



## Appendix F: Sexual Harassment Data



# Appendix F: Fiscal Year 2017 Sexual Harassment Complaint Data

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The Department of Defense (DoD) is guided by the principle that each individual has dignity and worth. As such, we strive to eradicate behaviors that undermine this principle. Fundamental to mission readiness is the promotion of an environment free from personal, social, or institutional barriers that prevent members of the DoD workforce from rising to the highest possible level of responsibilities commensurate with their abilities.

Sexual harassment violates the responsibility of DoD military and civilian personnel to treat each other with dignity and respect. Sexual harassment jeopardizes combat readiness and mission accomplishment, weakens trust within the ranks, and erodes unit cohesion. Sexually harassing behaviors may lead to disciplinary or administrative actions.

## Oversight Responsibilities

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Under the purview of the Executive Director, Force Resiliency, the Office of Diversity Management and Equal Opportunity has broad responsibility, including oversight of policy development, standardization of training and education, data collection, and analysis of military sexual harassment data.

## Definition of Sexual Harassment

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Section 548 of the National Defense Authorization Act for Fiscal Year (FY) 2017 changed the sexual harassment definition by removing sexual harassment as a basis for sex discrimination and changing “work environment” to “environment.” Thus, Title 10, United States Code, section 1561, now defines “sexual harassment” as conduct that involves unwelcome sexual advances,

requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when—:

- submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or
- submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment; and is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

This definition emphasizes that conduct, to be actionable as harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a Service member or DoD civilian employee is engaging in sexual harassment. Similarly, any Service member or DoD civilian employee who makes deliberate or repeated unwelcome verbal comments, non-verbal, or physical contact of a sexual nature is also engaging in sexual harassment.

## Overall Complaint Totals

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In FY 2017, the Military Services and the National Guard Bureau (NGB) received,

processed, and investigated a total of 696 sexual harassment complaints. Subsequent to an appropriate investigation, complaints are found to be substantiated or unsubstantiated; at the close of the fiscal year, 557 reports (80 percent) were resolved, and 139 reports (20 percent) were pending resolution.

Substantiated sexual harassment complaints are complaints containing at least one founded allegation of sexual harassment as documented in a report of investigation or inquiry. Substantiated complaints comprised 62 percent (347) of the 557 resolved complaints filed in FY 2017.

Unsubstantiated sexual harassment complaints are complaints without any founded allegations of sexual harassment as documented in a report of investigation or inquiry. Thirty-eight percent (210) of the 557 resolved complaints filed in FY 2017 were unsubstantiated.

Fourteen sexual harassment complaints were filed anonymously. Seven of the 14 complaints were resolved, of which 3 were substantiated and 4 were unsubstantiated. The remaining 7 of the 14 complaints were pending resolution.

## Top Line Results

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The Military Services and NGB continue to employ Service-specific information management systems to collect, store, and analyze sexual harassment complaint information and report to DoD for compilation and analysis.

### Complainant Characteristics

There were 419 complainants associated with the 347 substantiated incidents. Complainants were predominantly female (339 of 419; 81 percent). Males made up 19 percent (80 of 419) of complainants.

Enlisted members comprised 90 percent of complainants (376 of 419). Officers represent 6 percent of complainants (27 of 419). Less than 1 percent of complainants were DoD civilian employees (2 of 419) or DoD contractors (2 of 419). The pay grade category was unknown for 3 percent of complainants (12 of 419).

Service members in pay grades E1-E4 account for 70 percent of all complainants (292 of 419). The largest single grouping of complainants by gender and pay grade was females in pay grades E1-E4 (230 of 419; 55 percent). Additionally, enlisted males in the pay grades of E1-E4 account for 15 percent (62 of 419) of complainants.

Officer complainants were all female, predominately in the grade of O1-O3 (24 of 27; 89 percent).

### Offender Demographics

There were 419 offenders reported for 347 substantiated complaints. These individuals were predominantly male (400 of 419; 95 percent). Female offenders made up 5 percent (19 of 419) of all offenders.

Enlisted members comprised 87 percent of offenders (363 of 419). The largest pay grade grouping of alleged offenders were E5-E6 (158 of 419, 38 percent), of which 98 percent were male (155 of 158).

Eight percent of offenders (34 of 419) were officers, of which 55 percent were male in the pay grades of O1-O3 (19 of 34); 21 percent (7 of 34) were in pay grades O4-O6; 18 percent (6 of 34) were warrant officers. The remaining 6 percent (2 of 34) of offenders were females in the pay grades of O1-O3.

