



## Appendix C: Metrics and Military Justice Indicators on Sexual Assault



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# Appendix C: Metrics and Military Justice Indicators on Sexual Assault

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In collaboration with the White House, the Department of Defense (DoD) developed the following metrics and “non-metrics” in 2014 to help illustrate and assess DoD progress in sexual assault prevention and response (SAPR). As part of the development process, DoD canvassed sexual assault programs throughout the nation to identify potential points of analysis.

Unfortunately, DoD could not find widely accepted, population-based metrics to serve as a reference. Therefore, DoD developed the following twelve metrics and five “military justice indicators” in a collaborative process involving DoD SAPR program experts and researchers. For the purposes of this document, the term “metric” describes a quantifiable part of a system’s function. Inherent in performance metrics is the concept that there may be a positive or negative valence associated with such measurements. In addition, adjustments in inputs to a process may allow an entity to influence a metric in a desired direction. For example, DoD aspires to encourage greater reporting of sexual assault by putting policies and resources in place. Therefore, increases in the number of sexual assault reports may indicate that DoD’s efforts may be working.

DoD uses the term “military justice indicator” to describe outputs of the military justice system that should not be “influenced,” or be considered as having a positive or negative valence in that doing so may be inappropriate or unlawful under military law. The Department previously used the term “non-metric” for these military justice indicators.

Figures A through V illustrate points of analysis for metrics and indicators.

## Metrics

### Metric 1: Past-Year Prevalence of Sexual Assault

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#### **(No New Data for FY17)**

DoD uses the *Workplace and Gender Relations Survey of Active Duty Members (WGRA)*<sup>1</sup> to assess the estimated prevalence, or occurrence, of sexual assault in the active duty over a year’s time. The Office of People Analytics (OPA) conducts the *WGRA* in accordance with the quadrennial cycle of human relations surveys outlined in Section 481 of Title 10, USC. In the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012, Congress directed DoD to survey active duty members every two FYs. Past-year estimated prevalence rates are available for Calendar Year (CY) 2006, FY10, FY12, FY14, and FY16. The Department will estimate prevalence rates again in FY18.

As with all surveys, OPA classifies Service members as having experienced sexual assault based on respondents’ memories of the event as expressed in their survey responses. A full review of all evidence may reveal that some respondents whom OPA classifies as not having

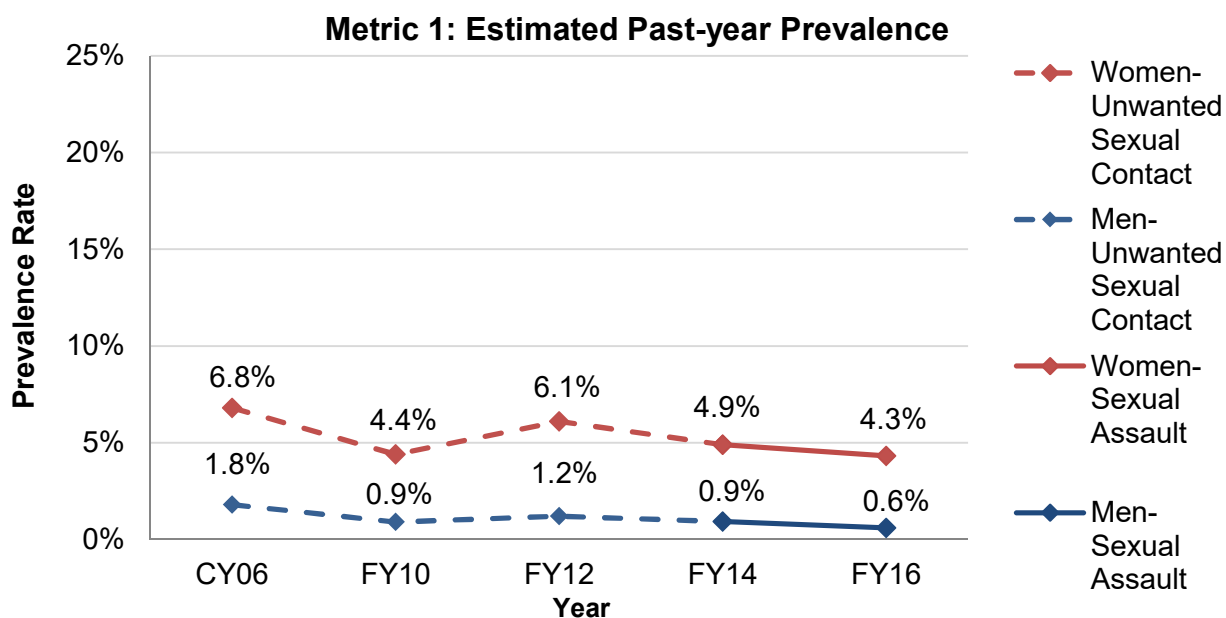
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<sup>1</sup> In FY14, the RAND Corporation designed a prevalence measure more closely aligned with legal language in the UCMJ. Consequently, “sexual assault” replaced “unwanted sexual contact” as the survey measure that estimates prevalence.

experienced sexual assault in fact did have one of these experiences. Similarly, some whom OPA classifies as having experienced a crime or violation may have experienced an event that would not meet the minimum DoD criteria. OPA's rigorous survey development sought to minimize such errors, but these errors cannot be eliminated in a self-report survey.

Metric 1 (Figure A) illustrates the past-year rates of unwanted sexual contact (USC) among active duty women and men for CY06, FY10, and FY12. In FY14, DoD hired the RAND Corporation (RAND) to align the survey measure more closely with the crime of sexual assault as stipulated in the Uniform Code of Military Justice (UCMJ). Therefore, prevalence of sexual assault as estimated in FY14 and FY16 are not directly comparable to prior FYs.

In FY16, the WGRA estimates that 4.3 percent of active duty women and 0.6 percent of active duty men experienced an incident of sexual assault in the 12 months prior to being surveyed.<sup>2</sup> Compared to FY14, the FY16 sexual assault rate is statistically lower for both women (from 4.9 percent in FY14 to 4.3 percent in FY16) and men (from 0.9 percent in FY14 to 0.6 percent in FY16).



**Description:** Estimated past-year prevalence of USC and sexual assault as estimated by survey data.

**Sources:** *Gender Relations Survey of Active Duty Members* (2006); *WGRA*, 2010, 2012, 2016; *RAND Military Workplace Study (RMWS)*, 2014).

**Implication:** Estimates the occurrence of USC or sexual assault of active duty members in the 12 months prior to the survey administration.

<sup>2</sup> OPA used scientific weighting to estimate prevalence rates that were representative of the entire active duty population. OPA provides confidence intervals for all statistics that are interpreted as population estimates. The estimated 4.3 percent prevalence rate among women has a confidence interval of 4.1 percent to 4.6 percent, meaning that we can infer with 95 percent confidence that the prevalence of sexual assault among active duty women is between 4.1 percent and 4.6 percent. The estimated 0.6 percent prevalence rate among men has a confidence interval of 0.5 percent to 0.7 percent, meaning that we can infer with 95 percent confidence that the prevalence of sexual assault among active duty men is between 0.5 percent and 0.7 percent.

Figure A - Metric 1: Estimated Past-year Prevalence of Unwanted Sexual Contact and Sexual Assault, CY06 and FY10 – FY16

## Metric 2: Estimated Prevalence versus Reporting

Underreporting occurs when crime reports to law enforcement fall far below statistical estimates of how often a crime may occur. Nationally, sexual assault is one of the most underreported crimes, with estimates indicating that between 65 and 84 percent of rapes and sexual assaults are not reported to police.<sup>3</sup> Underreporting also occurs in DoD, which interferes with providing victims needed care and holding alleged offenders appropriately accountable. To understand the extent to which sexual assault goes unreported, metric 2 compares the estimated number of Service members who may have experienced sexual assault, as measured by survey data, with the number of Service member victims in sexual assault reports for incidents occurring during Military Service.

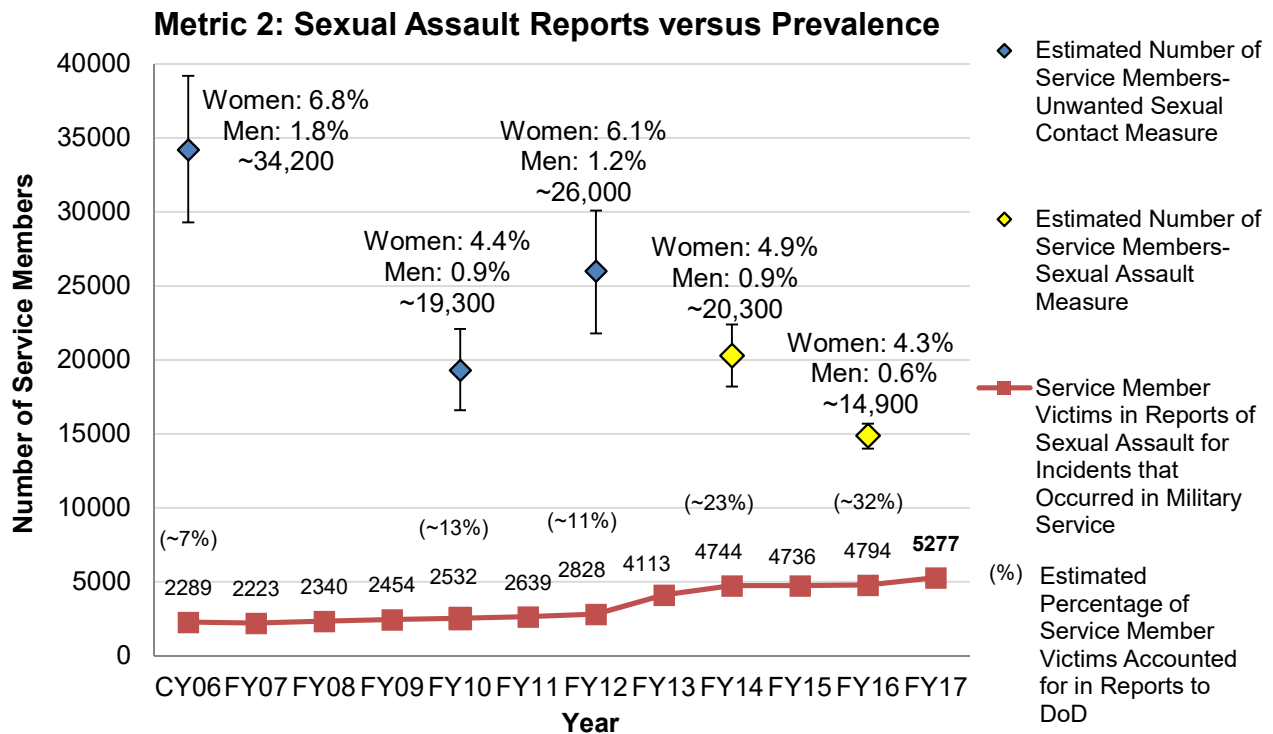


Figure B - Metric 2: Sexual Assault Reports versus Estimated Prevalence, CY04 – CY06 and FY07 – FY17

**Description:** Estimates the percentage of Service member incidents captured in reports of sexual assault (Restricted and Unrestricted Reports).

**Sources:** Service reports of sexual assault (FY04-FY13) and DSAID, FY14-current; *Gender Relations Survey of Active Duty Members* (2006); *WGRA*, 2010, 2012, 2016; *RMWS*, 2014.

**Implication:** Capturing a greater proportion of sexual assault incidents in reports to DoD improves visibility over the extent of the problem. It is the Department's goal to decrease the estimated prevalence of sexual assault through prevention, while encouraging a greater number of victims to make a Restricted

<sup>3</sup> National Research Council. (2014). *Estimating the Incidence of Rape and Sexual Assault*. Panel on Measuring Rape and Sexual Assault in Bureau of Justice Statistics Household Surveys, C. Kruttschnitt, W.D. Kalsbeek, and C.C. House, editors. Committee on National Statistics, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press.

or Unrestricted Report. Increased reporting allows a greater number of victims to obtain needed assistance, and gives the Department an opportunity to hold alleged offenders appropriately accountable. **Note:** Error bars represent the 95 percent confidence interval for each estimate.

Each year, DoD receives reports of sexual assault from military and civilian victims. DoD responds to all reports of sexual assault; however, a focus on Service member victim reports of sexual assault for an incident occurring during Military Service allows for comparison to prevalence estimates. Figure B illustrates the difference between reports and the estimated number of military victims. Although reports to DoD authorities are unlikely to capture all sexual assaults estimated to occur in each year, DoD’s goal is to encourage greater Service member reporting of sexual assault.

While the Department received more reports in FY17 than any other year, a comparison between prevalence and reporting data should not be made, since the *WGRA* was not fielded in FY17. The Department will reevaluate the difference between past-year prevalence and reporting again next year with the *2018 WGRA*. Furthermore, actions taken to increase reporting combined with prevention efforts that reduce the overall occurrence of sexual assault will likely further the progress observed thus far with this metric. In effect, over time DoD expects that:

- Initiatives to build victims’ confidence in the system should increase the number of Service members who choose to make an Unrestricted or Restricted Report.
- The effects of prevention initiatives implemented across DoD should reduce past-year prevalence rates of sexual assault, as estimated by the *WGRA*.

