



Appendix F: Sexual Harassment Assessment



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Sexual harassment has no place in the Department of Defense (DoD). In policy and in practice, DoD strives to provide an atmosphere of dignity and respect for all Service members and civilian employees—and an environment free from sexually harassing behaviors. DoD’s goal is to provide the highest-quality response and to hold offenders appropriately accountable. All Service members and civilian employees who experience sexual harassment should feel free to report the behavior without fear of reprisal or retaliation.

This appendix provides an overview of complaints of sexual harassment received by the Military Services in Fiscal Year (FY) 2020 (FY20), from October 1, 2019 to September 30, 2020.

In FY20, the coronavirus pandemic impacted Service members’ work environment by increasing telework and requiring Service members to adhere to DoD health protection requirements, such as social distancing. The full impact of these changes on the prevalence and reporting of sexual harassment remains unknown. However, support for Service members coping with an experience of sexual harassment remained available throughout the year.

Top Line Results of Fiscal Year 2020 Substantiated Complaints

Subsequent to the conclusion of a commander-directed investigation, complaints of sexual harassment are found to be substantiated or unsubstantiated based on the evidence obtained. In FY20, 696 total substantiated sexual harassment complaints were reported by the Military Services. Of the total substantiated complaints, 442 (63.5 percent) were reported as formal complaints and 240 (34.4 percent) were informal complaints, and 14 (2.0 percent) were reported anonymously.

Oversight Responsibilities and Department Initiatives

The Office for Diversity, Equity, and Inclusion (ODEI) has responsibility for DoD’s Military Equal Opportunity Program, which includes oversight of policy development, standardization of training and education, and data collection and analysis of Department-wide military sexual harassment complaints.

This year, the Department chartered the Prevention Collaboration Forum (PCF) to ensure prevention policy stakeholders are collectively advancing their policies and programs within a broader evidence-based, violence prevention framework. A goal of the PCF is to better align prevention approaches that target risk factors common to sexual assault, sexual harassment, domestic abuse, child abuse, self-harm, substance abuse, and other readiness impacting behaviors. ODEI participates in the PCF alongside other Office of the Secretary of Defense offices dedicated to addressing these problems. Additionally, the Department continues to track complaint data to evaluate the effectiveness of current policies and processes.

Definition of Sexual Harassment

Section 1561 of Title 10, United States Code 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:

- “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 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, does not need to result in concrete psychological harm to the victim, but rather only be so severe or pervasive that a reasonable person would perceive the environment as hostile or offensive. Any person in a supervisory or command position who uses or condones 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. A Service member or DoD civilian employee who makes deliberate or repeated unwelcome verbal comments, or non-verbal or physical contact of a sexual nature is engaging in sexual harassment.

DoD Harassment Prevention and Response Policy

The Department has multiple policies that speak to DoD’s measures to address sexual harassment of Service members.

- DoD Instruction (DoDI) 1020.03, “Harassment Prevention and Response in the Armed Forces,” February 8, 2018, incorporating Change 1, December 29, 2020.¹ This DoDI:
 - Establishes a comprehensive, DoD-wide harassment prevention and response program;
 - Strengthens the Department’s commitment and accountability through oversight;
 - Provides requirements for Military Department harassment prevention and response policies and programs for Service members;
 - Provides training and education requirements and standards; and
 - Requires that substantiated incidents of harassment be annotated on Service member fitness reports or Service-level reporting and tracking system(s) which are reviewed prior to Service member selection for promotion and other favorable personnel actions.
- DoDI 1350.02, “DoD Military Equal Opportunity Program,” September 4, 2020.² This DoDI:
 - Requires commanders of military commands to conduct command climate assessments of Service members to obtain opinions regarding the manner and extent to which leaders respond to allegations of problematic behaviors, including sexual assault, sexual harassment, and prohibited discrimination;
 - Supplements DoDI 1020.03 by providing a specific avenue of redress for prohibited harassment based on sex, sexual orientation, and gender identity; and
 - Establishes specific training requirements, to include training on harassment, retaliation, and sexual violence.

