

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



**REPORT ON RACIAL AND ETHNIC DATA RELATING  
TO DISPARITIES IN THE INVESTIGATION,  
PROSECUTION, AND CONVICTION OF  
SEXUAL OFFENSES IN THE MILITARY**

**December 2020**



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



**REPORT ON RACIAL AND ETHNIC DATA RELATING TO  
DISPARITIES IN THE INVESTIGATION, PROSECUTION, AND  
CONVICTION OF SEXUAL OFFENSES IN THE MILITARY**

**December 2020**





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

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December 15, 2020

The Honorable James Inhofe  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

The Honorable Jack Reed  
Ranking Member  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

The Honorable Adam Smith  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Mac Thornberry  
Ranking Member  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Christopher C. Miller  
Acting Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Chairs, Ranking Members, and Mr. Secretary:

We are pleased to provide you with the *Report on Racial and Ethnic Data Relating to Disparities in the Investigation, Prosecution, and Conviction of Sexual Offenses in the Military* prepared by the Defense Advisory Committee on the Investigation, Prosecution and Defense of Sexual Assault in the Armed Forces (the Committee or DAC-IPAD) as required by section 540I of the National Defense Authorization Act for Fiscal Year 2020. This important project was undertaken at a time of heightened focus on racial discrimination in the United States, including within the military justice system.

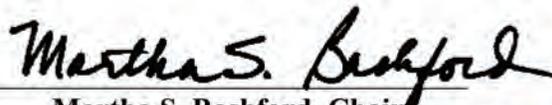
The Committee reviewed race and ethnicity data for (1) Service members *accused* of a penetrative or contact sexual offense, (2) Service members against whom such charges were *preferred*, and (3) Service members *convicted* of a penetrative or contact sexual offense for all cases completed in fiscal year 2019 (FY19). The Committee's assessment of the FY19 data was limited by the current inadequacies in data collection within the Department of Defense.

Inadequate data collection is a persistent problem. The single consistent finding from every review of racial and ethnic disparities in the military justice system over the past 50 years is the inadequacy of the Military Services' data collection on race and ethnicity. Accurate, thorough, and complete data is necessary to achieve a greater understanding of any racial disparities in the investigation, prosecution, and defense of sexual assault in the military. The Committee commends the Department of Defense and Military Services for steps taken to adopt the data collection changes required by Article 140a of the Uniform Code of Military Justice and makes eight recommendations for continued improvement.

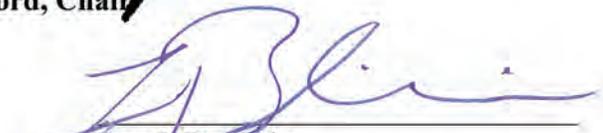
Despite limitations in the data, the Committee's strong view is that comprehensive studies of race and ethnicity in the military justice system generally, and studies involving sexual offenses specifically, are critically important. Analysis of sexual offenses may reveal unique racial and ethnic disparities that either are not present or that present differently in other crimes. The DAC-IPAD believes that implementation of the recommendations in this report will generate positive and lasting change in the administration of justice in the military.

The members of the DAC-IPAD would like to express our sincere gratitude and appreciation for the opportunity to make use of our collective experience and expertise in this field to develop recommendations for improving the military's response to sexual misconduct within its ranks.

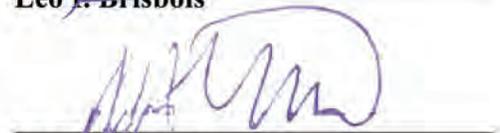
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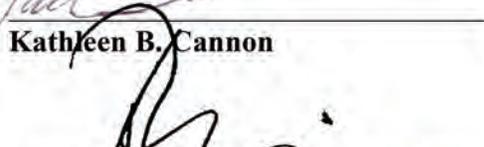
  
Martha S. Bashford, Chair

  
Marcia M. Anderson

  
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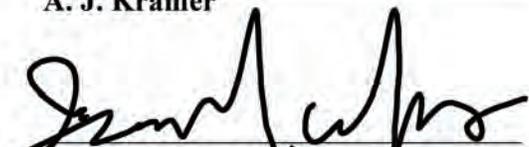
  
Kathleen B. Cannon

  
Margaret A. Garvin

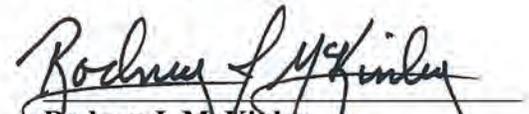
  
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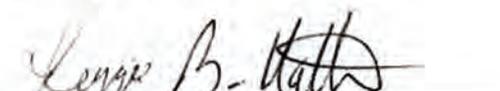
  
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## EXECUTIVE SUMMARY

In December 2019, Congress directed the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (the Committee or DAC-IPAD) to review and assess racial disparities in the investigation and prosecution of penetrative and contact sexual offenses.<sup>1</sup> This important project was undertaken at a time of heightened focus on racial discrimination in the United States, including within the military justice system. As the Staff Judge Advocate to the Commandant of the Marine Corps testified to Congress, “Only as a unified force, free from discrimination, racial inequality, and prejudice, can we fully demonstrate our core values and serve as the elite warfighting organization America requires and expects us to be.”<sup>2</sup>

Based on the congressional tasking, the Committee requested, and each Military Service reported to the DAC-IPAD, the race and ethnicity of (1) Service members *accused* of a penetrative or contact sexual offense, (2) Service members against whom such charges were *preferred*, and (3) Service members *convicted* of a penetrative or contact sexual offense for all cases completed in fiscal year 2019 (FY19).<sup>3</sup> The Committee notes the importance of studying such disparities in sexual offense cases independently from other studies involving military justice offenses because of the intimate nature of these types of crimes. Analysis of sexual offenses may reveal unique racial and ethnic disparities that either are not present or that present differently in other crimes.

This report reviews race and ethnicity data provided by the Military Services for all adult-victim cases involving penetrative and contact sexual offenses completed in fiscal year 2019. The DAC-IPAD found more questions raised by the Military Services’ FY19 data responses than answers provided by them, owing to the current inadequacies of race and ethnicity data collection in the Department of Defense (DoD). For this report, the Military Services collected information from their military criminal investigative organizations and military justice databases. The DAC-IPAD did not request source documents and thus did not independently validate the information it received. The Committee’s assessment of FY19 data for this report was further hampered by inconsistencies across the Military Services in reporting demographic data for Service members accused of sexual misconduct. For example, the Air Force reported 20 categories for race, whereas the Navy reported 6 categories for race. Because the Military Services do not report race and ethnicity in standardized categories, the Committee was unable to make comparisons across the Military Services or assess the Armed Forces as a whole. In addition, no Military Service consistently records the race and ethnicity of victims of a sexual offense. Civilian criminologists consider the victim’s demographic information a critical component of any assessment of racial disparities in a criminal justice system.

Given the existing limitations on data collection in the Department of Defense, and thus on the Committee’s ability to analyze that data, it was not necessary for the Committee to collect more than the most recent year’s data to make its findings and recommendations. Accordingly, this report does not offer the type of comprehensive assessment on racial disparities that the Committee believes is essential to identify possible areas of racial and ethnic discrimination in the

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1 The DAC-IPAD is a federal advisory committee established under section 546 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 546, 128 Stat. 3292 (2014) [FY15 NDAA]. *See also* National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 535, 133 Stat. 1198 (2019) [FY20 NDAA] (extending the DAC-IPAD’s term from 5 to 10 years).

2 *Racial Disparity in the Military Justice System—How to Fix the Culture: Hearing before the House Armed Services Committee Subcommittee on Military Personnel*, 116th Cong. (2020) (statement of MajGen. Daniel J. Lecce, Staff Judge Advocate to the Commandant of the Marine Corps); *see also* Message from the Commandant of the Marine Corps and the Sergeant Major of the Marine Corps (June 3, 2020), *available at* <https://www.marines.mil/News/Press-Releases/Press-Release-Display/Article/2207572/message-from-the-commandant-of-the-marine-corps-and-the-sergeant-major-of-the-m/>.

3 FY20 NDAA, *supra* note 1, § 540I. For purposes of this report, the terms “subject” and “accused” may be used interchangeably; they refer to the member of the Armed Forces identified as a suspect in a reported case, against whom charges were preferred, or who was convicted of a penetrative or contact sexual offense.

military justice system. The Committee's strong view is that comprehensive studies of race and ethnicity in the military justice system generally, and studies involving sexual offenses specifically, are critically important but will be possible only when the Department of Defense has fully implemented the uniform standards and criteria for military justice data collection in accordance with Article 140a of the Uniform Code of Military Justice (UCMJ) and has adopted the recommendations in this report.

### ***Previous Findings on Racial Disparities in the Military Justice System***

Despite the current challenges with data collection in the Military Services, several recent studies have documented racial disparities in the administration of military justice. A 2017 study by the nonprofit group Protect Our Defenders concluded that Black Service members were substantially more likely than white Service members to face military justice or disciplinary action for an offense under the UCMJ.<sup>4</sup> A May 2019 study by the U.S. Government Accountability Office (GAO) of all offenses under the UCMJ found that Black and Hispanic Service members were more likely than white Service members to be the subjects of recorded investigations in all of the Military Services and were more likely to be tried in general and special courts-martial in the Army, Navy, Marine Corps, and Air Force.<sup>5</sup> An October 2020 report issued by the DAC-IPAD reviewed 1,904 cases documenting investigations of adult penetrative sexual offenses completed in fiscal year 2017. The FY17 data suggest that Black Service members are disproportionately affected by allegations of sexual offenses at the investigative stage.<sup>6</sup> All three studies described how the limitations of the Military Services' data on race and ethnicity make it difficult to undertake meaningful comprehensive assessments.

### ***Recommendations for Comprehensive and Consistent Data Collection***

The single consistent finding from every review of racial and ethnic disparities in the military justice system over the past 50 years is the inadequacy of the Military Services' data collection on race and ethnicity. In its May 2019 report to Congress, the GAO determined that the Military Services "do not collect and maintain consistent information about race and ethnicity in their investigations, military justice, and personnel databases," adding: "This limits the military services' ability to collectively or comparatively assess these demographic data to identify any racial or ethnic disparities in the military justice system within and across the services."<sup>7</sup>

Prefiguring the GAO findings, in a September 2018 letter the DAC-IPAD advised the Secretary of Defense on the need to develop uniform standards and criteria for data collection, across the Military Services, at every stage of the military justice system. The Committee explained then, and reiterates now, that the lack of comprehensive and meaningful information about the military justice response to sexual assault in the Armed Forces is a matter of great concern. Racial and ethnic disparities in these cases cannot be adequately understood until DoD adopts a uniform process for the collection and analysis of demographic data on victims and subjects.

Accurate, thorough, and complete data are necessary to achieve a greater understanding of racial disparities in the investigation, prosecution, and defense of sexual assault in the military. Although progress is under way as the Military

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4 PROTECT OUR DEFENDERS, RACIAL DISPARITIES IN MILITARY JUSTICE i (2017).

5 UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, MILITARY JUSTICE: DOD AND THE COAST GUARD NEED TO IMPROVE THEIR CAPABILITIES TO ASSESS RACIAL AND GENDER DISPARITIES 38 (May 2019) [2019 GAO REPORT], *available at* <https://www.gao.gov/assets/700/699380.pdf>.

6 *See* DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES, REPORT ON INVESTIGATIVE CASE FILE REVIEWS FOR MILITARY ADULT PENETRATIVE SEXUAL OFFENSE CASES CLOSED IN FISCAL YEAR 2017 [DAC-IPAD REPORT ON INVESTIGATIVE CASE FILE REVIEWS] 76 n.148 and Appendix F (Oct. 2020).

7 2019 GAO REPORT, *supra* note 5, at 22.

Services adopt the data collection changes required by Article 140a, UCMJ, more must be done. In this report, the DAC-IPAD makes eight recommendations for continued improvement, including these key reforms:

- The military personnel system should be the primary data system in DoD for the collection of demographic data such as race and ethnicity. The military criminal investigative system and the military justice system should obtain the demographic information that they report on military personnel from the military personnel system.
- The Military Services should record and report race and ethnicity using the same categories in military criminal investigative organization databases, military justice databases, and military personnel databases.
- DoD should record and track the race and ethnicity, among other demographics, of the victim and the accused throughout the entire military justice process, beginning when an investigation is initiated by military law enforcement and ending with the final disposition of the case.
- DoD should record and track the race and ethnicity of the individuals involved in the military justice system, including military police and criminal investigators, trial counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate court judges. This demographic data can be used by organizations including the DAC-IPAD and the newly established Military Justice Review Panel for future research on racial disparities in the military justice system.
- The newly established Military Justice Review Panel should assess whether a uniform training system on explicit and implicit bias should be developed for all military personnel who perform duties in the military justice system.

Once the Department of Defense implements new data collection processes as recommended in this report and as required pursuant to Article 140a, UCMJ, the DAC-IPAD will incorporate studies on racial and ethnic disparities into future reports on sexual misconduct in the Armed Forces. Specifically, DAC-IPAD research into the military justice response to sexual assault will include bivariate and multivariate analyses of race/ethnicity at the various stages of the military justice process, including analysis of the accused and victim dyad, or pair.

## **Conclusion**

The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the national security of the United States.<sup>8</sup> This purpose can be achieved only if the system is fair and just and is recognized as such both by Service members and by the American public.<sup>9</sup> Any racial or ethnic disparities in the administration of military justice undermine faith in the system. While data alone cannot solve the problem, the collection of comprehensive and consistent data is a necessary first step in understanding the causes of these disparities and finding solutions to the problem.

The DAC-IPAD believes that much more research and analysis is needed to address the causes of racial disparities and identify solutions to improve the fairness of the military justice system. The Committee recognizes that this report's

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8 MANUAL FOR COURTS-MARTIAL, UNITED STATES (2019 ed.) Preamble I-1; *see also Parker v. Levy*, 417 U.S. 733, 763–64 (1974) (Blackmun, J., concurring) (“[C]ommanders who are arbitrary with their charges will not produce the efficient and effective military organization this country needs and demands for its defense.”).

9 MILITARY JUSTICE REVIEW GROUP, REPORT OF THE MILITARY JUSTICE REVIEW GROUP PART I: UCMJ RECOMMENDATIONS 16 (Dec. 22, 2015), *available at* [http://ogc.osd.mil/images/report\\_part1.pdf](http://ogc.osd.mil/images/report_part1.pdf).

assessment of FY19 data was limited by the current inadequacies in data collection within the Department of Defense. However, the Committee also acknowledges that even these limited statistics, understood in the context of other studies' findings on racial disparities, call for immediate action. The DAC-IPAD believes that implementation of the recommendations in this report will generate positive and lasting change in the administration of justice in the military.

## FINDINGS AND RECOMMENDATIONS

### *Findings\**

**Finding 135:** For the past 50 years, studies of racial and ethnic disparities in the military justice system have consistently recommended that the DoD establish uniformity in the collection of statistical information, by race, ethnic group, and sex, in order to improve studies and monitoring efforts.

**Finding 136:** Despite these consistent recommendations, the current data collection processes in the Military Services' investigation and military justice organizations with respect to the race and ethnicity of subjects and victims of criminal offenses are inadequate, incomplete, and inconsistent.

**Finding 137:** Decades of studies have identified varying degrees of racial disparities in the administration of military justice, despite the incomplete and inconsistent race and ethnicity data collection in the military justice system.

**Finding 138:** Although DoD has several policy initiatives under way to improve data collection on race and ethnicity beginning in fiscal year 2020, significant gaps remain, including the lack of a DoD-wide requirement to collect information on the race and ethnicity of the victim at any time before the initiation of a court-martial.

**Finding 139:** In the context of sexual offense cases, it is important to track the race and ethnicity of the victim, in addition to the accused, for every investigation initiated by military law enforcement in which a Service member is identified as a subject through its final disposition within the military justice system.

### *Recommendations\*\**

**Recommendation 33:** The Secretary of Defense designate the military personnel system as the primary data system in the DoD for the collection of demographic information such as race and ethnicity. All other DoD systems that collect demographic data regarding military personnel, such as the military criminal investigative system and the military justice system, should obtain demographic information on military personnel from the military personnel system.

**Recommendation 34:** The Secretary of Defense direct each Military Department to record race and ethnicity in military criminal investigative organization databases, military justice databases, and military personnel databases using the same racial and ethnic categories. The Secretary of Defense should direct each Military Department to report race using the following six categories: *American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, More Than One Race/Other*, and *White*, and to report ethnicity using the following two categories: *Hispanic or Latino* and *Not Hispanic or Latino*.

**Recommendation 35:** Congress authorize and appropriate funds for the Secretary of Defense to establish a pilot program operating one uniform, document-based data system for collecting and reporting contact and penetrative sexual offenses across all of the Military Services. The pilot program, which should cover every sexual offense allegation made against a Service member under the military's jurisdiction that is investigated by a military criminal investigative organization (MCIO), will record case data from standardized source documents provided to the pilot program by the Military Services and will include demographic data pertaining to each victim and accused—including race and ethnicity.

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\* Findings 1–134 were included in previous DAC-IPAD reports, *available at* <https://www.dacipad.whs.mil>.

\*\* Recommendations 1–32 were included in previous DAC-IPAD reports, *available at* <https://www.dacipad.whs.mil>; they are also reproduced in Appendix E.

**Recommendation 36:** The Secretary of Defense direct the Military Departments to record and track the race, ethnicity, sex, gender, age, and grade of the victim(s) and the accused for every investigation initiated by military law enforcement in which a Service member is identified as a subject through the final disposition within the military justice system.

**Recommendation 37:** The Secretary of Defense direct the Military Departments to record, beginning in fiscal year 2022, the race and ethnicity of military police and criminal investigators, trial counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate court judges involved in every case investigated by military law enforcement in which a Service member is the subject of an allegation of a contact or penetrative sexual offense. The source information for these data should be collected from the military personnel databases and maintained for future studies by the DAC-IPAD on racial and ethnic disparities in cases involving contact and penetrative sexual offenses.

**Recommendation 38:** The Secretary of Defense direct the newly established Military Justice Review Panel to determine whether to review and assess, by functional roles and/or on an individual case basis, the race and ethnicity demographics of the various participants in the military justice process, including military police and criminal investigators, trial counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate court judges.

**Recommendation 39:** Once the Department of Defense has implemented new data collection processes as recommended in this report and as required pursuant to Article 140a, UCMJ, the Secretary of Defense direct the newly established Military Justice Review Panel to determine whether to review and assess racial and ethnic disparities in every aspect of the military justice system as part of its charter for periodic and comprehensive reviews. This review and assessment of racial and ethnic disparities should include, but not be limited to, cases involving sexual offenses.

**Recommendation 40:** The Secretary of Defense direct the Military Justice Review Panel to assess whether a uniform training system on explicit and implicit bias should be developed for all military personnel who perform duties in the military justice system, including military police and criminal investigators, trial counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate judges.

# I. INTRODUCTION

## ***A. Overview of the Race and Ethnicity Report***

The mission of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (the Committee or DAC-IPAD) is to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, sexual assault, and other sexual misconduct involving members of the Armed Forces against adult victims.<sup>10</sup> In December 2019, Congress directed the DAC-IPAD to review and assess, by fiscal year, the race and ethnicity of (1) Service members *accused* of a penetrative or contact sexual offense, (2) Service members against whom such charges were *preferred*, and (3) Service members *convicted* of a penetrative or contact sexual offense.<sup>11</sup>

This report provides the DAC-IPAD's review of race and ethnicity data for unrestricted reports, preferred charges, and convictions of penetrative and contact sexual offenses completed in fiscal year 2019—the most recent year for which this information was available. This report also summarizes the bivariate and multivariate analyses of race and ethnicity data from the DAC-IPAD's *Report on Investigative Case File Reviews for Military Adult Penetrative Sexual Offense Cases Closed in Fiscal Year 2017* released in October 2020.

Based on these reviews, the Committee makes five findings and eight recommendations to improve the Department of Defense's understanding of potential racial and ethnic inequities in the military justice system.

The Committee's strong view is that comprehensive studies of race and ethnicity in the military justice system generally, and sexual offenses specifically, are essential but should be undertaken only after the Department of Defense (DoD) fully implements new processes for complete, reliable, and accurate data collection. The DAC-IPAD's ability to review and assess race and ethnicity data for FY19 was hampered by inconsistencies across the Military Services in collecting and maintaining this information. As a direct result, neither this report using the FY19 data nor the DAC-IPAD's earlier review of FY17 investigative case files involving military adult penetrative sexual offense cases can be taken as a definitive study on racial disparities in the military justice system. However, both projects demonstrate the need for uniformity and accuracy in race and ethnicity data collection within DoD. Once the Department of Defense implements new data collection processes as recommended in this report and as required pursuant to Article 140a, Uniform Code of Military Justice (UCMJ), the DAC-IPAD will incorporate studies on racial and ethnic disparities into its future reports on sexual misconduct in the Armed Forces.

## ***B. Historical and Contemporary Studies on Racial Disparities in the Military Justice System***

Section II of this report summarizes previous studies of racial disparities in the military justice system. Section II also describes changes under way in DoD to standardize the collection of information pursuant to Article 140a, UCMJ, and other congressional and DoD directives. In its review of these directives, the Committee identifies critical shortfalls in the collection of data on victims as well as gaps in how the investigative and military justice databases manage demographic data on race and ethnicity generally.

The problem of racial disparities in the military justice system has been studied for decades by DoD, the U.S. Government Accountability Office (GAO), and other civilian organizations. Multiple reports over the years have found

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<sup>10</sup> FY15 NDAA, *supra* note 1, § 546.

<sup>11</sup> FY20 NDAA, *supra* note 1, § 540I.

varying degrees of racial disparities in the administration of military justice. A 2017 study by the nonprofit group Protect Our Defenders concluded that Black Service members were substantially more likely than white Service members to face military justice or disciplinary action.<sup>12</sup> In a 2019 study, the GAO determined that while race was not a statistically significant factor in the likelihood of conviction in general and special courts-martial, racial disparities existed in the military criminal investigation and charging processes.<sup>13</sup> A 2020 report by the DAC-IPAD reviewed 1,904 cases documenting investigations of adult penetrative sexual offenses from fiscal year 2017. The data published there may suggest that Blacks are disproportionately affected by allegations of sexual offenses at the investigative stage.<sup>14</sup>

The single consistent finding in 50 years of studies is that data collection and reporting on race and ethnicity in the military are inadequate. As recently as May 2019, the GAO found that the Military Services “do not collect and maintain consistent information about race and ethnicity in their investigations, military justice, and personnel databases,” adding: “This limits the military services’ ability to collectively or comparatively assess these demographic data to identify any racial or ethnic disparities in the military justice system within and across the services.”<sup>15</sup>

The long-standing problem of inadequate data on race and ethnicity is being addressed within DoD. Beginning in 2020, the Military Services will be required, pursuant to a memorandum from the DoD General Counsel, to maintain a record of the race, ethnicity, and gender<sup>16</sup> of the victim and the accused for each court-martial conducted by a Military Service.<sup>17</sup> In addition, each Military Service must adhere to the uniform standards and criteria prescribed by the Secretary of Defense pursuant to Article 140a, UCMJ, to track and report 155 data points in their case management systems, including the race and ethnicity of subjects.

However, the Committee observes a critical shortcoming of these DoD directives: they do not require the Military Services to collect information on the race and ethnicity of the victim at the reporting, investigative, preferral, or referral stage of the military justice process prior to a court-martial. These preliminary stages of the military justice process represent the overwhelming majority of sexual offense allegations. Indeed, the DAC-IPAD’s 2020 in-depth study of penetrative sexual offense cases completed in fiscal year 2017 found that only 27.2% of completed investigations resulted in a preferred charge of a penetrative sexual offense.<sup>18</sup> It would be a major policy failure not to collect race and ethnicity data of victims at these initial stages of the military justice process. Studies from the civilian sector suggest that criminal justice responses to sexual offenses differ depending on the victim/accused racial/ethnic dyad, or pair, so data on the race and ethnicity of the victim are essential components of any analysis and must be recorded at the time a report is made to law enforcement and tracked throughout the process.

In addition, the Committee highlights the need for the Military Services to expressly limit the possible classifications to the five categories for race and two categories for ethnicity set forth as minimum categories for collection in the 1997 Office of Management and Budget Statistical Policy Directive No. 15, *Race and Ethnic Standards for Federal Statistics and Administrative Reporting* (OMB Directive 15).<sup>19</sup> The Committee also recommends that the Military Services include a

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12 PROTECT OUR DEFENDERS, RACIAL DISPARITIES IN MILITARY JUSTICE, *supra* note 4.

13 2019 GAO REPORT, *supra* note 5, at 38–39.

14 See DAC-IPAD REPORT ON INVESTIGATIVE CASE FILE REVIEWS, *supra* note 6, at 76 n.148.

15 2019 GAO REPORT, *supra* note 5, at 22.

16 Generally, the term “sex” refers to biological characteristics, whereas “gender” refers to social construction and expression. In this report, “gender” is usually employed as an overarching term, following the practice of the DoD General Counsel memorandum.

17 General Counsel of the Department of Defense, *Memorandum for the Secretaries of the Military Departments: Recording Court-Martial Demographic Information* (June 8, 2020) [GC DoD 2020 memorandum].

18 DAC-IPAD REPORT ON INVESTIGATIVE CASE FILE REVIEWS, *supra* note 6, at 38.

19 See Office of Management and Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 Fed. Reg. 58,782 (Oct.

sixth category for race, *More Than One Race/Other*. It is important to expressly define the categories that must be reported by the Military Services, because OMB Directive 15 provides only the minimum classifications for race and ethnicity that must be collected and encourages federal agencies to collect more detailed classifications as they choose. Allowing a range of options for collecting these data enables widely differing interpretations and methods for collecting and reporting race and ethnicity across the Military Services. Expressly defined and standardized categories for race and ethnicity are essential to establish consistent data throughout the Department of Defense. Finally, although the Services must follow OMB Directive 15 for the reporting of race and ethnicity data in their military justice databases, these same categories are not mandated in the Services' criminal investigation databases. Unless the military criminal investigation, the military justice, and the military personnel databases report race and ethnicity in the same categories, the challenges of studying racial disparities will remain.

### ***C. Methodology and Data Observations***

Section III of this report explains the Committee's methodology for obtaining race and ethnicity data from the Military Services for all unrestricted reports, preferred charges, and convictions of penetrative and contact sexual offenses that were completed in FY19.<sup>20</sup> Section III also presents the Committee's analysis of the FY19 race and ethnicity data.

For this report, the DAC-IPAD relied on the Services to provide race and ethnicity data for the cases completed in FY19, but did not independently verify the Services' responses. Thus, the DAC-IPAD does not assert that the data in this report represent all cases completed in FY19 throughout the Armed Forces in which a penetrative or contact sexual offense was reported, a sexual offense charge was preferred, or a sexual offense conviction was obtained at court-martial. Each Service collected the requested information from its own criminal investigative organization databases and military justice databases. Accordingly, each Service's race and ethnicity data for FY19 sexual offenses are presented independently. Given the disparities in the way the Services collected and reported these data, cross-Service comparisons would not be productive, nor was it possible to consolidate the data to present a single result for the Armed Forces in FY19.

To provide context for the FY19 data on race and ethnicity, Section III of the report provides baseline demographic data for the Armed Forces and the Military Services. The most current demographic data was published by DoD for FY18. Accordingly, because of the potential differences between the FY18 and FY19 data, the comparison is offered only for illustrative purposes.

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30, 1997) [OMB Directive 15]. In 2016, OMB proposed revising the standards. *See Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*, 81 Fed. Reg. 67,398 (Sept. 30, 2016). As of December 2020, OMB had not issued the revised standards.

20 The National Defense Authorization Act for Fiscal Year 2014 mandated that every commander who receives a report of a sex-related offense involving a member of the Armed Forces in the chain of command of such officer must immediately forward the report to the appropriate MCIO. *See National Defense Authorization Act for Fiscal Year 2014*, Pub. L. 113-66, § 1742, 127 Stat. 672 (2013).

## II. STUDIES ON RACIAL DISPARITIES IN THE MILITARY JUSTICE SYSTEM

### A. Early Studies

In 1972, in response to increasing concern about racial discrimination in the military justice system,<sup>21</sup> then Secretary of Defense Melvin Laird established the Task Force on the Administration of Military Justice in the Armed Forces. The Task Force was charged with

- (1) Determining the nature and extent of racial discrimination in the administration of military justice;
- (2) Assessing the impact of factors contributing to disparate punishment;
- (3) Judging the impact of racially related practices on the administration of military justice and respect for law; and
- (4) Recommending ways to strengthen the military justice system and enhance the opportunity for equal justice for every American Service man and woman.<sup>22</sup>

The Task Force released a four-volume report which concluded that the military justice system discriminates against its members on the basis of race and ethnicity—including through policies and practices that appear neutral but disproportionately affect minority groups.<sup>23</sup> The Task Force found a “clearly discernible disparity in disciplinary rates between black and white servicemen” but, significantly, noted that its analysis was “hampered by the inadequacy or unavailability of statistical information regarding race and ethnicity as it is kept by the services.”<sup>24</sup> Accordingly, among its many recommendations was a proposal that DoD update its racial and ethnic codes and “establish a uniform system for the collection of statistical information, by race, ethnic group and sex, in order to establish a common data base for studies and monitoring efforts.”<sup>25</sup>

In spite of the Task Force’s findings, a “steady stream” of research over the next two decades presented conflicting information about the existence of racial disparities in the administration of military justice.<sup>26</sup> A report from GAO noted that studies from the 1970s and 1980s “showed no disparities in discipline rates between blacks and whites and found no evidence that minority groups received courts-martial or nonjudicial punishments out of proportion to certain types of violations.”<sup>27</sup> The Defense Equal Opportunity Management Institute (DEOMI) reinforced this observation, writing that

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21 See DEPARTMENT OF DEFENSE, REPORT OF THE TASK FORCE ON THE ADMINISTRATION OF MILITARY JUSTICE IN THE ARMED FORCES vol. 1, 2 (Nov. 30, 1972) (referencing DoD’s own studies on racial disparities in punishment rates in the military, the National Association for the Advancement of Colored People’s 1971 report titled *The Search for Military Justice: Report of an NAACP Inquiry into the Problem of the Negro Serviceman in West Germany*, and a March 1970 meeting between the Congressional Black Caucus and the President). The Task Force was chaired by C. E. Hutchin, Jr., First Army Commander, and Nathaniel R. Jones, General Counsel of the NAACP.

22 *Id.* at 3.

23 *Id.* at 17.

24 *Id.* at 24–25.

25 *Id.* at 117. Other recommendations included (1) adding a specific punitive article to the UCMJ proscribing discriminatory acts and practices “in order to provide a more visible focus on detection and elimination of discrimination”; (2) codifying offenses tried under the first two clauses of Article 134 as specific punitive articles, in order to reduce vagueness and the potential for abuse; and (3) abolishing summary courts-martial, given their inadequate procedural protections of the rights of the accused. *Id.* at 112–27.

26 See DEFENSE EQUAL OPPORTUNITY MANAGEMENT INSTITUTE (DEOMI), PHASE I REPORT: AN INVESTIGATION INTO THE DISPARITY OF JUDICIAL AND NON-JUDICIAL PUNISHMENT RATES FOR BLACK MALES IN THE ARMED SERVICES 2 (Apr. 21, 1992) [DEOMI REPORT].

27 UNITED STATES GENERAL ACCOUNTING OFFICE (GAO), EQUAL OPPORTUNITY: DoD STUDIES ON DISCRIMINATION IN THE MILITARY 5 (Apr. 1995)

“[a]t least two military studies [from this time] . . . opined that there is no evidence that the UCMJ system itself is unfair, and most Service researchers tend to agree.”<sup>28</sup> Nevertheless, many researchers continued to emphasize the inadequacy of existing data on race and ethnicity in the military, which inhibited their ability to perform a Service-wide review.<sup>29</sup>

Despite the studies from the 1970s and 1980s showing no disparities, DEOMI’s study published in 1992 found that Black males in the military were 2.2 times more likely to receive courts-martial convictions than white males and were 1.7 times more likely to receive nonjudicial punishment than white males.<sup>30</sup> DEOMI recommended that “if [the Office of the Assistant Secretary of Defense] decides that it is important to find the causes of the disparity in punishment rates between blacks and whites in the military, then research should continue.”<sup>31</sup> Outlining a research procedure for future phases of the study, DEOMI added that “this is a doable project.”<sup>32</sup> Three years later, however, GAO reported that DoD could not provide any information on the status of this recommendation.<sup>33</sup>

### ***B. Recent Studies***

In 2017, the nonprofit group Protect Our Defenders released a report that concluded, based on data from 2006 to 2015, that “for every year reported and across all service branches, black service members were substantially more likely than white service members to face military justice or disciplinary action.”<sup>34</sup> Depending on the Military Service and type of action taken, Protect Our Defenders found that in an average year, the disparities ranged from 1.29 times more likely to 2.61 times more likely.<sup>35</sup> In order to conduct its analysis, Protect Our Defenders submitted requests under the Freedom of Information Act to each Service, seeking information on how many Service members within a certain demographic group had military justice or other disciplinary involvement per every 1,000 Service members of that demographic group.<sup>36</sup> Protect Our Defenders noted significant inconsistencies across the data it received, including in how the Services categorized racial groups and whether they treated “Hispanic” as a race or an ethnicity.<sup>37</sup> Accordingly, one of Protect Our Defenders’ recommendations was that each Service collect and publish consistent racial and ethnic data regarding military justice involvement and outcomes, including data for victims of crimes.<sup>38</sup>

Two years later, in 2019, GAO released a report to the House Committee on Armed Services on racial and ethnic disparities in the military. For this report, GAO conducted multivariate regression analyses to test the association between characteristics such as race and ethnicity and the odds of military justice action, while holding constant other attributes such as grade and education.<sup>39</sup> Relying on available data from fiscal years 2013 through 2017, GAO found that Black and

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[1995 GAO REPORT].

28 DEOMI REPORT, *supra* note 26, at 2 (referencing PETER G. NORDLIE ET AL., A RESEARCH REPORT ON A STUDY OF RACIAL FACTORS IN THE ARMY’S JUSTICE AND DISCHARGE SYSTEMS (1979), and G. E. HORNE, EQUITY IN DISCIPLINARY RATES (1988)).

29 *See, e.g.*, DEOMI REPORT, *supra* note 26, at Appendix A (referencing the third annual DoD military equal opportunity conference in June 1989, which found that no DoD-wide standardized system of reporting and retrieving information existed to determine the basis for disparities in military disciplinary rates).

30 *Id.* at 2.

31 *Id.* at 7.

32 *Id.*

33 1995 GAO REPORT, *supra* note 27, at 43.

34 PROTECT OUR DEFENDERS, RACIAL DISPARITIES IN MILITARY JUSTICE, *supra* note 4, at i.

35 *Id.*

36 *Id.* at 1.

37 *Id.* at A1.

38 *Id.* at 16.

39 2019 GAO REPORT, *supra* note 5, at 5–6.

Hispanic Service members were more likely than white Service members to be the subjects of recorded investigations in all of the Services and were more likely to be tried in general and special courts-martial in the Army, Navy, Marine Corps, and Air Force.<sup>40</sup> GAO identified fewer statistically significant racial disparities in case outcomes, finding that race was not a statistically significant factor in the likelihood of conviction in general and special courts-martial in the Army, Navy, Marine Corps, and Air Force.<sup>41</sup>

Echoing the 1972 Task Force report—released almost 50 years earlier—and many of the other studies conducted in the intervening decades, GAO emphasized that the Military Services “do not collect and maintain consistent information about race and ethnicity in their investigations, military justice, and personnel databases,” adding: “This limits the military services’ ability to collectively or comparatively assess these demographic data to identify any racial or ethnic disparities in the military justice system within and across the services.”<sup>42</sup> As one example of the problems with the military data, GAO noted that the number of potential responses for race and ethnicity across the Military Services’ databases ranges from 5 to 32 options for race and 2 to 25 options for ethnicity.<sup>43</sup>

GAO made 11 recommendations to DoD, the Services, and the Department of Homeland Security, including that they (1) present Service members’ race and ethnicity data in each of the Military Services’ respective investigations and personnel databases, using the same categories of race and ethnicity established for their military justice databases; (2) consider an amendment to the UCMJ’s annual military justice reporting requirements to require the Military Services to include demographic information for all types of courts-martial;<sup>44</sup> and (3) consider the feasibility of collecting and maintaining complete information for all nonjudicial punishment cases.<sup>45</sup> GAO also recommended that the Secretary of Defense conduct an evaluation to identify the causes of any racial or gender disparities in the military justice system and, if necessary, take remedial steps to address the causes of these disparities.<sup>46</sup> DoD concurred with the content of all of GAO’s recommendations.<sup>47</sup>

### ***C. The DAC-IPAD’s Previous Assessment of Race and Ethnicity***

Every year, the DAC-IPAD collects and analyzes military case adjudication statistical data for adult-victim sexual assault cases in which charges were preferred.<sup>48</sup> To conduct this project, the Committee requests that the Services provide documents, utilizing their military justice databases, for cases involving a preferred charge of sexual assault completed in a particular fiscal year.<sup>49</sup> These case documents include charge sheets, Article 32 reports, and Results of Trial forms. Because the Military Services do not record information about race or ethnicity on any of these case documents, the Committee has been unable to assess race or ethnicity as part of its annual case adjudication data project.

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40 *Id.* at 38.

41 *Id.* at 39.

42 *Id.* at 22.

43 *Id.* at 28.

44 *See infra* Section II.E for discussion of FY20 NDAA requirements for the collection of data on race and ethnicity, which were based on these GAO recommendations.

45 2019 GAO REPORT, *supra* note 5, at 68–70.

46 *Id.* at 70.

47 *Id.* at 71–72.

48 *See, e.g.*, DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES, COURT-MARTIAL ADJUDICATION DATA REPORT (Nov. 2019) [DAC-IPAD COURT-MARTIAL ADJUDICATION DATA REPORT].

49 In providing documents, the Services have also relied on their criminal investigation databases.

In October 2020, the DAC-IPAD released its *Report on Investigative Case File Reviews for Military Adult Penetrative Sexual Offense Cases Closed in Fiscal Year 2017*.<sup>50</sup> In contrast to the case adjudication data project—which relies on the Military Services to provide certain case documents—this report was based on a nearly three-year project for which the DAC-IPAD’s Case Review Subcommittee members and professional staff received entire investigative case files and performed in-depth reviews of the source documents contained within the files. The Subcommittee and professional staff reviewed a total of 1,904 cases, documenting investigations of adult penetrative sexual offenses closed in fiscal year 2017. As part of the 231 data points gathered during the review of each investigative file, the Committee collected information about the race and ethnicity of the subject and victim of each investigation—where available—and recorded it on a data collection checklist using one of nine categories.<sup>51</sup>

The Committee found that information on race and ethnicity was often incomplete in the investigative case files and that the Services record this information differently, if at all. Race and ethnicity often were not included in the section on the first page of the investigative file where the subject’s and victim’s identifying information is located (commonly referred to as the “title block”). Therefore, to collect this information some reviewers relied on other documents in the investigative file—such as a prior arrest report, the interview data sheet, or the FBI fingerprint card—while other reviewers recorded this information only if it was documented in the title block.<sup>52</sup> As a result, information on race and ethnicity was not recorded consistently.

According to the information that was available, the Committee found that the majority of both subjects (66.5%) and victims (72.1%) in the 1,904 investigations were recorded as white. About one-quarter of subjects (26.0%) were recorded as Black, and 15.5% of victims were recorded as Black.<sup>53</sup> These data, taken together with overall demographic data indicating that the active duty force in 2017 was 68.7% white and 17.3% Black or African American, may suggest that Black Service members are disproportionately affected by allegations of sexual offenses at the investigative stage.<sup>54</sup>

The Committee’s criminologist, Dr. William Wells, reported the following findings in the overall analysis of all the Services:

- The race of the subject was not associated with the decision to prefer a penetrative sexual offense charge;<sup>55</sup>
- Bivariate analysis indicated that cases involving white victims were more likely to be preferred than cases involving non-white victims: nearly 30% of cases with white victims were preferred, compared to nearly 25% of cases with non-white victims;<sup>56</sup>
- The race of the victim affected the decision to prefer charges in the bivariate analysis, but when other variables were introduced, race was not significant in the multivariate analysis;<sup>57</sup> and
- The race of the victim or subject was not related to court-martial outcomes.<sup>58</sup>

50 DAC-IPAD REPORT ON INVESTIGATIVE CASE FILE REVIEWS, *supra* note 6.

51 The categories were American Indian or Alaska Native; Asian; Black or African American; Hispanic, Latino, or Spanish origin; Middle Eastern or North African; Native Hawaiian or Other Pacific Islander; White; Some other race, ethnicity, or origin; and Unknown.

52 *Id.* at 76.

53 *Id.*

54 *Id.* at 76 n.148; *see also* U.S. DEP’T OF DEF., 2017 DEMOGRAPHICS: PROFILE OF THE MILITARY COMMUNITY 23, *available at* <https://download.militaryonesource.mil/12038/MOS/Reports/2017-demographics-report.pdf>. The review encompassed every investigation conducted by the Services’ military criminal investigative organizations and closed in fiscal year 2017 that involved an allegation that a Service member on active duty committed a penetrative sexual offense against an adult victim. The review was limited to unrestricted reports; thus the demographics of restricted reports or those who did not file a report are unknown.

55 DAC-IPAD REPORT ON INVESTIGATIVE CASE FILE REVIEWS, *supra* note 6, at Appendix F-22.

56 *Id.* at Appendix F-20.

57 *Id.* at Appendix F-20, F-34, F-35.

58 *Id.* at Appendix F-25, F-28, F-37.

#### ***D. Civilian Studies***

Making comparisons between military and civilian data can be difficult. Most sexual offenses outside of the military are tried in state courts, rather than federal court. As a result, no comprehensive national data exist on civilian sexual offense adjudications. In addition, although the military and civilian justice systems are similar in many respects, there are significant differences between the two that complicate a comparative study. Nevertheless, the collection and analysis of military data can be informed by the body of academic literature that examines the intersection of race and the civilian criminal justice response to sexual offenses.

A 2019 article in the *American Journal of Community Psychology* presented a systematic review of all prior research on race and the criminal justice response to sexual assault. Its purpose was to examine how race had been “conceptualized, theorized, measured, and discussed.”<sup>59</sup> The authors identified 13 different theories that were used in prior research to inform the empirical investigations of race.<sup>60</sup>

The framework most frequently used by earlier researchers was conflict theory. On this account, one “would expect to see ‘Black’ crime victims devalued relative to ‘White’ victims, leading to harsher penalties for those who harm ‘Whites’ and more lenient sentences for those who harm ‘Blacks.’ Not only are less powerful groups expected to be afforded less protection when they are victimized, but also to be more severely punished when suspected of perpetrating crimes.”<sup>61</sup>

The second most frequently used approach rested on the sexual stratification hypothesis. Building on conflict theory, it requires an examination of the racial composition of the victim/perpetrator dyad, rather than the race of the victim or perpetrator alone. This theory “suggests that ‘blacks who sexually assault whites’ will receive the most robust [criminal justice system] response (e.g., harsher sentences), ‘followed by whites who assault whites, blacks who assault blacks, and white (sic) who assault blacks.’”<sup>62</sup>

The sexual stratification hypothesis has been tested in civilian studies examining different stages of the criminal justice response. Using quantitative data on 655 sexual assault complaints that were reported to the Los Angeles County Sheriff’s Department and the Los Angeles Police Department in 2008, a 2016 study examined the effect of the victim/suspect racial/ethnic dyad on the decision to arrest. This study’s findings suggest that police do consider the victim/suspect racial/ethnic dyad when deciding to make an arrest.<sup>63</sup>

#### ***E. The Future of Race and Ethnicity Data Collection in the Military Justice System***

##### *1. Article 140a, UCMJ*

As part of the Military Justice Act of 2016, Congress established a new Article 140a, UCMJ, which directed the Secretary of Defense to prescribe uniform standards and criteria across the Services for the collection and analysis of military

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59 Jessica Shaw & HaeNim Lee, *Race and the Criminal Justice System Response to Sexual Assault: A Systematic Review*, 64 AM. J. COMMUNITY PSYCHOL. 256, 257 (2019).

60 *Id.* at 257–59.

61 *Id.* at 266 (references omitted).

62 *Id.* at 266–67 (quoting Anthony Walsh, *The Sexual Stratification Hypothesis and Sexual Assault in Light of the Changing Conceptions of Race*, 25 CRIMINOLOGY 153, 155 (1987)).

63 Eryn Nicole O’Neal, Laura O. Beckman, and Cassia Spohn, *The Sexual Stratification Hypothesis: Is the Decision to Arrest Influenced by the Victim/Suspect Racial/Ethnic Dyad?* 34 J. OF INTERPERSONAL VIOLENCE 1287 (2016).

justice data and records.<sup>64</sup> Article 140a was implemented on the recommendation of the Military Justice Review Group, a Department of Defense–established committee of military justice experts, which noted that the Service-specific case management, data access, and data collection practices make it difficult to collect and analyze military justice data within and across the Services.<sup>65</sup>

In September 2018, the DAC-IPAD provided the Secretary of Defense with its analysis and recommendations for implementing Article 140a.<sup>66</sup> Among other things, the Committee recommended that the Services transition toward operating one uniform case management system across all Services, and that they collect case data from standardized source documents. The Committee emphasized that the information collected pursuant to Article 140a should cover every sexual offense allegation made against a Service member under the military’s jurisdiction that is investigated by a military criminal investigative organization (MCIO), and should include demographic data pertaining to each victim and accused—including race.<sup>67</sup> In response to the DAC-IPAD’s recommendation, the Department of Defense determined that it would be inadvisable to adopt a centralized, document-based military justice data collection system without first conducting a pilot program.<sup>68</sup> DoD noted that the sentencing data that the new Military Justice Review Panel is required to collect may provide an opportunity to assess on a smaller scale the demands of a system similar to the one proposed by the DAC-IPAD.<sup>69</sup>

In a memorandum dated December 17, 2018, the DoD General Counsel officially promulgated the Department’s uniform standards and criteria for the collection and analysis of military justice data and records, to be implemented no later than December 23, 2020.<sup>70</sup> The new DoD standards direct each Service to maintain and operate a military justice case processing and management system that will track every investigation initiated by military law enforcement in which a Service member is identified as a subject through the final disposition within the military justice system. Each case processing and management system must be capable of collecting 155 specific data points. Notably, while the Services are required to collect information on the race and ethnicity of the subject/accused as two of these data points, there is no similar requirement to collect information on the race and ethnicity of the victim.<sup>71</sup>

The DoD General Counsel memorandum also directs the Services to apply the definitions of race and ethnicity set forth in the 1997 Office of Management and Budget Statistical Policy Directive No. 15, *Race and Ethnic Standards for Federal Statistics and Administrative Reporting*, which established the following five minimum categories for the classification of federal data on race: *American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander*, and *White*. It also established two categories for data on ethnicity: *Hispanic or Latino* and *Not Hispanic or*

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64 National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, 130 Stat. 2000 (2016).

