

# Appendix B: Statistical Data on Sexual Assault



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# Appendix B: Statistical Data on Sexual Assault

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## Background

### Purpose

The Department of Defense (DoD) collects data on sexual assault to inform 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).<sup>1</sup> The allegation and/or behaviors indicated 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, as defined in Articles 120 and 125 of the UCMJ and Article 80, which governs attempts to commit these offenses.

- **Sexual assault between intimate partners.** Information on sexual assaults occurring between spouses or intimate partners is not included in the analyses detailed in this section. The DoD Family Advocacy Program provides intimate partner sexual assault data detailed in Appendix J. 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.
- **Sexual harassment complaints.** The following analyses do not include sexual harassment complaints. The Office of Diversity Management and Equal Opportunity (ODMEO) provide information about formal and informal sexual harassment complaints in Appendix H.

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<sup>1</sup> 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.<sup>2</sup>

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), which enables victims to seek care/services and maintain confidentiality. 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 a MCIO. 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*. The estimated prevalence versus reporting “gap” is described in the Prevention Section in the main body of this report.

### *Case Dispositions*

Once the investigation of an Unrestricted Report is complete, Congress requires the Military Services to provide 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 evidentiary 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-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.

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<sup>2</sup> Use of the term “victim” or “subject” does not convey any presumption about the guilt or innocence of the alleged offenders, nor does the term “incident” substantiate an occurrence of a sexual assault.

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 of an offense to prosecute or when the victim declines to participate in the justice process.

Legal authority for the Department to exercise military justice jurisdiction is limited 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 FY16, there were no such civilians tried by a court-martial for allegedly perpetrating sexual assault.

Additionally, local civilian authorities in the U.S. and its overseas host nations, hold primary responsibility for prosecuting U.S. civilians and foreign nationals alleged to have perpetrated sexual assault against Service members.<sup>3</sup> A civilian authority, such as a state, county, or municipality, may also exercise their authority to prosecute Service members when they are alleged to have committed an offense within the civilian authority's jurisdiction. 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, 2015 to September 30, 2016 as well as information that describes the status of sexual assault reports, investigations, and case dispositions as of September 30, 2016.

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.

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<sup>3</sup> 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 incident-specific information. MCIOs' databases are the system 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. 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 FY16

In FY16, the Military Services received 6,172 reports of sexual assault involving Service members as either victims or subjects (Figure 1), a 1.5 percent increase from reports made in FY15. The majority of reports were for incidents that occurred during military Service, however 556 reports were for incidents that occurred before the victim entered military Service. Of the 6,172 sexual assault reports, 5,350 were made by Service members:

- DoD initially received 1,995 Restricted Reports involving Service members as either victims or subjects.
- Of these, 414 (21 percent) Restricted Reports converted to Unrestricted Reports in FY16.<sup>4</sup>
- At the end of FY16, 1,581 reports remained Restricted, which is about a 5.5 percent increase from the number remaining Restricted in FY15. Of the 1,581 reports that remained

*Of the 6,172 victims, how many were Service members?*  
5,350 Service member victims.

*Who were the other victims?*  
778 victims were 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 44 victims.

<sup>4</sup> As noted earlier, a victim can convert his/her Restricted Report to an Unrestricted Report at any time. Subsequently, these conversions count as Unrestricted Reports.

Restricted, 356 (23 percent), involved Service member victims who made Restricted Reports for incidents that occurred before the victim entered Military Service.

- DoD received 4,591 Unrestricted Reports involving Service members as victims or subjects.<sup>5</sup> Figure 2 displays the number of Unrestricted and Restricted Reports from FY07 to FY16.
- Of the 4,591 Unrestricted Reports, 200 (4 percent) were made by Service member victims for incidents that occurred before the victim entered Military Service.

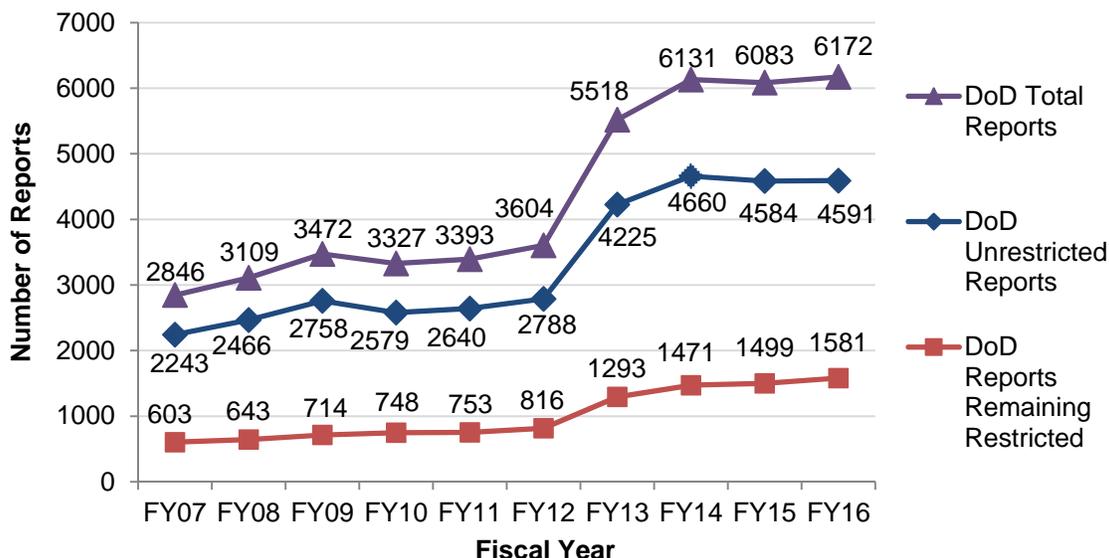


Figure 1: Reports of Sexual Assault Made to DoD, FY07 – FY16

In order to compare sexual assault reports across Services, DoD calculates a victim-reporting rate.<sup>6</sup> A reporting rate allows for the comparison of reports across groups of different sizes. Reporting rates also allow for year after year comparisons, even when the total number of people in a group has changed. In FY16, for every 1,000 Service members, 4.1 Service members made a Restricted or Unrestricted Report of sexual assault, a slight increase from FY15. Table 1 compares the reporting rate across the Services and across FYs.

<sup>5</sup> 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, 21 additional Restricted Reports converted to Unrestricted. These 21 reports are included with the 414 reports that converted from Restricted to Unrestricted that DoD counts with FY16 numbers.

<sup>6</sup> 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).

Table 1: Reporting Rate per Thousand, FY07 – FY16

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

Research shows that reporting sexual assault increases the likelihood that victims engage in medical treatment and other forms of assistance.<sup>7</sup> 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 a slight 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. 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 of the *2016 Workplace and Gender Relations Survey (WGRA)*, which indicated that past-year prevalence of sexual assault significantly decreased for both women and men, compared to FY14 estimates.

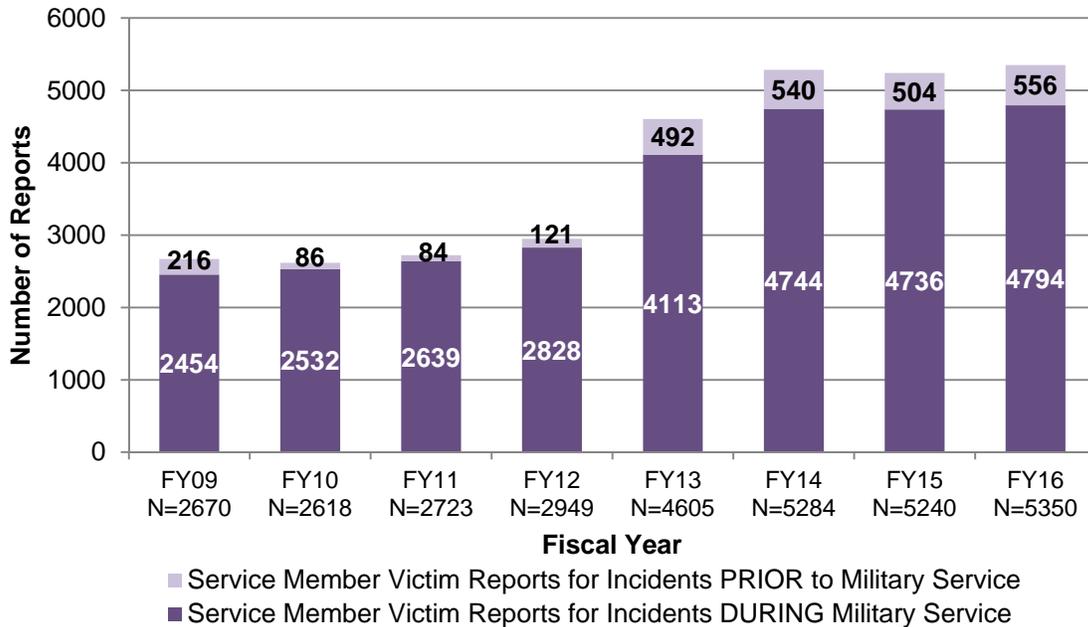
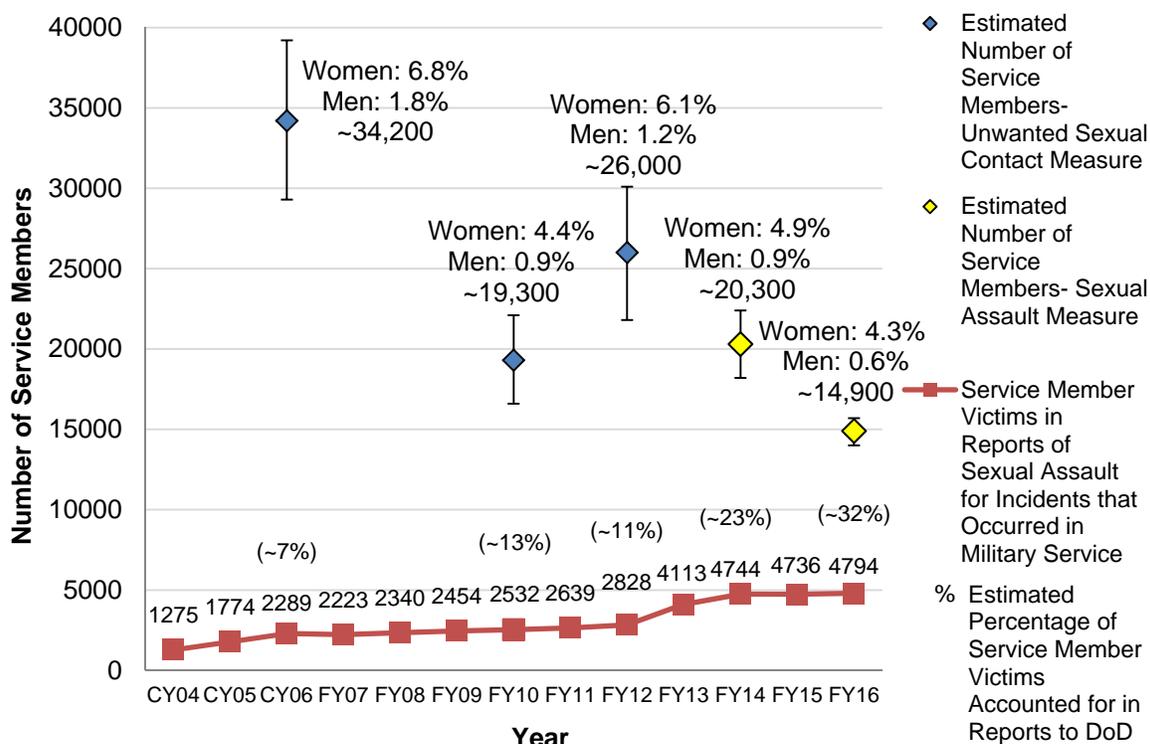


Figure 2: Service Member Victims in DoD Sexual Assault Reports for Incidents that Occurred During and Prior to Military Service, FY09 – FY16

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

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. In addition, 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. Nonetheless, analyses conducted by the RAND Corporation show that the sexual assault measure and the prior unwanted sexual contact measure create statistically similar estimates.



**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. 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.
3. 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 FY16 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.

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 – FY16

In FY16, the “gap” between 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 gap between prevalence and reporting is greater for male victims than female victims. Female Service members account for the majority of the survey-estimated victims of sexual assault (about 8,600 women and 6,300 men). Specifically, about 43 percent (3,709) of survey-estimated female victims, but only about 17 percent (1,085) of survey-estimated male victims made a report of sexual assault in FY16 for an incident occurring during military service. Nonetheless, this year the Department received the largest number of reports from men in the 12 years it has been collecting data on sexual assault.

DoD does not expect 100 percent of sexual assault victims to file a report. However, DoD expects that the difference between the number of survey-estimated victims experiencing sexual assault and the number reporting the incident can be reduced over time in two ways:

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

Although reports to DoD authorities are unlikely to account for all sexual assaults estimated to occur in a given year, DoD’s intent is to narrow the gap between prevalence and reporting. These dual metrics are top line indicators of progress in reducing the occurrence of sexual assault, reaching victims, and increasing opportunities for offender accountability, as appropriate.

