

## Appendix D: Statistical Data on Sexual Assault and Sexual Harassment



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# Appendix D: Statistical Data on Sexual Harassment and Sexual Assault

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## Background: What these Data Capture

### Reports of Sexual Assault

The Department of Defense's (DoD) sexual assault data capture Unrestricted and Restricted Reports of sexual assault involving cadets, midshipmen, or prep school students as victims and/or subjects of allegations made during the 2015-2016 Academic Program Year (APY).

An Unrestricted Report of sexual assault is a single report filed by one victim against one or more subjects, which is subsequently referred to a Military Criminal Investigation Organization (MCIO; called CID, NCIS, or AFOSI by Army, Navy, and Air Force, respectively). Sexual Assault Response Coordinators (SARCs) use the Defense Sexual Assault Incident Database (DSAID) to capture incident data for Unrestricted Reports. Additionally, MCIO information systems interface with DSAID to provide information about the alleged subject and other case data.

The Department collects limited information about Restricted Reports of sexual assault to protect victim confidentiality. Service members may only make Restricted Reports to specific parties within DoD (e.g., SARCs, Sexual Assault Prevention and Response (SAPR) Victim Advocates (VA), healthcare providers, or chaplains). Service members filing Restricted Reports do not participate in the military justice system, but may confidentially access care and other services. DoD does not request nor record subject identities for Restricted Reports entered into DSAID.

DoD's sexual assault reporting statistics include data about completed and attempted sexual contact and penetrating crimes between adults, as defined in Articles 120, 125, and 80 in the Uniform Code of Military Justice (UCMJ). This year, 4 cadets/midshipmen reported incidents that occurred to them when they were under age 18, prior to Academy attendance.

When a report falls under a criminal offense category (e.g., rape, sexual assault, aggravated sexual contact), it means the crime in that category was the most serious of the infractions reported by the victim or investigated by the MCIO. The crime alleged does not necessarily reflect the final findings of the investigators or the final disposition of the allegation.

It is important to note that the number of sexual assaults reported to Military Service Academy (MSA) authorities in APY15-16 is *not* necessarily indicative of the number of sexual assaults that may have occurred, as reported by survey respondents. For example, civilian research indicates that victims report a small fraction of sexual assaults to law enforcement. A survey commissioned by the Association of American Universities in 2015 suggested reporting rates vary significantly by the type of sexual contact (penetrating or sexual touching) and the tactic used (physical force or alcohol/drugs). For example, the survey results estimated that 26 percent of college women who experienced physically forced penetration reported the crime to an agency, while only about 5 percent of college women who experienced sexual touching while

incapacitated did.<sup>1</sup> This civilian reporting behavior mirrors that at the Military Academies. DoD estimates that 13 percent of cadets/midshipmen who indicated they experienced unwanted sexual contact (USC) reported the matter to a military authority.

## Subject Dispositions

MCIOs initiate an investigation for each Unrestricted Report of sexual assault. MCIOs report the outcome *or disposition* of each investigation and the identities of subjects involved to the Department. The Department may only take disciplinary action against individuals subject to military law. Cadets and midshipmen are considered Service members and subject to the UCMJ's legal authority. Generally, a civilian or foreign national is not subject to the UCMJ, and DoD cannot court-martial or prosecute these persons under the military justice system, except in rare circumstances (e.g., deployed environments).

- Local civilian authorities in the U.S. and our host nations hold primary responsibility for prosecuting U.S. civilians and foreign nationals, respectively, who perpetrate sexual assault against Service members.<sup>2</sup>
- When a Service member commits an offense within a civilian jurisdiction (e.g., state, county, or municipality), civilian authorities may prosecute that Service member. The civilian authority may also choose to relinquish their jurisdiction of military members back to the Department. Service member prosecutions by civilian authorities are decisions made on a case-by-case and jurisdiction-by-jurisdiction basis.

MCIOs provide reports to military leadership upon conclusion of an investigation. The alleged subject's military commander and the servicing staff judge advocate (SJA) review and consider legal action, as appropriate. However, for crimes of rape, sexual assault, nonconsensual sodomy, and attempts to commit these crimes, a senior military officer who is at least a special court-martial convening authority and in the grade of O-6 (Colonel or Navy Captain) or higher retains initial disposition authority.

The special court-martial convening authority (SPCMA) is responsible for determining which initial disposition action is appropriate. This includes whether action is warranted and, if so, whether the matter should be resolved by court-martial, nonjudicial punishment (NJP), administrative discharge, or some other adverse administrative action. The SPCMA bases his/her initial disposition on a review of the matters transmitted, any independent review, and consultation with a SJA. At the MSAs, the Superintendent (a Lieutenant General or a Vice Admiral) is the initial case disposition authority. Military attorneys assist commanders in identifying charges and appropriate means of addressing misconduct and disposition options based on the available evidence.

There are cases each year in which disciplinary action is precluded (i.e., not possible) due to legal issues or evidentiary problems. For example, when the investigation fails to show sufficient evidence of an offense for command action or when the victim declines to participate in the

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<sup>1</sup> The Association of American Universities. (2015). *Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct*. Rockville, MD: Cantor, D., Fisher, B., Chibnall, S., Townsend, R., Lee, H., Bruce, C., & Thomas, G. Retrieved from: <http://www.aau.edu/Climate-Survey.aspx?id=16525>

<sup>2</sup> A host nation's ability to prosecute a Service member may be subject to the Status of Forces Agreement (SOFA) between the U.S. and a particular foreign government. SOFAs vary from country to country.

justice process, a commander may be precluded from taking disciplinary action against a subject.<sup>3</sup>

In the data that follow, when more than one disposition action is involved (e.g., when nonjudicial punishment is followed by an administrative discharge), only one disposition is reported per subject. DoD reports dispositions according to the most serious disciplinary action taken, which in descending order is: preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative actions. At the MSAs, adverse administrative actions include the cadet/midshipman disciplinary system.

## Whom the Data Describe

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Unrestricted and Restricted Reports capture sexual assaults involving cadets/midshipmen as victims and/or subjects. These reports may include:

- Sexual assaults of cadets/midshipmen allegedly perpetrated by cadets/midshipmen
- Sexual assaults of cadets/midshipmen allegedly perpetrated by non-cadets/midshipmen (i.e., Service members, civilians/foreign nationals, or unknown subjects)
- Sexual assaults of non-cadets/midshipmen (i.e., Service members, civilians/foreign nationals, adult military dependents) allegedly perpetrated by cadets/midshipmen

DoD has greater visibility over victim reporting with the introduction of DSAID, described in further detail below.<sup>4</sup> **Therefore, one Unrestricted Report includes only one victim, but may still include *multiple* subjects and/or crimes.**

Restricted Reports, by design, have always involved one victim per reported incident. Subsequent to a change in DoD policy in 2012, military dependents (aged 18 and over) may make Restricted Report of sexual assault. The official statistics provided to Congress on the MSAs are limited to those reports of sexual assault that involve cadets or midshipmen as either a victim or a subject. DoD now includes adult military dependents who make a Restricted Report that involve allegations against a cadet or midshipmen as the offender in its annual statistics on the MSAs.<sup>5</sup> Restricted Reports by adult military dependents that did not involve a cadet or midshipmen are recorded, but not included in MSA statistical analyses or demographics. SAPRO derives available demographic information on victims and subjects from *completed* investigations, and from victim information in Restricted Reports, as recorded in DSAID.