¹ DoDI 1020.03, “Harassment Prevention and Response in the Armed Forces.” December 20, 2020 (<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/102003p.PDF?ver=DAAzonEUeFb8kUWRbT9Epw%3d%3d>).

² DoDI 1350.02, “DoD Military Equal Opportunity Program,” September 4, 2020 (<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/135002p.pdf?ver=2020-09-04-124116-607>).

- DoD Retaliation Prevention and Response Strategy Implementation Plan,³ which provides the Department's response efforts for sexual harassment complaints that involve retaliation.

Overall Fiscal Year 2020 Complaint Totals

Service members may make a sexual harassment complaint using formal, informal, or anonymous procedures. A formal complaint is a complaint submitted in writing to the staff designated to receive such complaints in Military Department operating instructions and regulations, which the commanding officer or other person in charge of the organization, determines warrants an investigation. Sexual harassment complaints data are gathered from MEO and Department of the Army Sexual Harassment/Assault Response and Prevention Programs.

An informal complaint is an allegation, made either orally or in writing, that is not submitted as a formal complaint through the office designated to receive harassment complaints. The allegation may be submitted to a person in a position of authority within the Service member's organization or outside of the Service member's organization. Such complaints may be resolved at the lowest level through intervention by the first-line supervisor, using alternative dispute resolution techniques such as informal mediation.

An anonymous complaint is considered neither formal nor informal, and is an allegation received by a commanding officer or supervisor, regardless of the means of transmission, from an unknown or unidentified source, alleging harassment. The complainant is not required to divulge any personally identifiable information. If an anonymous complaint contains sufficient information to permit the initiation of an investigation, the investigation will be initiated by the commanding officer or supervisor in accordance with this instruction and any Service-specific guidance. If an anonymous complaint does not contain sufficient information to permit the initiation of an investigation, the information should be documented in a Memorandum for Record and maintained on file in accordance with disposition instructions and the central point of contact responsible for processing harassment complaints.

Sexual harassment incidents that involve nonconsensual distribution of private sexual images (NDPSI) are included within the total sexual harassment allegation numbers, and some are provided in a category of its own. Based on the way the data is collected from the Services, some of the allegations of NDPSI are counted as their own problematic behavior type.

Formal Complaints

During FY20, the Military Services and the National Guard Bureau (NGB) received, processed, and investigated a total of 984 formal sexual harassment complaints. The data indicate a 4 percent decrease in FY20 from the 1,021 formal complaints that were received, processed, and investigated in FY19.

Of the total 984 formal sexual harassment complaints, 720 (73.2 percent) formal complaints were resolved; 144 (14.6 percent) formal complaints remained pending; and the statuses of 120 (12.2 percent) formal complaints were unknown.⁴

³ "DoD Retaliation Prevention and Response Strategy Implementation Plan," January 2017 (https://sapr.mil/sites/default/files/DoD_RPRS_Implementation_Plan.pdf).

⁴ "Unknown" includes standalone cases of NDPSI, or the status was not reported by the Military Services.

Subsequent to the conclusion of a commander-directed investigation, complaints of sexual harassment are found to be substantiated or unsubstantiated based on the evidence obtained. Of the 720 resolved complaints filed in FY20, 442 (61 percent) were substantiated, 250 (35 percent) were unsubstantiated, 23 (3.2 percent) were dismissed,⁵ 3 (<1 percent) were referred⁶ to other agencies, and 2 (<1 percent) were withdrawn.

Informal Complaints

In FY20, the Military Services and NGB received, processed, and addressed a total of 765 informal sexual harassment complaints. At the close of the fiscal year, 740 (96.7 percent) of complaints were resolved, and 25 (3.3 percent) were pending. Of the 740 resolved complaints, 240 (32.4 percent) informal complaints were substantiated, 450 (60.8 percent) informal complaints were unsubstantiated, 46 (6.2 percent) were unknown, 3 (<1 percent) were either withdrawn or dismissed, and 1 (<1 percent) was inconclusive.

Anonymous Complaints

During FY20, 32 sexual harassment complaints were filed anonymously. Of those, 25 (78.1 percent) of the 32 complaints were resolved, 4 (12.5 percent) complaints remained open pending resolution, and the status of the 3 (9.4 percent) remaining complaints were unknown. Of the 25 resolved anonymous complaints, 14 (56 percent) were substantiated and 11 (44 percent) were unsubstantiated.