65 MILITARY JUSTICE REVIEW GROUP, REPORT, *supra* note 9, at 1012–13.

66 Letter from DAC-IPAD to the Secretary of Defense Regarding Article 140a, Uniform Code of Military Justice (Sept. 13, 2018), *available at* [https://dacipad.whs.mil/images/Public/08-Reports/03\\_DACIPAD\\_InterimReport\\_Article140a\\_20180913\\_Final.pdf](https://dacipad.whs.mil/images/Public/08-Reports/03_DACIPAD_InterimReport_Article140a_20180913_Final.pdf).

67 *Id.* at 2–3.

68 DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES, THIRD ANNUAL REPORT Appendix K (Mar. 2019).

69 The Military Justice Review Group recommended the establishment of the Military Justice Review Panel, a blue-ribbon panel of experts to conduct a periodic evaluation of military justice practices and procedures. *See* MILITARY JUSTICE REVIEW GROUP, REPORT, *supra* note 9, at 1021; *see also* 10 U.S.C. § 946 (Art. 146, UCMJ).

70 General Counsel of the Department of Defense, *Memorandum for the Secretaries of the Military Departments: Uniform Standards and Criteria Required by Article 140a, Uniform Code of Military Justice (UCMJ)* (Dec. 17, 2018).

71 *Id.* at Appendix A.

*Latino*.<sup>72</sup> Although the Services are directed to apply these definitions, OMB Directive 15 gives federal agencies flexibility regarding how they categorize race and ethnicity, beyond the minimum required.

Furthermore, as noted in the 2019 GAO report, although the Article 140a uniform standards apply to the Services' military justice databases, they do not apply to the criminal investigation and personnel databases, as those do not fall under the charter of the DoD General Counsel. Therefore, even though the Services must standardize the reporting of race and ethnicity data in their military justice databases using the categories prescribed in OMB Directive 15, these same categories are not mandated in the Services' criminal investigation databases.<sup>73</sup>

## 2. Fiscal Year 2020 National Defense Authorization Act

Based on the recommendations of the 2019 GAO report, Congress included additional requirements for the collection of data on race and ethnicity in the FY20 National Defense Authorization Act (NDAA). Specifically, Congress directed each military Service to record the race and ethnicity of the victim and the accused for every court-martial it conducts and to include these data in its annual military justice report.<sup>74</sup> Congress further directed the Secretary of Defense to conduct an evaluation to identify the causes of any racial and ethnic disparities identified in the military justice system and to take steps to address the causes of any such disparities.<sup>75</sup>

Accordingly, Mr. Paul Ney, General Counsel of the Department of Defense, issued a memorandum instructing each Service to record the race and ethnicity of the victim and the accused for each court-martial conducted by a military Service convened on or after June 17, 2020, applying the definitions of race and ethnicity established in OMB Directive 15.<sup>76</sup> Although this latest General Counsel memorandum does address the failure of the December 17, 2018, memorandum on uniform standards and criteria to require collection of information on the race and ethnicity of the victim, it also leaves a notable gap, because it does not include any requirement that the Services collect race and ethnicity data for cases that do not reach the court-martial stage of the military justice process.

### F. DAC-IPAD Analysis and Findings

Since 1972, different entities—both inside and outside of the Department of Defense—have examined the issue of racial and ethnic disparities in the military. While many of these studies have found varying degrees of racial disparities in the administration of military justice, the inadequacy and inconsistency of the data maintained by the Services hamper analysts' ability to fully identify disparities and make Service-wide comparisons. Indeed, the 1972 Task Force report recommended that DoD establish a uniform system for the collection of statistical information, by race, ethnic group, and sex. Almost 50 years later, this recommendation has not been implemented.

In recent years, the Department of Defense has attempted to address the problems with data collection on race and ethnicity in the Services. Despite these initiatives, significant gaps remain. The Article 140a, UCMJ, standards and criteria promulgated by the Secretary of Defense require only that the Services collect information about the race and ethnicity of the accused, and not the victim. The June 2020 memorandum issued by the DoD General Counsel

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72 OMB Directive 15, *supra* note 19.

73 2019 GAO REPORT, *supra* note 5, at 32–33. See also *supra* note 44 and accompanying text discussing the GAO recommendation to present Service members' race and ethnicity data in each of the military Services' respective investigations and personnel databases, using the same categories of race and ethnicity as in their military justice databases.

74 FY20 NDAA, *supra* note 1, § 540I.

75 *Id.*

76 GC DoD 2020 memorandum, *supra* n. 17.

requires only that the Services collect information on the race and ethnicity of the subject and victim if a court-martial is conducted. Thus, these DoD policies do not require collection of any data on the race and ethnicity of the victim for cases that do not go to court-martial. This is a critical omission in data collection, as the majority of military cases do not reach that stage. Moreover, studies on race from the civilian sector suggest that criminal justice responses to sexual offenses differ depending on the victim/accused racial/ethnic dyad—and research indicates that these differences might begin to occur early in the criminal justice process.

In addition to addressing this gap in victim data, the Department of Defense directives to the Military Services should expressly define the five categories for race and two categories for ethnicity set forth as minimum categories in OMB Directive 15 and should include an added category for race, *More Than One Race/Other*. OMB Directive 15 provides only the minimum classifications for race and ethnicity that must be collected, and encourages federal agencies to collect more detailed classifications as they choose. Allowing a range of options for reporting these data enables widely differing interpretations and methods for assessing race and ethnicity across the Military Services.

Finally, although the Services must follow OMB Directive 15 for reporting race and ethnicity data in their military justice databases, these same racial and ethnic categories are not mandated for the Services' criminal investigation databases. Using different standards across different databases increases the chances for inconsistent and inaccurate data collection.

**Finding 135:** For the past 50 years, studies of racial and ethnic disparities in the military justice system have consistently recommended that the DoD establish uniformity in the collection of statistical information, by race, ethnic group, and sex, in order to improve studies and monitoring efforts.

**Finding 136:** Despite these consistent recommendations, the current data collection processes in the Military Services' investigation and military justice organizations with respect to the race and ethnicity of subjects and victims of criminal offenses are inadequate, incomplete, and inconsistent.

**Finding 137:** Decades of studies have identified varying degrees of racial disparities in the administration of military justice, despite the incomplete and inconsistent race and ethnicity data collection in the military justice system.

**Finding 138:** Although DoD has several policy initiatives under way to improve data collection on race and ethnicity beginning in fiscal year 2020, significant gaps remain, including the lack of a DoD-wide requirement to collect information on the race and ethnicity of the victim at any time before the initiation of a court-martial.

**Finding 139:** In the context of sexual offense cases, it is important to track the race and ethnicity of the victim, in addition to the accused, for every investigation initiated by military law enforcement in which a Service member is identified as a subject through its final disposition within the military justice system.

### III. METHODOLOGY AND DATA RESULTS

#### A. Congressional Tasking and Requests for Information

In the FY20 NDAA, Congress tasked the DAC-IPAD with a review and assessment of race and ethnicity in the military justice system, with a particular focus on sexual offenses. Specifically, the DAC-IPAD was directed to review and assess, by fiscal year, the race and ethnicity of

- (1) members of the Armed Forces accused of a penetrative sexual assault offense or contact sexual assault offense 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 each fiscal year assessed;
- (2) 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 each fiscal year assessed; and
- (3) members of the Armed Forces who were convicted of a penetrative sexual assault offense or contact sexual assault offense in all cases completed in each fiscal year assessed.<sup>77</sup>

Congress defined the terms “case,” “completed,” “penetrative sexual assault offense,” and “contact sexual assault offense” in the statute.<sup>78</sup> The DAC-IPAD used those definitions and included them in subsequent requests for information (RFIs)<sup>79</sup> as part of its review and assessment of cases completed in FY19.<sup>80</sup>

The RFI requested that each Service provide responsive data in an Excel workbook, with a worksheet for each area identified by Congress: unrestricted reports, preferred charges, and convictions. The congressional tasking was narrowly focused on the race and ethnicity of the Service member. A review and assessment of race and ethnicity in sexual assault offenses should require examination not only of the subjects but of the victims as well. Failure to include data on the victim’s race and ethnicity may limit the usefulness of any observations. Therefore, the DAC-IPAD, consistent with its

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77 FY20 NDAA, *supra* note 1, § 540I. The term “Armed Forces” is defined at 10 U.S.C. 101(4) to mean the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard. However, the Space Force was founded on December 21, 2019, and was not included in the FY19 data request.

78 The RFI adopted the statutory definitions set forth in section 540I of the FY20 NDAA (Subsection (A) was omitted from the following excerpt because it defined 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 spouse 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.

79 See Appendix F for DAC-IPAD Request for Information Set 18 (June 17, 2020) [RFI 18] and DAC-IPAD Request for Information Set 18A (Aug. 7, 2020) [RFI 18A]. For the purposes of this report, the term “RFI” will refer to both RFI 18 and RFI 18A, which expanded on RFI 18 and extended its deadline.

80 The Committee focused its review and assessment on FY19 cases because that was the most recent fiscal year completed and would reflect the current state of recording and reporting race and ethnicity in the Armed Forces.

past practices and standards, expanded the requested data to include descriptive demographic data (e.g., age, sex, pay grade) of the subject, as well as the race, ethnicity, and descriptive demographic data of victims. In addition, the Services were asked to provide various data, including date of report, date of referral, and date of verdict, to ensure that the information was responsive to the request, to eliminate duplicate or incomplete submissions, and to provide necessary context for the analysis.

The goal for this project was to assess a cohort of cases as they moved through the military justice system. Thus, it was expected that the first and largest category would comprise all unrestricted reports; a smaller number of cases would have charges preferred; and the third and smallest category would be those cases with a conviction.

### ***B. Limitations to Analysis***

Typically, in all of its projects the DAC-IPAD maintains quality control standards for data collection, analysis, and reporting. The primary basis of DAC-IPAD studies is document-based verification.<sup>81</sup> Each year, the case adjudication project has been structured on a request to the Services, response of initial data from each Service, verification by the DAC-IPAD of responses through documents, and analysis and reporting of results. Likewise, the case review project for penetrative sexual offense cases closed in fiscal year 2017 involved in-depth reviews of entire investigative files. This report is different from other reports of the DAC-IPAD because the observations and analysis are based on data provided by the Services without an opportunity to review and verify the source documents.

This report also differs from previous DAC-IPAD reports in that it lacks bivariate and multivariate statistical analyses. Because of questions regarding the completeness, validity, and scale of the Service responses to the RFI, a comprehensive analysis of the FY19 data is impossible. Therefore, the data provided by the Services are simply reported as observed, and the DAC-IPAD makes no attempt to explain them or any apparent trends.<sup>82</sup> Finally, this report aggregates contact and penetrative sexual offenses because Congress directed that these two different types of offenses be considered together. However, for future research, the DAC-IPAD recommends studying contact sexual offenses separately from penetrative sexual offenses because there may be differences in the data that lead to different conclusions.

The DAC-IPAD has experience with the current limitations of data collection in the military justice system. For example, as discussed in Section II, in its October 2020 report on investigative case file reviews for penetrative sexual assault offenses closed in fiscal year 2017, the Committee found it difficult to assess demographic data—such as race and ethnicity—because this information was often missing from the investigative files and, when present, was recorded differently across the Services.<sup>83</sup>

Finally, as stated above, the RFI requested data from FY19. To provide additional context, each Service's response is reported against baseline demographic data for the Military Services and for that specific Service. However, the most current Service demographic data published by DoD and the Coast Guard are for FY18.<sup>84</sup> Because of the potential differences between the data for FY18 and for FY19, the comparison is only illustrative.

81 For example, the most recent case adjudication report published by the DAC-IPAD classified 25.8% of the cases reported by the Services as “non-responsive” after review by the DAC-IPAD staff, and they were not included in the analysis. DAC-IPAD COURT-MARTIAL ADJUDICATION DATA REPORT, *supra* note 48, at 5. Reasons for a case's being “non-responsive” include being a non-qualifying non-sex offense, being a child-victim sex offense, being an instance of duplicate reporting, and falling into another fiscal year.

82 Each Service provided a narrative explanation of the process employed to compile the data; those narratives may be found in Appendix G.

83 DAC-IPAD REPORT ON INVESTIGATIVE CASE FILE REVIEWS, *supra* note 6, at 76.

84 Fiscal year 2018 data were obtained from 2018 DEMOGRAPHICS: PROFILE OF THE MILITARY COMMUNITY, available at <https://www.militaryonesource.mil/data-research-and-statistics/military-community-demographics/2018-demographics-profile>.

**C. Overview of Total Cases Received<sup>85</sup>**

The DAC-IPAD relied on the Services to report cases meeting the criteria specified in the RFI. Data tables for each Service’s response, provided in Appendix G, informed the presentation of data that follows. The Committee could not independently verify the Services’ responses, and therefore does not assert that it has the complete universe of cases throughout the Military Services in which a penetrative or contact sexual offense was reported, sexual offense charges were preferred, or a sexual offense conviction was obtained at court-martial.

In addition, given the limitations in the FY19 race and ethnicity responses provided by the Military Services, this report presents only the raw numbers for Service members investigated, charged, and convicted of a contact or penetrative sexual offense. The report does not undertake advanced statistical analyses and cannot explain why racial and ethnic disparities may appear in these statistics. Likewise, the report cannot provide a single picture of the FY19 data in the Armed Forces as a whole, because of the differences in how the Services reported the data to the DAC-IPAD. Instead, observations drawn from these FY19 statistics indicate that there may be racial and ethnic disparities at various stages of the military justice process that require more comprehensive analyses once the DoD collects consistent and comprehensive race and ethnicity data for subjects and victims.

**TABLE 1. SERVICE RESPONSE TO RFI**

	<b>Sexual Offense Unrestricted Report</b>	<b>Sexual Offense Charge(s) Preferred</b>	<b>Sexual Offense Conviction at Court-Martial</b>
<b>Army</b>	1,164	173	72
<b>Navy</b>	610	104	9
<b>Marine Corps</b>	487	84	16
<b>Air Force</b>	440	117	31
<b>Coast Guard</b>	127	22	1
Total	2,828	500	129

The first and largest category comprised all unrestricted reports with identified subjects completed in FY19 (2,828 subjects). From that pool of unrestricted reports, a smaller number of cases had charges preferred for a penetrative or contact sexual offense (500 subjects). The third and smallest category of cases was those with a conviction for a penetrative or contact sexual offense (129 subjects).

It is important to note that unlike some terms in the statute, Congress did not define, nor direct the DAC-IPAD to define, race and ethnicity for its review and assessment. Race and ethnicity are separate and distinct concepts. Race is generally viewed as a social definition and not as an attempt to define an individual biologically, anthropologically, or genetically. Ethnicity is viewed as a cultural or ancestral characteristic, regardless of race. Moreover, individuals self-report or self-identify their racial and ethnic categories.<sup>86</sup>

85 In the following tables and figures, percentages may not total 100, owing to rounding errors or missing data. Also, cadets/midshipmen and warrant officers are included with “officers.”

86 OMB Directive 15, *supra* note 19.

**TABLE 2. RACIAL AND ETHNIC CATEGORIES FOR ALL SERVICES USED FOR THIS REPORT**

Race	Ethnicity
American Indian/ Alaskan Native	Hispanic or Latino
Asian/Native Hawaiian/ Pacific Islander	Not Hispanic or Latino
Black/African American	Unknown
Two or more/Other	
White	
Unknown	

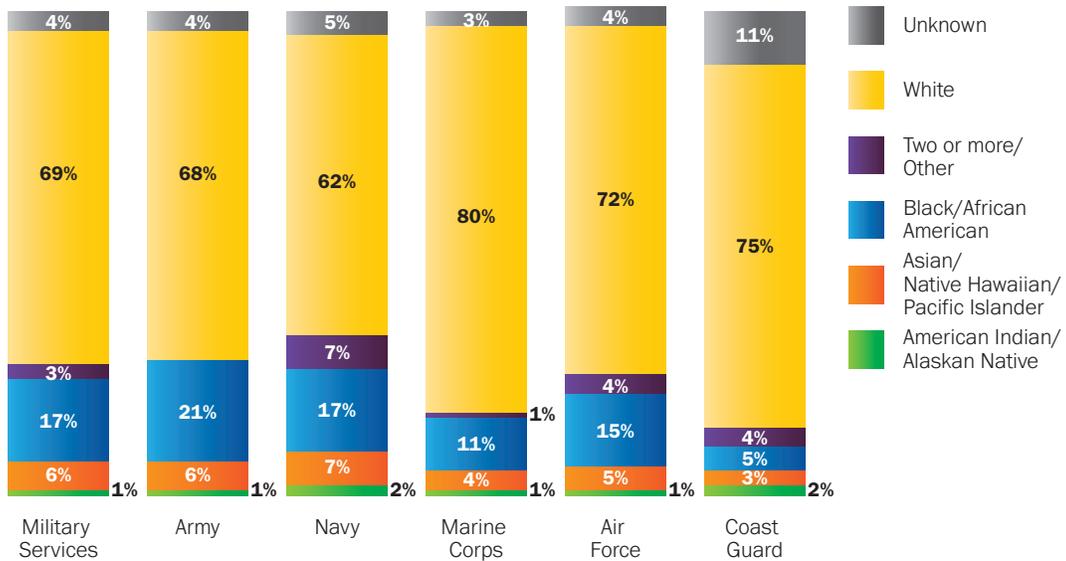
For more than 40 years, OMB Directive 15 has provided racial and ethnic categories for agencies’ statistical and administrative reporting.<sup>87</sup> In 1977, the racial categories were *American Indian or Alaskan Native*, *Asian or Pacific Islander*, *Black*, or *White*; the ethnic categories, *Hispanic Origin* and *Not of Hispanic Origin*. In 1997, OMB Directive 15 was revised to make the racial categories *American Indian or Alaska Native*, *Asian*, *Black or African American*, *Native Hawaiian or Other Pacific Islander*, or *White*; the ethnic categories, *Hispanic or Latino* and *Not Hispanic or Latino*. The directive requires respondents to be offered the option of selecting one or more racial designations with the instruction “Mark one or more” or “Select one or more.”

OMB Directive 15 merely establishes minimum categories and allows federal agencies to adopt a different way of asking race and ethnicity questions. Accordingly, agencies within the Military Services currently use different racial and ethnic categories and the Services reported different responses to the RFI, often with inconsistencies between their military criminal investigative case tracking system and military justice case tracking system. The DAC-IPAD examined the Service responses and, following the guidance of OMB Directive 15, established one set of categories for race and ethnicity, to which it reconciled all the Service responses for this report.

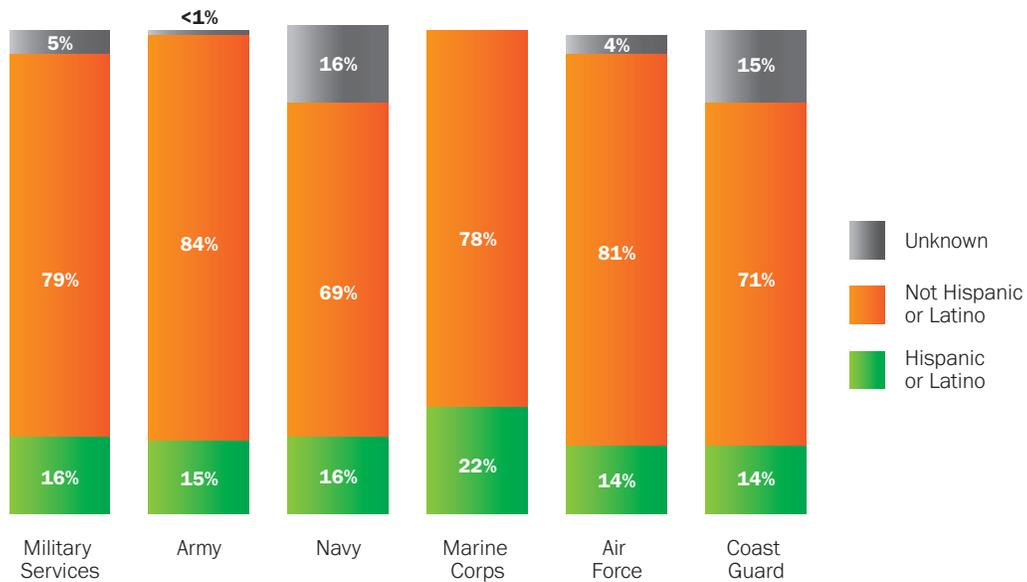
For example, the Army, Navy, and Marine Corps all used the category *Mixed*; the Air Force reported multiple categories representing more than one race, as well as a category called *TWOOR* representing two or more races selected without identifying the specific categories; and the Coast Guard used the category *Some other race*. Because of these differences, for purposes of this report the DAC-IPAD created the category *Two or more/Other*, encompassing all the different responses above. In addition, the Navy and Marine Corps are using the 1977 OMB Directive 15 category *Asian or Pacific Islander*. Because it could not separate those responses into the current OMB categories *Asian* and *Native Hawaiian or Other Pacific Islander*, the DAC-IPAD aggregated the other Service responses—essentially reverting to the 1977 standard, though with the label *Asian/Native Hawaiian/Pacific Islander*—so that the Services could be compared.

87 *Id.*

**FIGURE 1. RACIAL COMPOSITION (FY 2018)**



**FIGURE 2. ETHNIC COMPOSITION (FY 2018)**



In Figures 1 and 2, above, the racial and ethnic composition of the Military Services in FY18 is presented along with the racial and ethnic composition of each Service in FY18.

In the sections that follow, each Service’s response to the RFI is presented independently. Each section illustrates how that Service’s racial and ethnic categories were aligned with the set of categories adopted for this report. Next, the FY18 racial and ethnic composition of the Service is presented. Finally, the Service’s FY19 data response quantifying the race and ethnicity of the subject is presented graphically and with a narrative explanation.

*Army*

**TABLE 3. ARMY: RACE CATEGORIES**

Race Categories: RFI Response		Race Categories
American Indian or Alaskan Native	→	American Indian or Alaskan Native
Asian	↘	Asian/Native Hawaiian/ Pacific Islander
Asian/Pacific Islander	→	
Native Hawaiian or Other Pacific Islander	↗	
Black or African American	→	Black/African American
Mixed	↘	Two or more/Other
Other	↗	
White	→	White
Unknown	→	Unknown

The Army response to the RFI used nine possible race categories. The DAC-IPAD combined the categories as follows:

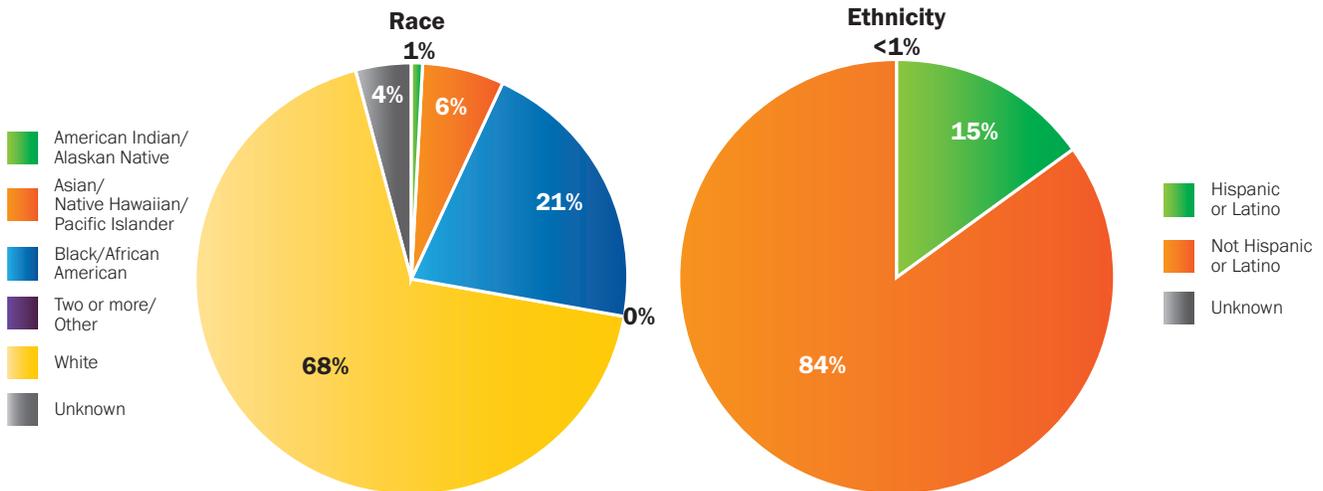
- *Asian, Asian/Pacific Islander, and Native Hawaiian or Other Pacific Islander* became *Asian/Native Hawaiian/Pacific Islander*; and
- *Mixed* and *Other* became *Two or more/Other*.

**TABLE 4. ARMY: ETHNICITY CATEGORIES**

Ethnicity Categories: RFI Response		Ethnicity Categories
Hispanic or Latino	→	Hispanic or Latino
Not Hispanic or Latino	→	Not Hispanic or Latino
Not of Hispanic Origin	→	
Unknown	→	Unknown

With respect to ethnicity, the Army response to the RFI used four possible ethnicity categories. To make them conform to the standardized language, *Not Hispanic or Latino* and *Not of Hispanic Origin* were combined to become *Not Hispanic or Latino*.

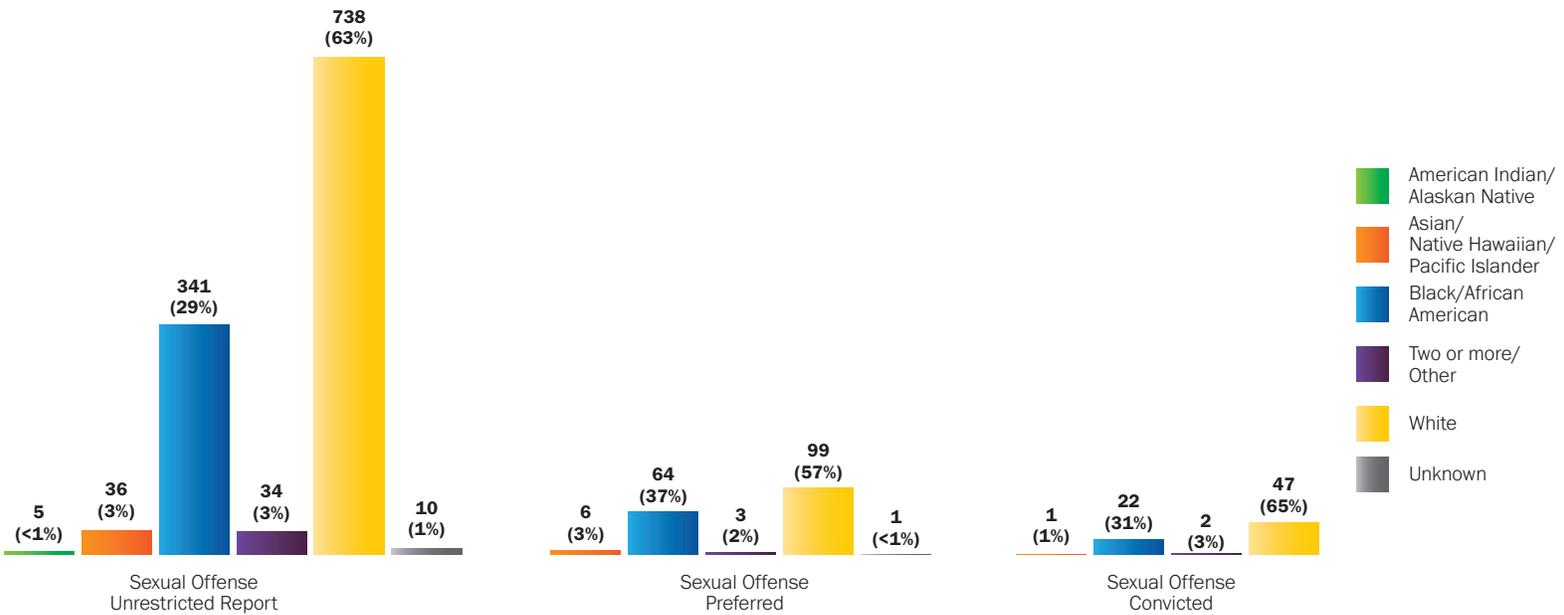
**FIGURE 3. ARMY: RACIAL AND ETHNIC COMPOSITION (FY 2018)**



In FY18, the Army’s racial composition reflected that of the overall Military Services with two differences. First, Black/African American members were reported as 21% of the Army total population, slightly higher than the 17% for the Military Services. Second, the Army did not report any members from the category Two or more/Other, who made up 3% of the Military Services’ total population.

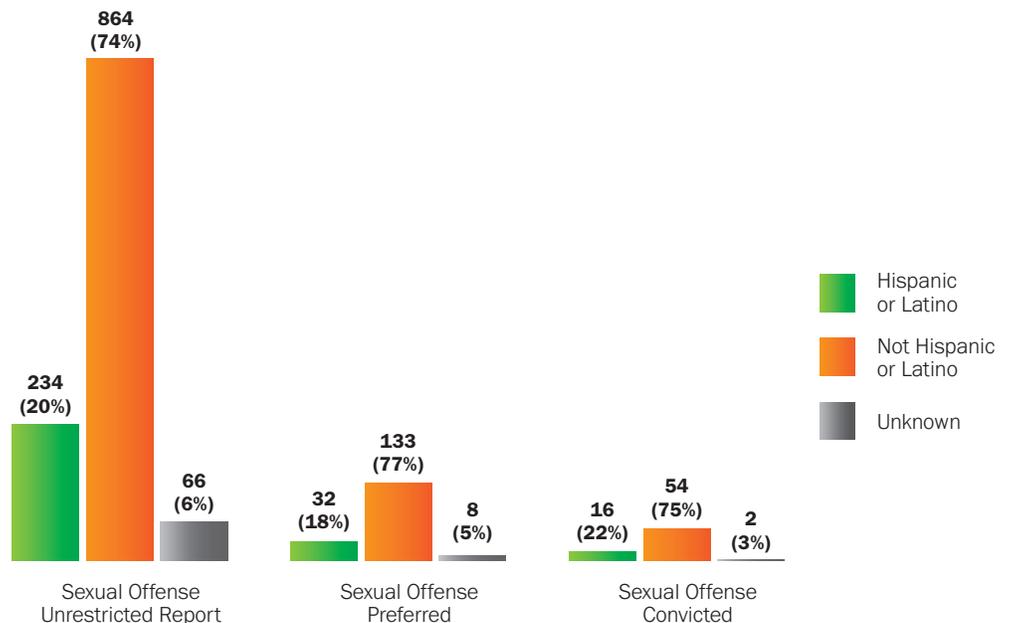
In FY18, the Army’s ethnic composition was similar to that of the overall Military Services with two differences. First, the Army reported a larger proportion of Not Hispanic or Latino members (84%) than were in the Military Services population (79%). Second, unlike the Military Services as a whole, the Army did not report any members of unknown ethnicity.

FIGURE 4. ARMY: RACE OF THE SUBJECT (RFI - FY 2019)



The first and largest category comprised all unrestricted reports completed in FY19 (1,164 subjects). From that pool of unrestricted reports, a smaller number of cases had charges preferred for a penetrative or contact sexual offense (173 subjects). The third and smallest category of cases was those with a conviction for a penetrative or contact sexual offense (72 subjects). White subjects accounted for 63% of the documented unrestricted reports of a sexual offense, 57% of the total cases in which charges were preferred, and 65% of the cases with a conviction. In comparison, Black/African American subjects accounted for 29% of the reported sexual offense cases, 37% of the preferred cases, and 31% of the conviction cases.

FIGURE 5. ARMY: ETHNICITY OF THE SUBJECT (RFI - FY 2019)



The Army reported a lower proportion of Not Hispanic or Latino (74%) for cases involving a reported sexual offense than in its overall population (84%). Finally, the Army reported that 6% of the reported cases in FY19 involved subjects of unknown ethnicity; DoD demographic data for FY18 indicated that the Army had less than 1% members of unknown ethnicity.

*Navy*

**TABLE 5. NAVY: RACE CATEGORIES**

Race Categories: RFI Response		Race Categories
American Indian or Alaskan Native	→	American Indian or Alaskan Native
Asian/Pacific Islander	→	Asian/Native Hawaiian/Pacific Islander
Black	→	Black
Mixed	→	Two or more/Other
White	→	White
Unknown	→	Unknown

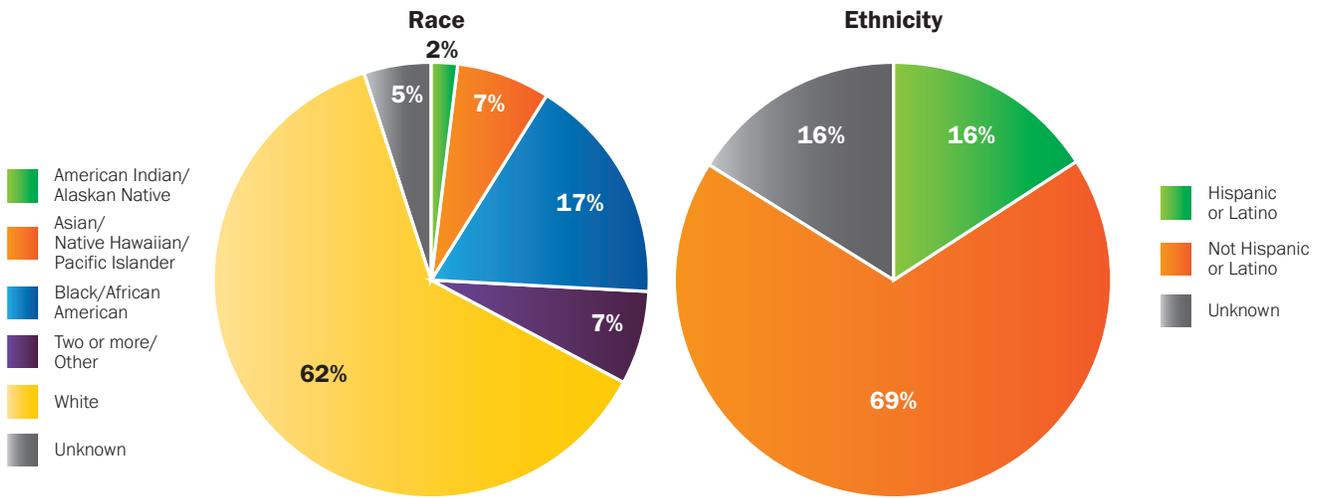
The Navy’s response to the RFI used six race categories. The DAC-IPAD, assuming that Service members of Native Hawaiian descent were included in *Asian/Pacific Islander*, renamed that category *Asian/Native Hawaiian/Pacific Islander*. In addition, *Mixed* became *Two or more/Other*.

**TABLE 6. NAVY: ETHNICITY CATEGORIES**

Ethnicity Categories: RFI Response		Ethnicity Categories
Hispanic	→	Hispanic or Latino
Not Hispanic	→	Not Hispanic or Latino
Unknown	→	Unknown

With respect to ethnicity, the Navy’s response to the RFI and the common classification adopted by the DAC-IPAD for its analysis used the same categories.

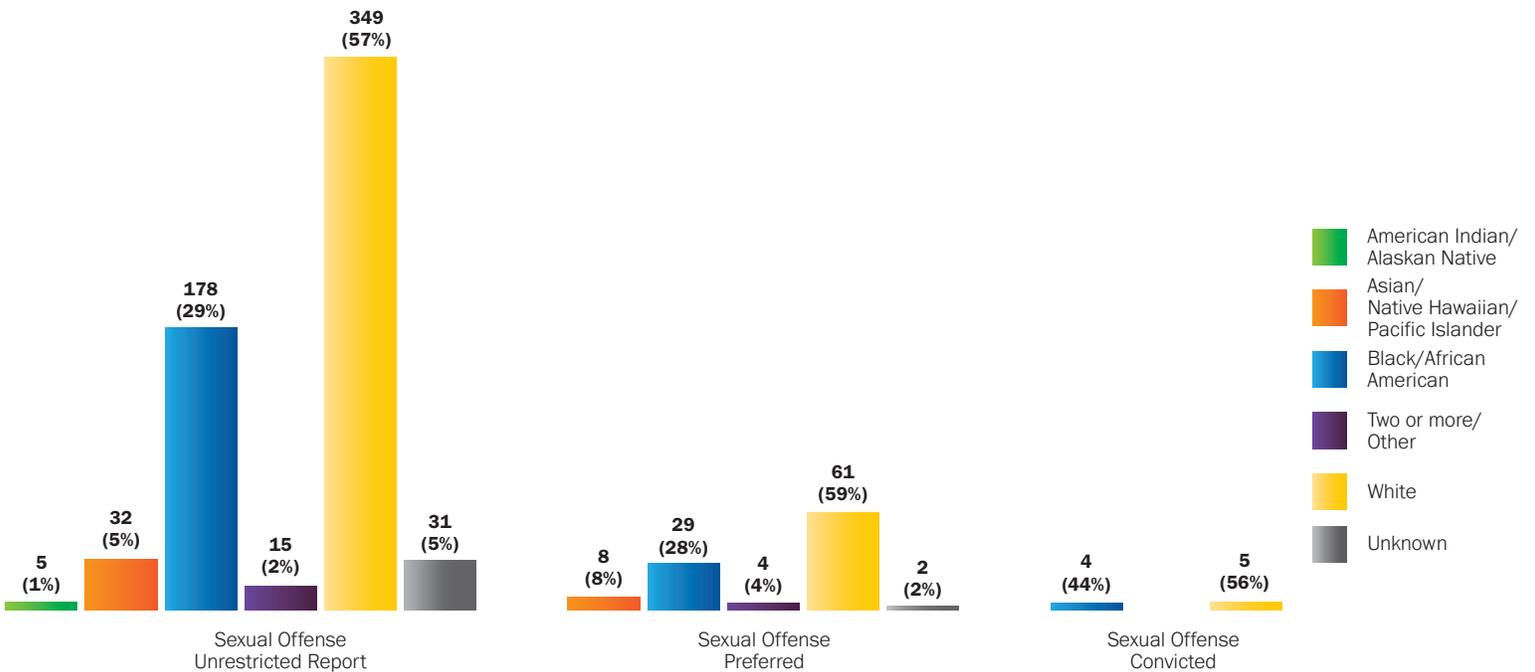
FIGURE 6. NAVY: RACIAL AND ETHNIC COMPOSITION (FY 2018)



In FY18, the Navy’s racial composition reflected that of the overall Military Services with two differences. First, white members were reported as 62% of the Navy total population, lower than the 69% for the Military Services. Second, the Navy reported Two or more/Other members at 7%—a larger proportion than the 3% in the Military Services total population.

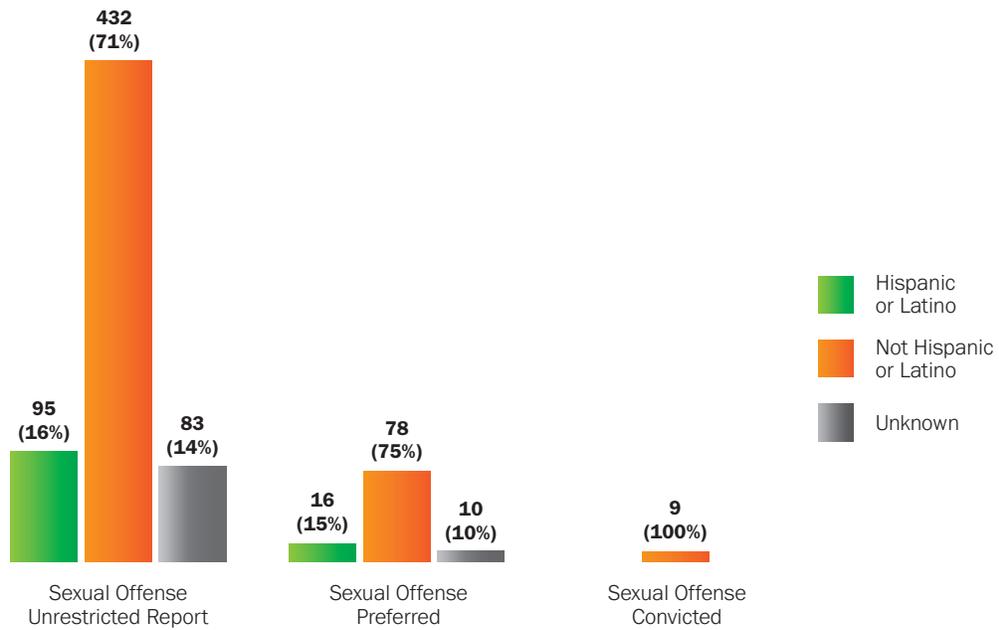
The Navy’s Hispanic population reflected that of the Military Services at 16%. The Navy reported a larger proportion of members with unknown ethnicity (16%) than did the Military Services (5%).

FIGURE 7. NAVY: RACE OF THE SUBJECT (RFI - FY 2019)



The first and largest category comprised all unrestricted reports completed in FY19 (610 subjects). From that pool of unrestricted reports, a smaller number of cases had charges preferred for a penetrative or contact sexual offense (104 subjects). The third and smallest category of cases was those with a conviction for a penetrative or contact sexual offense (9 subjects). Black/African American subjects accounted for 29% of the documented unrestricted reports of a sexual offense, 28% of the total cases in which charges were preferred, and 44% of the cases with a conviction. In comparison, white subjects accounted for 57% of the reported sexual offense cases, 59% of the preferred cases, and 56% of the conviction cases.

**FIGURE 8. NAVY: ETHNICITY OF THE SUBJECT (FY – 2019)**



The ethnic composition of the reported cases and the preferred cases was similar. However, no members who were Hispanic or Latino or of unknown ethnicity were convicted.

*Marine Corps*

**TABLE 7. MARINE CORPS: RACE CATEGORIES**

Race Categories: RFI Response		Race Categories
American Indian/ Alaskan Native	→	American Indian/ Alaskan Native
Asian/Pacific Islander	→	Asian/Native Hawaiian/ Pacific Islander
Black	→	Black
Mixed	→	Two or more/Other
White	→	White
Unknown	→	Unknown

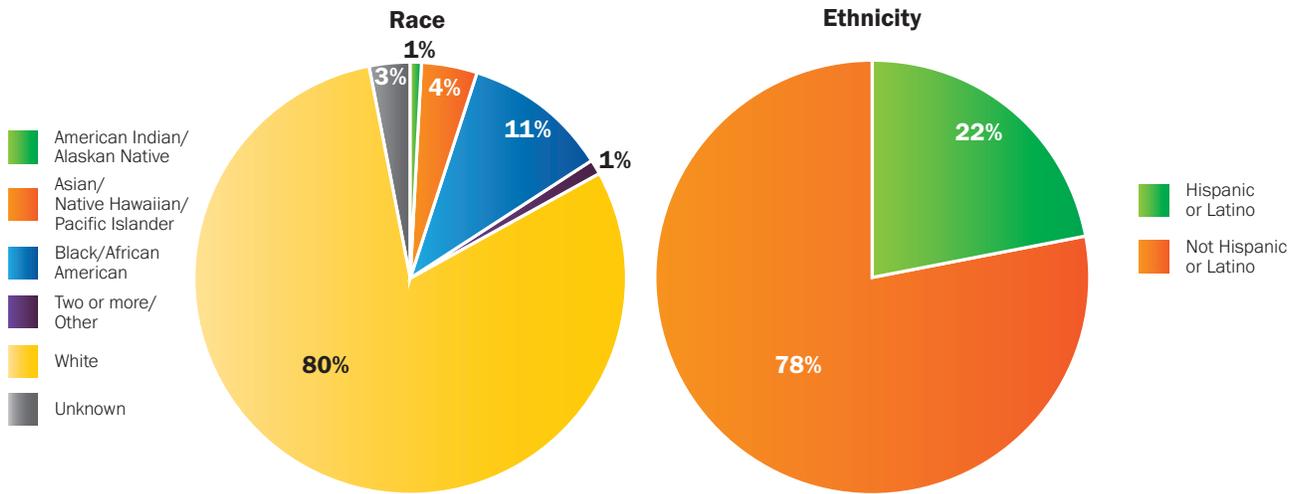
The Marine Corps, like the Navy, used six race categories. The DAC-IPAD, assuming that Service members of Native Hawaiian descent were included in *Asian/Pacific Islander*, renamed the category *Asian/Native Hawaiian/Pacific Islander*. In addition, *Mixed* became *Two or more/Other*.

**TABLE 8. MARINE CORPS: ETHNICITY CATEGORIES**

Ethnicity Categories: RFI Response		Ethnicity Categories
Hispanic	→	Hispanic or Latino
Not Hispanic	→	Not Hispanic or Latino
Unknown	→	Unknown

As was the case with race, the Marine Corps used the same ethnicity categories as the Navy. The ethnicity classification used in the RFI response matched the common classification adopted by the DAC-IPAD for its analysis.