## Which Data are Included

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The information in this report includes data on sexual assault reports made to MSA authorities during APY 15-16 (1 June 2015 to 31 May 2016) as well as trend data for prior years where available. Data in sections that follow represent a “snapshot in time,” meaning that the analysis

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<sup>3</sup> Use of the term “victim” or “subject” does not convey any presumption about the guilt or innocence of the alleged offenders, nor does the term “incident” substantiate an occurrence of a sexual assault.

<sup>4</sup> The “How It Is Gathered Section” provides additional information on DSAID’s data collection and reporting process (p. 7).

<sup>5</sup> If the alleged cadet or midshipman is the intimate partner of the victim seeking professional services for an allegation of sexual assault, SAPRO relinquishes purview to the Family Advocacy Program (FAP). Such cases would not be included in this report.



describes the status of sexual assault reports, investigations, and subject dispositions as of 31 May 2016 (the last day of the APY).

Some investigations extend across APYs, as it often takes several months to investigate a report of sexual assault. Therefore, investigations opened near the end of the APY typically continue into the next APY. Likewise, subject dispositions can extend across APYs. SAPRO marks dispositions as “pending” if they have not been completed or reported at the end of the APY. SAPRO tracks pending dispositions and requires the Military Services to report on them in subsequent years’ reports.

Under DoD’s SAPR policy, a Service member can report a sexual assault to a SARC or MCIO at any point, despite the amount of time between the incident and the report. As a result, DoD may receive reports for incidents that occurred in previous years.

DoD also receives reports submitted for sexual assaults that occurred prior to a cadet/midshipman’s military Service. When a report of this nature occurs, DoD provides care and services to the victim, but may not be able to hold the offender appropriately accountable if the offender is not subject to military law. DoD authorities may assist the victim in contacting the appropriate civilian or foreign law enforcement agency to address his or her allegation, if requested to do so.

## How Data are Gathered

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### Defense Sexual Assault Incident Database

Prior to APY 14-15, the Academies’ sexual assault data included incident information collected by SARCs and official investigations conducted by MCIO agents. SAPRO then aggregated these data provided by the Services in order to perform subsequent DoD-level analyses.

DSAID became the source of data for the Academies in APY 14-15. DoD requires SARCs to use DSAID to enter information about the victim and incident for each report of sexual assault. Additionally, DSAID interfaces with MCIO information systems, which contribute information about subjects and offense-specific information into DSAID. MCIO information systems are the system of record for all Unrestricted Reports that MCIOs investigate. Service-appointed officials enter and validate case disposition information into DSAID. The transition to DSAID alters the way in which sexual assault data are reported in two key ways:

- The Department previously recorded Unrestricted Reports as the number of sexual assault cases, as organized by MCIO investigations. Investigations into alleged subjects of sexual assault can include more than one victim. Thus, one MCIO investigation does not necessarily correspond to one victim report. Starting in APY 14-15, the Department organizes Unrestricted cases by DSAID reports, not MCIO investigations. DSAID captures data for each individual who makes an Unrestricted Report of sexual assault, such that each report corresponds to one victim. Restricted Reports, as mentioned above, have always involved one victim per reported incident.
- In past APYs, Service affiliations for subjects and victims referred to the Service to which they belonged. With the introduction of DSAID in APY 14-15, Service affiliation refers to that of the SARC handling the case. This shift provides valuable insight into the resources each Service expends to respond to reports of sexual assault. As in past APYs, when discussing subject dispositions, affiliation refers to subjects’ Service when available.

Since DSAID is a real-time data-gathering tool:

- *Not all data points are immediately available for this report.* Data provided in reports represent the state of DSAID data at the time of the final pull. Despite best efforts by DoD and the Services to report data accurately, data may be incomplete at the time of the DSAID data pull. Therefore, some demographic or case-related information presented below is categorized as “relevant data not available.”<sup>6</sup>
- *Data may change over time and may differ from what DoD reported previously.* Updates, changes, and corrections occur as a normal, continuous process of DSAID management. SAPRO works with each MSA and Service SAPR program managers to validate entries, identify errors, and make corrections throughout the year. In addition, the investigative process may also uncover new information. For example, an investigation may clear some subjects of wrongdoing or implicate others. Data presented here reflect this process.

### Service Academy Gender Relations Survey (SAGR)

The 2016 *SAGR* is the sixth in a series of surveys mandated by the MSA assessment process directed by the FY07 National Defense Authorization Act. This year’s *SAGR* took a census of all cadets and midshipmen at the three MSAs. The *SAGR* includes data on:

- The APY 15-16 estimated past-year prevalence rates of sexual assault, sexual harassment, and gender discrimination;
- A discussion of students’ perceptions of Academy culture with respect to sexual assault and sexual harassment;
- The availability of sexual assault and sexual harassment training; and
- Perceptions of program effectiveness in reducing or preventing sexual assault and sexual harassment.

The Department uses the *SAGR* to estimate the number of cadets/midshipmen who indicated they were sexually assaulted in the current APY, regardless of whether they chose to report that incident. Differences between the number of sexual assault reports and the estimated prevalence of sexual assaults stems from apparent underreporting of sexual assault incidents to DoD authorities.

The *SAGR* employs a measure of USC that covers a range of activities prohibited by the UCMJ, which provides a reliable estimate of the crimes addressed by the SAPR program. However, USC is only a proxy measure for crimes described in military law and not a crime index.

### Why Data are Collected

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Congress requires data about the number of sexual assault reports and the outcome of the allegations made against each subject. DoD also collects these data to inform SAPR policy, program development, and oversight.

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<sup>6</sup> In order for DoD to accurately classify a victim or subject as a cadet or midshipman, demographic data must be complete in DSAID. This report uses the term “relevant data not available” when these data fields are missing or unavailable.



