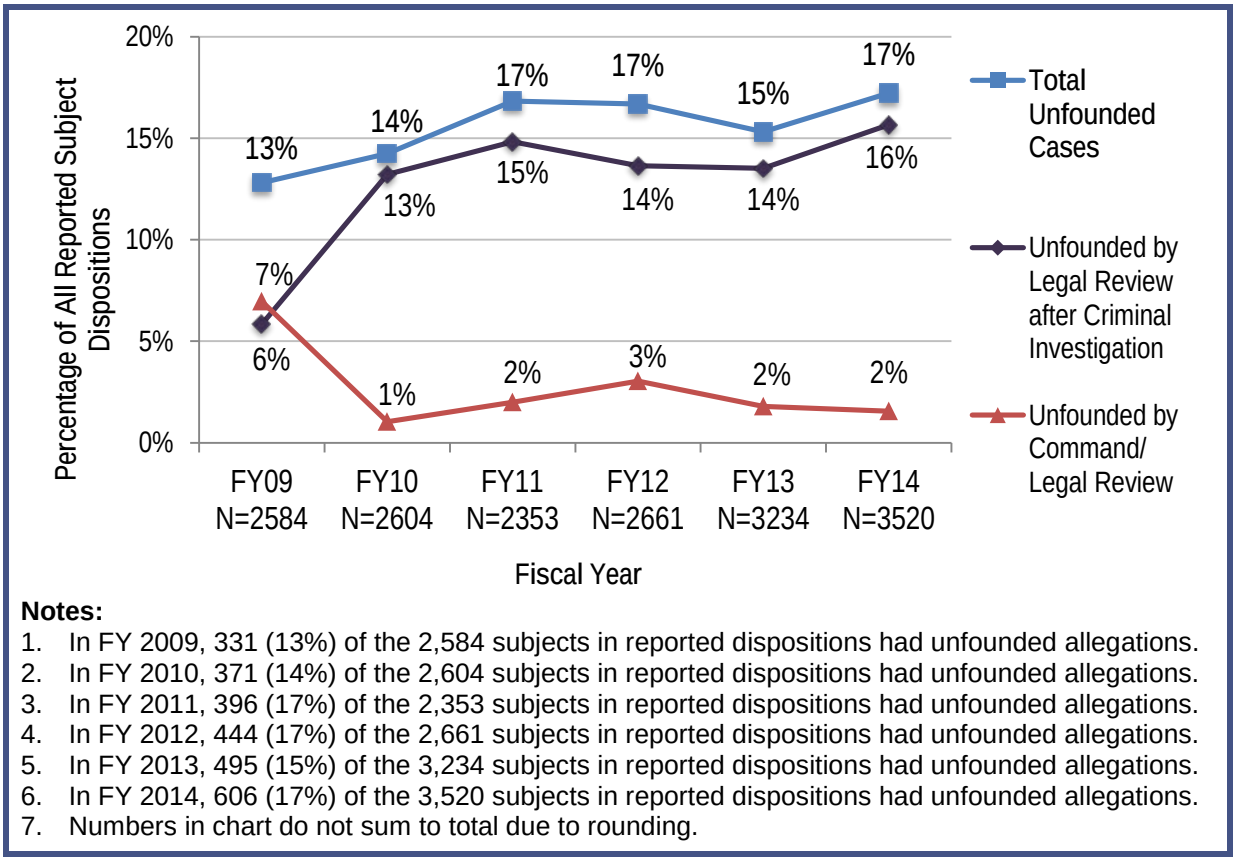
1. In FY 2009, 462 (18%) of the 2,584 subjects in completed dispositions were outside DoD legal authority or were Service member subjects prosecuted by a civilian or foreign authority.
2. In FY 2010, 335 (13%) of the 2,604 subjects in completed dispositions were outside DoD legal authority or were Service member subjects prosecuted by a civilian or foreign authority.
3. In FY 2011, 486 (21%) of the 2,353 subjects in completed dispositions were outside DoD legal authority or were Service member subjects prosecuted by a civilian or foreign authority.
4. In FY 2012, 584 (22%) of the 2,661 subjects in completed dispositions were outside DoD legal authority or were Service member subjects prosecuted by a civilian or foreign authority.
5. In FY 2013, 648 (20%) of the 3,234 subjects in completed dispositions were outside DoD legal authority or were Service member subjects prosecuted by a civilian or foreign authority.
6. In FY 2014, 550 (16%) of the 3,520 subjects in completed dispositions were outside DoD legal authority or were Service member subjects prosecuted by a civilian or foreign authority.

