



Appendix F: Sexual Harassment Assessment



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The Department of Defense (DoD) is guided by the principle that each individual has dignity and worth. The Department actively seeks 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 has no place in the DoD. Incidents of sexual harassment jeopardize combat readiness and mission accomplishment, weaken trust within the ranks, erode unit cohesion, and will not be tolerated, condoned, or ignored.

Oversight Responsibilities

Under the purview of the Executive Director, Force Resiliency, the Office for Diversity, Equity, and Inclusion's responsibility includes oversight of policy development, standardization of training and education, data collection, and analysis of military sexual harassment data.

Definition of Sexual Harassment

Section 1561 of Title 10, United States Code, defines "sexual harassment" as conduct that involves unwanted 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;
- 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, non-verbal, or physical contact of a sexual nature is engaging in sexual harassment.

DoD Harassment Prevention and Response Policy

Recognizing the need for greater leadership commitment and accountability to promote, support, and enforce the spectrum of harassment prevention and response, the Department established DoD Instruction (DoDI) 1020.03, “Harassment Prevention and Response in the Armed Forces” in order to:

- Establish a comprehensive, DoD-wide harassment prevention and response program,
- Strengthen the Department’s commitment and accountability through oversight,
- Update military harassment prevention and response policies and programs,
- Identify social media as a means through which harassment can occur,
- Update training and education requirements and standards, and
- Mandate substantiated incidents of harassment are annotated in Service members’ fitness reports or performance evaluations.

The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) directed the Military Department Secretaries to provide a plan to implement DoDI 1020.03. The Air Force and Marine Corps implemented DoDI 1020.03 in the past year, and Army and Navy are expected to complete implementation by December 2019.

Overall FY 2018 Complaint Totals

In accordance with DoDI 1020.03, Military Departments reported on FY18 sexual harassment complaints to include formal, informal, and anonymous reports. Inclusion of data on informal complaints of sexual harassment is a result of updated reporting requirements mandated by DoDI 1020.03. As a result, the Department’s FY18 submission includes informal complaints data not included in the FY17.

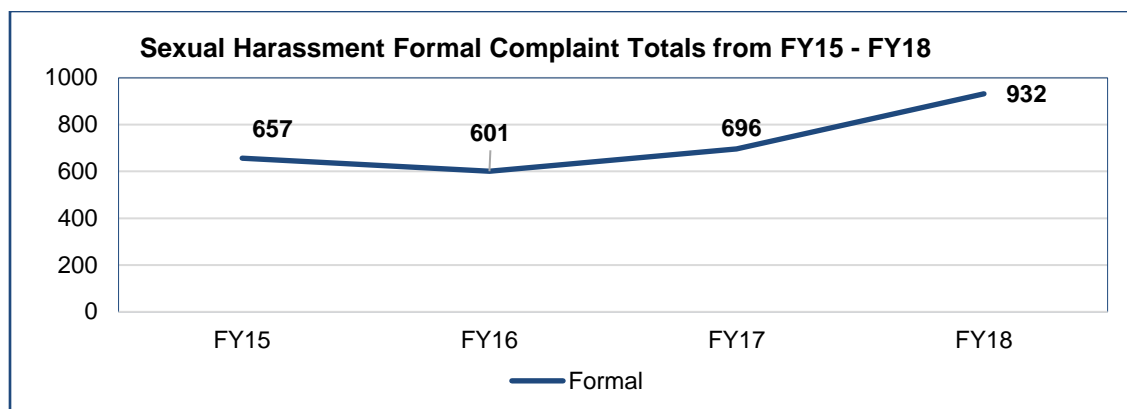


Figure 1. DoD Formal Sexual Harassment Complaints (FY15-FY18)

A formal complaint is an allegation submitted in writing to the staff designated to receive such complaints in the Military Department operating instructions and regulations, or an informal complaint, which the commanding officer or other person in charge of the organization,

determines warrants an investigation. Some complainants may request that allegations of sexual harassment be addressed and resolved informally. 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, alternative dispute resolution, informal mediation, or between the complainant and the alleged offender. An anonymous complaint 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 individual is not required to divulge any personally identifiable information.