# Aggregate Statistical Data on Sexual Assault

The Department received 86 sexual assault reports involving a cadet/midshipman as a victim or subject in APY15-16. Of these 86 reports, 77 victims were cadets or midshipmen. Other Service members and civilians comprised the remaining 9 victims. This year, USAFA received 17 fewer reports than last year, while USMA and USNA increased by 9 and 3 reports, respectively. Survey results from 2016 suggest that a number of factors affect a victim’s decision to report, including the perceived severity of the incident, the victim’s need for medical or other assistance, the victim’s desire to deal with the situation without help, the belief that reporting might protect others, and the victim’s concern about privacy.<sup>7</sup>

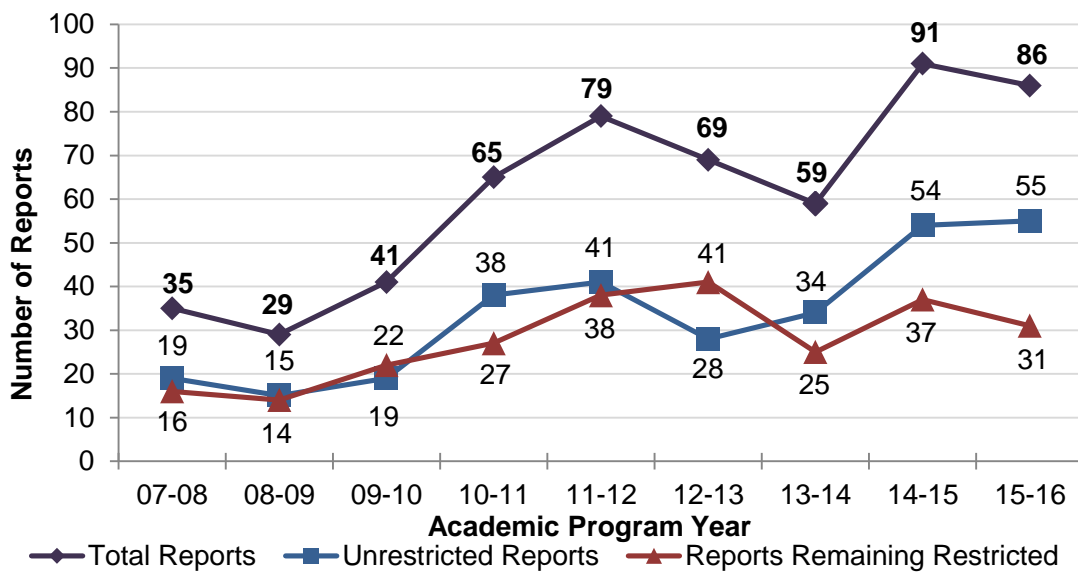


Exhibit 1: Reports of Sexual Assault to the MSAs by Report Type, APY 07-08 to 15-16

As discussed previously, Department policy permits Service members to report sexual assaults and receive assistance, even when the reported incident occurred prior to entry into military Service. Exhibit 2 below illustrates this pattern in cadet/midshipman reporting of sexual assault allegations. Exhibit 2 shows that 13 of the 77 sexual assault reports made by cadet/midshipman victims this year involved an incident that occurred prior to the victim’s military Service (5 Unrestricted and 8 Restricted Reports). Notably, sexual assault reports from civilian and Service member victims are excluded from Exhibit 2, which is why the total reports do not match the totals in Exhibit 1.

<sup>7</sup> See: 2016 Service Academy Gender Relations Survey Report: <http://sapr.mil/index.php/research>

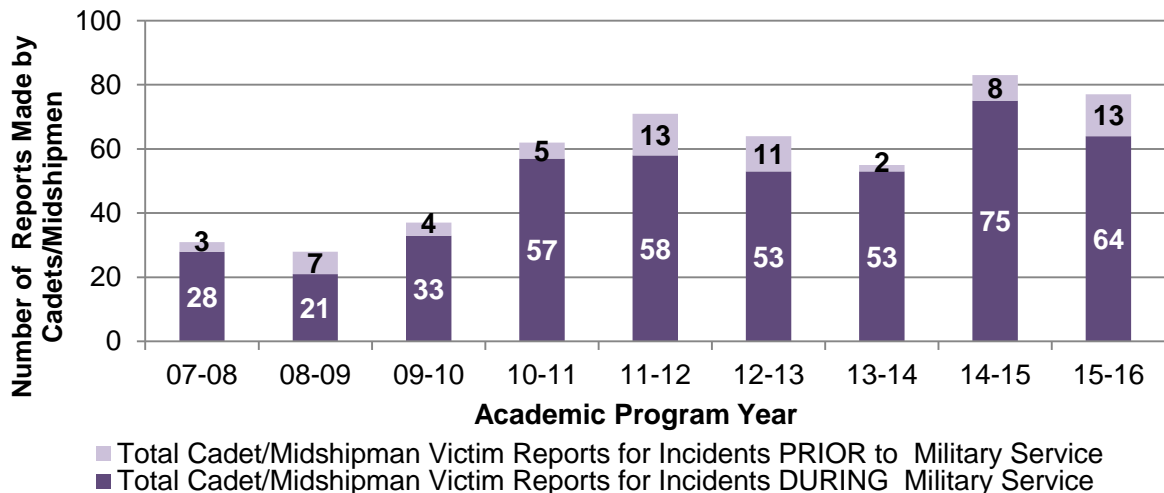


Exhibit 2: Total Reports to the MSAs by Cadet/Midshipman Victims Occurring Prior to or During Military Service, APY 07-08 to 15-16

The flow chart in Exhibit 3 on the following page depicts reports made in APY 15-16. Each point in the flow chart corresponds to a letter in the subsequent text. Cadets and midshipmen were involved in 86 reports of sexual assault, as victims and/or subjects (Exhibit 3, Point A).

Of the 86 reports received, 55 were Unrestricted Reports involving cadets and midshipmen as either the victim or subject of a sexual assault investigation (Exhibit 3, Point B). Of the 55 Unrestricted Reports, 5 reports were made by cadets/midshipmen for alleged incidents of sexual assault that occurred prior to entering military Service and 42 Unrestricted Reports were made by cadets/midshipmen for alleged incidents that occurred during military Service. Non-cadet/midshipman victims made the remaining 8 reports.<sup>8</sup>

- 55 Unrestricted Reports were referred to an MCIO for investigation or had some investigative activity associated with them. Eight Unrestricted Reports did not move forward in the processes represented in the flow chart and are accounted for as follows:
  - 3 victims made Unrestricted Reports for incidents that occurred prior to the their military Service *and* these allegations were outside of MCIOs' authority to investigate
    - 2 additional prior-to-service allegations fell within MCIO authority to investigate and are accounted for by the outcomes within the flowchart
  - 3 sexual assault allegations were first addressed by civilian law enforcement investigations in prior years, but these allegations did not become Unrestricted Reports and entered into DSAID until this year
  - 2 Unrestricted Reports could not be classified, because they lacked investigative case information at the time SAPRO retrieved APY 15-16 data from DSAID. DoD will report these cases in future years' reports when relevant data becomes available
- In sum, DoD and civilian investigative agencies opened 45 investigations associated with 47 Unrestricted Reports this APY.

<sup>8</sup> Of the 8 reports that were made by non-cadet/midshipman victims, 1 report was made by an enlisted Active Duty member; civilian victims made the remaining 7 reports.