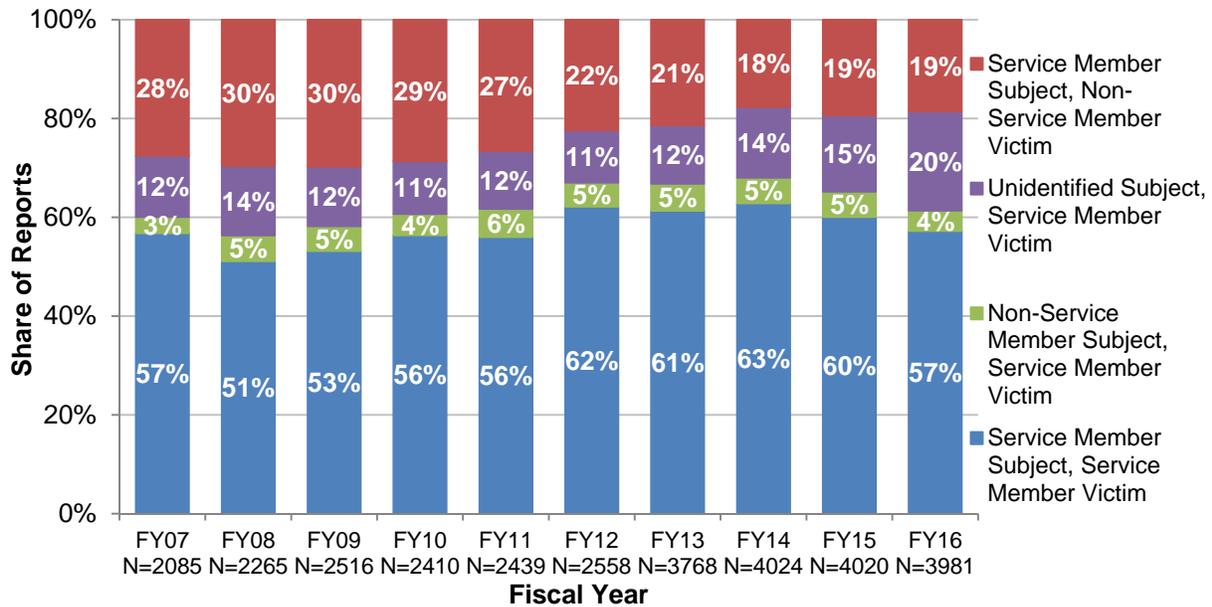
## Unrestricted Reports of Sexual Assault

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SARCs and MCIOs collect data regarding Unrestricted Reports and report it to DoD. In FY16, there were 4,591 Unrestricted Reports of sexual assault involving Service members as either the subject or victim of a sexual assault.<sup>8</sup> For a detailed breakdown of victim demographics in completed investigations, see page 31. Each year, the majority of sexual assault reports received by MCIOs involve the victimization of Service members by other Service members. In FY16, 2,278 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 FY16.

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<sup>8</sup> 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, 21 additional Restricted Reports converted to Unrestricted. These 21 reports are included with the 414 reports that converted from Restricted to Unrestricted that DoD counts with FY16 numbers.



**Notes:**

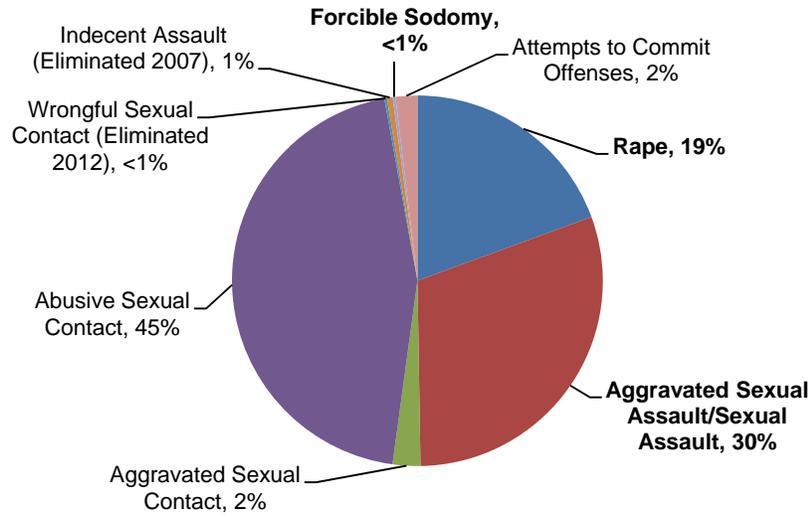
1. The chart excludes 610 reports from FY16, 564 from FY15, and 636 from FY14 due to missing data on subject or victim type.
2. Some percentages do not sum to 100 percent due to rounding.

Figure 4: Unrestricted Reports of Sexual Assault by Service Member Involvement, FY07 – FY16

**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 FY16, 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 shows the breakdown of Unrestricted Reports of sexual assault by offense originally alleged. Table 2 presents the offense originally alleged, broken down by the military status of the victim.



**Notes:**

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

Figure 5: Offenses Originally Alleged in Unrestricted Reports of Sexual Assault, FY16

Table 2: Unrestricted Reports of Sexual Assault by Offense Alleged and Military Status, FY16

Most Serious Offense Alleged in Report	Total Unrestricted Reports	Number of Reports Involving Service Members as Victims	Number of Reports Involving Non-Service Members as Victims	Relevant Data Not Available
Rape	801	607	186	8
Aggravated Sexual Assault/Sexual Assault	1,253	976	271	6
Aggravated Sexual Contact	100	89	10	1
Abusive Sexual Contact	1,858	1,599	235	24
Wrongful Sexual Contact	9	9	0	0
Indecent Assault	21	19	2	0
Forcible Sodomy	10	10	0	0
Attempts to Commit Offenses	78	65	13	0
Offense Data Not Available	461	438	22	1
<b>Total Unrestricted Reports in FY16</b>	<b>4,591</b>	<b>3,812</b>	<b>739</b>	<b>40</b>

## Investigations of Unrestricted Reports

This section closely follows the flow chart shown in Figure 6. In FY16, MCIOs initiated 3,994 sexual assault investigations. 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 FY16 was 4.3 months. Consequently, sexual assault investigations initiated at the end of the FY, and the time to reach case disposition, can span multiple reporting periods.

Of the 4,044 sexual assault investigations MCIOs completed during FY16, 2,583 of those sexual assault investigations were opened in FY16, and 1,461 investigations were opened in years prior to FY16. Of the 4,044 investigations completed in FY16, 174 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 23 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 4,359 subjects. In future reports, DoD will document the outcomes of 1,698 ongoing sexual assault investigations that MCIOs opened in FY16 or prior to FY16, but did not complete by September 30, 2016 (Figure 6).

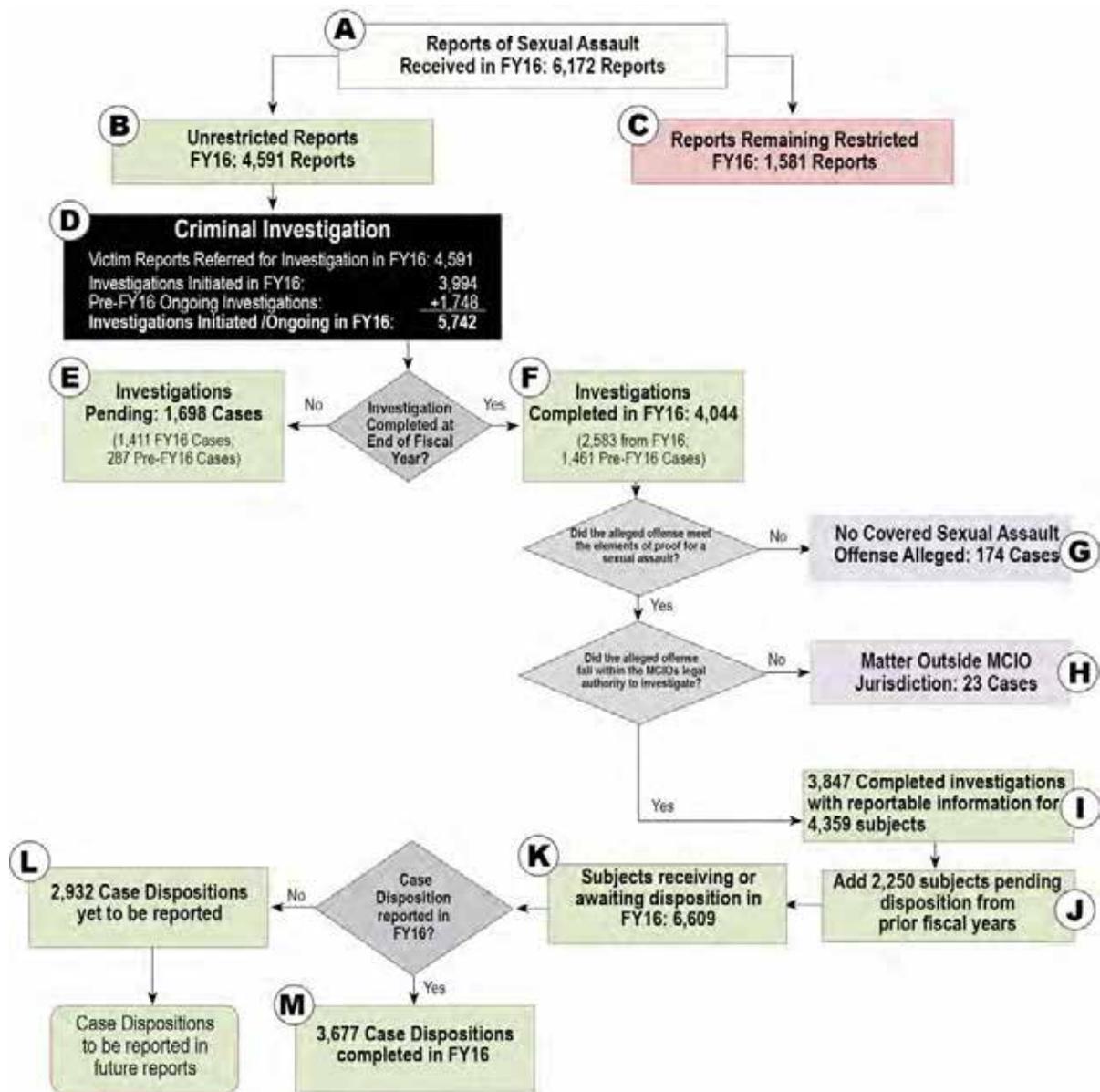


Figure 6: Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY16

**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 FY16 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 FY16 did not begin until FY17, 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, 21 additional Restricted Reports converted to Unrestricted. These 21 reports are included with the 414 reports that converted from Restricted to Unrestricted that DoD counts with FY16 numbers.

## 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.

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 investigation, 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, 48 subjects received multiple dispositions. These 48 subjects received a total 104 dispositions, which account for 2 percent of all dispositions reported in FY16. The following data describe the case dispositions of each investigation reported to the Department in FY16.

*Can DoD take action against everyone it investigates?*

No. In FY16, DoD could not take action in 785 cases, because they were outside DoD's legal authority or a civilian/foreign authority exercised jurisdiction over a Service member subject.

At the end of FY16, there were 3,677 case dispositions with information to report. Of the subjects accounted for in these case dispositions, 26 had a prior investigation for sexual assault. The 3,677 case dispositions from DoD investigations in FY16 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, 2,932 case dispositions were not yet determined at the end of FY16. DoD will report these in forthcoming years' reports (Figure 6, Point L).

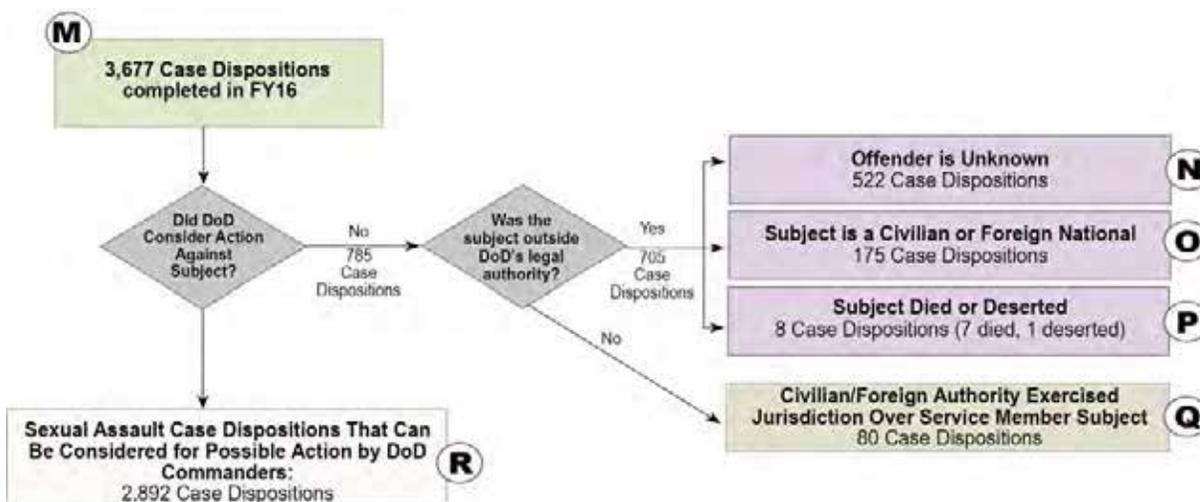
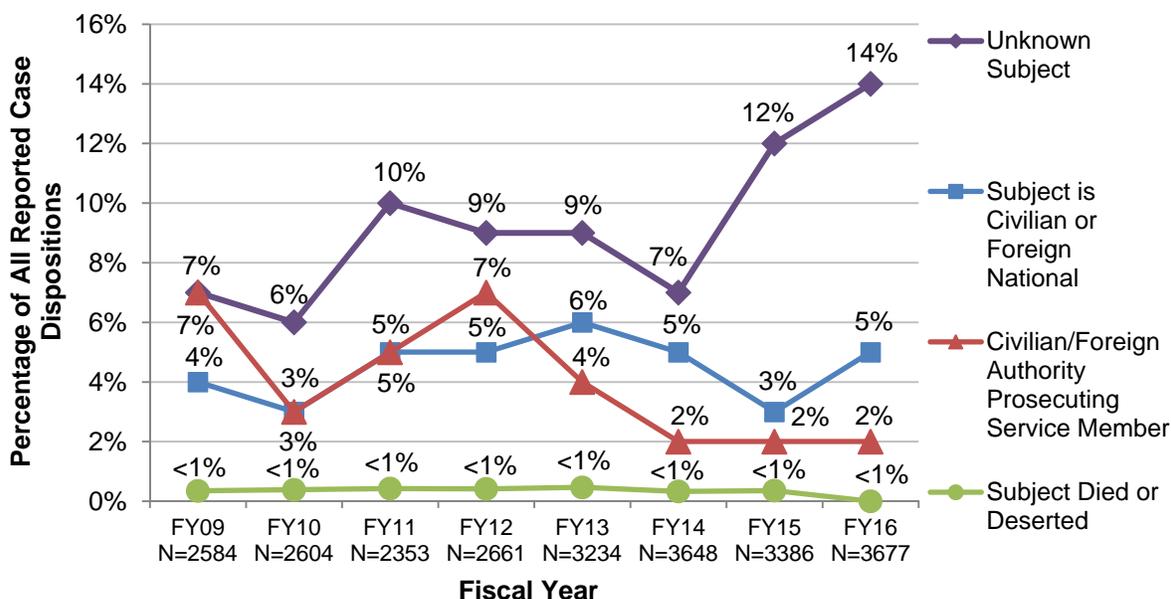


Figure 7: Cases outside DoD Legal Authority, FY16

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 several hundred subjects in its sexual assault reports/investigations. In FY16, DoD could not consider taking action in 785 cases because:

- 705 cases were outside of DoD’s legal authority (Figure 7, Points N, O, and 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.
- 80 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 FY16, between 12 percent and 21 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. Over the past two fiscal years, SAPRO and the Services conducted a comprehensive review of legal data in DSAID. As part of this process, the Services’ legal officers closed pending cases that involved unknown subjects. This partially accounts for the increase in unknown subjects seen in FY15 and FY16.



