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Report to Congressional Committees

February 2021

SEXUAL HARASSMENT AND ASSAULT

Guidance Needed to Ensure Consistent Tracking, Response, and Training for DOD Civilians

Accessible Version

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GAO-21-113

GAO Highlights

Highlights of GAO-21-113, a report to congressional committees

February 2021

SEXUAL HARASSMENT AND ASSAULT

Guidance Needed to Ensure Consistent Tracking, Response, and Training for DOD Civilians

Why GAO Did This Study

With nearly 900,000 federal civilian employees around the world, DOD has responsibilities for preventing and responding to sexual harassment and assault within its workforce. In fiscal year 2018, DOD estimated that about 49,700 civilian employees experienced sexual harassment and about 2,500 civilian employees experienced work-related sexual assault in the prior year.

House Report 116-120 included a provision for GAO to review DOD's prevention of and response to sexual harassment and assault involving DOD federal civilian employees. GAO's report examines, among other things, the extent to which DOD has (1) visibility over such reported incidents, and (2) developed and implemented policies and procedures to respond to and resolve these incidents. GAO reviewed policies and guidance; analyzed program data from fiscal years 2015 through 2019; interviewed officials at a nongeneralizable sample of five military installations; evaluated DOD training materials; and interviewed DOD, service, and civilian officials.

What GAO Recommends

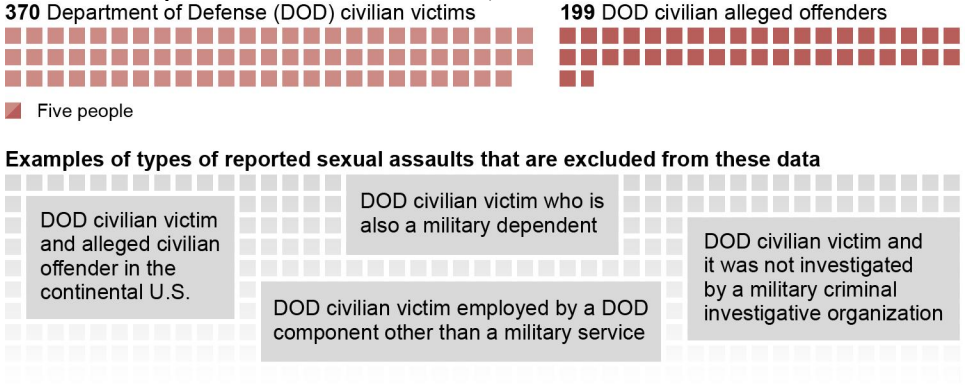
GAO is making 19 recommendations, including that DOD issue guidance for comprehensive tracking of civilian work-related sexual assaults, enhance guidance on the structure of anti-harassment programs for civilians, and report to and request any needed actions from Congress on the ability of civilian employees to make restricted reports of sexual assault. As discussed in the report, DOD generally concurred with the recommendations.

View GAO-21-113. For more information, contact Brenda S. Farrell at (202) 512-3604 or farrellb@gao.gov.

What GAO Found

The Department of Defense (DOD) has taken steps to track reports of sexual harassment and sexual assault involving its federal civilian employees, but its visibility over both types of incidents is hindered by guidance and information-sharing challenges. While employees may not report all incidents for a variety of reasons, DOD also lacks visibility over those incidents that have been reported. For example, from fiscal years 2015 through 2019, DOD recorded 370 civilian employees as victims of sexual assault and 199 civilian employees as alleged offenders. However, these data do not include all incidents of sexual assault reported over this time period. Specifically, based on DOD guidance, examples of incidents that could be excluded from these data include those involving civilian employee victims (1) occurring in the continental United States, (2) employed by DOD components other than the military services, such as defense agencies, and (3) who are also military dependents. Without guidance that addresses these areas, DOD does not know the extent to which its civilian workforce has reported work-related sexual assault worldwide.

Number of Department of Defense Federal Civilian Employees Recorded as Victims or Alleged Offenders in Reported Sexual Assault Incidents, Fiscal Years 2015-2019



Source: GAO analysis of Sexual Assault Prevention and Response Office data and information. | GAO-21-113

Text of Number of Department of Defense Federal Civilian Employees Recorded as Victims or Alleged Offenders in Reported Sexual Assault Incidents, Fiscal Years 2015-2019

- 370 Department of Defense (DOD) civilian victims
- 199 DOD civilian alleged offenders

Examples of types of reported sexual assaults that are excluded from these data

- DOD civilian victim and alleged civilian offender in the continental U.S.
- DOD civilian victim who is also a military dependent.

- DOD civilian victim employed by a DOD component other than a military servcie.
- DOD civilian victim and it was not investigated by a military criminal investigative organization.

While DOD has developed policies and procedures to respond to and resolve sexual harassment and sexual assault incidents involving federal civilian employees, gaps exist. For example, DOD issued guidance in June 2020 directing components to establish anti-harassment programs, but it lacks details regarding how such programs should be structured. Without clarifying guidance, components can establish programs that do not align with U.S. Equal Employment Opportunity Commission guidance for model anti-harassment programs. Additionally, GAO found that DOD 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. According to DOD officials, they have not taken action to resolve this variation due to conflicts with federal statute, among other things. By reporting to and requesting any needed actions from Congress to resolve any conflicts with statute, the department can alleviate such inconsistencies and minimize legal risks for DOD components.

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Abbreviations

DOD	Department of Defense
DSAID	Defense Sexual Assault Incident Database
EEO	Equal Employment Opportunity
MEO	Military Equal Opportunity
ODEI	Office for Diversity, Equity, and Inclusion
SAPR	Sexual Assault Prevention and Response
SAPRO	Sexual Assault Prevention and Response Office
SARC	Sexual Assault Response Coordinator
SHARP	Sexual Harassment/Assault Response and Prevention
SVC	Special Victims' Counsel
U.S.C.	United States Code
VLC	Victims' Legal Counsel

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February 9, 2021

Congressional Committees

Incidents of sexual harassment and assault in the military have generated sustained congressional and media attention for nearly 2 decades, and the Department of Defense (DOD) has taken significant steps to respond to such incidents.[1] However, DOD also has responsibilities related to preventing and responding to sexual harassment and assault within its civilian workforce of nearly 900,000 federal employees around the world.[2] In a fiscal year 2018 report, DOD estimated that 5.9 percent of its civilian employees (about 49,700) had experienced sexual harassment in the prior 12 months, and that 0.3 percent (about 2,500) had experienced work-related sexual assault in that timeframe.[3]

[1]The U.S. Equal Employment Opportunity Commission and DOD define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. This conduct constitutes unlawful sexual harassment when it is so severe or pervasive that it creates a hostile or offensive work environment or when it results in an adverse employment decision. DOD defines sexual assault as intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent; this includes a broad category of sexual offenses, including rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses. DOD Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program* (Jan. 23, 2012) (incorporating change 4, effective Sept. 11, 2020).

[2]As of June 2020, DOD reported approximately 760,000 appropriated fund, and as of November 2020, approximately 120,000 non-appropriated fund permanently assigned federal civilian employees worldwide. Contractors were not included in the scope of our review because, according to DOD officials, the response to sexual harassment and sexual assault incidents involving federal contractors depends, in part, on the contracting company and the terms of the federal contractor's employment.

[3]Margins of error range from ±0.1% to ±1.3% for the sexual harassment estimate and from ±0.1% to ±0.6% for work-related sexual assault. The report provided the estimated percentage of DOD civilian employees that experienced sexual harassment and assault. We calculated the approximate estimated number of civilian employees based on DOD documentation that there were 841,958 appropriated fund and non-appropriated fund civilian employees at the time the fiscal year 2018 survey was conducted. For the purposes of this report, we use the term "work-related sexual assault" to refer to any sexual assault connected to the workplace of a DOD civilian, including through the location of the assault or the identity of the alleged offender. DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018* (April 2020).

DOD has expressed a commitment to creating a culture where servicemembers, civilians, and their families are valued and actively contribute to the mission of the department.[4] Safety and freedom from sexual harassment and assault in the workplace are key contributors to that goal and to the overall readiness, retention, and morale of the force. Sexual harassment and sexual assault are part of a continuum of harm, which DOD has defined as a range of interconnected, inappropriate behaviors. Our prior DOD work has focused extensively on sexual harassment and assault involving servicemembers, and we have made a number of recommendations with regard to, among other things, DOD's tracking of, response to, and prevention of these incidents.[5]

The House Armed Services Committee report accompanying a bill for the National Defense Authorization Act for Fiscal Year 2020 included a provision for us to review DOD's prevention of and response to sexual harassment and assault involving DOD federal civilian employees.[6] Our report assesses the extent to which DOD has (1) visibility over such reported incidents, (2) developed and implemented policies and procedures to respond to and resolve these incidents, and (3) established sexual harassment and sexual assault training for DOD civilian employees with relevant content, among other prevention efforts.

For our first objective, we analyzed four types of data from multiple sources for fiscal years 2015 through 2019: (1) Equal Employment Opportunity (EEO) sexual harassment complaints filed by DOD federal civilian employees from the Army, the Navy, the Marine Corps, the Air

[4]DOD, *Department of Defense Human Goals* (Apr. 28, 2014).

[5]A listing of these reports, among others, is included in the Related GAO Products page at the end of this report.

[6]H.R. Rep. No. 116-120, at 226 (2019).

Force, and a nongeneralizable sample of four DOD agencies,[7] (2) Military Equal Opportunity (MEO) sexual harassment complaints involving DOD federal civilian employees as complainants or alleged offenders,[8] (3) data on reported sexual assaults involving DOD federal civilian employees as victims or alleged offenders,[9] and (4) sexual assault investigation data from the military criminal investigative organizations—the Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations. We selected this timeframe to describe trends over 5 years, and fiscal year 2019 was the most recent year for which complete data were available at the time of our review.

To assess the reliability of the EEO and MEO data, we assessed the data for errors, omissions, and inconsistencies, and interviewed officials. We determined that the data were sufficiently reliable to describe trends in and characteristics of EEO and MEO complaints of sexual harassment from fiscal years 2015 through 2019 for the military services and selected

[7]Because each DOD component is responsible for maintaining its own EEO data, according to DOD officials, we obtained and analyzed EEO data for the military services and DOD agencies included in our review and not the department as a whole. DOD defines its components as the Office of the Secretary of Defense, the military departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the combatant commands, the DOD Inspector General, the defense agencies, the DOD field activities, and all other organizational entities within DOD. The four agencies included in our review are the Defense Commissary Agency, the Defense Contract Audit Agency, the Defense Intelligence Agency, and the Defense Logistics Agency. We selected these four agencies based on workforce size, number of formal EEO sexual harassment complaints filed in fiscal year 2018, and agency mission. Because we did not select DOD agencies using a statistically representative sampling method, the four DOD agencies are nongeneralizable and therefore their sexual harassment and assault prevention efforts and response procedures for civilian employees cannot be projected across DOD agencies. While the information obtained was not generalizable, it provided examples of the extent to which DOD agencies' sexual harassment and assault prevention efforts and response procedures may vary across the department.

[8]The Marine Corps provided MEO data for fiscal years 2016 through 2019 only, due to Marine Corps officials' concerns about the reliability and comparability of the data for fiscal year 2015.

[9]We use the terms victim and alleged offender when referring to individuals who assert direct harm as the result of and who are allegedly responsible for incidents of sexual assault as these are the predominant terms used in DOD guidance on sexual assault. We did not include incidents of domestic sexual abuse in this report since those incidents are addressed by the Family Advocacy Program. We have a separate review focused on DOD domestic abuse that will be issued later this year.

DOD agencies, as applicable.[10] In addition, to assess the reliability of the Sexual Assault Prevention and Response Office's (SAPRO) reported sexual assault data, we assessed the data for errors, omissions, and inconsistencies; reviewed related documentation; and interviewed officials. We determined that the data were sufficiently reliable to describe the number of reported sexual assaults from fiscal years 2015 through 2019 as well as characteristics of those reports. Further, to assess the reliability of the sexual assault investigation data, we assessed the data for errors, omissions, and inconsistencies; reviewed prior testing of the data from these systems; and interviewed officials. We determined that the data were sufficiently reliable to compare them to SAPRO data and to describe trends in and characteristics of sexual assault investigations involving DOD federal civilian employees from fiscal years 2015 through 2019.

Further, we interviewed relevant DOD and service officials at the headquarters level and at a nongeneralizable sample of five military installations to identify how DOD tracks reported incidents of sexual harassment and assault involving DOD federal civilian employees. For interviews, we selected at least one installation per service as well as one joint installation and selected locations based on the number of DOD federal civilian employees, reported DOD federal civilian employee victims of sexual assault, and EEO sexual harassment complaints, as well as other factors.[11] We determined that the control activities, information and communication, and monitoring components of internal

[10]We determined that the Marine Corps MEO data were sufficiently reliable to describe trends in and characteristics of MEO complaints of sexual harassment from fiscal years 2016 through 2019 since those are the years for which the Marine Corps provided data.

[11]On December 20, 2019, the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, established the United States Space Force as a military service within DOD. Since we did not gather data from the Space Force given its status as a new organization, throughout this report we refer to only four military services (Army, Navy, Air Force, and Marine Corps) within DOD. Because we did not select locations using a statistically representative sampling method, the comments provided during our interviews with installation officials are nongeneralizable and therefore cannot be projected across DOD, a service or agency, or any other installations. While the information obtained was not generalizable, it provided perspectives from installation officials that have assisted with the response to reported incidents of sexual harassment and sexual assault as well as related prevention efforts. We conducted virtual visits to Redstone Arsenal, AL and Joint Base Lewis-McChord, WA (Army), Naval Station Norfolk, VA (Navy), Hill Air Force Base, UT (Air Force), and Marine Corps Air Station Cherry Point, NC (Marine Corps).

control were relevant to this objective.[12] Specifically, we identified the underlying principles that management should design control activities to achieve objectives and respond to risks; use quality information, and internally communicate it, to achieve the entity's objectives; and establish and operate monitoring activities and evaluate the results as relevant to this objective. We assessed DOD program data and our headquarters-level interviews to determine whether the department met these principles. We also compared information from our data analyses and headquarters-level interviews to DOD guidance and Centers for Disease Control and Prevention guidance.[13]

For our second objective, we reviewed relevant DOD, service, and agency policies and guidance on sexual harassment and sexual assault involving DOD federal civilian employees. We also interviewed a variety of officials at the five previously mentioned installations about how they prevent, track, respond to, and resolve these incidents. To determine the extent to which DOD civilian employees receive referrals from the military for both military- and community-provided support services following a reported sexual assault, we analyzed SAPRO data on such referrals from fiscal years 2015 through 2019. To assess the reliability of SAPRO's data, we assessed the data for errors, omissions, and inconsistencies; reviewed related documentation; and interviewed officials. We determined that the data were sufficiently reliable to describe trends in sexual assault support service referrals across the military services from fiscal years 2015 through 2019.

In addition, we analyzed reported data from the Army, the Navy, and the Marine Corps on Special Victims' Counsel (SVC)/Victims' Legal Counsel (VLC) services provided to DOD federal civilian employees for the same time period.[14] To assess the reliability of the three military services'

[12]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

[13]DOD Instruction 1020.03, *Harassment Prevention and Response in the Armed Forces* (Feb. 8, 2018) (incorporating change 1, effective Dec. 29, 2020); DOD Instruction 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures* (Mar. 28, 2013) (incorporating change 4, effective Sept. 11, 2020); DOD Directive 6495.01; and Centers for Disease Control and Prevention, *Sexual Violence Prevention: Beginning the Dialogue* (2004).

[14]According to Air Force officials, the Air Force tracks the total number of individuals who have received Special Victims' Counsel (SVC) services, but it cannot determine from the data how many of those individuals specifically were DOD civilian employees.

SVC/VLC data, we interviewed officials. We determined that the data were sufficiently reliable to describe SVC and VLC services provided to DOD federal civilian employees by the three services from fiscal years 2015 through 2019. We determined that the control activities, information and communication, and monitoring components of internal control were relevant to this objective.[15] Specifically, we identified the underlying principles that management should document in policies for each unit its responsibility for an operational process's objectives and related risks; periodically review policies, procedures, and related control activities for continued relevance and effectiveness; use quality information, and internally communicate it, to achieve the entity's objectives; and perform ongoing monitoring of the effectiveness of the internal control system as relevant to this objective. We assessed DOD's policies and procedures for responding to and resolving sexual harassment and sexual assault and information from our headquarters-level interviews to determine whether the department met these principles. We also compared information from our review of policy, headquarters-level interviews, and our data analyses to federal statute, U.S. Equal Employment Opportunity Commission guidance, and DOD guidance.[16]

For our third objective, we identified leading practices for sexual harassment and sexual assault training. Specifically, to identify leading practices for sexual harassment training, we reviewed relevant reports and studies, consulted with internal and external subject-matter experts, and conducted an analysis to identify areas of overlap across the leading practices identified. To identify leading practices for sexual assault training, we conducted background research and consulted with external subject-matter experts. We validated both sets of leading practices with internal and external subject-matter experts. We then evaluated the mandatory sexual harassment and sexual assault training materials for the military services and DOD agencies in our review against those leading practices as well as other DOD training requirements.

Further, we interviewed relevant DOD, service, and agency officials about other prevention efforts for the federal civilian workforce and interviewed relevant personnel at the previously discussed five installations in the

[15]GAO-14-704G.

[16]10 U.S.C. § 1561; 10 U.S.C. § 1044e; U.S. Equal Employment Opportunity Commission, *Model EEO Programs Must Have An Effective Anti-Harassment Program*, https://www.eeoc.gov/federal-sector/model-eeo-programs-must-have-effective-anti-harassment-program (Accessed Aug. 14, 2020); and DOD Instruction 6495.02.

United States about installation-specific sexual harassment and sexual assault prevention efforts. We determined that the information and communication component of internal control was relevant to this objective, along with the underlying principle that management should internally communicate the necessary quality information to achieve the entity's objectives.[17] We evaluated this standard by comparing the DOD components' training materials and prevention efforts to information contained in DOD guidance. We also compared information from our analyses and headquarters-level interviews to DOD guidance, Equal Employment Opportunity Commission guidance, and Centers for Disease Control and Prevention guidance related to sexual violence prevention.[18] Our scope and methodology is described in detail in appendix I.

We conducted this performance audit from January 2020 to February 2021 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

Legal Framework for Workplace Sexual Harassment

Title VII of the Civil Rights Act of 1964 (Title VII) prohibits covered employers from discriminating against job applicants or employees because of their race, color, religion, sex (including pregnancy), or

[17]GAO-14-704G.

[18]DOD Instruction 1400.25, Volume 410, *DOD Civilian Personnel Management System: Training, Education, and Professional Development* (Sept. 25, 2013); DOD Directive 1440.1, *The DOD Civilian Equal Employment Opportunity (EEO) Program* (May 21, 1987) (Certified Current as of Nov. 21, 2003); DOD Instruction 6495.02; U.S. Equal Employment Opportunity Commission, *Select Task Force on the Study of Harassment in the Workplace* (June 2016); and Centers for Disease Control and Prevention, *Stop SV: A Technical Package to Prevent Sexual Violence* (2016).

national origin.[19] The Supreme Court has held that sexual harassment is a form of sex discrimination prohibited by Title VII when it meets certain criteria.[20] Private, state, and local government employers with 15 or more employees, as well as federal employers, are generally covered by Title VII.[21] According to the U.S. Equal Employment Opportunity Commission's regulations, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute unlawful sexual harassment when (1) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct is used as the basis for employment decisions, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.[22] In order for sexual harassment to constitute a "hostile environment" in violation of Title VII, it must be sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. With respect to federal employers, Title VII specifically requires that all federal personnel actions be made free from discrimination based on race, color, religion, sex, or national origin.

Definition of and Roles and Responsibilities for Sexual Harassment Prevention and Response in DOD

DOD defines sexual harassment, in line with the U.S. Equal Employment Opportunity Commission, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. This conduct constitutes sexual harassment when it explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. DOD policy covering civilian employees prohibits all types of harassment and states that the department is committed to fostering a climate free from harassment and preventing and responding quickly to harassing behavior. Policy also distinguishes between harassment that detracts from an efficient workplace, EEO

[19]42 U.S.C. § 2000e-2.

[20]See, e.g., *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986).

[21]See 42 U.S.C. §§ 2000e(b), (f), 2000e-16(a).

[22]29 C.F.R. § 1604.11(a).

complaints of unlawful discriminatory harassment, and harassment of a criminal nature.[23]

Multiple offices within DOD have responsibilities for sexual harassment prevention and response.

- The **Under Secretary of Defense for Personnel and Readiness** is responsible for establishing and overseeing DOD-wide harassment prevention and response policies and procedures for DOD civilian employees, among other things.
- The **Office for Diversity, Equity, and Inclusion (ODEI)** is responsible for developing and implementing DOD policy to prevent and respond to harassment. ODEI oversees the MEO program and the DOD civilian EEO program, among other things.[24]
- The **DOD components** are responsible for establishing policies and procedures to prevent and respond to harassment; mechanisms to collect, track, assess, and analyze data related to harassment; and workforce training concerning policies and procedures to prevent and respond to harassment. Specifically, the DOD components are responsible for establishing component MEO programs, where applicable, and EEO programs. Further, they are responsible for maintaining informal and formal complaint processes within the component and establishing venues to receive and respond to civilian employees' allegations of harassment that detract from an efficient workplace but that do not involve an EEO complaint of unlawful discrimination or a criminal allegation.[25]

The U.S. Equal Employment Opportunity Commission, among other things, oversees federal agencies' EEO programs as the primary federal agency responsible for enforcing federal employment antidiscrimination laws. Federal agencies, including each DOD component, are to submit annual reports to the U.S. Equal Employment Opportunity Commission that include information such as the status, processing, and disposition of

[23]DOD Instruction 1020.04, *Harassment Prevention and Responses for DOD Civilian Employees* (June 30, 2020) and DOD Directive 1440.1.

[24]DOD Instruction 1020.04, and DOD Directive 1020.02E, *Diversity Management and Equal Opportunity in the DOD* (June 8, 2015) (incorporating change 2, effective June 1, 2018).

[25]DOD Instruction 1020.04 and DOD Directive 1020.02E.

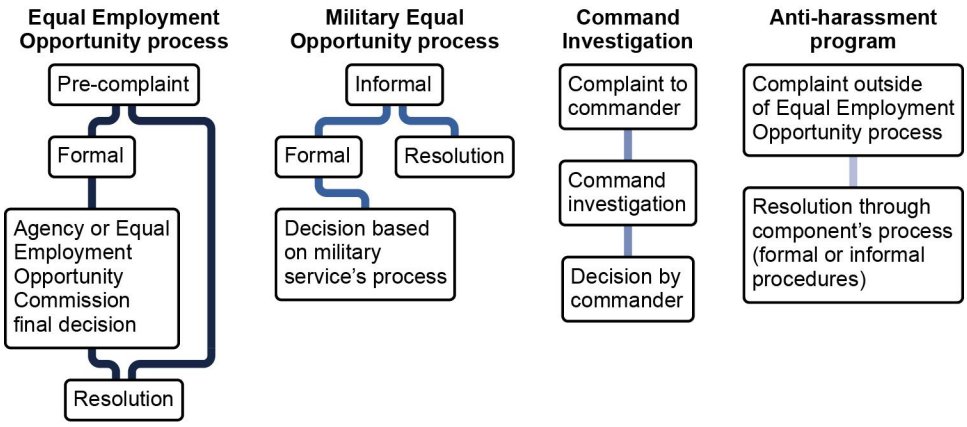
pre-complaints and formal EEO complaints, as well as identified deficiencies in their EEO programs and plans to correct them.[26]

DOD Processes for Reporting, Investigating, and Resolving Sexual Harassment Complaints

DOD personnel who experience sexual harassment have access to a number of options for reporting and resolving such complaints, depending on their status and eligibility. Commanders and supervisors are required to inform DOD personnel of available reporting options and procedures, as outlined in figure 1 and below.

[26]U.S. Equal Employment Opportunity Commission regulations require agencies to report to the commission information about the status, processing, and disposition of EEO complaints—both pre-complaints and formal complaints—on an annual basis, known as the EEOC Form 462 Report. 29 C.F.R. § 1614.602(a). Further, under U.S. Equal Employment Opportunity Commission Management Directive 715, federal agencies are required to annually submit a report on the status of activities undertaken pursuant to their EEO programs under Title VII. EEOC, *EEO Management Directive 715 (EEO-MD-715)* (Washington, D.C.: Oct. 1, 2003).