### Metric 3: Bystander Intervention Experience in the Past-Year

A total of 587,521 active duty respondents completed questions related to Sexual Assault Prevention and Response (SAPR) issues on the Defense Equal Opportunity Management Institute’s (DEOMI) *Organizational Climate Survey (DEOCS)* from October 2016 to September 2017 (Table A).

Table A – Sample Sizes for *DEOCS* Respondents, FY17

Sample size (N)	587,521
Men	500,527
Women	86,994
Junior Enlisted (E1-E3)	112,958
Junior NCO (E4-E6)	311,863
Remaining Ranks (E7-E9, W1-W5, O1 & Above)	162,700

The *DEOCS* included two items to assess respondents’ bystander intervention experiences in the past 12 months. The first item asked whether participants *observed* a situation they believed could have led to a sexual assault within the past 12 months. If respondents answered “yes” to this question, the survey prompted them to answer a second question identifying the response that most closely resembled their actions:

*In the past 12 months, I observed a situation that I believe was, or could have led to, a sexual assault:*

- Yes
- No

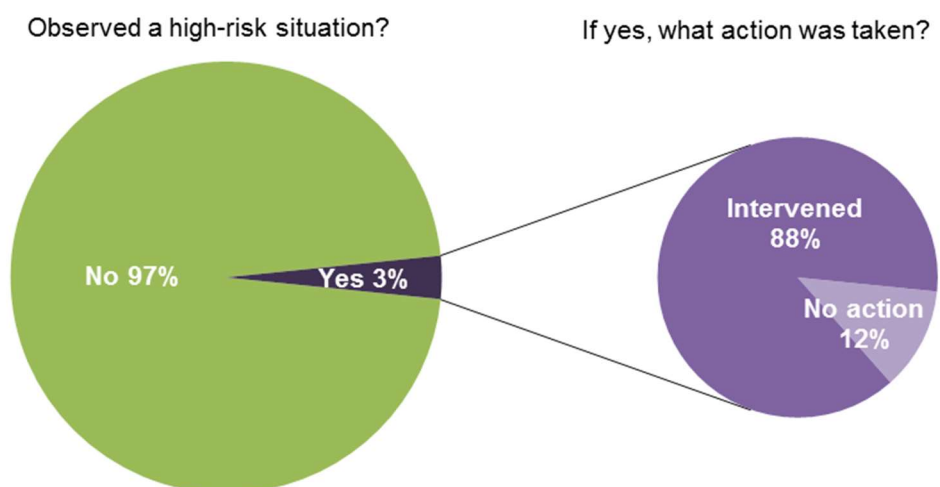


Response to this situation (select the response that most closely resembles your actions):

- I stepped in and separated the people involved in the situation
- I asked the person who appeared to be at risk if they needed help
- I confronted the person who appeared to be causing the situation
- I created a distraction to cause one or more of the people to disengage from the situation
- I asked others to step in as a group and diffuse the situation
- I told someone in a position of authority about the situation
- I considered intervening in the situation, but I could not safely take any action
- I decided not to take action

Of the respondents who completed the DEOCS in FY17, 3 percent indicated they had observed a situation they believed was, or could have led to, a sexual assault (i.e., a high-risk situation). However, of those who observed a high-risk situation, the majority took some action to intervene (Figure C).

### Metric 3a and 3b: Bystander Intervention FY17



	% Observed High-risk Situation	If Observed, % Intervened
Fiscal Year 2017	3%	88%

**Description:** Service member responses to: “In the past 12 months, I observed a situation that I believed was, or could have led to, a sexual assault” and, if they observed a high-risk situation, what action they took.

**Source:** DEOMI *Organizational Climate Survey (DEOCS)*.

**Implication:** Indicator of frequency of observed high-risk situations and Service member actions to intervene. **Summary Points:** Although most Service members did not witness a high-risk situation, the majority of those who did witness such situations acted to intervene.

**Note:** DEOCS is voluntary and administered annually by units or within 120 days of a change in command.

Figure C - Metric 3a and 3b: Bystander Intervention, 2017<sup>4</sup>

<sup>4</sup> DEOCS results draw from a convenience sample and may not represent the entire force.

DEOMI conducted subsequent comparisons to understand response differences between demographic groups, which are:

- Male respondents compared to female respondents
- Junior enlisted (E1 to E3) and junior non-commissioned officer (E4 to E6) respondents compared to senior enlisted (E7 to E9), warrant officer (W1 to W5), and officer (O1 and above) respondents

Compared to men, women were more likely to observe a high-risk situation and more likely to intervene. Officers and senior enlisted Service members were less likely to observe a high-risk situation, but more likely to intervene when compared to junior enlisted members and junior non-commissioned officers. Overall, responses remained about the same from FY14 to FY17 (Figure D and Figure E).<sup>5</sup>

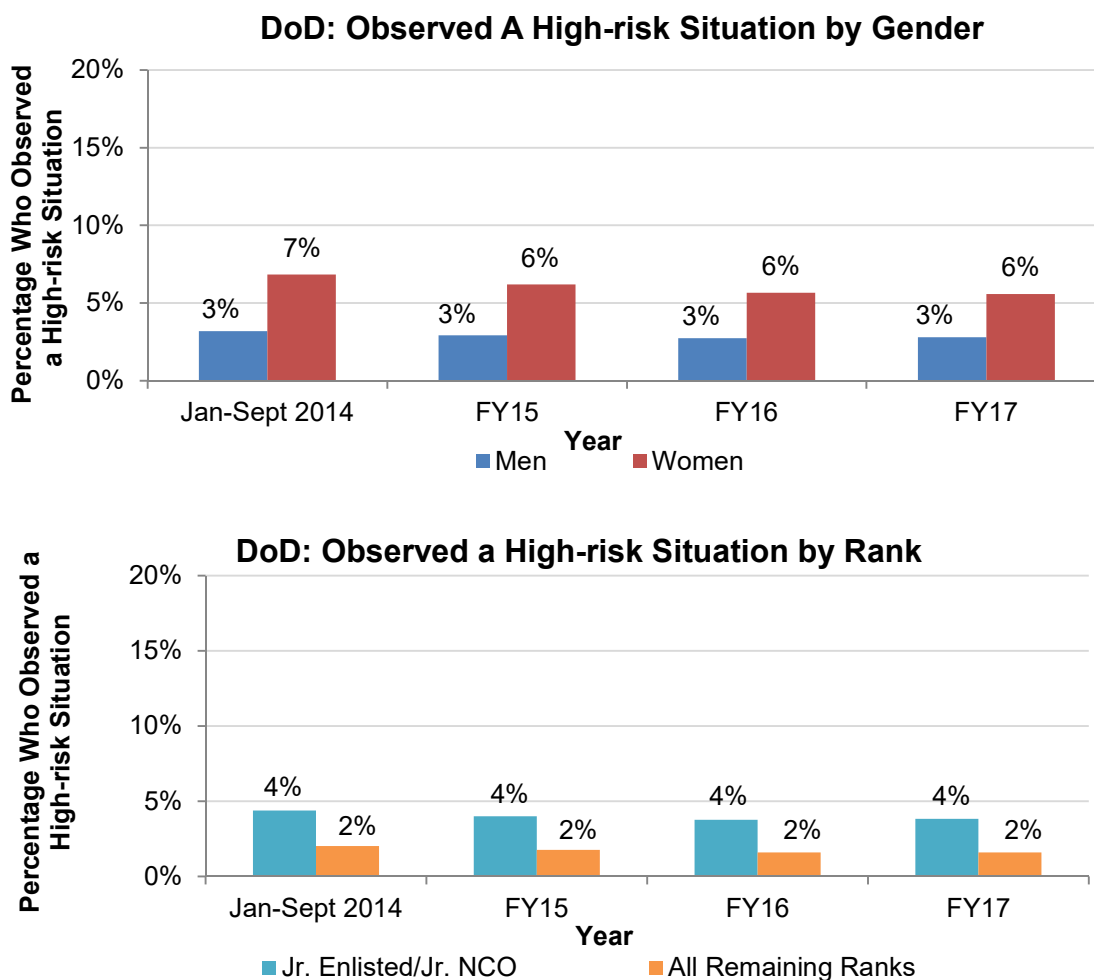


Figure D - Metric 3a: Bystander Intervention – Observed a High-risk Situation by Gender and Rank, 2014 – 2017<sup>6</sup>

<sup>5</sup> DEOMI modified *DEOCS* questions a few months after FY14 had begun; the data in 2014 include January through September, while data for 2015, 2016 and 2017 include the entire FY (metrics 3, 4, 9, and 11).

<sup>6</sup> *DEOCS* results draw from a convenience sample and may not represent the entire force.

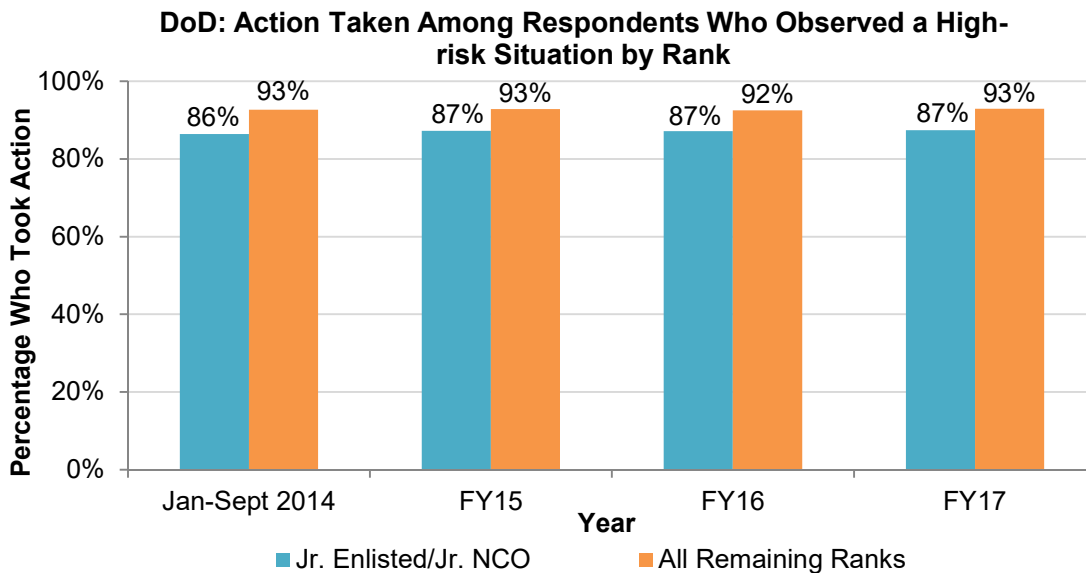
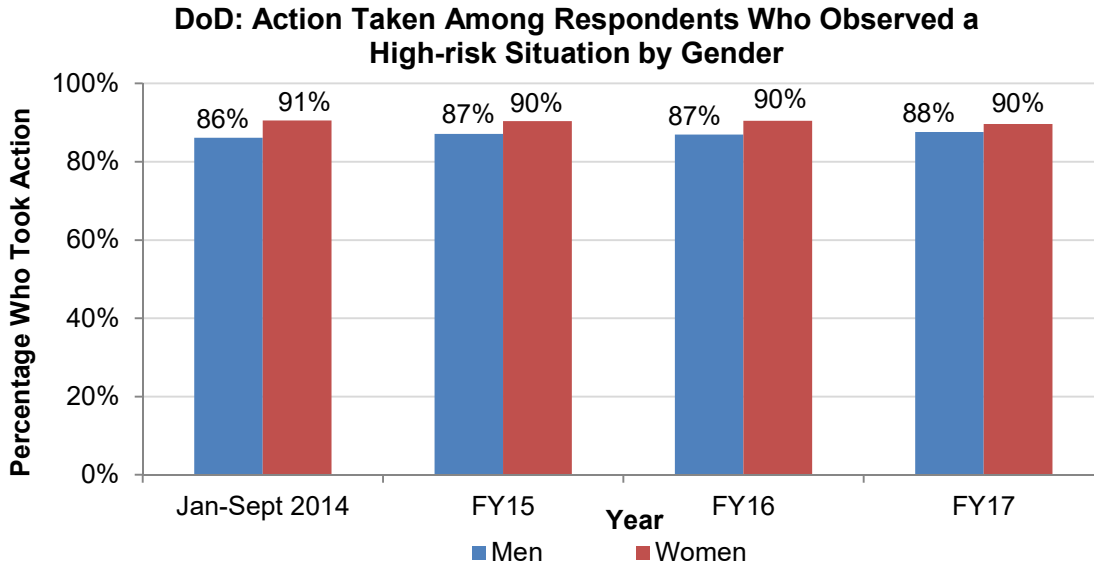


Figure E - Metric 3b: Bystander Intervention – Action Taken Among Respondents Who Observed a High-risk Situation by Gender and Rank, 2014 – 2017<sup>7</sup>

DEOMI conducted additional analyses to assess the relationship between bystander intervention and other items on the *DEOCS*. These analyses suggest that respondents had a higher likelihood of observing a high-risk situation if they perceived their home or work environment as unsafe, compared to those who perceived their home or work environment to be safe. For example, nearly 19 percent of individuals who said they felt "unsafe" at work also reported observing a situation that was, or could have led to, a sexual assault in the past 12 months. In contrast, only 3 percent of individuals who reported feeling "safe" from sexual assault at work also indicated they observed a high-risk situation.