**Notes:**

1. In FY16, 785 (21 percent) of the 3,677 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 – FY16

## Military Subjects Considered for Disciplinary Action

In FY16, 2,892 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 2,892 cases, 217 involved alleged assaults against multiple victims.

Table 3: Case Dispositions, FY16

Case Disposition Category	Case Dispositions Reported in FY16
Sexual Assault Investigations Considered for Possible Command Action	2,892
<b>Evidence Supported Commander Action</b>	<b>1,865</b>
<u>Sexual Assault Charge Substantiated</u>	1,331
<i>Court-Martial Charge Preferred (Initiated)</i>	791
<i>Nonjudicial Punishments (Article 15, UCMJ)</i>	272
<i>Administrative Discharges</i>	113
<i>Other Adverse Administrative Actions</i>	155
<u>Other Misconduct Charge Substantiated</u>	534
<i>Court-Martial Charge Preferred (Initiated)</i>	67
<i>Nonjudicial Punishments (Article 15, UCMJ)</i>	284
<i>Administrative Discharges</i>	89
<i>Other Adverse Administrative Actions</i>	94
<b>Unfounded by Command/Legal Review</b>	<b>72</b>
<b>Command Action Precluded</b>	<b>955</b>
<i>Victim Died before Completion of Justice Action</i>	0
<i>Victim Declined to Participate in Justice Action</i>	252
<i>Insufficient Evidence of Any Offense to Prosecute</i>	670
<i>Statute of Limitations Expired</i>	33

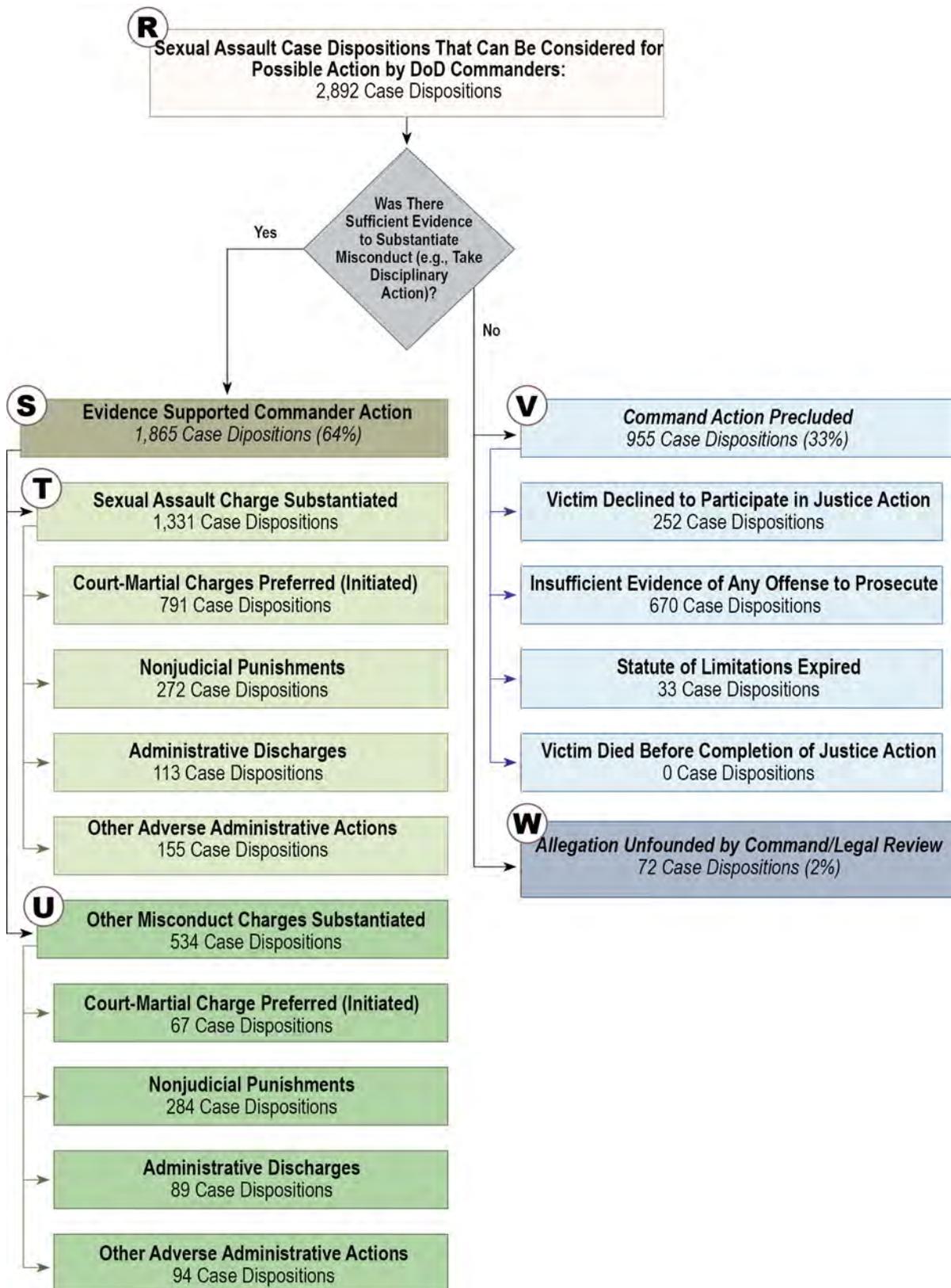


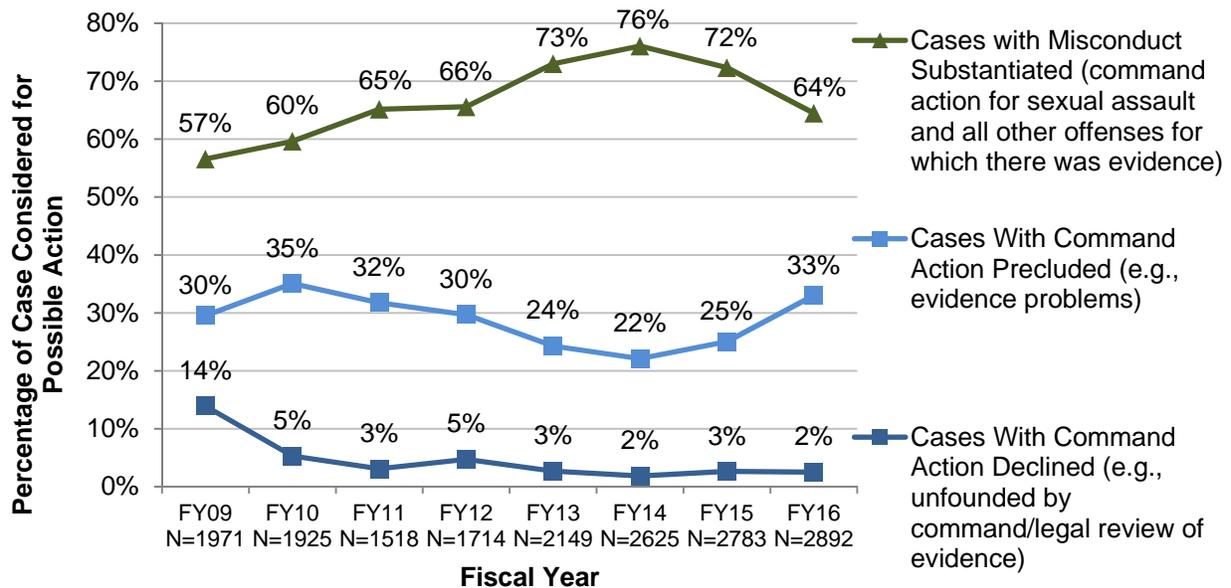
Figure 9: Dispositions of Cases under DoD Legal Authority, FY16

### 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 955 cases due to insufficient evidence of an offense to prosecute, 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: (1) when evidence discovered demonstrates that the accused person did not commit the offense, and (2) when evidence refutes the occurrence of a crime. After examining the evidence in each case with a military attorney, commanders declined to take action in 72 cases, because available evidence indicated the allegations against these subjects were false or baseless (unfounded; Figure 9, Point W).<sup>9</sup>

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). Over the past two FYs, SAPRO and the Services conducted a comprehensive review of legal data in DSAID and standardized the way in which they categorized and reported cases. As part of this process, the Services' legal officers closed a greater number of cases where command action was precluded. This partially accounts for the increase in cases with command action precluded in FY15 and FY16.



**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 – FY16

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

### *Evidence Supported Command Action*

In 1,865 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 1,331 cases for which it was determined a sexual assault offense warranted discipline:

- 59 percent (791) of cases were associated with court-martial charges preferred (initiated).
- 20 percent (272) of cases entered into proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 20 percent (268) of cases received a discharge or another adverse administrative action.<sup>10</sup>

In 534 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:

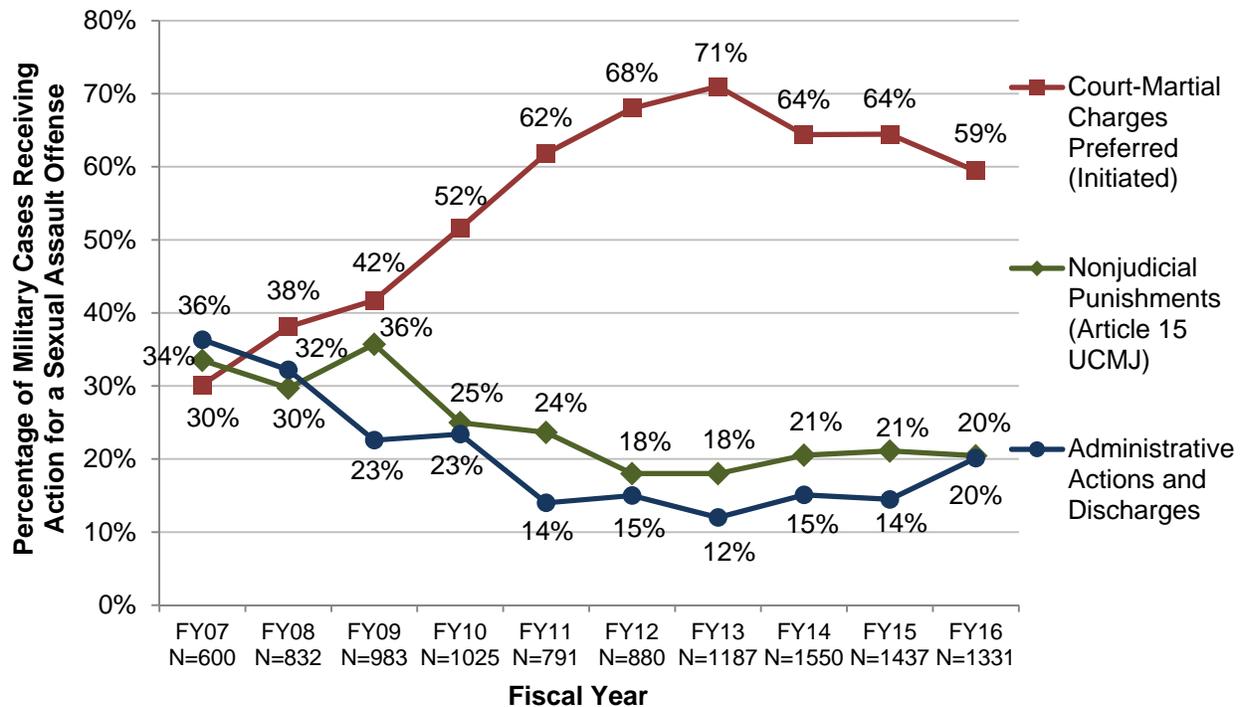
- 13 percent (67 cases) of cases were associated with court-martial charges preferred.
- 53 percent (284 cases) of cases entered into proceedings for nonjudicial punishment.
- 34 percent (183 cases) of cases received some form of adverse administrative action or discharge.

### **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). This allows more senior, experienced officers to review and decide what initial action should be taken in these cases.

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<sup>10</sup> Percentages do not sum to 100 percent due to rounding.



**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.

Figure 11: Breakdown of Disciplinary Actions Taken for Sexual Assault Offenses, FY07 – FY16

*Court-Martial for a Sexual Assault Offense*

As noted previously, 791 cases involved court-martial charges preferred. Figure 12 illustrates what happened to these cases after their commanders preferred court-martial charges. Of the 791 cases with a referral of court-martial charges for at least one sexual assault charge in FY16, the Services completed 619 court-martial outcomes by the end of the FY.