Formal Complaints

During FY18, the Military Services and the National Guard Bureau (NGB) received, processed, and investigated a total of 932 formal sexual harassment complaints. The data indicate a 24 percent increase from the 696 formal complaints that were processed in FY17. Subsequent to an appropriate investigation, complaints are found to be substantiated or unsubstantiated. At the close of FY18, 704 formal complaints (76 percent) were resolved, while 228 formal complaints (24 percent) remained open, pending the results of an investigation. In comparison to FY17, 557 formal complaints (80 percent) were resolved, while 139 complaints (20 percent) remained open, pending the results of an investigation.

Substantiated sexual harassment complaints contain at least one founded allegation of sexual harassment as documented in a report of investigation or inquiry. Substantiated complaints comprised 61 percent (432) of the 704 resolved complaints filed in FY18.

Unsubstantiated sexual harassment complaints are those without any founded allegations of sexual harassment as documented in a report of investigation or inquiry. Thirty-eight percent (266) of the 704 resolved complaints filed in FY18 were unsubstantiated. Six complaints (1 percent) were dismissed. In comparison to FY17, substantiated complaints comprised 62 percent (347) of the 557 resolved complaints, and 38 percent (210) of the 557 resolved complaints were unsubstantiated. FY18 additional data on formal complaints total received by the DoD, and resolved by the DoD, compared to FY17 are displayed in Figure 2.

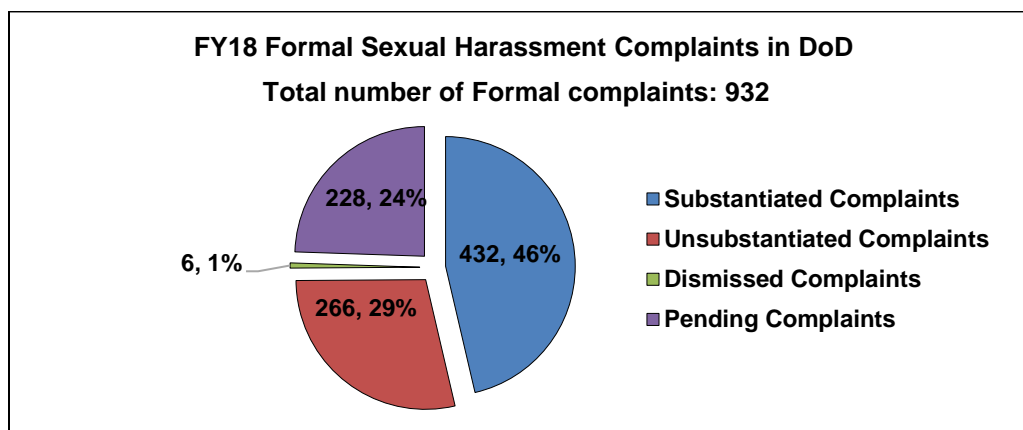


Figure 2. Total Formal Sexual Harassment Complaints Received by DoD in FY18

Definitions:

1. Substantiated complaints contain at least one founded allegation of sexual harassment addressed at the lowest appropriate level in complainant's chain of command.
2. Unsubstantiated complaints contain no founded allegations of sexual harassment as documented in a report of investigation or inquiry.
3. Dismissed complaints include a formal complaint that have been dropped to address the correct problematic behavior, to investigate another behavior that has more evidence, or to investigate more severe problematic behavior(s).
4. Pending complaints are open sexual harassment reports that have not yet been resolved or adjudicated. Appeals are also included here, since the final decision and potential actions against the alleged offender are pending.