<sup>7</sup> *DEOCS* results draw from a convenience sample and may not represent the entire force.

Additionally, respondents with higher perceptions of chain of command support for bystander intervention were more likely to indicate that they took action after observing a high-risk situation, compared to respondents with lower perceptions of chain of command support for bystander intervention. Approximately 92 percent of respondents who indicated their chain of command encourages bystander intervention to a “great extent” also indicated they took action after observing a high-risk situation. In contrast, only 78 percent of respondents who indicated that their commander does not encourage bystander intervention also indicated they took action following the observation of a high-risk situation.

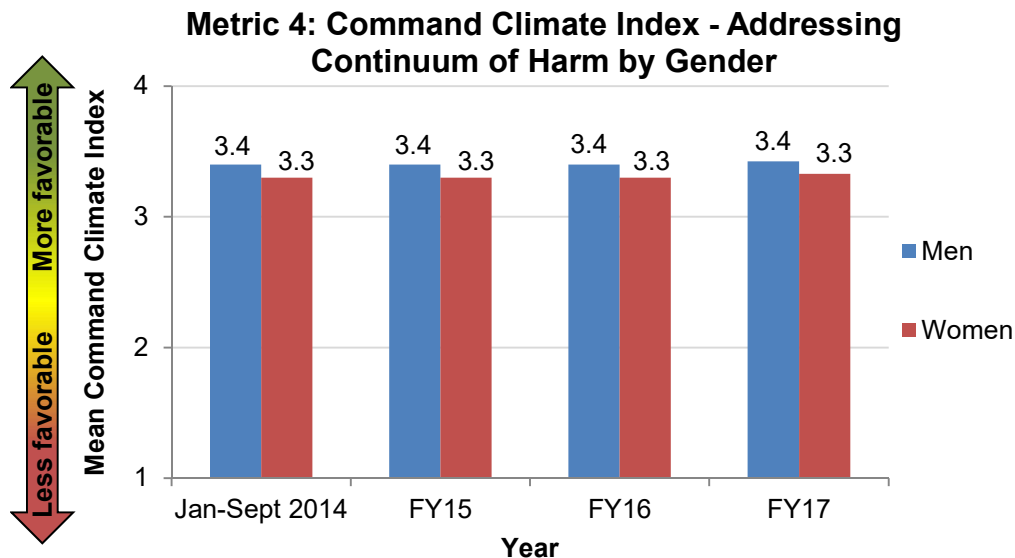
### Metric 4: Command Climate Index – Addressing Continuum of Harm

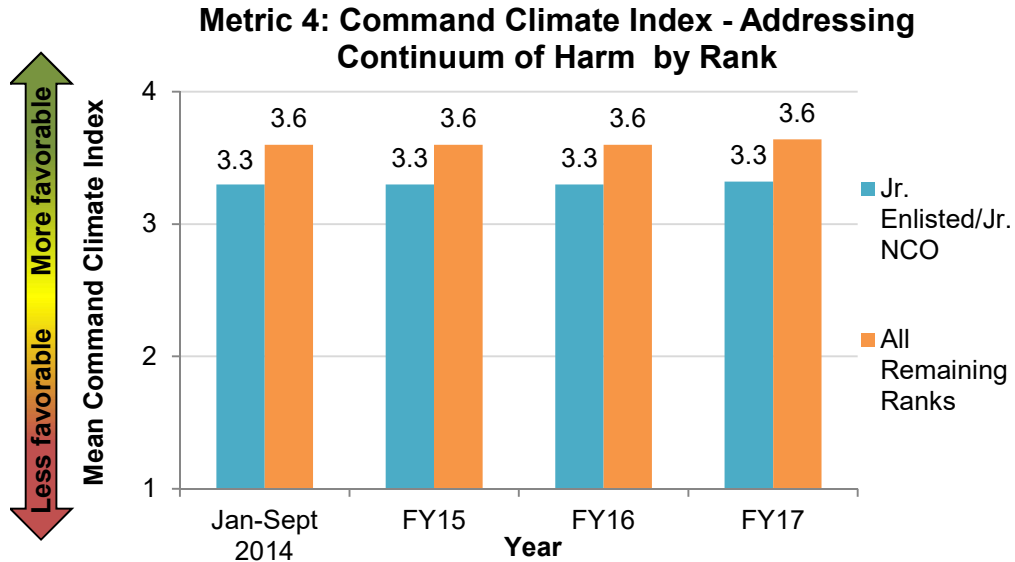
Respondents who completed the *DEOCS* answered three questions about their perceptions of the extent to which their leadership promotes a climate based on mutual respect and trust. These items, listed below, use a four-point scale ranging from “Not at All” to “Great Extent.” A high score indicates a more favorable climate.

*To what extent does your chain of command...*

- *Promote a unit climate based on “respect and trust”*
- *Refrain from sexist comments and behaviors*
- *Actively discourage sexist comments and behaviors*

DEOMI combined the responses to these three items into an index. The data displayed compare the average responses from each of the demographic groups in 2014, FY15, FY16, and FY17. Overall, *DEOCS* respondents indicated a favorable command climate for every year data are available. Perceptions of command climate are slightly less favorable among women than among men. Perceptions of command climate are less favorable among junior enlisted members and junior non-commissioned officers, compared to senior enlisted Service members and officers (Figure F).





	Men	Women	Jr. Enlisted/Jr. NCO	All Remaining Ranks
Fiscal Year 2017	3.4	3.3	3.3	3.6

**Description:** Mean Service member perceptions of the extent to which their command: (1) Promotes a climate based on “mutual respect and trust,” (2) Refrains from sexist comments and behaviors, and (3) Actively discourages sexist comments and behaviors. Higher scores indicate perceptions that are more favorable.

**Source:** DEOMI *Organizational Climate Survey (DEOCS)*.

**Implication:** Service member rating of command climate in this area addresses the continuum of harm. However, *DEOCS* results draw from a convenience sample and may not be representative of the entire force.

**Summary Points:** Overall, Service members perceived a favorable command climate. Men perceived a slightly more favorable climate compared to women. Junior enlisted Service members and junior NCOs reported a less favorable command climate compared to all other ranks.

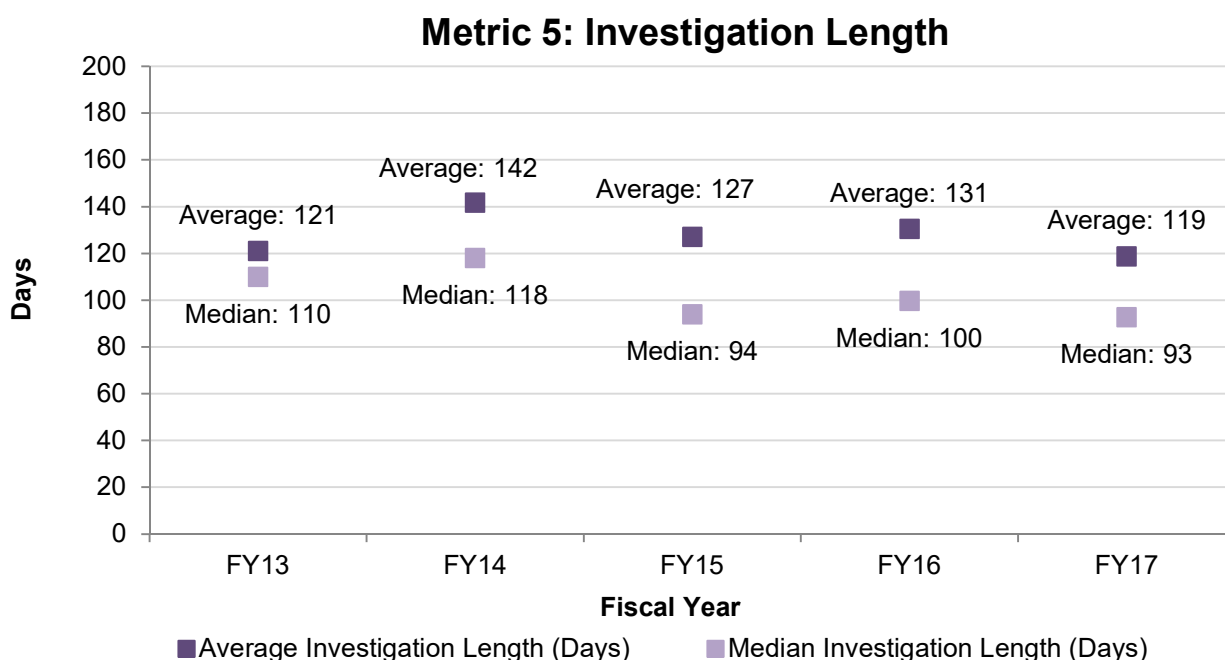
**Notes:** The *DEOCS* is a voluntary survey administered to military units annually or within 120 days of change in unit command. Rankings are categorized as follows: junior enlisted includes E1-E3, junior NCO includes E4-E6, and all remaining ranks include E7-E9, W1-W5, and O1 and above.

Figure F - Metric 4: Command Climate Index – Addressing Continuum of Harm by Gender and Rank, 2014 – 2017<sup>8</sup>

<sup>8</sup> *DEOCS* results draw from a convenience sample and may not represent the entire force.

## Metric 5: Investigation Length

As illustrated in Figure G, it took an average of 119 days (3.9 months) to complete a sexual assault investigation in FY17, indicating a small decline since FY16 (131 days). DoD began tracking investigation length in FY13; therefore, data from prior FYs are not available. It is important to note that the length of an investigation does not necessarily reflect an investigation's quality. The time it takes to investigate depends on a variety of factors, including the complexity of the allegation, the number and location of potential witnesses involved, and the laboratory analysis required for the evidence. Thus, the factors that affect investigation length vary on a case-by-case basis. Knowledge of the average length of a sexual assault investigation helps to inform victims about the investigative process and allows DoD to assess its resources and investigative capabilities moving forward.



Investigation Information	FY16	FY17
Number of Completed Investigations	4,083	5,274
Average Investigation Length (Days)	131	119
Median* Investigation Length (Days)	100	93

**Description:** Baseline average and median investigation lengths of sexual assault investigations for each MCIO. Length measured from date of victim report to date that all investigative activity is completed.

**Source:** MCIOs (CID, NCIS, and AFOSI).

**Implication:** Provides a means to address expectations about investigation length. Investigation length is not a measure of a thorough and professional investigation and may vary greatly depending on the complexity of the allegation and evidence. Shorter investigations are not necessarily better investigations.

**Summary Points:** On average, a criminal investigation in DoD takes 3.9 months.

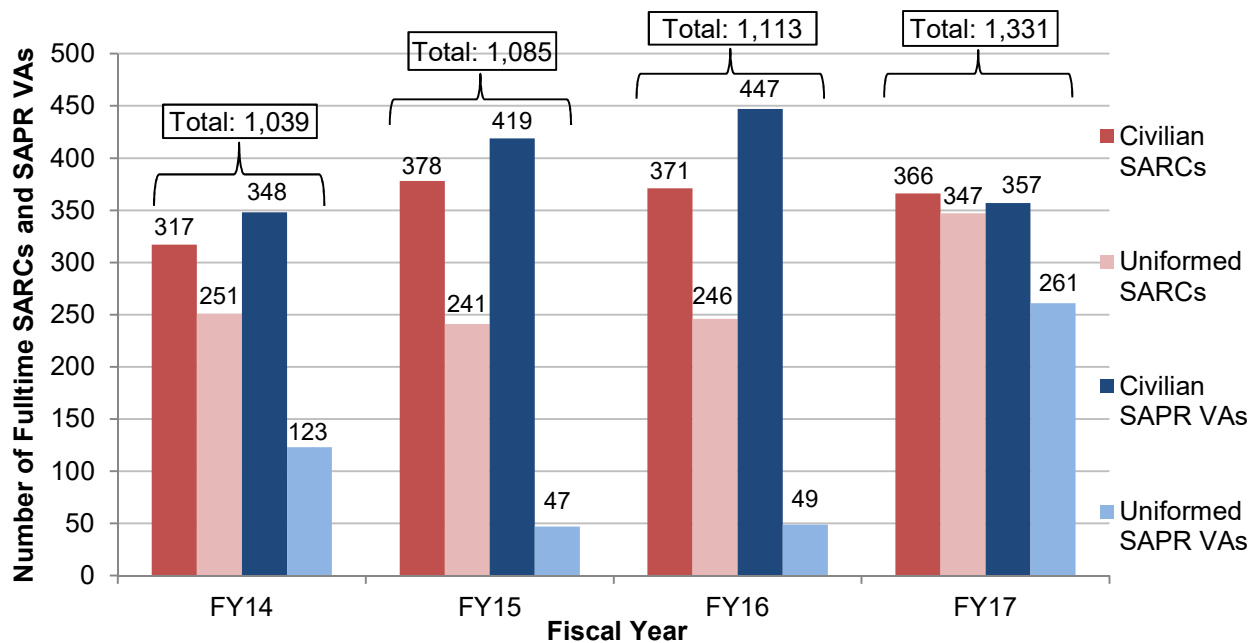
\*The median is a "midpoint" for a set of numbers; it is the value for which half are above and half are below. Unlike an average, the median is less influenced by outliers in a set of numbers.