389 cases proceeded to trial, 67 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. DoD policy directs 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 34 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 97 cases were dismissed. However, commanders used evidence gathered during the sexual assault investigations to take nonjudicial punishment for other misconduct in 27 of the 97 cases. The punishment may have been for any kind of misconduct for which there was evidence. The subjects who received nonjudicial punishment after a court-martial charges were dismissed for other misconduct were adjudged five categories of punishment: reductions in rank, forfeitures of pay, restriction, extra duty, and admonition/reprimand.

133 cases resulted in a resignation or discharge in lieu of court-martial. In FY16, 119 of 127 cases for enlisted members who had a discharge in lieu of court-martial (DILO) resulted in separation Under Other Than Honorable Conditions (UOTHC), the most serious administrative characterization of discharge possible (8 cases resulted in a General discharge). The UOTHC discharge characterization is recorded on a Service member is 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 resignation or discharges in lieu of court-martial 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 resignation or a discharge in lieu of court-martial must include:

- A statement of understanding of the offense(s) charged and the consequences of administrative separation;
- An acknowledgement that any separation could possibly have a negative characterization;
- 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 outcomes of cases 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).

*What percentage of cases associated with a charge and trial for sexual assault offenses received a conviction in FY16 and what punishment did they receive?*

67% 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.

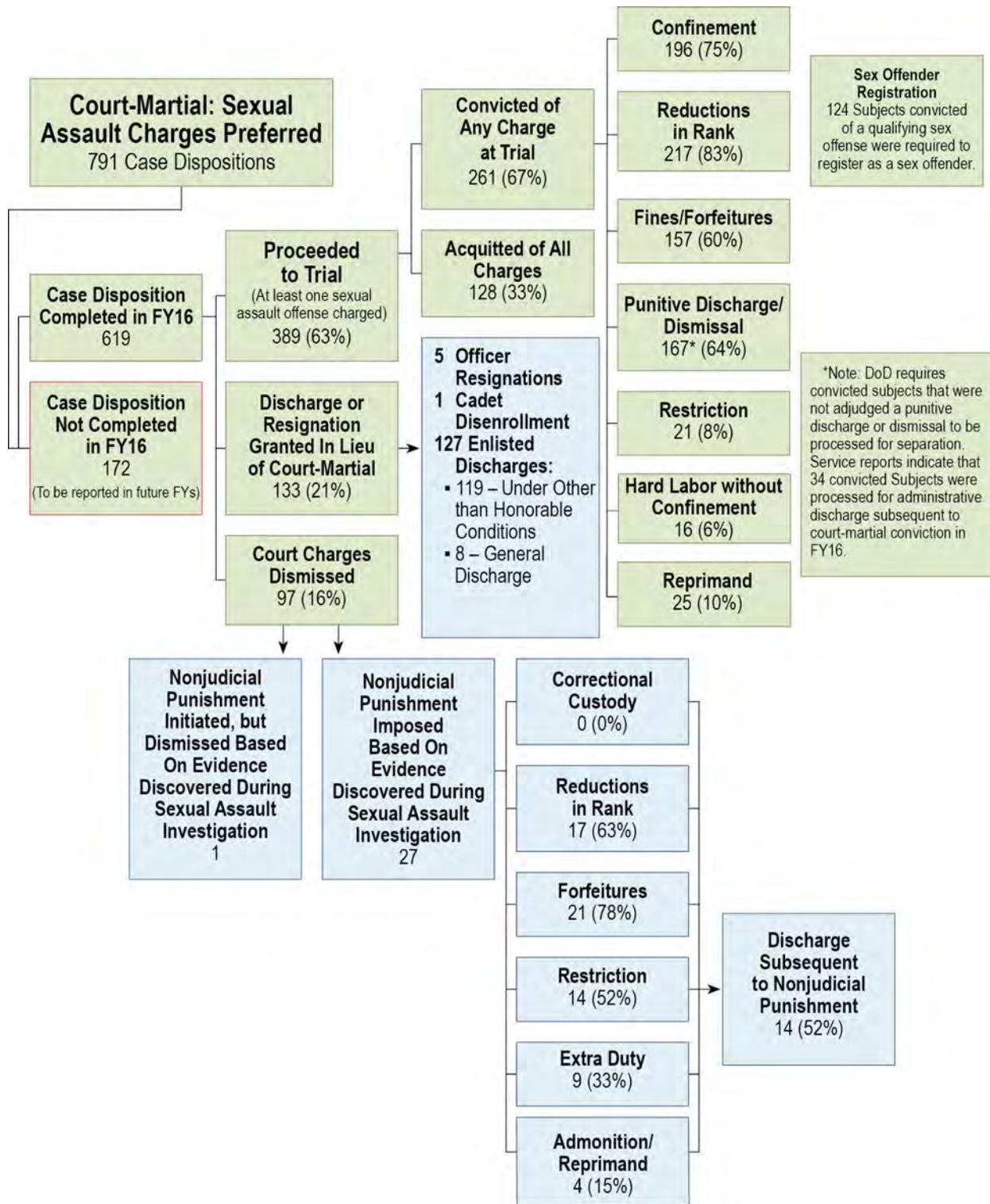


Figure 12: Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred, FY16

**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. The Services reported 791 court-martial charge preferrals with charges for a sexual assault offense.
3. Of the 791 court-martial charges preferred, 172 cases were still pending court action at the end of FY16.
4. Of the 619 completed case dispositions, 389 proceeded to trial, 133 involved a discharge or resignation in lieu of court-martial, and 97 had court-martial charges dismissed.
5. 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.
6. Of the 97 cases with dismissed charges, commanders imposed nonjudicial punishment in 27 cases. An additional case had a nonjudicial punishment initiated and subsequently dismissed. Most of these 27 cases received three kinds of punishment: a reduction in rank, a forfeiture of pay, and restriction.
7. Of the 389 cases that proceeded to trial, 261 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.

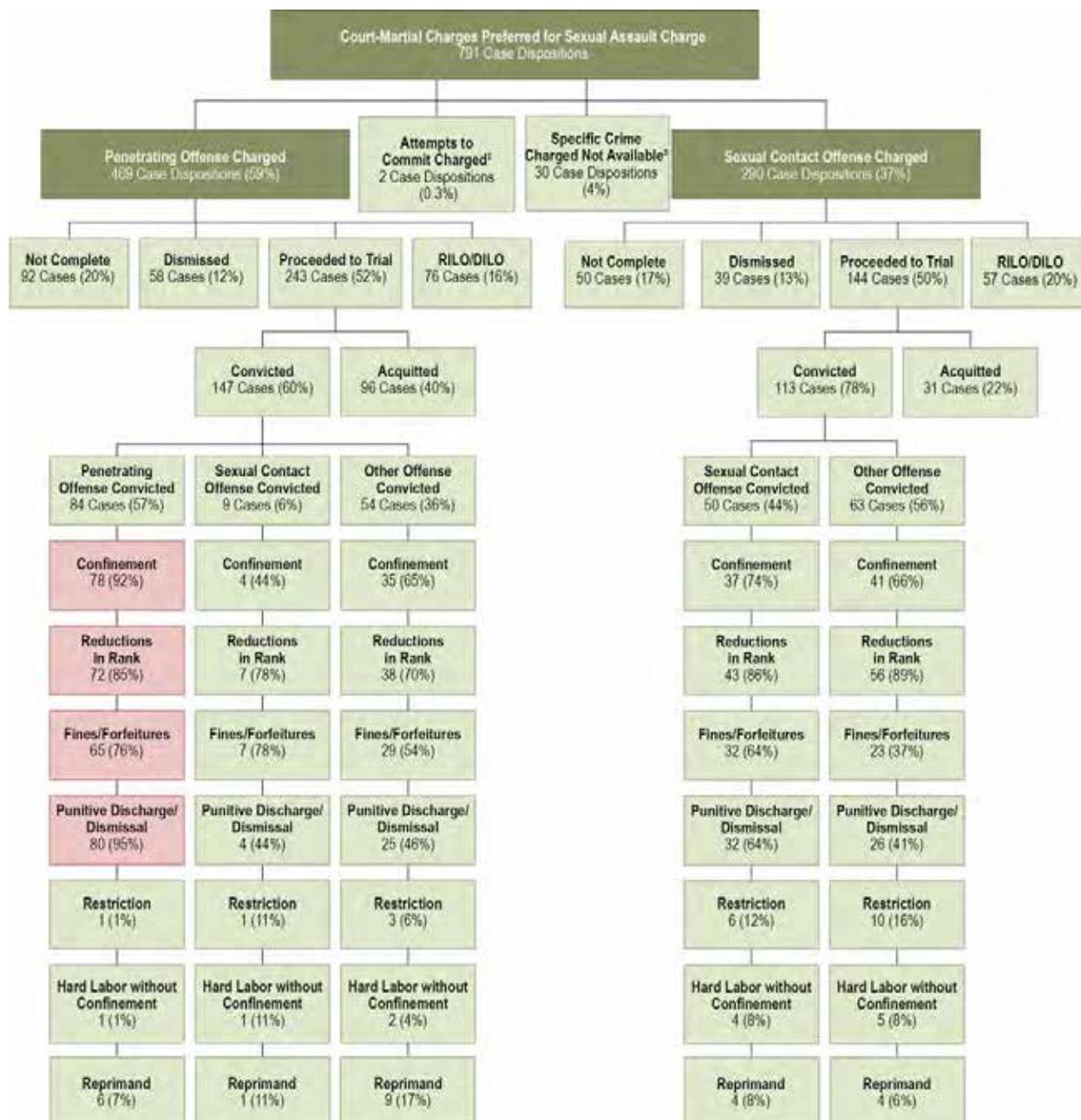


Figure 13: Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred by Crime Charged, FY16

**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: one case was dismissed and one case led to a conviction.
3. Court-martial charges were preferred for 30 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 that had disciplinary action for a sexual assault crime received nonjudicial punishment in FY16 as the most serious disciplinary action. Most cases (59%) 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 a minor offense under the UCMJ. Nonjudicial punishment allows commanders to address some types of sexual assault and other misconduct by Service members that may not warrant prosecution in a military or civilian court. 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 1,331 cases dispositions that were associated with disciplinary actions on a sexual assault offense, 272 cases were also associated with nonjudicial punishments. Figure 14 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in

FY16. In FY16, 83 percent of the 239 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 80 cases the nonjudicial punishment served as grounds for a subsequent administrative discharge. Characterizations of these discharges were as follows:

Honorable	3 Cases
General	44 Cases
Under Other Than Honorable Conditions	23 Cases
Uncharacterized	10 Cases
<b>Total</b>	<b>80 Cases</b>

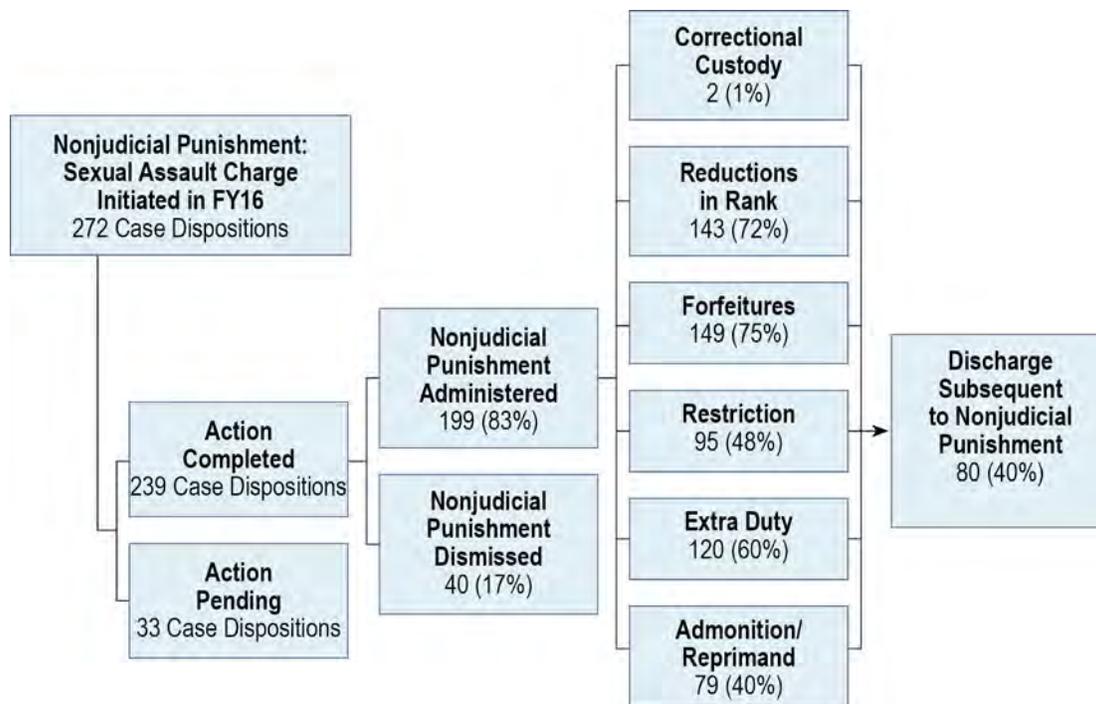


Figure 14: Dispositions of Cases Receiving Nonjudicial Punishment, FY16

**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 FY16, 113 cases in sexual assault investigations were associated with an administrative discharge. Characterizations of the discharges are outlined below.

Honorable	2 Cases
General	35 Cases
Under Other Than Honorable Conditions	37 Cases
Uncharacterized	8 Cases
Pending	31 Cases
<b>Total</b>	<b>113 Cases</b>

In FY16, commanders took adverse administrative actions in 155 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 FY16, commanders took action in 534 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).

