

Appendix B: Statistical Data on Sexual Assault



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Appendix B: Statistical Data on Sexual Assault[1]

Background

Purpose

The Department of Defense (DoD) collects data on sexual assault to inform Sexual Assault Prevention and Response (SAPR) policy, program development, and oversight actions. Congress requires data about the number of sexual assault reports and the outcome of sexual assault investigations to be reported. The Department provides support to the victims of these crimes, and holds the alleged perpetrators appropriately accountable. Each year, the Sexual Assault Response and Prevention Office (SAPRO) aggregates data on reports of sexual assault, analyzes the results, and presents them in this report.

Scope

DoD uses the term "sexual assault" to refer to a range of crimes, including rape, sexual assault, forcible sodomy, aggravated sexual contact, abusive sexual contact, and attempts to commit these offenses, as defined by the Uniform Code of Military Justice (UCMJ). For the purpose of data analysis in this report, the Department organizes results and analyses by the most serious sexual assault allegation made by a victim or investigated by a Military Criminal Investigative Organization (MCIO).[2] The information in initial reports and/or behaviors alleged do not necessarily reflect the final findings of the investigators or the matter(s) addressed by court-martial charges or other forms of disciplinary action against suspects (referred to by DoD as "subjects of investigation" or "subjects").

DoD's sexual assault reporting statistics include data on penetrating and sexual contact crimes by adults against adults, matters defined in Articles 120 and 125 of the UCMJ, as well as Article 80, which governs attempts to commit these offenses. Data analyses within this report do not include:

- **Sexual harassment complaints.** The Office of Diversity Management and Equal Opportunity (ODMEO) provides information about sexual harassment complaints in Appendix F.
- **Sexual assault allegations involving spouses and/or intimate partners.** The DoD Family Advocacy Program provides the domestic abuse related sexual assault data detailed in Appendix G.

While most victims and subjects in the following data are aged 18 or older, DoD statistics occasionally capture information about victims and subjects aged 16 and 17 at the time of the report (including Service members who are approved for early enlistment prior to age 18). Since the age of consent under the UCMJ is 16 years old, military and civilian victims aged 16 and older may sometimes be included in the data that follow, if such matters are not addressed under the Family Advocacy Program.

[1] Revised May 4, 2018

[2] Criminal Investigative Command (CID) for Army, Naval Criminal Investigative Service (NCIS) for Navy and Marine Corps, Air Force Office of Special Investigations (AFOSI) for Air Force.

Data Included

Unrestricted and Restricted Reports

Pursuant to reporting requirements levied by Congress, DoD sexual assault data capture Restricted and Unrestricted Reports of sexual assault made to DoD during a Fiscal Year (FY) involving a military person as an alleged perpetrator and/or a victim.[3]

Victims make a Restricted Report to specified individuals (e.g., Sexual Assault Response Coordinators (SARCs), Sexual Assault Prevention and Response (SAPR) Victim Advocates (VA), or healthcare providers), enabling victims to seek care/services and maintain confidentiality. These reports are not investigated and do not involve command authorities. Given the victim's desire for confidentiality, DoD does not investigate Restricted Reports, and the victim is not asked to provide extensive details about the sexual assault. SARCs therefore record limited data about these victims and the alleged offenses in Defense Sexual Assault Incident Database (DSAID). Furthermore, the Department does not request or maintain subject identities for Restricted Reports entered into DSAID. A victim can choose to convert a Restricted Report to an Unrestricted Report at any time.

Unlike a Restricted Report, an Unrestricted Report of sexual assault by one victim against one or more subjects is referred for investigation to an MCIO, and command is notified of the alleged incident. DoD collects data on Unrestricted Reports from the cases entered into DSAID by SARCs. Additionally, MCIO information systems interface with DSAID in order to incorporate subject and investigative case information into records.

Notably, the number of sexual assaults reported to the Department in a given year is *not* necessarily indicative of the number of sexual assaults that may have occurred that year. This difference exists because not all sexual assault victims report the crime. DoD estimates sexual assault occurrence – or prevalence – via survey responses to the *Workplace and Gender Relations Survey of the Active Duty Members (WGRA).* The difference between estimated prevalence and the number of reports received is described in greater detail in Figure 3 later on in this Appendix.

Case Dispositions

Once the investigation of an Unrestricted Report is complete, Congress requires the Military Services to report the outcome or "case disposition" of the allegations against each subject named in an investigation. When a person is the subject of multiple investigations, he/she will also be associated with more than one case disposition in DSAID. DoD holds Service member subjects who have committed sexual assault appropriately accountable based on the evidence available.

Upon completion of a criminal investigation, the MCIO conducting the investigation provides a report documenting investigative findings to the subject's commander for military justice action. The servicing staff judge advocate (SJA) also reviews the MCIO report and recommends appropriate legal or other action. For investigations of rape, sexual assault, forcible sodomy, and attempts to commit these crimes, a senior military officer who is at least a special court-

[3] Use of the term "victim," "subject," "perpetrator," or "offender" does not convey any presumption about the guilt or innocence of the alleged offenders, nor does the term "incident" legally substantiate an occurrence of a sexual assault.

martial convening authority (SPCMCA) and in the grade of O-6 (Colonel or Navy Captain) or higher retains initial disposition authority over the matters alleged.

The SPCMCA determines which initial disposition action is appropriate, to include whether further action is warranted and, if so, whether the matter should be addressed by court-martial, nonjudicial punishment, administrative discharge, or other adverse administrative action. Commanders do not make disposition decisions alone. The SPCMCA bases his/her initial disposition decision upon a review of the matters transmitted in the investigative report, any independent review, and consultation with military attorneys. Subordinate unit commanders may also provide their own recommendations regarding initial disposition to the convening authority.

Each FY, disciplinary action against a particular subject may not be possible due to legal issues or evidentiary problems with a case. For instance, a commander may be precluded from taking disciplinary action against a subject when the investigation fails to show sufficient evidence that an offense was committed, or when the victim declines to participate in the justice process.

Legal authority for the Department to exercise military justice jurisdiction pertains to Service members who are subject to the UCMJ. Civilians are not subject to the UCMJ for the purpose of court-martial jurisdiction, except in rare circumstances, such as in deployed environments when accompanying the Armed Forces. In FY17, there were no such civilians tried by a court-martial for allegedly perpetrating sexual assault.

Additionally, U.S. civilian authorities and overseas host nations hold primary responsibility for prosecuting U.S. civilians and foreign nationals, respectively, who are alleged to have perpetrated sexual assault against Service members within their respective jurisdictions.[4] This may occur when a civilian accuses a Service member of a sexual assault, or when a state holds primary jurisdiction over the location where a Service member was alleged to have committed sexual assault. In some cases, the civilian authority and the Department may agree to let the military exercise its legal authority over its members. Prosecutions by civilian authorities against Service members are determined on a case-by-case and jurisdiction-by-jurisdiction basis. Prosecutions of Service members by a foreign nation are often governed by the Status of Forces Agreement between that country and the United States.

Time Period Covered

This Annual Report includes data on sexual assaults reported from October 1, 2016 to September 30, 2017, as well as information that describes the status of sexual assault reports, investigations, and case dispositions for FY17.

Sexual assault investigations can extend across FYs, because investigations may span several months from start to completion. As a result, investigations opened toward the end of the FY typically carry over into the next FY. Disciplinary actions, such as court-martial and discharge proceedings, also take time; therefore, reporting of these outcomes can extend across FYs. When the outcome has yet to be determined, case dispositions are marked as pending completion at the end of the FY. DoD tracks pending dispositions and requires the Military Services to report them in subsequent years' reports.

[4] A host nation's ability to prosecute a Service member is subject to the Status of Forces Agreement (SOFA) between the U.S. and a particular foreign government. SOFAs vary from country to country.

Under DoD's SAPR policy, there is no time limit as to when a sexual assault victim can report a sexual assault. Consequently, DoD receives reports about incidents that occurred during the current year, incidents that occurred in previous years, and incidents that occurred prior to service. When a Service member reports a sexual assault that occurred prior to their enlistment or commissioning, DoD provides care and services to the victim, but may not be able to hold the alleged offender appropriately accountable if he or she is not subject to military law. In these cases, Department authorities often assist the victim in contacting the appropriate civilian or foreign law enforcement agency.

Data Collection

As of FY14, DoD uses DSAID to collect and report information for DoD and the Services. For each report of sexual assault, SARCs must use DSAID to enter information about the victim and the incident. DSAID interfaces with MCIO systems, which contribute additional information about subjects and the incident(s). MCIO databases are the systems of record for all Unrestricted Reports they investigate. Service-appointed legal officers validate and enter case disposition information into DSAID. Since DSAID is a real-time data-gathering tool:

- **Not all data points are immediately available for this report**. Data provided in reports represent the state of DSAID data at the time of the final pull for FY17. Data may be incomplete at the time of the DSAID data pull, despite best efforts by DoD and the Services to report data completely. Therefore, some demographic or case-related information presented below is categorized as *relevant data not available*.
- **Data may change over time and may differ from what DoD reported previously**. Updates, changes, and corrections occur as a normal, continuous process of DSAID management. SAPRO works with Service SAPR program managers to validate entries, identify errors, and make corrections throughout the year. In addition, the investigative process may also uncover new information. For example, an investigation may clear some subjects of wrongdoing or implicate others. Data presented here reflect this process.

Overview of Reports of Sexual Assault in FY17

In FY17, the Military Services received 6,769 reports of sexual assault involving Service members as either victims or subjects (Figure 1), nearly a 10 percent increase from reports made in FY16.

As stated before, DoD sexual assault reports are categorized as either Restricted or Unrestricted. Of the 6,769 reports received this year:

- 1,659 reports remained Restricted, a 5 percent increase from the number remaining Restricted in FY16. Of these:
  - 327 reports (20 percent) involved incidents that occurred prior to military Service.
- 5,110 reports were Unrestricted, a 11 percent increase from the number of Unrestricted reports in FY16.[5] Of these:
  - 260 reports (5 percent) involved incidents that occurred prior to military Service.

Of the 6,769 reports, how many were Service members?
5,864 reports were made by Service members.
Of these, 587 reports were for incidents that occurred **prior to** military Service and 5,277 reports were for incidents that occurred **during** military Service.

Who made the other reports?
868 reports came from U.S. civilians, foreign nationals, and others who were not on Active Duty status with the U.S. Armed Forces. Relevant data were not available for 37 reports.

Figure 1 displays the trend in Unrestricted and Restricted Reporting from FY07 to FY17.

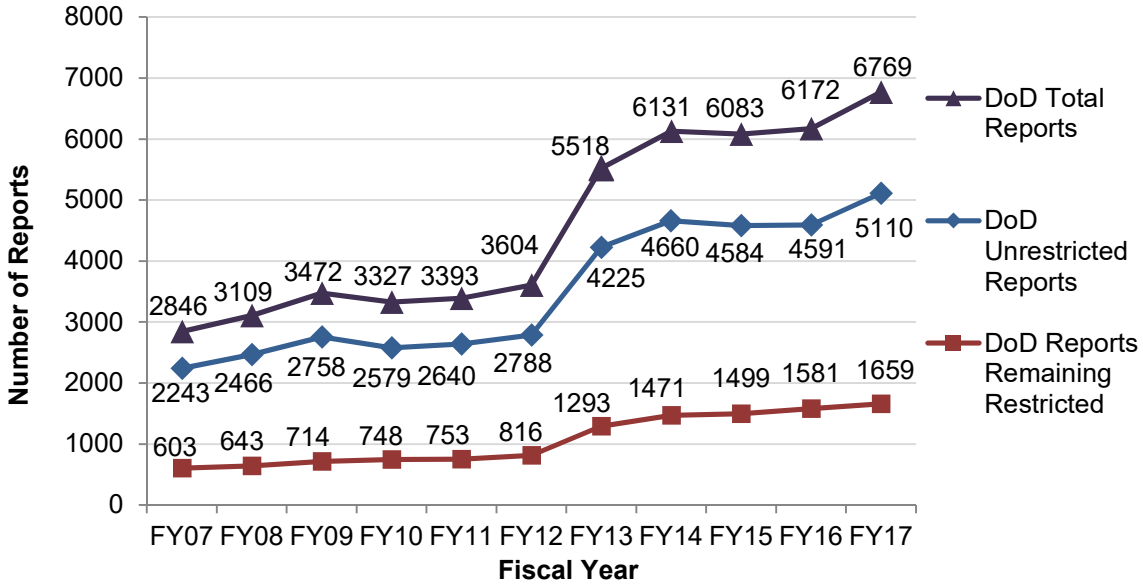


Figure 1: Reports of Sexual Assault Made to DoD, FY07 – FY17

In order to compare sexual assault reports across Services and time periods, DoD calculates a reporting rate.[6] A reporting rate allows for the comparison of reports across groups of different

[5] The Department pulls and analyzes data from DSAID six weeks after the end of the FY to allow sufficient time for data validation. During this six-week period, 41 additional Restricted Reports converted to Unrestricted. These 41 reports are included with the 537 reports that converted from Restricted to Unrestricted that DoD counts with FY17 numbers. This is unavoidable when working with a live database. However, the Department has engaged in this practice each year since bringing DSAID on line in 2014, which provides consistency in the methods producing the statistics reported each year.

[6] DoD calculates victim-reporting rates 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 the Office of People Analytics (OPA).

sizes. Reporting rates also allow for year after year comparisons, even when the total number of people in a group has changed. In FY17, for every 1,000 Service members, 4.5 Service members made a Restricted or Unrestricted Report of sexual assault, a substantial increase from FY16 and prior years. Table 1 compares the reporting rate by Service and across FYs.

Table 1: Reporting Rate per Thousand, FY07 – FY17

Service	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17
Overall DoD	1.6	1.7	1.9	1.8	1.9	2.1	3.3	3.9	4.0	4.1	4.5
Army	2.4	2.5	2.6	2.4	2.5	2.3	3.5	4.2	4.2	4.4	4.7
Navy	1.0	1.2	1.6	1.6	1.6	2.1	3.2	3.6	3.8	4.1	4.5
Marine Corps	0.9	0.8	1.3	1.1	1.3	1.7	3.8	4.1	4.1	4.1	4.8
Air Force	1.4	1.5	1.4	1.6	1.6	2.0	2.9	3.7	3.7	3.7	4.0

Research shows that reporting sexual assault increases the likelihood that victims engage in medical treatment and other forms of assistance.[7] DoD's SAPR policy encourages victims to report sexual assault, works to improve response capabilities for victims, and encourages victims to participate in the military justice process. Figure 2 shows an increase in Service member victims who made an Unrestricted or Restricted Report of sexual assault for incidents that occurred prior to and during military service since FY09.

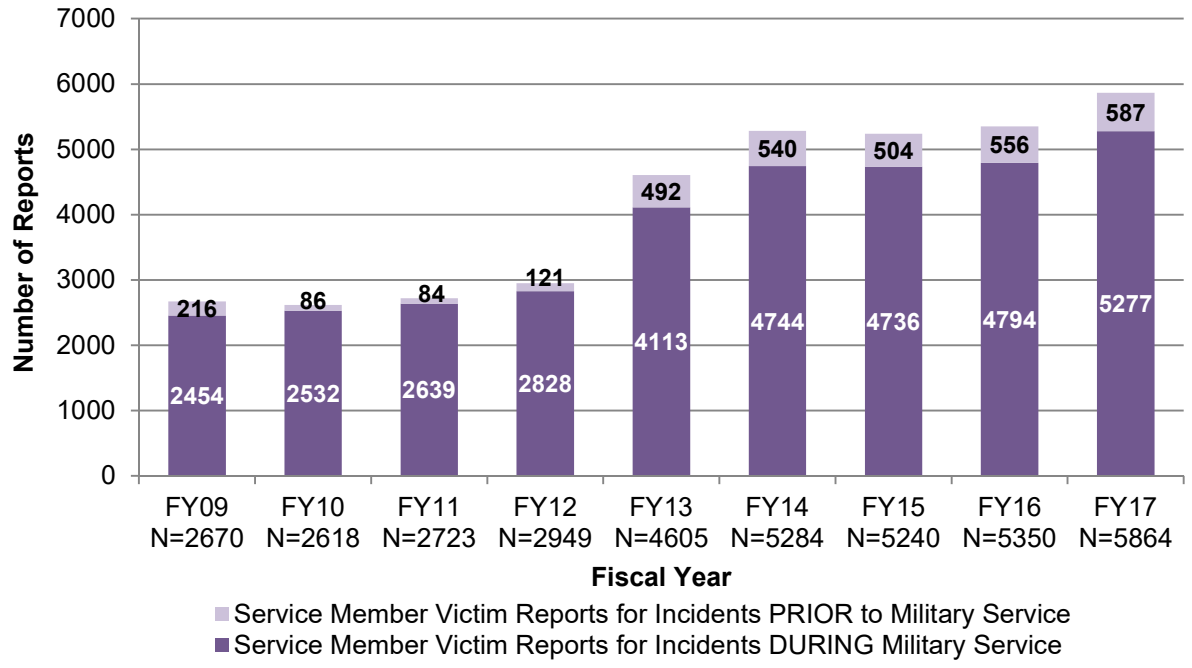


Figure 2: Service Member Victims in DoD Sexual Assault Reports for Incidents that Occurred During and Prior to Military Service, FY09 – FY17

Based on survey-estimated prevalence rates of sexual assault and other factors, DoD attributes this increase to a greater number of victims coming forward to report sexual assault, and not due to an overall increase in crime. This aligns with the results from last year's *WGRA,* which indicated that the estimated past-year prevalence of sexual assault significantly decreased for

[7] DOJ (2002). Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992–2000. Washington, DC: Rennison, Callie Marie.

both women and men, compared to FY14 estimates. Prevalence estimates that will be reported out in FY18 will provide more context to this year's reporting increase.