Informal Complaints

In FY18, the Military Services and NGB received, processed, and addressed a total of 512 informal sexual harassment complaints. At the close of the fiscal year, 268 complaints (52 percent) were resolved, 17 complaints (3 percent) were pending resolution, and the status of 227 complaints (45 percent) were reported as administratively closed. Of the 268 informal sexual harassment complaints resolved in FY18, 216 (42 percent) were substantiated, 51 (10 percent) were unsubstantiated, and 1 remaining complaint (less than 1 percent) was dismissed. Additional data on sexual harassment informal complaints total received by the DoD, and total resolved by the DoD are displayed at Figure 3.

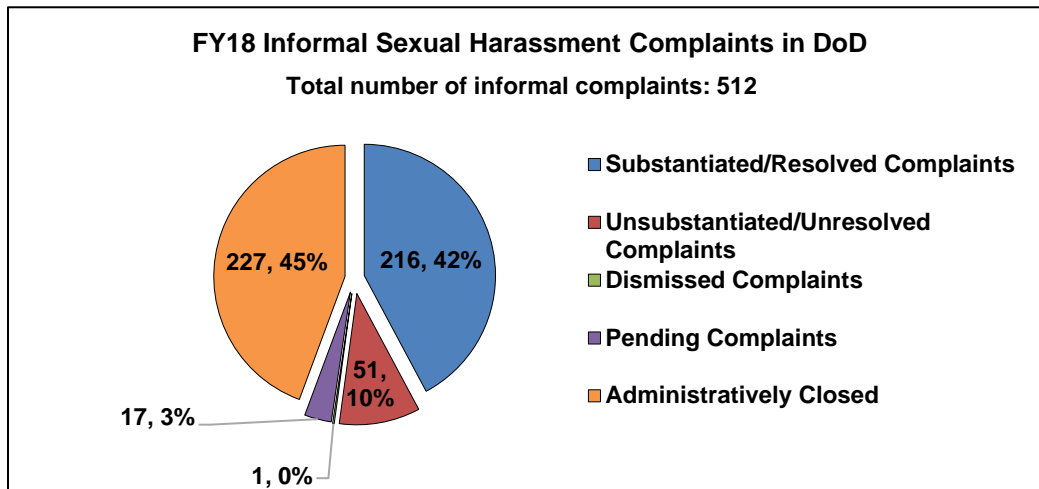


Figure 3. Total Informal Sexual Harassment Complaints Received by DoD in FY18

Anonymous Complaints

During FY18, 22 sexual harassment complaints were filed anonymously. Sixteen (73 percent) of the 22 complaints were resolved, 5 complaints (23 percent) remained open pending resolution, and the status of the 1 remaining complaint (5 percent) was not reported. Of the 16 resolved anonymous complaints, 7 (44 percent) were substantiated and 9 (56 percent) were unsubstantiated. Compared to FY17, 14 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 anonymous complaints were pending resolution.

Top Line Results from FY18 Substantiated Complaints

The Military Services and NGB continue to employ Service-specific information management systems to collect, store, and analyze sexual harassment complaint data and report to DoD for analysis. This section presents complainant characteristics, offender characteristics, nature of substantiated incidents, timeliness of reporting and investigation, and accountability by substantiated formal and informal sexual harassment complaints.

Complainant Characteristics

Formal Complaints

There were 474 complainants associated with the 432 substantiated formal incidents. Complainants were predominantly women (384 of 474; 81 percent). Males made up 19 percent (90 of 474) of complainants. Ninety-one percent of complainants (431 of 474) were enlisted members. Officers represent 5 percent of complainants (25 of 474). One percent (5 of 474) were cadets. Less than 1 percent of complainants were warrant officers (1 of 474), DoD civilian employees (1 of 474), or DoD contractors (2 of 474). The paygrade category was not reported for 2 percent of complainants (9 of 474).