In Exhibit 1, the case statuses of the FY20 formal, informal, and anonymous complaints are cross referenced with complaint type: substantiated, unsubstantiated, dismissed, or “other.”

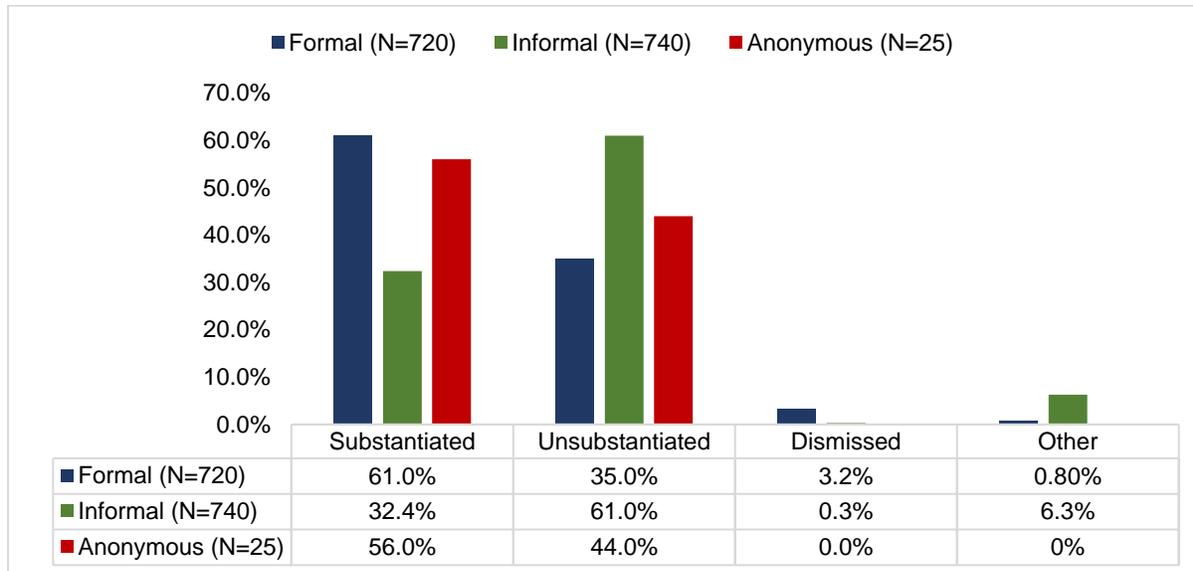


Exhibit 1: Distribution of Sexual Harassment Case Status by Complaint Type⁷

⁵ Dismissed complaints include any complaint that has been dropped for multiple reasons; these reasons were not collected for this report.

⁶ These three sexual harassment allegations were referred to military law enforcement.

⁷ “Other” includes complaints that have a “Referred,” “Withdrawn,” and “Inconclusive,” “Pending,” and “Unknown,” case status.

Nonconsensual Distribution of Private Sexual Images

Section 537 of the National Defense Authorization Act for FY18 requires collection of information about sexual harassment incidents that involve Nonconsensual Distribution of Private Sexual Images (NDPSI). Allegations of NDPSI are counted within the total sexual harassment allegation numbers and as standalone incidents.

Formal Complaints – NDPSI

In FY20, the Military Services and NGB received, processed, and investigated 189 total formal complaints of sexual harassment involving an allegation of NDPSI. Of the 189 total formal complaints, 161 were related to an associated incident of sexual harassment and 28 were standalone allegations. Across the 189 total formal complaints, 21 allegations of NDPSI were substantiated, 139 were unsubstantiated, 19 are pending resolution, 4 allegations were dismissed, 3 were referred, 2 were inconclusive, and 1 was withdrawn.

