

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



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

## Statistical Data on Sexual Assault

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The Department of Defense's (DoD) sexual assault data capture Restricted and Unrestricted Reports of sexual assault involving cadets, midshipmen, or prep school students as victims and/or subjects of allegations made during the 2016-2017 Academic Program Year (APY 16-17). 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

The number of sexual assaults reported to Military Service Academy (MSA) authorities in APY16-17 *is not* necessarily indicative of the number of sexual assaults that may have occurred, as estimated by scientific surveys of cadets and midshipmen. For example, civilian research indicates that victims report a small fraction of sexual assaults to law enforcement. This civilian reporting behavior mirrors that at the MSAs. In 2016, DoD estimated that 13 percent of cadets/midshipmen who indicated they experienced unwanted sexual contact (USC) in the past year reported the matter to a military authority.

### Restricted Reports

As service members, cadets and midshipmen can make Restricted Reports to specified individuals (i.e., Sexual Assault Response Coordinators (SARCs), Sexual Assault Prevention and Response (SAPR) Victim Advocates (VA), or healthcare providers), enabling them to seek care/services and maintain confidentiality.<sup>1</sup> Given a victimized member's desire for confidentiality, DoD does not investigate Restricted Reports nor does it obtain extensive details about the incident.<sup>2</sup> SARCs therefore record limited data about these victims and the alleged offenses in the Defense Sexual Assault Incident Database (DSAID). Furthermore, the Department does not request nor maintain subject identities for Restricted Reports entered into DSAID. A victim can choose to convert a Restricted Report to an Unrestricted Report at any time.

DoD policy allows adult military dependents to make a Restricted Report involving allegations against a cadet or midshipmen as the offender in its annual statistics on the MSAs.<sup>3</sup> Restricted

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<sup>1</sup> After a change in DoD policy in 2012, military dependents (aged 18 and over) may make Restricted Report of sexual assault.

<sup>2</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>3</sup> Department of Defense Instruction 6400.06 (Domestic Abuse Involving DoD Military and Certain Affiliated Personnel) defines "domestic abuse" as domestic violence or a pattern of behavior resulting in emotional/psychological abuse, economic control, and/or interference with personal liberty that is directed toward a person who is: a current or former spouse; a person with whom the abuser shares a child in common; or a current or former intimate partner with whom the abuser shares or has shared a common domicile. Sexual assault occurring within the context of this definition of domestic abuse is referred to the

Reports by adult military dependents that did not involve a cadet or midshipmen are recorded, but not included in MSA statistical analyses or demographics.

### Unrestricted Reports

Unrestricted Reports involve command notification and a referral for investigation by a Military Criminal Investigation Organization (MCIO). MCIO information systems are the systems of record for Unrestricted Reports and interface with DSAID in order to incorporate subject and investigative case information into the database. SARCs enter some victim and incident data into DSAID. **One Unrestricted Report includes only one victim, but may still include multiple subjects and/or allegations.**

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). 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 as final findings of the investigators or the final disposition of the allegation.

### Case Dispositions

MCIOs initiate an investigation for each Unrestricted Report of sexual assault that falls within their investigative purview. MCIOs and Judge Advocate personnel report each investigation's outcome/disposition to the Department. The Department may only take disciplinary action against individuals subject to the UCMJ. Cadets/midshipmen are considered Service members and subject to the UCMJ's legal authority. 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 DoD. Service member prosecutions by civilian authorities are decisions made on a case-by-case basis and such actions may not yield the same level of case or disposition detail obtained from the military justice system.<sup>4</sup>

MCIOs provide reports to military leadership upon conclusion of an investigation. The 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 (SPCMA) and in the grade of O-6 (Colonel or Navy Captain) or higher retains initial disposition authority.

The 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. 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.

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Family Advocacy Program (FAP) for comprehensive safety planning, victim advocacy and support, and treatment when appropriate. Such cases would not be included in this report.

<sup>4</sup> Generally, an accused 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., a civilian accompanying the force in the field in a contingency operation). 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 foreign government. SOFAs vary from country to country.

Each year there are cases 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 justice process, a commander may be precluded from taking disciplinary action against a subject.

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 the most serious disciplinary action taken is reported (in descending order: 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.

### Case Timelines

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, case disposition actions 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, regardless of 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.

### Data Collection in DSAID

DSAID became the source of data for the MSAs in APY 14-15. 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>5</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 additional information. For example, an investigation may clear some subjects of wrongdoing or implicate others. Data presented here reflect this process.

