



Testimony

Before the Subcommittee on Personnel,
Committee on Armed Services,
U.S. Senate

SEXUAL ASSAULT IN THE MILITARY

Continued Congressional Oversight and Additional DOD Focus on Prevention Could Aid DOD's Efforts

Accessible Version

Statement of Brenda S. Farrell, Director
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GAO@100 Highlights

Highlights of [GAO-21-463T](#), a testimony before the Subcommittee on Personnel, Committee on Armed Services, U.S. Senate

Why GAO Did This Study

Since 2004, Congress has continually taken steps to address sexual assault in the military. For example, Congress has required the development of policy and the tracking and reporting of data regarding sexual assaults. However, reports of sexual assault continue to rise, according to DOD, and in a January 2021 memo, the Secretary of Defense noted that despite years of work in the area, the department must do more.

Drawing from ongoing and prior work, this statement (1) describes the statutory requirements concerning sexual assault prevention and response in the military that were contained in the NDAA's from fiscal years 2004 to 2019, and (2) discusses whether there are areas where DOD can provide focus to further address sexual assault. GAO reviewed the NDAA's to identify requirements related to sexual assault as well as their status and category. GAO also reviewed prior reports, obtained information on recommendation implementation, and interviewed DOD officials.

What GAO Recommends

GAO has made more than 30 recommendations in prior work specifically related to DOD's efforts to prevent sexual assault and address the needs of certain populations in its sexual assault prevention and response efforts. DOD has made progress in addressing some of the recommendations, but sustained leadership attention is needed to ensure that the remainder of these recommendations are addressed.

View [GAO-21-463T](#). For more information, contact Brenda S. Farrell at (202) 512-3604 or farrellb@gao.gov.

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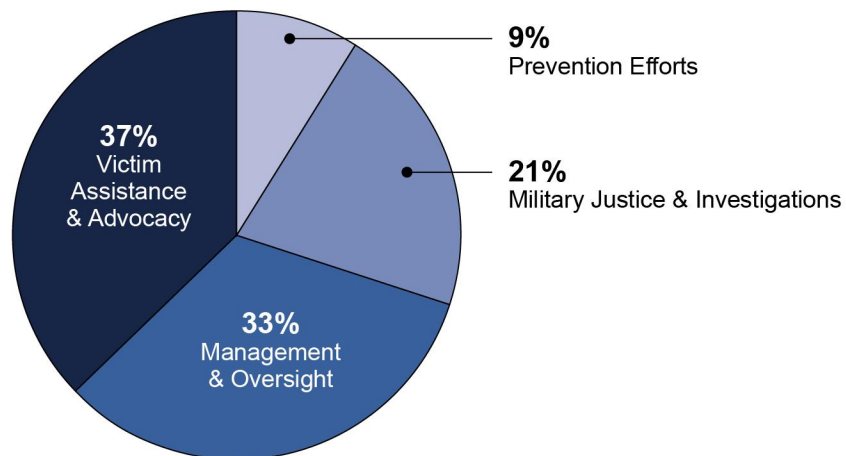
SEXUAL ASSAULT IN THE MILITARY

Continued Congressional Oversight and Additional DOD Focus on Prevention Could Aid DOD's Efforts

What GAO Found

In the National Defense Authorization Acts (NDAA) from fiscal years 2004 to 2019, based on GAO's preliminary analysis, Congress enacted 249 statutory requirements related to sexual assault prevention and response in the military to assist the Department of Defense (DOD) with its efforts in this area. These statutory requirements covered a number of different areas. For example, they required annual reports on sexual assaults at the military service academies and within the armed forces to aid oversight, and the establishment of training and certification programs for sexual assault response coordinators and victim advocates. Although the requirements cover a wide range of activities, GAO found that they generally related to two broad categories: (1) victim assistance and advocacy, and (2) management and oversight. A smaller percentage of requirements were related to prevention efforts (see figure).

Categories of 249 Sexual Assault Prevention and Response Statutory Requirements in the National Defense Authorization Acts, Fiscal Years 2004-2019



Source: GAO analysis of National Defense Authorization Acts. | GAO-21-463T

Accessible Data for Categories of 249 Sexual Assault Prevention and Response Statutory Requirements in the National Defense Authorization Acts, Fiscal Years 2004-2019

| Victim Assistance & Advocacy | Management & Oversight | Military Justice & Investigations | Prevention Efforts |
|------------------------------|------------------------|-----------------------------------|--------------------|
| 37% | 33% | 21% | 9% |

While DOD has taken a number of steps to address sexual assault, GAO's prior work has shown that there are areas in which DOD can focus to further address the issue. With the exception of some more recent initiatives, the department's efforts have been largely focused on responding to, rather than preventing, incidents of sexual assault. For example, GAO found that the department had not fully developed performance measures to assess the effectiveness of sexual assault prevention efforts and make changes when needed, and recommended that it do so. Recent DOD efforts in this area, in addition to continued congressional oversight and the implementation of prior GAO recommendations, could help DOD reduce the

incidence of sexual assault. Further, additional actions are needed to strengthen DOD's efforts to address the needs of male servicemembers who have been sexually assaulted and the needs of DOD's workforce of nearly 900,000 civilian employees with regard to prevention and response. For example, GAO found that DOD was not tracking all reported work-related sexual assaults involving civilian employees and recommended that it issue guidance to help ensure more comprehensive tracking.

Chairwoman Gillibrand, Ranking Member Tillis, and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss issues related to congressional oversight for prevention of and response to sexual assault incidents in the Department of Defense (DOD). As you know, sexual assault is a heinous crime that contradicts the core values that DOD and the military services expect their servicemembers to follow, such as treating their fellow servicemembers with dignity and respect. Recognizing this, Congress in 2004 directed the Secretary of Defense to develop a comprehensive policy for DOD on the prevention of and response to sexual assaults involving servicemembers, including an option that would enable servicemembers to confidentially disclose an incident of sexual assault. Since then, Congress has continually taken steps to address issues with sexual assault in the military. We have issued numerous reports on the prevention of and response to sexual assault within DOD and have made over 100 recommendations to the department to strengthen its efforts in this area. A listing of related GAO products is provided at the end of this statement.