There were 23 offenders associated with the 21 substantiated formal allegations of NDPSI. Of which, 47⁸ disciplinary actions were administered. 14 corrective actions were administrative actions, 26 were non-judicial punishment, 3 were unknown, 2 received some other form of corrective action, and 2 corrective actions were pending,

Informal Complaints – NDPSI

In FY20, there were 140 total informal complaints of sexual harassment involving an allegation of NDPSI. Of the 140 total informal complaints, 132 were related to an associated incident of sexual harassment and 8 complaints involved only NDPSI. Across the 140 informal complaints, 12 allegations of NDPSI were substantiated, 117 were unsubstantiated, 6 are pending resolution, 2 allegations were dismissed, 2 allegations were referred, and 1 was withdrawn.

There were 12 offenders associated with the 12 substantiated informal allegations of NDPSI. Of which, 10 disciplinary actions were administered. Five corrective actions administered were administrative actions, two were non-judicial punishment, two were some other form of corrective action, and one was pending.

Anonymous Complaints – NDPSI

In FY20, there were two anonymous reports of sexual harassment involving NDPSI. Both anonymous allegations of NDPSI were unsubstantiated.

Complainant Characteristics

This section presents complainant characteristics for formal and informal substantiated sexual harassment complaints.

Formal Complaints – Complainant Characteristics

There were 494 complainants associated with the 442 substantiated formal incidents. A complainant may be involved in more than one sexual harassment incident. In FY20:

⁸ Substantiated offenders can receive more than one form of disciplinary action.

- Complainants were predominantly women (407 of 494; 82 percent);
- Men comprised 18 percent (87 of 494) of complainants;
- Ninety-one percent of complainants were enlisted members (451 of 494);
- Officers represented 5 percent of complainants (27 of 494);
- Less than 1 percent of complainants were warrant officers (4 of 494);
- The paygrade category was unknown for 2.4 percent of complainants (12 of 494);
- Service members in paygrades E1–E4 account for 74 percent of all complainants (366 of 494);
- The largest single grouping of complainants by gender and paygrade were women in paygrades E1–E4 (293 of 494; 59 percent);
- Enlisted men in the paygrades of E1–E4 account for 15 percent of complainants (73 of 494); and
- Officer complainants were predominately women in grades O1–O3 (22 of 24; 92 percent).

Informal Complaints – Complainant Characteristics

The Military Services reported 270 complainants for the 240 substantiated informal incidents. In FY20:

- Complainants were predominantly women (199 of 270; 74 percent);
- Men accounted for 18 percent (48 of 270) of complainants;
- Gender was unknown for 8 percent (21 of 270) of complainants;
- Enlisted members comprised 77 percent of complainants (207 of 270);
- Officers represented 5 percent of complainants (13 of 270);
- Less than 1 percent of complainants were warrant officers (1 of 270);
- For 18 percent of complainants (49 of 270), the paygrade category was unknown;
- Enlisted members in paygrades E1–E4 account for 65 percent of all complainants (175 of 270);
- The largest single grouping of complainants by gender and paygrade was E1–E4 women at 52 percent (141 of 270);
- Enlisted men in paygrades E1–E4 comprised 12 percent of complainants (34 of 270); and
- The gender of 7 percent of informal complainants (20 of 270) was unknown.

Anonymous Complaints – Complainant Characteristics

Anonymous complainants are not required to divulge any personally identifiable information. Therefore, the information about their characteristics is sparse. Of the data provided, one anonymous complainant is a female with a paygrade of E1–E4, and one anonymous complainant was a male with a paygrade of O4–O6. The other 12 complainants' paygrade and gender are unknown.

Offender Characteristics

This section presents offender characteristics for formal and informal substantiated sexual harassment complaints. The demographics of first time offenders and repeat offenders are also presented in this section.

Formal Complaints – Offender Characteristics

Of the total 433 substantiated offenders reported in FY20:

- Enlisted members comprised 82 percent (354 of 433) of offenders;
- Men represented 95 percent (412 of 433) of offenders;
- Junior enlisted comprised 38 percent (166 of 433) of offenders;
- Officers represented 5 percent (24 of 433) of offenders;
- Male warrant officers were 1 percent (5 of 433) of offenders; and
- Men of unknown paygrade comprised 12 percent (50 of 433) of offenders.

