DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES

MEETING AND REFERENCE MATERIALS

PUBLIC MEETING

August 21, 2020

ARLINGTON, VIRGINIA

**Defense Advisory Committee on Investigation, Prosecution, and Defense
of Sexual Assault in the Armed Forces (DAC-IPAD)
18th PUBLIC MEETING AGENDA**

**August 21, 2020
Teleconference
Dial-In: 410-874-6300, Web Pin: 645-604-037**

11:00 a.m. – 11:10 a.m.	**Public Meeting Begins – Welcome and Introduction**

– Designated Federal Officer Opens Meeting
– Remarks of the Chair

11:10 a.m. – 12:30 p.m.	**DAC-IPAD Staff Presentation to Committee, Committee Deliberations, and Committee Vote on the DRAFT** *Final Report on Investigative Case File Reviews for Military Adult Penetrative Sexual Offense Cases Closed in Fiscal Year 2017* *(1 hour 20 minutes)*

– *Ms. Theresa Gallagher, DAC-IPAD Attorney-Advisor*
– *Ms. Kate Tagert, DAC-IPAD Attorney-Advisor*
– *Mr. Glen Hines, DAC-IPAD Attorney-Advisor*
– *Dr. William Wells, Criminologist*
– *Ms. Stacy Powell, DAC-IPAD Senior Paralegal*

12:30 p.m. – 1:00 p.m.	**Lunch Break**

1:00 p.m. – 2:30 p.m.	**DAC-IPAD Staff Presentation to Committee, Committee Deliberations, and Committee Vote on the DRAFT** *Final Report on Investigative Case File Reviews for Military Adult Penetrative Sexual Offense Cases Closed in Fiscal Year 2017* *(1 hour 30 minutes)*

– *Ms. Theresa Gallagher, DAC-IPAD Attorney-Advisor*
– *Ms. Kate Tagert, DAC-IPAD Attorney-Advisor*
– *Mr. Glen Hines, DAC-IPAD Attorney-Advisor*
– *Dr. William Wells, Criminologist*
– *Ms. Stacy Powell, DAC-IPAD Senior Paralegal*

2:30 p.m. – 2:45 p.m.	**Status of the Committee's Review and Assessment of Racial and Ethnic Disparities in the Investigation, Prosecution, and Conviction of Service Members for Sexual Offenses Involving Adult Victims within the Military Justice System as Required by Section 540I of the National Defense Authorization Act for Fiscal Year 2020** *(15 minutes)*

– *Ms. Patty Ham, DAC-IPAD Attorney-Advisor*
– *Ms. Eleanor Vuono, DAC-IPAD Attorney-Advisor*

**Defense Advisory Committee on Investigation, Prosecution, and Defense
of Sexual Assault in the Armed Forces (DAC-IPAD)
18th PUBLIC MEETING AGENDA**

– *Ms. Nalini Gupta, DAC-IPAD Attorney-Advisor*

2:45 p.m. – 3:00 p.m. **Policy Subcommittee Update**
(15 minutes)

– *Ms. Meghan Peters, DAC-IPAD Attorney-Advisor*
– *Ms. Terri Saunders, DAC-IPAD Attorney-Advisor*

3:00 p.m. – 3:15 p.m. **Meeting Wrap-Up and Public Comment**
(15 minutes)

– *Colonel Steven Weir, U.S. Army, DAC-IPAD Staff Director*

3:15 p.m. **Public Meeting Adjourns**

MINUTES OF MAY 15, 2020, PUBLIC MEETING

AUTHORIZATION

The Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces ("the Committee" or "DACIPAD") is a federal advisory committee established by the Secretary of Defense in February 2016 in accordance with section 546 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 and section 537 of the NDAA for FY 2016. The Committee is tasked to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces based on its review of such cases on an ongoing basis.

EVENT

The Committee held its seventeenth public meeting on May 15, 2020, from 11:00 a.m. to 3:00 p.m. At this meeting the Committee conducted final deliberations on the DAC-IPAD *Report on the Advisability and Feasibility of Establishing a Guardian ad Litem Appointment Process for Child Victims of an Alleged Sex-Related Offense in the Military* and the DAC-IPAD's response to the Department of Defense *Report on Preservation of Restricted Report Option for Adult Sexual Assault Victims.* The Committee received updates from the DAC-IPAD Case Review, Policy and Data Working Groups.

LOCATION

The meeting was held via teleconference.

MATERIALS

A verbatim transcript of the meeting and preparatory materials provided to the Committee members prior to and during the meeting are incorporated herein by reference and listed individually below. The meeting transcript and materials received by the Committee are available on the website at https://dacipad.whs.mil.

PARTICIPANTS

Participating Committee Members

Ms. Martha S. Bashford, Chair
Major General Marcia M. Anderson, U.S.
    Army, Retired
The Honorable Leo I. Brisbois
Ms. Kathleen B. Cannon
Ms. Margaret A. Garvin
The Honorable Paul W. Grimm
Mr. A. J. Kramer
Ms. Jennifer G. Long

Mr. James P. Markey
Dr. Jenifer Markowitz
Chief Master Sergeant of the Air Force
    Rodney J. McKinley, Retired
Brigadier General James R. Schwenk, U.S.
    Marine Corps, Retired
Dr. Cassia C. Spohn
Ms. Meghan A. Tokash
The Honorable Reggie B. Walton

Committee Staff

Colonel Steven Weir, U.S. Army, Staff
    Director
Ms. Julie Carson, Deputy Staff Director
Dr. Alice Falk, Technical Editor
Ms. Theresa Gallagher, Attorney-Advisor
Ms. Nalini Gupta, Attorney-Advisor
Ms. Amanda Hagy, Senior Paralegal
Ms. Patricia Ham, Attorney-Advisor
Mr. Glen Hines, Attorney-Advisor

Mr. Chuck Mason, Attorney-Advisor
Ms. Marguerite McKinney, Analyst
Ms. Meghan Peters, Attorney-Advisor
Ms. Stacy Powell, Senior Paralegal
Ms. Stayce Rozell, Senior Paralegal
Ms. Terri Saunders, Attorney-Advisor
Ms. Kate Tagert, Attorney-Advisor
Mr. Dale Trexler, Chief of Staff

Service Representatives

Major Paul Ervasti, U.S. Marine Corps, Military Justice Policy and Legislation Officer, Judge Advocate Division
Ms. Janet K. Mansfield, U.S. Army, Chief, Programs Branch, Criminal Law Division, Office of the Judge Advocate General
Mr. James S. Martinson, U.S. Navy, HQE, Criminal Law Division, Office of the Judge Advocate General
Captain Vasilios Tasikas, U.S. Coast Guard, Chief, Office of Military Justice
Ms. Asha Vaghela, Senior Civilian Military Justice Attorney, Air Force Legal Operations Agency
Captain Josephine VanDriel, U.S. Air Force, Chief, Victim and Witness Policy

Other Participant

Mr. Dwight Sullivan, Designated Federal Officer (DFO)

MEETING MINUTES

The DFO opened the public meeting at 11:00 a.m. Chair Martha Bashford provided opening remarks welcoming those in attendance and explained the purpose of and agenda for the meeting.

<u>DAC-IPAD Staff Presentation to Committee, Committee Deliberations, and Committee Vote on the DRAFT DAC-IPAD</u> *Report on the Advisability and Feasibility of Establishing a Guardian ad Litem Appointment Process for Child Victims of an Alleged Sex-Related Offense in the Military*

Chair Martha Bashford prefaced the discussion by stating that the DAC-IPAD members had not had the opportunity to receive in-person testimony within the short time frame required for the report. She explained that the staff conducted research on the topic and sought input from individual Committee members and subject matter experts. She expressed that the staff masterfully distilled the key issues in the draft report for the Committee's consideration. She stated that the Committee reviewed the report at an administrative session in order to make technical edits and identify substantive questions for deliberation at the public meeting.

Colonel Steven Weir, DAC-IPAD Staff Director, began the discussion and explained that the House Armed Services Committee tasked the DAC-IPAD to address whether there is an adequate mechanism in the court-martial process to represent the best interest of minor victims of an alleged sex-related offense. He explained that the purpose of the report is to evaluate the advisability and feasibility of establishing a process under which a guardian ad litem may be appointed to represent the interests of a child who is a victim of an alleged sex-related offense (as defined in Section 1044e(g) of Title 10 of the United States Code) who has not attained the age of 18 years at the time of the alleged offense.

Ms. Eleanor Vuono, DAC-IPAD Attorney-Advisor, explained how the staff conducted research for the report and identified the gaps in services currently provided to child victims of sex-related offenses in the military. The staff, at the direction of the Committee, sent out a request for information to the Military Services' Family Advocacy Programs, military judges, and Special Victims' Counsel (SVC) and Victims' Legal Counsel (VLC) Program Managers to understand the range of support for child victims of sexual offenses. The responses showed that an array of services are provided to children, including representation by an attorney.

However, Ms. Vuono noted several gaps in services. First, non-military dependent children are ineligible for SVC/VLC services, though the Military Services reported they can make exceptions upon request. The Army data showed that 39% of the reported sexual offenses in 2018 and 2019 involved alleged victims who were ineligible for SVC services. The other Military Services did not provide eligibility data.

The second gap identified was utilization of the SVC or VLC program. The data received from the Military Services indicated that of the eligible child victims, only approximately 10% of child victims utilized the SVC or VLC programs.

The third gap was lack of expertise of the attorneys who represent child victims. Ms. Vuono noted that representing children requires specialized training on sexual assault and child advocacy. She stated that the SVC and VLC receive some specialized training, but it might not be sufficient.

The fourth gap is that some children may not have a supportive parent, family member or guardian to assist them through the process. She stated that currently there is not a dedicated victim advocate assigned to the child. While there is authority in Article 6b, UCMJ, to designate someone to assume

the rights of the child, there is no requirement in the statute that directs the representative to act in the child's best interest.

Next, Ms. Nalini Gupta, DAC-IPAD Attorney-Advisor, briefed the Committee regarding the question of whether all child victims need the same services. She reviewed three potential scenarios that may arise in cases involving children who are victims of a sexual offense. She explained that two of the three scenarios adequately provide services to the child victim. However, the third scenario involves a military dependent child victim who is not able to direct their own representation and does not have supportive family members. She noted that two questions were raised by Committee members at the administrative meeting. Judge Grimm asked about a scenario involving a child who could express their own interest and direct their own representation, but who did not have a supportive family member and therefore stops cooperating with the prosecution. Mr. Kramer asked about how to define a supportive and non-supportive parent.

Judge Paul Grimm commented that the scenarios and materials prepared by the DAC-IPAD staff were exceptional and highlighted the pressure points that can occur sometimes in these cases. He stated that in his experience in these types of cases, there can be a problematic dynamic in the family when the accused is the sole economic source of survival. He asked if the victim has pressure put on them as a consequence and withdraws their claim, how does the attorney determine the client's wishes and the client's best interest. Ms. Jenifer Long agreed with Judge Grimm and added that there are several other variables, such as direct interference or intimidation, that can cause caregivers to be non-supportive and can put pressure on the child to recant. She emphasized the importance of understanding the factors that may cause a caregiver to be non-supportive.

Ms. Meg Garvin commented if there is an SVC or VLC appointed and the minor has the capacity to direct their representation, but it appears they are being manipulated by a parent, the SVC or VLC must figure out a way to separate the client from the situation, determine the child's interests, and act on them. She stated that the appointment of a different 6b representative would be an option in this type of situation, or the appointment of a guardian ad litem.

Mr. A.J. Kramer expressed concern about the assumption that any minor who is appointed a guardian ad litem is not competent, and noted that the lawyer would be bound by the minor's decisions anyway. He added that if the person is competent to make decisions according to the lawyer, then there is no need for a guardian ad litem.

Ms. Patty Ham, DAC-IPAD Attorney-Advisor, responded to Mr. Kramer's question stating that the military judge has a great deal of discretion in determining whether to appoint an Article 6b representative to assume the rights of the victim. She stated that the judge would consider whether to appoint an Article 6b representative; who that person should be; whether there is good cause to replace that person; and whether a hearing should be held on any of these matters. She added that the staff's research revealed that if a child has the capacity to exercise their rights under Article 6b, there is no need to have someone do that for them.

Ms. Eleanor Vuono, DAC-IPAD Attorney-Advisor, explained that the report contains factual findings that indicate the difficult pressures on a child victim. She added that the staff learned from advocates in the field that adding a victim advocate or a social worker to the SVC/VLC team may assist in avoiding the conflict between a child victim's expressed interest and their best interest.

Chair Bashford directed the Committee through deliberations on the report. Ms. Garvin highlighted to the Committee that based on her understanding of the literature around the subject and her experience working with child victims, developmental capacity of the child—not chronological age—should be a determinative factor. Ms. Ham responded that Ms. Garvin's comment is reflected in Model Rule of Professional Conduct 1.14 as well as the American Bar Association (ABA) initiatives described in detail in the report. She added that these initiatives give guidance to the attorney on how to determine if a client has diminished capacity or partially diminished capacity. Mr. Kramer noted that the law states that individuals 18 years old or younger are not subject to certain penalties, adding that the challenge of determining capacity or competency is handled on a case by case basis. He expressed concern that the guardian ad litem appointment presumes that the lawyer can't determine the best interest of the client because the client is not competent, and so the question becomes whether that applies to everyone under 18 years of age or not. Ms. Garvin responded that the report reflects that the ABA has provided guidance for lawyers to navigate the issue based on capacity rather than competency. She provided additional context stating that the court may not always name a guardian ad litem, but may appoint someone to brief the court on the best interest of the minor.

Potential Recommendation 1
It is not advisable or necessary to establish a process in the military justice system under which a guardian ad litem may be appointed to represent the best interests of a child victim of an alleged sex-related offense in a court-martial.

The Committee briefly discussed the recommendation and expressed concerns regarding its appropriateness and placement within the report. Chair Bashford recommended, and the Committee agreed, to look at the other recommendations first and then come back to Recommendation 1.

Potential Recommendation 2
The Secretaries of the Military Departments enhance funding and training for SVC/VLC appointed to represent child victims of sex-related offenses, including authorization to hire civilian HQE with experience and expertise in representing child victims, including expertise in child development, within the SVC/VLC programs.

Recommendation 2 and the related findings were approved unanimously by the Committee.

Potential Recommendation 3
The Judge Advocates General of the Military Services and SJA to the Commandant of Marine Corps develop a cadre of identifiable SVC/VLC who have specialized training, experience, and expertise in representing child victims of sex-related offenses by utilizing military personnel mechanisms such as Additional Skill Identifiers.

Recommendation 3 and the related findings were approved unanimously by the Committee.

Potential Recommendation 4
The Department of Defense Office of the Inspector General and the Secretaries of the Military Departments assess whether the Military Criminal Investigative Organizations and Family Advocacy Programs are providing accurate and timely notification to child victims of their right to request SVC/VLC representation as soon as an allegation of a sexual offense is reported, and take necessary corrective action.

Judge Reggie Walton stated he agreed with the recommendation, but expressed concern that it doesn't address the situation involving a child of tender age who is not going to be able to comprehend advice. The Committee agreed to add language to Recommendation 8 and its alternative to ensure that an Article 6b representative, if necessary, is appointed as early in the process as possible.

Recommendation 4 and the related findings as amended were approved unanimously by the Committee.

Potential Recommendation 5 and Alternate
Congress amend 10 U.S.C. § 1044e to expand SVC/VLC eligibility to any child victim of a sex-related offense committed by an individual subject to the UCMJ. Alternate: The Judge Advocates General and SJA to the Commandant of the Marine Corps establish guidance and procedures to routinely grant SVC/VLC services upon request to non-eligible child victims of sex-related offenses by authorizing exceptions to policy.

The Committee briefly discussed the recommendation and its alternate. It was noted that Recommendation 5 made sense if the intent is to educate about the availability of the service.

Recommendation 5 to expand eligibility and all of the alternate Recommendation 5's findings, were approved unanimously by the Committee.

Potential Recommendation 6
Congress amend the UCMJ to authorize the military judge to direct appointment of SVC/VLC for a child victim of a sex-related offense in very limited circumstances where there is no supportive parent or guardian.

General Schwenk noted that the limitation is when there is no supportive parent or guardian which brings up the issue of what it means to be supportive. He suggested revising the recommendation to replace "in very limited circumstances where there is no supportive parent or guardian" with "when the court finds that the child's interests are not otherwise adequately protected." Mr. Dwight Sullivan recommended that the reference to UCMJ be replaced with Article 6b, UCMJ.

After additional discussion later in the meeting, the Committee further amended Recommendation 6 to add additional language revising Article 6b, UCMJ, to address the military judge's authority to appoint a guardian ad litem in those cases where the judge determines it is appropriate with the final recommendation as follows:

Congress amend the UCMJ to authorize the military judge to direct the appointment of an SVC/VLC for a child victim of a sex-related offense and/or of an independent best interest advocate to advise the military judge when they find that the child's interests are not otherwise adequately protected.

Recommendation 6 and its associated indings, as amended, were approved unanimously by the Committee.

Potential Recommendation 7
The Secretary of Defense and the Secretaries of the Military Departments develop a Child Victim Advocate capability within each of the Services to support child victims of sexual offenses. Embed

the Child Victim Advocate within the SVC/VLC programs to ensure the child's legal interests are fully represented and protected.

Ms. Vuono suggested the Committee consider an edit to the sixth of the seven findings to read "…child victim cannot express an interest and/or there is not a supportive parent…" that would allow for either of those cases. Ms. Ham noted that to clarify this edit, language was added that would enable the SVC/VLC to make a substituted judgement determination for the client who lacks capacity.

Recommendation 7 and the related findings, as amended, were approved unanimously by the Committee.

<u>Potential Recommendation 8 and Alternate</u>
Congress amend Article 6b, UCMJ, to require that any representative who assumes the rights of the victim shall act to protect the victim's interests. <u>Alternate</u>: Congress amend Article 6b, UCMJ, to require any representative who assumes the rights of the victim shall act in the victim's "best interest."

Chair Bashford asked for clarification regarding the difference between Recommendation 8 and alternate Recommendation 8. Ms. Ham explained that Recommendation 8 presumes the parent is acting in their child's interest and it would also make it part of the statute. She stated that the alternate recommendation is intended to address someone other than a parent who is appointed but may not have the expertise to determine what is the child's best interest.

Recommendation 8 and the related findings were approved unanimously by the Committee.

The Committee then returned to the discussion of Recommendation 1. The Committee members discussed their concern that the recommendation should address the military judge's authority to appoint a GAL when deemed appropriate, and their desire to ensure funding is appropriated. The Committee agreed with several revisions, including changing Recommendation 1 to become Recommendation 8 (and shifting the numbers of the other recommendations up by one) and adding language that a Military GAL program is unnecessary so long as Recommendations 1 through 7 are approved by the Department of Defense. Additionally, the Committee added language to the introduction of the report expressing that the DAC-IPAD is fully aware that Recommendations 1 through 8 will require additional funding and personnel by the Department of Defense and noting that the DAC-IPAD feels strongly that the additional funding and personnel will afford the protections needed for minors who are the victims of sexual assault committed by members of the Armed Forces.

Recommendation 1 and the related findings, as amended, were approved unanimously by the Committee.

Colonel Weir explained that an executive summary and a conclusion would be added to the report along with the changes and sent to the Committee members for any technical changes.

The report, as amended, and subject to the addition of the executive summary and conclusion, was unanimously approved by the Committee.

<u>Committee Deliberation and Vote on the *DAC-IPAD Response to the Department of Defense Report on Preservation of Restricted Report Option for Adult Sexual Assault Victims*</u>

Ms. Terri Saunders, DAC-IPAD Attorney-Advisor, explained that the impetus for the Department of Defense report and the DAC-IPAD's response was a provision in the 2020 National Defense Authorization Act. She stated that the legislation asked DoD to look at the feasibility and advisability of a DoD policy that would permit a Service member, or adult military dependent, victim of sexual assault to maintain the restricted reporting option, regardless of who made the disclosure of the sexual assault. The legislation also required DoD to coordinate with the DAC-IPAD in its study. Ms. Saunders provided background on the issue and stated that in the DAC-IPAD's 2019 Third Annual Report, the Committee made the recommendation that DoD establish a working group to determine whether this was feasible, and provided guidance. She added that the recommendations in the DoD report expand the restricted recording options, but in most instances the new policy doesn't allow the victim to request that the investigation be discontinued, even when it's a restricted report. Ms. Saunders explained that the DAC-IPAD's review acknowledges the expansion of restricted reporting options afforded by the new DoD policy, but also notes that it does not address allowing a victim to request the investigation be discontinued, except in limited circumstances.

Ms. Saunders explained that the DAC-IPAD response includes a recommendation that mirrors the original DAC-IPAD recommendation, with the exception that under this recommendation, rather than recommending a working group, DoD should now establish the policy and it outlines specific circumstances that should be taken into account. She added that the recommendation is intended to speak to only those situations in which the victim never intended to report. She pointed out that the SVC and VLC programs oppose the requirement for the victim to consult with them prior to requesting the investigation be terminated. She stated that they prefer that the victim only be encouraged to consult with them. The Committee agreed that the language in the DAC-IPAD response should be revised to say "the victim should be offered a referral to, and encouraged to meet with a Special Victim Counsel or Victims' Legal Counsel before signing a statement requesting the investigation be discontinued." General Schwenk pointed out that DoD wrote in their report that "Victims may request to decline to participate with an investigation. The victim's declination to participate has no compulsory effect on the investigation. However, in situations where victim testimony is required to identify the supect and/or essential to the furtherance of the case, the victim's declination to participate will most likely result in the investigation being terminated." He asked that the DAC-IPAD response letter or the recommendation point out that DoD has implemented only one of the two situations recommended by the DAC-IPAD for not going forward with an investigation. He noted one is an unidentified suspect and the other is an uncooperative victim. The members agreed and Ms. Saunders stated she would add language to address the concern.

The report, as amended, was passed unanimously by the Committee.

<u>Case Review Subcommittee Update</u>

Ms. Theresa Gallagher, DAC-IPAD Attorney-Advisor, reported that the Case Review Subcommittee was drafting the data report and anticipates having a draft report available for deliberation at the August meeting. Colonel Weir added that the Case Review Subcommittee has drafted a 45-page data report and is in the process of compiling approximately 100 pages of data. He reported that the data is in the final multivariate and bivariate analysis phase.

Policy Subcommittee Update

Ms. Meghan Peters, DAC-IPAD Attorney-Advisor, reported that the Policy Subcommittee continued its review of Articles 32, 33, and 34, UCMJ, and the issues around the preliminary hearing, the referral process, and the charging process as outlined in the annual report. She stated that in order to expand on the first review of the Article 32 documents, the staff is undertaking a review of all Article 32, UCMJ, hearings in which a preliminary hearing officer found no probable cause for hearings held in FY14 through FY19. She added that they also are reviewing all Article 32, UCMJ, documents regardless of the probable cause determination to assess the thoroughness of the report; whether witnesses were called; who the witness was; and if the victim testified. Ms. Peters stated that in order to understand analogous procedures in federal and state courts, the staff are arranging interviews with federal and state practitioners. She encouraged members of the subcommittee to submit names of individuals to interview, and for members to participate in those interviews. Ms. Peters explained that they would also interview military practitioners including defense counsel, staff judge advocates, convening authorities, and preliminary hearing officers. She stated that the report is anticipated to be issued in 2021.

Data Subcommittee Update

Mr. Chuck Mason, DAC-IPAD Attorney-Advisor, updated the Committee on the status of the implementation of a new database and stated that they are in the process of developing requests for proposals to approach different companies for submissions. He shared that in the meantime, they are compiling FY19 cases into a spreadsheet in order to provide the Committee with a report.

Meeting Wrap-Up and Public Comment

Colonel Weir reported that there were no requests to make public comments. He advised the Committee that until further advisement from the Secretary of Defense, the operations of the DAC-IPAD would continue in telework status and meetings would be by teleconference. He thanked the Committee and the staff for their hard work under the current circumstances. He advised that the next public meeting is scheduled for August 21, 2020.
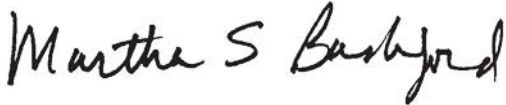
Chair Bashford reported to the other Committee members that after the February meeting she and members of the staff met with the Secretary of Defense, the Secretary of the Army, the Acting Secretary of the Navy, and the Secretary of the Air Force to brief them on the work of the Committee.

With no further comments or issues to address, the meeting concluded.

The DFO closed the public meeting at 2:56 p.m.

CERTIFICATION

I hereby certify, to the best of my knowledge, the foregoing minutes are accurate and complete.

Martha S Bashford

Martha Bashford
Chair

MATERIALS

Meeting Records
1. Transcript of May 15, 2020, Committee Public Meeting, prepared by Neal R. Gross and Co., Inc.

Read Ahead Materials Provided Prior to and at the Public Meeting
1. PowerPoint Slide Presentation Prepared by DAC-IPAD Staff Providing an Overview of Guardians ad Litem in Criminal Cases and Potential DAC-IPAD Recommendations

2. Draft Potential Guardian ad Litem Findings and Recommendations for DAC-IPAD Deliberations

3. Draft *Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces Report on the Advisability and Feasibility of Establishing a Guardian ad Litem Appointment Process for Child Victims of an Alleged Sex-Related Offense in the Military*

4. *Department of Defense Report on Preservation of Restricted Report Option for Adult Sexual Assault Victims*

5. Draft DAC-IPAD Letter to the Secretary of Defense Providing the Committee's Input and Recommendation Regarding the *Department of Defense Report on Preservation of Restricted Report Option for Adult Sexual Assault Victims*

Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD)

REPORT ON INVESTIGATIVE CASE FILE REVIEWS FOR MILITARY ADULT PENETRATIVE SEXUAL OFFENSE CASES CLOSED IN FISCAL YEAR 2017

CASE REVIEW PROJECT
Introduction

The 1,904 cases are based on investigations conducted by the Services' military criminal investigative organizations (MCIOs) and closed between October 1, 2016, and September 30, 2017, that involved an allegation that a Service member on active duty committed a penetrative sexual offense against an adult victim.

A "penetrative sexual offense" includes only: rape and sexual assault, in violation of Article 120, Uniform Code of Military Justice (UCMJ); forcible sodomy, in violation of Article 125, UCMJ; and attempts to commit those offenses, in violation of Article 80, UCMJ.

A "case" is a victim-subject combination, For purposes of this project, the CRSC counted each subject–victim combination as a single case. For example, an investigative file with one subject and three victims was counted as three cases; an investigative file with two subjects and one victim was counted as two cases; and so on

CASE REVIEW PROJECT
Introduction

Case Review Project Goals:

1. Gather Objective, Descriptive Data

2. Perform Subjective Assessments of the Evidence

    a. Whether the Initial Disposition Decisions Were Reasonable.

    b. Qualitative Evaluation of the Evidence in All Preferred Cases for two evidentiary standards:

       - Probable Cause
       - Sufficiency of the Evidence to Obtain and Sustain a Conviction

CASE REVIEW PROJECT
Introduction

The CRSC's review and analysis of initial disposition decisions was limited to:

1. documents and other materials contained in the investigative materials provided by the MCIOs, and

2. for cases resulting in a preferred penetrative sexual offense, pretrial and trial materials provided by the Military Service judge advocate organizations.

The CRSC did not have access to—and thus did not consider—any additional evidence or information outside of these materials that may have been developed and available to trial or defense counsel, victims' counsel, staff judge advocates, or convening authorities.

CASE REVIEW PROJECT
Introduction

IF AN ACTION WAS TAKEN FOR SOME OTHER OFFENSE OR MISCONDUCT, IT WAS NOT REFLECTED IN OUR DATA.

For purposes of this project, if a report of a penetrative sexual offense was investigated and the initial disposition authority took no action on the alleged penetrative sexual offense but instead took adverse action for another non-penetrative sexual offense or a non-sexual offense, the case was still assigned to the category of "no action," because the focus of the case review project was on the disposition of the penetrative sexual offense allegation.

CASE REVIEW PROJECT
Introduction

CRSC reviewed a total of 329 cases.

Professional Staff reviewed all 1,904 cases.

In instances with multiple reviewers, only the CRSC members' subjective assessments were considered.

In this report the Committee makes 47 findings and provides 10 recommendations/directives for further study. The Committee also reaffirms its 34 findings, assessments, observations, and recommendations presented in its 2019 and 2020 Annual Reports.

FINDINGS

Breakdown of the initial disposition authority action on the 1,904 cases reviewed

Proposed Finding 1 (*page 35 of the report****):***

- 1,336 (70.2%) - no administrative, nonjudicial, or judicial action against the subject for the penetrative sexual offense;

- 517 (27.2%) - preferred penetrative sexual offense charges; and

- 51 (2.7%) - adverse administrative action or nonjudicial punishment for the penetrative sexual offense.

(A visual depiction is located on page 7 of the Executive Summary)

FINDINGS

Results of the 517 preferred cases:

Proposed Finding 2 (*pages 38-39 of the report****):***

- 235 (45.5%) resulted in a verdict at trial on the penetrative sexual offense;
    - 144 (61.3%) resulted in an acquittal for the penetrative sexual offense; and
    - 91 (38.7%) resulted in a conviction for the penetrative sexual offense.

- 11 (2.1%) resulted in an administrative separation for the penetrative sexual offense;

- 83 (16.1%) resulted in a discharge in lieu of court-martial for the penetrative sexual offense; and

- 188 (36.4%) resulted in dismissal of the penetrative sexual offense either outright or pursuant to a pretrial agreement.

KEY FINDING

Proposed Finding 23 (*pg 65 of report****):***

1. There is not a systemic problem with the initial disposition authority's decision either to prefer an adult penetrative sexual offense charge or to take no action against the subject for that offense.

FINDINGS

The initial disposition authority's decision to:

- Take no administrative, nonjudicial, or judicial action was reasonable in 1,316 (98.5%) of 1,336 of the adult-victim cases closed in FY17. (Proposed Finding 4 - page 42 of report)

- Prefer a penetrative sexual offense charge was reasonable in 486 (94.0%) of the 517 adult-victim cases closed in FY17. (Proposed Finding 5 – page 46 of report)

KEY FINDING

Proposed Finding 24 – (*page 65 of report****)***

There (may be) (is) a systemic problem with the referral of penetrative sexual offense charges to trial by general court-martial when there is not sufficient admissible evidence to obtain and sustain a conviction on the charged offense.

(BGen Schwenk proposes to amend the finding to acknowledge there is a systemic problem with such referral).

FINDINGS

Proposed Finding 11 (page 57 of the report)

Of the 235 cases <u>tried to verdict </u>on the penetrative sexual offense charge,

- in 73 (31.1%) of these cases, the materials reviewed did not contain sufficient admissible evidence to obtain and sustain a conviction on that offense.

  – The government obtained a conviction on the penetrative sexual offense in 2 (2.7%) of these cases.

  – In one of the two cases that resulted in a conviction, the conviction was later overturned on appeal because the evidence was factually insufficient.

FINDINGS

Proposed Finding 13 (*page 58 of the report****):***

While all Services consider whether there is sufficient admissible evidence to obtain and sustain a conviction on the charged penetrative sexual offense, in military prosecutions, unlike in federal civilian prosecutions, there is no policy requirement to do so before either preferral or referral of those charges to trial by general court-martial.

(proposed edit by BGen Schwenk)

The Committee recognizes that staff judge advocates and convening authorities are doing what the military justice system allows; however, the Committee criticizes the military justice system itself for allowing the referral of charges that are not supported by sufficient admissible evidence to obtain and sustain a conviction.

(**Executive Summary,** page 3; *See* Proposed Finding 15 at page 58 of the report)

In the Committee's view, the decision to refer charges to trial by general court-martial in the absence of sufficient admissible evidence to obtain and sustain a conviction is an injustice to the accused and the victim, and it has significant negative implications for the military justice process.

(**Executive Summary,** page 4; *See* Proposed Findings 11, 15, 18, 23, and 24 at pages 57, 58, 60 and 65 of the report)

In determining whether the materials provided sufficient admissible evidence to obtain and sustain a conviction, reviewers determined whether evidence was *present* in the investigative files, such that if the evidence was admitted at trial, proof beyond a reasonable doubt was an achievable result.

This mode of analysis took into account the experienced view of CRSC members that "hard cases" could and should proceed to trial when there was sufficient evidence to support the conclusion that proof beyond a reasonable doubt was achievable; it did not focus on whether conviction of the penetrative sexual offense charge was the probable result.

FINDINGS

Proposed Finding 14 (*page 58 of the report* ***):***

The requirements and practical application of Articles 32 and 34, UCMJ, and their associated Rules for Courts-Martial did not prevent referral and trial by general court-martial of adult penetrative sexual offense charges in the absence of sufficient admissible evidence to obtain and sustain a conviction, to the great detriment of the accused, the victim, and the military justice system.

FINDINGS

Proposed Finding 18 (*page 60 of the report****)***

The decision to refer to trial by general court-martial an adult penetrative sexual offense charge that lacks sufficient admissible evidence to obtain and sustain a conviction directly contributes to the 61.3% acquittal rate for these offenses.

FINDINGS

Proposed Finding 15 (*at page 58 of the report****):***

The data clearly indicate that no penetrative sexual offense charge should be referred to trial by general court-martial without sufficient admissible evidence to obtain and sustain a conviction on the charged offense, and Article 34, UCMJ, should incorporate this requirement.

DIRECTIVES

Proposed Directive 6 to Policy Subcommittee (*page 66 of the report****):***

The Policy Subcommittee develop proposals, as part of their findings and recommendations regarding Articles 30, 32, 33, and 34, UCMJ, to require the staff judge advocate to advise the convening authority in writing that there is sufficient admissible evidence to obtain and sustain a conviction on the charged offenses before a convening authority may refer a charge and specification to trial by general court-martial.

DIRECTIVES

Proposed Directive 4 to Case Review Subcommittee (*page 60 of the report****):***

In light of the data demonstrating that in 50.7% of cases resulting in acquittal of a penetrative sexual offense charge, the materials reviewed contained sufficient admissible evidence to obtain a conviction on the charged offense and in 49.3% of cases such evidence is not present, the CRSC consider whether controllable factors are contributing to acquittals in these cases or if there are common characteristics in the cases that might help explain the conviction and acquittal rates for these offenses.

DIRECTIVES

<u>Alternative Proposed Directive 4 to Case Review Subcommittee</u> *(proposed by Ms. Bashford)*:

The Committee recognizes that not all cases with sufficient admissible evidence to obtain a conviction will, in fact, result in a verdict of guilty. Moreover, this assessment was made in the absence of any evidence presented by the defense at trial. However, in light of the data demonstrating that in just over half (50.7%) of cases resulting in acquittal of a penetrative sexual offense charge, the materials reviewed contained sufficient admissible evidence to obtain a conviction on the charged offense and in 49.3% of cases such evidence was not present, the CRSC should consider if there are common characteristics in the cases that might help explain the conviction and acquittal rates for these offenses. Part of the CRSC's assessment and consideration of these matters should involve observation of courts-martial.

These data raise the issues of why cases lacking sufficient admissible evidence to obtain and sustain a conviction are being referred and why cases with sufficient admissible evidence to obtain and sustain a conviction are resulting in acquittals.

FINDINGS

Proposed Finding (?):

The data show that victims provide statements to law enforcement in 96.4% of cases. However, victims' statements established probable cause to believe that the subject committed a penetrative sexual offense in 57.9% of these cases and did not establish probable cause in 41.3% (in 0.7% of them the information was not available). (**Executive Summary**, page 5) (See **Findings 7 & 8** at pages 50 and 51 of the report**)**

These data raise the issue of why so few victim's statements meet the probable cause standard (**Executive Summary**, page 5)

DIRECTIVES

Proposed Directive 3 to Case Review Subcommittee (*page 51 of the report****):***

The CRSC continue to review and assess victim statements to law enforcement regarding allegations of penetrative sexual offenses, both to determine what factors contribute to these statements not providing a factual basis to establish that the subject committed the alleged penetrative sexual offense and to determine how to improve the efficacy of such statements.

Alternative Proposed Directive 3 to Case Review Subcommittee (*flagged for discussion by a Committee Member****):***

In light of the Committee's determination that 41.3% of victim statements to law enforcement do not establish probable cause that the subject committed the alleged penetrative sexual offense, the CRSC continue to review and assess such statements in order to examine the factors that may contribute to this result, and make appropriate findings and recommendations.

FINDINGS

Proposed Finding 38 (*page 101 of the report****):***

In 76.1% of the cases, a judge advocate provided an opinion on whether the evidence in the investigation established probable cause to believe that the Service member committed a penetrative sexual offense, for purposes of indexing fingerprints and DNA in federal databases. In 54.6% of those cases the judge advocate opined that there was probable cause, and in the remaining 45.4% opined there was no probable cause.

These data raise the issue of why so few investigations contain sufficient evidence to reach even the minimal level of probable cause to believe that the Service member subject committed a penetrative sexual offense. (**Executive Summary** – page 5)

FINDINGS

***Proposed Finding 9** (excerpt) (page 55 of the report):*

Of the 517 adult-victim cases closed in FY17 resulting in a preferred penetrative sexual offense charge against a Service member,

- in 68 (13.2%) of these cases, the evidence in the materials reviewed did not establish probable cause to believe that the accused committed the penetrative sexual offense.

FINDINGS

Proposed Finding 10 *(page 57 of the report):*

Of the 235 cases tried to verdict on the penetrative sexual offense charge,

- in 25 (10.6%) of these cases, the evidence in the materials reviewed was not sufficient to establish probable cause to believe that the accused committed the charged offense. The government obtained a conviction on the penetrative sexual offense in one (4.0%) of these cases, and this conviction was overturned on appeal because the evidence was factually insufficient.

FINDINGS

Proposed Finding 19 *(page 61 of the report)***:**

Of the 282 cases closed in FY17 with a preferred adult penetrative sexual assault offense charge resulting in no verdict on that charge,

- in 236 (83.7%) cases, the evidence in the materials reviewed was sufficient to establish probable cause to believe the accused committed the charged offense. In 43 (15.2%) of these cases, the evidence was not sufficient to establish probable cause to believe the accused committed the charged penetrative sexual offense; and

- in 138 (48.9%) of these cases, the materials reviewed contained sufficient admissible evidence to obtain and sustain a conviction on the penetrative sexual offense. In 140 (49.6%) of these cases, the materials reviewed did not contain sufficient admissible evidence to obtain and sustain a conviction

FINDINGS

Proposed Finding 22 (page 65 of the report)

Of the 517 cases closed in FY17 resulting in the preferral of charges against a Service member for an adult penetrative sexual offense,

- in 94 (18.2%) of these cases, the adult penetrative sexual offense was not referred to trial by general court-martial.

- in 423 (81.8%) of these cases, the adult penetrative sexual offense was referred to trial by general court-martial;

    - in 235 (55.6%) of the 423 cases, the trial resulted in a verdict on the penetrative sexual offense; 144 (34.0%) were acquittals and 91 (21.5%) were convictions; and

    - in 188 (44.4%) of the 423 cases referred to trial by general court-martial, the penetrative sexual offense charge was dismissed after referral.

DIRECTIVES

Proposed Directive to 5 Case Review Subcommittee (*page 65 of the report****):***

The CRSC review and assess the reasons for post-referral dismissals of penetrative sexual offenses in light of the significant impacts that have already occurred to the accused, victim, and command by this point in the military justice process and make appropriate findings and recommendations.

DIRECTIVES

Proposed Directive 1 to Policy Subcommittee *(page 46 of the report)***:**

The Policy Subcommittee review and assess how the Military Services have implemented the Article 33, UCMJ, Disposition Guidance with regard to penetrative sexual offense allegations. In particular, the Policy Subcommittee examine the uniformity of training on the Article 33 guidance across the Military Services, the content and quality of judge advocates' advice to commanders regarding the sufficiency of admissible evidence to obtain and sustain a conviction, and the documentation of disposition decisions by commanders and convening authorities. The Policy Subcommittee consider policy changes to require mandatory consideration of the sufficiency of admissible evidence to obtain and sustain a conviction on the charged offense as part of the initial disposition decision.

DIRECTIVES

Proposed Directive 2 to Case Review Subcommittee (*page 51 of the report****):***

The CRSC conduct a review of a random sample of MCIO investigations of penetrative sexual offenses within 5 years, to further assess the quality of investigations and the progress made in light of statutory and regulatory modifications as well as implementation of previous DAC-IPAD recommendations.

(Flagged for discussion by a Committee Member)

INTRODUCTION TO
DATA ANALYSIS

- Both the DAC-IPAD's report and Dr. Wells report have the same data for the descriptive data as well as the DoD bivariate and multivariate.

- Service-specific bivariate and multi-variate are located in Dr. Wells report as well as more technical aspects and equations related to the multivariate analysis.

INTRODUCTION TO DATA ANALYSIS

- Descriptive data-univariate data which describes one variable at time.

- Bivariate relationships between independent variables and three dependent variables,
  - The decision to prefer
  - The result of trial (acquittal versus conviction)
  - A victims decision to participate

- Multivariate models for,
  - The decision to prefer
  - The result of trial (acquittal versus conviction)
  - A victims decision to participate

FINDINGS AND DIRECTIVES

Location of Sexual Assault Offenses
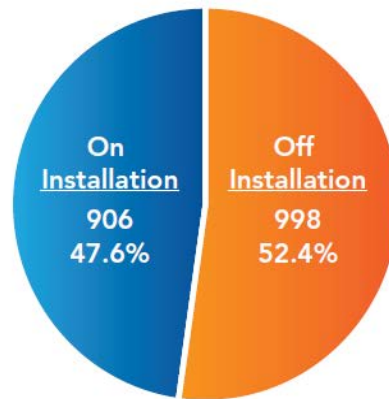
Civilian law enforcement were involved in 448 (44.9%) off installation investigations and out of those cases in 310 (31%) they were the lead investigative agency. None of these cases were prosecuted by civilian authorities.

FINDINGS AND DIRECTIVES

Number of Days Between Offense and Report to Military Authorities

- 37.1% victims report within 7 days of the offense
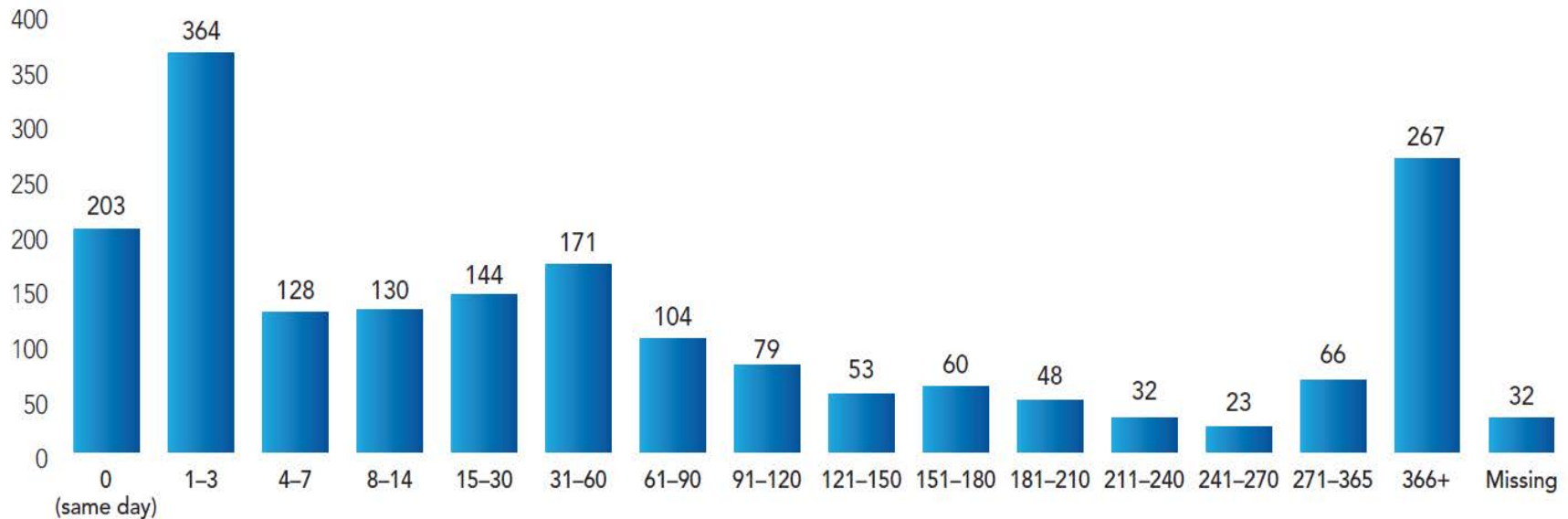
FINDINGS AND DIRECTIVES

Sexual Assault Forensic Examination Performed on the Victim

- DoD Instructions recommend that a SAFE be performed within 7 days of assault.

Yes
579
30.4%

No
1325
69.6%
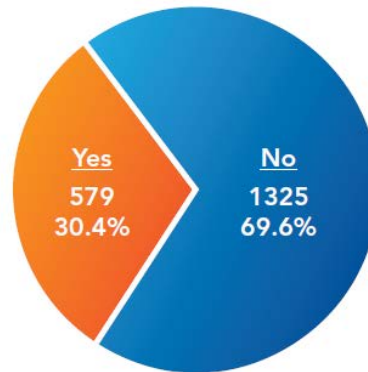
FINDINGS AND DIRECTIVES

Cases with DNA Testing
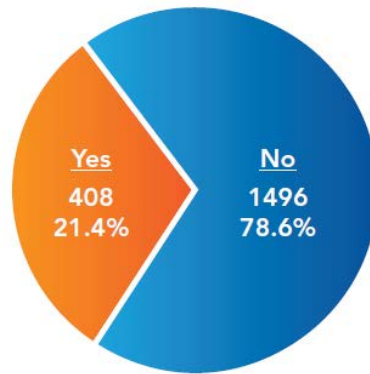
FINDINGS

- **SAFE.** Cases were more likely to result in a preferred penetrative sexual offense charge when the victim agreed to undergo a SAFE (39.9% vs. 22.7%).

- **DNA.** Cases were more likely to result in a preferred penetrative sexual offense charge when there was forensic analysis of DNA. Approximately half of cases (50.5%) in which DNA was obtained and analyzed resulted in a penetrative sexual offense charge, compared to 21.6% of cases in which DNA was not analyzed.

FINDINGS

- **SAFE.** Victims were more likely to participate when a SAFE was performed. (73.4% vs. 66.6%).

- **DNA.** Victims were more likely to participate when DNA was analyzed. (76.7 vs. 66.6%).

DIRECTIVES

Directive 7 to Case Review Subcommittee:

The CRSC examine the law, policy, and practices concerning DNA collection and testing and sexual assault forensic examinations in penetrative sexual offense cases and make appropriate findings and recommendations.

FINDINGS

Demographic Information-status of victim at time of assault
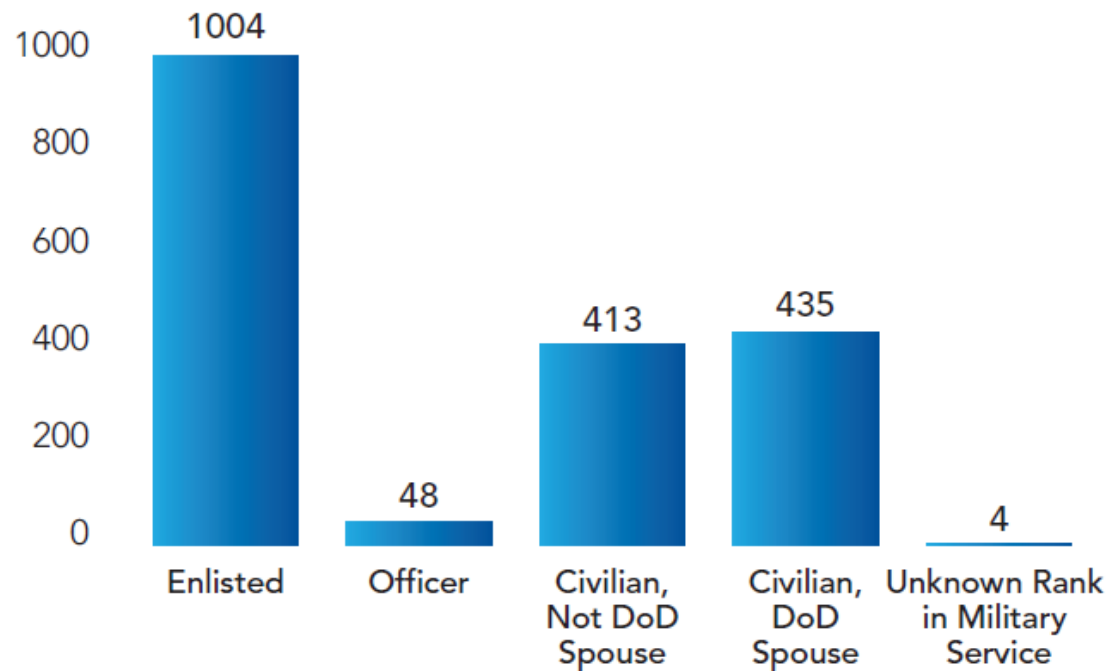
FINDINGS

Demographic Information Subject's Race
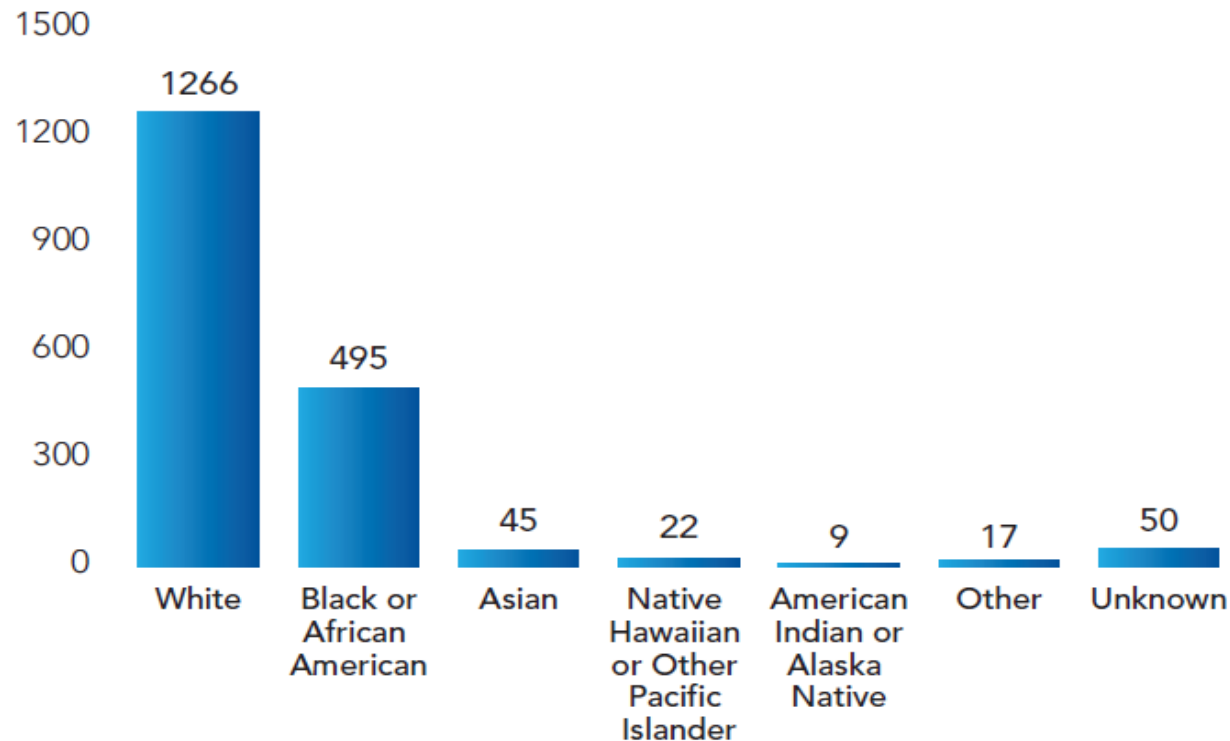
FINDINGS

__Demographic Information Victim's Race__
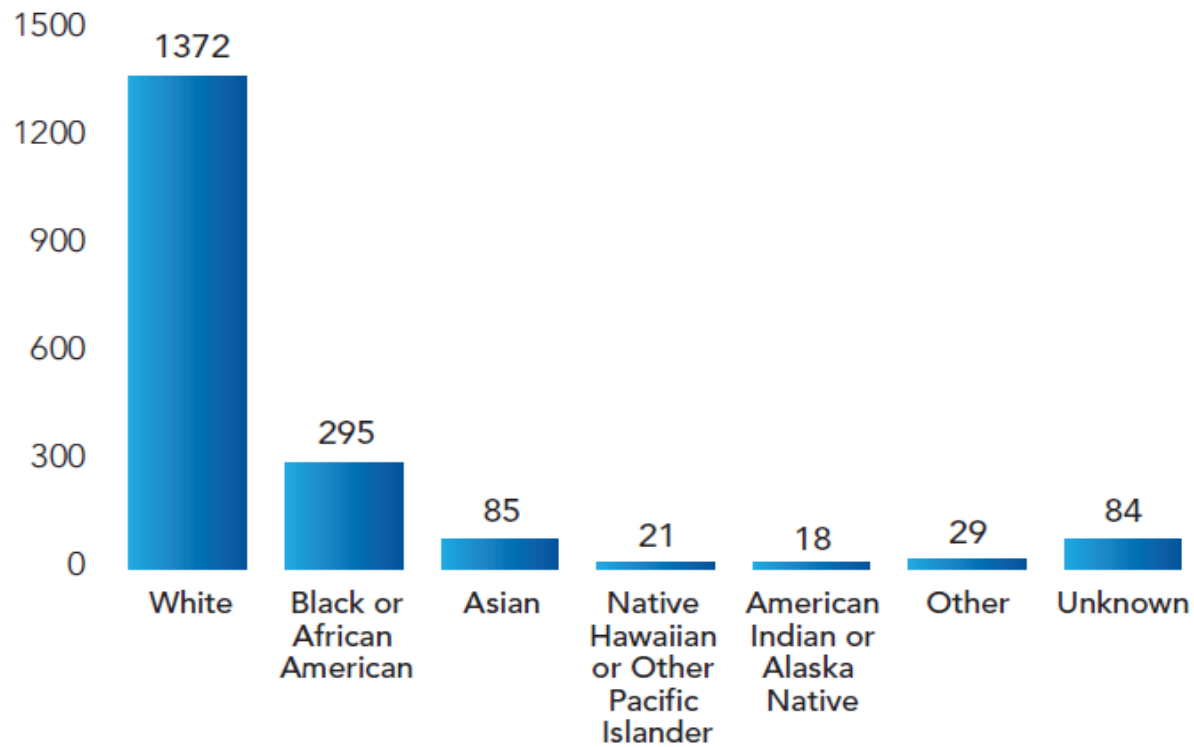
- DoD released, "2017 Demographics: Profile of the Military Community."