Despite sustained congressional oversight and DOD actions, reports of sexual assault in the military continue to rise. Specifically, over the past 10 fiscal years, reports of sexual assault by servicemembers increased from approximately 2,500 in fiscal year 2010 to approximately 6,200 in fiscal year 2019. In a January 2021 memo, the Secretary of Defense spoke of the scourge of sexual assault within the ranks of the armed forces, noting that despite years of work in the area, the department must do more. Earlier, in October 2020, the DOD Inspector General noted that sexual assault remains a persistent challenge for the department. After the murder of a soldier at Fort Hood in April 2020, an independent review committee reported on a number of challenges that raise questions about DOD's ability to prevent and respond to unwanted sexual behaviors.¹

My statement today is based on our ongoing work in response to the National Defense Authorization Act (NDAA) for Fiscal Year 2020, which included a provision for us to, among other things, identify and assess the

¹*Report of the Fort Hood Independent Review Committee* (Nov. 6, 2020).

implementation of statutory requirements related to sexual assault prevention and response in the military contained in the NDAA from fiscal years 2004 through 2019, and our prior work in this area.² Specifically, my testimony (1) describes the statutory requirements concerning sexual assault prevention and response in the military that were contained in the NDAA from fiscal years 2004 to 2019, and (2) discusses whether there are areas where DOD can provide focus to further address sexual assault.

For our ongoing work, we reviewed all sections within each NDAA from fiscal years 2004 through 2019 by searching key terms, such as sexual assault, rape, sex, and special victims' counsel. We determined requirements by reviewing the text of each numbered section and grouping elements (i.e., any subsections, paragraphs, and sub-paragraphs) together into one requirement when they were inherently part of the same effort.³ We determined which requirements were in force by applying the following definitions: in force requirements are those that are still valid or ongoing; repealed requirements are those that have been revoked or annulled; and expired requirements are those that have passed their expiration date or period of validity. To determine the categories of sexual assault prevention and response requirements, we developed a schema of detailed topics and subcategories, which we adapted from relevant frameworks and information on this topic, such as a September 2017 report issued by the Congressional Research Service and our review of the NDAA language.⁴ We assigned each requirement to

²National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 540M (2019). Specifically, Section 540M of the NDAA for Fiscal Year 2020 included a requirement for us to identify the statutory requirements related to sexual assault prevention and response in the military contained in the NDAA from fiscal years 2004 through 2019, as well as provide a report to the Committees on Armed Services of the Senate and House of Representatives. The report is to include 1) the status of each statutory requirement, to include whether the requirement is still in force, repealed, or expired; 2) an assessment of the extent to which each of the armed forces has implemented the requirement; and 3) an assessment of the extent to which each of the armed forces has assessed the effectiveness of the actions taken to meet the requirement. The assessments include efforts by the Department of Homeland Security (as it relates to the Coast Guard), as well as requirements concerning sexual harassment (as it relates to sexual assault). We plan to complete our work later this year.

³Of the National Defense Authorization Acts we reviewed from fiscal years 2004 through 2019, we found 150 numbered sections related to sexual assault prevention and response.

⁴Congressional Research Service, *Military Sexual Assault: A Framework for Congressional Oversight*, R44944 (Sept. 12, 2017).

the topics and subcategories, and grouped them into a set of four categories. Further, we identified examples of sexual assault prevention and response requirements in the NDAs for fiscal years 2020 and 2021 using a similar review of key search terms, as discussed above. We provided our findings to DOD for technical comment and DOD concurred with them.

We also reviewed our prior work on sexual assault prevention and response and assessed the extent to which DOD has implemented our recommendations. Specifically, we included four of our prior reports that examined DOD's efforts to (1) develop and implement a strategy to prevent sexual assault, (2) address the continuum of unwanted sexual behaviors, (3) address sexual assaults of male servicemembers, and (4) respond to sexual assaults of its civilian employees.⁵

For our issued work, we reviewed relevant DOD and military service policies. We also compared DOD's policies and prevention strategy with a framework developed by the Centers for Disease Control and Prevention (CDC) for implementing effective sexual-violence prevention programs.⁶ Further, we obtained information on DOD's efforts to develop an overarching strategy across the continuum of harm—a range of interconnected, inappropriate behaviors that are connected to the occurrence of sexual assault and support an environment that tolerates these behaviors—and compared it with our prior work to determine the extent to which it includes key elements of strategic plans.⁷ For our review on sexual assaults of male servicemembers, we compared DOD's

⁵GAO, *Sexual Assault: Actions Needed to Improve DOD's Prevention Strategy and to Help Ensure It Is Effectively Implemented*, [GAO-16-61](#) (Washington, D.C.: Nov. 4, 2015); *Sexual Violence: Actions Needed to Improve DOD's Efforts to Address the Continuum of Unwanted Sexual Behaviors*, [GAO-18-33](#) (Washington, D.C.: Dec. 18, 2017); *Military Personnel: Actions Needed to Address Sexual Assaults of Male Servicemembers*, [GAO-15-284](#) (Washington, D.C.: Mar. 19, 2015); and *Sexual Harassment and Assault: Guidance Needed to Ensure Consistent Tracking, Response, and Training for DOD Civilians*, [GAO-21-113](#) (Washington, D.C.: Feb. 9, 2021).

⁶Centers for Disease Control and Prevention, *Sexual Violence Prevention: Beginning the Dialogue* (Atlanta, GA: 2004) and *Sexual Violence Surveillance: Uniform Definitions and Recommended Data Elements* (Atlanta, GA: 2014).

⁷GAO's leading practices for sound strategic management planning are derived from prior work related to strategic planning. For example, GAO, *Managing for Results: Critical Issues for Improving Federal Agencies' Strategic Plans*, [GAO-IGGD-97-180](#) (Washington, D.C.: Sept. 16, 1997); and *Defense Logistics: Actions Needed to Improve the Marine Corps' Equipment Reset Strategies and the Reporting of Total Reset Costs*, [GAO-11-523](#) (Washington, D.C.: Aug. 4, 2011).

rationale for how it prioritizes its sexual assault prevention and response efforts with leading practices for results-oriented management to determine the extent to which DOD uses the data it collects on sexual assault incidents to focus its program efforts.⁸ For our review of DOD civilian employees, we obtained data on reported sexual assault incidents from various DOD agencies. We assessed these data for errors, omissions, and inconsistencies, and determined the data were reliable for our purposes. The reports cited throughout this statement contain more details on the scope and methodology of our audit work.