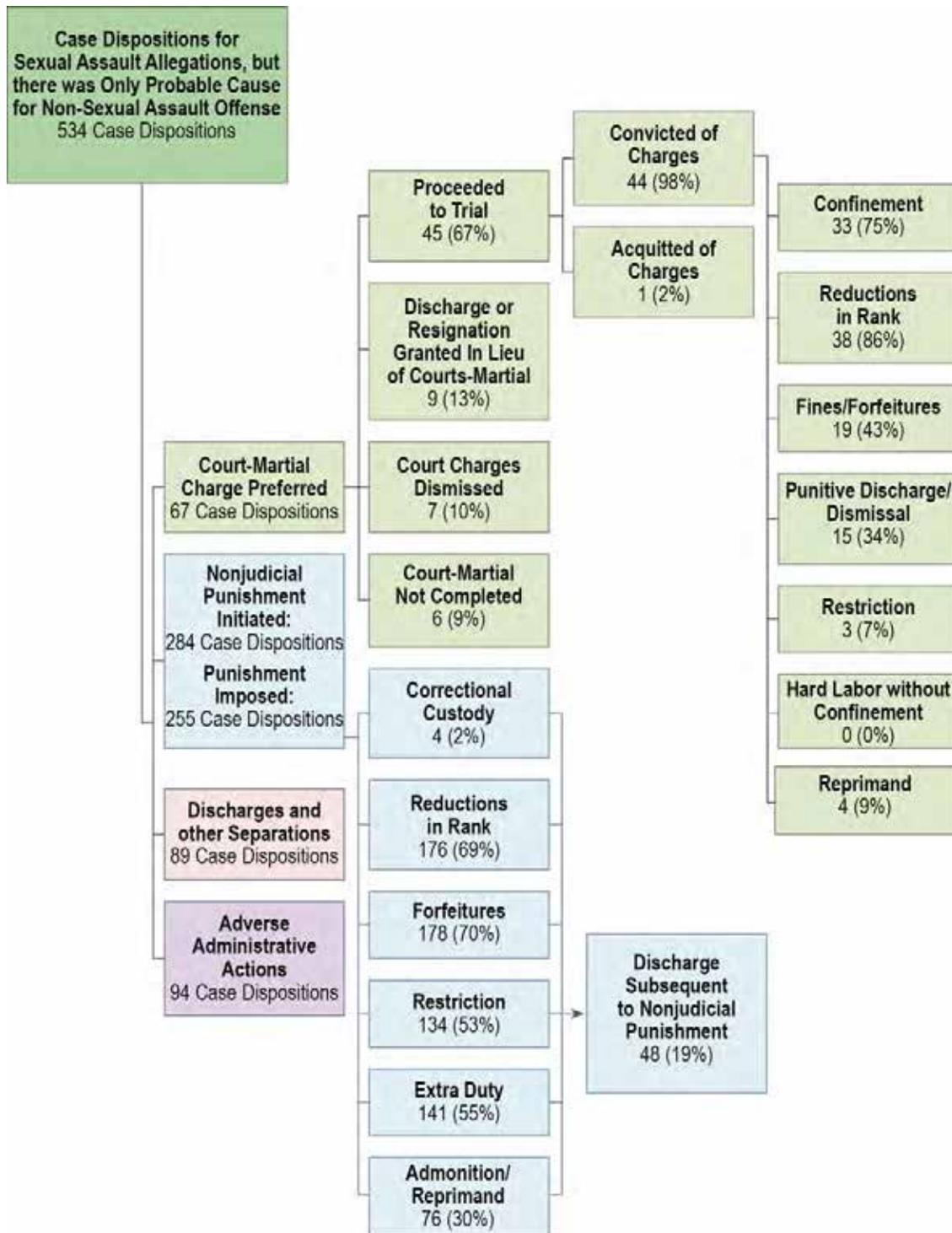


Figure 15: Cases for which There was Only Probable Cause for Non-Sexual Assault Offenses, FY16

**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 534 cases only revealed evidence of misconduct not considered a sexual assault offense under the UCMJ.

3. Of the 534 cases, 67 cases had court-martial charges preferred, 284 cases were entered into nonjudicial punishment proceedings, 89 cases involved a discharge or separation, and 94 cases involved an adverse administrative action.
4. Of the 67 cases associated with court-martial charges preferred, court martials proceeded for 45 cases and convictions were associated with 44 cases.
5. Of the 284 cases considered for nonjudicial punishment, 15 cases were still pending completion and in 255 cases, commanders took appropriate action.

### Demographics of Victims and Subjects in Completed Investigations

The Department draws demographic information from the 4,044 investigations of sexual assault completed in FY16. These investigations involved 4,409 victims and 4,384 subjects or individuals alleged to be perpetrators in an investigation.<sup>11</sup> Table 4 displays the gender of victims and subjects in completed investigations of Unrestricted Reports in FY16. 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, FY16

Gender	Victims		Subjects	
Male	824	19%	3,413	78%
Female	3,558	81%	172	4%
Gender Unknown/Data Not Available	27	1%	799	18%
<b>Total</b>	<b>4,409</b>	<b>100%</b>	<b>4,384</b>	<b>100%</b>

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, 28 foreign national subjects, from investigations completed in FY16, allegedly committed sexual assault against Service members.

Table 5: Age of Victims and Subjects in Completed Investigations of Unrestricted Reports, FY16

Age at Time of Incident	Victims		Subjects	
0-15	45	1%	170	4%
16-19	1,028	23%	303	7%
20-24	1,858	42%	1,391	32%
25-34	842	19%	1,146	26%
35-49	193	4%	455	10%
50 and older	38	1%	123	3%
Age Unknown/Data Not Available	405	9%	796	18%
<b>Total</b>	<b>4,409</b>	<b>100%</b>	<b>4,384</b>	<b>100%</b>

<sup>11</sup> There were only 4,359 subjects with reportable information (i.e., offense met the elements of proof for sexual assault and fell within MCIOs legal authority). However, 25 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, FY16

Grade or Status at Time of Report	Victims		Subjects	
	Count	Percentage	Count	Percentage
E1-E4	2,780	63%	1,792	41%
E5-E9	555	13%	1,137	26%
WO1-WO5	8	<1%	21	<1%
O1-O3	121	3%	132	3%
O4-O10	39	1%	62	1%
Cadet/Midshipman/Prep School Student	48	1%	31	1%
U.S. Civilian	777	18%	149	3%
Foreign National/Foreign Military	47	1%	28	1%
Grade or Status Unknown/Data Not Available	34	1%	1,034	24%
<b>Total</b>	<b>4,409</b>	<b>100%</b>	<b>4,386</b>	<b>100%</b>

**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 FY16, there were 1,995 initial Restricted Reports of sexual assault. Of the 1,995 reports, 414 (21 percent) converted to Unrestricted Reports.<sup>12</sup> At the close of FY16, 1,581 reports remained Restricted (Figure 16).<sup>13</sup>

This year, 356 Service members made a Restricted Report for an incident that occurred prior to entering Military Service, representing approximately 23 percent of the 1,581 remaining Restricted Reports of sexual assault. Of these 356 Service members:

- 234 indicated that the incident occurred prior to age 18
- 106 indicated that the incident occurred after age 18
- 16 declined to specify

Prior to FY14, the percentage of victims who converted their Restricted Reports to Unrestricted Reports remained relatively stable with an average of 15 percent. In FY14, the conversion rate

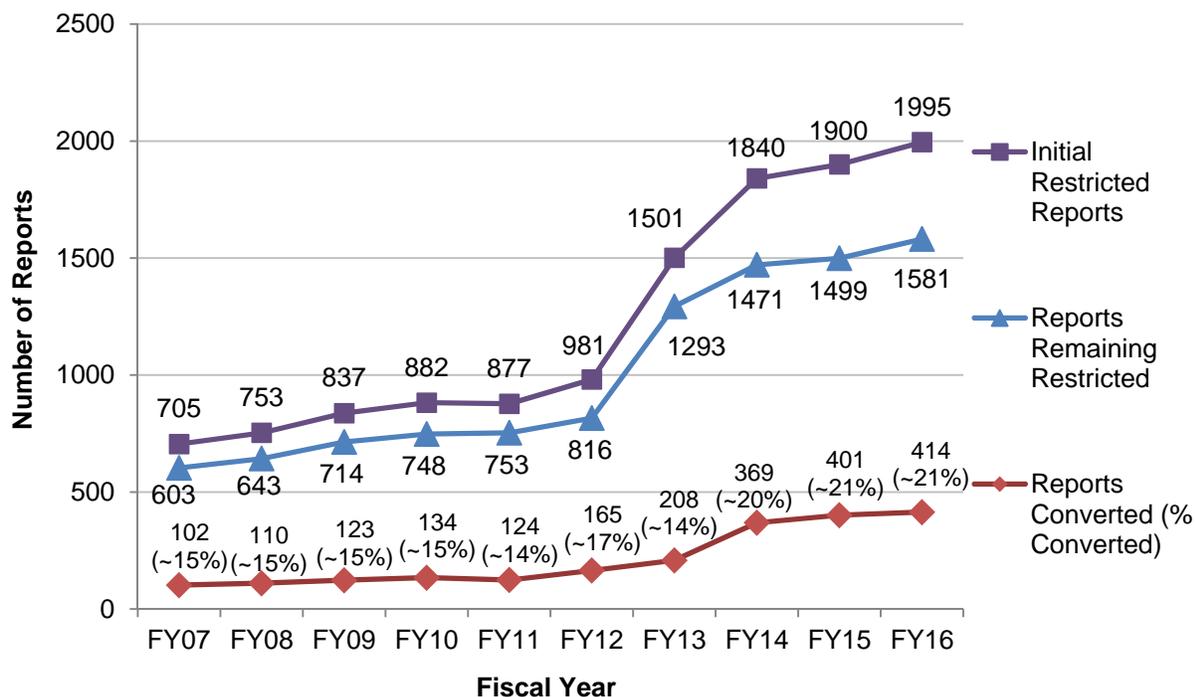
*How many Restricted Reports convert to Unrestricted Reports each FY?*

In FY16 21% of victims converted to an Unrestricted Report from a Restricted Report, which is consistent with the 21% that converted in FY15 and the 20% that converted in FY14.

<sup>12</sup> 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, 21 additional Restricted Reports converted to Unrestricted. These 21 reports are included with the 414 reports that converted from Restricted to Unrestricted that DoD counts with FY16 numbers.

<sup>13</sup> The 414 Restricted reports that converted to Unrestricted Reports are included in the total 4,591 Unrestricted Reports cited in the above section.

increased to 20 percent and it has stayed at 21 percent from FY15 to FY16. Figure 16 shows the Restricted Reports and conversion rates for the past FYs.



**Notes:**

1. The parentheses include the percentage of cases that converted during that time from a Restricted Report to an Unrestricted Report.
2. 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, 21 additional Restricted Reports converted to Unrestricted. These 21 reports are included with the 414 reports that converted from Restricted to Unrestricted that DoD counts with FY16 numbers.

Figure 16: Restricted Reports Received and Converted, FY07 – FY16

### 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, FY16

Victim Gender	Count	Share
Male	312	20%
Female	1,266	80%
Data Not Available	3	<1%
<b>Total</b>	<b>1,581</b>	<b>100%</b>

Table 8: Age of Victims in Restricted Reports, FY16

Victim Age at Time of Incident	Count	Share
0-15	182	12%
16-19	359	23%
20-24	616	39%
25-34	307	19%
35-49	68	4%
50 and older	4	<1%
Data Not Available	45	3%
<b>Total</b>	<b>1,581</b>	<b>100%</b>

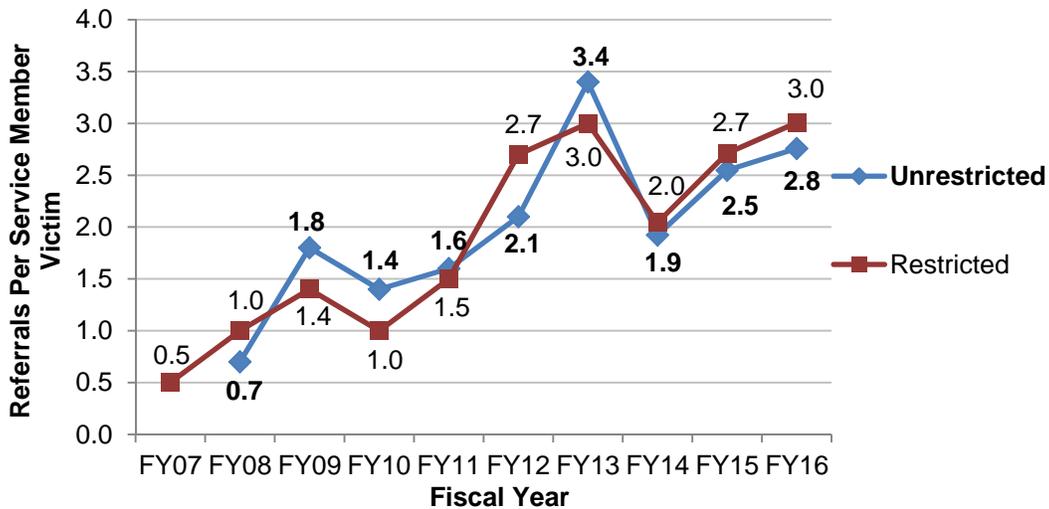
Table 9: Grade or Status of Victims in Restricted Reports, FY16

Victim Grade or Status at Time of Report	Count	Share
E1-E4	1,094	69%
E5-E9	292	18%
WO1-WO5	3	<1%
O1-O3	80	5%
O4-O10	35	2%
Cadet/Midshipman/Prep	32	2%
Non-Service Member	39	2%
Data Not Available	4	<1%
<b>Total</b>	<b>1,581</b>	<b>100%</b>

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

## Service Referral Information

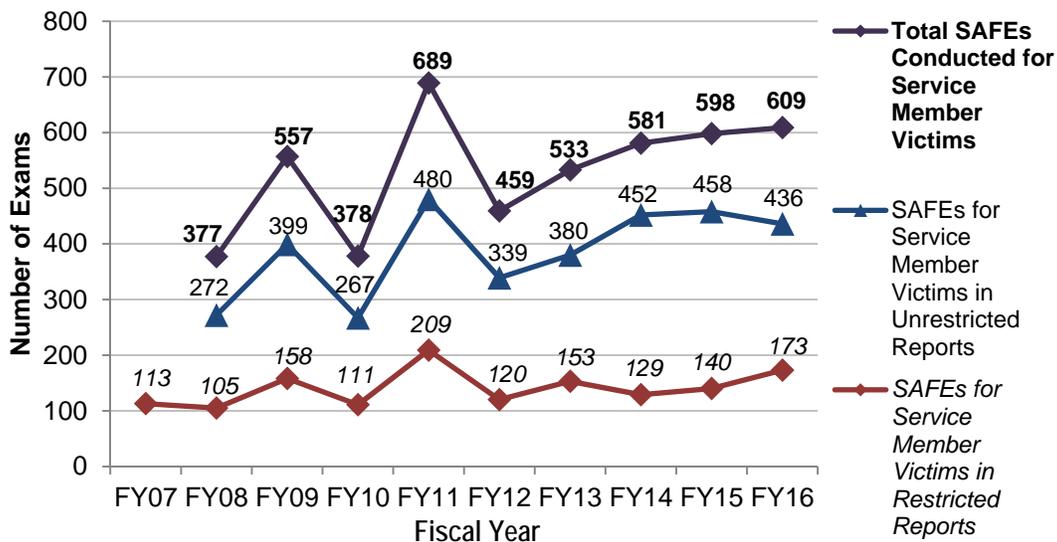
SARCs and SAPR VAs are responsible for ensuring victims have access to medical treatment, counseling, legal advice, and other support services. SARCs and SAPR VAs can refer victims to both military and civilian resources for these services. A referral for services can happen at any time while the victim 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 2.8 service referrals per Service member victim submitting an Unrestricted Report. For Service member victims making Restricted Reports, SARCs and SAPR VAs made an average of 3.0 service referrals per Service member victim. Figure 17 shows the average number of referrals per Service member victim in sexual assault reports from FY07 to FY16.