- In the DoD report the active duty force was reported as 68.7% White and 17.3% Black or African-American.

- The racial make up based on the investigations found that 66.5% of subjects were White and 26% of subjects were Black.

- This may suggest based on the data that 26% of investigations involve a Black or African-American subject that they are disproportionately affected by allegations of penetrative sexual assault investigations when comparing the overall demographics.

FINDINGS

- The race of the subject did not influence the decision to prefer.

- Cases involving White victims make it more likely that a case will be preferred in the bivariate analysis.

- The race of subject and victim were not related to court-martial outcomes.

FINDINGS AND DIRECTIVES

Use of Force or Threat of Force
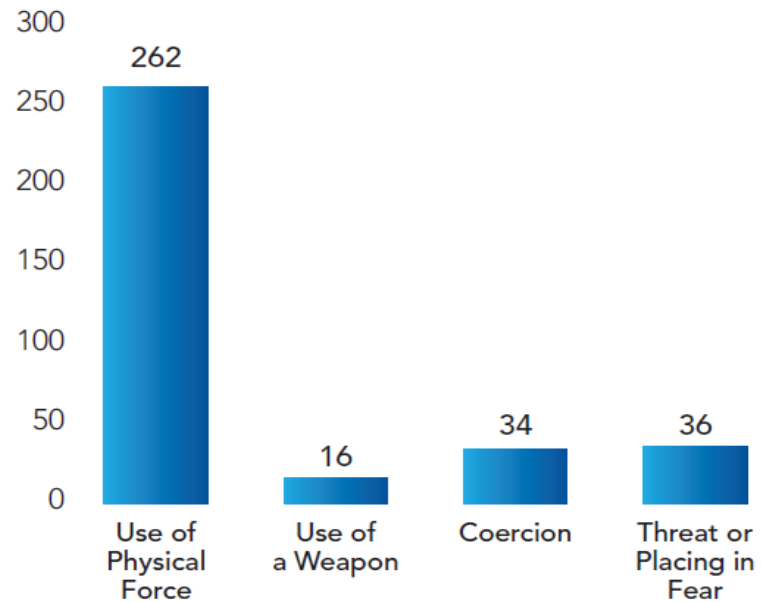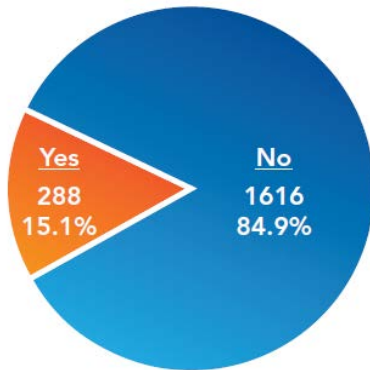
FINDINGS AND DIRECTIVES

Injuries

• The most common injuries reported were bruising and/or redness, which occurred in 112 (5.9%) and 179 (9.4%) and cases.
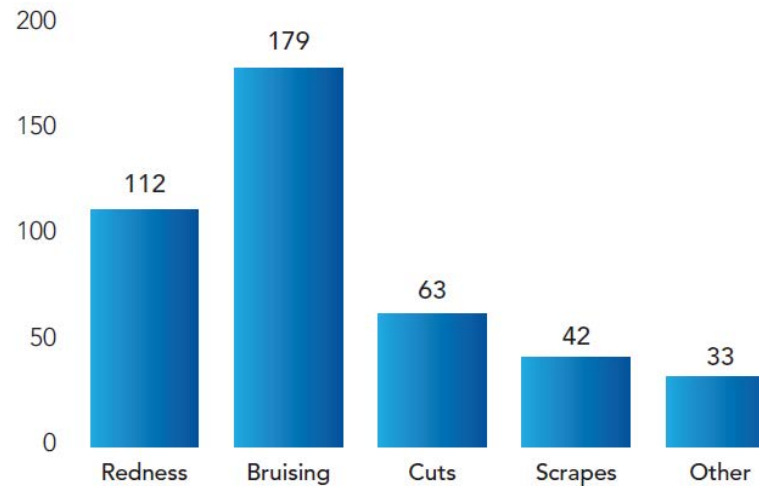
FINDINGS

Impairment

	Did Victim Report Being Impaired?			
	Yes		No	
	n	%	n	%
Army (N=821)	363	44.2	458	55.8
Marine Corps (N=263)	129	49.0	134	51.0
Navy (N=387)	185	47.8	202	52.2
Air Force (N=403)	196	48.6	207	51.4
Coast Guard (N=30)	13	43.3	17	56.7
Total (N=1904)	886	46.5	1018	53.5

FINDINGS

__Impairment__

Unknown/Unclear
43
4.9%

Blacked Out/No Memory Partial Memory
366
41.3%

Passed Out/Unconscious Asleep
477
53.8%
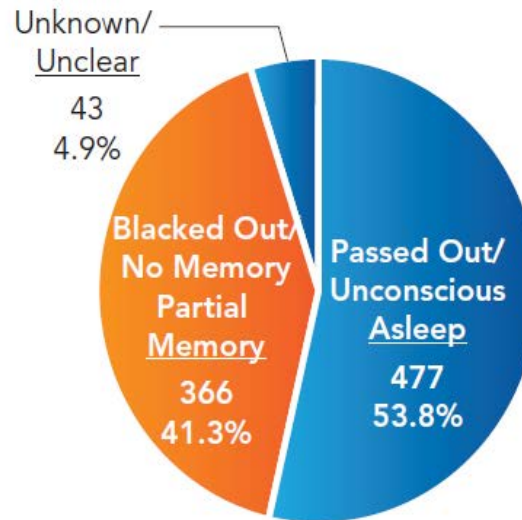
FINDINGS AND DIRECTIVES

Directive 8 to Case Review Subcommittee:

The CRSC examine penetrative sexual offense cases in which the victim reported being impaired in order to assess MCIO interview and investigative techniques utilized in such cases and make appropriate findings and recommendations.

Directive 9 to Case Review Subcommittee:

The CRSC examine penetrative sexual offense investigative files in which the victim reports both no impairment and no use of physical force or the threat of force in order to further assess how the facts in these cases influence the initial disposition decision to prefer a penetrative sexual offense charge or take no action on that offense, and, in cases resulting in a preferred penetrative sexual offense charge, the post-preferral outcomes for those offenses.

FINDINGS AND DIRECTIVES

Subject Complexity Factors

Table 27. Subject Complexity Factors
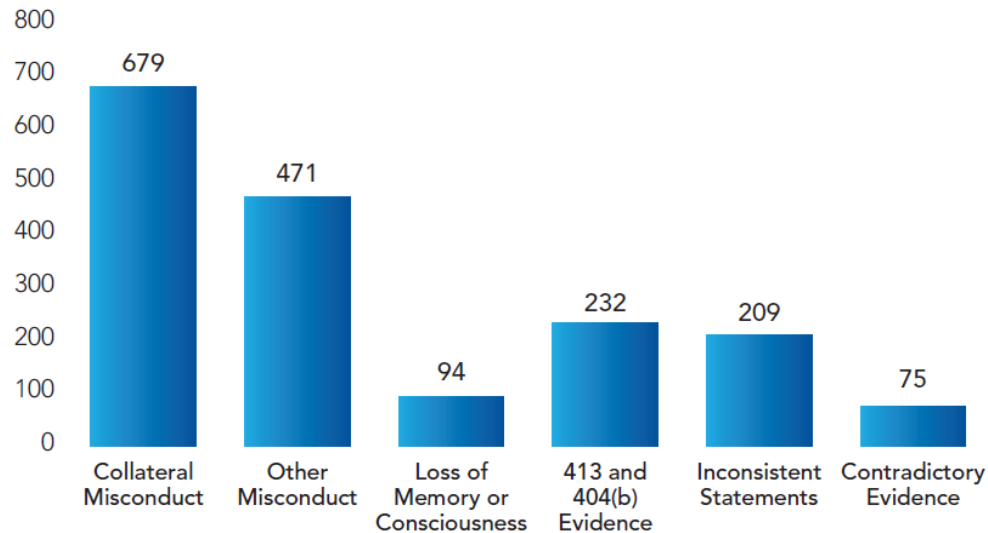
FINDINGS AND DIRECTIVES

Victim Complexity Factors

Table 28. Victim Complexity Factors

Factor	Value
Collateral Misconduct	503
Other Misconduct	311
Loss of Memory or Consciousness	617
Inconsistent Statements	566
Contradictory Evidence	253
Motive to Lie	802

BIVARIATE AND MULTIVARIATE ANALYSIS

BIVARIATE FINDINGS

Preferred Cases versus No Action Cases (more likely to prefer)

- The report was made within seven days of the incident.
- The victim was an officer.
- The victim was White.
- Pretextual communication occurred and the pretextual communication supported the victim's account of the incident.
- The victim reported physical injury and the report alleged that the subject used or threatened to use force.
- A SAFE was performed on the victim.
- DNA evidence was tested.

BIVARIATE FINDINGS

Preferred Cases versus No Action Cases (more likely to prefer)

- The subject complexity factors of memory loss, inconsistent statements and contradictory evidence, collateral and other forms of misconduct, behavioral health concerns, and evidence of other sex offenses and/or related misconduct were present.
- The victim described being impaired.
- The victim used drugs.
- The subject used alcohol or drugs.
- The victim participated in the investigation.
- The victim was represented by counsel.
- A judge advocate made a finding that there was probable cause to believe that the subject committed a penetrative sexual offense for indexing purposes.

BIVARIATE FINDINGS

Preferred Cases versus No Action Cases (less likely to prefer)

- The victim complexity factor of a potential motive to fabricate was present and the victim provided inconsistent statements.

BIVARIATE FINDINGS

Conviction versus Acquittal (more likely to convict)

- The victim was a civilian non-military spouse.
- The victim complexity factors of potential motive to fabricate, inconsistent statements, and evidence contradicting the victim's statement(s) were not present.
- The subject confessed.
- The subject did not use alcohol.
- The victim was **not** represented by counsel.

BIVARIATE FINDINGS

Victim Participation versus Declination (more likely to participate)

- The victim or a victim-authorized representative reported the penetrative sexual offense.
- The victim was a Service member.
- The investigation used pretextual communication.
- A SAFE was performed.
- DNA evidence in the case was analyzed.
- The victim was represented by counsel.
- The victim complexity factors of inconsistent statements and contradictory evidence existed.

BIVARIATE FINDINGS

Victim Participation versus Declination (more likely to participate)

- The subject complexity factors of inconsistent statements, collateral misconduct, and evidence that could be admitted under MRE 413 (similar crimes in sexual offense cases) and 404(b) (crimes, wrongs, or other acts) were present.
- The subject had behavioral health concerns.
- The subject's memory was impaired.
- The subject confessed.
- The victim reported being impaired.
- The victim used alcohol.
- The victim suffered memory loss/loss of consciousness.
- The subject used alcohol.

BIVARIATE FINDINGS

Victim Participation versus Declination (more likely to participate)

- The subject used alcohol.
- The subject suffered memory loss/loss of consciousness.
- The victim was represented by counsel.
- A judge advocate found the evidence was sufficient to establish probable cause to believe the subject a penetrative sexual offense for indexing purposes.

Victim Participation versus Declination (less likely to participate)

- The victim was the civilian spouse of a Service member.

MULTIVARIATE FINDINGS
Preferred Cases versus No Action Cases

The following patterns of relationships emerged from the multivariate model with respect to preferral of a penetrative sexual offense charge:

- When a judge advocate opined there was probable cause to believe the subject committed the penetrative sexual offense, there was a greater likelihood that the case resulted in preferred penetrative sexual offense charges, compared to cases either with no judge advocate opinion or cases in which a judge advocate determined there was not probable cause to believe the subject committed the offense. Judge advocates issued opinions regarding probable cause for the purposes of submitting the subject's fingerprints and DNA to federal databases.

- When the victim participated in the investigation, it was more likely that the case resulted in a preferred penetrative sexual offense charge.

MULTIVARIATE FINDINGS
Preferred Cases versus No Action Cases

The following patterns of relationships emerged from the multivariate model with respect to preferral of a penetrative sexual offense charge:

- When the victim was represented by counsel, it was more likely that the case resulted in a preferred penetrative sexual offense charge than when the victim was not represented by counsel.

- When any DNA evidence in the case was analyzed, it was more likely that the case resulted in a preferred penetrative sexual offense charge.

- When the subject used force or threatened the use of force against the victim, it was more likely that the case resulted in a preferred penetrative sexual offense charge.

MULTIVARIATE FINDINGS
Preferred Cases versus No Action Cases

The following patterns of relationships emerged from the multivariate model with respect to preferral of a penetrative sexual offense charge:

- When the victim reported impairment it was more likely that the case resulted in a preferred penetrative sexual offense charge.

- When there was evidence of at least one victim complexity factor, it was less likely that the case resulted in a preferred penetrative sexual offense charge.

- When there was evidence of at least one subject complexity factor, it was more likely that the case resulted in a preferred penetrative sexual offense charge.

- When the subject confessed to the offense, it was more likely that the case resulted in a preferred penetrative sexual offense charge.

MULTIVARIATE FINDINGS
Preferred Cases versus No Action Cases

- Air Force cases were more likely to result in preferred penetrative sexual offense charges than were cases in the Army, Marine Corps, and Navy, controlling for other case and individual characteristics included in the model.

- The identity of the individual reporting the incident to law enforcement was statistically significant when the military Service branch variables were included in the model and Coast Guard cases were excluded. Cases were less likely to resulted in preferred penetrative sexual offense charges when the command or a third party reported the incident to law enforcement than when the victim or a victim-authorized representative reported the incident to law enforcement.

MULTIVARIATE FINDINGS
Conviction versus Acquittal

The following patterns of relationships emerged from the multivariate model with respect to conviction or acquittal for the penetrative sexual offense:

- The chances of conviction were lower than the chances of acquittal when the victim had legal representation.

- When there was evidence of at least one victim complexity factor, the accused was more likely to be acquitted of the penetrative sexual offense than convicted of the offense.

- When the subject confessed to the penetrative sexual offense, it was more likely that they would be convicted of that offense than acquitted of the offense.

- The military Service branch was unrelated to the likelihood of conviction for the penetrative sexual offense.

DIRECTIVE BASED ON BIVARIATE AND *MULTIVARIATE FINDINGS*

Proposed Directive 10 to Case Review Subcommittee:

The CRSC examine factors that may contribute to the relationship between conviction and acquittal rates and the victim's representation by counsel.

MULTIVARIATE FINDINGS
Victim Participation versus Declination

The victim was more likely to participate in the military justice process when any of the following variables existed:

- The investigation used pretextual communication(s).
- DNA evidence was analyzed.
- The victim was an active duty Service member.
- The subject used alcohol
- There was evidence of at least one subject complexity factor (subject lack of memory, subject inconsistent statements, subject contradictory evidence, subject Military Rules of Evidence 413 or 404(b) evidence, subject collateral misconduct, and subject other misconduct).
- The victim was physically injured.
- There were behavioral health concerns about the subject.
- The subject confessed

MULTIVARIATE FINDINGS
Victim Participation versus Declination

- The chances of victim participation were lower when a third party or command reported the incident than when the victim or victim-authorized representative reported the incident.

- The second model revealed significant differences between the Service branches regarding the likelihood that the victim would participate in the military justice system to pursue a penetrative sexual offense allegation.

  - Victims were more likely to participate in the military justice process when the Army investigated the case, compared to the Air Force or Marine Corps.

  - Similarly, a victim in the Navy was more likely to participate than one in the Air Force or Marine Corps.

Investigation of Penetrative Sexual Assault Offenses Closed in the Military Services During Fiscal Year 2017

Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces

Dr. William Wells
August 14, 2020

PART 1
Overview and Data Analysis Plan

The DAC-IPAD was interested in learning details about cases of penetrative sexual assaults reported to authorities and aspects of their investigation. This information can identify opportunities for interventions and changes that can prevent sexual violence, improve investigations, increase the chances offenders will be held accountable, and enhance the healing process for survivors.[1] To learn about these reports of penetrative sexual assault and their investigation, DAC-IPAD staff collected investigation case files from the five Military Service branches and recorded detailed information about the cases on a data collection form. The data collection form is included in the Report on Investigative Case File Reviews for Military Penetrative Sexual Offense Cases Closed in Fiscal Year 2017, Appendix G.

The patterns of results are organized into seven sections in this report, one for the DoD-wide results (Part 2) and a section for each of the five Military Service branches (Parts 3 – 7). A final section (Part 8) includes tables that provide an overview of all patterns across the Service branches. The data analysis followed the same pattern for each Service branch:

- *Descriptive Statistics*. The first step in the analysis produces "descriptive statistics," which summarize (i.e., describe) information about characteristics of the sexual assault incidents and their investigations. More specifically, the information presented in step one entails univariate statistics, because information is presented about each variable, separately. The univariate statistics provide information about the entire set of cases being studied, such as the number of cases from each Service branch, the number of cases involving intimate partners and other types of relationships, and the number and proportion of cases in which suspects confessed. Variables represent characteristics of incidents and investigations that have the ability to differ across the cases (i.e., they vary). For example, the age of the suspect is a variable, because the suspects' ages will differ across cases. In other words, suspect age "varies" when the cases are compared. "Suspect confession" is also a variable, because some portion of cases will involve suspect confessions, and some will not. Additional variables include, for example, victim gender (male or female), victim-suspect relationship (stranger, spouse, friend, co-worker, etc.), and whether probable cause existed in the case (yes or no). The data collection instrument recorded information about numerous case variables (see Appendix G). The univariate statistics provide summary information about all of the cases in this study. Examining this information provides the opportunity to identify important characteristics in large numbers of cases that can point in directions for reforms or interventions and can identify existing strengths within the system.

- *Bivariate Relationships*. The second step in the analysis builds on the first step by examining the way two variables are "related" to one another. In this context, "relationship" refers to the way two variables are connected to one another. For instance, two variables of interest are "victim participation in the investigation (yes or no)" and the "commander's decision to prefer the case or take no action." When bivariate relationships

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[1] The terms "victims" and "survivors" are used interchangeably throughout this report.

are being measured, it is possible to compare the percentage of cases in which victims participated that were preferred and the percentage of cases in which victims did not participate that were preferred. Examining these patterns will reveal the existence of relationships, as is illustrated in the bivariate analyses throughout this report.

o To estimate bivariate relationships, it is common to select one, or a few, key dependent variables of interest to explore. Dependent variables are case outcomes or results. For example, one question might be about why certain cases are preferred and some are not. In this question, case preferral (yes or no) is the dependent variable. Measuring bivariate relationships between case characteristics and the commander's decision to prefer the case, for example, will provide more detailed understandings about the kinds of cases that are most likely to be preferred. The case characteristics that may be related to the dependent variable (e.g., the commander's decision) are referred to as independent variables, or predictor variables. The analyses measured bivariate relationships between case characteristics (independent variables) and two key outcome variables (dependent variables) for each Service branch: command decision to take action and victim participation in justice proceedings. A third dependent variable was added to the bivariate analysis when data from all Service branches were combined: court-martial results (conviction or acquittal). The court-martial results could not be analyzed for each Service branch separately because of the small numbers of court-martial results within each separate Service branch.

o All of the bivariate relationships measured in these analyses take the form of a cross-tabulations table (i.e., cross-tabs) because the variables have limited numbers of categories, such as gender (male and female), victim status (military or civilian), and existence of probable cause (yes or no). Cross-tabs present the numbers and percentages of cases that exist within the intersection of the categories of two variables, such as male military victims, male civilian victims, female military victims, and female civilian victims. In this example the two variables are gender (male – female) and victim status (military – civilian). These tables were presented throughout the results. Cases were excluded from cross-tabs when cases were missing data on either of the two variables presented in the table.

o Cross-tabs also provide the opportunity to test the statistical significance of the observed patterns. Statistical significance refers, in part, to a mathematical computation that allows for an understanding of the likelihood that the observed bivariate relationship occurred by chance or instead actually exists in the larger set of cases that have not been observed. In this study, data from only one year were examined, so the test of statistical significance allows for conclusions about a larger set of cases from other years. It is possible that by chance alone we observed a pattern of relationship between two variables that does not represent patterns outside of the year from which data were collected. A test of statistical significance allows us to understand this chance and draw conclusions about whether an observed relationship is likely to be real rather than due to sources of error. The test of statistical significance reported in the cross-tab results here was

based on a chi-square value (χ^2) and an associated probability value. Social science convention is to use probability values equal to or less than .05 as the threshold for identifying statistically significant relationships. If the probability associated with the chi-square statistic (χ^2) is equal to .05 or less than .05, then the relationship is reported to be statistically significant. Significant relationships were so denoted in the cross-tab results.

- *Multivariate Relationships*. The final analysis builds on the second stage by estimating relationships between one dependent variable of interest, such as the commander's decision to prefer the case (yes or no), and *multiple* independent variables, not just one. Multivariate analyses expand on and improve bivariate analyses because the multivariate analyses recognize that several variables can be interrelated, including the dependent variable. For example, assume that a dependent variable of interest is whether or not the commander preferred the case. It is reasonable to assume that cases are more likely to be preferred when the suspect confesses to committing the crime and when the victim in the case is participating in the investigation. At the same time, a suspect's confession may be related to victim participation. The suspect may be more likely to confess when it is clear that the victim is actively participating and providing incriminating evidence against the suspect. It is also reasonable to expect that a victim will be more likely to continue participating after a suspect confesses to the crime. In this situation all three variables are related to one another: the commander's decision (prefer or not), victim participation (yes or no), and suspect confession (yes or no). Multivariate models use mathematical formulas to consider the interrelationships between several independent variables and the dependent variable. The purpose is to isolate the relationship between a single independent variable and the dependent variable. The model isolates the relationship between each independent variable in the model and the dependent variable by separating out the relationships that exist between the other independent variables included in the model and their relationships with the dependent variable.

  o The multivariate models reported here are known as regression models. Grade school and middle school children are often taught about these types of models using measures such as rate of change, slope, and intercept. More specifically, the multivariate regression models utilized here are known as logistic regression models because the dependent variables are binary, or dichotomous. The outcome variables contain only two categories (i.e., they are dichotomous). The commander's decision can have two results: prefer the case or take no action. Similarly, the victim participation variable is measured with two categories: the victim participated or the victim declined. The third dependent variable measures the court-martial result with two categories: acquittal or conviction. When regression analysis is used with dichotomous dependent variables like these, logistic regression is the preferred technique. Cases are excluded from the multivariate analyses when the case is missing data on any of the variables included in the model.

  o Like cross-tabs, multivariate logistic regression models involve tests of statistical significance. These tests help assess whether the patterns of relationships are

likely to represent chance occurrences due to the sample that is being studied or are likely to represent relationships that probably exist in the broader population of cases outside of the year being studied. These statistically significant relationships were denoted in the results, and the conventional .05 threshold was used.

o Logistic regression models produce several values that provide an understanding of relationships. Three values were reported in the results. The first, known as the <u>unstandardized regression coefficient</u> (B), is used to report the nature of the relationship between the independent variable (e.g., probable cause: yes or no) and the dependent variable (e.g., commander decision: no action or preferred). The sign of the B coefficient will be positive or negative, which signifies the manner in which the relationship functions. For example, the sign associated with B may be positive (+) and indicate that there was a greater chance of preferral when probable cause existed than when probable cause did not exist. In more precise terms, the sign associated with B refers to a change in the likelihood that the value of the dependent variable will change from 0 to 1 when the value of the independent variable changes from 0 to 1. It is important to understand how the categories of the independent variables and the dependent variable are coded in terms of 0 and 1. The value of the B coefficient does not provide information about the relative strength of the relationship between an independent variable and the dependent variable. The second value is known as the <u>standard error</u> (SE) of the regression coefficient (B). The standard error measures the degree of variation associated with B and allows for a test of statistical significance. The standard error is best understood in relation to the value of B, so it is important to report and assess both. There is a greater chance of finding a statistically significant relationship when the value of SE is small in relation to the value of B. The third, and final, value reported is the <u>odds ratio</u>. The odds ratio provides information about the strength of the relationship between the independent variable and the dependent variable. When the value of B is positive, the odds ratio will be greater than 1.0. When the value of B is negative, the odds ratio will be less than 1.0. When the value of the odds ratio moves away from 1.0, this movement signifies a stronger relationship between the independent variable and the dependent variable.

o The measure used in logistic regression to test for the statistical significance of a relationship between one independent variable and the dependent variable is the Wald statistic. As is true of cross-tabs, statistical significance is assessed using the .05 threshold. If the probability associated with the Wald statistic is equal to .05 or less than .05 then the relationship is reported to be statistically significant. Significant relationships were denoted in the logistic regression results, but to prevent the tables from becoming excessively complex the Wald values were not reported.

o There are multiple ways of building logistic regression models; the preferred approach when not testing specific hypotheses is to generate simplified, rather

than complex, models. The approach utilized here was to start by identifying the independent variables that showed a significant bivariate relationship with the dependent variable. An initial model was estimated by including the independent variables that were found to have a significant, bivariate relationship with the dependent variable. Models were reduced by removing independent variables that did not show a statistically significant relationship with the dependent variable and by removing independent variables that were closely related to one another (e.g., victim impairment and victim alcohol use). This approach is consistent with model building that places a value on simplicity. In addition, some independent variables were excluded if there were small numbers of cases in categories of the independent variable across categories of the dependent variable (e.g., suspect confession by command decision). The results of the simplified models were reported.

The results presented here were based on 1,904 cases, including 403 Air Force cases, 821 Army cases, 30 Coast Guard cases, 263 Marine Corps cases, and 387 Navy cases.

PART 2
DoD Results

The DoD case file data were analyzed to understand case characteristics and patterns of relationships between key variables. The analysis examined 1,904 cases from the five branches of Service. The first step in the analysis examined univariate statistics to understand the cases. The second step explored bivariate relationships between case and individual characteristics and three key outcome variables: command decision to take action, conviction or acquittal outcomes in court-martial cases, and victim participation in justice proceedings. The final analysis estimated multivariate models for the three dependent variables (command action, court-martial result, and victim participation).

UNIVARIATE STATISTICS: CASE CHARACTERISTICS

Table 2-1 presents information about the commanders' decisions and justice system outcomes for penetrative sexual assaults. The largest percentage of cases were in the Army (43.1%), followed by the Air Force (21.1%), Navy (20.3%), Marine Corps (13.8%), and Coast Guard (1.6%). Commanders did not take action in 70.2% of cases and preferred 27.2% of cases. Commanders frequently indicated insufficient evidence (34.2%) and a lack of victim participation (22.6%) were reasons they did not take action. Based on the review of the investigative case files, commanders did not provide a reason for their no action decision in 29.6% of the no action cases. Administrative actions occurred in 2.7% of cases (n = 51). Over 80% of preferred cases were referred (422 of 517 preferred cases). Court-martial occurred in 235 cases, over half of referred cases (55.7%). Court-martial more commonly resulted in acquittal (61.3%) than in conviction (38.8%), and dismissal was the most common alternative disposition (66.7%), followed by discharge in lieu of court-martial (DILCOM, 29.4%).

TABLE 2-1. COMMAND ACTION DECISIONS AND COURT-MARTIAL RESULTS

	N	%
Service Branch		
Army	821	43.1
Air Force	403	21.1
Navy	387	20.3
Marine Corps	263	13.8
Coast Guard	30	1.6
Initial Command Action on Penetrative Sexual Assault		
No Command Action	1336	70.2
Preferred	517	27.2
Administrative Action	51	2.7
Reason Provided by Command for No Action[a][b]		
Lack of Victim Participation	187	22.6
Insufficient Evidence	283	34.2
Unfounded	37	4.5
Prosecution Declined	24	2.9
No Probable Cause	25	3.0
No Reason Provided/Unknown	245	29.6

	N	%
Other	27	3.3
Case Preferral/Referral (n = 517)		
Preferred Only	95	18.4
Preferred and Referred	422	81.6
Referred Cases with a Finding	235	55.7
Court-Martial Result (n = 235)		
Acquittal	144	61.3
Conviction for at Least One Penetrative Sexual Assault Charge – Court-Martial	69	29.4
Conviction for at Least One Penetrative Sexual Assault Charge – PTA at Court-Martial	22	9.4
Alternative Disposition (n = 282)		
Administrative Separation	11	3.9
Discharge in Lieu of Court-Martial	83	29.4
Dismissal	188	66.7

[a] Army cases are excluded from these counts because the Army's command reports sometimes did not address the penetrative sexual assault or contained language not recognized by reviewers. Reviewers also did not properly record the information in the Army's command reports if they found a reason for closure from another source making the data unreliable.

[b] Multiple reasons were listed in 87 cases in which the command did not take action, these are included in the counts, resulting in a total count of 828. Percentages were computed using 828.

Table 2-2 describes cases in terms of incident location. Slightly more than one-half of the reported sexual assaults occurred in off-installation locations (52.4%), and three-quarters occurred in the continental United States (75.1%). It was rare for reported incidents to have occurred on vessels (1.0%). Four cases occurred in a deployed location (i.e., Iraq or Afghanistan).

TABLE 2-2. INCIDENT LOCATION

	N	%
Installation		
On Installation	906	47.6
Off Installation	998	52.4
Location of Incident		
CONUS	1429	75.1
OCONUS	446	23.4
CONUS and OCONUS	12	0.6
Vessel	15	0.8
Vessel and CONUS	1	0.1
Vessel and OCONUS	1	0.1
Deployment		
Deployed Location (Iraq or Afghanistan only)	4	0.2
Non-Deployed Location	1900	99.8

Table 2-3 summarizes information about the time between the incident and the report of the incident to authorities. In some cases, there were multiple dates listed for the date the incident occurred and a date range was captured on the data collection form. In these situations, the latest (most recent) incident date was used to compute the days between the incident and date of the report. In some cases, the date of the most recent incident occurred *after* the date the incident

was reported; these cases are categorized as "unknown." When either of the two dates (i.e., date of the incident or date of the report to authorities) is not contained in the data, these cases are also categorized as "unknown." The Service-specific reports provide information about the time between additional points in the investigation, but missing data and inconsistent data recording practices make it problematic to present combined, DoD-wide results for additional time variables.

Over one-third (36.5%) of cases were reported within 7 days of the incident, including 29.8% of cases that were reported within 3 days of the incident. Half of the cases were reported within 30 days of the incident (50.9%). The median number of days between the report and the incident was 26: that is, half of the cases were reported within 26 days and half of the cases were reported to authorities after 26 days.

TABLE 2-3. TIME BETWEEN KEY ACTIONS IN THE CASE

	N	%
Number of Days Between Offense and Report to Authorities		
0 (same day)	203	10.7
1 – 3	364	19.1
4 – 7	128	6.7
8 – 14	130	6.8
15 – 30	144	7.6
31 – 60	171	9.0
61 – 90	104	5.5
91 – 120	79	4.2
121 – 150	53	2.8
151 – 180	60	3.2
181 – 210	48	2.5
211 – 240	32	1.7
241 – 270	23	1.2
271 – 365	66	3.5
366 +	267	14.0
Unknown	32	1.7
Median number of days = 26		

Suspect characteristics are summarized in Table 2-4. A large majority of cases involved suspects who were enlisted (93.0%) and were at a pay grade of E-5 or lower (82.2%). Over one-quarter of suspects (27.8%) were E-4 personnel. Nearly one-half of officer suspects (46.9%) were O-2 or O-3. Nearly all suspects were male (97.7%) and 66.5% of suspects were White. Approximately one-quarter of suspects (26.0%) were African American. The White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African. The average age of suspects was 25.5 years.

TABLE 2-4. SUSPECT CHARACTERISTICS

	N	%
Suspect Grade at Time of Incident		
Enlisted	1771	93.0
Officer	130	6.8
Unknown	3	0.2

Suspect Pay Grade at Time of Incident		
Enlisted (n = 1,771)		
E-1	67	3.8
E-2	140	7.9
E-3	413	23.3
E-4	493	27.8
E-5	342	19.3
E-6	181	10.2
E-7	101	5.7
E-8	23	1.3
E-9	4	0.2
Unknown	7	0.4
Officer (n = 130)		
Cadet/Midshipman	15	11.5
O-1	6	4.6
O-2	32	24.6
O-3	29	22.3
O-4	14	10.8
O-5	18	13.8
O-6	4	3.1
W-1	1	0.8
W-2	5	3.8
W-3	5	3.8
W-4	1	0.8
Suspect Gender		
Male	1860	97.7
Female	44	2.3
Suspect Age[a]	Mean = 25.5; SD = 6.2; Range = 18 – 58	
Suspect Race		
White[b]	1266	66.5
Black or African American	495	26.0
Asian	45	2.4
Native Hawaiian or Other Pacific Islander	22	1.2
American Indian or Alaska Native	9	0.5
Other Race, Ethnicity, or Origin	17	0.9
Unknown	50	2.6

[a] Fifty-six cases were missing data on the suspect's age.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

Table 2-5 presents information about suspects' drug and alcohol use during the time of the reported incident and about other suspect characteristics related to the investigation. Drug use during the reported offense was rare, but suspect alcohol use was common (55.5% of reported incidents). It was rare for a suspect to have any behavioral health concerns listed in the case files (7.5%). The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). At least one of six suspect complexity factors existed in over half of the cases (60.1%). The most common

suspect complexity factors were collateral misconduct at the time of the reported incident (35.7%) and other forms of misconduct (24.7%). Suspects' contradictory evidence and loss of memory or consciousness were not common.

TABLE 2-5. SUSPECT FACTORS

	N	%
Suspect Alcohol Use		
Yes	1056	55.5
No	847	44.5
Unknown	1	0.1
Suspect Drug Use		
Yes	31	1.6
No	1872	98.3
Unknown	1	0.1
Suspect Behavioral Health Concerns Before or After Incident		
Yes	143	7.5
No	1758	92.3
Unknown	3	0.2
Suspect Complexity Factors[a]		
Collateral Misconduct	679	35.7
Other Misconduct	471	24.7
Loss of Memory or Consciousness	94	4.9
413 and 404(b) Evidence	232	12.2
Inconsistent Statements	209	11.0
Contradictory Evidence	75	3.9
At Least One of the Six Factors Exists in the Case	1144	60.1

[a] These categories were not mutually exclusive; multiple factors could have been present for a single suspect. Percentages were calculated based on the full set of 1,904 cases and do not sum to 100%.

Table 2-6 summarizes information about suspects' statements and legal representation. Suspects offered statements to law enforcement in 64.4% of cases, and suspects rarely had legal representation (5.7% of all cases) at the time of the interview. The data collection instrument recorded information from the case file about the content of suspect statements to law enforcement and third parties. The most common suspect statement was to indicate that the sexual contact was consensual (68.2%), followed by denying that the event was a crime or denying sexual contact (18.0%). Suspects confessed in 102 cases (7.2%).

TABLE 2-6. SUSPECT STATEMENTS AND REPRESENTATION

	N	%
Suspect Provided Statement to Law Enforcement		
Yes	1226	64.4
No	678	35.6
Suspect Had Legal Representation		
Yes	109	5.7
No	1794	94.1
Unknown	1	0.1
Suspect Statement to Third Parties or Law Enforcement[a]		
Confessed	102	7.2

Consensual	973	68.2
Denied Crime/Sexual Activity	256	18.0
No Recollection/Partial Memory	44	3.1
Other	51	3.6

[a] Information about suspects' statements to law enforcement or third parties was available for 1,426 cases. Reports included information with multiple suspect statements in 118 cases. A hierarchy rule was used to code cases with multiple statements: Cases were coded as "confessed" if the suspect confessed and offered any other statement. The next code in the hierarchy was "consensual" and was used when the suspect reported that the sexual activity was consensual (but did not confess). The third category in the hierarchy was "denied crime or denied penetrative sexual activity" and was used when the suspect offered multiple statements but not "confessed" and not "consensual." The "no recollection/partial memory" category was used when only this statement was made. The last category was "other" and was used when the provided statement did not clearly fit into any of the previous categories.

Tables 2-7 and 2-8 present information about victims. Over half of victims were enlisted Service members (52.7%), while it was rare for a victim to be an officer (2.5%). Civilians represented 44.6% of all victims, officers and enlisted personnel representing 55.3% of victims. Among the enlisted victims, 84.6% were E-4 or lower. The large majority of victims were female (94.6%), and the average victim age was 23.6. White victims comprised nearly three-quarters of the cases (72.1%), and African Americans represented 15.5% of victims. As was true of suspects, it is important to note that the White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African.

Table 2-7 also summarizes the relationships between victims and suspects. Stranger cases were relatively rare (7.1%) and friend relationships were most common (25.4%), followed by current or former spouses (19.3%) and acquaintances (14.4%). Recruit (victim) – recruiter (suspect) and supervisor (suspect) – subordinate (victim) relationships were not common (3.9%). Finally, Table 2-7 shows which individual reported the offense: the victim (36.7%), a victim-authorized representative (28.8%), command (18.5%), or a third party (15.9%).

TABLE 2-7. VICTIM CHARACTERISTICS

	N	%
Victim Status at Time of Incident		
Enlisted	1004	52.7
Officer	48	2.5
Civilian – Not DoD Spouse	413	21.7
Civilian – DoD Spouse	435	22.9
Suspect Is Spouse/Former Spouse	307	70.6
Suspect Is Not Spouse[a]	128	29.4
Unknown Grade	4	0.2
Victim Pay Grade at Time of Incident		
Enlisted (n = 1004)		
E-1	51	5.1
E-2	179	17.8
E-3	383	38.2
E-4	236	23.5
E-5	104	10.4
E-6	26	2.6
E-7	12	1.2
E-8	2	0.2
Unknown	11	1.1

Officer (n = 48)		
Cadet/Midshipman	15	31.3
O-1	6	12.5
O-2	12	25.0
O-3	7	14.6
O-4	3	6.3
W-1	2	4.2
W-2	3	6.3
Victim Gender		
Male	102	5.4
Female	1802	94.6
Victim Age[b]	Mean = 23.6; SD = 6.0; Range = 16 – 60	
Victim Race		
White[c]	1372	72.1
Black or African American	295	15.5
Asian	85	4.5
Native Hawaiian or Other Pacific Islander	21	1.1
American Indian or Alaska Native	18	1.0
Other Race, Ethnicity, or Origin	29	1.5
Unknown	84	4.4
Relationship to Suspect[d]		
Current or Former Spouse	367	19.3
Intimate Partner/Former Intimate Partner	240	12.6
Friend	483	25.4
Co-worker/Classmate/Roommate	193	10.1
Subordinate – Supervisor	60	3.2
Acquaintance	274	14.4
Online/Met for the First Time	49	2.6
Stranger	136	7.1
Recruit – Recruiter	14	0.7
Other	32	1.7
Unknown/Unable to Determine	56	2.9
Reporting Individual		
Victim	699	36.7
Victim-Authorized Representative	548	28.8
Command	352	18.5
Third Party	303	15.9
Unknown	2	0.1

[a] This category includes all other types of relationships, including cases with unknown information about relationship.
[b] Fifty-one cases were missing information about the victim's age.
[c] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[d] The data analyzed here were based on the victim's reported relationship to the offender. See Appendix for more details about this variable.

Table 2-8 presents information about victims' drug and alcohol use and level of impairment during the time of the reported incident, in addition to other victim characteristics related to the investigation. As was true of suspects, victim drug use was substantially less common than victim alcohol use (7.8% compared to 57.0%). Forty-seven percent of all victims reported some

level of impairment during the offense. Victims who were impaired most often reported passing out, being unconscious, or being asleep (53.8%), followed by reporting some memory loss and/or blacking out (41.3%). The large majority of victims (82.8%) did not have any history of behavioral health concerns mentioned in the case files. The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). The data collection instrument also recorded information about victim's statements or behaviors that may have been relevant during the investigation, and data show 42.1% had a motive to lie, 32.4% experienced some memory loss or were unconscious, 29.7 of victims provided inconsistent statements, and there was evidence of collateral victim misconduct in 26.4% of cases. Over three-quarters of cases (79.0%) involved a victim who was perceived to have at least one complexity factor.

TABLE 2-8. VICTIM FACTORS

	N	%
Victim Alcohol Use		
Yes	1086	57.0
No	817	42.9
Unknown	1	0.1
Victim Drug Use		
Yes	149	7.8
No	1755	92.2
Victim Reported Being Impaired		
Yes	886	46.5
No	1018	53.5
Nature of Victim Impairment[a]		
Passed Out/Unconscious/Asleep	477	53.8
Blacked Out/No Memory/Partial Memory	366	41.3
Unknown/unclear	43	4.9
Victim Behavioral Health Concerns Before or After Incident		
Yes	325	17.1
No	1577	82.8
Unknown	2	0.1
Victim Complexity Factors[b]		
Collateral Misconduct	503	26.4
Other Misconduct	311	16.3
Loss of Memory or Consciousness	617	32.4
Inconsistent Statements	566	29.7
Motive to Lie	802	42.1
Contradictory Evidence	253	13.3
At Least One of the Six Factors Exists in the Case	1505	79.0

[a] Victims were impaired in 886 cases, including 43 cases in which the nature of impairment was not clear (e.g., "drugged," "vision and perception were impaired," "dizzy," and "too much to drink"). Multiple reasons were provided for the nature of the impairment in 371 cases. To simplify the analyses of impairment reasons, a single variable was created to measure the reason for impairment. The categories for this variable are mutually exclusive. The "passed out/unconscious/asleep" category is considered to be the greatest level of impairment, followed by "blacked out/no memory/partial memory." If the case indicated "passed out" or "unconscious" AND "blacked out" or "partial memory," then the case was coded as "passed out/unconscious/asleep." If the case indicated "blacked out," "partial memory," or "no memory" AND "asleep," then the case was coded as "passed out/unconscious/asleep."

Table 2-9 presents information about victim injuries and suspects' use of force and threats. A suspect used or threatened to use force in 15.1% of cases; use of weapons was rare, occurring in 16 cases. Victims sustained injuries in 15.1% of cases. Bruising and redness were the most common victim injuries, but were still relatively rare. It was not common for there to be witnesses in the case (14.9%; see item 57 on data collection form). Investigators collected pretextual communication evidence in 14.1% of cases, and most often the pretextual communication supported neither the victim's nor the suspect's account (63.8% of cases with pretextual communication).

TABLE 2-9. VICTIM INJURIES AND EVIDENCE

	N	%
Use/Threat of Force		
Yes	288	15.1
No	1616	84.9
Type of Force/Threat[a]		
Physical	262	13.8
Weapon	16	0.8
Coercion	34	1.8
Threat/Threat to Others	36	1.9
Physical Injuries to Victim[b]		
Yes	287	15.1
No	1617	84.9
Injuries[c]		
Redness	112	5.9
Bruising	179	9.4
Cuts	63	3.3
Scrapes	42	2.2
Witness to the Incident		
Yes	283	14.9
No	1621	85.1
Pretextual Communication		
Yes	268	14.1
Supports Victim Account	46	17.2
Supports Suspect Account	51	19.0
Supports Neither	171	63.8
No	1636	85.9

[a] Categories were not mutually exclusive: cases could involve multiple types of force and threats.
[b] Victim injury was based on self-reported information in the case files and SAFE reports.
[c] Categories were not mutually exclusive: cases could involve multiple types of injuries.

Table 2-10 presents information about forensic evidence. A sexual assault forensic examination (SAFE) was performed for victims in 30.4% of the cases. When a SAFE was performed, 61.7% occurred within one day of the incident. Military medical facilities performed slightly more than half of SAFEs (52.5%) and nearly two-thirds (64.7%) of the exams were performed by civilian professionals (DoD and non-DoD medical professionals). The measure of DNA testing indicates

whether *any* DNA evidence from the case was tested. DNA evidence was tested in 21.4% of all cases.

TABLE 2-10. FORENSIC EVIDENCE

	N	%
SAFE Performed on Victim		
Yes	579	30.4
No	1325	69.6
Days Between Offense and Victim SAFE (n = 579)		
0 (same day)	198	34.2
1	159	27.5
2	76	13.1
3	37	6.4
4	25	4.3
5	11	1.9
6	4	0.7
7	8	1.4
8 – 14	13	2.3
15 +	21	3.6
Unknown	27	4.7
Victim SAFE Location (n = 579)		
Civilian Health Care Facility	274	47.3
Military Health Care Facility	304	52.5
Unknown	1	0.2
Victim SAFE Provider Type (n = 579)		
Civilian Provider	277	47.8
Military Examiner	200	34.5
DoD Civilian	98	16.9
Unknown	4	0.7
DNA Evidence Tested[a]		
Yes	408	21.4
No/Unknown	1496	78.6

[a] The DNA testing variable measured *any* DNA evidence testing in the case, not only sexual assault kit evidence collected from the victim. One case was missing information about DNA evidence testing.

Victim participation is summarized in Table 2-11. Victims participated in 68.7% of cases and declined to participate in 31.3% of cases. Among the victims who declined, a large majority (84.4%) declined early in justice system processing (during investigation and reporting). Victims provided their input to commanders in 8.8% of all cases. Among the victims who provided input to commanders, it was common for victims to request administrative separation (20.2%) and court-martial (19.0%). A larger portion of victims (24.4%) provided input that did not fit into pre-established response categories, so these are listed in the category "other". Victims were represented by attorneys during the investigation in slightly more than half of the cases (52.8%), and victims provided statements to law enforcement in nearly all cases (96.4%).

TABLE 2-11. VICTIM PARTICIPATION

	N	%
Victim Declination Recorded in File		

Victim Participated	1308	68.7
Victim Declined	596	31.3
Declination Stage		
Investigation	446	74.8
Reporting	57	9.6
Court-Martial	62	10.4
Preliminary Hearing	20	3.4
Unknown	11	1.9
Victim Input to Command or SJA		
No	1736	91.2
Yes	168	8.8
Input Provided to Command (n = 168)		
Pursue Administrative Separation	34	20.2
Supports DILCOM	15	8.9
Pursue Court-Martial	32	19.0
Take No Action	25	14.9
Nonjudicial Punishment/Administrative Actions	21	12.5
Other	41	24.4
Victim Attorney Representation (prior to trial)		
Yes	1005	52.8
No	899	47.2
Victim Provided Statement to Law Enforcement		
Yes	1836	96.4
No	68	3.6

Table 2-12 presents information about probable cause determinations. A judge advocate made a probable cause determination in approximately three-quarters of cases (76.1%); probable cause was determined to exist in 790 cases, representing 41.5% of all cases and 54.6% of cases in which a determination was made. In other words, when a judge advocate made a probable cause determination, probable cause was determined to *not* exist in 45.3% of cases. Judge advocates made probable cause determinations for purposes of indexing with the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) criminal history database.

TABLE 2-12. PROBABLE CAUSE DETERMINATION

	N	%
Probable Cause Determination Made		
Yes	1448	76.1
No	456	23.9
Probable Cause Determination Result (n = 1448)		
Yes, Probable Cause Exists	790	54.6
Probable Cause Does Not Exist	656	45.3
Unknown	2	0.1

BIVARIATE RELATIONSHIPS

The second stage of the analysis estimated relationships between case characteristics and three important outcome variables: (1) the commander's decision to prefer or to not take action, (2) court-martial acquittal or conviction results, and (3) the victim's decision to participate or to

decline. Cases that ended in some administrative action (n = 51; see Table 2-1) were excluded from the analyses described below that examined the preferral or no action outcome and the acquittal or conviction outcome.