We have conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Continuum of Harm

Studies by DOD and the RAND Corporation suggest that unwanted sexual behaviors do not exist in isolation but are part of a “continuum of harm.”⁹ DOD defines this continuum of harm as a range of interconnected, inappropriate behaviors that are connected to the occurrence of sexual assault and support an environment that tolerates

⁸GAO, *Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making*, [GAO-05-927](#) (Washington, D.C.: Sept. 9, 2005). To identify these leading practices, we reviewed relevant literature including previous GAO reports, spoke with experts in using performance information, and held group discussions with federal program managers. We also interviewed individuals from five federal agencies and reviewed documentation to illustrate how program managers have used performance information to make decisions. We identified uses for performance information including identifying problems and taking action, developing strategy and allocating resources, recognizing and rewarding performance, and identifying and sharing effective approaches. See [GAO-05-927](#) for additional details on the scope and methodology for identifying these leading practices.

⁹DOD, *2016 Workplace and Gender Relations Survey of Active Duty Members* (May 2017) and RAND Corporation, *Improving Oversight and Coordination of Department of Defense Programs That Address Problematic Behaviors among Military Personnel* (Santa Monica, CA: 2017).

these behaviors. According to RAND, servicemembers who experienced sexual harassment or gender discrimination also experienced higher rates of sexual assault, and approximately one-third of servicemembers who are sexually assaulted stated that the offender sexually harassed them before the assault.

DOD has defined various types of unwanted sexual behaviors, including sexual assault. DOD defines sexual assault as intentional sexual contact characterized by use of force, threats, intimidation, abuse of authority, or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following specific Uniform Code of Military Justice offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these acts.¹⁰

Historical Overview of Sexual Assault Prevention and Response in DOD

In February 2004, after learning of reports of sexual assault from servicemembers deployed to Iraq and Kuwait, then-Secretary of Defense Donald Rumsfeld directed a 90-day review of how the department handles the treatment of and care for sexual assault victims, including the reporting of sexual assaults. The DOD Care for Victims of Sexual Assault Task Force was created, and it later identified 35 key findings relevant to sexual assault policies and programs among the military services and the department. This task force proposed nine broad recommendations for immediate, near-term, and long-term corrective action. Specifically, it recommended that DOD establish a single point of accountability for all sexual assault policy matters within the department; develop policies, guidelines, and standards for sexual assault prevention, reporting, response, and accountability; and establish institutional sexual assault program evaluation, quality improvement, and oversight mechanisms, among other things.

In response to these recommendations, DOD established the Joint Task Force for Sexual Assault Prevention and Response (JTF-SAPR) in October 2004 to develop a comprehensive Sexual Assault Prevention and Response policy for the department based on the recommendations of the DOD Care for Victims of Sexual Assault Task Force. The JTF-

¹⁰Department of Defense Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program* (Jan. 23, 2012) (incorporating change 4, effective Sept. 11, 2020).

SAPR authored 13 Directive-Type Memoranda that served as the basis for the two policy documents that DOD uses today: DOD Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program*, and DOD Instruction 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures*. In October 2005, the Department established the Sexual Assault Prevention and Response Office (SAPRO) to take over as the single point of responsibility for SAPR policy in the Department. However, medical care, legal processes, and criminal investigations remained the responsibility of the Office of the Assistant Secretary of Defense for Health Affairs, the Judge Advocates General of the Military Services, and the DOD Inspector General, respectively.

In addition, to provide oversight of DOD's program, in 2004 Congress directed the Secretary of Defense to establish the Defense Task Force on Sexual Assault in the Military Services to undertake an examination of matters relating to sexual assault in which members of the armed forces are either victims or offenders. In August 2008, this task force began its examination of matters relating to sexual assault. In December 2009, the task force released its report that contained 30 recommendations designed to address four categories of issues: strategic direction, prevention and training, response to victims, and accountability.

Roles and Responsibilities

Multiple entities and individuals within DOD have responsibilities for preventing and responding to sexual assault. The Under Secretary of Defense for Personnel and Readiness oversees the Sexual Assault Prevention and Response Office (SAPRO), which serves as the department's single point of authority, accountability, and oversight for its sexual assault prevention and response program. SAPRO is responsible for developing programs, policies, and training standards for sexual assault prevention, reporting, and response; and for overseeing the collection and maintenance of data on reported allegations of sexual assault involving servicemembers, among other things. Further, SAPRO supports the military services' sexual assault prevention and response efforts.

The secretaries of the military departments are responsible for establishing policies for preventing and responding to sexual assault within their respective departments, and for ensuring compliance with DOD policy. Each military service has established its own Sexual Assault

Prevention and Response (SAPR) policy and program.¹¹ Military service policies include, among other things, responsibilities of commanders, sexual assault response coordinators (SARCs), and victim advocates, as well as training requirements for servicemembers.

The following SAPR personnel provide various support services to eligible victims of sexual assault, including servicemembers, their adult dependents, and some DOD civilian employees:

- **SARCs** serve as the single point of contact for coordinating appropriate and responsive care for adult sexual assault victims at an installation or within a geographic area. SARCs oversee sexual assault awareness, prevention, and response training; coordinate with health care providers for medical treatment, including emergency care, for victims of sexual assault; and track the services provided to an eligible victim of sexual assault from the initial report through final disposition and resolution.
- **Victim Advocates** can provide nonclinical crisis intervention, referrals, and ongoing nonclinical support to adult sexual assault victims. Such support may include providing information on available options and resources and liaising with other relevant organizations and agencies, depending upon the needs of the victim.

When a servicemember is accused of an offense such as sexual assault, military criminal investigators, commanding officers, and military lawyers—known as judge advocates—have responsibilities related to the investigation and adjudication of the alleged criminal conduct. An investigation is usually conducted by one of the three military criminal investigative organizations—the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, or the Air Force Office of Special Investigations. Each organization has criminal investigators who are responsible for interviewing witnesses, alleged victims, and suspects, and gathering physical evidence.