First-Time Offenders (Formal Complaints)

Notably, a single offender can be associated with more than one complaint. There were 433 total offenders reported for 442 substantiated complaints, of which 45 percent (195 of 433) were first-time offenders. First-time offenders were predominantly male at 96 percent (187 of 195). Four percent of first time offenders were female (7 of 192).

Repeat Offenders (Formal Complaints)

Repeat offenders, defined as having more than one complaint substantiated for sexual harassment, represented 7 percent (32 of 453) of all offenders. In FY20:

- Enlisted men comprised 28 percent (9 of 32) of repeat offenders;
- Women in paygrades E1-E4 represented 22 percent (7 of 32) of repeat offenders;
- Male warrant officers comprised 6 percent (2 of 32) of repeat offenders;
- No officers were reported as repeat offenders; and
- Men of unknown paygrades represented 44 percent (14 of 32) of repeat offenders.

Informal Complaints – Offender Characteristics

During FY20, there were a total of 243 offenders associated with 240 substantiated informal complaints. Offender demographics for informal complaints in FY20 were:

- Enlisted men accounted for 67 percent (164 of 243) of offenders;
- Male officers comprised 6 percent (14 of 243) of offenders;
- One Male Warrant Officer (< 1 percent) was an offender;
- Men of unknown paygrades represented 16 percent (38 of 243) of offenders;
- Female offenders accounted for 3 percent (8 of 243) of offenders; and

Offenders of unknown rank and gender accounted for 7 percent (17 of 243) of informal complaints offenders.

First-Time Offender (Informal Complaints)

Of the 243 total offenders for 240 substantiated informal complaints, 67 percent (162 of 243) were first-time offenders. These first-time offenders were predominantly male, where 93 percent (150 of 162) were reported as first-time offenders of sexual harassment. Female offenders made up 3 percent (5 of 162) of all first-time offenders. The gender of 4 percent (7 of 162) of first-time offenders was unknown.

Enlisted members comprised 74 percent (120 of 162) of first-time offenders. The largest paygrade grouping of enlisted first-time offenders was males in paygrades E5–E6, comprising 33 percent (53 of 162) of the enlisted first-time offenders. Three percent (5 of 162) of the first-time offenders were enlisted women in paygrades E1-E6. Six percent (9 of 162) of first-time offenders were male officers, with one offender (< 1 percent) identified as a male warrant officer. Fifteen percent (25 of 162) were men with unknown paygrades. Four percent (7 of 162) of offenders' gender and paygrade was unknown.

Repeat Offender (Informal Complaints)

Repeat offenders of informal complaints represented 5 percent (9 of 162) of all offenders. All 9 repeat offenders were men, of which 56 percent (5 of 9) were in paygrades E1–E4, 33 percent (3 of 9) were E5–E6, and 11 percent (1 of 9) were in paygrade O1-O3.

Repeat Offender (Anonymous Complaints)

In FY20, there was no data reported on offender characteristics for anonymous complaints.

Nature of Substantiated Incidents

Sexual harassment is characterized as a hostile work environment or quid pro quo. Hostile work environment is defined as when a person is subjected to offensive, crude, unwanted, and unsolicited comments and behavior of a sexual nature that interferes with that person's performance or creates an intimidating, hostile, or offensive work environment. Quid pro quo refers to conditions placed on a person's career or terms of employment in return for sexual favors.

For every substantiated sexual harassment complaint, there can be a combination of sexual harassment behaviors. For example, 141 of substantiated formal sexual harassment complaints involved both crude behavior and unwanted sexual attention. Therefore, the total of the allegations in each category type exceeds the overall total of complaints.

Formal Complaints – Nature of Substantiated Incidents

In FY20, the nature of substantiated formal allegations of sexual harassment were 50.7 percent (343 of 676) crude/offensive behavior, 44.4 percent (300 of 676) unwanted sexual attention, and 4.9 percent (33 of 676) were sexual coercion.

Informal Complaints – Nature of Substantiated Incidents

The nature of substantiated informal allegations were 59 percent (214 of 363) crude/offensive behavior, 40.2 percent (146 of 363) unwanted sexual attention, and 0.8 percent (3 of 363) sexual coercion.