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<sup>5</sup> For DoD to classify a victim or subject accurately as a cadet or midshipman, demographic data must be completed 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 112 sexual assault reports involving a cadet/midshipman as a victim or subject in APY16-17. Of these 112 reports, 105 victims were cadets or midshipmen. Other Service members and civilians comprised the remaining 7 victims. This year reports involving a cadet, midshipman or prep school student increased by 24 reports at the U.S. Military Academy (USMA), by 1 report at the U.S. Naval Academy (USNA), and by 1 report at the U.S. Air Force Academy (USAFA).

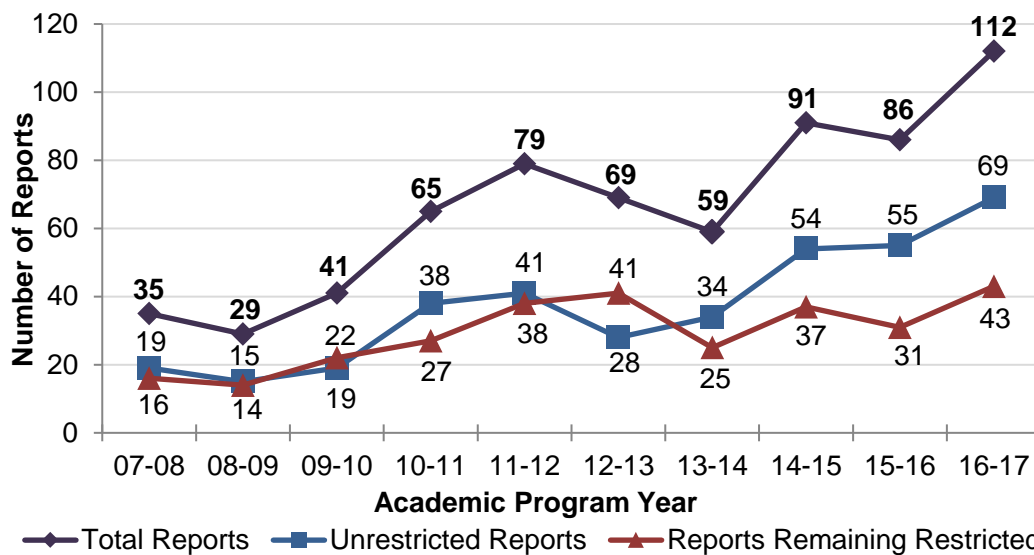


Exhibit 1: Reports of Sexual Assault to the MSAs by Report Type, APY 07-08 to 16-17

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<sup>6</sup> of sexual assault allegations. Exhibit 2 shows that 8 of the 105 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 3 Restricted Reports). In sum, there were 97 reports in APY 16-17 involving cadets and midshipmen victims for allegations made during military service.

<sup>6</sup> Since Exhibit 2 focuses on cadet/midshipman sexual assault reports, it excludes reports made by civilians or Active Duty Service members. Therefore, Exhibit 2 reporting totals do not match the overall reporting totals in Exhibit 1.

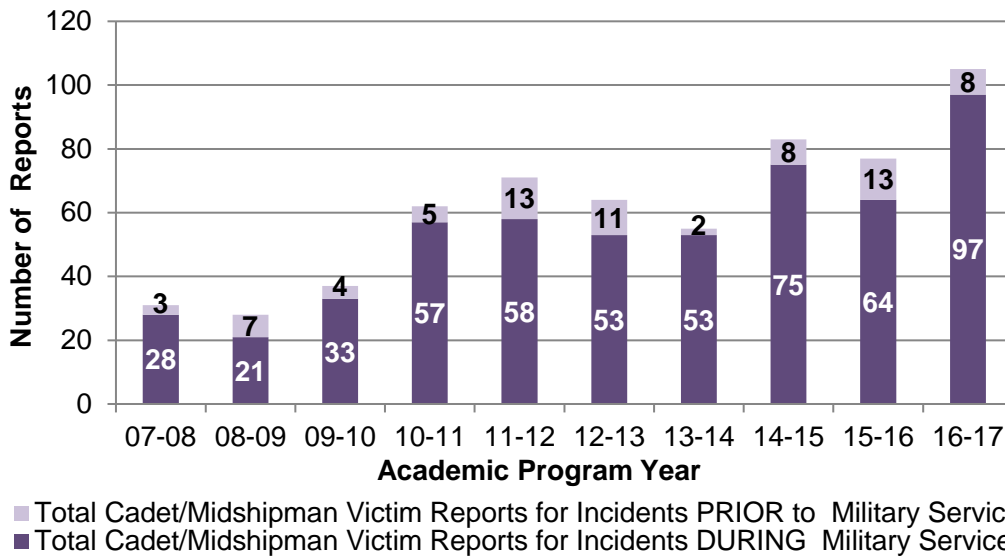


Exhibit 2: Total Reports to the MSAs by Cadet/Midshipman Victims Occurring **Prior** to or **During** Military Service, APY 07-08 to 16-17

The flow chart in Exhibit 3 on the following page depicts reports made in APY 16-17. Cadets and midshipmen were involved in 112 reports of sexual assault, as victims and/or subjects (Exhibit 3).