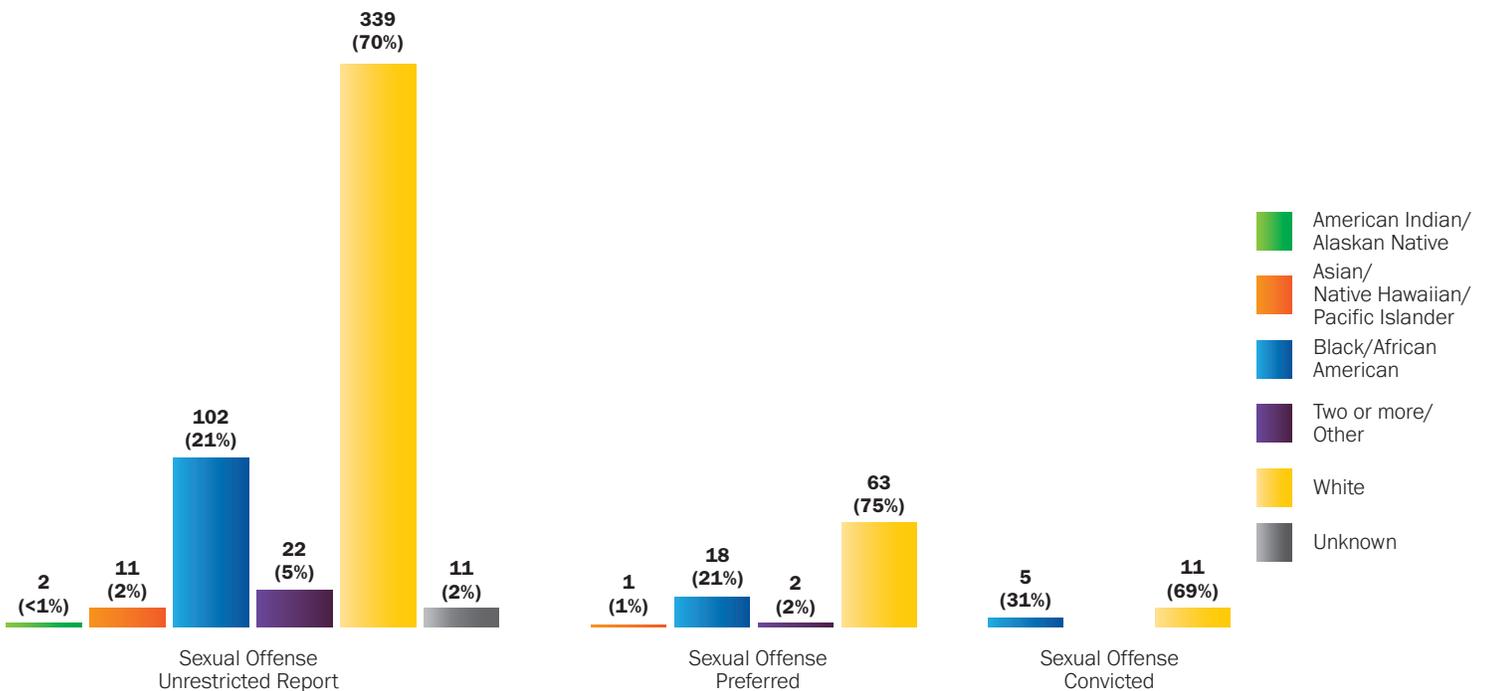
FIGURE 9. MARINE CORPS: RACIAL AND ETHNIC COMPOSITION (FY 2018)



In FY18, the Marine Corps’ racial composition reflected that of the overall Military Services with two differences. First, white members were reported as 80% of the Marine Corps total population, higher than the 69% for the Military Services. Second, the Marine Corps reported Black/African American members at 11%—a smaller proportion than the 17% in the Military Services’ total population.

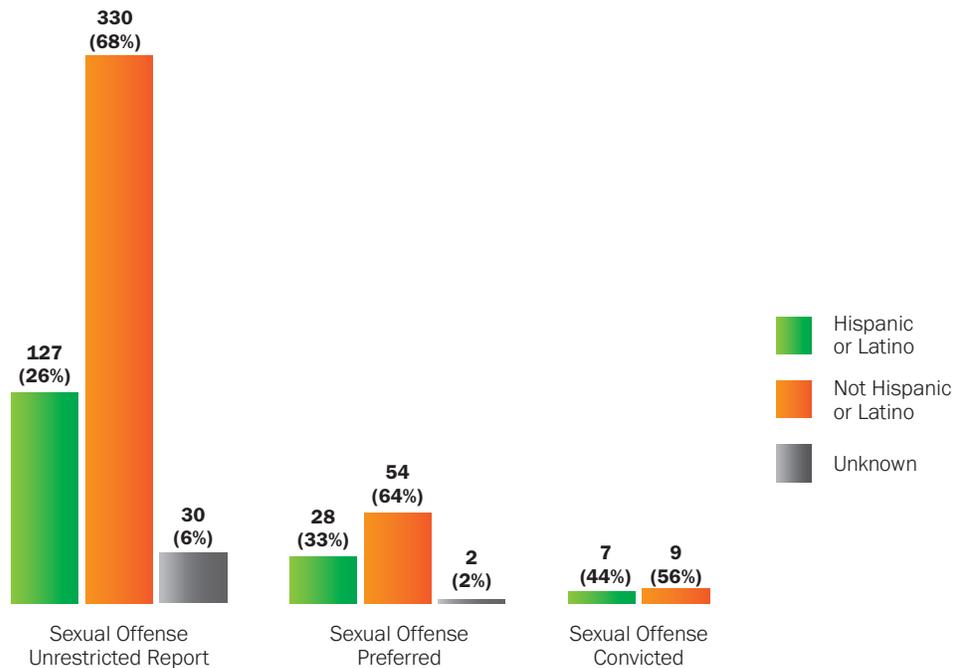
The Marine Corps’ Not Hispanic or Latino population reflected that of the Military Services at nearly 80%. The Hispanic or Latino population was higher for the Marine Corps (22%) than for the Military Services (16%).

FIGURE 10. MARINE CORPS: RACE OF THE SUBJECT (RFI – FY 2019)



The first and largest category comprised all unrestricted reports completed in FY19 (487 subjects). From that pool of unrestricted reports, a smaller number of cases had charges preferred for a penetrative or contact sexual offense (84 subjects). The third and smallest category of cases was those with a conviction for a penetrative or contact sexual offense (16 subjects). Black/African American subjects accounted for 21% of the documented unrestricted reports of a sexual offense, 21% of the total cases in which charges were preferred, and 31% of the cases with a conviction. In comparison, white subjects accounted for 70% of the reported sexual offense cases, 75% of the preferred cases, and 69% of the conviction cases.

**FIGURE 11. MARINE CORPS: ETHNICITY OF THE SUBJECT (RFI – FY 2019)**



The ethnic composition of the cases diverged markedly across the three categories. The Hispanic or Latino proportion rose from 26% for reported cases to 33% for preferred cases and 44% for conviction cases. The Not Hispanic or Latino proportion fell from 68% of the reported cases to 64% of the preferred cases and 56% of the conviction cases.

*Air Force*

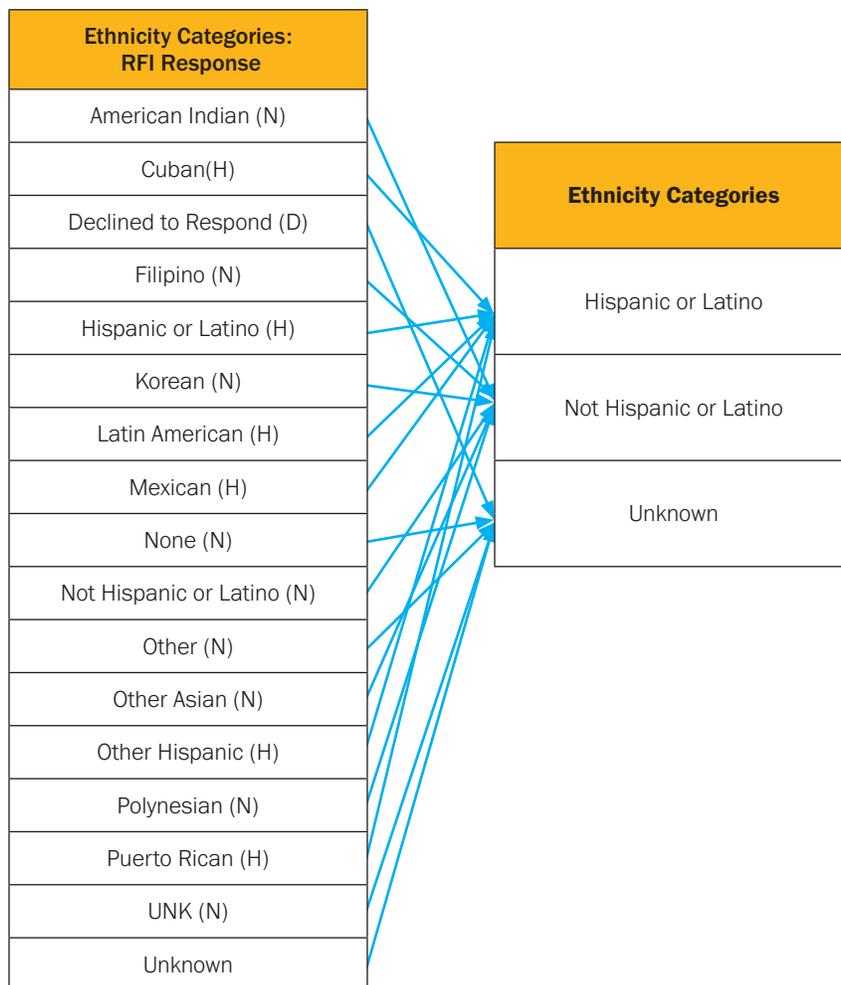
**TABLE 9. AIR FORCE: RACE CATEGORIES**



The Air Force response to the RFI was the most complex of all the Services, using 20 possible race categories. The DAC-IPAD made the assumption that AMIND is an acronym for American Indian; DECLI is an acronym for Declined to Respond; TWOOR is an acronym for two or more; and UNK is Unknown. In order to impose conformity to the common classification terminology, the DAC-IPAD made the following reassignments:

- *American Indian/Alaskan Native and AMIND to American Indian/Alaskan Native.*
- *Asian, HAWAI, and Native Hawaiian or other Pacific Islander to Asian/Native Hawaiian/Pacific Islander;*
- *BLACK and Black or African American to Black/African American;*
- *American Indian/Alaskan Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White, American Indian/Alaskan Native, Black or African American, American Indian/Alaskan Native, Black or African American, White, Asian, Black or African American, Asian, White, Black or African American, White, Native Hawaiian or other Pacific Islander, White, and TWOOR to Two or more/Other; and*
- *DECLI, Declined to respond, and UNK to Unknown.*

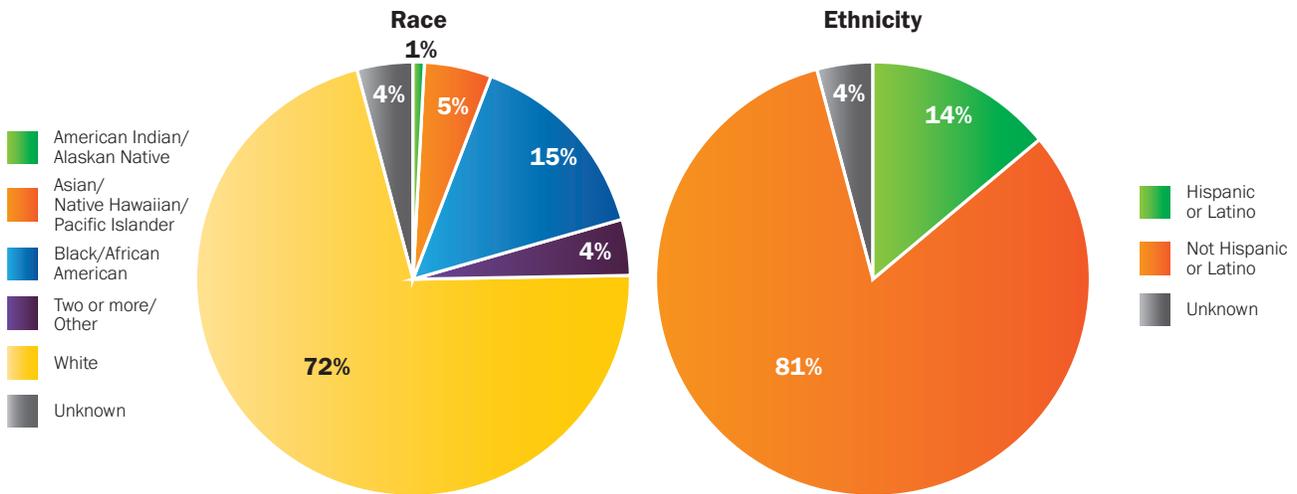
**TABLE 10. AIR FORCE: ETHNICITY CATEGORIES**



With respect to ethnicity, the Air Force’s response to the RFI was again considerably more complex than those of the other Services, using 17 possible categories. In order to impose conformity to the common classification terminology, the DAC-IPAD made the following reassignments:

- *Cuban (H), Hispanic or Latino (H), Latin America (H), Mexican (H), Other Hispanic (H), and Puerto Rican (H) to Hispanic;*
- *American Indian (N), Filipino (N), Korean (N), Not Hispanic or Latino (N), Other (N), Other Asian (N), and Polynesian (N) to Not Hispanic;* and
- *Declined to Respond (D), None (N), Other (N), UNK (N), and Unknown to Unknown*

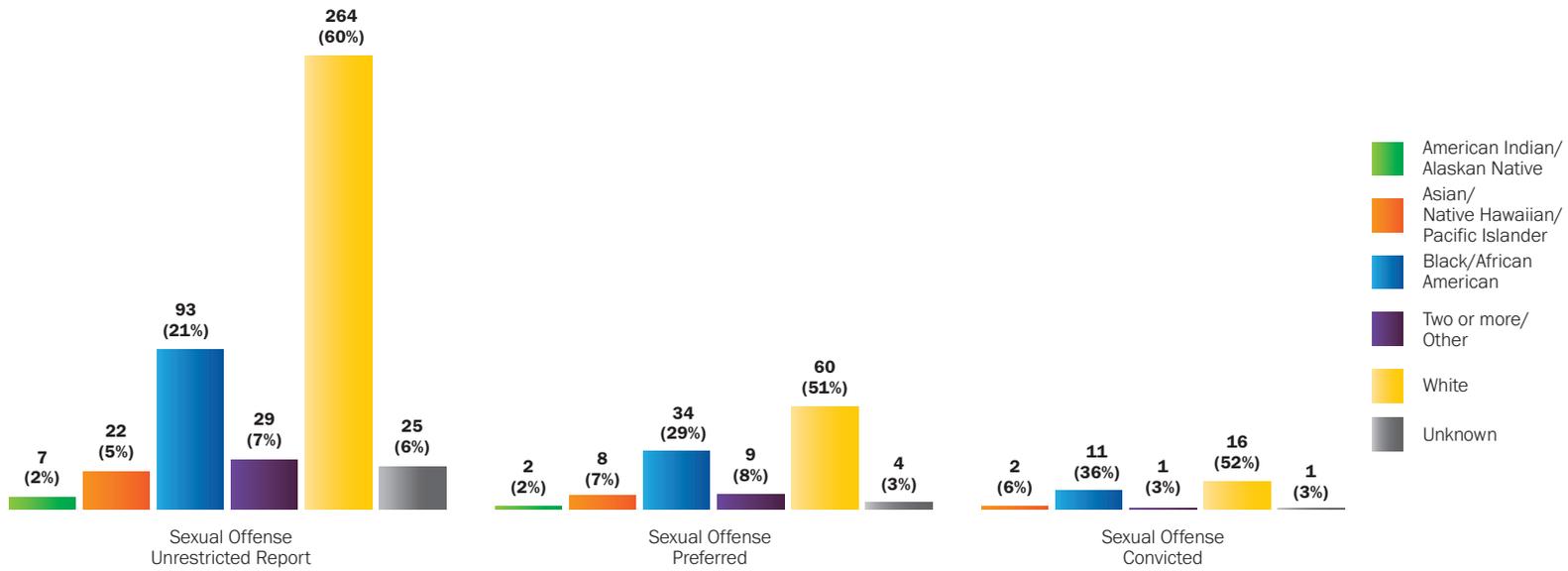
**FIGURE 12. AIR FORCE: RACIAL AND ETHNIC COMPOSITION (FY 2018)**



In FY18, the Air Force’s racial composition reflected that of the overall Military Services with two differences. First, white members were reported as 72% of the Air Force total population, higher than the 69% for the Military Services. Second, the Air Force reported Black/African American members at 15%—a smaller proportion than the 17% in the Military Services.

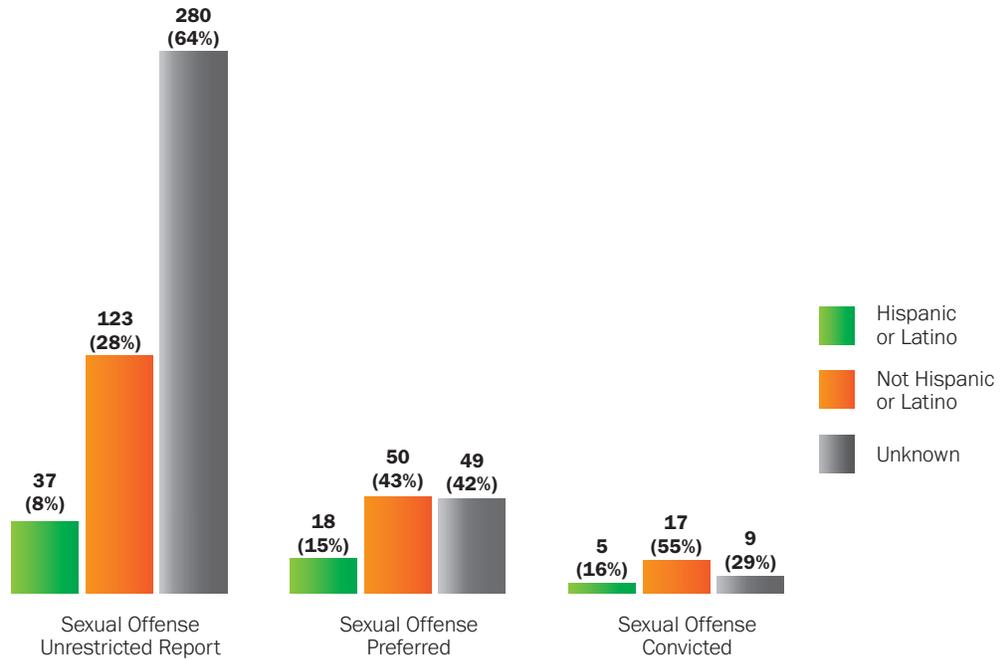
The Air Force’s ethnic populations were similar to those of the Military Services, within a percentage point or two.

FIGURE 13. AIR FORCE: RACE OF THE SUBJECT (RFI - FY 2019)



The first and largest category comprised all unrestricted reports closed in FY19 (440 subjects). From that pool of unrestricted reports, a smaller number of cases had charges preferred for a penetrative or contact sexual offense (117 subjects). The third and smallest category of cases was those with a conviction for a penetrative or contact sexual offense (31 subjects). Black/African American subjects accounted for 21% of the documented unrestricted reports of a sexual offense, 29% of the total cases in which charges were preferred, and 35% of the cases with a conviction. In comparison, white subjects accounted for 60% of the reported sexual offense cases, 51% of the preferred cases, and 52% of the conviction cases.

**FIGURE 14. AIR FORCE: ETHNICITY OF THE SUBJECT (RFI - FY 2019)**



In a sizable majority—64%—of the unrestricted reported sexual offense cases, the subject was of unknown ethnicity. This proportion fell to 42% for preferred cases and 29% for cases with a conviction. Conversely, the Not Hispanic or Latino proportion rose from 28% of the reported cases to 43% of the preferred cases and 55% of the conviction cases.

*Coast Guard*

**TABLE 11. COAST GUARD: RACE CATEGORIES**

Race Categories: RFI Response		Race Categories
American Indian/ Alaskan Native	→	American Indian/ Alaskan Native
Asian	→	Asian/Native Hawaiian/ Pacific Islander
Black or African American	→	Black or African American
Native Hawaiian or Pacific Islander	→	Two or more/Other
Some Other Race	→	White
White	→	Unknown
Unknown	→	

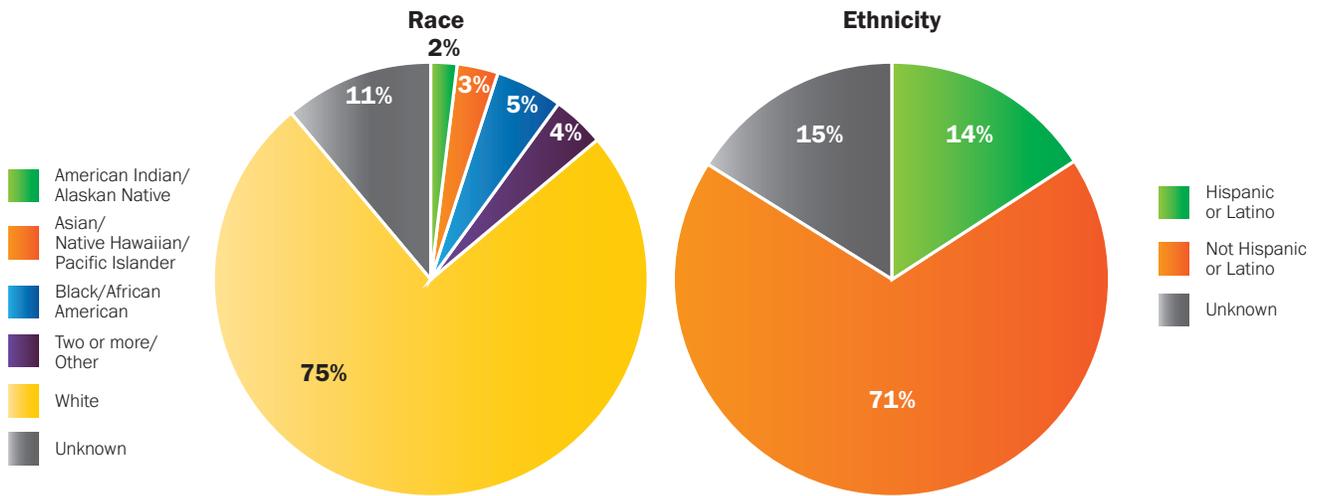
The Coast Guard response to the RFI used seven possible race categories. The DAC-IPAD combined *Asian* and *Native Hawaiian or Other Pacific Islander* into the common classification *Asian/Native Hawaiian/Pacific Islander*, and assigned *Some Other Race* to *Two or more/Other*.

**TABLE 12. COAST GUARD: ETHNICITY CATEGORIES**

Ethnicity Categories: RFI Response		Ethnicity Categories
American Indian or Alaskan Native	→	Hispanic or Latino
Hispanic or Latino	→	Not Hispanic or Latino
Non-Hispanic	→	Unknown
Non-Hispanic or Latino	→	
Unknown	→	

With respect to ethnicity, the Coast Guard reported five possible categories. In order to impose conformity to the common classification terminology, the DAC-IPAD reassigned *American Indian or Alaskan Native, Non-Hispanic*, and *Non-Hispanic or Latino* to *Not Hispanic or Latino*.

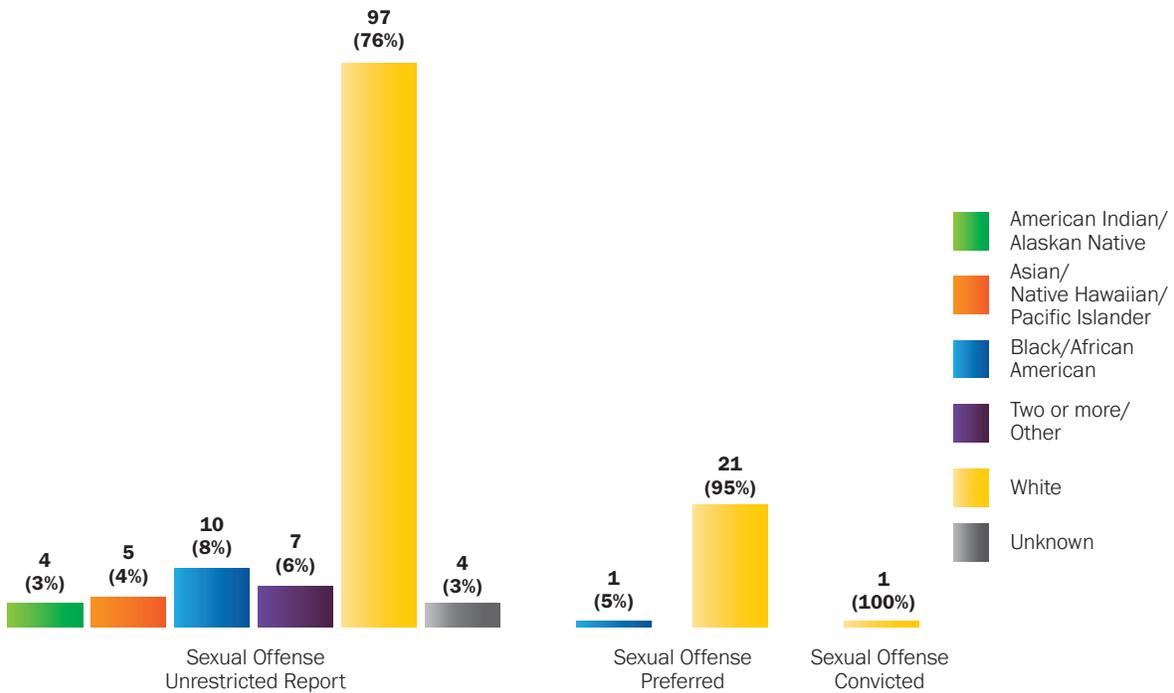
**FIGURE 15. COAST GUARD: RACIAL AND ETHNIC COMPOSITION (FY 2018)**



In FY18, the Coast Guard’s composition reflected that of the overall Military Services with three differences. First, white members were reported as 75% of the Coast Guard total population, slightly higher than the 69% for the Military Services. Second, the Coast Guard reported a proportion of Black/African American members at 5%—a smaller proportion than the 17% in the Military Services. Third, the Coast Guard reported a larger proportion of members of unknown race (11%) than did the Military Services (4%).

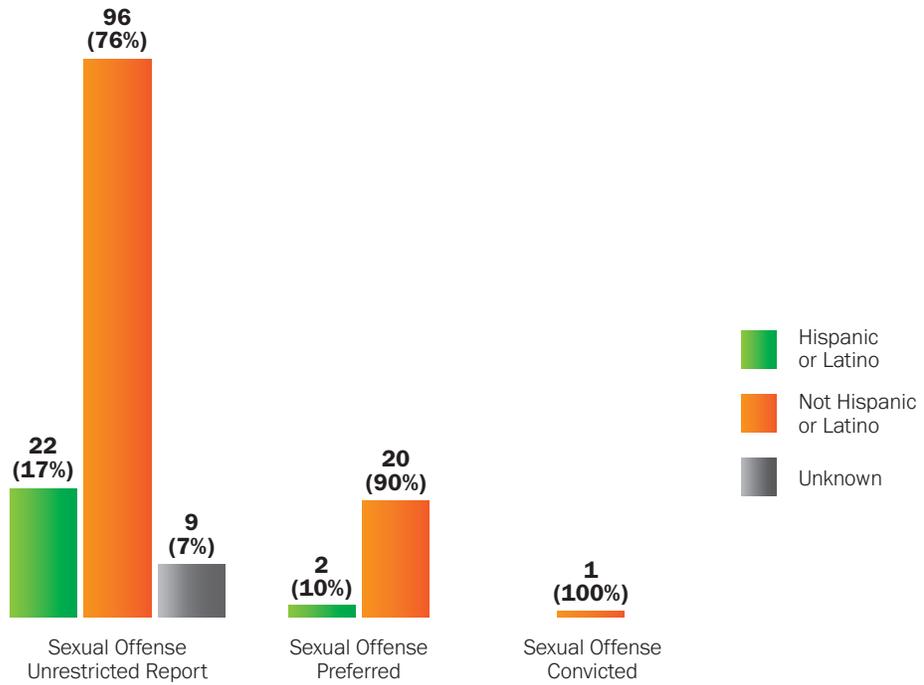
The Coast Guard reported a larger proportion of members of unknown ethnicity (15%) than did the Military Services (5%). In addition, the Not Hispanic or Latino proportion (71%) was smaller than in the Military Services (79%).

FIGURE 16. COAST GUARD: RACE OF THE SUBJECT (RFI – 2019)



The first and largest category comprised all unrestricted reports closed in FY19 (127 subjects). From that pool of unrestricted reports, a smaller number of cases had charges preferred for a penetrative or contact sexual offense (22 subjects). The third and smallest category of cases was those with a conviction for a penetrative or contact sexual offense (1 subject). White subjects accounted for 76% of the reported cases, 95% of the preferred cases, and the only conviction in FY19.

FIGURE 17. COAST GUARD: ETHNICITY OF THE SUBJECT (RFI - FY 2019)



Not Hispanic or Latino subjects represented 76% of the Coast Guard reported cases, 90% of the preferred cases, and the only conviction in FY19.

## IV. CONCLUSION

The DAC-IPAD's review of FY19 race and ethnicity data from investigations, prosecutions, and convictions of Service members for sexual offenses involving adult victims in the military justice system raises many questions for future research. Although the Committee believes that more comprehensive studies of racial and ethnic disparities in the military justice system are essential, DoD must first improve its data collection processes. Most importantly, the Military Services must standardize categories for race and ethnicity for both the accused and the victim, beginning with every investigation of a criminal allegation and continuing throughout the entire military justice process. Once the Services obtain accurate, thorough, and complete data on race and ethnicity, DoD can address any disparities and work toward a military justice system that is fair and just for everyone.

After DoD implements new data collection processes as recommended in this report and as required pursuant to Article 140a, UCMJ, the DAC-IPAD will incorporate studies on racial and ethnic disparities into future reports on sexual misconduct in the Armed Forces. Specifically, DAC-IPAD research into the military justice response to sexual assault will include the following types of bivariate and multivariate analyses:

- a. For investigations by military criminal investigative organizations:
  - i. Analysis of the race/ethnicity of the accused and victim
  - ii. Analysis of the race/ethnicity of the military police and criminal investigators involved with the case
- b. For cases with preferred charges:
  - i. Analysis of the race/ethnicity of the accused and victim
  - ii. Analysis of the race/ethnicity of the accused and the offense type (whether penetrative or contact sexual offense or both)
  - iii. Analysis of the race/ethnicity of the accused and the court type
  - iv. Analysis of the race/ethnicity of the accused and the use of alternative disposition
- c. For courts-martial:
  - i. Analysis of the race/ethnicity of the accused and victim
  - ii. Analysis of the race/ethnicity of the accused and the offense type (whether penetrative or contact sexual offense or both)
  - iii. Analysis of the race/ethnicity of the accused and pleas (whether guilty or not guilty)
  - iv. Analysis of the race/ethnicity of the accused and convictions (whether penetrative or contact sexual offense or both)
  - v. Analysis of the race/ethnicity of the accused and acquittals (whether penetrative or contact sexual offense or both)
  - vi. Analysis of the race/ethnicity of the accused and the sentence at court-martial
  - vii. Analysis of the race/ethnicity of the accused and the sentence approved by convening authority

- viii. Analysis of the race/ethnicity of the accused and the characterization of discharge
- ix. Analysis of the racial composition of the panel members and judges
- x. Analysis of convictions by race and the hiring of civilian defense counsel vs. the use of assigned military trial defense counsel
- xi. Analysis of the race/ethnicity of the trial counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate court judges

Finally, the DAC-IPAD makes the following recommendations:

**Recommendation 33:** The Secretary of Defense designate the military personnel system as the primary data system in the Department of Defense for the collection of demographic information such as race and ethnicity. All other Department of Defense systems that collect demographic data regarding military personnel, such as the military criminal investigative system and the military justice system, should obtain demographic information on military personnel from the military personnel system.

**Recommendation 34:** The Secretary of Defense direct each Military Department to record race and ethnicity in military criminal investigative organization databases, military justice databases, and military personnel databases using the same racial and ethnic categories. The Secretary of Defense should direct each Military Department to report race using the following six categories: *American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, More Than One Race/Other*, and *White*, and to report ethnicity using the following two categories: *Hispanic or Latino* and *Not Hispanic or Latino*.

**Recommendation 35:** Congress authorize and appropriate funds for the Secretary of Defense to establish a pilot program operating one uniform, document-based data system for collecting and reporting contact and penetrative sexual offenses across all of the Military Services. The pilot program, which should cover every sexual offense allegation made against a Service member under the military's jurisdiction that is investigated by a military criminal investigative organization (MCIO), will record case data from standardized source documents provided to the pilot program by the Military Services and will include demographic data pertaining to each victim and accused—including race and ethnicity.

**Recommendation 36:** The Secretary of Defense direct the Military Departments to record and track the race, ethnicity, sex, gender, age, and grade of the victim(s) and the accused for every investigation initiated by military law enforcement in which a Service member is identified as a subject through the final disposition within the military justice system.

**Recommendation 37:** The Secretary of Defense direct the Military Departments to record, beginning in fiscal year 2022, the race and ethnicity of military police and criminal investigators, trial counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate court judges involved in every case investigated by military law enforcement in which a Service member is the subject of an allegation of a contact or penetrative sexual offense. The source information for these data should be collected from the military personnel databases and maintained for future studies by the DAC-IPAD on racial and ethnic disparities in cases involving contact and penetrative sexual offenses.

**Recommendation 38:** The Secretary of Defense direct the newly established Military Justice Review Panel to determine whether to review and assess, by functional roles and/or on an individual case basis, the race and ethnicity demographics of the various participants in the military justice process, including military police and criminal investigators, trial

counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate court judges.

**Recommendation 39:** Once the Department of Defense has implemented new data collection processes as recommended in this report and as required pursuant to Article 140a, UCMJ, the Secretary of Defense direct the newly established Military Justice Review Panel to determine whether to review and assess racial and ethnic disparities in every aspect of the military justice system as part of its charter for periodic and comprehensive reviews. This review and assessment of racial and ethnic disparities should include, but not be limited to, cases involving sexual offenses.

**Recommendation 40:** The Secretary of Defense direct the Military Justice Review Panel to assess whether a uniform training system on explicit and implicit bias should be developed for all military personnel who perform duties in the military justice system, including military police and criminal investigators, trial counsel, defense counsel, victims' counsel, staff judge advocates, special and general convening authorities, preliminary hearing officers, military court-martial panels, military magistrates, and military trial and appellate judges.



## APPENDIX A. COMMITTEE AUTHORIZING STATUTE, AMENDMENTS, AND DUTIES

### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2015

#### SECTION 546. DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES. (PUBLIC LAW 113-291; 128 STAT. 3374; 10 U.S.C. 1561 NOTE)

(a) ESTABLISHMENT REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall establish and maintain within the Department of Defense an advisory committee to be known as the “Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces” (in this section referred to as the “Advisory Committee”).

(2) DEADLINE FOR ESTABLISHMENT.—The Secretary shall establish the Advisory Committee not later than 30 days before the termination date of the independent panel established by the Secretary under section 576(a)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1758), known as the “judicial proceedings panel”.

(b) MEMBERSHIP.—The Advisory Committee shall consist of not more than 20 members, to be appointed by the Secretary of Defense, who have experience with the investigation, prosecution, and defense of allegations of sexual assault offenses. Members of the Advisory Committee may include Federal and State prosecutors, judges, law professors, and private attorneys. Members of the Armed Forces serving on active duty may not serve as a member of the Advisory Committee.

(c) DUTIES.—

(1) IN GENERAL.—The Advisory Committee shall 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.

(2) BASIS FOR PROVISION OF ADVICE.—For purposes of providing advice to the Secretary pursuant to this subsection, the Advisory Committee shall review, on an ongoing basis, cases involving allegations of sexual misconduct described in paragraph (1).

(d) ANNUAL REPORTS.—Not later than March 30 each year, the Advisory Committee shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report describing the results of the activities of the Advisory Committee pursuant to this section during the preceding year.

(e) TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Advisory Committee shall terminate on the date that is five years after the date of the establishment of the Advisory Committee pursuant to subsection (a).

(2) CONTINUATION.—The Secretary of Defense may continue the Advisory Committee after the termination date applicable under paragraph (1) if the Secretary determines that continuation of the Advisory Committee after that date is advisable and appropriate. If the Secretary determines to continue the Advisory Committee after that date, the Secretary shall submit to the President and the congressional committees specified in subsection (d) a report describing the reasons for that determination and specifying the new termination date for the Advisory Committee.

(f) DUE DATE FOR ANNUAL REPORT OF JUDICIAL PROCEEDINGS PANEL.—Section 576(c)(2)(B) of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1760) is amended by inserting “annually thereafter” after “reports”.

## **NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016**

### **SECTION 537. MODIFICATION OF DEADLINE FOR ESTABLISHMENT OF DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES.**

Section 546(a)(2) of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291; 128 Stat. 3374; 10 U.S.C. 1561 note) is amended by striking “not later than” and all that follows and inserting “not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016.”

## **NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2019**

### **SEC. 533. AUTHORITIES OF DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES.**

#### **SECTION 546 OF THE CARL LEVIN AND HOWARD P. “BUCK” MCKEON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2015 (10 U.S.C. 1561 NOTE) IS AMENDED—**

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) AUTHORITIES.—

“(1) HEARINGS.—The Advisory Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers appropriate to carry out its duties under this section.

“(2) INFORMATION FROM FEDERAL AGENCIES.—Upon request by the chair of the Advisory Committee, a department or agency of the Federal Government shall provide information that the Advisory Committee considers necessary to carry out its duties under this section. In carrying out this paragraph, the department or agency shall take steps to prevent the unauthorized disclosure of personally identifiable information.”

**SEC. 547. REPORT ON VICTIMS OF SEXUAL ASSAULT IN REPORTS OF MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS.**

- (a) REPORT.—Not later than September 30, 2019, and not less frequently than once every two years thereafter, the Secretary of Defense, acting through the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces shall submit to the congressional defense committees a report that includes, with respect to the period of two years preceding the date of the submittal of the report, the following:
- (1) The number of instances in which a covered individual was accused of misconduct or crimes considered collateral to the investigation of a sexual assault committed against the individual.
  - (2) The number of instances in which adverse action was taken against a covered individual who was accused of collateral misconduct or crimes as described in paragraph (1).
  - (3) The percentage of investigations of sexual assaults that involved an accusation or adverse action against a covered individual as described in paragraphs (1) and (2).
- (b) COVERED INDIVIDUAL DEFINED.—In this section, the term “covered individual” means an individual who is identified as a victim of a sexual assault in the case files of a military criminal investigative organization.

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2020**

**SEC. 535. EXTENSION OF DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES.**

Section 546(f)(1) of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (10 U.S.C. 1561 note) is amended by striking “five” and inserting “ten”.

*Joint Explanatory Statement:*

*The conferees request the DAC-IPAD review, as appropriate, whether other justice programs (e.g., restorative justice programs, mediation) could be employed or modified to assist the victim of an alleged sexual assault or the alleged offender, particularly in cases in which the evidence in the victim’s case has been determined not to be sufficient to take judicial, non-judicial, or administrative action against the perpetrator of the alleged offense.*

*Further, the conferees recognize the importance of providing survivors of sexual assault an opportunity to provide a full and complete description of the impact of the assault on the survivor during court-martial sentencing hearings related to the offense. The conferees are concerned by reports that some military judges have interpreted Rule for Courts-Martial (RCM) 1001(c) too narrowly, limiting what survivors are permitted to say during sentencing hearings in ways that do not fully inform the court of the impact of the crime on the survivor.*

*Therefore, the conferees request that, on a one-time basis, or more frequently, as appropriate, and adjunct to its review of court-martial cases completed in any particular year, the DAC-IPAD assess whether military judges are according appropriate deference to victims of crimes who exercise their right to be heard under RCM 1001(c) at sentencing hearings, and appropriately permitting other witnesses to testify about the impact of the crime under RCM 1001.*

**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 carried out 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 in the military justice system;
    - (B) take steps to address the causes of 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:
    - (A) A review and assessment, by fiscal year, of the race and ethnicity of members of the Armed Forces accused of a penetrative sexual assault offense or contact sexual assault offense 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 each fiscal year addressed.
    - (B) A review and assessment, by fiscal year, of 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 each fiscal year assessed.

(C) A review and assessment, by fiscal year, of 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 each fiscal year assessed.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—Upon request by the chair of the committee, a department or agency of the Federal Government shall provide information that the committee considers necessary to conduct reviews and assessments required by paragraph (1), including military criminal investigative files, charge sheets, records of trial, and personnel records.

(B) HANDLING, STORAGE, AND RETURN.—The committee shall handle and store all records received and reviewed under this subsection in accordance with applicable privacy laws and Department of Defense policy, and shall return all records so received in a timely manner.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the committee shall submit to the Secretary of Defense, and to the Committees on Armed Services of the Senate and the House of representatives, a report setting forth the results of the reviews and assessments required by paragraph (1). The report shall include such recommendations for legislative or administrative action as the committee considers appropriate in light of such results.

(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 spouse 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.

***H. Rept. 116-120 on H.R. 2500***

**TITLE V—MILITARY PERSONNEL POLICY  
ITEMS OF SPECIAL INTEREST**

***Appointment of Guardian ad Litem for Minor Victims***

*The committee is concerned for the welfare of minor, military dependents who are victims of an alleged sex-related offense. The committee acknowledges the Department of Defense's continued efforts to implement services in support of service members who are victims of sexual assault and further, to expand some of these services to dependents who are victims. However, the committee remains concerned that there is not an adequate mechanism within the military court-martial process to represent the best interests of minor victims following an alleged sex-related offense.*

*Therefore, not later than 180 days after the date of the enactment of this Act, the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces shall submit to the Committees on the Armed Services of the Senate and the House of Representatives a report that evaluates the need for, and the feasibility of, establishing a process under which a guardian ad litem may be appointed to represent the interests of a victim of an alleged sex-related offense (as that term is defined in section 1044e(g) of title 10, United States Code) who has not attained the age of 18 years.*

## APPENDIX B. COMMITTEE CHARTER AND BALANCE PLAN

### Charter

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

1. Committee's Official Designation: The committee shall be known as the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces ("the Committee").
2. Authority: 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 ("the FY 2015 NDAA") (Public Law 113-291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92), and in accordance with the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix) and 41 C.F.R. § 102-3.50(a), established this non-discretionary advisory committee.
3. Objectives and Scope of Activities: The Committee, pursuant to section 546(c)(1) of the FY 2015 NDAA, will advise the Secretary of Defense and the Deputy 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.
4. Description of Duties: Pursuant to section 546(c)(2) and (d) of the FY 2015 NDAA, the Committee, not later than March 30 of each year, will submit to the Secretary of Defense through the General Counsel for the Department of Defense (GC DoD), and the Committees on Armed Services of the Senate and House of Representatives, a report describing the results of the activities of the Committee pursuant to section 546 of the FY 2015 NDAA, as amended, during the preceding year. The Committee will review, on an ongoing basis, cases involving allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces.

Pursuant to Section 547 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232), not later than September 30, 2019, and not less frequently than once every two years thereafter, the Secretary of Defense, acting through the Committee, shall submit to the congressional defense committees a report that includes, with respect to the period of two years preceding the date of the submittal of the report, the following:

- (1) The number of instances in which a covered individual was accused of misconduct or crimes considered collateral to the investigation of a sexual assault committed against the individual.
- (2) The number of instances in which adverse action was taken against a covered individual who was accused of collateral misconduct or crimes as described in paragraph (1).
- (3) The percentage of investigations of sexual assaults that involved an accusation or adverse action against a covered individual as described in paragraphs (1) and (2).

The term "covered individual" means an individual who is identified as a victim of a sexual assault in the case files of a military criminal investigative organization.

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Pursuant to section 540I(c) of the of the National Defense Authorization Act for Fiscal Year 2020 (“the FY 2020 NDAA”) (Public Law 116-92), not later than December 20, 2020, the Committee shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives a report setting forth:

- (1) A review and assessment, by fiscal year, of the race and ethnicity of members of the Armed Forces accused of a penetrative sexual assault offense or contact sexual assault offense 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 each fiscal year assessed.
- (2) A review and assessment, by fiscal year, of 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 each fiscal year assessed.
- (3) A review and assessment, by fiscal year, of 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 each fiscal year assessed.

The report shall include such recommendations for legislative or administrative action as the Committee considers appropriate in light of such results.

Pursuant to section 540K(d) of the FY 2020 NDAA, the Secretary of Defense shall consult with the Committee on a report to be submitted by the Secretary to the Committees on Armed Services of the Senate and House of Representatives not later than June 17, 2020, making findings and recommendations on the feasibility and advisability of a policy for the Department of Defense that would permit a victim of a sexual assault, that is or may be investigated as a result of a communication described in 540k(b), which victim is a member of the Armed Forces or an adult dependent of a member of the Armed Forces, to have the reporting on the sexual assault be treated as a restricted report without regard to the party initiating or receiving such communication.

5. Agency or Official to Whom the Committee Reports: The Committee will report to the Secretary and Deputy Secretary of Defense, through the GC DoD.
6. Support: The DoD, through the GC DoD, the Washington Headquarters Services, and the DoD Components, provides support for the Committee and ensures compliance with requirements of the FACA, the Government in the Sunshine Act of 1976 (“the Sunshine Act”) (5 U.S.C. § 552b), governing Federal statutes and regulations, and DoD policy and procedures.
7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating costs, to include travel, meetings, and contract support, are approximately \$2,810,500. The estimated annual personnel cost to the DoD is 15.0 full-time equivalents.

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8. Designated Federal Officer: The Committee's Designated Federal Officer (DFO) shall be a full-time or permanent part-time DoD civilian officer or employee or member of the Armed Forces, designated in accordance with established DoD policy and procedures.  
The Committee's DFO is required to attend all Committee and subcommittee meetings for the entire duration of each and every meeting. However, in the absence of the Committee's DFO, a properly approved Alternate DFO, duly designated to the Committee in accordance with DoD policy and procedures, shall attend the entire duration of all of the Committee or subcommittee meetings.  
The DFO, or the Alternate DFO, approves and calls all Committee and subcommittee meetings; prepares and approves all meeting agendas; and adjourns any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public's interest or required by governing regulations or DoD policy and procedures.
9. Estimated Number and Frequency of Meetings: The Committee shall meet at the call of the Committee's DFO, in consultation with the Committee's Chair and the GC DoD. The Committee will meet at a minimum of once per year.
10. Duration: The need for this advisory function is on a continuing basis; however, this charter is subject to renewal every two years.
11. Termination: In accordance with sections 546(e)(1) and (2) of the FY 2015 NDAA, as modified by section 535 of the FY 2020 NDAA, the Committee will terminate on February 28, 2026, ten years after the Committee was established, unless the Secretary of Defense determines that continuation of the Committee after that date is advisable and appropriate. If the Secretary of Defense determines to continue the Committee after that date, the Secretary of Defense will submit to the President and the Committees on Armed Services of the Senate and House of Representatives a report describing the reasons for that determination and specifying the new termination date for the Committee.
12. Membership and Designation: Pursuant to section 546(b) of the FY 2015 NDAA, the Committee will be composed of no more than 20 members. Committee members selected will have experience with the investigation, prosecution, and defense of allegations of sexual assault offenses. Members of the Committee may include Federal and State prosecutors, judges, law professors, and private attorneys. Members of the Armed Forces serving on active duty may not serve as members of the Committee.  
The appointment of Committee members will be approved by the Secretary of Defense, the Deputy Secretary of Defense, or the Chief Management Office of the Department of Defense (CMO) ("the DoD Appointing Authorities"), for a term of service of one-to-four years, with annual renewals, in accordance with DoD policy and procedures. No member, unless approved by the DoD Appointing Authorities, may serve more than two consecutive terms of service on the Committee, to include its subcommittees, or serve on more than two DoD Federal advisory committees at one time.