Anonymous Complaints – Nature of Substantiated Incidents

The nature of substantiated anonymous allegations were 57.9 percent (11 of 19) crude/offensive behavior, and 42.1 percent (8 of 19) unwanted attention.

In Exhibit 2, the allegations of the FY20 formal, informal, and anonymous complaints are listed by complaint type: crude/offensive behavior, unwanted sexual attention, or sexual coercion.

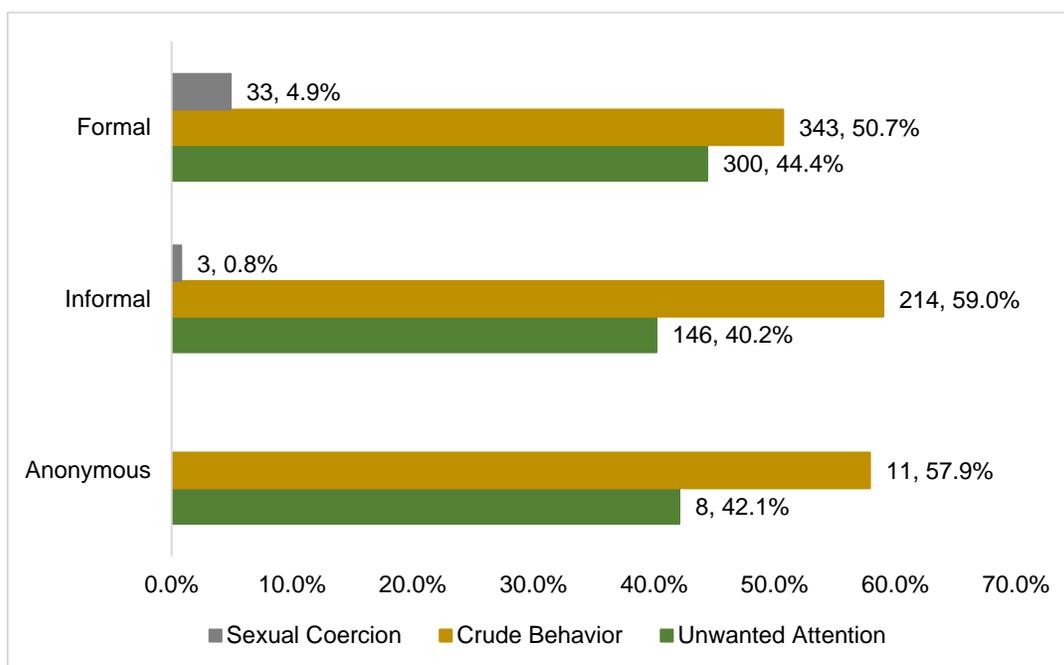


Exhibit 2: Distribution of Substantiated Sexual Harassment Allegations by Complaint Type.⁹

Complainant – Alleged Offender Relationships

The complainant versus alleged offender paygrade relationship that was most prominent is complainants in paygrades E1–E4 versus alleged offenders in paygrades E1–E4 at 32 percent (273 of 851). The largest complainant versus alleged offender gender relationship group was female complainant versus male alleged offender at 75 percent (643 of 851). Additionally, 84 percent (711 of 851) of complainant–alleged offender relationships were in the same unit.

Timeliness of Reporting

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. In FY20, 816 (83 percent) formal complaints of sexual harassment numbering were forwarded to the GCMCA within 72 hours and 74 (8 percent) were forwarded to GCMCA in more than 72 hours of receipt. The timeliness of 93 (9 percent) was unknown.

Corrective Actions

Offenders of either formal or informal complaints may receive more than one type of corrective action. For example, an offender may receive a letter of reprimand, administrative actions (AA), and non-judicial punishment (NJP).

⁹ May include multiple allegations by complaint.

Corrective Actions for Formal Complaints

In FY20 there was a total of 433 formal substantiated sexual harassment offenders. Because more than one type of corrective action can be administered to each substantiated offender, there were 720 total corrective actions administered to substantiated offenders in FY20.

Represented in Exhibit 3 are the different types of corrective actions administered for formal complaints.