Figure 3 demonstrates the difference between the estimated number of Service members who indicated they experienced sexual assault, based on *WGRA* survey estimates, and the number of Service members who reported a sexual assault incident occurring during military service. DoD administers its sexual assault prevalence survey biennially, thus prevalence estimates are available for CY06, FY10, FY12, FY14, and FY16. DoD will provide updated prevalence estimates in FY18.

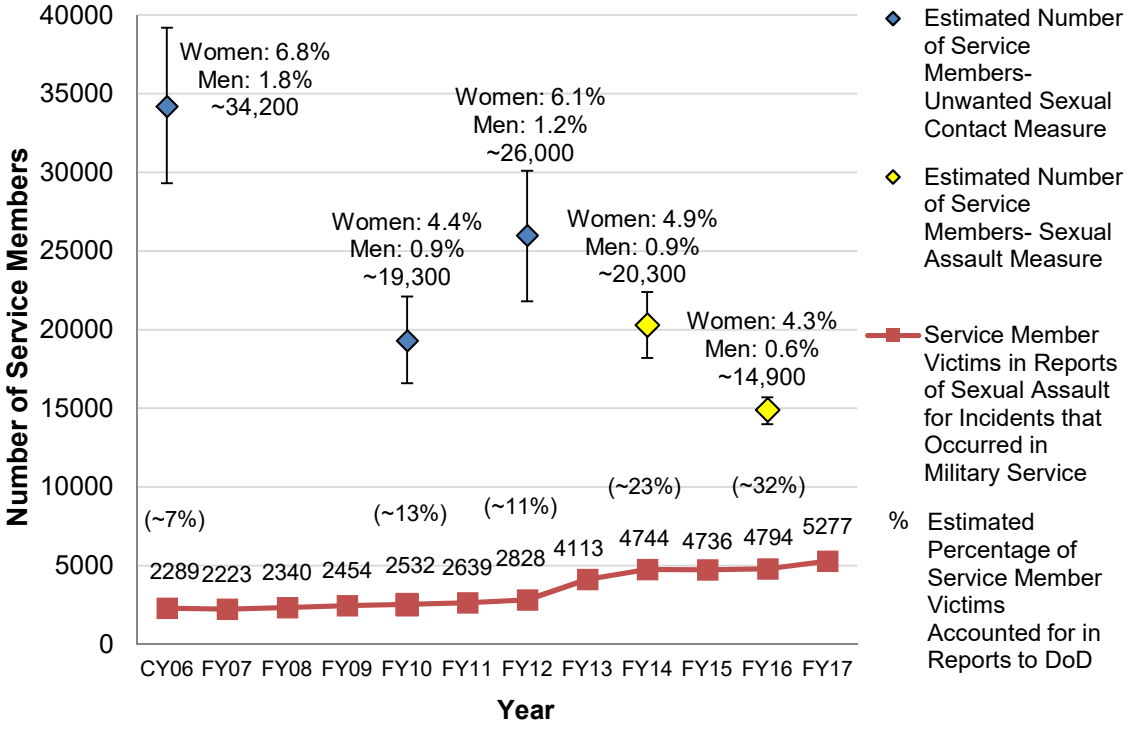


Figure 3: Estimated Number of Service Members Experiencing Sexual Assault Based on Past-Year Prevalence Rates versus Number of Service Member Victims in Reports of Sexual Assault for Incidents Occurring During Military Service, CY04 – FY17

Notes:

1. This graph depicts the estimated number of Service members who experienced sexual assault in the past-year (based on prevalence surveys) versus the number of Service member victims in actual reports of sexual assault made to DoD.
2. FY14 and FY16 measures of sexual assault were designed to align more closely with the legal language from the UCMJ, and therefore, are not directly comparable to the unwanted sexual contact measure used in years prior. The RAND Corporation conducted analyses in FY14 that confirm the "sexual assault" measure and the prior "unwanted sexual contact" measure produce statistically similar estimates.
3. In FY16, the 4,794 Service member victims in Unrestricted and Restricted Reports of sexual assault occurring during Military Service accounted for approximately 32 percent of the estimated number of Service members who may have experienced sexual assault (~14,900, with a 95 percent confidence interval ranging from 14,000 to 15,700) that year.
4. The "unwanted sexual contact" measure refers to the survey administered by OPA in CY06, FY10, and FY12. The "sexual assault" measure used in FY14 and FY17 was designed to align more closely with legal language from UCMJ. While the measures use different methods to

estimate the past-year occurrence of penetrating and contact sexual crime, they have been shown to generate statistically comparable estimates.

Last year, the difference between past-year prevalence and reporting narrowed, meaning fewer sexual assaults occurred, and a greater number of victims chose to make a report. There are still hurdles in victim reporting behaviors; notably, the difference between prevalence and reporting is greater for male victims than female victims. The 2018 survey will update past-year prevalence estimates for men and women. Nonetheless, this year's total marks the largest number of reports received by DoD since it started collective reporting of sexual assault in 2004.

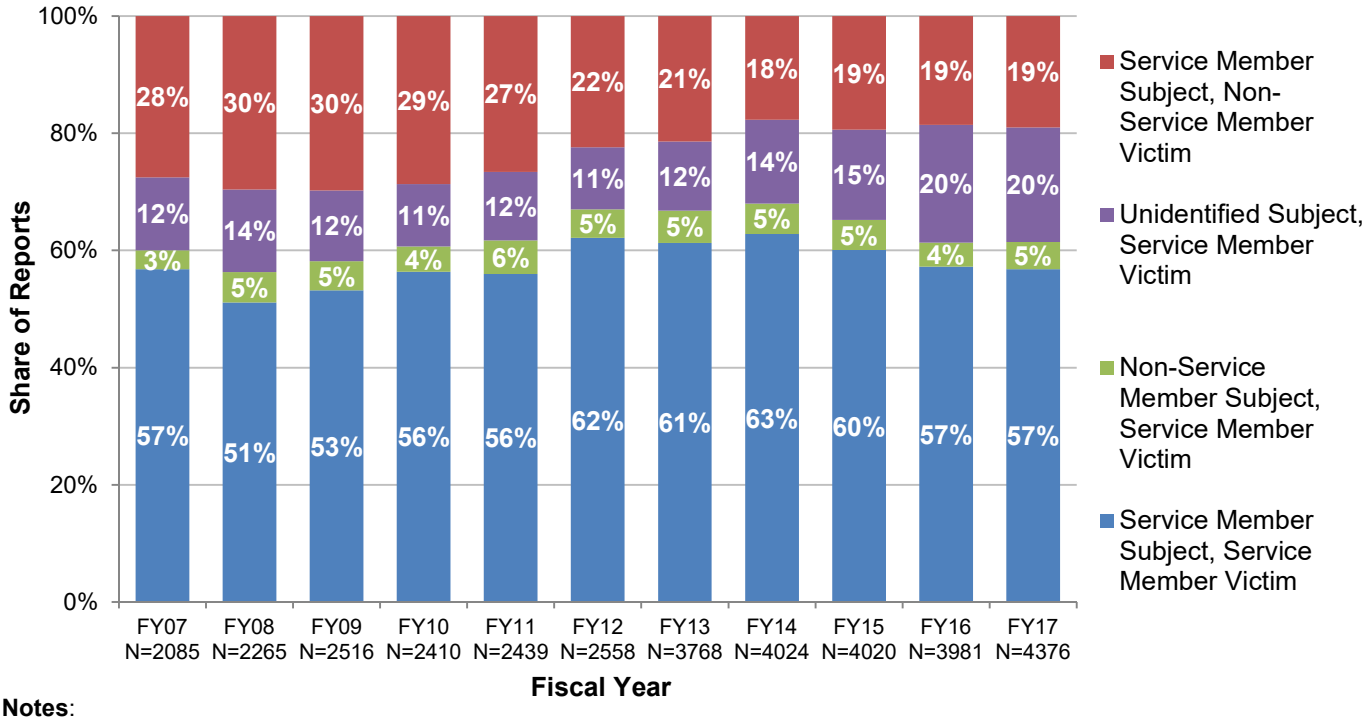
DoD does not expect 100 percent of sexual assault victims to file a report—and the choice to report a sexual assault always belongs to the victim. However, over time, DoD aims to reduce the difference between the number of survey-estimated victims experiencing sexual assault and the number reporting the incident in two ways:

- Instituting research-based sexual assault prevention that endeavors to reduce past-year prevalence rates of sexual assault, as estimated by surveys like the *WGRA*.
- Enacting initiatives that encourage victim reporting and instill confidence in the military justice system, which in turn may increase the number of Service members who choose to submit an Unrestricted or Restricted Report.

Unrestricted Reports of Sexual Assault

SARCs and MCIOs collect data regarding Unrestricted Reports and report it to DoD. In FY17, there were 5,110 Unrestricted Reports of sexual assault involving Service members as either the subject or victim of a sexual assault.[8] For a detailed analysis of victim demographics in completed investigations, see page 32. Each year, the majority of sexual assault reports received by MCIOs involve the victimization of Service members by other Service members. In FY17, 2,486 Unrestricted Reports involved allegations of sexual assault perpetrated by a Service member against a Service member. Figure 4 illustrates how Service members were involved in Unrestricted Reports of sexual assault between FY07 to FY17.

[8] The Department extracts and analyzes data from DSAID six weeks after the end of the FY to allow sufficient time for data validation. During this six-week period, 41 additional Restricted Reports converted to Unrestricted. These 41 reports are included with the 537 reports that converted from Restricted to Unrestricted that DoD counts with FY17 numbers. This is an unavoidable artifact of working with a live database. However, the Department has engaged in this practice each year since bringing DSAID on line in 2014, which provides consistency in the methods producing the statistics reported each year.



Notes:
1. There were 5,110 Unrestricted Reports in FY 2017, 4,591 Unrestricted Reports in FY 2016, and 4,584 Unrestricted Reports in FY 2015. However, 734 reports from FY 2017, 610 reports from FY 2016, and 564 reports from FY 2015 were excluded due to missing data on subject and/or victim type.
2. Percentages do not sum to 100 due to rounding.

Figure 4: Unrestricted Reports of Sexual Assault by Service Member Involvement, FY07 – FY17

Crimes Alleged in Unrestricted Reports

The Department uses the term "sexual assault" to refer to the range of crimes in military law that constitute penetrating and contact sexual offenses between adults. Since 2004, three versions of Article 120 have existed in the UCMJ, which defines most of those crimes.

Of the total Unrestricted Reports made to DoD in FY17, the majority of offenses alleged fall into 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, if any. Figure 5 depicts the breakdown of Unrestricted Reports of sexual assault by offense originally alleged, while Table 2 presents the offense originally alleged, broken down by the military status of the victim.

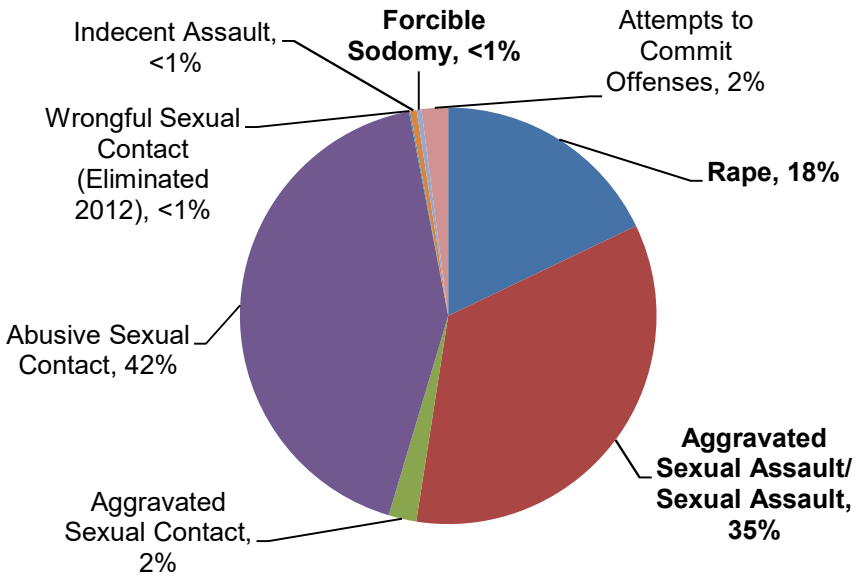


Figure 5: Offenses Originally Alleged in Unrestricted Reports of Sexual Assault, FY17

Notes:

1. 461 cases have been excluded from this chart due to missing data on the offense originally alleged. Percentages do not sum to 100 percent due to rounding.
2. **Bold** text labels designate penetrating crimes (rape, aggravated sexual assault/sexual assault, and forcible sodomy).

Table 2: Unrestricted Reports of Sexual Assault by Offense Alleged and Military Status, FY17

Most Serious Offense Alleged in Report	Total Unrestricted Reports	Reports Involving Service Members as Victims	Reports Involving Non-Service Members as Victims	Relevant Data Not Available
Rape	832	609	222	1
Aggravated Sexual Assault and Sexual Assault	1,607	1,298	294	15
Aggravated Sexual Contact	101	85	16	0
Abusive Sexual Contact	1,968	1,685	265	18
Wrongful Sexual Contact	5	5	0	0
Indecent Assault	22	22	0	0
Forcible Sodomy	18	13	5	0
Attempts to Commit Offenses	96	90	6	0
Offense Data Not Available	461	443	17	1
FY17 Total Unrestricted Reports	**5,110**	**4,250**	**825**	**35**

Investigations of Unrestricted Reports

This section closely follows the flow chart shown in Figure 6. In FY17, 5,110 Unrestricted Reports were referred to MCIOs for investigation. DoD policy requires all Unrestricted Reports be referred for investigation by an MCIO.

The length of an investigation may vary, from a few months to over a year, depending on a number of factors, including:

- Offense(s) alleged
- Location and availability of the victim, subject, and witnesses
- Amount and kind of physical evidence gathered during the investigation
- Length of time required for crime laboratory analysis of evidence

The average length of a sexual assault investigation in FY17 was 3.9 months. Consequently, sexual assault investigations and each subject's case disposition can span multiple reporting periods.

Of the 4,226 sexual assault investigations MCIOs completed during FY17, 2,824 of those sexual assault investigations were opened in FY17, and 1,402 investigations were opened in years prior to FY17. Of the 4,226 investigations completed in FY17, 100 cases did not meet the elements of proof for sexual assault or were investigated for some misconduct other than sexual assault (Figure 6, Point G) and 34 cases did not fall within MCIOs' legal authority to investigate (the report was for an incident prior to Service or the matter was outside MCIO jurisdiction; Figure 6, Points H). In total, there was reportable information for 4,425 subjects. In future reports, DoD will document the outcomes of 2,152 sexual assault investigations that were not complete by September 30, 2017 (Figure 6).

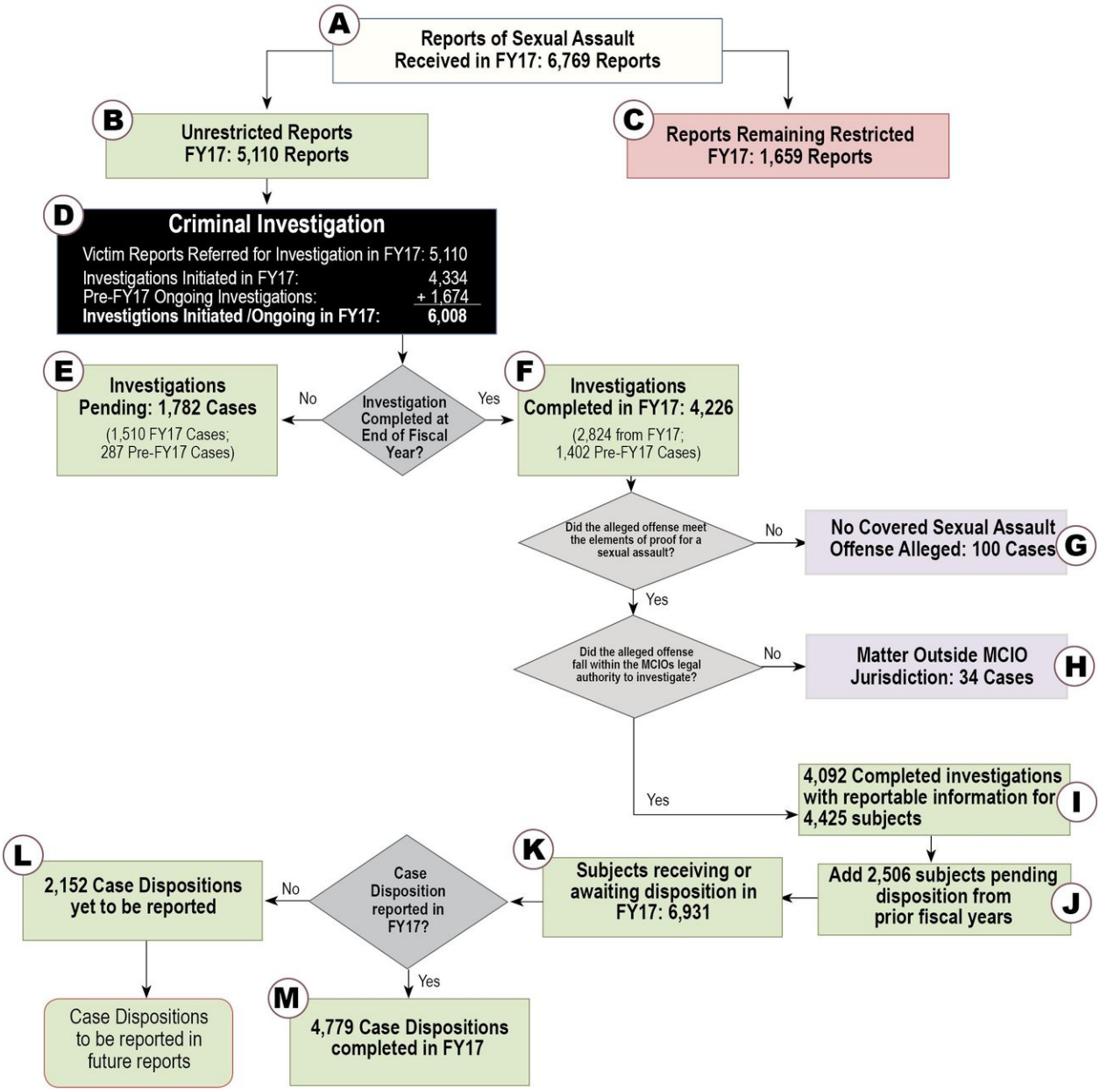


Figure 6: Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY17

Notes:

1. 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, forcible sodomy, and attempts to commit these offenses.
2. The number of investigations initiated in FY17 is lower than the number of victim reports referred for investigation because: there can be multiple victims in a single investigation, some investigations referred in FY17 did not begin until FY18, and some allegations could not be investigated by DoD or civilian law enforcement.
3. The Department pulls and analyzes data from DSAID six weeks after the end of the FY to allow sufficient time for data validation. During this six-week period, 41 additional Restricted Reports that were made made in 2017 converted to Unrestricted. These 41 reports are included with the 537 reports that converted from Restricted to Unrestricted that DoD counts with FY17 numbers. This is an unavoidable artifact of working with a live database. However, the Department has

engaged in this practice each year since bringing DSAID on line in 2014, which provides consistency in the methods producing the statistics reported each year.