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

Figure 17: Average Number of Service Referrals per Service Member Victim of Sexual Assault, FY07 – FY16

The Military Services reported that there were 609 Sexual Assault Forensic Examinations (SAFEs) conducted for Service member victims during FY16. Figure 18 depicts the reported number of SAFEs conducted for military victims of sexual assault from FY07 to FY16. 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 – FY16

## 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 – FY16

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

## 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 illustrates the history of Unrestricted and Restricted Reporting in CAIs since FY08. There were 128 reports of sexual assault in CAIs in FY16, a slight increase from FY15; however overall reports in CAIs are still down from FY13. This result is most likely a reflection of the reduced number of Service members deployed to these countries starting in FY14.

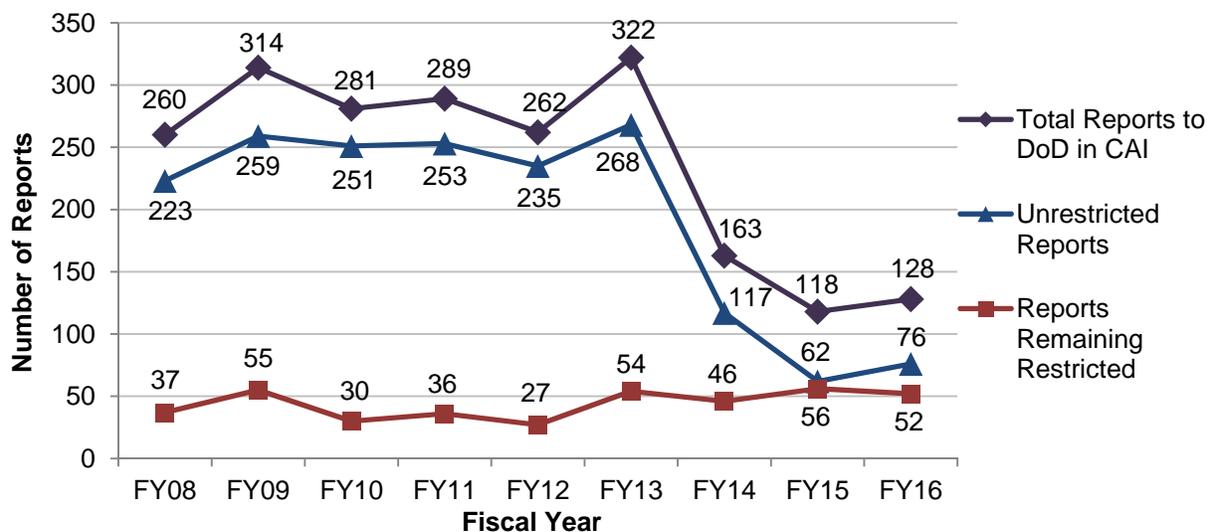
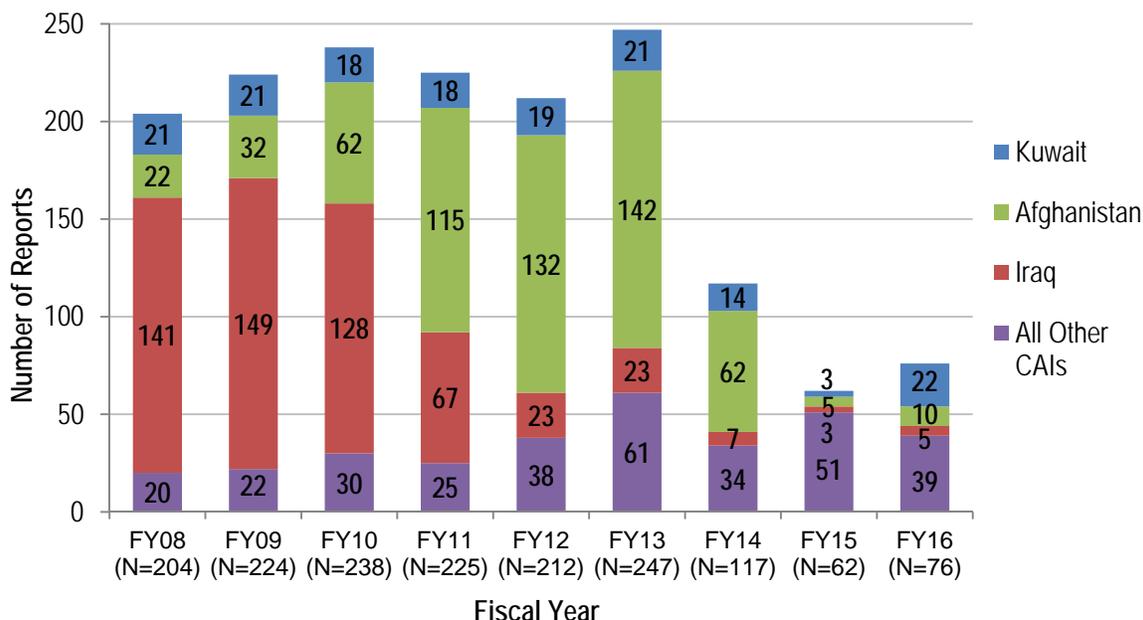


Figure 19: Reports of Sexual Assault in Combat Areas of Interest, FY08 – FY16

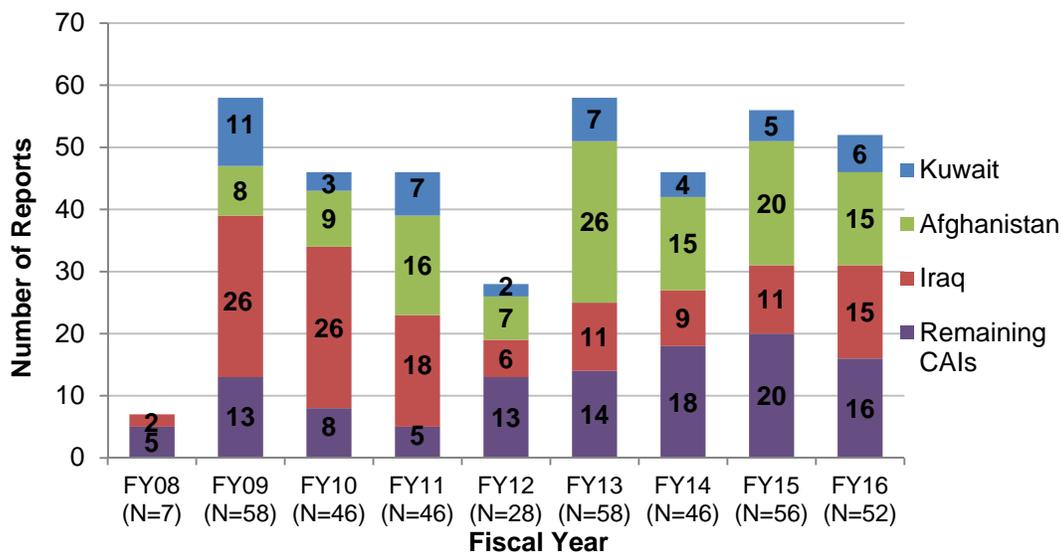
Figure 20 presents Unrestricted Reports in CAIs by region. There were 76 Unrestricted Reports in CAIs in FY16.



**Note:** In FY16, there were 22 Unrestricted Reports in Kuwait, 10 Unrestricted Reports in Afghanistan, 5 Unrestricted Reports in Iraq, and 39 Unrestricted Reports in the remaining CAIs.

Figure 20: Unrestricted Reports in Combat Areas of Interest, FY08 – FY16

There were 52 Reports remaining Restricted in CAIs, a decrease from the 56 Reports remaining Restricted in FY15. Thirteen Restricted Reports converted to an Unrestricted Report 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.



**Note:** In FY16, there were 6 Restricted Reports in Kuwait, 15 Restricted Reports in Iraq, 15 Restricted Reports in Afghanistan, and 16 Restricted Reports in the remaining CAIs.

Figure 21: Restricted Reports in Combat Areas of Interest, FY08 – FY16

Table 11: Unrestricted and Restricted Reports by Combat Area of Interest, FY16

Combat Area of Interest	Unrestricted Reports FY16	Restricted Reports FY16
Afghanistan	10	15
Bahrain	8	7
Djibouti	2	1
Egypt	1	0
Iraq	5	15
Jordan	3	1
Kuwait	22	6
Oman	1	0
Qatar	17	6
Saudi Arabia	1	1
United Arab Emirates	6	0
<b>Total</b>	<b>76</b>	<b>52</b>

### Demographics of Victims and Subjects in Unrestricted Reports in CAIs

The Department draws demographic information about the Unrestricted Reports made in CAIs from the 69 investigations closed during FY16. These 69 investigations involved 74 victims and 76 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 (76 percent) and of a junior enlisted grade (57 percent). However, victims in CAIs who submitted Unrestricted Reports tended to be slightly older than victims submitting Unrestricted Reports in general; 34 percent of victims in CAIs were 25 and over compared to 24 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 (78 percent), under the age of 35 (67 percent), and in an enlisted grade (89 percent).

### Demographics of Victims and Subjects in Restricted Reports in CAIs

The 52 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 (87 percent). However, victims making Restricted Reports in CAIs tended to be older; 62 percent of victims in CAIs were 25 and over compared to 24 percent of victims in all Restricted Reports. Additionally, victims in CAIs tended to be of higher rank; 30 percent of victims in CAIs were E1 to E4 compared to 71 percent of victims making Restricted Reports in general.

### FY16 Retaliation Allegations

The Military Services and National Guard Bureau (NGB) provided data on allegations of retaliation received in FY16, 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 FY16, 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 FY16, involving victims, witnesses/bystanders, and first responders associated with reports of sexual assault. This data does not likely represent all retaliation allegations because victims, witnesses/bystanders, and first responders who believe they have experienced retaliation have the option of requesting their experience be discussed at a CMG.
2. **Investigations of Alleged Retaliation:** The Military Services and NGB provided data on all FY16 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 formal/informal complaints of sexual harassment.

Each data source offers a different perspective on the retaliation allegations. The CMG data 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, 67 individuals requested their allegation of retaliation be discussed at the CMG. Victims of sexual assault made the vast majority of retaliation allegations (61). In addition, one witness/bystander and five first responders had their retaliation allegations discussed at the CMG.

Of the 67 retaliation allegations, 35 alleged ostracism and/or cruelty/oppression/maltreatment, 20 alleged reprisal, 2 alleged another criminal offense in relation to the report of sexual assault, and 10 alleged a combination of reprisal, cruelty/oppression/maltreatment, and other misconduct. Women made the majority of retaliation reports. Furthermore, most individuals alleging retaliation indicated that they experienced it from multiple individuals of both genders (13 allegations) and multiple men (13 allegations). Most often, the alleged retaliator(s) was not the alleged perpetrator of sexual assault (53 allegations).

The table below displays all the actions taken as discussed at the CMG. Nearly two-thirds (61 percent) of all allegations received multiple actions. Common actions included referring the information to command (26 percent), referring the information to IG (16 percent), referring the information to the MCIO (9 percent), transferring the retaliation reporter at his/her request (9 percent), informal/verbal counseling of alleged retaliator(s) (8 percent). Six allegations could not

be acted upon because the victim did not want action (1), the retaliator was unknown (1), the allegation did not meet the elements of retaliation (2), and the action was pending (2).

Table 12: CMG Action Taken to Address Retaliation

Action Taken to Address Retaliation	Count of Actions	Share
Information referred to IG	24	16%
Information referred to Command	39	26%
Information referred to MCIO	14	9%
Information referred to MEO	2	1%
Transfer of retaliation reporter at his/her request	13	9%
Alleged retaliator(s) moved (transfer, relocation, reassignment, deployment)	5	3%
Military protective order issued or civilian protective order obtained by reporter	8	5%
Safety plan updated for retaliation reporter	8	5%
Negative treatment of retaliation reporter put to a stop through command intervention	4	3%
Informal/verbal counseling of alleged retaliator(s)	12	8%
Briefings/trainings for alleged retaliator(s) and/or unit/installation	8	5%
New policies implemented by command in unit/installation	1	1%
Alleged retaliator(s) later held appropriately accountable following a referral of the allegation to the appropriate authority by the CMG	11	7%
Other action taken	3	2%
<b>Total actions taken in 61 cases</b>	<b>152</b>	<b>100%</b>

**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 themselves, but instead must refer all allegations to appropriate authorities. Such referrals are captured 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 protect those alleging retaliation. These actions are in the remaining rows of this table. The number of actions taken is greater than the total number of retaliation allegations because military leaders took multiple steps to address retaliation allegations brought to their attention through the CMGs.