The DOD Office of the Inspector General was established by the Department of Defense Authorization Act of 1983 to, among other things, serve as the principal adviser to the Secretary of Defense on matters

¹¹The Army is the only military service to combine its efforts to prevent and respond to incidents of sexual assault as well as sexual harassment as they relate to servicemembers into a single program referred to as the Sexual Harassment/Assault Response and Prevention (SHARP) program.

relating to the prevention and detection of fraud, waste, and abuse; and to be an independent organization responsible for conducting and supervising audits and investigations of the programs and operations of the department.¹² DOD Directive 5106.01 specifies that the DOD Inspector General shall establish policy and provide guidance on all DOD activities relating to criminal investigations and law enforcement programs, which include coordinating with the Department of Justice.¹³

The Defense Health Agency within DOD supports the delivery of health care to servicemembers and their families at military treatment facilities, which include 51 military hospitals and hundreds of health and dental clinics. These health care services are delivered by physicians, dentists, and other providers and range from routine examinations to complex surgical procedures as well as care following a sexual assault.

Uniform Code of Military Justice

The military justice system is governed by a collection of statutes and regulations, including the Uniform Code of Military Justice, which is codified in Title 10 of the United States Code.¹⁴ According to the *Manual for Courts-Martial*, 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.¹⁵ All members of the armed forces are subject to the Uniform Code of Military Justice, including the punitive articles that define specific offenses. The punitive articles include offenses similar to those found in civilian criminal law (e.g., murder, rape, wrongful use of controlled substances, larceny, and drunken driving) as well as other offenses that specifically affect good order and discipline in the military (e.g., absence without leave, disrespect toward superior commissioned officer, and dereliction of duty).

¹²Pub. L. No. 97-252, §1117 (1982), *codified as amended at* Appendix 3 of Title 5 of the United States Code.

¹³Department of Defense Directive 5106.01, *Inspector General of the Department of Defense (IG DOD)* (Apr. 20, 2012) (incorporating change 2, effective May 29, 2020).

¹⁴Chapter 47 of Title 10 of the U.S. Code.

¹⁵*Manual for Courts-Martial United States* (2019 Edition).

Related Priority Recommendations

In May 2020, we provided the Secretary of Defense with an update on the overall status of DOD's implementation of our recommendations and called attention to areas in which recommendations that have not been fully addressed should be given high priority.¹⁶ Two of these priority recommendations, which have not been fully implemented as of March 2021, address the prevention of sexual harassment. Specifically, in September 2011, we recommended, and DOD concurred, that the department: (1) develop a strategy for holding individuals in positions of leadership accountable for promoting, supporting, and enforcing the department's sexual harassment policies and programs, and (2) ensure that the Office for Diversity, Equity, and Inclusion develops and aggressively implements an oversight framework to help guide the department's efforts. At a minimum, such a framework should contain long-term goals, objectives, and milestones; strategies to accomplish goals; criteria for measuring progress; and results-oriented performance measures to assess the effectiveness of the department's sexual harassment policies and programs. Such a framework should also identify and include a plan for ensuring that adequate resources are available to carry out the office's oversight responsibilities.¹⁷ With respect to the first recommendation, as of March 2021, DOD officials stated that the department is developing a sexual harassment prevention strategy that may include the recommended compliance standards, which it estimates it will issue by April 2021. With respect to the second recommendation, as of March 2021, DOD has not developed and aggressively implemented an oversight framework, as we recommended.

The William M. (Mac) Thornberry NDAA for Fiscal Year 2021 requires the Secretary of Defense to provide a report to the defense committees on the actions taken to implement these recommendations not later than one year after enactment.¹⁸ Specifically, it requires the Secretary of Defense to develop and implement a DOD-wide strategy to hold individuals in positions of leadership in the department accountable for the promotion, support, and enforcement of the department's policies and programs on sexual harassment. It also requires that the strategy provide for an

¹⁶GAO, *Priority Open Recommendations: Department of Defense*, [GAO-20-446PR](#) (Washington, D.C.: May 4, 2020).

¹⁷GAO, *Preventing Sexual Harassment: DOD Needs Greater Leadership Commitment and an Oversight Framework*, [GAO-11-809](#) (Washington, D.C.: Sept. 21, 2011).

¹⁸Pub. L. No. 116-283, §539B (2021).

oversight framework for the department's efforts to promote, support, and enforce policies and programs on sexual harassment.

Congress Has Enacted Numerous Statutory Requirements Related to Sexual Assault Prevention and Response in the NDAA's from Fiscal Years 2004 through 2019

Based on our preliminary analysis, Congress enacted 249 requirements related to sexual assault prevention and response in the military from fiscal years 2004 through 2019. These statutory requirements have covered a number of areas aimed at assisting DOD's efforts to prevent and respond to sexual assaults in the military, such as the establishment of annual reports to track the number of sexual assaults at the military service academies and within the armed forces.¹⁹ Requirements also included areas related to DOD's management of these programs. The NDAA for Fiscal Year 2012, for example, required that the Director of SAPRO be at the general or flag officer or senior executive service level.²⁰ Other statutory requirements have concerned the development of comprehensive policies and procedures. For example, the NDAA for Fiscal Year 2011 required that the Secretary of Defense establish comprehensive and consistent protocols for providing and documenting medical care to a member of the armed forces or covered beneficiary who is a victim of sexual assault.²¹