Sexual Assault Case Dispositions

The goals of a criminal investigation are to identify the victim, the alleged perpetrator, and crimes committed. DoD seeks to hold Service members alleged to have committed sexual assault appropriately accountable based on the available evidence.

Can DoD take action against everyone it investigates?

No. In FY17, DoD could not take action in 1,212 cases, because they were outside DoD's legal authority or a civilian/foreign authority exercised jurisdiction over a Service member subject.

Congress requires DoD to report on the case dispositions (outcomes) of sexual assault allegations in Unrestricted Reports made against Service members (DoDI 6495.02). When a person is the subject of multiple investigations, he/she will also be associated with more than one case disposition in DSAID. Since the Department must report outcomes for each of these investigations, subjects who have multiple investigations will have a disposition associated with each of those investigations. The Services may address multiple investigations of a subject with one action (e.g., one court-martial for multiple investigations) or may address those investigations with separate actions (e.g., a court-martial for one allegation and then a nonjudicial punishment for another unrelated allegation). This year, 134 subjects received multiple dispositions for sexual assault allegations. These 134 subjects received a total 181 dispositions, which accounts for 4% percent of all dispositions reported in FY17. The following data describe the case dispositions of each investigation reported to the Department in FY17.

At the end of FY17, there were 4,779 case dispositions with information to report. Of the subjects accounted for in these case dispositions, 45 (just fewer than 1 percent) had a prior investigation for a sexual assault offense. The 4,779 case dispositions from DoD investigations in FY17 included Service members, U.S. civilians, foreign nationals, and subjects that could not be identified (Figure 7). DoD's sexual assault data represent a 12-month snapshot in time in order to comply with Congressional reporting requirements. As a result, 2,152 case dispositions were not yet determined at the end of FY17. DoD will report these in forthcoming years' reports (Figure 6, Point L).

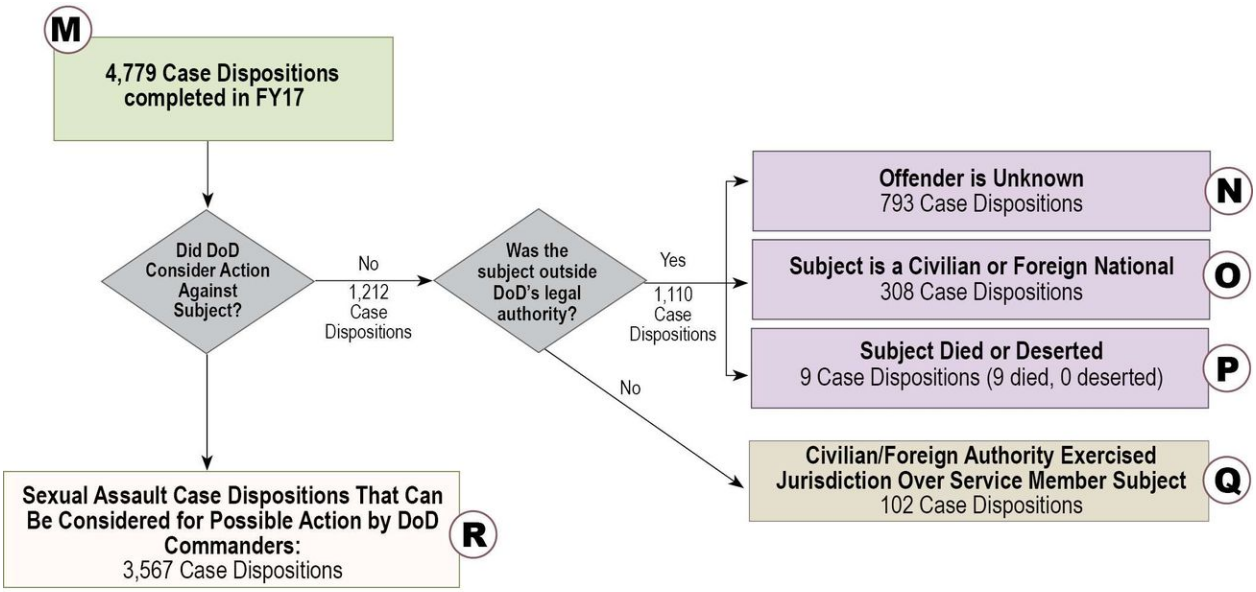
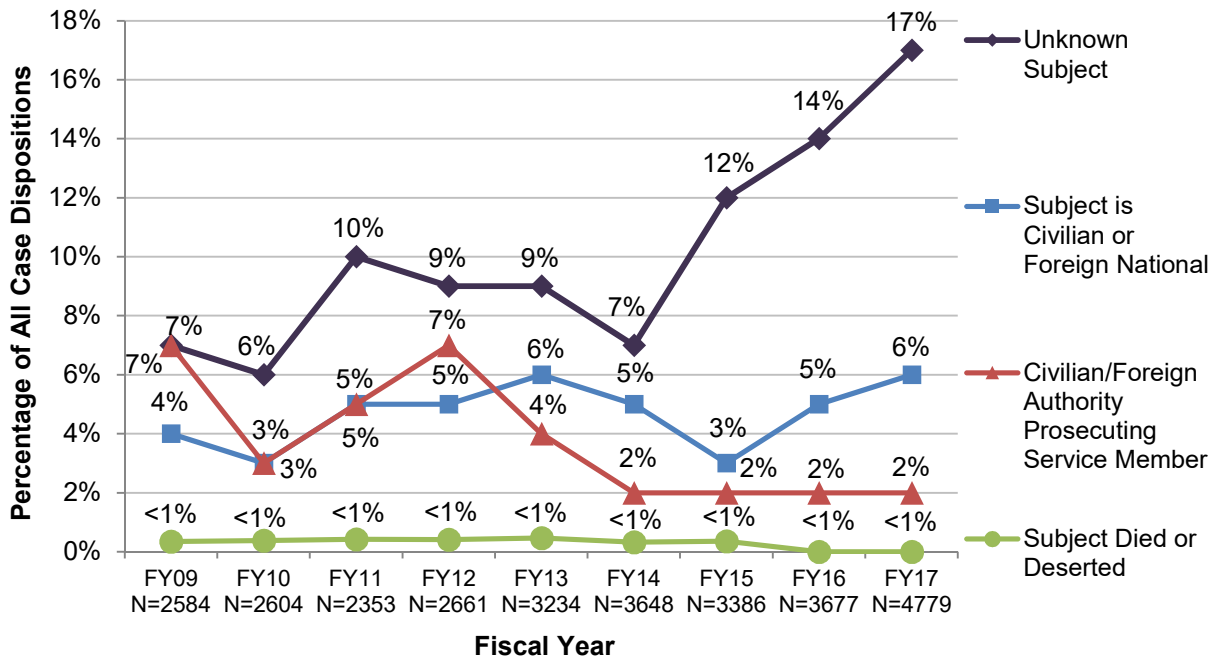


Figure 7: Cases outside DoD Legal Authority, FY17

For the vast majority of cases in the military justice system, commanders are limited to taking action against Service members who are subject to the UCMJ. Each year, DoD lacks jurisdiction over a thousand subjects in its sexual assault reports/investigations. In FY17, DoD could not consider taking action in 1,212 cases because:

- 1,110 cases were outside of DoD's legal authority (Figure 7, Points N through P). Specifically, MCIOs could not identify a subject despite a criminal investigation, a subject was a civilian or foreign national not under the military's jurisdiction, or a subject had died or deserted before DoD could take disciplinary action.
- 102 cases involved Service members prosecuted by a civilian/foreign authority (Figure 7, Point Q). While a Service member is always under the legal authority of DoD, 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.

Figure 8 shows that from FY09 to FY17, between 12 percent and 25 percent of cases investigated by DoD for sexual assault were found to be either outside the DoD's legal authority or another authority asserted its jurisdiction. As part of the on-going data validation process, the Services' legal officers close older pending cases that involve unknown subjects. This partially accounts for the increase in unknown subjects observed between FY15 and FY17.



Notes:

1. In FY17, 1,212 (25 percent) of the 4,779 case dispositions were outside DoD legal authority or involved Service member subjects who were prosecuted by a civilian or foreign authority.
2. Percentages do not sum to total due to rounding.

Figure 8: Cases Investigated for Sexual Assault by DoD with Subjects Who Were outside Its Legal Authority or Service Members Prosecuted by a Civilian/Foreign Authority, FY09 – FY17

Military Subjects Considered for Disciplinary Action

In FY17, 3,567 cases investigated for sexual assault involved Service members whom DoD could consider for possible action. Table 3 and Figure 9 present dispositions of cases with military subjects under DoD legal authority. Of the 3,567 cases, 290 involved alleged assaults against multiple victims.

Table 3: Case Dispositions, FY17

Case Disposition Category	Case Dispositions Reported in FY17	Percent of Case Dispositions in FY17*
Sexual Assault Investigation That Can Be Considered for Possible Action by DoD Commanders:	3,567	NA
Evidence Supported Commander Action	2,218	62%
Sexual Assault Offense Action	1,446	65%
Court-Martial Charge Preferred (Initiated)	774	54%
Nonjudicial Punishment (Article 15, UCMJ)	294	20%
Administrative Discharge	153	11%
Other Adverse Administrative Action	225	16%
Non-Sexual Assault Offense Action	772	35%
Court-Martial Charge Preferred (Initiated)	68	9%
Nonjudicial Punishment (Article 15, UCMJ)	432	56%
Administrative Discharge	110	14%
Other Adverse Administrative Action	162	21%
Unfounded by Command/Legal Review	79	2%
Commander Action Precluded	1,270	36%
Victim Died	1	<1%
Victim Declined to Participate in the Military Justice Action	514	41%
Insufficient Evidence to Prosecute	729	57%
Statute of Limitations Expired	26	2%

***Notes**: Percentages are broken into three groups. Bolded items are a percentage of cases considered for possible action by DoD Commanders. Underlined items are the percentage of cases which evidence supported command action. Italic items are a percentage of the subheader they are under.

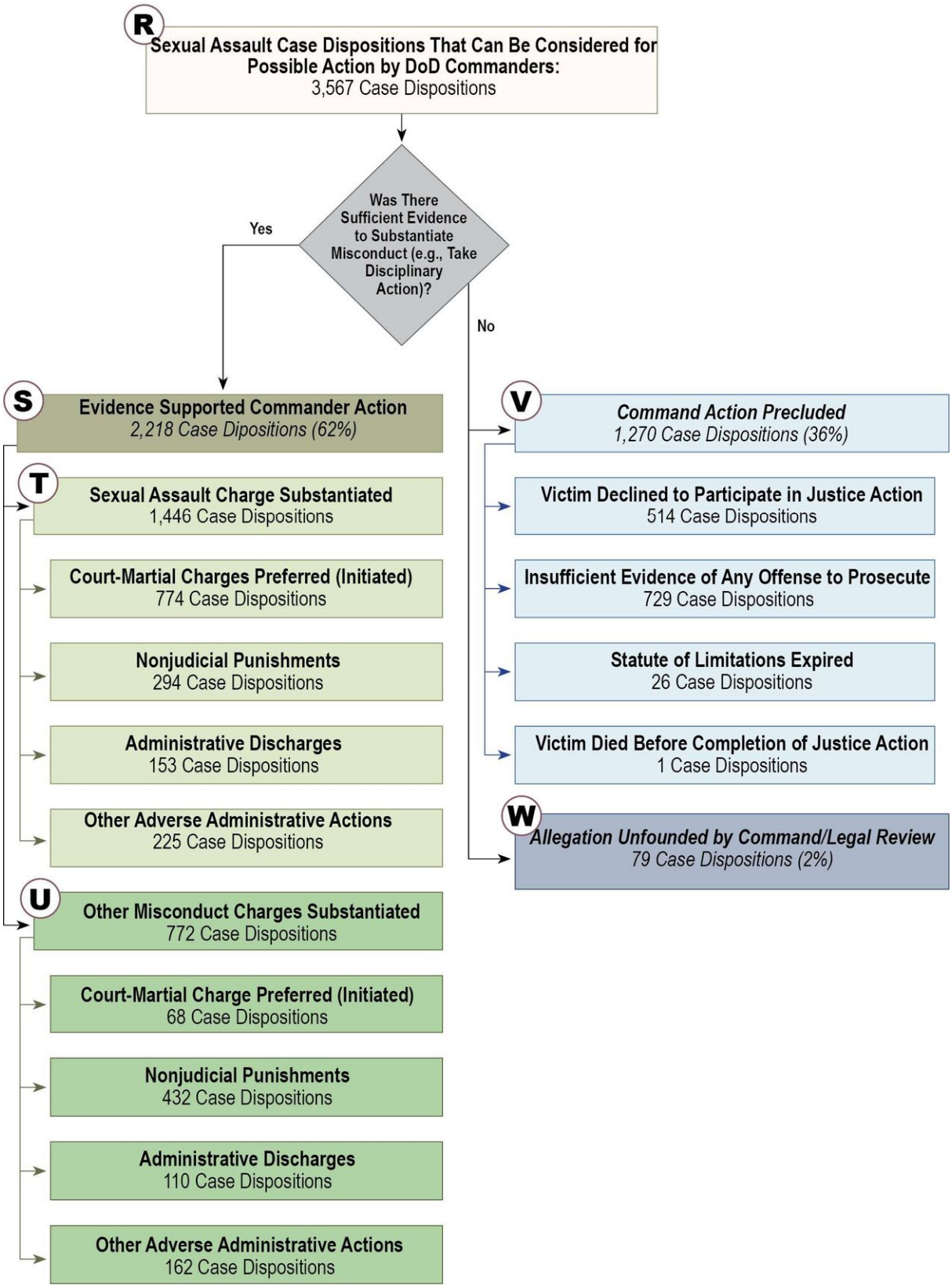


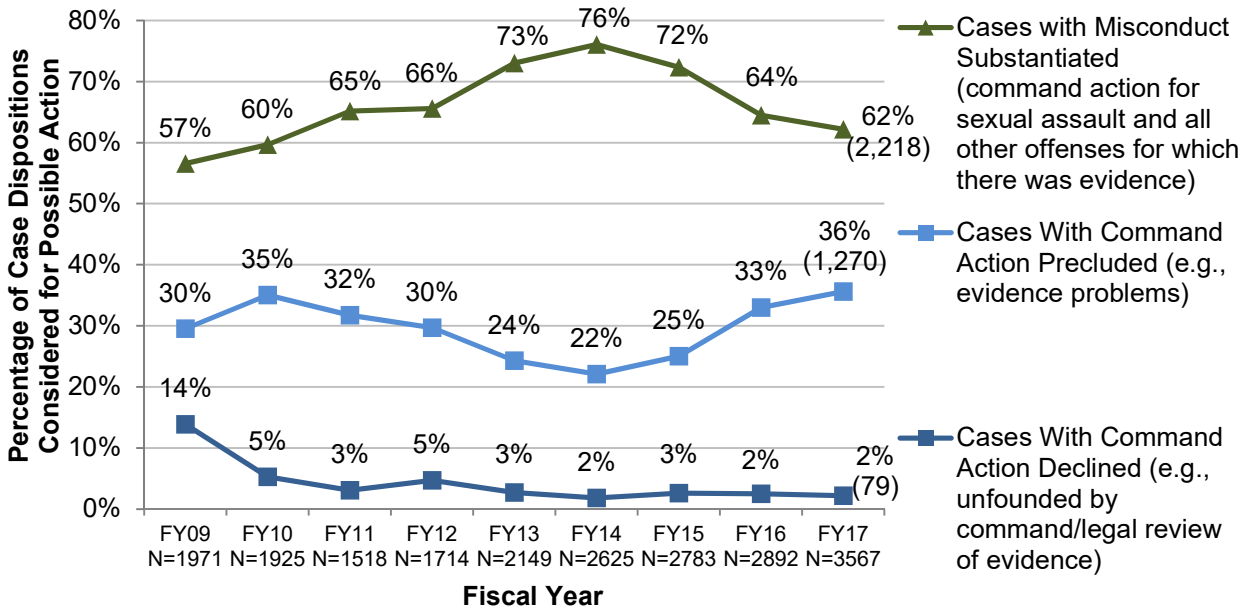
Figure 9: Dispositions of Cases under DoD Legal Authority, FY17

Command Action Precluded or Declined

Legal factors occasionally prevent DoD from taking disciplinary action against subjects. For example, commanders could not take disciplinary action in 1,270 cases due to insufficient evidence of an offense, the victim declining to participate in the military justice process, or the statute of limitations expiring. See Figure 9, Point V.