Figure G - Metric 5: Investigation Length, FY13 – FY17

## Metric 6: All Full-time Certified Sexual Assault Response Coordinator and SAPR Victim Advocate Personnel Currently Able to Provide Victim Support

As illustrated below, there are 1,331 full-time civilian and Service member Sexual Assault Response Coordinators (SARCs), SAPR Victim Advocates (VAs), and Uniformed SAPR Victim Advocates (UVAs) working to provide victim support in FY17. In addition to full-time SARCs and SAPR VAs/UVAs, the Services also employ collateral duty Service member SARCs and UVAs to provide support to victims on a part-time basis.

### Metric 6: All Fulltime Certified SARC and SAPR VA Personnel Currently Able to Provide Victim Support



	Civilian Full-time		Uniformed Personnel Full-time	
	SARCs	SAPR VAs	SARCs	SAPR VAs
FY17	366	357	347	261

**Description:** Number of full-time civilian SARCs and SAPR VAs, number of full-time uniformed SARCs and SAPR VAs.

**Source:** Service Manning Data.

**Implication:** Indicator of full-time professional capability both on-base and deployed.

**Summary Point:** There are 1,331 full-time SARCs and SAPR VAs. In addition, the Services have many collateral duty and volunteer SARCs and SAPR VAs available to assist victims. In total, 24,072 individuals across the Services are D-SAACP certified.

Figure H - Metric 6: Full-time Certified SARC and SAPR VA Personnel Currently Able to Provide Victim Support, FY14 – FY17

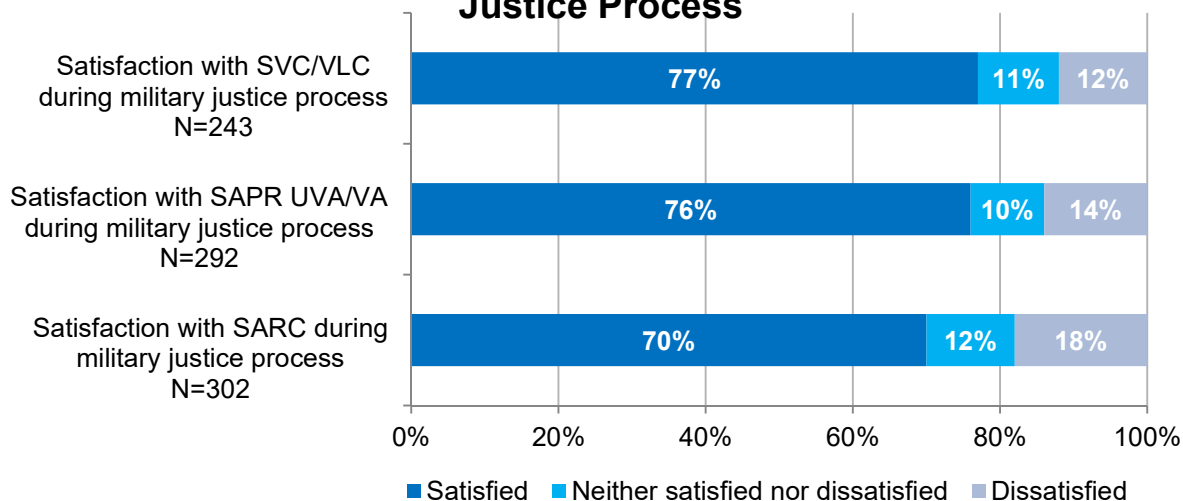
## Metric 7: Victim Experience – Satisfaction with Services Provided by Sexual Assault Response Coordinators, SAPR Victim Advocates, and Special Victims’ Counsel/Victims’ Legal Counsel during the Military Justice Process

In FY17, OPA conducted the *Military Investigation and Justice Experience Survey (MIJES)* to assess the investigative/legal experiences of victims who made Unrestricted Reports. Data collected from August 29 to December 6, 2016 (2016 *MIJES*) were presented in the 2016 *MIJES* Overview Report (n = 225; Namrow, De Silva, Barry, Klahr, and Ely, 2017). The 2017 *MIJES* was fielded from March 17 to May 12, 2017 using an identical survey instrument to the 2016 *MIJES*. In order to obtain a full picture of cases that were closed/adjudicated in FY16 and to develop a more robust sample size, data from the 2016 and 2017 administrations were combined. Results from the combined dataset are reported in this 2016 – 2017 report.

DoD administered the *MIJES* for the last time in FY17. Since the *MIJES* recruits a small sample of respondents, it yields results that are not representative of the entire population of military victims who participated in the military justice system. Beginning in FY18, DoD will field *MIJES* questions on the *WGRA* to collect generalizable data for Metric 7.

Overall, the majority of respondents to the *MIJES* indicated that they were satisfied with their Special Victims’ Counsel/Victims’ Legal Counsel (SVC/VLC), SARC, and SAPR VA/UVA during the military justice process (70 percent to 77 percent indicated that they were satisfied).

### Metric 7: Victim Experience - Satisfaction with SVC/VLCs, SARCs, and VAs/UVAs during the Military Justice Process



**Description:** Victim opinion of the quality/value of support provided by the SVC/VLC, SARC, and SAPR VA/UVA, if they interacted with these individuals during the military justice process.

**Source:** 2016 – 2017 *MIJES*.

**Summary Points:** The vast majority of victims who took the survey and interacted with SVCs/VLCs, SARCs, and/or SAPR VAs/UVAs during the military justice process were satisfied with the support provided.

**Note:** Only respondents who indicated interacting with a SARC, SAPR VA/UVA, and/or SVC/VLC during the military justice process answered this question: 83 percent of respondents indicated interacting with a SARC, 77 percent of respondents interacted with a SAPR VA/UVA, and 66 percent of respondents indicated interacting with a SVC/VLC. Among those who indicated interacting with a UVA and/or a VA, 54



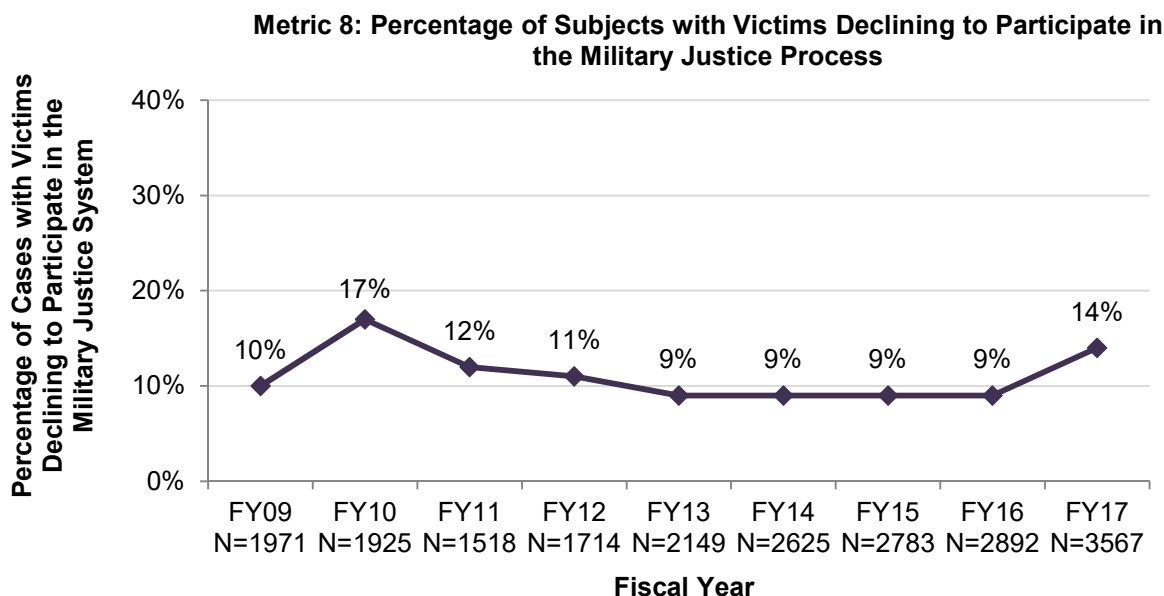
percent used an UVA, 49 percent used a VA. Of those, 77 percent were satisfied with their UVA and 76 percent were satisfied with their VA. Due to the small number of respondents contributing toward many of these estimates, we caution against comparing across groups.

\*Indicates that percentages do not sum to 100 percent due to rounding.

Figure I - Metric 7: Victim Experience – Satisfaction with Services Provided by SVCs/VLCs, SARCs, and SAPR VAs/UVAs, 2016 – 2017

## Metric 8: Percentage of Cases with Victims Declining to Participate in the Military Justice Process

The Services reported that DoD commanders, in conjunction with their legal advisors, reviewed and made case disposition decisions for 3,567 cases in FY17. However, the evidence did not support taking disciplinary action against everyone accused of a sexual assault crime. For example, disciplinary action may be precluded when victims decline to participate in the military justice process. In FY17, 14 percent of cases command considered for action did not receive disciplinary action because the victims declined to participate in the justice process. As illustrated in Figure J, the percentage of cases with victims declining to participate increased to 14 percent in FY17 from a four-year trend of 9 percent. While one data point cannot indicate a trend, the Department continues to pursue avenues for greater and sustained victim involvement in the justice system.



**Description:** The percentage of cases with subjects that DoD cannot hold appropriately accountable because the victim declined to participate in the military justice process.

**Source:** F09 to FY13 = Service reporting; FY14 to current = DSAID

**Implication:** Provides indication if the Department’s changes in the military justice process are having an impact on victim involvement.

Figure J - Metric 8: Cases with Victims Declining to Participate in the Military Justice Process, FY09 – FY17

## Metric 9: Perceptions of Retaliation

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The Department aims to foster a climate of confidence in which victims feel supported enough to report sexual assault without any concern of retaliation or negative repercussions. Given the challenges associated with interpreting perceptions of retaliation, DoD sampled two domains to get as full a picture of this phenomenon as possible. Notably, these sources provide data on victims' perceptions of retaliation that do not necessarily align with actionable offenses that meet the elements of proof required for a charge of retaliation under the UCMJ.

- 2017 DEOMI *Organizational Climate Survey (DEOCS)*
- 2016 *Workplace Gender Relations Survey (WGRA)*
- 2016 – 2017 *Military Investigation and Justice Experience Survey (MIJES)*

### A. 2017 DEOMI Organizational Climate Survey (DEOCS)

The *DEOCS* includes six items that assess the extent to which Service members believe their command or units would retaliate against victims who reported a sexual assault. The items used a four-point scale ranging from “Not at all likely” to “Very likely.” DEOMI coded the responses to the items listed below such that a high score indicates a more favorable climate and combined the items into a four-point index:

*If someone were to report a sexual assault to your current chain of command, how likely is it that:*

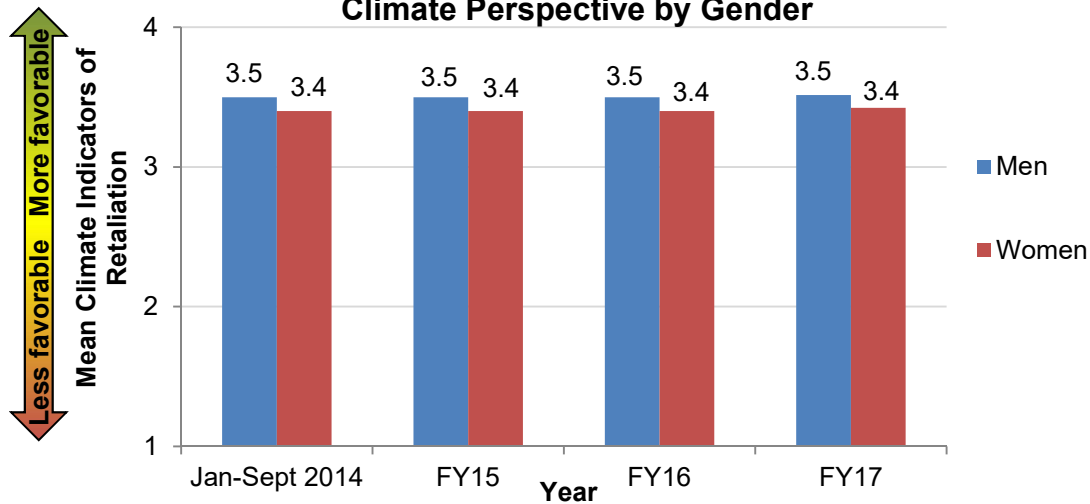
- *Unit members would label the person making the report a troublemaker*
- *Unit members would support the person making the report*
- *The alleged offender(s) or their associates would retaliate against the person making the report*
- *The chain of command would take steps to protect the safety of the person making the report*
- *The chain of command would support the person making the report*
- *The chain of command would take corrective action to address factors that may have led to the sexual assault*

Overall, Service members who completed the *DEOCS* perceived the potential for retaliation from their command and unit members to be unlikely (i.e., they perceived a favorable climate). However, men perceived a slightly more favorable climate with a lower likelihood of retaliation (3.5 out of 4.0) compared to women (3.4 out of 4.0; Figure K). Moreover, senior enlisted Service members and officers perceived a more favorable climate and perceived that retaliation was less likely to occur (3.7 out of 4.0) compared to junior enlisted Service members and junior non-commissioned officers (3.4 out of 4.0). Although thousands of DoD personnel complete the *DEOCS* each month, the respondents may not represent the entire force.<sup>9</sup>