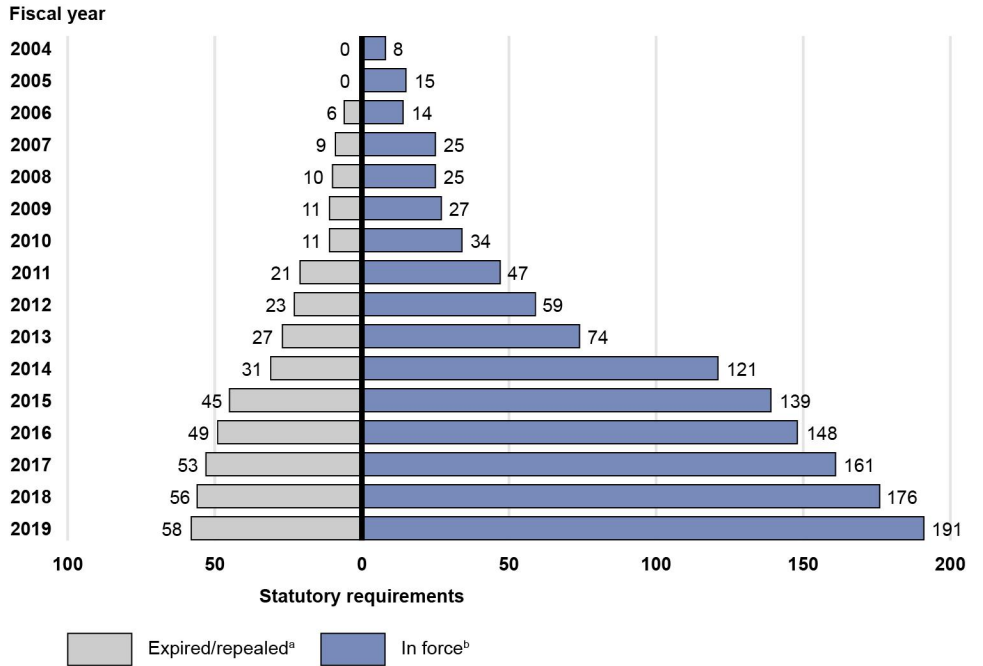
Over time, our preliminary work showed that statutory requirements had cumulated with each NDAA and that some requirements had expired or been repealed. Some requirements were also amended and are still in force. As of the enactment date for the NDAA for Fiscal Year 2019, most of the requirements were still in force, as shown in figure 1.

¹⁹See, e.g., John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 532(a) (2006). Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 1631 (2011).

²⁰National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 583 (2011).

²¹Pub. L. No. 111-383, § 1621 (2011) (at 10 U.S.C. § 1561 note).

Figure 1: Number and Status of Sexual Assault Prevention and Response Statutory Requirements from National Defense Authorization Acts (NDAA) Over Time, Fiscal Years 2004-2019



Source: GAO analysis of National Defense Authorization Acts. | GAO-21-463T

Accessible Data for Figure 1: Number and Status of Sexual Assault Prevention and Response Statutory Requirements from National Defense Authorization Acts (NDAA) Over Time, Fiscal Years 2004-2019

| Fiscal year | Expired/repealed | In force |
|-------------|------------------|----------|
| 2004 | 0 | 8 |
| 2005 | 0 | 15 |
| 2006 | 6 | 14 |
| 2007 | 9 | 25 |
| 2008 | 10 | 25 |
| 2009 | 11 | 27 |
| 2010 | 11 | 34 |
| 2011 | 21 | 47 |
| 2012 | 23 | 59 |
| 2013 | 27 | 74 |
| 2014 | 31 | 121 |
| 2015 | 45 | 139 |
| 2016 | 49 | 148 |

| Fiscal year | Expired/repealed | In force |
|-------------|------------------|----------|
| 2017 | 53 | 161 |
| 2018 | 56 | 176 |
| 2019 | 58 | 191 |

^aThe statutory requirements that were expired or repealed as of the date of enactment of each NDAA. Expired requirements are those that have passed their expiration date or period of validity; repealed requirements are those that have been revoked or annulled.

^bThe statutory requirements in force as of the date of enactment of each NDAA. In force requirements are those that are still valid or ongoing.

Below are examples of requirements that are in force with an amendment, have expired, or have been repealed:

- Requirement that is in force with an amendment:** Section 1713 of the NDAA for Fiscal Year 2014 amended Chapter 39 of title 10, United States Code (U.S.C.), by inserting section 674, which allowed for the secretary concerned to provide guidance to commanders on their authority to make a timely determination or take action on the temporary administrative reassignment or removal of a member on active duty accused of committing a sexual assault or related offense. This remains in force with amendments in 10 U.S.C. § 674.²²
- Requirement that has expired:** Section 526(b) of the NDAA for Fiscal Year 2004 mandated that not later than 12 months after the date on which all members of the task force have been appointed, the task force (which was established to examine sexual harassment and violence at the United States Military Academy and the United States Naval Academy) was to submit to the Secretary of Defense a report recommending ways by which DOD and the departments of the Army and Navy may more effectively address matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy, respectively.²³ We determined this requirement was expired because it had a set deadline, which had passed.
- Requirement that was repealed:** Section 527 of the NDAA for Fiscal Year 2004, which calls for the secretaries of the military departments

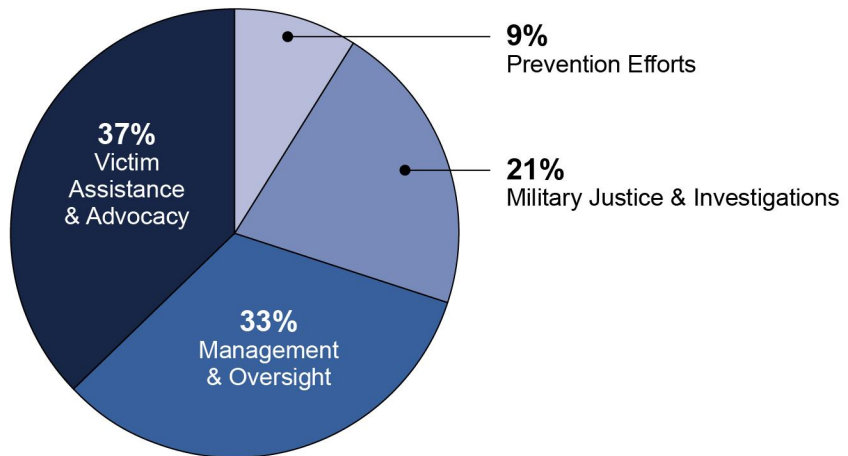
²²National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1713(a) (2013).

²³National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 526(b) (2003).

to prescribe policy on actions to address sexual harassment and violence at the military service academies. This requirement was repealed and replaced by section 532 of the NDAA for Fiscal Year 2007.²⁴

As shown in figure 2, our preliminary analysis shows that most requirements were related to two categories: (1) victim assistance and advocacy, and (2) management and oversight.