Two potential situations can lead MCIOs to conclude that the allegations of a crime should be unfounded, meaning the allegation is categorized as false or baseless. A case is determined to be false when (1) evidence discovered demonstrates that the accused person did not commit the offense, or (2) evidence refutes the occurrence of a crime. A case is determined to be baseless when it was improperly reported as a sexual assault. After examining the evidence in each case with a military attorney, commanders declined to take action in 79 cases, because available evidence indicated the allegations against these subjects were false or baseless (unfounded; Figure 9, Point W).[9]

Figure 10 illustrates the percentage of cases in which command action was precluded (e.g., insufficient evidence, victim declined to participate), command action was declined (unfounded), or command action was taken (e.g., court-martial preferred, nonjudicial punishment). SAPRO and the Services continue to conduct comprehensive reviews of legal data in DSAID. As part of this process, the Services' legal officers close out older cases in which command action was precluded. This partially accounts for the increase in cases with command action precluded between FY15 and FY17. Database tracking of outcomes also ensures greater accountability of cases over time since the Department moved to DSAID in FY14.



Note: Percentages listed for some years do not sum to 100 percent due to rounding.

Figure 10: Percentage of Cases with Misconduct Substantiated, Command Action Precluded, and Command Action Declined, FY09 – FY17

[9] In prior FYs, DoD presented data on allegations investigated by the MCIOs that were unfounded by legal review. In FY15, the Department developed new categories to more accurately reflect the nature and outcomes of these allegations (Figure 6, Points G and H account for these allegations).

Evidence Supported Command Action

In 2,218 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 preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative action.

The following outlines the command actions taken in the 1,446 cases for which it was determined a sexual assault offense warranted discipline:

- 54 percent (774) of cases were associated with court-martial charges preferred (initiated).
- 20 percent (294) of cases entered into proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 26 percent (378) of cases received a discharge or another adverse administrative action.[10]

In 772 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:

- 9 percent (68) of cases were associated with court-martial charges preferred.
- 56 percent (432) of cases entered into proceedings for nonjudicial punishment.
- 35 percent (272) of cases received some form of adverse administrative action or discharge.

Military Justice

The following information describes what happens once a military subject's commander finds that there is 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 a Special Court-Martial Convening Authority (SPCMA). This allows more senior, experienced officers to review and decide what initial action should be taken in these cases.

[10] Percentages do not sum to 100 percent due to rounding.

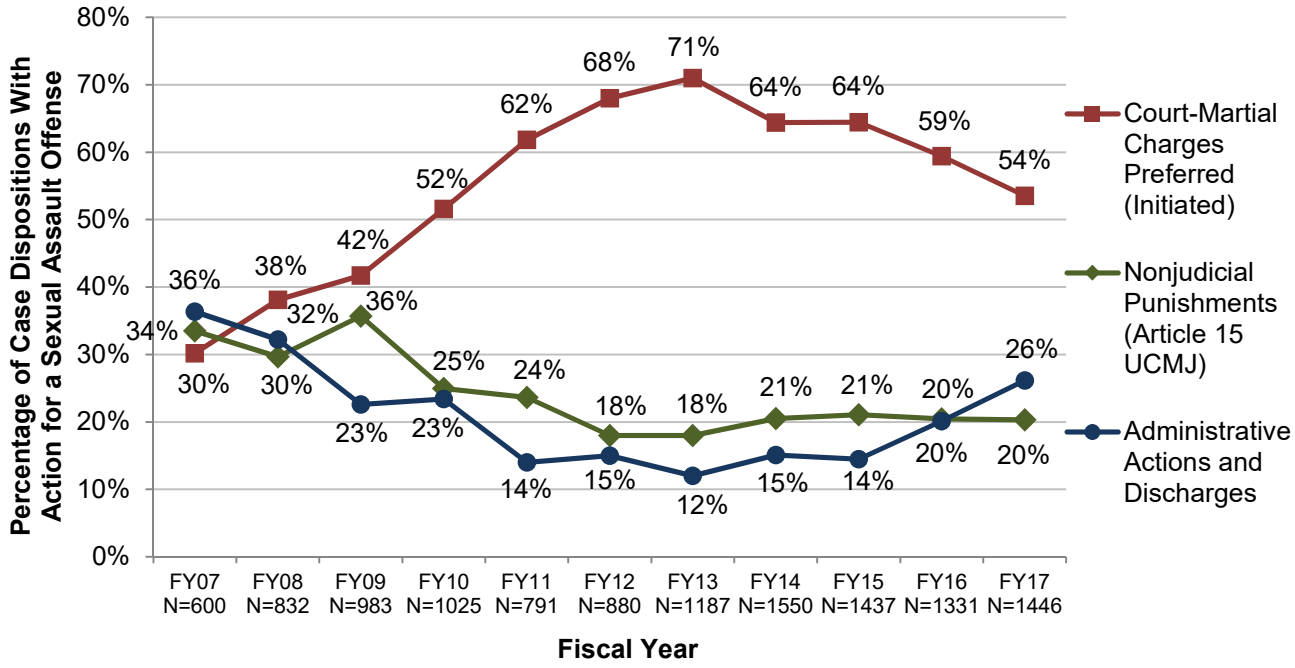


Figure 11: Breakdown of Disciplinary Actions Taken for Sexual Assault Offenses, FY07 – FY17

Notes:

1. Percentages are of cases found to warrant disciplinary action for a sexual assault offense only. This figure does not include other misconduct (false official statement, adultery, etc.)
2. Percentages listed for some years do not sum to 100 percent due to rounding.

Court-Martial for a Sexual Assault Offense

As noted previously, 774 cases involved court-martial charges preferred. Figure 12 illustrates what happened to these cases after their commanders preferred court-martial charges. Of the 774 cases with a preferral of court-martial charges for at least one sexual assault charge in FY17, the Services completed 663 court-martial outcomes by the end of the FY.

406 cases proceeded to trial, 70 percent of which 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. Military law requires that the Military Services process Service members convicted of a sexual assault who do not receive a punitive discharge at court-martial for an administrative discharge. This year, the Services processed 60 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 105 cases were dismissed. However, commanders used evidence gathered during the sexual assault investigations to take nonjudicial punishment for other misconduct in 22 of the 105 cases. The punishment may have been for any kind of misconduct for which there was evidence. Most subjects who received nonjudicial punishment for other

What percentage of cases associated with a charge and trial for sexual assault offenses received a conviction in FY17 and what punishment did they receive?

70% of cases that went to trial for a sexual assault offense resulted in a conviction of at least one charge at court-martial. The majority of cases with a conviction resulted in the following punishments: confinement, a fine or forfeiture of pay, reduction in rank, and a punitive discharge or dismissal.

misconduct after court-martial charges were dismissed were adjudged reductions in rank and forfeitures of pay.

The Government approved 152 cases for a resignation or discharge in lieu of court-martial (RILO/DILO). In FY17, 137 of the 149 cases involving enlisted members DILO received a separation Under Other Than Honorable Conditions (UOTHC), the most serious administrative characterization of discharge possible (2 cases resulted in a General discharge, 1 case in an honorable discharge, and 9 were not characterized at the time of the report). 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 request 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. Discharges of enlisted personnel in lieu of court-martial are usually approved at the SPCMA level. The Secretary of the Military Department approves resignations of officers in lieu of court-martial.

Figure 12 presents the case outcomes for which court-martial charges were preferred. Figure 13 presents the same information, but displays the outcomes by the type of crime charged (i.e., penetrating versus sexual contact).

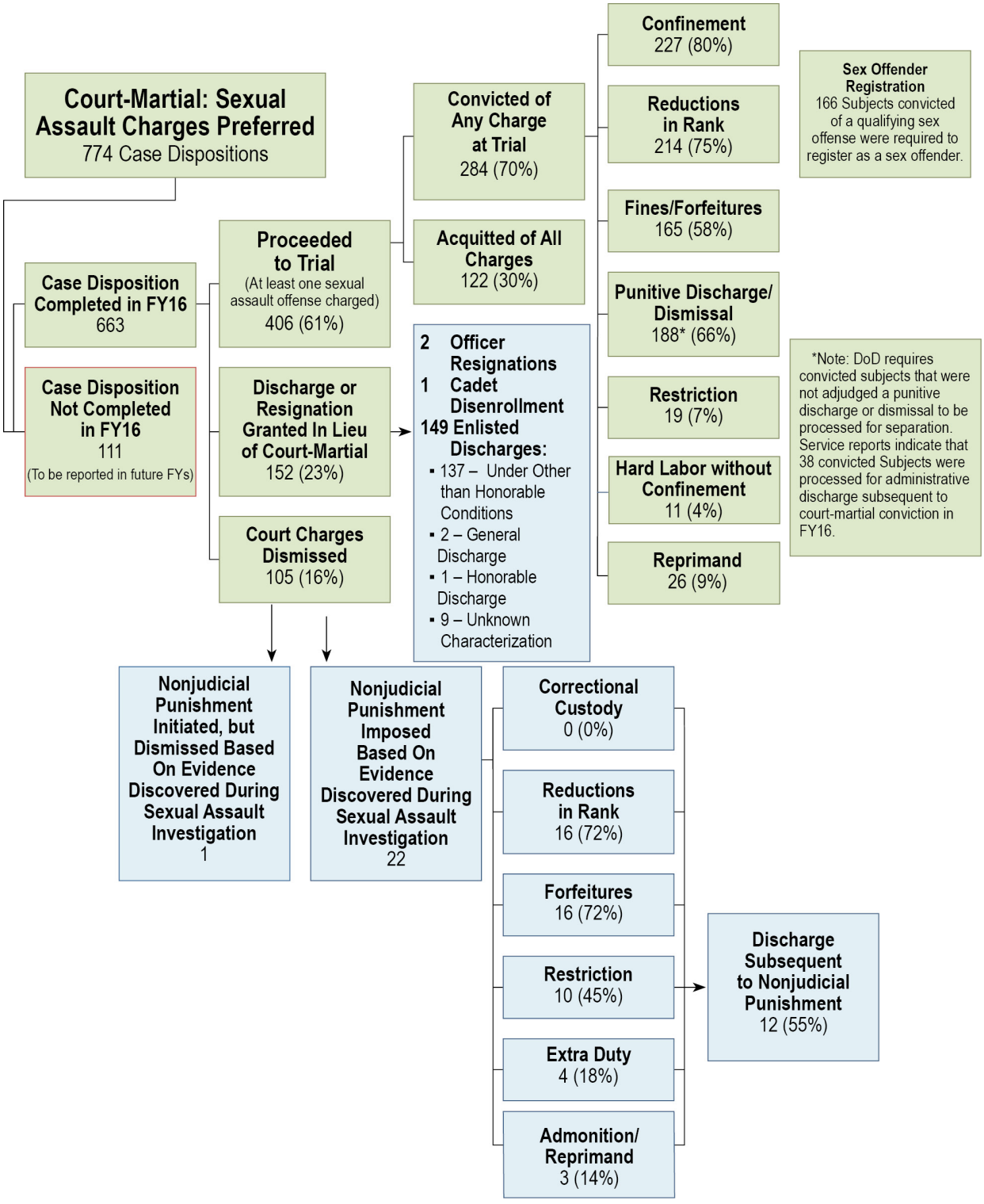


Figure 12: Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred, FY17

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. Of the 774 court-martial charges preferred, 111 cases were still pending court action at the end of FY17.
3. Of the 663 completed case dispositions, 406 proceeded to trial, 152 involved a discharge or resignation in lieu of court-martial, and 105 had court-martial charges dismissed.
4. In cases in which a discharge in lieu of court-martial is requested and approved, the characterization of the discharge is UOTHC, unless a higher characterization is justified.
5. Of the 105 cases with dismissed charges, commanders imposed nonjudicial punishment in 22 cases. An additional case had a nonjudicial punishment initiated and subsequently dismissed. Most of these 22 cases received two kinds of punishment: a reduction in rank and a forfeiture of pay.
6. Of the 406 cases that proceeded to trial, 284 resulted in a conviction of at least one charge. Conviction by court-martial may result in a combination of punishments. Consequently, convicted Service members could be adjudged one or more of the punishments listed. 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 (i.e., bad conduct discharge, dishonorable discharge, or dismissal). DoDI 6495.02 requires mandatory administrative separation processing for all Service members convicted of a sexual assault offense when the sentence does not include a punitive discharge. For penetrative sexual assaults and attempts to commit such offenses committed after June 24, 2014 with certain limited exceptions, the approved sentence must include a punitive discharge.

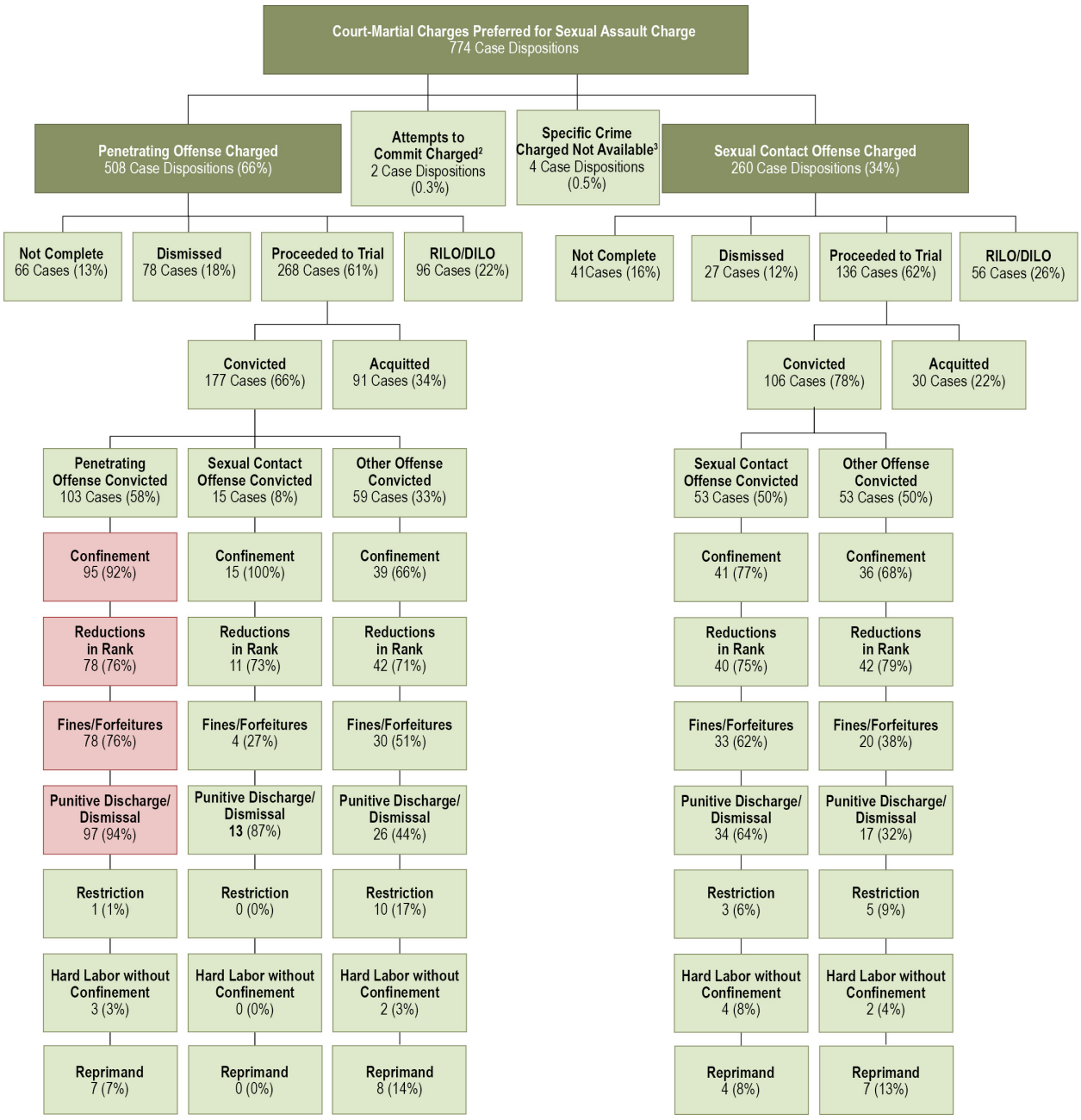


Figure 13: Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred by Crime Charged, FY17

Notes:

1. Percentages for some categories do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent, since subjects can receive multiple punishments.
2. The outcomes for the attempts to commit cases were: 1 case was dismissed and 1 case led to a conviction.
3. Court-martial charges were preferred for 4 cases, but data for the specific sexual assault crime charged was unavailable at the time of the final data pull.