Figure 1: Overview of Department of Defense Options for Reporting Sexual Harassment



Source: GAO analysis of Department of Defense and U.S. Equal Employment Opportunity Commission information. | GAO-21-113

Text of Figure 1: Overview of Department of Defense Options for Reporting Sexual Harassment

Equal Employment Opportunity (EEO) Process

1. Pre-complaint (can also lead directly to resolution)
2. Formal
3. Agency or EEOC final decision
4. Resolution

Military Equal Employment Opportunity (EEO) Process

1) Informal

   a) Formal, or Resolution

   b) Decision based on military service's process

Command Investigation

1. Complaint to commander
2. Command investigation
3. Decision by commander

Anti-harassment program

1. Complaint outside of EEOC process
2. Resolution through component's process (formal or informal)

Civilian Equal Employment Opportunity (EEO) Program. The DOD federal civilian EEO program ensures that systems are in place to receive and process complaints of discrimination, including complaints of sexual harassment. The federal EEO complaint process consists of two stages: informal, or pre-complaint counseling, and formal complaints. Per U.S. Equal Employment Opportunity Commission guidance and DOD policy, EEO complaints are to be resolved at the lowest level and by the least formal method possible.[27] As such, an employee must consult an EEO counselor to try to informally resolve the matter through a pre-complaint counseling or resolution process. If dissatisfied with the results of this process, a complainant may file a formal complaint. EEO officials are responsible for reviewing formal complaints and accepting or dismissing them based on specified criteria—such as the requirement to file a complaint within 45 days after an incident occurs or after becoming aware of an incident—and for requesting investigation of the complaint.[28]

If the agency accepts a complaint, it has 180 days to investigate from the date the complaint was filed and provide the complainant with a copy of the report of investigation, an impartial and appropriate factual record on which to make findings on the accepted claims.[29] DOD's Investigations and Resolutions Directorate manages the department's program for investigating formal complaints. Investigations and Resolutions Directorate officials stated that some DOD components periodically use private companies to conduct formal investigations. ODEI officials stated

[27]U.S. Equal Employment Opportunity Commission, *Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO-MD-110)* (as revised, Aug. 5, 2015) and DOD Instruction 1400.25, vol. 1614.

[28]An agency may dismiss an individual's complaint for a number of reasons, including failure to contact an EEO counselor in a timely manner, failure to file a complaint in a timely manner, or failure to state a claim based on covered discrimination. If the agency dismisses the complaint, the complainant has 30 days to appeal the dismissal to the U.S. Equal Employment Opportunity Commission.

[29]This period can be extended an additional 90 days when both parties agree. A complainant may request a hearing at any time after 180 days have elapsed from the filing of the complaint, regardless of whether the agency has completed its investigation.

that a small number of DOD components also use internal investigators to conduct investigations.

Upon completion of the investigation, the report of investigation is reviewed by the agency's EEO office and forwarded to the complainant. Within 30 days of receipt of the report of investigation, complainants must choose between requesting adjudication by a U.S. Equal Employment Opportunity Commission (commission) administrative judge or through a final decision from their agency. When a formal complaint results in a finding of discrimination from an administrative judge, the judge must also order appropriate relief. After a final decision is issued, the agency must issue an order informing the complainant whether it intends to fully implement the decision. If the order does not fully implement the decision, the agency must appeal the decision to the commission. In the event that a complainant disagrees with the administrative judge's decision, the complainant may appeal the decision to the commission. Complainants may also choose to file a case in U.S. District Court.

DOD encourages the use of alternative dispute resolution throughout the stages of an EEO complaint. Alternative dispute resolution may include a broad spectrum of approaches for dealing with conflict and seeking resolution that is satisfactory to all parties, such as mediation and settlement conferences. Most alternative dispute resolution methods involve a neutral individual who has received relevant training, and any such methods may be used to attempt resolution at any point during the investigation process. Generally, civilian employees are eligible to file EEO complaints, including complaints where the alleged offender is a servicemember. DOD officials told us that bargaining unit employees may have different avenues of redress, but are able to pursue EEO or similar complaints.

Military Equal Opportunity (MEO) Program. DOD uses the chain of command to promote, support, and enforce the MEO program. The MEO program ensures that, among other things, systems are in place to receive and process servicemember complaints of discrimination or harassment, to include sexual harassment, and that those resolution systems are compliant with DOD guidance. The chain of command is the primary and preferred channel for identifying and correcting discriminatory practices and resolving complaints of sexual harassment. The military

services encourage servicemembers to resolve any complaints of sexual harassment they may have at the lowest possible level first.[30]

For servicemembers who wish to report a complaint of sexual harassment, including complaints involving harassment by DOD federal civilian employees, DOD provides two complaint options—informal and formal. An informal complaint is an allegation of sexual harassment, made either orally or in writing, which is not submitted as a formal complaint. Servicemembers who initially elect to resolve their complaints informally may submit a formal complaint if they are dissatisfied with the outcome of the informal process. A formal complaint is an allegation of sexual harassment that a complainant submits in writing to the authority designated for the receipt of such complaints in military service implementing guidance. Formal complaints require the initiation of an investigation, are subject to timelines, and require documentation of the actions taken, in accordance with DOD policy.[31]

Individuals may submit anonymous complaints, and actions taken depend on the extent of information provided. If the complaint contains sufficient information, the commanding officer or supervisor must initiate an investigation. If the complaint does not contain sufficient information to initiate an investigation, the commander or supervisor must document and maintain the information in a memorandum for record.

Command Investigations. Section 1561 of Title 10, United States Code (U.S.C.), requires commanding officers who receive complaints alleging sexual harassment from members of their command, including civilian employees, to carry out an investigation of the complaint, to the extent practicable, within 14 days of receipt of the initial complaint. Further, commanding officers are required to respond, investigate, and take appropriate disciplinary or administrative action when a complaint is substantiated.[32]

Anti-Harassment Program. U.S. Equal Employment Opportunity Commission guidance requires federal agencies to maintain an effective

[30]DOD Directive 1350.2, *Department of Defense Military Equal Opportunity (MEO) Program* (Aug. 18, 1995) (certified current as of Nov. 21, 2003) (incorporating change 2, effective June 8, 2015).

[31]DOD Instruction 1350.02, *DOD Military Equal Opportunity Program* (Sept. 4, 2020).

[32]DOD Instruction 1020.03.

anti-harassment program—in addition to a formal EEO complaint process—to prevent harassment on all protected bases, including sex.[33] DOD guidance issued in June 2020 directs DOD components to establish anti-harassment programs, including mechanisms to receive and process allegations of harassment that do not involve an EEO complaint or criminal allegations, but do detract from an efficient workplace.[34] These processes may include both formal and informal procedures.

Definition of and Roles and Responsibilities for Sexual Assault Prevention and Response in DOD

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.[35]

Sexual Assault Prevention and Response Office (SAPRO). The Under Secretary of Defense for Personnel and Readiness oversees 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. SAPRO is also responsible for maintaining the Defense Sexual Assault Incident Database (DSAID)—DOD's centralized database for the collection and maintenance of

[33]EEOC, *EEO Management Directive 715 (EEO MD-715)* (Washington, D.C.: Oct. 1, 2003). *See also* EEOC, *Model EEO Programs Must Have an Effective Anti-Harassment Program,* available at https://www.eeoc.gov/federal-sector/model-eeo-programs-must-have-effective-anti-harassment-program.

[34]DOD Instruction 1020.04.

[35]DOD Directive 6495.01.

information regarding reported sexual assaults involving persons covered by DOD policy.[36]

Service Sexual Assault Prevention and Response (SAPR) Programs. The Secretaries of the military departments are responsible for establishing policies for preventing and responding to sexual assault within their respective department, and for ensuring compliance with DOD policy. Each military service has established its own SAPR policy and program. 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 and some DOD federal civilian employees. The 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.[37]

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.

In addition to victim support, SAPR personnel have responsibilities within an installation. For example, the head SARC at an installation acts as co-

[36]DOD Directive 6495.01.

[37]We refer to the military services' SAPR programs in this report, which includes the Army's Sexual Harassment/Assault Response and Prevention (SHARP) program.

chair with the installation commander or deputy installation commander for the Case Management Group, a multidisciplinary group that meets monthly to review individual cases of unrestricted reports of sexual assault. The group facilitates monthly victim updates and directs system coordination, accountability, and victim access to quality services.[38]

The **Office of the Deputy Assistant Secretary of Defense for Civilian Personnel Policy** is responsible for implementation of workplace violence prevention and response policy, including education and training.[39] Workplace violence includes any act of violent behavior, threats of physical violence, harassment, intimidation, bullying, verbal or nonverbal threats, or other threatening, disruptive behavior that occurs at or outside the work site.

SAPR Support Services and Reporting Options

According to DOD policy, servicemembers, their adult dependents, and DOD civilian employees outside of the continental United States are eligible to make reports of sexual assault to DOD through the SAPR program.[40] The SAPR program provides restricted and unrestricted reporting options, but the eligibility of servicemembers and civilians to make such reports varies. DOD's restricted reporting option allows sexual assault victims to confidentially disclose an alleged sexual assault to selected individuals without initiating an official investigation and to receive SAPR support services. In contrast, DOD's unrestricted reporting option also provides access to support services, while also triggering an investigation by a military criminal investigative organization. Figure 2

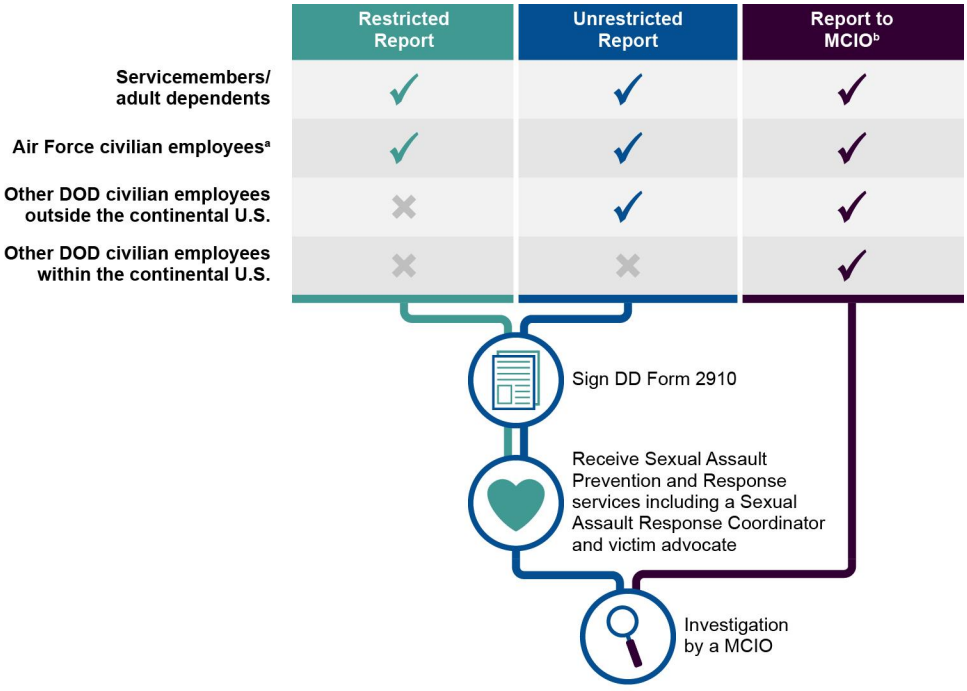
[38]At a minimum, each Case Management Group is required to consist of the victim's immediate commander; all SARCs assigned to the installation; victims' victim advocate; military criminal investigative organization and DOD law enforcement representatives who have detailed knowledge of the case; victims' healthcare provider or mental health and counseling services provider; chaplain, legal representative, or staff judge advocate; installation personnel trained to do a safety assessment of current sexual assault victims; victim's victim and witness assistance program representative (or civilian victim witness liaison, if available), or SVC. DOD Instruction 6495.02.

[39]DOD Instruction 1438.06, *DOD Workplace Violence Prevention and Response Policy* (Jan. 16, 2014) (incorporating change 1, effective May 4, 2020).

[40]As will be discussed in the report, Air Force civilian employees have been eligible to make both restricted and unrestricted reports of sexual assault worldwide since 2015 under an exception to SAPRO policy. According to SAPRO officials, as of October 2020, the Air Force is still operating under this exception, which expired in January 2019.

provides an overview of sexual assault reporting options and eligibility, by victim status.

Figure 2: Department of Defense Sexual Assault Reporting Options and Eligibility, By Victim Status



MCIO Military criminal investigative organization

Source: GAO analysis of Department of Defense (DOD) information. | GAO-21-113

Data table for Figure 2: Department of Defense Sexual Assault Reporting Options and Eligibility, By Victim Status

	Restricted report	Unrestricted report	Report to MCIO /b/
Service members / adult dependents	Yes	Yes	Yes
Air Force civilian employees /a/	Yes	Yes	Yes
Other DOD Civilian employees outside the continental U.S.	No	Yes	Yes
Other DOD civilian employees within the continental U.S.	No	No	Yes

Restricted and Unrestricted reports

- Sign DD Form 2910, and
- Receive sexual assault prevention aand response services including a sexual assault response coordinator and victim advocate,
- Followed by an investigation by a MCIO officer

Reports to MCIO

- Followed by an investigation by a MCIO officer

[a]Air Force federal civilian employees have been eligible to make both restricted and unrestricted reports of sexual assault worldwide since 2015 under an exception to SAPRO policy. As of August 2020, they are still operating under this exception, which expired in January 2019.

[b]According to Sexual Assault Prevention and Response Office officials, federal civilian employees may also report a sexual assault to civilian law enforcement which may result in an investigation by a civilian law enforcement organization.

In order to make an unrestricted or restricted report of sexual assault, an eligible victim must sign a Victim Reporting Preference Statement—the DD Form 2910. A victim who is eligible to sign a DD Form 2910 has the right and ability to consult with a SARC, victim advocate, or Special Victims' Counsel prior to deciding to file a restricted report, unrestricted report, or no report. As sexual assault is a crime under the Uniform Code of Military Justice, sexual abuse is a crime under federal law, and either may be a crime under state law, a victim may also report a sexual assault directly to military or civilian law enforcement, and may concurrently make a report to SAPR personnel if they are eligible to do so.

Military Justice System

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 Army Criminal Investigation Command, the Naval Criminal Investigative Service, or the Air Force Office of Special Investigations.[41] Military criminal investigators are responsible for a variety of investigatory tasks, including interviewing witnesses, victims, and alleged offenders, and gathering physical evidence. Military criminal investigative organizations also obtain and maintain Sexual Assault Medical Forensic Examination kits from medical facilities.[42] When a DOD

[41]The U.S. Army Criminal Investigation Command has responsibility for investigating alleged sexual assault incidents that occur in the Army; the Naval Criminal Investigative Service has responsibility for investigating such incidents in the Navy and the Marine Corps; and the Air Force Office of Special Investigations has responsibility for investigating such incidents in the Air Force and the Space Force.

[42]Per DOD Instruction 6495.02, DOD will retain the DD Forms 2910, "Victim Reporting Preference Statement," and 2911, "DOD Sexual Assault Medical Forensic Examination (SAFE) Report," for 50 years, regardless of whether the victim filed a restricted or unrestricted report.

civilian employee or nonaffiliated civilian is accused of an offense such as sexual assault occurring on or off an installation, responsibilities for investigating and prosecuting the case are dependent, in part, on the jurisdiction in which the alleged offense occurred. Depending upon circumstances, the offense may be investigated and prosecuted by local, state, or federal authorities.

Attorneys, known as Special Victims' Counsels (SVC) or Victims' Legal Counsels (VLC), depending on the military service, provide legal representation to eligible victims of sex-related offenses. A DOD federal civilian employee may receive services from an SVC or VLC if the Secretary of Defense or the Secretary of the military department concerned waives other eligibility requirements, or if the civilian employee is serving in a location where nonmilitary legal assistance is not reasonably available.[43]

DOD Has Taken Steps to Track Reports of Sexual Harassment and Assault Involving Federal Civilian Employees, but Several Issues Limit Its Visibility

DOD has taken steps to track reports of sexual harassment and assault involving DOD federal civilian employees as victims or alleged offenders. For example, the department has taken steps to improve how it tracks EEO, non-EEO, and MEO sexual harassment complaints involving its civilian workforce, but challenges related to DOD component participation, limited guidance, and incomplete tracking continue to limit its visibility over such complaints. Regarding work-related sexual assaults, limited guidance on tracking reported incidents hinders DOD's visibility over such incidents. Moreover, not all DOD components have access to the department's centralized database for the collection and maintenance of information regarding reported sexual assaults, which limits visibility. Further, while the department has taken steps to estimate sexual harassment and sexual assault prevalence among its civilian workforce, the results are not widely distributed to all relevant offices with responsibilities for preventing and responding to such incidents.

[43]10 U.S.C. § 1044 and 10 U.S.C. § 1044e.

DOD Has Taken Steps to Improve Tracking of Sexual Harassment Complaints Involving Federal Civilian Employees, but Several Challenges Limit Its Overall Visibility

Tracking of EEO Sexual Harassment Complaints

According to ODEI officials, each DOD component is responsible for maintaining its own data on EEO pre-complaint counseling and formal complaints, including those alleging sexual harassment. ODEI officials stated that they do not have access to these databases. As a result, their current visibility over components' EEO complaints is limited to reviewing the components' annual reports on formal EEO complaints and requesting ad hoc queries for any additional information needed. These officials stated that they do not currently have any visibility over components' EEO pre-complaints. Table 1 shows the number of EEO pre-complaints and formal complaints of sexual harassment filed by civilian employees of the military services and four DOD agencies from fiscal years 2015 through 2019 and for all 5 fiscal years combined.[44]

Table 1: Number of Department of Defense Federal Civilian Employee Equal Employment Opportunity Sexual Harassment Pre-complaints and Formal Complaints for Selected DOD Components, Fiscal Years 2015-2019

DOD component	Fiscal year 2015		Fiscal year 2016		Fiscal year 2017		Fiscal year 2018		Fiscal year 2019		All 5 fiscal years combined	
	Pre-	Formal	Pre-	Formal	Pre-	Formal	Pre-	Formal	Pre-	Formal	Pre-	Formal
Army	46	51	47	41	28	68	36	58	37	56	**194**	**274**
Navy	18	11	24	10	39	18	43	13	94	11	**218**	**63**
Marine Corps	8	*	9	*	*	*	16	*	29	6	**66**	**15**

[44]See appendix II for information about the characteristics of EEO sexual harassment complaints filed by civilian employees of the military services and selected DOD components from fiscal years 2015 through 2019, such as the gender of complainants, disposition of informal complaints, and types of corrective action taken in response to formal complaints. Given that the number of civilian employees varies across the DOD components included in this review, the number of complaints filed by the employees of each component should not be compared. Appendix III provides the number of appropriated-fund civilian employees employed by each of the military services and all DOD agencies and field activities combined as of June 2020.

DOD component	Fiscal year 2015		Fiscal year 2016		Fiscal year 2017		Fiscal year 2018		Fiscal year 2019		All 5 fiscal years combined	
	Pre-	Formal	Pre-	Formal	Pre-	Formal	Pre-	Formal	Pre-	Formal	Pre-	Formal
Air Force[a]	46	18	24	21	21	23	38	25	16	19	**145**	**106**
Defense Commissary Agency	10	10	6	12	7	9	*	11	*	6	**30**	**48**
Defense Contract Audit Agency	*	*	*	*	*	*	*	*	*	*	**9**	*
Defense Intelligence Agency	*	*	*	*	*	*	*	*	5	*	**10**	**9**
Defense Logistics Agency	15	*	12	*	13	*	10	7	10	11	**60**	**25**

Source: GAO analysis of military service and select Department of Defense (DOD) agency Equal Employment Opportunity data. I GAO-21-113

Note: An asterisk (*) denotes that there were fewer than five pre-complaints or formal complaints in a given fiscal year.

[a]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

To address these visibility issues, ODEI officials stated that they are developing a central repository to consolidate EEO data tracked by the DOD components.[45] ODEI officials stated that a goal of the central repository is to increase their visibility over complaints department-wide and to allow for trend analysis. ODEI's timeline for the development of the central repository includes some milestones, but it does not include a target for when the repository will be populated with the components' data. In February 2020, ODEI officials envisioned that the central repository would include EEO pre-complaint and formal complaint data for all DOD components and that it would be updated on a frequent basis allowing them to assess and identify trends, an improvement over their current review of data on an annual basis.

However, in August 2020, ODEI officials stated that they were unsure if the repository would include data for all DOD components or be updated more frequently than on an annual basis, though they stated that they hoped it would be on at least a quarterly basis. These officials stated that they are trying to get all components to participate in the repository, but that there are a number of complexities, such as the number of components, differences in the data elements each component tracks, and differences in the tracking mechanisms of each component. These

[45]ODEI officials stated that the central repository will also be used to consolidate MEO complaint data and disability data.

officials stated that no components have stated that they will not participate, but that they are still in the information gathering phase; components will need to sign written agreements prior to participating. ODEI officials stated that they are trying to encourage participation by highlighting that it would be more efficient and limit the number of data requests from ODEI since ODEI could access the data directly.

DOD guidance states that the Director of ODEI is to collect, assess, and analyze information and data regarding allegations of harassment received by the DOD components.[46] In addition, *Standards for Internal Control in the Federal Government* states that management should use quality information—that is appropriate, current, complete, accurate, and accessible information, provided on a timely basis—to achieve the entity's objectives and internally communicate it.[47]

As the department finalizes development of the central repository for EEO data, without taking steps to ensure that it includes data for all DOD components and is updated frequently, such as on a quarterly basis, it may not provide ODEI with the increased visibility it envisions and needs to conduct oversight of EEO complaints filed department-wide.

Tracking of Harassment Allegations Made Outside of the EEO Process

In June 2020, DOD issued guidance on harassment prevention and response for DOD federal civilian employees.[48] Among other things, it provides guidance for processing, resolving, and tracking allegations of harassment, including DOD federal civilian employee allegations of harassment that detracts from an efficient workplace made outside of the EEO process. Specifically, the guidance states that DOD components will collect data on harassment allegations, including anonymous allegations, to identify trends and analyze program effectiveness. DOD components are to submit such data to ODEI annually.

We have previously reported on DOD's tracking of sexual harassment complaints made by servicemembers. Specifically, in September 2011,

[46]DOD Instruction 1020.04.

[47]GAO-14-704G.

[48]DOD Instruction 1020.04.

we found that DOD's available data for complaints of sexual harassment made by servicemembers were incomplete and inconsistent.[49] We recommended that DOD take steps to ensure that the services' complaint data were complete and accurate and to establish reporting requirements specifying uniform data elements that the services should use when collecting and reporting information on formal sexual harassment complaints.[50] In February 2018, DOD issued guidance on harassment prevention and response in the Armed Forces that detailed uniform data elements that the military departments are to maintain on harassment complaints, such as type of complaint, demographics and duty status of the parties involved, whether the alleged offender has prior substantiated harassment complaints, and the adjudication and disposition of substantiated complaints, among other things. The military departments are to report these data annually to ODEI through an automated data collection interface.[51]

However, the June 2020 guidance on harassment prevention and response for DOD federal civilian employees does not similarly specify and define uniform data elements that all DOD components should use when collecting and reporting on civilian employee allegations of harassment made outside of the EEO process. ODEI officials stated that because the DOD components could not agree on uniform data elements prior to issuance of the guidance, they issued the guidance without any additional specificity about what components are to track. These officials stated that after they collect data for the initial year under the new reporting requirement, they will have a better understanding of what data elements are available for each DOD component and that this information could inform the next iteration of the guidance. However, these officials acknowledged that since each DOD component will independently determine what data they track and how they track it, their visibility over allegations of sexual harassment made outside of the EEO process may still be limited without more clearly defined requirements. ODEI officials stated that having standardized data elements would help to ensure the consistency of reports across fiscal years.

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

[50]While DOD concurred with the recommendation, the recommendation was closed in 2016 without being implemented.

[51]DOD Instruction 1020.03.

DOD guidance states that the Director of ODEI is to collect, assess, and analyze information and data regarding allegations of harassment received by the DOD components.[52] In addition, *Standards for Internal Control in the Federal Government* states that management should use quality information—that is appropriate, current, complete, accurate, and accessible information, provided on a timely basis—to achieve the entity's objectives and internally communicate it.[53]

Without expanded guidance to specify and define uniform data elements that all DOD components should use when collecting and reporting on allegations of harassment made by DOD civilian employees outside of the EEO process, DOD will likely be unable to accurately compare data across components to identify trends and analyze program effectiveness. Expanded guidance could include data elements, such as information about the parties involved, the type of harassment, and actions taken to respond to the allegation.