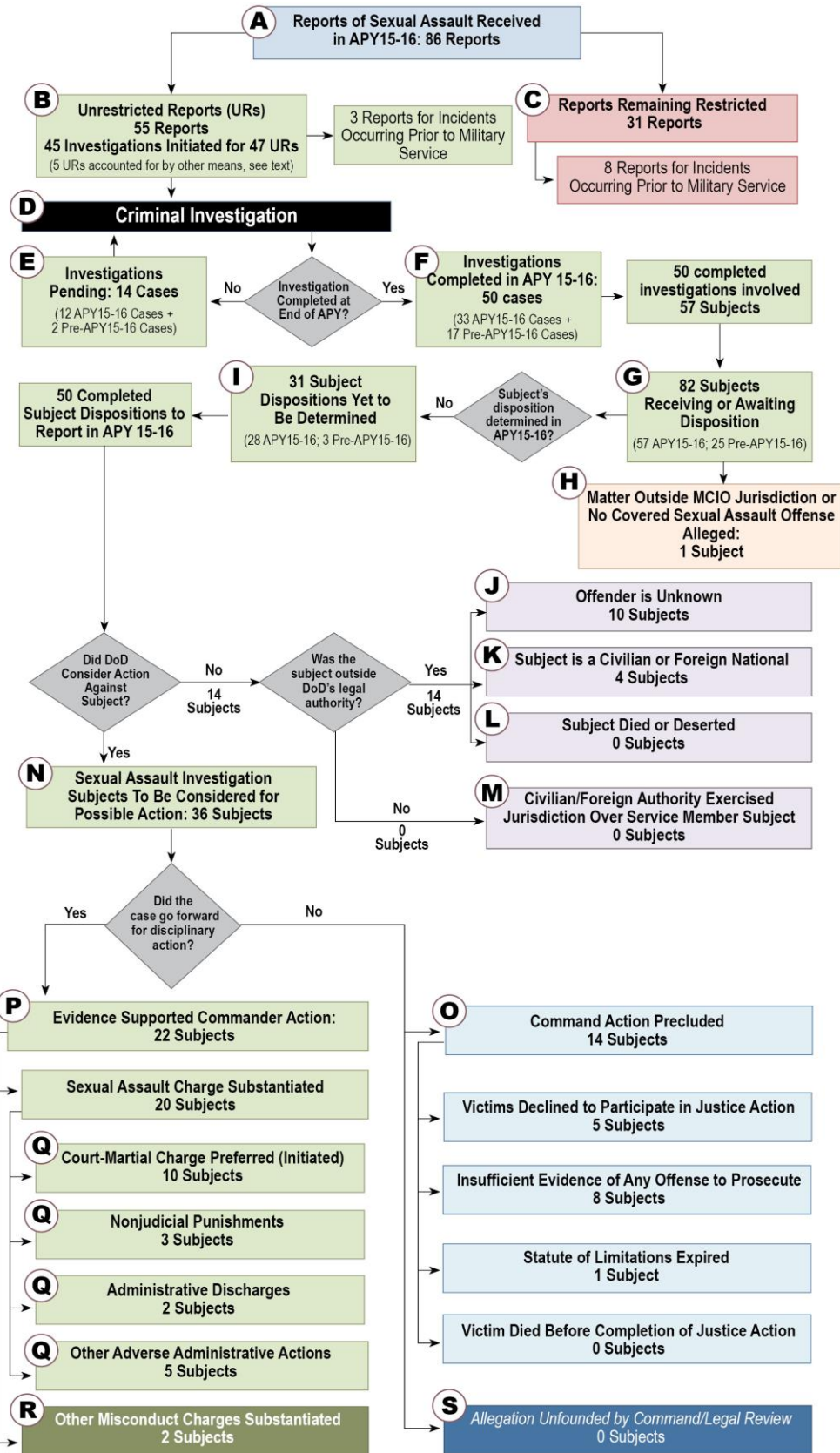


Exhibit 3: Reports of Sexual Assault, Investigations, and Dispositions Completed in APY 15-16

Cadets and midshipmen initially made 43 Restricted Reports. During the APY, 12 Restricted Reports converted to Unrestricted Reports, leaving 31 Restricted Reports remaining at the end of APY 15-16 (Exhibit 3, Point C). Cadet/midshipman victims made 30 out of the 31 reports remaining Restricted in the APY. Eight cadets/midshipmen made Restricted Reports for incidents that occurred prior to military Service.

Exhibit 4 illustrates the number of sexual assault reports made to each MSA over the past nine APYs. Overall, the number of sexual assault reports made in APY15-16 decreased by 5 reports compared to APY14-15. This relatively small decrease, however, does not fully represent reporting activity at each of the MSAs. Specifically, reports of sexual assault increased by 9 reports at USMA and by 3 reports at USNA. Conversely, reports at USAFA decreased by 17. While reports at USMA and USNA have steadily increased over the past few years, reports of sexual assault at USAFA have fluctuated greatly. As shown, reports at USAFA also usually occur at higher rates than at the other two MSAs. Table 1 breaks out in more detail the number and types of sexual assault report made (Unrestricted versus Restricted) by MSA in APY 15-16.

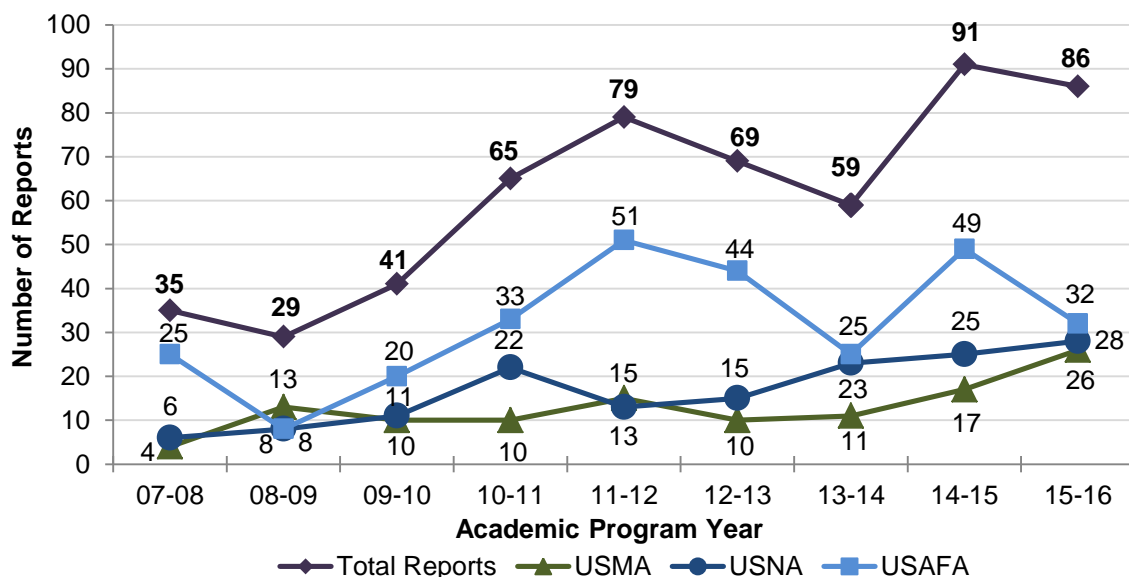


Exhibit 4: Reports of Sexual Assault by Academy, APY 07-08 to 15-16

Table 1 – Total Reports of Sexual Assault by Type of Report and Academy in APY 15-16

Academy	Total Reports	Unrestricted Reports	Restricted Reports Remaining
U.S. Military Academy	26	20	6
U.S. Naval Academy	28	20	8
U.S. Air Force Academy	32	15	17
<b>Total Reports</b>	<b>86</b>	<b>55</b>	<b>31</b>

Reports of sexual assault made to DoD authorities provide only partial insight into the overall phenomenon of sexual assault at the MSAs. As previously discussed, sexual assault in both the civilian and military sectors is underreported, meaning that sexual assaults estimated to occur using scientific surveys of a given population outnumber official reports made to the authorities.