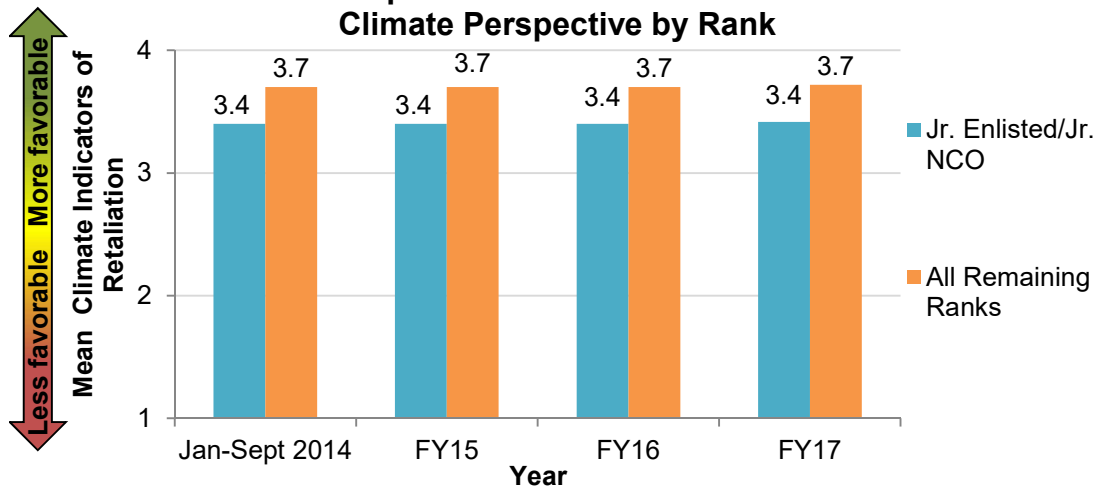
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<sup>9</sup> *DEOCS* results draw from a convenience sample and may not represent the entire force.

**Metric 9a: Perceptions of Victim Retaliation- Command Climate Perspective by Gender**



**Metric 9a: Perceptions of Victim Retaliation- Command Climate Perspective by Rank**



	Men	Women	Jr. Enlisted/Jr. NCO	All Remaining Ranks
Fiscal Year 2017	3.5	3.4	3.4	3.7

**Description:** Mean command climate indicators that victims may be retaliated against for reporting. Higher scores indicate a more favorable command climate.

**Source:** DEOMI *Organizational Climate Survey (DEOCS)*.

**Implication:** Indicates Service member perceptions of whether individuals who report a sexual assault would experience some kind of retaliation for doing so.

**Summary Points:** Command climate indicators suggested that, overall, surveyed Service members did not believe that retaliation is likely to occur. Compared to men, women reported that retaliation was slightly more likely to occur. Compared to all other ranks, junior enlisted Service members and junior NCOs reported that retaliation was more likely to occur.

**Notes:** The *DEOCS* is a voluntary survey administered to military units annually or within 120 days of change in unit command. Rankings are categorized as follows: junior enlisted includes E1-E3, junior NCO includes E4-E6, and all remaining ranks include E7-E9, W1-W5, and O1 and above.

Figure K - Metric 9a: Service Members' Perceptions of Victim Retaliation – Command Climate Perspective, 2014 – 2017<sup>10</sup>

<sup>10</sup> *DEOCS* results draw from a convenience sample and may not represent the entire force.

## B. 2016 Workplace Gender Relations Survey (WGRA)

### (No New Data Being Reported in FY17)

The *WGRA*, administered every other year, asks respondents to indicate whether they experienced specific negative behaviors following their report of sexual assault. Subsequent questions then assessed the context of those experiences to categorize which respondents reported experiencing behavior that aligned with prohibited behaviors described in policy and law. Retaliatory behavior by the chain of command that affects Service members' professional opportunities is prohibited. Likewise, retaliatory behavior by anyone that involves exclusion from social acceptance because someone planned to report or did report a crime is also prohibited. Finally, service members may not commit acts of cruelty, and maltreatment against an individual who is subject to their orders, because he or she reported a crime or was going to report a crime.<sup>11</sup>

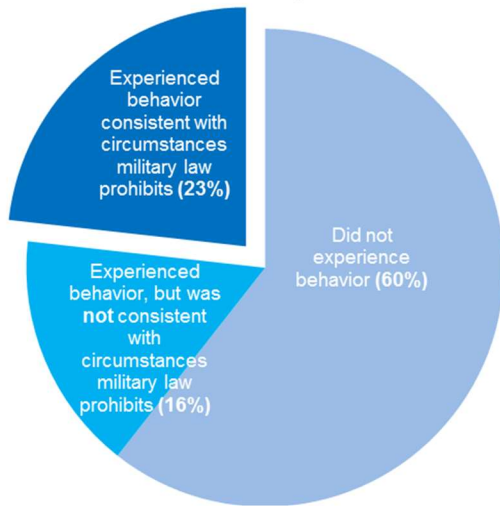
The Department last fielded the *WGRA* in 2016 and provided the results in last year's Annual Report. The 2016 *WGRA* revealed that, of active duty members who indicated experiencing sexual assault in the year prior to being surveyed and reported the matter to a DoD authority, 58 percent indicated experiencing at least one behavior in line with potential professional reprisal, ostracism, and/or maltreatment. However, once the context of those negative experiences was assessed, about a third (32 percent) met the legal criteria for professional reprisal, ostracism, and/or maltreatment. Regarding professional reprisal, 23 percent of respondents endorsed experiences and contextual factors that indicated the matter might be an actionable offense, while the comparable figure for ostracism and/or maltreatment was 21 percent (Figure L). Victim responses to these survey items do not constitute a report of retaliation, nor do they constitute a finding under the law that the victim experienced some form of retaliation. Rather, these responses allow the Department to gain a better understanding of the broad range of negative experiences associated with reporting a sexual assault.

The 2017 *Military Service Gender Relations Focus Groups*, while not representative of the entire military population, provide additional context to supplement last year's *WGRA* findings. Among male focus group participants, reports showed that fear of social and/or professional retaliation, including damage to one's reputation and ostracism, is a potential barrier to reporting sexual assault and/or harassment. Male focus group participants were split on whether retaliation was common, but the majority did perceive that social retaliation is more common than professional retaliation. Similarly, female participants perceived that social retaliation occurs more frequently and is a larger barrier to reporting than professional retaliation. The 2017 complete findings from the *Military Service Gender Relations Focus Groups* are in Annex 1 of this report.

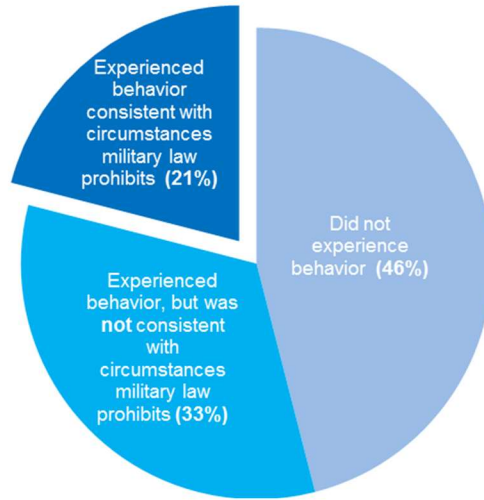
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<sup>11</sup> In January 2017, DoD issued standardized definitions for retaliation, reprisal, and ostracism. However, the development of these definitions fell outside of the period of administration for the 2016 *WGRA*.

**Perceived Professional Reprisal – WGRA**



**Perceived Ostracism and/or Maltreatment – WGRA**



**Perceived Professional Reprisal, Ostracism, and/or Maltreatment – WGRA**

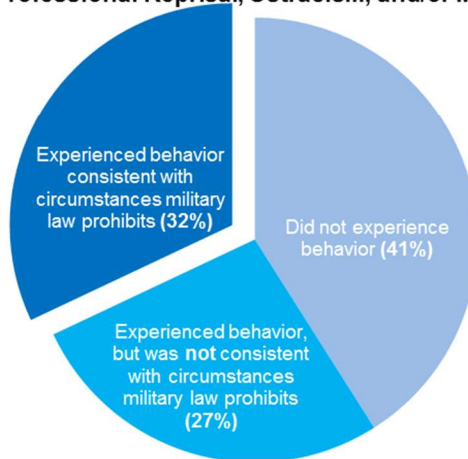


Figure L – Metric 9b: Perceived Professional Reprisal, Ostracism, and/or Maltreatment – Victim Perspective (WGRA), FY17

**Note:** Percentages may not add to 100 percent due to rounding.

Table B – Metric 9b: Perceived Professional Reprisal, Ostracism, and/or Maltreatment by Gender (WGRA), 2016

	Women			Men		
	Perceived professional reprisal	Perceived ostracism and/or maltreatment	Perceived one or more of these behaviors	Perceived professional reprisal	Perceived ostracism and/or maltreatment	Perceived one or more of these behaviors
Did not experience	64%	46%	41%	50%	46%	40%
Experienced, <b>did not</b> meet circumstances military law prohibits	17%	33%	30%	14%	32%	18%
Experienced, did meet circumstances military law prohibits	19%	21%	28%	36%	22%	42%

Table B displays these results by gender. Of women who indicated experiencing sexual assault in the year preceding the WGRA and who reported the matter to a DoD authority, 58 percent perceived an experience of professional reprisal, ostracism, and/or maltreatment. The comparable estimate for men is 60 percent. After assessing the context of those self-reported negative experiences, 28 percent of women and 42 percent of men may have experienced professional reprisal, ostracism, and/or maltreatment; understanding that the behavior would have to be investigated before a conclusion of whether legal criteria were met can be made.

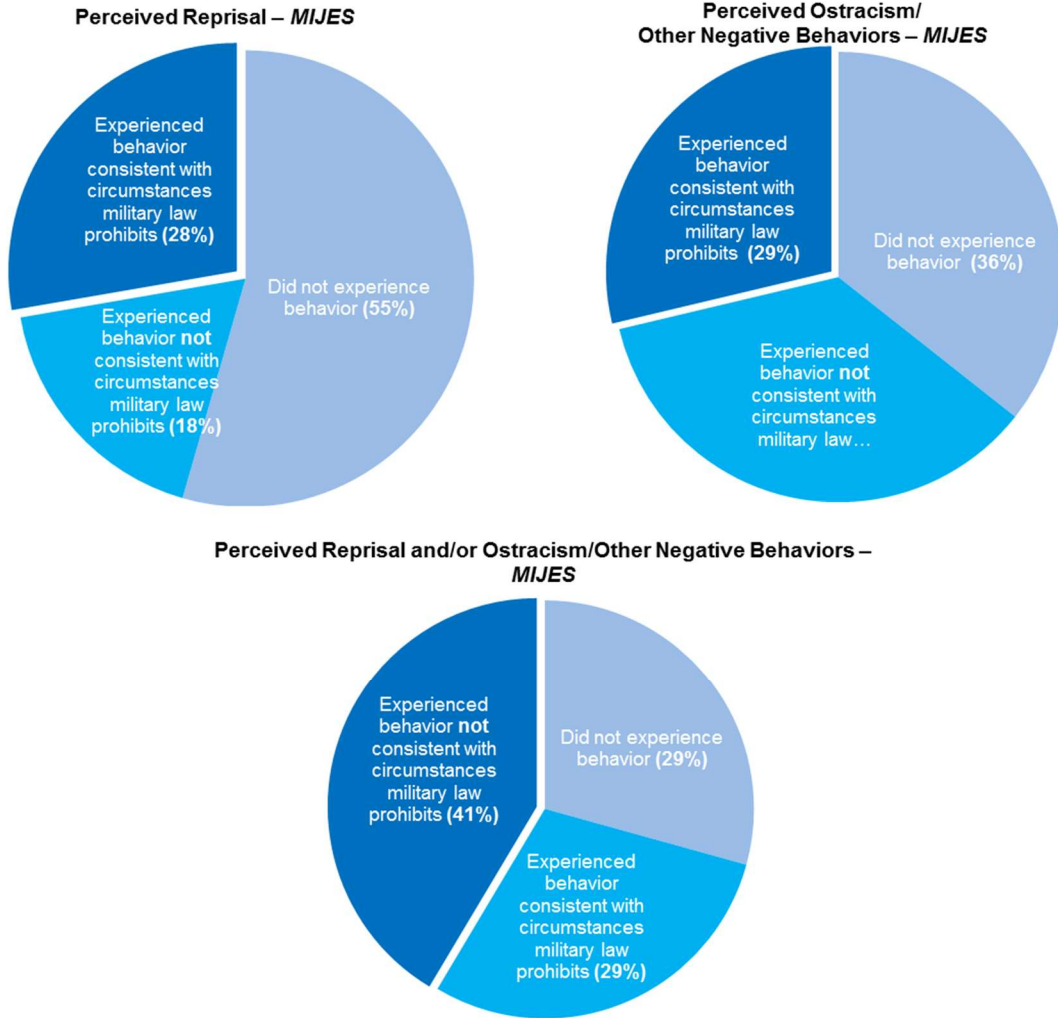
### C. 2016 – 2017 Military Investigation and Justice Experience Survey (MIJES)

In 2016 – 2017, the MIJES survey assessed the experiences of victims who made Unrestricted Reports using the same measure of retaliation that the WGRA deployed. However, the MIJES recruited a small sample of respondents, of which 371 were eligible responders. Since the 2016-2017 MIJES was not weighted, these results are not generalizable to all Service members.