Military Services' Tracking of Informal MEO Complaints of Sexual Harassment

DOD guidance states that the Secretaries of the military departments will ensure that the military departments maintain data on harassment complaints, including informal (if applicable), formal, and anonymous reports.[54] The military departments are to annually report data to the Director of ODEI through a DOD-approved automated data collection interface. ODEI is to then provide a consolidated report to the Under Secretary of Defense for Personnel and Readiness that includes these data as well as information and recommendations to strengthen the department's harassment prevention and response efforts.

However, we found that the military services are not consistently tracking or maintaining data on informal complaints of sexual harassment made through the MEO process, including complaints that involve DOD federal civilian employees as complainants or alleged offenders. Specifically, the military services are not comprehensively tracking informal complaints of

[52]DOD Instruction 1020.04.

[53]GAO-14-704G.

[54]DOD Instruction 1020.03.

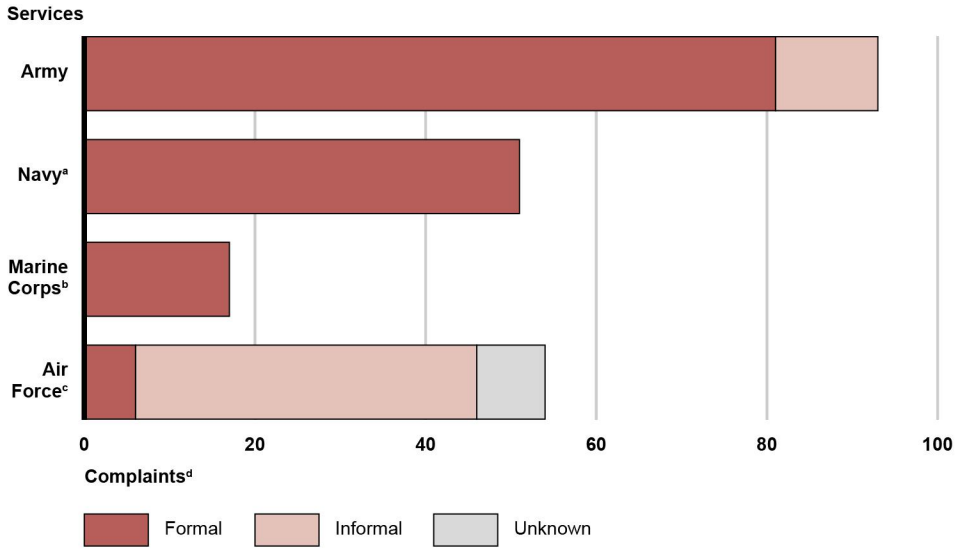
sexual harassment made through the MEO process at the headquarters level.

According to our analysis of the military services' MEO data from fiscal years 2015 through 2019, the services recorded 155 formal complaints of sexual harassment involving DOD federal civilian employees, compared to 52 informal complaints.[55] Of those 52 informal complaints, 40 were recorded by the Air Force. The other 12 informal complaints were recorded by the Army, with the Navy and the Marine Corps not recording any informal complaints over the 5 year period. Given that the military services prefer to address sexual harassment complaints through the informal process—to reach resolution at the lowest appropriate level—Army and Navy officials stated that they would expect to see more informal complaints of sexual harassment than formal complaints. ODEI officials stated that informal complaints may be resolved without documentation, which is why the number of informal complaints appears to be low. Figure 3 depicts the number of recorded informal and formal MEO complaints of sexual harassment involving DOD federal civilian employees as complainants or alleged offenders from fiscal years 2015 through 2019.[56]

[55]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

[56]See appendix IV for information about the characteristics of MEO sexual harassment complaints involving civilian employees as complainants or alleged offenders for each of the military services from fiscal years 2015 through 2019, such as the type of harassment alleged, complainant status, and the relationship between the complainant and the alleged offender. Given that the number of civilian employees varies across the DOD components included in this review, the number of complaints filed by the employees of each component should not be compared. Appendix III provides the number of appropriated-fund civilian employees employed by each of the military services and all DOD agencies and field activities combined as of June 2020.

Figure 3: Number of Recorded Military Equal Opportunity Sexual Harassment Complaints Involving Department of Defense Federal Civilian Employees, by Military Service, Fiscal Years 2015-2019



Source: GAO analysis of military services' Military Equal Opportunity data. | GAO-21-113

Data table for Figure 3: Number of Recorded Military Equal Opportunity Sexual Harassment Complaints Involving Department of Defense Federal Civilian Employees, by Military Service, Fiscal Years 2015-2019

	Formal	Informal	Unknown
Army	81	12	
Navy[a]	51	49	
Marine Corps[b]	17	0	
Air Force[c]	6	40	8

[a]According to a Navy official, the Navy does not track informal complaints at the headquarters level.

[b]The Marine Corps provided Military Equal Opportunity (MEO) data for fiscal years 2016 through 2019 due to Marine Corps officials' concerns about the reliability and comparability of the data for fiscal year 2015.

[c]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints. The Air Force reported additional complaints that were not labeled as either informal or formal and are labeled as "unknown" in the figure.

[d]The military services have not consistently tracked or maintained data on informal complaints of sexual harassment made through the MEO process, including complaints that involve DOD federal civilian employees as complainants or alleged offenders. Given that the number of civilian employees varies across the DOD components included in this review, the number complaints filed by the employees of each component should not be compared. Appendix III provides the number of appropriated-fund civilian employees employed by each of the military services and all DOD agencies and field activities combined as of June 2020.

While ODEI officials stated that the military departments are tracking and reporting informal complaints to ODEI annually for harassment and discrimination complaints, this conflicts with statements from military service officials and our analysis of the military services' MEO data. Specifically, a Navy official stated that the Navy does not comprehensively track informal complaints at the headquarters level. This is in line with Navy guidance, which requires that informal complaints be retained by the command for 3 years and that only formal complaints be forwarded to the headquarters level within 96 hours of resolution.[57] A Navy official stated that ODEI is aware that the Navy does not comprehensively track informal complaints because the Navy's annual reports to ODEI often include very few or zero informal complaints. This official stated that this is not something that ODEI has directly addressed with the Navy or issued any additional guidance on to clarify its expectations.

Air Force guidance states that both formal and informal complaints should be tracked for a period of 2 years. Air Force officials stated that the department tracks all informal and formal complaints for unlawful discrimination, sexual harassment, and harassment. Moreover, in July 2020, the Army updated its guidance to require that both informal and formal complaints be comprehensively tracked.[58] The prior version of this guidance only required comprehensive tracking of formal complaints and recommended that anyone working on the resolution of informal complaints prepare a memorandum for the record. A Navy official stated that the Navy is also in the process of updating its guidance to collect additional information on informal complaints. Marine Corps guidance does not specifically discuss documentation responsibilities for informal complaints, but notes that the complete record of complaints, investigations, and final decisions are to be retained in the command's correspondence files.[59]

Army and Navy officials stated that they were unclear on the definition of an informal complaint for tracking purposes. For example, Army officials stated that, prior to the issuance of revised Army guidance in July 2020,

[57]Chief of Naval Operations Instruction 5354.1G, *Navy Equal Opportunity Program* (July 24, 2017).

[58]Army Regulation 600-20, *Army Command Policy* (July 24, 2020).

[59]Marine Corps Order 5354.1E, Vol. 3, *Marine Corps Prohibited Activities and Conduct Prevention and Response Policy: Policy Oversight and Reporting Procedures* (Mar. 26, 2018).

an informal complaint made verbally by a complainant to someone in the command, depending on the severity, may have been addressed verbally by the command. These officials stated that such a complaint would not have been documented unless the issue progressed and the command brought it to the attention of a Sexual Assault Response Coordinator (SARC). A Navy official stated that because the military services have different definitions and processes for addressing informal complaints, tracking is inconsistent across the services. This official stated that the military services have discussed the tracking of informal complaints with ODEI and requested additional guidance.

Standards for Internal Control in the Federal Government states that management should internally communicate the necessary quality information to achieve objectives, and establish and operate monitoring activities and evaluate the results.[60]

However, DOD guidance does not clearly define an informal complaint for tracking purposes, specify how such data should be maintained by the military departments, such as at the headquarters—versus installation—level, or indicate which informal complaints should be reported to ODEI on an annual basis. Specifically, DOD guidance states that an informal complaint is an allegation, made either orally or in writing, that is not processed or resolved as a formal complaint through the office designated to receive harassment complaints.[61] The allegation may be submitted to a person in a position of authority within or outside of the servicemember's organization. Such complaints should be addressed at the lowest level possible. ODEI officials acknowledged that this is an area where they would benefit from increased visibility and stated that they anticipate issuing revised guidance by the end of calendar year 2020 that more clearly defines and standardizes the definition of an informal complaint. However, these officials stated that the guidance will not provide any additional specificity with regard to how such complaints should be tracked and reported.[62]

Without clarifying guidance regarding the requirement for the military departments to maintain data on informal complaints of harassment—

[60]GAO-14-704G.

[61]DOD Instruction 1020.03.

[62]DOD issued updated guidance on December 29, 2020. However, it did not substantially revise the definition of an informal complaint or provide additional specificity with regard to how such complaints should be tracked and reported.

including the definition of an informal complaint for tracking purposes, how such data should be maintained, and which informal complaints should be reported to ODEI on an annual basis—ODEI will continue to have limited visibility over the extent to which such complaints are resolved informally across the military services. Given the department's preference to address complaints at the lowest possible level, increased data on informal complaints could help DOD to improve and strengthen its harassment prevention and response efforts for both servicemembers and civilians.

Limited Guidance on Tracking Reported Sexual Assaults Involving Federal Civilian Employees Hinders DOD's Visibility over Such Incidents Department-Wide

Limited guidance on tracking reported sexual assaults involving DOD federal civilian employees hinders DOD's visibility over such incidents across the department. 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, incidents involving employees of DOD components other than the military services, or incidents where a DOD federal civilian employee is also a military dependent.

Military Departments' Tracking of Sexual Assaults Involving DOD Federal Civilian Employees

DOD guidance for the military departments states that only DOD civilian employees who are stationed or performing duties outside the continental United States may file a DD Form 2910—a Victim Reporting Preference Statement—for an unrestricted report of sexual assault and are eligible for DOD-provided sexual assault support services.[63] A DD Form 2910 is required for there to be full entry of the case into the Defense Sexual Assault Incident Database (DSAID)—DOD's centralized database for the collection and maintenance of information regarding reported sexual assaults involving persons covered by DOD policy.

DOD federal civilian employee victims of sexual assault within the continental United States are not eligible to file the form unless they also

[63]DOD Instruction 6495.02.

have status as a military dependent or are employed by the Air Force. As discussed later in this report, the Air Force operates under an exception to SAPRO policy to allow filing of the form. All other DOD federal civilian employees who are victims of sexual assault within the continental United States and who report the assault to a military service—either to a Sexual Assault Response Coordinator (SARC) or a military criminal investigative organization—may not have their report tracked in DSAID. DOD guidance states that such reports would be tracked in DSAID only if: (1) the alleged offender was a servicemember, or (2) it was investigated by a military criminal investigative organization, in which case the information tracked may be more limited. Military criminal investigative organization officials stated that they would be unlikely to be involved in a sexual assault investigation that involved two civilian employees and occurred off of a military installation.

DOD guidance does not instruct the military departments on whether or how to comprehensively track reported work-related sexual assaults involving DOD civilian employee victims in the continental United States unless an incident involves a servicemember as an alleged offender. SAPRO officials stated that the guidance and criteria for which reported sexual assaults are tracked in DSAID are directly tied to the department's annual congressional reporting requirements, which are specific to sexual assaults involving members of the U.S. Armed Forces.[64]

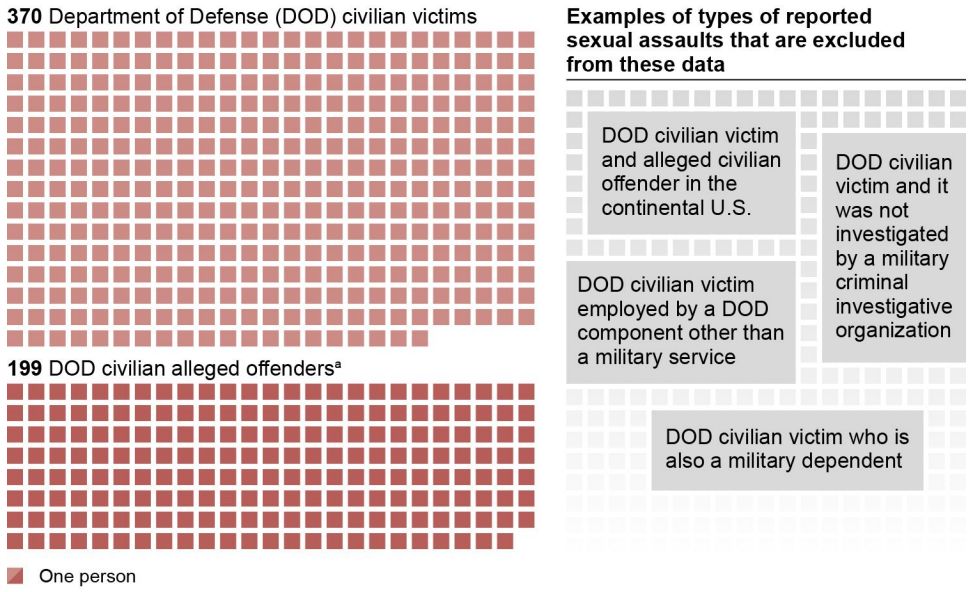
According to our analysis of DSAID data from fiscal years 2015 through 2019, 541 reported incidents of sexual assault involved DOD federal civilian employees as victims and/or alleged offenders. Specifically, those incidents involved 370 DOD federal civilian employee victims of sexual assault and 199 alleged offenders.[65] However, as discussed above and in further detail later in this report, these data do not include all incidents of

[64]Pub. L. No. 111-383, § 1631 (2011), *as amended* (10 U.S.C. § 1561 note).

[65]Reports of sexual assault may involve multiple victims or alleged offenders, and some reports may involve both a civilian victim and alleged offender. As a result, the number of DOD civilian employee victims and alleged offenders over this time period total more than 541 incidents. There were 199 unique DOD civilian offenders associated with unrestricted reports of sexual assault that were investigated over this time period. SAPRO officials stated that there may have been more alleged offenders who were DOD civilian employees during this time period, but they did not provide the relevant data fields in order to confirm this in the data they provided. See appendix V for information about the characteristics of reported sexual assaults involving DOD civilian employees that were recorded in the Defense Sexual Assault Incident Database (DSAID) from fiscal years 2015 through 2019, such as the gender of victims and alleged offenders, the employers of victims, and average case processing time.

sexual assault reported by DOD federal civilian employees over this time period. Figure 4 shows the number of DOD federal civilian employee victims and alleged offenders of sexual assault recorded in DSAID from fiscal years 2015 through 2019, and describes the types of reported incidents that may not be included in these data.

Figure 4: Number of Sexual Assaults Involving Department of Defense Federal Civilian Employees Recorded in the Defense Sexual Assault Incident Database and Incidents that May Not Have Been Recorded, Fiscal Years 2015-2019



Source: GAO analysis of Sexual Assault Prevention and Response Office data and information. | GAO-21-113

Data table for Figure 4: Number of Sexual Assaults Involving Department of Defense Federal Civilian Employees Recorded in the Defense Sexual Assault Incident Database and Incidents that May Not Have Been Recorded, Fiscal Years 2015-2019

Department of Defense (DOD) civilian victims	370
DOD civilian alleged offenders	199

[a]There were 199 unique DOD civilian offenders associated with unrestricted reports of sexual assault that were investigated over this time period. Sexual Assault Prevention and Response Office officials stated that there may have been more alleged offenders who were DOD civilian employees during this time period, but they did not provide the relevant data fields in order to confirm this in the data they provided.

According to SAPRO officials, even if a military criminal investigative organization investigated a sexual assault in the continental United States with a victim and alleged offender who were both civilians, it would not be

tracked in DSAID because the victim is not eligible to file a DD Form 2910 and it does not involve a servicemember. Our analysis of military criminal investigative organization data found that not all sexual assaults involving DOD civilian employees as victims or alleged offenders that were investigated by a military criminal investigative organization were recorded in DSAID. Specifically, according to our analysis of sexual assault investigation data from fiscal years 2015 through 2019, all three military criminal investigative organizations reported more cases of sexual assault involving DOD civilian employees than were recorded in DSAID over this time period. Specifically, the Army Criminal Investigation Command reported 41 additional investigations, the Naval Criminal Investigative Service reported 44, and the Air Force Office of Special Investigations reported 294.[66]

In October 2020, SAPRO officials described a new module they are piloting in DSAID to track some limited information—such as the status and affiliation of the victim and actions taken by DOD in response—about additional reports of sexual assault where a victim sought the guidance of a SARC, but chose not to file a DD Form 2910 or was otherwise ineligible to do so. SAPRO officials stated that the module could be used to track interactions with civilian employees who are not eligible or choose not to file an official report. Further, these officials stated that module use during the pilot phase will not be mandatory and that the military services can decide whether to use it. Pending the results of the pilot, these officials stated that use of the module may become mandatory beginning in October 2021.

DOD guidance states that DSAID shall assist with reporting requirements, identifying and managing trends, analyzing risk factors, and taking action or making plans to eliminate or mitigate risks.[67] In addition, Centers for Disease Control and Prevention guidance on sexual violence prevention states that to help ensure cultural competency, it is essential that core activities such as collecting and analyzing data, designing and implementing programs, and determining what works be conducted within

[66]We excluded from our analysis of the military criminal investigative organizations' data any investigations where the relationship type between the alleged offender and the victim was listed as that of a spouse or intimate partner or where the incident type noted that the victim was a minor since such incidents would be under the purview of the Family Advocacy Program and not SAPRO.

[67]DOD Instruction 6495.02.

the context of the unique aspects of various populations and communities.[68]

Without guidance for the military departments to comprehensively track reported work-related sexual assaults involving DOD federal civilian employee victims in the continental United States, regardless of eligibility for DOD-provided sexual assault support services—such as through the new module in DSAID—DOD does not know and cannot accurately report on the extent to which DOD federal civilian employees have reported work-related sexual assault to the military departments worldwide. Information about the status and affiliation of the victim and alleged offender and actions taken by DOD in response, such as any referrals or support services provided, could help to increase the department's visibility over such reports. Moreover, without such data, DOD is limited in its ability to identify and manage civilian-related trends, analyze risk factors or problematic circumstances across the force, and take action to eliminate or mitigate risks through prevention efforts.

Other DOD Components' Tracking of Sexual Assaults Involving Federal Civilian Employees

DOD does not track all reported work-related sexual assaults in which federal civilian employees of DOD components other than the military services are victims. In an April 2020 report, the department found that each DOD component varies in how it tracks data on work-related sexual assault and what data elements it collects.[69] The report noted that these differences have limited the department's ability to analyze and generalize civilian employee reports of work-related sexual assault department-wide.

Specifically, of the four DOD agencies in our review, there is variation in how, if at all, they track reported work-related sexual assaults. According to agency officials, the Defense Commissary Agency and the Defense Contract Audit Agency do not track reported sexual assaults; the Defense Intelligence Agency and the Defense Logistics Agency work with the military services to record sexual assaults involving eligible civilians and servicemembers in DSAID, and track other reported sexual assaults—for

[68]Centers for Disease Control and Prevention, *Sexual Violence Prevention: Beginning the Dialogue* (2004).

[69]DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018*, (April 2020).

individuals not eligible to file an official report—in spreadsheets. These agencies record different elements in these spreadsheets than the elements tracked in DSAID. As discussed later in this report, the Defense Logistics Agency is developing a database that will mimic DSAID to improve its tracking of reported work-related sexual assaults involving its civilian employees that are not eligible to file an official report of sexual assault.

DOD guidance states that the Director of SAPRO shall develop oversight metrics to measure compliance and effectiveness of sexual assault response policies and programs as well as provide recommendations on sexual assault policy matters and program requirements.[70] In addition, *Standards for Internal Control in the Federal Government* states that management should internally communicate the necessary quality information—that is, among other things, complete and accessible—to achieve the entity's objectives, and establish and operate monitoring activities and evaluate the results.[71]

However, DOD does not have guidance requiring all DOD components, including agencies and field activities, to track work-related sexual assaults. DOD guidance is solely focused on the military services and, as previously discussed, DSAID tracks reported sexual assaults that are tied to DOD's congressional reporting requirements—specifically, sexual assaults involving servicemembers. A Civilian Personnel Policy official stated that there is no additional DOD guidance related to tracking reported work-related sexual assaults and that any requirements to do so would be component-specific. As of June 2020, DOD components other than the military services employed approximately 15 percent of DOD's civilian workforce.

Without guidance requiring all DOD components to track reported work-related sexual assaults involving their civilian employees as victims or alleged offenders, including the specific data elements to be collected, such as the status and affiliation of the victim and alleged offender and actions taken by DOD in response, and common definitions for those elements, DOD will continue to have limited visibility over such assaults involving a sizeable portion of its civilian workforce. Further, DOD will continue to lack complete and comparable data from which to identify and assess trends involving its civilian workforce, recommend sexual assault

[70]DOD Instruction 6495.02.

[71]GAO-14-704G.

policy and program efforts, and inform civilian-specific prevention efforts across all components.

Tracking Federal Civilian Employment Status in Reported Sexual Assaults

While DOD does track some data on reported sexual assaults involving its federal civilian workforce, it may be undercounting the number of civilian employee victims of sexual assault in these data. According to SAPRO officials, when victims are both DOD civilian employees and military dependents, as a result of their jobs and family status, their status—as recorded in DSAID—is determined by the SARC to whom they reported the assault. SAPRO officials stated that if the SARC enters the victim as a DOD civilian in DSAID, the database will prompt entry of employment information and information about whether the victim is a military dependent. However, these officials stated that if the SARC enters the victim as a military dependent, they cannot record any employment information. Of the 370 DOD civilian employee victims of sexual assault recorded in DSAID from fiscal years 2015 through 2019, 86 (23.2 percent) were also military dependents. There is no way to determine from the DSAID data how many victims of sexual assault who were recorded as military dependents were also DOD civilian employees.

SARCs at the five installations in our review described differing approaches to how they would categorize civilians with both statuses. Specifically, SARCs at three of the installations stated that they would categorize the victim as a military dependent since that is how they are eligible to file a report and to receive DOD-provided sexual assault support services. A SARC at another installation stated that they would categorize the victim as the status they were at the time of the incident. This official stated that if the assault occurred in the workplace, for example, they would categorize the victim as a civilian employee; if it occurred on the installation in someone's house, they would categorize the victim as a military dependent. At the joint installation in our review, the SARC for one service stated that they would always categorize the victim as a military dependent. The SARC from the other service stated that it would depend on the victim's status at the time of the incident and that they would likely consult a higher level official about what to do if such a scenario arose.

DOD guidance states that DSAID will include information, if available, about the nature of the assault, the victim, the alleged offender, and

investigative information, among other things.[72] In addition, *Standards for Internal Control in the Federal Government* states that management should use quality information—that is appropriate, current, complete, accurate, accessible, and provided on a timely basis—to make informed decisions and achieve objectives.[73] Further, management should internally communicate such necessary quality information.

However, DOD does not have guidance that states that DOD civilian employees who are also military dependents should be categorized under both statuses in DSAID when they report a work-related sexual assault. SAPRO officials stated that as of January 2020, DSAID interfaces with the Defense Enrollment Eligibility Reporting System, which contains information for all servicemembers, DOD civilian employees, and their eligible family members, among others. However, these officials stated that if an individual has two statuses, such as a civilian employee and a military retiree, only one of those statuses will populate in DSAID. While SAPRO officials stated that a SARC can edit the populated information, there is no guidance that explains how they should treat individuals with more than one status.

Without guidance directing SARCs to ensure that all DOD federal civilian employee victims of sexual assault are categorized in DSAID as both civilian employees and military dependents, if applicable, for work-related incidents of sexual assault, SAPRO cannot accurately report on the extent to which its civilian workforce has reported incidents of work-related sexual assault. While DSAID provides the capability for civilian employees to be categorized under two statuses, if applicable, the lack of guidance for SARCs to do so unnecessarily limits SAPRO's visibility over such incidents and its ability to fulfill its oversight responsibilities.