COMMAND ACTION DEPENDENT VARIABLE: NO ACTION COMPARED TO PREFERRAL

The patterns in Table 2-13a show there was no relationship between the command decision to prefer and whether the incident occurred on or off installation. Similarly, the command decision was not related to the identity of the reporting individual. Cases with a prompt report were more likely to be preferred than cases in which the report was made more than 7 days after the incident. The median number of days between the incident and the report to authorities was 31 days in no action cases and 14 days in preferred cases. In other words, half of the no action cases were reported within 31 days of the incident, and half of the no action cases were reported to authorities more than 31 days after the incident. Among the preferred cases, half were reported to authorities less than 14 days after the incident and half were reported to authorities more than 14 days after the incident. In addition, cases in which probable cause was determined to exist were most likely to be preferred. Cases were rarely preferred when probable cause did not exist (n = 11).

TABLE 2-13a. COMMAND ACTION DECISION: INCIDENT LOCATION AND REPORTING INFORMATION

	No Command Action (n = 1336)		Preferral (n = 517)	
	N	%	N	%
Incident Location (NS)				
On Installation	642	72.8	240	27.2
Off Installation	694	71.5	277	28.5
Reporting Individual (NS)				
Victim	475	69.3	210	30.7
Victim-Authorized Representative	382	71.7	151	28.3
Command	249	74.6	85	25.4
Third Party	229	76.6	70	23.4
Prompt Report (within 7 days) (χ^2 = 10.89, p < .05)				
Yes	454	67.5	219	32.5
No	857	74.7	291	25.3
Number of Days Between Incident and Report to Authorities	Median = 31		Median = 14	
Probable Cause[a] (χ^2 = 469.24, p < .05)				
No Determination Made	343	76.9	103	23.1
Probable Cause Existed	352	46.7	401	53.3
Probable Cause Did Not Exist	641	98.3	11	1.7

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Several evidentiary variables are related to the commander's decision to prefer cases (Table 2-13b). Commanders were more likely to prefer cases in which pretextual communication occurred, when the pretextual communication supported the victim's account, when the victim was physically injured, when the suspect used or threatened to use force, when the victim

participated, when a SAFE was performed, when DNA was tested in the case, and when the victim had attorney representation during the investigation. To illustrate, approximately half of cases (50.5%) in which DNA was tested were preferred, compared to 21.6% of cases in which DNA was not tested. Similarly, less than 10% of cases in which the victim declined were preferred; 35.9% of cases with a participating victim were preferred.

TABLE 2-13b. COMMAND ACTION DECISION: EVIDENCE

	No Command Action (n = 1336)		Preferral (n = 517)	
	N	%	N	%
Witness to the Incident (NS)				
Yes	208	73.5	75	26.5
No	1128	71.8	442	28.2
Pretextual Communication Occurred ($\chi^2 = 11.91$, p < .05)				
Yes	165	63.2	96	36.8
No	1171	73.6	421	26.4
Pretextual Communication Result ($\chi^2 = 8.84$, p < .05)				
Supports Victim Account	21	46.7	24	53.3
Supports Suspect Account	38	76.0	12	24.0
Supports Neither Account	106	63.9	60	36.1
Victim Physical Injuries ($\chi^2 = 30.01$, p < .05)				
Yes	164	58.6	116	41.4
No	1172	74.5	401	25.5
Threat or Use of Force ($\chi^2 = 58.64$, p < .05)				
Yes	147	53.1	130	46.9
No	1189	75.4	387	24.6
Victim Participation ($\chi^2 = 135.36$, p < .05)				
Yes	826	64.1	463	35.9
Declined[a]	510	90.4	54	9.6
Sexual Assault Exam Performed on Victim ($\chi^2 = 57.97$, p < .05)				
Yes	339	60.1	225	39.9
No	997	77.3	292	22.7
DNA Evidence Tested ($\chi^2 = 130.09$, p < .05)				
Yes	198	49.5	202	50.5
No	1138	78.4	314	21.6
Victim Attorney Representation (prior to trial) ($\chi^2 = 38.34$, p < .05)				
Yes	644	66.0	332	34.0
No	692	78.9	185	21.1

[a] Victim declinations could have occurred before or after preferral. Table 2-11 shows that over 84.4% of all victims declined at the reporting or investigation stage.

Victim characteristics such as gender, age, military/civilian status, and relationship to the suspect were not related to the command decision. The relationship between victim race and the command decision reached statistical significance: the pattern shows nearly 30% of cases with

White victims were preferred, compared to nearly 25% of cases with Non-White victims. Victim grade and the command decision were related such that cases with officer victims were more likely to be preferred (45.8%) than cases with enlisted victims (29.0%).

TABLE 2-13c. COMMAND ACTION DECISION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	No Command Action (n = 1336)		Preferral (n = 517)	
	N	%	N	%
Victim Gender (NS)				
Female	1264	72.1	490	27.9
Male	72	72.7	27	27.3
Victim Race ($\chi^2 = 3.87$, $p \leq .05$)				
White[a]	946	70.8	391	29.2
Non-White	329	75.6	106	24.4
Victim Status at Time of Incident (NS)				
Military	722	70.3	305	29.7
Civilian – Not DoD Spouse	292	72.6	110	27.4
Civilian – DoD Spouse	322	75.9	102	24.1
Suspect Is Spouse/Former Spouse (NS)	224	74.9	75	25.1
Suspect Is Not Spouse	98	78.4	27	21.6
Victim Grade at Time of Incident ($\chi^2 = 6.18$, $p < .05$)				
Enlisted	692	71.0	283	29.0
Officer	26	54.2	22	45.8
Relationship Between Victim and Suspect[b] (NS)				
Supervisor – Subordinate	40	67.8	19	32.2
Recruit – Recruiter	7	50.0	7	50.0
Spouse/Former Spouse	269	75.4	88	24.6
Intimate Partner/Former Intimate Partner	168	72.7	63	27.3
Friend	326	69.1	146	30.9
Co-worker/Classmate/Roommate	142	74.7	48	25.3
Acquaintance	196	74.5	67	25.5
Stranger	86	63.7	49	36.3
Online/Met for the First Time	29	63.0	17	37.0
Other	24	75.0	8	25.0
Victim Age (NS)	(Mean = 23.6, SD = 6.1)		(Mean = 23.5, SD = 5.8)	

[a] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[b] Cases in the "unknown/unable to determine" category were excluded because of their small numbers.

Table 2-13d shows that several victim factors were related to the preferral decision (Table 2-13d). Victim impairment was related to the preferral decision, but the interpretation is not straightforward. Cases with a victim who passed out, was unconscious, or was asleep were more likely to be preferred than cases with a victim who was not impaired or was blacked out, or who experienced some memory loss. When all the categories of impairment were combined, there was a relationship between victim impairment and the commander's decision: there was a greater chance of preferral when the victim was impaired (32.7%) than when the victim was not

impaired (24.0%). Victim alcohol use was not associated with the command decision but victim drug use was associated with the preferral decision. Cases were more likely to be preferred when the victim used drugs prior to or during the incident (39.6%) than when the victim did not use drugs prior to or during the incident (25.9%). The data collection instrument measured the existence of several victim complexity factors and two were related to the command decision. Cases were less likely to be preferred when victims were perceived to have a motive to lie and when victims were perceived to have provided inconsistent statements. Victim memory loss, collateral misconduct, other forms of misconduct, and behavioral health concerns were not associated with the command decision to prefer the case. Cases were rarely preferred, in relation to other categories of consensual sexual contact, when the victim had consensual sexual contact with the suspect after the incident (10.7%).

TABLE 2-13d. COMMAND ACTION DECISION: VICTIM FACTORS

	No Command Action (n = 1336)		Preferral (n = 517)	
	N	%	N	%
Victim Impairment (χ^2 = 70.33, p < .05)				
Not Impaired	754	76.0	238	24.0
Passed Out/Unconscious/Asleep	265	57.2	198	42.8
Blacked Out/Memory Loss	286	80.3	70	19.7
Victim Alcohol Use (NS)				
Yes	747	70.6	311	29.4
No	588	74.1	206	25.9
Victim Drug Use (χ^2 = 10.59, p < .05)				
Yes	87	60.4	57	39.6
No	1249	73.1	460	26.9
Victim Lack of Memory (NS)				
Yes	416	69.6	182	30.4
No	920	73.3	335	26.7
Victim Motive to Lie (χ^2 = 15.13, p < .05)				
Yes	598	76.9	180	23.1
No	738	68.7	337	31.3
Victim Inconsistent Statements (χ^2 = 15.26, p < .05)				
Yes	431	78.4	119	21.6
No	905	69.5	398	30.5
Victim Contradictory Evidence (NS)				
Yes	184	74.5	63	25.5
No	1152	71.7	454	28.3
Victim Collateral Misconduct (NS)				
Yes	361	73.5	130	26.5
No	975	71.6	387	28.4
Victim Other Misconduct (NS)				
Yes	221	73.4	80	26.6
No	1115	71.8	437	28.2
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	227	73.5	82	26.5

No	1107	71.8	435	28.2
Victim Consensual Sexual Contact with Suspect ($\chi^2 = 8.74$, p < .05)				
Yes – prior to incident	548	74.6	187	25.4
Yes – following incident	25	89.3	3	10.7
Yes – prior to and following incident	111	69.4	49	30.6
No	652	70.1	278	29.9

Several suspect characteristics were related to the preferral decision (Table 2-13e). Suspect race and suspect grade were not related to the command decision. Cases were more likely to be preferred when the suspect used alcohol (30.7%) than when the suspect did not use alcohol (24.3%). Cases were also more likely to be preferred when the suspect used drugs prior to or during the incident (44.8%) than when the suspect did not (27.6%). Because of the small number of cases with suspect drug use (n = 13), the statistical test results may not be reliable. Several suspect complexity factors were associated with an increased chance that the case was preferred: suspect memory loss, suspect's inconsistent statements and contradictory evidence, suspect collateral and other forms of misconduct, the existence of suspect behavioral health concerns, and evidence of other sex offenses and/or related misconduct[2] in the file. Cases were more likely to be preferred when suspects confessed.

TABLE 2-13e. COMMAND ACTION DECISION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	No Command Action (n = 1336)		Preferral (n = 517)	
	N	%	N	%
Suspect Race (NS)				
White[a]	887	71.9	347	28.1
Non-White	412	72.2	159	27.8
Suspect Grade at Time of Incident (NS)				
Officer	92	71.3	37	28.7
Enlisted	1241	72.1	480	27.9
Suspect Alcohol Use ($\chi^2 = 9.52$, p < .05)				
Yes	712	69.3	316	30.7
No	624	75.7	200	24.3
Suspect Drug Use ($\chi^2 = 4.22$, p < .05)				
Yes	16	55.2	13	44.8
No	1320	72.4	503	27.6
Suspect Lack of Memory ($\chi^2 = 12.26$, p < .05)				
Yes	51	56.0	40	44.0
No	1285	72.9	477	27.1
Suspect Inconsistent Statements ($\chi^2 = 44.80$, p < .05)				
Yes	106	52.2	97	47.8

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[2] Military Rules of Evidence (MRE) 413 and 404(b), respectively, cover the admissibility of other sex offenses and related misconduct. MRE 413 is similar to its Federal Rule counterpart. Its purpose is to provide for the liberal admissibility of character evidence when the accused has committed a prior sexual assault offense. MRE 404(b) permits the admissibility of certain evidence of other crimes, wrongs, or acts committed by the accused for the purpose of proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

	N	%	N	%
No	1230	74.5	420	25.5
Suspect Contradictory Evidence ($\chi^2 = 5.28$, p < .05)				
Yes	44	60.3	29	39.7
No	1292	72.6	488	27.4
Suspect Collateral Misconduct ($\chi^2 = 8.62$, p < .05)				
Yes	448	68.0	211	32.0
No	888	74.4	306	25.6
Suspect Other Misconduct ($\chi^2 = 19.00$, p < .05)				
Yes	296	64.2	165	35.8
No	1040	74.7	352	25.3
Suspect 413 and 404(b) Evidence ($\chi^2 = 115.52$, p < .05)				
Yes	98	42.4	133	57.6
No	1238	76.3	384	23.7
Suspect Behavioral Health Concerns Before or After Incident ($\chi^2 = 24.62$, p < .05)				
Yes	75	54.0	64	46.0
No	1259	73.6	452	26.4
Suspect Statement ($\chi^2 = 158.39$, p < .05)[b]				
Confessed	21	21.6	76	78.4
Consensual	738	78.0	208	22.0
Denied Crime/Sexual Activity	192	76.2	60	23.8
No Recollection/Partial Memory	21	47.7	23	52.3
Other	29	59.2	20	40.8

[a] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[b] The relationship was statistically significant when "confessed" was compared to all other suspect statements and to no statements.

COURT-MARTIAL RESULT: CONVICTION COMPARED TO ACQUITTAL

The analysis of court-martial outcomes includes convictions at trial and through pretrial agreements. In other words, the conviction category includes pretrial agreement convictions (n = 22) and contested trial convictions (n = 69). The conviction category includes three cases with multiple charges in which the accused was acquitted of some penetrative sexual assault charges but convicted of at least one charge of penetrative sexual assault. The patterns of statistical tests presented in Table 2-14a show that court-martial outcomes were not related to incident location (measured as on or off installation), the identity of the individual who made the report, prompt reporting, and the existence of probable cause.

TABLE 2-14a. COURT-MARTIAL OUTCOME: INCIDENT LOCATION AND REPORTING INFORMATION

	Acquitted (n = 144)		Convicted (n = 91)	
	N	%	N	%
Incident Location (NS)				
On Installation	63	62.4	38	37.6

Off Installation	81	60.4	53	39.6
Reporting Individual (NS)				
Victim	61	58.1	44	41.9
Victim-Authorized Representative	42	64.6	23	35.4
Command	24	68.6	11	31.4
Third Party	17	56.7	13	43.3
Prompt Report (within 7 days) (NS)				
Yes	56	55.4	45	44.6
No	87	66.4	44	33.6
Number of Days Between Incident and Report to Authorities	Median = 30		Median = 6	
Probable Cause[a] (NS)				
No Determination Made/Probable Cause Did Not Exist[b]	33	70.2	14	29.8
Probable Cause Existed	111	59.0	77	41.0

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.
[b] The "no determination made" and "probable cause did not exist" categories are combined together because of low cell counts that resulted when these categories are treated separately. In addition, the substantive interest is in comparing cases in which probable cause exists to all other cases (no determination was made and/or it was determined that probable cause did not exist).

Similar to the patterns in Table 2-14a, evidentiary variables were not statistically related to court-martial outcomes (Table 2-14b). For instance, 36.7% of cases with pretextual communication ended in a conviction and 39.2% of cases without pretextual communication ended in a conviction. The statistical test for the relationship between court-martial outcome and victim participation was not meaningful. Only two cases in which the victim declined had a court-martial result suggesting that victim participation is an important variable that determined whether a case makes it to court-martial. Victim attorney representation during the investigation stages is related to the likelihood of conviction: 53.8% of cases in which the victim did *not* have attorney representation during the investigation ended in a conviction, compared to 28.9% of cases in which the victim had attorney representation during the investigation.

TABLE 2-14b. COURT-MARTIAL OUTCOME: EVIDENCE

	Acquitted (n = 144)		Convicted (n = 91)	
	N	%	N	%
Witness to the Incident (NS)				
Yes	21	65.6	11	34.4
No	123	60.6	80	39.4
Pretextual Communication Occurred (NS)				
Yes	31	63.3	18	36.7
No	113	60.8	73	39.2
Pretextual Communication Result (NS)				
Supports Victim Account	5	45.5	6	54.5
Supports Suspect Account	4	80.0	1	20.0
Supports Neither Account	22	66.7	11	33.3
Victim Physical Injuries (NS)				
Yes	33	61.1	21	38.9
No	111	61.3	70	38.7
Threat or Use of Force (NS)				

Yes	41	65.1	22	34.9
No	103	59.9	69	40.1
Victim Participation (NS)				
Yes	142	60.9	91	39.1
Declined	2	100	0	0
Sexual Assault Exam Performed on Victim (NS)				
Yes	61	56.0	48	44.0
No	83	65.9	43	34.1
DNA Evidence Tested (NS)				
Yes	61	58.1	44	41.9
No	83	63.8	47	36.2
Victim Attorney Representation (prior to trial) ($\chi^2 = 14.67$, $p < .05$)				
Yes	101	71.1	41	28.9
No	43	46.2	50	53.8

Victim characteristics including race, gender, and grade were not associated with court-martial outcomes (Table 2-14c). Similarly, victim – suspect relationship was not related to the outcome. Victim status was related to the outcome such that 51.7% of cases involving civilian, non-DoD spouse victims ended in a conviction, compared to 35.5% of cases involving military victims and 29.7% of cases involving civilian, DoD spouse victims. The average age of victims was lower in conviction cases (22.9 years) than in those that ended in acquittal (24.5 years).

TABLE 2-14c. COURT-MARTIAL OUTCOME: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	Acquitted (n = 144)		Convicted (n = 91)	
	N	%	N	%
Victim Gender (NS)				
Female	137	61.7	85	38.3
Male	7	53.8	6	46.2
Victim Race (NS)				
White[a]	112	64.0	63	36.0
Non-White	26	52.0	24	48.0
Victim Status at Time of Incident ($\chi^2 = 6.10$, $p < .05$)				
Military	89	64.5	49	35.5
Civilian – Not DoD Spouse	29	48.3	31	51.7
Civilian – DoD Spouse	26	70.3	11	29.7
Suspect Is Spouse/Former Spouse (NS)	19	70.4	8	26.9
Suspect Is Not Spouse	7	70.0	3	30.0
Victim Grade at Time of Incident (NS)				
Enlisted	81	65.3	43	34.7
Officer	8	57.1	6	42.9
Relationship Between Victim and Suspect[b] (NS)				
Supervisor – Subordinate	10	76.9	3	23.1
Spouse/Former Spouse	22	68.8	10	31.3

Intimate Partner/Former Intimate Partner	11	47.8	12	52.2
Friend	44	60.3	29	39.7
Co-worker/Classmate/Roommate	15	78.9	4	21.1
Acquaintance	17	58.6	12	41.4
Stranger	15	53.6	13	46.4
Victim Age (t = 1.95, p ≤ .05)	(Mean = 24.5, SD = 6.6)		(Mean = 22.9, SD = 5.8)	

[a] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

[b] Cases in the "unknown/unable to determine," "other," "recruit − recruiter," and "online/met for the first time" categories were excluded because of their small numbers.

Table 2-14d shows that three victim factors were related to court-martial results. When victims were perceived to have a motive to lie, 21.9% of cases ended in conviction, compared to 46.3% of cases in which the victim was not perceived to have a motive to lie. Similarly, when victims were perceived to have made inconsistent statements, 20.4% of cases ended in conviction, compared to 43.5% of cases in which the victim was not perceived to have made inconsistent statements. One case in which the victim was perceived to have presented contradictory evidence ended in conviction, whereas 42.1% of cases in which the victim was not perceived to have presented contradictory evidence ended in conviction. Victim impairment, alcohol use, drug use, collateral misconduct, and other forms of misconduct were not related to the court-martial outcomes. A variable that combined the six victim complexity factors (lack of memory, motive to lie, inconsistent statements, contradictory evidence, collateral misconduct, and other misconduct) and measured whether any or none existed in the case was associated with the chances of a conviction result. Over half of the cases in which one or more of the six complexity factors existed ended in conviction (52.3%), while 33.5% of the cases in which none of the six complexity factors existed ended in conviction. The relationship between victim behavioral health concerns and court-martial outcomes approached statistical significance ($\chi^2 = 3.39$, p = .07). Cases were more likely to end in conviction when there were no indications in the case file of behavioral health concerns for the victim than when there were such indications in the case file.

TABLE 2-14d. COURT-MARTIAL OUTCOME: VICTIM FACTORS

	Acquitted (n = 144)		Convicted (n = 91)	
	N	%	N	%
Victim Impairment (NS)				
Not Impaired	57	58.8	40	41.2
Passed Out/Unconscious/Asleep	58	59.2	40	40.8
Blacked Out/Memory Loss	25	71.4	10	28.6
Victim Alcohol Use (NS)				
Yes	95	63.3	55	36.7
No	49	57.6	36	42.4
Victim Drug Use (NS)				
Yes	15	53.6	13	46.4
No	129	62.3	78	37.7
Victim Lack of Memory (NS)				
Yes	65	67.0	32	33.0
No	79	57.2	59	42.8
Victim Motive to Lie ($\chi^2 = 12.60$, p < .05)				

	N	%	N	%
Yes	57	78.1	16	21.9
No	87	53.7	75	46.3
Victim Inconsistent Statements ($\chi^2 = 8.75$, p < .05)				
Yes	39	79.6	10	20.4
No	105	56.5	81	43.5
Victim Contradictory Evidence ($\chi^2 = 11.21$, p < .05)				
Yes	20	95.2	1	4.8
No	124	57.9	90	42.1
Victim Collateral Misconduct (NS)				
Yes	36	69.2	16	30.8
No	108	59.0	75	41.0
Victim Other Misconduct (NS)				
Yes	24	72.7	9	27.3
No	120	59.4	82	40.6
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	25	75.8	8	24.2
No	119	58.9	83	41.1
Victim Consensual Sexual Contact with Suspect (NS)				
Yes – prior to incident	48	64.0	27	36.0
Yes – following incident	1	50.0	1	50.0
Yes – prior to and following incident	14	63.6	8	36.4
No	81	59.6	55	40.4

Few suspect characteristics and variables were related to court-martial outcomes (Table 2-14e). Suspect alcohol use was related to the case outcome such that 48.3% of cases in which the suspect did *not* use alcohol ended in conviction, compared to 33.1% of cases in which the suspect used alcohol. Cases were most likely to end in conviction when suspects confessed (74.4%). Other suspect variables that were measured were not related to convictions, including for example, suspect race and grade, suspect memory loss and collateral misconduct, and the existence of 413 and 404(b) evidence.

TABLE 2-14e. COURT-MARTIAL OUTCOME: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	Acquitted (n = 144)		Convicted (n = 91)	
	N	%	N	%
Suspect Race (NS)				
White[a]	94	61.8	58	38.2
Non-White	45	59.2	31	40.8
Suspect Grade at Time of Incident (NS)				
Officer	15	55.6	12	44.4
Enlisted	129	62.0	79	38.0
Suspect Alcohol Use ($\chi^2 = 5.37$, p < .05)				
Yes	97	66.9	48	33.1

No	46	51.7	43	48.3
Suspect Drug Use (NS)				
Yes	2	40.0	3	60.0
No	141	61.6	88	38.4
Suspect Lack of Memory (NS)				
Yes	17	73.9	6	26.1
No	127	59.9	85	40.1
Suspect Inconsistent Statements (NS)				
Yes	25	52.1	23	47.9
No	119	63.6	68	36.4
Suspect Contradictory Evidence (NS)				
Yes	10	52.6	9	47.4
No	134	62.0	82	38.0
Suspect Collateral Misconduct (NS)				
Yes	63	63.0	37	37.0
No	81	60.0	54	40.0
Suspect Other Misconduct (NS)				
Yes	49	62.0	30	38.0
No	95	60.9	61	39.1
Suspect 413 and 404(b) Evidence (NS)				
Yes	42	58.3	30	41.7
No	102	62.6	61	37.4
Suspect Behavioral Health Concerns Before or After Incident (NS)				
Yes	15	62.5	9	37.5
No	128	61.0	82	39.0
Suspect Statement ($\chi^2 = 30.95$, p $< .05$)[b]				
Confessed	11	25.6	32	74.4
Consensual	62	74.7	21	25.3
Denied Crime/Sexual Activity	18	64.3	10	35.7
No Recollection/Partial Memory	8	72.7	3	27.3
Other	4	40.0	6	60.0

[a] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

[b] The relationship was statistically significant when "confessed" was compared to all other suspect statements and to no statements.

VICTIM PARTICIPATION DEPENDENT VARIABLE: VICTIM PARTICIPATED – VICTIM DECLINED

Table 2-15a shows that victim participation was similar when the incident occurred on installation (67.4%) and off installation (69.8%). A prompt report—that is, one made within one week—was not related to victim participation. Victim participation was related to the reporting individual such that participation was most likely when the victim reported the offense (71.2%) and when a victim-authorized representative reported the offense (70.8%). The median number of days between the incident and the report to authorities was similar among cases with a participating victim (27) and cases in which the victim declined to participate (25). Victim participation was associated with judge advocates' probable cause determination: participation

was least likely when probable cause was determined to not exist (64.0%) and most likely when probable cause was determined to exist (73.0%).

TABLE 2-15a. VICTIM PARTICIPATION: INCIDENT LOCATION AND REPORTING INFORMATION

	Victim Declined (n = 596)		Victim Participated (n = 1308)	
	N	%	N	%
Incident Location (NS)				
On Installation	295	32.6	611	67.4
Off Installation	301	30.2	697	69.8
Reporting Individual ($\chi^2 = 9.09$, p < .05)				
Victim	201	28.8	498	71.2
Victim-Authorized Representative	160	29.2	388	70.8
Command	122	34.7	230	65.3
Third Party	111	36.6	192	63.4
Prompt Report (within 7 days) (NS)				
Yes	221	31.8	474	68.2
No	359	30.5	818	69.5
Number of Days Between Incident and Report to Authorities	Median = 25		Median = 27	
Probable Cause[a] ($\chi^2 = 13.76$, p < .05)				
No Determination Made	147	32.2	309	67.8
Probable Cause Existed	213	27.0	577	73.0
Probable Cause Did Not Exist	236	36.0	420	64.0

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Table 2-15b presents patterns of relationships between evidentiary variables and victim participation. Victim participation was unrelated to the presence of witnesses, victim injuries, and suspect use or threat of force. Victim participation was related to pretextual communication: victim participation rates were higher in cases with pretextual communication (82.5%) than in cases when pretextual communication did not occur (66.4%). Victim participation was also greater in cases when a SAFE was performed, when any DNA evidence in the case was tested, and when a victim's attorney was involved in the case.

TABLE 2-15b. VICTIM PARTICIPATION: EVIDENCE

	Victim Declined (n = 596)		Victim Participated (n = 1308)	
Witness to the Incident (NS)				
Yes	81	28.6	202	71.4
No	515	31.8	1106	68.2
Pretextual Communication Occurred ($\chi^2 = 27.48$, p < .05)				
Yes	47	17.5	221	82.5
No	549	33.6	1087	66.4
Pretextual Communication Result (NS)				
Supports Victim Account	8	17.4	38	82.6
Supports Suspect Account	9	17.6	42	82.4

	Victim Declined		Victim Participated	
Supports Neither Account	30	17.5	141	82.5
Victim Physical Injuries (NS)				
Yes	77	26.8	210	73.2
No	519	32.1	1098	67.9
Threat or Use of Force (NS)				
Yes	87	30.2	201	69.8
No	509	31.5	1107	68.5
Sexual Assault Exam Performed on Victim ($\chi^2 = 8.57$, p < .05)				
Yes	154	26.6	425	73.4
No	442	33.4	883	66.6
DNA Evidence Tested ($\chi^2 = 15.40$, p < .05)				
Yes	95	23.3	313	76.7
No	500	33.4	995	66.6
Victim Attorney Representation (prior to trial) ($\chi^2 = 7.46$, p < .05)				
Yes	287	28.6	718	71.4
No	309	34.4	590	65.6

Table 2-15c presents patterns of relationships between victim participation and victims' demographic characteristics. Military victims were most likely to participate (72.5%) and civilian DoD spouse victims were least likely (61.8%). Similarly, victim participation rates were lowest when the victim was the spouse or former spouse of the suspect (59.5%). Victim gender, race, and grade were not related to victim participation in a statistically significant way.

TABLE 2-15c. VICTIM PARTICIPATION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	Victim Declined (n = 596)		Victim Participated (n = 1308)	
Victim Gender (NS)				
Female	569	31.6	1233	68.4
Male	27	26.5	75	73.5
Victim Race (NS)				
White[a]	412	30.0	960	70.0
Non-White	152	33.9	296	66.1
Victim Status at Time of Incident ($\chi^2 = 18.05$, p < .05)				
Military	290	27.5	766	72.5
Civilian – Not DoD Spouse	140	33.9	273	66.1
Civilian – DoD Spouse	166	38.2	269	61.8
Suspect Is Spouse/Former Spouse (NS)	125	40.7	182	59.3
Suspect Is Not Spouse	41	32.0	87	68.0
Victim Grade at Time of Incident (NS)				
Enlisted	279	27.8	725	72.2
Officer	9	18.8	39	81.3
Relationship between Victim and Suspect[b] ($\chi^2 = 29.31$, p < .05)				
Supervisor – Subordinate	16	26.7	44	73.3

Recruit – Recruiter	2	14.3	12	85.7
Spouse/Former Spouse	145	39.6	222	60.5
Intimate Partner/Former Intimate Partner	71	29.6	169	70.4
Friend	138	28.6	345	71.4
Co-worker/Classmate/Roommate	39	20.2	154	79.8
Acquaintance	75	27.4	199	72.6
Stranger	45	33.1	91	66.9
Online/Met for the First Time	15	30.6	34	69.4
Other	12	37.5	20	62.5
Victim Age (NS)	(Mean = 23.3, SD = 5.9)		(Mean = 23.6, SD = 6.0)	

[a] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[b] Cases in the "unknown/unable to determine" category were excluded because of their small numbers.

Table 2-15d shows that victim participation was related to several victim variables. Victim participation rates were greater when the victim was impaired in some way (passed out/unconscious/asleep or blacked out/memory loss) than when not impaired. Rates of victim participation were greater when the victim used alcohol before or during the incident (72.6%) than when the victim did not use alcohol (63.5%). Victim participation rates were also greater when information in the case file indicated that the victim suffered from memory loss (76.5%) than when no such memory loss was indicated (65.0%). Rates of victim participation were greater when there was evidence in the case to suggest that the victim offered inconsistent statements (71.9% compared to 67.3%) and when the victim presented contradictory evidence (74.3% compared to 67.8%). Other variables, including victim drug use, collateral misconduct, other forms of misconduct, perceived motive to lie, behavioral health concerns, and the different times of consensual sexual contact between the victim and suspect, were not related to victim participation.

TABLE 2-15d. VICTIM PARTICIPATION: VICTIM FACTORS

	Victim Declined (n = 596)		Victim Participated (n = 1308)	
Victim Impairment ($\chi^2 = 26.43$, p < .05)				
Not Impaired	367	36.1	651	63.9
Passed Out/Unconscious/Asleep	110	23.1	367	76.9
Blacked Out/Memory Loss	107	29.2	259	70.8
Victim Alcohol Use ($\chi^2 = 17.69$, p < .05)				
Yes	298	27.4	788	72.6
No	298	36.5	519	63.5
Victim Drug Use (NS)				
Yes	43	28.9	106	71.1
No	553	31.5	1202	68.5
Victim Lack of Memory ($\chi^2 = 25.84$, p < .05)				
Yes	145	23.5	472	76.5
No	451	35.0	836	65.0
Victim Motive to Lie (NS)				
Yes	249	31.0	553	69.0
No	347	31.5	755	68.5

Victim Inconsistent Statements (χ^2 = 3.86, p < .05)				
Yes	159	28.1	407	71.9
No	437	32.7	901	67.3
Victim Contradictory Evidence (χ^2 = 4.27, p < .05)				
Yes	65	25.7	188	74.3
No	531	32.2	1120	67.8
Victim Collateral Misconduct (NS)				
Yes	144	28.6	359	71.4
No	452	32.3	949	67.7
Victim Other Misconduct (NS)				
Yes	108	34.7	203	65.3
No	488	30.6	1105	69.4
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	114	35.1	211	64.9
No	480	30.4	1097	69.6
Victim Consensual Sexual Contact with Suspect (NS)				
Yes – prior to incident	258	34.0	501	66.0
Yes – following incident	5	17.2	24	82.8
Yes – prior to and following incident	48	28.9	118	71.1
No	285	30.0	665	70.0

Several suspect-related variables were related to victim participation, including alcohol use, loss of memory/consciousness, suspect statements perceived to be inconsistent, suspect evidence perceived to be contradictory, suspect collateral misconduct, the existence of 413 and 404(b) evidence, suspect behavioral health concerns, and suspect statements to law enforcement and/or third parties (Table 2-15e). Rates of victim participation were greater when the suspect used alcohol during the incident (72.4%) than when the suspect did not use alcohol (64.0%). Rates of victim participation were greater when the suspect suffered from memory loss or loss of consciousness (79.8%) than in cases in which the suspect did not experience memory loss or loss of consciousness (68.1%). Victims were more likely to participate when the suspect made inconsistent statements (76.7%) than when the suspect did not provide inconsistent statements (67.7%) and when the suspect committed collateral misconduct (72.6%) than when the suspect did not commit collateral misconduct (66.5%). Victim participation was also greater when 413 or 404(b) evidence existed for the suspect (79.7% compared to 67.2%). Victim participation was greater in cases involving suspects with behavioral health concerns (81.8%) than cases without those suspect behavioral health concerns (67.7%). Finally, the rates of victim participation were highest when the suspect made statements to suggest he/she sustained some memory loss (86.4%) and when the suspect confessed (84.3%). Several suspect variables were unrelated to victim participation, including suspect race and grade, suspect drug use, presentation of contradictory evidence by the suspect, and other forms of suspect misconduct.

TABLE 2-15e. VICTIM PARTICIPATION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	Victim Declined (n = 596)		Victim Participated (n = 1308)	
Suspect Race (NS)				
White[a]	392	31.0	874	69.0
Non-White	191	32.5	397	67.5
Suspect Grade at Time of Incident (NS)				
Officer	34	26.2	96	73.8
Enlisted	560	31.6	1211	68.4
Suspect Alcohol Use ($\chi^2 = 15.61$, p < .05)				
Yes	291	27.6	765	72.4
No	305	36.0	542	64.0
Suspect Drug Use (NS)				
Yes	13	41.9	18	58.1
No	583	31.1	1289	68.9
Suspect Lack of Memory ($\chi^2 = 5.66$, p < .05)				
Yes	19	20.2	75	79.8
No	577	31.9	1233	68.1
Suspect Inconsistent Statements ($\chi^2 = 6.74$, p < .05)				
Yes	49	23.4	160	76.6
No	547	32.3	1148	67.7
Suspect Contradictory Evidence (NS)				
Yes	18	24.0	57	76.0
No	578	31.6	1251	68.4
Suspect Collateral Misconduct ($\chi^2 = 7.50$, p < .05)				
Yes	186	27.4	493	72.6
No	410	33.5	815	66.5
Suspect Other Misconduct (NS)				
Yes	136	28.9	335	71.1
No	460	32.1	973	67.9
Suspect 413 and 404(b) Evidence ($\chi^2 = 14.99$, p < .05)				
Yes	47	20.3	185	79.7
No	549	32.8	1123	67.2
Suspect Behavioral Health Concerns Before or After Incident ($\chi^2 = 12.29$, p < .05)				
Yes	26	18.2	117	81.8
No	568	32.3	1190	67.7
Suspect Statement ($\chi^2 = 18.69$, p < .05)[b]				
Confessed	16	15.7	86	84.3
Consensual	318	32.7	655	67.3
Denied Crime/Sexual Activity	78	30.5	178	69.5
No Recollection/Partial Memory	6	13.6	38	86.4
Other	16	31.4	35	68.6

[a] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

[b] The relationship was statistically significant when "confessed" was compared to all other suspect statements and to no statements.

MULTIVARIATE RELATIONSHIPS

The models were built by starting with independent variables that showed a significant bivariate relationship with the dependent variable. The models were refined in light of results of the initial model and of close relationships between two independent variables. In addition, some independent variables were excluded if there were small numbers of cases in categories of the independent variable across categories of the dependent variable (e.g., suspect confession by command decision). One exception was measures of victim complexity factors and suspect complexity factors (Tables 2-13d and 2-13e). Several of these factors were related to the preferral decision. In order to simplify the model, one binary variable was created that measured the existence of any of the six victim complexity factors (yes or no) and one binary variable was created that measured the existence of any of the six suspect complexity factors (yes or no).[3]

Table 2-16a presents the results of two multivariate models that treated the commander decision to prefer the case or take no action in the case as the dependent variable. Fifty-one cases in which the commander took administrative action were excluded from this analysis. The first model did not include variables to control for Service branch and included cases from all Service branches. The second model introduced Service branch control variables, but excluded Coast Guard cases because their numbers were so small. The reference category for the Service branch variables was the Army: that is, the Air Force, Marine Corps, and Navy were compared to the Army. Estimates were generated by additional models that changed the reference Service branch so that the other branches could be compared. The results in models 1 and 2 show the effects of variables are stable when Service branch is controlled. The following patterns of relationships emerged from the multivariate model:

- When probable cause was determined to exist, as compared to cases without a probable cause determination and cases in which probable cause was determined to not exist, there was a greater likelihood the case was preferred. Judge advocates made probable cause determinations for the purposes of indexing with the FBI.
- A participating victim increased the chances of case preferral.
- When the victim had attorney representation during the investigation, the chances of preferral were greater than when the victim did not have attorney representation during the investigation.
- When any DNA evidence in the case was tested, there was an increased chance that the case was preferred.
- When the offender used force or made threats of force, the chances of preferral were greater.
- Victim impairment was related to an increased chance of case preferral.
- When at least one victim complexity factor was perceived to exist, the chances of preferral were reduced.

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[3] The victim complexity factor variable measured whether any of the following six factors existed: victim lack of memory, victim inconsistent statements, victim contradictory evidence, victim motive to lie, victim collateral misconduct, and victim other misconduct. The suspect complexity factor variable measured whether any of the following six factors existed: suspect lack of memory, suspect inconsistent statements, suspect contradictory evidence, suspect 413 and 404(b) evidence, suspect collateral misconduct, and suspect other misconduct.

- When at least one suspect complexity factor was perceived to exist, the chances of preferral were greater.
- The chances of preferral were greater in cases in which the suspect confessed.
- The chances of preferral were lower in cases in which the suspect used alcohol than in cases in which the suspect did not use alcohol. This relationship approached, but did not meet, statistical significance (using the $p \leq .05$ threshold).
- The second model revealed significant differences between the Service branches in terms of the chances of preferral.
    - Cases in the Air Force were more likely to be preferred than cases in the Army, Marine Corps, and Navy, controlling for the other case and individual characteristics included in the model.
- The reporting individual variable was statistically significant when the Military Service branch variables were included in the model and Coast Guard cases were excluded. Cases were less likely to be preferred when the incident was reported by command or a third party as compared to when the case was reported by the victim or a victim-authorized representative.

TABLE 2-16a. LOGISTIC REGRESSION MODELS: COMMANDER DECISION TO PREFER CASES OR TAKE NO ACTION

	Model 1: All Cases, No Service Branch Controls			Model 2: Excluded Coast Guard Cases, Included Service Branch Controls		
	B	**SE**	**Exp(B)**	**B**	**SE**	**Exp(B)**
Probable cause existed	2.06*	.14	7.84	2.31*	.15	10.04
Victim participated	1.70*	.18	5.47	1.84*	.19	6.27
Victim attorney representation (prior to trial)	.70*	.14	2.02	.64*	.14	1.90
DNA evidence tested	1.10*	.15	3.01	1.12*	.16	3.05
Threat or use of force occurred	.96*	.18	2.62	.89*	.18	2.43
Victim impaired	.46*	.16	1.59	.45*	.16	1.56
At least one victim complexity factor existed	-.72*	.18	.49	-.80*	.18	.45
At least one suspect complexity factor existed	.70*	.15	2.02	.74*	.15	2.09
Suspect confessed	1.58*	.28	4.85	1.82*	.30	6.19
Suspect used alcohol	-.29**	.15	.75	-.29**	.16	.75
Command or third party reported incident	-	-	-	-.41*	.15	.67
Air Force	-	-	-	1.21*	.18	3.35
Navy	-	-	-	.12	.19	1.13
Marine Corps	-	-	-	.41**	.22	1.51
	*p < .05; **p < .10 Model χ^2 = 747.81, df = 10, p < .05			*p < .05; **p < .10 Model χ^2 = 801.20, df = 14, p < .05		

Table 2-16b presents the results of multivariate models that treated the trial result — conviction or acquittal — as the dependent variable. These models included only cases that ended in a conviction or an acquittal. The table summarizes the results of two models. The first model did not include variables to control for Service branch and included cases from all Service branches. The second model introduced Service branch control variables but excluded Coast Guard cases because their numbers were so small. The reference category for the Service branch variables was the Army: that is, the Air Force, Marine Corps, and Navy were compared to the Army. Estimates were generated by additional models that changed the reference Service branch so that the other branches could be compared. The results were unchanged when Service branch control variables were entered into the model indicating that the relationships are stable and reliable. Few variables exhibited a statistically significant relationship with the likelihood of conviction. It is important to note that the data collection instrument recorded information about the nature of the incident, characteristics of victims and suspects and their behaviors, and aspects of the investigation. The data collection instrument did not record information about legal proceedings after the investigation. Thus, the analysis did not include information about events during the trial.

- The chances of conviction were lower than the chances of acquittal when the victim had attorney representation during the investigation.
- The chances of conviction were lower than the chances of acquittal when at least one of the victim complexity factors was perceived to exist.
- The chances of conviction were greater than the chances of acquittal when the suspect confessed during the investigation.
- The Military Service branch was unrelated to the chances of conviction. In other words, there were no differences between the branches in terms of the chances of conviction.

TABLE 2-16b. LOGISTIC REGRESSION MODELS: ACQUITTAL OR CONVICTION

	Model 1: All Cases, No Service Branch Controls			Model 2: Excluded Coast Guard Cases, Included Service Branch Controls		
	B	**SE**	**Exp(B)**	**B**	**SE**	**Exp(B)**
Victim attorney representation (prior to trial)	-1.01*	.30	.37	-1.03*	.31	.36
At least one victim complexity factor existed	-.68*	.32	.51	-.67*	.33	.51
Suspect confessed	1.86*	.40	6.42	1.89*	.41	6.65
Air Force	-	-	-	-.51	.38	.60
Navy	-	-	-	-.11	.43	.89
Marine Corps	-	-	-	-.18	.51	.84
	*p < .05 Model χ^2 = 45.04, df = 3, p < .05			*p < .05 Model χ^2 = 49.59, df = 6, p < .05		

Table 2-16c presents the results of multivariate models that treated victim participation as the dependent variable. The table summarizes the results of two models. The first model did not include variables to control for Service branch and included cases from all Service branches. The second model introduced Service branch control variables but excluded Coast Guard cases because their numbers were so small. The reference category for the Service branch variables was the Army: that is, the Air Force, Marine Corps, and Navy were compared to the Army. Comparing the results across models 1 and 2 shows the effects of variables are stable and reliable when Service branch is controlled. Estimates were generated by additional models that changed the reference Service branch so that the other branches could be compared.

- The chances of victim participation were greater when:
  - Pretextual communication occurred
  - DNA evidence was tested
  - the victim was an active duty Service member
  - the suspect used alcohol
  - at least one suspect complexity factor was perceived to exist
  - the victim was physically injured
  - there were behavioral health concerns about the suspect
  - the suspect confessed
- The chances of victim participation were lower when a third party or command reported the incident than when the victim or a victim-authorized representative reported the incident.
- The second model revealed significant differences between the Service branches in terms of the chances of victim participation.
  - Victim participation was more likely in the Army as compared to the Air Force and Marine Corps
  - Similarly, victim participation was more likely in the Navy as compared to the Air Force and Marine Corps.

TABLE 2-16c. LOGISTIC REGRESSION: VICTIM PARTICIPATION OR DECLINATION

	Model 1: All Cases, No Service Branch Controls			Model 2: Excluded Coast Guard Cases, Included Service Branch Controls		
	B	**SE**	**Exp(B)**	**B**	**SE**	**Exp(B)**
Pretextual communication	.74[*]	.17	2.10	.78[*]	.18	2.18
DNA evidence tested	.34[*]	.14	1.41	.40[*]	.14	1.49
Victim status − military	.36[*]	.11	1.43	.39[*]	.11	1.48
Suspect used alcohol	.25[*]	.11	1.29	.24[*]	.11	1.27
At least one suspect complexity factor existed	.30[*]	.11	1.35	.32[*]	.11	1.38
Suspect behavioral health concerns existed	.76[*]	.23	2.14	.85[*]	.23	2.34
Suspect confessed	.75[*]	.28	2.11	.68[*]	.29	1.97
Command or third party reported incident	-.30[*]	.11	.74	-.30[*]	.11	.74
Air Force	-	-	-	-.56[*]	.14	.57
Navy	-	-	-	-.14	.14	.87
Marine Corps	-	-	-	-.76[*]	.16	.47
	[*] $p < .05$ Model $\chi^2 = 103.51$, df = 8, $p < .05$			[*] $p < .05$ Model $\chi^2 = 132.10$, df = 11, $p < .05$		

PART 3
Air Force Results

The Air Force case file data were analyzed to understand case characteristics and patterns of relationships between key variables. The analysis examined 403 Air Force cases. The first step in the analysis examined univariate statistics to understand the set of cases. The second step explored bivariate relationships between case and individual characteristics and two key outcome variables: command decision to take action and victim participation in justice proceedings. The final analysis estimated multivariate models for the two dependent variables (command action and victim participation).

UNIVARIATE STATISTICS: AIR FORCE CASE CHARACTERISTICS

Table 3-1 presents information about the commanders' decisions in Air Force cases and justice system outcomes for penetrative sexual assaults. The commander did not take action in 63.5% of cases and preferred 34.7% of cases. Administrative actions occurred in a small percentage of cases (n = 7, 1.7%). Six cases entailed administrative separation and one case entailed a letter of reprimand. Within the investigative case file, commanders did not document a reason for not taking action in 51.3% of the no action cases. The lack of victim participation was a common reason (22.5%) provided by commanders for not taking action in the case, followed by insufficient evidence (11.8%). Of the 140 cases that commanders preferred, over three-quarters (76.6%) were also referred; about a quarter (23.4%) were not referred. Court-martial occurred in 68 of the 107 referred cases (63.6%) and alternative dispositions, such as discharges, occurred in 72 of the 140 preferred cases (51.4%). Court-martial most commonly resulted in acquittal (73.5%), and dismissal was the most common alternative disposition (59.7%).

TABLE 3-1. COMMAND ACTION DECISIONS AND COURT-MARTIAL RESULTS

	N	%
Initial Command Action on Penetrative Sexual Assault		
No Command Action	256	63.5
Preferral	140	34.7
Administrative Action	7	1.7
Reason Provided by Command for No Action[a]		
Lack of Victim Participation	61	22.5
Insufficient Evidence	32	11.8
Unfounded	10	3.7
Prosecution Declined	8	3.0
No Probable Cause	8	3.0
No Reason Provided/Unknown	139	51.3
Other	13	4.8
Case Preferral/Referral (n = 140)		
Preferred Only	33	23.4
Preferred and Referred	107	76.6
Referred Cases with a Finding	68	63.6
Court-Martial Result (n = 68)		

Acquittal	50	73.5
Conviction for at Least One Penetrative Sexual Assault Charge – Court-Martial	11	16.2
Conviction for at Least One Penetrative Sexual Assault Charge – PTA at Court-Martial	7	10.3
Alternative Disposition (n = 72)		
Administrative Separation	3	4.2
Discharge in Lieu of Court-Martial	26	36.1
Dismissal	43	59.7

[a] Two reasons were listed in 15 cases in which the command did not take action; these are included in the counts, resulting in a total count of 271. Percentages were computed using 271.

Table 3-2 summarizes information about the incident location. Slightly more than half of the reported sexual assaults occurred off installation (55.8%), and over three-quarters occurred in the continental United States (77.4%). No Air Force cases occurred in a deployed location (i.e., Iraq or Afghanistan).

TABLE 3-2. INCIDENT LOCATION

	N	%
Installation		
On Installation	178	44.2
Off Installation	225	55.8
Location of Incident		
CONUS	312	77.4
OCONUS	89	22.1
CONUS and OCONUS	2	0.5
Vessel	0	0
Vessel and CONUS	0	0
Vessel and OCONUS	0	0
Deployment		
Deployed Location (Iraq or Afghanistan only)	0	0
Non-Deployed Location	403	100

Table 3-3 summarizes information about the time between key events in the cases, including the times between the offense, the report to authorities, MCIO final report, and the command decision in preferred cases. The data collection form captured information about the dates of these key events, and the number of days between them was computed. In some cases, there were multiple dates listed for the date the incident occurred and a date range was captured on the data collection form. In these situations, the latest (most recent) incident date was used to compute the days between the incident and key events (i.e., date of report and decision dates). When one of the dates used in the calculations was missing, computations were not possible; these cases are therefore categorized as "unknown." In addition, when the date of one event should have logically occurred after the date of another event but the dates show the reverse (e.g., the date of the commander's decision occurred *before* the date the incident was reported or the date the MCIO closed the case occurred *before* the date the incident was reported to authorities), these cases are categorized as "unknown." This latter categorization rule was also used when a range of dates was provided for the date of the incident and the most recent incident date occurred *after* the date the incident was reported (i.e., these cases are categorized as

"unknown"). The number of days to the command decision when the commander decided to take no action in the case is not computed because 17.6% of these cases (n = 45) were missing data on the date of the commander's decision.

Nearly one-third (29.5%) of cases were reported within 7 days of the incident, including 23.3% of cases that were reported within 3 days of the incident. In addition, 40.7% of the Air Force cases were reported within 30 days of the incident. The median number of days between the report and the incident was 62, indicating that half of the Air Force cases were reported within 62 days and half of the cases were reported to authorities after 62 days.

A relatively small percentage of cases (11.1%) received a final MCIO report within 60 days of the report to authorities; 52.6% of cases received a final MCIO report within 4 months of the date the incident was reported to authorities. The median number of days between the report to authorities and the MCIO final report was 114 days; half of the cases received a final MCIO report in fewer than 114 days after the date of the report to authorities.

There was insufficient information available to calculate the number of days between the decision to prefer the case and the MCIO final report in 22.1% of the cases. Over one-third of the preferred cases (39.3%) were preferred within 3 months of the MCIO final report. The median number of days between the MCIO final report and the decision to prefer the case was 90 days.

Among the set of no action cases, 52.3% of cases were closed by the MCIO more than one year after the incident was reported to authorities. A relatively low percentage of no action cases (11.8%) were closed by the MCIO within six months of the report to authorities. The median number of days between the report to authorities and the MCIO case closure date was 380 days; half of the no action cases were closed by the MCIO report in more than 380 days after the date the offense was reported to authorities.

Finally, Table 3-3 shows that, among preferred cases, 16.5% were preferred within 4 months of the date on which the incident was reported to authorities and 42.9% were preferred within 6 months. The median number of days between the decision to prefer and the date on which the incident was reported to authorities was 194.