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Committee members who are not full-time or permanent part-time Federal civilian officers or employees, or members of the Armed Forces, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as special government employee (SGE) members. Committee members who are full-time or permanent part-time Federal civilian officers or employees, or members of the Armed Forces, shall be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as regular government employee (RGE) members.

Committee members are appointed to provide advice on the basis of his or her best judgment without representing any particular points of view and in a manner that is free from conflict of interest.

The DoD Appointing Authorities shall appoint the Committee's Chair from among the membership previously approved, in accordance with DoD policy and procedures, for a one-to-two year term of service, with annual renewal, which shall not exceed the member's approved Committee appointment.

Except for reimbursement of official Committee-related travel and per diem, Committee members serve without compensation.

13. Subcommittees: The DoD, when necessary and consistent with the Committee's mission and DoD policy and procedures, may establish subcommittees, task forces, or working groups to support the Committee. Establishment of subcommittees shall be based upon a written determination, to include terms of reference, by the DoD Appointing Authorities or the GC DoD, as the DoD Sponsor. All subcommittees operate under the provisions of the FACA, the Sunshine Act, governing Federal statutes and regulations, and DoD policy and procedures.

Subcommittees shall not work independently of the Committee and shall report all their advice and recommendations solely to the Committee for its thorough discussion and deliberation at a properly noticed and open meeting, subject to the Sunshine Act. Subcommittees have no authority to make decisions or recommendations, verbally or in writing, on behalf of the Committee. No subcommittee nor any of its members may provide updates or report, verbally or in writing, directly to the DoD or to any Federal officers or employees. If a majority of Committee members are appointed to a particular subcommittee, then that subcommittee may be required to operate pursuant to the same FACA notice and openness requirements governing the Committee's operations.

Individual appointments to serve on these subcommittees shall be approved by the DoD Appointing Authorities for a term of service of one-to-four years, subject to annual renewals, in accordance with DoD policy and procedures. No member shall serve more than two consecutive terms of service on the subcommittee without prior approval from the DoD Appointing Authorities. Subcommittee members who are not full-time or permanent part-time Federal civilian officers or employees, or members of the Armed Forces, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal civilian officers or employees, or

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members of the Armed Forces, shall be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as RGE members.

The DoD Appointing Authorities shall appoint the subcommittee leadership from among the membership previously appointed to serve on the subcommittee in accordance with DoD policy and procedures, for a one-to-two year term of service, with annual renewal, which shall not exceed the member's approved term of service.

Each subcommittee member is appointed to provide advice on behalf of his or her best judgment without representing any particular point of view and in a manner that is free from conflicts of interest.

With the exception of reimbursement for travel and per diem as it pertains to official travel related to the Committee or its subcommittees, subcommittee members shall serve without compensation.

Currently, the GC DoD has approved three subcommittees to the Committee. All work performed by these subcommittee will be sent to the Committee for its thorough deliberation and discussion at a properly noticed and open meeting, subject to the Sunshine act.

- 1) Case Review Subcommittee of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces—composed of not more than 15 members to assess and make recommendations related to 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 cases involving such allegations.
  - 2) Data Subcommittee of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces—composed of not more than 15 members to assess and make recommendations related to 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 collection and analysis of data from cases involving such allegations.
  - 3) Policy Subcommittee of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces—composed of not more than 15 members to assess and make recommendations related to 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 Department of Defense policies, Military Department policies, and Uniform Code of Military Justice provisions applicable to such allegations.
14. Recordkeeping: The records of the Committee and its subcommittees will be handled in accordance with Section 2, General Record Schedule 6.2, and governing DoD policies and

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procedures. These records will be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).

15. Filing Date: February 16, 2020

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

Agency: Department of Defense (DoD)

1. Authority: 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 (“the FY 2015 NDAA”) (Public Law 113-291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92), and in accordance with the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix) and 41 C.F.R. § 102-3.50(a), established the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (“the Committee”), a non-discretionary advisory committee.
2. Mission/Function: The Committee, pursuant to section 546(c)(1) of the FY 2015 NDAA, will advise the Secretary of Defense and the Deputy 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.
3. Pursuant to section 546(c)(2) and (d) of the FY 2015 NDAA, the Committee, not later than March 30 of each year, will submit to the Secretary of Defense through the General Counsel for the Department of Defense (GC DoD), and the Committees on Armed Services of the Senate and House of Representatives, a report describing the results of the activities of the Committee pursuant to section 546 of the FY 2015 NDAA, as amended, during the preceding year. The Committee will review, on an ongoing basis, cases involving allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces.  
 Pursuant to Section 547 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232), not later than September 30, 2019, and not less frequently than once every two years thereafter, the Secretary of Defense, acting through the Committee, shall submit to the congressional defense committees a report that includes, with respect to the period of two years preceding the date of the submittal of the report, the following:
  - (1) The number of instances in which a covered individual was accused of misconduct or crimes considered collateral to the investigation of a sexual assault committed against the individual.
  - (2) The number of instances in which adverse action was taken against a covered individual who was accused of collateral misconduct or crimes as described in paragraph (1).
  - (3) The percentage of investigations of sexual assaults that involved an accusation or adverse action against a covered individual as described in paragraphs (1) and (2).
 The term “covered individual” means an individual who is identified as a victim of a sexual assault in the case files of a military criminal investigative organization.

Pursuant to section 540I(c) of the of the National Defense Authorization Act for Fiscal Year 2020 (“the FY 2020 NDAA”) (Public Law 116-92), not later than December 20, 2020, the Committee shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives a report setting forth:

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

- (1) A review and assessment, by fiscal year, of the race and ethnicity of members of the Armed Forces accused of a penetrative sexual assault offense or contact sexual assault offense 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 each fiscal year assessed.
- (2) A review and assessment, by fiscal year, of 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 each fiscal year assessed.
- (3) A review and assessment, by fiscal year, of 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 each fiscal year assessed.

The report shall include such recommendations for legislative or administrative action as the Committee considers appropriate in light of such results.

Pursuant to section 540K(d) of the FY 2020 NDAA, the Committee shall be consulted by the Secretary of Defense on a report to be submitted by the Secretary to the Committees on Armed Services of the Senate and House of Representatives not later than June 17, 2020, making findings and recommendations on the feasibility and advisability of a policy for the Department of Defense that would permit a victim of a sexual assault, that is or may be investigated as a result of a communication described in 540k(b), which victim is a member of the Armed Forces or an adult dependent of a member of the Armed Forces, to have the reporting on the sexual assault be treated as a restricted report without regard to the party initiating or receiving such communication.

3. Points of View: Pursuant to section 546(b) of the FY 2015 NDAA, the Committee will be composed of no more than 20 members. Committee members selected will have experience with the investigation, prosecution, and defense of allegations of sexual assault offenses. Members of the Committee may include Federal and State prosecutors, judges, law professors, and private attorneys. Members of the Armed Forces serving on active duty may not serve as members of the Committee.

Committee members who are not full-time or permanent part-time Federal civilian officers or employees, or members of the Armed Forces, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109, to serve as special government employee (SGE) members. Committee members who are full-time or permanent part-time Federal civilian officers or employees, or members of the Armed Forces, shall be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as regular government employee (RGE) members.

All Committee members are appointed to provide advice on the basis of their best judgment without representing any particular points of view and in a manner that is free from conflict of interest.

Membership Balance Plan  
Defense Advisory Committee on Investigation, Prosecution, and Defense of  
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4. Other Balance Factors: N/A
5. Candidate Identification Process: The DoD, in selecting potential candidates for the Committee, reviews the educational and professional credentials of individuals with extensive professional experience in the points of view described above. Potential candidates may be gathered and identified by the General Council of the Department of Defense (GC DoD) and the Committee's staff.

Once potential candidates are identified, the Committee's Designated Federal Officer (DFO), working with the various stakeholders to include senior DoD officers and employees, reviews the credentials of each individual and narrows the list of potential candidates before forwarding the list to the GC DoD for review. During his or her review, the GC DoD strives to achieve a balance between the professional credentials of the individuals and the near-term subject matters that shall be reviewed by the Committee to achieve expertise in points of view regarding anticipated topics.

Once the GC DoD has narrowed the list of candidates and before formal nomination to the DoD Appointing Authorities, the list of potential candidates undergoes a review by the DoD Office of General Counsel and the Office of the Advisory Committee Management Officer (ACMO) to ensure compliance with federal and DoD governance requirements, including compliance with the Committee's statute, charter, and membership balance plan. Following this review, the GC DoD forwards to the list of nominees to the ACMO for approval by the DoD Appointing Authorities.

Following approval by the DoD Appointing Authorities, the candidates are required to complete the necessary appointment paperwork, to include meeting ethics requirements stipulated by the Office of Government Ethics for advisory committee members.

All Committee appointments are for a one-to-four year term of service, with annual renewals. No member, unless approved in a policy deviation by the DoD Appointing Authorities, may serve more than two consecutive terms of service on the Committee, including its subcommittees, or serve on more than two DoD Federal Advisory committees at one time.

Committee membership vacancies will be filled in the same manner as described above. Individuals being considered for appointment to the Committee, or any subcommittee, may not participate in any Committee or subcommittee work until his or her appointment has been approved by the DoD Appointment Authorities and the individual concerned is on-boarded in accordance with DoD policy and procedures.

6. Subcommittee Balance: The DoD, when necessary and consistent with the Committee's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Committee.

Currently, the DoD has approved three subcommittees to the Committee. Subcommittee members will have experience with the investigation, prosecution, and defense of allegations of sexual assault offenses.

Membership Balance Plan  
Defense Advisory Committee on Investigation, Prosecution, and Defense of  
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- 1) Case Review Subcommittee of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces—composed of not more than 15 members to assess and make recommendations related to 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 cases involving such allegations.
- 2) Data Subcommittee of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces—composed of not more than 15 members to assess and make recommendations related to 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 collection and analysis of data from cases involving such allegations.
- 3) Policy Subcommittee of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces—composed of not more than 15 members to assess and make recommendations related to 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 Department of Defense policies, Military Department policies, and Uniform Code of Military Justice provisions applicable to such allegations.

Individuals considered for appointment to any subcommittee of the Committee may come from members of the Committee or from new nominees, as recommended by the GC DoD and based upon the subject matters under consideration. Pursuant to DoD policy and procedures, the GC DoD shall follow the same procedures used for selecting and nominating individuals for appointment consideration by the DoD Appointing Authorities. Individuals being considered for appointment to any subcommittee of the Committee cannot participate in any Committee or subcommittee work until his or her appointment has been approved by the DoD Appointment Authorities, and the individual concerned is on-boarded according to DoD policy and procedures.

Subcommittee members shall be appointed for a term of service of one-to-four years, subject to annual renewals; however, no member shall serve more than two consecutive terms of service on the subcommittee, without prior approval by the Appointing Authorities. Subcommittee members, if not full-time or permanent part-time Federal civilian officers or employees, or members of the Armed Forces, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal civilian officers or employees, or members of the Armed Forces, shall be appointed pursuant to 41 C.F.R. § 10-3.130(a) to serve as RGE members.

7. Other: As nominees are considered for appointment to the Committee, the DoD adheres to the Office of Management and Budget's Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions (79 FR 47482; August 13, 2014) and the rules and regulations issued by the Office of Government Ethics.
8. Date Prepared: February 16, 2020

## APPENDIX C. COMMITTEE MEMBERS

### *Ms. Martha S. Bashford, Chair*



Martha Bashford was for 40 years the chief of the New York County District Attorney's Office Sex Crimes Unit, which was the first of its kind in the country. Previously she was co-chief of the Forensic Sciences/Cold Case Unit, where she examined unsolved homicide cases that might now be solvable through DNA analysis. Ms. Bashford was also co-chief of the DNA Cold Case Project, which used DNA technology to investigate and prosecute unsolved sexual assault cases. She indicted assailants identified through the FBI's Combined DNA Index System (CODIS) and obtained John Doe DNA profile indictments to stop the statute of limitations where no suspect had yet been identified. She is a Fellow in the American Academy of Forensic Sciences. Ms. Bashford graduated from Barnard College in 1976 (*summa cum laude*) and received her J.D. degree from Yale Law School in 1979. She is a Fellow in both the American College of Trial Lawyers and the American Academy of Forensic Sciences.

### *Major General Marcia M. Anderson, U.S. Army, Retired*



Marcia Anderson was the Clerk of Court for the Bankruptcy Court–Western District of Wisconsin from 1998 to 2019, where she was responsible for the management of the budget and administration of bankruptcy cases for 44 counties in western Wisconsin. Major General Anderson retired in 2016 from a distinguished career in the U.S. Army Reserve after 36 years of service, which included serving as the Deputy Commanding General of the Army's Human Resources Command at Fort Knox, Kentucky. In 2011, she became the first African American woman in the history of the U.S. Army to achieve the rank of major general. Her service culminated with an assignment at the Pentagon as the Deputy Chief, Army Reserve (DCAR). As the DCAR, she represented the Chief, Army Reserve, and had oversight for the planning, programming, and resource management for the execution of an Army Reserve budget of \$8 billion that supported more than 225,000 Army Reserve soldiers, civilians, and their families. She is a graduate of the Rutgers University School of Law, the U.S. Army War College, and Creighton University.

### *The Honorable Leo I. Brisbois*



Leo I. Brisbois has been a U.S. Magistrate Judge for the District of Minnesota chambered in Duluth, Minnesota, since 2010. Prior to his appointment to the bench, Judge Brisbois served as an Assistant Staff Judge Advocate, U.S. Army, from 1987 through 1998, both on active duty and then in the Reserves; his active duty service included work as a trial counsel and as an administrative law officer, both while serving in Germany. From 1991 to 2010, Judge Brisbois was in private practice with the Minneapolis, Minnesota, firm of Stich, Angell, Kreidler, Dodge & Unke, where his practice included all aspects of litigation and appeals involving the defense of civil claims in state and federal courts. Judge Brisbois has also previously served on the Civil Rules and Racial Fairness in the Courts advisory committees established by the Minnesota State Supreme Court, and he has served on the Minnesota Commission on Judicial Selection. From 2009 to 2010, Judge Brisbois was the first person of known Native American heritage to serve as President of the more than 16,000-member Minnesota State Bar Association.

***Ms. Kathleen B. Cannon***



Kathleen Cannon is a criminal defense attorney in Vista, California, specializing in serious felony and high-profile cases. Prior to entering private practice in 2011, Ms. Cannon was a public defender for over 30 years, in Los Angeles and San Diego Counties. Over the course of her career, Ms. Cannon supervised branch operations and training programs within the offices and handled thousands of criminal cases. She has completed hundreds of jury trials, including those involving violent sexual assault and capital murder with special circumstances. Since 1994, Ms. Cannon has taught trial advocacy as an adjunct professor of law at California Western School of Law in San Diego, and has been on the faculty of the National Institute of Trial Advocacy as a team leader and teacher. She is past-President and current Training Coordinator for the California Public Defenders' Association, providing educational seminars for criminal defense attorneys throughout the state of California. Ms. Cannon has lectured on battered women syndrome evidence at the Marine Corps World Wide Training Conference at Marine Corps Recruit Depot (MCRD), San Diego, and was a small-group facilitator for the Naval Justice School course "Defending Sexual Assault Cases" in San Diego. Ms. Cannon has received numerous awards, including Top Ten Criminal Defense Attorney in San Diego, Lawyer of the Year from the North County Bar Association, and Attorney of the Year from the San Diego County Public Defender's Office.

***Ms. Margaret A. Garvin***



Margaret "Meg" Garvin, M.A., J.D., is the executive director of the National Crime Victim Law Institute (NCVLI), where she has worked since 2003. She is also a clinical professor of law at Lewis & Clark Law School, where NCVLI is located. In 2014, Ms. Garvin was appointed to the Victims Advisory Group of the United States Sentencing Commission, and during 2013–14, she served on the Victim Services Subcommittee of the Response Systems to Adult Sexual Assault Crimes Panel of the U.S. Department of Defense. She has served as co-chair of the American Bar Association's Criminal Justice Section Victims Committee, as co-chair of the Oregon Attorney General's Crime Victims' Rights Task Force, and as a member of the Legislative & Public Policy Committee of the Oregon Attorney General's Sexual Assault Task Force. Ms. Garvin received the John W. Gillis Leadership Award from National Parents of Murdered Children in August 2015. Prior to joining NCVLI, Ms. Garvin practiced law in Minneapolis, Minnesota, and clerked for the Eighth Circuit Court of Appeals. She received her bachelor of arts degree from the University of Puget Sound, her master of arts degree in communication studies from the University of Iowa, and her J.D. from the University of Minnesota.

***The Honorable Paul W. Grimm***



Paul W. Grimm serves as a U.S. District Judge for the District of Maryland. Previously, he served as a U.S. Magistrate Judge and as Chief Magistrate Judge for the District of Maryland. In 2009, the Chief Justice of the United States appointed Judge Grimm to serve as a member of the Civil Rules Advisory Committee, where he served for six years and chaired the Discovery Subcommittee. Before his appointment to the court, Judge Grimm was in private practice for 13 years, handling commercial litigation. Prior to that, he served as an Assistant Attorney General for Maryland, an Assistant States Attorney for Baltimore County, Maryland, and an active duty and Reserve Army Judge Advocate General's Corps officer, retiring as a lieutenant colonel in 2001. Judge Grimm has served as an adjunct professor of law at the University of Maryland School of Law and at the University of Baltimore School of Law, and has published many articles on evidence and civil procedure.

***Mr. A. J. Kramer***

A. J. Kramer has been the Federal Public Defender for the District of Columbia since 1990. He was the Chief Assistant Federal Public Defender in Sacramento, California, from 1987 to 1990, and an Assistant Federal Public Defender in San Francisco, California, from 1980 to 1987. He was a law clerk for the Honorable Proctor Hug, Jr., U.S. Court of Appeals for the Ninth Circuit, Reno, Nevada, from 1979 to 1980. He received a B.A. from Stanford University in 1975, and a J.D. from Boalt Hall School of Law at the University of California at Berkeley in 1979. Mr. Kramer taught legal research and writing at Hastings Law School from 1983 to 1988. He is a permanent faculty member of the

National Criminal Defense College in Macon, Georgia. He is a Fellow of the American College of Trial Lawyers and a member of the ABA Criminal Justice System Council. He was a member of the National Academy of Sciences Committee on Scientific Approaches to Understanding and Maximizing the Validity and Reliability of Eyewitness Identification in Law Enforcement. He was a member of the Courts of the Judicial Conference of the United States' Advisory Committee on Evidence Rules from 2013 to 2019. In July 2019, he received the American Inns of Court Award for Professionalism for the D.C. Circuit. In December 2013, he received the Annice M. Wagner Pioneer Award from the Bar Association of the District of Columbia.

***Ms. Jennifer Gentile Long***

Jennifer Gentile Long (M.G.A., J.D.) is CEO and co-founder of AEquitas and an adjunct professor at Georgetown University Law School. She served as an Assistant District Attorney in Philadelphia specializing in sexual violence, child abuse, and intimate partner violence. She was a senior attorney and then Director of the National Center for the Prosecution of Violence Against Women at the American Prosecutors Research Institute. She publishes articles, delivers trainings, and provides expert case consultation on issues relevant to gender-based violence and human trafficking nationally and internationally. Ms. Long serves as an Advisory Committee member of the American Law Institute's

Model Penal Code Revision to Sexual Assault and Related Laws and as an Editorial Board member of the Civic Research Institute for the Sexual Assault and Domestic Violence Reports. She graduated from Lehigh University and the University of Pennsylvania Law School and Fels School of Government.

***Mr. James P. Markey***

Jim Markey has over 30 years of law enforcement experience with the Phoenix Police Department. Serving in a variety of positions, Mr. Markey was recognized with more than 30 commendations and awards. For over 14 years he directly supervised the sexual assault unit, which is part of a multidisciplinary sexual assault response team co-located in the City of Phoenix Family Advocacy Center. Mr. Markey oversaw the investigation of more than 7,000 sexual assaults, including more than 150 serial rape cases. In 2000, he was able to secure Violence Against Women grant funding to design, develop, and supervise a first-of-its-kind sexual assault cold case team with the City of

Phoenix. This team has been successful in reviewing nearly 4,000 unsolved sexual assault cases dating back over 25 years. For the past 15 years Mr. Markey has been a certified and nationally recognized trainer, delivering in-person and online webinar training for numerous criminal justice organizations on sexual assault investigations and response. Currently, he is employed with the Research Triangle Institute (RTI) located in Durham North as a Senior Law Enforcement Specialist. His work in the Applied Justice Research Unit includes assistance for the DOJ Bureau of Justice Assistance Sexual Assault Kit Initiative (SAKI), providing technical assistance and training to 54 SAKI grantees across the United States. He also developed and directs the SAKI – Sexual Assault Unit Assessment (SAUA) Team; this team has conducted independent

and comprehensive reviews for four major police agencies, assessing a range of areas in their response to sexual assault. In addition to the DAC-IPAD, Mr. Markey currently serves as a member of the National Institute of Justice (NIJ) Sexual Assault Forensic Evidence Reporting (SAFER) Working Group and Editorial Team, NIJ Cold Case Working Group, Arizona Commission on Victims in the Courts (COVIC), Arizona Forensic Science Advisory Committee, and Massage Envy Franchising's Safety Advisory Council. Jim continues to work as a trainer and facilitator in the area of sexual violence for the International Association of Chiefs of Police (IACP) and the International Association of College Law Enforcement Administrators (IACLEA).

### ***Dr. Jenifer Markowitz***



Jenifer Markowitz is a forensic nursing consultant who specializes in issues related to sexual assault, domestic violence, and strangulation, including medical-forensic examinations and professional education and curriculum development. In addition to teaching at workshops and conferences around the world, she provides expert testimony, case consultation, and technical assistance and develops training materials, resources, and publications. A forensic nurse examiner since 1995, Dr. Markowitz regularly serves as faculty and as an expert consultant for the Judge Advocate General's (JAG) Corps for the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard. Past national activities include working with the Army Surgeon General's office to develop a curriculum for sexual assault medical-forensic examiners working in military treatment facilities (subsequently adopted by the Navy and Air Force); with the U.S. Department of Justice Office on Violence Against Women (OVW) to develop a national protocol and training standards for sexual assault medical-forensic examinations; with the Peace Corps to assess the agency's multidisciplinary response to sexual assault; with the U.S. Department of Defense to revise the military's sexual assault evidence collection kit and corresponding documentation forms; and as an Advisory Board member for the National Sexual Violence Resource Center. In 2004, Dr. Markowitz was named a Distinguished Fellow of the International Association of Forensic Nurses (IAFN); in 2012, she served as IAFN's President.

### ***Chief Master Sergeant of the Air Force Rodney J. McKinley, U.S. Air Force, Retired***



Chief Master Sergeant of the Air Force Rodney J. McKinley represented the highest enlisted level of leadership and, as such, provided direction for the enlisted corps and represented their interests, as appropriate, to the American public and to those in all levels of government. He served as the personal advisor to the Chief of Staff and the Secretary of the Air Force on all issues regarding the welfare, readiness, morale, and proper utilization and progress of the enlisted force. Chief McKinley is the 15th chief master sergeant appointed to the highest noncommissioned officer position. His background includes various duties in medical and aircraft maintenance, and he served 10 years as a first sergeant. He also served as a command chief master sergeant at wing, numbered Air Force, and major command levels. He is currently the co-chair of the Air Force Retiree Council and frequently is a guest speaker at bases across the Air Force. He is an honors graduate of St. Leo College, Florida, and received his master's degree in human relations from the University of Oklahoma.

***Brigadier General James A. Schwenk, U.S. Marine Corps, Retired***



BGen Schwenk was commissioned as an infantry officer in the Marine Corps in 1970. After serving as a platoon commander and company commander, he attended law school at the Washington College of Law, American University, and became a judge advocate. As a judge advocate he served in the Office of the Secretary of Defense, the Office of the Secretary of the Navy, and Headquarters, Marine Corps; he served as Staff Judge Advocate for Marine Forces Atlantic, II Marine Expeditionary Force, Marine Corps Air Bases West, and several other commands; and he participated in several hundred courts-martial and administrative discharge boards. He represented the Department of

Defense on the television show *American Justice*, and represented the Marine Corps in a Mike Wallace segment on *60 Minutes*. He retired from the Marine Corps in 2000.

Upon retirement from the Marine Corps, BGen Schwenk joined the Office of the General Counsel of the Department of Defense as an associate deputy general counsel. He was a legal advisor in the Pentagon on 9/11, and he was the primary drafter from the Department of Defense of many of the emergency legal authorities used in Afghanistan, Iraq, the United States, and elsewhere since that date. He was the principal legal advisor for the repeal of “don’t ask, don’t tell,” for the provision of benefits to same-sex spouses of military personnel, in the review of the murders at Fort Hood in 2009, and on numerous DoD working groups in the area of military personnel policy. He worked extensively with the White House and Congress, and he retired in 2014 after 49 years of federal service.

***Dr. Cassia C. Spohn***



Cassia Spohn is a Regents Professor and Director of the School of Criminology and Criminal Justice at Arizona State University. She received a Ph.D. in political science from the University of Nebraska–Lincoln. Prior to joining the ASU faculty in 2006, she was a faculty member in the School of Criminology and Criminal Justice at the University of Nebraska at Omaha for 28 years. She is the author or co-author of eight books, including *Policing and Prosecuting Sexual Assault: Inside the Criminal Justice System* and *How Do Judges Decide? The Search for Fairness and Equity in Sentencing*.

Her research interests include prosecutorial and judicial decision making; the intersections of race, ethnicity, crime, and justice; and sexual assault case processing decisions. In 2013, she received ASU’s Award for Leading Edge Research in the Social Sciences and was selected as a Fellow of the American Society of Criminology.

***Ms. Meghan A. Tokash***



Meghan Tokash is an Assistant United States Attorney (AUSA) at the U.S. Department of Justice serving the Western District of New York in the violent crimes unit. For eight years she served as a judge advocate in the U.S. Army Judge Advocate General's Corps, where she prosecuted a wide range of cases relating to homicide, rape, sexual assault, domestic violence, and child abuse. AUSA Tokash was selected by the Judge Advocate General of the U.S. Army to serve as one of 15 Special Victim Prosecutors; she worked in the Army's first Special Victim Unit at the Fort Hood Criminal Investigation Division Office and U.S. Army Europe/Central Command. Previously, AUSA Tokash served as an Army trial defense counsel and as a civilian victim-witness liaison officer for the Department of the Army. AUSA Tokash clerked for the United States Court of Appeals for the Armed Forces. She is a graduate of the Catholic University Columbus School of Law. She earned her master of laws degree in trial advocacy from the Beasley School of Law at Temple University, where at graduation she received the program's Faculty Award.

***The Honorable Reggie B. Walton***



Judge Walton was born in Donora, Pennsylvania. In 1971 he graduated from West Virginia State University, where he was a three-year letterman on the football team and played on the 1968 nationally ranked conference championship team. Judge Walton received his law degree from the American University, Washington College of Law, in 1974.

Judge Walton assumed his current position as a U.S. District Judge for the District of Columbia in 2001. He was also appointed by President George W. Bush in 2004 as the Chair of the National Prison Rape Elimination Commission, a commission created by Congress to identify methods to reduce prison rape. The U.S. Attorney General substantially adopted the Commission's recommendations for implementation in federal prisons; other federal, state, and local officials throughout the country are considering adopting the recommendations. U.S. Supreme Court Chief Justice William Rehnquist appointed Judge Walton in 2005 to the federal judiciary's Criminal Law Committee, on which he served until 2011. In 2007 Chief Justice John Roberts appointed Judge Walton to a seven-year term as a Judge of the U.S. Foreign Intelligence Surveillance Court, and he was subsequently appointed Presiding Judge in 2013. He completed his term on that court on May 18, 2014. Upon completion of his appointment to the Foreign Intelligence Surveillance Court, Judge Walton was appointed by Chief Justice Roberts to serve as a member of the Judicial Conference Committee on Court Administration and Case Management.

Judge Walton traveled to Russia in 1996 to instruct Russian judges on criminal law in a program funded by the U.S. Department of Justice and the American Bar Association's Central and East European Law Initiative Reform Project. He is also an instructor in Harvard Law School's Advocacy Workshop and a faculty member at the National Judicial College in Reno, Nevada.

## APPENDIX D. COMMITTEE PROFESSIONAL STAFF

### *Committee Staff*

Colonel Laura J. Calese, USA, JAG Corps,  
Staff Director

Ms. Julie K. Carson, Deputy Staff Director

Mr. Dale L. Trexler, Chief of Staff

Ms. Theresa Gallagher, Attorney-Advisor

Ms. Nalini Gupta, Attorney-Advisor

Ms. Amanda Hagy, Senior Paralegal

Mr. R. 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

Ms. Eleanor Magers Vuono, Attorney-Advisor

Mr. Pete Yob, Attorney-Advisor

### *Committee Consultants*

Dr. Alice Falk, Editor

Ms. Laurel Prucha Moran, Graphic Designer

Dr. William “Bill” Wells, Criminologist

### *Designated Federal Officers*

Mr. Dwight H. Sullivan  
Senior Associate Deputy General Counsel  
for Military Justice  
U.S. Department of Defense  
Designated Federal Officer

Mr. David J. Gruber  
Associate Deputy General Counsel for  
Military Personnel, Readiness, and Voting  
U.S. Department of Defense  
Alternate Designated Federal Officer



## APPENDIX E. COMMITTEE RECOMMENDATIONS TO DATE

**DAC-IPAD Recommendation 1** – (March 2018) The Secretary of Defense, the Secretary of Homeland Security, and the Services take action to dispel the misperception of widespread abuse of the expedited transfer policy, including addressing the issue in the training of all military personnel.

**DAC-IPAD Recommendation 2** – (March 2018) The Secretary of Defense and the Secretary of Homeland Security identify and track appropriate metrics to monitor the expedited transfer policy and any abuses of it.

**DAC-IPAD Recommendation 3** – (March 2018) The DoD-level and Coast Guard equivalent Family Advocacy Program (FAP) policy include provisions for expedited transfer of active duty Service members who are victims of sexual assault similar to the expedited transfer provisions in the DoD Sexual Assault Prevention and Response (SAPR) policy and consistent with 10 U.S.C. § 673.

**DAC-IPAD Recommendation 4** – (March 2018) The DoD-level military personnel assignments policy (DoD Instruction 1315.18) and Coast Guard equivalent include a requirement that assignments personnel or commanders coordinate with and keep SAPR and FAP personnel informed throughout the expedited transfer, safety transfer, and humanitarian/compassionate transfer assignment process when the transfer involves an allegation of sexual assault.

**DAC-IPAD Recommendation 5** – (March 2019) In developing a uniform command action form in accordance with section 535 of the FY19 National Defense Authorization Act (NDAA), the Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) should establish a standard set of options for documenting command disposition decisions and require the rationale for those decisions, including declinations to take action.

The Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) should ensure that the standard set of options for documenting command disposition decisions is based on recognized legal and investigatory terminology and standards that are uniformly defined across the Services and accurately reflect command action source documents.

**DAC-IPAD Recommendation 6** – (March 2019) The Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) should require that judge advocates or civilian attorneys employed by the Services in a similar capacity provide advice to commanders in completing command disposition/action reports in order to make certain that the documentation of that decision is accurate and complete.

**DAC-IPAD Recommendation 7** – (March 2019) The Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) should provide uniform guidance to the Services regarding the submission of final disposition information to federal databases for sexual assault cases in which, after fingerprints have been submitted, the command took no action, or took action only for an offense other than sexual assault.

**DAC-IPAD Recommendation 8** – (March 2019) The uniform standards and criteria developed to implement Article 140a, Uniform Code of Military Justice (UCMJ), should reflect the following best practices for case data collection:

- a. Collect all case data only from standardized source documents (legal and investigative documents) that are produced in the normal course of the military justice process, such as the initial report of investigation, the commander's report of disciplinary or administrative action, the charge sheet, the Article 32 report, and the Report of Result of Trial.

- b. Centralize document collection by mandating that all jurisdictions provide the same procedural documents to one military justice data office/organization within DoD.
- c. Develop one electronic database for the storage and analysis of standardized source documents, and locate that database in the centralized military justice data office/organization within DoD.
- d. Collect and analyze data quarterly to ensure that both historical data and analyses are as up-to-date as possible.
- e. Have data entered from source documents into the electronic database by one independent team of trained professionals whose full-time occupation is document analysis and data entry. This team should have expertise in the military justice process and in social science research methods, and should ensure that the data are audited at regular intervals.

**DAC-IPAD Recommendation 9** – (March 2019) The source documents referenced in DAC-IPAD Recommendation 8 should contain uniformly defined content covering all data elements that DoD decides to collect to meet the requirements of Articles 140a and 146, UCMJ.

**DAC-IPAD Recommendation 10** – (March 2019) The data produced pursuant to Article 140a, UCMJ, should serve as the primary source for the Military Justice Review Panel's periodic assessments of the military justice system, which are required by Article 146, UCMJ, and as the sole source of military justice data for all other organizations in DoD and for external entities.

**DAC-IPAD Recommendation 11** – (March 2019) Article 140a, UCMJ, should be implemented so as to require collection of the following information with respect to allegations of both adult-victim and child-victim sexual offenses, within the meaning of Articles 120, 120b, and 125, UCMJ (10 U.S.C. §§ 920, 920b, and 925 (2016)):

- a. A summary of the initial complaint giving rise to a criminal investigation by a military criminal investigative organization (MCIO) concerning a military member who is subject to the UCMJ, and how the complaint became known to law enforcement;
- b. Whether an unrestricted report of sexual assault originated as a restricted report;
- c. Demographic data pertaining to each victim and accused, including race and sex;
- d. The nature of any relationship between the accused and the victim(s);
- e. The initial disposition decision under Rule for Court-Martial 306, including the decision to take no action, and the outcome of any administrative action, any disciplinary action, or any case in which one or more charges of sexual assault were preferred, through the completion of court-martial and appellate review;
- f. Whether a victim requested an expedited transfer or a transfer of the accused, and the result of that request;
- g. Whether a victim declined to participate at any point in the military justice process;
- h. Whether a defense counsel requested expert assistance on behalf of a military accused, whether those requests were approved by a convening authority or military judge, and whether the government availed itself of expert assistance; and
- i. The duration of each completed military criminal investigation, and any additional time taken to complete administrative or disciplinary action against the accused.

**DAC-IPAD Recommendation 12** – (March 2019) The Services may retain their respective electronic case management systems for purposes of managing their military justice organizations, provided that

- a. The Services use the same uniform standards and definitions to refer to common procedures and substantive offenses in the Manual for Courts-Martial, as required by Article 140a; and
- b. The Services develop a plan to transition toward operating one uniform case management system across all of the Services, similar to the federal judiciary's Case Management/ Electronic Court Filing (CM/ECF) system.

**DAC-IPAD Recommendation 13** – (March 2019) The Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) expand the expedited transfer policy to include victims who file restricted reports of sexual assault. The victim's report would remain restricted and there would be no resulting investigation. The DAC-IPAD further recommends the following requirements:

- a. The decision authority in such cases should be an O-6 or flag officer at the Service headquarters organization in charge of military assignments, rather than the victim's commander.
- b. The victim's commander and senior enlisted leader, at both the gaining and losing installations, should be informed of the sexual assault and the fact that the victim has requested an expedited transfer—without being given the subject's identity or other facts of the case—thereby enabling them to appropriately advise the victim on career impacts of an expedited transfer request and ensure that the victim is receiving appropriate medical or mental health care.
- c. A sexual assault response coordinator, victim advocate, or special victims' counsel (SVC) / victims' legal counsel (VLC) must advise the victim of the potential consequences of filing a restricted report and requesting an expedited transfer, such as the subject not being held accountable for his or her actions and the absence of evidence should the victim later decide to unrestrict his or her report.

**DAC-IPAD Recommendation 14** – (March 2019) The Secretary of Defense (in consultation with the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) establish a working group to review whether victims should have the option to request that further disclosure or investigation of a sexual assault report be restricted in situations in which the member has lost the ability to file a restricted report, whether because a third party has reported the sexual assault or because the member has disclosed the assault to a member of the chain of command or to military law enforcement. The working group's goal should be to find a feasible solution that would, in appropriate circumstances, allow the victim to request that the investigation be terminated. The working group should consider under what circumstances, such as in the interests of justice and safety, a case may merit further investigation regardless of the victim's wishes; it should also consider whether existing safeguards are sufficient to ensure that victims are not improperly pressured by the subject, or by others, to request that the investigation be terminated. This working group should consider developing such a policy with the following requirements:

- a. The victim be required to meet with an SVC or VLC before signing a statement requesting that the investigation be discontinued, so that the SVC or VLC can advise the victim of the potential consequences of closing the investigation.
- b. The investigative agent be required to obtain supervisory or MCIO headquarters-level approval to close a case in these circumstances.
- c. The MCIOs be aware of and take steps to mitigate a potential perception by third-party reporters that allegations are being ignored when they see that no investigation is taking place; such steps could include notifying the third-party reporter of the MCIO's decision to honor the victim's request.
- d. Cases in which the subject is in a position of authority over the victim be excluded from such a policy.
- e. If the MCIO terminates the investigation at the request of the victim, no adverse administrative or disciplinary action may be taken against the subject based solely on the reporting witness's allegation of sexual assault.

**DAC-IPAD Recommendation 15** – (March 2019) The Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) revise the DoD expedited transfer policy (and the policy governing the Coast Guard with respect to expedited transfers) to include the following points:

- a. The primary goal of the DoD expedited transfer policy is to act in the best interests of the victim. Commanders should focus on that goal when they make decisions regarding such requests.
- b. The single, overriding purpose of the expedited transfer policy is to assist in the victim's mental, physical, and emotional recovery from the trauma of sexual assault. This purpose statement should be followed by examples of reasons why a victim might request an expedited transfer and how such a transfer would assist in a victim's recovery (e.g., proximity to the subject or to the site of the assault at the current location, ostracism or retaliation at the current location, proximity to a support network of family or friends at the requested location, and the victim's desire for a fresh start following the assault).
- c. The requirement that a commander determine that a report be credible is not aligned with the core purpose of the expedited transfer policy. It should be eliminated, and instead an addition should be made to the criteria that commanders must consider in making a decision on an expedited transfer request: "any evidence that the victim's report is not credible."

**DAC-IPAD Recommendation 16** – (March 2019) Congress increase the amount of time allotted to a commander to process an expedited transfer request from 72 hours to no more than five workdays.

**DAC-IPAD Recommendation 17** – (March 2019) The Services track and report the following data in order to best evaluate the expedited transfer program:

- a. Data on the number of expedited transfer requests by victims; the grade and job title of the requester; the sex and race of the requester; the origin installation; whether the requester was represented by an SVC/VLC; the requested transfer locations; the actual transfer locations; whether the transfer was permanent or temporary; the grade and title of the decision maker and appeal authority, if applicable; the dates of the sexual assault report, transfer request, approval or disapproval decision and appeal decision, and transfer; and the disposition of the sexual assault case, if final.
- b. Data on the number of accused transferred; the grade and job title of the accused; the sex and race of the accused; the origin installation; the transfer installation; the grade and title of the decision maker; the dates of the sexual assault report and transfer; whether the transfer was permanent or temporary; and the disposition of the sexual assault case, if final.
- c. Data on victim participation in investigation/prosecution before and after an expedited transfer.
- d. Data on the marital status (and/or number of dependents) of victims of sexual assault who request expedited transfers and accused Service members who are transferred under this program.
- e. Data on the type of sexual assault offense (penetrative or contact) reported by victims requesting expedited transfers.
- f. Data on Service retention rates for sexual assault victims who receive expedited transfers compared with sexual assault victims who do not receive expedited transfers and with other Service members of similar rank and years of service.
- g. Data on the career progression for sexual assault victims who receive expedited transfers compared with sexual assault victims who do not receive expedited transfers and with other Service members of similar rank and years of service.

- h. Data on victim satisfaction with the expedited transfer program.
- i. Data on the expedited transfer request rate of Service members who make unrestricted reports of sexual assault.

**DAC-IPAD Recommendation 18** – (March 2019) The Secretaries of the Military Departments (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) incorporate into policy, for those sexual assault victims who request it, an option to attend a transitional care program at a military medical facility, Wounded Warrior center, or other facility in order to allow those victims sufficient time and resources to heal from the trauma of sexual assault.

**DAC-IPAD Recommendation 19** – (March 2020) The Department of Defense should publish a memorandum outlining sufficiently specific data collection requirements to ensure that the Military Services use uniform methods, definitions, and timelines when reporting data on collateral misconduct (or, where appropriate, the Department should submit a legislative proposal to Congress to amend section 547 [of the FY19 NDAA] by clarifying certain methods, definitions, and timelines). The methodology and definitions should incorporate the following principles:

**a. Definition of “sexual offense”:**

- The definition of “sexual offense” for purposes of reporting collateral misconduct should include
  - Both penetrative and non-penetrative violations of Article 120, UCMJ (either the current or a prior version, whichever is applicable at the time of the offense);
  - Violations of Article 125, UCMJ, for allegations of sodomy occurring prior to the 2019 version of the UCMJ; and
  - Attempts, conspiracies, and solicitations of all of the above.
- The definition of sexual offense should not include violations of Article 120b, UCMJ (Rape and sexual assault of a child); Article 120c, UCMJ (Other sexual misconduct); Article 130, UCMJ (Stalking); or previous versions of those statutory provisions.

**b. Definition of “collateral misconduct”:**

- Current DoD policy defines “collateral misconduct” as “[v]ictim misconduct that might be in time, place, or circumstance associated with the victim’s sexual offense incident.”<sup>1</sup>
- However, a more specific definition of collateral misconduct is necessary for purposes of the section 547 reporting requirement. That recommended definition should read as follows: “Any misconduct by the victim that is potentially punishable under the UCMJ, committed close in time to or during the sexual offense, and directly related to the incident that formed the basis of the sexual offense allegation. The collateral misconduct must have been discovered as a direct result of the report of the sexual offense and/or the ensuing investigation into the sexual offense.”
- Collateral misconduct includes (but is not limited to) the following situations:
  - The victim was in an unprofessional or adulterous relationship with the accused at the time of the assault.<sup>2</sup>

1 Dep’t of Def. Instr. 6495.02, SEXUAL ASSAULT PREVENTION AND RESPONSE (SAPR) PROGRAM PROCEDURES, Glossary (March 28, 2013, Incorporating Change 3, May 24, 2017), 117.

2 For purposes of this report, an “unprofessional relationship” is a relationship between the victim and accused that violated law, regulation, or policy in place at the time of the assault.

- The victim was drinking underage or using illicit substances at the time of the assault.
  - The victim was out past curfew, was at an off-limits establishment, or was violating barracks/dormitory/berthing policy at the time of the assault.
  - To ensure consistency across the Military Services, collateral misconduct, for purposes of this report, should not include the following situations (the list is not exhaustive):
    - The victim is under investigation or receiving disciplinary action for misconduct and subsequently makes a report of a sexual offense.
    - The victim used illicit substances at some time after the assault, even if the use may be attributed to coping with trauma.
    - The victim engaged in misconduct after reporting the sexual offense.
    - The victim had previously engaged in an unprofessional or adulterous relationship with the subject, but had terminated the relationship prior to the assault.
    - The victim engaged in misconduct that is not close in time to the sexual offense, even if it was reasonably foreseeable that such misconduct would be discovered during the course of the investigation (such as the victim engaging in an adulterous relationship with an individual other than the subject).
    - The victim is suspected of making a false allegation of a sexual offense.
    - The victim engaged in misconduct during the reporting or investigation of the sexual offense (such as making false official statements during the course of the investigation).
- c. Methodology for identifying sexual offense cases and victims:**
- To identify sexual offense cases and victims, all closed cases from the relevant time frame that list at least one of the above included sexual offenses as a crime that was investigated should be collected from the MCIOs.
  - A case is labeled “closed” after a completed MCIO investigation has been submitted to a commander to make an initial disposition decision, any action taken by the commander has been completed, and documentation of the outcome has been provided to the MCIO.<sup>3</sup>
  - Each Military Service should identify all of its Service member victims from all closed cases from the relevant time frame, even if the case was investigated by another Military Service’s MCIO.
- d. Time frame for collection of data:**
- The Military Services should report collateral misconduct data for the two most recent fiscal years preceding the report due date for which data are available. The data should be provided separately for each fiscal year and should include only closed cases as defined above. For example, the Department’s report due September 30, 2021, should include data for closed cases from fiscal years 2019 and 2020.
- e. Definition of “covered individual”:**
- Section 547 of the FY19 NDAA defines “covered individual” as “an individual who is identified as a victim of a sexual offense in the case files of a military criminal investigative organization.” This definition should be

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3 This definition of “closed case” mirrors the definition used by the DAC-IPAD’s Case Review Working Group.

clarified as follows: “an individual identified in the case files of an MCIO as a victim of a sexual offense while in title 10 status.”

- For the purposes of this study, victims are those identified in cases closed during the applicable time frame.

**f. Replacement of the term “accused”:**

- Section 547 of the FY19 NDAA uses the phrase “accused of collateral misconduct.” To more accurately capture the frequency with which collateral misconduct is occurring, the term “accused of” should be replaced with the term “suspected of,” defined as follows: instances in which the MCIO’s investigation reveals facts and circumstances that would lead a reasonable person to believe that the victim committed an offense under the UCMJ.<sup>4</sup>
- Examples of a victim suspected of collateral misconduct include (but are not limited to) the following situations:
  - The victim disclosed engaging in conduct that could be a violation of the UCMJ (and was collateral to the offense).
  - Another witness in the investigation stated that the victim engaged in conduct that could be a violation of the UCMJ (and was collateral to the offense).
  - The subject of the investigation stated that the victim engaged in conduct that could be a violation of the UCMJ (and was collateral to the offense).
  - In the course of the sexual offense investigation, an analysis of the victim’s phone, urine, or blood reveals evidence that the victim engaged in conduct that could be a violation of the UCMJ (and was collateral to the offense).
- This definition of “suspected of” does not require referral of charges, a formal investigation, or disciplinary action against the victim for the collateral misconduct. However, if any of those actions has occurred regarding collateral misconduct, or if there is evidence of collateral misconduct from other sources available, such victims should also be categorized as suspected of collateral misconduct even if the MCIO case file does not contain the evidence of such misconduct.
  - For example, if in pretrial interviews the victim disclosed collateral misconduct, such a victim would be counted as suspected of collateral misconduct.

**g. Definition of “adverse action”:**

- The term “adverse action” applies to an officially documented command action that has been initiated against the victim in response to the collateral misconduct.
- Adverse actions required to be documented in collateral misconduct reports are limited to the following:
  - Letter of reprimand (or Military Service equivalent) or written record of individual counseling in official personnel file;
  - Imposition of nonjudicial punishment;

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<sup>4</sup> *Cf. United States v. Cohen*, 63 M.J. 45, 50 (C.A.A.F. 2006) (stating that determining whether a person is a “suspect” entitled to warnings under Article 31(b) prior to interrogation “is an objective question that is answered by considering all the facts and circumstances at the time of the interview to determine whether the military questioner believed or reasonably should have believed that the servicemember committed an offense”) (internal citations omitted).