Not All DOD Components Have Access to the Defense Sexual Assault Incident Database

According to SAPRO officials, only DOD-credentialed SARCs within the military services have access to DSAID; other DOD component SARCs

[72]DOD Instruction 6495.02.

[73]GAO-14-704G.

do not.[74] These officials stated that other DOD component SARCs should have a relationship with a military service SARC at a nearby installation and they can provide data to that SARC—for official reports of sexual assault—for entry into DSAID. Then, according to these officials, all follow-up for case management would be conducted by the service SARC assigned to the servicemember. However, if a reported sexual assault involves a DOD civilian employee victim—who is not a military dependent—within the continental United States and the alleged offender is not a servicemember, per DOD guidance, the report will not be eligible for entry into DSAID.

Any DOD component other than a military service that chooses to track reported sexual assaults involving its civilian employees is tracking such information external to DSAID. As previously discussed, the Defense Intelligence Agency and the Defense Logistics Agency have developed independent mechanisms to track work-related sexual assaults involving their civilian employees external to DSAID. From fiscal years 2016 through 2019, the Defense Logistics Agency recorded 63 sexual assaults involving its civilian employees.[75] In comparison, our analysis of DSAID data for fiscal years 2015 through 2019 found that, of the 357 recorded sexual assaults that involved DOD civilian employee victims, 42 of them involved a civilian employed by a DOD component other than a military service.[76]

According to Defense Intelligence Agency and Defense Logistics Agency officials, while they track information on reported sexual assaults involving their civilian employees, SAPRO has not requested this information, so they have not shared it. SAPRO officials stated that they have not requested this information because such reported incidents of sexual assault are not covered under current SAPRO policy. However, as

[74]SAPRO officials stated that not all DOD-credentialed SARCs within the military services have access to DSAID and that the military services determine which SARCs and victim advocates receive access. According to Air Force officials, within the Air Force, DOD-credentialed victim advocates also have access to DSAID.

[75]The Defense Logistics Agency provided reported sexual assault data involving DOD civilian employees for fiscal years 2016 through 2019 because, according to agency officials, its Sexual Assault Prevention and Response (SAPR) program was established partway through fiscal year 2016 and, as a result, data were not available for fiscal year 2015.

[76]The Defense Intelligence Agency also tracks some data on reported sexual assaults involving its civilian employees that are not maintained in DSAID, according to agency officials. However, due to the Coronavirus Disease 2019 (COVID-19) pandemic, the Defense Intelligence Agency could not provide us with these data.

previously discussed, according to policy, SAPRO is the department's single point of authority, accountability, and oversight for its sexual assault prevention and response program. Because only the military services have access to DSAID and SAPRO does not collect work-related sexual assault data tracked by DOD components external to DSAID, it is unknown how many additional work-related sexual assaults involving DOD civilian employees may have been recorded across the department over this time period.

Officials from the Defense Intelligence Agency and the Defense Logistics Agency stated that access to DSAID would be helpful to more effectively track and have oversight over reported sexual assaults involving their employees. However, since SAPRO has not granted them access to DSAID, they continue to track such incidents independently. Defense Logistics Agency officials stated that they are developing a database that will mimic DSAID called the Defense Logistics Agency Sexual Assault Incident Database, which is scheduled to be completed around December 2020. These officials stated that the associated training requirements for use of the database will be comparable to the training required by SAPRO for access to DSAID. SAPRO officials stated that the Defense Logistics Agency's database will only track reported incidents of sexual assault that are not eligible for entry into DSAID.

In response to a 2008 statutory requirement, DOD developed DSAID as a centralized mechanism to collect and maintain information on reported incidents of sexual assault involving members of the U.S. Armed Forces.[77] DSAID includes a number of security and privacy controls designed to protect the sensitivity of the information it contains. Its initial development took approximately 4 years due to the complexity and nature of the data collected and, according to SAPRO officials, continued updates to the database must undergo a rigorous change control process. SAPRO officials expressed concerns with DOD components independently tracking reported sexual assaults noting that DSAID is the only approved DOD database for sexual assault cases involving servicemembers. SAPRO officials stated that they were unaware of any authority given to DOD components to create or use their own databases for reports of sexual assault between two civilians. However, without access to DSAID, it is unclear how DOD components should be tracking this information.

[77]Pub. L. No. 110-417, § 563 (2008).

Moreover, as previously discussed, in an April 2020 report, DOD identified gaps in civilian employee reported work-related sexual assault data as an area for improvement. Specifically, the report cited variations in how DOD components collect data, what data components collect, and the lack of DOD access to information about cases not under DOD jurisdiction.[78] These gaps have specifically limited DOD's ability to analyze and generalize reports of work-related sexual assault across the department.

SAPRO officials stated that when DSAID was established, it was established for the military services, which were the only DOD components with SAPR programs at the time, and they have not considered expanding access beyond military service affiliation. Although some DOD agencies and field activities with their own SARCs, such as the Defense Logistics Agency, have requested access to DSAID, SAPRO officials stated that affiliation with a military service is required for access according to the DSAID charter. However, SAPRO officials stated that they do not have any plans to extend access to DSAID beyond the military services because they are continuing to follow the original charter establishing DSAID and have not considered revising it.

DOD guidance states that the Director of SAPRO is to provide technical assistance to the heads of DOD components in addressing matters concerning SAPR.[79] In addition, *Standards for Internal Control in the Federal Government* states that management should use quality information and design control activities to achieve objectives and respond to risks, such as clearly documenting significant events to ensure documentation is readily available for examination. Moreover, management should establish and operate monitoring activities and evaluate the results.[80]

Without ensuring that all DOD-credentialed SARCs across the department have access to DSAID to record and review their components' reported work-related sexual assaults, DOD will continue to experience challenges analyzing and generalizing these reports across the department. In addition, DOD does not know and cannot effectively oversee the extent to which civilians have reported work-related sexual

[78]DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018* (April 2020).

[79]DOD Instruction 6495.02.

[80]GAO-14-704G.

assault department-wide. Further, despite concerns from SAPRO officials, DOD components may choose to develop their own systems for tracking such reports to monitor the extent to which their civilian employees experience work-related sexual assault, which may take a number of years to develop given the nature of the data collected and come with additional costs.

DOD Has Taken Steps to Estimate Sexual Harassment and Assault Prevalence among Its Federal Civilian Workforce, but Results Are Not Widely Distributed

In accordance with a provision in the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, DOD has taken steps to estimate sexual harassment and assault prevalence among its federal civilian workforce.[81] Specifically, per the provision, DOD is to conduct biannual surveys of its federal civilian workforce to solicit information on, among other things, the effectiveness of processes for complaints on and investigations into gender-based assault, harassment, and discrimination involving DOD civilian employees. DOD is to report to Congress on the results of the biannual surveys. The department submitted the required DOD Civilian Employee Workplace and Gender Relations Reports for fiscal years 2016 and 2018 to Congress in December 2019 and April 2020, respectively.[82]

The DOD Civilian Employee Workplace and Gender Relations Reports include, among other things, estimated prevalence rates for sexual harassment and work-related sexual assault experienced by DOD civilian employees in the 12 months prior to the survey. In the fiscal year 2018 report, based on employee survey self-reports, DOD estimated that 5.9 percent (about 49,700) and .3 percent (about 2,500) of DOD civilian employees had experienced sexual harassment and work-related sexual

[81]Pub. L. No. 113-291 § 1073 (2014), *codified as amended* at 10 U.S.C. § 481a.

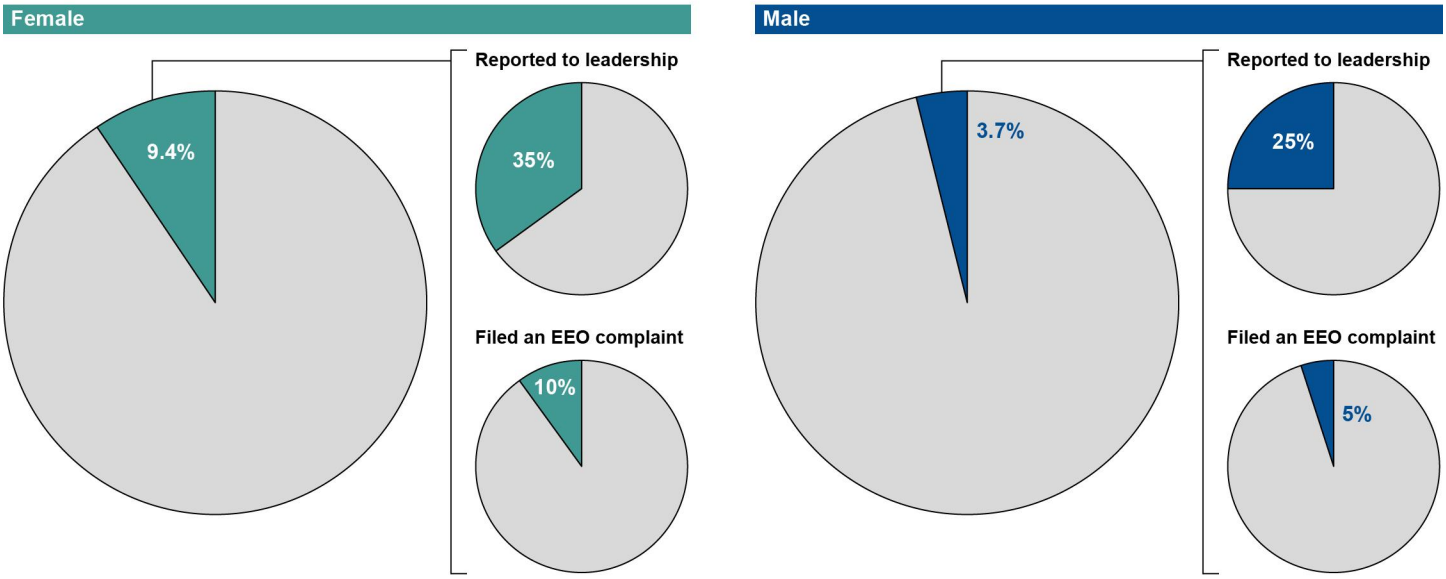
[82]DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018* (April 2020) and DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report Fiscal Year 2016* (December 2019). According to ODEI officials, while they had planned to conduct the fiscal year 2020 survey in the fall of 2020, the survey has been postponed due to the COVID-19 pandemic. These officials stated that since many employees are working remotely, and the survey deals with experiences in the workplace, the survey might not be as fruitful at this time.

assault in the prior 12 months, respectively.[83] By comparison, as previously discussed, DOD recorded 370 civilian employee victims of sexual assault over a 5 year period (fiscal years 2015 through 2019). According to the fiscal year 2018 report, not all employees that experienced sexual harassment or sexual assault chose to report the incidents to leadership, file an EEO complaint, or file a police report. Reasons cited by civilian employees for not reporting incidents of sexual harassment or work-related sexual assault included, among others, that they wanted to forget about the incident and move on, they did not think anything would be done, and they did not want more people to know. Figures 5 and 6 show the estimated percentage of DOD civilian employees that experienced sexual harassment or work-related sexual assault in the 12 months prior to taking DOD's fiscal year 2018 survey and to whom, if at all, they reported the harassment or assault.

[83]Margins of error range from ±0.1% to ±1.3% for the sexual harassment estimate and from ±0.1% to ±0.6% for work-related sexual assault. The DOD Civilian Employee Workplace and Gender Relations Report provides the estimated percentage of DOD civilian employees that experienced sexual harassment and assault. We calculated the approximate estimated number of civilian employees based on DOD documentation that there were 841,958 appropriated fund and non-appropriated fund civilian employees at the time the fiscal year 2018 survey was conducted.

Figure 5: Estimated Sexual Harassment Prevalence and Reporting Rates for Female and Male Department of Defense Federal Civilian Employees, Fiscal Year 2018

Percent of female and male DOD civilians who experienced sexual harassment in 12 months prior to the survey[a]



EEO Equal Employment Opportunity

Source: Department of Defense (DOD) Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018. | GAO-21-113

Data table for Figure 5: Estimated Sexual Harassment Prevalence and Reporting Rates for Female and Male Department of Defense Federal Civilian Employees, Fiscal Year 2018

Percent of female and male DOD civilians who experienced sexual harassment in 12 months prior to the survey[a]

9.4% of all females experienced sexual harassment.

- Of those females that experienced sexual harassment; Reported to leadership: **35%**
- Of those females that experienced sexual harassment; Filed an EEO complaint: **10%**

3% of all males experienced sexual harassment

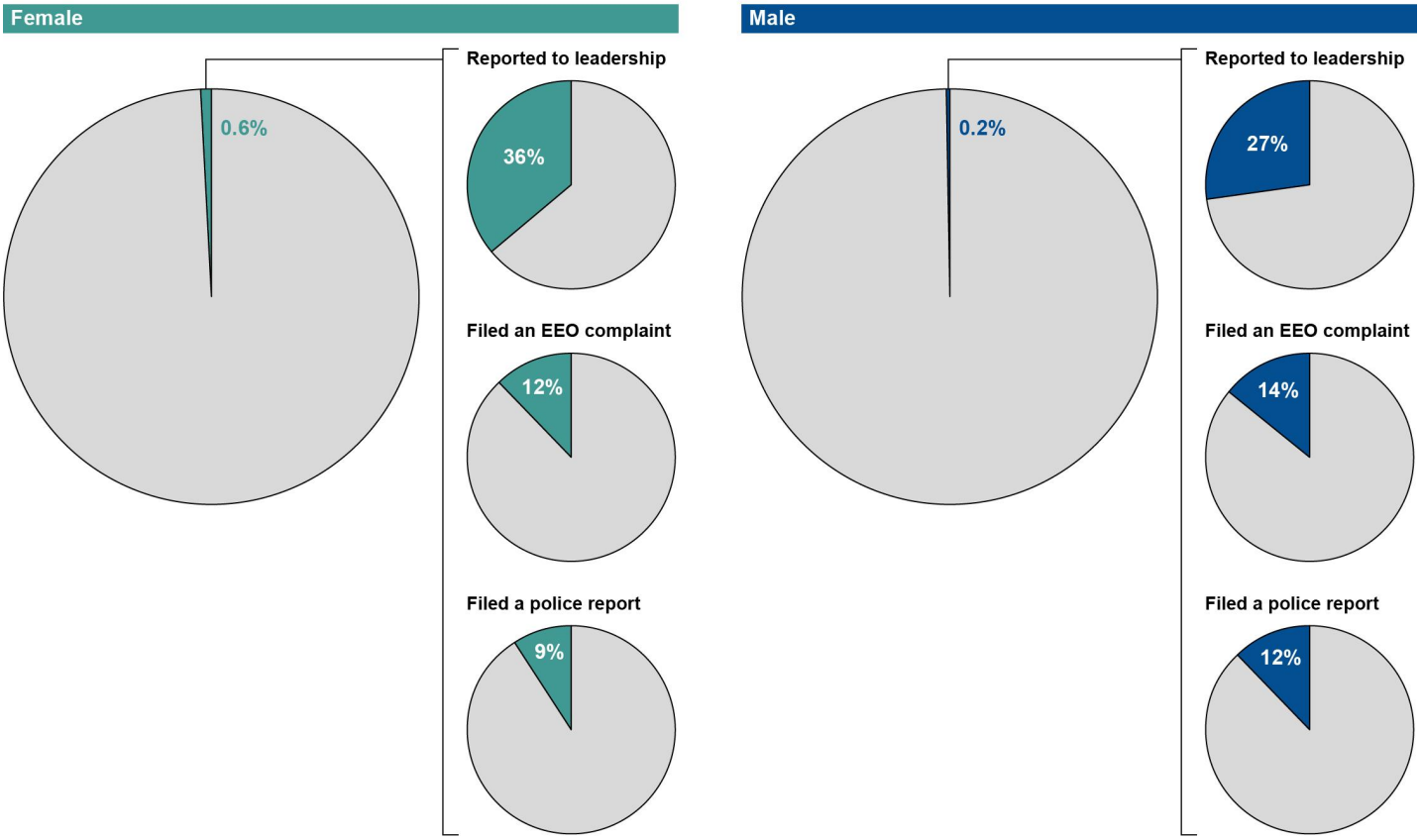
- Of those males that experienced sexual harassment; Reported to leadership: **25%**
- Of those males that experienced sexual harassment; Filed an EEO complaint: **5%**

[a]The percentages shown in the figure are based on DOD civilian employee survey self-reports from fiscal year 2018. The margins of error for females and males: experiencing sexual harassment range

from ±0.1% to ±1.3%, reporting the harassment to leadership range from ±2% to ±12%, and filing an EEO complaint range from ±1% to ±11%.

Figure 6: Estimated Work-Related Sexual Assault Prevalence and Reporting Rates for Female and Male Department of Defense Federal Civilian Employees, Fiscal Year 2018

Percent of female and male DOD civilians who experienced work-related sexual assault in 12 months prior to the survey[a]



EEO Equal Employment Opportunity

Source: Department of Defense (DOD) Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018. | GAO-21-113

Data table for Figure 6: Estimated Work-Related Sexual Assault Prevalence and Reporting Rates for Female and Male Department of Defense Federal Civilian Employees, Fiscal Year 2018

Percent of female and male DOD civilians who experienced work-related sexual assault in 12 months prior to the survey[a]	
Female	**0.6%**
Reported to leadership	**36%**
Filed an EEO complaint	**12%**

Filed a police report	**9%**
Male	**0.2%**
Reported to leadership	**27%**
Filed an EEO complaint	**14%**
Filed a police report	**12%**

[a]The percentages shown in the figure are based on DOD civilian employee survey self-reports from fiscal year 2018. The margins of error for females and males: experiencing work-related sexual assault range from ±0.1% to ±0.6%, reporting the assault to leadership range from ±8% to ±17%, filing an EEO complaint range from ±6% to ±14%, and filing a police report range from ±4% to ±16%.

In addition to estimated prevalence and reporting rates, the biannual surveys and associated reports capture civilian employees' perspectives on a number of items, such as their satisfaction with reporting processes, reasons for not reporting, likelihood of using available resources following a sexual assault, and attitudes toward the sexual harassment and sexual assault training they have received. The reports show results by military department and for all DOD agencies and field activities combined. ODEI officials stated that it is vital for the department to internally track and analyze data in order to improve its programs. These officials stated that the DOD Civilian Employee Workplace and Gender Relations Reports have been beneficial to informing program efforts, including the development of DOD's June 2020 guidance on civilian harassment prevention and response.

However, despite the additional visibility these biannual reports provide DOD on its civilian workforce, their distribution is limited across the department. Specifically, ODEI officials stated that components' EEO offices may be briefed on relevant portions, but they do not receive the reports. SAPRO officials stated that they receive a copy of the report, but do not distribute it to any of the military services' SAPR offices.

While some of the services and agencies in our review reported receiving a copy of the fiscal year 2016 or 2018 DOD Civilian Employee Workplace and Gender Relations Reports, none of them reported receiving reports for both years by both their EEO and SAPR offices. For example, Defense Logistics Agency officials stated that the agency's SAPR office had obtained a copy of the fiscal year 2018 report after we had asked if they had received it—4 months after DOD provided the report to Congress—but its EEO office did not receive a copy of the report for either year. In addition, Air Force SAPR officials were unaware that DOD had even published the reports. Further, officials responsible for sexual harassment or assault at all five installations we contacted stated that

they had not received or did not recall receiving the fiscal year 2016 and 2018 reports. Some installation officials expressed a desire to receive copies of the reports to better inform their programs, expand their knowledge of issues affecting the civilian workforce, and better tailor their prevention efforts.

Defense Logistics Agency officials stated that the fiscal year 2018 report provided a wealth of information to the agency's SAPR office that will be instrumental in future projects, including bystander intervention change initiatives, Sexual Assault Awareness and Prevention Month events, SAPR message boards and bulletins, and outreach events. Marine Corps SAPR officials stated that while they had not received a copy of the civilian report for either fiscal year, they have consistently used the results of the companion surveys for the active-duty and reserve components to inform program and policy changes, such as making improvements to training to take into consideration specific populations identified as at-risk. Further, SAPRO officials stated that the civilian reports could be helpful in understanding the unique needs of civilian employees as opposed to servicemembers.

The April 2020 U.S. Commission on Civil Rights report on sexual harassment in government workplaces found that despite more than 30 years of research, there continues to be a lack of publicly available data regarding sexual harassment against federal employees.[84] According to statute, DOD is also to conduct biannual Workplace and Gender Relations Surveys for the active-duty and reserve components, and report on the results to Congress.[85] While not specifically required by statute, and unlike the civilian survey reports, the survey results for the active-duty and reserve components are publicly available on SAPRO's website.

DOD policy requires that prevention personnel at the command or installation level be empowered and supported to identify risk and protective factors and emerging issues for their targeted population, including risk and protective factors for DOD civilian personnel.[86] In addition, DOD component heads are to establish policies and procedures

[84]U.S. Commission on Civil Rights, *Federal #MeToo: Examining Sexual Harassment in Government Workplaces* (April 2020).

[85]10 U.S.C. § 481.

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

to prevent and respond to harassment.[87] *Standards for Internal Control in the Federal Government* states that management should communicate quality information to enable personnel to perform key roles in achieving objectives.[88]

SAPRO officials stated that there is no requirement to include the civilian survey reports in their annual reporting requirements and that ODEI sponsors the civilian survey, not SAPRO. ODEI officials stated that while ODEI sponsors the reports, DOD leadership has intentionally limited their distribution within and outside of the department. However, these officials did not know the reasoning or what office within the department had made the determination. In October 2020, ODEI officials stated that they were considering increasing the distribution of future reports within the department, but that they had not yet made a determination about how to proceed. With regard to public release, ODEI officials cited limited context for the survey results and subsequent planned changes to future surveys as reasons for limiting public distribution. DOD officials responsible for conducting the survey stated that, from a privacy perspective, they had no concerns that any individual could be identified from the survey data reported.

Without taking steps to increase distribution of the biannual DOD Civilian Employee Workplace and Gender Relations reports, such as providing copies to the EEO and SAPR offices of all DOD components, DOD is limiting the potential effectiveness of the reports. Further, by more widely distributing the results of the survey to ensure that all relevant offices with a responsibility for sexual harassment and assault prevention and response have access to the complete results, prevention personnel may be further empowered and supported to identify risk and protective factors for civilian employees. Specifically, the data collected and resulting analyses could be used in developing component-specific sexual harassment and assault prevention efforts specifically tailored to DOD's civilian workforce and to inform any needed program changes.

Gaps Exist in DOD's Response to and Resolution of Sexual Harassment and Sexual

[87]DOD Instruction 1020.04.

[88]GAO-14-704G.

Assault Incidents Involving Federal Civilian Employees

While DOD has policies and procedures in place to respond to and resolve sexual harassment and sexual assault incidents involving DOD federal civilian employees as victims or alleged offenders, gaps in guidance and services exist. For example, DOD has issued guidance to respond to allegations of sexual harassment by civilian employees, but it does not fully address issues of program structure and eligibility. In addition, while provisioning of sexual assault support services depends on the victim's eligibility for such services, the availability of SAPR programs for civilian employees of DOD components is inconsistent across the department, and legal services differ across the military services. Moreover, sexual assault reporting options available to civilian employees are inconsistent across DOD, further leading to gaps in DOD's ability to respond to and resolve such incidents. Finally, notification responsibilities of SAPR personnel following a disclosure of work-related sexual assault involving a civilian employee victim are unclear, which could hinder a timely and comprehensive response.

DOD Has Issued Guidance to Respond to Allegations of Sexual Harassment by Federal Civilian Employees, but It Does Not Comprehensively Address All Mechanisms for Resolution

While DOD has issued guidance to respond to allegations of sexual harassment by civilian employees, the guidance does not comprehensively address all mechanisms for resolution. Specifically, it does not clearly describe how anti-harassment programs should be structured to ensure separation from the EEO process. In addition, the guidance does not clearly define civilian employees' eligibility for command investigations per statute, resulting in differing interpretations by the military services.

Structure of Anti-Harassment Programs

According to U.S. Equal Employment Opportunity Commission guidance, all federal agencies must have anti-harassment programs.[89] Additionally, U.S. Equal Employment Opportunity Commission guidance for model EEO programs suggests that such anti-harassment programs should be appropriately distinct from an agency's EEO processes.[90] Specifically, it states that if an agency's EEO office oversees its anti-harassment program, the agency should ensure separation between these programs. The guidance states that this can be achieved through options such as establishing a firewall between the anti-harassment coordinator and the EEO Director, or delegating decisions about corrective action to another office.