Figure 2: Categories of Sexual Assault Prevention and Response Statutory Requirements in the National Defense Authorization Acts, Fiscal Years 2004-2019



Source: GAO analysis of National Defense Authorization Acts. | GAO-21-463T

Accessible Data for Figure 2: Categories of Sexual Assault Prevention and Response Statutory Requirements in the National Defense Authorization Acts, Fiscal Years 2004-2019

| Victim Assistance & Advocacy | Management & Oversight | Military Justice & Investigations | Prevention Efforts |
|------------------------------|------------------------|-----------------------------------|--------------------|
| 37% | 33% | 21% | 9% |

Note: The categories include statutory requirements related to the Department of Homeland Security (as it relates to the Coast Guard) and sexual harassment (as it concerns sexual assault). The total number of requirements was 249.

The following are definitions that we used to categorize each area and examples of the types of statutory requirements that are under each of the four broad categories:

²⁴Pub. L. No. 108-136, § 527(a) (2003). Pub. L. No. 109-364, § 532(c) (2006).

Victim assistance and advocacy. This category centers on providing support to victims of sexual assault and includes areas such as victim privacy and safety, medical care, advocacy, and legal assistance. For example:

- One requirement is that the Secretary of Defense shall establish a training and certification program for SARCs and sexual assault victim advocates.²⁵
- Another requirement in this category mandated that legal assistance be provided by civilian or military counsel to victims of sexual assault.²⁶

Management and oversight. This category focuses on the management structures for overseeing efforts to prevent and respond to sexual assaults in the military. It includes areas such as policy, planning, and the collection and reporting of data. For example:

- One requirement is that the Secretary of Defense shall develop a comprehensive policy for the prevention of and response to sexual assaults involving members of the armed forces.²⁷
- Another requirement is that the Secretary of Defense shall develop a comprehensive strategy to prevent retaliation carried out by members of the armed forces against other members who report or otherwise intervene on behalf of the victim of an alleged sex-related offense.²⁸

Military justice and investigations. This category focuses on the overall investigation and disposition of military sexual assault cases and includes areas such as investigation, disposition of cases, and judicial processes. For example:

- One requirement is that the secretaries of the military departments shall assign at least one full-time sexual assault nurse examiner to

²⁵Pub. L. No. 112-81, § 584(c) (2011).

²⁶Pub. L. No. 112-81, § 581(a) (2011) and codified at 10 U.S.C. § 1565b.

²⁷Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375, § 577(a)(b)(d) (2004).

²⁸National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, § 539(a)(b)(c) (2015).

each military medical treatment facility in which an emergency department operates 24 hours per day.²⁹

- In another requirement, commanding officers who receive a report of a sex-related offense involving a member of the armed forces shall act upon the report immediately by referring the report to the appropriate military criminal investigation organization.³⁰

Prevention efforts. This category centers on preventing sexual assaults and includes areas such as organizational culture, leadership, and education and training. For example:

- One requirement is that the Secretary of Defense and the secretaries of the military departments shall develop a sexual assault prevention and response training curriculum that covers different levels of training, such as initial entry and accession programs and annual refresher training.³¹
- Another requirement is that the Secretary of Defense shall ensure that results of command climate assessments are provided to the relevant individual commander, as well as the next higher level of command.³²

DOD has taken steps to implement these statutory requirements, and we are evaluating the extent to which DOD has implemented them as part of our ongoing work. We have reported on the status of certain requirements as part of our prior work. For example, in 2017 we reported that, as of October 2013, DOD had implemented the Defense Sexual Assault Incident Database—DOD’s centralized database for the collection and maintenance of information regarding reported sexual assaults involving

²⁹Pub. L. No. 113-66, § 1725(b) (2013).

³⁰Pub. L. No. 113-66, § 1742 (2013).

³¹Pub. L. No. 112-81, § 585(a) (2011).

³²Pub. L. No. 113-66, § 587(a) (2013). Per DOD guidance, commanders of military commands are required to conduct command climate assessments to determine the overall health and effectiveness of the organization. These assessments provide an opportunity for servicemembers and civilian employees to express opinions regarding the manner and extent to which leaders respond to allegations of problematic behaviors, to include sexual assault, sexual harassment, and prohibited discrimination. Department of Defense Instruction 1350.02, *DOD Military Equal Opportunity Program* (Sept. 4, 2020).

persons covered by DOD policy—in response to a requirement from section 563 of the Duncan Hunter NDAA for Fiscal Year 2009.³³

Since our analysis of statutory requirements from fiscal years 2004 through 2019, Congress has enacted additional statutory requirements in the NDAs for fiscal years 2020 and 2021, thus demonstrating continued interest in and oversight of DOD’s efforts to prevent and respond to sexual assault in the military. These requirements also cover a number of different areas, such as efforts to provide support to victims of sexual assault and to establish prevention-focused entities, policies, and programs at the department. For example:

- The secretaries of the military departments are to increase the number of personnel serving as Victim Witness Assistance Program liaisons to address personnel shortages, and to increase the number of personnel assigned to military criminal investigative services, with the goal of ensuring investigations of sex-related offenses are completed within 6 months.³⁴
- As an oversight mechanism, the secretaries of the military departments are to submit annual reports to the congressional defense committees on the status of investigations into alleged sex-related offenses, and include elements such as the number of investigations in progress and a general explanation of why any are lasting longer than 180 days (i.e., 6 months).³⁵
- DOD is to establish and maintain the Defense Advisory Committee for the Prevention of Sexual Misconduct. Its role is to advise the Secretary of Defense on the prevention of sexual assault involving members of the armed forces, and the policies, programs, and

³³GAO, *Military Personnel: DOD Has Processes for Operating and Managing Its Sexual Assault Incident Database*, [GAO-17-99](#) (Washington, D.C.: Jan. 10, 2017). As part of our ongoing work, we have identified section 563 as a requirement within the management and oversight category.

³⁴National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, §540 (2019). DOD Instruction 1030.02, *Victim and Witness Assistance* (Sept. 2, 2020) establishes policy, assigns responsibilities, and prescribes procedures for assisting victims and witnesses of alleged crimes committed in violation of the Uniform Code of Military Justice.