Of the 112 reports received, 69 were Unrestricted Reports involving cadets/midshipmen as a victim and/or subject of a sexual assault investigation (Exhibit 3). Of the 69 Unrestricted Reports, 5 reports were made by cadets/midshipmen for alleged incidents of sexual assault that occurred prior to entering military Service and 61 Unrestricted Reports were made by cadets/midshipmen for alleged incidents that occurred during military Service. Non-cadet/midshipman victims made the remaining 3 reports.<sup>7</sup>

DoD and civilian investigative agencies opened 57 investigations associated with 62 Unrestricted Reports this APY. The remaining 7 Unrestricted Reports did not move forward in the investigative process for a variety of reasons (e.g., allegations fell outside the MCIOs' authority to investigate, investigation opened in APY 17-18, investigative information not yet available at the time of data retrieval).

<sup>7</sup> Of the 7 reports that were made by non-cadet/midshipman victims, 5 reports were made by Active Duty members against cadets/midshipmen; civilian victims made the remaining 2 reports.



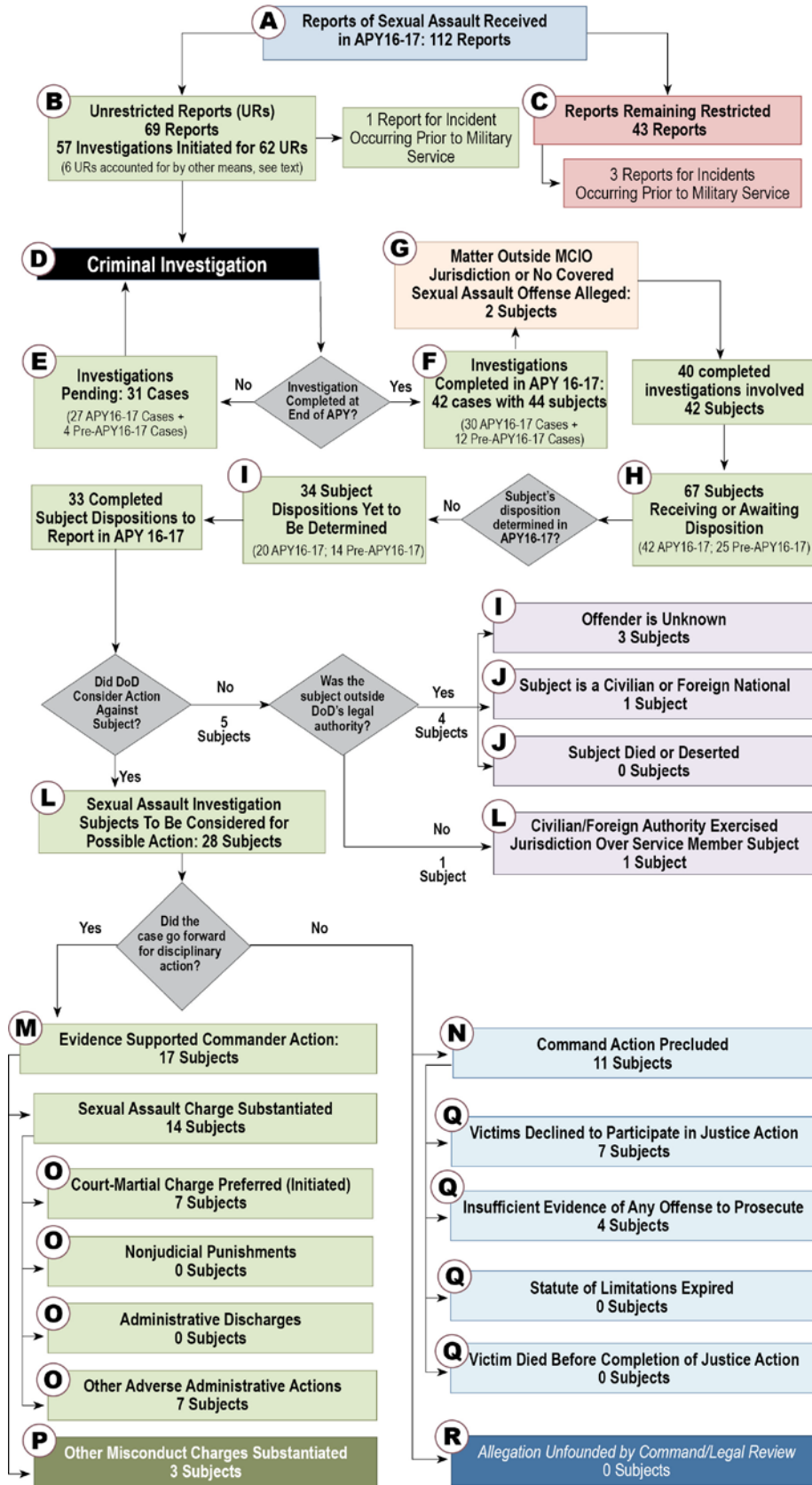