In its compliance reviews of DOD components between 2017 and 2019, the U.S. Equal Employment Opportunity Commission found that the Department of the Navy, the Air Force, the Defense Contract Audit Agency, and the Defense Intelligence Agency anti-harassment programs were not in compliance with the commission's guidance.[91] Since its most recent compliance review, the Defense Intelligence Agency issued guidance establishing an anti-harassment program, but the guidance had not yet been reviewed by the U.S. Equal Employment Opportunity Commission as of October 2020, according to agency officials.[92] While the Army, the Defense Commissary Agency, and the Defense Logistics Agency have implemented anti-harassment programs in accordance with U.S. Equal Employment Opportunity Commission guidance, the commission noted that it was unclear whether the Army had a tracking system in place for such complaints.

As previously discussed, in June 2020, DOD issued guidance on harassment prevention and response for civilian employees. Among other things, the guidance requires DOD components to establish anti-harassment programs. However, the guidance does not specify how such

[89]Equal Employment Opportunity Commission, *Equal Employment Opportunity Management Directive 715*, (October 2003).

[90]Equal Employment Opportunity Commission, *Model EEO Programs Must Have An Effective Anti-Harassment Program.*

[91]The compliance review for the Navy addressed the Department of the Navy as a whole, which includes the Marine Corps.

[92]Defense Intelligence Agency Directive 1020.500, *Anti-Harassment Program* (Oct. 8, 2020).

programs should be structured to ensure that allegations regarding harassment that detracts from an efficient workplace are addressed distinctly from the EEO process as described in U.S. Equal Employment Opportunity Commission guidance for model EEO programs.

ODEI officials stated that the June 2020 guidance does not include language regarding how components should structure their anti-harassment programs—specifically, identifying the need for a separation of EEO and anti-harassment programs—because one of the components disagreed with the language and resolution would have delayed publication. According to these officials, the component did not want its EEO office to be responsible for non-EEO harassment, although officials noted the language in the draft guidance did not make this mandatory. In addition, these officials stated that ODEI wanted to provide components with flexibility in structuring their programs. These officials stated that such programs could be established as part of a component's EEO office, but that the processes should be kept separate to prevent the same person from addressing multiple complaints on the same issue made through different processes.

Without clarifying guidance specifying how DOD components' anti-harassment programs should be separated from the EEO process when the EEO office oversees the anti-harassment program, components may establish anti-harassment programs that conflict with U.S. Equal Employment Opportunity Commission guidance for model EEO programs. This could introduce conflict into decision-making and result in complaints not being comprehensively addressed by all processes. ODEI officials stated that they are supportive of such a separation, in line with U.S. Equal Employment Opportunity Commission guidance.

DOD Federal Civilian Employee Eligibility for Command Investigations

According to 10 U.S.C. § 1561, a commanding officer or officer in charge of a unit, vessel, facility, or area of the military services who receives a complaint alleging sexual harassment from a member of the command or a DOD civilian under their supervision, must carry out an investigation of the complaint. The Army, the Marine Corps, and the Air Force interpret this statute to apply to all civilians under a commanding officer, according to officials. Specifically, Army and Air Force officials stated that DOD civilians working on an installation are considered "covered civilians" because they are under the supervision of the commanding officer of the installation. However, Navy guidance specifies that a covered civilian is a

DOD civilian who is directly supervised by a commanding officer. Navy officials stated that this would apply to civilians that are secretaries or assistants to commanding officers, and excludes most civilian employees under a command.

According to a Navy official, the Navy's guidance is consistent with interim guidance for the implementation of the statute issued by the Assistant Secretary of Defense for Force Management Policy in February 1999.[93] This interim guidance states that if a civilian complainant who reports a sexual harassment complaint is directly supervised by a commanding officer or a military officer in charge of a unit, vessel, facility, or area of the Army, Navy, Air Force, or Marine Corps, the EEO Counselor shall advise the complainant that both Title VII and the command investigation process under 10 U.S.C. § 1561 are applicable and that processes established under those statutes can be used simultaneously. If the civilian complainant is not directly supervised by a commanding officer, the civilian should proceed with the EEO process.

ODEI officials stated that the interim guidance was finalized in DOD's June 2020 guidance on civilian harassment prevention and response.[94] The June 2020 guidance discusses this process and states that "[a] sexual harassment complaint made by a subordinate DOD civilian employee to a commanding officer or officer in charge of a unit, vessel, facility, or area," is eligible for such an investigation. However, it does not clearly define subordinate, or otherwise define a covered civilian with regard to command investigations of sexual harassment complaints. ODEI officials stated that the issue of interpretation has not been raised to them, but they would be concerned if any of the services were not meeting statutory requirements. They stated that they believe the statute is clear with regard to the eligibility of civilian employees. However, given the differences in how the military services approach command investigations for civilian employees, additional clarity would be beneficial to ensure that civilian complaints are addressed through all applicable mechanisms.

[93]Assistant Secretary of Defense for Force Management Policy Memorandum, *Interim Policy for Department of Defense (DOD) Implementation of 10 U.S.C. 1561: Sexual Harassment Investigations and Reports for Civilian Employees of the Military Services* (Feb. 9, 1999).

[94]DOD Instruction 1020.04.

Standards for Internal Control in the Federal Government states that management should internally communicate quality information to achieve the entity's objectives.[95] However, DOD has not clearly communicated the definition of a covered civilian in its guidance on harassment prevention and response. Without guidance that clearly defines which civilians under 10 U.S.C. § 1561 are eligible for a command investigation of complaints alleging sexual harassment, the military services may continue to apply the statute and DOD guidance differently, resulting in inconsistent treatment of DOD civilian employees across the services. Specifically, civilian employees deemed ineligible for a command investigation consequently have fewer mechanisms for resolution, which could lead to their complaints not being comprehensively addressed.

Sexual Assault Support Services Depend on the Victim's Eligibility, and Availability of Services for DOD Federal Civilian Employees Is Inconsistent across the Department

DOD provides support services for some civilian employee victims of sexual assault, but those services depend on several factors. Specifically, provision of services may depend on the civilian employee's eligibility as well as the existence of a Sexual Assault Prevention and Response (SAPR) program in the DOD component by which the civilian is employed. Legal support for civilian employees also depends on the victim's eligibility and employing component.

DOD Federal Civilian Employee Eligibility for Sexual Assault Support Services

Eligibility for sexual assault support services depends on a victim's status. These services may include SAPR services, legal or medical services, and non-DOD community-based support services (see figure 7).[96] As previously discussed, servicemembers and their adult dependents are eligible to file a DD Form 2910 and therefore may receive SAPR services, including Sexual Assault Response Coordinator (SARC) and victim advocate services, in addition to DOD-provided medical and behavioral healthcare. Nondependent DOD civilian employees are eligible to receive

[95]GAO-14-704G.

[96]See appendix III for information about the staffing levels of SAPR programs, Sexual Assault Medical Forensic Examiners, and SVCs/VLCs for fiscal years 2015 through 2019.

SARC and victim advocate services for sexual assaults only when stationed outside the continental United States unless they are Air Force civilian employees, which is discussed in more detail later in this report. Table 2 contains the number of civilian employees referred for military sexual assault support services and medical care from fiscal years 2015 through 2019.

Figure 7: Overview of Department of Defense Victim Eligibility for Sexual Assault Support Services

	Servicemember/adult dependent	Air Force civilian	Other DOD civilian employee[a]
Sexual Assault Prevention and Response Services			
Unrestricted report	✓	✓	Outside of continental U.S.
Restricted report	✓	✓	✗
Sexual Assault Response Coordinator (SARC) and victim advocate services[b]	✓	✓	Limited, outside of continental U.S.
DOD Safe Helpline[c]	✓	Outside of continental U.S.	Outside of continental U.S.
Other DOD Services			
Employee Assistance Program	Army only	✓	✓
DOD medical/behavioral health	✓	✗	✗
Special Victims' Counsel	✓	Case-by-case	Case-by-case
Non-DOD Services			
Community support	✓	✓	✓

Source: GAO analysis of Department of Defense (DOD) information. | GAO-21-113

Data table for Figure 7: Overview of Department of Defense Victim Eligibility for Sexual Assault Support Services

		Servicemember / adult dependent	Air Force civilian	Other DOD civilian employee /e/
Sexual assault prevention and response services	Unrestricted report	Yes	Yes	Outside of continental U.S.
	Restricted report	Yes	Yes	No
	Sexual Assault reponse coordinator (SARC) and victim advocate services /b/	Yes	Yes	Outside of continental U.S.
	DOD Safe Helpline /c/	Yes	Outside of continental U.S.	Outside of continental U.S.
Other DOD Services	Employee assistance program	Army only	Yes	Yes
	DOD medical / behavioral health	Yes	No	No

		Servicemember / adult dependent	Air Force civilian	Other DOD civilian employee /e/
	Special victim's counsel	Yes	Case by case	Case by case
Non-DOD services	Community Support	Yes	Yes	Yes

[a]This includes civilian employees of the Army, the Navy, and the Marine Corps as well as DOD agencies and field activities.

[b]Though a servicemember, adult dependent, or civilian employee victim of sexual assault may consult with a Sexual Assault Response Coordinator (SARC) or victim advocate at any time, they are eligible to receive SARC or victim advocate services only upon making an official report of sexual assault.

[c]According to SAPRO officials, the DOD Safe Helpline is anonymous and users do not need to provide identification or proof of eligibility to use the services.

Table 2: Number of Department of Defense Federal Civilian Employees Referred for Military Sexual Assault Support Services and Medical Care, Fiscal Years 2015-2019

Service	2015	2016	2017	2018	2019
Any type of service	49	47	51	38	18
Crisis center	—	—	—	—	—
Helpline	9	9	10	10	6
Legal	19	20	26	14	10
Medical	8	9	9	5	4
Other	3	8	5	4	4
Spiritual support	20	9	18	10	5
Victim advocate	27	29	31	29	13
Total employees referred	**97**	**88**	**95**	**65**	**25**

Source: GAO analysis of Department of Defense data. I GAO-21-113

Note: Support services are not mutually exclusive and victims may receive multiple services.

Servicemembers, adult dependents, and DOD civilian employees stationed outside the continental United States are eligible to use the DOD Safe Helpline service. The Safe Helpline is operated by the Rape, Abuse & Incest National Network on behalf of SAPRO, which, according to SAPRO officials, includes the provision of hotline staff and management. The services include a telephone hotline, an online platform, an app, and a text messaging system. The Safe Helpline also has a group chat service called the Safe Help Room. According to SAPRO officials, all DOD Safe Helpline services, including educational programs, are available to members of the DOD community who have experienced sexual assault and are eligible for sexual assault support services per DOD guidance. These officials stated that the hotline is anonymous and users do not need to provide identification or proof of eligibility to use the services. If someone is engaging one-on-one with the Safe Helpline and the hotline personnel identify that the person is not eligible for DOD services, they will refer the victim to civilian resources in

the broader community or other DOD services, according to SAPRO officials.

The Employee Assistance Program is a voluntary, work-based program that offers free and confidential assessments, short-term counseling, referrals, and follow-up services to employees who have personal or work-related problems. DOD federal civilian employees can access the Employee Assistance Program for issues including sexual harassment and sexual assault. While the other components provide Employee Assistance Program services through a contractor, according to officials, the Army's Employee Assistance program is operated internally. Defense Civilian Personnel Advisory Service officials stated that they are developing a DOD-wide contract for Employee Assistance Program services, to include many DOD components. While utilization of the Employee Assistance Program may be tracked, as it is by the Army and the Marine Corps, it may be tracked by general theme of the support provided, such as family or financial issues. Employee Assistance Program personnel from the military services stated that they are not required to report disclosures by victims of sexual harassment or assault to law enforcement or to any DOD entity.

Military medical treatment facilities may have Sexual Assault Medical Forensic Examiners who perform sexual assault medical forensic examinations to patients eligible for healthcare within the Military Health System. If a facility does not have 24-hour emergency room service or otherwise have capabilities to perform sexual assault medical forensic examinations, they are required to have memoranda of understanding with civilian providers nearby that are able to provide these services.

Defense Health Agency officials stated that DOD civilian employees who present to a military medical treatment facility after a sexual assault and are not otherwise eligible for healthcare—military dependents and those stationed outside the continental United States—will receive emergency care to treat acute injuries. These officials stated that once they are stabilized, they are referred to or transferred to a civilian healthcare provider for additional healthcare, including sexual assault medical forensic examinations. Table 3 shows the number of DOD federal civilian employees who were offered or received a sexual assault medical forensic examination from the military from fiscal years 2015 through 2019.

Table 3: Number of Department of Defense Federal Civilian Employees Who Were Offered or Received Sexual Assault Medical Forensic Exams from the Military, Fiscal Years 2015-2019

Service	2015	2016	2017	2018	2019
Exam offered	31	29	31	26	13
Exam not offered	66	59	64	39	12
Exam completed	7	6	4	1	2
Exam not completed	90	82	91	64	23
No forensic exam supplies available	—	—	—	1	—
Total employees	**97**	**88**	**95**	**65**	**25**

Source: GAO analysis of Department of Defense data. I GAO-21-113

Within the continental United States, if a DOD civilian employee reports a sexual assault to military medical providers, Defense Health Agency officials stated that they make sure the victim is referred to a SARC to receive referrals to community-based support services. In the continental United States, behavioral healthcare services are available only to servicemembers and their dependents.

Additionally, community-based support services, including crisis centers, can provide assistance to servicemembers, dependents, or DOD federal civilian employees. This assistance may include victim advocacy and behavioral healthcare, among other services. SAPR programs may provide ineligible DOD civilian employees with referrals for these services.

Officials at each of the five installations in our review stated that they would provide referrals to community-based support services for otherwise ineligible DOD civilian employee victims of sexual assault. According to officials from the crisis centers located near those five military installations, they may or may not track whether a person seeking their services is affiliated with an installation. An installation does not need to have a memorandum of understanding with a community–based support service to provide this referral. Officials at crisis centers near two of the five installations stated that they have memoranda of understanding with the installations to provide care specifically related to sexual assault. SAPR and crisis center officials at two other installations stated that they do not have such memoranda in place because they had cultivated strong relationships, making such an agreement unnecessary, or because the installation legal office had told them that they could not seek such an agreement. An official at one other crisis center near an

installation stated that the center previously had a memorandum in place with the installation, but was unsure if it was still in place. According to crisis center officials, the extent to which their services are used by personnel affiliated with the installation varies. Table 4 shows the number of civilian employees across DOD referred by SAPR programs for civilian sexual assault support services from fiscal years 2015 through 2019.

Table 4: Number of Department of Defense Federal Civilian Employees Referred for Civilian Sexual Assault Support Services and Medical Care, Fiscal Years 2015-2019

Service	2015	2016	2017	2018	2019
Any type of service	41	39	49	31	12
Crisis center	13	9	16	9	7
Helpline	—	—	—	—	—
Legal	4	6	8	4	1
Medical	3	5	6	5	—
Other	5	12	8	8	1
Spiritual support	4	3	3	4	1
Victim advocate	22	12	16	7	3
Total employees referred	**97**	**88**	**95**	**65**	**25**

Source: GAO analysis of Department of Defense data. I GAO-21-113

Note: Support services are not mutually exclusive and victims may receive multiple services.

DOD Component Sexual Assault Prevention and Response Programs

DOD components provide varying levels of support to federal civilian employees who have been affected by work-related sexual assault. Available support services are dependent upon a DOD civilian employee's employing component, as not all components have SAPR programs. Of the components included in this review, we found that the military services as well as the Defense Intelligence Agency and the Defense Logistics Agency have SAPR programs. However, according to officials, the Defense Contract Audit Agency and the Defense Commissary Agency do not. DOD guidance requires the military departments to establish SAPR programs, but it does not require all DOD components, including agencies and field activities, to establish such programs. SAPRO officials confirmed that there is no requirement for DOD components other than the military departments to have a SAPR program or a SARC. As previously discussed, SAPR programs provide various support services to eligible victims of sexual assault, including a

SARC or victim advocate as well as referrals to other relevant support services.

The Defense Logistics Agency developed its SAPR program based on DOD guidance for the military services. Defense Intelligence Agency officials stated that they also developed their SAPR program based on DOD guidance. According to Defense Logistics Agency officials, the agency established its SAPR program in 2016 due to senior leader engagement. Defense Logistics Agency senior officials stated that the agency determined which parts of the SAPR statutes and policies would apply to civilians, most of which deal with prevention, training, and response. They stated that their SAPR policies and procedures coordinate investigators, the Inspector General, and legal staff, but they are limited in the assistance they can provide to civilians, including through victim advocacy. The U.S. Equal Employment Opportunity Commission has commended the Defense Logistics Agency for the establishment of its SAPR program and associated sexual assault hotline. Defense Intelligence Agency officials stated that they also follow SAPRO policy and the agency's program includes one SARC.

The Defense Contract Audit Agency and the Defense Commissary Agency, which do not have SAPR programs, rely on local law enforcement or their Inspectors General to address incidents of work-related sexual assault, according to officials. Defense Commissary Agency officials stated that the incidence of sexual assault for Defense Commissary Agency employees is relatively low. One reason these officials cited for this is the structure of the agency's workforce—unlike the military, civilians are not living together each day or deploying. However, as previously discussed, the agency does not comprehensively track reported work-related sexual assaults. Defense Contract Audit Agency officials stated that if an employee reported a sexual assault they would either refer them to local law enforcement or the Inspector General's office. However, Defense Contract Audit Agency Inspector General officials stated that if someone reported a sexual assault to them, they would refer them to local law enforcement, the Defense Criminal Investigative Service, or the appropriate military criminal investigative organization. According to these officials, the Inspector General does not have any authority to investigate an allegation of sexual assault.

While some DOD components have established SAPR programs as described, SAPRO officials stated that the main concern for providing SAPR services to DOD civilian employees is for those civilians stationed outside the continental United States, and that SAPR programs are

focused on servicemembers. These officials stated that civilian employees in the continental United States have a number of options for reporting and receiving care for incidents of sexual assault. A Civilian Personnel Policy official stated that the department has not required all DOD components to establish SAPR programs for civilian employees and that it does not have plans to do so because the department has considered the level of support in place for civilian employees to be sufficient. However, this official stated that it is important to have standardized reporting and response processes in place for sexual assault across the department to address the inherent risks of human behavior.

DOD guidance states that DOD's goal is a culture free of sexual assault, through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well-being of individuals employed by all DOD components.[97] *Standards for Internal Control in the Federal Government* states that management should document in policies for each unit its responsibility for an operational process's objectives and related risks, and control activity design, implementation, and operating effectiveness.[98] However, DOD has not issued guidance outlining the responsibilities of DOD components other than the military services to establish SAPR programs for civilian employees, which provide prevention, education and training, and response and reporting procedures, to help ensure DOD meets its goal of a culture free of sexual assault.

Without guidance requiring the establishment of SAPR programs for civilian employees of DOD components, including agencies and field activities, where they do not currently exist, civilians employed by these components may have limited mechanisms to report work-related sexual assault, which could create inconsistencies in how sexual assault is addressed. In addition, federal civilian employees across the department will continue to have inconsistent access to SARCs, victim advocates, and other SAPR services, based on the component by which they are employed.

[97]DOD Directive 6495.01.

[98]GAO-14-704G.

Availability of Legal Services for DOD Federal Civilian Employees

The availability of legal services for DOD federal civilian employee victims of sexual assault differs across the military services since, per statute, the military departments have the authority to determine eligibility. Specifically, legal services for civilian employee victims of sexual assault are provided under 10 U.S.C. § 1044e, which states that DOD civilian employees who are not otherwise eligible for military legal assistance, but who are victims of an alleged sex-related offense may be offered Special Victims' Counsel (SVC) services. Such services may be offered if the Secretary of Defense or the Secretary of the military department concerned waives this eligibility requirement.[99] SVC services can include legal consultation regarding responsibilities and support provided to the victim by a SARC, and representing the victim at any proceedings in connection with the reporting, military investigation, and military prosecution of the alleged sex-related offense, among other things. Table 5 shows the number of DOD civilian employees who received SVC or Victims' Legal Counsel (VLC) services for sex-related offenses from fiscal years 2015 through 2019.[100]

Table 5: Number of Department of Defense Federal Civilian Employees Who Received SVC/VLC Services for Sex-Related Offenses, Fiscal Years 2015-2019[a]

Fiscal Year	Army SVCs	Navy VLCs	Marine Corps VLCs	Air Force SVCs[b]
2015	0[c]	1	1	N/A
2016	0	2	1	N/A
2017	Unknown	3	2	N/A
2018	20	0	2	N/A
2019	18	4	1	N/A

Source: GAO analysis of military service Special Victims' Counsel (SVC) and Victims' Legal Counsel (VLC) data. I GAO-21-113

[a]These numbers may not reflect all Department of Defense (DOD) civilian employees who received SVC or VLC services in these 5 fiscal years as some DOD civilian employees may have received such services due to eligibility under another status, such as dependents of active-duty servicemembers, reservists, or retirees.

[b]According to Air Force officials, Air Force data from fiscal years 2015 through 2019 were lost due to a catastrophic failure in the collection software; beginning in fiscal year 2020, the Air Force utilizes new collection software that these officials believe will provide reliable data going forward.

[99]Victims would be otherwise eligible for SVC services if they were serving in locations where civilian legal assistance is not reasonably available, per 10 U.S.C. §1044.

[100]The Navy and the Marine Corps refer to their SVCs as Victims' Legal Counsels (VLC).

[c]Army SVCs did not begin to serve DOD civilian employees until fiscal year 2017. The Army did not separately track the number of DOD civilian employees who received services until fiscal year 2018.

There are some differences across the military services in the provision of SVC and VLC services for DOD federal civilian employee victims of sexual assault.[101] For example, according to officials, the Air Force and the Marine Corps require case-by-case waivers for civilians to receive SVC or VLC services, which these officials stated would be evaluated based on the military status of the offender, among other things. Air Force SVC services are made available to civilian employees if certain conditions are met. Specifically, Air Force guidance states that SVC representation may be granted to individuals who are not statutorily eligible for representation through extension of an Extraordinary Circumstances Request process.[102] According to Air Force officials, if a DOD federal civilian employee is assaulted by a servicemember subject to the Uniform Code of Military Justice, but is not otherwise eligible for services under Air Force guidance, eligibility exceptions will be evaluated on a case-by-case basis in accordance with service regulations. Specifically, if there is a workplace nexus, such as if the assault occurred on an installation or on temporary duty, these officials stated that they would generally grant SVC services.

Marine Corps VLC Organization officials stated that they would extend VLC services to a civilian employee if the victim is eligible for services in accordance with statute, the crime is an alleged sexual offense, domestic violence, or child abuse, and the alleged offender is subject to the Uniform Code of Military Justice. However, Marine Corps officials stated that a victim who is not eligible under statute may still be granted VLC services by the VLC Organization, as delegated by the Staff Judge Advocate to the Commandant of the Marine Corps. These officials stated that granting such exceptions internally is faster than requesting a waiver from the Secretary of Defense or the Secretary of the Navy, and exceptions are generally granted liberally. Marine Corps officials stated that they have not granted waivers for cases where the prosecution is outside of the Uniform Code of Military Justice and is handled by civilian authorities.

[101]Navy officials stated that SVCs/VLCs are not trained or authorized to assist federal civilian employees with any issues involving their employment status, such as complaints against their employer, nor with most civilian employee administrative processes.

[102]Air Force Guidance Memorandum 2020-02, *Air Force Guidance Memorandum to AFI 51-201, Administration of Military Justice* (Oct. 5, 2020).

In contrast, the Army and the Navy provide SVC/VLC services to civilian employees without requiring a waiver of eligibility when the offender is subject to the Uniform Code of Military Justice. Under Army guidance, DOD civilian employees who are not otherwise eligible for legal assistance services are eligible for SVC services.[103] Victims of sex-related offenses in which the offender is subject to the Uniform Code of Military Justice may receive SVC support, and the sexual assault does not otherwise need to be work-related to receive these services, according to Army officials. Army guidance also states that the scope of SVC services provided to these DOD civilian employees will be strictly limited to assistance with the investigatory, military justice, or adverse administrative action processes. In addition, the SVC program manager may grant exceptions to client eligibility when the offender is not subject to the Uniform Code of Military Justice. Army officials noted that such exceptions are unlikely to be granted. These officials stated that SVCs are trained in providing referrals to victims to another agency or another support service in such cases.