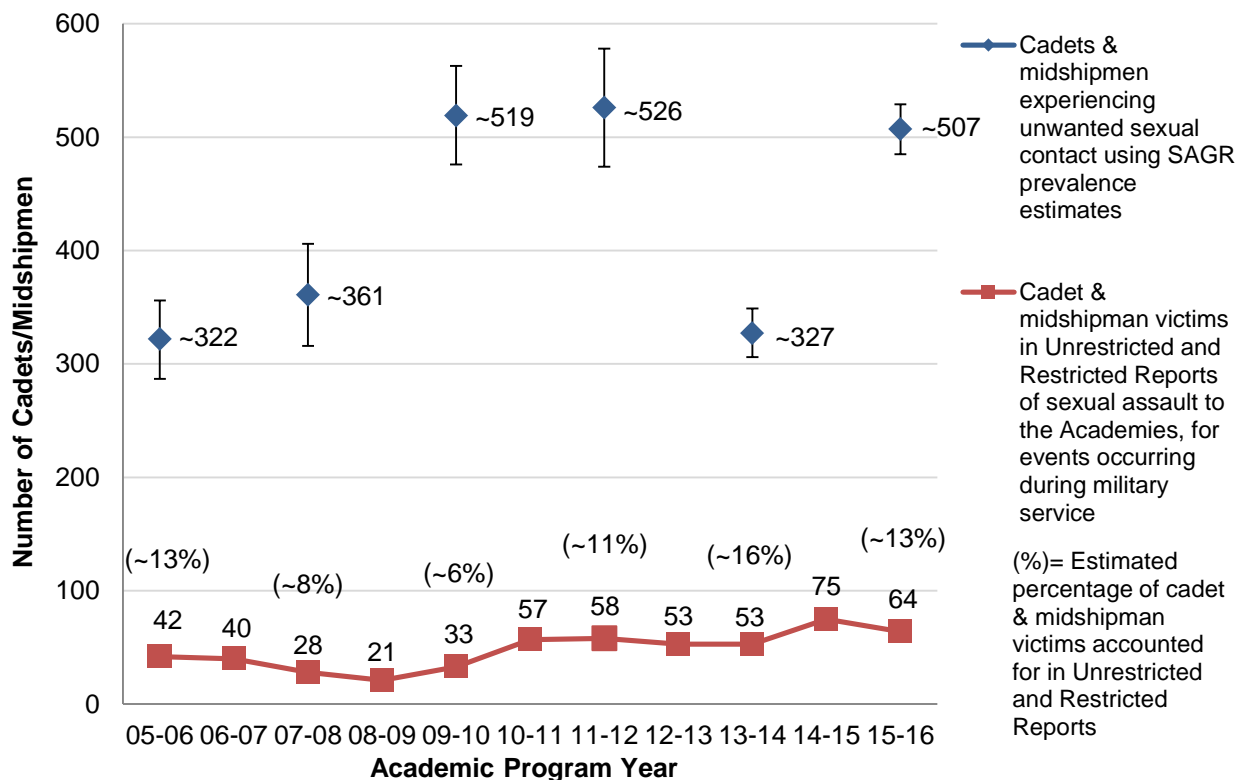


Exhibit 5: Estimated Cadets/Midshipmen Experiencing USC Based on Past-Year Prevalence Rates versus Number of Cadet/Midshipmen Victims in Reports of Sexual Assault Made during the Academic Program Year, for Incidents Occurring During Military Service, APY 05-06 to 15-16<sup>9</sup>

The Office of People Analytics (OPA) conducts the *SAGR* every two years at the MSAs to estimate the past-year prevalence rate of USC in the cadet and midshipman population.<sup>10</sup> The 2016 *SAGR* estimated that 12.2 percent of female cadets/midshipmen and 1.7 percent of male cadets/midshipmen experienced USC, a statistically significant increase from 2014 prevalence rates (8.2 percent for women and 1.1 percent for men).<sup>11</sup>

<sup>9</sup> Bars around survey point estimates represent margins of error. For 2016, *SAGR* estimated that the number of cadets and midshipmen who had experienced past-year USC was between 485 and 529 with a midpoint of 507.

<sup>10</sup> Although the term “unwanted sexual contact” does not appear in Articles 120, 125, or 80 of the UCMJ, for the purposes of the *SAGR* and this report, it refers to a range of activities that the UCMJ prohibits. These activities include completed or attempted oral, anal, or vaginal penetration by a body part or an object, and the unwanted touching of genitalia, buttocks, breasts, or inner thighs when the victim did not or could not consent.

<sup>11</sup> OPA estimates the number of cadet/midshipman victims using the weighted estimated USC prevalence rate across all genders and DoD MSAs (~4 percent) multiplied by the Academy cadet/midshipman population at the time of the survey. Notably, the timeframe covered by the survey questions pertain to USC experienced within the APY. *SAGR* victim numbers are only estimates. DoD uses these estimates

As illustrated in Exhibit 5, 2016 rates of USC indicate that about 507 cadets and midshipmen experienced some form of USC during the academic program year. In APY 15-16, MSA officials received reports of sexual assault from 64 cadets and midshipmen for an incident that occurred **during** military Service. The Department estimates that about 13 percent of the estimated 507 cadets/midshipmen who experienced USC made an official report of sexual assault. Exhibit 5 shows that 64 cadets/midshipmen made a Restricted or Unrestricted Report of sexual assault for an incident occurring **during** military Service in APY 15-16.<sup>12</sup>

## APY 15-16 Unrestricted Reports of Sexual Assault

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In APY 15-16, 55 Unrestricted Reports of sexual assault involved cadets/midshipmen as either the subject and/or victim of a sexual assault investigation.

Department policy requires that the allegation be referred to an MCIO for investigation once a victim makes an Unrestricted Report of sexual assault. An investigation can take a few weeks to several months to complete depending upon the complexity of the alleged crime. Consequently, not all of the reports made in a given APY are completely investigated by the end of that APY.

- Of the 45 criminal investigations initiated during APY 15-16, 33 investigations were completed in APY 15-16. DoD will report the outcomes of the other 12 investigations in forthcoming years' reports (Exhibit 3, Points F and E)
- MCIOs also completed 17 investigations of sexual assault initiated in reporting periods prior to APY 15-16
- In sum, MCIOs completed 50 investigations of sexual assault (Exhibit 3, Point E) involving 57 subjects (Exhibit 3, Point G) during APY15-16 for reports made in the current APY or prior APYs

MCIOs investigate all alleged violations of military law contained in the report when a victim makes an Unrestricted Report of sexual assault. SAPRO categorizes Unrestricted Reports by the most serious sexual assault offense alleged. Exhibit 6 shows the sexual assault offenses alleged for the 55 Unrestricted Reports made in APY 15-16. The offense charged or addressed with disciplinary action *may not always* reflect the offense investigated. For example, if the crime of "rape" is alleged, but MCIO agents only discover evidence for the crime of "aggravated sexual contact" during the investigation, then only "aggravated sexual contact" can be charged.