³⁵William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, §539C (2021).

practices of each military department, each armed force, and each military service academy for the prevention of sexual assault.³⁶

Additional Focus on Prevention Efforts and the Needs of Certain Populations Could Help DOD to Further Address Sexual Assault

While DOD has taken a number of steps to prevent and respond to incidents of sexual assault involving servicemembers, our prior work has shown that additional focus on sexual assault prevention efforts could help to further address sexual assault department-wide. Specifically, additional DOD actions are needed to implement our recommendations to enhance the effectiveness of the department's prevention strategy, as well as our recommendations to address the needs of male servicemembers who have been sexually assaulted and the needs of DOD's federal civilian employees with regard to sexual assault prevention and response.

DOD Has Taken Some Actions, but Could Further Increase Its Focus on Prevention

Over the past 2 decades, DOD's efforts have been largely focused on its response to sexual assault involving servicemembers. An effective response is critical to ensuring servicemembers receive appropriate care and case resolution. However, DOD would further benefit from increasing its focus on sexual assault prevention efforts.

In recent years, DOD has taken some positive steps toward addressing the prevention of sexual assault. For example, DOD's *Annual Report on Sexual Assault in the Military for Fiscal Year 2019* notes that while supporting victims and holding alleged offenders appropriately accountable are enduring efforts for the department, sexual assault prevention must receive equal, if not greater, emphasis if further

³⁶Pub. L. No. 116-92, §550B (2019).

reductions in victimization are to occur.³⁷ Additionally, in a February 2021 memorandum, the Secretary of Defense highlighted immediate actions needed to address sexual assault and harassment in the military, including the acceleration of violence prevention activities and the establishment of a violence prevention workforce.³⁸ In addition, DOD issued a policy in September 2020 which integrates policies to mitigate self-directed harm and prohibited abusive or harmful acts;³⁹ revised its approach to climate assessments to better support prevention decision-making; and, established a Prevention Plan of Action.

While these recent actions are beneficial, our prior work identified three key weaknesses in DOD's approach to the prevention of sexual assault that remain unaddressed as of March 2021.

Specifically:

- **DOD's sexual assault prevention strategy needs improvement.** In November 2015, we reported that DOD's sexual assault prevention strategy did not link prevention activities to desired outcomes or fully identify risk and protective factors, thus limiting its ability to take an evidence-based approach to the prevention of sexual assault.⁴⁰ According to the CDC, some factors may put a person at risk for sexual-violence perpetration and victimization while other factors may protect them from harm. Specifically referred to as risk factors and protective factors, CDC work has demonstrated that by identifying such influences—relative to the domain or environment in which they exist—organizations can focus their efforts on eliminating the factors that promote sexual violence while supporting the factors that prevent it.⁴¹ We recommended, and DOD concurred, that the department link activities to outcomes, and identify risk and protective factors in its sexual assault prevention strategy. While DOD linked prevention

³⁷DOD, *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2019* (Apr. 17, 2020).

³⁸Secretary of Defense Memorandum, *Immediate Actions to Counter Sexual Assault and Harassment and the Establishment of a 90-Day Independent Review Commission on Sexual Assault in the Military* (Feb. 26, 2021).

³⁹DOD Instruction 6400.09, *DOD Policy on Integrated Primary Prevention of Self-Directed Harm and Prohibited Abuse or Harm* (Sept. 11, 2020).

⁴⁰[GAO-16-61](#).

⁴¹Centers for Disease Control and Prevention, *Sexual Violence Prevention: Beginning the Dialogue* (Atlanta, Ga.: 2004).

activities to desired outcomes in its Prevention Plan of Action in April 2019, as of March 2021, it has not yet identified risk and protective factors, though DOD officials stated that research efforts were underway. Therefore, this recommendation has not been fully implemented.

- **DOD needs better performance measures for sexual assault prevention efforts to assess effectiveness.** In November 2015, we also reported that while DOD had identified performance measures to assess the effectiveness of its sexual assault prevention efforts, the measures were not fully developed and were missing many key attributes that we have found can contribute to the effective assessment of program performance. For example, we found that for its “Prevalence versus Reporting” measure, while DOD had expressed that it aims to close the gap by decreasing the prevalence of sexual assault incidents and increasing the number of victims willing to report a sexual assault, it did not identify—in either case—a numerical target for the department to work toward. As a result, we found that DOD and other decision makers may be unable to effectively gauge the progress of the department’s prevention efforts. We recommended, and DOD concurred, that the department fully develop the department’s performance measures for the prevention of sexual assault so that the measures include all key attributes of successful performance measures. However, as of March 2021, this recommendation has not been fully implemented. In its most recent annual report, the department has acknowledged the lack of a common set of metrics to assess prevention effectiveness as a challenge, and DOD officials stated that they plan to issue a report in fiscal year 2023 that will include a complete evaluation of the department’s efforts to prevent sexual assault.⁴²
- **DOD needs better long-term, results-oriented strategic planning for the prevention of sexual assault.** In addition, in our December 2017 report, we found that while DOD was developing an overarching prevention strategy to address the continuum of unwanted sexual behaviors, not solely sexual assault, it was unclear whether the strategy would contain key elements for long-term and results-oriented strategic planning.⁴³ The six elements for establishing a long-term, results-oriented strategic planning framework are: (1) a mission statement, (2) long-term goals, (3) strategies to achieve goals, (4)

⁴²DOD, *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2019* (Apr. 17, 2020).

⁴³[GAO-18-33](#).

external factors that could affect goals, (5) use of metrics to gauge progress, and (6) evaluations of the plan to monitor goals and objectives. Without incorporating these elements into its overarching prevention strategy, DOD may not be in a position to effectively coordinate and integrate prevention activities and reduce instances of unwanted sexual behaviors. We recommended, and DOD concurred, that the department incorporate six key elements for establishing a long-term, results-oriented strategic planning framework in its prevention strategy. However, as of March 2021, this recommendation has not been fully implemented.

DOD taking action to implement our recommendations, in addition to continued congressional oversight, could help to reduce the incidence of sexual assault within the department.

Addressing the Needs of Male Servicemember Victims and the Civilian Workforce Regarding Sexual Assault Prevention and Response

Our prior work has also focused on the needs of male servicemembers and DOD federal civilian employees with regard to sexual assault prevention and response. We made a number of recommendations to address the needs of these specific populations, but the department has not fully implemented our recommendations.