The Navy may provide some limited VLC services to all DOD federal civilian employees who are victims of a sexual offense regardless of the status of the alleged offender. According to Navy officials, the Navy has extended VLC services to DOD civilian employees who are victims of sexual assault since 2013, even if there is not a work-related nexus. Navy guidance states that victims of sexual offenses eligible for services include DOD civilian employees when assaulted by an active-duty servicemember, among others.[104] Eligible individuals may also receive limited assistance when assaulted by a non-military offender. Officials stated that while they may also provide limited VLC services if the offender is a civilian, there is not a lot of support they can provide because the military does not have prosecutorial jurisdiction outside of the Uniform Code of Military Justice. Officials stated that they have the authority to waive eligibility requirements on a case-by-case basis for both status eligibility (such as for non-DOD affiliated civilians) and offense eligibility (such as for non-sex-related offenses). All such requests are reviewed for approval by the Chief of Staff of the Navy's VLC Program. However, a Navy official stated that they were only aware of two such waiver requests since fiscal year 2015.

[103]Army Regulation 27-3, *The Army Legal Assistance Program* (Mar. 26, 2020).

[104]Navy Judge Advocate General Instruction 5810.3A, *Navy Victims' Legal Counsel Program Manual* (Apr. 23, 2018).

Air Force legal officials stated that in a joint environment, the service that employs the civilian employee victim would generally provide SVC services and that if the victim and alleged offender belong to different services, both services would coordinate to decide which service would provide SVC services. If the victim was a civilian employee of a DOD component other than a military service, the prosecuting service would provide SVC services to that victim, according to Air Force officials. In contrast, Navy officials stated that if a DOD civilian employee victim is not employed by a military service, the military service SVC or VLC located closest to the victim would most likely provide such services. Navy officials stated that the sponsoring service of the offender does not matter and that services are provided based on the employing service of the victim. The military services have a common agreement that they will provide services to any eligible victim who requests their SVC or VLC services or where the victim's employing component cannot provide services, according to Army and Navy officials.

Reporting Options for Federal Civilian Employees Are Inconsistent across DOD

Service Exceptions to Allow Federal Civilian Restricted Reporting Are Inconsistent

DOD federal civilian employees' reporting options vary depending on their employing component. 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 and those who worked for the Air Force, according to DOD officials. Specifically, the Air Force operates under an exception to SAPRO policy that allows its civilian employees to file restricted and unrestricted reports worldwide and to receive SAPR support services. DOD granted the first Air Force exception to policy in August 2015, and approved two additional year-long extensions to the Air Force's exception to policy in 2017 and 2018. Its last exception expired in January 2019 and, according to Air Force officials, has not been renewed by DOD despite a request filed by the Air Force in February 2019. The Air Force continues to operate as it had under previously approved exceptions, according to Air Force officials. SAPRO officials stated that they do not have documentation that the Air Force continues to operate under the exception to policy despite not receiving DOD's approval to do so. However, these officials stated that they were aware that the Air Force is still operating as if it has been granted an exception to policy.

The Under Secretary of Defense for Personnel and Readiness' January 2018 approval of the Air Force exception to policy stated that SAPRO was exploring how it could provide a confidential reporting process and related advocacy services to civilian employees on a permanent basis. The approval further stated that as DOD continued to explore confidential reporting options for civilian employees, granting the Air Force an extension to the exception to policy would assure continuity of advocacy services. In addition, the approval stated that the information gathered as a result of the Air Force pilot program would inform DOD policy.

The Army was the first military service to pilot restricted reporting for civilian employees in 2010 in Europe. The Army conducted another pilot for civilians inside and outside the continental United States from January 2017 through January 2018, and reported that it received six restricted and 39 unrestricted reports of sexual assault from civilian employees during that time period. Army officials stated that these reports were from previously ineligible civilian employees. Further, the Army reported that it did not incur any staffing adjustments or additional costs as a result of providing services in connection with those reports. Army officials stated that they believe the number of reports was low because the Army did not sufficiently advertise the exception to policy, and civilian employees did not know that they were able to use it. In April 2018, the Army requested a permanent exception to policy from DOD, but Army officials stated they did not receive a response to the request. The Army requested another exception to policy from DOD in February 2020, according to an official. As of October 2020, DOD had not taken any action on that request, according to SAPRO officials. Army officials stated that they plan to increase their strategic communications and to fully advertise the exception to policy once approved. The Navy and Marine Corps have never had similar exceptions to policy, according to officials from both services.

DOD has not taken action on the Army and the Air Force's exception to policy requests due, in part, to legal concerns. Specifically, according to DOD Office of General Counsel officials, under Title VII an employer may be liable for the hostile work environment created by a co-worker where the employer knows or should have known of the conduct unless it can show that it took immediate and appropriate corrective action. Additionally, 10 U.S.C. § 1561 requires an investigation into a sexual harassment complaint made by a civilian employee. According to DOD Office of General Counsel officials, if agency officials have knowledge of an incident of sexual assault, the victim's decision to file a restricted report does not absolve the agency of its responsibilities to investigate the

incident under Title VII. It is our view that since DOD allows restricted reporting for adult military dependents, some of whom may also be DOD civilian employees, there is already some degree of risk that is being assumed by the department.

DOD Office of General Counsel officials stated that DOD policy cannot reconcile the conflict with Title VII and 10 U.S.C. § 1561 requirements for an investigation. According to Army and Air Force officials, the Army and the Air Force proposed legislative changes in 2015 and 2016 to enable restricted reporting for civilian employees and reconcile the conflict with Title VII, but these requests were deferred or withdrawn. SAPRO officials stated that, while they are supportive of extending restricted reporting to DOD civilian employees, they have not discussed the potential conflict under Title VII with Congress. These officials confirmed that they cannot make this change through DOD policy.

SAPR personnel at the installations in our review expressed support for extending restricted reporting to civilian employees. Specifically, SAPR personnel at four installations expressed a desire that DOD extend restricted reporting to civilian employees worldwide. One of these installations caveated that civilians would still have to seek medical care elsewhere if they are not military dependents. SAPR personnel at another installation stated that the DOD civilian population is older than active-duty servicemembers, which they believe made them a lower risk group for sexual assault, so they would not expect there to be a significant increase in the number of reports. Air Force SAPR personnel at two installations included in this review stated that if a non-Air Force civilian alleged sexual assault to an Air Force SARC, the SARC would be able to extend the unrestricted reporting option due to the Air Force's exception to policy. However, Air Force SAPR personnel at these installations disagreed on whether they could offer the restricted reporting option to non-Air Force civilian employees.

A Civilian Personnel Policy official stated that standardization of policies across DOD in this area could be beneficial given that there are situations in which personnel from different components work together in joint environments. According to this official, if there are different standards for personnel from different components, it can complicate their understanding of their rights and responsibilities. Officials from the joint installation included in this review also acknowledged that differences in available services in a joint environment can cause such challenges.

Standards for Internal Control in the Federal Government states that management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness, and perform ongoing monitoring of the effectiveness of the internal control system.[105] Given DOD's position that any changes to restricted reporting for civilian employees would require congressional action, reporting to the congressional defense committees on the status of restricted reporting for its civilian employees would inform and enable such action. Such a report should include, but not be limited to, the history of restricted reporting for DOD federal civilian employees by military department as well as the anticipated benefits and challenges of extending restricted reporting to DOD federal civilian employees. Further, without reporting such information and requesting appropriate and needed congressional actions, if any, to extend restricted reporting to DOD federal civilian employees who are otherwise eligible to file unrestricted reports of sexual assault, civilian employees will continue to have inconsistent restricted reporting rights across the department. As a result, civilian employees may be limited in their desire or ability to report sexual assault or confused about how to do so. Further, some DOD components may be vulnerable to legal risks.

All Services Allow Unrestricted Reporting for Federal Civilian Employees outside the Continental United States

DOD guidance states that DOD federal civilian employees and their adult dependents stationed or performing duties outside the continental United States only are eligible to make unrestricted reports of sexual assault, which includes the limited SAPR services of a SARC or victim advocate while the victim is undergoing emergency care.[106] DOD civilian employees within the continental United States—with the exception of Air Force civilian employees—are not eligible to file an unrestricted report of sexual assault or receive any SAPR services. SAPRO officials stated that when the policy governing reporting options was issued in 2012, unrestricted reporting was made available to civilians only outside the continental United States because those civilians might encounter language and cultural barriers to receiving support from community-based services. According to these officials, DOD civilian employees within the

[105]GAO-14-704G.

[106]DOD Instruction 6495.02.

continental United States can more easily access medical care and community-based support services.

Additionally, SAPRO officials stated that SAPRO's focus is on helping servicemembers through the military justice system, and its perspective and policy prioritize the military. These officials stated that, as a result, SAPRO is limited in the support that it can provide to DOD civilian employees. SAPRO officials stated that they are victim-focused in their approach, but that in terms of reporting, they do not have a position on what DOD should offer its civilian employees. These officials stated that if Congress requested that DOD extend the unrestricted reporting option to DOD civilian employees within the continental United States, it would help SAPRO to implement such a policy change. In addition, these officials stated that any expansion of reporting options or support services for federal civilian employees could require additional funding as SAPRO's efforts have been primarily focused on supporting servicemembers, which is its primary mandate. However, these officials stated that they do not know the extent to which civilian employees may use these options if they were made available to them.

Further, any changes to policy would require coordination with Civilian Personnel Policy, which has responsibility for such issues as they relate to civilian employees, according to both SAPRO and Civilian Personnel Policy officials. However, according to officials from both offices, neither SAPRO nor Civilian Personnel Policy has analyzed the feasibility of expanding unrestricted reporting and SAPR services to DOD civilian employees within the continental United States. A Civilian Personnel Policy official stated that they were unaware of any concerns regarding extending unrestricted reporting to civilian employees within the continental United States and that any concerns have been focused on extending restricted reporting.

Standards for Internal Control in the Federal Government states that management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness. In addition, management should use quality information to make informed decisions and to evaluate the entity's performance in achieving key objectives and addressing risks—in this case, the possible risks of not having clearly defined sexual assault reporting options for DOD federal civilian employees worldwide.[107] Without analyzing the feasibility, benefits, and

[107]GAO-14-704G.

challenges of expanding eligibility for filing unrestricted reports and providing sexual assault support services to DOD federal civilian employees within the continental United States and reporting to Congress on the findings of this analysis, DOD may miss opportunities to more fully and consistently support its civilian workforce.

Notification Responsibilities of SAPR Personnel Following a Disclosure of Work-Related Sexual Assault Are Unclear

Notification responsibilities of SAPR personnel following disclosures of work-related sexual assault by DOD federal civilian employees are unclear. Specifically, notification responsibilities are unclear with regard to when a DOD civilian employee who is otherwise ineligible for SAPR services makes such a disclosure and when SAPR personnel may notify a military criminal investigative organization of an unrestricted report of sexual assault. First, DOD civilian employees may choose to disclose a work-related sexual assault to SAPR personnel. However, it is unclear whether SAPR personnel are required to make any notifications, such as to law enforcement, upon receipt of a disclosure if the civilian is otherwise ineligible to file a restricted or unrestricted report. SAPRO officials stated that there is no DOD policy that outlines notification responsibilities of SAPR personnel, if any, when a DOD civilian employee who is not eligible to or does not file a restricted or unrestricted report discloses work-related sexual assault to a SARC. These officials identified this as a policy gap.

SAPR personnel at all five installations in our review stated they would provide DOD civilian employees with referrals to community-based support services if they disclosed a work-related sexual assault and were not otherwise eligible to file a restricted or unrestricted report. However, officials at three installations stated that they would not necessarily report these disclosures to law enforcement if it was not required by state law.[108] Navy training materials encourage civilians to contact a SARC or victim advocate as their first call after an assault, and assure civilians that they will maintain confidentiality. The training materials state that these personnel can maintain confidentiality in all locations, and that they are available to all civilians. Given DOD's concerns about restricted reporting for civilian employees due to Title VII requirements and a lack of DOD

[108]According to officials at the two other installations, this either did not apply because civilian employees are eligible to make both restricted and unrestricted reports of sexual assault, or officials did not agree regarding their responsibilities to make such disclosures to law enforcement.

guidance in this area, as previously discussed, it is unclear whether SAPR personnel can maintain this stated assurance of confidentiality. SAPRO officials stated that while there is no guidance regarding SAPR personnel's notification responsibilities in such a scenario, they expressed concerns that any required notifications would likely limit DOD civilian employees' willingness to seek support from a SARC or victim advocate.

Standards for Internal Control in the Federal Government states that management should internally communicate the necessary quality information to achieve the entity's objectives.[109] Without clarifying guidance regarding notification responsibilities of SAPR personnel, if any, when a DOD federal civilian employee who is either not eligible to or does not file a restricted or unrestricted report discloses work-related sexual assault, such disclosures and subsequent notifications may be inconsistently handled across the department. In addition, these disclosures may not be afforded the stated assurance of confidentiality by all SAPR personnel.

Second, the military services have inconsistently implemented DOD guidance requiring that all unrestricted reports of sexual assault be immediately reported to a military criminal investigative organization. Specifically, DOD guidance states that the Secretaries of the military departments shall establish guidance that all unrestricted reports of violations, including attempts, of sexual assault against adults be immediately reported to the military criminal investigative organizations.[110] To implement this guidance, Army guidance states that if a victim chooses to make an unrestricted report, the SARC should immediately notify the Army Criminal Investigation Command.[111] Air Force guidance states that an unrestricted report activates victim support services and accountability responses that are essential to eliminating sexual assault and that unrestricted reports are to be immediately referred to the appropriate military criminal investigative organization and the victim's command.[112]

[109]GAO-14-704G.

[110]DOD Instruction 6495.02.

[111]Army Regulation 600-20.

[112]Air Force Instruction 90-6001, *Sexual Assault Prevention and Response (SAPR) Program* (July 15, 2020).

However, Navy guidance states that SARCs should provide the installation commander and the immediate commander of the sexual assault victim (if a civilian victim, then the immediate commander of the alleged military offender) with information regarding all unrestricted reports within 24 hours of receiving such a report. This notification may be extended by the commander to 48 hours after the unrestricted report of the incident when there are extenuating circumstances in deployed environments.[113] The guidance states that the command is to immediately notify the Naval Criminal Investigative Service. According to Navy SAPR and Naval Criminal Investigative Service officials, Navy SAPR officials have interpreted this guidance such that they cannot directly notify the Naval Criminal Investigative Service. However, Navy guidance does not specifically prohibit SAPR personnel from notifying the Naval Criminal Investigative Service of an unrestricted report. Marine Corps Judge Advocate Division officials stated that they do not agree with Navy SAPR officials' interpretation of the guidance, noting that the purpose of the notification requirements are to ensure proper handling of reported sexual assaults by the command, the investigative organization, and SAPR, not to limit or stove-pipe communication.

Naval Criminal Investigative Service officials stated that sometimes this strict interpretation of Navy guidance by Navy SAPR officials can cause investigative challenges. Specifically, these officials stated that it can create a 2 or 3 day delay before they are notified and can begin their investigation, which increases the potential for evidence to be lost or for the victim's and any witnesses' recall of the incident to be clouded. Naval Criminal Investigative Service officials stated that they have had discussions with Navy SAPR about changing this process or at least ensuring that commands are aware that they should immediately inform the Naval Criminal Investigative Service of reported sexual assaults. However, as of August 2020, no changes had been made, according to Naval Criminal Investigative Service officials. These officials identified this as a significant challenge to their investigations and noted that they have no idea how much evidence they might lose as a result of this practice.

Standards for Internal Control in the Federal Government states that management should internally communicate information to achieve the entity's objectives.[114] Without guidance clarifying the responsibilities of

[113]Secretary of the Navy Instruction 1752.4C, *Sexual Assault Prevention and Response Program Procedures* (Aug. 10, 2018).

[114]GAO-14-704G.

SAPR personnel, if any, in notifying military criminal investigative organizations of unrestricted reports of sexual assault in accordance with DOD guidance, the Navy may continue to address the notification process differently than the other military services, which could increase the potential for notification delays and result in lost evidence.[115]

Sexual Harassment and Sexual Assault Prevention Efforts for DOD Federal Civilian Employees Are Primarily Focused on Training and Vary across the Department

DOD's sexual harassment and sexual assault prevention efforts for federal civilian employees are primarily focused on training, but these efforts vary across the department. Specifically, civilian employees are to receive sexual harassment training, but the frequency and content of such training varies across DOD components. In contrast, some DOD components provide sexual assault training to their civilian employees while others do not, and the extent to which such training includes leading practices varies. In addition to training, DOD has established other sexual harassment and sexual assault prevention efforts, but it lacks comprehensive prevention strategies that are specific to the civilian workforce.

Provision and Content of Sexual Harassment and Sexual Assault Training Vary across the Department

[115]DOD Instruction 6495.02.

DOD Federal Civilian Employees Receive Sexual Harassment Training, but Frequency and Content Vary

DOD guidance requires that federal civilian employees, as well as servicemembers who supervise civilian employees, receive training in identifying and preventing sexual harassment.[116] Specifically, the DOD components are to provide sexual harassment training to civilian employees and to establish an EEO educational program, including sexual harassment training.[117] DOD guidance also includes limited content requirements for sexual harassment training. First, it requires that sexual harassment training include information on how to identify and prevent sexual harassment. Second, the training should explain the distinction between sexual harassment and sexual assault—and that both are unacceptable forms of behavior even though they may have different penalties—and emphasize the distinction between civil and criminal actions.[118] ODEI officials confirmed that these are the only two required content elements for sexual harassment training for civilian employees.

Some DOD components rely on sexual harassment training as a prevention tool. For example, Navy officials stated that mandatory training is the Navy's main tool for the prevention of sexual harassment, while Air Force officials detailed prevention efforts focused on mandatory and specialized training. While ODEI sets standardized sexual harassment policy for the department, DOD components are responsible for implementing policy, including developing and conducting sexual harassment training. ODEI officials stated that each DOD component,

[116]In response to Executive Order 13950, *Combating Race and Sex Stereotyping,* and related Office of Management and Budget guidance issued in September 2020, the Secretary of Defense issued a memorandum on October 16, 2020, requiring that all diversity and inclusion training for civilian and military personnel be suspended pending review by the Office of Personnel Management for compliance with the Executive Order. ODEI officials stated in October 2020 that DOD had temporarily stopped all EEO training, including sexual harassment training, in response to the executive order, pending such review. However, Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, issued January 20, 2021, revoked the prior executive order and directed agencies to identify related proposed and existing actions and consider suspending, revising, or rescinding such actions, as appropriate. Office of Management and Budget, M-20-37, *Memorandum for the Heads of Executive Departments and Agencies: Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All* (Sept. 28, 2020). Secretary of Defense Memorandum, *Implementation of Executive Order on Combating Race and Sex Stereotyping* (Oct. 16, 2020).

[117]DOD Instruction 1400.25, Vol. 410 and DOD Directive 1440.1.

[118]DOD Instruction 1400.25, Vol. 410 and DOD Instruction 6495.02.

including the military services and DOD agencies and field activities, implements its own training in accordance with its needs.

However, the frequency and required content of mandatory sexual harassment training, including the extent to which it incorporates leading practices, varies across the department. First, DOD guidance does not specify the frequency with which sexual harassment training must be provided. As a result, we found that the frequency of sexual harassment training for civilian employees varies across DOD components. For example, according to military service officials, Army, Navy, and Marine Corps civilian employees complete mandatory sexual harassment training annually. In contrast, Air Force civilian employees receive mandatory sexual harassment training when hired, but are not required to receive additional training unless they are assigned to a new duty station. According to officials from the four selected DOD agencies we reviewed, the Defense Logistics Agency provides sexual harassment training to civilian employees annually, while the Defense Intelligence Agency, the Defense Commissary Agency, and the Defense Contract Audit Agency provide such training approximately every 2 years.[119]

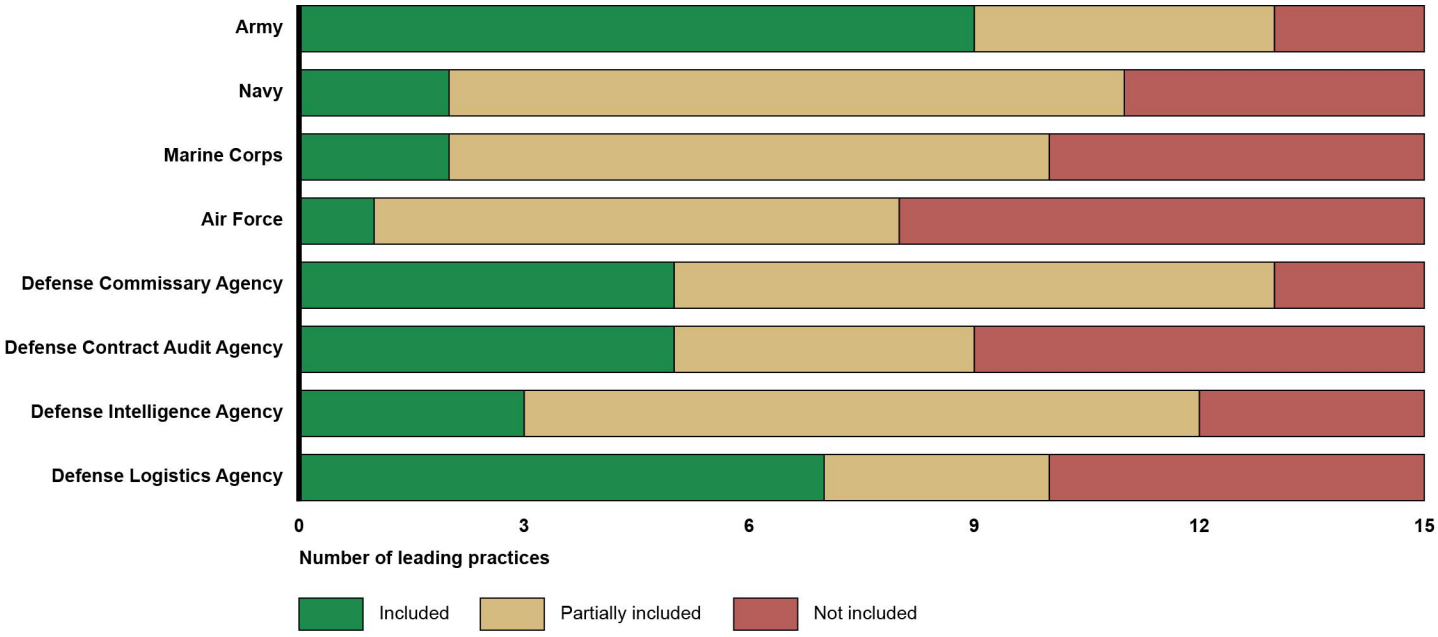
Second, we found that the content of sexual harassment training for DOD civilian employees, including the extent to which such training includes leading practices, varies across components. Specifically, in our evaluation of mandatory sexual harassment training materials for the military services and four selected DOD agencies, we found variation in the extent to which each component's training materials included 13 leading practices and the two DOD required elements.[120] We found that three of the eight components' trainings did not include one of two DOD-required training elements. Further, none of the eight components' trainings included more than seven of the 13 leading practices. For example, none of the trainings made clear that the component will not tolerate retaliation and will ensure that employees who report sexual harassment or participate in investigations will not be retaliated against

[119]According to Defense Intelligence Agency officials, agency managers and supervisors receive training on sexual harassment on an annual basis.

[120]We identified and validated 13 leading practices for sexual harassment training through a review of relevant reports and studies and consultation with subject-matter experts. For more details on this analysis, see appendix I. For a complete list of the 13 leading practices and two DOD requirements as well as the results of our evaluation of each component's training, see appendix VI. Our evaluation of the DOD components' mandatory sexual harassment training was based on written training materials. DOD officials noted that some topics may be discussed in more detail during in-person training courses than what appears in the written training materials.

for doing so. Similarly, none of the trainings included a brief video or pre-recorded remarks from senior leadership to demonstrate leadership commitment and set the tone for the training, which ODEI officials stated was a useful concept. See figure 8 for the extent to which each component included the 13 leading practices and two DOD requirements in their mandatory sexual harassment training materials for civilian employees.