- Preferral of charges; or
- Initiation of an involuntary administrative separation proceeding.
- The Committee recommends limiting the definition of adverse action to the above list for purposes of this reporting requirement to ensure consistency and accuracy across the Military Services in reporting and to avoid excessive infringement on victim privacy. The Committee recognizes the existence of other adverse administrative proceedings or actions that could lead to loss of special or incentive pay, administrative reduction of grade, loss of security clearance, bar to reenlistment, adverse performance evaluation (or Military Service equivalent), or reclassification.

**h. Methodology for counting “number of instances”:**

- Cases in which a victim is suspected of more than one type of collateral misconduct should be counted only once; where collateral misconduct is reported by type, it should be counted under the most serious type of potential misconduct (determined by UCMJ maximum punishment) or, if the victim received adverse action, under the most serious collateral misconduct identified in the adverse action.
- For cases in which a victim received more than one type of adverse action identified above, such as nonjudicial punishment and administrative separation, reporting should include both types of adverse action.

**DAC-IPAD Recommendation 20** – (March 2020) Victims suspected of making false allegations of a sexual offense should not be counted as suspected of collateral misconduct.

**DAC-IPAD Recommendation 21** – (March 2020) For purposes of the third statistical data element required by section 547, the Department of Defense should report not only the percentage of all Service member victims who are suspected of collateral misconduct but also the percentage of the Service member victims who are suspected of collateral misconduct and then receive an adverse action for the misconduct. These two sets of statistics would better inform policymakers about the frequency with which collateral misconduct is occurring and the likelihood of a victim’s receiving an adverse action for collateral misconduct once they are suspected of such misconduct.

**DAC-IPAD Recommendation 22** – (March 2020) The Department of Defense should include in its report data on the number of collateral offenses that victims were suspected of by type of offense (using the methodology specified in section h of Recommendation 19) and the number and type of adverse actions taken for each of the offenses, if any. This additional information would aid policymakers in fully understanding and analyzing the issue of collateral misconduct and in preparing training and prevention programs.

**DAC-IPAD Recommendation 23** – (March 2020) To facilitate production of the future collateral misconduct reports required by section 547, the Military Services should employ standardized internal documentation of sexual offense cases involving Service member victims suspected of engaging in collateral misconduct as defined for purposes of this reporting requirement.

**DAC-IPAD Recommendation 24** – (June 2020) Secretaries of the Military Departments (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) enhance funding and training for SVCs/VLCs appointed to represent child victims, including authorization to hire civilian highly qualified experts (HQEs) with experience and expertise in representing child victims, including expertise in child development, within the SVC/VLC Programs.

**DAC-IPAD Recommendation 25** – (June 2020) In conjunction with Recommendation 24, the Judge Advocates General of the Military Services including the Coast Guard and the Staff Judge Advocate to the Commandant of the Marine Corps develop a cadre of identifiable SVCs/VLCs 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.

**DAC-IPAD Recommendation 26** – (June 2020) The Department of Defense Office of the Inspector General and the Secretaries of the Military Departments (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) assess whether the MCIOs and FAPs currently 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 if necessary take corrective action.

**DAC-IPAD Recommendation 27** – (June 2020) 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.

**DAC-IPAD Recommendation 28** – (June 2020) 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.

**DAC-IPAD Recommendation 29** – (June 2020) The Secretary of Defense and the Secretaries of the Military Departments (and the Secretary of Homeland Security with respect to the Coast Guard when not operating as a service in the Navy) develop a child victim advocate capability within each of the Services to support certain child victims of sexual offenses. The child victim advocate should reside within the SVC/VLC Programs and work as part of the SVC/VLC team in order to ensure that the child's legal interests are fully represented and protected. The child victim advocate should have expertise in social work, child development, and family dynamics.

**DAC-IPAD Recommendation 30** – (June 2020) 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; any such representative should be appointed as early as possible in the military justice process.

**DAC-IPAD Recommendation 31** – (June 2020) Provided that the Department of Defense adopts and implements DAC-IPAD Recommendations 24–30, it is not advisable or necessary to establish a military guardian ad litem program within the Department of Defense for child victims of alleged sex-related offenses in courts-martial.

**DAC-IPAD Recommendation 32** – (October 2020) Congress amend Article 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.



## APPENDIX F. REQUESTS FOR INFORMATION SETS 18 & 18A

### Request for Information RFI Set 18, Questions 1–3

**Topic: Assessment of Racial and Ethnic Disparities in the Military Justice System**

**Date of Request: June 17, 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.

#### II. Requested Response Date

Suspense	Question(s)	Proponent
20 July 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.

**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.

**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.

***Please provide completed Excel workbook to the DAC-IPAD by July 20, 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:

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)

**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.

**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**

- D. 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.
- E. 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.
- F. 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.***

#### IV. 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:

28. DoD\_ID#
29. Name\_Last
30. Name\_First
31. M. I.
32. Gender
33. Race
34. Ethnicity
35. Service
36. Pay\_Grade
37. Command
38. Court\_Type (GCM, SPCM, SCM, Non-BDC JA-SPCM)
39. Date\_Report\_SA (date of unrestricted report of sexual assault offense)
40. Date\_Preferral (date charges preferred)
41. Date\_Referral (date charges referred)
42. Verdict\_Date (date of findings)
43. Composition (MJ alone, Members, Officer/Enlisted)
44. AltDisbo\_Y/N
45. AltDispo\_Type (NJP, Separation in Lieu, Resignation in Lieu, Withdrawn)
46. AltDisbo\_Date (date of alternative disposition)
47. Disposition\_Type (conviction/acquittal)
48. Date\_Disposition (date of disposition)
49. Offense\_Charged (list of all charges/specifications on charge sheet)
50. Offense\_Type (penetrative/contact sex assault offense)
51. Pleas\_Findings (pleas/findings for each charge/specification)
52. Discharge (BCD, DD, Dismissal)
53. Sentence (sentence at court-martial, by charge (if applicable))
54. CA Sentence (sentence approved by convening authority)
55. Age of the subject at the time of the alleged offense
56. Age of the victim at the time of the alleged offense
57. Race of the victim
58. Ethnicity of the victim
59. Gender of the victim
60. Military rank of the victim or indicate if a civilian

## **V. 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.

## APPENDIX G. SERVICE RESPONSES TO THE RACE AND ETHNICITY REQUEST FOR INFORMATION SET 18A

The Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) was established by the Secretary of Defense in February 2016 pursuant to section 546 of the National Defense Authorization Act for Fiscal Year 2015, as amended. The Committee is tasked by its authorizing statute 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, drawing on its review of such cases on an ongoing basis.

In the FY20 NDAA, Congress tasked the DAC-IPAD with a review and assessment of race and ethnicity in the military justice system, with a particular focus on sexual offenses. Specifically, the DAC-IPAD was directed to review and assess, by fiscal year, the race and ethnicity of:

- (1) members of the Armed Forces accused of a penetrative sexual assault offense or contact sexual assault offense 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 each fiscal year assessed;
- (2) 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 each fiscal year assessed; and
- (3) members of the Armed Forces who were convicted of a penetrative sexual assault offense or contact sexual assault offense in all cases completed in each fiscal year assessed.

This appendix is in three parts: (1) each Services' narrative explanation on the process utilized to respond to the DAC-IPAD request for information concerning race and ethnicity in the Military Services; (2) each Services' data provided in response to RFI 18A in table format; and (3) a graphical representation of observed data pertaining to the subject and victim from the Services' data provided in response to RFI 18A. The DAC-IPAD relied on the Services to report cases meeting the criteria specified. The Committee could not independently verify the Services' responses, and therefore does not assert that it has the complete universe of cases throughout the Military Services in which a penetrative or contact sexual offense was reported, sexual offense charges were preferred, or a sexual offense conviction was obtained at court-martial. In the data that follows: percentages may not total 100, owing to rounding errors or missing data; and Cadets/Midshipmen and warrant officers are included with "officers" in tables and figures.

## **Section I: Services' Narrative Explanation**

Although the DAC-IPAD requested the same data from each Service, the responses varied. This was not surprising, because the Military Services maintain their own unique case management databases in their respective criminal investigative organizations and as part of their military justice systems. Also, because the DAC-IPAD was not able to independently verify the accuracy of the Services' responses, it does not assert that it has all cases meeting the congressional criteria.

### **Army Response**

The Army used three databases to compile its data responses to the RFI. First, the Army Criminal Investigative Division (CID) searched the Army Law Enforcement Tracking System (ALERTS) for every sexual assault report closed in FY19. A case was considered "closed" upon receipt of the DA Form 4833, Commander's Report of Disciplinary Action. Cases on this list may have been reported in an earlier fiscal year, but they were included if the DA Form 4833 was received in FY19. Next, the Social Security numbers of all the FY19 closed cases from the ALERTS system were run through the Army Court-Martial Information System (ACMIS) and Military Justice Online (MJO) to capture the disposition of the cases. The Army uses ACMIS for all general courts-martial and special courts-martial with at least one Article 39a, UCMJ, session. The MJO database includes all nonjudicial punishments and all courts-martial beginning at prefferal of charges.

Based on these data pulls, the Army provided two separate responses to the RFI. In August 2020, the Army first provided a response with cases closed in FY19. In September 2020, the Army provided a second response with additional cases. However, the August and September responses could not be reconciled to confirm a single universe of FY19 cases. Thus, for this report the DAC-IPAD analyzed only the initial August response, which was more comprehensive; but in doing so, it used additional data for victims that were provided only in the September response. The Army's race and ethnicity data, may have originated from a range of sources, including self-reported data during intake interviews and data from personnel files.

### **Navy Response**

The Navy organized its race and ethnicity data into the three categories requested in the RFI: unrestricted reports, preferred charges, and convictions. The Naval Criminal Investigative Service (NCIS) provided the data for each investigation of a named military Service member subject completed in FY19. NCIS pulled these cases from its Consolidated Law Enforcement Operations Center (CLEOC) database. By policy, NCIS does not close investigations that involve more than one subject until the cases of all the subjects involved in an investigation are complete. Thus, the Navy also pulled data from the Navy-Marine Corps Case Management System (CMS) for all cases involving sexual offenses closed in CMS during FY19. Finally, the Navy compared the list of cases received from NCIS with the list of cases pulled from CMS and identified an additional 23 cases.

NCIS gathered the race and ethnicity data from various sources. In many cases, race and ethnicity may be self-reported by the subject or victim during an investigation. In some cases, NCIS may obtain race and ethnicity data from the Defense Enrollment Eligibility Reporting System (DEERS) or the National Crime Information Center (NCIC). In other cases, race and ethnicity data may be obtained from the subject's or victim's Official Military Personnel File (OMPF) or Service Record Book (SRB).

### **Marine Corps Response**

The Marine Corps used the same methodology as the Navy. The Marine Corps obtained the requested FY19 data for unrestricted reports of penetrative and contact sexual offenses against adult victims from NCIS. NCIS pulled the race and ethnicity data for both the subject and the victim from the CLEOC. Next, the Marine Corps used CMS to identify the cases with preferred charges and convictions for penetrative and contact sexual offenses.

### **Air Force Response**

The Air Force organized its data differently. In the first requested category, the Air Force provided cases involving penetrative and contact sexual offenses investigated in FY19 that were closed with no charges preferred. In the second requested category, the Air Force provided cases involving penetrative and contact sexual offenses investigated in FY19 in which charges were preferred but no conviction was obtained. In the requested third category, the Air Force provided cases involving penetrative and contact sexual offenses investigated in FY19 that resulted in a conviction for at least one charged offense—but in some cases that conviction was not for a sexual offense.

The Air Force limited its data search to relevant records in the Air Force Automated Military Justice Analysis and Management System (AMJAMS) database; it did not seek information from the case management systems of the Air Force Office of Special Investigations (AFOSI). The Air Force reported that demographic data, including race and ethnicity, are automatically populated into AMJAMS from either the Air Force Personnel Center (AFPC) database or the Air Reserve Personnel Center (ARPC) database. The AMJAMS database has five options for reporting race: White, Black or African American, Asian, Native Hawaiian or Other Pacific Islander, and American Indian/Alaskan Native. The AMJAMS options for reporting ethnicity are Not Hispanic or Latino, Hispanic or Latino, and Decline to Respond. The demographic data reflected in accession paperwork are self-reported by individuals when they enter the Air Force. For cases closed in FY19, the Air Force did not collect data relating to the race, ethnicity, and gender of the victim; thus, this information was not provided to the DAC-IPAD.

### **Coast Guard Response**

The Coast Guard used three databases to compile its data responses for the RFI. First, the Coast Guard Investigative Service's (CGIS) database that tracks each investigation, called the Field Activity Case Tracking System (FACTS), contains race and ethnicity data on both the subjects of investigations and the victims. Second, the Coast Guard utilized their personnel database, Direct Access. Direct Access captures race and ethnicity data, other demographic data, and personnel data related to nonjudicial punishment and administrative separations. Third, the Coast Guard Judge Advocate General has a military justice case management system called Law Manager, which tracks all cases in which charges have been preferred. Law Manager was recently updated to allow the manual entry of race and ethnicity data. However, the cases relevant to RFI 18A were entered into Law Manager prior to that update. Consequently, cases listed in Law Manager had to be cross-referenced with Direct Access, FACTS, or both to determine subject race and ethnicity data.

The primary source for race and ethnicity data is Direct Access, from which the data are transcribed into FACTS and, after FY19, into Law Manager. DEERS was not consulted for this study. When Direct Access lacks them, the race and ethnicity data can be provided by CGIS, which asks the member for that information at the beginning of an interview and records it in the interview log. Coast Guard members also self-report their race and ethnicity on a standard form, the Coast Guard's Ethnicity and Race Self-Reporting Worksheet (Form CG-5200). In addition, every member has the ability to log into Direct Access, and may use a drop-down menu to change their race and ethnicity identification at any time. Coast Guard race and ethnicity categories match the Office of Management and Budget (OMB) standards for collecting, maintaining, and presenting these data, although members may decline to respond or may pick a combination of categories.

**Section II: Services' RFI Response in Table Format**

**Army**

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Table 3 – Army: Age of the Subject	G-8
Table 4 – Army: Race and Ethnicity of the Victim	G-9
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Table 6 – Army: Age of the Victim	G-11

**Navy**

Table 7 – Navy: Race and Ethnicity of the Subject	G-12
Table 8 – Navy: Sex, Status, and Pay Grade of the Subject	G-13
Table 9 – Navy: Age of the Subject	G-14
Table 10 – Navy: Race and Ethnicity of the Victim	G-15
Table 11 – Navy: Sex, Status, and Pay Grade of the Victim	G-16
Table 12 – Navy: Age of the Victim	G-17

**Marine Corps**

Table 13 – Marine Corps: Race and Ethnicity of the Subject	G-18
Table 14 – Marine Corps: Sex, Status, and Pay Grade of the Subject	G-19
Table 15 – Marine Corps: Age of the Subject	G-20
Table 16 – Marine Corps: Race and Ethnicity of the Victim	G-21
Table 17 – Marine Corps: Sex, Status, and Pay Grade of the Victim	G-22
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**Air Force**

Table 19 – Air Force: Race and Ethnicity of the Subject	G-24
Table 20 – Air Force: Sex, Status, and Pay Grade of the Subject	G-25
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Table 25 – Coast Guard: Race and Ethnicity of the Subject	G-30
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**TABLE 1:  
 ARMY: RACE AND ETHNICITY OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 1,164)		(N = 173)		(N = 72)	
American Indian/ Alaskan Native	5	0.4	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	36	3.1	6	3.5	1	1.4
Black/African American	341	29.3	64	37.0	22	30.6
Two or more/Other	34	2.9	3	1.7	2	2.8
White	738	63.4	99	57.2	47	65.3
Unknown	10	0.9	1	0.6	0	0.0
<b>Ethnicity</b>	(N = 1,164)		(N = 173)		(N = 72)	
Hispanic or Latino	234	20.1	32	18.5	16	22.2
Not Hispanic or Latino	864	74.2	133	76.9	54	75.0
Unknown	66	5.7	8	4.6	2	2.8

**TABLE 2:  
ARMY: SEX, STATUS, AND PAY GRADE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 1,164)		(N = 173)		(N = 72)	
Male	1,129	97.0	173	100.0	72	100.0
Female	35	3.0	0	0.0	0	0.0
Unknown	0	0.0	0	0.0	0	0.0
<b>Status</b>	(N = 1,164)		(N = 173)		(N = 72)	
Officer	88	7.6	13	7.5	9	12.5
Enlisted	1,076	92.4	160	92.5	63	87.5
Unknown	0	0.0	0	0.0	0	0.0
<b>Pay Grade</b>	(N = 1,076)		(N = 160)		(N = 63)	
Enlisted	(N = 1,076)		(N = 160)		(N = 63)	
E-1	86	8.0	7	4.4	2	3.2
E-2	111	10.3	19	11.9	10	15.9
E-3	181	16.8	23	14.4	8	12.7
E-4	315	29.3	57	35.6	24	38.1
E-5	167	15.5	30	18.8	11	17.5
E-6	139	12.9	12	7.5	6	9.5
E-7	57	5.3	7	4.4	1	1.6
E-8	15	1.4	3	1.9	0	0.0
E-9	5	0.5	2	1.3	1	1.6
<b>Officer<sup>a</sup></b>	(N = 88)		(N = 13)		(N = 9)	
W-1	1	1.1	0	0.0	0	0.0
W-2	3	3.4	0	0.0	0	0.0
W-3	5	5.7	2	15.4	2	22.2
W-4	0	0.0	0	0.0	0	0.0
W-5	0	0.0	0	0.0	0	0.0
Cadet	18	20.5	0	0.0	0	0.0
O-1	7	8.0	1	7.7	1	11.1
O-2	9	10.2	1	7.7	1	11.1
O-3	28	31.8	6	46.2	4	44.4
O-4	9	10.2	2	15.4	1	11.1
O-5	7	8.0	1	7.7	0	0.0
O-6	1	1.1	0	0.0	0	0.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no subjects documented by the DAC-IPAD, they are omitted from this table.

REPORT ON RACIAL AND ETHNIC DATA RELATING TO DISPARITIES IN  
THE INVESTIGATION, PROSECUTION, AND CONVICTION OF SEXUAL OFFENSES IN THE MILITARY

**TABLE 3:  
ARMY: AGE OF THE SUBJECT**

Age	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
	(N = 1,164)		(N = 173)		(N = 72)	
17	1	0.1	0	0.0	0	0.0
18	20	1.7	0	0.0	0	0.0
19	48	4.1	1	0.6	1	1.4
20	51	4.4	2	1.2	1	1.4
21	51	4.4	0	0.0	0	0.0
22	37	3.2	1	0.6	0	0.0
23	32	2.7	1	0.6	0	0.0
24	24	2.1	0	0.0	0	0.0
25	23	2.0	1	0.6	1	1.4
26	24	2.1	0	0.0	0	0.0
27	21	1.8	0	0.0	0	0.0
28	23	2.0	0	0.0	0	0.0
29	14	1.2	0	0.0	0	0.0
30	15	1.3	0	0.0	0	0.0
31	11	0.9	0	0.0	0	0.0
32	9	0.8	0	0.0	0	0.0
33	10	0.9	2	1.2	0	0.0
34	13	1.1	0	0.0	0	0.0
35	12	1.0	0	0.0	0	0.0
36	11	0.9	0	0.0	0	0.0
37	14	1.2	0	0.0	0	0.0
38	9	0.8	0	0.0	0	0.0
39	3	0.3	0	0.0	0	0.0
40	3	0.3	0	0.0	0	0.0
41	4	0.3	0	0.0	0	0.0
42	5	0.4	0	0.0	0	0.0
43	0	0.0	0	0.0	0	0.0
44	3	0.3	0	0.0	0	0.0
45	1	0.1	0	0.0	0	0.0
46	1	0.1	0	0.0	0	0.0
47	0	0.0	0	0.0	0	0.0
48	1	0.1	0	0.0	0	0.0
49	2	0.2	0	0.0	0	0.0
50	1	0.1	0	0.0	0	0.0
53	2	0.2	0	0.0	0	0.0
55	1	0.1	0	0.0	0	0.0
56	0	0.0	0	0.0	0	0.0
Unknown	664	57.0	165	95.4	69	95.8

**TABLE 4**  
**ARMY: RACE AND ETHNICITY OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 1,164)		(N = 173)		(N = 72)	
American Indian/ Alaskan Native	6	0.5	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	23	2.0	0	0.0	0	0.0
Black/African American	92	7.9	2	1.2		0.0
Two or more/Other	14	1.2	1	0.6	1	1.4
White	335	28.8	5	2.9	2	2.8
Unknown	694	59.6	165	95.4	69	95.8
<b>Ethnicity</b>	(N = 1,164)		(N = 173)		(N = 72)	
Hispanic or Latino	81	7.0	1	0.6	1	1.4
Not Hispanic or Latino	385	33.1	7	4.0	2	2.8
Unknown	698	60.0	165	95.4	69	95.8

REPORT ON RACIAL AND ETHNIC DATA RELATING TO DISPARITIES IN  
THE INVESTIGATION, PROSECUTION, AND CONVICTION OF SEXUAL OFFENSES IN THE MILITARY

**TABLE 5**  
**ARMY: SEX, STATUS, AND PAY GRADE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 1,164)		(N = 173)		(N = 72)	
Male	50	4.3	5	2.9	1	1.4
Female	441	37.9	3	1.7	2	2.8
Unknown	673	57.8	165	95.4	69	95.8
<b>Status</b>	(N = 1,164)		(N = 173)		(N = 72)	
Military	277	23.8	5	2.9	2	2.8
Civilian	214	18.4	3	1.7	1	1.4
Unknown	673	57.8	165	95.4	69	95.8
<b>Pay Grade</b>	(N = 251)		(N = 5)		(N = 2)	
Enlisted	(N = 251)		(N = 5)		(N = 2)	
E-1	36	14.3	1	20.0	1	50.0
E-2	44	17.5	0	0.0	0	0.0
E-3	63	25.1	3	60.0	1	50.0
E-4	74	29.5	0	0.0	0	0.0
E-5	15	6.0	0	0.0	0	0.0
E-6	14	5.6	0	0.0	0	0.0
E-7	3	1.2	1	20.0	0	0.0
E-8	2	0.8	0	0.0	0	0.0
E-9	0	0.0	0	0.0	0	0.0
<b>Officer<sup>a</sup></b>	(N = 26)		(N = 0)		(N = 0)	
W-1	0	0.0	0	0.0	0	0.0
W-2	1	3.8	0	0.0	0	0.0
W-3	0	0.0	0	0.0	0	0.0
W-4	0	0.0	0	0.0	0	0.0
W-5	0	0.0	0	0.0	0	0.0
Cadet	9	34.6	0	0.0	0	0.0
O-1	7	26.9	0	0.0	0	0.0
O-2	4	15.4	0	0.0	0	0.0
O-3	4	15.4	0	0.0	0	0.0
O-4	1	3.8	0	0.0	0	0.0
O-5	0	0.0	0	0.0	0	0.0
O-6	0	0.0	0	0.0	0	0.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no victims documented by the DAC-IPAD, they are omitted from this table.

**TABLE 6**  
**ARMY: AGE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 1,164)		(N = 173)		(N = 72)	
< 17	33	2.8	0	0.0	0	0.0
17	10	0.9	0	0.0	0	0.0
18	48	4.1	0	0.0	0	0.0
19	69	5.9	0	0.0	0	0.0
20	57	4.9	1	0.6	0	0.0
21	47	4.0	2	1.2	1	1.4
22	37	3.2	1	0.6	0	0.0
23	26	2.2	0	0.0	0	0.0
24	24	2.1	0	0.0	0	0.0
25	15	1.3	1	0.6	1	1.4
26	30	2.6	1	0.6	1	1.4
27	15	1.3	0	0.0	0	0.0
28	8	0.7	0	0.0	0	0.0
29	9	0.8	0	0.0	0	0.0
30	13	1.1	1	0.6	0	0.0
31	5	0.4	0	0.0	0	0.0
32	2	0.2	0	0.0	0	0.0
33	5	0.4	0	0.0	0	0.0
34	5	0.4	0	0.0	0	0.0
35	7	0.6	0	0.0	0	0.0
36	5	0.4	0	0.0	0	0.0
37	4	0.3	0	0.0	0	0.0
38	6	0.5	0	0.0	0	0.0
39	3	0.3	0	0.0	0	0.0
40	2	0.2	0	0.0	0	0.0
41	0	0.0	0	0.0	0	0.0
42	1	0.1	0	0.0	0	0.0
43	0	0.0	0	0.0	0	0.0
44	1	0.1	1	0.6	0	0.0
45	1	0.1	0	0.0	0	0.0
53	1	0.1	0	0.0	0	0.0
54	1	0.1	0	0.0	0	0.0
Unknown	674	57.9	165	95.4	69	95.8

**TABLE 7**  
**NAVY: RACE AND ETHNICITY OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 1,164)		(N = 104)		(N = 9)	
American Indian/ Alaskan Native	5	0.8	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	32	5.2	8	7.7	0	0.0
Black/African American	178	29.2	29	27.9	4	44.4
Two or more/Other	15	2.5	4	3.8	0	0.0
White	349	57.2	61	58.7	5	55.6
Unknown	31	5.1	2	1.9	0	0.0
<b>Ethnicity</b>	(N = 610)		(N = 104)		(N = 9)	
Hispanic or Latino	95	15.6	16	15.4	0	0.0
Not Hispanic or Latino	432	70.8	78	75.0	9	100.0
Unknown	83	13.6	10	9.6	0	0.0

**TABLE 8**  
**NAVY: SEX, STATUS, AND PAY GRADE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 610)		(N = 104)		(N = 9)	
Male	589	96.6	104	100.0	9	100.0
Female	20	3.3	0	0.0	0	0.0
Unknown	1	0.2	0	0.0	0	0.0
<b>Status</b>	(N = 610)		(N = 104)		(N = 9)	
Officer	36	5.9	7	6.7	0	0.0
Enlisted	574	94.1	97	93.3	9	100.0
Unknown	0	0.0	0	0.0	0	0.0
<b>Pay Grade</b>						
<b>Enlisted</b>	(N = 574)		(N = 97)		(N = 9)	
E-1	40	7.0	5	5.2	1	11.1
E-2	39	6.8	8	8.2	2	22.2
E-3	128	22.3	19	19.6	2	22.2
E-4	119	20.7	22	22.7	0	0.0
E-5	122	21.3	21	21.6	1	11.1
E-6	82	14.3	14	14.4	1	11.1
E-7	37	6.4	7	7.2	2	22.2
E-8	6	1.0	0	0.0	0	0.0
E-9	1	0.2	1	1.0	0	0.0
<b>Officer<sup>a</sup></b>	(N = 36)		(N = 7)		(N = 0)	
W-1	0	0.0	0	0.0	0	0.0
W-2	1	2.8	0	0.0	0	0.0
W-3	0	0.0	0	0.0	0	0.0
W-4	0	0.0	0	0.0	0	0.0
W-5	1	2.8	0	0.0	0	0.0
MIDN	5	13.9	1	14.3	0	0.0
O-1	2	5.6	1	14.3	0	0.0
O-2	6	16.7	3	42.9	0	0.0
O-3	11	30.6	0	0.0	0	0.0
O-4	4	11.1	0	0.0	0	0.0
O-5	5	13.9	2	28.6	0	0.0
O-6	1	2.8	0	0.0	0	0.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no subjects documented by the DAC-IPAD, they are omitted from this table.

REPORT ON RACIAL AND ETHNIC DATA RELATING TO DISPARITIES IN  
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**TABLE 9**  
**NAVY: AGE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 610)		(N = 104)		(N = 9)	
17	2	0.3	0	0.0	0	0.0
18	17	2.8	1	1.0	0	0.0
19	44	7.2	5	4.8	1	11.1
20	45	7.4	8	7.7	0	0.0
21	47	7.7	7	6.7	1	11.1
22	51	8.4	7	6.7	0	0.0
23	51	8.4	9	8.7	1	11.1
24	33	5.4	7	6.7	0	0.0
25	30	4.9	5	4.8	1	11.1
26	33	5.4	6	5.8	0	0.0
27	27	4.4	6	5.8	1	11.1
28	24	3.9	8	7.7	0	0.0
29	22	3.6	6	5.8	2	22.2
30	32	5.2	8	7.7	0	0.0
31	16	2.6	1	1.0	0	0.0
32	14	2.3	1	1.0	0	0.0
33	7	1.1	1	1.0	0	0.0
34	6	1.0	1	1.0	0	0.0
35	14	2.3	3	2.9	0	0.0
36	15	2.5	1	1.0	0	0.0
37	6	1.0	1	1.0	0	0.0
38	11	1.8	2	1.9	2	22.2
39	9	1.5	3	2.9	0	0.0
40	5	0.8	0	0.0	0	0.0
41	5	0.8	0	0.0	0	0.0
42	3	0.5	1	1.0	0	0.0
43	1	0.2	0	0.0	0	0.0
44	5	0.8	1	1.0	0	0.0
45	3	0.5	1	1.0	0	0.0
46	1	0.2	0	0.0	0	0.0
47	1	0.2	0	0.0	0	0.0
48	0	0.0	0	0.0	0	0.0
49	2	0.3	0	0.0	0	0.0
50	1	0.2	0	0.0	0	0.0
51	3	0.5	1	1.0	0	0.0
52	2	0.3	0	0.0	0	0.0
56	1	0.2	0	0.0	0	0.0
Unknown	21	3.4	3	2.9	0	0.0

**TABLE 10**  
**NAVY: RACE AND ETHNICITY OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	<b>(N = 734)</b>		<b>(N = 130)</b>		<b>(N = 18)</b>	
American Indian/ Alaskan Native	9	1.2	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	42	5.7	11	8.5	1	5.6
Black/African American	108	14.7	17	13.1	5	27.8
Two or more/Other	24	3.3	3	2.3	0	0.0
White	510	69.5	94	72.3	12	66.7
Unknown	41	5.6	5	3.8	0	0.0
<b>Ethnicity</b>	<b>(N = 734)</b>		<b>(N = 130)</b>		<b>(N = 18)</b>	
Hispanic or Latino	126	17.2	21	16.2	3	16.7
Not Hispanic or Latino	516	70.3	88	67.7	14	77.8
Unknown	92	12.5	21	16.2	1	5.6

**TABLE 11**  
**NAVY: SEX, STATUS, AND PAY GRADE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 734)		(N = 130)		(N = 18)	
Male	109	14.9	21	16.2	10	55.6
Female	624	85.0	108	83.1	8	44.4
Unknown	1	0.1	1	0.8	0	0.0
<b>Status</b>	(N = 734)		(N = 130)		(N = 18)	
Military	559	76.2	102	78.5	16	88.9
Civilian	123	16.8	20	15.4	2	11.1
Unknown	52	7.1	8	6.2	0	0.0
<b>Pay Grade</b>						
<b>Enlisted</b>	(N = 535)		(N = 101)		(N = 16)	
E-1	62	11.6	9	8.9	0	0.0
E-2	79	14.8	15	14.9	0	0.0
E-3	169	31.6	26	25.7	6	37.5
E-4	125	23.4	30	29.7	8	50.0
E-5	77	14.4	15	14.9	2	12.5
E-6	18	3.4	4	4.0	0	0.0
E-7	5	0.9	2	2.0	0	0.0
E-8	0	0.0	0	0.0	0	0.0
E-9	0	0.0	0	0.0	0	0.0
<b>Officer<sup>a</sup></b>	(N = 24)		(N = 1)		(N = 0)	
W-1	0	0.0	0	0.0	0	0.0
W-2	0	0.0	0	0.0	0	0.0
W-3	0	0.0	0	0.0	0	0.0
W-4	0	0.0	0	0.0	0	0.0
W-5	0	0.0	0	0.0	0	0.0
MIDN	7	29.2	0	0.0	0	0.0
O-1	4	16.7	0	0.0	0	0.0
O-2	3	12.5	0	0.0	0	0.0
O-3	6	25.0	1	100.0	0	0.0
O-4	2	8.3	0	0.0	0	0.0
O-5	2	8.3	0	0.0	0	0.0
O-6	0	0.0	0	0.0	0	0.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no victims documented by the DAC-IPAD, they are omitted from this table.

**TABLE 12**  
**NAVY: AGE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 734)		(N = 130)		(N = 18)	
< 17	3	0.4	0	0.0	0	0.0
17	7	1.0	0	0.0	0	0.0
18	69	9.4	15	11.5	0	0.0
19	110	15.0	19	14.6	3	16.7
20	102	13.9	20	15.4	5	27.8
21	87	11.9	15	11.5	3	16.7
22	67	9.1	16	12.3	4	22.2
23	50	6.8	9	6.9	0	0.0
24	38	5.2	8	6.2	0	0.0
25	28	3.8	5	3.8	2	11.1
26	32	4.4	5	3.8	0	0.0
27	16	2.2	2	1.5	1	5.6
28	22	3.0	5	3.8	0	0.0
29	9	1.2	2	1.5	0	0.0
30	12	1.6	4	3.1	0	0.0
31	5	0.7	0	0.0	0	0.0
32	6	0.8	0	0.0	0	0.0
33	5	0.7	2	1.5	0	0.0
34	8	1.1	2	1.5	0	0.0
35	2	0.3	0	0.0	0	0.0
36	13	1.8	0	0.0	0	0.0
37	6	0.8	0	0.0	0	0.0
38	4	0.5	0	0.0	0	0.0
39	1	0.1	0	0.0	0	0.0
40	3	0.4	0	0.0	0	0.0
41	3	0.4	0	0.0	0	0.0
42	3	0.4	0	0.0	0	0.0
43	0	0.0	0	0.0	0	0.0
44	1	0.1	0	0.0	0	0.0
45	0	0.0	0	0.0	0	0.0
46	1	0.1	0	0.0	0	0.0
47	2	0.3	0	0.0	0	0.0
48	3	0.4	0	0.0	0	0.0
49	3	0.4	0	0.0	0	0.0
50	1	0.1	0	0.0	0	0.0
51	1	0.1	0	0.0	0	0.0
52	2	0.3	0	0.0	0	0.0
53	1	0.1	0	0.0	0	0.0
66	1	0.1	0	0.0	0	0.0
Unknown	7	1.0	1	0.8	0	0.0

**TABLE 13**  
**MARINE CORPS: RACE AND ETHNICITY OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	<b>(N = 487)</b>		<b>(N = 84)</b>		<b>(N = 16)</b>	
American Indian/ Alaskan Native	2	0.4	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	11	2.3	1	1.2	0	0.0
Black/African American	102	20.9	18	21.4	5	31.3
Two or more/Other	22	4.5	2	2.4	0	0.0
White	339	69.6	63	75.0	11	68.8
Unknown	11	2.3	0	0.0	0	0.0
<b>Ethnicity</b>	<b>(N = 487)</b>		<b>(N = 84)</b>		<b>(N = 16)</b>	
Hispanic or Latino	127	26.1	28	33.3	7	43.8
Not Hispanic or Latino	330	67.8	54	64.3	9	56.3
Unknown	30	6.2	2	2.4	0	0.0

**TABLE 14**  
**MARINE CORPS: SEX, STATUS, AND PAY GRADE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 487)		(N = 84)		(N = 16)	
Male	476	97.7	83	98.8	16	100.0
Female	11	2.3	1	1.2	0	0.0
Unknown	0	0.0	0	0.0	0	0.0
<b>Status</b>	(N = 487)		(N = 84)		(N = 16)	
Officer	16	3.3	1	1.2	0	0.0
Enlisted	471	96.7	83	98.8	16	100.0
Unknown	0	0.0	0	0.0	0	0.0
<b>Pay Grade</b>	(N = 471)		(N = 83)		(N = 16)	
Enlisted	(N = 471)		(N = 83)		(N = 16)	
E-1	16	3.4	7	8.4	1	6.3
E-2	61	13.0	12	14.5	1	6.3
E-3	137	29.1	19	22.9	5	31.3
E-4	117	24.8	26	31.3	6	37.5
E-5	85	18.0	11	13.3	2	12.5
E-6	36	7.6	5	6.0	1	6.3
E-7	13	2.8	1	1.2	0	0.0
E-8	4	0.8	1	1.2	0	0.0
E-9	2	0.4	1	1.2	0	0.0
Officer <sup>a</sup>	(N = 16)		(N = 1)		(N = 0)	
W-1	0	0.0	0	0.0	0	0.0
W-2	0	0.0	0	0.0	0	0.0
W-3	1	6.3	0	0.0	0	0.0
W-4	0	0.0	0	0.0	0	0.0
W-5	0	0.0	0	0.0	0	0.0
O-1	2	12.5	1	100.0	0	0.0
O-2	2	12.5	0	0.0	0	0.0
O-3	4	25.0	0	0.0	0	0.0
O-4	5	31.3	0	0.0	0	0.0
O-5	1	6.3	0	0.0	0	0.0
O-6	1	6.3	0	0.0	0	0.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no subjects documented by the DAC-IPAD, they are omitted from this table.

**TABLE 15**  
**MARINE CORPS: AGE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 487)		(N = 84)		(N = 16)	
17	3	0.6	0	0.0	0	0.0
18	22	4.5	3	3.6	0	0.0
19	51	10.5	9	10.7	1	6.3
20	62	12.7	6	7.1	1	6.3
21	77	15.8	13	15.5	5	31.3
22	62	12.7	15	17.9	3	18.8
23	42	8.6	8	9.5	1	6.3
24	26	5.3	8	9.5	1	6.3
25	29	6.0	4	4.8	1	6.3
26	24	4.9	5	6.0	1	6.3
27	11	2.3	1	1.2	1	6.3
28	9	1.8	1	1.2	0	0.0
29	12	2.5	3	3.6	0	0.0
30	8	1.6	1	1.2	0	0.0
31	7	1.4	0	0.0	0	0.0
32	5	1.0	1	1.2	0	0.0
33	6	1.2	0	0.0	0	0.0
34	4	0.8	1	1.2	0	0.0
35	4	0.8	0	0.0	0	0.0
36	5	1.0	1	1.2	0	0.0
37	6	1.2	3	3.6	1	6.3
38	1	0.2	0	0.0	0	0.0
39	2	0.4	0	0.0	0	0.0
40	3	0.6	0	0.0	0	0.0
41	1	0.2	0	0.0	0	0.0
42	0	0.0	0	0.0	0	0.0
43	2	0.4	1	1.2	0	0.0
44	2	0.4	0	0.0	0	0.0
45	0	0.0	0	0.0	0	0.0
46	0	0.0	0	0.0	0	0.0
47	0	0.0	0	0.0	0	0.0
48	0	0.0	0	0.0	0	0.0
49	1	0.2	0	0.0	0	0.0

**TABLE 16**  
**MARINE CORPS: RACE AND ETHNICITY OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 563)		(N = 133)		(N = 21)	
American Indian/ Alaskan Native	2	0.4	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	33	5.9	6	4.5	1	4.8
Black/African American	47	8.3	10	7.5	1	4.8
Two or more/Other	27	4.8	5	3.8	0	0.0
White	433	76.9	111	83.5	19	90.5
Unknown	21	3.7	1	0.8	0	0.0
<b>Ethnicity</b>	(N = 563)		(N = 133)		(N = 21)	
Hispanic or Latino	131	23.3	31	23.3	6	28.6
Not Hispanic or Latino	387	68.7	92	69.2	13	61.9
Unknown	45	8.0	10	7.5	2	9.5

**TABLE 17**  
**MARINE CORPS: SEX, STATUS, AND PAY GRADE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 563)		(N = 133)		(N = 21)	
Male	59	10.5	23	17.3	6	28.6
Female	496	88.1	109	82.0	15	71.4
Unknown	8	1.4	1	0.8	0	0.0
<b>Status</b>	(N = 563)		(N = 133)		(N = 21)	
Military	332	59.0	92	69.2	14	66.7
Civilian	215	38.2	40	30.1	7	33.3
Unknown	16	2.8	1	0.8	0	0.0
<b>Pay Grade</b>						
<b>Enlisted</b>	(N = 328)		(N = 92)		(N = 14)	
E-1	23	7.0	7	7.6	0	0.0
E-2	70	21.3	23	25.0	2	14.3
E-3	138	42.1	33	35.9	4	28.6
E-4	64	19.5	19	20.7	3	21.4
E-5	29	8.8	9	9.8	4	28.6
E-6	3	0.9	1	1.1	1	7.1
E-7	1	0.3	0	0.0	0	0.0
E-8	0	0.0	0	0.0	0	0.0
E-9	0	0.0	0	0.0	0	0.0
<b>Officer<sup>a</sup></b>	(N = 4)		(N = 0)		(N = 0)	
W-1	0	0.0	0	0.0	0	0.0
W-2	0	0.0	0	0.0	0	0.0
W-3	0	0.0	0	0.0	0	0.0
W-4	0	0.0	0	0.0	0	0.0
W-5	0	0.0	0	0.0	0	0.0
O-1	1	25.0	0	0.0	0	0.0
O-2	2	50.0	0	0.0	0	0.0
O-3	1	25.0	0	0.0	0	0.0
O-4	0	0.0	0	0.0	0	0.0
O-5	0	0.0	0	0.0	0	0.0
O-6	0	0.0	0	0.0	0	0.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no victims documented by the DAC-IPAD, they are omitted from this table.

**TABLE 18**  
**MARINE CORPS: AGE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 563)		(N = 133)		(N = 21)	
17	14	2.5	4	3.0	2	9.5
18	66	11.7	16	12.0	1	4.8
19	97	17.2	21	15.8	3	14.3
20	92	16.3	19	14.3	1	4.8
21	80	14.2	21	15.8	4	19.0
22	58	10.3	19	14.3	3	14.3
23	39	6.9	11	8.3	0	0.0
24	23	4.1	4	3.0	2	9.5
25	17	3.0	6	4.5	2	9.5
26	9	1.6	3	2.3	1	4.8
27	13	2.3	4	3.0	1	4.8
28	10	1.8	2	1.5	0	0.0
29	3	0.5	0	0.0	0	0.0
30	5	0.9	0	0.0	0	0.0
31	1	0.2	0	0.0	0	0.0
32	3	0.5	0	0.0	0	0.0
33	2	0.4	0	0.0	0	0.0
34	1	0.2	0	0.0	0	0.0
35	3	0.5	0	0.0	0	0.0
36	5	0.9	1	0.8	1	4.8
37	1	0.2	0	0.0	0	0.0
38	0	0.0	0	0.0	0	0.0
39	0	0.0	0	0.0	0	0.0
40	2	0.4	0	0.0	0	0.0
41	4	0.7	0	0.0	0	0.0
42	0	0.0	0	0.0	0	0.0
43	1	0.2	0	0.0	0	0.0
44	1	0.2	0	0.0	0	0.0
45	0	0.0	0	0.0	0	0.0
46	1	0.2	0	0.0	0	0.0
47	1	0.2	0	0.0	0	0.0
Unknown	11	2.0	2	1.5	0	0.0

**TABLE 19**  
**AIR FORCE: RACE AND ETHNICITY OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 440)		(N = 117)		(N = 31)	
American Indian/ Alaskan Native	7	1.6	2	1.7	0	0.0
Asian/Native Hawaiian/ Pacific Islander	22	5.0	8	6.8	2	6.5
Black/African American	93	21.1	34	29.1	11	35.5
Two or more/Other	29	6.6	9	7.7	1	3.2
White	264	60.0	60	51.3	16	51.6
Unknown	25	5.7	4	3.4	1	3.2
<b>Ethnicity</b>	(N = 440)		(N = 117)		(N = 31)	
Hispanic or Latino	37	8.4	18	15.4	5	16.1
Not Hispanic or Latino	123	28.0	50	42.7	17	54.8
Unknown	280	63.6	49	41.9	9	29.0

**TABLE 20**  
**AIR FORCE: SEX, STATUS, AND PAY GRADE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 440)		(N = 117)		(N = 31)	
Male	398	90.5	114	97.4	30	96.8
Female	40	9.1	2	1.7	1	3.2
Unknown	2	0.5	1	0.9	0	0.0
<b>Status</b>	(N = 440)		(N = 117)		(N = 31)	
Officer	42	9.5	9	7.7	5	16.1
Enlisted	398	90.5	108	92.3	26	83.9
Unknown	0	0.0	0	0.0	0	0.0
<b>Pay Grade</b>						
<b>Enlisted</b>	(N = 398)		(N = 108)		(N = 26)	
E-1	20	5.0	5	4.6	2	7.7
E-2	23	5.8	7	6.5	2	7.7
E-3	121	30.4	36	33.3	5	19.2
E-4	94	23.6	33	30.6	7	26.9
E-5	63	15.8	13	12.0	4	15.4
E-6	47	11.8	11	10.2	3	11.5
E-7	22	5.5	3	2.8	3	11.5
E-8	2	0.5	0	0.0	0	0.0
E-9	6	1.5	0	0.0	0	0.0
<b>Officer<sup>a</sup></b>	(N = 42)		(N = 9)		(N = 5)	
Cadet	4	9.5	2	22.2	1	20.0
O-1	6	14.3	1	11.1	1	20.0
O-2	4	9.5	1	11.1	1	20.0
O-3	15	35.7	2	22.2	0	0.0
O-4	5	11.9	1	11.1	0	0.0
O-5	6	14.3	1	11.1	1	20.0
O-6	2	4.8	1	11.1	1	20.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no subjects documented by the DAC-IPAD, they are omitted from this table.