Exhibit 15: Subjects Investigated for Sexual Assault by the Department Who Were Outside Its Legal Authority, FY 2009 – FY 2014

While Service members are always under the legal authority of the Department, a civilian or foreign authority may choose to exercise its authority over a Service member anytime he or she is suspected of committing an offense within its jurisdiction. Sometimes civilian and foreign authorities agree to let the Department prosecute the Service member. However, such decisions are made on a case-by-case and jurisdiction-by-jurisdiction basis. A host nation's ability to prosecute a Service member is subject to the SOFA between the United States and the foreign government. SOFAs vary from country to country. From FY 2009 to FY 2014, the percentage of subjects investigated by the Department for sexual assault found to be outside the Department's legal authority or under the authority of another jurisdiction varied between 13 percent and 22 percent, as depicted in Exhibit 15.

Unfounded Allegations of Sexual Assault

The goals of a criminal investigation are to determine who has been victimized, what offenses have been committed, and who may be held appropriately accountable. When the allegations in an Unrestricted Report are investigated, one possible outcome is that the evidence discovered by the investigation demonstrates that the accused person did not commit the offense. Another possible outcome is that evidence shows that a crime did not occur. When either of these situations occurs, the allegations are determined to be unfounded, meaning false or baseless (Exhibit 8, Point K, and Exhibit 9, Point V).



Notes:

1. In FY 2009, 331 (13%) of the 2,584 subjects in reported dispositions had unfounded allegations.
2. In FY 2010, 371 (14%) of the 2,604 subjects in reported dispositions had unfounded allegations.
3. In FY 2011, 396 (17%) of the 2,353 subjects in reported dispositions had unfounded allegations.
4. In FY 2012, 444 (17%) of the 2,661 subjects in reported dispositions had unfounded allegations.
5. In FY 2013, 495 (15%) of the 3,234 subjects in reported dispositions had unfounded allegations.
6. In FY 2014, 606 (17%) of the 3,520 subjects in reported dispositions had unfounded allegations.
7. Numbers in chart do not sum to total due to rounding.

Exhibit 16: Subjects with Unfounded Allegations in Completed DoD Investigations of Sexual Assault, FY 2009 – FY 2014

Allegations may be unfounded either by the legal review at the end of a criminal investigation or by the disposition authority and legal officers when determining whether disciplinary action is warranted. Exhibit 16 shows that although there has been some variation in who has determined whether allegations were unfounded, the overall percentage of subjects with unfounded allegations has remained about the same since FY 2009.

Provisional Demographics of Victims and Subjects in Completed Investigations

The following initial demographic information was gathered from the 3,818 investigations of sexual assault initiated and completed in FY 2014. These investigations involved 4,189 victims and 4,353 subjects.

Victims

Table 4 illustrates that the vast majority of victims in investigations tend to be female, under the age of 25, and of junior enlisted grades.

Table 4: Demographics of Victims in Completed Investigations

Victim Gender	Count	Share
Male	718	17%
Female	3,121	75%
Data Not Available	350	8%
Total	4,189	100%

Victim Age	Count	Share
0-15	15	<1%
16-19	783	19%
20-24	1,715	41%
25-34	705	17%
35-49	170	4%
50 and older	17	<1%
Data Not Available	784	19%
Total	4,189	100%

Victim Grade or Status	Count	Share
E1-E4	2,611	62%
E5-E9	467	11%
WO1-WO5	2	<1%
O1-O3	121	3%
O4-O10	23	1%
Cadet/Midshipman/Prep	27	1%
US Civilian	542	13%
Foreign National/Foreign Military	20	<1%
Data Not Available	376	9%
Total	4,189	100%

Subjects

Table 5 shows that the vast majority of subjects of investigations tend to be male, under the age of 35, and of junior enlisted grades, respectively.