Exhibit 3: Reports of Sexual Assault, Investigations, and Dispositions Completed in APY 16-17

Exhibit 4 illustrates the number of sexual assault reports made to each MSA over the past ten APYs. Overall, the number of sexual assault reports made in APY16-17 increased by 26 reports compared to APY15-16. However, this increase was almost entirely due to a rise in reports at USMA. Specifically, reports of sexual assault increased by 24 reports at USMA, 1 report at USNA, and 1 report at USAFA. Table 1 breaks out the number and type of sexual assault reports made (Unrestricted versus Restricted) by MSA in APY 16-17.

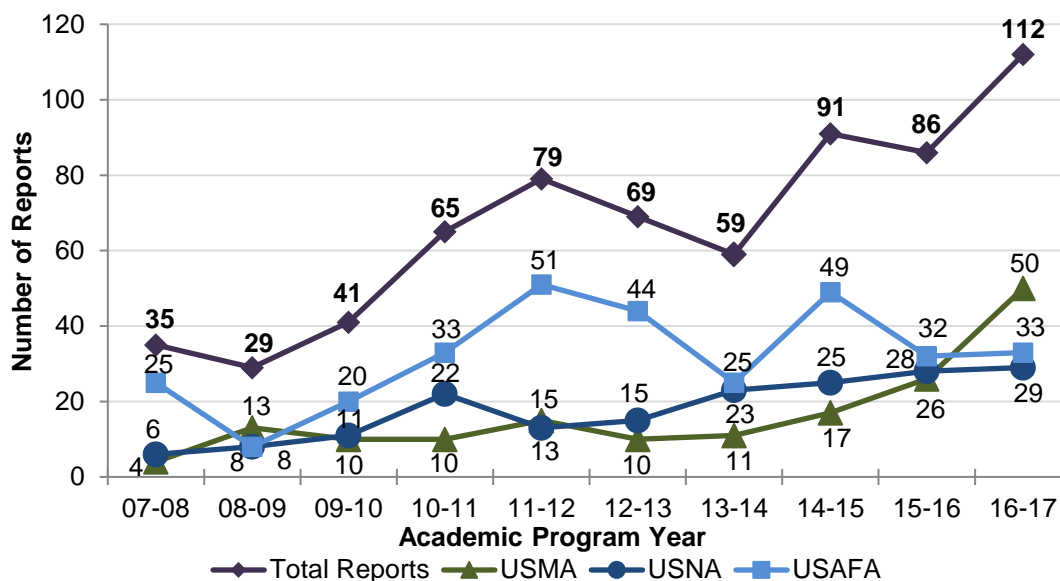


Exhibit 4: Reports of Sexual Assault by Academy, APY 07-08 to 16-17

Table 1 – Total Reports of Sexual Assault by Type of Report and Academy in APY 16-17

Academy	Total Reports	Unrestricted Reports	Restricted Reports Remaining
U.S. Military Academy	50	29	21
U.S. Naval Academy	29	20	9
U.S. Air Force Academy	33	20	13
<b>Total MSA Reports</b>	<b>112</b>	<b>69</b>	<b>43</b>

Reports of sexual assault made to DoD authorities provide only partial insight into the overall phenomenon of sexual assault at the MSAs. Literature indicates that, 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.