**TABLE 21**  
**AIR FORCE: AGE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 440)		(N = 117)		(N = 31)	
18	5	1.1	0	0.0	0	0.0
19	27	6.1	8	6.8	3	9.7
20	37	8.4	16	13.7	2	6.5
21	52	11.8	21	17.9	4	12.9
22	34	7.7	9	7.7	1	3.2
23	29	6.6	9	7.7	0	0.0
24	31	7.0	10	8.5	4	12.9
25	22	5.0	6	5.1	4	12.9
26	19	4.3	6	5.1	2	6.5
27	21	4.8	2	1.7	0	0.0
28	21	4.8	4	3.4	0	0.0
29	24	5.5	9	7.7	3	9.7
30	12	2.7	4	3.4	1	3.2
31	12	2.7	2	1.7	1	3.2
32	8	1.8	2	1.7	1	3.2
33	13	3.0	1	0.9	1	3.2
34	10	2.3	2	1.7	1	3.2
35	8	1.8	0	0.0	0	0.0
36	8	1.8	0	0.0	0	0.0
37	7	1.6	1	0.9	0	0.0
38	8	1.8	0	0.0	0	0.0
39	7	1.6	1	0.9	1	3.2
40	6	1.4	2	1.7	1	3.2
41	6	1.4	1	0.9	0	0.0
42	1	0.2	0	0.0	0	0.0
43	2	0.5	0	0.0	0	0.0
44	3	0.7	0	0.0	0	0.0
45	2	0.5	0	0.0	0	0.0
46	1	0.2	0	0.0	0	0.0
50	1	0.2	0	0.0	0	0.0
54	1	0.2	1	0.9	1	3.2
56	1	0.2	0	0.0	0	0.0
Unknown	1	0.2	0	0.0	0	0.0

**TABLE 22**  
**AIR FORCE: RACE AND ETHNICITY OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 440)		(N = 117)		(N = 31)	
American Indian/ Alaskan Native	0	0.0	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	0	0.0	0	0.0	0	0.0
Black/African American	0	0.0	0	0.0	0	0.0
Two or more/Other	0	0.0	0	0.0	0	0.0
White	0	0.0	0	0.0	0	0.0
Unknown	440	100.0	117	100.0	31	100.0
<b>Ethnicity</b>	(N = 440)		(N = 117)		(N = 31)	
Hispanic or Latino	0	0.0	0	0.0	0	0.0
Not Hispanic or Latino	0	0.0	0	0.0	0	0.0
Unknown	440	100.0	117	100.0	31	100.0

**TABLE 23**  
**AIR FORCE: SEX, STATUS, AND PAY GRADE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 440)		(N = 117)		(N = 31)	
Male	4	0.9	4	3.4	0	0.0
Female	6	1.4	6	5.1	0	0.0
Unknown	430	97.7	107	91.5	31	100.0
<b>Status</b>	(N = 440)		(N = 117)		(N = 31)	
Military	0	0.0	0	0.0	0	0.0
Civilian	0	0.0	0	0.0	0	0.0
Unknown	440	100.0	117	100.0	31	100.0
<b>Pay Grade</b>						
<b>Enlisted</b>	(N = 0)		(N = 0)		(N = 0)	
E-1	0	0.0	0	0.0	0	0.0
E-2	0	0.0	0	0.0	0	0.0
E-3	0	0.0	0	0.0	0	0.0
E-4	0	0.0	0	0.0	0	0.0
E-5	0	0.0	0	0.0	0	0.0
E-6	0	0.0	0	0.0	0	0.0
E-7	0	0.0	0	0.0	0	0.0
E-8	0	0.0	0	0.0	0	0.0
E-9	0	0.0	0	0.0	0	0.0
<b>Officer<sup>a</sup></b>	(N = 0)		(N = 0)		(N = 0)	
Cadet	0	0.0	0	0.0	0	0.0
O-1	0	0.0	0	0.0	0	0.0
O-2	0	0.0	0	0.0	0	0.0
O-3	0	0.0	0	0.0	0	0.0
O-4	0	0.0	0	0.0	0	0.0
O-5	0	0.0	0	0.0	0	0.0
O-6	0	0.0	0	0.0	0	0.0
<b>Unknown</b>	(N = 440)		(N = 117)		(N = 31)	
Unknown	440	100.0	117	100.0	31	100.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no victims documented by the DAC-IPAD, they are omitted from this table.

**TABLE 24**  
**AIR FORCE: AGE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 563)		(N = 133)		(N = 21)	
18	0	0.0	0	0.0	0	0.0
19	0	0.0	0	0.0	0	0.0
20	0	0.0	0	0.0	0	0.0
21	0	0.0	0	0.0	0	0.0
22	0	0.0	0	0.0	0	0.0
23	0	0.0	0	0.0	0	0.0
24	0	0.0	0	0.0	0	0.0
25	0	0.0	0	0.0	0	0.0
26	0	0.0	0	0.0	0	0.0
27	0	0.0	0	0.0	0	0.0
28	0	0.0	0	0.0	0	0.0
29	0	0.0	0	0.0	0	0.0
30	0	0.0	0	0.0	0	0.0
31	0	0.0	0	0.0	0	0.0
32	0	0.0	0	0.0	0	0.0
33	0	0.0	0	0.0	0	0.0
34	0	0.0	0	0.0	0	0.0
35	0	0.0	0	0.0	0	0.0
36	0	0.0	0	0.0	0	0.0
37	0	0.0	0	0.0	0	0.0
38	0	0.0	0	0.0	0	0.0
39	0	0.0	0	0.0	0	0.0
40	0	0.0	0	0.0	0	0.0
41	0	0.0	0	0.0	0	0.0
42	0	0.0	0	0.0	0	0.0
43	0	0.0	0	0.0	0	0.0
44	0	0.0	0	0.0	0	0.0
45	0	0.0	0	0.0	0	0.0
50	0	0.0	0	0.0	0	0.0
Unknown	440	100.0	117	100.0	31	100.0

**TABLE 25**  
**COAST GUARD: RACE AND ETHNICITY OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 127)		(N = 22)		(N = 1)	
American Indian/ Alaskan Native	4	3.1	0	0.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	5	3.9	0	0.0	0	0.0
Black/African American	10	7.9	1	4.5	0	0.0
Two or more/Other	7	5.5	0	0.0	0	0.0
White	97	76.4	21	95.5	1	100.0
Unknown	4	3.1	0	0.0	0	0.0
<b>Ethnicity</b>	(N = 127)		(N = 22)		(N = 1)	
Hispanic or Latino	22	17.3	2	9.1	0	0.0
Not Hispanic or Latino	96	75.6	20	90.9	1	100.0
Unknown	9	7.1	0	0.0	0	0.0

**TABLE 26**  
**COAST GUARD: SEX, STATUS, AND PAY GRADE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 127)		(N = 22)		(N = 1)	
Male	120	94.5	22	100.0	1	100.0
Female	6	4.7	0	0.0	0	0.0
Unknown	1	0.8	0	0.0	0	0.0
<b>Status</b>	(N = 127)		(N = 22)		(N = 1)	
Officer	12	9.4	3	13.6	0	0.0
Enlisted	111	87.4	19	86.4	1	100.0
Unknown	4	3.1	0	0.0	0	0.0
<b>Pay Grade</b>	(N = 111)		(N = 19)		(N = 1)	
Enlisted	(N = 111)		(N = 19)		(N = 1)	
E-1	6	5.4	0	0.0	0	0.0
E-2	8	7.2	1	5.3	0	0.0
E-3	22	19.8	3	15.8	0	0.0
E-4	33	29.7	5	26.3	1	100.0
E-5	17	15.3	6	31.6	0	0.0
E-6	17	15.3	3	15.8	0	0.0
E-7	6	5.4	0	0.0	0	0.0
E-8	0	0.0	0	0.0	0	0.0
E-9	2	1.8	1	5.3	0	0.0
Officer <sup>a</sup>	(N = 12)		(N = 3)		(N = 0)	
W-1	0	0.0	0	0.0	0	0.0
W-2	2	16.7	0	0.0	0	0.0
W-3	1	8.3	0	0.0	0	0.0
W-4	0	0.0	0	0.0	0	0.0
W-5	0	0.0	0	0.0	0	0.0
Cadet	0	0.0	0	0.0	0	0.0
O-1	3	25.0	1	33.3	0	0.0
O-2	1	8.3	0	0.0	0	0.0
O-3	2	16.7	1	33.3	0	0.0
O-4	3	25.0	1	33.3	0	0.0
O-5	0	0.0	0	0.0	0	0.0
O-6	0	0.0	0	0.0	0	0.0
Unknown	4		0		0	

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no victims documented by the DAC-IPAD, they are omitted from this table.

**TABLE 27**  
**COAST GUARD: AGE OF THE SUBJECT**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 127)		(N = 22)		(N = 1)	
18	3	2.4	0	0.0	0	0.0
19	9	7.1	0	0.0	0	0.0
20	5	3.9	0	0.0	0	0.0
21	9	7.1	3	13.6	1	100.0
22	12	9.4	3	13.6	0	0.0
23	8	6.3	3	13.6	0	0.0
24	7	5.5	2	9.1	0	0.0
25	7	5.5	0	0.0	0	0.0
26	8	6.3	0	0.0	0	0.0
27	5	3.9	1	4.5	0	0.0
28	4	3.1	0	0.0	0	0.0
29	4	3.1	1	4.5	0	0.0
30	2	1.6	0	0.0	0	0.0
31	4	3.1	1	4.5	0	0.0
32	8	6.3	1	4.5	0	0.0
33	6	4.7	2	9.1	0	0.0
34	0	0.0	0	0.0	0	0.0
35	2	1.6	1	4.5	0	0.0
36	4	3.1	1	4.5	0	0.0
37	2	1.6	0	0.0	0	0.0
38	3	2.4	0	0.0	0	0.0
39	2	1.6	0	0.0	0	0.0
40	1	0.8	0	0.0	0	0.0
41	3	2.4	2	9.1	0	0.0
42	0	0.0	0	0.0	0	0.0
43	3	2.4	0	0.0	0	0.0
44	0	0.0	0	0.0	0	0.0
45	3	2.4	1	4.5	0	0.0
Unknown	3	2.4	0	0.0	0	0.0

**TABLE 28**  
**COAST GUARD: RACE AND ETHNICITY OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Race</b>	(N = 137)		(N = 25)		(N = 1)	
American Indian/ Alaskan Native	2	1.5	1	4.0	0	0.0
Asian/Native Hawaiian/ Pacific Islander	6	4.4	0	0.0	0	0.0
Black/African American	5	3.6	1	4.0	0	0.0
Two or more/Other	4	2.9	0	0.0	0	0.0
White	115	83.9	23	92.0	1	100.0
Unknown	5	3.6	0	0.0	0	0.0
<b>Ethnicity</b>	(N = 137)		(N = 25)		(N = 1)	
Hispanic or Latino	13	9.5	0	0.0	0	0.0
Not Hispanic or Latino	115	83.9	24	96.0	1	100.0
Unknown	9	6.6	1	4.0	0	0.0

**TABLE 29**  
**COAST GUARD: SEX, STATUS, AND PAY GRADE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
<b>Sex</b>	(N = 137)		(N = 25)		(N = 1)	
Male	24	17.5	3	12.0	0	0.0
Female	113	82.5	22	88.0	1	100.0
Unknown	0	0.0	0	0.0	0	0.0
<b>Status</b>	(N = 137)		(N = 25)		(N = 1)	
Military	94	68.6	19	76.0	1	100.0
Civilian	39	28.5	6	24.0	0	0.0
Unknown	4	2.9	0	0.0	0	0.0
<b>Pay Grade</b>						
<b>Enlisted</b>	(N = 79)		(N = 15)		(N = 0)	
E-1	8	9.9	1	6.7	0	0.0
E-2	11	13.6	0	0.0	0	0.0
E-3	23	28.4	6	40.0	0	0.0
E-4	24	29.6	8	53.3	0	0.0
E-5	9	11.1	0	0.0	0	0.0
E-6	5	6.2	0	0.0	0	0.0
E-7	1	1.2	0	0.0	0	0.0
E-8	0	0.0	0	0.0	0	0.0
E-9	0	0.0	0	0.0	0	0.0
<b>Officer<sup>a</sup></b>	(N = 15)		(N = 4)		(N = 1)	
W-1	0	0.0	0	0.0	0	0.0
W-2	0	0.0	0	0.0	0	0.0
W-3	0	0.0	0	0.0	0	0.0
W-4	0	0.0	0	0.0	0	0.0
W-5	0	0.0	0	0.0	0	0.0
Cadet	3	23.1	1	25.0	0	0.0
O-1	6	46.2	1	25.0	1	100.0
O-2	4	30.8	2	50.0	0	0.0
O-3	0	0.0	0	0.0	0	0.0
O-4	0	0.0	0	0.0	0	0.0
O-5	0	0.0	0	0.0	0	0.0
O-6	0	0.0	0	0.0	0	0.0

<sup>a</sup> Because the pay grades of O-7, O-8, O-9, and O-10 had no victims documented by the DAC-IPAD, they are omitted from this table.

**TABLE 30**  
**COAST GUARD: AGE OF THE VICTIM**

	Sexual Offense Unrestricted Report		Sexual Offense Charge(s) Preferred		Sexual Offense Conviction at Court-Martial	
	n	%	n	%	n	%
Age	(N = 137)		(N = 25)		(N = 1)	
17	1	0.7	0	0.0	0	0.0
18	8	5.8	2	8.0	0	0.0
19	22	16.1	2	8.0	0	0.0
20	9	6.6	3	12.0	0	0.0
21	14	10.2	2	8.0	0	0.0
22	15	10.9	3	12.0	0	0.0
23	8	5.8	2	8.0	0	0.0
24	12	8.8	3	12.0	0	0.0
25	4	2.9	0	0.0	0	0.0
26	7	5.1	0	0.0	0	0.0
27	5	3.6	3	12.0	0	0.0
28	3	2.2	1	4.0	0	0.0
29	4	2.9	2	8.0	1	100.0
30	0	0.0	0	0.0	0	0.0
31	1	0.7	0	0.0	0	0.0
32	0	0.0	0	0.0	0	0.0
33	0	0.0	0	0.0	0	0.0
34	3	2.2	0	0.0	0	0.0
35	3	2.2	0	0.0	0	0.0
36	4	2.9	1	4.0	0	0.0
37	3	2.2	0	0.0	0	0.0
38	1	0.7	0	0.0	0	0.0
39	3	2.2	1	4.0	0	0.0
40	1	0.7	0	0.0	0	0.0
41	1	0.7	0	0.0	0	0.0
42	0	0.0	0	0.0	0	0.0
43	1	0.7	0	0.0	0	0.0
Unknown	4	2.9	0	0.0	0	0.0

### Section III: Services' RFI Response Graphical Observations

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Figure 59 – Coast Guard: Age of the Subject	G-67
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FIGURE 1. ARMY: RACE OF THE SUBJECT

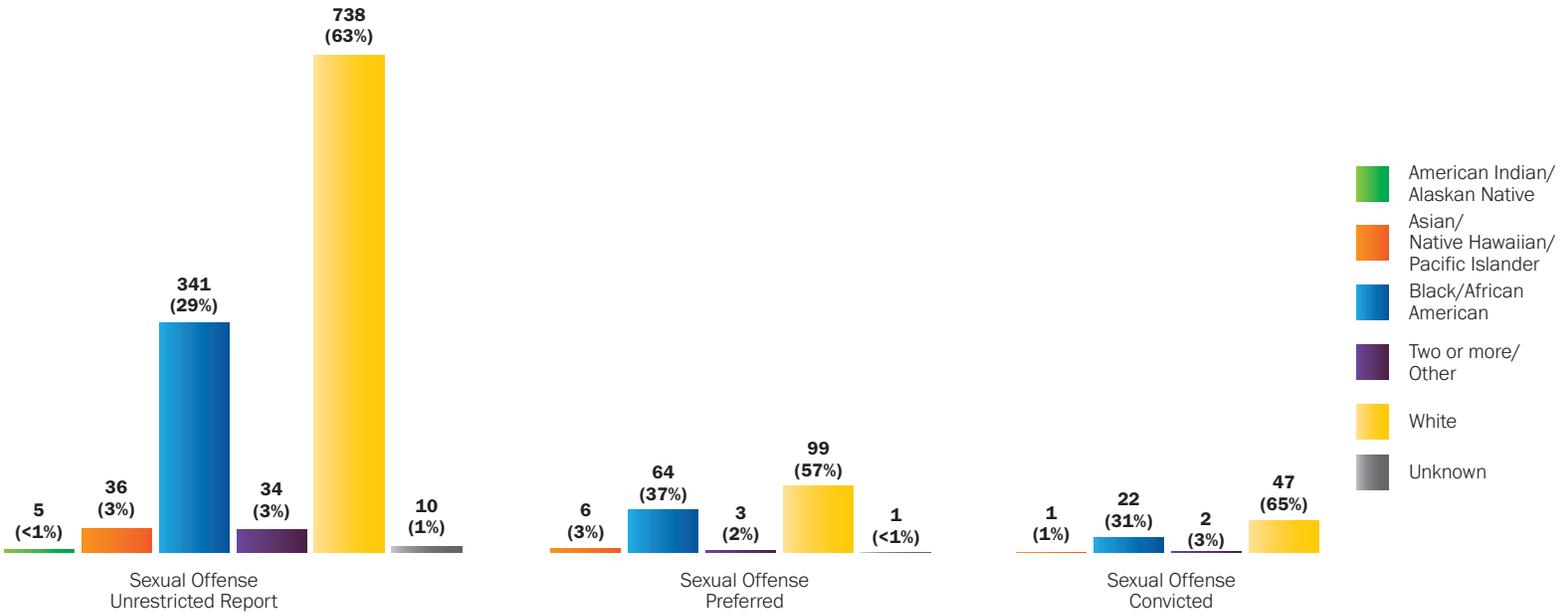


FIGURE 2. ARMY: RACE OF THE VICTIM

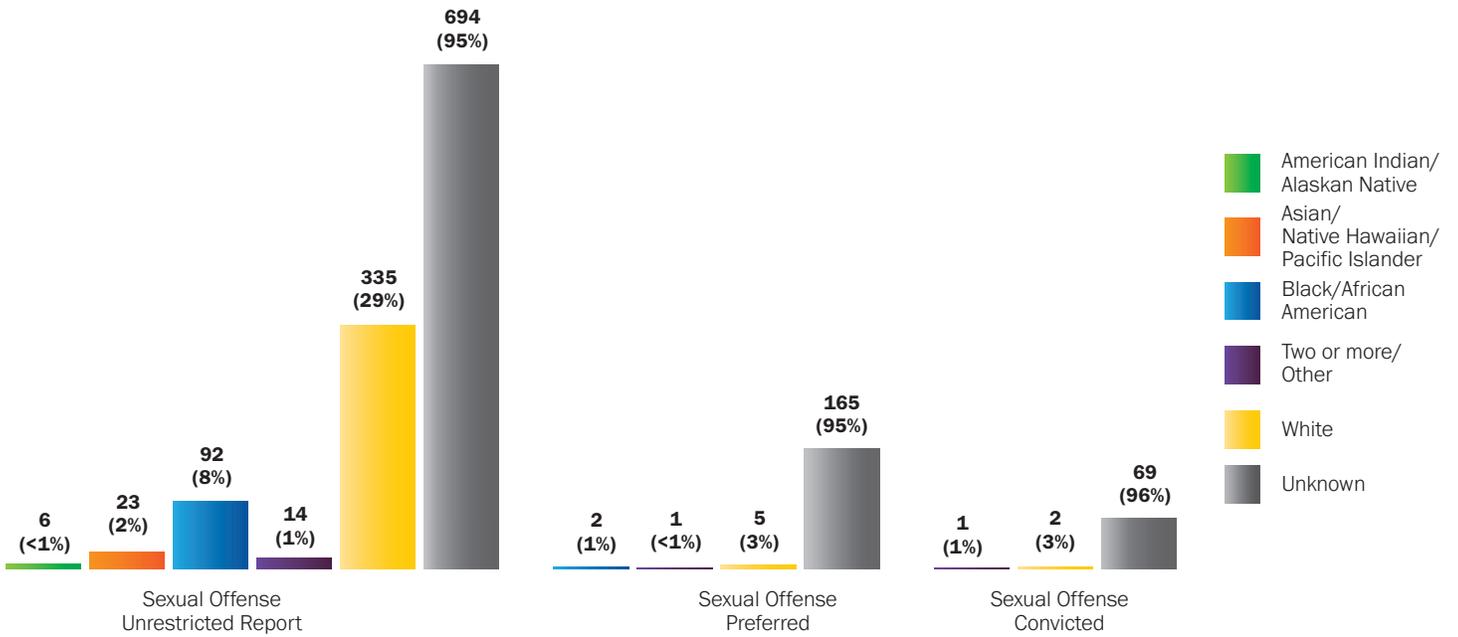


FIGURE 3. ARMY: ETHNICITY OF THE SUBJECT

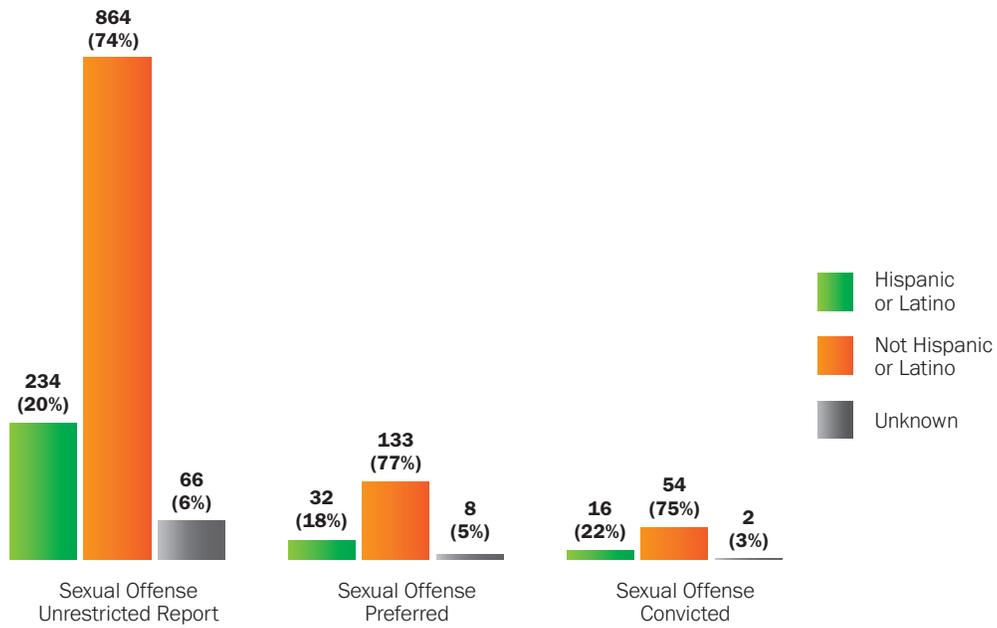


FIGURE 4. ARMY: ETHNICITY OF THE VICTIM

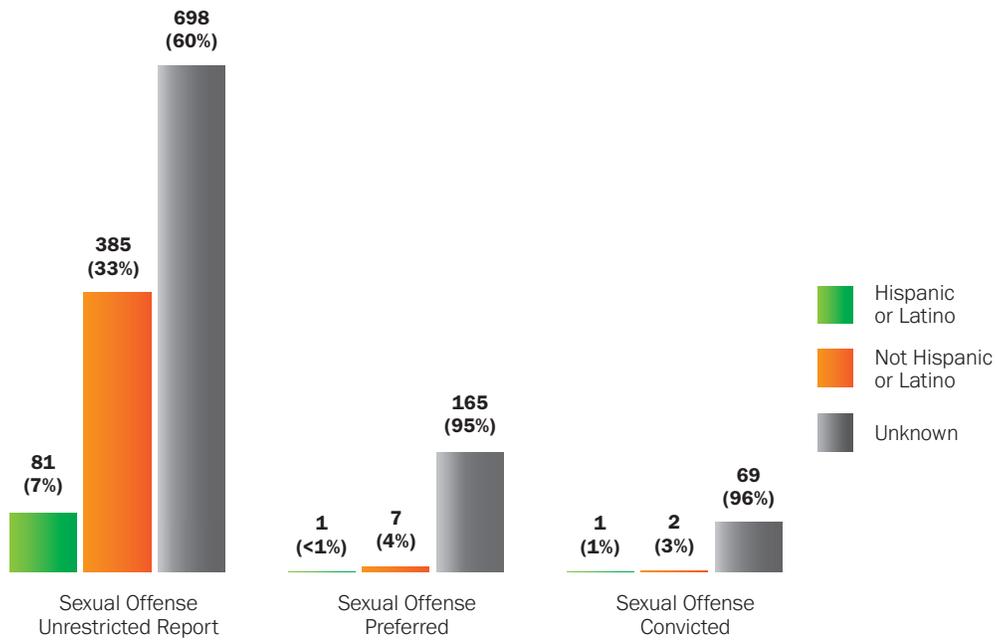


FIGURE 5. ARMY: SEX OF THE SUBJECT

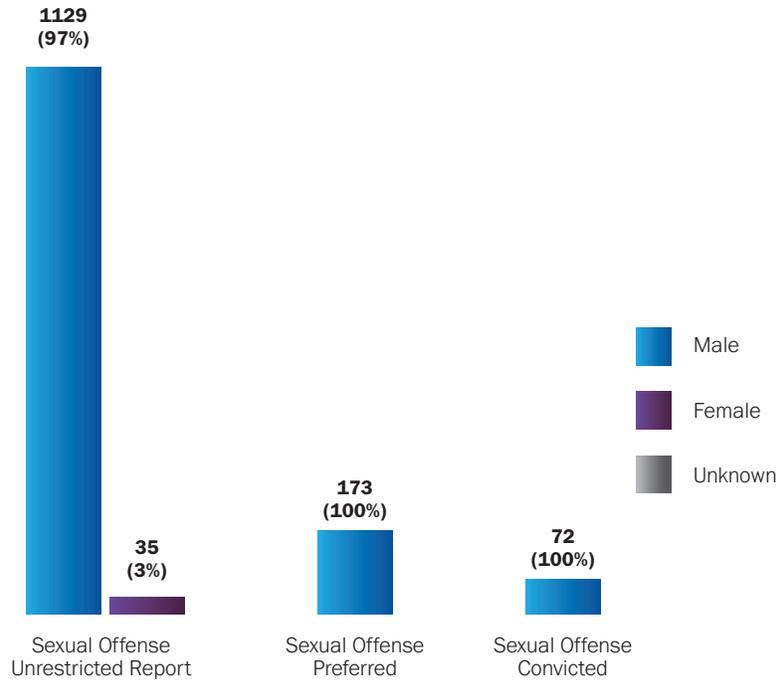


FIGURE 6. ARMY: SEX OF THE VICTIM

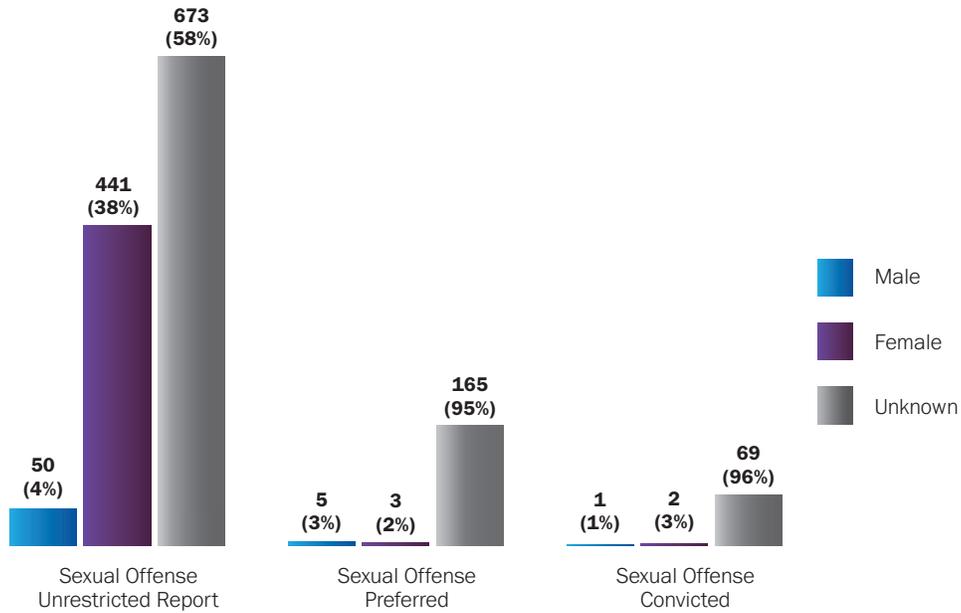


FIGURE 7. ARMY: STATUS OF THE SUBJECT

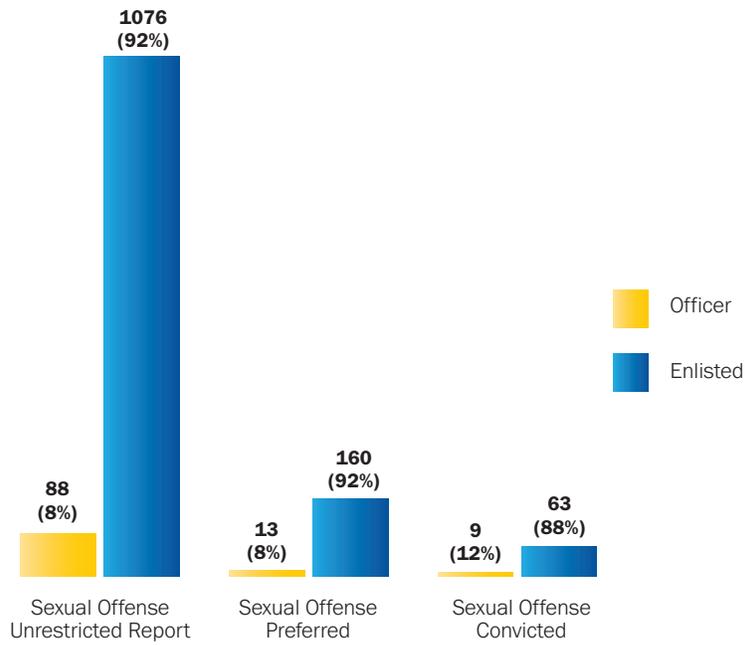
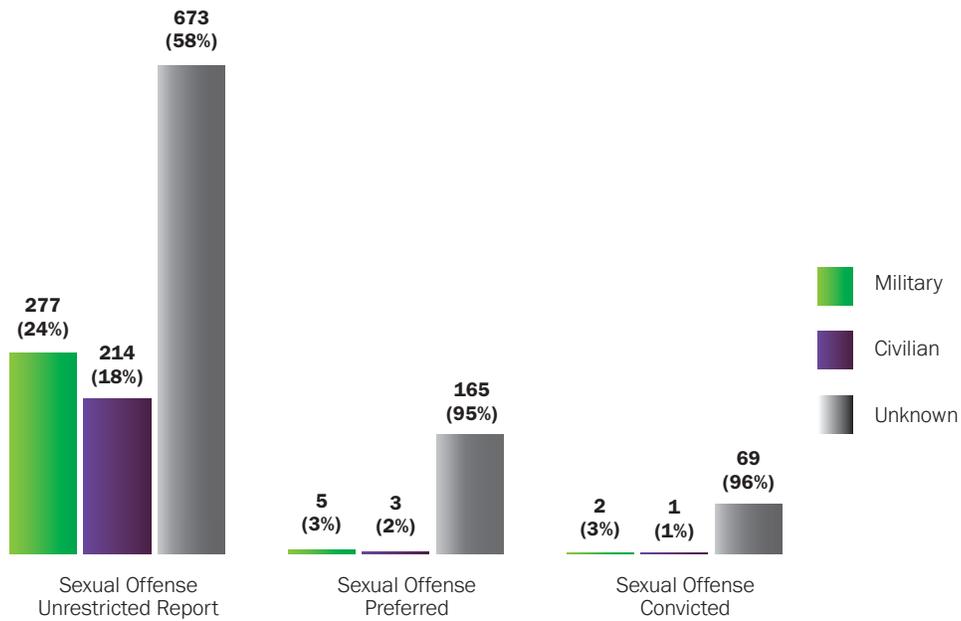
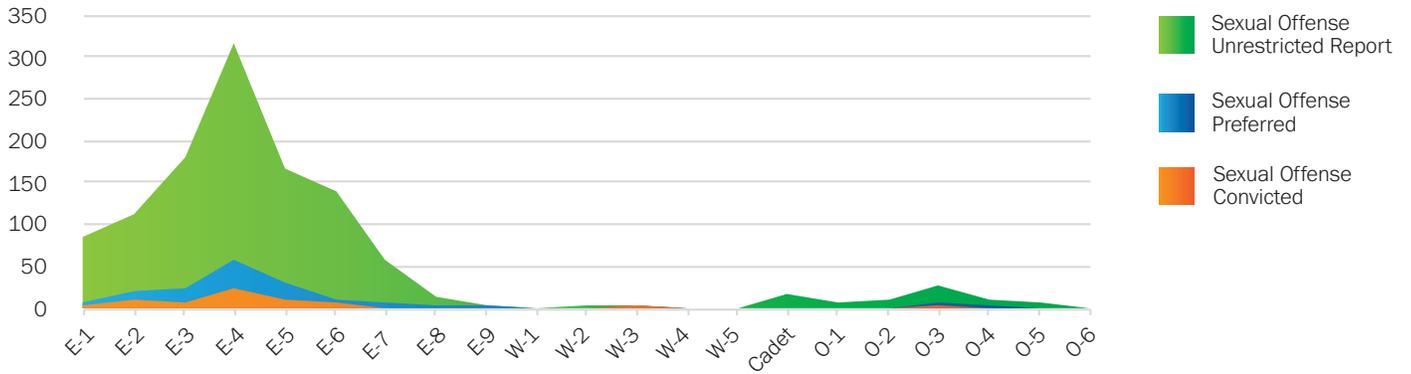


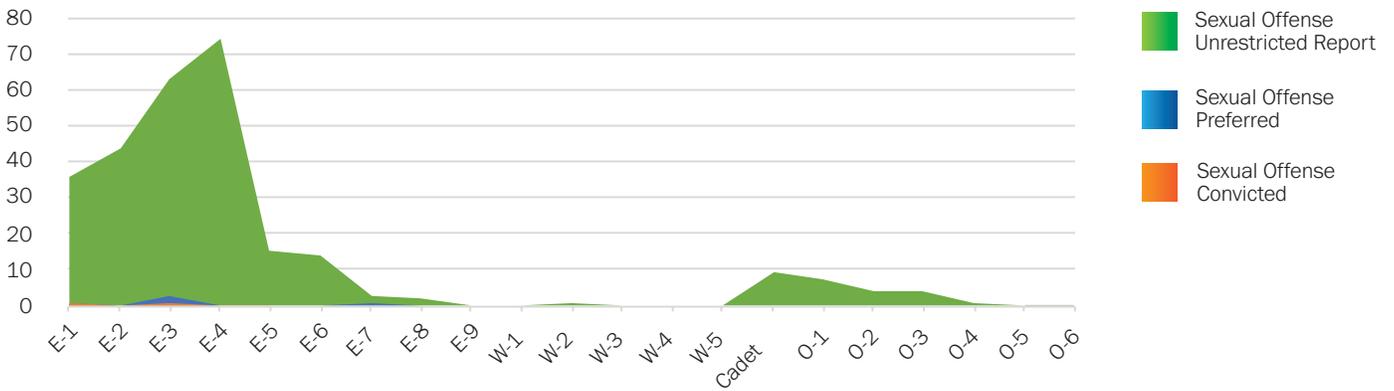
FIGURE 8. ARMY: STATUS OF THE VICTIM



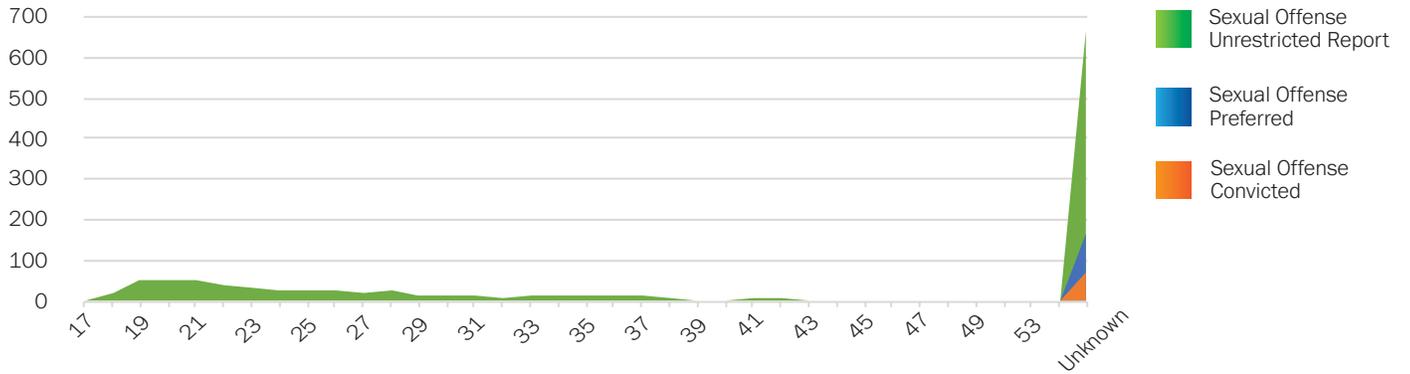
**FIGURE 9. ARMY: PAY GRADE OF THE SUBJECT**