Table 5: Demographics of Subjects in Completed Investigations

Subject Gender	Count	Share
Male	3,563	82%
Female	175	4%
Unknown or Data Not Available	615	14%
Total	4,353	100%

Subject Age	Count	Share
16-19	314	7%
20-24	1,412	32%
25-34	1,228	28%
35-49	542	12%
50 and older	48	1%
Unknown or Data Not Available	809	19%
Total	4,353	100%

Subject Grade or Status	Count	Share
E1-E4	1,847	42%
E5-E9	1,200	28%
WO1-WO5	29	1%
O1-O3	147	3%
O4-O10	72	2%
Cadet/Midshipman/Prep	6	<1%
US Civilian	150	3%
Foreign National/Foreign Military	44	1%
Unknown or Data Not Available	858	20%
Total	4,353	100%

FY 2014 Reports of Sexual Assault In Combat Areas of Interest

Arduous conditions in combat areas of interest (CAI) make sexual assault response and data collection very difficult. However, SARCs, SAPR VAs, and other SAPR personnel are in place in all of these areas. SAPR personnel are diligent in getting requested services and treatment to victims. The data reported below are included in the total number of Unrestricted and Restricted Reports described in previous sections.

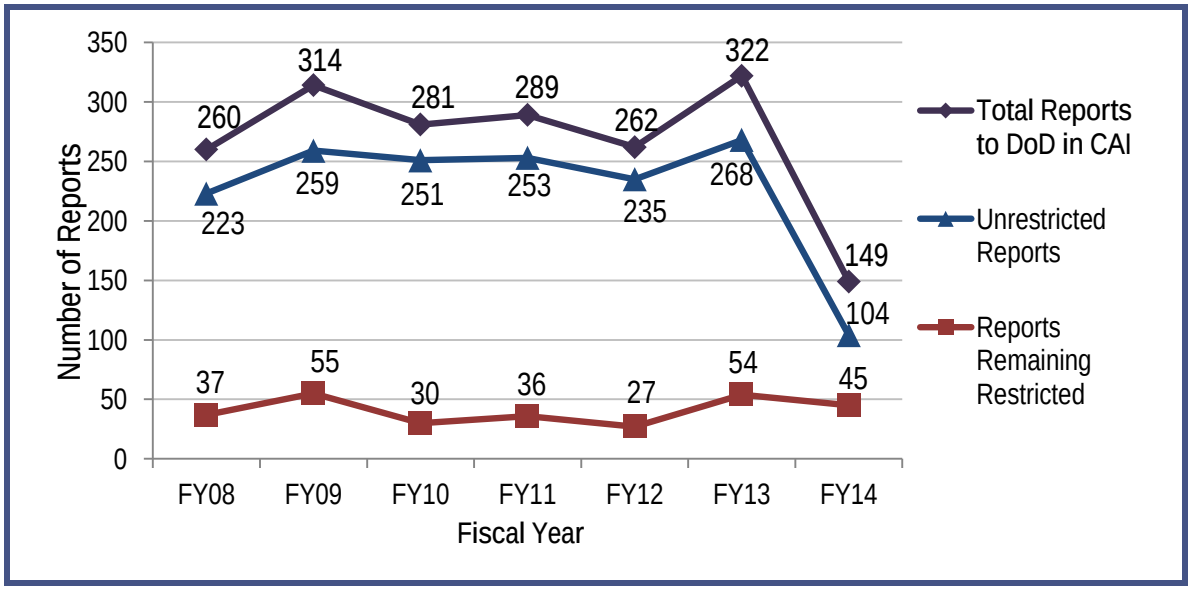


Exhibit 17: Total Reports of Sexual Assault in CAIs: Unrestricted Reports and Restricted Reports, FY 2008 – FY 2014

In FY 2014, there were 149 reports of sexual assault in CAIs. This number reflects a 54 percent decrease in overall reporting in CAIs from FY 2013. This is mostly likely a reflection of the decreased number of Service members deployed to these countries in FY 2014. Exhibit 17 illustrates the history of Unrestricted and Restricted Reporting in CAIs since FY 2008. As stated earlier, starting in FY 2014, DSAID accounts for each individual report of sexual assault, such that each report corresponds to one victim. In Exhibit 17, the number of Unrestricted Reports, for all fiscal years, corresponds to the number of victims. Exhibit 18 compares the number of Unrestricted Reports using the case-driven accounting method and the victim-driven accounting method.