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as an indicator of the scope of the sexual assault problem and the degree of underreporting at each Academy.

<sup>12</sup> In total, 77 cadet/midshipman victims made reports of sexual assault during APY 15-16. However, not all cadet/midshipman victims reported incidents that occurred during their military Service. As depicted in Exhibit 2, 13 cadet/midshipman victims made a report for a sexual assault incident that occurred prior to their military Service.



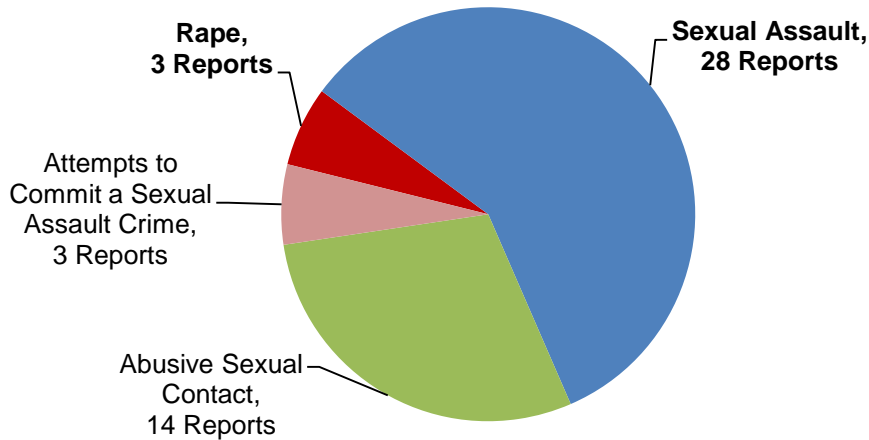


Exhibit 6: Sexual Assault Crimes Investigated in Unrestricted Reports, APY 15-16

**Notes:**

1. In APY 15-16, the Academies received 55 Unrestricted Reports. However, the analysis in Exhibit 6 analysis excludes 7 reports due to missing data on offense originally investigated.
2. Bold text indicates penetrating sexual assault crimes.

Exhibit 7 illustrates the involvement of cadets and midshipmen in Unrestricted Reports of sexual assault. In APY 15-16, 19 of the 55 Unrestricted Reports involved the alleged victimization of a cadet or midshipman by another cadet or midshipman.

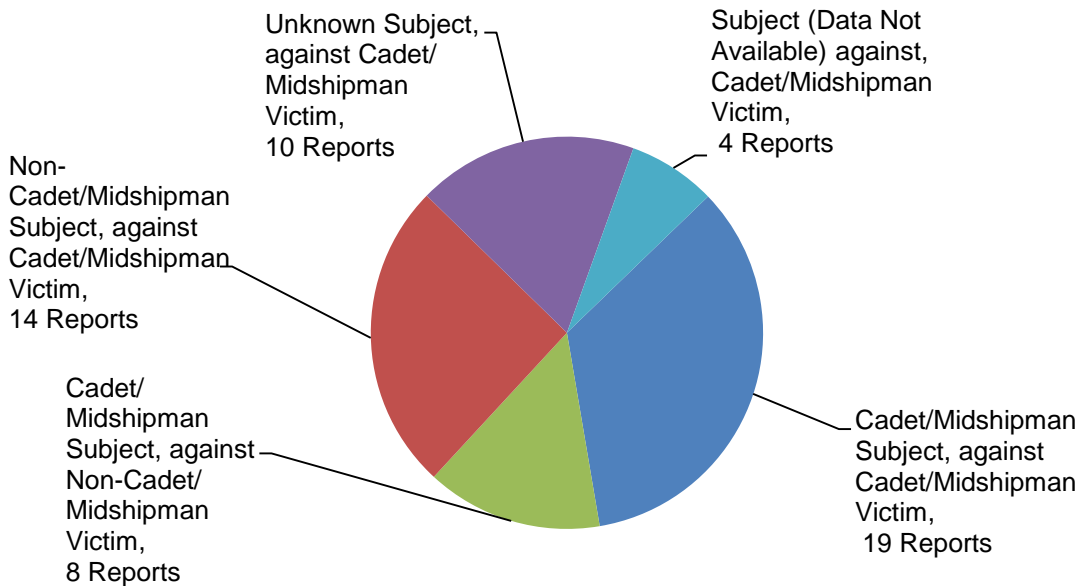


Exhibit 7: Unrestricted Reports of Sexual Assault by Victim and Subject Status, APY 15-16

**Disposition of Sexual Assault Reports Adjudicated in APY 15-16**

When an Unrestricted Report is investigated, the goals of the investigation are to identify what crimes, if any, have been committed, who has been victimized, and who may be held appropriately accountable for the crime. The Department intends to hold offenders appropriately accountable when it has legal authority to do so and available evidence supports such action.

In APY 15-16, 50 criminal investigations (33 APY 15-16 and 17 Pre-APY 15-16) were completed, involving 57 subjects. The MSAs had completed disposition information to report this year for an additional 25 subjects in investigations closed last APY. Of the 82 total subjects (57 APY 15-16; 25 prior APYs) there were 31 subject dispositions yet to be determined at the end of APY 15-16. An additional allegation fell outside of an MCIO's authority to investigate, as described in DoD Instruction 5505.18, *Investigation of Adult Sexual Assault in the Department of Defense* (Exhibit 3, Point H).

By the end of APY 15-16, MSAs had completed disposition information for 50 subjects (28 subjects from APY 15-16; 22 subjects from prior APYs). Exhibit 3 and the information below, outlines the disposition information regarding those 50 subjects.

**50 Subjects of APY 15-16 investigations and Pre-APY 15-16 investigations with disposition information to report at the end of APY 15-16**

- 10 Subjects could not be identified, despite a thorough investigation (Exhibit 3, Point J)
- 4 Subjects were civilian (Exhibit 3, Point K) and outside of DoD's legal authority

**36 Subjects under DoD legal authority to be reviewed for possible action (Exhibit 3, Point N)**

- 5 Victims declined to participate in the military justice process (Exhibit 3, Point O)
- 8 Investigations yielded insufficient evidence to prosecute any offense (Exhibit 3, Point O)
- 1 Statute of limitations expired (Exhibit 3, Point O)

**22 Subjects for whom evidence supported command action (Exhibit 3, Point P):**

DoD actions taken for sexual assault crimes are as follows (Exhibit 3, Point Q):

- 10 Subjects had Court-Martial Charge Preferred
- 3 Subjects received Nonjudicial Punishment
- 2 Subjects received an Adverse Administrative Discharge
- 5 Subjects received an Adverse Administrative Action, to include action through the Cadet Disciplinary System

The actions taken for other misconduct that was discovered during the course of the sexual assault investigation are as follows (Exhibit 3, Point R):

- 0 Subjects had Court-Martial Charges Preferred
- 0 Subjects received Nonjudicial Punishments
- 0 Subjects received an Adverse Administrative Discharge
- 2 Subjects received an Adverse Administrative Action, to include action through the Cadet Disciplinary System

### Demographics of Unrestricted Reports

SAPRO draws the following demographic information from the 49 investigations of sexual assault completed during APY 15-16. These investigations involved 53 victims and 57 subjects. Table 2 displays the gender of victims and subjects in completed investigations of Unrestricted Reports in APY 15-16. As in previous APYs, most victims in investigations of Unrestricted Reports are female (87 percent) and most subjects are male (77 percent). Table 3 shows victim and subject age in completed investigations of Unrestricted Reports in APY 15-16. Most victims and subjects are between ages 16 and 24 (89 percent of victims and about 65 percent of subjects).