Nonjudicial Punishment

Do military commanders use nonjudicial punishment as their primary means of discipline for sexual assault crimes?

No. Only 20% of cases warranting disciplinary action for a sexual assault crime received nonjudicial punishment in FY17 as the most serious disciplinary action. Most cases (54%) had court-martial charges preferred as the most serious disciplinary action.

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 as nonjudicial punishments include demotions, forfeitures, and restrictions on liberty. Nonjudicial punishment 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 1,446 cases dispositions that were associated with disciplinary actions on a sexual assault offense, 294 cases were addressed with nonjudicial punishment. Figure 14 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in FY17. In FY17, 87 percent of the 237 cases with completed nonjudicial punishment proceedings were associated with guilty verdicts under the authority of Article 15 in the UCMJ. Nearly all of the administered nonjudicial punishments were for non-penetrating sexual contact offenses. The majority of cases with a nonjudicial punishment received the following punishments: reduction in rank, a forfeiture of pay, and/or extra duty. Available Military Service data indicated that for 92 cases the nonjudicial punishment served as grounds for a subsequent administrative discharge. Characterizations of these discharges were as follows:

Honorable	7 Cases
General	58 Cases
Under Other Than Honorable Conditions	14 Cases
Uncharacterized	13 Cases
Total	**92 Cases**

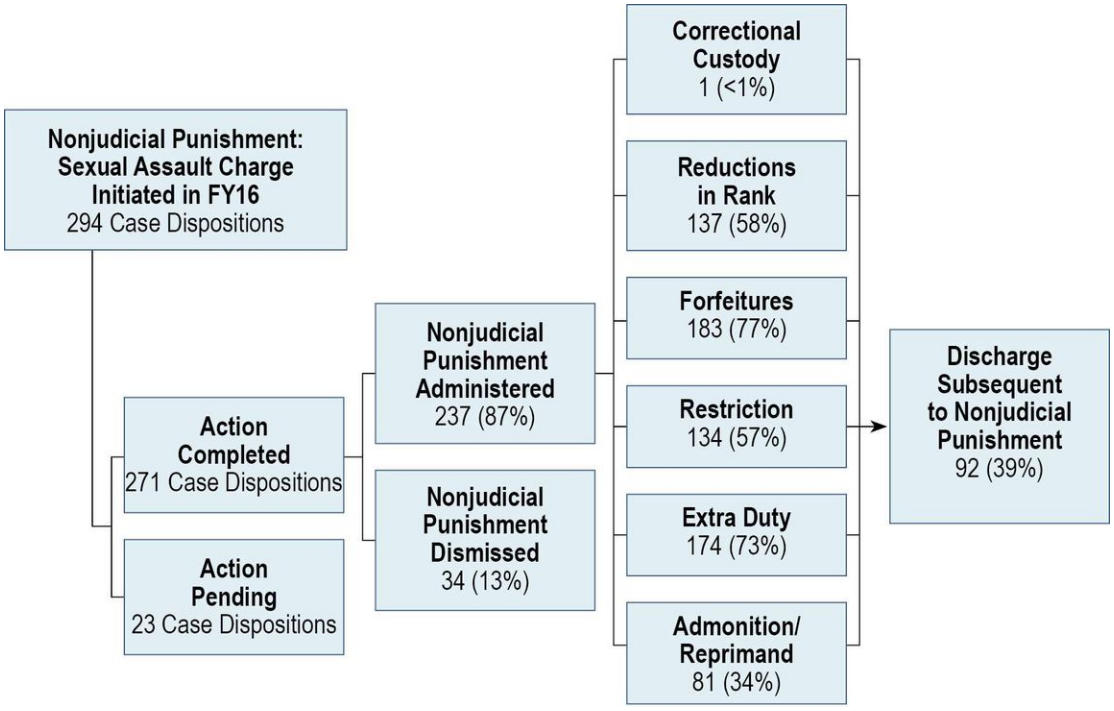


Figure 14: Dispositions of Cases Receiving Nonjudicial Punishment, FY17

Note: Punishments do not sum to 100 percent because cases can have multiple punishments.

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, 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 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 the DoD and the Department of Veterans Affairs. In FY17, 153 cases in sexual assault investigations were associated with an administrative discharge. Characterizations of the discharges are outlined below.

Honorable	1 Case
General	79 Cases
Under Other Than Honorable Conditions	53 Cases
Uncharacterized	13 Cases
Pending	7 Cases
Total	**153 Cases**

In FY17, commanders took adverse administrative actions in 225 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 one'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. Cadets and midshipmen are subject to court-martial and an administrative disciplinary system at the 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. In FY17, commanders took action in 772 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).

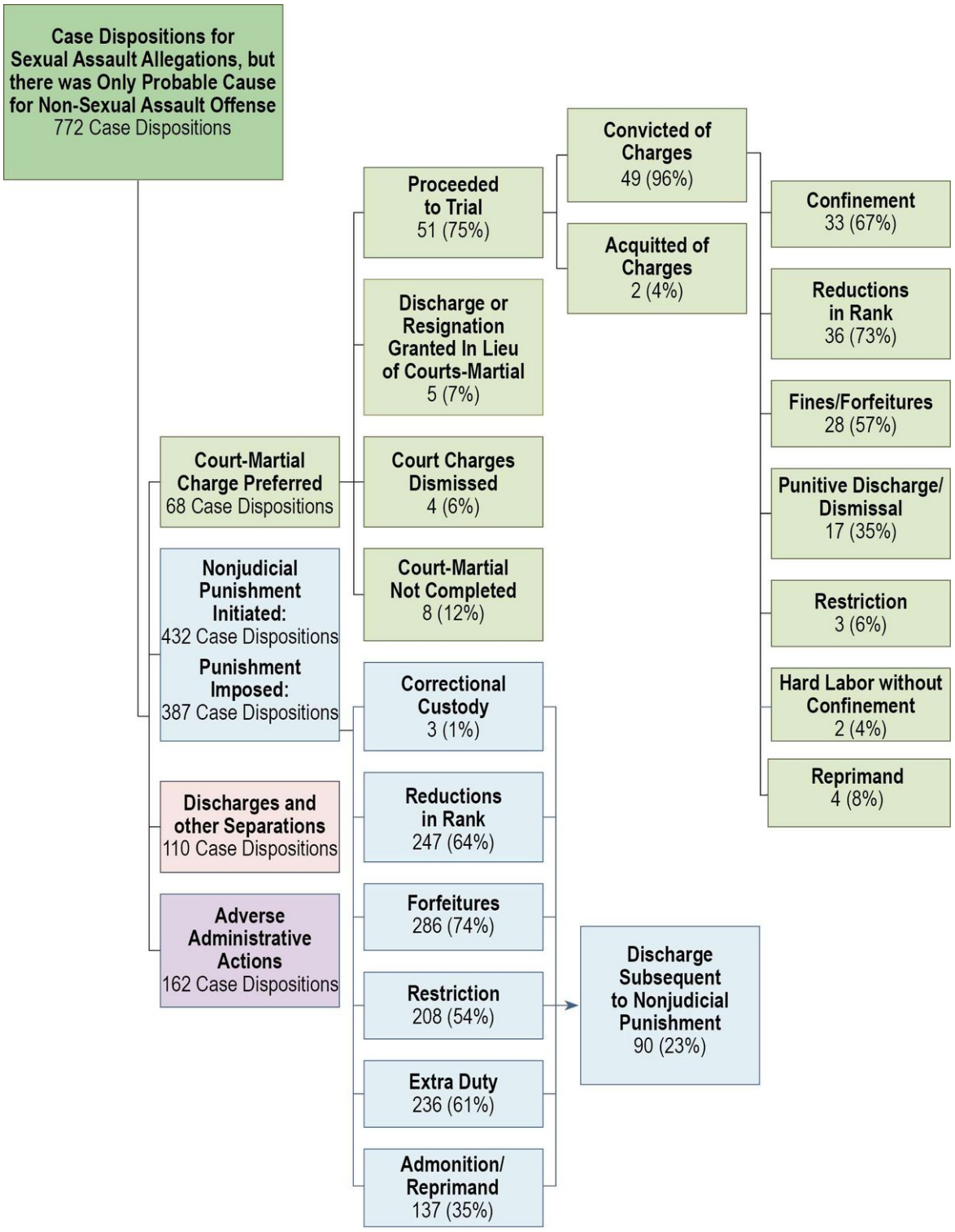


Figure 15: Cases for which there was only Probable Cause for Non-Sexual Assault Offenses, FY17

Notes:

1. Some percentages do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent, because cases can have multiple punishments.
2. The Military Services reported that investigations of 772 cases only revealed evidence of misconduct not considered a sexual assault offense under the UCMJ.

3. Of the 772 cases, 68 cases had court-martial charges preferred, 432 cases were entered into nonjudicial punishment proceedings, 110 cases involved a discharge or separation, and 162 cases involved an adverse administrative action.
4. Of the 68 cases associated with court-martial charges preferred, court-martials proceeded for cases and convictions were associated with 51 cases.
5. Of the 432 cases considered for nonjudicial punishment, 45 cases were still pending completion and in 387 cases, commanders took appropriate action.

Demographics of Victims and Subjects in Completed Investigations

The Department draws demographic information from the 4,226 investigations of sexual assault completed in FY17. These investigations involved 4,606 victims and 4,491 subjects or individuals alleged to be perpetrators in an investigation.[11] Table 4 displays the gender of victims and subjects in completed investigations of Unrestricted Reports in FY17. The majority of victims in completed investigations are female (81 percent) and the majority of subjects are male (78 percent).

Table 4: Gender of Victims and Subjects in Completed Investigations of Unrestricted Reports, FY17

Gender	Victims		Subjects	
Male	832	18%	3,512	78%
Female	3,744	81%	146	3%
Gender Unknown/Data Not Available	30	1%	833	19%
Total	**4,606**	**100%**	**4,491**	**100%**

Table 5 depicts victim and subject ages (at the time of incident) for completed investigations of Unrestricted Reports. The majority of victims and subjects are between the ages of 16 and 34. Most victims in completed investigations are of junior enlisted grades and most subjects are of junior or senior enlisted grades. As shown in Table 6, 20 foreign national subjects, from investigations completed in FY17, allegedly committed sexual assault against Service members.

Table 5: Age of Victims and Subjects in Completed Investigations of Unrestricted Reports, FY17

Age	Victims		Subjects	
0-15	66	1%	172	4%
16-19	1,083	24%	349	8%
20-24	1,966	43%	1,512	34%
25-34	869	19%	1,086	24%
35-49	205	4%	461	10%
50 and older	51	1%	179	4%
Age Unknown/Data Not Available	366	8%	732	16%
Total	**4,606**	**100%**	**4,491**	**100%**

[11] There were only 4,452 subjects with reportable information (i.e., offense met the elements of proof for sexual assault and fell within MCIOs legal authority). However, 39 additional individuals alleged to be perpetrators in an investigation are included in these demographic data.

Table 6: Grade/Status of Victims and Subjects in Completed Investigations of Unrestricted Reports, FY17

Grade or Status at Time of Report	Victims		Subjects	
E1-E4	2,953	64%	1,973	44%
E5-E9	548	12%	1,036	23%
WO1-WO5	7	<1%	20	<1%
O1-O3	145	3%	134	3%
O4-O10	35	1%	66	1%
Cadet/Midshipman/Prep School Student	47	1%	21	0%
U.S. Civilian	791	17%	186	4%
Foreign National/Foreign Military	48	1%	20	0%
Grade or Status Unknown/Data Not Available	32	1%	1,035	23%
Total	**4,606**	**100%**	**4,491**	**100%**

Notes:
1. Category percentages may not sum to 100 percent due to rounding to the nearest whole point.
2. The category "U.S. Civilian" includes DoD contractors, DoD civilians, and other U.S. government civilians.

Restricted Reports of Sexual Assault

Since Restricted Reports are confidential, protected communications, as defined in Department policy, SAPR personnel collect limited data about the victim and the sexual assault allegation. As with Unrestricted Reports, victims can make Restricted Reports for incidents that occurred in prior reporting periods and prior to Military Service.

In FY17, there were 2,196 initial Restricted Reports of sexual assault. Of the 2,196 reports, 537 (24 percent) converted to Unrestricted Reports.[12] At the close of FY17, 1,659 reports remained Restricted (Figure 16).[13]

How many Restricted Reports convert to Unrestricted Reports each FY?

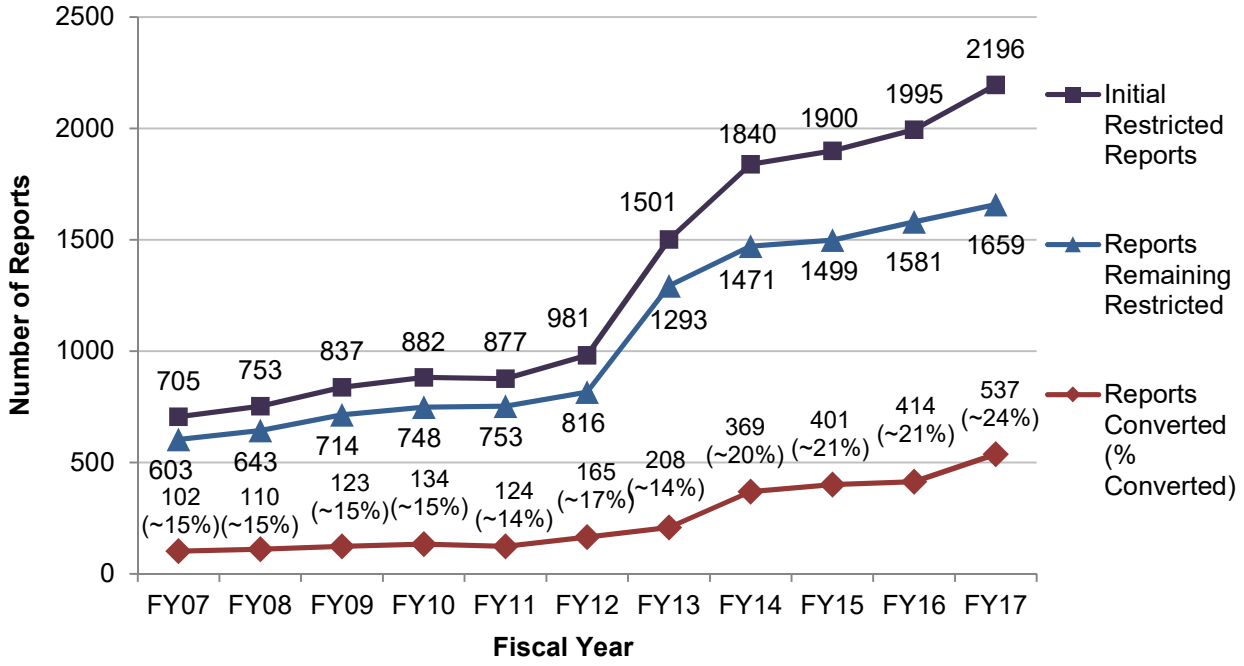
In FY17 24% of victims converted to an Unrestricted Report from a Restricted Report, which is an increase from the 21% conversion rates observed in FY16 and FY15.

This year, 327 Service members made a Restricted Report for an incident that occurred prior to entering Military Service, representing approximately 20 percent of the 1,659 remaining Restricted Reports of sexual assault. Of these 327 Service members:

- 214 indicated that the incident occurred prior to age 18
- 110 indicated that the incident occurred after age 18
- 3 declined to specify

[12] The Department extracts and analyzes data from DSAID six weeks after the end of the FY to allow sufficient time for data validation. During this six-week period, 41 additional Restricted Reports made in 2017 converted to Unrestricted. These 41 reports are included with the 537 reports that converted from Restricted to Unrestricted that DoD counts with FY17 numbers.
[13] The 537 Restricted reports that converted to Unrestricted Reports are included in the total 5,110 Unrestricted Reports cited in the above section.

The percentage of victims who convert their Restricted Reports to Unrestricted Reports has steadily increased since FY13, with an overall average of about 17 percent. The FY17 conversion rates shows that in FY17 about a quarter of people initially making a Restricted Report later converted it to an Unrestricted Report.



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

Figure 16: Restricted Reports Received and Converted, FY07 – FY17

Demographics of Victims in Restricted Reports

The following tables show that victims who filed a Restricted Report were primarily female, under the age of 25, and of a junior enlisted grade (i.e., E1-E4).

Table 7: Gender of Victims in Restricted Reports, FY17

Victim Gender	Count	Share
Male	300	18%
Female	1,357	82%
Data Not Available	2	<1%
Total	**1,659**	**100%**

Table 8: Age of Victims in Restricted Reports, FY17

Victim Age at Time of Incident	Count	Share
0-15	149	9%
16-19	440	27%
20-24	670	40%
25-34	310	19%
35-49	65	4%
50 and older	3	<1%
Data Not Available	22	1%
Total	**1,659**	**100%**

Table 9: Grade or Status of Victims in Restricted Reports, FY17

Victim Grade or Status at Time of Report	Count	Share
E1-E4	1,129	68%
E5-E9	321	19%
WO1-WO5	6	<1%
O1-O3	101	6%
O4-O10	20	1%
Cadet/Midshipman/Prep	37	2%
Non-Service Member	43	3%
Data Not Available	2	<1%
Total	**1,659**	**100%**

Note: Categories may not sum to 100 percent due to rounding to the nearest whole point.