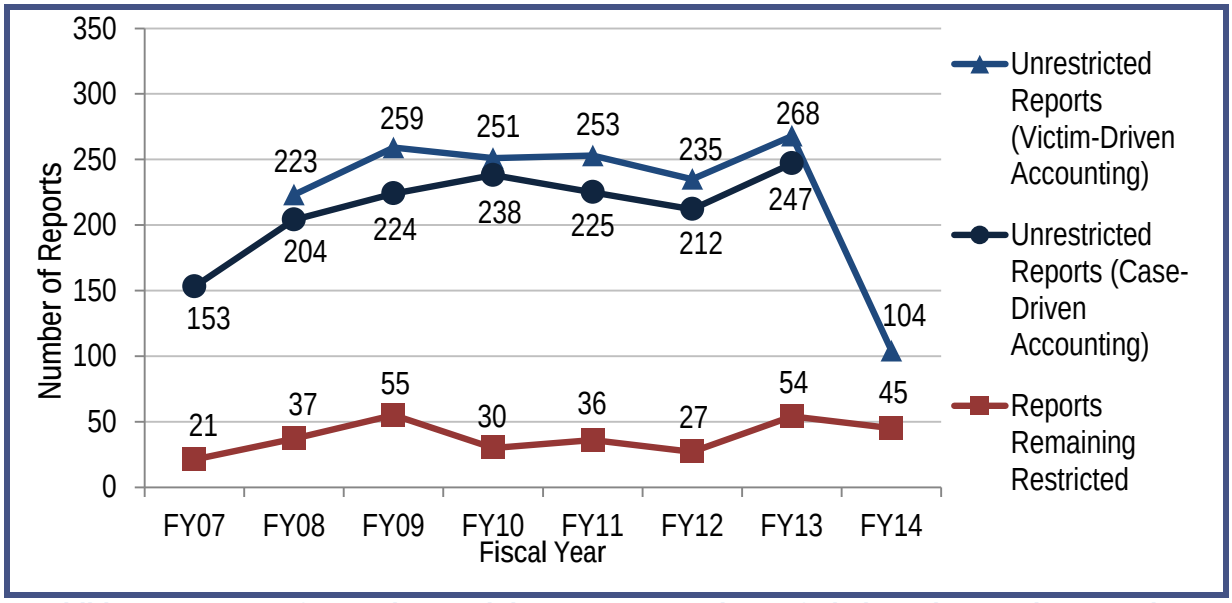


Exhibit 18: Reports of Sexual Assault in CAIs: Comparison of Victim-Driven and Case-Driven Accounting of Unrestricted Reports, FY 2007 – FY 2014

Sexual Assaults Perpetrated by Foreign Nationals against Service Members

The Military Services reported that 44 foreign national subjects, in investigations completed in FY 2014, were suspected to have committed sexual assaults against Service members.

Demographics of Unrestricted Reports in CAIs

Demographic information about the Unrestricted Reports made in CAIs was drawn from the investigations closed during FY 2014. These 72 investigations involved 76 victims and 89 subjects.

Victims

The demographics of victims in CAIs who made Unrestricted Reports mirror the demographics of victims in all Unrestricted Reports made to the Department, in that they are mostly female Service members (78 percent), of a junior enlisted grade (86 percent). However, victims in CAIs who made Unrestricted Reports tended to be slightly older (87 percent were under the age of 35) than victims making Unrestricted Reports in general.

Subjects

The demographics of subjects in Unrestricted Reports made in CAIs are similar to the demographics of subjects in all Unrestricted Reports made to the Department, in that they are mostly male Service members (70 percent), under the age of 35 (51 percent), and in an enlisted grade (47 percent).

Demographics of Restricted Reports in CAIs

The 45 victims who made Restricted Reports of sexual assault in CAIs mirror the demographics of victims in all Restricted Reports made to the Department, in that they were mostly female Service members (84 percent). However, victims making Restricted Reports in CAIs tended to be a little older (71 percent were under the age of 35) and of higher rank (44 percent were E1 to E4; 42 percent were E5 to E9) than victims making Restricted Reports in general.

FY 2014 Restricted Reports of Sexual Assault

How many Restricted Reports convert to Unrestricted Reports each year?
On average, about 15% of victims convert their Restricted Reports to Unrestricted Reports. However, in FY 2014 about 19% of victims converted from a Restricted to an Unrestricted Report.

