

U.S. Coast Guard Sexual Assault Statistics: FY07-13

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The Coast Guard Office of Military Justice
CG-0946**

CURRENT AS OF NOVEMBER, 2013

COAST GUARD SEXUAL ASSAULT STATISTICS

Overview

Using the Department of Defense's Annual Report on Sexual Assault in the Military as a framework, the Coast Guard Office of Military Justice (CG-0946) collected, organized, and analyzed Sexual Assault allegation data from FY09-FY13. Coast Guard Investigative Service (CGIS) Sexual Assault data was reviewed as a starting point to identify victims and subjects. Case data was then evaluated to determine the ultimate disposition of each victim's allegation and to determine what action (if any) was taken against each subject. Where additional information was required to effectively determine the outcome of a case, CGIS case files, CG-0946 files, Records of Trial, and the Coast Guard's Law Manager Database were reviewed as necessary. Statistics derived from this analysis are included as Enclosures.

Although Sexual Assault statistics were collected in FY07-08, the statistics may not represent a complete compilation of Sexual Assault reports or incidents that occurred during these years. Due to recent initiatives to strengthen and expand the Sexual Assault Response and Prevention (SAPR) Program, the statistics for FY09-13 have become increasingly more comprehensive and complete.

Classification

After each case was reviewed, the victim's claim and corresponding subject were classified into "disposition" categories similar to those included in the DoD Annual Report. (See below for a detailed description of each category). For several cases, multiple victims and/or subjects were identified. Accordingly, some victims were classified under a different category than the alleged subject. Victims were classified based on the result of their individual claim whereas subjects were classified based on the highest forum where *any* allegation was adjudicated (i.e. Court-Martial considered higher than NJP proceeding). Unlike the DoD Report, the outcome of each case was included under the FY the allegation was made even though final disposition may have occurred in a subsequent FY.

Analysis

Once a victim's claim and corresponding subject were classified into a disposition category, the data was analyzed in two ways:

- (1) **Victim and Subject Centric Analysis** – two sets of statistics were compiled based on the outcome of each victim's allegation and the outcome of allegations made against each subject. For the victim centric model, the data focuses on what action

was taken against the subject who was the focus of the victim’s claim. Action taken against victims was not analyzed and is therefore not represented by this data.

(2) **Bifurcated Initial Allegation Analysis** – the victim and subject centric models were further classified into two sub-categories based on the most serious *initially* alleged crime. The “Serious Sex Crime” category includes Rape, Forcible Sodomy, Aggravated Sexual Assault, and Aggravated Sexual Contact. The “Wrongful Sexual Contact” category includes Wrongful/Abusive Sexual Contact. Since this classification system only captures the most serious *initial* offense, the subsequent disposition category does not necessarily reflect that the most serious initial offense was substantiated or that action was taken against the subject for that offense.

Important Notes on Data Analysis

(1) Several cases could have been classified in two or more categories. Data for the subject and victim was captured in the category that *best* fit the details of the case.

(2) For each fiscal year, the SAPR Program’s number of unrestricted reports was consistently less than the number of victims identified in the CGIS data analysis. For FY07-08 Statistics, as documented in the United States Court of Appeals for the Armed Forces (CAAF) Annual Reports for FY07-08, the Coast Guard held a total of 71 Courts-Martial in FY07 and 60 Courts-Martial in FY08. Based on the best data available, there were 73 Unrestricted Sexual Assault reports in 2007 and 78 Unrestricted Sexual Assault reports in 2008.

Fiscal Year	Unrestricted Reports Identified by SAPR	Unrestricted Victims Identified in CGIS data
FY12	141	150
FY11	83	92
FY10	60	76
FY09	60	68
FY08	78	---
FY07	73	---

(3) The enclosed statistics include both civilian and military victims; the statistics do not differentiate between these two different types of victims.

(4) The statistics represent if *any* action was taken against a subject identified by a victim. In many instances, the action taken against a subject was based on prejudicial activity revealed by the investigation *rather* than for the victim's Sexual Assault allegation; thus, no action may have been taken against the subject specifically for a victim's Sexual Assault allegation. The Convening Authority may not have taken action for a victim's *Sexual Assault* allegation because there was insufficient evidence to prosecute the subject for the Sexual Assault allegation, the claim was unfounded or fabricated, or a Civilian Authority was prosecuting the Sexual Assault claim. However, detailed data was not available to utilize this type of classification system.

Convening Authority Action on Findings

From FY09-FY12, the Convening Authority took action on Findings and partially dismissed convictions in two cases. In the first case, the partial dismissal involved specifications unrelated to the Article 120 charges – unlawful entry. The second case involved dismissal of a specification under Article 120 (Wrongful Sexual Contact); however, the remaining Article 120 specification (Aggravated Sexual Contact) was approved.

DEFINITIONAL ASPECTS OF COAST GUARD SEXUAL ASSAULT ANALYSIS

Allegations:

All allegations of contact to the buttocks, genitalia, and general contact of a sexual nature including alleged UCMJ Article 120/125 offenses such as Wrongful/Abusive Sexual Contact, Aggravated Sexual Contact, Aggravated Sexual Assault, Rape, and Forcible Sodomy were included. Additionally, hazing cases that involved sexual contact were also included.

Allegations of indecent exposure/acts/language, unauthorized videotaping/photographing, Sexual Assault of a minor, child pornography, and Sexual Harassment were not included.

Classification Categories:

The following provides a detailed description of each disposition category.

OUTSIDE COAST GUARD LEGAL AUTHORITY

Cases include instances where: (1) the Coast Guard did not have jurisdiction over the subject because the subject is a civilian or foreign national, (2) another Military Service, Civilian authority, or Foreign authority assumed primary investigative and/or prosecutorial responsibilities, or (3) the Coast Guard cannot prosecute because the offender is unknown or the Statute of Limitations for the alleged offense expired.