**FIGURE 10. ARMY: PAY GRADE OF THE VICTIM**



**FIGURE 11. ARMY: AGE OF THE SUBJECT**



**FIGURE 12. ARMY: AGE OF THE VICTIM**

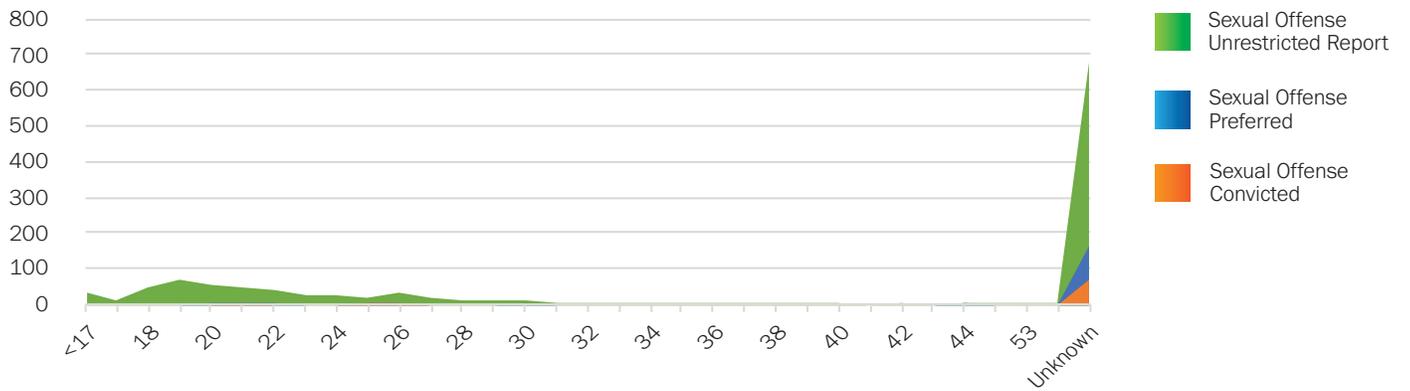


FIGURE 13. NAVY: RACE OF THE SUBJECT

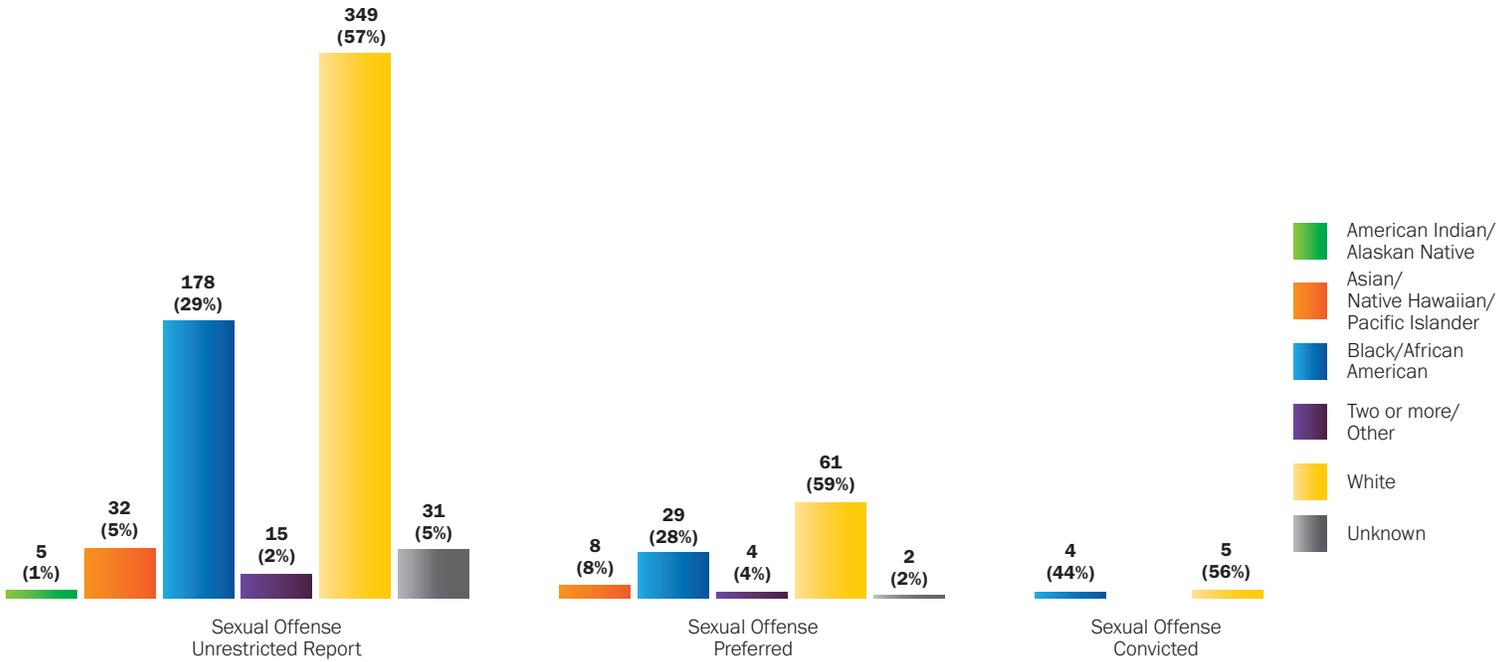


FIGURE 14. NAVY: RACE OF THE VICTIM

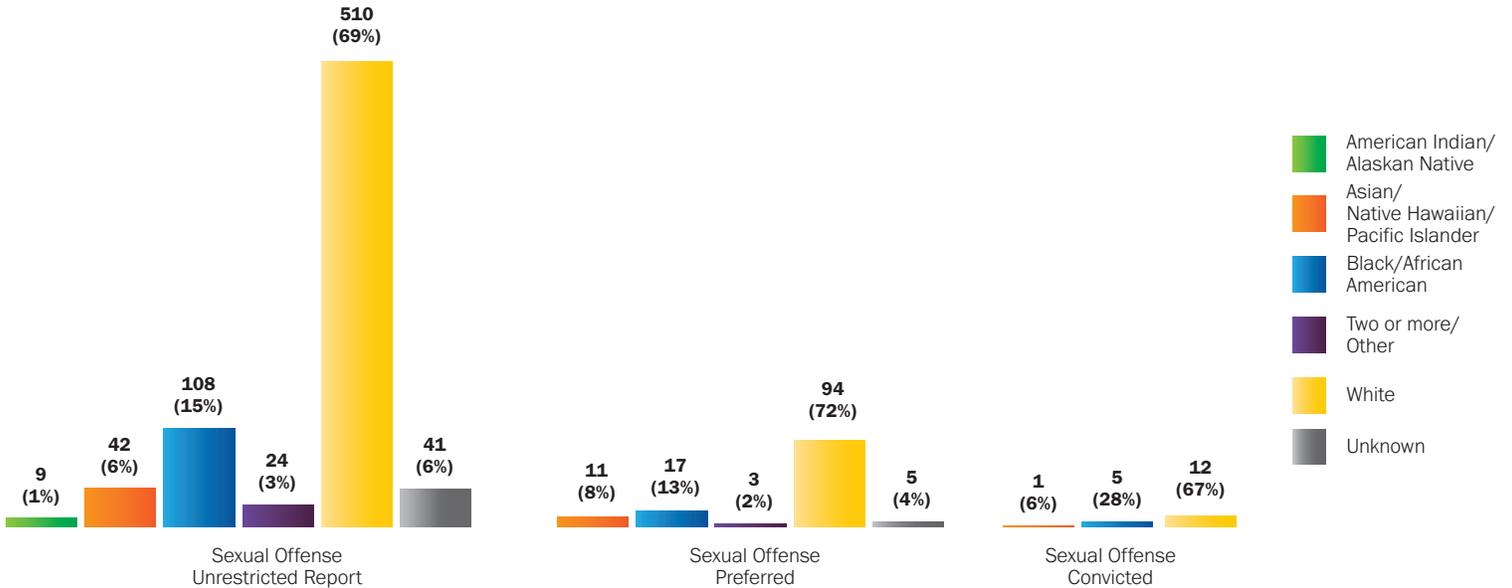


FIGURE 15. NAVY: ETHNICITY OF THE SUBJECT

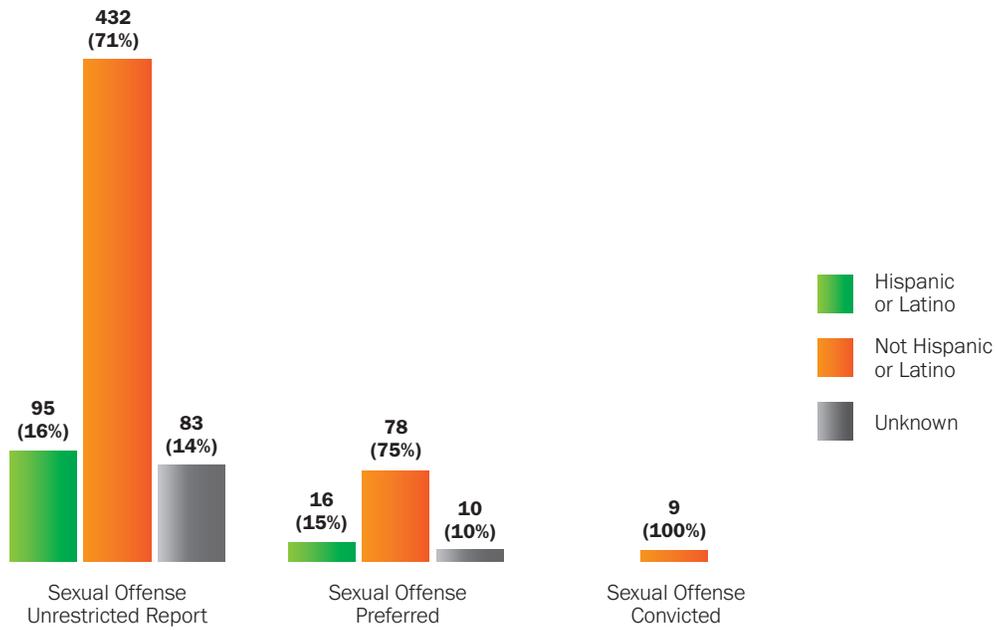


FIGURE 16. NAVY: ETHNICITY OF THE VICTIM

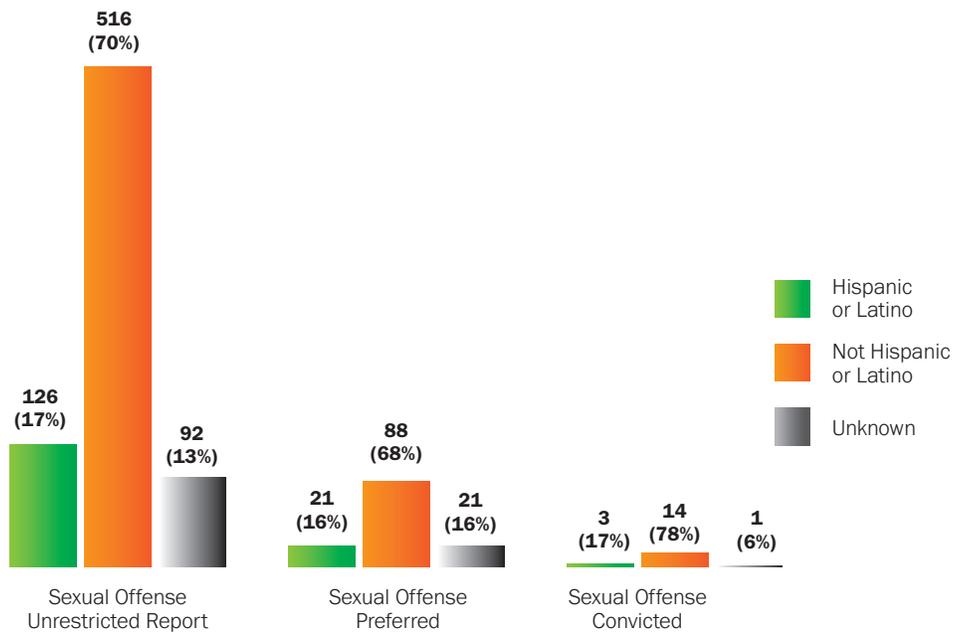


FIGURE 17. NAVY: SEX OF THE SUBJECT

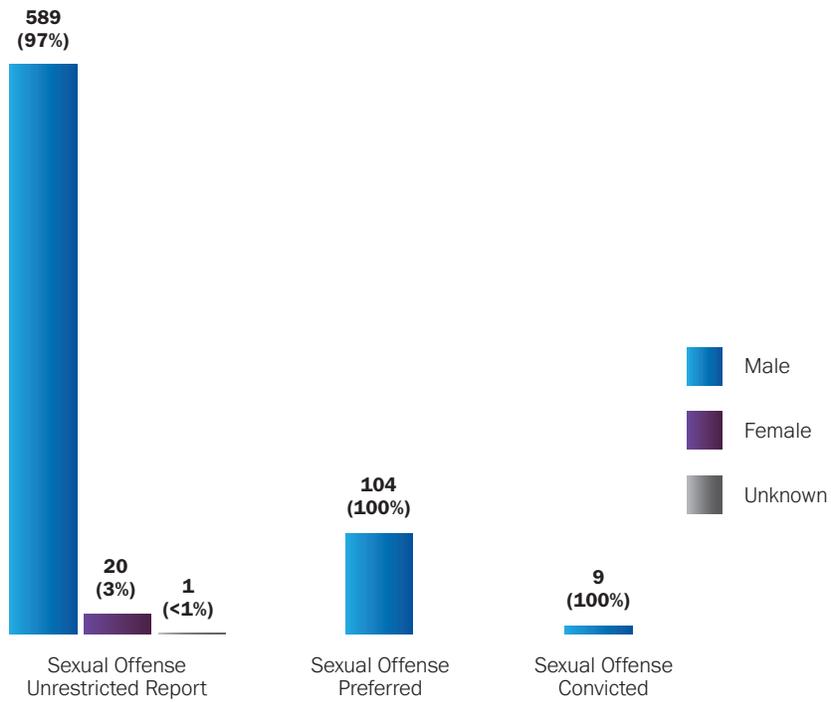


FIGURE 18. NAVY: SEX OF THE VICTIM

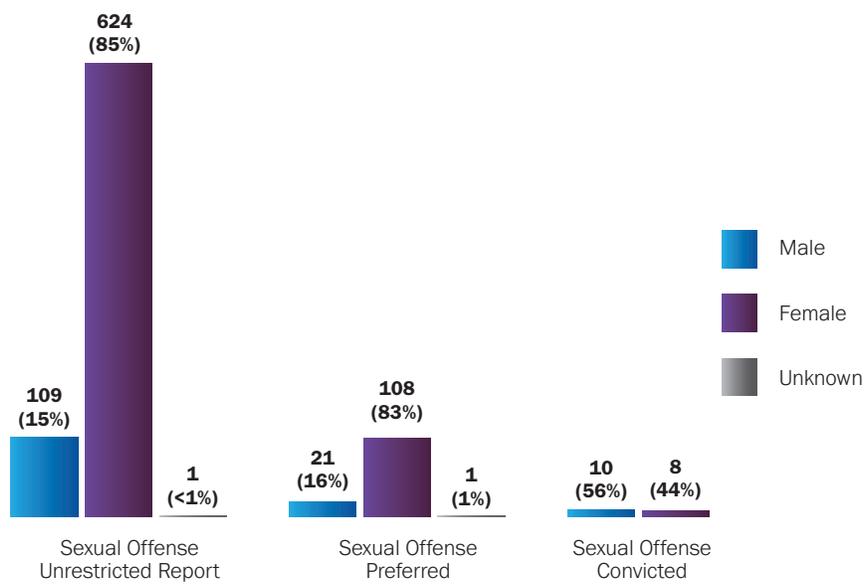


FIGURE 19. NAVY: STATUS OF THE SUBJECT

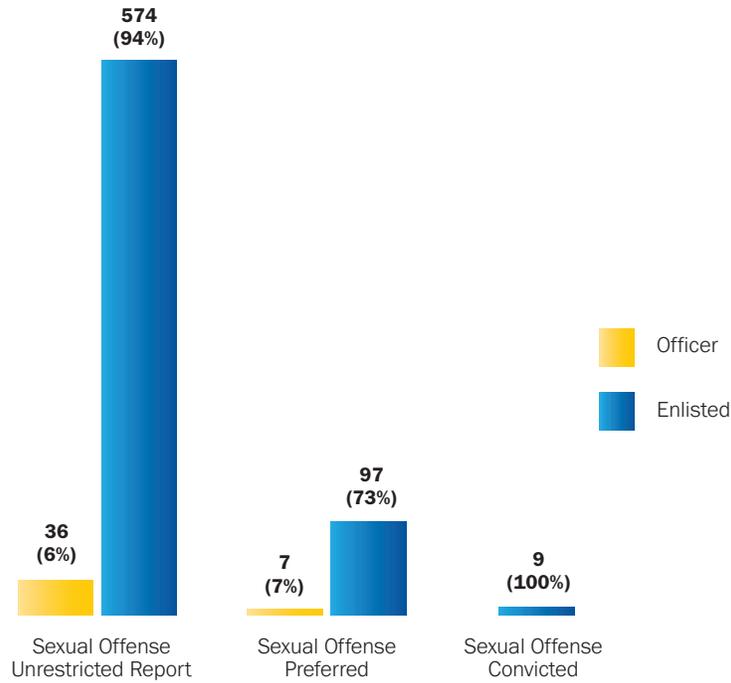
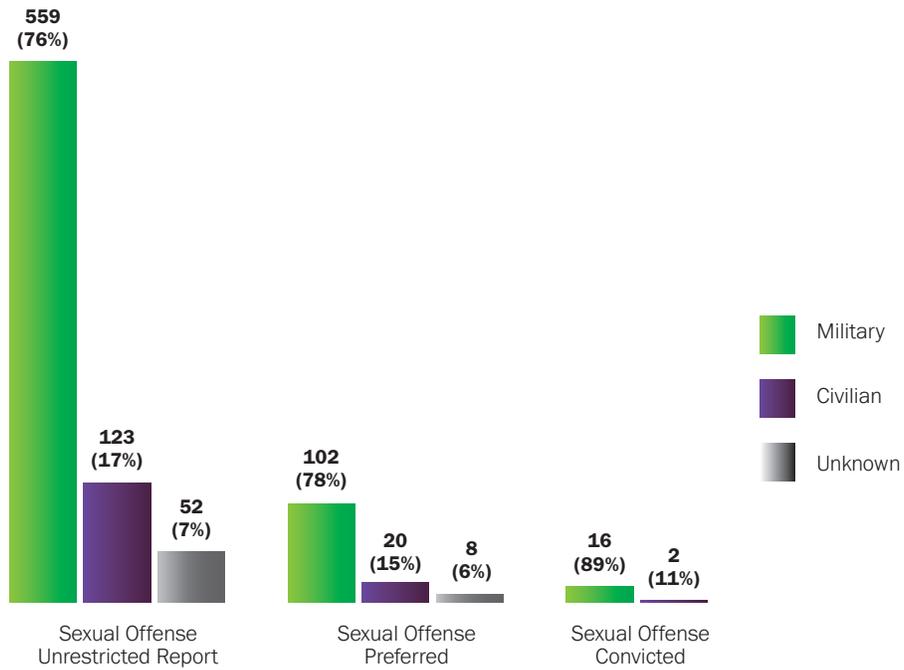
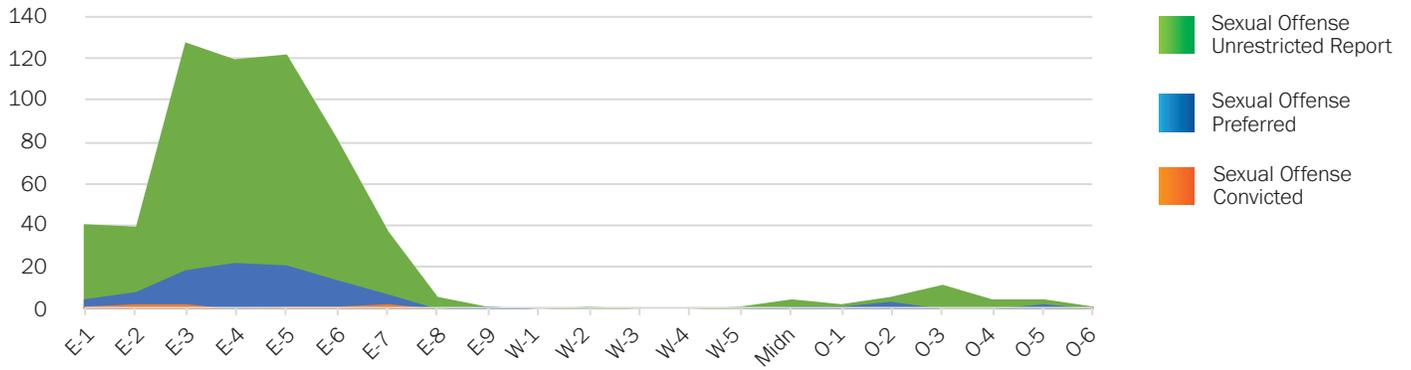


FIGURE 20. NAVY: STATUS OF THE VICTIM



**FIGURE 21. NAVY: PAY GRADE OF THE SUBJECT**



**FIGURE 22. NAVY: PAY GRADE OF THE VICTIM**

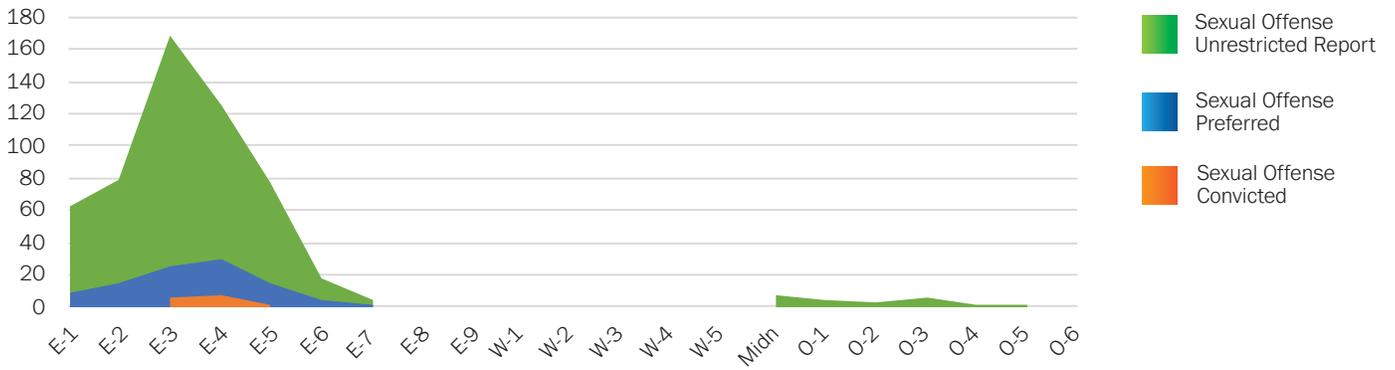


FIGURE 23. NAVY: AGE OF THE SUBJECT

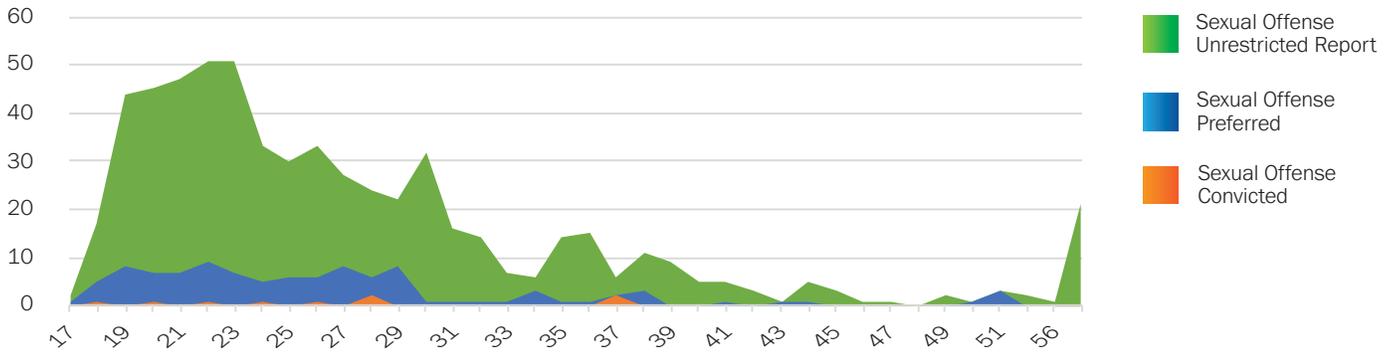


FIGURE 24. NAVY: AGE OF THE VICTIM

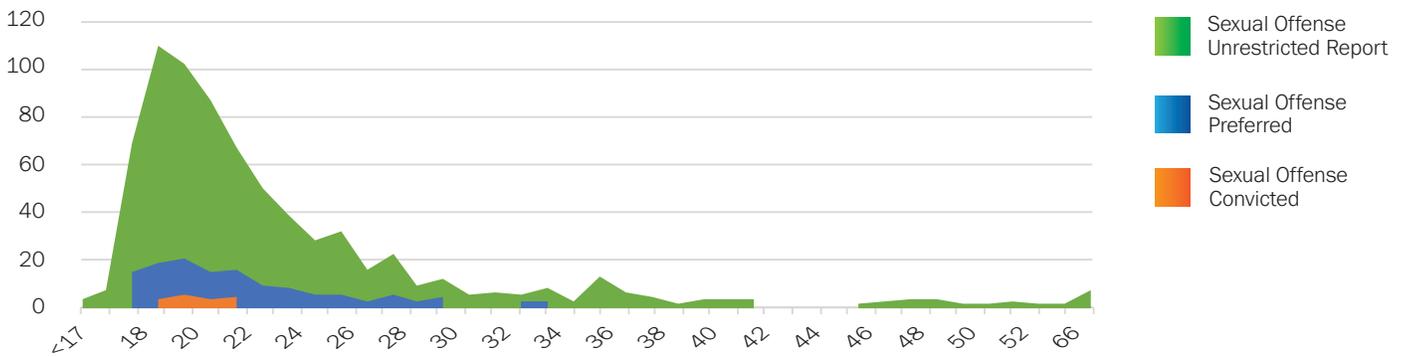


FIGURE 25. MARINE CORPS: RACE OF THE SUBJECT

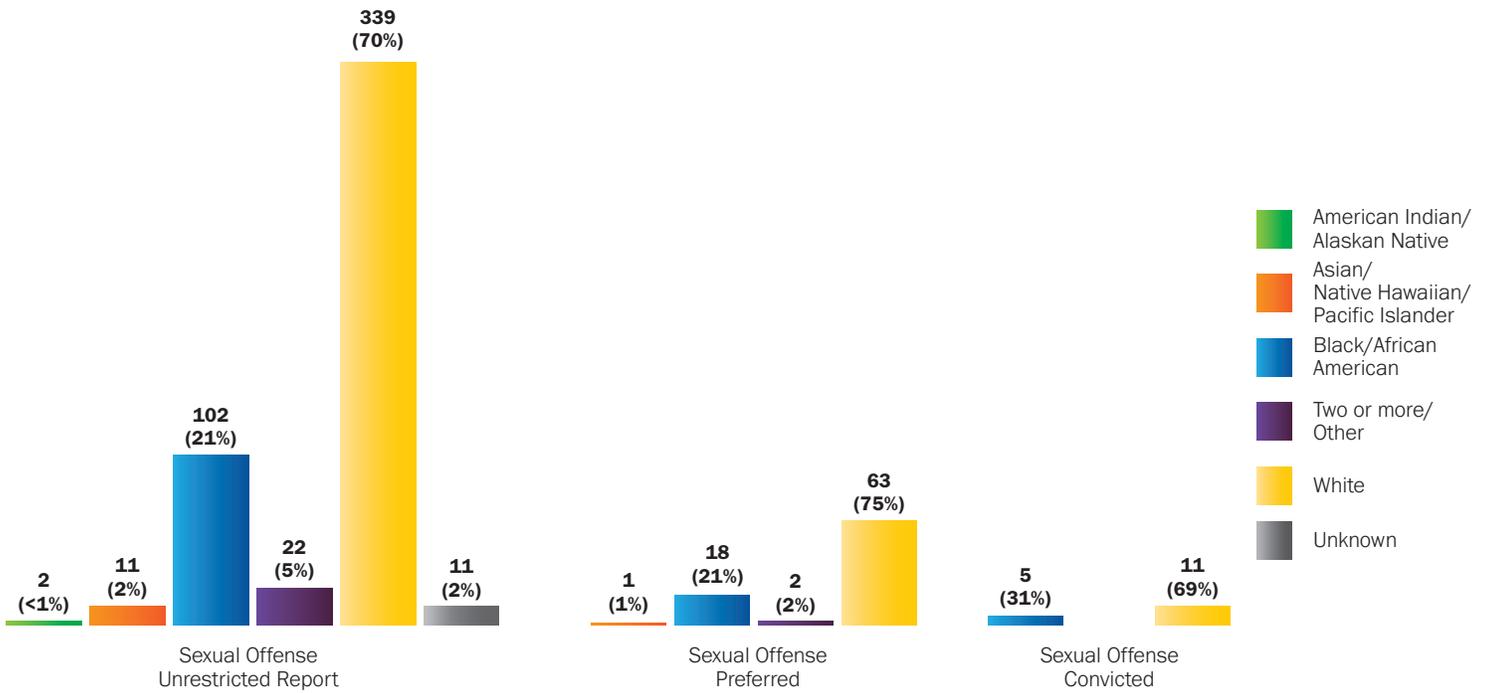


FIGURE 26. MARINE CORPS: RACE OF THE VICTIM

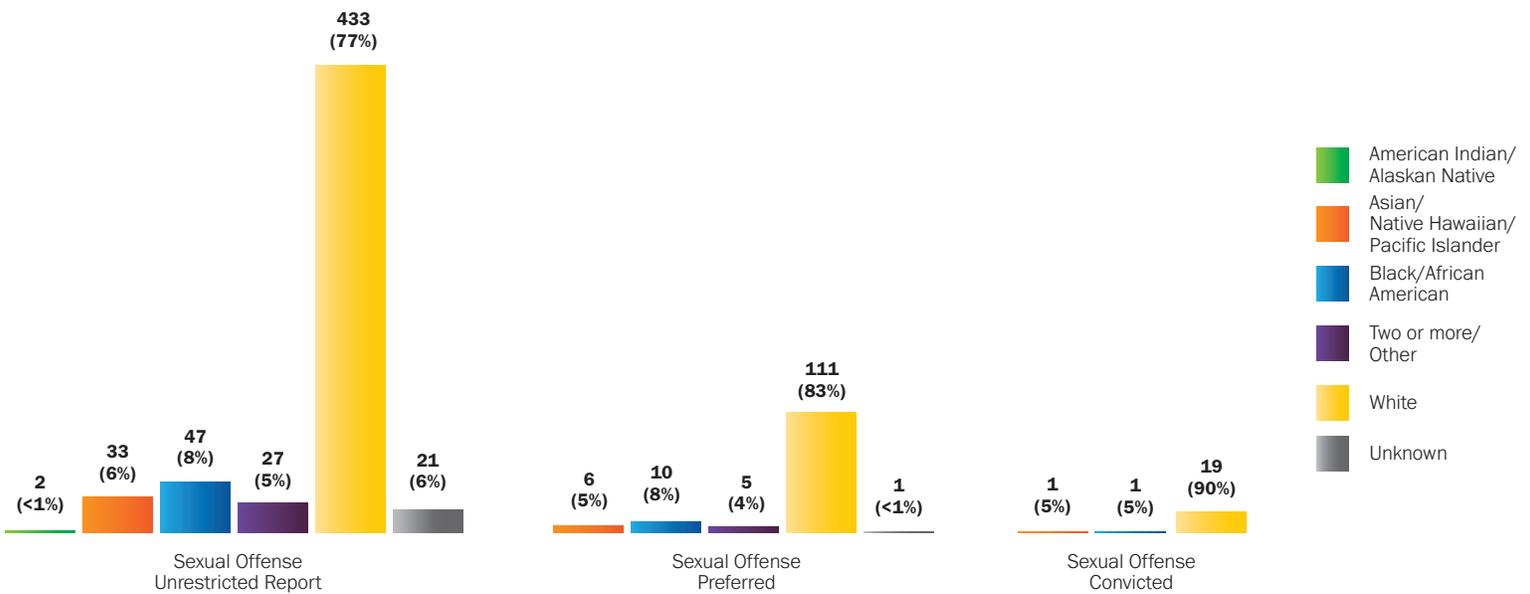


FIGURE 27. MARINE CORPS: ETHNICITY OF THE SUBJECT

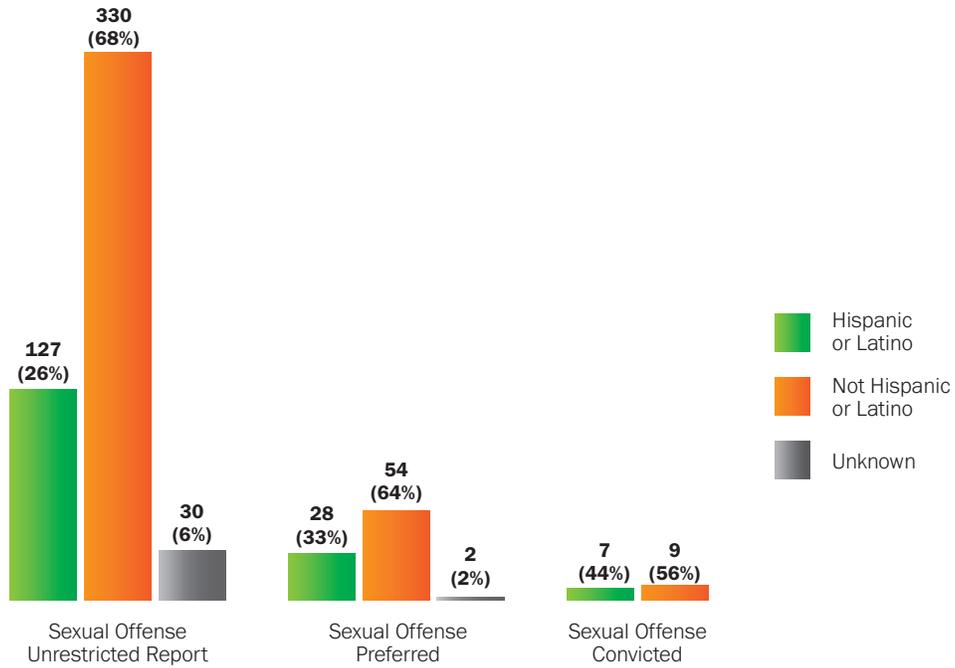


FIGURE 28. MARINE CORPS: ETHNICITY OF THE VICTIM

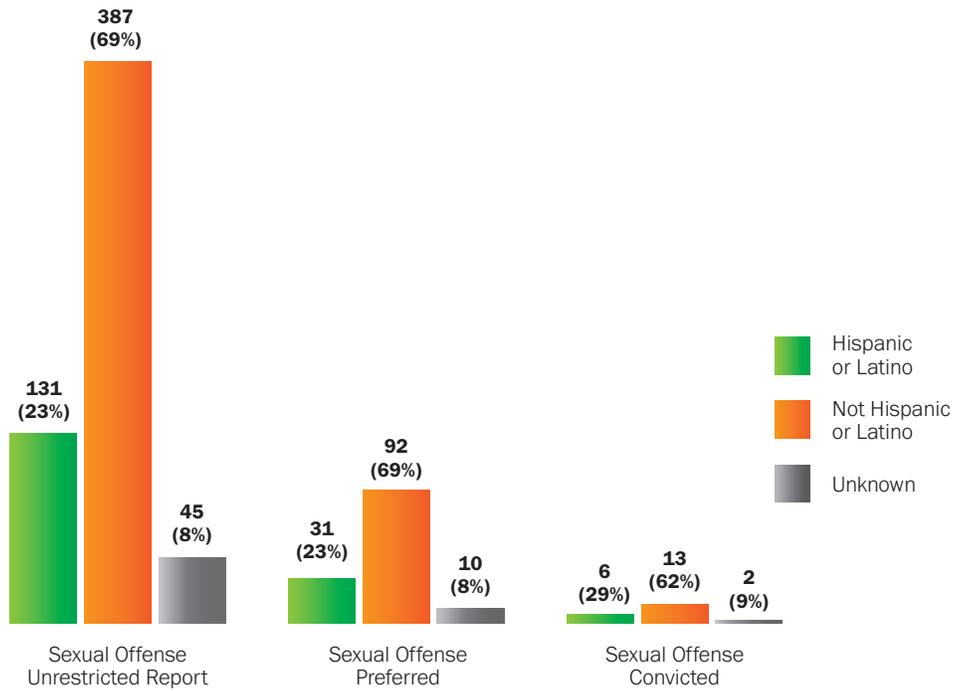


FIGURE 29. MARINE CORPS: SEX OF THE SUBJECT

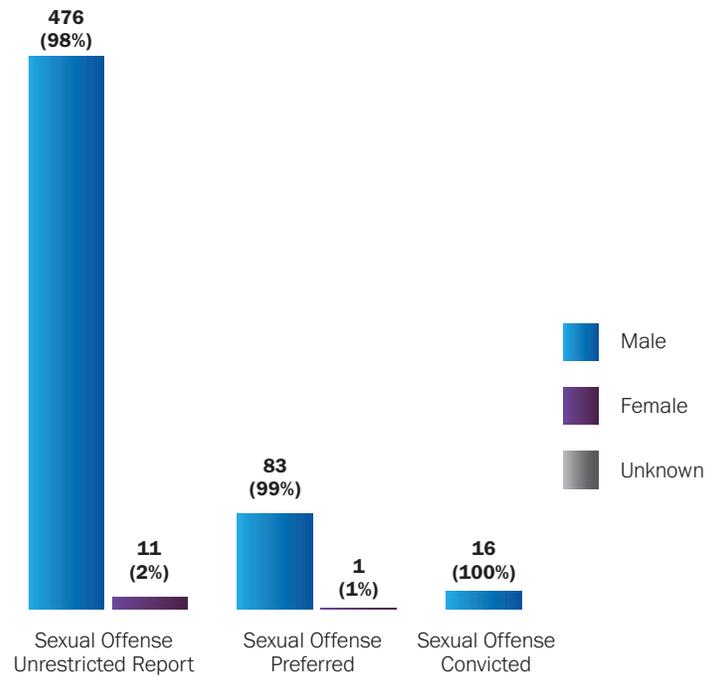


FIGURE 30. MARINE CORPS: SEX OF THE VICTIM

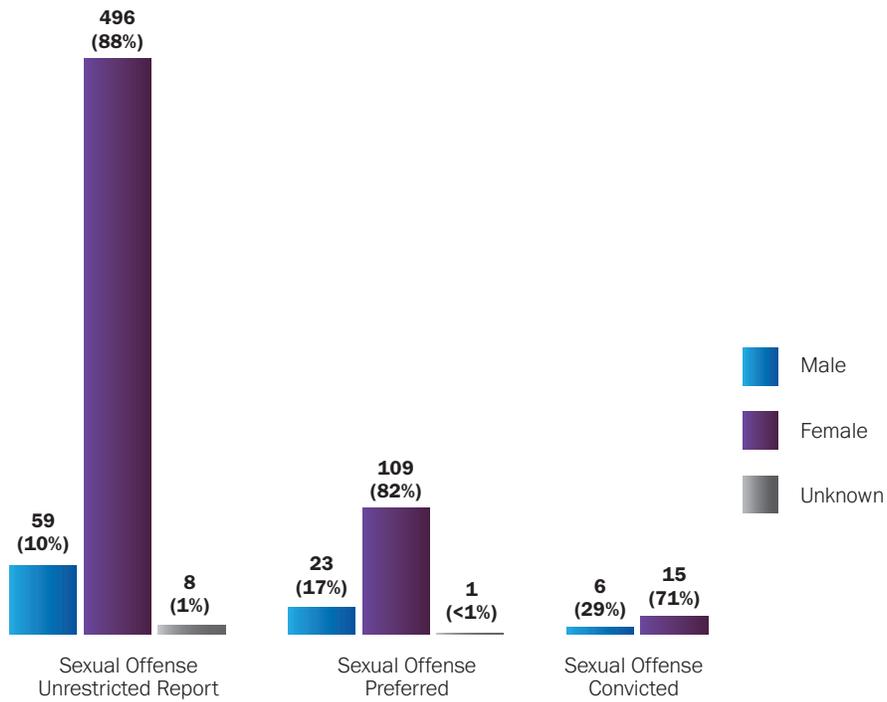


FIGURE 31. MARINE CORPS: STATUS OF THE SUBJECT

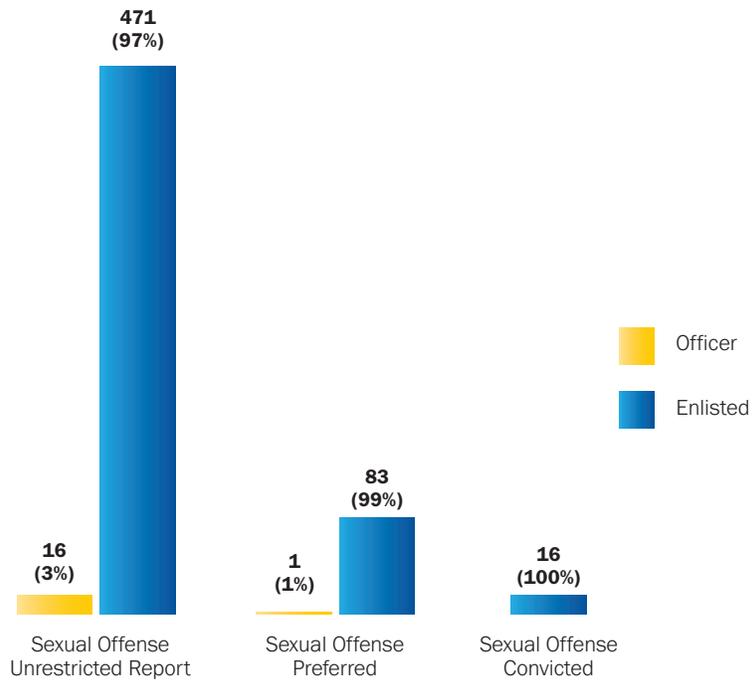


FIGURE 32. MARINE CORPS: STATUS OF THE VICTIM

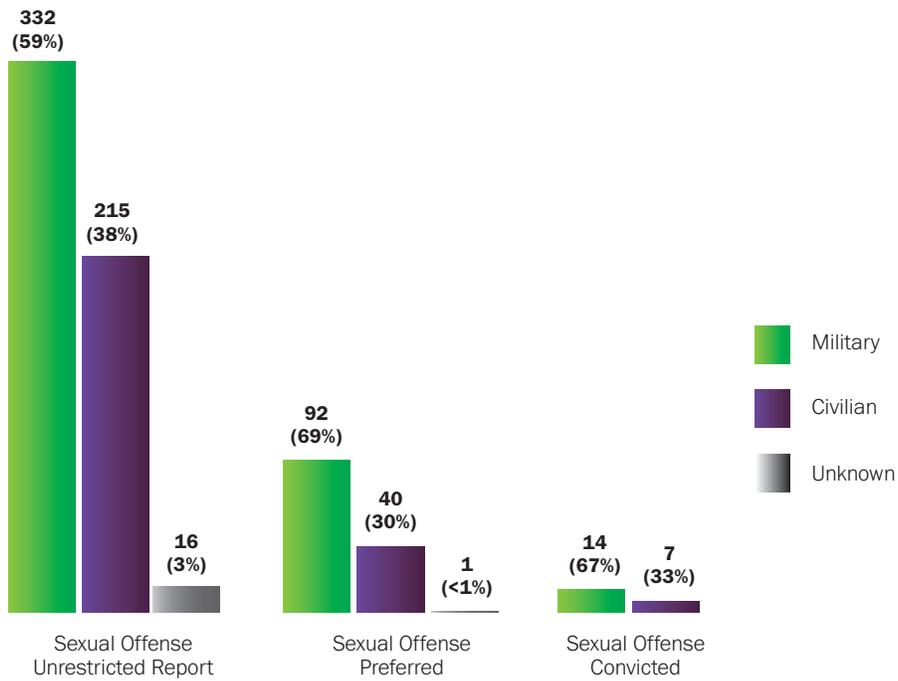


FIGURE 33. MARINE CORPS: PAY GRADE OF THE SUBJECT

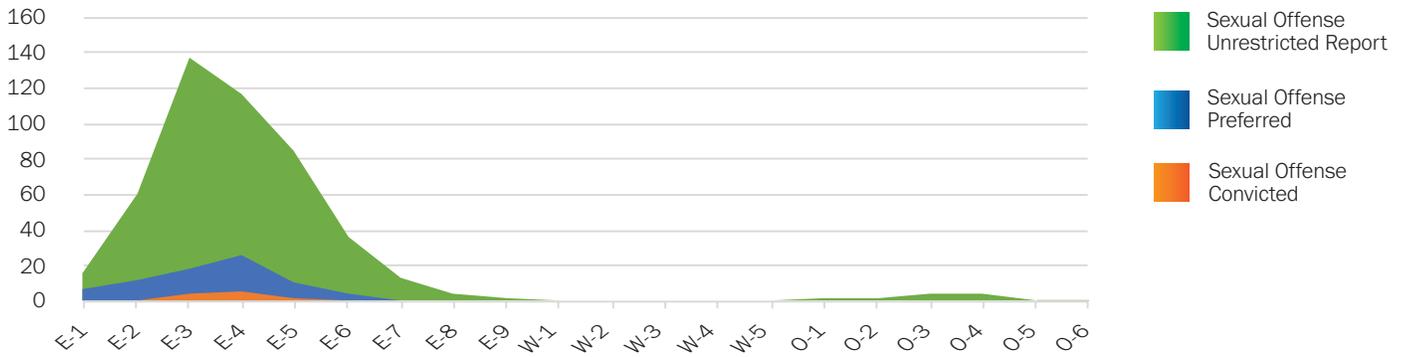
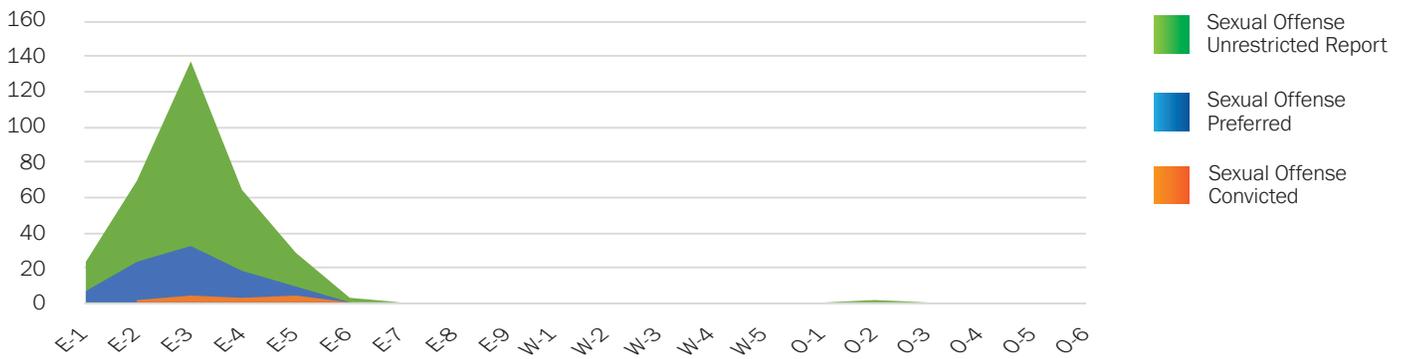
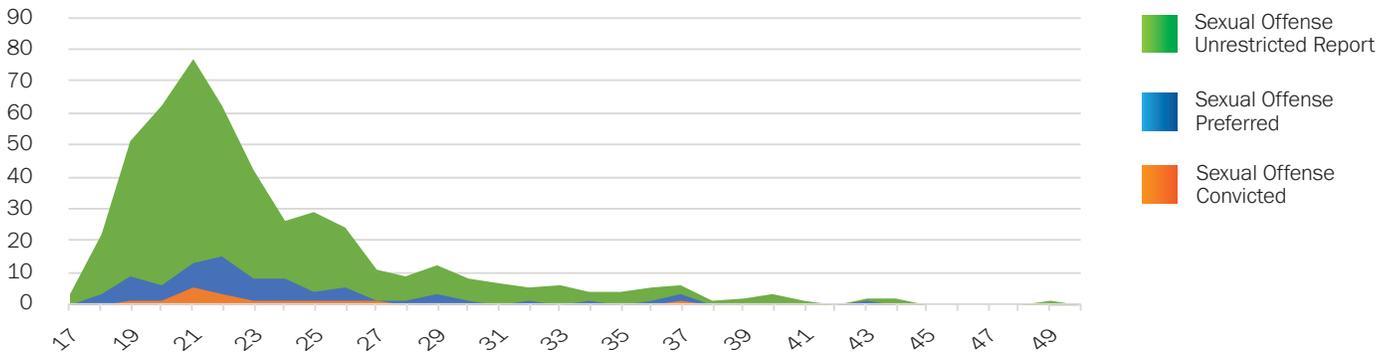