TABLE 3-3. TIME BETWEEN KEY ACTIONS IN THE CASE

	N	%
Number of Days Between Offense and Report to Authorities		
0 (same day)	32	7.9
1 – 3	62	15.4
4 – 7	25	6.2
8 – 14	23	5.7
15 – 30	22	5.5
31 – 60	30	7.4
61 – 90	22	5.5
91 – 120	15	3.7
121 – 150	14	3.5
151 – 180	11	2.7
181 – 210	22	5.5

211 – 240	11	2.7
241 – 270	4	1.0
271 – 365	18	4.5
366 +	78	19.4
Unknown	14	3.5
Median number of days = 62		
Number of Days Between Report to Authorities and MCIO Final Report		
1 – 3	5	1.2
4 – 7	2	0.5
8 – 14	1	0.3
15 – 30	5	1.2
31 – 60	32	7.9
61 – 90	109	27.1
91 – 120	58	14.4
121 – 150	59	14.6
151 – 180	29	7.2
181 – 210	20	5.0
211 – 240	19	4.7
241 – 270	8	2.0
271 – 365	14	3.5
366 +	36	8.9
Unknown	6	1.5
Median number of days = 114		
Number of Days Between MCIO Final Report and Command Decision in Preferred Cases (n = 140)		
1 – 3	0	0
4 – 7	2	1.4
8 – 14	5	3.6
15 – 30	15	10.7
31 – 60	13	9.3
61 – 90	20	14.3
91 – 120	17	12.1
121 – 150	10	9.2
151 – 180	7	7.1
181 – 210	5	3.6
211 – 240	4	2.9
241 – 270	4	2.9
271 – 365	0	0
366 +	7	5.0
Unknown	31	22.1
Median number of days = 90		
Number of Days Between Report to Authorities and MCIO Closure of the Case in No Action Cases (n = 256)		
0 – 60	0	0
61 – 120	4	1.6
121 – 180	26	10.2

	N	%
181 – 240	26	10.2
241 – 300	38	14.8
301 – 360	28	10.9
361 +	134	52.3
Median number of days = 380		
Number of Days Between Report to Authorities and Command Decision in Preferred Cases (n = 140)		
0 – 60	4	2.9
61 – 120	19	13.6
121 – 180	37	26.4
181 – 240	29	20.7
241 – 300	18	12.9
301 – 360	12	8.6
361 +	21	15.0
Median number of days = 194		

Suspect characteristics are summarized in Table 3-4. A large majority of cases involved suspects who were enlisted (91.8%) and with a pay grade of E-5 or lower (82.4%). Nearly one-third of suspects (31.3%) were E-4 personnel. One in five officer suspects was a cadet or midshipman. Nearly all suspects were male (97.3%), and 70.7% of suspects were White. Slightly less than 20% of suspects were African American. The White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African. The average age of suspects was 25.5 years.

TABLE 3-4. SUSPECT CHARACTERISTICS

	N	%
Suspect Grade at Time of Incident		
Enlisted	370	91.8
Officer	30	7.4
Unknown	3	0.7
Suspect Pay Grade at Time of Incident		
Enlisted (n = 370)		
E-1	9	2.4
E-2	11	3.0
E-3	91	24.6
E-4	116	31.3
E-5	78	21.1
E-6	42	11.4
E-7	17	4.6
E-8	2	0.5
Unknown	4	1.1
Officer (n = 30)		
Cadet/Midshipman	6	20.0
O-1	1	3.3
O-2	5	16.7
O-3	4	13.3
O-4	6	20.0
O-5	6	20.0

	N	%
O-6	2	6.7
Suspect Gender		
Male	392	97.3
Female	11	2.7
Suspect Age	Mean = 25.5; SD = 5.7; Range = 18 – 54	
Suspect Race[a]		
White[b]	285	70.7
Black or African American	77	19.1
Asian	9	2.2
Native Hawaiian or Other Pacific Islander	7	1.7
American Indian or Alaska Native	1	0.2
Other Race, Ethnicity, or Origin	1	0.2
Unknown	23	5.7

[a] AFOSI uses the Investigative Information Management System (I2MS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed did not report race or ethnicity in the title section of the investigation. Reviewers recorded race and ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

Table 3-5 presents information about suspects' drug and alcohol use during the time of the incident and about other suspect characteristics related to the investigation. Drug use during the incident was rare, but suspect alcohol use was common (54.1% of incidents). It was not common for a suspect to have any behavioral health concerns listed in the case files (11.7%). The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). At least one of six suspect complexity factors existed in over half of the cases (59.1%). The most common suspect complexity factors were collateral misconduct at the time of the incident (29.3%) and other forms of misconduct (30.3%). Suspects' inconsistent statements, contradictory evidence, and loss of consciousness were not common.

TABLE 3-5. SUSPECT FACTORS

	N	%
Suspect Alcohol Use		
Yes	218	54.1
No	185	45.9
Suspect Drug Use		
Yes	5	1.2
No	398	98.8
Suspect Behavioral Health Concerns Before or After Incident		
Yes	47	11.7
No	354	87.8
Unknown	2	0.5
Suspect Complexity Factors[a]		
Collateral Misconduct	118	29.3
Other Misconduct	122	30.3

	N	%
Loss of Memory or Consciousness	22	5.5
413 and 404(b) Evidence	83	20.6
Inconsistent Statements	30	7.4
Contradictory Evidence	7	1.7
At Least One of the Six Factors Exists in the Case	238	59.1

[a] These categories were not mutually exclusive; multiple factors could have been present for a single suspect. Percentages were calculated based on the full set of 403 cases and do not sum to 100%.

Table 3-6 summarizes information about suspects' statements and legal representation. Suspects offered statements to law enforcement in fewer than half of cases (48.6%), and suspects rarely had legal representation (8.7%) at the time of the interview. The data collection instrument recorded information from the case file about the content of suspect statements to law enforcement and third parties. The most common suspect statement was to indicate that the sexual contact was consensual (64.2%), followed by denying that the event was a crime or denying the sexual contact (18.8%). Suspects confessed in 10 cases.

TABLE 3-6. SUSPECT STATEMENTS AND REPRESENTATION

	N	%
Suspect Provided Statement to Law Enforcement		
Yes	196	48.6
No	207	51.4
Suspect Had Legal Representation		
Yes	35	8.7
No	367	91.1
Unknown	1	0.2
Suspect Statement to Third Parties or Law Enforcement [a]		
Confessed	10	3.5
Consensual	185	64.2
Denied Crime/Sexual Activity	54	18.8
No Recollection/Partial Memory	19	6.6
Other	20	6.9

[a] Reports included information with multiple suspect statements in 15 cases. A hierarchy rule was used to code cases with multiple statements: Cases were coded as "confessed" if the suspect confessed and offered any other statement. The next code in the hierarchy was "consensual" and was used when the suspect reported that the sexual activity was consensual (but did not confess). The third category in the hierarchy was "denied crime or denied penetrative sexual activity" and was used when the suspect offered multiple statements but not "confessed" and not "consensual." The "no recollection/partial memory" category was used when only this statement was made. The last category was "other" and was used when the provided statement did not clearly fit into any of the previous categories. Information about suspects' statements was available for 288 cases.

Tables 3-7 and 3-8 present information about victims. Approximately half of the cases involved victims who were enlisted, while it was rare for a victim to be an officer (3.5% of all victims). Civilians represented 41.4% of all victims and military personnel represented 57.6% of victims. Among the enlisted victims, most were E-3 or lower (57.8%). The large majority of victims were female (94.8%) and the average victim age was 23.8. In a pattern similar to that seen among suspects, White victims comprised 71.2% of the sample; African Americans represented 11.2% of victims. Again, it is important to note that the White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African.

Table 3-7 also summarizes the relationships between victims and suspects. Stranger cases were rare (4.5%) and friend relationships were most common (27.0%), followed by current or former spouses (23.3%) and intimate or former intimate partners (12.9%). Recruit (victim) – recruiter (suspect) and supervisor (suspect) – subordinate (victim) relationships were not common among Air Force cases (3.5%). Finally, Table 3-7 shows which individuals reported the incident: a victim-authorized representative (30.3%), the victim (28.3%), command (21.3%), or a third party (19.6%).

TABLE 3-7. VICTIM CHARACTERISTICS

	N	%
Victim Status at Time of Incident		
Enlisted	218	54.1
Officer	14	3.5
Civilian – Not DoD Spouse	76	18.9
Civilian – DoD Spouse	91	22.2
Suspect Is Spouse/Former Spouse	77	84.6
Suspect Is Not Spouse[a]	14	15.4
Unknown Grade	4	1.0
Victim Pay Grade at Time of Incident		
Enlisted (n = 218)		
E-1	7	3.2
E-2	21	9.6
E-3	98	45.0
E-4	48	22.0
E-5	22	10.1
E-6	10	4.6
E-7	5	2.3
E-8	1	0.5
Unknown	6	2.8
Officer (n = 14)		
Cadet/Midshipman	6	42.9
O-2	5	35.7
O-3	3	21.4
Victim Gender		
Male	21	5.2
Female	382	94.8
Victim Age	Mean = 23.8; SD = 5.6; Range = 16 − 48	
Victim Race[b]		
White[c]	287	71.2
Black or African American	45	11.2
Asian	12	3.0
Native Hawaiian or Other Pacific Islander	3	0.7
American Indian or Alaska Native	1	0.2
Other Race, Ethnicity, or Origin	3	0.7
Unknown	52	12.9
Relationship to Suspect[d]		

	Current or Former Spouse	94	23.3
	Intimate Partner/Former Intimate Partner	52	12.9
	Friend	109	27.0
	Co-worker/Classmate/Roommate	44	10.9
	Subordinate – Supervisor	14	3.5
	Acquaintance	46	11.4
	Online/Met for the First Time	12	3.0
	Stranger	18	4.5
	Recruit – Recruiter	0	0
	Other	4	1.0
	Unknown/Unable to Determine	10	2.5
Reporting Individual			
	Victim	114	28.3
	Victim-Authorized Representative	122	30.3
	Command	86	21.3
	Third Party	79	19.6
	Unknown	2	0.5

[a] This category includes all other types of relationships, including those with missing data and those in which the nature of the relationship could not be determined.

[b] AFOSI uses the Investigative Information Management System (I2MS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed did not report race or ethnicity in the title section of the investigation. Reviewers recorded race and ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.

[c] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

[d] The data analyzed here were based on the victim's reported relationship to the suspect. See Appendix for more details about this variable.

Table 3-8 presents information about victims' drug and alcohol use and level of impairment during the time of the incident, in addition to other victim characteristics related to the investigation. As was seen in suspect variables, victim drug use was substantially less common than victim alcohol use (8.2% compared to 57.8%). Nearly half of all victims reported some level of impairment during the offense (48.6%). Victims most often reported passing out, being unconscious, or being asleep (53.6%), followed by reporting some memory loss and/or blacking out (40.3%). Nearly one-quarter of victims (22.8%) had some history of a behavioral health concern listed in the case files. The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). The data collection instrument also recorded information about victim's statements or behaviors that may have been relevant during the investigation, and data show 45.4% had a motive to lie, 36.7% of victims provided inconsistent statements, 31.8% experienced some memory loss or were unconscious, and there was evidence of collateral victim misconduct in 24.1% of cases.

TABLE 3-8. VICTIM FACTORS

	N	%
Victim Alcohol Use		
Yes	233	57.8
No	170	42.2
Victim Drug Use		

	N	%
Yes	33	8.2
No	370	91.8
Victim Reported Being Impaired		
Yes	196	48.6
No	207	51.4
Nature of Victim Impairment[a]		
Passed Out/Unconscious/Asleep	105	53.6
Blacked Out/No Memory/Partial Memory	79	40.3
Unknown	12	6.1
Victim Behavioral Health Concerns Before or After Incident		
Yes	92	22.8
No	309	76.7
Unknown	2	0.5
Victim Complexity Factors[b]		
Collateral Misconduct	97	24.1
Other Misconduct	77	19.1
Loss of Memory or Consciousness	128	31.8
Inconsistent Statements	148	36.7
Motive to Lie	183	45.4
Contradictory Evidence	69	17.1
At Least One of the Six Factors Exists in the Case	335	83.1

[a] Victims were impaired in 196 cases, including 12 cases in which the nature of impairment was not clear (e.g., "drugged"). Multiple reasons were provided for the nature of impairment in 75 cases. To simplify the analyses of impairment reasons, a single variable was created to measure the reason for impairment. The categories for this variable are mutually exclusive. The "passed out/unconscious/asleep" category is considered to be the greatest level of impairment, followed by "blacked out/no memory/partial memory." If the case indicated "passed out" or "unconscious" AND "blacked out" or "partial memory," then the case was coded as "passed out/unconscious/asleep." If the case indicated "blacked out," "partial memory," or "no memory" AND "asleep," then the case was coded as "passed out/unconscious/asleep."

[b] These categories were not mutually exclusive; multiple factors could have been present for a single victim. Percentages were calculated based on the full set of 403 cases and do not sum to 100%.

Table 3-9 presents information about victim injuries and suspects' use of force and threats. A suspect used or threatened to use force in 17.6% of cases; use of weapons was rare, occurring in only one case. Victims sustained injuries in 11.1% of cases. Redness and bruising were the most common victim injuries, but were still relatively rare. It was not common for there to be witnesses in the case (see item 57 on data collection form). Investigators collected pretextual communication evidence in 18.1% of cases and the most common result of the pretextual communication was to support neither the victim's nor the suspect's account (77.8%).

TABLE 3-9. VICTIM INJURIES AND EVIDENCE

	N	%
Use/Threat of Force		
Yes	71	17.6
No	332	82.4
Type of Force/Threat[a]		
Physical	66	16.4
Weapon	1	0.2
Coercion	8	2.0
Threat/Threat to Others	11	2.7

Physical Injuries to Victim[b]		
Yes	45	11.1
No	358	88.8
Injuries[c]		
Redness	22	5.5
Bruising	22	5.5
Cuts	5	1.2
Scrapes	5	1.2
Witness to the Incident		
Yes	42	10.4
No	361	89.6
Pretextual Communication		
Yes	72	18.1
Supports Victim Account	7	9.7
Supports Suspect Account	9	12.5
Supports Neither	56	77.8
No	331	82.1

[a] Categories were not mutually exclusive; cases could involve multiple types of force and threats.
[b] Victim injury was based on self-reported or recorded information in the case files and in SAFE reports
[c] Categories were not mutually exclusive; cases could involve multiple types of injuries.

Table 3-10 presents information about forensic evidence in Air Force cases. A sexual assault forensic examination (SAFE) was performed on victims in less than one-quarter of the cases (23.6%). When a SAFE was performed, over half (60.0%) occurred within one day of the incident. Civilian medical facilities performed more SAFEs (72.6%) than did military facilities (27.4%). Military forensic medical examiners performed the majority of the 26 exams at military health care facilities (76.9%). The measure of DNA testing indicates whether *any* DNA evidence from the case was tested. DNA evidence was tested in 23.6% of cases.

TABLE 3-10. FORENSIC EVIDENCE

	N	%
SAFE Performed on Victim		
Yes	95	23.6
No	308	76.4
Days Between Offense and Victim SAFE (n = 95)		
0 (same day)	30	31.6
1	27	28.4
2	13	13.7
3	6	6.3
4	5	5.3
5	2	2.1
6	0	0
7	1	1.1
8 - 14	1	1.1
15 +	4	4.2
Unknown	6	6.3
Victim SAFE Location (n = 95)		
Civilian Health Care Facility	69	72.6
Military Health Care Facility	26	27.4

Victim SAFE Provider Type (n = 95)		
Civilian Provider	69	72.6
Military Examiner	20	21.1
DoD Civilian	6	6.3
DNA Evidence Tested[a]		
Yes	95	23.6
No/Unknown	308	76.4

[a] The DNA testing variable measured *any* DNA evidence testing in the case, not only sexual assault kit evidence collected from the victim.

Victim participation is summarized in Table 3-11. Victims participated in 62.5% of Air Force cases and declined in 37.5% of cases. Among the victims who declined, a large majority (85.4%) declined early in justice system processing (during investigation and reporting). Victims provided their input to commanders in 19.1% of cases. Victims offered different input, including 20.8% who requested administrative separation, 16.9% who supported discharge in lieu of court-martial, 15.6% who requested court-martial, and 14.3% who requested no command action. Victims were represented by attorneys during the investigation in over half of the cases (58.8%) and victims provided statements to law enforcement in nearly all cases (94.8%).

TABLE 3-11. VICTIM PARTICIPATION

	N	%
Victim Declination Recorded in File		
Victim Participated	252	62.5
Victim Declined	151	37.5
Declination Stage		
Investigation	106	70.2
Reporting	23	15.2
Court-Martial	18	11.9
Preliminary Hearing	4	2.7
Victim Input to Command or SJA		
No	326	80.9
Yes	77	19.1
Input Provided to Command (n = 77)		
Pursue Administrative Separation	16	20.8
Supports DILCOM	13	16.9
Pursue Court-Martial	12	15.6
Take No Action	11	14.3
Nonjudicial Punishment/Administrative Actions	8	10.4
Other	17	22.1
Victim Attorney Representation (prior to trial)		
Yes	237	58.8
No	166	41.2
Victim Provided Statement to Law Enforcement		
Yes	382	94.8
No	21	5.2

A judge advocate made a probable cause determination in over half of all cases (58.3%) and probable cause was determined to exist in 154 cases, representing 38.2% of all cases and 65.5%

of cases in which a determination was made (Table 3-12). Judge advocates made probable cause determinations for purposes of indexing with the FBI's NCIC criminal history database.

TABLE 3-12. PROBABLE CAUSE DETERMINATION BY A JUDGE ADVOCATE

	N	%
Probable Cause Determination Made		
Yes	235	58.3
No	168	41.7
Probable Cause Determination Result (n = 235)		
Yes, Probable Cause Exists	154	65.5
Probable Cause Does Not Exist	80	34.0
Unknown	1	0.4

BIVARIATE RELATIONSHIPS

The second stage of the analysis estimated relationships between case characteristics and two important outcome variables: (1) the commander's decision to prefer or to not take action and (2) the victim's decision to participate or to decline. Because of the small number of convictions (n = 18), it was not possible to compare no action cases to cases that ended in a conviction or to compare acquittals to convictions. A DoD-wide analysis that combines all Service branches will examine differences between cases that end in acquittal and cases that end in a conviction. Cases that ended in some administrative action (n = 7) were excluded from the analysis that examined preferral and no action outcomes.

COMMAND ACTION DEPENDENT VARIABLE: NO ACTION COMPARED TO PREFERRAL

The patterns in Table 3-13a show there was no relationship between the preferral decision and the incident location, the identity of the individual who reported the incident to authorities, and whether the report was made promptly (i.e., within one week). The median number of days between the incident and the report to authorities was shorter in preferred cases (54.5 days) than in no action cases (70.5 days). In addition, cases in which probable cause was determined to exist were most likely to be preferred.

TABLE 3-13a. COMMAND ACTION DECISION: INCIDENT LOCATION AND REPORTING INFORMATION

	No Command Action (n = 256)		Preferral (n = 140)	
	N	%	N	%
Incident Location (NS)				
On Installation	114	64.8	62	35.2
Off Installation	142	64.5	78	35.5
Reporting Individual (NS)				
Victim	72	64.3	40	35.7
Victim-Authorized Representative	74	61.7	46	38.3
Command	49	58.3	35	41.7
Third Party	60	76.9	18	23.1

Prompt Report (within 7 days) (NS)				
Yes	68	59.6	46	40.4
No	178	66.4	90	33.6
Number of Days Between Incident and Report to Authorities	Median = 70.5		Median = 54.5	
Probable Cause[a] ($\chi^2 = 66.06$, p < .05)				
No Determination Made	115	68.9	52	31.1
Probable Cause Existed	64	43.2	84	56.8
Probable Cause Did Not Exist	77	96.3	3	3.8

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Several evidentiary variables are related to preferral outcomes (Table 3-13b). Cases were more likely to be preferred when pretextual communication occurred (47.9%) than when no pretextual communication occurred (32.6%). When victims were injured and when suspects used or threatened to use force, the chances of case preferral were greater than when victims were not injured and when suspects did not use or threaten to use force. Victim participation, compared to declination, also increased the likelihood that the case would be preferred. Nearly half of the cases with a participating victim (47.2%) were preferred, compared to 15.1% of cases in which the victim declined. Finally, the performance of a SAFE exam, DNA testing, and victim attorney representation during the investigation were all associated with increased chances the case would be preferred.

TABLE 3-13b. COMMAND ACTION DECISION: EVIDENCE

	No Command Action (n = 256)		Preferral (n = 140)	
Witness to the Incident (NS)				
Yes	24	57.1	18	42.9
No	232	65.5	122	34.5
Pretextual Communication Occurred ($\chi^2 = 5.95$, p < .05)				
Yes	37	52.1	34	47.9
No	219	67.4	106	32.6
Pretextual Communication Result (NS)				
Supports Victim Account	1	14.3	6	85.6
Supports Suspect Account	6	66.7	3	33.3
Supports Neither Account	30	54.5	25	45.5
Victim Physical Injuries ($\chi^2 = 9.98$, p < .05)				
Yes	19	43.2	25	56.8
No	237	67.3	115	32.7
Threat or Use of Force ($\chi^2 = 22.60$, p < .05)				
Yes	28	40.0	42	60.0
No	228	69.9	98	30.1
Victim Participation ($\chi^2 = 41.64$, p < .05)				
Yes	132	52.8	118	47.2
Declined[a]	124	84.9	22	15.1
Sexual Assault Exam Performed on Victim ($\chi^2 = 15.98$, p < .05)				
Yes	44	47.3	49	52.7

No	212	70.0	91	30.0
DNA Evidence Tested ($\chi^2 = 19.66$, p < .05)				
Yes	43	45.7	51	54.3
No	213	70.8	88	29.2
Victim Attorney Representation (prior to trial) ($\chi^2 = 16.98$, p < .05)				
Yes	132	56.4	102	43.6
No	124	76.5	38	23.5

[a] Victim declinations could have occurred before or after preferral. Table 3-11 shows that over 85% of all victims declined at the reporting or investigation stage.

Victim characteristics such as gender, race, and age, were not related to the preferral decision (Table 3-13c). The relationship between victim grade and the command decision approached, but did not reach, statistical significance (p = .06). Stranger cases (64.7%) and those involving the victim as a subordinate and the suspect as the supervisor (57.1%) were most likely to be preferred; cases involving acquaintances were least likely to be preferred (26.7%). Because the number of cases with officer victims was small, the statistical test of significance may not be reliable.

TABLE 3-13c. COMMAND ACTION DECISION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	No Command Action (n = 256)		Preferral (n = 140)	
Victim Gender (NS)				
Female	243	64.6	133	35.4
Male	13	65.0	7	35.0
Victim Race[a] (NS)				
White[b]	181	64.2	101	35.8
Non-White	39	61.9	24	38.1
Victim Status at Time of Incident (NS)				
Military	144	62.3	87	37.7
Civilian – Not DoD Spouse	48	64.9	26	35.1
Civilian – DoD Spouse	64	70.3	27	29.7
Suspect Is Spouse/Former Spouse (NS)	52	67.5	25	32.5
Suspect Is Not Spouse	12	85.7	2	14.3
Victim Grade at Time of Incident ($\chi^2 = 3.65$, p = .06)				
Enlisted	128	60.1	85	39.9
Officer	12	85.7	2	14.3
Relationship Between Victim and Suspect[c] (12.61, p ≤ .05)				
Supervisor – Subordinate	6	42.9	8	57.1
Spouse/Former Spouse	61	65.6	32	34.4
Intimate Partner/Former Intimate Partner	29	56.9	22	43.1
Friend	73	68.2	34	31.8
Co-worker/Classmate/Roommate	29	65.9	15	34.1
Acquaintance	33	73.3	12	26.7
Stranger	6	35.3	11	64.7
Victim Age (NS)	(Mean = 23.9, SD = 5.9)		(Mean = 23.6, SD = 5.0)	

Victim factors, in general, were not related to the preferral decision (Table 3-13d). Victim impairment was related to the preferral decision, but the interpretation is not straightforward. Cases with a victim who passed out, was unconscious, or was asleep were more likely to be preferred than cases with a victim who was not impaired or was blacked out or experienced some memory loss. When all the categories of impairment were combined, there was a relationship between victim impairment and the commander's decision: there was a greater chance of preferral when the victim was impaired (42.8%) than when the victim was not impaired (28.4%). The relationship between victim memory loss and the command decision approached statistical significance (p = .06). Cases were more likely to be preferred when victims suffered from memory loss (41.9%) than when they did not suffer from some memory loss (32.4%).

TABLE 3-13d. COMMAND ACTION DECISION: VICTIM FACTORS

	No Command Action (n = 256)		Preferral (n = 140)	
Victim Impairment (χ^2 = 21.46, p < .05)				
Not Impaired	146	71.6	58	28.4
Passed out/unconscious/asleep	47	46.1	55	53.9
Blacked out/memory loss	56	71.8	22	28.2
Victim Alcohol Use (NS)				
Yes	145	63.3	84	36.7
No	111	66.5	56	33.5
Victim Drug Use (NS)				
Yes	18	54.5	15	45.5
No	238	65.6	125	34.4
Victim Lack of Memory (χ^2 = 3.42, p = .06)				
Yes	72	58.1	52	41.9
No	184	67.6	88	32.4
Victim Motive to Lie (NS)				
Yes	119	66.1	61	33.9
No	137	63.4	79	36.6
Victim Inconsistent Statements (NS)				
Yes	98	67.6	47	32.4
No	158	62.9	93	37.1
Victim Contradictory Evidence (NS)				
Yes	45	65.2	24	34.8
No	211	64.5	116	35.5
Victim Collateral Misconduct (NS)				
Yes	65	68.4	30	31.6
No	191	63.5	110	36.5
Victim Other Misconduct (NS)				
Yes	54	72.0	21	28.0

	No	202	62.9	119	37.1
Victim Behavioral Health Concerns Before or After Incident (NS)					
	Yes	64	71.1	26	28.9
	No	190	62.5	114	37.5
Victim Consensual Sexual Contact with Suspect (NS)					
	Yes – prior to incident	118	64.1	66	35.9
	Yes – following incident	4	80.0	1	20.0
	Yes – prior to and following incident	27	57.4	20	42.6
	No	107	66.9	53	33.1

Unlike victim characteristics, several suspect characteristics were related to the preferral decision (Table 3-13e). Similar to the pattern among victims, preferral was more likely when the suspect was enlisted at the time of the offense (37.2%) than when the suspect was an officer at the time of the offense (16.7%). Cases were more likely to be preferred when the suspect used alcohol (40.2%) than when the suspect did not use alcohol (29.7%). Several suspect complexity factors were associated with an increased chance that the case was preferred: suspect memory loss, suspect's inconsistent statements and contradictory evidence, suspect collateral misconduct, the existence of suspect behavioral health concerns, and evidence of other sex offenses and/or related misconduct[4] in the file. Suspects confessed in 10 cases, and all of those cases were preferred.

TABLE 3-13e. COMMAND ACTION DECISION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	No Command Action (n = 256)		Preferred (n = 140)	
Suspect Race[a] (NS)				
White[b]	179	63.5	103	36.5
Non-White	62	67.4	30	32.6
Suspect Grade at Time of Incident ($\chi^2 = 5.09$; $p < .05$)				
Officer	25	83.3	5	16.7
Enlisted	228	62.8	135	37.2
Suspect Alcohol Use ($\chi^2 = 4.76$; $p < .05$)				
Yes	128	59.8	86	40.2
No	128	70.3	54	29.7
Suspect Drug Use (NS)				
Yes	3	75.0	1	25.0
No	253	64.5	139	35.5
Suspect Lack of Memory ($\chi^2 = 16.18$, $p < .05$)				
Yes	5	23.8	16	76.2
No	251	66.9	124	33.1

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[4] Military Rules of Evidence (MRE) 413 and 404(b), respectively, cover the admissibility of other sex offenses and related misconduct. MRE 413 is similar to its Federal Rule counterpart. Its purpose is to provide for the liberal admissibility of character evidence when the accused has committed a prior sexual assault offense. MRE 404(b) permits the admissibility of certain evidence of other crimes, wrongs, or acts committed by the accused for the purpose of proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Suspect Inconsistent Statements ($\chi^2 = 13.93$, p < .05)				
Yes	10	33.3	20	66.7
No	246	67.2	120	32.8
Suspect Contradictory Evidence ($\chi^2 = 11.14$, p < .05)				
Yes	0	0	6	100
No	256	65.6	134	34.4
Suspect Collateral Misconduct ($\chi^2 = 7.67$, p < .05)				
Yes	63	54.3	53	45.7
No	193	68.9	87	31.1
Suspect Other Misconduct ($\chi^2 = 3.52$, p = .06)				
Yes	70	57.9	51	42.1
No	186	67.6	89	32.4
Suspect 413 and 404(b) Evidence ($\chi^2 = 24.32$, p < .05)				
Yes	34	41.5	48	58.5
No	222	70.7	92	29.3
Suspect Behavioral Health Concerns Before or After Incident ($\chi^2 = 7.26$, p < .05)				
Yes	22	44.8	25	53.2
No	232	66.9	115	33.1
Suspect Statement ($\chi^2 = 32.00$, p < .05)				
Confessed	0	0	10	100
Consensual	130	71.0	53	29.0
Denied Crime/Sexual Activity	32	60.4	21	39.6
No Recollection/Partial Memory	6	31.6	13	68.4
Other	9	47.4	10	52.6

[a] AFOSI uses the Investigative Information Management System (I2MS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed did not report race or ethnicity in the title section of the investigation. Reviewers recorded race and ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

VICTIM PARTICIPATION DEPENDENT VARIABLE: VICTIM PARTICIPATED – VICTIM DECLINED

Table 3-14a shows that victim participation was similar when the incident occurred on installation (60.1%) and off installation (64.4%). Similarly, victim participation was not related to the identity of the person who reported the incident to authorities. The median number of days between the incident and the report to authorities was similar among cases with a participating victim (62) and cases in which the victim declined to participate (59). Victim participation was associated with judge advocates' probable cause determination: participation was more likely in cases in which a probable cause determination was made and when probable cause was determined to exist than when probable cause did not exist.

TABLE 3-14a. VICTIM PARTICIPATION OR DECLINATION: INCIDENT LOCATION AND REPORTING INFORMATION

	Victim Declined (n = 151)		Victim Participated (n = 252)	
	N	%	N	%
Incident Location (NS)				
On Installation	71	39.9	107	60.1
Off Installation	80	35.6	145	64.4
Reporting Individual (NS)				
Victim	41	36.0	73	64.0
Victim-Authorized Representative	44	36.1	78	63.9
Command	27	31.4	59	68.6
Third Party	37	46.8	42	53.2
Prompt Report (within 7 days) (NS)				
Yes	45	37.8	74	62.2
No	98	36.3	172	63.7
Number of Days Between Incident and Report to Authorities	Median = 59		Median = 62	
Probable Cause[a] ($\chi^2 = 9.57$, p < .05)				
No Determination Made	58	34.5	110	65.5
Probable Cause Existed	51	33.1	103	66.9
Probable Cause Did Not Exist	42	52.5	38	47.5

    [a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Table 3-14b presents patterns of relationships between evidentiary variables and victim participation. Victim participation is related to pretextual communication: victim participation rates were higher in cases with pretextual communication (81.9%) than in cases when pretextual communication did not occur (58.3%). Victim participation was also greater in cases when any DNA evidence in the case was tested (73.7%) than when DNA evidence was not tested (59.3%). Victim participation was unrelated to the presence of witnesses, the results of pretextual communication, and whether the victim was represented by an attorney during the investigation. The tests of statistical significance show victim injuries, suspect's use or threat of force, and the performance of a victim SAFE were not associated with victim participation, but the patterns of relationships suggest that victim participation rates were greater in cases when the victim was injured than in cases when the victim was not injured, greater in cases when the suspect used or threatened force, and greater in cases when the victim received a SAFE.

TABLE 3-14b. VICTIM PARTICIPATION OR DECLINATION: EVIDENCE

	Victim Declined (n = 151)		Victim Participated (n = 252)	
Witness to the Incident (NS)				
Yes	14	33.3	28	66.7
No	137	38.1	224	62.0
Pretextual Communication Occurred ($\chi^2 = 14.10$, p < .05)				
Yes	13	18.1	59	81.9
No	138	41.7	193	58.3
Pretextual Communication Result (NS)				

Supports Victim Account	1	14.3	6	85.7
Supports Suspect Account	0	0	9	100
Supports Neither Account	12	21.4	44	78.6
Victim Physical Injuries (NS)				
Yes	13	28.9	32	71.1
No	138	38.5	220	61.5
Threat or Use of Force (NS)				
Yes	21	29.6	50	70.4
No	130	39.2	202	60.8
Sexual Assault Exam Performed on Victim (NS)				
Yes	28	29.5	67	70.5
No	123	39.9	185	60.1
DNA Evidence Tested ($\chi^2 = 6.43$, $p < .05$)				
Yes	25	26.3	70	73.7
No	125	40.7	182	59.3
Victim Attorney Representation (prior to trial) (NS)				
Yes	90	38.0	147	62.0
No	61	36.7	105	63.3

Table 3-14c presents patterns of relationships between victim participation and victims' demographic characteristics. The patterns of relationships in Table 3-14c were not statistically significant, suggesting that rates of victim participation were similar across victim gender, race, military status and grade, age, and relationships between victims and suspects.

TABLE 3-14c. VICTIM PARTICIPATION OR DECLINATION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	Victim Declined (n = 151)		Victim Participated (n = 252)	
Victim Gender (NS)				
Female	140	36.6	242	63.4
Males	11	52.4	10	47.6
Victim Race[a] (NS)				
White[b]	105	36.6	182	63.4
Non-White	24	37.5	40	62.5
Victim Status at Time of Incident (NS)				
Military	86	36.4	150	63.6
Civilian – Not DoD Spouse	28	36.8	48	63.2
Civilian – DoD Spouse	37	40.7	54	59.3
Suspect Is Spouse/Former Spouse (NS)	31	40.3	46	59.7
Suspect Is Not Spouse	6	42.9	8	57.1
Victim Grade at Time of Incident (NS)				
Enlisted	79	36.2	139	63.8
Officer	5	35.7	9	64.3
Relationship Between Victim and Suspect[c] (NS)				
Supervisor – Subordinate	4	28.6	10	71.4

Spouse/Former Spouse	36	38.3	58	61.7
Intimate Partner/Former Intimate Partner	18	34.6	34	65.4
Friend	38	34.9	71	65.1
Co-worker/Classmate/Roommate	12	27.3	32	72.7
Acquaintance	18	39.1	28	60.9
Stranger	9	50.0	9	50.0
Victim Age (NS)	(Mean = 23.1, SD = 5.3)		(Mean = 24.2, SD = 5.7)	

[a] AFOSI uses the Investigative Information Management System (I2MS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed did not report race or ethnicity in the title section of the investigation. Reviewers recorded race and ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.

[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

[c] The "other relationship," "online/met for the first time," and "recruiter − recruit" categories were excluded because of their small numbers; the "unknown/unable to determine" category was also excluded from this analysis.

Victim participation is related to four indicators of victim behavior during the incident and to the ability to recall information (Table 3-14d). Rates of victim participation were greater when the victim used alcohol during the incident (68.2%) than when the victim did not use alcohol (54.7%) and when the victim used drugs during the incident (78.8%) than when the victim did not use drugs (61.1%). Similarly, victim participation rates were greater when the victim was impaired (passed out/unconscious/asleep or blacked out/memory loss) than when not impaired (71.2% compared to 55.1%). Victim participation rates were also greater when there was information in the case file that indicated the victim suffered from memory loss (74.2%) than when the case file did not indicate the victim suffered from some memory loss (57.1%). Victim complexity factors, including a motive to lie, inconsistent statements, and contradictory evidence were not statistically related to victim participation. Similarly, victim collateral and other victim misconduct, victim behavior health concerns, and victim consensual sexual contact with the suspect were not related to rates of victim participation.

TABLE 3-14d. VICTIM PARTICIPATION OR DECLINATION: VICTIM FACTORS

	Victim Declined (n = 151)		Victim Participated (n = 252)	
Victim Impairment (χ^2 = 12.53, p < .05)				
Not Impaired	93	44.9	114	55.1
Passed Out/Unconscious/Asleep	26	24.8	79	75.2
Blacked Out/Memory Loss	27	34.2	52	65.8
Victim Alcohol Use (χ^2 = 7.68, p < .05)				
Yes	74	31.8	159	68.2
No	77	45.3	93	54.7
Victim Drug Use (χ^2 = 4.05, p < .05)				
Yes	7	21.2	26	78.8
No	144	38.9	226	61.1
Victim Lack of Memory (χ^2 = 10.94, p < .05)				
Yes	33	25.8	95	74.2
No	118	42.9	157	57.1
Victim Motive to Lie (NS)				
Yes	65	35.5	118	64.5
No	86	39.1	134	60.9

Victim Inconsistent Statements (NS)				
Yes	48	32.4	100	67.6
No	103	40.4	152	59.6
Victim Contradictory Evidence (NS)				
Yes	21	30.4	48	69.6
No	130	38.9	204	61.1
Victim Collateral Misconduct (NS)				
Yes	40	41.2	57	58.8
No	111	36.3	195	63.7
Victim Other Misconduct (NS)				
Yes	29	37.7	48	62.3
No	122	37.4	204	62.6
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	38	41.3	54	58.7
No	111	35.9	198	64.1
Victim Consensual Sexual Contact with Suspect (NS)				
Yes – prior to incident	68	36.6	118	63.4
Yes – following incident	1	20.0	4	80.0
Yes – prior to and following incident	21	44.7	26	55.3
No	61	37.0	104	63.0

Several suspect-related variables were related to victim participation, including alcohol use, lack of memory, suspect behavioral health concerns, the existence of 413 and 404(b) evidence, and suspect statements to law enforcement and/or third parties (Table 3-14e). Rates of victim participation were greater when the suspect used alcohol during the incident (69.3%) than when the suspect did not use alcohol (54.6%). Victim participation was also more likely in cases in which the suspect suffered from memory loss (86.4%) than when the suspect did not suffer from memory loss (61.2%). Victim participation was greater when 413 or 404(b) evidence existed for the suspect (78.3% compared to 58.4%) and was greater when there were behavioral health concerns about the suspect (85.1% compared to 59.9%). The rates of victim participation were lowest when the suspect claimed that sexual contact was consensual (56.8%) or denied the crime or sexual contact (64.8%). Victims participated in nearly all cases in which the suspect confessed (90.0%). Several suspect variables were not associated with victim participation, including suspect race and grade, suspect drug use, suspect collateral and other misconduct, contradictory evidence, and suspect's inconsistent statements.

TABLE 3-14e. VICTIM PARTICIPATION OR DECLINATION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	Victim Declined (n = 151)		Victim Participated (n = 252)	
Suspect Race[a] (NS)				
White[b]	106	37.2	179	62.8
Non-White	40	42.1	55	57.9
Suspect Grade at Time of Incident (NS)				
Officer	11	36.7	19	63.3
Enlisted	138	37.3	232	62.7

Suspect Alcohol Use ($\chi^2 = 9.19$; p < .05)				
Yes	67	30.7	151	69.3
No	84	45.4	101	54.6
Suspect Drug Use (NS)				
Yes	2	40.0	3	60.0
No	149	37.4	249	62.6
Suspect Lack of Memory ($\chi^2 = 5.64$, p < .05)				
Yes	3	13.6	19	86.4
No	148	38.8	233	61.2
Suspect Inconsistent Statements (NS)				
Yes	9	30.0	21	70.0
No	142	38.1	231	61.9
Suspect Contradictory Evidence (NS)				
Yes	2	28.6	5	71.4
No	149	37.6	247	62.4
Suspect Collateral Misconduct (NS)				
Yes	40	33.9	78	66.1
No	111	38.9	174	61.1
Suspect Other Misconduct (NS)				
Yes	39	32.0	83	68.0
No	112	39.9	169	60.1
Suspect 413 and 404(b) Evidence ($\chi^2 = 11.11$, p < .05)				
Yes	18	21.7	65	78.3
No	133	41.6	187	58.4
Suspect Behavioral Health Concerns Before or After Incident ($\chi^2 = 11.30$, p < .05)				
Yes	7	14.9	40	85.1
No	142	40.1	212	59.9
Suspect Statement ($\chi^2 = 14.14$, p < .05)				
Confessed	1	10.0	9	90.0
Consensual	80	43.2	105	56.8
Denied Crime/Sexual Activity	19	35.2	35	64.8
No Recollection/Partial memory	3	15.8	16	84.2
Other	3	15.0	17	85.0

[a] AFOSI uses the Investigative Information Management System (I2MS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed did not report race or ethnicity in the title section of the investigation. Reviewers recorded race and ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

MULTIVARIATE ANALYSIS

The multivariate models were built by starting with independent variables that showed a significant bivariate relationship with the dependent variable. The models were refined in light of results of the initial model and of close relationships between two independent variables. In addition, some independent variables were excluded if there were small numbers of cases in categories of the independent variable across categories of the dependent variable (e.g., suspect

confession by command decision). Several of the suspect complexity factors were related to the preferral decision (Table 3-13e). In order to simplify the model, one binary variable was created that measured the existence of any of the six suspect complexity factors (yes or no).[5]

Table 3-15a presents the results of this final multivariate model that treated the commander decision to prefer the case or take no action in the case as the dependent variable. Seven cases in which the commander took administrative action were excluded from this analysis. The following patterns of relationships emerged from the multivariate model:

- When probable cause was determined to exist, as compared to cases without a probable cause determination and cases in which probable cause was determined to not exist, there was a greater likelihood the case was preferred. Judge advocates made probable cause determinations for the purposes of indexing with the FBI.
- A participating victim increased the chances of case preferral.
- When the victim was represented by an attorney, prior to trial, there was a greater likelihood of preferral.
- When any DNA evidence in the case was tested, there was an increased chance the case was preferred.
- When the offender used force or made threats of force, the chances of preferral were greater.
- When at least one of the suspect complexity factors was perceived to exist, the chances of preferral were greater than if none of the suspect complexity factors was perceived to exist.

TABLE 3-15a. LOGISTIC REGRESSION: COMMANDER DECISION TO PREFER CASES OR TAKE NO ACTION

	B	SE	Exp(B)
Probable cause exists	1.53*	.27	4.60
Victim participated	1.63*	.31	5.12
Victim attorney representation (prior to trial)	1.18*	.29	3.24
DNA evidence tested	.85*	.30	2.33
Victim impaired	.69*	.28	1.99
Threat or use of force occurred	1.62*	.34	5.03
At least one suspect complexity factor existed	.82*	.28	2.27

* $p < .05$
Model $\chi^2 = 154.01$, df = 7, $p < .05$

Table 3-15b presents the results of a multivariate model that treated victim participation or declination as the dependent variable. Few variables exhibited a statistically significant relationship with the victim participation variable.

- Pretextual communication was associated with a greater chance of victim participation.

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[5] The victim complexity factor variable measured whether any of the following six factors existed: victim lack of memory, victim inconsistent statements, victim contradictory evidence, victim motive to lie, victim collateral misconduct, and victim other misconduct. The suspect complexity factor variable measured whether any of the following six factors existed: suspect lack of memory, suspect inconsistent statements, suspect contradictory evidence, suspect 413 and 404(b) evidence, suspect collateral misconduct, and suspect other misconduct.

- Victim memory loss/loss of consciousness during the incident was associated with an increased chance of victim participation.
- Suspect alcohol use was related to an increased chance of victim participation.
- The existence of a suspect behavioral health concern, either before or after the incident, was associated with an increased chance of victim participation.
- Suspect 413 and 404(b) evidence was associated with a greater likelihood of victim participation.

TABLE 3-15b. LOGISTIC REGRESSION: VICTIM PARTICIPATION OR DECLINATION

	B	**SE**	**Exp(B)**
Pretextual communication	1.30*	.34	3.67
Victim memory loss/loss of consciousness	.67*	.26	1.95
Suspect consumed alcohol	.52*	.23	1.69
Suspect behavioral health concerns	1.34*	.44	3.83
Suspect 413 and 404(b) evidence	.96*	.31	2.60

*$p < .05$
Model $\chi^2 = 56.29$, df = 5, $p < .05$

The Army case file data were analyzed to understand case characteristics and patterns of relationships between key variables. The analysis examined 821 Army cases. The first step in the analysis examined univariate statistics to understand the Army cases. The second step explored bivariate relationships between case and individual characteristics and two key outcome variables: command decision to take action and victim participation in justice proceedings. The final analysis estimated multivariate models for the two dependent variables (command action and victim participation).

UNIVARIATE STATISTICS: ARMY CASE CHARACTERISTICS

Table 4-1 presents information about the commanders' decisions in Army cases and justice system outcomes for penetrative sexual assaults. The commander did not take action in 72.7% of cases and preferred 25.0% of cases. Administrative actions occurred in 2.3% of cases (n = 19). Fourteen of these 19 cases ended in administrative separation. Court-martial occurred in 94 of the 181 referred cases (51.9%), and alternative dispositions, such as discharges, occurred in 111 of the 205 preferred cases (54.1%). Court-martial more commonly resulted in acquittal (55.3%) than conviction (44.7%) and dismissal was the most common alternative disposition (54.1%), followed by discharge in lieu of court-martial (45.0%).

TABLE 4-1. COMMAND ACTION DECISIONS AND COURT-MARTIAL RESULTS

	N	%
Initial Command Action on Penetrative Sexual Assault		
No Command Action	597	72.7
Preferred	205	25.0
Administrative Action[a]	19	2.3
Case Preferral/Referral (n = 205)		
Preferred Only	24	11.7
Preferred and Referred	181	88.3
Referred Cases with a Finding	94	51.9
Court-Martial Result (n = 94)		
Acquittal	52	55.3
Conviction for at Least One Penetrative Sexual Assault Charge – Court-Martial	37	39.4
Conviction for at Least One Penetrative Sexual Assault Charge – PTA at Court-Martial	5	5.3
Alternative Disposition (n = 111)		
Administrative Separation	1	0.9
Discharge in Lieu of Court-Martial	50	45.0
Dismissal	60	54.1

[a] This category included 14 administrative separations, 4 cases of other administrative action, and 1 case of nonjudicial punishment.

Table 4-2 describes Army cases in terms of incident location. Over one-half of the reported sexual assaults occurred on installation (53.7%), and nearly three-quarters occurred in the

continental United States (73.4%). Three cases occurred in a deployed location (i.e., Iraq or Afghanistan).

TABLE 4-2. INCIDENT LOCATION

	N	%
Installation		
On Installation	441	53.7
Off Installation	380	46.3
Location of Incident		
CONUS	603	73.4
OCONUS	210	25.6
CONUS and OCONUS	8	1.0
Vessel	0	0
Vessel and CONUS	0	0
Vessel and OCONUS	0	0
Deployment		
Deployed Location (Iraq or Afghanistan only)	3	0.4
Non-Deployed Location	818	99.6

Table 4-3 summarizes information about the time between key events in the cases, including the times between the offense, the report to authorities, MCIO case closure, and the command decision in preferred cases. The data collection form captured information about the dates of these key events, and the number of days between them was computed. In some cases, there were multiple dates listed for the date the incident occurred and a date range was captured on the data collection form. In these situations, the latest (most recent) incident date was used to compute the days between the incident and key events (i.e., date of report and decision dates). When one of the dates used in the calculations was missing, computations were not possible; these cases therefore are categorized as "unknown." In addition, when the date of one event should have logically occurred after the date of another event but the dates show the reverse (e.g., the date of the commander's decision occurred *before* the date the incident was reported or the date the MCIO closed the case occurred *before* the date the incident was reported to authorities), these cases are categorized as "unknown." This latter categorization rule was also used when a range of dates was provided for the date of the incident and the most recent incident date occurred *after* the date the incident was reported (i.e., these cases are categorized as "unknown").

Over one-third (39.0%) of cases were reported within 7 days of the incident, including 32.5% of cases that were reported within 3 days of the incident. Over half of the Army cases were reported within 30 days of the incident (54.8%). The median number of days between the report and the incident was 17, indicating that half of the Army cases were reported within 17 days and half of the cases were reported to authorities after 17 days.

Over one-half of no action cases (51.1%) were closed by the MCIO within 6 months of the date the offense was reported to authorities. The median number of days between the report to authorities and the MCIO case closure date was 177.5 days; half of the no action cases were closed by the MCIO report in fewer than 177.5 days after the date the offense was reported to authorities.

Finally, Table 4-3 shows that among preferred cases, 20.1% were preferred within 4 months of the date on which the incident was reported to authorities and 34.3% were preferred within 6 months. The median number of days between the date of the decision to prefer and the date on which the incident was reported to authorities was 256.

TABLE 4-3. TIME BETWEEN KEY ACTIONS IN THE CASE

	N	%
Number of Days Between Offense and Report to Authorities		
0 (same day)	109	13.3
1 – 3	158	19.2
4 – 7	53	6.5
8 – 14	62	7.6
15 – 30	67	8.2
31 – 60	77	9.4
61 – 90	48	5.9
91 – 120	34	4.1
121 – 150	21	2.6
151 – 180	23	2.8
181 – 210	11	1.3
211 – 240	12	1.5
241 – 270	11	1.3
271 – 365	18	2.2
366 +	106	12.9
Unknown	11	1.3
Median number of days = 17		
Days Between Report to Authorities and MCIO Closure of the Case in No Action Cases (n = 597)		
0 – 60	77	12.9
61 – 120	106	17.8
121 – 180	122	20.4
181 – 240	111	18.6
241 – 300	64	10.7
301 – 360	44	7.4
361 +	72	12.1
Unknown	1	0.2
Median number of days = 177.5		
Number of Days Between Report to Authorities and Command Decision in Preferred Cases (n = 205)		
0 – 60	12	5.9
61 – 120	29	14.2
121 – 180	29	14.2
181 – 240	27	13.2
241 – 300	21	10.2
301 – 360	22	10.7
361 +	61	29.8
Unknown	4	2.0
Median number of days = 256		

Suspect characteristics are summarized in Table 4-4. A large majority of cases involved suspects who were enlisted (92.6%) with a pay grade of E-5 or lower (80.2%). Over one-quarter of suspects (28.9%) were E-4 personnel. Nearly one-half of officer suspects (49.2%) were O-2 or O-3. Nearly all suspects were male (97.3%) and 61.4% of suspects were White. Nearly one-third of suspects (31.5%) were African American. The White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African. The average age of suspects was 25.9 years.