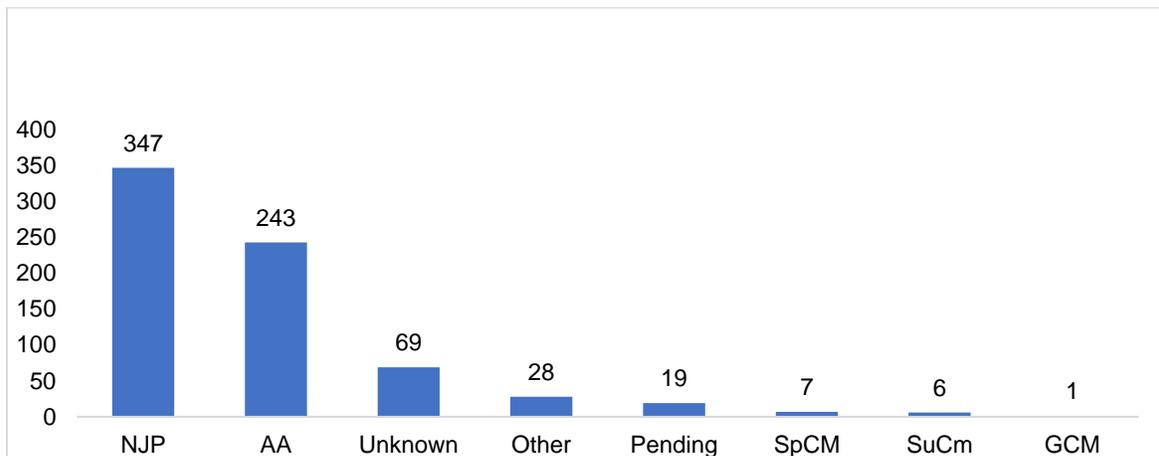


Exhibit 3: Corrective Actions Administered to Substantiated Offenders in Formal Complaints¹⁰

Corrective Actions for Informal Complaints

In FY20 for substantiated informal complaints, there were 243 total offenders of substantiated informal complaints, of which 162 were first-time offenders. Of the 162 first-time offenders, 134 received some form of corrective action.

Represented in Exhibit 4 are the different types of corrective actions administered for informal complaints.

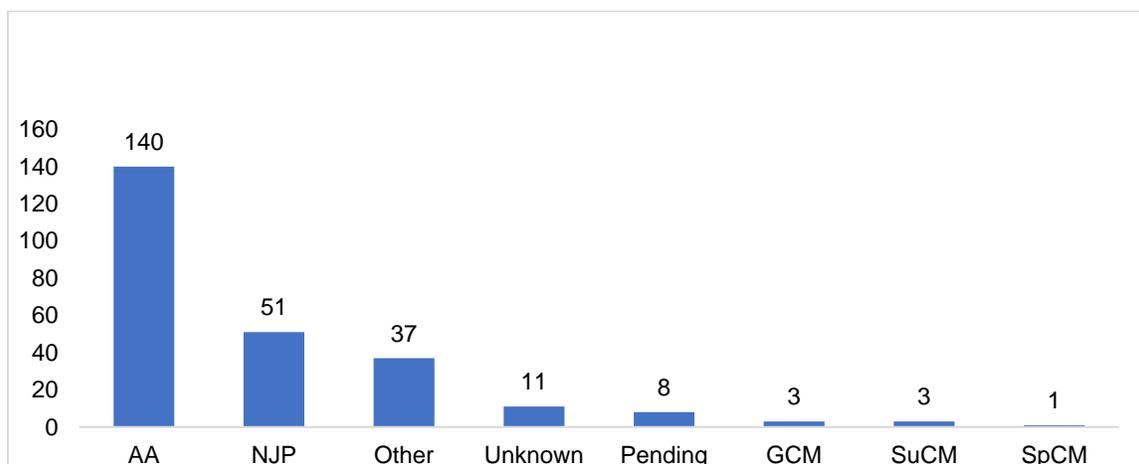


Exhibit 4: Corrective Actions Administered to Substantiated Offenders in Informal Complaints

¹⁰ Represented in Exhibit 3: "AA" is administrative action; "NJP" is non-judicial punishment; "GMC" is general court-martial; "SuCM" is summary court-martial; and "SpCM" is special court-martial.