COMMAND ACTION INADVISABLE

This overall category encompasses cases where the Coast Guard had jurisdiction over the subject but the Commander chose not to take action for one of the following reasons:

- (1) **Victim declined to participate** – includes all cases where the victim declined/withdrew allegations *before* charges were preferred.
- (2) **Insufficient evidence** – *only* includes cases where the Report of Adjudication (ROA) or CGIS case file contained a clear indication that the command declined to prosecute or take any action due to a lack of sufficient evidence. This category also includes cases that *may* have been fabricated (due to fraternization, etc.)
- (3) **Investigation revealed allegation was fabricated** – includes only two cases where the CGIS investigation revealed that the accuser fabricated the entire allegation.

NO COMMAND ACTION/REASON NOT IDENTIFIED

This category encompasses cases where the Report of Adjudication (ROA) and CGIS case file did not document a reason why the command declined to prosecute. This category likely includes cases where the command determined the case was unfounded, there was insufficient evidence to prosecute the subject, or the victim declined to participate. However, because the case file did not definitively reveal the reason, a separate category was created.

ADMINISTRATIVE ACTION TAKEN

Cases include instances where the Coast Guard took administrative action against the subject based on findings from the Sexual Assault investigation. Some cases did not specifically indicate that the Commander found a substantiated incident of Sexual Assault or that the action taken against a subject was for a victim's Sexual Assault allegation.

Accordingly, some of the action taken only documented fraternization, alcohol incidents, and other prejudicial activities.

- (1) **Administrative discharge** – *only* includes cases where the CGIS case file revealed that the subject was discharged *specifically* for circumstances surrounding the Sexual Assault allegations in lieu of other disciplinary action; therefore, there are additional subjects that were subsequently administratively discharged but the case fell more appropriately within another category. The statistics in this category are likely lower than the actual *total* number of alleged subjects who were eventually administratively discharged.
- (2) **Other Adverse Administrative Action** – examples of Adverse Action include documented Alcohol Incidents, CG-3307 entries, Negative Officer or Enlisted Evaluations, and Letters of Censure. Verbal counseling was not included.

NON-JUDICIAL PUNISHMENT

This category includes cases where the Commander brought the subject to NJP due to offenses revealed during the Sexual Assault investigation. Similar to the Administrative Action category, several cases did not specifically show that the Commander found a substantiated Sexual Assault incident or that the action taken against the subject was for the initial Sexual Assault allegation. Accordingly, some NJP proceedings disciplined subjects for fraternization, alcohol incidents, and other prejudicial activities.

- (1) **Article 120/125 offense** – subject received NJP for at least one Article 120/125 UCMJ offense that involved contact of a sexual nature (Wrongful/Abusive Sexual Contact and above). Importantly, although the victim’s initial allegation may have been classified as a “Serious Sex Crime”, the subject may only have been charged and found guilty of a Wrongful Sexual Contact offense. This category does not include Article 120 offenses for non-contact offenses such as indecent act/exposure.
- (2) **Non Article 120/125 offense** – subject received NJP for any offense other than an Article 120/125 sexual contact offense.
- (3) **Charges dismissed** – charges were dismissed at NJP proceeding.
- (4) **Charges unknown** – subject received NJP but the case file did not contain a description of the offenses.

COURT-MARTIAL CHARGE PREFERRED

This overall category only includes cases where Court-Martial charges were preferred against the subject.

- (1) **Victim declined to participate** – includes cases where the victim declined to participate in the prosecution of the subject at some point *after* Court-Martial charges were preferred. All charges against the subject were subsequently dropped.
- (2) **Dismissed** – all charges against the subject were dismissed due to insufficient evidence upon a motion or after the Article 32 investigation was completed.
- (3) **Discharged in lieu of Court-Martial** – charges were preferred against the subject but the Convening Authority accepted the subject's resignation or administratively discharged the subject in lieu of Court-Martial. Two subjects received NJP prior to being administratively discharged.
- (4) **Court-Martial convened** – subject was brought to Court-Martial for offenses arising from the Sexual Assault investigation. This category includes cases where the subject may not have been ultimately charged with a Sex crime.

DISPOSITION AT COURT-MARTIAL

Convened Courts-Martial were first categorized by type (General/Special/Summary) and then further analyzed based on trial results. Subjects may have been convicted of both Sex and Non-Sex crimes but were only included in the highest applicable category (Sex Crime considered the highest).

- (1) **Convicted of Sex Crime** – subject was convicted of at least one Article 120/125 UCMJ offense that involved contact of a sexual nature. This category does not include Article 120 offenses for non-contact offenses such as indecent act/exposure.
- (2) **Convicted of Lesser Included Offense (LIO)** – subject was found not guilty for the alleged Sex Crime but convicted of a LIO. This category only includes cases where the subject was not charged with the LIO under an alternative legal theory.
- (3) **Convicted of Non-Sex Crime** – subject was convicted of any UCMJ offense except an Article 120/125 offense involving contact of a sexual nature.
- (4) **Acquitted** – subject was found not guilty of all charges.

PENDING CASES

This category includes cases where either the investigation is still open, the case is pending disposition, or a Court-Martial proceeding is pending. There are no pending cases for FY09-10.

- (1) **Investigation Open** – CGIS investigation remains open. Also includes cases where the offender is unknown but the case is still under investigation.
- (2) **Pending Disposition** – CGIS investigation is completed but the case is awaiting final disposition. Includes cases where the victim declined to participate but the Commander has not taken final action.
- (3) **Court-Martial Pending** – includes cases where Court-Martial charges have been preferred against the subject but the Court-Martial process has not been completed.