TABLE 4-4. SUSPECT CHARACTERISTICS

	N	%
Suspect Grade at Time of Incident		
Enlisted	760	92.6
Officer	61	7.4
Suspect Pay Grade at Time of Incident		
Enlisted (n = 760)		
E-1	42	5.5
E-2	72	9.5
E-3	151	19.9
E-4	220	28.9
E-5	125	16.4
E-6	82	10.8
E-7	52	6.8
E-8	13	1.7
E-9	3	0.4
Officer (n = 61)		
Cadet/Midshipman	2	3.3
O-1	4	6.6
O-2	14	23.0
O-3	16	26.2
O-4	7	11.5
O-5	8	13.1
W-2	5	8.2
W-3	4	6.6
W-4	1	1.6
Suspect Gender		
Male	799	97.3
Female	22	2.7
Suspect Age	Mean = 25.9; SD = 6.6; Range = 18 – 53	
Suspect Race[a]		
White[b]	504	61.4
Black or African American	259	31.5
Asian	17	2.1
Native Hawaiian or Other Pacific Islander	9	1.1
American Indian or Alaska Native	3	0.4
Other Race, Ethnicity, or Origin	9	1.1
Unknown	20	2.4

ᵃ CID uses the Army Law Enforcement Reporting and Tracking System Database Center (ALERTS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but not ethnicity. Reviewers recorded ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
ᵇ This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

Table 4-5 presents information about suspects' drug and alcohol use during the time of the incident and about other suspect characteristics related to the investigation. Drug use during the incident was rare but suspect alcohol use was common (50.4% of incidents). It was rare for a suspect to have any behavioral health concerns listed in the case files (6.0%). The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). At least one of six suspect complexity factors existed in over half of the cases (58.1%). The most common suspect complexity factors were collateral misconduct at the time of the incident (38.0%) and other forms of misconduct (19.0%). Suspect's contradictory evidence, loss of consciousness, and inconsistent statements were not common.

TABLE 4-5. SUSPECT FACTORS

	N	%
Suspect Alcohol Use		
Yes	414	50.4
No	407	49.6
Suspect Drug Use		
Yes	15	1.8
No	806	98.2
Suspect Behavioral Health Concerns Before or After Incident		
Yes	49	6.0
No	772	94.0
Suspect Complexity Factorsᵃ		
Collateral Misconduct	312	38.0
Other Misconduct	156	19.0
Loss of Memory or Consciousness	29	3.5
413 and 404(b) Evidence	84	10.2
Inconsistent Statements	101	12.3
Contradictory Evidence	27	3.3
At Least One of the Six Factors Exists in the Case	477	58.1

ᵃ These categories were not mutually exclusive; multiple factors could have been present for a single suspect. Percentages were calculated based on the full set of 821 cases and do not sum to 100%.

Table 4-6 summarizes information about suspects' statements and legal representation. Suspects offered statements to law enforcement in 67.7% of cases and suspects rarely had legal representation (6.0%) at the time of the interview. The data collection instrument recorded information from the case file about the content of suspect statements to law enforcement and third parties. The most common suspect statement was to indicate that the sexual contact was consensual (67.7%), followed by denying that the event was a crime or denying the sexual contact (19.9%). Suspects confessed in 54 cases (8.8%).

TABLE 4-6. SUSPECT STATEMENTS AND REPRESENTATION

	N	%
Suspect Provided Statement to Law Enforcement		
Yes	556	67.7
No	265	32.3
Suspect Had Legal Representation		
Yes	49	6.0
No	772	94.0
Suspect Statement to Third Parties or Law Enforcement[a]		
Confessed	54	8.8
Consensual	415	67.7
Denied Crime/Sexual Activity	122	19.9
No Recollection/Partial Memory	8	1.3
Other	14	2.3

[a] Reports included information with multiple suspect statements in 57 cases. A hierarchy rule was used to code cases with multiple statements: Cases were coded as "confessed" if the suspect confessed and offered any other statement. The next code in the hierarchy was "consensual" and was used when the suspect reported that the sexual activity was consensual (but did not confess). The third category in the hierarchy was "denied crime or denied penetrative sexual activity" and was used when the suspect offered multiple statements but not "confessed" and not "consensual." The "no recollection/partial memory" category was used when only this statement was made. The last category was "other" and was used when the provided statement did not clearly fit into any of the previous categories. Information about suspects' statements was available for 613 cases.

Tables 4-7 and 4-8 present information about victims. Forty-seven percent of victims were enlisted Service members, while it was rare for a victim to be an officer (2.3%). Civilians represented 50.7% of all victims and military personnel represented 49.3% of victims. Among the enlisted victims, 91.8% were E-4 or lower. The large majority of victims were female (94.3%) and the average victim age was 23.7. White victims comprised 70.9% of the sample and African Americans represented 18.6% of victims. As was true of suspects, it is important to note that the White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African.

Table 4-7 also summarizes the relationships between victims and suspects. Stranger cases were relatively rare (9.9%) and friend relationships were most common (22.5%), followed by current or former spouses (19.0%) and acquaintances (15.7%). Recruit (victim) – recruiter (suspect) and supervisor (suspect) – subordinate (victim) relationships were not common among Army cases (4.4%). Finally, Table 4-7 shows which individuals reported the incident: the victim (36.3%), a victim-authorized representative (30.2%), a third party (17.3%), or command (16.2%).

TABLE 4-7. VICTIM CHARACTERISTICS

	N	%
Victim Status at Time of Incident		
Enlisted	386	47.0
Officer	19	2.3
Civilian – Not DoD Spouse	202	24.6
Civilian – DoD Spouse	214	26.1
Suspect Is Spouse/Former Spouse	134	62.6
Suspect Is Not Spouse[a]	80	37.4
Victim Pay Grade at Time of Incident		
Enlisted (n = 386)		

E-1	24	6.2
E-2	91	23.6
E-3	123	31.9
E-4	116	30.1
E-5	19	4.9
E-6	9	2.3
E-7	3	0.8
Unknown	1	0.3
Officer (n = 19)		
Cadet/Midshipman	3	15.8
O-1	3	15.8
O-2	5	26.3
O-3	4	21.1
O-4	1	5.3
W-1	1	5.3
W-2	2	10.5
Victim Gender		
Male	47	5.7
Female	774	94.3
Victim Age	Mean = 23.7; SD = 6.5; Range = 16 − 60	
Victim Race[b]		
White[c]	582	70.9
Black or African American	153	18.6
Asian	30	3.7
Native Hawaiian or Other Pacific Islander	15	1.8
American Indian or Alaska Native	9	1.1
Other Race, Ethnicity, or Origin	19	2.3
Unknown	13	1.6
Relationship to Suspect[d]		
Current or Former Spouse	156	19.0
Intimate Partner/Former Intimate Partner	96	11.7
Friend	185	22.5
Co-worker/Classmate/Roommate	69	8.4
Subordinate – Supervisor	27	3.3
Acquaintance	129	15.7
Online/Met for the First Time	24	2.9
Stranger	81	9.9
Recruit – Recruiter	9	1.1
Other	19	2.3
Unknown/Unable to Determine	26	3.2
Reporting Individual		
Victim	298	36.3
Victim-Authorized Representative	248	30.2
Command	133	16.2
Third Party	142	17.3

[a] This category includes all other types of relationships, including those cases for which data are missing and those in which the nature of the relationship could not be determined.

Table 4-8 presents information about victims' drug and alcohol use and level of impairment during the time of the incident, in addition to other victim characteristics related to the investigation. As was true of suspect variables, victim drug use was substantially less common than victim alcohol use (9.1% compared to 53.5%). Forty-four percent of all victims reported some level of impairment during the offense. Victims who were impaired most often reported passing out, being unconscious, or being asleep (55.9%), followed by reporting some memory loss and/or blacking out (38.6%). The large majority of victims (86.8%) did not have any history of behavioral health concerns listed in the case files. The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). The data collection instrument also recorded information about victim's statements or behaviors that may have been relevant during the investigation, and data show 37.3% had a motive to lie, 32.8% experienced some memory loss or were unconscious, 27.6% of victims provided inconsistent statements, and there was evidence of collateral victim misconduct in 24.2% percent of cases. Approximately three-quarters of cases (74.5%) involved a victim who was perceived to have at least one complexity factor.

TABLE 4-8. VICTIM FACTORS

	N	%
Victim Alcohol Use		
Yes	439	53.5
No	382	46.5
Victim Drug Use		
Yes	75	9.1
No	746	90.9
Victim Reported Being Impaired		
Yes	363	44.2
No	458	55.8
Nature of Victim Impairmentᵃ		
Passed Out/Unconscious/Asleep	203	55.9
Blacked Out/No Memory/Partial Memory	140	38.6
Unknownᵇ	20	5.5
Victim Behavioral Health Concerns Before or After Incident		
Yes	108	13.2
No	713	86.8
Victim Complexity Factorsᶜ		
Collateral Misconduct	199	24.2
Other Misconduct	124	15.1
Loss of Memory or Consciousness	269	32.8
Inconsistent Statements	227	27.6
Motive to Lie	306	37.3

		N	%
Contradictory Evidence		85	10.4
At Least One of the Six Factors Exists in the Case		612	74.5

[a] Victims were impaired in 363 cases, including 20 cases in which the nature of impairment was not clear (e.g., "drugged," "vision and perception were impaired," and "in and out"). Multiple reasons were provided for the nature impairment in 160 cases. To simplify the analyses of impairment reasons a single variable was created to measure the reason for impairment. The categories for this variable are mutually exclusive. The "passed out/unconscious/asleep" category is considered to be the greatest level of impairment, followed by "blacked out/no memory/partial memory." If the case indicated "passed out" or "unconscious" AND "blacked out" or "partial memory," then the case was coded as "passed out/unconscious/asleep." If the case indicated "blacked out," "partial memory," or "no memory" AND "asleep," then the case was coded as "passed out/unconscious/asleep."

[b] This category included 20 cases in which the nature of impairment was not clear.

[c] These categories were not mutually exclusive; multiple factors could have been present for a single victim. Percentages were calculated based on the full set of 821 cases and do not sum to 100%.

Table 4-9 presents information about victim injuries and suspects' use of force and threats. A suspect used or threatened to use force in 13.5% of cases; use of weapons was rare, occurring in seven cases. Victims sustained injuries in 13.4% of cases. Bruising and redness were the most common victim injuries, but were still relatively rare. It was not common for there to be witnesses in the case (15.8%; see item 57 on data collection form). Investigators collected pretextual communication evidence in 12.3% of cases and the most common result of the pretextual communication was to support neither the victim's nor the suspect's account.

TABLE 4-9. VICTIM INJURIES AND EVIDENCE

	N	%
Use/Threat of Force		
Yes	111	13.5
No	710	86.5
Type of Force/Threat[a]		
Physical	104	12.7
Weapon	7	0.9
Coercion	11	1.3
Threat/Threat to Others	12	1.5
Physical Injuries to Victim[b]		
Yes	110	13.4
No	711	86.6
Injuries[c]		
Redness	40	4.9
Bruising	82	10.0
Cuts	28	3.4
Scrapes	15	1.8
Witness to the Incident		
Yes	130	15.8
No	691	84.2
Pretextual Communication		
Yes	101	12.3
Supports Victim Account	16	15.8
Supports Suspect Account	20	19.8
Supports Neither	65	64.4
No	720	87.7

[a] Categories were not mutually exclusive; cases could involve multiple types of force and threats.

[b] Victim injury was based on self-reported or recorded information in the case files and SAFE reports.

Table 4-10 presents information about forensic evidence in Army cases. A sexual assault forensic examination (SAFE) was performed on victims in 30.1% of the cases. When a SAFE was performed, 64.4% occurred within one day of the incident. Military and civilian medical facilities performed nearly the same number of SAFEs, and half of the exams were performed by military and DoD civilian medical professionals. The measure of DNA testing indicates whether *any* DNA evidence from the case was tested. DNA evidence was tested in 19.7% of all Army cases.

TABLE 4-10. FORENSIC EVIDENCE

	N	%
SAFE Performed on Victim		
Yes	247	30.1
No	574	69.9
Days Between Offense and Victim SAFE (n = 247)		
0 (same day)	84	34.0
1	75	30.4
2	38	15.4
3	14	5.7
4	6	2.4
5	2	0.8
6	2	0.8
7	1	0.4
8 – 14	6	2.4
15 +	9	3.6
Unknown	10	4.1
Victim SAFE Location (n = 247)		
Civilian Health Care Facility	120	48.6
Military Health Care Facility	127	51.4
Victim SAFE Provider Type (n = 247)		
Civilian Provider	122	49.4
Military Examiner	58	23.5
DoD Civilian	64	25.9
Unknown	3	1.2
DNA Evidence Tested[a]		
Yes	162	19.7
No/Unknown	659	80.3

a The DNA testing variable measured *any* DNA evidence testing in the case, not only sexual assault kit evidence collected from the victim.

Victim participation is summarized in Table 4-11. Victims participated in 72.6% of Army cases and declined in 27.4% of cases. Among the victims who declined, a large majority (91.1%) declined early in justice system processing (during investigation and reporting). Victims rarely provided their input to commanders (2.8% of all cases). Over half of victims (52.2%) who provided input, requested administrative separation. Victims were represented by attorneys during the investigation in slightly less than half of the cases (46.8%), and victims provided statements to law enforcement in nearly all cases (96.2%).

TABLE 4-11. VICTIM PARTICIPATION

	N	%
Victim Declination Recorded in File		
Victim Participated	596	72.6
Victim Declined	225	27.4
Declination Stage		
Investigation	187	83.1
Reporting	18	8.0
Court-Martial	15	6.7
Preliminary Hearing	5	2.2
Victim Input to Command or SJA		
No	798	97.2
Yes	23	2.8
Input Provided to Command (n = 23)		
Pursue Administrative Separation	12	52.2
Supports DILCOM	2	8.7
Pursue Court-Martial	0	0
Take No Action	1	4.3
Nonjudicial Punishment/Administrative Actions	1	4.3
Other	7	30.4
Victim Attorney Representation (prior to trial)		
Yes	384	46.8
No	437	53.2
Victim Provided Statement to Law Enforcement		
Yes	790	96.2
No	31	3.8

Table 4-12 presents information about probable cause determinations. A judge advocate made a probable cause determination, for purposes of indexing with the FBI's NCIC criminal history database, in nearly all Army cases (95.7%), and probable cause was determined to exist in 380 cases, representing 46.3% of all cases and 48.3% of cases in which a determination was made.

TABLE 4-12. PROBABLE CAUSE DETERMINATION

	N	%
Probable Cause Determination Made		
Yes	786	95.7
No	35	4.3
Probable Cause Determination Result (n = 786)		
Yes, Probable Cause Exists	380	48.3
Probable Cause Does Not Exist	406	51.7

BIVARIATE RELATIONSHIPS

The second stage of the analysis estimated relationships between case characteristics and two important outcome variables: (1) the commander's decision to prefer or to not take action and (2)

the victim's decision to participate or to decline. These comparisons are consistent with analyses performed for the other Service branches. A DoD-wide analysis that combines all Service branches will examine differences between cases that end in acquittal and cases that end in a conviction. Cases that ended in some administrative action (n = 19) were excluded from the analyses described below that examined preferral and no action outcomes.

COMMAND ACTION DEPENDENT VARIABLE: NO ACTION COMPARED TO PREFERRAL

The patterns in Table 4-13a show there was no relationship between the preferral decision and whether the report was made promptly (i.e., within one week). The median number of days between the incident and the report to authorities was shorter in preferred cases (11 days) compared to no action cases (21 days). Cases were least likely to be preferred when a third party or command made the report; cases were most likely to be preferred when the victim reported. Cases in which probable cause was determined to exist were most likely to be preferred. Cases were rarely preferred when probable cause was not determined to exist (n = 5).

TABLE 4-13a. COMMAND ACTION DECISION: INCIDENT LOCATION AND REPORTING INFORMATION

	No Command Action (n = 597)		Preferral (n = 205)	
	N	%	N	%
Incident Location (NS)				
On Installation	324	75.5	105	24.5
Off Installation	273	73.2	100	26.8
Reporting Individual (χ^2 = 8.60, p < .5)				
Victim	205	69.7	89	30.3
Victim-Authorized Representative	178	73.6	64	26.4
Command	101	80.8	24	19.2
Third Party	113	80.1	28	19.9
Prompt Report (within 7 days) (NS)				
Yes	221	70.8	91	29.2
No	367	76.6	112	23.4
Number of Days Between Incident and Report to Authorities	Median = 21		Median = 11	
Probable Cause[a] (χ^2 = 309.4, p < .05)				
No Determination Made	31	88.6	4	11.4
Probable Cause Existed	161	44.6	200	55.4
Probable Cause Did Not Exist	405	99.8	1	0.2

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Several evidentiary variables are related to preferral outcomes (Table 4-13b). Cases were more likely to be preferred when pretextual communication occurred (38.0%) than when no pretextual communication occurred (23.8%). When victims were injured and when suspects used or threatened to use force, the chances of case preferral were greater than when victims were not injured and when suspects did not use or threaten to use force. Victim participation, compared to declination, also increased the likelihood that the case would be preferred. Nearly one-third of the cases with a participating victim (32.9%) were preferred, compared to 5.2% of cases in which the victim declined. Finally, the performance of a SAFE exam, DNA testing, and victim attorney

representation during the investigation were all associated with increased chances that the case would be preferred.

TABLE 4-13b. COMMAND ACTION DECISION: EVIDENCE

	No Command Action (n = 597)		Preferral (n = 205)	
Witness to the Incident (NS)				
Yes	94	72.3	36	27.7
No	503	74.9	169	25.1
Pretextual Communication Occurred (χ^2 = 9.29, p < .05)				
Yes	62	62.0	38	38.0
No	535	76.2	167	23.8
Pretextual Communication Result (NS)				
Supports Victim Account	6	37.5	10	62.5
Supports Suspect Account	14	70.0	6	30.0
Supports Neither Account	42	65.6	22	34.4
Victim Physical Injuries (χ^2 = 27.35, p < .05)				
Yes	59	54.1	50	45.9
No	538	77.6	155	22.4
Threat or Use of Force (χ^2 = 17.01, p < .05)				
Yes	63	58.3	45	41.7
No	534	76.9	160	23.1
Victim Participation (χ^2 = 62.86, p < .05)				
Yes	396	67.1	194	32.9
Declined[a]	201	94.8	11	5.2
Sexual Assault Exam Performed on Victim (χ^2 = 28.26, p < .05)				
Yes	150	62.0	92	38.0
No	447	79.8	113	20.2
DNA Evidence Tested (χ^2 = 61.76, p < .05)				
Yes	79	50.0	79	50.0
No	518	80.4	126	19.6
Victim Attorney Representation (prior to trial) (χ^2 = 12.91, p < .05)				
Yes	257	68.5	118	31.5
No	340	79.6	87	20.4

[a] Victim declinations could have occurred before or after preferral. Table 4-11 shows that over 90% of all victims declined at the reporting or investigation stage.

Victim characteristics such as gender, age, military/civilian status, and relationship to the suspect, were not related to the preferral decision (Table 4-13c). Victim race and the command decision were related: cases with White victims were more likely to be preferred (27.9%) than cases with Non-White victims (19.0%). Victim grade and the command decision were also related such that cases with officer victims were more likely to be preferred; but because of the small number of cases with officer victims, the statistical test of significance may not be reliable.

TABLE 4-13c. COMMAND ACTION DECISION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	No Command Action (n = 597)		Preferral (n = 205)	
Victim Gender (NS)				
Female	565	74.7	191	25.3
Male	32	69.6	14	30.4
Victim Race[a] (χ^2 = 6.71, p < .05)				
White[b]	410	72.1	159	27.9
Non-White	179	81.0	42	19.0
Victim Status at Time of Incident (NS)				
Military	288	72.7	108	27.3
Civilian – Not DoD Spouse	147	74.2	51	25.8
Civilian – DoD Spouse	162	77.9	46	22.1
Suspect Is Spouse/Former Spouse (NS)	100	76.9	30	23.1
Suspect Is Not Spouse	62	79.5	16	20.5
Victim Grade at Time of Incident (χ^2 = 4.06, p < .05)				
Enlisted	278	73.7	99	26.3
Officer	10	52.6	9	47.4
Relationship between Victim and Suspect[c] (NS)				
Supervisor – Subordinate	22	81.5	5	18.5
Spouse/Former Spouse	118	78.1	33	21.9
Intimate Partner/Former Intimate Partner	66	71.0	27	29.0
Friend	130	72.2	50	27.8
Co-worker/Classmate/Roommate	54	79.4	14	20.6
Acquaintance	91	72.2	35	27.8
Stranger	61	75.3	20	24.7
Online/Met for the First Time	15	65.2	8	34.8
Other	15	78.9	4	21.1
Victim Age (NS)	(Mean = 23.8, SD = 6.5)		(Mean = 23.5, SD = 6.6)	

[a] CID uses the Army Law Enforcement Reporting and Tracking System Database Center (ALERTS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but not ethnicity. Reviewers recorded ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] Cases in the "recruiter – recruit" category were excluded because of their small numbers. Cases in the "unknown/unable to determine" category were also excluded.

Table 4-13d shows that several victim factors were related to the preferral decision. Victim impairment was related to the preferral decision, but the interpretation is not straightforward. Cases with a victim who passed out, was unconscious, or was asleep were more likely to be preferred than cases with a victim who was not impaired or who was blacked out, or experienced some memory loss. When all the categories of impairment were combined, there was a relationship between victim impairment and the commander's decision: there was a greater chance of preferral when the victim was impaired (30.3%) than when the victim was not impaired (22.0%). Victim alcohol use was not associated with the command decision but victim drug use was associated with the preferral decision. Cases were more likely to be preferred when

the victim used drugs prior to or during the incident (44.4%) than when the victim did not use drugs prior to or during the incident (23.7%). The data collection instrument measured the existence of several victim complexity factors and three were related to the command decision. Cases were less likely to be preferred when victims were perceived to have a motive to lie, when victims provided inconsistent statements, or when there was contradictory evidence. Victim memory loss, collateral misconduct, other forms of misconduct, behavioral health concerns, and consensual sex with the suspect were not associated with the command decision to prefer the case.

TABLE 4-13d. COMMAND ACTION DECISION: VICTIM FACTORS

	No Command Action (n = 597)		Preferral (n = 205)	
Victim Impairment ($\chi^2 = 32.93$, p < .05)				
Not Impaired	350	78.0	99	22.0
Passed Out/Unconscious/Asleep	118	59.6	80	40.4
Blacked Out/Memory Loss	114	84.4	21	15.6
Victim Alcohol Use (NS)				
Yes	309	72.4	118	27.6
No	288	76.8	87	23.2
Victim Drug Use ($\chi^2 = 14.82$, p < .05)				
Yes	40	55.6	32	44.4
No	557	76.3	173	23.7
Victim Lack of Memory (NS)				
Yes	194	74.3	67	25.7
No	403	74.5	138	25.5
Victim Motive to Lie ($\chi^2 = 4.16$, p < .05)				
Yes	234	78.5	64	21.5
No	363	72.0	141	28.0
Victim Inconsistent Statements ($\chi^2 = 10.58$, p < .05)				
Yes	184	82.5	39	17.5
No	413	71.3	166	28.7
Victim Contradictory Evidence ($\chi^2 = 3.88$, p ≤ .05)				
Yes	70	83.3	14	16.7
No	527	73.4	191	26.6
Victim Collateral Misconduct (NS)				
Yes	140	71.4	56	28.6
No	457	75.4	149	24.6
Victim Other Misconduct (NS)				
Yes	88	73.3	32	26.7
No	509	74.6	173	25.4
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	73	70.9	30	29.1
No	524	75.0	175	25.0
Victim Consensual Sexual Contact with Suspect (NS)				

Yes – prior to incident	232	78.1	65	21.9
Yes – following incident	12	85.7	2	14.3
Yes – prior to and following incident	43	69.4	19	30.6
No	310	72.3	119	27.7

Several suspect characteristics were related to the preferral decision (Table 4-13e). Cases were more likely to be preferred when the suspect used alcohol (29.3%) than when the suspect did not use alcohol (21.8%). Cases were also more likely to be preferred when the suspect used drugs prior to or during the incident (66.7%) than when the suspect did not (24.8%). Because of the small number of cases with suspect drug use (n = 10), the statistical test results may not be reliable. Several suspect complexity factors were associated with an increased chance that the case was preferred: suspect memory loss, suspect's inconsistent statements, suspect collateral and others forms of misconduct, the existence of suspect behavioral health concerns, and evidence of other sex offenses and/or related misconduct[6] in the file. Cases were more likely to be preferred when suspects confessed.

TABLE 4-13e. COMMAND ACTION DECISION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	No Command Action (n = 597)		Preferral (n = 205)	
Suspect Race[a] (NS)				
White[b]	367	74.4	126	25.6
Non-White	215	74.1	75	25.9
Suspect Grade at Time of Incident (NS)				
Officer	45	73.8	16	26.2
Enlisted	552	74.5	189	25.5
Suspect Alcohol Use ($\chi^2 = 5.89$, p < .05)				
Yes	285	70.7	118	29.3
No	312	78.2	87	21.8
Suspect Drug Use ($\chi^2 = 13.57$, p < .05)				
Yes	5	33.3	10	66.7
No	592	75.2	195	24.8
Suspect Lack of Memory ($\chi^2 = 4.56$, p < .05)				
Yes	16	57.1	12	42.9
No	581	75.1	193	24.9
Suspect Inconsistent Statements ($\chi^2 = 26.94$, p < .05)				
Yes	53	53.5	46	46.5
No	544	77.4	159	22.6
Suspect Contradictory Evidence (NS)				
Yes	17	63.0	10	37.0
No	580	74.8	195	25.2

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[6] Military Rules of Evidence (MRE) 413 and 404(b), respectively, cover the admissibility of other sex offenses and related misconduct. MRE 413 is similar to its Federal Rule counterpart. Its purpose is to provide for the liberal admissibility of character evidence when the accused has committed a prior sexual assault offense. MRE 404(b) permits the admissibility of certain evidence of other crimes, wrongs, or acts committed by the accused for the purpose of proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

	N	%	N	%
Suspect Collateral Misconduct ($\chi^2 = 6.74$, p < .05)				
Yes	210	69.3	93	30.7
No	387	77.6	112	22.4
Suspect Other Misconduct ($\chi^2 = 17.32$, p < .05)				
Yes	93	61.2	59	38.8
No	504	77.5	146	22.5
Suspect 413 and 404(b) Evidence ($\chi^2 = 38.69$, p < .05)				
Yes	39	46.4	45	53.6
No	558	77.7	160	22.3
Suspect Behavioral Health Concerns Before or After Incident ($\chi^2 = 18.16$, p < .05)				
Yes	22	47.8	24	52.2
No	575	76.1	181	23.9
Suspect Statement ($\chi^2 = 83.67$, p < .05)[c]				
Confessed	12	23.5	39	76.5
Consensual	316	78.0	89	22.0
Denied Crime/Sexual Activity	103	85.1	18	14.9
No Recollection/Partial Memory	4	50.0	4	50.0
Other	7	53.8	6	46.2

[a] CID uses the Army Law Enforcement Reporting and Tracking System Database Center (ALERTS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but not ethnicity. Reviewers recorded ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The relationship was statistically significant when "confessed" was compared to all other suspect statements and to no statements.

VICTIM PARTICIPATION DEPENDENT VARIABLE: VICTIM PARTICIPATED – VICTIM DECLINED

Table 4-14a shows that victim participation was similar when the incident occurred on installation (72.1%) and off installation (73.2%). A prompt report — one made within one week — was not related to victim participation. Victim participation was related to the reporting individual such that participation was most likely when a victim-authorized representative reported the offense (79.0%) and when the victim reported the offense (72.8%). The median number of days between the incident and the report to authorities was similar among cases with a participating victim (17) and cases in which the victim declined to participate (19). Victim participation was associated with judge advocates' probable cause determination: participation was least likely when probable cause was determined to not exist.

TABLE 4-14a. VICTIM PARTICIPATION: INCIDENT LOCATION AND REPORTING INFORMATION

	Victim Declined (n = 225)		Victim Participated (n = 596)	
	N	%	N	%

Incident Location (NS)				
On Installation	123	27.9	318	72.1
Off Installation	102	26.8	278	73.2
Reporting Individual (χ^2 = 10.40, p < .05)				
Victim	81	27.2	217	72.8
Victim-Authorized Representative	52	21.0	196	79.0
Command	46	34.6	87	65.4
Third Party	46	32.4	96	67.6
Prompt Report (within 7 days) (NS)				
Yes	138	28.2	352	71.8
No	84	26.3	236	73.8
Number of Days Between Incident and Report to Authorities	Median = 19		Median = 17	
Probable Cause[a] (χ^2 = 7.74, p < .05)				
No Determination Made	5	14.3	30	85.7
Probable Cause Existed	93	24.5	287	75.5
Probable Cause Did Not Exist	127	31.3	279	68.7

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Table 4-14b presents patterns of relationships between evidentiary variables and victim participation. Victim participation was unrelated to the presence of witnesses and to suspect use or threat of force. Victim participation was related to pretextual communication: victim participation rates were higher in cases with pretextual communication (87.1%) than in cases when pretextual communication did not occur (70.6%). Victims were also more likely to participate when they sustained injuries (81.8%) than when they did not sustain injuries (71.2%). Victim participation was also greater in cases when a SAFE was performed, when any DNA evidence in the case was tested, and when a victim's attorney was involved in the case during the investigation.

TABLE 4-14b. VICTIM PARTICIPATION: EVIDENCE

	Victim Declined (n = 225)		Victim Participated (n = 596)	
Witness to the Incident (NS)				
Yes	33	25.4	97	74.6
No	192	27.8	499	72.2
Pretextual Communication Occurred (χ^2 = 12.23, p < .05)				
Yes	13	12.9	88	87.1
No	212	29.4	508	70.6
Pretextual Communication Result (NS)				
Supports Victim Account	3	18.8	13	81.3
Supports Suspect Account	2	10.0	18	90.0
Supports Neither Account	8	12.3	57	87.7
Victim Physical Injuries (χ^2 = 5.43, p < .05)				
Yes	20	18.2	90	81.8
No	205	28.8	506	71.2
Threat or Use of Force (NS)				
Yes	30	27.0	81	73.0

No	195	27.5	515	72.5
Sexual Assault Exam Performed on Victim ($\chi^2 = 4.69$, p < .05)				
Yes	55	22.3	192	77.7
No	170	29.6	404	70.4
DNA Evidence Tested ($\chi^2 = 6.94$, p < .05)				
Yes	31	19.1	131	80.9
No	194	29.4	465	70.6
Victim Attorney Representation (prior to trial) ($\chi^2 = 4.99$, p < .05)				
Yes	91	23.7	293	76.3
No	134	30.7	303	69.3

Table 4-14c presents patterns of relationships between victim participation and victims' demographic characteristics. Male victims were more likely to participate (91.5%) than female victims (71.4%), and military victims were more likely to participate than civilian victims (77.0% compared to 68.3%). Among the set of civilian DoD spouse victims, participation was more likely when the suspect was not the spouse (76.3%) than when the suspect was the spouse (62.7%). Similar patterns existed for the victim – suspect relationship such that rates of victim participation were among the lowest when the victim was the spouse or former spouse of the suspect (63.5%). Victim race was not related to victim participation in a statistically significant way, but the test of significance approached significance (p = .07) and the pattern showed that a greater percentage of White victims participated (74.6%) than Non-White victims (68.1%).

TABLE 4-14c. VICTIM PARTICIPATION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	Victim Declined (n = 225)		Victim Participated (n = 596)	
Victim Gender ($\chi^2 = 8.95$, p < .05)				
Female	221	28.6	553	71.4
Male	4	8.5	43	91.5
Victim Race[a] (NS)				
White[b]	148	25.4	434	74.6
Non-White	72	31.9	154	68.1
Victim Status at Time of Incident ($\chi^2 = 7.99$, p < .05)				
Military	93	23.0	312	77.0
Civilian – Not DoD Spouse	63	31.2	139	68.8
Civilian – DoD Spouse	69	32.2	145	67.8
Suspect Is Spouse/Former Spouse ($\chi^2 = 4.22$, p < .05)	50	37.3	84	62.7
Suspect Is Not Spouse	19	23.8	61	76.3
Victim Grade at Time of Incident (NS)				
Enlisted	90	23.3	296	76.7
Officer	3	15.8	16	84.2
Relationship Between Victim and Suspect[c] ($\chi^2 = 22.62$, p < .05)				
Supervisor – Subordinate	8	29.6	19	70.4

Spouse/Former Spouse	57	36.5	99	63.5
Intimate Partner/Former Intimate Partner	23	24.0	73	76.0
Friend	38	20.5	147	79.5
Co-worker/Classmate/Roommate	10	14.5	59	85.5
Acquaintance	31	24.0	98	76.0
Stranger	24	29.6	57	70.4
Online/Met for the First Time	5	20.8	19	79.2
Other	9	47.4	10	52.6
Victim Age (NS)	(Mean = 23.8, SD = 6.7)		(Mean = 23.6, SD = 6.4)	

[a] CID uses the Army Law Enforcement Reporting and Tracking System Database Center (ALERTS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but not ethnicity. Reviewers recorded ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] Cases in the "recruiter – recruit" category were excluded because of their small numbers. Cases in the "unknown/unable to determine" category were also excluded.

Table 4-14d shows that victim participation was related to five victim variables. Victim participation rates were greater when the victim was impaired in some way (passed out/unconscious/asleep or blacked out/memory loss) than when not impaired. Rates of victim participation were greater when the victim used alcohol before or during the incident (76.8%) than when the victim did not use alcohol (67.8%). Victim participation rates were also greater when information in the case file indicated the victim suffered from memory loss (77.3%) than when the case file did not indicate the victim suffered from some memory loss (70.3%). Victims who engaged in collateral misconduct during the incident were more likely to participate (79.4%) than those who did not engage in collateral misconduct (70.4%). Three victim complexity factors, including a motive to lie, inconsistent statements, and contradictory evidence were not statistically related to victim participation. Similarly, other forms of victim misconduct and victim consensual sexual contact with the suspect were not related to rates of victim participation. Victim behavioral health concerns were related to victim participation such that victims who did not experience behavioral health concerns before or after the incident were more likely to participate (73.8% compared to 64.8%).

TABLE 4-14d. VICTIM PARTICIPATION: VICTIM FACTORS

	Victim Declined (n = 225)		Victim Participated (n = 596)	
Victim Impairment ($\chi^2 = 7.96$, p < .05)				
Not Impaired	144	31.4	314	68.6
Passed Out/Unconscious/Asleep	45	22.2	158	77.8
Blacked Out/Memory Loss	32	22.9	108	77.1
Victim Alcohol Use ($\chi^2 = 8.25$, p < .05)				
Yes	102	23.2	337	76.8
No	123	32.2	259	67.8
Victim Drug Use (NS)				
Yes	17	22.7	58	77.3
No	208	27.9	538	72.0
Victim Lack of Memory ($\chi^2 = 4.50$, p < .05)				
Yes	61	22.7	208	77.3

No	164	29.7	388	70.3
Victim Motive to Lie (NS)				
Yes	81	26.5	225	73.5
No	144	28.0	371	72.0
Victim Inconsistent Statements (NS)				
Yes	54	23.8	173	76.2
No	171	28.8	423	71.2
Victim Contradictory Evidence (NS)				
Yes	17	20.0	68	80.0
No	208	28.3	528	71.7
Victim Collateral Misconduct ($\chi^2 = 6.11$, p < .05)				
Yes	41	20.6	158	79.4
No	184	29.6	438	70.4
Victim Other Misconduct (NS)				
Yes	41	33.1	83	66.9
No	184	26.4	513	73.6
Victim Behavioral Health Concerns Before or After Incident ($\chi^2 = 3.78$, p $\leq$ .05)				
Yes	38	35.2	70	64.8
No	187	26.2	526	73.8
Victim Consensual Sexual Contact with Suspect (NS)				
Yes – prior to incident	91	29.9	213	70.1
Yes – following incident	2	13.3	13	86.7
Yes – prior to and following incident	12	18.8	52	81.3
No	120	27.4	318	72.6

Several suspect-related variables were related to victim participation, including alcohol use, inconsistent statements, collateral misconduct, the existence of 413 and 404(b) evidence, and suspect statements to law enforcement and/or third parties (Table 4-14e). Rates of victim participation were greater when the suspect used alcohol during the incident (76.3%) than when the suspect did not use alcohol (68.8%). Victims were more likely to participate when the suspect made inconsistent statements (82.2%) than when the suspect did not provide inconsistent statements (71.3%) and when the suspect committed collateral misconduct (76.9%) than when the suspect did not commit collateral misconduct (69.9%). Victim participation was also greater when 413 or 404(b) evidence existed for the suspect (84.5% compared to 71.2%). The rates of victim participation were lowest when the suspect denied sexual conduct or denied committing a crime (67.2%). When suspect confessions were compared to cases without a suspect confession the pattern shows victim participation was more likely when the suspect confessed (87.0% compared to 72.1%). Several suspect variables were unrelated to victim participation, including suspect race and grade, suspect drug use, suspect memory loss, presentation of contradictory evidence by the suspect, suspect's behavioral health concerns, and suspect's other forms of misconduct.

TABLE 4-14e. VICTIM PARTICIPATION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	Victim Declined (n = 225)		Victim Participated (n = 596)	
Suspect Race[a] (NS)				
White[b]	137	27.2	367	72.8
Non-White	84	28.3	213	71.7
Suspect Grade at Time of Incident (NS)				
Officer	13	21.3	48	78.7
Enlisted	212	27.9	548	72.1
Suspect Alcohol Use ($\chi^2 = 5.85$, p < .05)				
Yes	98	23.7	316	76.3
No	127	31.2	280	68.8
Suspect Drug Use (NS)				
Yes	5	33.3	10	66.7
No	220	27.3	586	72.7
Suspect Lack of Memory (NS)				
Yes	4	13.8	25	86.2
No	221	27.9	571	72.0
Suspect Inconsistent Statements ($\chi^2 = 5.32$, p < .05)				
Yes	18	17.8	83	82.2
No	207	28.7	513	71.3
Suspect Contradictory Evidence (NS)				
Yes	6	22.2	21	77.8
No	219	27.6	575	72.4
Suspect Collateral Misconduct ($\chi^2 = 4.74$, p < .05)				
Yes	72	23.1	240	76.9
No	153	30.1	356	69.9
Suspect Other Misconduct (NS)				
Yes	38	24.4	118	75.6
No	187	28.1	478	71.9
Suspect 413 and 404(b) Evidence ($\chi^2 = 6.69$, p < .05)				
Yes	13	15.5	71	84.5
No	212	28.8	525	71.2
Suspect Behavioral Health Concerns Before or After Incident (NS)				
Yes	8	16.3	41	83.7
No	217	28.1	555	71.9
Suspect Statement ($\chi^2 = 9.52$, p ≤ .05)[c]				
Confessed	7	13.0	47	87.0
Consensual	113	27.2	302	72.8
Denied Crime/Sexual Activity	40	32.8	82	67.2
No Recollection/Partial Memory	1	12.5	7	87.5
Other	2	14.3	12	85.7

[a] CID uses the Army Law Enforcement Reporting and Tracking System Database Center (ALERTS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but not ethnicity. Reviewers recorded ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.

MULTIVARIATE ANALYSIS

The models were built by starting with independent variables that showed a significant bivariate relationship with the dependent variable. The models were refined in light of results of the initial model and of close relationships between two independent variables. In addition, some independent variables were excluded if they appeared in only small numbers of cases across categories of the dependent variable (e.g., probable cause by command decision, suspect drug use). Several victim and suspect complexity factors were related to the preferral decision. In order to simplify the model, one binary variable was created that measured the existence of any of the six victim complexity factors (yes or no) and one binary variable was created that measured the existence of any of the six suspect complexity factors (yes or no).[7]

Table 4-15a presents the results of this final multivariate model that treated the commander decision to prefer the case or take no action in the case as the dependent variable. Cases in which the commander took administrative action were excluded from this analysis. Table 4-13a above showed there was a close relationship between the commander's decision and the existence of probable cause. Yet it was a rare event for a case to be preferred without probable cause (n = 5) so it is important to note that this variable was excluded from the model building process. Nineteen cases in which the commander took administrative action also were excluded from this analysis.

The following patterns of relationships emerged from the multivariate model results in Table 4-15a:

- A participating victim increased the chances a case would be preferred.
- When the victim sustained injuries the chances of preferral were greater.
- When the victim had attorney representation prior to trial, the chances of preferral were greater.
- When DNA evidence was tested, the chances a case would be preferred increased.
- The likelihood of preferral was greater when the suspect confessed than when the suspect made other statements or did not make any statements at all.
- The likelihood of preferral was lower when at least one of the six victim complexity factors existed in the case than when no victim complexity factors existed.
- The likelihood of preferral was greater when at least one of the six suspect complexity factors existed in the case than when no suspect complexity factors existed.

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[7] The victim complexity factor variable measured whether any of the following six factors existed: victim lack of memory, victim inconsistent statements, victim contradictory evidence, victim motive to lie, victim collateral misconduct, and victim other misconduct. The suspect complexity factor variable measured whether any of the following six factors existed: suspect lack of memory, suspect inconsistent statements, suspect contradictory evidence, suspect 413 and 404(b) evidence, suspect collateral misconduct, and suspect other misconduct.

- The chances of case preferral were lower when the incident was reported by a third party or by command than when a victim or victim-authorized representative reported the offense.

TABLE 4-15a. LOGISTIC REGRESSION: COMMANDER DECISION TO PREFER CASES OR TAKE NO ACTION

	B	SE	Exp(B)
Victim participated	2.13*	.35	8.42
Victim physically injured	.77*	.25	2.16
Victim attorney representation (prior to trial)	.56*	.20	1.75
DNA evidence tested	1.49*	.22	4.45
Suspect confessed	2.10*	.38	8.12
At least one of six victim complexity factors existed	-1.07*	.23	.34
At least one of six suspect complexity factors existed	1.00*	.22	2.72
Command or third party reported incident	-.47*	.22	.62

* $p < .05$
Model $\chi^2 = 236.79$, df = 8, $p < .05$

Table 4-15b presents the results of a multivariate model that treated victim participation as the dependent variable.

- The chances of victim participation were greater when:
  - pretextual communication occurred
  - the victim was physically injured
  - the victim was an active duty Service member
  - the victim was impaired in some way
  - the suspect confessed
- The chances of victim participation were lower when the case file indicated that the victim suffered from some behavioral health concerns.
- The chances of victim participation were lower when a third party or command reported the incident than when the victim or a victim-authorized representative reported the incident.

TABLE 4-15b. LOGISTIC REGRESSION: VICTIM PARTICIPATION OR DECLINATION

	B	SE	Exp(B)
Pretextual communication	.92*	.31	2.51
Victim physically injured	.59*	.27	1.81
Victim status − military	.33*	.16	1.39
Victim impaired	.39*	.17	1.47
Victim behavioral health concerns	-.46*	.23	.63
Command or third party reported incident	-.35*	.17	.70
Suspect confessed	.81*	.42	2.25

* $p \leq .05$
Model $\chi^2 = 45.57$, df = 7, $p < .05$

PART 5
Coast Guard Results

The Coast Guard case file data were analyzed to understand case characteristics and patterns of relationships between key variables. The analysis examined 30 Coast Guard cases. The analysis is somewhat limited because of the small number of cases. The results presented below describe the set of cases in terms of key characteristics. Because of the small number of cases, the analysis did not estimate bivariate or multivariate relationships between case characteristics.

UNIVARIATE STATISTICS: COAST GUARD CASE CHARACTERISTICS

Table 5-1 presents information about the commanders' decisions in Coast Guard cases and justice system outcomes for penetrative sexual assaults. The commander did not take action in approximately half of cases (53.3%) and preferred 46.7% of cases. Nearly all preferred cases were referred. Five of seven cases that went to court-martial ended in a conviction for at least one penetrative sexual offense. Acquittals were less common than convictions. All alternative dispositions involved case dismissal.

TABLE 5-1. COMMAND ACTION DECISIONS AND COURT-MARTIAL RESULTS

	N	%
Initial Command Action on Penetrative Sexual Assault		
No Command Action	16	53.3
Preferred	14	46.7
Administrative Action	0	0
Reason Provided by Command for No Action[a]		
Lack of Victim Participation	5	27.8
Insufficient Evidence	2	11.1
Unfounded	2	11.1
Prosecution Declined	0	0
No Probable Cause	0	0
No Reason Provided/Unknown	9	50.0
Other	0	0
Case Preferral/Referral (n = 14)		
Preferred Only	1	7.1
Preferred and Referred	13	92.9
Referred Cases with a Finding	7	53.8
Court-Martial Result (n = 7)		
Acquittal	2	28.6
Conviction for at Least One Penetrative Sexual Assault Charge – Court-Martial	5	71.4
Conviction for at Least One Penetrative Sexual Assault Charge – PTA at Court-Martial	0	0
Alternative Disposition (n = 7)		
Administrative Separation	0	0
Discharge in Lieu of Court-Martial	0	0
Dismissal	7	100

Table 5-2 presents information about the location of Coast Guard incidents. Seventy percent occurred off installation and a large majority (86.7%) occurred in the continental United States; 10% occurred on a vessel. No Coast Guard cases occurred in a deployed location.

TABLE 5-2. INCIDENT LOCATION

	N	%
Installation		
On Installation	9	30.0
Off Installation	21	70.0
Location of Incident		
CONUS	26	86.7
OCONUS	1	3.3
CONUS and OCONUS	0	0
Vessel	3	10.0
Vessel and CONUS	0	0
Vessel and OCONUS	0	0
Deployment		
Deployed Location (Iraq or Afghanistan only)	0	0
Non-Deployed Location	30	100

Table 5-3 summarizes information about the time between the offense date and the report to authorities. Twenty percent of cases were reported within three days of the incident and approximately forty percent of cases were reported within one month of the incident. Thirty percent of Coast Guard cases were reported more than one year after the incident.

TABLE 5-3. TIME BETWEEN KEY ACTIONS IN THE CASE

	N	%
Number of Days Between Offense and Report to Authorities		
0 (same day)	0	0
1 – 3	6	20.0
4 – 7	2	6.7
8 – 14	2	6.7
15 – 30	2	6.7
31 – 60	0	0
61 – 90	0	0
91 – 120	2	6.7
121 – 150	1	3.3
151 – 180	2	6.7
181 – 210	1	3.3
211 – 240	0	0
241 – 270	1	3.3
271 – 365	2	6.7
366 +	9	30.0
Median number of days = 150		

Suspect characteristics are summarized in Table 5-4. A large majority of cases involved suspects who were enlisted (86.7%) and with a pay grade of E-5 or lower (77.0%). Nearly one-third of suspects (30.8%) were E-3 personnel. Four cases involved suspects who were officers and three of those were cadets or midshipman. Nearly all suspects were male (96.7%) and 86.7% of suspects were White. The White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African. The average age of suspects was 25.1 years.

TABLE 5-4. SUSPECT CHARACTERISTICS

	N	%
Suspect Grade at Time of Incident		
Enlisted	26	86.7
Officer	4	13.3
Suspect Pay Grade at Time of Incident		
Enlisted (n = 26)		
E-1	1	3.9
E-2	1	3.9
E-3	8	30.8
E-4	7	26.9
E-5	3	11.5
E-6	3	11.5
E-7	1	3.9
Unknown	2	7.7
Officer (n = 4)		
Cadet/Midshipman	3	75.0
O-2	1	25.0
Suspect Gender		
Male	29	96.7
Female	1	3.3
Suspect Age	Mean = 25.1; SD = 4.3; Range = 20 – 36	
Suspect Race[a]		
White[b]	26	86.7
Black or African American	1	3.3
Asian	0	0
Native Hawaiian or Other Pacific Islander	1	3.3
American Indian or Alaska Native	0	0
Other Race, Ethnicity, or Origin	0	0
Unknown	2	6.7

[a] CGIS uses the Field Activity Case Tracking System (FACTS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed did not report race or ethnicity in the title section of the report. Reviewers recorded race and ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

Table 5-5 presents information about suspects' drug and alcohol use during the time of the incident and about other suspect characteristics related to the investigation. Suspect alcohol use was more common (66.7%) than suspect drug use (3.3%). It was rare for a suspect to have any behavioral health concerns listed in the case files (6.7%). The data collection form captured

information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). The most common suspect complexity factors were collateral misconduct at the time of the incident (36.7%) and other forms of misconduct (26.7%). Suspects' loss of consciousness/memory and contradictory evidence were not common. At least one of six suspect complexity factors existed in two-thirds of the cases (66.7%).

TABLE 5-5. SUSPECT FACTORS

	N	%
Suspect Alcohol Use		
Yes	20	66.7
No	10	33.3
Suspect Drug Use		
Yes	1	3.3
No	29	96.7
Suspect Behavioral Health Concerns Before or After Incident		
Yes	2	6.7
No	28	93.3
Suspect Complexity Factors[a]		
Collateral Misconduct	11	36.7
Other Misconduct	8	26.7
Loss of Memory or Consciousness	0	0
413 and 404(b) Evidence	5	16.7
Inconsistent Statements	4	13.3
Contradictory Evidence	2	6.7
At Least One of the Six Factors Exists in the Case	20	66.7

[a] These categories were not mutually exclusive; multiple factors could have been present for a single suspect. Percentages were calculated based on the full set of 30 cases and do not sum to 100%.

Table 5-6 summarizes information about Coast Guard cases in terms of suspects' statements and legal representation. Suspects offered statements to law enforcement in 63.3% of cases and suspects rarely had legal representation at the time of interview (6.7%). The data collection instrument recorded information from the case file about the content of suspects' statements to law enforcement and third parties. The most common suspect statement was to indicate that the sexual contact was consensual (75.0%), followed by denying that the event was a crime or denying the sexual contact (15.0%). Suspects confessed in two cases (10.0%).

TABLE 5-6. SUSPECT STATEMENTS AND REPRESENTATION

	N	%
Suspect Provided Statement to Law Enforcement		
Yes	19	63.3
No	11	36.7
Suspect Had Legal Representation		
Yes	2	6.7
No	28	93.3
Suspect Statement to Third Parties or Law Enforcement[a]		
Confessed	2	10.0
Consensual	15	75.0

	N	%
Denied Crime/Sexual Activity	3	15.0
No Recollection/Partial Memory	0	0
Other	0	0

[a] Information about suspects' statements to law enforcement or third parties was available for 20 cases.

Tables 5-7 and 5-8 present information about victims. One-third of victims were enlisted Service members while it was less common for a victim to be an officer (13.3%). Civilians represented over half (53.3%) of all victims and military personnel represented 46.6% of victims. Among the enlisted victims, 90.0% were E-5 or lower. The large majority of victims were female (96.7%) and the average victim age was 22.4. White victims comprised nearly three-quarters (73.3%) of the sample. As true of suspects, it is important to note that the White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African.

Table 5-7 also summarizes the relationships between victims and suspects. Intimate partner and former intimate partner relationships were most common (23.3%), followed by current or former spouses (16.7%) and friends (16.7%). Coworkers, acquaintances, and stranger relationships all occurred with the same frequency (13.3%). Recruit (victim) – recruiter (suspect) and supervisor (suspect) – subordinate (victim) relationships did not occur in this sample of Coast Guard cases. Finally, Table 5-7 shows which individuals reported the incident: the victim (43.3%), a third party (33.3%), a victim-authorized representative (16.7%), or command (6.7%).