Table 2 – Gender of Victims and Subjects for Completed Investigations of Unrestricted Reports in APY 15-16

Gender	Victims		Subjects	
	Count	Percentage	Count	Percentage
Male	7	13%	44	77%
Female	46	87%	3	5%
Gender Unknown/Data Not Available	0	0%	10	18%
<b>Total</b>	<b>53</b>	<b>100%</b>	<b>57</b>	<b>100%</b>

Table 3 –Victims’ and Subjects’ Age at the Time of Incident for Completed Investigations of Unrestricted Reports in APY 15-16

Age at Time of Incident	Victims		Subjects	
	Count	Percentage	Count	Percentage
0-15*	1	2%	0	0%
16-19	28	53%	11	19%
20-24	18	34%	26	46%
25-34	0	0%	5	9%
35-49	0	0%	2	4%
50 and older	0	0%	0	0%
Age Unknown/Data Not Available	6	11%	13	23%
<b>Total</b>	<b>53</b>	<b>100%</b>	<b>57</b>	<b>100%</b>

\*Note: The one cadet/midshipman in the “0-15” category reported an incident that occurred prior to military Service, when she/he was 13.

## APY 15-16 Restricted Reports of Sexual Assault

SAPR personnel collect limited data about the victim and the allegation made in a Restricted Report due to confidentiality. As with Unrestricted Reports, individuals can make Restricted Reports for incidents that occurred in prior APYs and/or prior to military Service.

There were 43 initial Restricted Reports of sexual assault in APY 15-16. Of the 43 reports, 12 converted to Unrestricted Reports. At the close of APY 15-16, 31 reports remained Restricted<sup>13</sup>:

- 30 cadets/midshipmen made a Restricted Report
  - 8 cadets/midshipmen made a Restricted Report for a sexual assault allegation that occurred prior to military Service
  - 22 cadets/midshipmen made a Restricted Report for a sexual assault allegation that occurred during military Service
- 1 non-cadet/midshipman, who was an Active Duty Service member, made a Restricted Report against a cadet or midshipman

The percentage of victims who convert Restricted Reports to Unrestricted Reports at the MSAs fluctuates yearly. Exhibit 8 shows the Restricted Reports and conversion rates for the past nine APYs.

<sup>13</sup> Unrestricted Report data cited earlier includes Restricted Reports that converted to Unrestricted Reports this year.

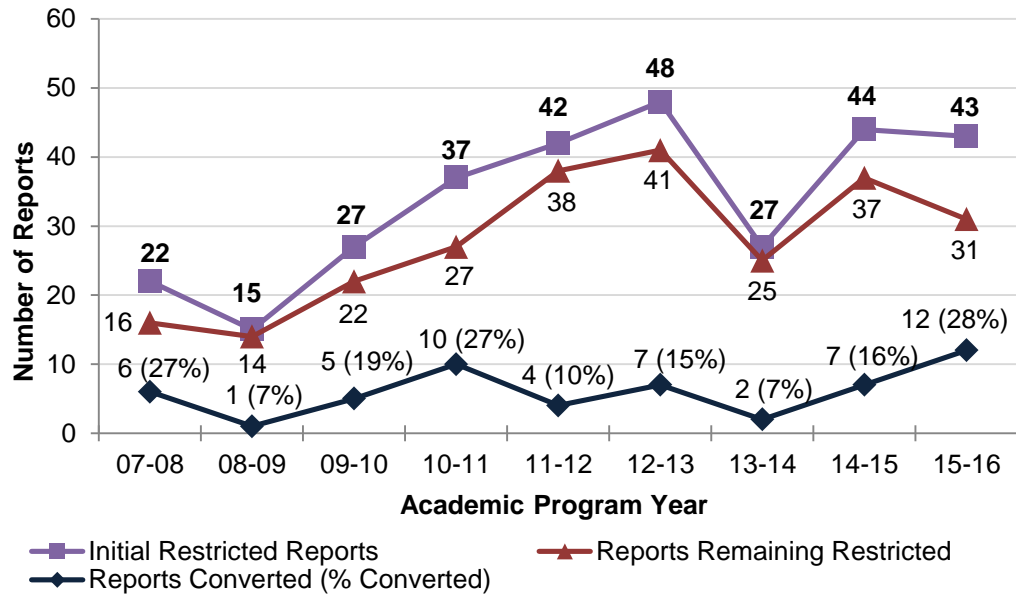


Exhibit 8: Reports Initially Made Restricted, Reports Remaining Restricted, and Restricted Reports Converted to Unrestricted, APY 07-08 to 15-16

### Demographics of Restricted Reports of Sexual Assault

The subsequent information pertains to victims with a report remaining Restricted at the end of APY 15-16. Table 4 and Table 5 display victim gender and age data, respectively. As with Unrestricted Reports, females and 16 to 24 year olds comprise the majority of Restricted Reports at the Academies.

Table 4 – Gender of Victims in Restricted Reports Remaining in APY 15-16

Gender	Count	Share
Male	2	6%
Female	29	94%
<b>Total</b>	<b>31</b>	<b>100%</b>

Table 5 – Age of Victims at the Time of Incident in Restricted Reports Remaining in APY 15-16

Age at the Time of Incident	Count	Share
0-15*	3	10%
16-19	14	45%
20-24	13	42%
25-34	1	3%
35 and older	0	0%
Data not available	0	0%
<b>Total</b>	<b>31</b>	<b>100%</b>

\*Note: The three cadet/midshipmen victims in the “0-15” category made reports for incidents that occurred prior to military Service.

The majority of Restricted Reports involve cadet/midshipmen as subjects and victims, as depicted in Exhibit 9.