The Department tracks prevalence estimates over time and compares them to reports received as one of its measures of progress. As illustrated in Exhibit 5, estimated rates of past-year USC, measured in APY 15-16, indicate that about 507 cadets and midshipmen indicated experiencing some form of USC during the APY, suggesting that the 64 reports received last year involved about 13% of the estimated number of victimized cadets and midshipmen. In APY 16-17 MSA officials received reports of sexual assault from 97 cadets and midshipmen for an incident that occurred **during** military Service.<sup>8</sup> No definitive statement can be made this year about USC

<sup>8</sup> Eight cadet/midshipmen made a report for an incident that occurred **prior** to military Service. These reports are not included in Exhibit 5 to allow for comparison with survey data that only accounts for incidents that occurred during military Service.

prevalence and the reports received this year, as no survey was conducted to establish prevalence during the current APY.

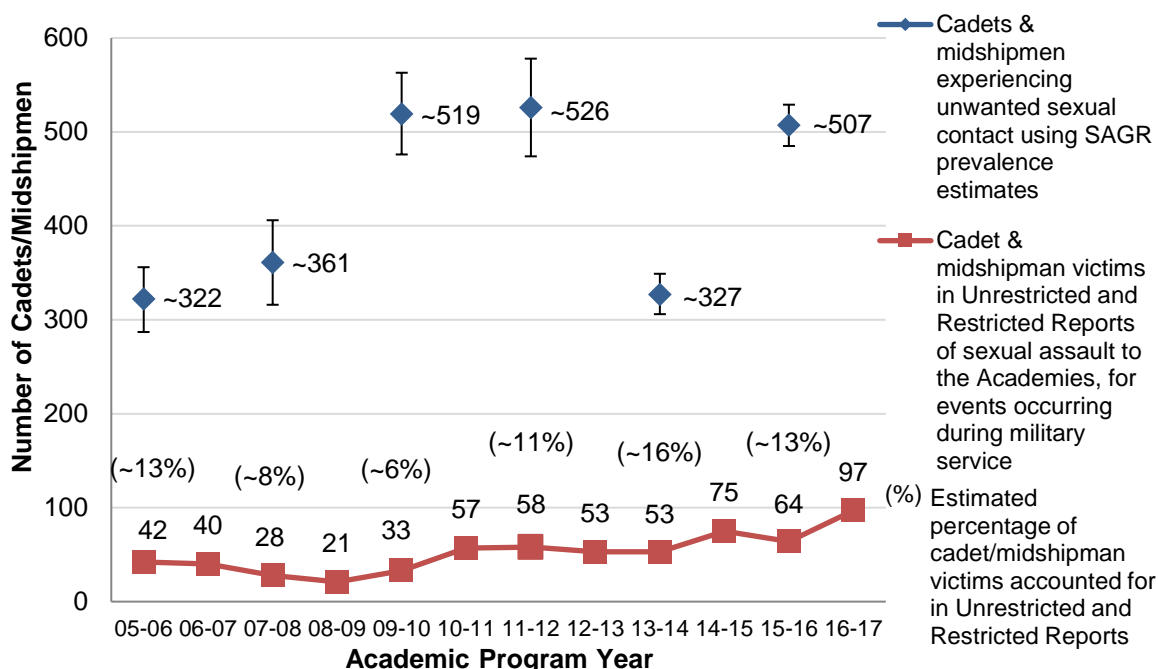


Exhibit 5: Estimated Cadets/Midshipmen Experiencing USC Based on Past-Year Prevalence Rates versus Number of Cadet/Midshipmen Victims in Reports of Sexual Assault Made during the Academic Program Year, for Incidents Occurring During Military Service, APY 05-06 to 16-17<sup>9</sup>

Last year’s survey results suggest that several 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>10</sup> DoD will administer the survey again in 2018.

### APY 16-17 Unrestricted Reports of Sexual Assault

In APY 16-17, 69 Unrestricted Reports of sexual assault involved cadets/midshipmen as a subject and/or victim of a sexual assault investigation. Department policy requires that all Unrestricted Reports be referred to an MCIO for investigation. 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 each APY are completely investigated by the end of that APY.

- Of the 57 criminal investigations initiated during APY 16-17, 30 investigations were completed in APY 16-17. DoD will report the outcomes of the other 27 investigations in forthcoming years’ reports (Exhibit 3)
- MCIOs also completed 12 investigations of sexual assault initiated in reporting periods prior to APY 16-17

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

- In sum, MCIOs completed 42 investigations of sexual assault (Exhibit 3 box F) involving 42 subjects Exhibit 3 during APY 16-17 for reports made in the current/prior APYs<sup>11</sup>

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 57 Unrestricted Reports made in APY 16-17 with investigations initiated. The offense charged or addressed with disciplinary action *may not always* reflect the offense alleged. 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.