Service members in paygrades E1-E4 account for 74 percent of all complainants (352 of 474). The largest single grouping of complainants by gender and paygrade were women in paygrades E1-E4 (281 of 474; 59 percent). Additionally, enlisted males in the paygrades of E1-E4 account for 15 percent (71 of 474) of complainants. Officer complainants were predominately women in grades O1-O3 (21 of 25; 84 percent).

Informal Complaints

The Military Services reported 133 complainants for the 216 substantiated informal incidents. Complainants were predominantly women (109 of 133; 82 percent). Men made up 18 percent (24 of 133) of complainants.

Enlisted members comprised 88 percent of complainants (117 of 133). Officers represent 5 percent of complainants (6 of 133). Three percent (4 of 133) of complainants were DoD civilian employees and 2 percent (2 of 133) were DoD contractors. The paygrade category was reported as administratively closed for the remaining 3 percent of complainants (4 of 133). Enlisted members in paygrades E1-E4 account for 58 percent of all complainants (77 of 133). The largest single grouping of complainants by gender and paygrade was E1-E4 women (65 of 133; 49 percent). Enlisted men in paygrades E1-E4 are 9 percent (12 of 133) of complainants.

Offender Characteristics

Formal Complaints

There were 441 offenders reported for 432 substantiated complaints. These individuals were predominantly male (427 of 441; 97 percent). Women offenders made up 3 percent (14 of 441) of all offenders.

Enlisted members comprised 82 percent of offenders (362 of 441). Offenders were most often junior enlisted (E1-E4; 169 of 441, 38 percent), of which 96 percent were men (163 of 169). Ten percent of offenders (45 of 441) were officers, of which 40 percent (18 of 45) were

males in the paygrades of O1-O3; 29 percent (13 of 45) were in paygrades O4-O6; and 29 percent (13 of 45) were warrant officers. One offender (2 percent) was a woman in the paygrade of O1-O3.

Eight percent (34 of 441) of all offenders were either DoD civilian employees (15 of 34), contractors (3 of 34), or the employment type was not reported (16 of 34). Repeat offenders, defined as having more than one complaint substantiated for sexual harassment, represent 7 percent of all offenders (29 of 441).

Informal Complaints

The Military Services reported 134 offenders for 216 substantiated informal complaints. These individuals were predominantly male (129 of 134; 96 percent). Women offenders made up 4 percent (5 of 134) of all offenders.

Enlisted members comprised 83 percent of offenders (111 of 134). The largest paygrade grouping of offenders was E5-E6 (61 of 134, 46 percent), of which 97 percent were male (59 of 61). Seven percent of offenders (9 of 134) were officers, of which all were male and 67 percent (6 of 9) were in paygrades O1-O3 and 22 percent (2 of 9) were in paygrades O4-O6. The remaining offender (1 percent) was a warrant officer.

Ten percent (14 of 134) of all offenders were either DoD civilian employees (4 of 14), contractors (7 of 14), or the employment type was not reported (3 of 14). Repeat offenders, defined as having more than one complaint substantiated for sexual harassment, represent 17 percent of all offenders (23 of 134).

Duty Status and Nature of Substantiated Incidents

Formal

Eighty-seven percent (384 of 441) of formal substantiated incidents occurred while the complainant was on duty. Because substantiated complaints may involve multiple allegations of sexually harassing behavior, a total of 640 types of allegations were reported. The most frequently reported allegations involved crude and/or offensive behavior (328 of 640; 51 percent). All other reported allegations were characterized as unwanted sexual attention (284 of 640; 44 percent) and sexual coercion and quid pro quo (28 of 640; 4 percent).

Informal

Fifty-one percent (111 of 216) of informal substantiated incidents occurred while the complainant was on duty. A total of 155 types of allegations were reported. The most frequently reported allegations involved crude and/or offensive behavior (104 of 155; 67 percent). All other reported allegations were characterized as unwanted sexual attention (51 of 155; 33 percent) and sexual coercion and quid pro quo (4 of 155; 3 percent).