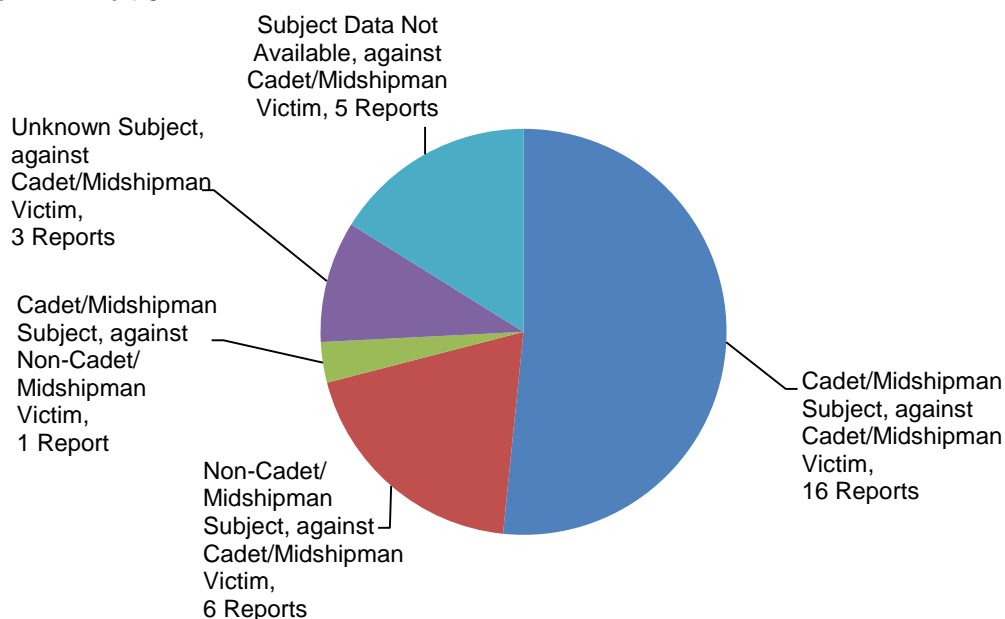


Exhibit 9: Restricted Reports of Sexual Assault by Victim and Subject Status, APY 15-16

## 2016 Service Academy Gender Relations Survey (SAGR)

### Estimated Past-Year Prevalence of Unwanted Sexual Contact

As described in sections above, 12.2 percent of female cadets/midshipmen and 1.7 percent of male cadets/midshipmen indicated experiencing USC, a statistically significant increase from 2014 estimated prevalence rates (8.2 percent for women and 1.1 percent for men).

Of female cadets/midshipmen who experienced USC, 4.4 percent indicated that the incident involved attempted sexual penetration of the vagina, anus, or mouth,<sup>14</sup> followed by 4.1 percent who experienced unwanted sexual touching, and 3.7 percent, who experienced completed sexual intercourse, anal, or oral sex. Of male cadets/midshipmen who experienced USC, 0.9 percent reported experiencing unwanted sexual touching, followed by 0.5 percent who reported experiencing attempted sexual intercourse, anal, or oral sex, and 0.3 percent who reported experiencing completed sexual intercourse, anal, or oral sex.<sup>15</sup>

### Retaliation

Of those who experienced USC and reported the incident, 47 percent indicated they experienced a behavior in line with professional reprisal, ostracism, and/or maltreatment subsequent to a report of sexual assault to a DoD authority. Once OPA used UCMJ definitions and Department policy to categorize the context of those negative experiences, only 5 percent of these perceived behaviors were consistent with professional reprisal, ostracism, and/or maltreatment prohibited by military law. As with all survey data, respondent endorsements of

<sup>14</sup> Attempted sexual penetration can occur with or without unwanted sexual touching.

<sup>15</sup> Someone who indicates they experienced completed sexual intercourse, anal or oral sex can also indicate that they experienced attempted sex or sexual touching.

these survey items do not constitute a report of retaliation, a finding under the law that the victim experienced some form of retaliation, nor can these results indicate whether the respondents reported the behaviors to the appropriate authorities for investigation.

Despite these caveats, perceived retaliation of any kind is concerning and information from the SAGR provides a greater understanding of the overall impact of those experiences on these individuals. For instance, of the students who indicated experiencing USC and subsequently made a Restricted or an Unrestricted Report, the majority (82 percent) specified that they would make the same decision to report the incident again.

### Alcohol Use

Cadets/midshipmen who reported experiencing USC indicated whether they or their alleged offender(s) had been drinking alcohol at the time of the incident that had the greatest impact on them. The results varied by gender and Academy. Of the women who reported experiencing USC at each Academy, 60 percent at USMA, 39 percent at USAFA, and 74 percent at USNA indicated that they or their alleged offender(s) had been drinking. Reported alcohol involvement varied more widely among men, with 56 percent at USNA, 43 percent at USAFA, and 42 percent at USMA indicating that they or their alleged offender(s) had been drinking.

### Bystander Intervention

The 2016 SAGR included two questions to assess bystander intervention experiences in APY 15-16. The first item asked whether participants observed a situation where they believed a sexual assault was occurring or about to occur within APY 15-16. If respondents answered “yes” to this question, the survey prompted them to answer a second question to identify the response, among a list of options, which most closely resembled their action. Seven percent of cadets/midshipmen indicated that they observed a high-risk situation (sexual assault was occurring or about to occur). However, of those who observed a high-risk situation, the majority (94 percent) reported taking some action to intervene.

## Statistical Data on Sexual Harassment

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### Sexual Harassment Reporting

The Department’s sexual harassment reporting process differs from policies governing how to report a sexual assault; however, both behaviors are equally unacceptable. Department policy encourages resolution of sexual harassment allegations at the lowest interpersonal level.<sup>16</sup> Service members may also elect to address the matter by making an informal or formal complaint. In APY 15-16, cadets/midshipmen made 2 formal complaints of sexual harassment and 8 informal complaints:

- 2 formal complaints and 1 informal complaint at USMA
- 5 informal complaints at USNA
- 2 informal complaints at USAFA

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<sup>16</sup> DoD Directive 1020.2, Diversity Management and Equal Opportunity in the Department of Defense, 5 February 2009.



## Estimated Past-Year Prevalence of Sexual Harassment

Overall, the 2016 *SAGR* found that just fewer than half (48 percent) of female cadets/midshipmen indicated experiencing sexual harassment in the past APY. This year's estimate is roughly the same as the sexual harassment prevalence estimate in 2014. However, this year's sexual harassment measure is new and does not allow a scientific comparison to data using the 2014 data.<sup>17</sup> The estimated past-year prevalence of perceived sexual harassment for female cadets and midshipmen varied by location, as follows:

- USNA Women 51%
- USAFA Women 47%
- USMA Women 46%

Across all three MSAs, about 12 percent of male respondents perceived experiencing sexual harassment at some point in the past academic program year. This is about the same prevalence rate estimated in 2014 using the previous measure. Scientific comparisons between the 2016 and 2014 are not possible since OPA used slightly different questions to measure sexual harassment. The past-year prevalence of perceived sexual harassment for male cadets and midshipmen varied by location, as follows:

- USMA Men 13%
- USNA Men 12%
- USAFA Men 11%

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<sup>17</sup> RAND Corporation developed the new sexual harassment measure for the 2014 *RAND Military Workplace Survey*. The Department has elected to use this new, behaviorally based measure as a standard on all gender relations surveys, including the *SAGR*.