### Data on Investigations of Alleged Retaliation

Persons seeking to report an allegation of retaliation have a variety of avenues to do so, depending on the type of misconduct being alleged. 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 depending upon the circumstances and matters being alleged.

## *Reports of Retaliation*

The Military Services and NGB received 84 retaliation reports against 169 alleged retaliators in FY16 associated with sexual assault or sexual harassment reports. Additionally there were 11 reports, involving 12 alleged retaliators, from prior years that had a completed investigation in FY16, for a total of 95 reports discussed in this section. Of the 95 reports, 81 percent involved female reporters and 74 percent were related to an Unrestricted Report of sexual assault, with the remainder related to formal complaints of sexual harassment (22 percent), a situation where the reporter was suspected of making a sexual assault report, i.e. Restricted report or other, (3 percent), or informal complaints of sexual harassment (1 percent). The majority of reporters of retaliation were victims of sexual assault or complainants of sexual harassment (86 percent); the remaining reporters were witnesses/bystanders (9 percent), first responders (1 percent), or other (3 percent).<sup>14</sup> The following entities investigated these reports: DoD or Service IGs (61 percent), MCIOs (35 percent), Chain of Command (3 percent), Chain of Command and DoD IG (1 percent). Nearly all (98 percent) of reporters received notification of the outcome of the investigation once completed.

## *Characteristics and Outcomes of Alleged Retaliators*

The analysis that follows focuses on the characteristics and outcomes of the 169 alleged retaliators in reports of retaliation in FY16 and an additional 12 alleged retaliators in prior year reports with completed investigations in FY16, for a total of 181 alleged retaliators. The results that follow will largely reflect reprisal allegation outcomes, since the majority of the information originates from DoD and Service IGs, which are exclusively 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<sup>15</sup> (1 percent), ostracism and/or cruelty/ maltreatment (6 percent), other criminal offenses (25 percent). The majority of alleged retaliators were men (80 percent) and only 10 percent were the alleged perpetrator of the associated sexual assault or sexual harassment. Most frequently, alleged retaliators were in the chain of command of the reporter (77 percent), followed by an individual associated with the alleged perpetrator of sexual assault/sexual harassment (9 percent), peers, co-workers, friends, or family members of the reporter (7 percent), unknown/investigation pending (4 percent), or a superior not in their chain of command of the reporter (3 percent).

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 49 alleged retaliators with completed investigations from FY16 reports and 12 alleged retaliators from prior year reports that had an investigation completed this FY, for a total of 61 alleged retaliators in completed investigations. Investigators substantiated or founded

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<sup>14</sup> Percentages do not sum to 100 percent due to rounding.

<sup>15</sup> One case in this category also includes an allegation of ostracism

charges against 17 of the 61 alleged retaliators in completed investigations.<sup>16</sup> Actions against these alleged retaliators included court-martial preferrals (3), nonjudicial punishment (2), administrative discharge and adverse administrative action (1), and counseling (1). Action was not possible against 7 alleged retaliators (insufficient evidence, accused unidentified, or unspecified reason/action). Finally, 3 alleged retaliators had action pending.

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<sup>16</sup> Army CID does not report whether an investigation is founded or unfounded but does report the trial counsel's/prosecutor's opinion as to whether there is probable cause to believe that a crime was committed. For the purposes of summarizing data across the Services, 16 Army CID cases were categorized according to the outcome for the alleged retaliator (e.g., cases with courts-martial preferred were categorized under founded).

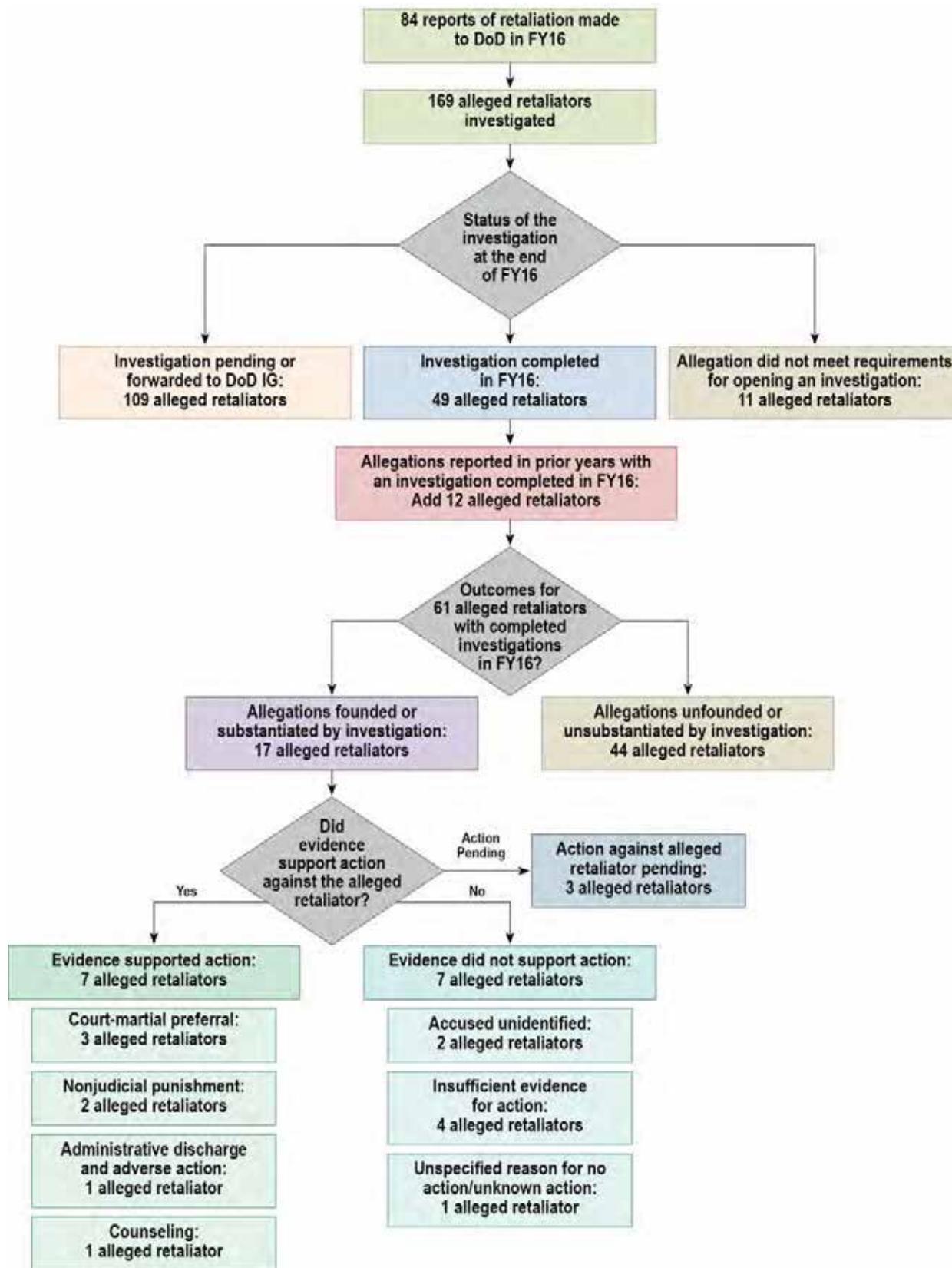


Figure 22: Reports of Retaliation Made to DoD in FY16

## FY14 Data: Revisited

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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. This year, SAPRO and the Services worked to validate prior years' data to present a thorough picture of FY14—from the report of a sexual assault through investigation and disposition conclusion.

As explained on p. 7, DSAID is a real-time data-gathering tool. Since SAPRO pulled data for this section in January 2017, numbers presented here will differ from data published in FY14's Annual Report. For example, victims who made a Restricted Report in FY14 may have converted to an Unrestricted Report in subsequent FYs. DSAID counts these converted cases as Unrestricted Reports; thus, the number of Unrestricted and Restricted reports in a given FY will change as victims convert their reports.

Although the majority of FY14 reports have completed investigations and disposition decisions, some cases remain pending as of the date of the data pull for these analyses. Restricted Reports that converted to Unrestricted after FY14 will have investigations that opened more recently and may remain pending. Furthermore, investigations originally opened and closed in FY14 may be re-opened as new evidence becomes available.

As of January 2017, DoD received 6,258 reports of sexual assault dated in FY14 (Figure 23), which comprised of 4,801 Unrestricted Reports and 1,457 Restricted Reports.<sup>17</sup> Of the 4,801 Unrestricted Reports that were referred for investigation, 4,552 investigations were opened (Figure 23, Point D).<sup>18</sup> At the time of the data pull, MCIOs had completed 4,475 (98 percent) of investigations opened for cases reported in FY14 (Figure 23, Point F). These 4,475 completed investigations resulted in 4,180 case dispositions to report.<sup>19</sup>

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<sup>17</sup> The transition to DSAID in FY14 led to a slight lag between the date of a sexual assault report and the date of DSAID entry. This lag accounts for an increased number of Unrestricted and Restricted reports in the current analysis.

<sup>18</sup> Some reports may not have had an investigation opened due to the case not rising to the level of an MCIO investigation, being outside UCMJ jurisdiction, or the incident occurring prior to a military service. Some investigations will include multiple victims as well.

<sup>19</sup> Since these data were pulled in the first quarter of FY17, a small number of cases (32) have disposition decisions dated in FY17 and will thus be reported in the FY17 Annual Report.

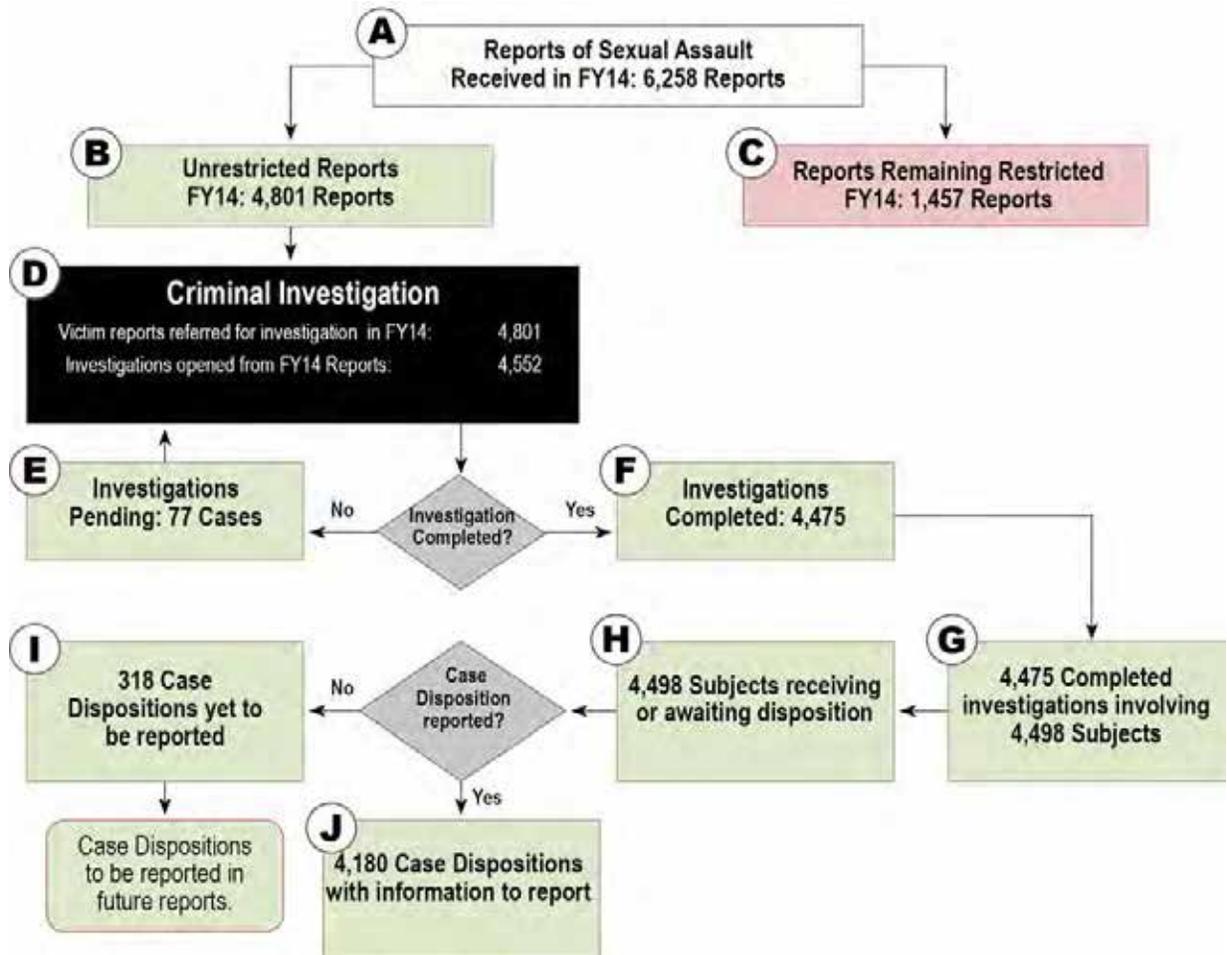


Figure 23: Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY14

The 4,180 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 taking action in 1,297 cases because:

- 435 cases were associated with allegations unfounded by legal review (Figure 24, Point K).<sup>20</sup>
- 758 cases were outside of DoD’s legal authority (Figure 24, Points L, M, and N). 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.
- 104 cases included Service members being prosecuted by a civilian/foreign authority (Figure 24, Point O). 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.