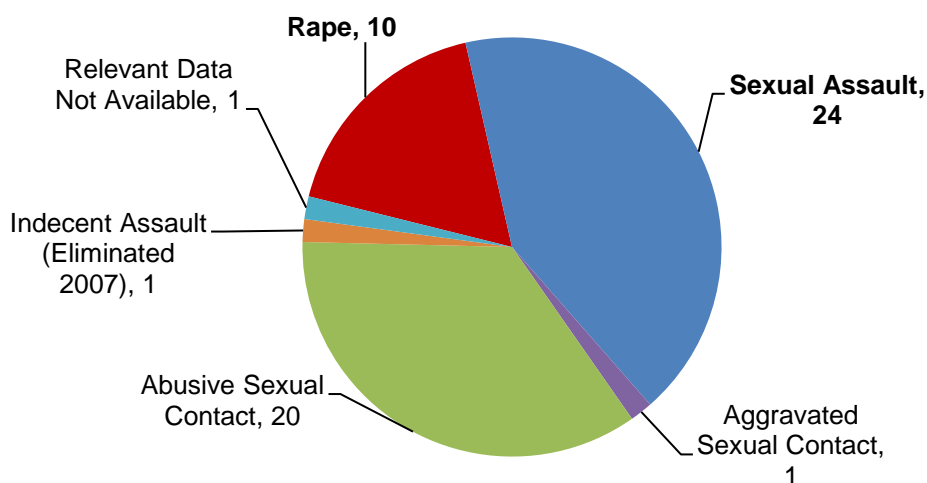


Exhibit 6: Sexual Assault Crimes Alleged in Unrestricted Reports, APY 16-17

**Notes:**

1. In APY 16-17, the Academies received 69 Unrestricted Reports. However, this figure excludes 12 Unrestricted Reports that did not have an associated investigation. Relevant offense code data were not available for 1 Unrestricted Report at the time of the final data pull.
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 16-17, 25 of the 69 Unrestricted Reports involved the alleged victimization of a cadet or midshipman by another cadet or midshipman.

<sup>11</sup> Two completed investigations had no subject information due to either falling outside MCIO jurisdiction or had no covered sexual assault offense.

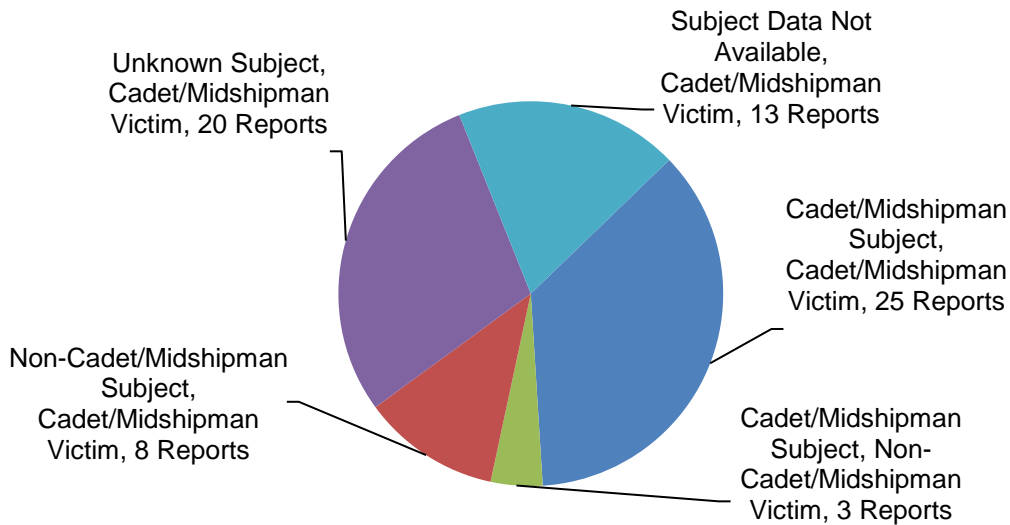


Exhibit 7: Unrestricted Reports of Sexual Assault by Victim and Subject Status, APY 16-17

### Disposition of Sexual Assault Reports Adjudicated in APY 16-17

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 16-17, 42 criminal investigations were completed, involving 42 subjects.<sup>12</sup> The MSAs had an additional 25 subjects in investigations closed in previous APYs for which disposition information was yet to be reported. Of the 67 total cases with completed investigations in APY 16-17 or prior, there were 34 case dispositions yet to be determined at the end of APY 16-17.

By the end of APY 16-17, MSAs had completed disposition information for 33 subjects. Exhibit 3 and the information below outline the disposition information regarding those 33 cases.