Because Restricted Reports are confidential, covered communications as defined in Department policy, SAPR personnel only collect limited data about the victim and the allegation being made. As with Unrestricted Reports, Restricted Reports can be made for incidents that occurred in prior reporting periods and incidents that occurred prior to military service.
In FY 2014, there were 1,824 initial Restricted Reports of sexual assault. Of the 1,824 reports, 342 (19 percent) converted to Unrestricted Reports. At the close of FY 2014, 1,482 reports remained Restricted.[6]

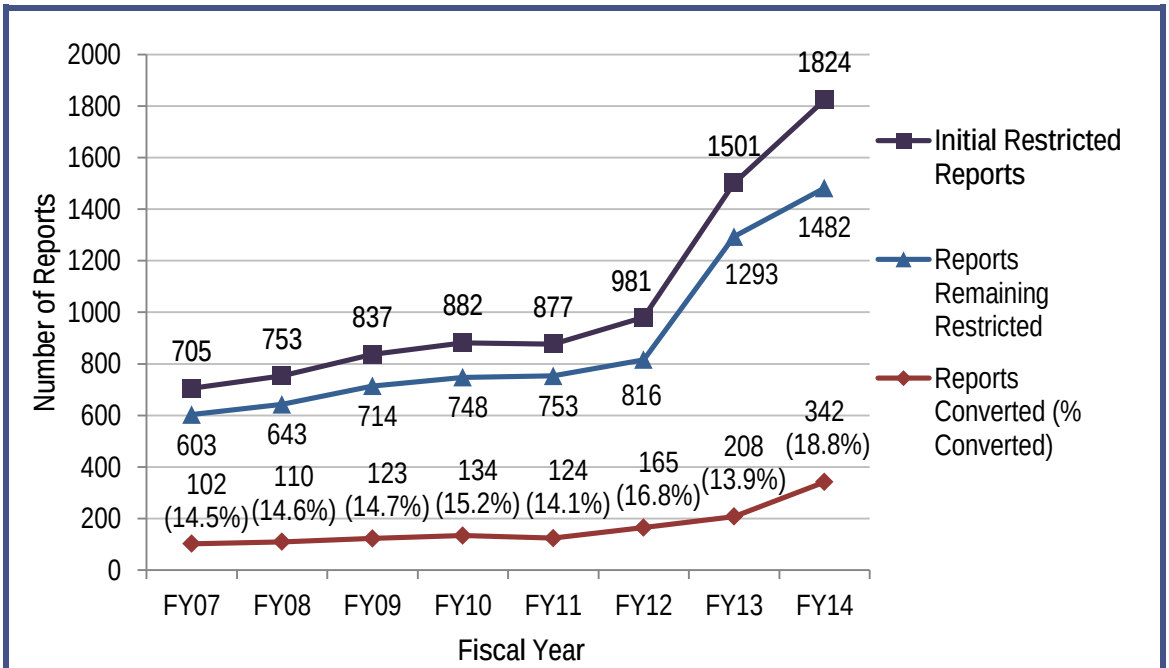
This year, 388 Service Members made a Restricted Report for an incident that occurred prior to entering military service, representing approximately six percent of the 5,983 reports of sexual assault.

Of these 388 Service members:

- 244 members indicated that the incident occurred prior to age 18,
- 121 members indicated that the incident occurred after age 18, and
- 23 members declined to specify one of the two categories listed above.

Over time, the percentage of victims who convert their Restricted Reports to Unrestricted Reports has remained relatively stable at about 15 percent. In FY 2014, the conversion rate increased to 18.8 percent. Exhibit 19 shows the Restricted Reports and conversion rates for the past eight FYs.

[6] The 342 Restricted reports that converted to Unrestricted Reports are included in the total 4,501 Unrestricted Reports cited earlier.



Note: The percentages in parentheses are the percentage of cases that converted during that time period from a Restricted Report to an Unrestricted Report.

Exhibit 19: Total Number of Reports that Were Initially Made as Restricted, the Remaining Number of Restricted Reports, and the Number of Reports that Converted, FY 2007 – FY 2014

Demographics of Restricted Reports of Sexual Assault

Table 6 shows that victims who made a Restricted Report were primarily female, under the age of 25, and of a junior enlisted grade.