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. Ninety-nine percent of all complaints (928 of 932) were

forwarded to the GCMCA and 80 percent of these (742 of 928) were forwarded within 72 hours. Informal complaints are not required to be forwarded to a GCMCA.

Accountability

Formal Complaints

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. In FY 2018, 78 percent (345 of 441) of all offenders of formal sexual harassment complaints received 440 corrective actions. Of the 440 corrective actions, 58 percent (254) were non-judicial punishments, 40 percent (177) were adverse or administrative actions (e.g., chapter discharge or letters of reprimand), and 2 percent (9) of cases were punitive and consisted of 7 courts-martial and 2 discharges in lieu of courts-martial. At the close of the fiscal year, 22 percent of offenders (96 of 441) were pending disciplinary actions.

Informal Complaints

In FY 2018, for substantiated informal complaints, 93 percent (125 of 134) of offenders reported by the Military Services received 378 corrective actions. Of the 378 corrective actions, 15 percent (56) were non-judicial punishments, 85 percent (321) were adverse or administrative actions (e.g., chapter discharge or letters of reprimand), and 1 case resulted in a court-martial (< 1 percent). At the close of the fiscal year, 7 percent of offenders (9 of 134) were pending disciplinary actions.

Way Forward

Oversight Framework Enhancements

In line with efforts to cultivate greater leadership commitment, the Department endeavored to enhance oversight framework through the comprehensive harassment policy, DoDI 1020.03. The instruction mandates that commanders and supervisors be held appropriately accountable for the impartial, timely, and responsive processing of harassment complaints. The instruction also provides procedures and mechanisms for ensuring victims receive adequate care and support.

In addition, DoDI 1020.03 requires leaders at all levels to be held appropriately accountable for fostering a climate of inclusion within their organizations that supports diversity, is free from harassment, and does not tolerate retaliation for reporting harassment allegations. The 2018 Workplace and Gender Relations Survey of Active Duty Members (WGRA) results highlight the relationship between unit climate and sexual harassment, especially for women, so holding leaders accountable for promoting a healthy climate can go a long way in reducing sexual harassment and sexual assault. Leveraging unit level command climate assessments for this purpose (e.g., the Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey (DEOCS)) allows leaders to gain a real-time pulse on their unit climate to identify and address problematic behaviors early and often.

The comprehensive DoD-wide military harassment prevention and response policy has solidified the inappropriateness of misconduct, including unacceptable social media misconduct; however, the Department continues to evaluate how effective the policy is by starting to track whether social media was involved in the misconduct as well.

While understanding that issuance of DoDI 1020.03 was a critical step in the right direction, OUSD(P&R) also acknowledged more must be done. Subsequent to issuance of DoDI 1020.03, the OUSD(P&R) directed the Military Department Secretaries to provide a plan to implement DoDI 1020.03. The Military Services are working to implement the new policy and align their Service-specific policies to the DoDI. The reporting period covered in this submission does not reflect full implementation of these policy changes.

Training and Education

Understanding that the Secretaries of the Military Departments have ultimate responsibility for training, the Department continues to examine the efficacy of harassment prevention and response training. DoDI 1020.03 mandates the provision of DoD guidance on oversight, training, and mechanisms for reporting and responding to harassment incidents in the Armed Forces. The policy also requires that harassment prevention and response training and education programs be established at all levels of professional military development from accession to the assumption of senior leader grade. Additionally, the policy delineates specific requirements that the Military Services include in their harassment prevention and response training and education programs.

Finally, the Department incorporated phase one of the Centers for Disease Control and Prevention guiding principles on sexual violence into DEOMI's training curriculum. Updates, including explicitly identifying social media as a means through which harassment can occur, were made to the DEOMI in October 2018.

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 include an aggregation and assessment of the information and data, including social media misconduct, 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 policies paired with more robust analyses of substantiated and unsubstantiated allegations when coupled with survey data at the Service level may provide further granularity on potential causes of problematic behaviors. Additionally, the analysis may 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.