Overall, 70 percent of respondents indicated at least one negative experience associated with their report of sexual assault and provided information about the context surrounding those negative experiences. Once the context of those negative experiences was assessed, 41 percent of the respondents' experiences were consistent with circumstances prohibited by military law.

With regard to perceptions of reprisal, 28 percent of respondents indicated experiences and contextual factors that indicated the matter might be an actionable offense. With regard to perceptions of ostracism and/or other negative behaviors associated with a report of sexual assault, 29 percent of respondents endorsed experiences and contextual factors that indicated the matter might be an actionable offense. To reiterate, only a complaint by a Service member followed by an investigation and a finding of fact can determine if a crime was committed. These survey items do not constitute a complaint (Figure M).<sup>12</sup>

<sup>12</sup> References to “retaliation,” “professional reprisal,” “ostracism,” or “other negative behaviors associated with reporting sexual assault,” or perceptions thereof, are based on negative behaviors as reported by the eligible survey respondents. Without knowing the specifics of cases or reports, these data should not be construed as substantiated allegations of professional reprisal, ostracism, or other negative behaviors.



**Note:** Percentages may not add to 100 percent due to rounding.

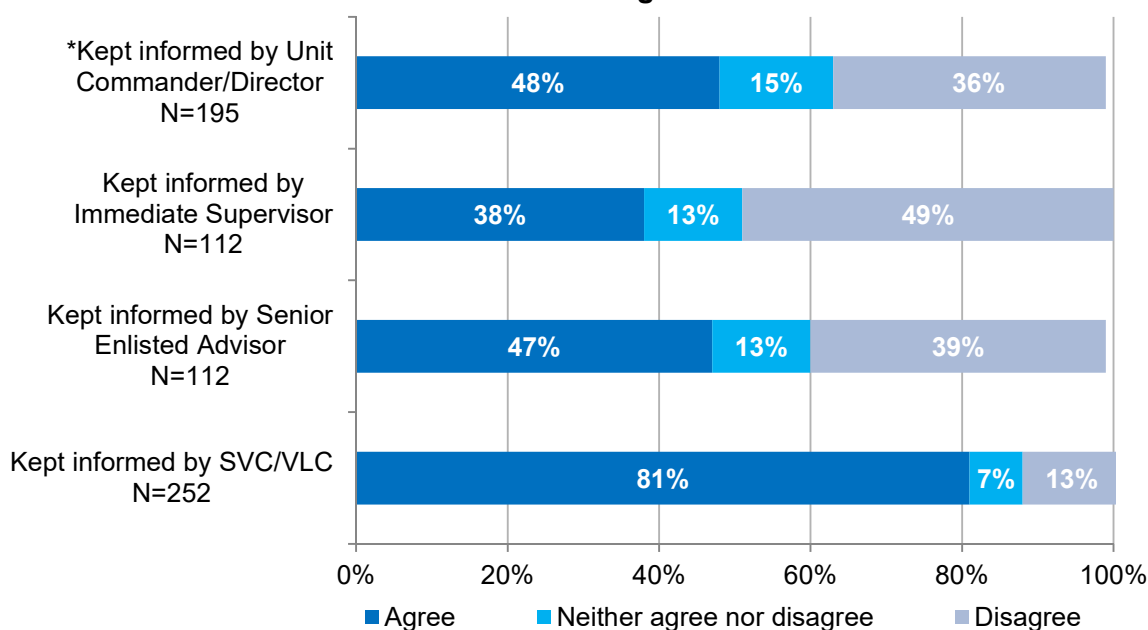
Figure M – Metric 9c: Perceived Reprisal and Ostracism/Other Negative Behaviors – Victim Perspective (MIJES), FY16 – FY17

## Metric 10: Victim Experience – Victim Kept Regularly Informed of the Military Justice Process

The 2016 – 2017 *MIJES* asked respondents to indicate whether response personnel and leadership informed them about the status or progress of their case. Of those who interacted with SVCs/VLCs during the military justice process, 81 percent agreed that their SVC/VLC kept them informed of their case progress. However, of those who interacted with a Senior Enlisted Advisor, Immediate Supervisor, or Unit Commander during the military justice process, about 38 to 48 percent agreed that these leaders kept them informed about the progress of their case (Figure N).

DoD administered the *MIJES* for the last time in FY17. Since the *MIJES* recruits a small sample of respondents, it yields results that are not representative of the entire population of military victims who participated in the military justice system. Beginning in FY18, DoD will field *MIJES* questions on the *WGRA* to collect generalizable data for Metric 10.

**Metric 10: Victim Experience - Victim Kept Informed About Case Status or Progress**



**Description:** Survey respondents, who made an Unrestricted Report, indicated the extent to which they were regularly informed about the progress of their case from their SVC/VLC, Unit Commander, Senior Enlisted Advisor, and Immediate Supervisor, if they interacted with these individuals during the military justice process.

**Source:** 2016 – 2017 *MIJES*.

**Summary Points:** Results suggest that the majority of victims were kept updated on their case by their SVC/VLC. However, fewer than half of victims were kept informed by their leadership.

**Note:** Only respondents who indicated interacting with a SVC/VLC, Unit Commander, Senior Enlisted Advisor and/or Immediate Supervisor answered this question. Sixty-six percent of respondents indicated interacting with a SVC/VLC, 68 percent with their Unit Commander, 54 percent with their Senior Enlisted Advisor, and 55 percent with their Immediate Supervisor. Due to the small number of respondents contributing toward many of these estimates, we caution against comparing across groups

Figure N - Metric 10: Victim Kept Regularly Informed of the Military Justice Process, 2016 – 2017



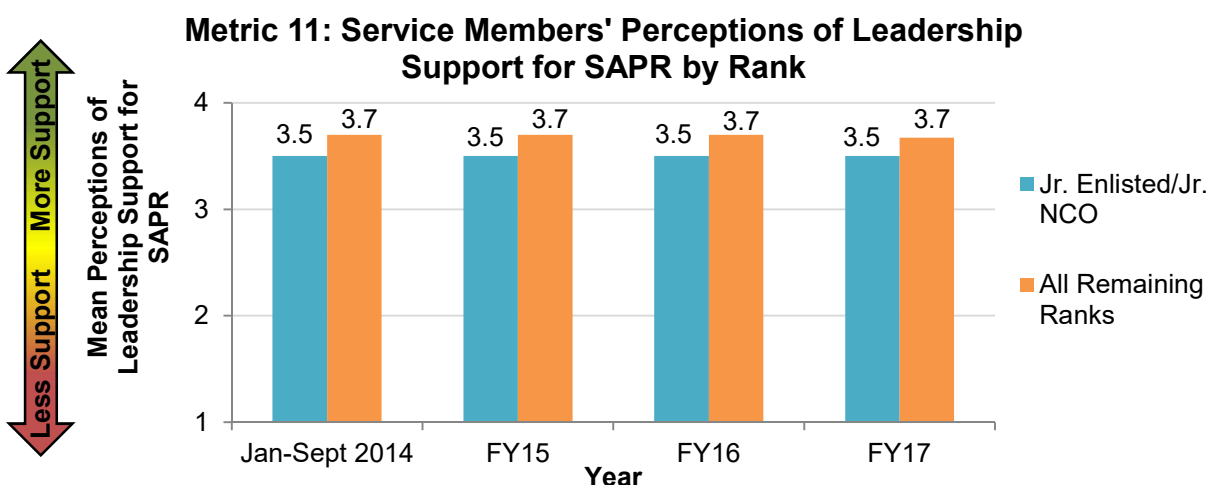
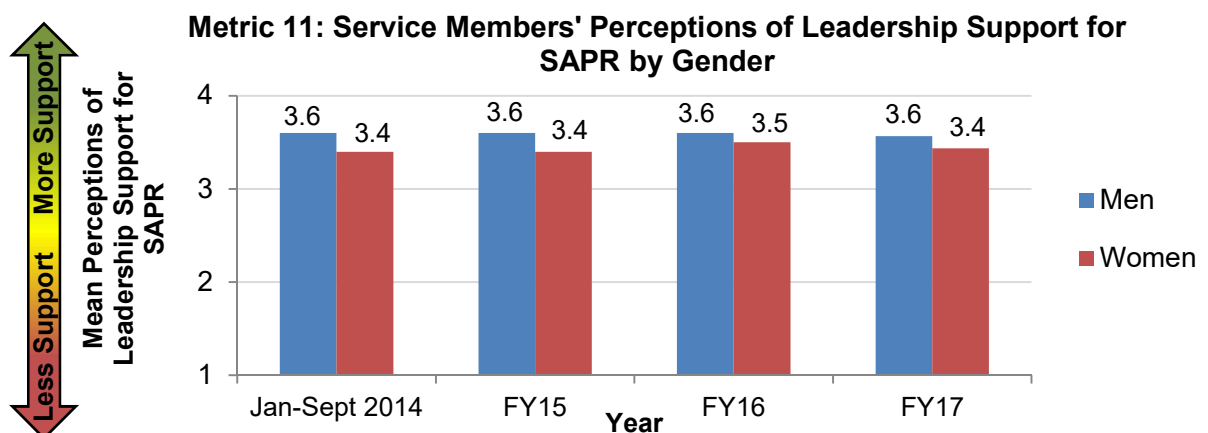
## Metric 11: Perceptions of Leadership Support for SAPR

The *DEOCS* included two questions on leadership support for SAPR. The items listed below used a four-point scale ranging from “Not at All” to “Great Extent.” DEOMI coded responses to the following items such that a higher score indicates higher perceived support.

To what extent does your chain of command...

- Encourage victims to report sexual assault?
- Create an environment where victims feel comfortable reporting sexual assault?

DEOMI combined the responses to these items into an index and averaged across all military respondents to the *DEOCS*. Overall, Service members who completed the *DEOCS* reported that their command supported sexual assault reporting by victims. While an overall encouraging trend was observed in *DEOCS* results, there are differences in perceptions of command support for SAPR by gender and rank. Consistent with the pattern of results for previous *DEOCS* metrics, men (3.6 out of 4.0) perceived greater command support for victim reporting compared to women (3.4 out of 4.0; Figure O). Additionally, senior enlisted Service members and officers perceived greater command support for SAPR (3.7 out of 4.0) compared to junior enlisted members and junior non-commissioned officers (3.5 out of 4.0).



	Men	Women	Jr. Enlisted/Jr. NCO	All Remaining Ranks
Fiscal Year 2017	3.6	3.4	3.5	3.7

**Description:** Mean Service member perceptions of command and leadership support for the SAPR program, victim reporting, and victim support. Higher scores indicate perceptions that are more favorable.

**Source:** DEOMI *Organizational Climate Survey (DEOCS)*.

**Implication:** Service member rating of command climate in this area. However, *DEOCS* results draw from a convenience sample and may not be representative of the entire force.

**Summary Points:** Overall, Service members perceived their command and leadership to be supportive of SAPR. Women perceived slightly lower levels of leadership support for SAPR compared to men. Junior enlisted Service members and junior NCOs perceived lower levels of leadership support for SAPR compared to all other ranks.

**Notes:** The *DEOCS* is a voluntary survey administered to military units annually or within 120 days of change in unit command. Rankings are categorized as follows: junior enlisted includes E1-E3, junior NCO includes E4-E6, and all remaining ranks include E7-E9, W1-W5, and O1 and above.

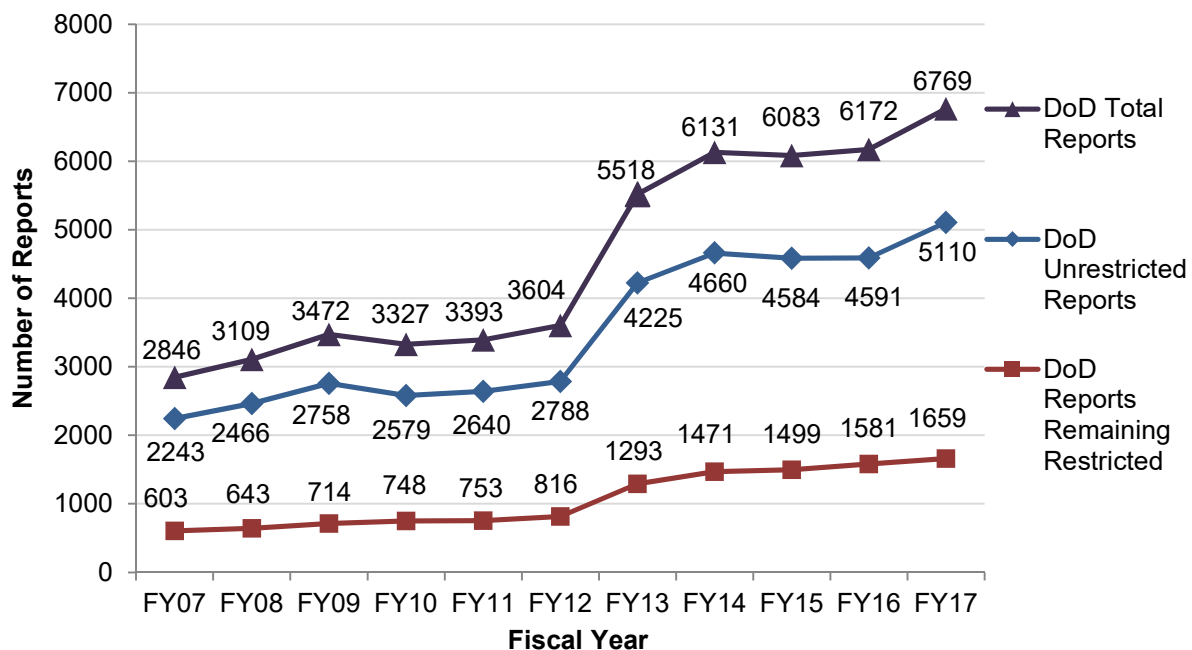
Figure O - Metric 11: Service Members' Perceptions of Leadership Support for SAPR, 2014 – 2017<sup>13</sup>

<sup>13</sup> *DEOCS* results draw from a convenience sample and may not represent the entire force.