Table 6: Demographics of Victims in Restricted Reports

Victim Gender	Count	Share
Male	249	17%
Female	1,227	83%
Data Not Available	6	<1%
Total	1,482	100%

Victim Age	Count	Share
0-15	194	13%
16-19	337	23%
20-24	584	39%
25-34	256	17%
35-49	55	4%
50 and older	1	<1%
Data Not Available	55	4%
Total	1,482	100%

Victim Grade or Status	Count	Share
E1-E4	1,067	72%
E5-E9	265	18%
WO1-WO5	1	<1%
O1-O3	79	5%
O4-O10	12	1%
Cadet/Midshipman/Prep	19	1%
Non-Service Member	32	2%
Data Not Available	7	<1%
Total	1,482	100%

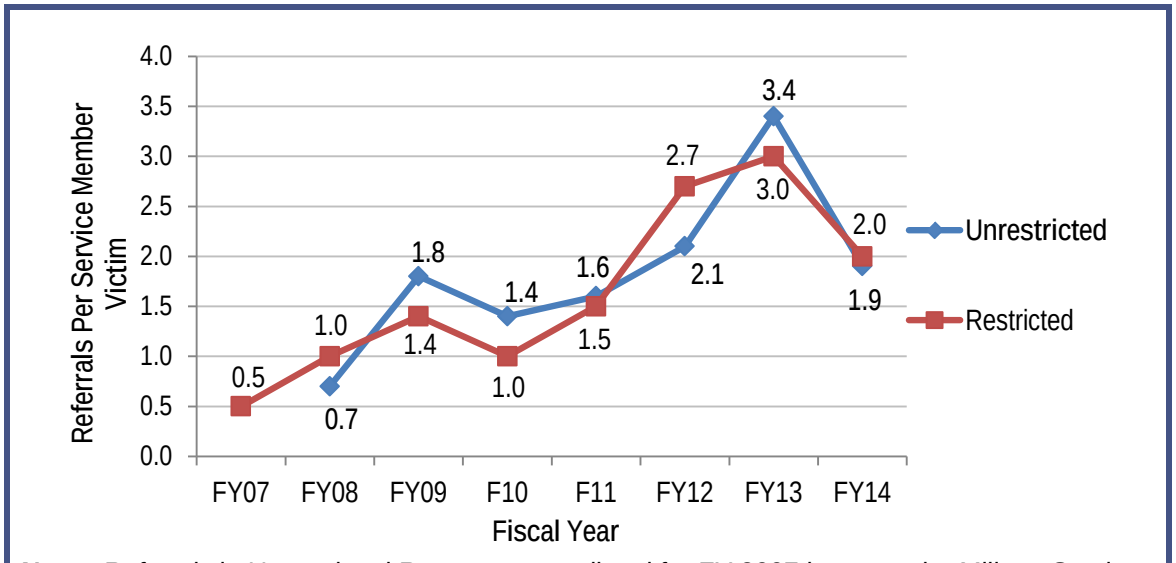
FY 2014 Service Referral Information

SARCs and SAPR VAs are responsible for ensuring victims have access to medical treatment, counseling, legal advice, and other support services. Referrals for these services are made to both military and civilian resources. A referral for service can happen at any time while the victim is receiving assistance from a SARC or SAPR VA and may happen several times throughout the military justice process. This year, SARCs and SAPR VAs made an average of 1.9 service referrals per Service member victim making an Unrestricted Report. For Service member victims making Restricted Reports, SARCs and SAPR VAs made an average of two service referrals per Service member victim.

Exhibit 20 shows the average number of referrals per Service member victim in sexual assault reports from FY 2007 to FY 2014.

The Military Services varied in the average number of referrals per victim:

- The Army provided an average of 1.2 referrals per Service member victim making an Unrestricted Report and 1.7 referrals per Service member victim making a Restricted Report.
- The Navy provided an average of 2.9 referrals per Service member victim making an Unrestricted Report and 2.8 referrals per Service member victim making a Restricted Report.
- The Marine Corps provided an average of 3.4 referrals per Service member victim making an Unrestricted Report and 2.3 referrals per Service member victim making a Restricted Report.
- The Air Force provided an average of 1.4 referrals per Service member victim making an Unrestricted Report and 1.5 referrals per victim making a Restricted Report.



Note: Referrals in Unrestricted Reports are not listed for FY 2007 because the Military Services were not directed to collect these data until FY 2008.