Service Referral Information

SARCs and SAPR VAs are responsible for helping victims access medical treatment, counseling, legal advice, and other support services. SARCs and SAPR VAs can refer victims to both military and civilian resources for these services. A referral for services 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 3.4 service referrals per Service member victim submitting an Unrestricted and Restricted Report. Figure 17 shows the average number of referrals per Service member victim in sexual assault reports from FY07 to FY17.

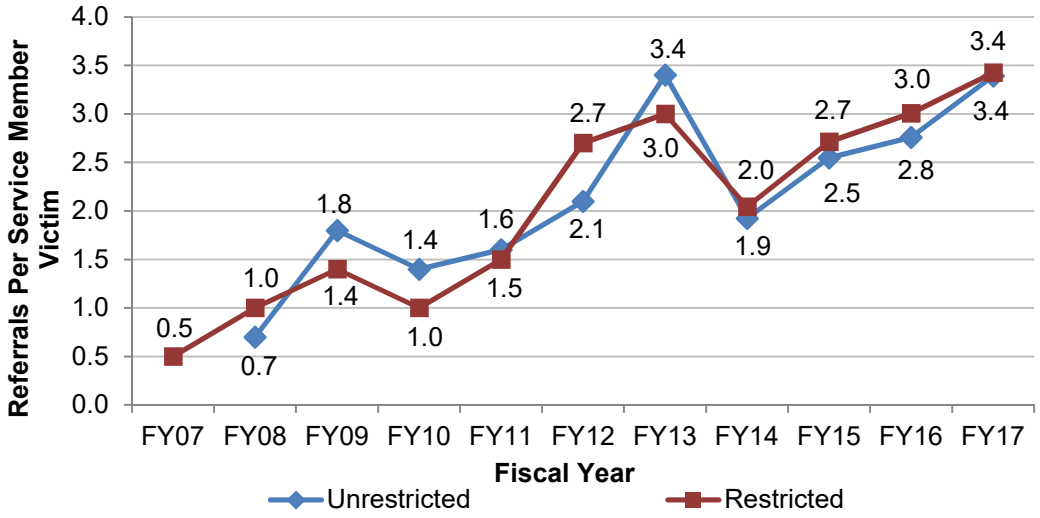
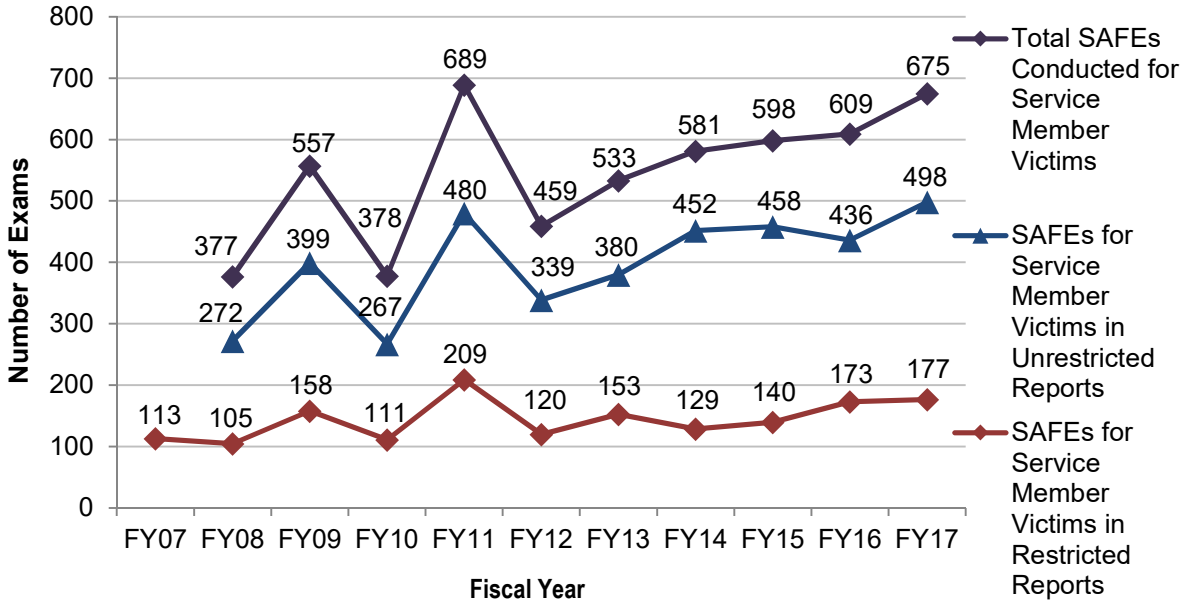


Figure 17: Average Number of Service Referrals per Service Member Victim of Sexual Assault, FY07 – FY17

Note: Referrals in Unrestricted Reports are not listed for FY07 because DoD did not direct the Services to collect these data until FY08.

The Military Services reported that there were 675 Sexual Assault Forensic Examinations (SAFEs) conducted for Service member victims during FY17. Figure 18 depicts the reported number of SAFEs conducted for military victims of sexual assault from FY07 to FY17. The decision to undergo a SAFE belongs to the victim.



Note: SAFEs for Unrestricted Reports are not listed for FY07, because DoD did not direct the Services to collect these data until FY08.

Figure 18: SAFEs Reported by the Military Services involving Service Member Victims, FY07 – FY17

Expedited Transfers

Since FY12, DoD has allowed victims who submitted an Unrestricted Report of sexual assault to request an expedited transfer from their assigned units (Table 10). This may take the form of a move to another duty location on the same installation, or it may involve relocating to a new installation entirely. Victims can request a transfer from their unit commander, who has 72 hours to act on the request. Should a unit commander decline the request, victims may appeal the decision to the first General Officer/Flag Officer (GO/FO) in their commander's chain of command. The GO/FO then has 72 hours to review the request and provide a response to the victim. Table 10 shows the number of expedited transfers and denials since FY12. Expedited transfers requested and approved have been steadily increasing since FY12.

Table 10: Expedited Transfers and Denials, FY12 – FY17

Transfer Type	FY12	FY13	FY14	FY15	FY16	FY17
Number of victims requesting a change in Unit/Duty Assignment (Cross-Installation Transfers)	57	99	44	71	62	74
Number Denied	2	3	0	2	3	5
Number of victims requesting a change in Installation (Permanent Change of Station)	161	480	615	663	684	760
Number Denied	0	11	15	12	18	30
Total Approved	**216**	**565**	**644**	**720**	**725**	**799**

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 assigned to all of these areas. SAPR personnel are diligent in providing 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.

Figure 19 depicts historical trends of Unrestricted and Restricted Reporting in CAIs from FY08 to FY17. There were 123 reports of sexual assault in CAIs in FY17, a slight decrease from FY16, which follows an overall steady decrease. This trend likely reflects the reduction in deployments to these countries, which began in FY14. It should be noted that the data below documents where a sexual assault was reported, which does not necessarily indicate where the sexual assault was alleged to have occurred.

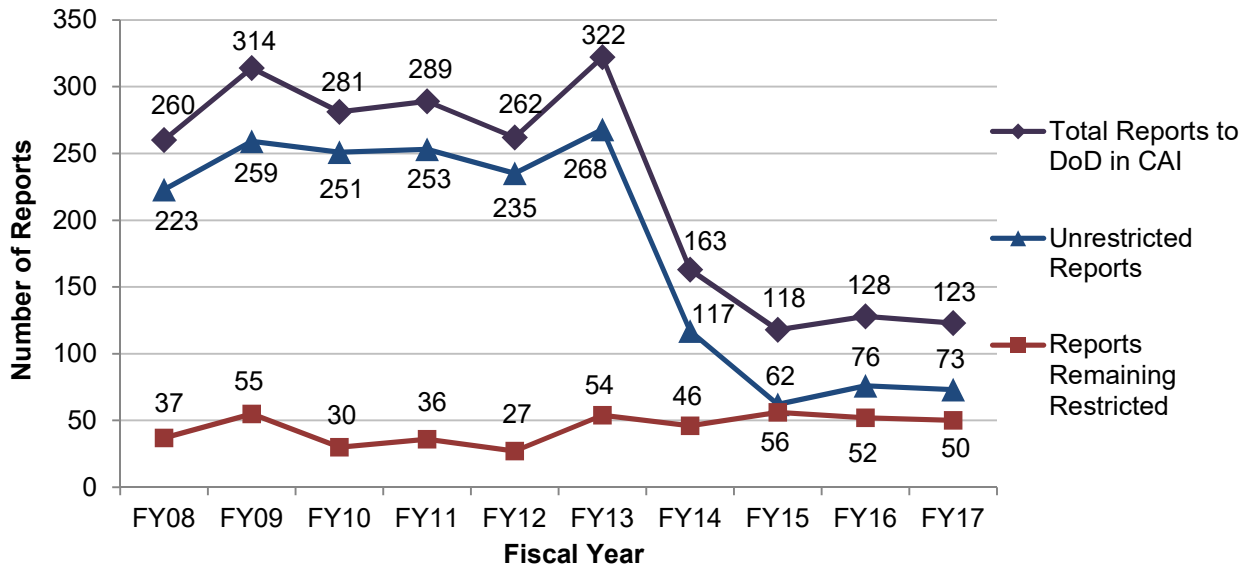


Figure 19: Reports of Sexual Assault in Combat Areas of Interest, FY08 – FY17

Figure 20 presents Unrestricted Reports in CAIs by region. There were 73 Unrestricted Reports in CAIs in FY17.

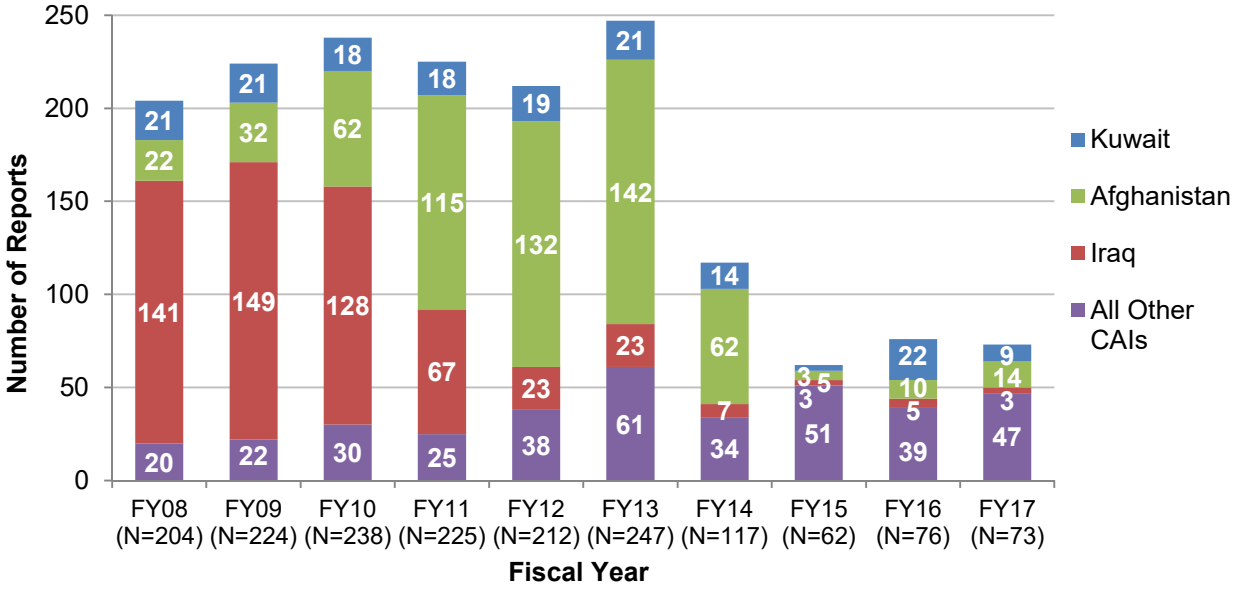


Figure 20: Unrestricted Reports in Combat Areas of Interest, FY08 – FY17

There were 50 reports remaining Restricted in CAIs, a slight decrease from the 52 reports remaining Restricted in FY16. Ten Restricted Reports converted to Unrestricted Reports during the FY. Figure 21 shows Restricted Reports by CAI since FY08. Table 11 lists the number of Unrestricted and Restricted Reports for each CAI.

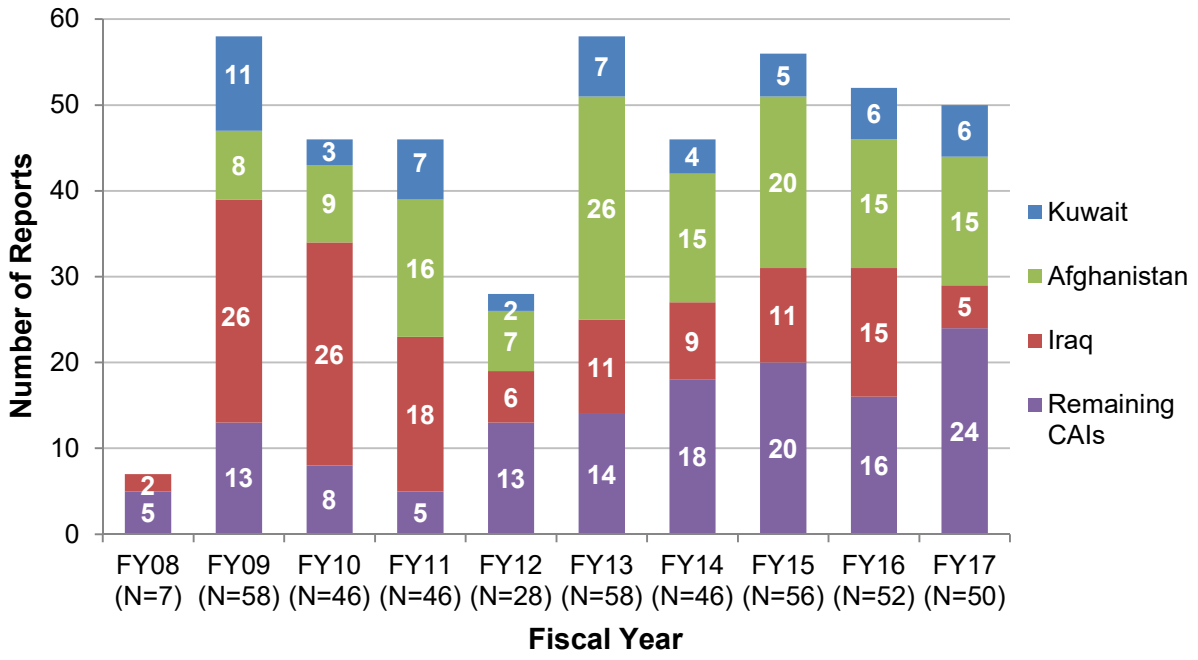


Figure 21: Restricted Reports in Combat Areas of Interest, FY08 – FY17

Combat Area of Interest	Unrestricted Reports FY 2017	Restricted Reports FY 2017
Afghanistan	14	15
Bahrain	1	5
Djibouti	10	3
Iraq	3	5
Jordan	7	2
Kuwait	10	6
Kyrgyzstan	0	1
Lebanon	0	0
Oman	1	0
Pakistan	0	0
Qatar	12	5
Saudi Arabia	1	0
Syria	0	0
Turkey[14]	11	7
UAE	3	1
Yemen	0	0
Total	73	50

Table 11: Unrestricted and Restricted Reports by Combat Area of Interest, FY17

[14] Incirlik Air Base in Turkey serves as a staging area for U.S. military operations in Syria.

Demographics of Victims and Subjects in Unrestricted Reports in CAIs

The Department draws demographic information about the Unrestricted Reports made in CAIs from the 77 investigations closed during FY17. These 77 investigations involved 82 victims and 79 subjects.

Victims in Completed Investigations

The demographics of victims in CAIs who submitted Unrestricted Reports mirror the demographics of victims in all Unrestricted Reports made to DoD, in that they are mostly female (78 percent) and of a junior enlisted grade (60 percent). However, victims in CAIs who submitted Unrestricted Reports tended to be slightly older than victims submitting Unrestricted Reports in general; 39 percent of victims in CAIs were 25 and over compared to 38 percent of victims in all Unrestricted Reports.

Subjects in Completed Investigations

The demographics of subjects in Unrestricted Reports submitted in CAIs are similar to the demographics of subjects in all Unrestricted Reports submitted to DoD, in that the majority are male (77 percent), under the age of 35 (57 percent), and in an enlisted grade (52 percent).

Demographics of Victims and Subjects in Restricted Reports in CAIs

The 50 victims with reports remaining Restricted in CAIs mirror the demographics of victims in all Restricted Reports made to DoD, in that they were mostly female (80 percent). However, victims making Restricted Reports in CAIs tended to be older; 56 percent of victims in CAIs were 25 and over compared to 23 percent of victims in all Restricted Reports. Additionally, victims in CAIs tended to be of higher rank; 34 percent of victims in CAIs were E1 to E4 compared to 68 percent of victims making Restricted Reports in general.

FY17 Retaliation Allegations

The Military Services and National Guard Bureau (NGB) provided data on allegations of retaliation received in FY17 that were associated with reports of sexual assault and/or complaints of sexual harassment. Information submitted by the Military Services and NGB varies depending on Service/NGB approach (e.g., Department of the Navy only submits data on cases with completed investigations, whereas the Army, Air Force, and NGB provide information on completed and ongoing investigations).