Figure 8: Number of Leading Practices and Department of Defense (DOD) Requirements Included, Partially Included, and Not Included in Selected Components' Federal Civilian Employee Sexual Harassment Training[a]



Source: GAO analysis of Department of Defense training materials. | GAO-21-113

Data table for Figure 8: Number of Leading Practices and Department of Defense (DOD) Requirements Included, Partially Included, and Not Included in Selected Components' Federal Civilian Employee Sexual Harassment Training[a]

Service	Included	Partially included	Not included
Army	9	4	2
Navy	2	9	4
Marine Corps	2	8	5
Air Force	1	7	7
Defense Commissary Agency	5	8	2
Defense Contract Audit Agency	5	4	6

Service	Included	Partially included	Not included
Defense Intelligence Agency	3	9	3
Defense Logistics Agency	7	3	5

[a]We identified and validated 13 leading practices for sexual harassment training through a review of relevant reports and studies and consultation with subject-matter experts. We identified two DOD-required elements for sexual harassment training through review of DOD guidance and consultation with DOD officials. For a complete list of the 13 leading practices and two DOD requirements see appendix VI. Our evaluation of the DOD components' mandatory sexual harassment training was based on written training materials. DOD officials noted that some topics may be discussed in more detail during in-person training courses than what appears in the written training materials.

In June 2020, DOD issued additional guidance that requires DOD components to provide general harassment training to civilian employees, including refresher training at least once every 3 years, and outlines required elements, but these requirements are not specific to sexual harassment. ODEI officials stated that they believe sexual harassment is included in these training requirements, but the guidance does not clearly specify that. Further, the guidance implies, and ODEI officials agreed, that this general harassment training is in addition to the requirements previously outlined for sexual harassment training and does not replace such requirements. The guidance does not expand upon those requirements to clearly specify minimum frequency or required content elements in line with leading practices specific to sexual harassment training.[121]

Standards for Internal Control in the Federal Government states that management should internally communicate information to achieve the agency's objectives.[122] Without additional guidance to clearly specify minimum frequency and required content for mandatory sexual harassment training for civilian employees in line with leading practices, civilian employees across DOD may not be fully aware of policies and procedures related to prevention and response to sexual harassment. Such additional guidance would better enable DOD to achieve its goals of fostering a climate free from harassment and preventing and responding quickly to harassing behavior, especially given DOD's emphasis on training as a prevention tool.

[121]DOD Instruction 1020.04.

[122]GAO-14-704G.

DOD Provides Sexual Assault Training to Some Federal Civilian Employees, but Inclusion of Leading Practices Varies

In accordance with statute and DOD guidance, civilian employees of the military services are to receive annual sexual assault training to enable them to prevent and respond to incidents of work-related sexual assault.[123] Similarly, per DOD guidance, civilian employees who supervise servicemembers are to receive annual sexual assault training. DOD components outside of the military services, including agencies and field activities, are not directed to provide sexual assault training to all civilian employees and do so at their discretion.[124] Further, SAPRO officials confirmed that DOD policy requires sexual assault training for (1) all civilian employees of the military services, and (2) all DOD civilian employees who supervise servicemembers, but there is no requirement for such training for other DOD civilian employees outside of the military services.

Specifically, the Departments of the Army, the Navy, and the Air Force provide mandatory sexual assault training to their civilian employees.[125] Of the four selected DOD agencies that we reviewed, we found that the Defense Logistics Agency and the Defense Intelligence Agency provide sexual assault training to their civilian employees, while the Defense Contract Audit Agency and the Defense Commissary Agency do not provide such training. Further, DOD's Civilian Employee Workplace and Gender Relations Report for fiscal year 2018 estimated, based on employee survey self-reports, that 66 percent of women and 81 percent of men employed by DOD agencies and field activities received training on sexual assault in the previous 12 months.[126]

In addition, we found that the extent to which sexual assault training for civilian employees includes leading practices and DOD elements varies across DOD components. Specifically, in our evaluation of mandatory

[123]DOD Instruction 6495.02 and Pub. L. No. 112-81, § 585 (2011), *as amended* (10 U.S.C. §1561 note).

[124]DOD Instruction 6495.02.

[125]The Department of the Navy's sexual assault training is provided to civilian employees of the Navy and the Marine Corps.

[126]DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018* (April 2020). Margins of error for these estimates range from ±1% to ±2%.

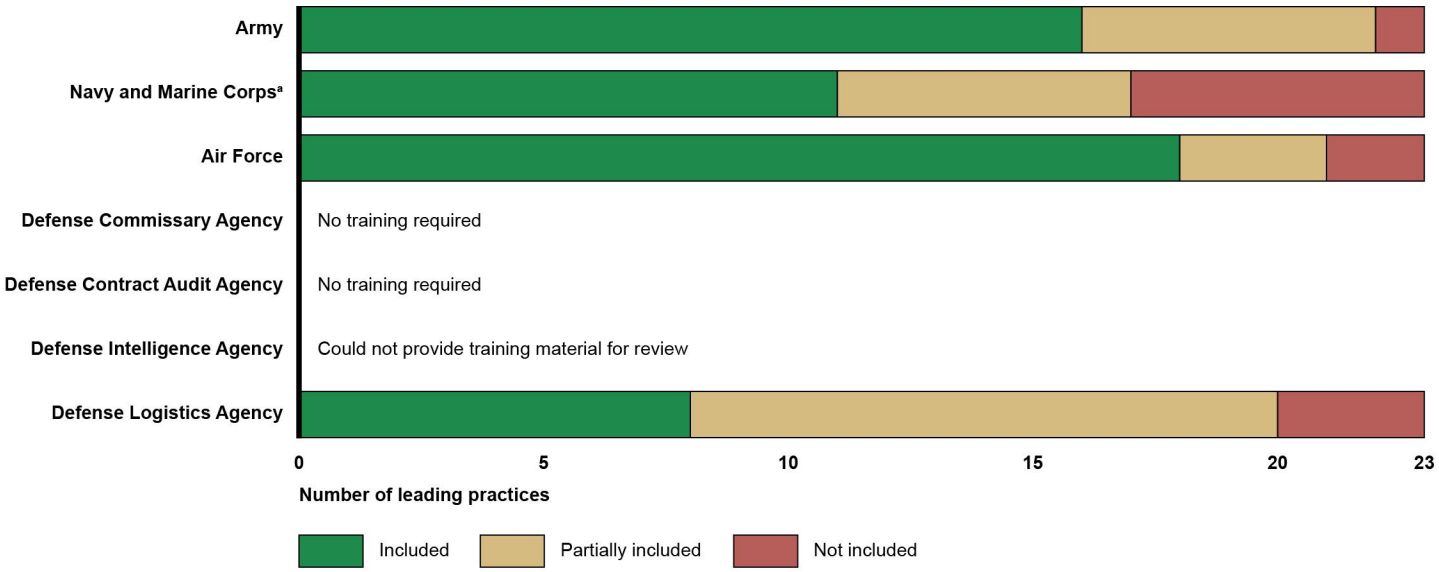
sexual assault training materials for the military departments and the Defense Logistics Agency, we found variation in the extent to which each component's training materials included leading practices and DOD content elements.[127] For example, while all of the component trainings we reviewed included interactive elements and scenarios to demonstrate theories in familiar settings, one component's training fully included a discussion of recognizing and removing biases. Further, one component's training included a discussion of well-being and self-care, and none of the trainings fully incorporated a discussion of organizational reporting processes, including both victim and alleged offender rights.

Additionally, we found that the component trainings we reviewed did not fully incorporate all of the content elements that DOD has identified as required for training for servicemembers and civilians who supervise servicemembers.[128] For example, two components' trainings fully defined consent in accordance with DOD guidance, while two only partially defined the term. Three of the four component trainings we reviewed partially included information on available reporting options and their advantages and limitations, as well as SAPR program roles and responsibilities and resources available both on and off base. Further, one component's training fully included information on reporting options for victims when the alleged offender is in their chain of command, while two components partially included this information and one component did not include it. See figure 9 for the extent to which each component included the 10 leading practices and 13 DOD elements in their mandatory sexual assault training materials for civilian employees.

[127]We identified and validated 10 leading practices for sexual assault training through a review of background information and consultation with subject-matter experts. We also identified 13 required content elements for sexual assault training for servicemembers and civilian employees who supervise servicemembers as outlined in DOD Instruction 6495.02, and validated these elements with DOD officials. The Defense Intelligence Agency was unable to provide us its sexual assault training materials due to the COVID-19 pandemic. For more information on this analysis, see appendix I. For a complete list of the 10 leading practices and 13 DOD elements identified as well as the results of our evaluation of each component's training, see appendix VI. Our evaluation of the DOD components' mandatory sexual assault training was based on written training materials. DOD officials noted that some topics may be discussed in more detail during in-person training courses than what appears in the written training materials.

[128]Required content elements for servicemembers and civilians who supervise servicemembers are not required for sexual assault training provided to civilian employees who do not supervise servicemembers, but indicate how the content of training provided to servicemembers may differ from what is provided to civilian employees.

Figure 9: Number of Leading Practices and Department of Defense (DOD) Elements Included, Partially Included, and Not Included in Selected DOD Components' Federal Civilian Employee Sexual Assault Training



Source: GAO analysis of Department of Defense training materials. | GAO-21-113

Data table for Figure 9: Number of Leading Practices and Department of Defense (DOD) Elements Included, Partially Included, and Not Included in Selected DOD Components' Federal Civilian Employee Sexual Assault Training

Service	Included	Partially included	Not included
Army	16	6	1
Navy and Marine Corps[a]	11	6	6
Air Force	18	3	2
Defense Commissary Agency	No training required		
Defense Contract Audit Agency	No training required		
Defense Intelligence Agency	Could not provide training material for review		
Defense Logistics Agency	8	12	3

[a]The Department of the Navy training materials are used for Navy and Marine Corps civilian employee training. We identified and validated 10 leading practices for sexual assault training through a review of relevant reports and studies and consultation with subject-matter experts. We identified 13 DOD-required elements for sexual assault training through review of DOD guidance and consultation with DOD officials. For a complete list of the 10 leading practices and 13 DOD requirements see appendix VI. The Defense Commissary Agency and the Defense Contract Audit Agency do not provide sexual assault training to their civilian employees. The Defense Intelligence Agency was unable to provide us their sexual assault training materials because they did not have access to the office where the materials were stored due to constraints stemming from the COVID-19 pandemic. Our evaluation of the DOD components' mandatory sexual assault training was based on written

training materials. DOD officials noted that some topics may be discussed in more detail during in-person training courses than what appears in the written training materials.

Although DOD guidance includes required content elements for sexual assault training for servicemembers and civilian employees who supervise servicemembers, no such requirements exist for training for civilian employees. SAPRO officials stated that the required elements for sexual assault training are focused on ensuring servicemembers and their supervisors are aware of the resources and SAPR services available to servicemembers. As previously discussed, most civilian employees—including those within the continental United States—are not eligible for SAPR services, which can result in confusion. For example, Air Force and Army officials stated that this can result in a conflict between information provided in training and the actual services available to civilian employees. Further, Marine Corps officials stated that Marine Corps training guidance should be updated to include services available to civilian employees. DOD's Civilian Employee Workplace and Gender Relations Report for fiscal year 2018 found that the majority of civilian employees who reported receiving sexual assault training in the past 12 months indicated that the training conveyed relevant information. However, among appropriated fund employees, perceptions of all training relevancy measures that were also included in the fiscal year 2016 survey decreased or remained the same across the department.[129]

The National Defense Authorization Act for Fiscal Year 2012 required the military departments to work with outside experts to develop sexual assault training, and DOD to ensure that such training is consistent across the departments.[130] In addition, Centers for Disease Control and Prevention guidance states that comprehensive prevention efforts should include universal approaches which address everyone in the

[129]DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report for Fiscal Year 2018* (April 2020). The Civilian Employee Workplace and Gender Relations Report for fiscal year 2016 was limited to appropriated fund employees, so comparisons are only possible for that group. Appropriated fund employees are civil service employees paid by money appropriated by Congress, while non-appropriated fund employees are paid with funds generated by military activities such as military exchanges and morale, welfare, and recreation programs. As of June 2020, DOD reported approximately 760,000 appropriated fund and as of November 2020, approximately 120,000 non-appropriated fund permanently assigned federal civilian employees worldwide.

[130]Pub. L. No. 112-81, § 585 (2011).

population.[131] Further, *Standards for Internal Control in the Federal Government* states that management should internally communicate information to achieve the entity's objectives.[132]

However, as discussed, DOD guidance does not require all DOD components, including agencies and field activities, to provide sexual assault training to all civilian employees and civilian and military leaders who supervise civilian employees. Further, DOD guidance does not include sexual assault training content requirements for all civilian employees. SAPRO officials stated that they are in the process of issuing updated training guidance, but as of August 2020 did not expect it to include updated requirements for training and content for civilian employees. In November 2020, a SAPRO official stated that the updated training guidance is expected to expand the scope of sexual assault prevention training to include all DOD civilian employees, but that it was still in the review process and the expansion was not final.

Without issuing guidance for all DOD components to provide training on sexual assault prevention and response to DOD federal civilian employees and military leaders who supervise civilian employees, including minimum frequency and required content in line with leading practices identified by subject-matter experts, the department risks knowledge gaps among civilians about preventing and responding to work-related sexual assault. Leading practices could include those that we identified or those currently required in SAPR training for servicemembers, appropriately adapted for the civilian workforce. Incorporating minimum frequency and leading practices in sexual assault training requirements for all civilian employees and leaders who supervise them would help DOD to ensure that civilians and their supervisors are equipped to prevent and respond to work-related sexual assault.

DOD Has Sexual Harassment and Sexual Assault Prevention Efforts, but Lacks Comprehensive Strategies Specific to Federal Civilian Employees

While prevention efforts for federal civilian employees primarily focus on training, DOD components have additional sexual harassment and sexual

[131]Centers for Disease Control and Prevention, *Sexual Violence Prevention: Beginning the Dialogue* (2004).

[132]GAO-14-704G.

assault prevention efforts that vary across the department. For example, Defense Intelligence Agency officials stated that their prevention efforts include posters, flyers, and monthly activities and events to raise awareness. Defense Commissary Agency and Defense Contract Audit Agency officials stated that they do not have dedicated sexual assault prevention efforts since, as previously discussed, they do not have SAPR programs. In addition, some prevention efforts are installation-specific. Officials at the five installations in our review detailed varied prevention efforts, including informational tables and bulletin board displays, events such as races or bowling competitions, and efforts targeting at-risk groups such as junior servicemembers. Officials at two installations detailed prevention efforts focused on the provision of supplemental training or assessment of training effectiveness. Officials at one installation stated that prevention efforts are further tailored to specific units. Officials at another installation stated that while prevention efforts may be in place at the installation level, they believe such efforts—particularly with regard to sexual harassment prevention as a strategy to stop behaviors before they escalate to sexual assault—are lacking across DOD.

DOD lacks comprehensive sexual harassment and sexual assault prevention strategies specific to civilian employees. According to ODEI officials, DOD does not have a comprehensive sexual harassment prevention strategy specific to civilian employees. These officials stated that DOD is developing a Problematic Behaviors Prevention Strategy, to include sexual harassment, which was in review in October 2020. ODEI officials stated that it will focus on the entire DOD population, including civilian employees, but is primarily a military prevention strategy and will not contain information specific to civilian employees.

Similarly, DOD released guidance in September 2020 to establish policies and responsibilities to mitigate prohibited abusive acts, including sexual harassment and sexual assault, among other things. The policy is applicable to civilian employees and states that sexual assault prevention policies and programs should equip servicemembers and civilian employees to engage in behaviors that prevent sexual assault, among other things.[133] The policy also directs prevention personnel at the installation level to identify risk and protective factors for targeted populations, including civilian employees, and to integrate research-based prevention policies and programs based on factors identified. However, while the policy identifies civilian employees as a target

[133]DOD Instruction 6400.09.

population for prevention efforts at the installation level and encourages the participation of civilians in prevention activities, it does not clearly detail DOD-wide sexual harassment or sexual assault prevention strategies specific to civilian employees. Further, SAPRO officials stated that their office does not engage in sexual assault response and prevention efforts specific to civilians or issue guidance that includes civilian-specific efforts because civilian employees—with the exception of those located outside of the continental United States—are outside the office's scope.

DOD has expressed a commitment to creating a culture where servicemembers, civilians, and their families are valued, and to promoting an environment of dignity and respect among all servicemembers and civilian employees.[134] DOD guidance states that the Under Secretary of Defense for Personnel and Readiness is responsible for establishing and overseeing DOD-wide harassment prevention and response policies and procedures for civilian employees.[135] U.S. Equal Employment Opportunity Commission guidance requires that employers establish and maintain a comprehensive anti-harassment policy and ensure it is communicated frequently to employees.[136] In addition, Centers for Disease Control and Prevention guidance on sexual violence prevention states that, among other things, prevention efforts should be relevant to the intended population.[137]

Without incorporating clearly detailed DOD-wide sexual harassment and sexual assault prevention efforts specific to DOD federal civilian employees in existing or additional strategic guidance, the department will continue to lack comprehensive prevention approaches that are relevant to the entire intended population. Further, DOD may miss opportunities to use available data, such as the DOD Civilian Employee Workplace and Gender Relations Report, to better target prevention efforts for relevance

[134]DOD, *Department of Defense Human Goals* (Apr. 28, 2014) and DOD, *Department of Defense Civilian Employee Workplace and Gender Relations Report Fiscal Year 2016* (December 2019).

[135]DOD Instruction 1020.04.

[136]U.S. Equal Employment Opportunity Commission, *MD-715 – PART G Agency Self-Assessment Checklist,* and U.S. Equal Employment Opportunity Commission, *Select Task Force on the Study of Harassment in the Workplace* (June 2016).

[137]Centers for Disease Control and Prevention, *Stop SV: A Technical Package to Prevent Sexual Violence* (2016).

to DOD civilian employees, and to reduce the prevalence of sexual harassment and work-related sexual assault across the department.

Conclusions

For nearly 2 decades, incidents of sexual harassment and sexual assault in the military have generated sustained congressional and media attention given that such incidents can have damaging effects on victims; create hostile environments; and harm readiness, retention, and morale. While DOD has taken considerable steps to address and prevent incidents of sexual harassment and 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.

The department faces challenges in three key areas: ensuring visibility over incidents of sexual harassment and sexual assault involving federal civilian employees, responding to and resolving such incidents once reported, and implementing training and other prevention efforts. While DOD has detailed guidance and reporting requirements for tracking incidents of sexual assault involving servicemembers, the guidance only captures a fraction of reported incidents involving the department's civilian workforce. Although DOD civilian employees may not choose to report work-related sexual assault to their employer, as evidenced by significantly higher estimated prevalence rates, DOD has limited its visibility over incidents of sexual assault that civilian employees have chosen to report. Moreover, DOD has taken steps to estimate and report on sexual harassment and assault prevalence among its civilian workforce, but unlike the prevalence reports for active-duty servicemembers and the reserve components, DOD has intentionally limited the distribution of this information, further hindering visibility across the department.

Additionally, while DOD has some policies and procedures in place to respond to and resolve incidents of sexual harassment and sexual assault involving federal civilian employees, gaps exist compared to the reporting options and support services available to servicemembers and their adult dependents. Although both servicemembers and civilian employees represent sizeable portions of the department's workforce, following a report of sexual assault, they will receive different levels of support as it relates to, among other things, reporting options, victim

advocacy, and legal services. While some DOD components have, at their discretion, chosen to expand the support that they provide to civilian employees following a report of a work-related sexual assault, without a consistent approach to reporting and support services, civilian employees receive inconsistent treatment across the department. Without resolving such inconsistencies, DOD will continue to face challenges in its ability to respond to and resolve incidents of sexual harassment and work-related sexual assault involving its civilian workforce.

Finally, while DOD has prevention efforts in place, including sexual harassment and sexual assault training, the provision of such training is inconsistent across the department. For example, although federal civilian employees are to receive sexual harassment training at varying frequencies, only the military services are required to provide sexual assault training to civilian employees. Other DOD components provide such training at their discretion. As a result, civilian employees may have varying levels of knowledge needed to prevent and respond to sexual harassment and work-related sexual assault. Further, DOD lacks comprehensive prevention strategies that are specific to the civilian workforce. While the department has issued prevention guidance to include sexual harassment and sexual assault across its total workforce, it does not clearly detail DOD-wide prevention efforts specific to civilian employees. Without additional guidance to help ensure that prevention strategies are relevant to its entire population, including civilian employees, DOD will continue to face challenges achieving its goal of fostering a climate that is free from harassment and assault.

Recommendations for Executive Action

We are making a total of 19 recommendations, including 18 to the Secretary of Defense, and one to the Secretary of the Navy.

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, takes steps to assure that as the department finalizes the development of the central repository for Equal Employment Opportunity data, the planned repository includes data for all DOD components and is updated frequently, such as on a quarterly basis. (Recommendation 1)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director

of the Office for Diversity, Equity, and Inclusion, expands guidance that specifies and defines uniform data elements that all DOD components should use when collecting and reporting on allegations of harassment made by DOD federal civilian employees outside of the Equal Employment Opportunity process, such as information about the parties involved, the type of harassment, and actions taken to respond to the allegation. (Recommendation 2)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, clarifies guidance regarding the requirement for the Secretaries of the military departments to maintain data on informal complaints of harassment, including the definition of an informal complaint for tracking purposes; how such data should be maintained, including by a headquarters-level organization; and which informal complaints should be reported to the Office for Diversity, Equity, and Inclusion on an annual basis. (Recommendation 3)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance for the military departments to comprehensively track information about reported work-related sexual assaults involving DOD federal civilian employee victims in the continental United States, regardless of eligibility for DOD-provided sexual assault support services, including the status and affiliation of the victim and alleged offender and actions taken by DOD in response, such as any referrals or support services provided. (Recommendation 4)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance that requires all DOD components, including agencies and field activities, to track reported work-related sexual assaults involving their federal civilian employees as victims or alleged offenders, including the specific data elements to be collected, such as status and affiliation of the victim and alleged offender and actions taken by DOD in response, and common definitions for those data elements. (Recommendation 5)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director

of the Sexual Assault Prevention and Response Office, issues guidance that directs Sexual Assault Response Coordinators to ensure that all DOD civilian employee victims of sexual assault are categorized in the Defense Sexual Assault Incident Database as both federal civilian employees and military dependents, if applicable, for work-related incidents of sexual assault. (Recommendation 6)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office, take steps to provide DOD-credentialed Sexual Assault Response Coordinators across the department, including coordinators assigned to an agency or field activity, access to record and review their components' reported work-related sexual assaults in the Defense Sexual Assault Incident Database. (Recommendation 7)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness takes steps to increase distribution of the biannual DOD Civilian Employee Workplace and Gender Relations reports to ensure that all relevant offices with a responsibility for sexual harassment and assault prevention and response have access to the complete results for use in informing program efforts. These steps could include providing copies of the biannual reports to the Equal Employment Opportunity and Sexual Assault Prevention and Response offices of all DOD components. (Recommendation 8)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, clarifies guidance specifying how DOD components' anti-harassment programs should be separated from the formal EEO process when the EEO office oversees the anti-harassment program. (Recommendation 9)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion and the Secretaries of the military departments, issues guidance that clearly defines which civilians under 10 U.S.C. § 1561 are eligible for command investigations of complaints alleging sexual harassment. (Recommendation 10)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Deputy

Assistant Secretary of Defense for Civilian Personnel Policy, establishes guidance requiring the establishment of Sexual Assault Prevention and Response programs for federal civilian employees of DOD components, including agencies and field activities, where they do not currently exist. For example, DOD may establish or designate a program for use by multiple DOD agencies or require each component to establish its own program based on common department-wide standards. (Recommendation 11)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments, reports to the congressional defense committees on the status of restricted reporting for DOD federal civilian employee victims of sexual assault. This should include, but not be limited to, the history of restricted reporting for DOD federal civilian employees by military department, the anticipated benefits and challenges of extending restricted reporting to DOD federal civilian employees, and requests for congressional actions, if any, that are considered appropriate and necessary to extend restricted reporting to DOD federal civilian employees who are otherwise eligible to file unrestricted reports of sexual assault. (Recommendation 12)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Deputy Assistant Secretary of Defense for Civilian Personnel Policy, conducts an analysis to determine the feasibility, benefits, and challenges of expanding eligibility for filing unrestricted reports and providing sexual assault support services to all DOD federal civilian employees within the continental United States and reports to Congress on the findings of this analysis. (Recommendation 13)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and Deputy Assistant Secretary of Defense for Civilian Personnel Policy, clarifies guidance regarding notification responsibilities of SAPR personnel, if any, when a DOD federal civilian employee who is either not eligible or does not file a restricted or unrestricted report discloses work-related sexual assault. (Recommendation 14)

The Secretary of the Navy should clarify guidance regarding the responsibilities, if any, of Sexual Assault Prevention and Response personnel in notifying military criminal investigative organizations of unrestricted reports of sexual assault in accordance with Department of Defense Instruction 6495.02 to ensure immediacy of these reports. (Recommendation 15)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Office for Diversity, Equity, and Inclusion, issues additional guidance to clearly specify minimum frequency and required content for mandatory sexual harassment training for DOD federal civilian employees in line with leading practices. (Recommendation 16)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance for all DOD components to provide training on sexual assault prevention and response to all DOD federal civilian employees and military leaders who supervise federal civilian employees. The guidance should include, but not be limited to, the minimum frequency for such training and required content, in line with leading practices identified by subject-matter experts, such as those identified by GAO or those currently required in Sexual Assault Prevention and Response training for servicemembers, appropriately adapted for the civilian workforce. (Recommendation 17)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Office for Diversity, Equity, and Inclusion, incorporates clearly detailed DOD-wide sexual harassment prevention efforts specific to DOD federal civilian employees in existing or additional strategic guidance. (Recommendation 18)

The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, incorporates clearly detailed DOD-wide sexual assault prevention efforts

specific to DOD federal civilian employees in existing or additional strategic guidance. (Recommendation 19)

Agency Comments and Our Evaluation

We provided a draft of this report to DOD for review and comment. In its written comments, DOD generally concurred with the recommendations and stated that it was currently taking steps to address them. DOD concurred with 17 recommendations and concurred with two recommendations while providing qualifying comments as discussed below. DOD also provided technical comments, which we incorporated as appropriate. DOD's written comments are summarized below and reprinted in their entirety in appendix VII.