TABLE 5-7. VICTIM CHARACTERISTICS

	N	%
Victim Status at Time of Incident		
Enlisted	10	33.3
Officer	4	13.3
Civilian – Not DoD Spouse	10	33.3
Civilian – DoD Spouse	6	20.0
Suspect Is Spouse/Former Spouse	5	83.3
Suspect Is Not Spouse	1	16.7
Victim Pay Grade at Time of Incident		
Enlisted (n = 10)		
E-3	4	40.0
E-4	2	20.0
E-5	3	30.0
E-6	1	10.0
Officer (n = 4)		
Cadet/Midshipman	2	50.0
O-1	1	25.0
W-2	1	25.0
Victim Gender		
Male	1	3.3
Female	29	96.7
Victim Age	Mean = 22.4; SD = 4.1; Range = 17 − 30	
Victim Race[a]		
White[b]	22	73.3
Black or African American	2	6.7

Asian	0	0
Native Hawaiian or Other Pacific Islander	0	0
American Indian or Alaska Native	1	3.3
Other Race, Ethnicity, or Origin	0	0
Unknown	5	16.7
Relationship to Suspect[c]		
Current or Former Spouse	5	16.7
Intimate Partner/Former Intimate Partner	7	23.3
Friend	5	16.7
Co-worker/Classmate/Roommate	4	13.3
Subordinate – Supervisor	0	0
Acquaintance	4	13.3
Online/Met for the First Time	0	0
Stranger	4	13.3
Recruit – Recruiter	0	0
Other	1	3.3
Reporting Individual		
Victim	13	43.3
Victim-Authorized Representative	5	16.7
Command	2	6.7
Third Party	10	33.3

[a] CGIS uses the Field Activity Case Tracking System (FACTS) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed did not report race or ethnicity in the title section of the report. Reviewers recorded race and ethnicity from other documents within the investigative file. However, to maintain consistency across the Services, only race was analyzed.

[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

[c] The data analyzed here were based on the victim's reported relationship to the suspect. See Appendix for more details about this variable.

Table 5-8 presents information about victims' drug and alcohol use and level of impairment during the time of the incident, in addition to other victim characteristics related to the investigation. As was true of suspect variables, alcohol use was fairly common (70.0%), and victim drug use was nonexistent in this sample. Forty-three percent of victims reported some level of impairment during the offense. Victims who were impaired most often reported passing out, being unconscious, or being asleep (53.8%). The large majority of victims (83.3%) did not have any history of behavioral health concerns listed in the case files. The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). The data collection instrument also recorded information about victim's statements or behaviors that may have been relevant during the investigation, and data show that nearly half (46.7%) had a motive to lie, 33.3% experienced some memory loss or were unconscious, 26.7% of victims engaged in some form of collateral misconduct, and 20.0% made inconsistent statements. Eighty-seven percent of cases involved a victim who was perceived to have at least one of the six victim complexity factors.

TABLE 5-8. VICTIM FACTORS

	N	%
Victim Alcohol Use		
Yes	21	70.0

	N	%
No	9	30.0
Victim Drug Use		
Yes	0	0
No	30	100
Victim Reported Being Impaired		
Yes	13	43.3
No	17	56.7
Nature of Victim Impairment[a]		
Passed Out/Unconscious/Asleep	7	53.8
Blacked Out/No Memory/Partial Memory	6	46.2
Victim Behavioral Health Concerns Before or After Incident		
Yes	5	16.7
No	25	83.3
Victim Complexity Factors[b]		
Collateral Misconduct	8	26.7
Other Misconduct	5	16.7
Loss of Memory or Consciousness	10	33.3
Inconsistent Statements	6	20.0
Motive to Lie	14	46.7
Contradictory Evidence	1	3.3
At Least One of the Six Factors Exists in the Case	26	86.7

[a] Multiple reasons were provided for the nature impairment in four cases. To simplify the analyses of impairment reasons a single variable was created to measure the reason for impairment. The categories for this variable are mutually exclusive. The "passed out/unconscious/asleep" category is considered to be the greatest level of impairment, followed by "blacked out/no memory/partial memory." If the case indicated "passed out" or "unconscious" AND "blacked out" or "partial memory," then the case was coded as "passed out/unconscious/asleep." If the case indicated "blacked out," "partial memory," or "no memory" AND "asleep," then the case was coded as "passed out/unconscious/asleep."

[b] These categories were not mutually exclusive; multiple factors could have been present for a single victim. Percentages were calculated based on the full set of 30 cases and do not sum to 100%.

Table 5-9 presents information about victim injuries and suspects' use of force and threats. A suspect used or threatened to use force in 26.7% of cases; when suspects used or threatened force it was most often physical (23.3%). Victims sustained injuries in 20.0% of cases. Bruising and redness were the most common victim injuries, but were still relatively rare. Witnesses existed in 20% of cases (see item 57 on data collection form), and pretextual communication occurred in only one case.

TABLE 5-9. VICTIM INJURIES AND EVIDENCE

	N	%
Use/Threat of Force		
Yes	8	26.7
No	22	73.3
Type of Force/Threat[a]		
Physical	7	23.3
Weapon	0	0
Coercion	2	6.7
Threat/Threat to Others	3	10.0
Physical Injuries to Victim[b]		
Yes	6	20.0

		N	%
No		24	80.0
Injuries[c]			
	Redness	4	13.3
	Bruising	4	13.3
	Cuts	1	3.5
	Scrapes	0	0
Witness to the Incident			
	Yes	6	20.0
	No	24	80.0
Pretextual Communication			
	Yes	1	3.3
	Supports Victim Account	0	0
	Supports Suspect Account	0	0
	Supports Neither	1	100
	No	29	96.7

[a] Categories were not mutually exclusive; cases could involve multiple types of force and threats.

[b] Victim injury was based on self-reported or recorded information in the case files and SAFE reports.

[c] Categories were not mutually exclusive; cases could involve multiple types of injuries.

Table 5-10 presents information about forensic evidence in Coast Guard cases. A sexual assault forensic examination (SAFE) was performed for five victims (16.7%). When a SAFE was performed, it was performed on the same day as the offense in three cases. Civilian medical facilities performed four of the five SAFEs and all were performed by a civilian or DoD civilian medical professional. The measure of DNA testing indicates whether *any* DNA evidence from the case was tested. DNA evidence was tested in four cases (13.3% of all Coast Guard cases).

TABLE 5-10. FORENSIC EVIDENCE

	N	%
SAFE Performed on Victim		
Yes	5	16.7
No	25	83.3
Days Between Offense and Victim SAFE (n = 5)		
0 (same day)	3	60.0
1	0	0
2	0	0
3	0	0
4	1	20.0
5	0	0
6	0	0
7	0	0
8 – 14	0	0
15 +	0	0
Unknown	1	20.0
Victim SAFE Location (n = 5)		
Civilian Health Care Facility	4	80.0
Military Health Care Facility	1	20.0
Victim SAFE Provider Type (n = 5)		
Civilian Provider	4	80.0
Military Examiner	0	0

	N	%
DoD Civilian	1	20.0
DNA Evidence Tested[a]		
Yes	4	13.3
No/Unknown	26	86.7

[a] The DNA testing variable measured *any* DNA evidence testing in the case, not only sexual assault kit evidence collected from the victim.

Victim participation is summarized in Table 5-11. Victims participated in 76.7 percent of Coast Guard case investigations and declined in 23.3% of cases. All of the victims who declined did so at the investigation stage. Victims rarely provided their input to commanders (n = 2, 6.7% of all cases). Both victims who provided input requested court-martial. Victims were represented by attorneys during the investigation in over half of the cases (60.0%) and victims provided statements to law enforcement in nearly all cases (n = 29, 96.7%).

TABLE 5-11. VICTIM PARTICIPATION

	N	%
Victim Declination Recorded in File		
Victim Participated	23	76.7
Victim Declined	7	23.3
Declination Stage		
Investigation	7	100
Reporting	0	0
Court-Martial	0	0
Preliminary Hearing	0	0
Victim Input to Command or SJA		
No	28	93.3
Yes	2	6.7
Input Provided to Command (n = 2)		
Pursue Administrative Separation	0	0
Supports DILCOM	0	0
Pursue Court-Martial	2	100
Take No Action	0	0
Nonjudicial Punishment/Administrative Actions	0	0
Other	0	0
Victim Attorney Representation (prior to trial)		
Yes	18	60.0
No	12	40.0
Victim Provided Statement to Law Enforcement		
Yes	29	96.7
No	1	3.3

Table 5-12 presents information about probable cause determinations. Judge advocates made probable cause determinations for purposes of indexing with the FBI's NCIC criminal history database. A judge advocate did not make a probable cause determination in 80.0% of cases (n = 24). In all cases with a determination, the judge advocate determined that probable cause existed.

TABLE 5-12. PROBABLE CAUSE DETERMINATION

	N	%

Probable Cause Determination Made		
Yes	6	20.0
No	24	80.0
Probable Cause Determination Result (n = 6)		
Yes, Probable Cause Exists	6	100
Probable Cause Does Not Exist	0	0

The Marine Corps case file data were analyzed to understand case characteristics and patterns of relationships between key variables. The analysis examined 263 Marine Corps cases. The first step in the analysis examined univariate statistics to understand the cases. The second step explored bivariate relationships between case and individual characteristics and two key outcome variables: command decision to take action and victim participation in justice proceedings. The final analysis estimated multivariate models for the two dependent variables (command action and victim participation).

UNIVARIATE STATISTICS: MARINE CORPS CASE CHARACTERISTICS

Table 6-1 presents information about the commanders' decisions in Marine Corps cases and justice system outcomes. The commander did not take action in 72.2% of cases and preferred 26.2% of cases. Administrative actions occurred in a small percentage of cases (n = 4, 1.5%). These four cases entailed administrative separation. Commanders did not document a reason for not taking action in 11.1% of the no action cases. Insufficient evidence was the most common reason (56.0%) commanders provided for not taking action in the case, followed by a lack of victim participation (27.1%). Of the 69 cases that commanders preferred, 69.6% were also referred; slightly less than one-third (30.4%) were not referred. Court-martial occurred in 26 of the 48 referred cases (54.2%) and alternative dispositions, such as discharges, occurred in 43 of the 69 preferred cases (62.3%). Court-martial more commonly resulted in acquittal (57.7%) than conviction (42.3%), and dismissal was the most common alternative disposition (95.3%).

TABLE 6-1. COMMAND ACTION DECISIONS AND COURT-MARTIAL RESULTS

	N	%
Initial Command Action on Penetrative Sexual Assault		
No Command Action	190	72.2
Preferred	69	26.2
Administrative Action[a]	4	1.5
Reason Provided by Command for No Action[b]		
Lack of Victim Participation	61	27.1
Insufficient Evidence	126	56.0
Unfounded	7	3.1
Prosecution Declined	4	1.8
No Probable Cause	2	0.9
No Reason Provided/Unknown	25	11.1
Other	0	0
Case Preferral/Referral (n = 69)		
Preferred Only	21	30.4
Preferred and Referred	48	69.6
Referred Cases with a Finding	26	54.2
Court-Martial Result (n = 26)		
Acquittal	15	57.7
Conviction for at Least One Penetrative Sexual Assault Charge – Court-Martial	4	15.4

		N	%
Conviction for at Least One Penetrative Sexual Assault Charge – PTA at Court-Martial		7	26.9
Alternative Disposition (n = 43)			
Administrative Separation		1	2.3
Discharge in Lieu of Court-Martial		1	2.3
Dismissal		41	95.3

[a] This category included nonjudicial punishment.

[b] Multiple reasons were listed in 34 cases in which the command did not take action, these are included in the counts, resulting in a total count of 225. Percentages were computed using 225.

Table 6-2 describes Marine Corps cases in terms of incident location. Slightly more than half of the reported sexual assaults occurred on installation (54.8%) and over three-quarters occurred in the continental United States (79.1%). No cases occurred in a deployed location (i.e., Iraq or Afghanistan).

TABLE 6-2. INCIDENT LOCATION

	N	%
Installation		
On Installation	144	54.8
Off Installation	119	45.2
Location of Incident		
CONUS	208	79.1
OCONUS	53	20.2
CONUS and OCONUS	1	0.4
Vessel	1	0.4
Vessel and CONUS	0	0
Vessel and OCONUS	0	0
Deployment		
Deployed Location (Iraq or Afghanistan only)	0	0
Non-Deployed Location	263	100

Table 6-3 summarizes information about the time between key events in the cases, including the times between the offense, the report to authorities, MCIO final report, and the command decision in preferred cases. The data collection form captured information about the dates of these key events and the number of days between them was computed. In some cases, there were multiple dates listed for the date the incident occurred and a date range was captured on the data collection form. In these situations, the latest (most recent) incident date was used to compute the days between the incident and key events (i.e., date of report and decision dates). When one of the dates used in the calculations was missing, computations were not possible; these cases therefore are categorized as "unknown." In addition, when the date of one event should have logically occurred after the date of another event but the dates show the reverse (e.g., the date of the commander's decision occurred *before* the date the incident was reported or the date the MCIO closed the case occurred *before* the date the incident was reported to authorities), these cases are categorized as "unknown." This latter categorization rule was also used when a range of dates was provided for the date of the incident and the most recent incident date occurred *after* the date the incident was reported (i.e., these cases are categorized as "unknown"). The number of days between key points in the case and commanders' decisions were divided by no action (n = 190) and preferred cases (n = 69) to identify time differences between cases with these

different commanders' decisions. The patterns described below show that it took longer for commanders to decide to take no action than to prefer cases.

Nearly half (46.3%) of cases were reported within 7 days of the incident, including 37.6% of cases that were reported within 3 days of the incident. In addition, 57.7% of Marine Corps cases were reported within 30 days of the incident. The median number of days between the report and the incident was 11, indicating that half of the Marine Corps cases were reported to authorities within 11 days and half of the cases were reported after 11 days.

A small percentage of cases (11.9%) received a final MCIO report within 60 days of the report to authorities; 19.8% of cases received a final MCIO report between 2 and 3 months after the date the incident was reported to authorities. The median number of days between the report to authorities and the MCIO final report was 155 days; half of the cases received a final MCIO report in fewer than 155 days after the date of the report to authorities.

Nearly one-third of the cases (32.0%) were preferred within 3 months of the MCIO final report; the number of days between the MCIO final report and the decision to prefer could not be calculated in 42% of cases because the information necessary for the calculations was not available. The median number of days between the MCIO final report and the decision to prefer the case was less than three months (70 days); half of the cases were preferred fewer than 70 days after the MCIO final report.

Also among preferred cases, 15.9% were preferred within 2 months of the date on which the incident was reported to authorities and 44.9% were preferred within 6 months. The median number of days between the decision to prefer and the date on which the incident was reported to authorities was 196.5.

Among no action cases, 35.3% were decided within 3 months of the MCIO final report. The median number of days between the MCIO final report and the decision to take no action in the case was approximately three and a half months (107 days); decisions in half of these cases were made fewer than 107 days after the MCIO final report. Also among no action cases, 10.6% were decided within 4 months of the date on which the incident was reported to authorities and nearly one-quarter (24.3%) were decided within 6 months. The median number of days between the decision to take no action and the date on which the incident was reported to authorities was 239; half of the no action cases were decided in fewer than 239 days and half were decided in more than 239 days.

TABLE 6-3. TIME BETWEEN KEY ACTIONS IN THE CASE

	N	%
Number of Days Between Offense and Report to Authorities		
0 (same day)	30	11.4
1 – 3	69	26.2
4 – 7	23	8.7
8 – 14	12	4.6
15 – 30	18	6.8
31 – 60	23	8.7
61 – 90	16	6.1

91 – 120	10	3.8
121 – 150	7	2.7
151 – 180	9	3.4
181 – 210	6	2.3
211 – 240	1	0.3
241 – 270	2	0.7
271 – 365	11	4.2
366 +	23	8.7
Unknown	3	1.1
Median number of days = 11		
Number of Days Between Report to Authorities and MCIO Final Report		
0 (same day)	1	0.4
1 – 3	0	0
4 – 7	0	0
8 – 14	2	0.8
15 – 30	7	2.7
31 – 60	21	8.0
61 – 90	31	11.8
91 – 120	27	10.3
121 – 150	31	11.8
151 – 180	32	12.2
181 – 210	22	8.4
211 – 240	15	5.7
241 – 270	14	5.3
271 – 365	25	9.5
366 +	23	8.7
Unknown	12	4.6
Median number of days = 155		
Number of Days Between MCIO Final Report and Command Decision in Preferred Cases (n = 69)		
0 (same day)	1	1.5
1 – 3	0	0
4 – 7	1	1.5
8 – 14	2	2.9
15 – 30	4	5.8
31 – 60	8	11.6
61 – 90	6	8.7
91 – 120	3	4.4
121 – 150	2	2.9
151 – 180	5	7.3
181 – 210	4	5.8
211 – 240	1	1.5
241 – 270	3	4.4
271 – 365	0	0
366 +	0	0
Unknown	29	42.0
Median number of days = 70		

Number of Days Between Report to Authorities and Command Decision in Preferred Cases (n = 69)		
0 – 60	11	15.9
61 – 120	10	14.5
121 – 180	10	14.5
181 – 240	7	10.1
241 – 300	10	14.5
301 – 360	8	11.6
361 +	12	17.4
Unknown	1	1.5
Median number of days = 196.5		
Number of Days Between MCIO Final Report and Command Decision in No Action Cases (n = 190)		
0 (same day)	4	2.1
1 – 3	1	0.5
4 – 7	2	1.1
8 – 14	4	2.1
15 – 30	17	9.0
31 – 60	19	10.0
61 – 90	20	10.5
91 – 120	20	10.5
121 – 150	25	13.2
151 – 180	16	8.4
181 – 210	13	6.8
211 – 240	5	2.6
241 – 270	8	4.2
271 – 365	2	1.1
366 +	3	1.6
Unknown	31	16.3
Median number of days = 107		
Number of Days Between Report to Authorities and Command Decision in No Action Cases (n = 190)		
0 – 60	3	1.6
61 – 120	17	9.0
121 – 180	26	13.7
181 – 240	43	22.6
241 – 300	27	14.2
301 – 360	20	10.5
361 +	37	19.5
Unknown	17	9.0
Median number of days = 239		

Table 6-4 describes the suspect characteristics in Marine Corps cases. A large majority of cases involved suspects who were enlisted (96.6%) and with a pay grade of E-5 or lower (88.6%). Nearly one-third of suspects (31.1%) were E-3 personnel. Nearly all suspects were male (99.2%), and 77.9% of suspects were White. Fewer than 20% of suspects were African

American. The White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African. The average age of suspects was 23.8 years.

TABLE 6-4. SUSPECT CHARACTERISTICS

	N	%
Suspect Grade at Time of Incident		
Enlisted	254	96.6
Officer	9	3.4
Suspect Pay Grade at Time of Incident		
Enlisted (n = 254)		
E-1	6	2.4
E-2	28	11.0
E-3	79	31.1
E-4	59	23.2
E-5	53	20.9
E-6	17	6.7
E-7	9	3.5
E-8	3	1.2
Officer (n = 9)		
O-2	3	33.3
O-3	2	22.2
O-5	1	11.1
O-6	2	22.2
W-1	1	11.1
Suspect Gender		
Male	261	99.2
Female	2	0.8
Suspect Age	Mean = 23.8; SD = 5.3; Range = 18 − 56	
Suspect Race[a]		
White[b]	205	77.9
Black or African American	46	17.5
Asian	3	1.1
Native Hawaiian or Other Pacific Islander	2	0.8
American Indian or Alaska Native	3	1.1
Other Race, Ethnicity, or Origin[c]	3	1.1
Unknown	1	0.4

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] Persons categorized as "mixed" in NCIS investigations were included in this category.

Table 6-5 presents information about suspects' drug and alcohol use during the time of the incident and about other suspect characteristics related to the investigation. Drug use during the incident was rare, but suspect alcohol use was common (60.8% of incidents). It was uncommon for a suspect to have any behavioral health concerns listed in the case files (8.0%). The data

collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). At least one of six suspect complexity factors existed in 64.6% of the cases. The most common suspect complexity factors were collateral misconduct at the time of the incident (36.5%), other forms of misconduct (32.3%), and the presence of 413 or 404(b) evidence (10.3%). Suspects' inconsistent statements, contradictory evidence, and loss of memory or consciousness were less common.

TABLE 6-5. SUSPECT FACTORS

	N	%
Suspect Alcohol Use		
Yes	160	60.8
No	103	39.2
Suspect Drug Use		
Yes	3	1.1
No	260	98.9
Suspect Behavioral Health Concerns Before or After Incident		
Yes	21	8.0
No	242	92.0
Suspect Complexity Factors[a]		
Collateral Misconduct	96	36.5
Other Misconduct	85	32.3
Loss of Memory or Consciousness	20	7.6
413 and 404(b) Evidence	27	10.3
Inconsistent Statements	24	9.1
Contradictory Evidence	10	3.8
At Least One of the Six Factors Exists in the Case	170	64.6

[a] These categories were not mutually exclusive; multiple factors could have been present for a single suspect. Percentages were calculated based on the full set of 263 cases and do not sum to 100%.

Table 6-6 summarizes information about suspects' statements and legal representation. It was common for suspects to make statements to law enforcement (68.8%); suspects rarely had legal representation (4.9%) at the time of the interview. The data collection instrument recorded information from the case file about the content of suspect statements to law enforcement and third parties. The most common suspect statement was to indicate that the sexual contact was consensual (52.5%), followed by denying that the event was a crime or denying sexual contact (11.8%). Suspects confessed in 16 cases (6.1%).

TABLE 6-6. SUSPECT STATEMENTS AND REPRESENTATION

	N	%
Suspect Provided Statement to Law Enforcement		
Yes	181	68.8
No	82	31.2
Suspect Had Legal Representation		
Yes	13	4.9
No	250	95.1
Suspect Statement to Third Parties or Law Enforcement [a]		
Confessed	16	6.1

Consensual	138	52.5
Denied Crime/Sexual Activity	31	11.8
No Recollection/Partial Memory	10	3.8
Other	8	3.0

[a] Reports included information with multiple suspect statements in 19 cases. A hierarchy rule was used to code cases with multiple statements: Cases were coded as "confessed" if the suspect confessed and offered any other statement. The next code in the hierarchy was "consensual" and was used when the suspect reported that the sexual activity was consensual (but did not confess). The third category in the hierarchy was "denied crime or denied penetrative sexual activity" and was used when the suspect offered multiple statements but not "confessed" and not "consensual." The "no recollection/partial memory" category was used when only this statement was made. The last category was "other" and was used when the provided statement did not clearly fit into any of the previous categories. Information about suspects' statements was available for 203 cases.

Tables 6-7 and 6-8 present information about victims. Over half of the cases involved victims who were enlisted (55.1%) and it was rare for a victim to be an officer (1.1%). Civilians represented 43.7% of all victims and military personnel represented 56.2% of victims. Among the enlisted victims, a large majority were E-3 or lower (73.2%). The large majority of victims were female (95.4%) and the average victim age was 22.6. In a pattern similar to that seen among suspects, White victims comprised a large portion of victims in the sample (84.0%). African Americans represented 8.4% of victims. As was true of suspects, it is important to note that the White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African.

Table 6-7 also summarizes the relationships between victims and suspects. Stranger cases were not common (5.7%) and friend relationships were most common (29.3%), followed by current or former spouses (21.7%), acquaintances (13.3%), and current or former intimate partners (12.2%). Recruit (victim) – recruiter (suspect) and supervisor (suspect) – subordinate (victim) relationships were not common among Marine Corps cases (n = 10). Finally, Table 6-7 describes the individuals who reported the incident. Victims reported 46.0% of the cases, followed by a victim-authorized representative (26.2%), command (20.5%), or a third party (7.2%).

TABLE 6-7. VICTIM CHARACTERISTICS

	N	%
Victim Status at Time of Incident		
Enlisted	145	55.1
Officer	3	1.1
Civilian – Not DoD Spouse	56	21.3
Civilian – DoD Spouse	59	22.4
Suspect Is Spouse/Former Spouse	41	69.5
Suspect Is Not Spouse	18	30.5
Victim Pay Grade at Time of Incident		
Enlisted (n = 145)		
E-1	4	2.8
E-2	34	23.5
E-3	68	46.9
E-4	22	15.2
E-5	15	10.3
E-7	1	0.7
Unknown	1	0.7
Officer (n = 3)		

O-2	2	66.7
W-1	1	33.3
Victim Gender		
Male	12	4.6
Female	251	95.4
Victim Age	Mean = 22.6; SD = 5.2; Range = 16 – 49	
Victim Race[a]		
White[b]	221	84.0
Black or African American	22	8.4
Asian	7	2.7
Native Hawaiian or Other Pacific Islander	1	0.4
American Indian or Alaska Native	4	1.5
Other Race, Ethnicity, or Origin[c]	3	1.1
Unknown	5	1.9
Relationship to Suspect[d]		
Current or Former Spouse	57	21.7
Intimate Partner/Former Intimate Partner	32	12.2
Friend	77	29.3
Co-worker/Classmate/Roommate	24	9.1
Subordinate – Supervisor	7	2.7
Acquaintance	35	13.3
Online/Met for the First Time	4	1.5
Stranger	15	5.7
Recruit – Recruiter	3	1.1
Other	3	1.1
Unknown/Unable to Determine	6	2.3
Reporting Individual		
Victim	121	46.0
Victim-Authorized Representative	69	26.2
Command	54	20.5
Third Party	19	7.2

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] Persons categorized as "mixed" in NCIS investigations were included in this category.
[d] The data analyzed here were based on the victim's reported relationship to the suspect. See Appendix for more details about this variable.

Table 6-8 presents information about victims' drug and alcohol use and level of impairment during the time of the incident, in addition to other victim characteristics related to the investigation. As was true of suspect variables, victim drug use was substantially less common than victim alcohol use (7.6% compared to 55.5%). Nearly half of all victims reported some level of impairment during the offense (49.0%). The most common forms of victim impairment were categorized as passed out/unconscious/asleep (58.1%). The large majority of victims (82.9%) did not have any history of behavioral health concerns listed in the case files. The data

collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). The data collection instrument also recorded information about victim's statements or behaviors that may have been relevant during the investigation, and data show 42.6% of victims had a motive to lie, 28.9% experienced some memory loss or were unconscious, 24.7% provided inconsistent statements, and there was evidence of collateral victim misconduct in 24.3% of cases. At least one of the victim complexity factors was present in 79.8 percent of the cases.

TABLE 6-8. VICTIM FACTORS

	N	%
Victim Alcohol Use		
Yes	146	55.5
No	116	44.1
Unknown	1	0.4
Victim Drug Use		
Yes	20	7.6
No	243	92.4
Victim Reported being Impaired		
Yes	129	49.0
No	134	51.0
Nature of Victim Impairment[a]		
Passed Out/Unconscious/Asleep	75	58.1
Blacked Out/No Memory/Partial Memory	52	40.3
Unknown[b]	2	1.6
Victim Behavioral Health Concerns Before or After Incident		
Yes	45	17.1
No	218	82.9
Victim complexity Factors[b]		
Collateral Misconduct	64	24.3
Other Misconduct	40	15.2
Loss of Memory or Consciousness	76	28.9
Inconsistent Statements	65	24.7
Motive to Lie	112	42.6
Contradictory Evidence	29	11.0
At Least One of the Six Factors Exists in the Case	210	79.8

[a] Victims were impaired in 129 cases, including 2 cases in which the nature of impairment was not clear (e.g., "too drunk"). Multiple reasons were provided for the nature of impairment in 65 cases. To simplify the analyses of impairment reasons a single variable was created to measure the reason for impairment. The categories for this variable are mutually exclusive. The "passed out/unconscious/asleep" category is considered to be the greatest level of impairment, followed by "blacked out/no memory/partial memory." If the case indicated "passed out" or "unconscious" AND "blacked out" or "partial memory," then the case was coded as "passed out/unconscious/asleep." If the case indicated "blacked out," "partial memory," or "no memory" AND "asleep," then the case was coded as "passed out/unconscious/asleep."
[b] These categories were not mutually exclusive; multiple factors could have been present for a single victim. Percentages were calculated based on the full set of 263 cases and do not sum to 100%.

Table 6-9 presents information about victim injuries and suspects' use of force and threats. A suspect used or threatened to use force in 12.9% of cases; use of weapons was rare, occurring in only two cases. Victims sustained injuries in 21.3% of cases. Bruising (10.6%) and redness

(8.7%) were the most common victim injuries. Witnesses existed in 17.1% of cases (see item 57 on data collection form). Investigators collected pretextual communication evidence in 12.2% of cases and the most common result of the pretextual communication was to support neither the victim's nor the suspect's account (46.9% of cases in which pretextual communication occurred).

TABLE 6-9. VICTIM INJURIES AND EVIDENCE

	N	%
Use/Threat of Force		
Yes	34	12.9
No	229	87.1
Type of Force/Threat[a]		
Physical	28	10.6
Weapon	2	0.8
Coercion	6	2.3
Threat/Threat to Others	6	2.3
Physical Injuries to Victim[b]		
Yes	56	21.3
No	207	78.7
Injuries[c]		
Redness	23	8.7
Bruising	28	10.6
Cuts	15	5.7
Scrapes	13	4.9
Witness to the Incident		
Yes	45	17.1
No	218	82.9
Pretextual Communication		
Yes	32	12.2
Supports Victim Account	7	21.9
Supports Suspect Account	10	31.3
Supports Neither	15	46.9
No	231	87.8

[a] Categories were not mutually exclusive; cases could involve multiple types of force and threats.
[b] Victim injury was based on self-reported or recorded information in the case files and SAFE reports.
[c] Categories were not mutually exclusive; cases could involve multiple types of injuries.

Table 6-10 presents information about forensic evidence in Marine Corps cases. A sexual assault forensic examination (SAFE) was performed on victims in 38.4% of cases. When a SAFE was performed, over half (57.4%) occurred within one day of the incident. Military health care facilities performed more SAFEs (n = 64, 63.4%) than civilian facilities (n = 37, 36.6%). Military forensic medical examiners performed the majority of exams (n = 45, 44.6%). The measure of DNA testing indicates whether *any* DNA evidence from the case was tested. DNA evidence was tested in 27.8% of cases.

TABLE 6-10. FORENSIC EVIDENCE

	N	%
SAFE Performed on Victim		
Yes	101	38.4

No	162	61.6
Days Between Offense and Victim SAFE (n = 101)		
0 (same day)	32	31.7
1	26	25.7
2	13	12.9
3	10	10.0
4	6	5.9
5	3	3.0
6	1	1.0
7	3	3.0
8 – 14	2	2.0
15 +	5	5.0
Victim SAFE Location (n = 101)		
Civilian Health Care Facility	37	36.6
Military Health Care Facility	64	63.4
Victim SAFE Provider Type (n = 101)		
Civilian Provider	39	38.6
Military Examiner	45	44.6
DoD Civilian	17	16.8
DNA Evidence Tested[a]		
Yes	73	27.8
No/Unknown	190	72.2

[a] The DNA testing variable measured *any* DNA evidence testing in the case, not only sexual assault kit evidence collected from the victim.

Victim participation is summarized in Table 6-11. Victims participated in 59.7% of Marine Corps cases and declined in 40.3% of cases. Among the victims who declined, nearly three-quarters (74.6%) declined early in the justice system processing (during investigation and reporting). Victims provided their input to commanders in 15.6% of cases. The nature of victim input was diverse, equal numbers requested no action (n = 9, 22.0%) and a court-martial (n = 9, 22.0%), 19.5% requested nonjudicial punishment/administrative action, and 12.2% requested administrative separation. Victims were represented by attorneys during the investigation in over half of the cases (55.5%) and victims provided statements to law enforcement in nearly all cases (98.1%).

TABLE 6-11. VICTIM PARTICIPATION

	N	%
Victim Declination Recorded in File		
Victim Participated	157	59.7
Victim Declined	106	40.3
Declination Stage		
Investigation	73	68.9
Reporting	6	5.7
Court-Martial	15	14.2
Preliminary Hearing	8	7.5
Unknown	4	3.8
Victim Input to Command or SJA		
No	222	84.4
Yes	41	15.6

Input Provided to Command (n = 41)		
Pursue Administrative Separation	5	12.2
Supports DILCOM	0	0
Pursue Court-Martial	9	22.0
Take No Action	9	22.0
Nonjudicial Punishment/Administrative Actions	8	19.5
Other	10	24.4
Victim Attorney Representation (prior to trial)		
Yes	146	55.5
No	117	44.5
Victim Provided Statement to Law Enforcement		
Yes	258	98.1
No	5	1.9

A judge advocate made a probable cause determination in over half of all cases (62.4%) and probable cause was determined to exist in 102 cases, representing 38.8% of all cases and 62.2% of cases in which a determination was made (Table 6-12). Judge advocates made probable cause determinations for purposes of indexing with the FBI's NCIC criminal history database.

TABLE 6-12. PROBABLE CAUSE DETERMINATION MADE BY JUDGE ADVOCATE

	N	%
Probable Cause Determination Made		
Yes	164	62.4
No	99	37.6
Probable Cause Determination Result (n = 164)		
Yes, Probable Cause Exists	102	62.2
Probable Cause Does Not Exist	61	37.2
Unknown	1	0.6

BIVARIATE RELATIONSHIPS

The second stage of the analysis estimated relationships between case characteristics and two important outcome variables: (1) the commander's decision to prefer or to not take action and (2) the victim's decision to participate or to decline. Because of the small number of convictions (n = 11), it was not possible to compare no action cases to cases that ended in a conviction or to compare acquittals to convictions. A DoD-wide analysis that combines all Service branches will examine differences between cases that end in acquittal and cases that end in a conviction. Cases that ended in some administrative action (n = 4) were excluded from the analysis that examined preferral and no action outcomes.

COMMAND ACTION DEPENDENT VARIABLE: NO ACTION COMPARED TO PREFERRAL

The patterns in Table 6-13a show there was no relationship between the preferral decision and the incident location and the identity of the individual who reported the incident to authorities. Cases with prompt reports (i.e., within one week) were more likely to be preferred (32.2%) than cases without a prompt report (21.5%). The median number of days between the incident and the

report to authorities was shorter in preferred cases (3 days) compared to no action cases (19.5 days). In addition, cases in which probable cause was determined to exist were most likely to be preferred; half of cases in which probable cause was determined to exist were preferred.

TABLE 6-13a. COMMAND ACTION DECISION: INCIDENT LOCATION AND REPORTING INFORMATION

	No Command Action (n = 190)		Preferral (n = 69)	
	N	%	N	%
Incident Location (NS)				
On Installation	105	73.4	38	26.6
Off Installation	85	73.3	31	26.7
Reporting Individual (NS)				
Victim	84	70.0	36	30.0
Victim-Authorized Representative	47	70.1	20	29.9
Command	44	83.0	9	17.0
Third Party	15	78.9	4	21.1
Prompt Report (within 7 days) ($\chi^2 = 3.78$, p =.05)				
Yes	82	67.8	39	32.2
No	106	78.5	29	21.5
Number of Days Between Incident and Report to Authorities	Median = 19.5		Median = 3	
Probable Cause[a] ($\chi^2 = 49.17$, p < .05)				
No Determination Made	82	84.5	15	15.5
Probable Cause Existed	50	50.0	50	50.0
Probable Cause Did Not Exist	58	95.1	3	4.9

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Several evidentiary variables were related to preferral outcomes (Table 6-13b). When suspects used or threatened to use force, the chances of case preferral were greater than when suspects did not use or threaten to use force. Victim participation, compared to declinations, also increased the chances that the case would be preferred. Over one-third of cases with a participating victim (39.1%) were preferred, compared to 7.8% of cases in which the victim declined. Finally, the performance of a SAFE exam, DNA testing, and victim attorney representation during the investigation were all associated with an increased chance the case would be preferred. The variables that were not associated with the chances of a case being preferred included the presence of witnesses, pretextual communication and communication results, and victim physical injuries.

TABLE 6-13b. COMMAND ACTION DECISION: EVIDENCE

	No Command Action (n = 190)		Preferral (n = 69)	
Witness to the Incident (NS)				
Yes	37	82.2	8	17.8
No	153	71.5	61	28.5
Pretextual Communication Occurred (NS)				

Yes	24	75.0	8	25.0
No	166	73.1	61	26.9
Pretextual Communication Result (NS)				
Supports Victim Account	5	71.4	2	28.6
Supports Suspect Account	9	90.0	1	10.0
Supports Neither Account	10	66.7	5	33.3
Victim Physical Injuries (NS)				
Yes	39	70.9	16	29.1
No	151	74.0	53	26.0
Threat or Use of Force ($\chi^2 = 7.65$, p < .05)				
Yes	17	53.1	15	46.9
No	173	76.2	54	23.8
Victim Participation ($\chi^2 = 31.17$, p < .05)				
Yes	95	60.9	61	39.1
Declined[a]	95	92.2	8	7.8
Sexual Assault Exam Performed on Victim ($\chi^2 = 12.73$, p < .05)				
Yes	61	61.0	39	39.0
No	129	81.1	30	18.9
DNA Evidence Tested ($\chi^2 = 16.17$, p < .05)				
Yes	40	55.6	32	44.4
No	150	80.2	37	19.8
Victim Attorney Representation (prior to trial) ($\chi^2 = 3.81$, p ≤ .05)				
Yes	98	68.5	45	31.5
No	92	79.3	24	20.7

[a] Victim declinations could have occurred before or after preferral. Table 6-11 shows that nearly 75% of all victims declined at the reporting or investigation stages.

Victim characteristics, such as gender, race, age, and relationship to the suspect, were not related to the preferral decision (Table 6-13c). It is important to note that the sample included a small number of cases (n = 3) with victims who were officers, so this pattern may not be a reliable result. Despite the small number of stranger cases, 7 out of 15 stranger cases were preferred (46.7%).

TABLE 6-13c. COMMAND ACTION DECISION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	No Command Action (n = 190)		Preferral (n = 69)	
Victim Gender (NS)				
Female	181	73.3	66	26.7
Males	9	75.0	3	25.0
Victim Race[a] (NS)				
White[b]	158	72.1	61	27.9
Non-White	28	77.8	8	22.2
Victim Status at Time of Incident (NS)				
Military	108	74.0	38	26.0
Civilian – Not DoD Spouse	41	74.5	14	25.5

Civilian – DoD Spouse	41	70.7	17	29.3
Suspect Is Spouse/Former Spouse (NS)	30	75.0	10	25.0
Suspect Is Not Spouse	11	61.1	7	38.9
Victim Grade at Time of Incident (NS)				
Enlisted	106	74.1	37	25.9
Officer	2	66.7	1	33.3
Relationship Between Victim and Suspect[c] (NS)				
Supervisor – Subordinate	5	83.3	1	16.7
Spouse/Former Spouse	43	76.8	13	23.2
Intimate Partner/Former Intimate Partner	24	77.4	7	22.6
Friend	53	68.8	24	31.2
Co-worker/Classmate/Roommate	18	75.0	6	25.0
Acquaintance	29	82.9	6	17.1
Stranger	8	53.3	7	46.7
Victim Age (NS)	(Mean = 22.5, SD = 5.2)		(Mean = 22.9, SD = 5.5)	

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The "other relationship," "online/met for the first time," and "recruiter – recruit" categories were excluded because of their small numbers; the "unknown/unable to determine" category was also excluded from this analysis.

Victim factors, in general, were not related to the preferral decision (Table 6-13d). When all the categories of impairment were combined together there was no statistically significant relationship between victim impairment and the commander's decision. Victim motive to lie was related to the decision to prefer: cases were less likely to be preferred when victim had a motive to lie (20.0%) than when this motive did not exist in the case (31.5%). Victim alcohol use, drug use, memory loss, inconsistent statements, contradictory evidence, collateral and other misconduct, behavioral health concerns, and consensual sexual contact with the suspect were all unrelated to the commander's preferral decision.

TABLE 6-13d. COMMAND ACTION DECISION: VICTIM FACTORS

	No Command Action (n = 190)		Preferral (n = 69)	
Victim Impairment (NS)				
Not Impaired	101	76.5	31	23.5
Passed Out/Unconscious/Asleep	48	64.9	26	35.1
Blacked Out/Memory Loss	39	76.5	12	23.5
Victim Alcohol Use (NS)				
Yes	105	72.4	40	27.6
No	84	74.3	29	25.7
Victim Drug Use (NS)				
Yes	13	65.0	7	35.0
No	177	74.1	62	25.9
Victim Lack of Memory (NS)				
Yes	53	69.7	23	30.3
No	137	74.9	46	25.1

Victim Motive to Lie ($\chi^2 = 4.32$, p < .05)				
Yes	88	80.0	22	20.0
No	102	68.5	47	31.5
Victim Inconsistent Statements (NS)				
Yes	50	76.9	15	23.1
No	140	72.2	54	27.8
Victim Contradictory Evidence (NS)				
Yes	23	79.3	6	20.7
No	167	72.6	63	27.4
Victim Collateral Misconduct (NS)				
Yes	50	79.4	13	20.6
No	140	71.4	56	28.6
Victim Other Misconduct (NS)				
Yes	28	71.8	11	28.2
No	162	73.6	58	26.4
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	28	63.6	16	36.4
No	162	75.3	53	24.7
Victim Consensual Sexual Contact with Suspect (NS)				
Yes – prior to incident	84	77.8	24	22.2
Yes – following incident	1	100	0	0
Yes – prior to and following incident	13	68.4	6	31.6
No	92	70.2	39	29.8

Like victim characteristics, suspect characteristics were unrelated to the preferral decision (Table 6-13e). Only two suspect variables were related to the commanders' decision to prefer a case: the existence of 413 or 404(b) evidence and suspects' statements to third parties. Cases were more likely to be preferred when 413 or 404(b) evidence[8] existed for a suspect (55.6%) than when this evidence did not exist (23.3%). Commanders preferred 80.0 percent of Marine Corps cases in which a suspect confessed, preferred 17.4% of cases in which a suspect claimed the sexual contact was consensual, and preferred 32.3% of cases in which the suspect denied contact or denied committing the crime.

TABLE 6-13e. COMMAND ACTION DECISION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	No Command Action (n = 190)		Preferral (n = 69)	
Suspect Race[a] (NS)				
White[b]	143	71.1	58	28.9
Non-White	46	80.7	11	19.3
Suspect Grade at Time of Incident (NS)				

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[8] Military Rules of Evidence (MRE) 413 and 404(b), respectively, cover the admissibility of other sex offenses and related misconduct. MRE 413 is similar to its Federal Rule counterpart. Its purpose is to provide for the liberal admissibility of character evidence when the accused has committed a prior sexual assault offense. MRE 404(b) permits the admissibility of certain evidence of other crimes, wrongs, or acts committed by the accused for the purpose of proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Officer	6	75.0	2	25.0
Enlisted	184	73.3	67	26.7
Suspect Alcohol Use (NS)				
Yes	118	74.2	41	25.8
No	72	72.0	28	28.0
Suspect Drug Use (NS)				
Yes	3	100	0	0
No	187	73.0	69	27.0
Suspect Lack of Memory (NS)				
Yes	14	70.0	6	30.0
No	176	73.6	63	26.4
Suspect Inconsistent Statements (NS)				
Yes	16	66.7	8	33.3
No	174	74.0	61	26.0
Suspect Contradictory Evidence (NS)				
Yes	9	90.0	1	10.0
No	181	72.7	68	27.3
Suspect Collateral Misconduct (NS)				
Yes	71	75.5	23	24.5
No	119	72.1	46	27.9
Suspect Other Misconduct (NS)				
Yes	62	73.8	22	26.2
No	128	73.1	47	26.9
Suspect 413 and 404(b) Evidence ($\chi^2 = 12.90$, $p < .05$)				
Yes	12	44.4	15	55.6
No	178	76.7	54	23.3
Suspect Behavioral Health Concerns Before or After Incident (NS)				
Yes	15	71.4	6	28.6
No	175	73.5	63	26.5
Suspect Statement ($\chi^2 = 29.89$, $p < .05$)[c]				
Confessed	3	20.0	12	80.0
Consensual	114	82.6	24	17.4
Denied Crime/Sexual Activity	21	67.7	10	32.3
No Recollection/Partial Memory	6	60.0	4	40.0
Other	6	75.0	2	40.0

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The relationship remains statistically significant when the "other" suspect statement case is excluded from the analysis.

VICTIM PARTICIPATION DEPENDENT VARIABLE: VICTIM PARTICIPATED – VICTIM DECLINED

Table 6-14a shows victim participation was similar when the incident occurred on installation (58.3%) and off installation (61.3%). Similarly, victim participation was not related to the type of

person who reported the incident to authorities. The median number of days between the incident and the report to authorities was similar among cases with a participating victim (12) and cases in which the victim declined to participate (10.5). Victim participation was associated with judge advocates' probable cause determination: participation was more likely in cases in which probable cause existed compared to when no determination was made and compared to when probable cause did not exist.

TABLE 6-14a. VICTIM PARTICIPATION: INCIDENT LOCATION AND REPORTING INFORMATION

	Victim Declined (n = 106)		Victim Participated (n = 157)	
	N	%	N	%
Incident Location (NS)				
On Installation	60	41.7	84	58.3
Off Installation	46	38.7	73	61.3
Reporting Individual (NS)				
Victim	44	36.4	77	63.6
Victim-Authorized Representative	29	42.0	40	58.0
Command	26	48.1	28	51.9
Third Party	7	36.8	12	63.2
Prompt Report (within 7 days) (NS)				
Yes	49	40.2	73	59.8
No	55	39.9	83	60.1
Number of Days Between Incident and Report to Authorities	Median = 10.5		Median = 12	
Probable Cause[a] (χ^2 = 15.54, p < .05)				
No Determination Made	39	39.4	60	60.6
Probable Cause Existed	30	29.4	72	70.6
Probable Cause Did Not Exist	37	60.7	24	39.3

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Table 6-14b presents patterns of relationships between evidentiary variables and victim participation. Rates of victim participation were similar across the categories of these variables. For example, rate of victim participation were nearly identical when witnesses existed (60.0%) and when they did not (59.6%). Rates of participation were unrelated to pretextual communication, the result of pretextual communication, victim injuries, suspects use and threats of force, victim SAFE, DNA testing, and attorney representation during the investigation. Despite the lack of statistical relationships, the patterns of relationships suggested victim participation rates were greater in cases in which the victim was injured than in cases in which the victim was not injured, greater in cases in which DNA was tested, and greater in cases with a victim who was represented by an attorney during the investigation.

TABLE 6-14b. VICTIM PARTICIPATION: EVIDENCE

	Victim Declined (n = 106)		Victim Participated (n = 157)	
Witness to the Incident (NS)				
Yes	18	40.0	27	60.0
No	88	40.4	130	59.6

Pretextual Communication Occurred (NS)				
Yes	10	31.3	22	68.8
No	96	41.6	135	58.4
Pretextual Communication Result (NS)				
Supports Victim Account	1	14.3	6	85.7
Supports Suspect Account	5	50.0	5	50.0
Supports Neither Account	4	26.7	11	73.3
Victim Physical Injuries (NS)				
Yes	19	33.9	37	66.1
No	87	42.0	120	58.0
Threat or Use of Force (NS)				
Yes	13	38.2	21	61.8
No	93	40.6	136	59.4
Sexual Assault Exam Performed on Victim (NS)				
Yes	38	37.6	63	62.4
No	68	42.0	94	58.0
DNA Evidence Tested (NS)				
Yes	24	32.9	49	67.1
No	82	43.2	108	56.8
Victim Attorney Representation (prior to trial) (NS)				
Yes	52	35.6	94	64.4
No	54	46.2	63	53.8

Table 6-14c presents patterns of relationships between victim participation and victims' demographic characteristics. The patterns of relationships in Table 6-14c were, overall, not statistically significant, suggesting that rates of victim participation were similar across victim gender, military status and grade, and age, as well as relationships between victims and suspects. Victim race was associated with victim participation such that 63.3% of White victims participated and 37.8% of Non-White victims participated. Although not statistically significant, female victims were more likely to participate than male victims (60.2% compared to 50.0%).

TABLE 6-14c. VICTIM PARTICIPATION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	Victim Declined (n = 106)		Victim Participated (n = 157)	
Victim Gender (NS)				
Female	100	39.8	151	60.2
Males	6	50.0	6	50.0
Victim Race[a] ($\chi^2 = 8.57$, p < .05)				
White[b]	81	36.7	140	63.3
Non-White	23	62.2	14	37.8
Victim Status at Time of Incident (NS)				
Military	56	37.8	92	62.2
Civilian – Not DoD Spouse	24	42.9	32	57.1
Civilian – DoD Spouse	26	44.1	33	55.9
Suspect Is Spouse/Former Spouse (NS)	18	43.9	23	56.1

Suspect Is Not Spouse	8	44.4	10	55.6
Victim Grade at Time of Incident (NS)				
Enlisted	56	38.6	89	61.4
Officer	0	0	3	100
Relationship Between Victim and Suspect[c] (NS)				
Supervisor – Subordinate	2	28.6	5	71.4
Spouse/Former Spouse	25	43.9	32	56.1
Intimate Partner/Former Intimate Partner	14	43.8	18	56.3
Friend	35	45.5	42	54.5
Co-worker/Classmate/Roommate	8	33.3	16	66.7
Acquaintance	13	37.1	22	62.9
Stranger	4	26.7	11	73.3
Victim Age (NS)	(Mean = 22.4, SD = 4.9)		(Mean = 22.7, SD = 5.4)	

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The "other relationship," "online/met for the first time," and "recruiter – recruit" categories were excluded because of their small numbers; the "unknown/unable to determine" category was also excluded from this analysis.

Table 6-14d shows that few victim-related variables were associated with the likelihood the victim participated. Victim participation rates were similar whether or not victims provided inconsistent statements, presented contradictory evidence, engaged in collateral misconduct and other misconduct, and had consensual sexual contact with the suspect. Victim lack of memory was associated with a greater chance of victim participation (71.1%) than when no memory loss was sustained by the victim (55.1%). Although the difference was not statistically significant, victim participation was more likely when the victim had behavioral health concerns (71.1%) than when these concerns did not exist (57.3%). Similarly, the relationship between victim motive to lie and participation was not statistically significant, but participation rates were greater when the victim did not have a motive to lie (62.9%) than when the motive to lie existed (55.4%).