Male Servicemember Victims of Sexual Assault

Sexual assaults of males have been overshadowed in both the military and civilian communities by the focus on female sexual assault victims. The U.S. military is overwhelmingly male—representing 83.5 percent of active-duty servicemembers as of fiscal year 2018, according to DOD data. While DOD has taken actions to address sexual assault of servicemembers generally, it had not—until 2014—begun to take steps to specifically address sexual assault of male servicemembers. In March 2015, we made six recommendations to DOD, with which it concurred, to improve its prevention of and response to sexual assaults involving male

servicemembers.⁴⁴ As of March 2021, DOD has not fully implemented five of these recommendations.⁴⁵

For example,

- **DOD needs to use data-driven decision-making in its approach.** We reported that DOD had not used data on male victims to inform its sexual assault prevention and response efforts. Our analysis of DOD's data on reported sexual assault incidents and prevalence estimates showed that male servicemembers report sexual assaults at statistically significantly lower rates than do female servicemembers. However, we found that the department had not used that information to inform program priorities. We recommended that DOD develop a plan for data-driven decision-making to prioritize program efforts and reduce the extent to which program decisions are made based on cultural norms and expectations, such as the tendency to view females as the primary victims of sexual assault. In October 2016, DOD published a plan for preventing and responding to sexual assaults of male servicemembers. In that plan, DOD generally outlined its intent to develop metrics to assess prevention and response efforts pertaining to males who experience sexual assault, but as of March 2021, DOD has not provided evidence that it has developed a plan for data-driven decision making to prioritize its sexual assault prevention efforts.
- **DOD would benefit from clear goals and associated metrics.** We also reported that DOD had not identified program goals and measures specific to the incidence of sexual assault of male servicemembers or included them in its prevention strategy. According to DOD officials, the department had not developed clear goals and metrics relating to male victims, or included them in its prevention strategy because it had viewed its approach toward its sexual assault prevention and response program as gender neutral and because it had focused its program mainly on female victims. We recommended that DOD develop clear goals with associated metrics

⁴⁴[GAO-15-284](#).

⁴⁵DOD took actions to implement our recommendation to systematically evaluate the extent to which differences exist in the medical and mental health-care needs of male and female sexual assault victims, and the care regimen, if any, that will best meet those needs. Specifically, DOD contracted with the RAND Corporation to assess the needs of male sexual assault victims in the armed forces. RAND issued a report on this research in 2018. In addition, a study for the Defense Health Agency was completed in July 2018 of the patterns of health care utilization of service members who have experienced a sexual assault, and the analysis was conducted by gender among other factors.

to drive the changes needed to address sexual assaults of male servicemembers and articulate those goals, for example in the department's next sexual assault prevention strategy. While DOD issued a plan to prevent and respond to sexual assaults of male servicemembers, the plan did not include metrics. DOD officials stated that the completion of metrics is expected by 2024.

We continue to believe that these recommendations are valid and that DOD should implement them to improve its prevention of and response to sexual assaults involving this population.⁴⁶

DOD Federal Civilian Employees

While DOD has taken considerable steps to address incidents of sexual assault as they relate to servicemembers and has stated its commitment to creating a culture where all members of the community are valued, such efforts have been limited as they relate to nearly 900,000 federal civilian employees—a significant portion of its total workforce. In February 2021, we made 19 recommendations to DOD, with which it generally concurred, to improve how it tracks, responds to, and trains its federal civilian workforce on sexual harassment and assault.⁴⁷

For example,

- **DOD needs to improve its tracking of sexual assault incidents.** We reported that due to limited guidance, DOD does not track all reported work-related sexual assaults in which DOD federal civilian employees are victims. Specifically, the department does not track all incidents of sexual assault reported to the military departments within the continental United States; incidents involving employees of DOD components other than the military services, such as the defense agencies; or incidents where a DOD federal civilian employee is also

⁴⁶The other three recommendations that remain open from our March 2015 review of DOD's prevention of and response to sexual assaults involving male servicemembers are to: (1) include information about the sexual victimization of males in communications to servicemembers that are used to raise awareness of sexual assault and the department's efforts to prevent and respond to it, (2) revise sexual assault prevention and response training to more comprehensively and directly address the incidence of male servicemembers being sexually assaulted and how certain behavior and activities—like hazing—can constitute a sexual assault, and (3) develop and issue guidance for the department's medical and mental health providers that delineates the gender-specific distinctions and the care regimen that is recommended to most effectively meet those needs. [GAO-15-284](#).

⁴⁷[GAO-21-113](#).

a military dependent. As a result, DOD does not know the extent to which its civilian workforce has reported work-related sexual assault worldwide. We recommended that DOD issue guidance to comprehensively track work-related sexual assaults involving all DOD federal civilian employee victims regardless of location, employing component, or military dependent status.

- **DOD needs to take steps to standardize sexual assault reporting options.** We also reported that DOD federal civilian employees' ability to make restricted reports of sexual assault—confidential disclosures that do not initiate official investigations but allow the victim to receive DOD-provided sexual assault support services—varies across components. Specifically, according to DOD officials, as of October 2020, the only DOD federal civilian employees who could file restricted reports of sexual assault were those who were also military dependents or those who worked for the Air Force. According to DOD officials, they have not taken action to resolve this variation due to conflicts with federal statute, among other things. We recommended that DOD report to and request any needed actions from Congress on the ability of civilian employees to make restricted reports of sexual assault to alleviate such inconsistencies and minimize legal risks for DOD components.

To improve its ability to prevent, respond to, and resolve incidents of work-related sexual assault involving this population, DOD should act to address our February 2021 recommendations.

Chairwoman Gillibrand, Ranking Member Tillis, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact Brenda S. Farrell, Director, Defense Capabilities and Management, who may be reached at (202) 512-3604 or farrellb@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Kimberly Mayo (Assistant Director), Tracy Barnes, Kirsten Briggs, Vincent M. Buquicchio, Molly Callaghan, Juliee Conde-Medina, Christopher Gezon, Rebecca Guerrero, Gina Hoffman, Ronald La Due Lake, and Lillian M. Yob.

Related GAO Products

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