#### **33 Subjects of APY 16-17 investigations and Pre-APY 16-17 investigations with case disposition information to report at the end of APY 16-17**

- 3 Subjects could not be identified, despite a thorough investigation
- 1 Subject was civilian and outside of DoD's legal authority
- 1 Subject - a civilian authority exercised jurisdiction to prosecute a cadet/midshipman

#### **28 Subjects under DoD legal authority to be reviewed for possible action**

- 7 Victims declined to participate in the military justice process
- 4 Investigations yielded insufficient evidence of any offense to prosecute

#### **17 Subjects for whom evidence supported command action with a case disposition to report**

<sup>12</sup> MCIOs investigating two allegations of sexual assault determined that these allegations did not meet the elements of proof of a sexual assault or were investigated for misconduct other than sexual assault or that these allegations fell outside of MCIOs' legal authority to investigate.

DoD actions taken for sexual assault crimes are as follows

- 7 Subjects that had Court-Martial Charges Preferred
- 0 Subjects received Nonjudicial Punishment
- 0 Subjects received an Adverse Administrative Discharge
- 7 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 sexual assault investigation are as follows

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

### Demographics of Victims and Subjects in Completed Investigations

SAPRO draws the following demographic information from the 42 investigations of sexual assault completed during APY 16-17. These investigations involved 50 victims and 42 subjects. As shown in Table 2, all victims in investigations of Unrestricted Reports were female and most subjects were male. Table 3 shows victim and subject age at the time of the incident in completed investigations of Unrestricted Reports in APY 16-17. Most victims and subjects were between ages 16 and 24.

Table 2 – Gender of Victims and Subjects for Completed Investigations of Unrestricted Reports in APY 16-17

Gender	Victims		Subjects	
Male	0	0%	30	71%
Female	50	100%	1	2%
Gender Unknown/Data Not Available	0	0%	11	26%
<b>Total</b>	<b>50</b>	<b>100%</b>	<b>42</b>	<b>100%</b>

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

Age at Time of Incident	Victims		Subjects	
0-15*	1	2%	1	2%
16-19	27	54%	8	19%
20-24	18	36%	16	38%
25-34	0	0%	1	2%
35-49	0	0%	2	5%
50 and older	0	0%	2	5%
Age Unknown/Data Not Available	4	8%	12	29%
<b>Total</b>	<b>50</b>	<b>100%</b>	<b>42</b>	<b>100%</b>

\*Notes: One cadet/midshipmen made a report for a sexual assault incident that occurred prior to service when she/he was under 16 years old. Another cadet/midshipman alleged a separate prior to service incident allegedly committed by a subject under 16 years old.

Table 3 –Victims’ and Subjects’ Age at the Time of Incident for Completed Investigations of Unrestricted Reports in APY 16-17

### APY 16-17 Restricted Reports of Sexual Assault

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

There were 61 initial Restricted Reports of sexual assault in APY 16-17. Of these, 18 were converted to Unrestricted Reports. At the close of APY 16-17, 43 reports remained Restricted:<sup>13</sup>

- 39 cadets/midshipmen made a Restricted Report
  - 3 cadets/midshipmen made a Restricted Report for a sexual assault allegation that occurred prior to military Service
  - 36 cadets/midshipmen made a Restricted Report for a sexual assault allegation that occurred during military Service
- 4 non-cadet/midshipman, who were Active Duty Service members, made a Restricted Report against a cadet or midshipman

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

The percentage of victims who convert Restricted Reports to Unrestricted Reports at the MSAs fluctuates yearly, but has trended upward for the past four APYs, as shown in Exhibit 8.