TABLE 6-14d. VICTIM PARTICIPATION: VICTIM FACTORS

	Victim Declined (n = 106)		Victim Participated (n = 157)	
Victim Impairment (NS)				
Not Impaired	59	44.0	75	56.0
Passed Out/Unconscious/Asleep	22	29.3	53	70.7
Blacked Out/Memory Loss	24	46.2	28	53.8
Victim Alcohol Use (NS)				
Yes	53	36.6	93	63.7
No	53	45.7	63	54.3
Victim Drug Use (NS)				
Yes	11	55.0	9	45.0
No	95	39.1	148	60.9
Victim Lack of Memory ($\chi^2 = 5.73$, p < .05)				
Yes	22	28.9	54	71.1

No	84	44.9	103	55.1
Victim Motive to Lie (NS)				
Yes	50	44.6	62	55.4
No	56	37.1	95	62.9
Victim Inconsistent Statements (NS)				
Yes	25	38.5	40	61.5
No	81	40.9	117	59.1
Victim Contradictory Evidence (NS)				
Yes	12	41.4	17	58.6
No	94	40.2	140	59.8
Victim Collateral Misconduct (NS)				
Yes	25	39.1	39	60.9
No	81	40.7	118	59.3
Victim Other Misconduct (NS)				
Yes	18	45.0	22	55.0
No	88	39.5	135	60.5
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	13	28.9	32	71.1
No	93	42.7	125	57.3
Victim Consensual Sexual Contact with Suspect (NS)				
Yes – prior to incident	46	41.8	64	58.2
Yes – following incident	0	0	1	100
Yes – prior to and following incident	8	42.1	11	57.9
No	52	39.1	81	60.9

Three suspect-related variables were related to victim participation: suspect behavioral health concerns, suspect misconduct other than collateral misconduct, and suspect statements to law enforcement and/or third parties (Table 6-14e). Victim participation was more likely when the suspect had a history of misconduct, other than collateral misconduct (68.2% compared to 55.6%). Victim participation was also more likely when the suspect experienced behavioral health concerns (81.0%) than when the suspect did not experience these concerns (57.9%). Victim participation was most likely to have occurred when the suspect confessed (87.5%) and when the suspect reported to third parties or law enforcement that they suffered from at least some memory loss (80.8%) about the incident. Suspect race, grade, alcohol use, drug use, and several suspect complexity factors were not related to victim participation. The patterns suggest that victim participation was related to suspect complexity factors. For example, despite the lack of statistical significance, victim participation was greater when the suspect engaged in collateral misconduct (65.5%) than when the suspect did not engage in collateral misconduct (56.3%).

TABLE 6-14e. VICTIM PARTICIPATION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	Victim Declined (n = 106)		Victim Participated (n = 157)	
Suspect Race[a] (NS)				
White[b]	81	39.5	124	60.5
Non-White	25	43.9	32	56.1

Suspect Grade at Time of Incident (NS)				
Officer	3	33.3	6	66.7
Enlisted	103	40.6	151	59.4
Suspect Alcohol Use (NS)				
Yes	61	38.1	99	61.9
No	45	43.7	58	56.3
Suspect Drug Use (NS)				
Yes	2	66.7	1	33.3
No	104	40.0	156	60.0
Suspect Lack of Memory (NS)				
Yes	7	35.0	13	65.0
No	99	40.7	144	59.3
Suspect Inconsistent Statements (NS)				
Yes	10	41.7	14	58.3
No	96	40.2	143	59.8
Suspect Contradictory Evidence (NS)				
Yes	3	30.0	7	70.0
No	103	40.7	150	59.3
Suspect Collateral Misconduct (NS)				
Yes	33	34.4	63	65.6
No	73	43.7	94	56.3
Suspect Other Misconduct ($\chi^2 = 3.81$, p $\leq$ .05)				
Yes	27	31.8	58	68.2
No	79	44.4	99	55.6
Suspect 413 and 404(b) Evidence (NS)				
Yes	11	40.7	16	59.3
No	95	40.3	141	59.7
Suspect Behavioral Health Concerns Before or After Incident ($\chi^2 = 4.29$, p $<$ .05)				
Yes	4	19.0	17	81.0
No	102	42.1	140	57.9
Suspect Statement ($\chi^2 = 11.26$, p $<$ .05)[c]				
Confessed	2	12.5	14	87.5
Consensual	59	42.8	79	57.2
Denied Crime/Sexual Activity	12	38.7	19	61.3
No Recollection/Partial Memory	2	20.0	8	80.8
Other	6	75	2	25.0

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The relationship was statistically significant when "confessed" was compared to all other suspect statements and to no statements.

MULTIVARIATE ANALYSIS

The models were built by starting with independent variables that showed a significant bivariate relationship with the dependent variable. The models were refined in light of results of the initial model and of close relationships between two independent. In addition, some independent variables were excluded if there were small numbers of cases in categories of the independent variable across categories of the dependent variable (e.g., suspect confession by command decision).

Table 6-15a presents the results of this final multivariate model that treated the commander decision to prefer the case or take no action in the case as the dependent variable. Four cases in which the commander took administrative action were excluded from this analysis. The following patterns of relationships emerged from the multivariate model:

- When probable cause was determined to exist, as compared to cases without a probable cause determination and cases in which probable cause was determined to not exist, there was a greater likelihood that the case was preferred. Judge advocates made probable cause determinations for the purposes of indexing with the FBI.
- A participating victim increased the chances of case preferral.
- When any DNA evidence in the case was tested, there was an increased chance that the case was preferred.
- When the offender used force or made threats of force, the chances of preferral were greater.
- The presence of suspect 413 or 404(b) evidence was related to an increased chance of case preferral.

TABLE 6-15a. LOGISTIC REGRESSION: COMMANDER DECISION TO PREFER CASES OR TAKE NO ACTION

	B	SE	Exp(B)
Probable cause exists	1.89*	.36	6.59
Victim participated	2.01*	.46	7.49
DNA evidence tested	.98*	.37	2.66
Threat or use of force occurred	1.07*	.49	2.92
Suspect 413 and 404(b) evidence	1.85*	.54	6.34

*$p < .05$
Model $\chi^2 = 97.05$, df = 5, $p < .05$

Table 6-15b presents the results of a multivariate model that treated victim participation as the dependent variable. Few variables exhibited a statistically significant relationship with likelihood of victim participation (see Tables 6-14a to 6-14e):

- The existence of probable cause, in contrast to cases in which no probable cause determination was made and when probable was determined to not exist, was associated with greater chances of victim participation. Judge advocates made probable cause determinations for the purposes of indexing with the FBI.
- Non-White victims were less likely to participate during investigations than White victims.
- Suspect behavioral health concerns were related to victim participation such that victim participation was greater when suspect behavioral health concerns existed.
- When victims experienced memory loss about the incident or loss of consciousness during the incident, the chance of victim participation was greater.

TABLE 6-15b. LOGISTIC REGRESSION: VICTIM PARTICIPATION OR DECLINATION

	B	SE	Exp(B)
Probable cause existed	.86*	.28	2.36
Victim was Non-White	-1.09*	.39	.34
Suspect behavioral health concerns	1.17*	.58	3.21
Victim loss of memory/consciousness	.82*	.31	2.27

*p < .05

Model χ^2 = 29.80, df = 4, p < .05

PART 7
Navy Results

The Navy case file data were analyzed to understand case characteristics and patterns of relationships between key variables. The analysis examined 387 Navy cases. The first step in the analysis examined univariate statistics to understand the cases. The second step explored bivariate relationships between case and individual characteristics and two key outcome variables: command decision to take action and victim participation in justice proceedings. The final analysis estimated multivariate models for the two dependent variables (command action and victim participation).

UNIVARIATE STATISTICS: NAVY CASE CHARACTERISTICS

Table 7-1 presents information about the commanders' decisions in Navy cases and justice system outcomes for penetrative sexual assaults. The commander did not take action in 71.6% of cases and preferred 23.0% of cases. Administrative actions occurred in 5.4% of cases (n = 21). Twenty of these 21 cases entailed administrative separation and 1 involved a letter of reprimand. Within the investigative case file, commanders did not document a reason for taking no action in 22.9% of the no action cases. Insufficient evidence was the most common reason (39.2%) provided by commanders for not taking action in the case, followed by a lack of victim participation (19.1%). Of the 89 cases that commanders preferred, 82.0% were referred; 18.0% were not referred. Court-martial occurred in 40 of the 73 referred cases (54.8%), and alternative dispositions, such as discharges, occurred in 49 of the 89 preferred cases (55.1%). Acquittals were more common results of court-martial (62.5%) than convictions (37.5%), and case dismissals were the most common alternative dispositions (75.5%).

TABLE 7-1. COMMAND ACTION DECISIONS AND COURT-MARTIAL RESULTS

	N	%
Initial Command Action on Penetrative Sexual Assault		
No Command Action	277	71.6
Preferred	89	23.0
Administrative Action[a]	21	5.4
Reason for Provided by Command for No Command Action[b]		
Lack of Victim Participation	60	19.1
Insufficient Evidence	123	39.2
Unfounded	18	5.7
Prosecution Declined	12	3.8
No Probable Cause	15	4.8
No Reason Provided/Unknown	72	22.9
Other	14	4.5
Case Preferral/Referral (n = 89)		
Preferred Only	16	18.0
Preferred and Referred	73	82.0
Referred Cases with a Finding	40	54.8
Court-Martial Result (n = 40)		
Acquittal	25	62.5
Conviction for at Least One Penetrative Sexual Assault Charge – Court-	12	30.0

	N	%
Martial		
Conviction for at Least One Penetrative Sexual Assault Charge – PTA at Court-Martial	3	7.5
Alternative Disposition (n = 49)		
Administrative Separation	6	12.2
Discharge in Lieu of Court-Martial	6	12.2
Dismissal	37	75.5

[a] This category included 1 letter of reprimand and 20 administrative separations.

[b] Multiple reasons were listed in 36 cases in which the command did not take action; these are included in the counts, resulting in a total count of 314. Percentages were computed using 314.

Table 7-2 describes Navy cases in terms of incident location. Approximately one-third of the reported sexual assaults occurred on installation (34.6%) and nearly three-quarters occurred in the continental United States (72.4%). One case occurred in a deployed location (i.e., Iraq or Afghanistan).

TABLE 7-2. INCIDENT LOCATION

	N	%
Installation		
On Installation	134	34.6
Off Installation	253	65.4
Location of Incident		
CONUS	280	72.4
OCONUS	93	24.0
CONUS and OCONUS	1	0.3
Vessel	11	2.8
Vessel and CONUS	1	0.3
Vessel and OCONUS	1	0.3
Deployment		
Deployed Location (Iraq or Afghanistan only)	1	0.3
Non-Deployed Location	386	99.7

Table 7-3 summarizes information about the time between key events in the cases, including the times between the offense, the report to authorities, MCIO final report, and the command decision in preferred cases. The data collection form captured information about the dates of these key events, and the number of days between them was computed. In some cases, there were multiple dates listed for the date the incident occurred and a date range was captured on the data collection form. In these situations, the latest (most recent) incident date was used to compute the days between the incident and key events (i.e., date of report and decision dates). When one of the dates used in the calculations was missing, computations were not possible; these cases therefore are categorized as "unknown." In addition, when the date of one event should have logically occurred after the date of another event but the dates show the reverse (e.g., the date of the commander's decision occurred *before* the date the incident was reported or the date the MCIO closed the case occurred *before* the date the incident was reported to authorities), these cases are categorized as "unknown." This latter categorization rule was also used when a range of dates was provided for the date of the incident and the most recent incident date occurred *after* the date the incident was reported (i.e., these cases are categorized as "unknown"). The number of days between key points in the case and commanders' decisions are

separated into no action (n = 277) and preferred cases (n = 89) to identify time differences between cases with these different commanders' decisions. The patterns described below show that it took longer for commanders to prefer cases than to take no action.

Approximately one-third (32.6%) of cases were reported within 7 days of the incident, including 26.1% of cases that were reported within 3 days of the incident. About 13% of Navy cases were reported more than one year after the incident. The median number of days between the report and the incident was 30, indicating that half of the Navy cases were reported to authorities within 30 days and half of the cases were reported after 30 days.

A relatively small percentage of cases (12.1%) received a final MCIO report within 60 days of the report to authorities; 36.1% of cases received a final MCIO report within 4 months of the date the incident was reported to authorities. The median number of days between the report to authorities and the MCIO final report was 145 days; half of the cases received a final MCIO report in fewer than 145 days after the date of the report to authorities.

Nearly one-quarter of the cases (24.6%) were preferred within 3 months of the MCIO final report. The median number of days between the MCIO final report and the decision to prefer the case was about 4 months (120.5 days); half of the cases were preferred fewer than 120.5 days after the MCIO final report.

Also among preferred cases, 7.8% were preferred within 120 days (4 months) of the date on which the incident was reported to authorities and 21.3% were preferred within 180 days (6 months). The median number of days between the decision to prefer and the date on which the incident was reported to authorities was 328.

Among no action cases, 37.6% were decided within 3 months of the MCIO final report. The median number of days between the MCIO final report and the decision to take no action in the case was approximately three months (99.5 days); half of the no action cases were decided fewer than 99.5 days after the MCIO final report. Also among no action cases, 5.1% were decided within 4 months of the date on which the incident was reported to authorities and 18.5% were decided within 6 months. The median number of days between the decision to take no action and the date on which the incident was reported to authorities was 259; half of the no action cases were decided in fewer than 259 days and half were decided in more than 259 days.

TABLE 7-3. TIME BETWEEN KEY ACTIONS IN THE CASE

	N	%
Number of Days Between Offense and Report to Authorities		
0 (same day)	32	8.3
1 – 3	69	17.8
4 – 7	25	6.5
8 – 14	31	8.0
15 – 30	35	9.0
31 – 60	41	10.6
61 – 90	18	4.7
91 – 120	18	4.7
121 – 150	10	2.6

151 – 180	15	3.9
181 – 210	8	2.1
211 – 240	8	2.1
241 – 270	5	1.3
271 – 365	17	4.4
366 +	51	13.2
Unknown	4	1.0
Median number of days = 30		
Number of Days Between Report to Authorities and MCIO Final Report		
0 (same day)	0	0
1 – 3	0	0
4 – 7	0	0
8 – 14	1	0.3
15 – 30	11	2.8
31 – 60	35	9.0
61 – 90	46	11.9
91 – 120	47	12.1
121 – 150	49	12.7
151 – 180	34	8.8
181 – 210	26	6.7
211 – 240	25	6.5
241 – 270	13	3.4
271 – 365	40	10.3
366 +	39	10.1
Unknown	21	5.4
Median number of days = 145		
Number of Days Between MCIO Final Report and Command Decision in Preferred Cases (n = 89)		
0 (same day)	1	1.1
1 – 3	1	1.1
4 – 7	1	1.1
8 – 14	1	1.1
15 – 30	4	4.5
31 – 60	9	10.1
61 – 90	5	5.6
91 – 120	11	12.4
121 – 150	7	7.9
151 – 180	5	5.6
181 – 210	2	2.3
211 – 240	9	10.1
241 – 270	2	2.3
271 – 365	4	4.5
366 +	4	4.5
Unknown	23	25.8
Median number of days = 120.5		

Number of Days Between Report to Authorities and Command Decision in Preferred Cases (n = 89)		
0 – 60	2	2.2
61 – 120	5	5.6
121 – 180	12	13.5
181 – 240	14	15.7
241 – 300	11	12.4
301 – 360	12	13.5
361 +	33	37.1
Median number of days = 328		
Number of Days Between MCIO Final Report and Command Decision in No Action Cases (n = 277)		
0 (same day)	0	0
1 – 3	1	0.4
4 – 7	4	1.4
8 – 14	6	2.2
15 – 30	16	5.8
31 – 60	33	11.9
61 – 90	44	15.9
91 – 120	30	10.8
121 – 150	20	7.2
151 – 180	18	6.5
181 – 210	13	4.7
211 – 240	12	4.3
241 – 270	7	2.5
271 – 365	15	5.4
366 +	3	1.1
Unknown	55	19.9
Median number of days = 99.5		
Number of Days Between Report to Authorities and Command Decision in No Action Cases (n = 277)		
0 – 60	0	0
61 – 120	14	5.1
121 – 180	37	13.4
181 – 240	55	19.9
241 – 300	41	14.8
301 – 360	24	8.7
361 +	66	23.8
Unknown	40	14.4
Median number of days = 259		

Table 7-4 describes the suspect characteristics in Navy cases. A large majority of cases involved suspects who were enlisted (93.3%) and with a pay grade of E-5 or lower (81.8%). Close to three-quarters of suspects (71.5%) were E-3, E-4, or E-5 personnel. Among officers, the most common pay grades were O-2 (34.6%) and O-3 (26.9%). Nearly all suspects were male (97.9%) and 63.6 percent of suspects were White. Over one-quarter of suspects were African American

(28.9%). The White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African. The average age of suspects was 25.8 years.

TABLE 7-4. SUSPECT CHARACTERISTICS

	N	%
Suspect Grade at Time of Incident		
Enlisted	361	93.3
Officer	26	6.7
Suspect Pay Grade at Time of Incident		
Enlisted (n = 361)		
E-1	9	2.5
E-2	28	7.8
E-3	84	23.3
E-4	91	25.2
E-5	83	23.0
E-6	37	10.3
E-7	22	6.1
E-8	5	1.4
E-9	1	0.3
Unknown	1	0.3
Officer (n = 26)		
Cadet/Midshipman	4	15.4
O-1	1	3.8
O-2	9	34.6
O-3	7	26.9
O-4	1	3.8
O-5	3	11.5
W-3	1	3.8
Suspect Gender		
Male	379	97.9
Female	8	2.1
Suspect Age	Mean = 25.8; SD = 6.3; Range = 18 − 58	
Suspect Race[a]		
White[b]	246	63.6
Black or African American	112	28.9
Asian	16	4.1
Native Hawaiian or Other Pacific Islander	3	0.8
American Indian or Alaska Native	2	0.5
Other Race, Ethnicity, or Origin[c]	4	1.0
Unknown	4	1.0

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] Persons categorized as "mixed" in NCIS investigations were included in this category.

Table 7-5 presents information about suspects' drug and alcohol use during the time of the incident and about other suspect characteristics related to the investigation. Drug use during the incident was rare but suspect alcohol use was common (63.1% of incidents). It was rare for a suspect to have any behavioral health concerns listed in the case files (6.2%). The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). At least one of six suspect complexity factors existed in 61.8% of the cases. The most common suspect complexity factors were collateral misconduct at the time of the incident (36.7%), other forms of misconduct (25.8%), and inconsistent statements (12.9%). Contradictory evidence, loss of memory or consciousness, and the existence of 413 or 404(b) evidence were less common.

TABLE 7-5. SUSPECT FACTORS

	N	%
Suspect Alcohol Use		
Yes	244	63.1
No	142	36.7
Unknown	1	0.3
Suspect Drug Use		
Yes	7	1.8
No	379	97.9
Unknown	1	0.3
Suspect Behavioral Health Concerns Before or After Incident		
Yes	24	6.2
No	362	93.5
Unknown	1	0.3
Suspect Complexity Factors[a]		
Collateral Misconduct	142	36.7
Other Misconduct	100	25.8
Loss of Memory or Consciousness	23	5.9
413 and 404(b) Evidence	33	8.5
Inconsistent Statements	50	12.9
Contradictory Evidence	29	7.5
At Least One of the Six Factors Exists in the Case	239	61.8

[a] These categories are not mutually exclusive; multiple factors can be present for a single suspect. Percentages are calculated based on the full set of 387 cases and do not sum to 100%.

Table 7-6 summarizes information about suspects' statements and legal representation. It was common for suspects to make statements to law enforcement (70.8%); suspects rarely had legal representation (2.6%) at the time of the interview. The data collection instrument recorded information from the case file about the content of suspect statements to law enforcement and third parties. The most common suspect statement was to indicate that the sexual contact was consensual (72.8%), followed by denying that the event was a crime or denying sexual contact (15.2%). Suspects confessed in 20 cases (6.6%).

TABLE 7-6. SUSPECT STATEMENTS AND REPRESENTATION

	N	%
Suspect Provided Statement to Law Enforcement		

Yes	274	70.8
No	113	29.2
Suspect Had Legal Representation		
Yes	10	2.6
No	377	97.4
Suspect Statement to Third Parties or Law Enforcement [a]		
Confessed	20	6.6
Consensual	220	72.8
Denied Crime/Sexual Activity	46	15.2
No Recollection/Partial Memory	7	2.3
Other	9	3.0

[a] Reports included information with multiple suspect statements in 27 cases. A hierarchy rule was used to code cases with multiple statements: Cases were coded as "confessed" if the suspect confessed and offered any other statement. The next code in the hierarchy was "consensual" and was used when the suspect reported that the sexual activity was consensual (but did not confess). The third category in the hierarchy was "denied crime or denied penetrative sexual activity" and was used when the suspect offered multiple statements but not "confessed" and not "consensual." The "no recollection/partial memory" category was used when only this statement was made. The last category was "other" and was used when the provided statement did not clearly fit into any other the previous categories. Information about suspects' statements was available for 302 cases.

Tables 7-7 and 7-8 present information about victims. Close to two-thirds of the cases involved victims who were enlisted (63.3%), and it was rare for a victim to be an officer (2.1%). Civilians represented 34.6% of all victims and military personnel represented 65.4% of victims. Among the enlisted victims, a large majority were E-4 or lower (76.3%). The large majority of victims were female (94.6%) and the average victim age was 23.7. In a pattern similar to that seen among suspects, White victims comprised a majority of victims in the sample (67.2%). African Americans represented 18.9 percent of victims. As was true of suspects, it is important to note that the White category included individuals in the following groups: White, Hispanic, Middle Eastern, and North African.

Table 7-7 also summarizes the relationships between victims and suspects. Stranger cases were not common (4.7%) and friend relationships were most common (27.6%), followed by acquaintances (15.5%), current or former spouses (14.2%), current or former intimate partners (13.7%), and co-worker/classmate/roommate (13.4%). Recruit (victim) – recruiter (suspect) and supervisor (suspect) – subordinate (victim) relationships were not common among Navy cases (n = 14). Finally, Table 7-7 describes the individuals who reported the incident. Victims reported 39.5 percent of the cases, followed by a victim-authorized representative (26.9%), command (19.9%), or a third party (13.7%).

TABLE 7-7. VICTIM CHARACTERISTICS

	N	%
Victim Status at Time of Incident		
Enlisted	245	63.3
Officer	8	2.1
Civilian – Not DoD Spouse	69	17.8
Civilian – DoD Spouse	65	16.8
Suspect is Spouse/Former Spouse	50	76.9
Suspect is not Spouse	15	23.1
Victim Pay Grade at Time of Incident		
Enlisted (n = 245)		

E-1	16	6.5
E-2	33	13.5
E-3	90	36.7
E-4	48	19.6
E-5	45	18.4
E-6	6	2.5
E-7	3	1.2
E-8	1	0.4
Unknown	3	1.2
Officer (n = 8)		
Cadet/Midshipman	4	50.0
O-1	2	25.0
O-4	2	25.0
Victim Gender		
Male	21	5.4
Female	366	94.6
Victim Age	Mean = 23.7; SD = 5.8; Range = 16 − 51	
Victim Race[a]		
White[b]	260	67.2
Black or African American	73	18.9
Asian	36	9.3
Native Hawaiian or Other Pacific Islander	2	0.5
American Indian or Alaska Native	3	0.8
Other Race, Ethnicity, or Origin[c]	4	1.0
Unknown	9	2.3
Relationship to Suspect[d]		
Current or Former Spouse	55	14.2
Intimate Partner/Former Intimate Partner	53	13.7
Friend	107	27.6
Co-worker/Classmate/Roommate	52	13.4
Subordinate – Supervisor	12	3.1
Acquaintance	60	15.5
Online/Met for the First Time	9	2.3
Stranger	18	4.7
Recruit – Recruiter	2	0.5
Other	5	1.3
Unknown/Unable to Determine	14	3.6
Reporting Individual		
Victim	153	39.5
Victim-Authorized Representative	104	26.9
Command	77	19.9
Third Party	53	13.7

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.

Table 7-8 presents information about victims' drug and alcohol use and level of impairment during the time of the incident, in addition to other victim characteristics related to the investigation. As was true of suspect variables, victim drug use was substantially less common than victim alcohol use (5.4% compared to 63.8%). Nearly half of all victims reported some level of impairment during the offense (47.8%). Among those victims who were impaired, some memory loss and/or blacking out represented the most common form of impairment (48.1%), followed by the victim passing out or experiencing unconsciousness (47.0%). The large majority of victims (80.6%) did not have any history of behavioral health concerns listed in the case files. The data collection form captured information about behavioral health concerns before and after the incident, including, for instance, indications of inpatient treatment, outpatient treatment, traumatic brain injury, and alcohol and drug treatment (see Appendix G). The data collection instrument also recorded information about victim's statements or behaviors that may have been relevant during the investigation, and data show that 48.3% had a motive to lie, there was evidence of collateral victim misconduct in 34.9% of cases, 34.6% experienced some memory loss or were unconscious, and 31.0% of victims provided inconsistent statements. At least one of the victim complexity factors was present in 83.2% of the cases.

TABLE 7-8. VICTIM FACTORS

	N	%
Victim Alcohol Use		
Yes	247	63.8
No	140	36.2
Victim Drug Use		
Yes	21	5.4
No	366	94.6
Victim Reported Being Impaired		
Yes	185	47.8
No	202	52.2
Nature of Victim Impairment[a]		
Passed Out/Unconscious/Asleep	87	47.0
Blacked Out/No Memory/Partial Memory	89	48.1
Unknown	9	4.9
Victim Behavioral Health Concerns Before or After Incident		
Yes	75	19.4
No	312	80.6
Victim Complexity Factors[b]		
Collateral Misconduct	135	34.9
Other Misconduct	65	16.8
Loss of Memory or Consciousness	134	34.6
Inconsistent Statements	120	31.0
Motive to Lie	187	48.3
Contradictory Evidence	69	17.8
At Least One of the Six Factors Exists in the Case	322	83.2

a Victims were impaired in 185 cases, including 9 cases in which the nature of impairment was not clear (e.g., "drugged," "extremely drowsy," "transient state," and "victim was drunk and her reactions were slow"). Multiple

reasons were provided for the nature of impairment in 71 cases. To simplify the analyses of impairment reasons a single variable was created to measure the reason for impairment. The categories for this variable are mutually exclusive. The "passed out/unconscious/asleep" category is considered to be the greatest level of impairment, followed by "blacked out/no memory/partial memory." If the case indicated "passed out" or "unconscious" AND "blacked out" or "partial memory," then the case was coded as "passed out/unconscious/asleep." If the case indicated "blacked out," "partial memory," or "no memory" AND "asleep," then the case was coded as "passed out/unconscious/asleep."
[b] These categories were not mutually exclusive; multiple factors could have been present for a single victim. Percentages were calculated based on the full set of 387 cases and do not sum to 100%.

Table 7-9 presents information about victim injuries and suspects' use of force and threats. A suspect used or threatened to use force in 16.5% of cases; physical force was most common and weapon use was rare, occurring in only six cases. Victims sustained injuries in 18.1% of cases. Bruising (11.1%) and redness (5.9%) were the most common victim injuries. Witnesses existed in 15.5% of cases (see item 57 on data collection form). Investigators collected pretextual communication evidence in 16.0%t of cases and the most common result of the pretextual communication was to support neither the victim's nor the suspect's account (54.8% of cases in which pretextual communication occurred).

TABLE 7-9. VICTIM INJURIES AND EVIDENCE

	N	%
Use/Threat of Force		
Yes	64	16.5
No	323	83.5
Type of Force/Threat[a]		
Physical	57	14.7
Weapon	6	1.6
Coercion	7	1.8
Threat/Threat to Others	4	1.0
Physical Injuries to Victim[b]		
Yes	70	18.1
No	317	81.9
Injuries[c]		
Redness	23	5.9
Bruising	43	11.1
Cuts	14	3.6
Scrapes	9	2.3
Witness to the Incident		
Yes	60	15.5
No	327	84.5
Pretextual Communication		
Yes	62	16.0
Supports Victim Account	16	25.8
Supports Suspect Account	12	19.4
Supports Neither	34	54.8
No	325	84.0

[a] Categories were not mutually exclusive; cases could involve multiple types of force and threats.
[b] Victim injury was based on self-reported or recorded information in the case files and SAFE reports.
[c] Categories were not mutually exclusive; cases could involve multiple types of injuries.

Table 7-10 presents information about forensic evidence in Navy cases. A sexual assault forensic examination (SAFE) was performed on victims in 33.9% of cases. When a SAFE was performed, nearly two-thirds (61.1%) occurred within one day of the incident. Military health care facilities performed more SAFEs (n = 86, 65.7%) than civilian facilities (n = 44, 33.6%). Military forensic medical examiners performed the majority of exams (n = 77, 58.8%). The measure of DNA testing indicates whether *any* DNA evidence from the case was tested. DNA evidence was tested in 19.1% of cases.

TABLE 7-10. FORENSIC EVIDENCE

	N	%
SAFE Performed on Victim		
Yes	131	33.9
No	256	66.1
Days Between Offense and Victim SAFE (n = 131)		
0 (same day)	49	37.4
1	31	23.7
2	12	9.2
3	7	5.3
4	7	5.3
5	4	3.1
6	1	0.8
7	3	2.3
8 – 14	4	3.1
15 +	3	2.3
Unknown	10	7.6
Victim SAFE Location (n = 131)		
Civilian Health Care Facility	44	33.6
Military Health Care Facility	86	65.7
Unknown	1	0.8
Victim SAFE Provider Type (n = 131)		
Civilian Provider	43	32.8
Military Examiner	77	58.8
DoD Civilian	10	7.6
Unknown	1	1.1
DNA Evidence Tested[a]		
Yes	74	19.1
No/Unknown	313	80.9

[a] The DNA testing variable measured *any* DNA evidence testing in the case, not only sexual assault kit evidence collected from the victim.

Victim participation is summarized in Table 7-11. Victims participated in 72.4% of Navy cases and declined in 27.6% of cases. Among the victims who declined, more than three-quarters (77.5%) declined early in justice system processing (during investigation and reporting). Victims provided their input to commanders in a relatively small number of cases (n = 25, 6.5%). Victims provided different forms of input, including nine who requested a court-martial (36.0%) and equal numbers who requested no action (n = 4, 16.0%) and who requested nonjudicial punishment/administrative action (n = 4, 16.0%). Victims were represented by attorneys during

the investigation in over half of the cases (56.8%), and victims provided statements to law enforcement in nearly all cases (97.4%).

TABLE 7-11. VICTIM PARTICIPATION

	N	%
Victim Declination Recorded in File		
Victim Participated	280	72.4
Victim Declined	107	27.6
Declination Stage		
Investigation	73	68.2
Reporting	10	9.3
Court-Martial	14	13.1
Preliminary Hearing	3	2.8
Unknown	7	6.5
Victim Input to Command or SJA		
No	362	93.5
Yes	25	6.5
Input Provided to Command (n = 25)		
Pursue Administrative Separation	1	4.0
Supports DILCOM	0	0
Pursue Court-Martial	9	36.0
Take No Action	4	16.0
Nonjudicial Punishment/Administrative Actions	4	16.0
Other	7	28.0
Victim Attorney Representation (prior to trial)		
Yes	220	56.8
No	167	43.2
Victim Provided Statement to Law Enforcement		
Yes	377	97.4
No	10	2.6

Table 7-12 shows that a judge advocate made a probable cause determination in two-thirds of all cases (66.4%) and probable cause was determined to exist in 148 cases, representing 38.2% of all cases and 57.6% of cases in which a determination was made. Judge advocates made probable cause determinations for purposes of indexing with the FBI's NCIC criminal history database.

TABLE 7-12. PROBABLE CAUSE DETERMINATION

	N	%
Probable Cause Determination Made		
Yes	257	66.4
No	130	33.6
Probable Cause Determination Result (n = 257)		
Yes, Probable Cause Exists	148	57.6
Probable Cause Does Not Exist	109	42.4

BIVARIATE RELATIONSHIPS

The second stage of the analysis estimated relationships between case characteristics and two important outcome variables: (1) the commander's decision to prefer or to not take action and (2) the victim's decision to participate or to decline. Because of the small number of convictions (n = 15), it was not possible to compare no action cases to cases that ended in a conviction or to compare acquittals to convictions. A DoD-wide analysis that combines all Service branches will examine differences between cases that end in acquittal and cases that end in a conviction. Cases that ended in some administrative action (n = 21) were excluded from the analysis that examined preferral and no action outcomes.

COMMAND ACTION DEPENDENT VARIABLE: NO ACTION COMPARED TO PREFERRAL

The patterns in Table 7-13a show that there was no relationship between the preferral decision and the incident location and the identity of the individual who reported the incident to authorities. Cases with prompt reports (i.e., within one week) were more likely to be preferred (33.9%) than cases without a prompt report (20.1%). The median number of days between the incident and the report to authorities was shorter in preferred cases (12 days) than in no action cases (38 days). In addition, cases in which probable cause was determined to exist were most likely to be preferred (45.7%). The difference in rates of preferral between cases with probable cause and all other cases was statistically significant (45.7% compared to 27.6%). Similarly, the likelihood of preferral was greater when a no probable cause determination was made (17.9%) than when a determination of no probable cause was made (3.8%); this relationship is statistically significant.

TABLE 7-13a. COMMAND ACTION DECISION: INCIDENT LOCATION AND REPORTING INFORMATION

	No Command Action (n = 277)		Preferral (n = 89)	
	N	%	N	%
Incident Location (NS)				
On Installation	94	75.2	31	24.8
Off Installation	183	75.9	58	24.1
Reporting Individual (NS)				
Victim	109	74.7	37	25.3
Victim-Authorized Representative	79	79.8	20	20.2
Command	54	77.1	16	22.9
Third Party	35	68.6	16	31.4
Prompt Report (within 7 days) (χ^2 = 8.19, p < .05)				
Yes	78	66.1	40	33.9
No	195	79.9	49	20.1
Number of Days Between Incident and Report to Authorities	Median = 38		Median = 12	
Probable Cause[a] (χ^2 = 60.89, p < .05)				
No Determination Made	101	82.1	22	17.9
Probable Cause Existed	75	54.3	63	45.7
Probable Cause Did Not Exist	101	96.2	4	3.8

Several evidentiary variables were related to preferral outcomes (Table 7-13b). A case was more likely to be preferred when the victim sustained some injuries than when the victim was not injured (34.8% compared to 22.0%). When suspects used or threatened to use force, the chances of case preferral were greater (39.0%) than when suspects did not use or threaten to use force (21.5%). Victim participation, compared to declinations, also increased the chances the case would be preferred. Over one-quarter of cases with a participating victim (28.1%) were preferred compared to 13.5% of cases in which the victim declined. Finally, cases were more likely to be preferred when a SAFE exam was performed on the victim, when DNA testing occurred, and when the victim was represented by an attorney during the investigation. The variables that were not associated with the chances of a case being preferred included the presence of witnesses, pretextual communication, and communication results.

TABLE 7-13b. COMMAND ACTION DECISION: EVIDENCE

	No Command Action (n = 277)		Preferral (n = 89)	
Witness to the Incident (NS)				
Yes	50	83.3	10	16.7
No	227	74.2	79	25.8
Pretextual Communication Occurred (NS)				
Yes	41	71.9	16	28.1
No	236	76.4	73	23.6
Pretextual Communication Result (NS)				
Supports Victim Account	9	60.0	6	40.0
Supports Suspect Account	9	81.8	2	18.2
Supports Neither Account	23	74.2	8	25.8
Victim Physical Injuries ($\chi^2 = 4.85$, p < .05)				
Yes	43	65.2	23	34.8
No	234	78.0	66	22.0
Threat or Use of Force ($\chi^2 = 8.22$, p < .05)				
Yes	36	61.0	23	39.0
No	241	78.5	66	21.5
Victim Participation ($\chi^2 = 8.21$, p < .05)				
Yes	194	71.9	76	28.1
Declined[a]	83	86.5	13	13.5
Sexual Assault Exam Performed on Victim ($\chi^2 = 9.30$, p < .05)				
Yes	82	66.1	42	33.9
No	195	80.6	47	19.4
DNA Evidence Tested ($\chi^2 = 35.69$, p < .05)				
Yes	35	48.6	37	51.4
No	242	82.3	52	17.7
Victim Attorney Representation (prior to trial) ($\chi^2 = 3.77$, p ≤.05)				
Yes	148	71.8	58	28.2
No	129	80.6	31	19.4

Victim characteristics such as gender, race, age, and victim status were not related to the preferral decision (Table 7-13c). Cases with victims who were officers were more likely to be preferred than cases with victims who were enlisted. It is important to note that the sample included a small number of cases with victims who were officers (n = 8), so this pattern may not be a reliable result. Despite the small number of stranger cases (n = 18), eight stranger cases were preferred (44.4%). Cases involving supervisors and subordinates were next most likely to be preferred (41.7%), followed by cases involving friends (35.0%). Cases involving spouses and former spouses and those involving intimate partners and former intimate partners were least likely to be preferred (15.4% and 8.2%, respectively). The statistical relationship is driven by comparisons between the relationship types with the highest preferral rates (strangers, supervisor-subordinates, and friends) and the relationship types with the lowest preferral rates (intimate partners/former intimate partners, spouses/former spouses, and co-workers/classmates/roommates).

TABLE 7-13c. COMMAND ACTION DECISION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	No Command Action (n = 277)		Preferral (n = 89)	
Victim Gender (NS)				
Female	260	75.1	86	24.9
Male	17	85.0	3	15.0
Victim Race[a] (NS)				
White[b]	185	75.5	60	24.5
Non-White	83	74.1	29	25.9
Victim Status at Time of Incident (NS)				
Military	174	72.5	66	27.5
Civilian – Not DoD Spouse	52	80.0	13	20.0
Civilian – DoD Spouse	51	83.6	10	16.4
Suspect Is Spouse/Former Spouse (NS)	39	83.0	8	17.0
Suspect Is Not Spouse	12	85.7	1	14.3
Victim Grade at Time of Incident ($\chi^2 = 35.69$, $p < .05$)				
Enlisted	173	74.6	59	25.4
Officer	1	12.5	7	87.5
Relationship Between Victim and Suspect[c] ($\chi^2 = 21.53$, $p < .05$)				
Supervisor – Subordinate	7	58.3	5	41.7
Spouse/Former Spouse	44	84.6	8	15.4
Intimate Partner/Former Intimate Partner	45	91.8	4	8.2
Friend	67	65.0	36	35.0
Co-worker/Classmate/Roommate	40	80.0	10	20.0
Acquaintance	40	75.5	13	24.5
Stranger	10	55.6	8	44.4
Victim Age (NS)	(Mean = 28.2, SD = 7.4)		(Mean = 27.2, SD = 7.3)	

a NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of

the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The "other relationship," "online/met for the first time," and "recruiter – recruit" categories were excluded because of their small numbers; the "unknown/unable to determine" category was also excluded from this analysis.

Five victim-related variables were related to the preferral decision (Table 7-13d). Victim motive to lie and inconsistent statements were related to the decision to prefer. Cases were less likely to be preferred when the victim had a motive to lie (16.5%) than when this motive did not exist in the case (31.6%) and cases were less likely to be preferred when the victim provided inconsistent statements (13.5%) than when the victim did not make inconsistent statements (29.0%). Similarly, victim behavior health concerns were associated with a reduced chance of preferral (13.4% compared to 26.8%). Consensual sexual contact between the victim and suspect was related to the commander's decision. Cases with a victim who did not have consensual sexual contact with the suspect were more likely to be preferred (30.3%) than cases with victims who had consensual sexual contact with suspects at any time (17.5%); this difference was statistically significant. Victim impairment was related to the preferral decision such that cases with a victim who blacked out and/or sustained memory loss was least likely to be preferred. When all the categories of impairment were combined together, the relationship between impairment and the command decision was not statistically significant. Victim alcohol use, memory loss, and collateral and other misconduct were statistically unrelated to the commander's decision to prefer the case.

TABLE 7-13d. COMMAND ACTION DECISION: VICTIM FACTORS

	No Command Action (n = 277)		Preferral (n = 89)	
Victim Impairment (χ^2 = 17.51, p < .05)				
Not Impaired	146	76.8	44	23.2
Passed Out/Unconscious/Asleep	49	59.8	33	40.2
Blacked Out/Memory loss	75	87.2	11	12.8
Victim Alcohol Use (NS)				
Yes	177	75.0	59	25.0
No	100	76.9	30	23.1
Victim Drug Use (NS)				
Yes	16	84.2	3	15.8
No	261	75.2	86	24.8
Victim Lack of Memory (NS)				
Yes	94	74.0	33	26.0
No	183	76.6	56	23.4
Victim Motive to Lie (χ^2 = 11.32, p < .05)				
Yes	147	83.5	29	16.5
No	130	68.4	60	31.6
Victim Inconsistent Statements (χ^2 = 10.10, p < .05)				
Yes	96	86.5	15	13.5
No	181	71.0	74	29.0
Victim Contradictory Evidence (NS)				
Yes	46	71.9	18	28.1

No	231	76.5	71	23.5
Victim Collateral Misconduct (NS)				
Yes	101	78.3	28	21.7
No	176	74.3	61	25.7
Victim Other Misconduct (NS)				
Yes	50	80.6	12	19.4
No	227	74.7	77	25.3
Victim Behavioral Health Concerns Before or After Incident ($\chi^2 = 5.28$, p < .05)				
Yes	58	86.6	9	13.4
No	219	73.2	80	26.8
Victim Consensual Sexual Contact with Suspect ($\chi^2 = 11.94$, p < .05)				
Yes – prior to incident	106	79.1	28	20.9
Yes – following incident	8	100	0	0
Yes – prior to and following incident	27	93.1	2	6.9
No	136	69.7	59	30.3

Like victim characteristics, some suspect characteristics were related to the preferral decision (Table 7-13e). The relationships between four suspect variables and the commander's decision to prefer a case were statistically significant: suspect race, suspect's inconsistent statements, suspect's statements to third parties, and evidence of other sex offenses and/or related misconduct[9] in the file. Preferral was more likely when suspects were Non-White (32.3% than White (20.3%). Preferral was also more likely when the suspect made inconsistent statements (41.3%) than when the suspect did not make inconsistent statements (21.9%). Cases were more likely to be preferred when 413 or 404(b) evidence existed for a suspect (60.6%) compared to when this evidence did not exist (20.7%). Commanders preferred 73.7 percent of Navy cases in which a suspect confessed, preferred 28.6 percent of cases in which the suspect did not recall the event or reported some memory loss, and preferred 22.7 percent of cases in which the suspect denied contact or denied committing the crime. Cases were least likely to be preferred when the suspect reported the sexual contact was consensual.

TABLE 7-13e. COMMAND ACTION DECISION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	No Command Action (n = 277)		Preferral (n = 89)	
Suspect Race[a] ($\chi^2 = 6.52$, p < .05)				
White[b]	185	79.7	47	20.3
Non-White	88	67.7	42	32.3
Suspect Grade at Time of Incident (NS)				
Officer	16	61.5	10	38.5
Enlisted	261	76.8	79	23.2
Suspect Alcohol Use (NS)				

_____

[9] Military Rules of Evidence (MRE) 413 and 404(b), respectively, cover the admissibility of other sex offenses and related misconduct. MRE 413 is similar to its Federal Rule counterpart. Its purpose is to provide for the liberal admissibility of character evidence when the accused has committed a prior sexual assault offense. MRE 404(b) permits the admissibility of certain evidence of other crimes, wrongs, or acts committed by the accused for the purpose of proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Yes	171	73.7	61	26.3
No	106	79.7	27	20.3
Suspect Drug Use (NS)				
Yes	5	83.3	1	16.7
No	272	75.8	87	24.2
Suspect Lack of Memory (NS)				
Yes	16	72.7	6	27.3
No	261	75.9	83	24.1
Suspect Inconsistent Statements ($\chi^2 = 8.25$, p < .05)				
Yes	27	58.7	19	41.3
No	250	78.1	70	21.9
Suspect Contradictory Evidence (NS)				
Yes	18	64.3	10	35.7
No	259	76.6	79	23.4
Suspect Collateral Misconduct (NS)				
Yes	98	72.6	37	27.4
No	179	77.5	52	22.5
Suspect Other Misconduct (NS)				
Yes	68	70.8	28	29.2
No	209	77.4	61	22.6
Suspect 413 and 404(b) Evidence ($\chi^2 = 25.95$, p < .05)				
Yes	13	39.4	20	60.6
No	264	79.3	69	20.7
Suspect Behavioral Health Concerns Before or After Incident (NS)				
Yes	16	69.6	7	30.4
No	261	76.3	81	23.7
Suspect Statement ($\chi^2 = 30.63$, p < .05)[c]				
Confessed	5	26.3	14	73.7
Consensual	168	82.0	37	18.0
Denied Crime/Sexual Activity	34	77.3	10	22.7
No Recollection/Partial Memory	5	71.4	2	28.6
Other	7	77.8	2	22.2

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The relationship was statistically significant when "confessed" was compared to all other suspect statements and to no statements.

VICTIM PARTICIPATION DEPENDENT VARIABLE: VICTIM PARTICIPATED – VICTIM DECLINED

Table 7-14a shows that victim participation was similar when the incident occurred on installation (70.1%) and off installation (73.5%). Similarly, victim participation was not related to the type of person who reported the incident to authorities. Victim participation was not

associated with the judge advocates' probable cause determination and the probable cause finding. The median number of days between the incident and the report to authorities was greater among cases with a participating victim (34) than cases in which the victim declined to participate (14).

TABLE 7-14a. VICTIM PARTICIPATION: INCIDENT LOCATION AND REPORTING INFORMATION

	Victim Declined (n = 107)		Victim Participated (n = 280)	
	N	%	N	%
Incident Location (NS)				
On Installation	40	29.9	94	70.1
Off Installation	67	26.5	186	73.5
Reporting Individual (NS)				
Victim	34	22.2	119	77.8
Victim-Authorized Representative	33	31.7	71	68.3
Command	22	28.6	55	71.4
Third Party	18	34.0	35	66.0
Prompt Report (within 7 days) (NS)				
Yes	41	32.5	85	67.5
No	63	24.5	194	75.5
Number of Days Between Incident and Report to Authorities	Median = 14		Median = 34	
Probable Cause[a] (NS)				
No Determination Made	39	30.0	91	70.0
Probable Cause Existed	30	27.5	79	72.5
Probable Cause Did Not Exist	38	25.7	110	74.3

[a] Judge advocates made probable cause determinations for purposes of indexing with the FBI.

Table 7-14b presents patterns of relationships between evidentiary variables and victim participation. Rates of victim participation were similar across the categories of all but one of these variables. For example, rates of victim participation were nearly identical when witnesses existed (73.3%) and when they did not (72.2%). Rates of participation were unrelated to pretextual communication, the outcome of pretextual communication, victim injuries, suspects use and threats of force, victim SAFE, and DNA testing. Despite the lack of statistical relationships, the patterns of relationships suggested that victim participation rates were greater in cases when the victim was not injured than in cases in which the victim was injured, greater in cases in which a SAFE was performed on the victim, and greater when DNA was tested. The relationship between attorney representation during the investigation and victim participation was statistically significant: victim participation was more likely with attorney representation (76.8%) than without attorney representation (66.5%).

TABLE 7-14b. VICTIM PARTICIPATION: EVIDENCE

	Victim Declined (n = 107)		Victim Participated (n = 280)	
Witness to the Incident (NS)				

	Victim Declined (n = 107)		Victim Participated (n = 280)	
Yes	16	26.7	44	73.3
No	91	27.8	236	72.2
Pretextual Communication Occurred (NS)				
Yes	11	17.7	51	82.3
No	96	29.5	229	70.5
Pretextual Communication Result (NS)				
Supports Victim Account	3	18.8	13	81.3
Supports Suspect Account	2	16.7	10	83.3
Supports Neither Account	6	17.6	28	82.4
Victim Physical Injuries (NS)				
Yes	24	34.3	46	65.7
No	83	26.2	234	73.8
Threat or Use of Force (NS)				
Yes	21	32.8	43	67.2
No	86	26.6	237	73.4
Sexual Assault Exam Performed on Victim (NS)				
Yes	33	25.2	98	74.8
No	74	28.9	182	71.1
DNA Evidence Tested (NS)				
Yes	15	20.3	59	79.7
No	92	29.4	221	70.6
Victim Attorney Representation (prior to trial) ($\chi^2 = 5.09$, $p < .05$)				
Yes	51	23.3	169	76.8
No	56	33.5	111	66.5

Table 7-14c presents patterns of relationships between victim participation and victims' demographic characteristics. Many of the patterns of relationships in Table 7-14c were not statistically significant, suggesting that rates of victim participation were similar across victim gender, race, grade, and age. Victims who were officers were more likely to participate than enlisted victims but the small number of cases made the statistical test unreliable. Victim status was associated with victim participation: military victims were most likely to participate, followed by civilian victims who were not DoD spouses, and then civilian victims who were DoD spouses. The difference in victim participation rates between military victims (79.1%) and both civilian categories (66.7% and 52.3%) was statistically significant. Finally, the victim-suspect relationship was also related to victim participation. Victim participation rates were lowest in cases of spouses and former spouses (54.5%) and strangers (55.6%); rates were highest in cases involving supervisors and subordinates (83.3%) and acquaintances (80.0%). The statistically significant relationship was driven by the rate of participation among current and former spouses (54.5%); the difference between spouses and former spouses and each other relationship type, except strangers (55.6%), was statistically significant.

TABLE 7-14c. VICTIM PARTICIPATION: VICTIM DEMOGRAPHIC CHARACTERISTICS AND RELATIONSHIP TO SUSPECT

	Victim Declined (n = 107)		Victim Participated (n = 280)	
Victim Gender (NS)				

Female	101	27.6	265	72.4
Male	6	28.6	15	71.4
Victim Race[a] (NS)				
White[b]	74	28.5	186	71.5
Non-White	33	28.0	85	72.0
Victim Status at Time of Incident ($\chi^2 = 19.85$, $p < .05$)				
Military	53	20.9	200	79.1
Civilian – Not DoD Spouse	23	33.3	46	66.7
Civilian – DoD Spouse	31	47.7	34	52.3
Suspect Is Spouse/Former Spouse (NS)	24	48.0	26	52.0
Suspect Is Not Spouse	7	46.7	8	53.3
Victim Grade at Time of Incident (NS)				
Enlisted	52	21.2	193	78.8
Officer	1	12.5	7	87.5
Relationship Between Victim and Suspect[c] ($\chi^2 = 17.77$, $p < .05$)				
Supervisor – Subordinate	2	16.7	10	83.3
Spouse/Former Spouse	25	45.5	30	54.5
Intimate Partner/Former Intimate Partner	14	26.4	39	73.6
Friend	25	23.4	82	76.6
Co-worker/Classmate/Roommate	9	17.3	43	82.7
Acquaintance	12	20.0	48	80.0
Stranger	8	44.4	10	55.6
Victim Age (NS)	(Mean = 23.6, SD = 5.7)		(Mean = 23.7, SD = 5.8)	

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The "other relationship," "online/met for the first time," and "recruiter – recruit" categories were excluded because of their small numbers; the "unknown/unable to determine" category was also excluded from this analysis.

Table 7-14d shows that few victim-related variables were associated with the likelihood the victim participated. For example, rates of participation were similar when victims used and did not use alcohol and when victims engaged in collateral misconduct and when they did not. Victim lack of memory was associated with a greater chance of victim participation (78.4%) than when the victim did not sustain some memory loss (69.2%).