## Metric 12: Reports of Sexual Assault over Time

It is imperative to track reports of sexual assault for several reasons. The number of sexual assault reports received each year indicates:

- Number of victims who were sufficiently confident in the response system to make a report
- Number of victims who gained access to DoD support and services



Reports of Sexual Assault	Total	=	Unrestricted	+	Restricted	% of Reports Restricted
FY17	6,769	=	5,110	+	1,659	24.5%
FY16	6,172	=	4,591	+	1,581	25.6%

**Description:** Year-to-year trend of Restricted and Unrestricted Reports received by the Department. Both Restricted and Unrestricted Reports represent one victim per report.

**Source:** FY07 to FY13 = Service Reporting, FY14 to current = DSAID

**Implication:** A change in reports of sexual assault may reflect a change in victim confidence in DoD response systems. The continuing growth of Restricted Reporting may be a sign that victims view this option as a valuable and trustworthy means to access support while maintaining confidentiality.

**Summary:** DoD Reports of sexual assault increased by 9.7 percent from FY16 to FY17.

Figure P - Metric 12: Reports of Sexual Assault over Time, FY07 – FY17

In FY17, the Military Services received 6,769 reports of alleged sexual assault involving Service members as either victims or subjects (Figure P). While DoD received these reports in FY17, a portion of reported incidents occurred in prior FYs and/or prior to Military Service. Of the 6,769 reports in FY17, 587 (9 percent) were made by Service members for incidents that occurred

prior to their entering Military Service.<sup>14</sup> The Military Services received 5,110 Unrestricted Reports involving Service members as victims or subjects this year.<sup>15</sup> The Military Services initially received 2,196 Restricted Reports involving Service members as either victims or subjects. Of the 2,196 initial Restricted Reports, 537 (24 percent) reports later converted to Unrestricted Reports. These converted Restricted Reports are now counted with the Unrestricted Reports. There were 1,659 Reports remaining Restricted in FY17.

## Military Justice Indicators

### Military Justice Indicator 1: Command Action – Case Dispositions

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The following describes outcomes for completed investigations with case disposition results reported in FY17. 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 (see Appendix B for further detail).

In FY17, 3,567 cases investigated for sexual assault were primarily under the legal authority of DoD. However, as with the civilian justice system, evidentiary issues may have prevented DoD from taking disciplinary action in some cases. In addition, commanders declined to take action in some cases after a legal review of the matter indicated that the allegations against the accused were unfounded, meaning they were determined to be false or baseless. Command action was not possible in about 38 percent of the cases considered for action by military commanders (Figure Q) in FY17. For the remaining 63 percent of cases considered for command action, commanders had sufficient evidence and legal authority to support some form of disciplinary action for a sexual assault offense or other misconduct.<sup>16</sup> Figure Q displays command action taken from FY09 to FY17 and Figure R displays command action in FY17 for penetrating versus sexual contact crimes alleged/investigated.

SAPRO and the Services have conducted comprehensive annual reviews of legal data in DSAID and have standardized the way in which they categorize and report cases. As part of this process, the Services' legal officers closed cases dating back to FY15 and reported a greater number of cases where command action was precluded. These cases are reported here, because they were officially closed in FY17. This partially accounts for the increase in cases with command action precluded seen in FY16 and FY17.

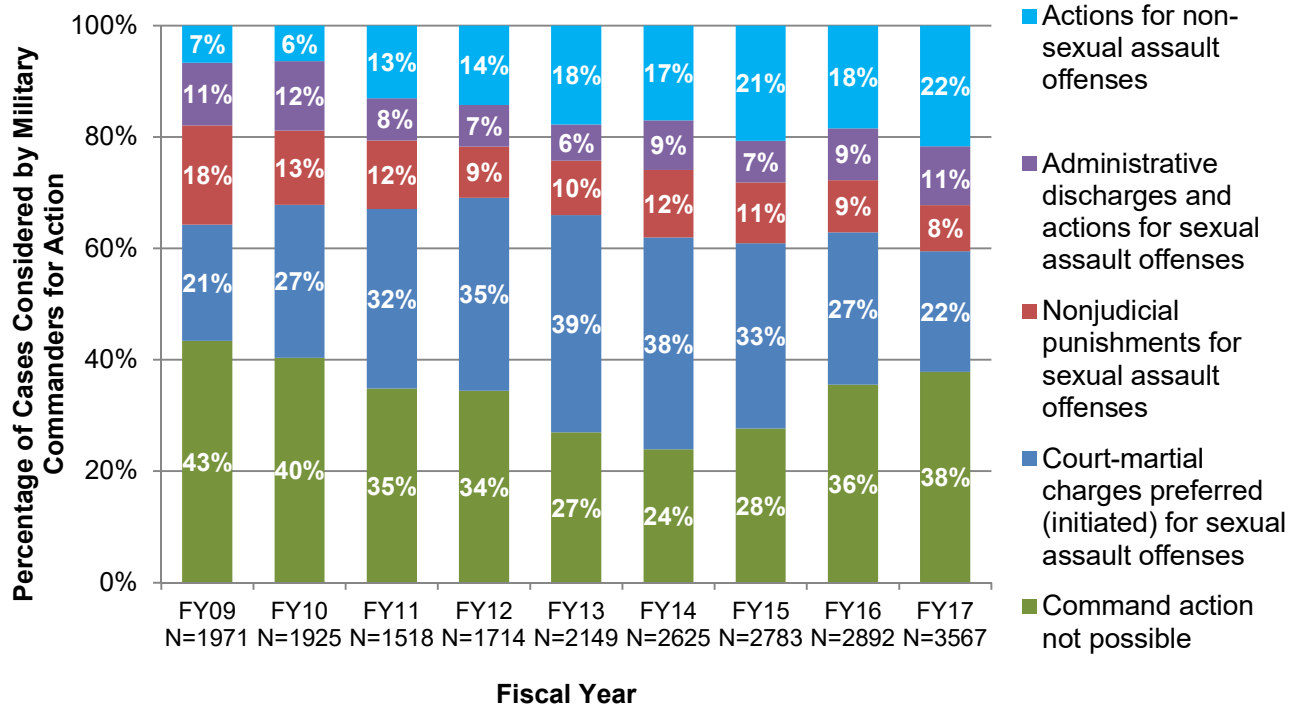
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<sup>14</sup> Prior to FY14, an Unrestricted Report of sexual assault may have included one or more victims and one or more subjects. DoD relied upon the MCIOs to provide the number of Unrestricted Reports each year, and the subsequent number of victims and subjects associated with those reports. In FY14, DoD moved to DSAID as the primary source of reporting statistics with each Unrestricted Report corresponding to a single victim.

<sup>15</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, 41 additional Restricted Reports converted to Unrestricted. These 41 reports are included with the 537 reports that converted from Restricted to Unrestricted that DoD counts with FY17 numbers.

<sup>16</sup> Percentages may not add to 100 percent due to rounding error.

### Military Justice Indicator 1a: Command Action for Alleged Military Offenders under DoD Legal Authority



Case Dispositions	FY17	(% of N)
<b>C-M Charge Preferral for Sexual Assault Offense</b>	774	22%
<b>NJP for Sexual Assault Offense</b>	294	8%
<b>Admin D/C &amp; Actions for Sexual Assault Offense</b>	378	11%
<b>Action for Non-Sexual Assault Offense</b>	772	22%
<b>Command Action Not Possible</b>	1,349	38%

**Description:** Year-to-year trends summarizing the actions commanders have taken in cases under the jurisdiction of military law.

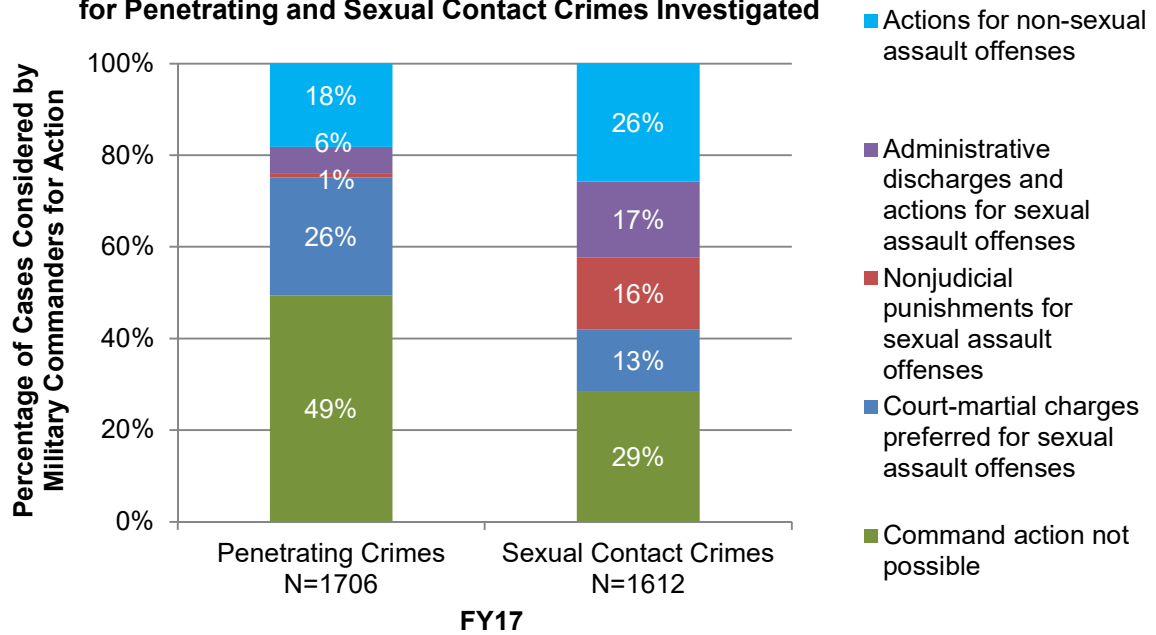
**Source:** FY09 to FY13 = Service Reports and Offices of the Judge Advocates General (OTJAGs); FY14 to Current = DSAID

**Implication:** When DoD has sufficient evidence and jurisdiction over the alleged offender, commanders are using the court-martial process as the primary means for discipline in sexual assault allegations. This indicator pertains to holding alleged offenders appropriately accountable.

**Notes:** Command action is not possible when there is insufficient evidence of a crime to prosecute, the victim declines to participate in the justice process, the statute of limitations expires, the victim dies before action can be taken, or when the allegations against the offender are unfounded. Percentages may not sum to 100 percent due to rounding.

Figure Q - Indicator 1a: Command Action for Cases under DoD Legal Authority, FY09 – FY17

**Military Justice Indicator 1b: FY17 Completed\* Command Actions for Penetrating and Sexual Contact Crimes Investigated**

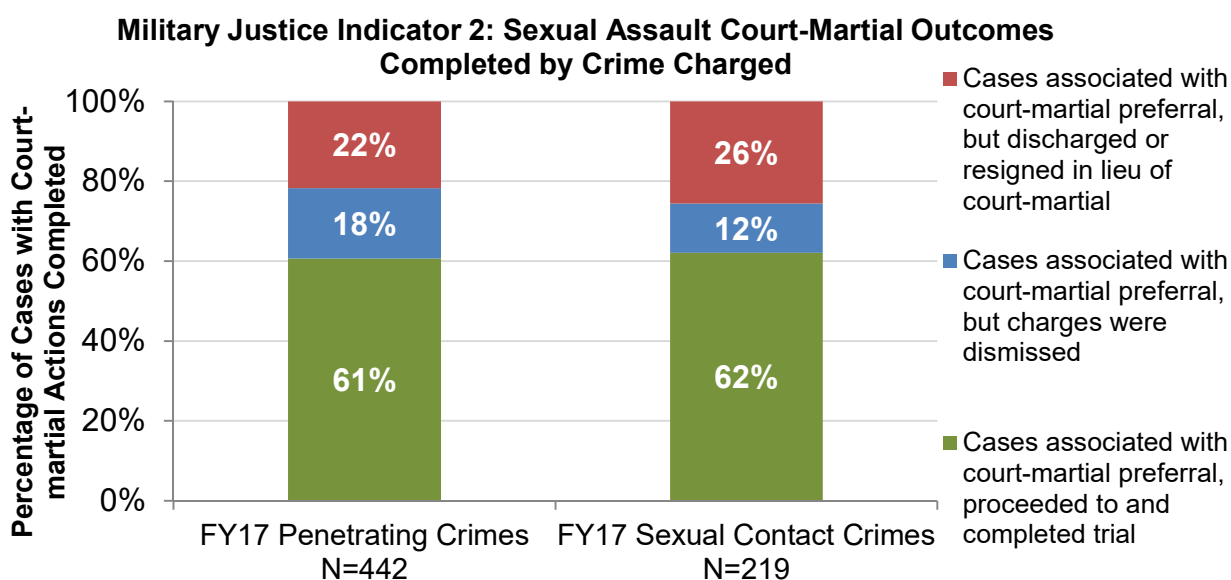


**Note:** This figure only includes command actions in which the action was completed in FY17. Command actions pending completion (e.g., court-martial preferred but pending trial) are not included in this graph. Additionally, there were 68 completed command actions that could not be classified as penetrating or sexual contact crimes, because the crime investigated was attempted sexual assault or unknown.