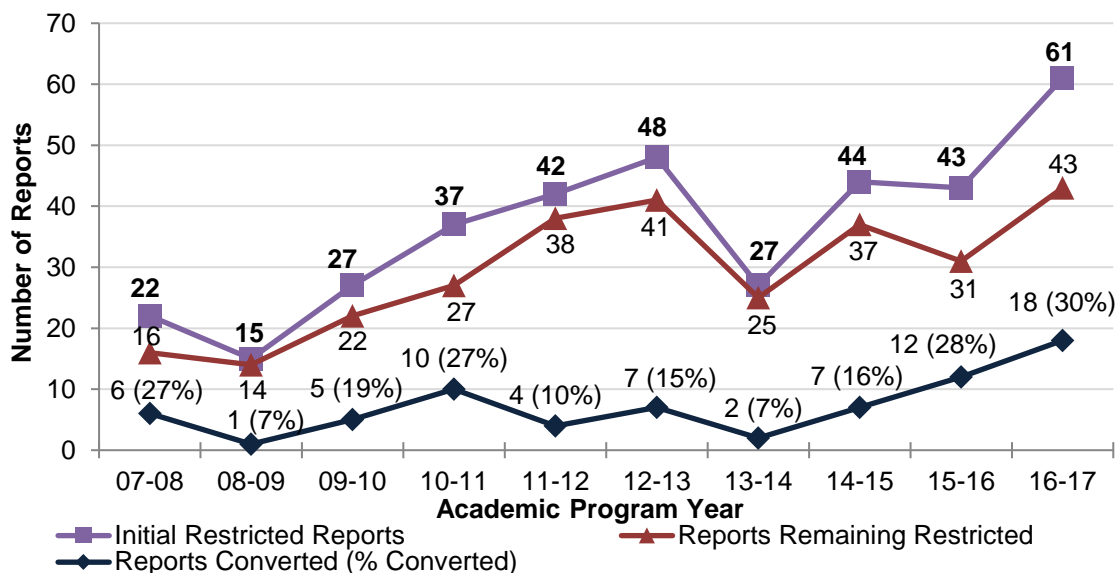


Exhibit 8: Reports Initially Made Restricted, Reports Remaining Restricted, and Restricted Reports Converted to Unrestricted, APY 07-08 to 16-17

### Demographics of Restricted Reports of Sexual Assault

The subsequent information pertains to victims with a report remaining Restricted at the end of APY 16-17. 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 16-17

Gender	Count	Share
Male	3	7%
Female	40	93%
<b>Total</b>	<b>43</b>	<b>100%</b>

Table 5 – Age of Victims at the Time of Incident in Restricted Reports Remaining in APY 16-17

Age at the Time of Incident	Count	Share
0-15*	2	5%
16-19	17	40%
20-24	23	53%
25-34	0	0%
35 and older	1	2%
Data not available	0	0%
<b>Total</b>	<b>43</b>	<b>100%</b>

\*Note: There are two cadets/midshipmen who made reports for sexual assault incidents that occurred prior to service when they were under 16.



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

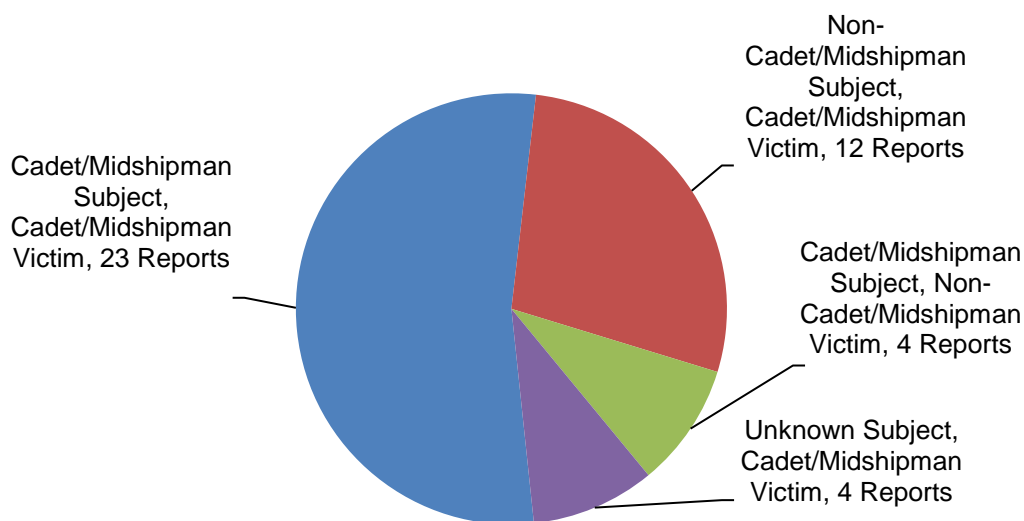


Exhibit 9: Restricted Reports of Sexual Assault by Victim and Subject Status, APY 16-17

## Statistical Data on Sexual Harassment

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 level.<sup>14</sup> Service members may also elect to address the matter by making an informal or formal complaint. In APY 16-17, cadets/midshipmen made 0 formal complaints of sexual harassment and 16 informal complaints:

- USMA: 0 complaints (formal or informal)
- USNA: 12 informal complaints
- USAFA: 4 informal complaints

<sup>14</sup> DoD Directive 1020.2E, *Diversity Management and Equal Opportunity in the Department of Defense*, June 8, 2015.