In FY17, the Department requested the Military Services provide two types of data:

1. Case Management Group (CMG) Retaliation Allegations: The Military Services and NGB provided data on all retaliation allegations discussed at CMG meetings in FY17, involving victims, witnesses/bystanders, and first responders associated with reports of sexual assault. Victims, witnesses/bystanders, and first responders who believe they have experienced retaliation have the option of requesting their experience be discussed at a CMG. Consequently, this data does not likely represent all experiences or allegations of retaliation.
2. Investigations of Alleged Retaliation: The Military Services and NGB provided data on all FY17 allegations of retaliation investigated and/or handled by Service/NGB or DoD Inspectors General (IG), MCIOs, Law Enforcement, and Commander-Directed Inquiries. This data pertains to allegations of retaliation associated with Unrestricted Reports of sexual assault or complaints of sexual harassment.

Each data source offers a different perspective on the retaliation allegations. The CMG data reflect the Department's proactive process to ask Service members about retaliation. CMG data also provide information on initial actions taken to refer allegations to the appropriate agency and provide support for the individual making the allegation. The data on investigations provide detail on actions taken to officially assess the allegations, gather evidence, protect the parties involved, and hold offenders appropriately accountable.

CMG Retaliation Data

DoDI 6495.02 "Sexual Assault Prevention and Response Program Procedures" requires the Military Services and NGB to review new and ongoing sexual assault cases each month within their installation CMGs. In FY14, the Secretary of Defense directed that the CMGs also discuss such allegations and ensure the appropriate entities are engaged in the responses for particular cases, at the request of the Service member who made a sexual assault report and perceived retaliation associated with doing so. This process facilitates the provision of services to those who experience retaliation, while allowing the CMG better oversight of situations where retaliation may be occurring. This year, 69 individuals requested their allegation of retaliation be discussed at the CMG. Victims of sexual assault made the vast majority of retaliation allegations (66). In addition, 1 witness/bystander and 2 first responders had their retaliation allegations discussed at the CMG.

Of the 69 retaliation allegations, 27 alleged ostracism and/or cruelty/oppression/maltreatment, 24 alleged reprisal, 4 alleged another criminal offense in relation to the report of sexual assault, and 14 alleged a combination of reprisal and other misconduct. Over three-quarters (54 allegations) of retaliation reports were made by women. Furthermore, most individuals alleging retaliation indicated that they experienced it from a single male retaliator (26 allegations) and multiple male and female retaliators (20 allegations). Most often, the alleged retaliator(s) was not the alleged perpetrator of sexual assault (60 allegations).

The table on the next page displays all the actions taken for cases discussed at CMGs. Over a quarter (27 allegations) of all allegations received multiple actions. Common actions included referring the information to command (29 allegations), referring the information to IG (20 allegations), transferring the retaliation reporter at his/her request (12 allegations), informal/verbal counseling of alleged retaliator(s) (9 allegations), and military protective order issued or civilian protective order obtained by the retaliation reporter (9 allegations). Ten allegations could not be adjudicated by DoD authorities or are pending because the victim did not want action (1), the retaliator was a civilian contractor (1), the allegation did not meet the elements of retaliation (2), or the action was pending (6).

Table 12: CMG Action Taken to Address Retaliation

CMG Action Taken to Address Retaliation	Count of Actions	Share
Information referred to IG	20	17%
Information referred to Command	29	25%
Information referred to MCIO	3	3%
Information referred to MEO	3	3%
Transfer of retaliation reporter at his/her request	12	10%
Alleged retaliator(s) moved (transfer, relocation, reassignment, deployment)	3	3%
Military protective order issued or civilian protective order obtained by reporter	9	8%
Safety plan updated for retaliation reporter	2	2%
Negative treatment of retaliation reporter put to a stop through command intervention	7	6%
Informal/verbal counseling of alleged retaliator(s)	9	8%
Briefings/trainings for alleged retaliator(s) and/or unit/installation	7	6%
New policies implemented by command in unit/installation	2	2%
Alleged retaliator(s) later held appropriately accountable following a referral of the allegation by the CMG	4	3%
Other action taken	6	5%
Total actions taken in 59 cases	**116**	**100%**

Notes: CMGs meet monthly throughout the Department of Defense to review progress on sexual assault cases in the military justice system. Starting in FY14, the Secretary of Defense directed the CMGs to discuss allegations of retaliation at the victim's request. CMGs have no ability to investigate allegations of retaliation, but must refer all allegations to appropriate authorities. The Department captures such referrals in the first four rows of this table. However, the leadership involved in the CMGs has the ability to direct a number of safety and administrative actions to address allegations of retaliation. These actions are in the remaining rows of this table. Since military leaders often take multiple steps to address retaliation allegations, the number of actions taken is greater than the total number of retaliation allegations.

Data on Investigations of Alleged Retaliation

Persons seeking to report a retaliation allegation have a variety of avenues to do so that are dependent on the type of alleged misconduct. Reprisal allegations must be reported to DoD and Service IGs. Ostracism and maltreatment allegations associated with sexual assault allegations may be investigated by an MCIO or another DoD law enforcement agency, or may be referred to unit commanders for investigation and resolution – all contingent on the circumstances and misconduct alleged.

Reports of Retaliation

The Military Services and NGB received 146 retaliation reports against 207 alleged retaliators in FY17 associated with sexual assault or sexual harassment reports. Additionally there were 51 reports, involving 57 alleged retaliators, from prior years that had a completed investigation in

FY17, for a total of 197 reports discussed in this section. Of the 197 reports, 74 percent involved female reporters and 75 percent were related to an Unrestricted Report of sexual assault, with the remainder related to formal complaints of sexual harassment (17 percent), a situation where the reporter was suspected of making a protected communication (Restricted report or other report—1 percent), or informal complaints of sexual harassment (7 percent).[15] The majority of reporters of retaliation were victims of sexual assault or complainants of sexual harassment (86 percent); the remaining reporters were witnesses/bystanders (12 percent), first responders (2 percent), or other (1 percent).[16] The following entities investigated these reports: DoD or Service IGs (68 percent), MCIOs/law enforcement (18 percent), Chain of Command (7 percent), Chain of Command and DoD IG (4 percent), and Chain of Command and MCIOs/law enforcement (1 percent). The Services documented providing notification of the outcome of the investigation for nearly all (92 percent) reporters.

Demographics and Outcomes of Alleged Retaliators

The analysis that follows focuses on the information and outcomes as provided by the services of the 264 alleged retaliators in this section (207 alleged retaliators in reports of retaliation in FY17; 57 alleged retaliators from prior years' reports with completed investigations in FY17). The results largely reflect reprisal allegation outcomes, since the majority of the information originates from DoD and Service IGs, which are tasked with investigating reprisal allegations for DoD. The alleged retaliators in this collection of data were investigated for the following categories: reprisal (65 percent), reprisal and other misconduct—i.e., ostracism, cruelty or maltreatment, or other crimes (3 percent), restriction[17] (1 percent), ostracism and/or cruelty/maltreatment (16 percent), other criminal offenses (15 percent), and other matters (1 percent).[18] The majority of alleged retaliators were men (82 percent) and only 13 percent were the alleged perpetrator of the associated sexual assault or sexual harassment report. Most frequently, alleged retaliators were in the chain of command of the reporter (73 percent), followed by peers, co-workers, friends, or family members of the reporter (9 percent), a superior not in their chain of command of the reporter (6 percent), an individual associated with the alleged perpetrator of sexual assault/sexual harassment report (3 percent), or an individual junior in grade to the reporter (in or outside the reporter's chain of command; <1 percent). An additional 8 percent of alleged retaliators were unknown or the investigation was ongoing.

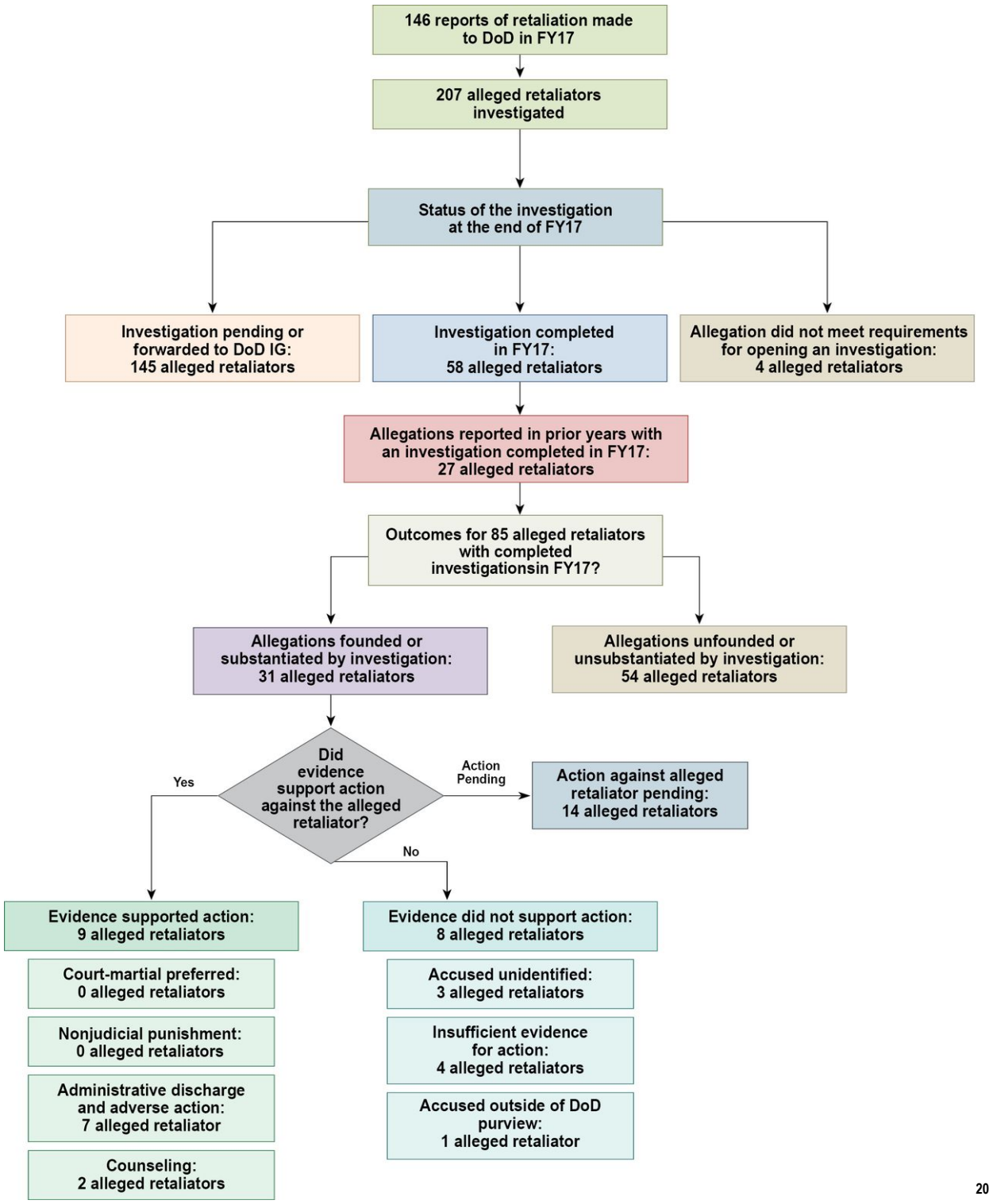
Figure 22 presents a review of the status of retaliation investigations and outcomes for the alleged retaliators in those investigations. The Military Services and NGB opened investigations against nearly all the alleged retaliators. At the time of data collection, the majority of alleged retaliators still had an investigation pending or had their case taken over by DoD IG. Results of these investigations will be reported in future FYs.

There were 58 alleged retaliators with completed investigations from FY17 reports and 27 alleged retaliators from prior year reports that had an investigation completed this FY, for a total of 85 alleged retaliators in completed investigations. Investigators substantiated or founded charges against 31 of the 85 alleged retaliators in completed investigations. DoD had sufficient evidence to take action against 9 out of 31 alleged retaliators. These actions included

[15] The associated type sexual assault report/sexual harassment complaint was unknown or missing for 2 retaliation reports.
[16] Percentages do not sum to 100 percent due to rounding.
[17] One case in this category also includes an allegation of ostracism.
[18] Percentages do not sum to 100 percent due to rounding.

administrative discharge and adverse administrative action (7) and informal/verbal counseling (2).[19] Action was not possible against 4 alleged retaliators (insufficient evidence, accused unidentified, or unspecified reason/action). 4 retaliators had the complaint against them withdrawn by the reporter. Finally, 14 alleged retaliators had action pending.

[19] The April 30, 2018 version of this report indicated there were two courts-martial actions associated with retaliation allegations. These cases were submitted by the Department of the Army on January 10, 2018. On May 1, 2018, the Army informed the Department of Defense that the courts-martial actions associated with the two cases were reported in error. Case disposition actions for these two cases were, instead, adverse administrative actions. This report was updated on May 4, 2018 to reflect this correction.



[20] The April 30, 2018 version of this report indicated there were two courts-martial actions associated with retaliation allegations. These cases were submitted by the Department of the Army on January 10, 2018. On May 1, 2018, the Army informed the Department of Defense that the courts-martial actions associated with the two cases were reported in error. Case disposition actions for these two cases were, instead, adverse administrative actions. This report was updated on May 4, 2018 to reflect this correction.

Figure 22: Reports of Retaliation Made to DoD in FY17

FY15 Data: Addendum

In every Annual Report, SAPRO presents data for the FY in which a victim reported a sexual assault; however, by the end of the FY, investigations and/or disposition decisions for the cases associated with these reports are often still pending. DSAID allows DoD to continue tracking these pending cases through to completion. SAPRO and the Services audited prior years' data to present as thorough a picture as possible of all reports received in FY15. The following analyses consist only of reports that were made in FY15 in order to provide a more complete picture of the adjudication process, including outcomes for previously pending cases.

As explained on p. 7, DSAID is a real-time data-gathering tool. Since SAPRO pulled data for this section in February 2018, numbers presented here will differ from data published in the FY15 Annual Report. For example, victims who made a Restricted Report in FY15 may have converted to an Unrestricted Report in subsequent FYs. DSAID counts these converted cases as Unrestricted Reports; thus, the total number of Unrestricted and Restricted reports in a given FY will change as victims convert their reports.

Although the majority of FY15 reports have completed investigations and disposition decisions, some cases remain pending as of the time of the data pull for these analyses. Restricted Reports that converted to Unrestricted after FY15 will have investigations that opened more recently and may still be pending. Furthermore, investigations originally opened and closed in FY15 may be re-opened if new evidence becomes available. However, relatively few cases fall into this latter category.

As of February 2018, DoD received 6,248 reports of sexual assault with a report date of FY15 (Figure 23), which comprised of 4,742 Unrestricted Reports and 1,506 Restricted Reports. Of the 4,742 Unrestricted Reports that were referred for investigation, 4,476 reports had an investigation opened.[21] Of those 4,476 reports with investigations opened, there were 4,071 unique investigations (Figure 23, Point D). At the time of the data pull, MCIOs had completed 4,027 (98.9 percent) of investigations opened for cases reported in FY15 (Figure 23, Point F). Of the completed cases, 212 were outside of DoD authority or were incidents determined not to be a sexual assault. This leaves 3,815 completed investigations resulting in 4,171 subjects with a case disposition to report.[22] Of the 4,171 subjects pending disposition from FY15 investigations, 4,011 were completed by the time of this report.

[21] Some reports may not have had an investigation opened due to the case not rising to the level of an MCIO investigation, the case being outside of UCMJ jurisdiction, or the incident occurring prior to a military service. Some investigations will include multiple victims as well.
[22] Since these data were pulled in the first quarter of FY18, a small number of cases (57) have dispositions decisions dated in FY18 and will thus be reported in the FY18 Annual Report.