Corrective Actions for Anonymous Complaints

In FY20, there were 16 offenders associated with 14 substantiated anonymous complaints. Twenty-three corrective actions were administered to substantiated offenders in anonymous complaints.

Represented in Exhibit 5 are the different types of corrective actions administered for anonymous complaints.

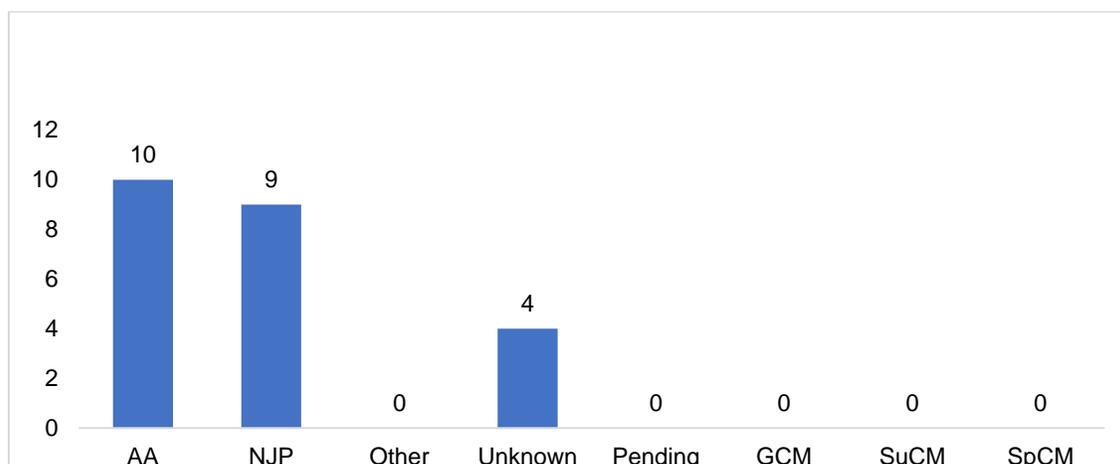


Exhibit 5: Corrective Actions Administered to Substantiated Offenders in Anonymous Complaints

Retaliation Complaints

There were 3 retaliation referrals reported for the total 984 formal complaints, and 3 retaliation referrals were reported for the total 765 informal complaints.

Way Forward

In the past decade, the Department has made progress in collecting, analyzing, and reporting critical sexual harassment data to inform policy, programs and practices. The Department is in a better position now more than ever before to improve sexual harassment prevention and response efforts and continue to make the data actionable. DoD enables its leaders, both military and civilian, to better understand negative climate indicators at all levels of command so they, in turn, can detect and prevent these caustic behaviors head-on and be accountable for maintaining a healthy command climate.

Specifically, DoDI 1020.03, "Harassment Prevention and Response in the Armed Forces," requires the Secretaries of the Military Departments and other DoD Component Heads to hold leaders at all levels appropriately accountable for fostering a climate that is free from harassment and does not tolerate retaliation against those making allegations of harassment. This policy, originally published on February 8, 2018, was updated on December 29, 2020, to bolster prevention and response efforts, enhance oversight, and provide additional protections and requirements to better protect Service members. During FY21, the Department will monitor this updated policy's impact as it relates to sexual harassment complaints.

As previously mentioned, at the end of FY20, DoD updated DoDI 1350.02, "DoD Military Equal Opportunity Program," September 4, 2020. This DoDI provides for command climate

assessment procedures to allow Service members and civilian employees to express opinions regarding the manner and extent to which leaders respond to allegations of sexual harassment. Furthermore, this policy requires training on harassment, retaliation, and sexual violence. With these increased efforts for preventing and responding to sexual harassment, the Department aims to empower its Service members with the training and knowledge on how to recognize, report, and respond to sexual harassment.

Ultimately, DoD policies, programs, and processes can only succeed if the Department holds all leaders appropriately accountable for the cultures fostered within individual units and offices. DoD will arm its Military Departments and DoD Components with the requisite data and tools to effectively promote dignity, respect, and inclusion within military workplaces.