Five percent (22 of 419) of all offenders were either DoD civilian employees (3 of 22), contractors (2 of 22), or the employment type was unknown (17 of 22).

Repeat offenders, defined as having more than one complaint substantiated for sexual harassment, represent 3 percent of all offenders (14 of 419).

### Duty Status and Nature of Substantiated Incidents

Eighty-one percent of substantiated incidents occurred while the complainant was on duty (341 of 419). Because substantiated complaints may involve multiple allegations of sexually harassing behavior, a total of 574 types of allegations were reported. The most frequently reported allegations involved crude and/or offensive behavior (310 of 574; 54 percent). All other reported allegations were characterized as unwanted sexual attention (241 of 574; 42 percent) and sexual coercion and quid pro quo (23 of 574; 4 percent).

### Timeliness of Reporting and Investigation

DoD policy requires that, to the extent practicable, commanders will forward sexual harassment complaint information or allegations to a general court-martial convening authority (GCMCA) within 72 hours of receipt. Ninety-eight percent of all complaints (684 of 696) were forwarded to the GCMCA and 84 percent of these (577 of 684) were appropriately forwarded within 72 hours.

### Accountability

Of the 419 offenders, 48 offenders were pending disciplinary actions at the close of FY 2017. The remaining 371 offenders received a total of 409 corrective actions; offenders may receive more than one type of corrective action. For example, an offender may receive a letter of reprimand, administrative actions, and non-judicial punishment. Out of 409 total corrective actions, 46 percent (187 of 409) were non-judicial punishments, 45 percent (185 of 409) were adverse or administrative actions (e.g., chapter discharge or letters of

reprimand), and 9 percent (37 of 409) of cases were punitive and consisted of 32 court-martial and 5 discharges in lieu of court-martial.

## Way Forward

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### Oversight Framework Enhancements

Recognizing the need for greater leadership commitment and accountability to promote, support, and enforce sexual harassment prevention and response policies and programs, the Department will issue a comprehensive harassment policy, Department of Defense Instruction 1020.03, "Harassment Prevention and Response in the Armed Forces."<sup>1</sup> The new instruction will:

- Establish a comprehensive, DoD-wide military harassment prevention and response program;
- Strengthen the Department's commitment and accountability through a Department-wide oversight framework;
- Update military harassment prevention and response policies and programs for Service members;
- Explicitly identify social media as a means through which harassment can occur;
- Update harassment prevention and response procedures for Service members to submit harassment complaints, including anonymous complaints; procedures and requirements for responding to, processing, resolving, tracking, and reporting harassment complaints; and training and education requirements and standards.

### Training and Education

Understanding that the Secretaries of the Military Departments have ultimate responsibility for training, the Department continues to examine the efficacy of current

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<sup>1</sup> The policy was published on February 8, 2018.

sexual harassment prevention training. DoDI 1020.03 mandates the provision of DoD guidance on oversight, training, and mechanisms for reporting and responding to sexual harassment incidents in the Armed Forces. The policy provides guidance on prevention of and response to all types of harassing behaviors. The policy also requires that harassment prevention and response training and education programs are established at all levels of professional military development from the accession point to the assumption of senior leader grade. The policy also provides that all military personnel, including command selectees, flag, and general officers, receive adequate training in prevention of sexual harassment on a recurring basis, and at all levels of Professional Military Education. Additionally, the new policy delineates specific requirements that the Military Services include harassment prevention and response training and education programs. This examination is expected to reveal how the training is received by the trainees, how it influences individual behaviors going forward, and what policy adjustments are needed.

## **Standardized Data Collection and Tracking**

DoDI 1020.03 mandates establishment of standardized DoD Component data reporting requirements for harassment complaints and information collection and tracking, including approval of automated data collection interface systems. Reporting requirements are to include an aggregation and assessment of the information and data provided by the Military Departments, information regarding DoD efforts to improve harassment prevention and response policies and procedures, and recommendations to strengthen harassment prevention and response efforts.

Improved prevention and response policy, paired with more robust analyses of substantiated and unsubstantiated allegations at the Service level will provide further granularity on potential causes of problematic behaviors. Additionally, the analysis will provide valuable insight that is critical to the effective and active monitoring of command and organizational climates. Continuous data collection, tracking, and analysis helps to better inform commanders and leaders at all levels, equipping them with more tools to increase leadership oversight and accountability.