FIGURE 34. MARINE CORPS: PAY GRADE OF THE VICTIM



**FIGURE 35. MARINE CORPS: AGE OF THE SUBJECT**



**FIGURE 36. MARINE CORPS: AGE OF THE VICTIM**

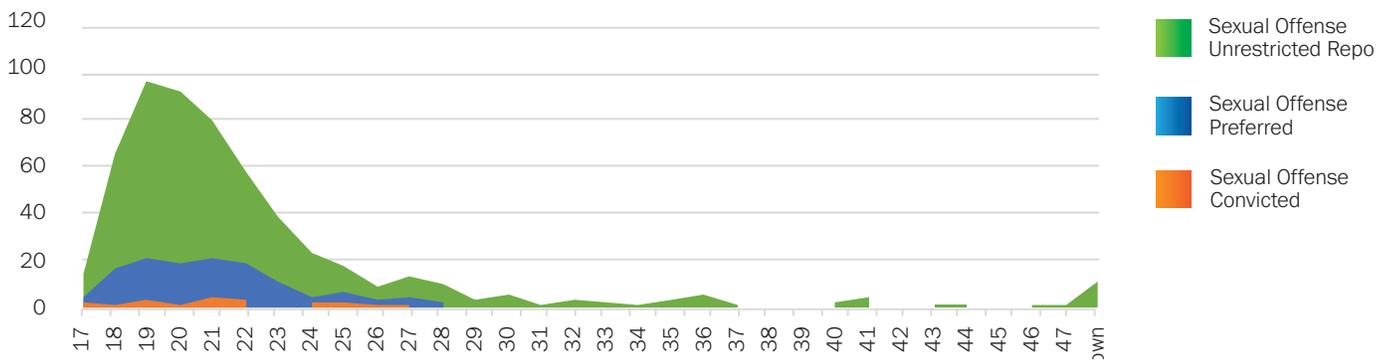


FIGURE 37. AIR FORCE: RACE OF THE SUBJECT

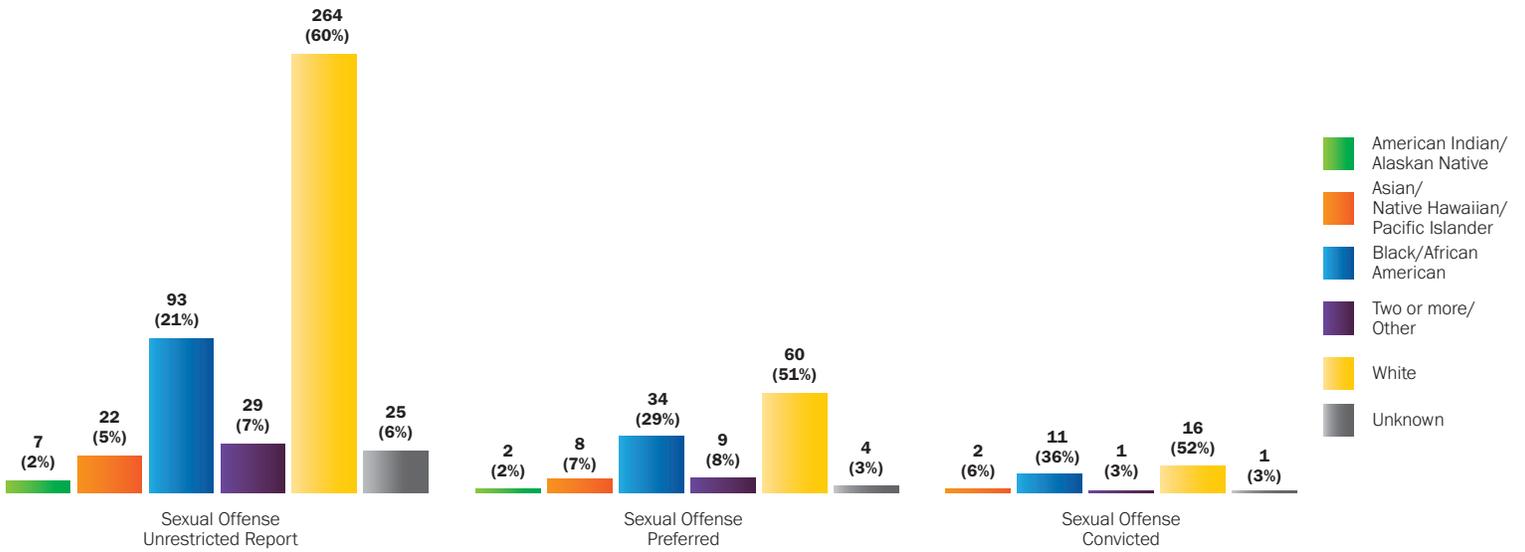


FIGURE 38. AIR FORCE: RACE OF THE VICTIM

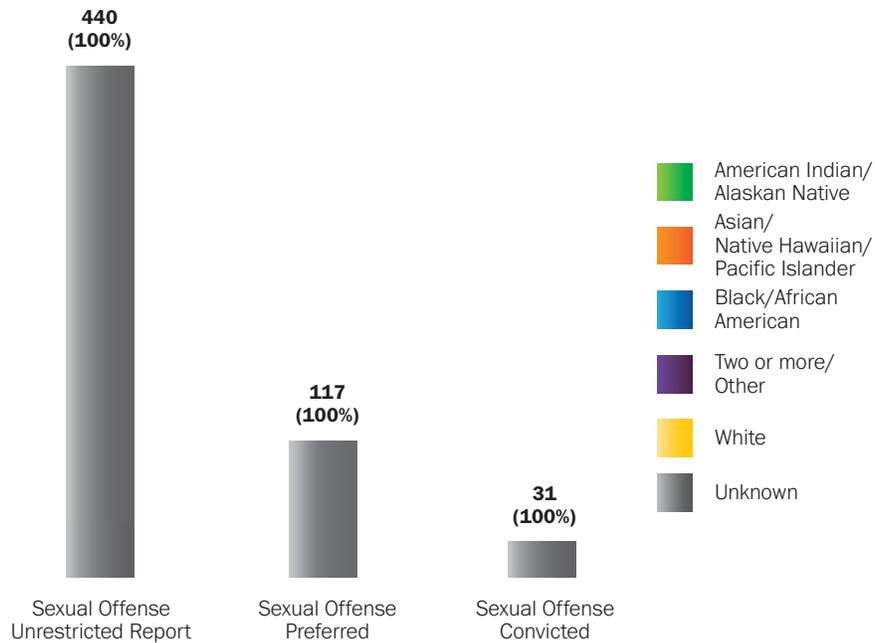


FIGURE 39. AIR FORCE: ETHNICITY OF THE SUBJECT

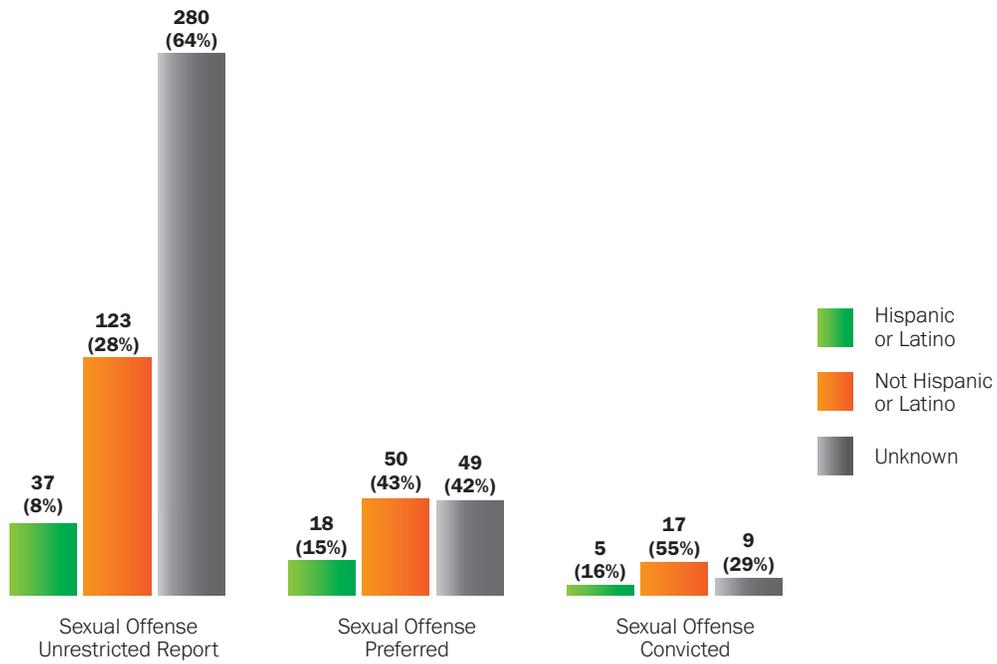


FIGURE 40. AIR FORCE: ETHNICITY OF THE VICTIM

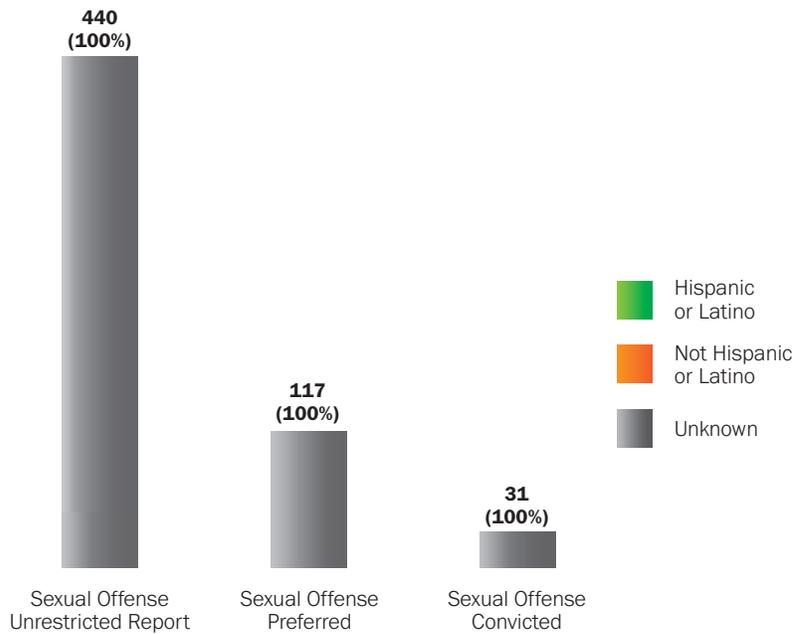


FIGURE 41. AIR FORCE: SEX OF THE SUBJECT

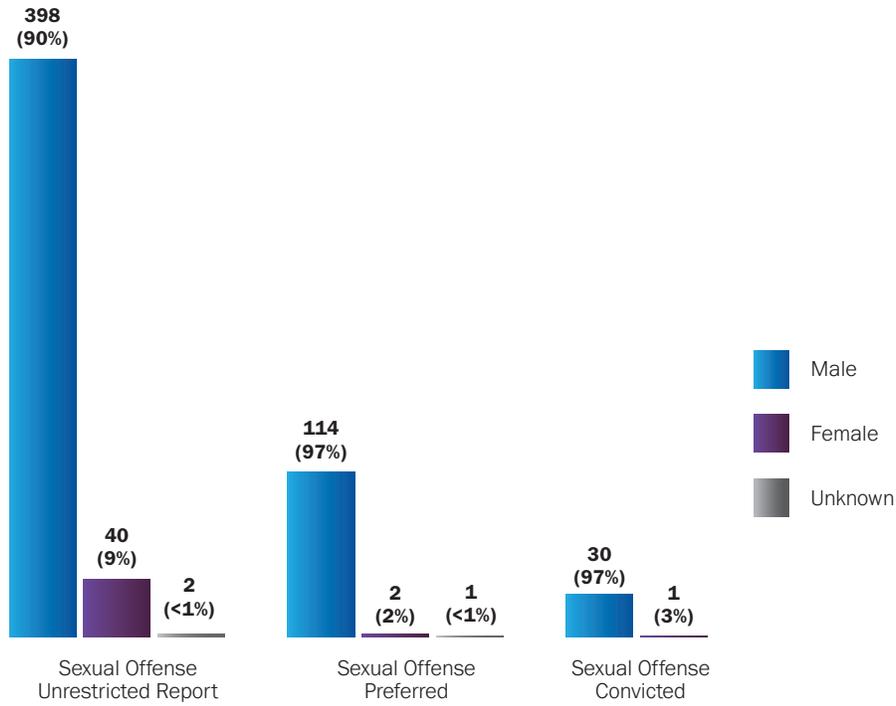


FIGURE 42: AIR FORCE: SEX OF THE VICTIM

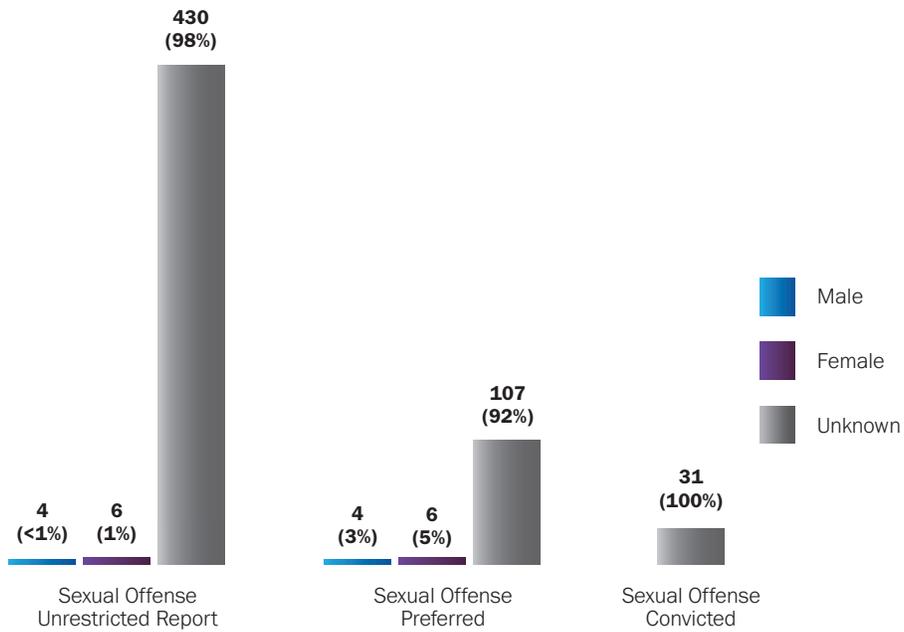


FIGURE 43: AIR FORCE: STATUS OF THE SUBJECT

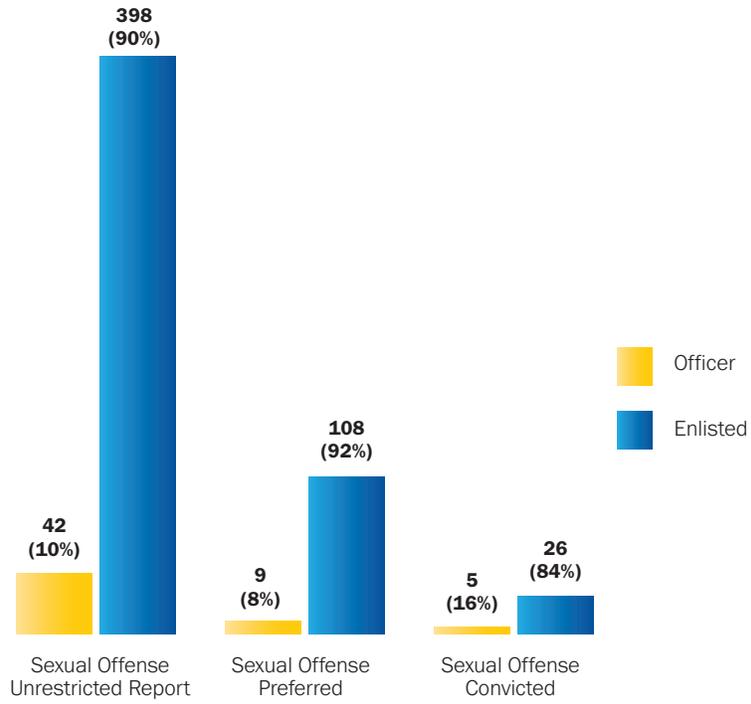
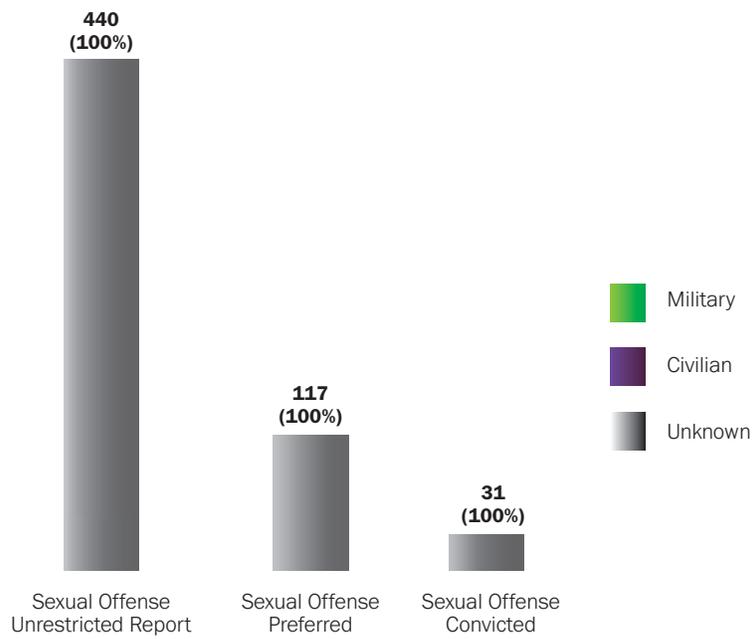
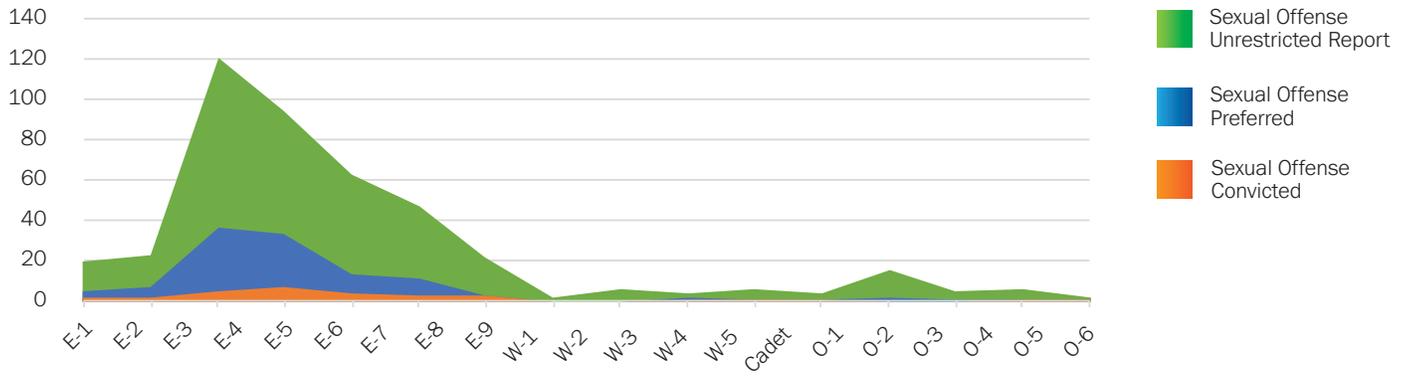


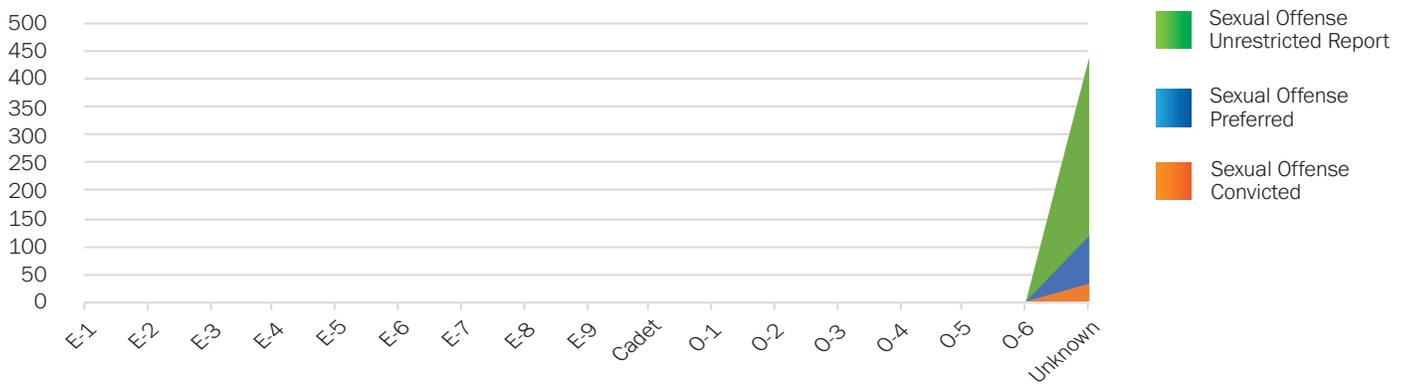
FIGURE 44. AIR FORCE: STATUS OF THE VICTIM



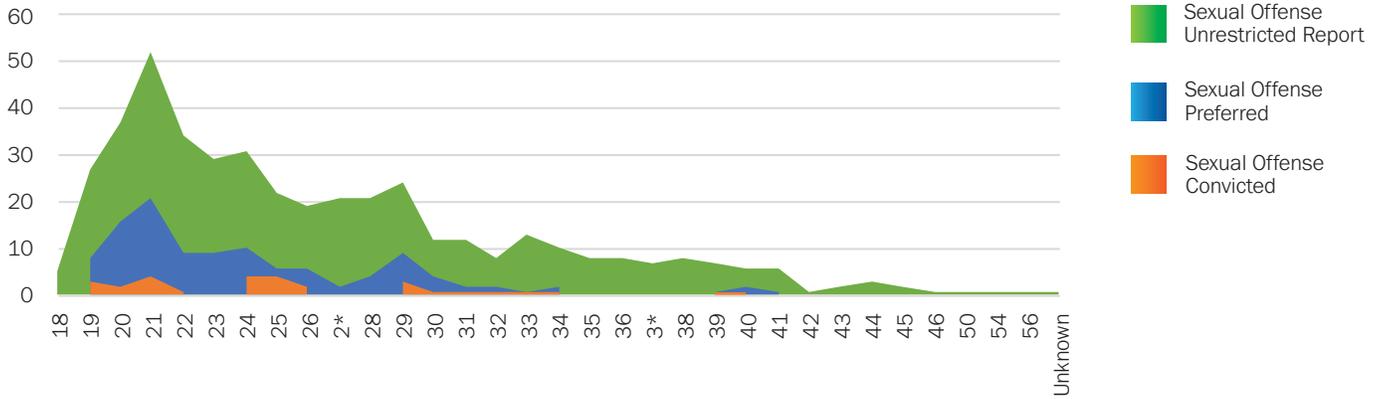
**FIGURE 45. AIR FORCE: PAY GRADE OF THE SUBJECT**



**FIGURE 46. AIR FORCE: PAY GRADE OF THE VICTIM**



**FIGURE 47. AIR FORCE: AGE OF THE SUBJECT**



**FIGURE 48. AIR FORCE: AGE OF THE VICTIM**

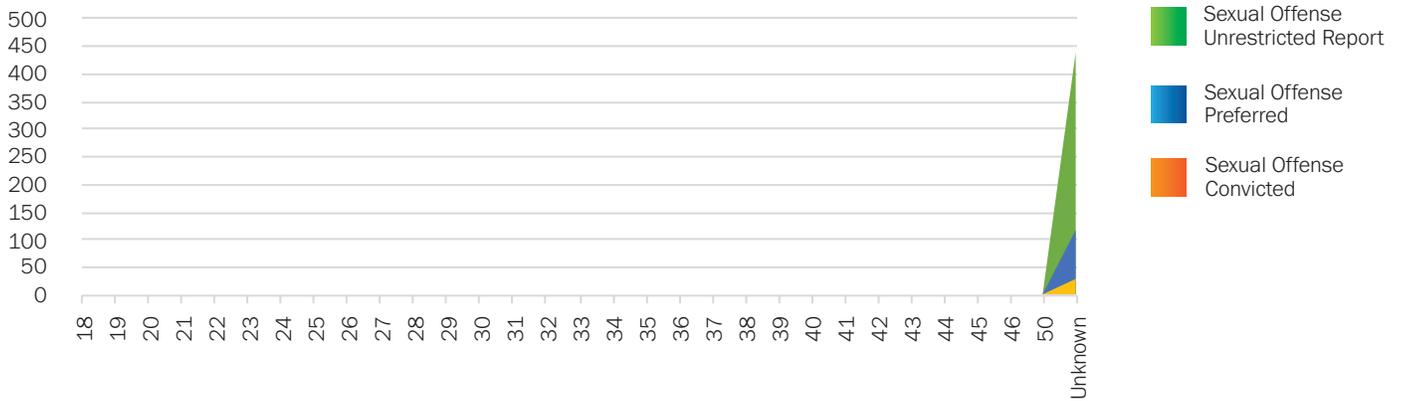


FIGURE 49. COAST GUARD: RACE OF THE SUBJECT

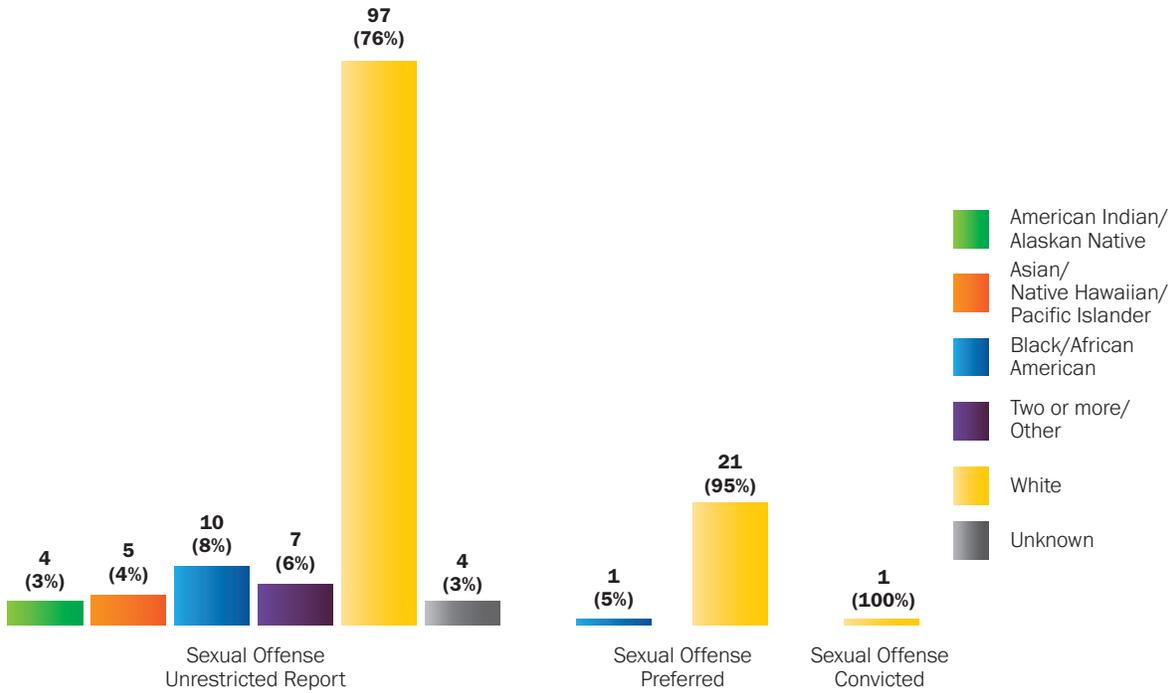


FIGURE 50. COAST GUARD: RACE OF THE VICTIM

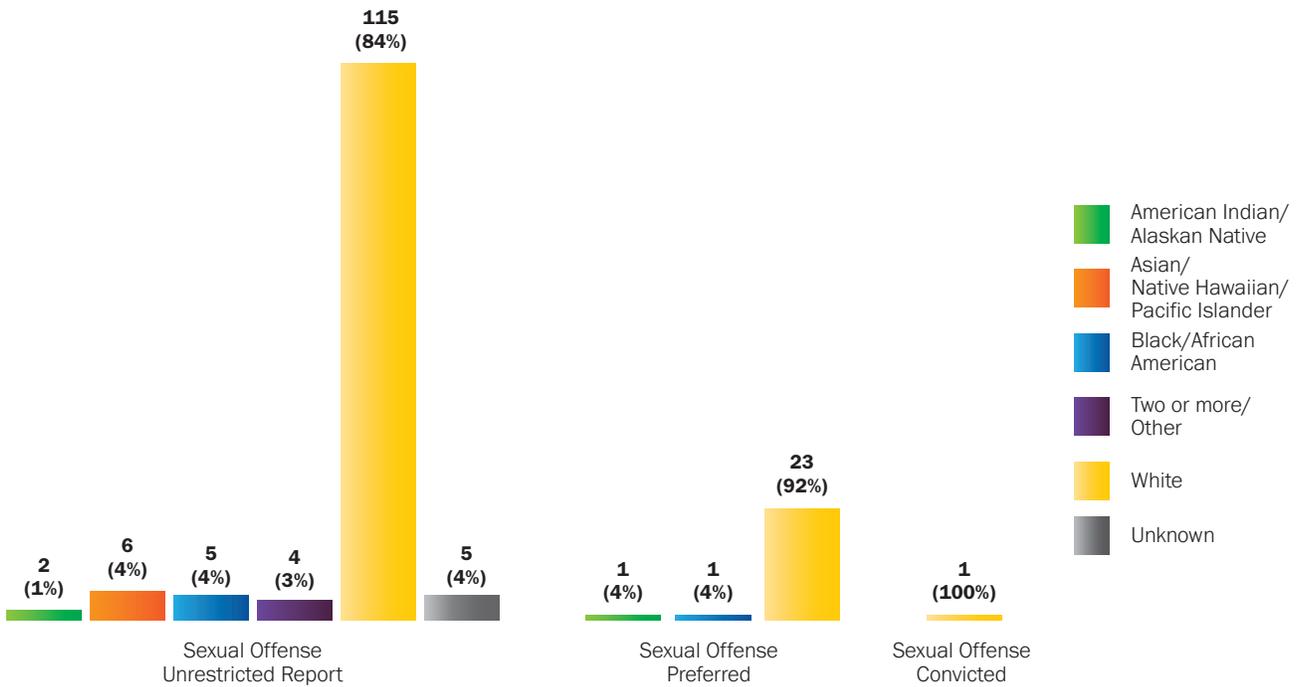


FIGURE 51. COAST GUARD: ETHNICITY OF THE SUBJECT

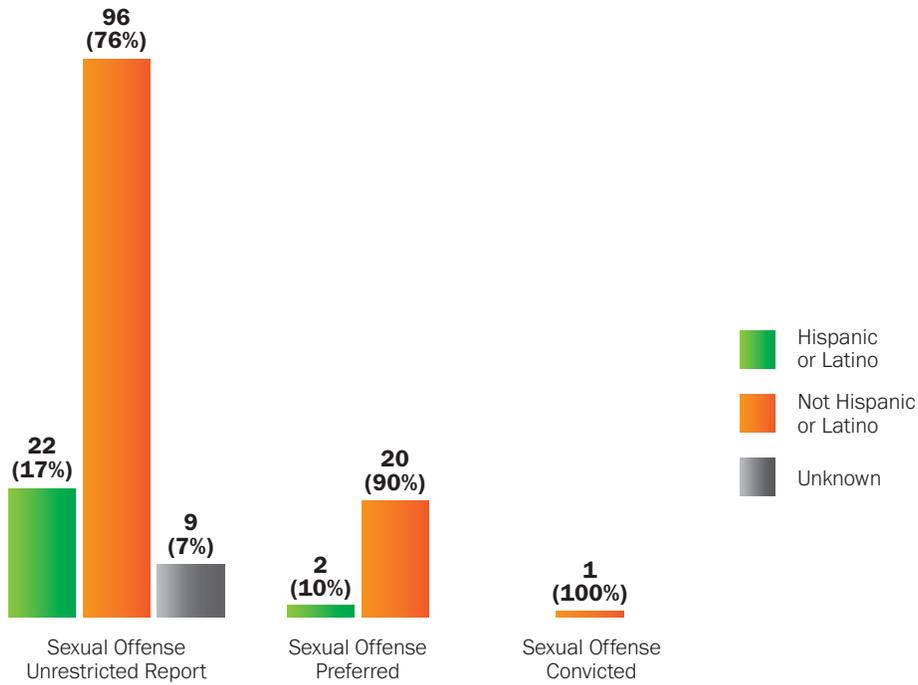


FIGURE 52. COAST GUARD: ETHNICITY OF THE VICTIM

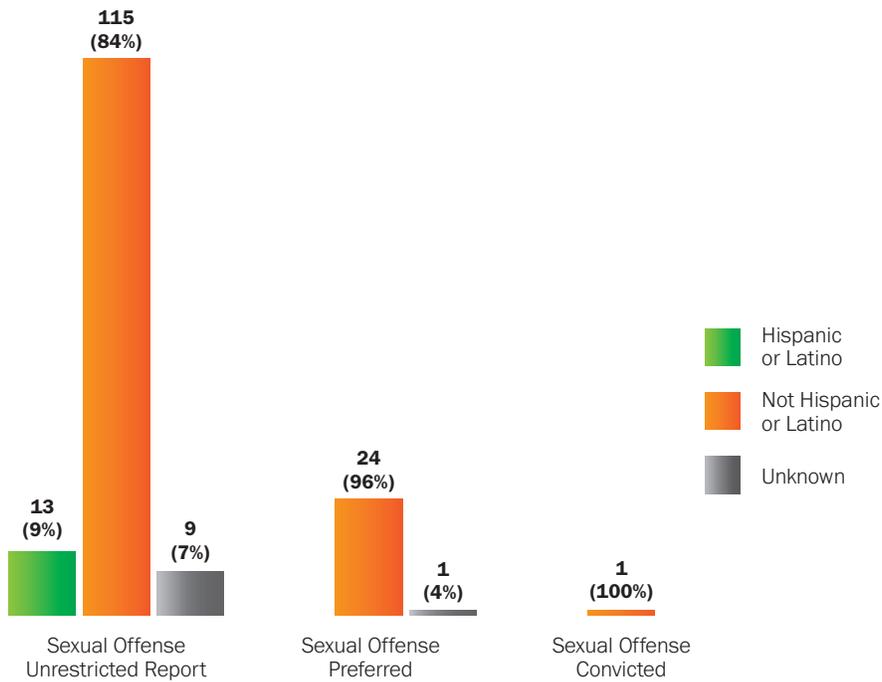


FIGURE 53. COAST GUARD: SEX OF THE SUBJECT

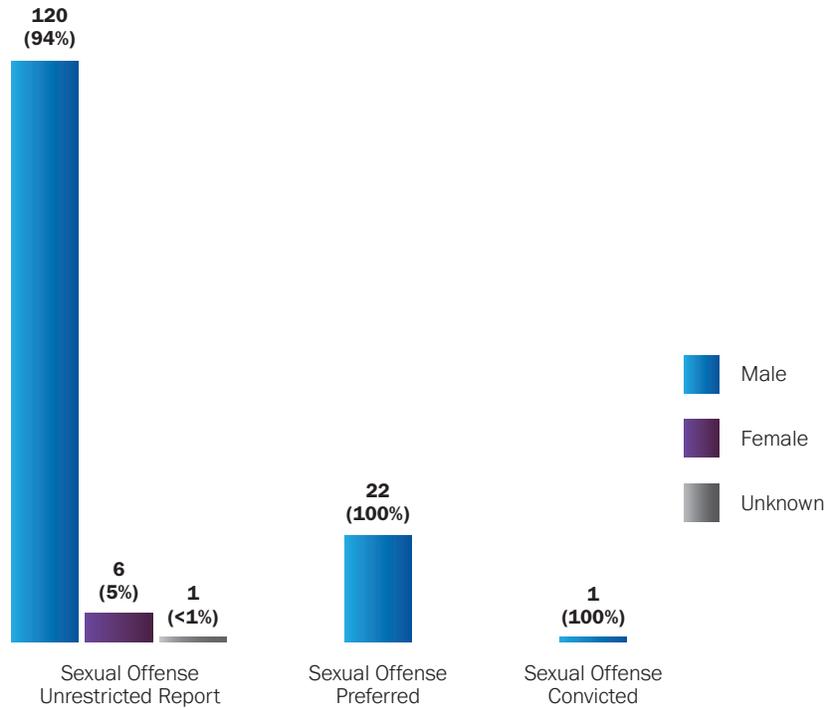


FIGURE 54. COAST GUARD: SEX OF THE VICTIM

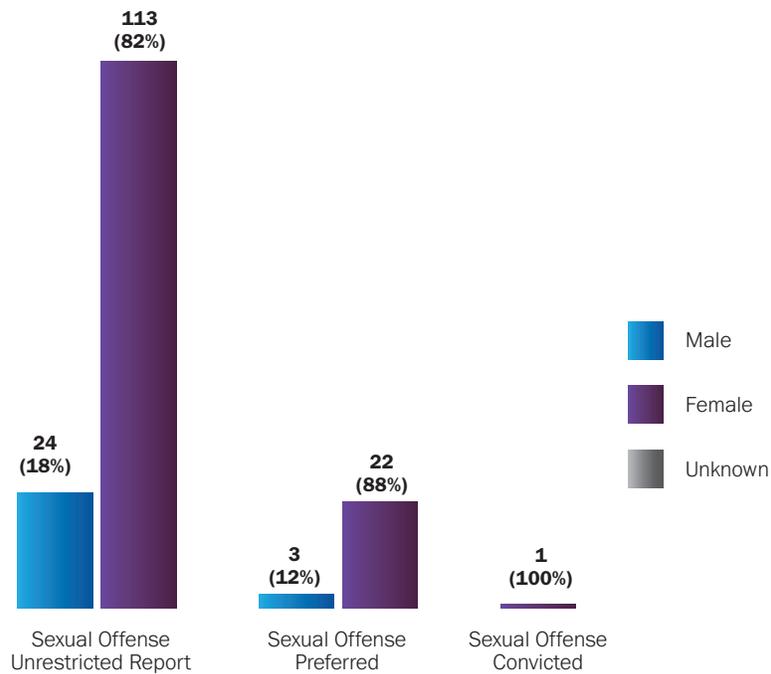


FIGURE 55. COAST GUARD: STATUS OF THE SUBJECT

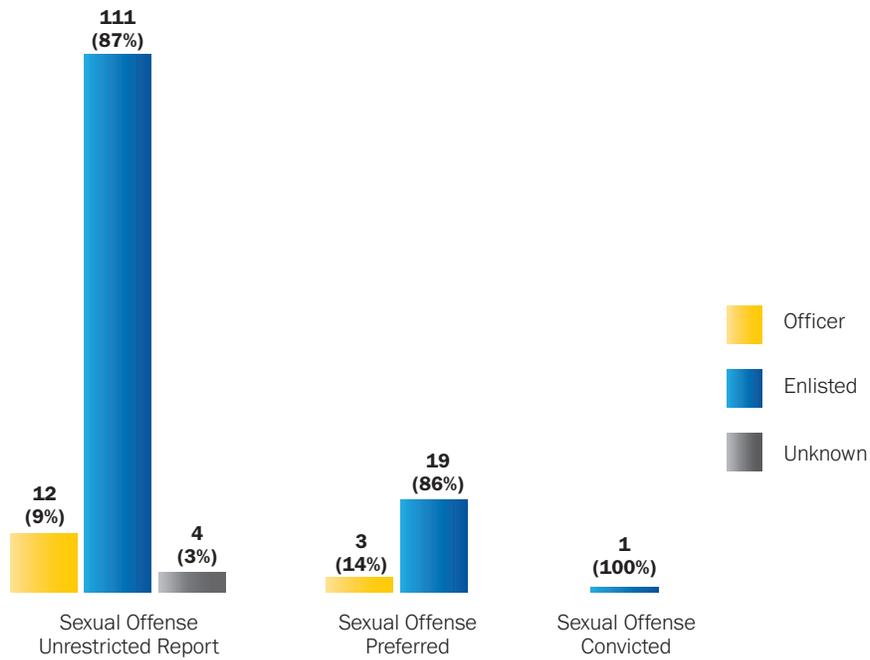
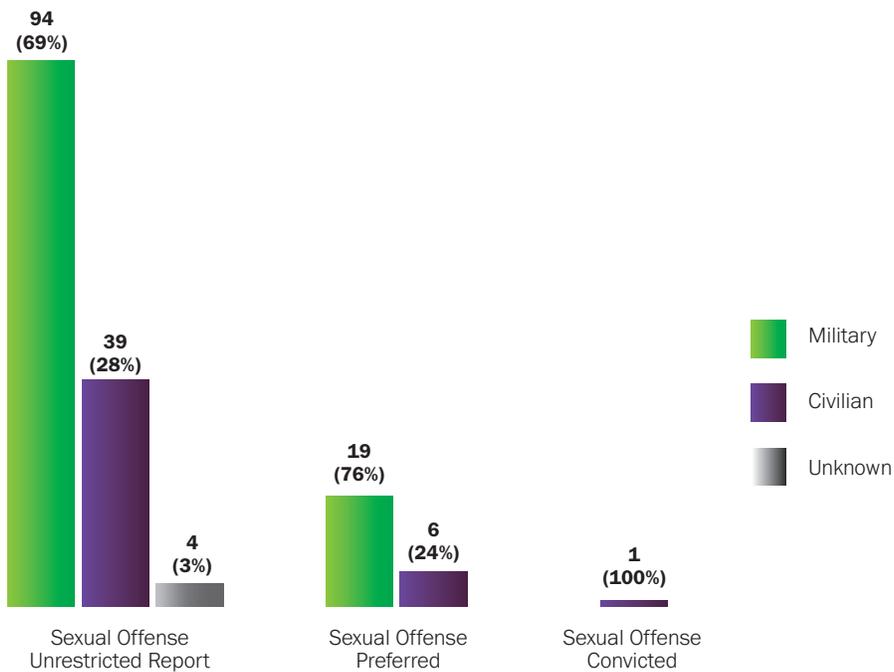
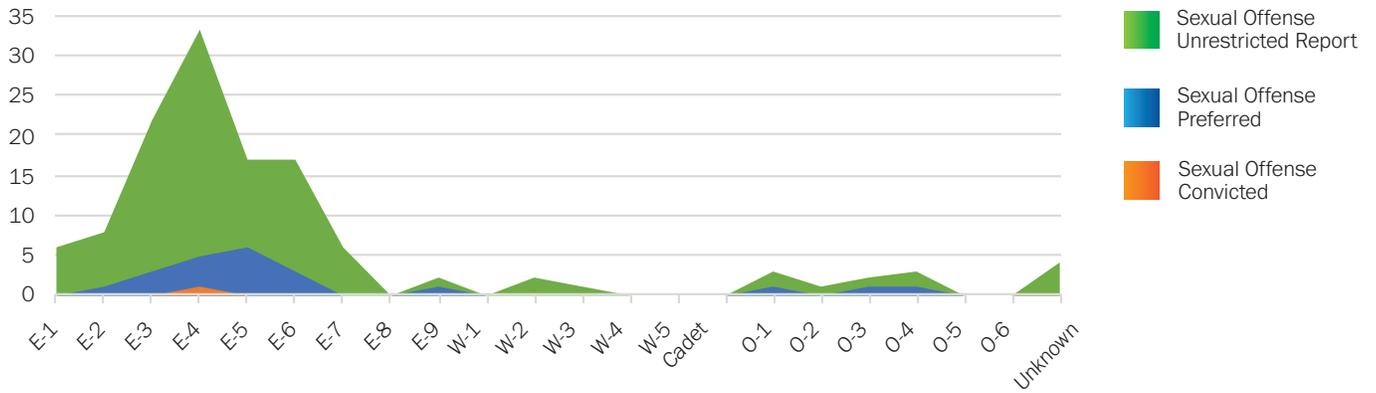


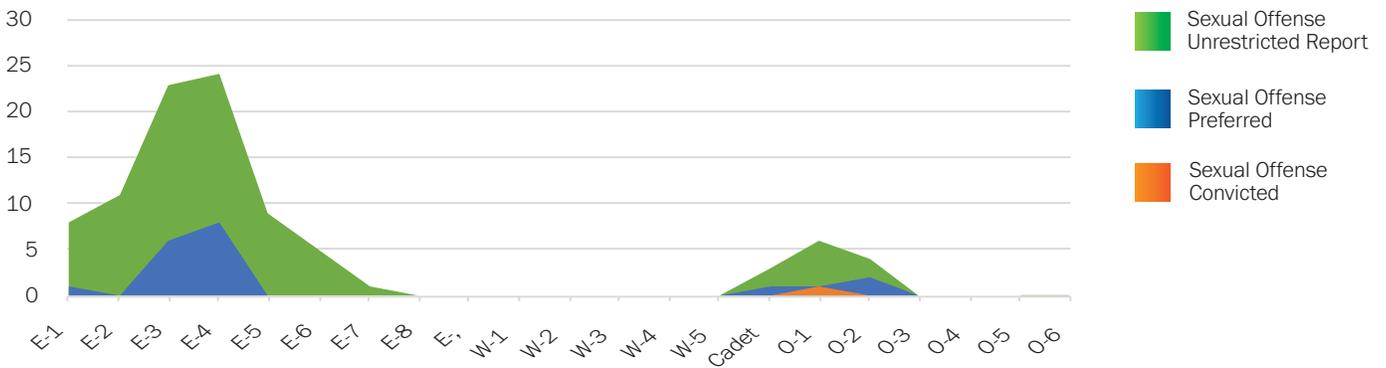
FIGURE 56. COAST GUARD: STATUS OF THE VICTIM



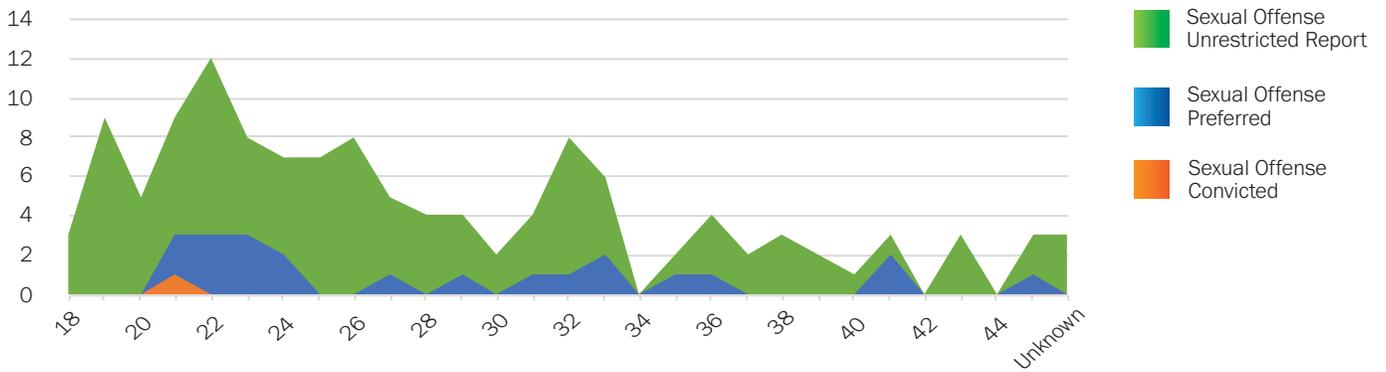
**FIGURE 57. COAST GUARD: PAY GRADE OF THE SUBJECT**



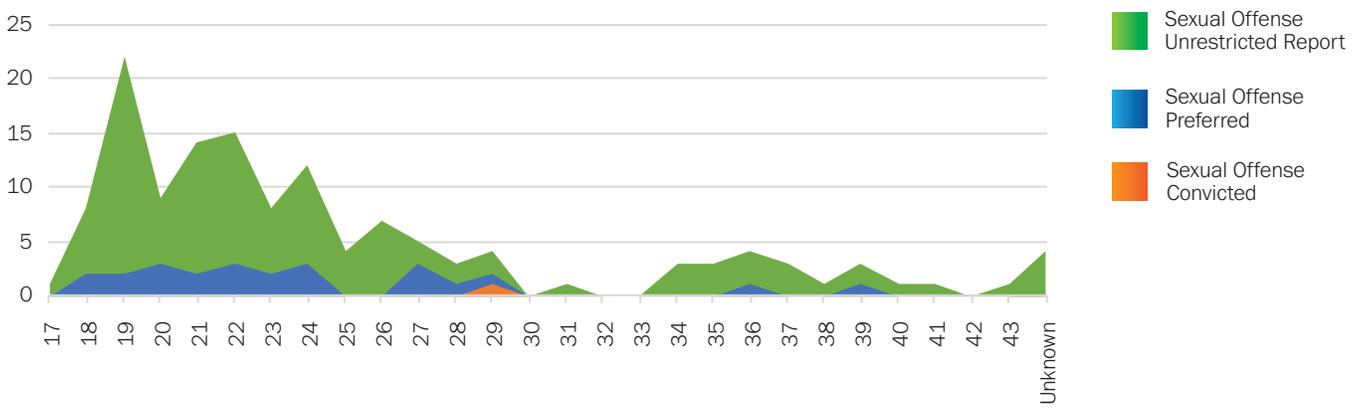
**FIGURE 58. COAST GUARD: PAY GRADE OF THE VICTIM**



**FIGURE 59. COAST GUARD: AGE OF THE SUBJECT**



**FIGURE 60. COAST GUARD: AGE OF THE VICTIM**



## APPENDIX H. COMMITTEE PUBLIC MEETINGS, PREPARATORY SESSIONS, AND PRESENTERS

DAC-IPAD PUBLIC MEETINGS	
MEETING DATE AND LOCATION	TOPICS AND PRESENTERS
<p><b>DAC-IPAD PUBLIC MEETING 18</b></p> <p><b>August 21, 2020</b></p> <p>Teleconference</p>	<p><b>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</b></p>
<p><b>DAC-IPAD PUBLIC MEETING 19</b></p> <p><b>October 23, 2020</b></p> <p>Teleconference</p>	<p><b>DAC-IPAD Staff Presentation on the Data Results Collected from RFI 18 and RFI 18A for the Race and Ethnicity Report</b></p> <p><b>DAC-IPAD Staff Presentation on the Contents of the Draft Race and Ethnicity Report</b></p>
<p><b>DAC-IPAD PUBLIC MEETING 20</b></p> <p><b>November 6, 2020</b></p> <p>Teleconference</p>	<p><b>DAC-IPAD Committee Deliberations on the Draft Race and Ethnicity Report</b></p>
<p><b>DAC-IPAD PUBLIC MEETING 21</b></p> <p><b>December 4, 2020</b></p> <p>Teleconference</p>	<p><b>Committee Vote on the Final Draft DAC-IPAD Report on Racial and Ethnic Data Relating to Disparities in the Investigation, Prosecution, and Conviction of Sexual Offenses in the Military</b></p>

<b>DATA SUBCOMMITTEE MEETINGS AND DAC-IPAD PREPARATORY SESSION</b>	
<b>SESSION DATE AND LOCATION</b>	<b>TOPICS AND PRESENTERS</b>
<p><b>Data Subcommittee Preparatory Session 1</b></p> <p><b>September 28, 2020</b></p> <p>Teleconference</p>	<p><b>Data Subcommittee discussion on the development of the Race and Ethnicity Report.</b></p>
<p><b>Data Subcommittee Preparatory Session 2</b></p> <p><b>October 30, 2020</b></p> <p>Teleconference</p>	<p><b>Data Subcommittee discussion on the proposed observations, findings, and recommendations for the Race and Ethnicity Report.</b></p> <p><b>Data Subcommittee discussion on various data analyses for inclusion in the data portion of the Race and Ethnicity Report.</b></p>
<p><b>DAC-IPAD Preparatory Session</b></p> <p><b>November 5, 2020</b></p> <p>Teleconference</p>	<p><b>Briefing from the DAC-IPAD staff and discussion of the draft Race and Ethnicity Report.</b></p>

## APPENDIX I. ACRONYMS AND ABBREVIATIONS

<b>DAC-IPAD</b>	Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces
<b>DEOMI</b>	Defense Equal Opportunity Management Institute
<b>DoD</b>	Department of Defense
<b>DoDI</b>	Department of Defense Instruction
<b>FY</b>	fiscal year
<b>GAO</b>	U.S. Government Accountability Office
<b>GC DoD</b>	General Counsel for the Department of Defense
<b>MCIO</b>	military criminal investigative organization
<b>NAACP</b>	National Association for the Advancement of Colored People
<b>NDAA</b>	National Defense Authorization Act
<b>OMB</b>	Office of Management and Budget
<b>RFI</b>	request for information
<b>UCMJ</b>	Uniform Code of Military Justice
<b>U.S.C.</b>	United States Code



## APPENDIX J. SOURCES CONSULTED

### 1. Legislative Sources

5 U.S.C. App. §§ 1–16 (Federal Advisory Committee Act)

10 U.S.C. §§ 801–946a (Uniform Code of Military Justice) (2019)

National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, 127 Stat. 672 (2013)

Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, 128 Stat. 3292, 3374 (2014)

National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, 130 Stat. 2000 (2016)

National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, 133 Stat. 1198 (2019)

### 2. Judicial Decisions

*Parker v. Levy*, 417 U.S. 733 (1974)

### 3. Rules and Regulations

Manual for Courts-Martial, United States (2019 edition)

### 4. Military and Civilian Federal Policy

#### a. Department of Defense

General Counsel of the Department of Defense, *Memorandum for the Secretaries of the Military Departments: Uniform Standards and Criteria Required by Article 140a, Uniform Code of Military Justice (UCMJ)* (December 17, 2018)

General Counsel of the Department of Defense, *Memorandum for the Secretaries of the Military Departments: Recording Court-Martial Demographic Information* (June 8, 2020)

#### b. Office of Management and Budget

Office of Management and Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, 62 Fed. Reg. 58,782 (October 30, 1997)

### 5. Official Reports

#### a. DoD and DoD Agency Reports

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**6. DAC-IPAD Requests for Information and Responses**

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**7. Scholarly Articles**

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**8. Testimony**

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