Figure R - Military Justice Indicator 1b: Completed Command Actions by Crime Investigated, FY17

## Military Justice Indicator 2: Court-Martial Outcomes

Figure S illustrates case outcomes in the court-martial process, displayed by type of crime charged—penetrating (rape and sexual assault) versus other sexual contact crimes. Not all cases associated with court-martial referral proceed to trial. In certain circumstances, DoD may approve a resignation or discharge in lieu of court-martial (RILO/DILO). Furthermore, Article 32 (pre-trial) hearings can result in a recommendation to dismiss all or some of the charges. Commanders may use evidence gathered during sexual assault investigations and evidence heard at an Article 32 hearing to impose a nonjudicial punishment (NJP) for other misconduct. As depicted in Figure S, the majority of cases associated with court-martial referral, for both penetrating and sexual contact crime charges, proceeded to trial.<sup>17</sup>



Sexual Assault Offenses	FY17 Penetrating Crimes		FY17 Sexual Contact Crimes	
<b>C-M Actions Completed in FY17</b>	<b>442</b>		<b>219</b>	
Cases Dismissed	78	18%	27	12%
RILO/DILO Cases	96	22%	56	26%
<i>Proceeded to Trial</i>	<b>268</b>	<b>61%</b>	<b>136</b>	<b>62%</b>
Acquitted	91	34%	30	22%
<i>Convicted (any charge)</i>	<b>177</b>	<b>66%</b>	<b>106</b>	<b>78%</b>

**Description:** Year-to-year trend in outcomes (i.e., Proceeded to Trial; Discharge In Lieu of Court-Martial; Dismissed) of court-martial proceedings involving sexual assault charges.

**Source:** DSAID.

**Implication:** Pertains to holding alleged offenders appropriately accountable.

**Notes:** This figure only includes courts-martial in which the action was completed in FY17.

Cases associated with courts-martial referral but pending trial are not included in this graph.

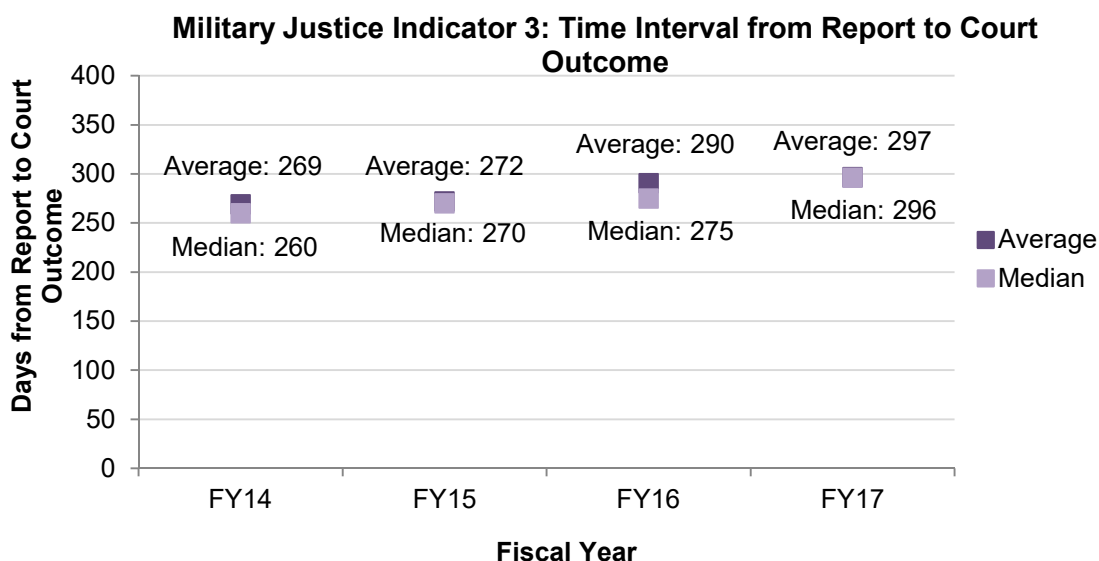
Additionally, DoD could not classify 2 cases as penetrating or sexual contact crimes, because the crime charged was attempted sexual assault. Percentages may not sum to 100 percent due to rounding.

Figure S - Military Justice Indicator 2: Completed Sexual Assault Court-Martial Outcomes by Crime Charged, FY17

<sup>17</sup> Subjects charged with sexual assault crimes at court-martial can also be charged with other misconduct in addition to sexual assault offenses.

## Military Justice Indicator 3: Time Interval from Report of Sexual Assault to Court Outcome

As illustrated in Figure T, the average (mean) and median length of time from the date a victim reported a sexual assault to the date that court-martial proceedings concluded was 297 days (9.7 months) and 296 days (9.7 months), respectively. A variety of factors, such as the complexity of the allegation, the need for laboratory analysis of the evidence, the quantity and type of legal proceedings, and the availability of counsel and judges may affect the interval of time between a report of sexual assault and the conclusion of a court-martial. That notwithstanding, knowledge of the average amount of time between a report and the end of a court-martial is useful because it improves the transparency of the military justice process and helps to inform victims about what to expect.



**Description:** Length of time from the date a victim signs a DD 2910 to the date that a sentence is imposed or the accused is acquitted.

**Source:** Start = DSAID DD Form 2910 date, End = DSAID/Offices of the Judge Advocates General (OTJAG) Report of Trial.

**Implication:** Provides transparency into justice process and sets expectations on justice process length.

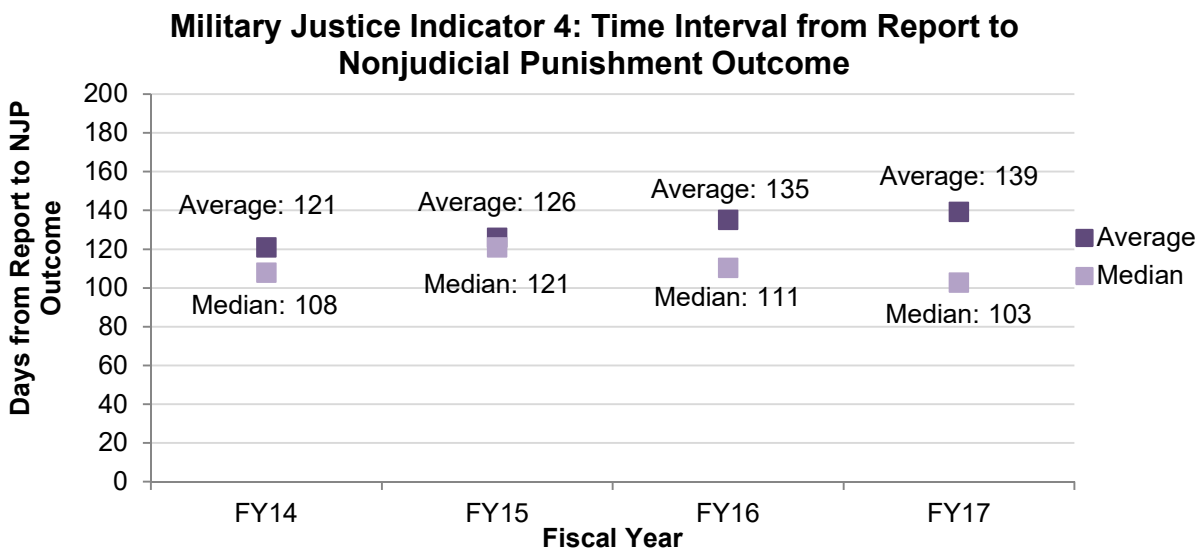
**Note:** The median is a “midpoint” for a set of numbers; it is the value for which half are above and half are below. Unlike an average, the median is less influenced by outliers in a set of numbers.

Figure T - Military Justice Indicator 3: Time Interval from Report to Court Outcome, FY14 – FY17



## Military Justice Indicator 4: Time Interval from Report of Sexual Assault to Nonjudicial Punishment Outcome

In FY17, the average and median length of time from the date a victim signs a DD 2910 to the date that the NJP process is concluded (e.g. punishment imposed or NJP not rendered) was 139 days (4.6 months) and 103 days (3.4 months), respectively (Figure U). Like indicator 3, varieties of factors influence the interval of time between a report of sexual assault and the conclusion of a NJP. However, knowledge of the average amount of time between a report and the end of NJP proceedings improves the transparency of the NJP process and helps to set appropriate expectations.



**Description:** Length of time from the date a victim signs a DD 2910 to the date that nonjudicial punishment (NJP) process is concluded (e.g. punishment awarded or NJP not rendered).

**Source:** Start = DSAID DD Form 2910 date, End = DSAID/Offices of the Judge Advocates General (OTJAG) NJP Form or Command Action Form.

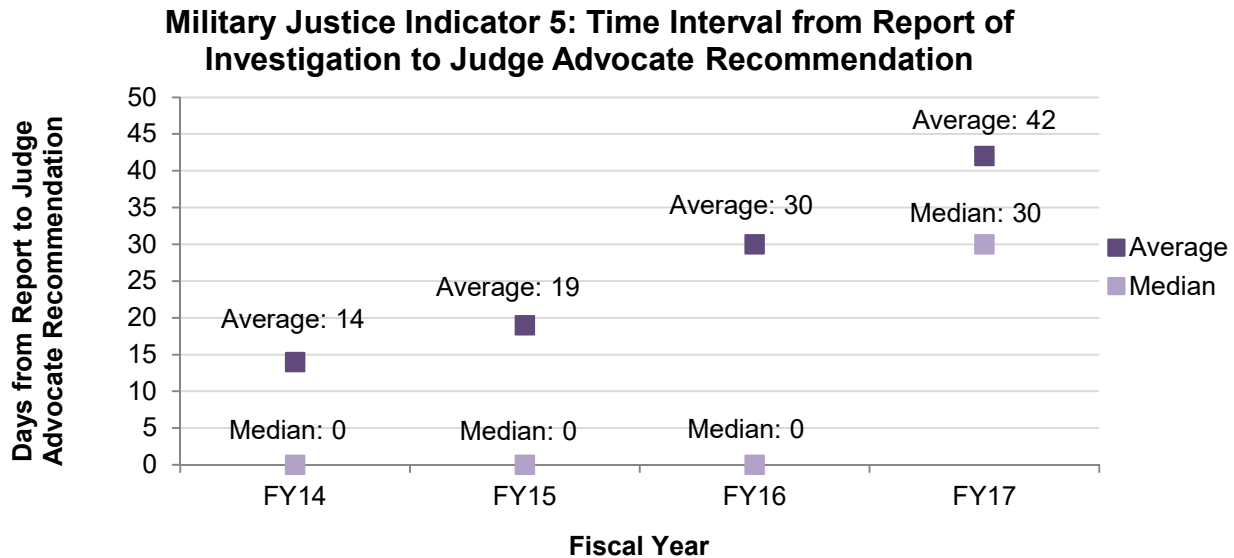
**Implication:** Provides transparency into justice process and sets expectations on justice process length.

**Note:** The median is a “midpoint” for a set of numbers; it is the value for which half are above and half are below. Unlike an average, the median is less influenced by outliers in a set of numbers.

Figure U - Military Justice Indicator 4: Time Interval from Report to Nonjudicial Punishment Outcome, FY14 – FY17

## Military Justice Indicator 5: Time Interval from Report of Investigation to Judge Advocate Recommendation

As illustrated in Figure V, the length of time from the date a report of investigation was provided to command until the date a judge advocate made a disposition recommendation to the commander of the accused was on average 42 days and with a median of 30 days. For years past, a zero value indicates that the legal recommendation was made before the investigation was officially closed. As is the same for indicators 3 and 4, there is no expected or set time for this to occur.



**Description:** Length of time from the date a report of investigation (ROI) is handed out to the date the Judge Advocate provides a prosecution/non-prosecution recommendation. A zero value indicates that the legal recommendation was made before the closure of the investigation.

**Source:** Service military justice data.

**Implication:** Shows responsiveness of legal support to command and may be an indicator of legal officer resourcing.

**Note:** The median is a “midpoint” for a set of numbers; it is the value for which half are above and half are below. Unlike an average, the median is less influenced by outliers in a set of numbers.

Figure V - Military Justice Indicator 5: Time Interval from Report of Investigation to Judge Advocate Recommendation, FY14 – FY17