<sup>20</sup> Prior to FY15, DoD presented data on allegations investigated by the MCIOs that were unfounded by legal review. In FY15 and FY16, DoD developed new categories to reflect the nature and outcomes of these allegations more accurately (see points G and H in Figure 6).

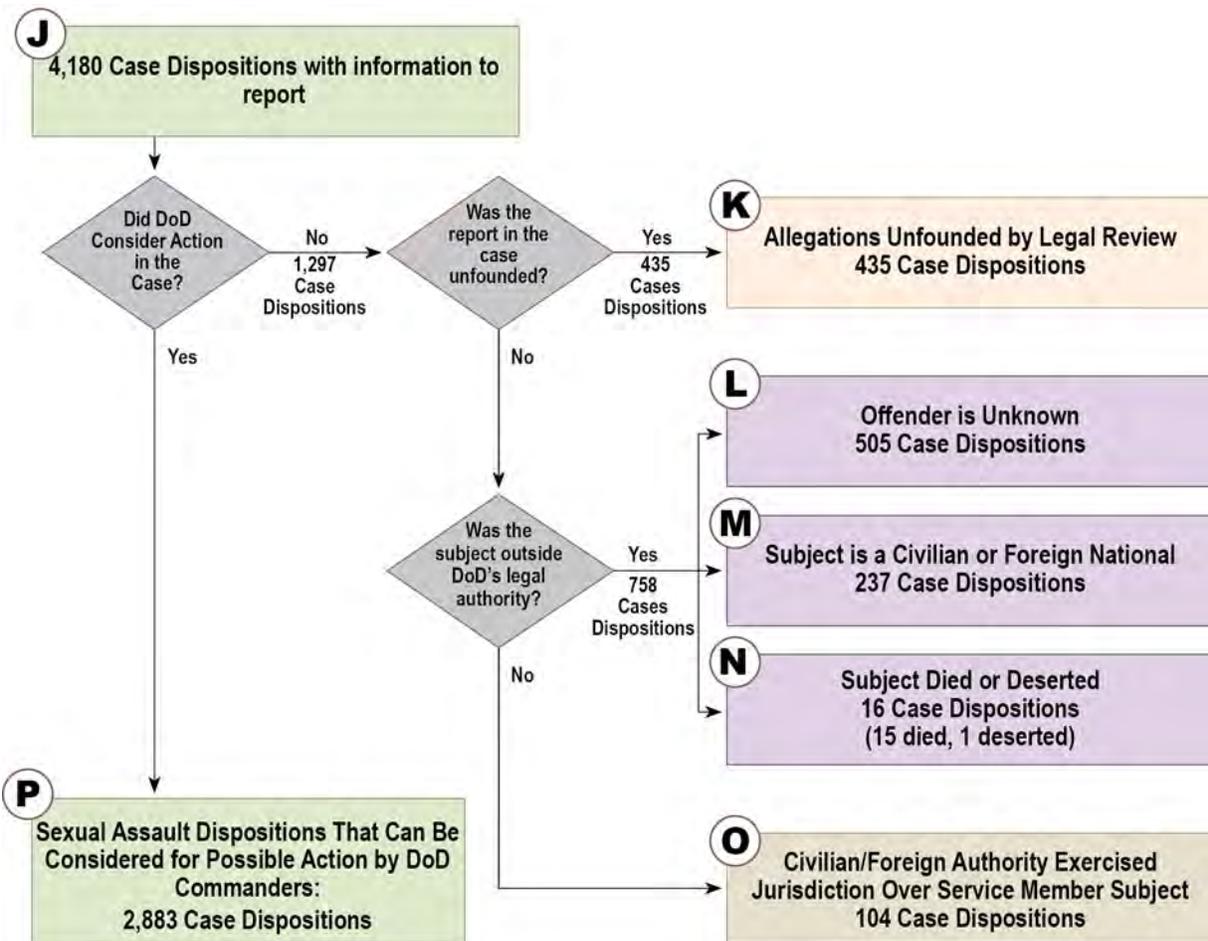


Figure 24: Cases outside DoD Legal Authority, FY14

As explained on p. 20, legal factors occasionally prevent DoD from taking disciplinary action against subjects. Commanders could not take disciplinary action in 807 (28 percent) cases due to insufficient evidence of an offense to prosecute, 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 T). After examining the evidence in each case with a military attorney, commanders declined to take action in 68 cases, because available evidence indicated the allegations in these cases were false or baseless (Figure 25, Point U).

For 2,008 cases (70 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 Q). 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 1,475 cases for which it was determined a sexual assault offense warranted discipline:

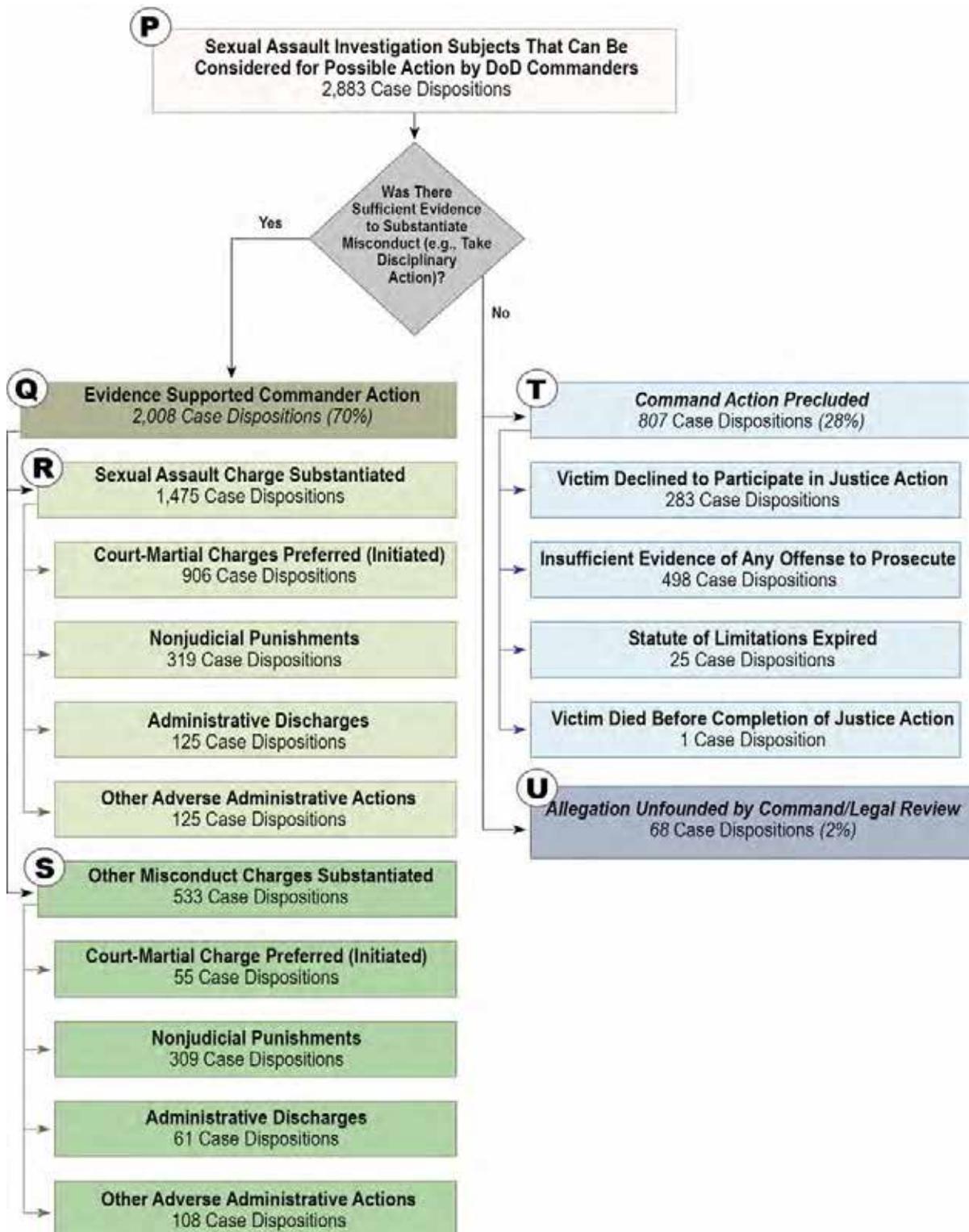
- 61 percent (906) of cases were associated with court-martial charges preferred (initiated).
- 22 percent (319) were associated with proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 17 percent (250) were associated with a discharge or another adverse administrative action.<sup>21</sup>

For 533 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 (55) of cases were associated with court-martial charges preferred.
- 58 percent (309) were associated with proceedings for nonjudicial punishment.
- 32 percent (169) were associated with some form of adverse administrative action or discharge.

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<sup>21</sup> Percentages do not sum to 100 percent due to rounding.



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

Figure 25: Dispositions of Cases under DoD Legal Authority, FY14

As noted previously, 906 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 592 cases proceeded to trial, 74 percent of which were associated with a conviction of at least one charge at court-martial. The Services processed 47 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 150 cases were dismissed. However, commanders used evidence gathered during the sexual assault investigations to take nonjudicial punishment for other misconduct in 31 cases. The punishment may have been for any kind of misconduct for which there was evidence.

A total of 150 cases resulted in a resignation or discharge instead of court-martial. Of those cases, 111 of 137 enlisted members who received a discharge in lieu of court-martial (DILLO), the enlisted member was separated Under Other Than Honorable Conditions (UOTHC), the lowest characterization of discharge possible administratively.

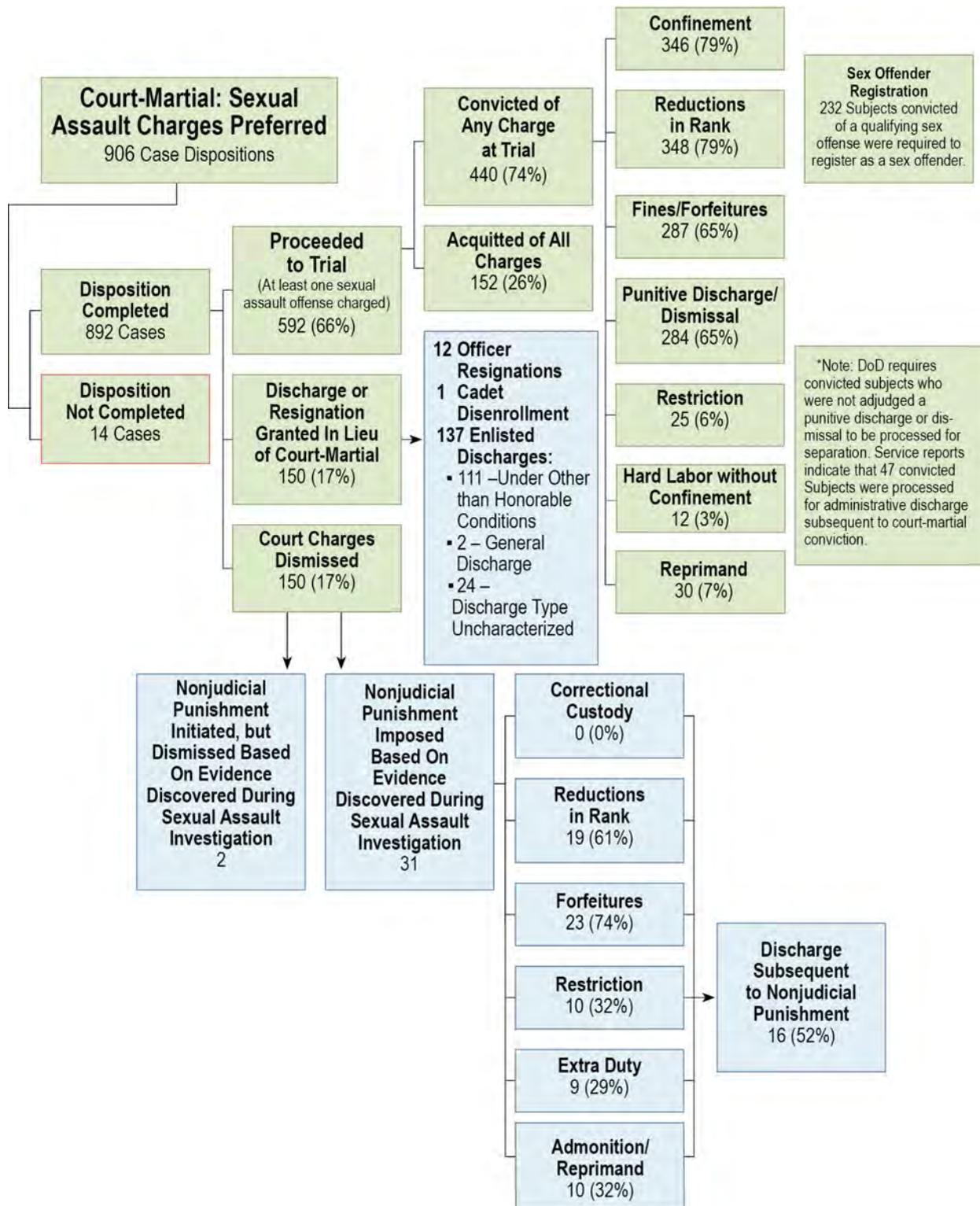


Figure 26: Court-Martial Preferred for Sexual Assault, FY14

**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 906 cases of sexual assault investigations were associated with court-martial charges preferrals for a sexual assault offense.
3. Of the 906 cases associated with court-martial preferrals, 592 cases resulted in trial proceedings, 150 cases resulted in a discharge or resignation in lieu of court-martial, and 150 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 150 cases with dismissed charges, commanders imposed nonjudicial punishment in 31 cases. An additional 2 cases had a nonjudicial punishment initiated and subsequently dismissed. Most of these 31 cases included two kinds of punishment: a reduction in rank and a forfeiture of pay.
6. Of the 592 cases that resulted in court-martial trial proceedings, 440 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).