TABLE 7-14d. VICTIM PARTICIPATION: VICTIM FACTORS

	Victim Declined (n = 107)		Victim Participated (n = 280)	
Victim Impairment (NS)				
Not Impaired	64	31.7	138	68.3
Passed Out/Unconscious/Asleep	17	19.5	70	80.5
Blacked Out/Memory Loss	24	27.0	65	73.0
Victim Alcohol Use (NS)				
Yes	67	27.1	180	72.9
No	40	28.6	100	71.4

Victim Drug Use (NS)				
Yes	8	38.1	13	61.9
No	99	27.0	267	73.0
Victim Lack of Memory ($\chi^2 = 3.70$, $p \leq .05$)				
Yes	29	21.6	105	78.4
No	78	30.8	175	69.2
Victim Motive to Lie (NS)				
Yes	47	25.1	140	74.9
No	60	30.0	140	70.0
Victim Inconsistent Statements (NS)				
Yes	31	25.8	89	74.2
No	76	28.5	191	71.5
Victim Contradictory Evidence (NS)				
Yes	15	21.7	54	78.3
No	92	28.9	226	71.1
Victim Collateral Misconduct (NS)				
Yes	37	27.4	98	72.6
No	70	27.8	182	72.2
Victim Other Misconduct (NS)				
Yes	20	30.8	45	69.2
No	87	27.0	235	73.0
Victim Behavioral Health Concerns Before or After Incident (NS)				
Yes	23	30.7	52	69.3
No	84	26.9	228	73.1
Victim Consensual Sexual Contact with Suspect (NS)				
Yes – prior to incident	49	33.3	98	66.7
Yes – following incident	2	25.0	6	75.0
Yes – prior to and following incident	6	18.2	27	81.8
No	50	25.1	149	74.9

Overall, suspect variables were not statistically associated with the likelihood of victim participation (Table 7-14e). Suspect race, grade, alcohol use, drug use, suspect complexity factors, suspect behavioral health concerns, and suspect confessions were not related to victim participation.

TABLE 7-14e. VICTIM PARTICIPATION: SUSPECT DEMOGRAPHIC CHARACTERISTICS AND SUSPECT FACTORS

	Victim Declined (n = 107)		Victim Participated (n = 280)	
Suspect Race[a] (NS)				
White[b]	64	26.0	182	74.0
Non-White	41	29.9	96	70.1
Suspect Grade at Time of Incident (NS)				
Officer	7	26.9	19	73.1
Enlisted	100	27.7	261	72.3
Suspect Alcohol Use (NS)				

Yes	64	26.2	180	73.8
No	43	30.3	99	69.7
Suspect Drug Use (NS)				
Yes	4	57.1	3	42.9
No	103	27.2	276	72.8
Suspect Lack of Memory (NS)				
Yes	5	21.7	18	78.3
No	102	28.0	262	72.0
Suspect Inconsistent Statements (NS)				
Yes	12	24.0	38	76.0
No	95	28.2	242	71.8
Suspect Contradictory Evidence (NS)				
Yes	7	24.1	22	75.9
No	100	27.9	258	72.1
Suspect Collateral Misconduct (NS)				
Yes	39	27.5	103	72.5
No	68	27.8	177	72.2
Suspect Other Misconduct (NS)				
Yes	29	29.0	71	71.0
No	78	27.2	209	72.8
Suspect 413 and 404(b) Evidence (NS)				
Yes	5	15.2	28	84.8
No	102	28.8	252	71.2
Suspect Behavioral Health Concerns Before or After Incident (NS)				
Yes	7	29.2	17	70.8
No	100	27.6	262	72.4
Suspect Statement ($\chi^2 = 9.79$, p < .05)[c]				
Confessed	6	30.0	14	70.0
Consensual	61	27.7	159	72.3
Denied Crime/Sexual Activity	7	15.2	39	84.8
No Recollection/Partial Memory	0	0	7	100
Other	5	55.6	4	44.4

[a] NCIS uses the Consolidated Law Enforcement Operations Center (CLEOC) to capture information related to investigations, to include race and ethnicity. The investigative case files reviewed reported race in the title section of the investigation, but ethnicity was captured only in the electronic portion of CLEOC. Because reviewers only had access to the investigations and not CLEOC, and to maintain consistency across Services, only race was analyzed.
[b] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S. Census Bureau's categorizations of race.
[c] The relationship was not statistically significant when "confessed" was compared to all other suspect statements and to no statements.

MULTIVARIATE ANALYSIS

The models were built by starting with independent variables that showed a significant bivariate relationship with the dependent variable. The models were refined based on results of the initial model and when two independent variables were closely related to one another. In addition, some independent variables were excluded if there were small numbers of cases in categories of the independent variable across categories of the dependent variable (e.g., suspect confession by command decision).

Table 7-15a presents the results of this final multivariate model that treated the commander decision to prefer the case or take no action in the case as the dependent variable. Twenty-one cases in which the commander took administrative action were excluded from this analysis. The following patterns of relationships emerged from the multivariate model:

- When probable cause was determined to exist, as compared to cases without a probable cause determination and cases in which probable cause was determined to not exist, there was a greater likelihood the case will be preferred. Judge advocates made probable cause determinations for purposes of indexing with the FBI.
- A participating victim increased the chances a case would be preferred.
- When DNA evidence was tested, the chances a case would be preferred increased.
- When the victim sustained injuries, the chances of preferral were greater.
- One suspect complexity factor was related to case preferral. The likelihood of preferral was greater when suspect 413 and 404(b) evidence existed in the case compared to when this evidence did not exist.
- The likelihood of preferral was greater when the suspect confessed than when the suspect made other statements or did not make any statements at all.
- The likelihood of preferral was lower when behavioral health concerns existed for the victim compared to when these concerns did not exist.
- Suspect race was not associated with the likelihood of preferral.

TABLE 7-15a. LOGISTIC REGRESSION: COMMANDER DECISION TO PREFER CASES OR TAKE NO ACTION

	B	**SE**	**Exp(B)**
Probable cause exists	1.43*	.31	4.18
Victim participated	.76*	.39	2.14
DNA evidence tested	1.13*	.34	3.09
Victim physical injuries	.81*	.38	2.24
Suspect 413 and 404(b) evidence	2.02*	.44	7.55
Suspect race (White or Non-White)	.50	.31	1.65
Suspect confessed	2.83*	.62	16.87
Victim behavioral health concerns	-1.06*	.50	.35

*p ≤ .05
Model χ^2 = 121.70, df = 8, p < .05

Table 7-15b presents the results of a multivariate model that treated victim participation as the dependent variable. An alternative model was estimated that replaced the stranger relationship variable with a variable that indicated whether the relationship was spouse/former spouse or any other type of relationship, and the substantive pattern of results was unchanged. Only one variable exhibited a statistically significant relationship with likelihood of victim participation in Navy cases (see Tables 7-14a to 7-14e):

- The chances of victim participation were greater when the victim was an active Service member than when the victim was a civilian.

TABLE 7-15b. LOGISTIC REGRESSION: VICTIM PARTICIPATION OR DECLINATION

	B	**SE**	**Exp(B)**

Victim attorney representation (prior to trial)	.12	.26	1.12
Victim memory loss/loss of consciousness	.25	.27	1.28
Victim status − military	.81*	.27	2.24
Victim and offender are strangers	-.73	.51	.48

* p < .05

Model χ^2 = 19.01, df = 4, p < .05

TABLE 8-1. COMMAND ACTION DECISIONS AND COURT-MARTIAL RESULTS

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Initial Command Action on Penetrative Sexual Assault												
No Command Action	597	72.7	256	63.5	16	53.3	277	71.6	190	72.2	1336	70.2
Preferred	205	25.0	140	34.7	14	46.7	89	23.0	69	26.2	517	27.2
Administrative Action	19	2.3	7	1.7	0	0	21	5.4	4	1.5	51	2.7
Reason Provided by Command for No Action[a]												
Lack of Victim Participation	N/A	N/A	61	22.5	5	27.8	60	19.1	61	27.1	187	22.6
Insufficient Evidence	N/A	N/A	32	11.8	2	11.1	123	39.2	126	56.0	283	34.2
Unfounded	N/A	N/A	10	3.7	2	11.1	18	5.7	7	3.1	37	4.5
Prosecution Declined	N/A	N/A	8	3.0	0	0	12	3.8	4	1.8	24	2.9
No Probable Cause	N/A	N/A	8	3.0	0	0	15	4.8	2	0.9	25	3.0
No Reason Provided/Unknown	N/A	N/A	139	51.3	9	50.0	72	22.9	25	11.1	245	29.6
Other	N/A	N/A	13	4.8	0	0	14	4.5	0	0	27	3.3
Case Preferral/Referral												
Preferred Only	24	11.7	33	23.4	1	7.1	16	18.0	21	30.4	95	18.4
Preferred and Referred	181	88.3	107	76.6	13	92.9	73	82.0	48	69.6	422	81.6
Referred Cases with a Finding	94	51.9	68	63.6	7	53.8	40	54.8	26	54.2	235	55.7
Court-Martial Results												
Acquittal	52	55.3	50	73.5	2	28.6	25	62.5	15	57.7	144	61.3
Conviction for at Least One Penetrative Sexual Assault Charge – Court-Martial	37	39.4	11	16.2	5	71.4	12	30.0	4	15.4	69	29.4
Conviction for at Least One Penetrative Sexual Assault Charge – PTA at Court-Martial	5	5.3	7	10.3	0	0	3	7.5	7	26.9	22	9.4
Alternative Disposition												
Administrative Separation	1	0.9	3	4.2	0	0	6	12.2	1	2.3	11	3.9
Discharge in Lieu of Court-Martial	50	45.0	26	36.1	0	0	6	12.2	1	2.3	83	29.4

	n	%	n	%	n	%	n	%	n	%	n	%
Dismissal	60	54.1	43	59.7	7	100	37	75.5	41	95.3	188	66.7

[a] Multiple reasons were listed in some cases in which the command did not take action. All reasons listed are included in the counts. Percentages are computed based on the total number of reasons reported.

TABLE 8-2. INCIDENT LOCATION

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Installation												
On Installation	441	53.7	178	44.2	9	30.0	134	34.6	144	54.8	906	47.6
Off Installation	380	46.3	225	55.8	21	70.0	253	65.4	119	45.2	998	52.4
Location of Incident												
CONUS	603	73.4	312	77.4	26	86.7	280	72.4	208	79.1	1429	75.1
OCONUS	210	25.6	89	22.1	1	3.3	93	24.0	53	20.2	446	23.4
CONUS and OCONUS	8	1.0	2	0.5	0	0	1	0.3	1	0.4	12	0.6
Vessel	0	0	0	0	3	10.0	11	2.8	1	0.4	15	0.8
Vessel and CONUS	0	0	0	0	0	0	1	0.3	0	0	1	0.1
Vessel and OCONUS	0	0	0	0	0	0	1	0.3	0	0	1	0.1
Deployment												
Deployed Location (Iraq or Afghanistan only)	3	0.4	0	0	0	0	1	0.3	0	0	4	0.2
Non-Deployed Location	818	99.6	403	100	30	100	386	99.7	263	100	1900	99.8

TABLE 8-3. TIME BETWEEN KEY ACTIONS IN THE CASE

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Number of Days Between Offense and Report to Authorities												
0 (same day)	109	13.3	32	7.9	0	0	32	8.3	30	11.4	203	10.7
1 – 3	158	19.2	62	15.4	6	20.0	69	17.8	69	26.2	364	19.1
4 – 7	53	6.5	25	6.2	2	6.7	25	6.5	23	8.7	128	6.7
8 – 14	62	7.6	23	5.7	2	6.7	31	8.0	12	4.6	130	6.8
15 – 30	67	8.2	22	5.5	2	6.7	35	9.0	18	6.8	144	7.6
31 – 60	77	9.4	30	7.4	0	0	41	10.6	23	8.7	171	9.0
61 – 90	48	5.9	22	5.5	0	0	18	4.7	16	6.1	104	5.5

	Army n	Army %	Air Force n	Air Force %	Coast Guard n	Coast Guard %	Navy n	Navy %	Marine Corps n	Marine Corps %	DoD Total n	DoD Total %
91 – 120	34	4.1	15	3.7	2	6.7	18	4.7	10	3.8	79	4.2
121 – 150	21	2.6	14	3.5	1	3.3	10	2.6	7	2.7	53	2.8
151 – 180	23	2.8	11	2.7	2	6.7	15	3.9	9	3.4	60	3.2
181 – 210	11	1.3	22	5.5	1	3.3	8	2.1	6	2.3	48	2.5
211 – 240	12	1.5	11	2.7	0	0	8	2.1	1	.3	32	1.7
241 – 270	11	1.3	4	1.0	1	3.3	5	1.3	2	.7	23	1.2
271 – 365	18	2.2	18	4.5	2	6.7	17	4.4	11	4.2	66	3.5
366 +	106	12.9	78	19.4	9	30.0	51	13.2	23	8.7	267	14.0
Unknown	11	1.3	14	3.5	0	0	4	1.0	3	1.1	32	1.7
Median number of days	17		62		150		30		11		26	

TABLE 8-4. SUSPECT CHARACTERISTICS

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Suspect Grade at Time of Incident												
Enlisted	760	92.6	370	91.8	26	86.7	361	93.3	254	96.6	1771	93.0
Officer	61	7.4	30	7.4	4	13.3	26	6.7	9	3.4	130	6.8
Unknown	0	0	3	0.7	0	0	0	0	0	0	3	0.2
Suspect Pay Grade at Time of Incident												
Enlisted												
E-1	42	5.5	9	2.4	1	3.9	9	2.5	6	2.4	67	3.8
E-2	72	9.5	11	3.0	1	3.9	28	7.8	28	11.0	140	7.9
E-3	151	19.9	91	24.6	8	30.8	84	23.3	79	31.1	413	23.3
E-4	220	28.9	116	31.3	7	26.9	91	25.2	59	23.2	493	27.8
E-5	125	16.4	78	21.1	3	11.5	83	23.0	53	20.9	342	19.3
E-6	82	10.8	42	11.4	3	11.5	37	10.3	17	6.7	181	10.2
E-7	52	6.8	17	4.6	1	3.9	22	6.1	9	3.5	101	5.7
E-8	13	1.7	2	0.5	0	0	5	1.4	3	1.2	23	1.3
E-9	3	0.4	0	0	0	0	1	0.3	0	0	4	0.2
Unknown	0	0	4	1.1	2	7.7	1	0.3	0	0	7	0.4
Officer												
Cadet/Midshipman	2	3.3	6	20.0	3	75.0	4	15.4	0	0	15	11.5
O-1	4	6.6	1	3.3	0	0	1	3.8	0	0	6	4.6
O-2	14	23.0	5	16.7	1	25.0	9	34.6	3	33.3	32	24.6

	n	%	n	%	n	%	n	%	n	%	n	%
O-3	16	26.2	4	13.3	0	0	7	26.9	2	22.2	29	22.3
O-4	7	11.5	6	20.0	0	0	1	3.8	0	0	14	10.8
O-5	8	13.1	6	20.0	0	0	3	11.5	1	11.1	18	13.8
O-6	0	0	2	6.7	0	0	0	0	2	22.2	4	3.1
W-1	0	0	0	0	0	0	0	0	1	11.1	1	0.8
W-2	5	8.2	0	0	0	0	0	0	0	0	5	3.8
W-3	4	6.6	0	0	0	0	1	3.8	0	0	5	3.8
W-4	1	1.6	0	0	0	0	0	0	0	0	1	0.8
Suspect Sex												
Male	799	97.3	392	97.3	29	96.7	379	97.9	261	99.2	1860	97.7
Female	22	2.7	11	2.7	1	3.3	8	2.1	2	.8	44	2.3
Suspect Age	Mean = 25.9; SD = 6.6; Range = 18 – 53		Mean = 25.5; SD = 5.7; Range = 18 – 54		Mean = 25.1; SD = 4.3; Range = 20 – 36		Mean = 25.8; SD = 6.3; Range = 18 – 58		Mean = 23.8; SD = 5.3; Range = 18 – 56		Mean = 25.5; SD = 6.2; Range = 18 – 58	
Suspect Race												
White[a]	504	61.4	285	70.7	26	86.7	246	63.6	205	77.9	1266	66.5
Black or African American	259	31.5	77	19.1	1	3.3	112	28.9	46	17.5	495	26.0
Asian	17	2.1	9	2.2	0	0	16	4.1	3	1.1	45	2.4
Native Hawaiian or Other Pacific Islander	9	1.1	7	1.7	1	3.3	3	0.8	2	0.8	22	1.2
American Indian or Alaska Native	3	0.4	1	0.2	0	0	2	0.5	3	1.1	9	0.5
Other Race, Ethnicity, or Origin	9	1.1	1	0.2	0	0	4	1.0	3	1.1	17	0.9
Unknown	20	2.4	23	5.7	2	6.7	4	1.0	1	0.4	50	2.6

[a] This category included Hispanic, Middle Eastern, and North African individuals, following the U.S Census Bureau's categorizations of race.

TABLE 8-5. SUSPECT FACTORS

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Suspect Alcohol Use												
Yes	414	50.4	218	54.1	20	66.7	244	63.1	160	60.8	1056	55.5
No	407	49.6	185	45.9	10	33.3	142	36.7	103	39.2	847	44.5
Unknown	0	0	0	0	0	0	1	0.3	0	0	1	0.1
Suspect Drug Use												
Yes	15	1.8	5	1.2	1	3.3	7	1.8	3	1.1	31	1.6

	n	%	n	%	n	%	n	%	n	%	n	%
No	806	98.2	398	98.8	29	96.7	379	97.9	260	98.9	1872	98.3
Unknown	0	0	0	0	0	0	1	0.3	0	0	1	0.1
Suspect Behavioral Health Concerns Before or After Incident												
Yes	49	6.0	47	11.7	2	6.7	24	6.2	21	8.0	143	7.5
No	772	94.0	354	87.8	28	93.3	362	93.5	242	92.0	1758	92.3
Unknown	0	0	2	0.5	0	0	1	0.3	0	0	3	0.2
Suspect Complexity Factors[a]												
Collateral Misconduct	312	38.0	118	29.3	11	36.7	142	36.7	96	36.5	679	35.7
Other Misconduct	156	19.0	122	30.3	8	26.7	100	25.8	85	32.3	471	24.7
Loss of Memory or Consciousness	29	3.5	22	5.5	0	0	23	5.9	20	7.6	94	4.9
413 and 404(b) Evidence	84	10.2	83	20.6	5	16.7	33	8.5	27	10.3	232	12.2
Inconsistent Statements	101	12.3	30	7.4	4	13.3	50	12.9	24	9.1	209	11.0
Contradictory Evidence	27	3.3	7	1.7	2	6.7	29	7.5	10	3.8	75	3.9
At Least One of the Six Suspect Complexity Factors Exists in the Case	477	58.1	238	59.1	20	66.7	239	61.8	170	64.6	1144	60.1

[a] These categories are not mutually exclusive; multiple factors can be present for a single suspect.

TABLE 8-6. SUSPECT STATEMENTS AND REPRESENTATION

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Suspect Provided Statement to Law Enforcement												
Yes	556	67.7	196	48.6	19	63.3	274	70.8	181	68.8	1226	64.4
No	265	32.3	207	51.4	11	36.7	113	29.2	82	31.2	678	35.6
Suspect Had Legal Representation												
Yes	49	6.0	35	8.7	2	6.7	10	2.6	13	4.9	109	5.7
No	772	94.0	367	91.1	28	93.3	377	97.4	250	95.1	1794	94.1
Unknown	0	0	1	0.2	0	0	0	0	0	0	1	0.1
Suspect Statement to Third Parties or Law Enforcement[a]												
Confessed	54	8.8	10	3.5	2	10.0	20	6.6	16	7.9	102	7.2
Consensual	415	67.7	185	64.2	15	75.0	220	72.8	138	68.0	973	68.2
Denied Crime/Sexual Activity	122	19.9	54	18.8	3	15.0	46	15.2	31	15.3	256	18.0
No Recollection/Partial Memory	8	1.3	19	6.6	0	0	7	2.3	10	4.9	44	3.1

Other	14	2.3	20	6.9	0	0	9	3.0	8	3.9	51	3.6

[a] Reports included information with multiple suspect statements. A hierarchy rule was used to code cases with multiple statements: Cases were coded as "confessed" if the suspect confessed and offered any other statement. The next code in the hierarchy is "consensual" and is used when the suspect reported that the sexual activity was consensual (but did not confess). The third category in the hierarchy is "denied sexual activity" and is used when the suspect offered multiple statements but not "confessed" and not "consensual." The "no recollection / partial memory" category is used when only this statement was made. The last category is "other" and is used when the provided statement does not clearly fit into any of the previous categories.

TABLE 8-7. VICTIM CHARACTERISTICS

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Victim Status at Time of Incident												
Enlisted	386	47.0	218	54.1	10	33.3	245	63.3	145	55.1	1004	52.7
Officer	19	2.3	14	3.5	4	13.3	8	2.1	3	1.1	48	2.5
Civilian – Not DoD Spouse	202	24.6	76	18.9	10	33.3	69	17.8	56	21.3	413	21.7
Civilian – DoD Spouse	214	26.1	91	22.2	6	20.0	65	16.8	59	22.4	435	22.9
Suspect Is Spouse/Former Spouse	134	62.6	77	84.6	5	83.3	50	76.9	41	69.5	307	70.6
Suspect Is Not Spouse[a]	80	37.4	14	15.4	1	16.7	15	23.1	18	30.5	128	29.4
Unknown Grade	0	0	4	1.0	0	0	0	0	0	0	4	0.2
Victim Pay Grade at Time of Incident												
Enlisted												
E-1	24	6.2	7	3.2	0	0	16	6.5	4	2.8	51	5.1
E-2	91	23.6	21	9.6	0	0	33	13.5	34	23.5	179	17.8
E-3	123	31.9	98	45.0	4	40.0	90	36.7	68	46.9	383	38.2
E-4	116	30.1	48	22.0	2	20.0	48	19.6	22	15.2	236	23.5
E-5	19	4.9	22	10.1	3	30.0	45	18.4	15	10.3	104	10.4
E-6	9	2.3	10	4.6	1	10.0	6	2.5	0	0	26	2.6
E-7	3	0.8	5	2.3	0	0	3	1.2	1	0.7	12	1.2
E-8	0	0	1	0.5	0	0	1	0.4	0	0	2	0.2
Unknown	1	0.3	6	2.8	0	0	3	1.2	1	0.7	11	1.1
Officer												
Cadet/Midshipman	3	15.8	6	42.9	2	50.0	4	50.0	0	0	15	31.3
O-1	3	15.8	0	0	1	25.0	2	25.0	0	0	6	12.5
O-2	5	26.3	5	35.7	0	0	0	0	2	66.7	12	25.0
O-3	4	21.1	3	21.4	0	0	0	0	0	0	7	14.6
O-4	1	5.3	0	0	0	0	2	25.0	0	0	3	6.3

W-1	1	5.3	0	0	0	0	0	0	1	33.3	2	4.2
W-2	2	10.5	0	0	1	25.0	0	0	0	0	3	6.3
Victim Sex												
Male	47	5.7	21	5.2	1	3.3	21	5.4	12	4.6	102	5.4
Female	774	94.3	382	94.8	29	96.7	366	94.6	251	95.4	1802	94.6
Victim Age	Mean = 23.7; SD = 6.5; Range = 16 – 60		Mean = 23.8; SD = 5.6; Range = 16 – 48		Mean = 22.4; SD = 4.1; Range = 17 – 30		Mean = 23.7; SD = 5.8; Range = 16 – 51		Mean = 22.6; SD = 5.2; Range = 16 – 49		Mean = 23.6; SD = 6.0; Range = 16 – 60	
Victim Race												
White[b]	582	70.9	287	71.2	22	73.3	260	67.2	221	84.0	1372	72.1
Black or African American	153	18.6	45	11.2	2	6.7	73	18.9	22	8.4	295	15.5
Asian	30	3.7	12	3.0	0	0	36	9.3	7	2.7	85	4.5
Native Hawaiian or Other Pacific Islander	15	1.8	3	0.7	0	0	2	0.5	1	0.4	21	1.1
American Indian or Alaska Native	9	1.1	1	0.2	1	3.3	3	0.8	4	1.5	18	1.0
Other Race, Ethnicity, or Origin	19	2.3	3	0.7	0	0	4	1.0	3	1.1	29	1.5
Unknown	13	1.6	52	12.9	5	16.7	9	2.3	5	1.9	84	4.4
Relationship to Suspect[c]												
Current or Former Spouse	156	19.0	94	23.3	5	16.7	55	14.2	57	21.7	367	19.3
Intimate Partner/Former Intimate Partner	96	11.7	52	12.9	7	23.3	53	13.7	32	12.2	240	12.6
Friend	185	22.5	109	27.0	5	16.7	107	27.6	77	29.3	483	25.4
Co-worker/classmate/roommate	69	8.4	44	10.9	4	13.3	52	13.4	24	9.1	193	10.1
Subordinate – Supervisor	27	3.3	14	3.5	0	0	12	3.1	7	2.7	60	3.2
Acquaintance	129	15.7	46	11.4	4	13.3	60	15.5	35	13.3	274	14.4
Online/Met for the First Time	24	2.9	12	3.0	0	0	9	2.3	4	1.5	49	2.6
Stranger	81	9.9	18	4.5	4	13.3	18	4.7	15	5.7	136	7.1
Recruit – recruiter	9	1.1	0	0	0	0	2	.5	3	1.1	14	0.7
Other	19	2.3	4	1.0	0	0	5	1.3	3	1.1	32	1.7
Unknown/unable to determine	26	3.2	10	2.5	1	3.3	14	3.6	6	2.3	56	2.9
Reporting Individual												
Victim	298	36.3	114	28.3	13	43.3	153	39.5	121	46.0	699	36.7
Victim-Authorized Representative	248	30.2	122	30.3	5	16.7	104	26.9	69	26.2	548	28.8
Command	133	16.2	86	21.3	2	6.7	77	19.9	54	20.5	352	18.5
Third Party	142	17.3	79	19.6	10	33.3	53	13.7	19	7.2	303	15.9
Unknown	0	0	2	0.5	0	0	0	0	0	0	2	0.1

TABLE 8-8. VICTIM FACTORS

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Victim Alcohol Use												
Yes	439	53.5	233	57.8	21	70.0	247	63.8	146	55.5	1086	57.0
No	382	46.5	170	42.2	9	30.0	140	36.2	116	44.1	817	42.9
Unknown	0	0	0	0	0	0	0	0	1	0.4	1	0.1
Victim Drug Use												
Yes	75	9.1	33	8.2	0	0	21	5.4	20	7.6	149	7.8
No	746	90.9	370	91.8	30	100	366	94.6	243	92.4	1755	92.2
Victim Reported Being Impaired												
Yes	363	44.2	196	48.6	13	43.3	185	47.8	129	49.0	886	46.5
No	458	55.8	207	51.4	17	56.7	202	52.2	134	51.0	1018	53.5
Nature of Victim Impairment[a]												
Passed Out/Unconscious/Asleep	203	55.9	105	53.6	7	53.8	87	47.0	75	58.1	477	53.8
Blacked Out/No Memory/Partial Memory	140	38.6	79	40.3	6	46.2	89	48.1	52	40.3	366	41.3
Unknown[b]	20	5.5	12	6.1	0	0	9	4.9	2	1.6	43	4.9
Victim Behavioral Health Concerns Before or After Incident												
Yes	108	13.2	92	22.8	5	16.7	75	19.4	45	17.1	325	17.1
No	713	86.8	309	76.7	25	83.3	312	80.6	218	82.9	1577	82.8
Unknown	0	0	2	0.5	0	0	0	0	0	0	2	0.1
Victim Complexity Factors[c]												
Collateral Misconduct	199	24.2	97	24.1	8	26.7	135	34.9	64	24.3	503	26.4
Other Misconduct	124	15.1	77	19.1	5	16.7	65	16.8	40	15.2	311	16.3
Loss of Memory or Consciousness	269	32.8	128	31.8	10	33.3	134	34.6	76	28.9	617	32.4
Inconsistent Statements	227	27.6	148	36.7	6	20.0	120	31.0	65	24.7	566	29.7
Motive to Lie	306	37.3	183	45.4	14	46.7	187	48.3	112	42.6	802	42.1
Contradictory Evidence	85	10.4	69	17.1	1	3.3	69	17.8	29	11.0	253	13.3
At Least One of the Six Factors Exists in the Case	612	74.5	335	83.1	26	86.7	322	83.2	210	79.8	1505	79.0

a Multiple reasons were provided for the nature of impairment in some cases. To simplify the analyses of impairment reasons a single variable was created to measure the reason for impairment. The categories for this variable are mutually exclusive. The "passed out / unconscious" category is considered to be the greatest level of impairment, followed by "blacked out / no memory / partial memory," and "asleep." If the case indicated "passed out" or "unconscious" AND "blacked out" or "partial memory," or "asleep," then the case was coded as "passed out / unconscious." If the case indicated "blacked out," "partial memory," or "no memory" AND "asleep," then the case was coded as "blacked out / no memory / partial memory loss."
b This category includes cases in which the victim reported to have been "drugged" but no additional details about the extent of impairment are available.
c These categories are not mutually exclusive; multiple factors can be present for a single victim.

TABLE 8-9. VICTIM INJURIES AND EVIDENCE

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Use/Threat of Force												
Yes	111	13.5	71	17.6	8	26.7	64	16.5	34	12.9	288	15.1
No	710	86.5	332	82.4	22	73.3	323	83.5	229	87.1	1616	84.9
Type of Force/Threat[a]												
Physical	104	12.7	66	16.4	7	23.3	57	14.7	28	10.6	262	13.8
Weapon	7	0.9	1	0.2	0	0	6	1.6	2	0.8	16	0.8
Coercion	11	1.3	8	2.0	2	6.7	7	1.8	6	2.3	34	1.8
Threat/Threat to Others	12	1.5	11	2.7	3	10.0	4	1.0	6	2.3	36	1.9
Physical Injuries to Victim[b]												
Yes	110	13.4	45	11.2	6	20.0	70	18.1	56	21.3	287	15.1
No	711	86.6	358	88.8	24	80.0	317	81.9	207	78.7	1617	84.9
Injuries[c]												
Redness	40	4.9	22	5.5	4	13.3	23	5.9	23	8.7	112	5.9
Bruising	82	10.0	22	5.5	4	13.3	43	11.1	28	10.6	179	9.4
Cuts	28	3.4	5	1.2	1	3.5	14	3.6	15	5.7	63	3.3
Scrapes	15	1.8	5	1.2	0	0	9	2.3	13	4.9	42	2.2
Witness to the Incident												
Yes	130	15.8	42	10.4	6	20.0	60	15.5	45	17.1	283	14.9
No	691	84.2	361	89.6	24	80.0	327	84.5	218	82.9	1621	85.1
Pretextual Communication												
Yes	101	12.3	72	17.9	1	3.3	62	16.0	32	12.2	268	14.1
Supports Victim Account	16	15.8	7	9.7	0	0	16	25.8	7	21.9	46	17.2
Supports Suspect Account	20	19.8	9	12.5	0	0	12	19.4	10	31.3	51	19.0
Supports Neither	65	64.4	56	77.8	1	100	34	54.8	15	46.9	171	63.8

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
No	720	87.7	331	82.1	29	96.7	325	84.0	231	87.8	1636	85.9

[a] Categories were not mutually exclusive; cases could involve multiple types of force and threats.
[b] Victim injury was based on self-reported information in the case files and SAFE reports.
[c] Categories were not mutually exclusive; cases could involve multiple types of injuries.

TABLE 8-10. FORENSIC EVIDENCE

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
SAFE Performed on Victim												
Yes	247	30.1	95	23.6	5	16.7	131	33.9	101	38.4	579	30.4
No	574	69.9	308	76.4	25	83.3	256	66.1	162	61.6	1325	69.6
Days Between Offense and Victim SAFE												
0 (same day)	84	34.0	30	31.6	3	60.0	49	37.4	32	31.7	198	34.2
1	75	30.4	27	28.4	0	0	31	23.7	26	25.7	159	27.5
2	38	15.4	13	13.7	0	0	12	9.2	13	12.9	76	13.1
3	14	5.7	6	6.3	0	0	7	5.3	10	10.0	37	6.4
4	6	2.4	5	5.3	1	20.0	7	5.3	6	5.9	25	4.3
5	2	0.8	2	2.1	0	0	4	3.1	3	3.0	11	1.9
6	2	0.8	0	0	0	0	1	0.8	1	1.0	4	0.7
7	1	0.4	1	1.1	0	0	3	2.3	3	3.0	8	1.4
8 – 14	6	2.4	1	1.1	0	0	4	3.1	2	2.0	13	2.3
15 +	9	3.6	4	4.2	0	0	3	2.3	5	5.0	21	3.6
Unknown	10	4.1	6	6.3	1	20.0	10	7.6	0	0	27	4.7
Victim SAFE Location												
Civilian Health Care Facility	120	48.6	69	72.6	4	80.0	44	33.6	37	36.6	274	47.3
Military Health Care Facility	127	51.4	26	27.4	1	20.0	86	65.7	64	63.4	304	52.5
Unknown	0	0	0	0	0	0	1	0.8	0	0	1	0.2
Victim SAFE Provider Type												
Civilian Provider	122	49.4	69	72.6	4	80.0	43	32.8	39	38.6	277	47.8
Military Examiner	58	23.5	20	21.1	0	0	77	58.8	45	44.6	200	34.5
DoD Civilian	64	25.9	6	6.3	1	20.0	10	7.6	17	16.8	98	16.9
Unknown	3	1.2	0	0	0	0	1	1.1	0	0	4	0.7
DNA Evidence Tested[a]												
Yes	162	19.7	95	23.6	4	13.3	74	19.1	73	27.8	408	21.4
No/Unknown	659	80.3	308	76.4	26	86.7	313	80.9	190	72.7	1496	78.6

TABLE 8-11. VICTIM PARTICIPATION

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Victim Declination Recorded in File												
Victim Participated	596	72.6	252	62.4	23	76.7	280	72.4	157	59.7	1308	68.7
Victim Declined	225	27.4	151	37.6	7	23.3	107	27.6	106	40.3	596	31.3
Declination Stage												
Investigation	187	83.1	106	70.2	7	100	73	68.2	73	68.9	446	74.8
Reporting	18	8.0	23	15.2	0	0	10	9.3	6	5.7	57	9.6
Court-Martial	15	6.7	18	11.9	0	0	14	13.1	15	14.2	62	10.4
Preliminary Hearing	5	2.2	4	2.7	0	0	3	2.8	8	7.5	20	3.4
Unknown	0	0	0	0	0	0	7	6.5	4	3.8	11	1.9
Victim Input to Command or SJA												
No	798	97.2	326	80.9	28	93.3	362	93.5	222	84.4	1736	91.2
Yes	23	2.8	77	19.1	2	6.7	25	6.5	41	15.6	168	8.8
Input Provided to Command												
Pursue Administrative Separation	12	52.2	16	20.8	0	0	1	4.0	5	12.2	34	20.2
Supports DILCOM	2	8.7	13	16.9	0	0	0	0	0	0	15	8.9
Pursue Court-Martial	0	0	12	15.6	2	100	9	36.0	9	22.0	32	19.0
Take No Action	1	4.3	11	14.3	0	0	4	16.0	9	22.0	25	14.9
Nonjudicial Punishment/Administrative Actions	1	4.3	8	10.4	0	0	4	16.0	8	19.5	21	12.5
Other	7	30.4	17	22.1	0	0	7	28.0	10	24.4	41	24.4
Victim Attorney Representation (prior to trial)												
Yes	384	46.8	237	58.8	18	60.0	220	56.8	146	55.5	1005	52.8
No	437	53.2	166	41.2	12	40.0	167	43.2	117	44.5	899	47.2
Victim Provided Statement to Law Enforcement												
Yes	790	96.2	382	94.8	29	96.7	377	97.4	258	98.1	1836	96.4
No	31	3.8	21	5.2	1	3.3	10	2.6	5	1.9	68	3.6

TABLE 8-12. PROBABLE CAUSE DETERMINATION BY A JUDGE ADVOCATE

	Army		Air Force		Coast Guard		Navy		Marine Corps		DoD Total	
	n	%	n	%	n	%	n	%	n	%	n	%
Probable Cause Determination Made												
Yes	786	95.7	235	58.3	6	20.0	257	66.4	164	62.4	1448	76.1
No	35	4.3	168	41.7	24	80.0	130	33.6	99	37.6	456	23.9
Probable Cause Determination Result												
Yes, Probable Cause Exists	380	48.3	154	65.5	6	100	148	57.6	102	62.2	790	54.6
Probable Cause Does Not Exist	406	51.7	80	34.0	0	0	109	42.4	61	37.2	656	45.3
Unknown	0	0	1	0.4	0	0	0	0	1	0.6	2	0.1

TABLE 8-13. SUMMARY OF STATISTICALLY SIGNIFICANT BIVARIATE RELATIONSHIPS BETWEEN CASE VARIABLES AND THE NO ACTION – PREFERRAL DECISION

	Army	Air Force	Navy	Marine Corps	DoD Total
Probable cause existed	*	*	*	*	*
Victim participated	*	*	*	*	*
Threat or use of force	*	*	*	*	*
Sexual assault exam performed on victim	*	*	*	*	*
DNA evidence tested	*	*	*	*	*
Victim attorney representation (prior to trial)	*	*	*	*	*
Suspect 413 and 404(b) evidence	*	*	*	*	*
Suspect confessed	*	*	*	*	*
Victim motive to lie	*		*	*	*
Victim physical injuries	*	*	*		*
Victim impairment	*	*	*		*
Suspect inconsistent statements	*	*	*		*
Victim grade at time of incident	*		*		*
Victim inconsistent statements	*		*		*
Prompt report (within 7 days)			*	*	*
Pretextual communication occurred	*	*			*
Suspect lack of memory	*	*			*
Suspect collateral misconduct	*	*			*

Suspect behavioral health concerns	*	*			*
Suspect alcohol use	*	*			*
Victim drug use	*				*
Victim consensual sexual contact with suspect			*		*
Suspect drug use	*				*
Suspect contradictory evidence		*			*
Suspect other misconduct	*				*
Relationship between victim and suspect		*	*		
Reporting individual	*				
Pretextual communication result					*
Victim race	*				*
Victim contradictory evidence	*				
Victim behavioral health concerns			*		
Suspect race			*		
Suspect grade at time of incident		*			

* indicates a statistically significant relationship using p ≤ .05.

TABLE 8-14. SUMMARY OF STATISTICALLY SIGNIFICANT MULTIVARIATE RELATIONSHIPS BETWEEN CASE VARIABLES AND THE NO ACTION – PREFERRAL DECISION

	Army	Air Force	Navy	Marine Corps	DoD Total
DNA evidence tested	+	+	+	+	+
Victim participated	+	+	+	+	+
Probable cause existed		+	+	+	+
Victim attorney representation	+	+			+
Threat or use of force occurred		+		+	+
Suspect confessed	+		+		+
At least one suspect complexity factor existed	+	+			+
Victim physical injuries	+		+		
Victim impaired		+			+
At least one victim complexity factor existed	−				−

162

Suspect 413 and 404(b) evidence			+	+	
Command or third party reported incident	−				−
Suspect alcohol use					−
Victim behavioral health concerns			−		

+ indicates the presence of this case characteristic was associated with a statistically significant increased chance the case was preferred.

− indicates the presence of this case characteristic was associated with a statistically significant reduced chance the case was preferred.

TABLE 8-15. SUMMARY OF STATISTICALLY SIGNIFICANT BIVARIATE RELATIONSHIPS BETWEEN CASE VARIABLES AND VICTIM PARTICIPATION

	Army	Air Force	Navy	Marine Corps	DoD Total
Victim memory loss/loss of consciousness	*	*	*	*	*
Suspect confessed	*	*	*	*	*
Probable cause existed	*	*		*	*
Victim attorney representation	*		*		*
Pretextual communication occurred	*	*			*
DNA evidence tested	*	*			*
Victim impairment	*	*			*
Victim alcohol use	*	*			*
Victim status (military or civilian DoD spouse or civilian not DoD spouse)	*		*		*
Relationship between victim and suspect	*		*		*
Suspect alcohol use	*	*			*
Suspect 413 and 404(b) evidence	*	*			*
Suspect behavioral health concerns		*		*	*
Sexual assault exam performed on victim	*				*
Reporting individual	*				*
Suspect inconsistent statements	*				*
Suspect collateral misconduct	*				*
Suspect lack of memory		*			*

	Army	Air Force	Navy	Marine Corps	DoD Total
Victim physical injuries	*				
Victim gender	*				
Victim race				*	
Victim inconsistent statements					*
Victim contradictory evidence					*
Victim drug use		*			
Victim collateral misconduct	*				
Victim behavioral health concerns	*				
Suspect other misconduct				*	

* indicates a statistically significant relationship using p ≤ .05.

TABLE 8-16. SUMMARY OF STATISTICALLY SIGNIFICANT MULTIVARIATE RELATIONSHIPS BETWEEN CASE VARIABLES AND VICTIM PARTICIPATION

	Army	Air Force	Navy	Marine Corps	DoD Total
Pretextual communication occurred	+	+			+
Victim status − military	+		+		+
Suspect behavioral health concerns		+		+	+
Suspect confessed	+				+
Victim memory loss/loss of consciousness		+		+	
Suspect alcohol use		+			+
Command or third party reported incident	−				−
DNA evidence tested					+
At least one suspect complexity factor existed					+
Probable cause existed				+	
Suspect 413 and 404(b) evidence		+			
Victim was Non-White				−	
Victim physically injured	+				
Victim impaired	+				
Victim behavioral health concerns	−				

+ indicates that the presence of this case characteristic was associated with a statistically significant increased chance the victim participated.

− indicates that the presence of this case characteristic was associated with a statistically significant reduced chance the victim participated.

Appendix
Victim-Suspect Relationship Variable

Measuring the relationship between victims and suspects is more challenging than it may appear at first glance. In some situations, it may not be clear whether two people are friends or acquaintances or whether neighbors are friends or strangers. When researchers measure the relationship between a victim and a suspect or an offender, the information contained in police reports is typically coded. This coding was done with the case file data. The data analyzed here pertain to the victim's reported relationship to the offender.

The case file data showed that in some cases multiple relationship categories were recorded (e.g., co-worker and friend). A hierarchy rule was used to code the closest relationship when more than one type of relationship was reported in the data file, with one exception. There was special interest in examining supervisor (suspect) – subordinate (victim) and recruit (victim) – recruiter (suspect) relationships when the victim was a subordinate/recruit, so this was the relationship category that overrode other stated relationships. For instance, a case that involved former intimate partners in a supervisor (suspect) – subordinate (victim) relationship was coded as supervisor − subordinate. In addition, there was special interest in examining spouse and ex-spouse cases, so this relationship category was separated out from the intimate partner category. All other cases were coded according to the closest relationship category. For example, if the data in a case indicated "friend/acquaintance," the case was coded as "friend." If a case indicated "co-worker/friend," the case was coded as "friend." If a case indicated "co-worker/acquaintance," the case was coded as "co-worker." If a case indicated "intimate partner/friend," the case was coded as "intimate partner." The "intimate partner" category included boyfriend, girlfriend, ex-boyfriends and ex-girlfriends, and people engaged to be married; the "spouse" category included current and former spouses.

National Defense Authorization Act for Fiscal Year 2020

SEC. 540I. ASSESSMENT OF RACIAL, ETHNIC, AND GENDER DISPARITIES IN THE MILITARY JUSTICE SYSTEM.

(a) **In General**.--The Secretary of Defense shall provide for the carrying out of the activities described in subsections (b) and (c) in order to improve the ability of the Department of Defense to detect and address racial, ethnic, and gender disparities in the military justice system.

(b) **Secretary of Defense and Related Activities**.--The activities described in this subsection are the following, to be commenced or carried out (as applicable) by not later than 180 days after the date of the enactment of this Act:

(1) For each court-martial conducted by an Armed Force after the date of the enactment of this Act, the Secretary of Defense shall require the head of the Armed Force concerned--

(A) to record the race, ethnicity, and gender of the victim and the accused, and such other demographic information about the victim and the accused as the Secretary considers appropriate;

(B) to include data based on the information described in subparagraph (A) in the annual military justice reports of the Armed Force.

(2) The Secretary of Defense, in consultation with the Secretaries of the military departments and the Secretary of Homeland Security, shall issue guidance that--

(A) establishes criteria to determine when data indicating possible racial, ethnic, or gender disparities in the military justice process should be further reviewed; and

(B) describes how such a review should be conducted.

(3) The Secretary of Defense, in consultation with the Secretaries of the military departments and the Secretary of Homeland Security, shall--

(A) conduct an evaluation to identify the causes of any racial, ethnic, or gender disparities identified in the military justice system;

(B) take steps to address the causes of any such disparities, as appropriate.

(c) **DAC-IPAD Activities**.--

(1) In general.--The activities described in this subsection are the following, to be conducted by the independent committee DAC-IPAD:

(4) Definitions.--In this subsection:

(A) The term "independent committee DAC-IPAD" means the independent committee established by the Secretary of Defense under section 546 of the Carl Levin and Howard P. ``Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291; 128 Stat. 3374), commonly known as the ``DAC-IPAD''.

(B) The term "case" means an unrestricted report of any penetrative sexual assault offense or contact sexual assault offense made against a member of the Armed Forces pursuant to Department of Defense Instruction 6495.02, including any unrestricted report involving a spouses or intimate partner for which an investigation has been opened by a criminal investigative organization.

(C) The term ``completed'', with respect to a case, means that the case was tried to verdict, dismissed without further action, or dismissed and then resolved by non-judicial or administrative proceedings.

(D) The term ``contact sexual assault offense'' means aggravated sexual contact, abusive sexual contact, wrongful sexual contact, and attempts to commit such offenses under the Uniform Code of Military Justice.

(E) The term ``penetrative sexual assault offense'' means rape, aggravated sexual assault, sexual assault, forcible sodomy, and attempts to commit such offenses under the Uniform Code of Military Justice.

**Defense Advisory Committee on Investigation, Prosecution, and
Defense of Sexual Assault in the Armed Forces (DAC-IPAD)**

Request for Information

RFI Set 18A, Questions 1-3

Topic: Assessment of Racial and Ethnic Disparities in the Military Justice System

Date of Request: August 7, 2020

I. **Purpose**

    A. The DAC-IPAD is a federal advisory committee established by the Secretary of Defense pursuant to section 546 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291), as amended.

    B. The mission of the Committee is to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces.

    C. The DAC-IPAD requests the below information to facilitate its required assessment of racial and ethnic disparities in the military justice system pursuant to section 540I of the National Defense Authorization Act of 2020.

II. **Requested Response Date**

Suspense	Question(s)	Proponent
7 Sep 20	1-3	Military Services – Provide an Excel workbook with three (3) worksheets: (1) Unrestricted Report SA FY19; (2) Preferred SA FY19; and (3) Convicted SA FY19.

III. **Assessment of Racial and Ethnic Disparities in the Military Justice System**

Question 1: The DAC-IPAD requests the Military Services use information from the Services' case management systems to identify the race and ethnicity of members of the Armed Forces who were the subject of a penetrative sexual assault offense or contact sexual assault offense allegation in an unrestricted report made pursuant to Department of Defense Instruction 6495.02, including an unrestricted report involving a spouse or intimate partner, in all cases completed in fiscal year 2019; the DAC-IPAD also requests the race and ethnicity of the victims of these offenses.

Question 2: The DAC-IPAD requests the Military Services use information from the Services' case management systems to identify the race and ethnicity of members of the Armed Forces against whom charges were preferred pursuant to Rule for Courts-Martial 307 for a penetrative sexual assault offense or contact sexual assault offense in all cases completed in fiscal year 2019; the DAC-IPAD also requests the race and ethnicity of the victims of these offenses.

Question 3: The DAC-IPAD requests the Military Services use information from the Services' case management systems to identify the race and ethnicity of members of the Armed Forces who were convicted of a penetrative sexual assault offense or contact sexual assault offense in all cases completed in fiscal year 2019; the DAC-IPAD also requests the race and ethnicity of the victim of the offense.

Please provide completed Excel workbook to the DAC-IPAD by September 7, 2020.

III.   Assessment of Racial and Ethnic Disparities in the Military Justice System (cont.)

Additional information concerning Military Services' submission. The Excel workbook consists of three worksheets titled: (1) Unrestricted Report SA FY19; (2) Preferred SA FY19; and (3) Convicted SA FY19.

Each worksheet should include the following columns, populated with information responsive to the column headings for each case. Note that items 1-27 were requested in RFI 18; items 28-33 address the six additional data points requested in this updated RFI 18A:

1. DoD_ID#
2. Name_Last
3. Name_First
4. M. I.
5. Gender
6. Race
7. Ethnicity
8. Service
9. Pay_Grade
10. Command
11. Court_Type (GCM, SPCM, SCM, Non-BDC JA-SPCM)
12. Date_Report_SA (date of unrestricted report of sexual assault offense)
13. Date_Preferral (date charges preferred)
14. Date_Referral (date charges referred)
15. Verdict_Date (date of findings)
16. Composition (MJ alone, Members, Officer/Enlisted)
17. AltDisbo_Y/N
18. AltDispo_Type (NJP, Separation in Lieu, Resignation in Lieu, Withdrawn)
19. AltDisbo_Date (date of alternative disposition)
20. Disposition_Type (conviction/acquittal)
21. Date_Disposition (date of disposition)
22. Offense_Charged (list of all charges/specifications on charge sheet)
23. Offense_Type (penetrative/contact sex assault offense)
24. Pleas_Findings (pleas/findings for each charge/specification)
25. Discharge (BCD, DD, Dismissal)

26. Sentence (sentence at court-martial, by charge (if applicable))
27. CA_Sentence (sentence approved by convening authority)
28. Age of the subject at the time of the alleged offense
29. Age of the victim at the time of the alleged offense
30. Race of the victim
31. Ethnicity of the victim
32. Gender of the victim
33. Military rank of the victim or indicate if a civilian

IV.   Definitions

(A) The term "case" means an unrestricted report of any penetrative sexual assault offense or contact sexual assault offense made against a member of the Armed Forces pursuant to Department of Defense Instruction 6495.02, including any unrestricted report involving a spouse or intimate partner for which an investigation has been opened by a criminal investigative organization.

(B) The term "completed", with respect to a case, means that the case was tried to verdict, dismissed without further action, dismissed and then resolved by nonjudicial or administrative proceedings, or no legal action taken at all.

(C) The term "contact sexual assault offense" means aggravated sexual contact, abusive sexual contact, wrongful sexual contact, and attempts to commit such offenses under the Uniform Code of Military Justice.

(D) The term "penetrative sexual assault offense" means rape, aggravated sexual assault, sexual assault, forcible sodomy, and attempts to commit such offenses under the Uniform Code of Military Justice.