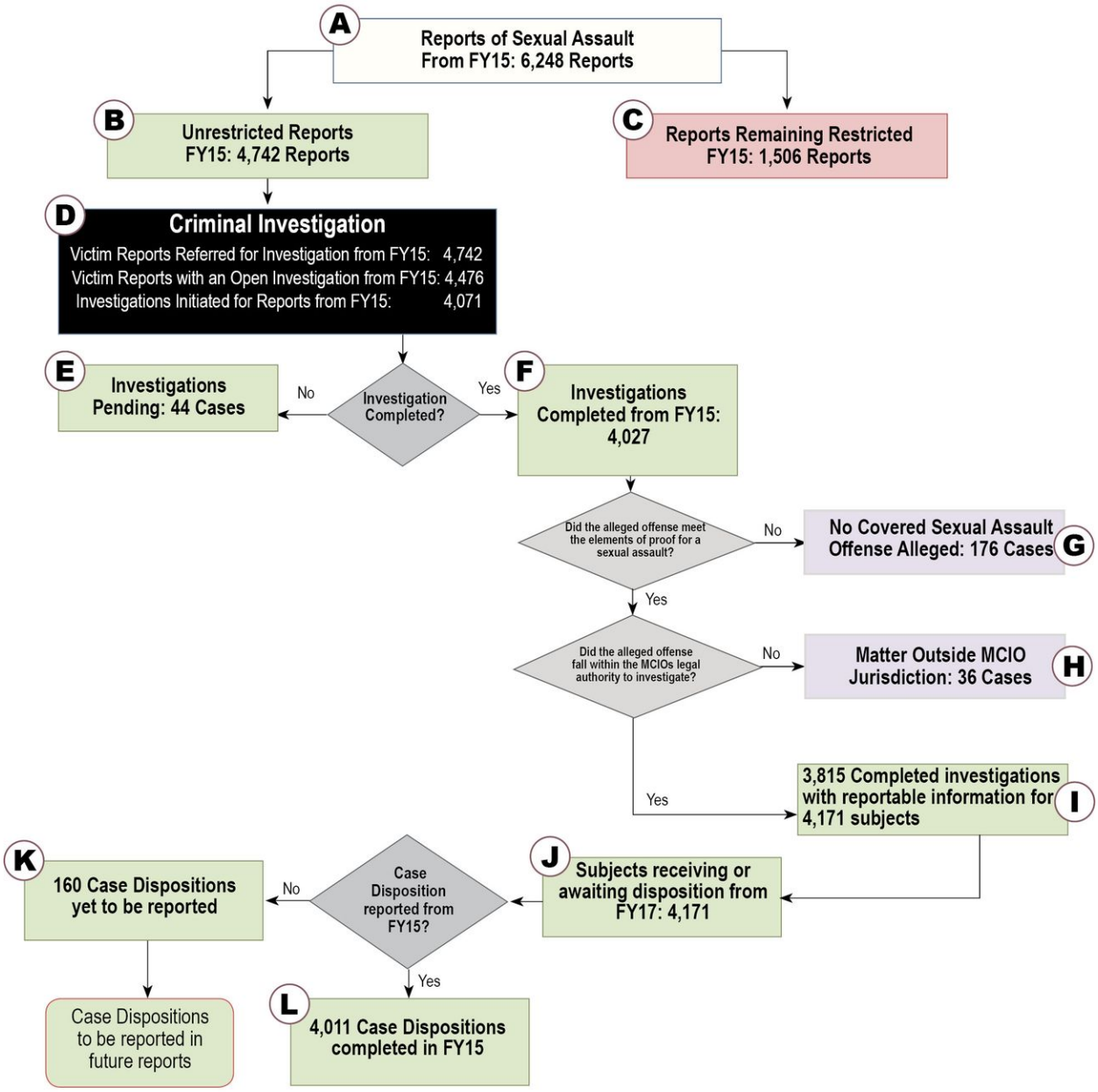


Figure 23: Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY15

The 4,011 cases from DoD investigations for which dispositions were reported included Service members, U.S. civilians, foreign nationals, and subjects that could not be identified (Figure 24). Of these, DoD could not consider action in 997 cases because:

- 917 cases were outside of DoD's legal authority (Figure 24, Points M, N, and O). Specifically, MCIOs could not identify a subject despite a criminal investigation, a subject was a civilian or foreign national not under the military's jurisdiction, or a subject had died or deserted before DoD could take disciplinary action.
- 80 cases included Service members being prosecuted by a civilian/foreign authority (Figure 24, Point P). While a Service member is always under the legal authority of DoD,

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.

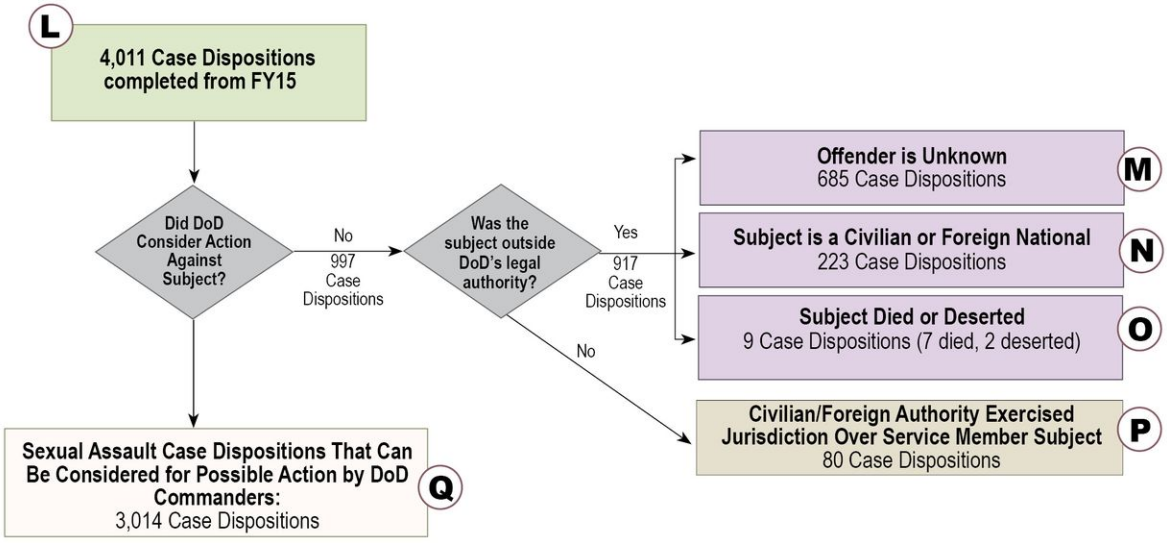


Figure 24: Cases outside DoD Legal Authority, FY15

As explained on p. 21, legal factors sometimes prevent DoD from taking disciplinary action against subjects. Commanders could not take disciplinary action in 971 (32 percent) cases due to insufficient evidence of an offense, the victim declining to participate in the military justice process, the statute of limitations expiring, or the victim dying before completion of justice action (Figure 25, Point U). After examining the evidence in each case with a military attorney, commanders declined to take action in 80 cases, because available evidence indicated the allegations in these cases were false or baseless (Figure 25, Point V).

For 1,963 cases (65 percent), 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 25, Point R). When a subject receives more than one disposition in a single case, DoD reports only the most serious disciplinary action. The possible actions, listed in descending order of severity are preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative action.

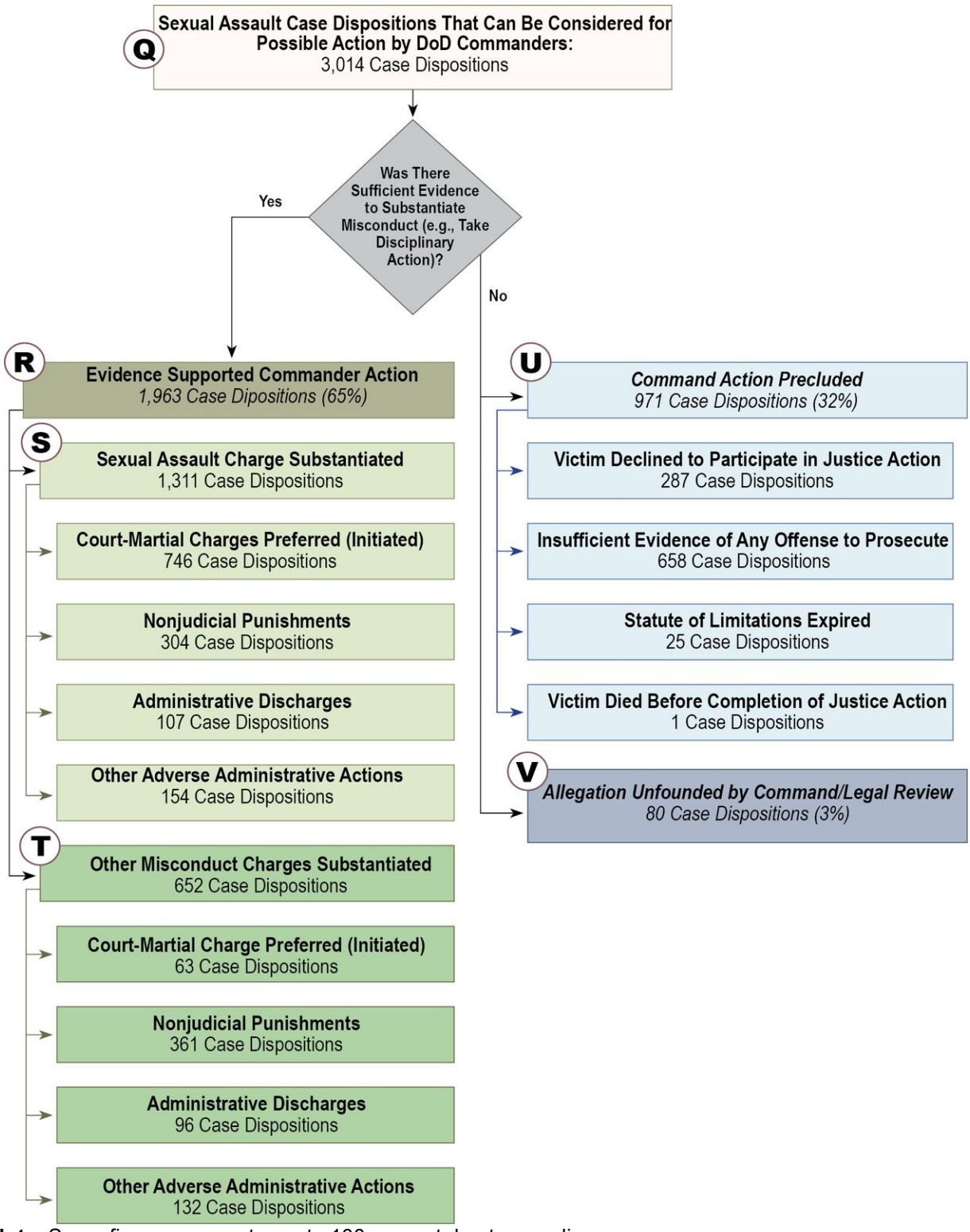
The following outlines the command actions taken for the 1,311 cases for which it was determined a sexual assault offense warranted discipline:

- 746 percent (57 percent) of cases were associated with court-martial charges preferred (initiated).
- 304 percent (23 percent) were associated with proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 261 percent (20 percent) were associated with a discharge or another adverse administrative action.[23]

[23] Percentages do not sum to 100 percent due to rounding.

For 652 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:

- 10 percent (63) of cases were associated with court-martial charges preferred.
- 55 percent (361) were associated with proceedings for nonjudicial punishment.
- 35 percent (228) were associated with some form of adverse administrative action or discharge.



Note: Some figures may not sum to 100 percent due to rounding.

Figure 25: Dispositions of Cases under DoD Legal Authority, FY15

As noted previously, 746 cases were associated with court-martial charges preferred. The dispositions and the sentences imposed by courts-martial are for those subjects with at least one sexual assault charge adjudicated at any time for a report made in FY14.

Figure 26 shows that 444 cases proceeded to trial, 70 percent of which were associated with a conviction of at least one charge at court-martial. The Services processed 54 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 121 cases were dismissed. However, commanders used evidence gathered during the sexual assault investigations to take nonjudicial punishment for other misconduct in 32 cases. The punishment may have been for any kind of misconduct for which there was evidence.

A total of 168 cases resulted in a RILO/DILO. Of those cases, 135 of 162 enlisted members who received a DILO, the enlisted member was separated UOTHC, the lowest characterization of discharge possible administratively.

Summary of Differences between this Analysis and the FY15 Annual Report

The case dispositions reported in FY15 are still valid and reliable summaries of actions taken in FY15. The Department conducted this analysis for the first time last year using FY14 data. This longitudinal analysis provides a more complete picture of adjudication outcomes for all cases reported within a single FY. The FY15 Annual Report included any report of sexual assault associated with a case disposition that closed in FY15. In other words, the FY15 Annual Report comprised of investigations that had been initiated in FY15 or FY14 *if* the case disposition had been completed in FY15. This analysis includes dispositions *only* for sexual assault reports made in FY15.

Since a significant portion of case dispositions completed and reported in the FY15 Annual Report comprised of investigations that had been initiated in FY14, the 3,014 case dispositions in this analysis represent a substantially different pool of cases than those reported in FY15. This analysis of *only* FY15 reports shows a lower percentage of cases with sufficient evidence to take command action than the figure reported in the FY15 Annual Report. This implies that evidence obtained in the FY14 cases combined with the outcomes for FY15 reports led to a greater proportion of cases receiving command action. The notable differences between the dispositions in the FY15 Annual Report and the analysis of only FY15 reports include:

- Evidence supported command action in 65 percent of cases, a statistic lower than the 72 percent reported in FY15, which comprised of FY14 and FY15 reports.
  - 25 percent of actions were for sexual assault cases preferred to court-martial; a statistic lower than the 33 percent depicted in the FY15 Annual Report.
- Command action was precluded in 32 percent of cases, a statistic higher than the 25 percent reported in FY15, with included FY14 and FY15 reports.
  - 22 percent of the cases where command action was precluded had insufficient evidence of an offense to prosecute; a statistic higher than 15 percent reported in the FY15 Annual Report.
  - 9.5 percent of the cases where command action was precluded was due to victims declining to participate in the justice action; a statistic on par with the 9.2 percent documented in the FY15 Annual Report.

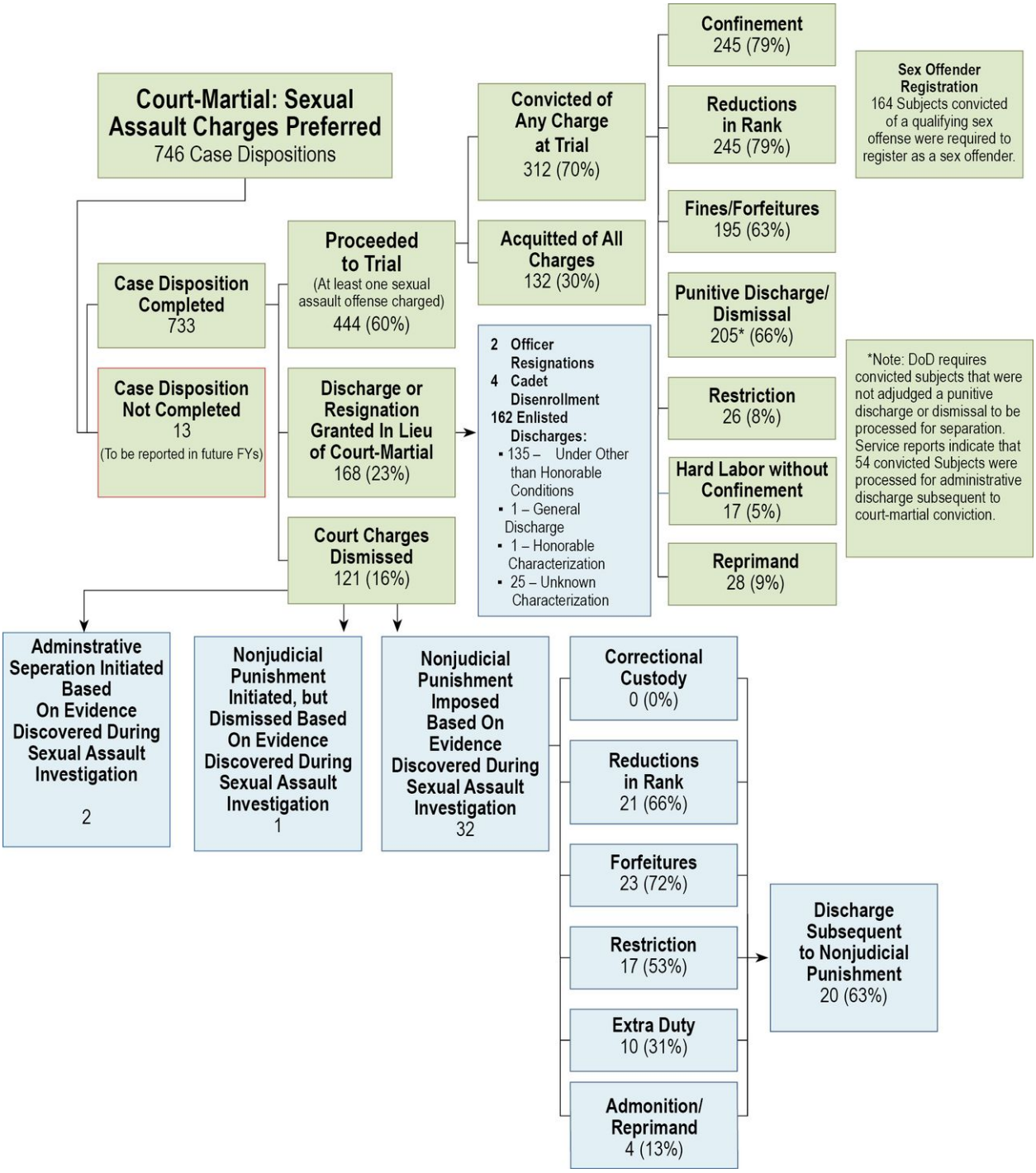


Figure 26: Court-Martial Preferred for Sexual Assault, FY15

Notes:

1. Percentages for some categories do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent, because cases can have multiple punishments.
2. The Services reported that 746 cases of sexual assault investigations were associated with court-martial charges preferrals for a sexual assault offense.

3. Of the 746 cases associated with court-martial preferrals, 444 cases resulted in trial proceedings, 168 cases resulted in a discharge or resignation in lieu of court-martial, and 121 cases resulted in court-martial charges being dismissed.
4. In cases in which a discharge in lieu of court-martial is requested and approved, the characterization of the discharge is UOTHC, unless a higher characterization is justified.
5. Of the 121 cases with dismissed charges, commanders imposed nonjudicial punishment in 32 cases. An additional 1 case had a nonjudicial punishment initiated and subsequently dismissed. Most of these 32 cases included two kinds of punishment: a reduction in rank and a forfeiture of pay.
6. Of the 444 cases that resulted in court-martial trial proceedings, 312 are associated with convictions on at least one charge. Conviction by court-martial may result in a combination of punishments. Consequently, convicted Service members could be adjudged one or more of the punishments listed. 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 (i.e., bad conduct discharge, dishonorable discharge, or dismissal).