Exhibit 20: Average Number of Service Referrals per Service Member Victim of Sexual Assault, FY 2007 – FY 2014

The Military Services reported that there were a total of 562 Sexual Assault Forensic Examinations (SAFEs) conducted for Service member victims during FY 2014. Exhibit 21 depicts the reported number of SAFEs conducted for military victims of sexual assault from FY 2007 to FY 2014. The decision to undergo a SAFE always belongs to the victim.

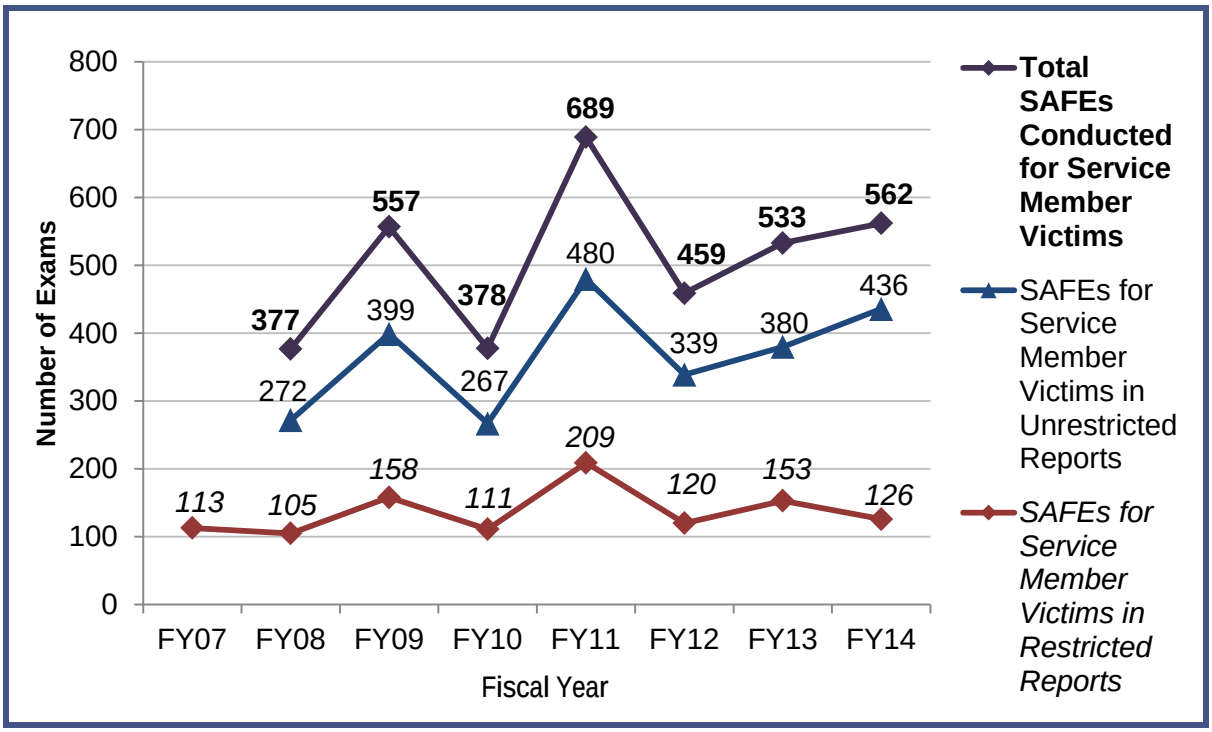


Exhibit 21: SAFEs Reported by the Military Services involving Service Member Victims, FY 2007 – FY 2014

FY 2014 Expedited Transfers

Since FY 2012, the Department has allowed victims of sexual assault to request an expedited transfer from their assigned units (Table 7). This may take the form of a move to another duty location on the same installation, or it may involve moving to a new installation entirely. Requests for transfers are made to the unit commander, who has 72 hours to act on the request. Should the request be declined, the victim may appeal the decision to the first GO/FO in his/her commander's chain of command. The GO/FO then has 72 hours to review the request and provide a response back to the victim. The following table shows the number of expedited transfers and denials since FY 2012.

Table 7: Expedited Transfers and Denials, FY 2012 – FY 2014

Transfer Type	FY 2012	FY 2013	FY 2014
Number of victims requesting a change in Unit/Duty Assignment (Cross-Installation Transfers)	57	99	39
Number Denied	2	3	0
Number of victims requesting a change in Installation (Permanent Change of Station)	161	480	529
Number Denied	0	11	19
Total Approved	**216**	**565**	**549**