DOD concurred with and provided comments on recommendation 12—to report to the congressional defense committees on the status of restricted reporting for DOD federal civilian employee victims of sexual assault, including, among other things, any appropriate and necessary requests for congressional action. In its written comments, DOD stated that it concurred with providing reports, if requested. We believe that DOD should report to Congress on this matter regardless of whether it receives such a request from Congress to do so, given DOD's position that a legislative and not a policy change is required to extend restricted reporting to DOD civilian employees. In addition, DOD stated that it did not concur with providing requests for congressional action outside of the executive branch process administered by the Office of Management and Budget. Our recommendation does not prescribe how such requests should be made, only that they could be noted in the report to Congress. The Office of Management and Budget is responsible for clearance and coordination of executive branch agency communications with Congress, among other things. We continue to believe that this recommendation is valid.

DOD also concurred with and commented on recommendation 13—to conduct an analysis to determine the feasibility, benefits, and challenges of expanding eligibility for filing unrestricted reports and providing sexual assault support services to all DOD federal civilian employees within the continental United States and report to Congress on the findings of the analysis. In its written comments, DOD stated that it concurred with conducting a feasibility determination and cost-benefit analysis and that it concurred with providing reports to Congress, if requested. As the entity responsible for administering and identifying gaps in these programs, we believe that it is incumbent upon DOD to report to Congress on this matter regardless of whether it receives such a request from Congress to do so, particularly given potential changes to civilian reporting options that

require congressional action, as previously discussed. As such, we continue to believe that the recommendation is valid.

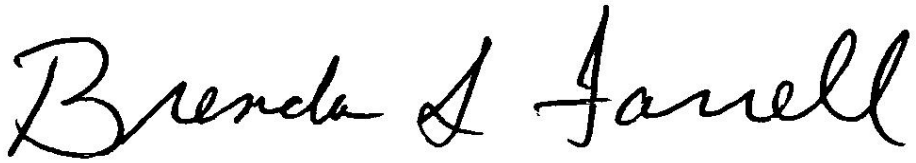
In its written comments, DOD also objected to the disclosure of privileged information related to the legal concerns posed by a policy to permit civilians to make restricted reports of sexual assault to the employing agency. Its comments are in reference to the report section that discusses the inconsistency of sexual assault reporting options for civilian employees across DOD. Specifically, the concerns centered around the discussion of the potential conflict of extending restricted reporting to civilian employees with Title VII and 10 U.S.C. § 1561 reporting requirements, should an employer or commander become aware of an allegation of sexual assault. In technical comments that accompanied DOD's written comments on our draft report, DOD provided a proposed remedy to these concerns, including the removal of language they deemed to be privileged information, which we have incorporated. We confirmed with DOD officials that the removal of this language satisfied their concerns and that no potentially privileged information is included in the report. DOD had not previously identified this information as privileged information. Our inclusion of the discussion of restricted reporting in the report and the associated recommendation 12 are intended to facilitate a discussion about the matter between DOD and Congress.

DOD also stated that it encourages a discussion of the competing public policy concerns posed by such a policy on restricted reporting, which it stated the report fails to address. As discussed in the report, DOD has not taken action on the Army's and the Air Force's exception to policy requests—to extend restricted reporting to DOD civilian employees—due, in part, to legal concerns. According to DOD officials, the department cannot make such a change through DOD policy and it has not discussed the matter with Congress. DOD did not provide any additional information regarding efforts to address the exception to policy requests or a proposed path forward during the course of our review or in its technical comments on the draft report. As such, the report fully reflects any department efforts in this area that were shared with us during our review.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Acting Secretary of the Army, the Acting Secretary of the Navy, the Acting Secretary of the Air Force, the Commandant of the Marine Corps, and the Directors of the Defense Commissary Agency, the Defense Contract Audit Agency, the Defense Intelligence Agency, and the Defense Logistics Agency. In addition, this

report is available at no charge on the GAO website at http://www.gao.gov.

If you or members of your staff have any questions regarding this report, please contact me 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 report. GAO staff who made significant contributions to this report are listed in appendix VIII.



Brenda S. Farrell
Director, Defense Capabilities and Management

List of Committees

The Honorable Jack Reed
Chairman
Ranking Member
Committee on Armed Services
United States Senate

Chair
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Adam Smith
Chairman
The Honorable Mike Rogers
Ranking Member
Committee on Armed Services
House of Representatives

Chair
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

Appendix I: Scope and Methodology

The U.S. Equal Employment Opportunity Commission and the Department of Defense (DOD) define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. This conduct constitutes unlawful sexual harassment when it is so severe or pervasive that it creates a hostile or offensive work environment or when it results in an adverse employment decision. DOD defines sexual assault as intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent; this includes a broad category of sexual offenses, including rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses.[1]

Our review included DOD federal civilian employees—both appropriated and non-appropriated fund civilian employees—as victims or alleged offenders of sexual harassment or sexual assault.[2] Federal contractors were not included in this review because, according to DOD officials, the response to sexual harassment and sexual assault incidents involving federal contractors depends, in part, on the contracting company and the terms of the federal contractor's employment.

In addition, our review included the Army, the Navy, the Marine Corps, and the Air Force as well as a nongeneralizable sample of four DOD agencies: the Defense Commissary Agency, the Defense Contract Audit Agency, the Defense Intelligence Agency, and the Defense Logistics

[1]We use the terms victim and alleged offender when referring to individuals who assert direct harm as the result of and who are allegedly responsible for incidents of sexual assault as these are the predominant terms used in Department of Defense (DOD) guidance on sexual assault. DOD Directive 6495.01, *Sexual Assault Prevention and Response (SAPR) Program* (Jan. 23, 2012) (incorporating change 4, effective Sept. 11, 2020).

[2]We did not include incidents of domestic sexual abuse in this report since those incidents are addressed by the Family Advocacy Program. We have a separate review focused on DOD domestic abuse that will be issued later this year.

Agency.[3] We selected these four DOD agencies based on workforce size, number of formal Equal Employment Opportunity (EEO) sexual harassment complaints filed in fiscal year 2018, and agency mission.[4] Specifically, we selected agencies that represented a mix of small, medium, and large workforces; low, medium, and high volumes of EEO sexual harassment complaints; and a diverse range of missions, such as military intelligence, servicemember benefits, and combat logistics support. Because we did not select DOD agencies using a statistically representative sampling method, the four DOD agencies are nongeneralizable and therefore their sexual harassment and sexual assault prevention efforts and response procedures for DOD federal civilian employees cannot be projected across DOD agencies. While the information obtained was not generalizable, it provided examples of the extent to which DOD agencies' sexual harassment and sexual assault prevention efforts and response procedures for DOD civilian employees may vary across the department.

Methods Used to Assess Visibility over Reported Incidents

To assess the extent to which DOD has visibility over reports of sexual harassment and sexual assault incidents involving DOD federal civilian employees, we analyzed four types of data from multiple sources for fiscal years 2015 through 2019: (1) EEO sexual harassment complaint data from the military services and four selected DOD agencies, (2) Military Equal Opportunity (MEO) sexual harassment complaint data from the military services, (3) Sexual Assault Prevention and Response Office (SAPRO) and Defense Logistics Agency data on reported sexual assaults involving DOD civilian employees, and (4) sexual assault investigation data from the military criminal investigative organizations—the Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations. We selected this timeframe to describe trends over 5 years, and fiscal year 2019 was

[3]On December 20, 2019, the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, established the United States Space Force as a military service within DOD. Since we did not gather data from the Space Force given its status as a new organization, throughout this report we refer to only four military services (the Army, the Navy, the Air Force and the Marine Corps) within DOD.

[4]Fiscal year 2018 was the most recent year for which Equal Employment Opportunity (EEO) formal sexual harassment complaint data were publicly available for all DOD components.

the most recent year for which complete data were available at the time of our review.

EEO sexual harassment data. First, we analyzed EEO data on pre-complaints and formal complaints of sexual harassment filed by DOD federal civilian employees from the Army, the Navy, the Marine Corps, the Air Force, and the four selected agencies for fiscal years 2015 through 2019. Because each DOD component is responsible for maintaining its own EEO data, according to DOD officials, we obtained and analyzed EEO data for the military services and DOD agencies included in our review and not the department as a whole.[5] Specifically, we analyzed the data to determine the number of EEO pre-complaints and formal complaints of sexual harassment filed by DOD federal civilian employees at each service and agency over 5 fiscal years. We also analyzed the data to identify key characteristics of the EEO pre-complaints and formal complaints, such as the gender of complainants, disposition of informal complaints, and types of corrective action taken in response to formal complaints. To assess the reliability of the military services' and agencies' EEO data, we assessed the data for errors, omissions, and inconsistencies, and interviewed officials. We determined that the data were sufficiently reliable to describe trends in and characteristics of EEO pre-complaints and formal complaints of sexual harassment from fiscal years 2015 through 2019 for the military services and select DOD agencies.[6]

MEO sexual harassment data. Second, we analyzed MEO data on informal and formal complaints of sexual harassment involving DOD federal civilian employees as complainants or alleged offenders from the military services for fiscal years 2015 through 2019.[7] Specifically, we

[5]DOD defines its components as the Office of the Secretary of Defense, the military departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the combatant commands, the DOD Inspector General, the defense agencies, the DOD field activities, and all other organizational entities within DOD.

[6]According to Air Force officials, Air Force EEO data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

[7]The Marine Corps provided Military Equal Opportunity (MEO) data for fiscal years 2016 through 2019 only, due to Marine Corps officials' concerns about the reliability and comparability of the data for fiscal year 2015. In addition, according to a Navy official, the Navy only maintains comprehensive data on formal MEO complaints of sexual harassment so the Navy was unable to provide data on informal MEO complaints of sexual harassment.

analyzed the data to identify trends in the number of informal and formal complaints of sexual harassment addressed through the MEO process over 5 fiscal years. We also analyzed the MEO data to identify key characteristics of the sexual harassment complaints, such as the type of harassment alleged, complainant status, and the relationship between the complainant and the alleged offender. To assess the reliability of the military services' MEO sexual harassment complaint data, we assessed the data for errors, omissions, and inconsistencies, and interviewed officials. We determined that the data were sufficiently reliable to describe trends in and characteristics of MEO informal and formal sexual harassment complaints from fiscal years 2015 through 2019 for the Army, the Navy, and the Air Force and from fiscal years 2016 through 2019 for the Marine Corps.[8]

Reported sexual assault data. Third, we analyzed SAPRO data from the Defense Sexual Assault Incident Database (DSAID) on reported sexual assaults involving DOD federal civilian employees as victims or alleged offenders from fiscal years 2015 through 2019. Specifically, we analyzed the data to determine the number of closed incidents of sexual assault that were reported during this time period as well as the number of victims and alleged offenders that were DOD federal civilian employees. We also analyzed the data to identify key characteristics of the reported sexual assault incidents, such as the employer of the DOD federal civilian employee victims, the type of report (unrestricted or restricted), and whether DOD federal civilian employee victims were also military dependents. To assess the reliability of SAPRO's reported sexual assault data, we assessed the data for errors, omissions, and inconsistencies, reviewed related documentation, and interviewed officials. We determined that the data were sufficiently reliable to describe the number of reported sexual assaults from fiscal years 2015 through 2019 as well as characteristics of those reports.

Additionally, we analyzed Defense Logistics Agency data on reported sexual assaults involving DOD federal civilian employees as victims or alleged offenders from fiscal years 2016 through 2019 since these data

[8]According to Air Force officials, Air Force MEO data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

are not maintained in DSAID.[9] Specifically, we analyzed the data to determine the number of victims associated with closed incidents of sexual assault that were recorded by the Defense Logistics Agency during this time period. To assess the reliability of the Defense Logistics Agency's data, we assessed the data for errors, omissions, and inconsistencies, and interviewed officials. We determined that the data were sufficiently reliable to describe the number of reported sexual assaults recorded by the Defense Logistics Agency from fiscal years 2016 through 2019.

Military criminal investigative organization sexual assault data. Fourth, we analyzed data from the military criminal investigative organizations for all sexual assault investigations involving DOD federal civilian employees as victims or alleged offenders from fiscal years 2015 through 2019. Specifically, we compared the data to SAPRO data on reported sexual assaults involving DOD civilian employees for the same time period to determine the extent to which reported sexual assaults were tracked by the military criminal investigative organizations, but not SAPRO. In addition, we analyzed the investigation data to identify trends in the number and types of sexual assault investigations involving DOD federal civilian employees over 5 fiscal years and to identify key characteristics of the investigations, such as the status of victims and alleged offenders, the relationship between the victim and alleged offender, and the number of incidents occurring within the continental United States and outside the continental United States. To assess the reliability of the military criminal investigative organizations' sexual assault investigation data, we assessed the data for errors, omissions, and inconsistencies, reviewed prior testing of the data from these systems, and interviewed officials. We determined that the data were sufficiently reliable to compare them to SAPRO data and to describe trends in and characteristics of sexual assault investigations involving DOD federal civilian employees from fiscal years 2015 through 2019.

[9]The Defense Logistics Agency provided reported sexual assault data involving DOD civilian employees for fiscal years 2016 through 2019 because, according to agency officials, its Sexual Assault Prevention and Response (SAPR) program was established partway through fiscal year 2016 and, as a result, data were not available for fiscal year 2015. As discussed in the report, according to agency officials, the Defense Intelligence Agency also tracks some data on reported sexual assaults involving DOD civilian employees that are not maintained in the Defense Sexual Assault Incident Database (DSAID). However, due to the Coronavirus Disease 2019 (COVID-19) pandemic, the Defense Intelligence Agency could not provide us with these data. According to agency officials, the Defense Commissary Agency and the Defense Contract Audit Agency do not track data on work-related sexual assaults.

Tracking reported incidents of sexual harassment and sexual assault. Further, we interviewed relevant DOD and service officials at the headquarters level and at a nongeneralizable sample of five military installations in the United States to identify how DOD tracks reported incidents of sexual harassment and sexual assault involving DOD federal civilian employees. For interviews, we selected at least one installation per service as well as one joint installation and selected locations based on the number of DOD federal civilian employees, reported DOD federal civilian employee victims of sexual assault from fiscal years 2015 through 2019, and EEO sexual harassment complaints filed from fiscal years 2015 through 2019, as well as other factors.[10] Specifically, we selected installations that had at least 1,000 DOD civilian employees and that represented a range of small, medium, and large civilian workforces. In addition, we selected installations that over those 5 fiscal years had a mix of low, medium, and high numbers of reported DOD civilian employee victims of sexual assault and EEO sexual harassment complaints. Other selection factors included a mix of types of legislative jurisdiction (such as federal exclusive and concurrent jurisdiction), installations with at least one of the four selected DOD agencies included in our review, and a mix of geographic locations in the United States.

Because we did not select locations using a statistically representative sampling method, the comments provided during our interviews with installation officials are nongeneralizable and therefore cannot be projected across DOD, a service or agency, or any other installations. While the information obtained was not generalizable, it provided perspectives from installation officials that have assisted with the response to reported incidents of sexual harassment and sexual assault as well as related prevention efforts. We determined that the control activities, information and communication, and monitoring components of internal control were relevant to this objective.[11] Specifically, we identified the underlying principles that management should design control activities to achieve objectives and respond to risks; use quality information, and internally communicate it, to achieve the entity's objectives; and establish and operate monitoring activities and evaluate the results as relevant to this objective. We assessed DOD program data and our headquarters-

[10]We conducted virtual visits to Redstone Arsenal, AL and Joint Base Lewis-McChord, WA (Army), Naval Station Norfolk, VA (Navy), Hill Air Force Base, UT (Air Force), and Marine Corps Air Station Cherry Point, NC (Marine Corps).

[11]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014)

level interviews, as described previously, to determine whether the department met these principles. We also compared information from our data analyses and headquarters-level interviews to DOD guidance and Centers for Disease Control and Prevention guidance.[12]

Methods Used to Assess Development and Implementation of Policies and Procedures to Respond to and Resolve Incidents

To assess the extent to which DOD has developed and implemented policies and procedures to respond to and resolve sexual harassment and sexual assault incidents involving DOD federal civilian employees, we reviewed relevant DOD, service, and agency policies and guidance on sexual harassment and sexual assault involving DOD federal civilian employees. We also conducted work at the five installations previously discussed. At the installations we interviewed EEO personnel, MEO personnel, SAPR personnel, medical and mental health personnel, military criminal investigators, legal personnel, Special Assistant United States Attorneys, human resources personnel, and commanders about how they prevent, track, respond to, and resolve these incidents. We also interviewed personnel from community-based crisis centers located near each installation about the support services they provide to DOD federal civilian personnel.

Data related to support services for civilian employees. To determine the extent to which DOD federal civilian employees receive referrals from the military for both military- and community-provided support services following a reported sexual assault, we analyzed SAPRO data on such referrals from fiscal years 2015 through 2019. We also analyzed SAPRO data on the number of DOD federal civilian employees that were offered or received a military-provided sexual assault medical forensic examination for the same time period. To assess the reliability of SAPRO's data, we assessed the data for errors, omissions, and inconsistencies; reviewed related documentation; and interviewed officials. We determined that the data were sufficiently reliable to describe

[12]DOD Instruction 1020.03, *Harassment Prevention and Response in the Armed Forces* (Feb. 8, 2018) (incorporating change 1, effective Dec. 29, 2020); DOD Instruction 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures* (Mar. 28, 2013) (incorporating change 4, effective Sept. 11, 2020); DOD Directive 6495.01; and Centers for Disease Control and Prevention, *Sexual Violence Prevention: Beginning the Dialogue* (2004).

trends in sexual assault support service referrals across the military services from fiscal years 2015 through 2019.

In addition, we analyzed reported data from the Army, the Navy, and the Marine Corps on Special Victims' Counsel (SVC)/Victims' Legal Counsel (VLC) services provided to DOD civilian employees for the same time period.[13] To assess the reliability of the three military services' SVC/VLC data, we interviewed officials. We determined that the data were sufficiently reliable to describe SVC and VLC services provided to DOD federal civilian employees by the three services from fiscal years 2015 through 2019. Further, to determine the staffing levels associated with military-provided sexual assault support services, we analyzed relevant staffing level data from fiscal years 2015 through 2019. Specifically, we analyzed reported data from the military services on Sexual Assault Prevention and Response (SAPR) program and SVC/VLC staffing levels, and reported data from the Defense Health Agency on sexual assault medical forensic examiner staffing levels.

We determined that the control activities, information and communication, and monitoring components of internal control were relevant to this objective.[14] Specifically, we identified the underlying principles that management should document in policies for each unit its responsibility for an operational process's objectives and related risks; periodically review policies, procedures, and related control activities for continued relevance and effectiveness; use quality information, and internally communicate it, to achieve the entity's objectives; and perform ongoing monitoring of the effectiveness of the internal control system as relevant to this objective. We assessed DOD's policies and procedures for responding to and resolving sexual harassment and sexual assault and information from our headquarters-level interviews, as described previously, to determine whether the department met these principles. We also compared information from our review of policy, headquarters-level

[13]As discussed in the report, according to Air Force officials, the Air Force tracks the total number of individuals who have received Special Victims' Counsel (SVC) services, but it cannot determine from the data how many of those individuals specifically were DOD civilian employees.

[14]GAO-14-704G.

interviews, and our data analyses to federal statute, U.S. Equal Employment Opportunity Commission guidance, and DOD guidance. [15]

Methods Used to Assess Establishment of Sexual Harassment and Sexual Assault Training

To assess the extent to which DOD has established sexual harassment and sexual assault training for federal civilian employees with relevant content, among other prevention efforts, we identified leading practices for sexual harassment and sexual assault training. We then evaluated the mandatory sexual harassment and sexual assault training materials for the military services and DOD agencies in our review against those leading practices as well as DOD training requirements.

GAO-identified leading practices for sexual harassment training. Specifically, to identify leading practices for sexual harassment training, we identified and reviewed relevant reports and studies, and consulted with internal and external subject-matter experts—including sexual violence experts from the Centers for Disease Control and Prevention and the Rape, Abuse & Incest National Network—and sexual harassment experts from the U.S. Equal Employment Opportunity Commission. We further reviewed additional resources provided by these subject matter experts and conducted an analysis to identify areas of overlap across the leading practices identified. We then validated the identified leading practices with internal and external subject-matter experts. Specifically, we shared the identified leading practices with the subject-matter experts, including DOD's Office for Diversity, Equity, and Inclusion (ODEI) and the U.S. Equal Employment Opportunity Commission, and incorporated their comments as appropriate. This resulted in 13 leading practices for sexual harassment training content. Through a review of DOD guidance and consultation with DOD officials, we also identified two DOD requirements for sexual harassment training content.

GAO-identified leading practices for sexual assault training. To identify leading practices for sexual assault training, we conducted

[15]10 U.S.C. § 1561; 10 U.S.C. § 1044e, U.S. Equal Employment Opportunity Commission, *Model EEO Programs Must Have An Effective Anti-Harassment Program*, https://www.eeoc.gov/federal-sector/model-eeo-programs-must-have-effective-anti-harassment-program (Accessed Aug. 14, 2020); and DOD Instruction 6495.02.

background research and consulted with external subject-matter experts, including sexual violence experts from the Centers for Disease Control and Prevention, Futures Without Violence/Workplaces Respond, the National Sexual Violence Resource Center, and the Rape, Abuse & Incest National Network. The Rape, Abuse & Incest National Network developed a list of leading practices for sexual misconduct awareness and response training, which organization officials stated could be applied to training specific to sexual assault.[16] The leading practices included practices specific to trainer qualifications, delivery approach, and content. We validated the identified leading practices relevant to sexual assault training content with internal and external subject-matter experts, including SAPRO, the Defense Civilian Personnel Advisory Service, and the Rape, Abuse & Incest National Network, and incorporated their comments as appropriate. This resulted in 10 leading practices for sexual assault training content. Through a review of DOD guidance and consultation with DOD officials, we also identified 13 requirements for the content of sexual assault training provided to servicemembers and DOD federal civilian employees who supervise servicemembers. While there are no DOD requirements for the content of sexual assault training provided to DOD federal civilian employees who do not supervise servicemembers, we included the requirements for servicemembers and civilian supervisors in our review to assess how the content of the training provided to servicemembers may differ from what is provided to civilian employees.

Evaluation of training materials. To evaluate the mandatory sexual harassment and sexual assault training materials for DOD federal civilian employees for the military services and DOD agencies included in our review, as applicable, two analysts independently reviewed the training materials and compared them to the identified leading practices and DOD

[16]The Rape, Abuse & Incest National Network defines sexual misconduct as an all-encompassing, non-legal term that describes a range of behavior that may or may not be criminal. Sexual misconduct references the entire spectrum of sexually inappropriate behavior, which includes inappropriate jokes, inappropriate touches, sexual harassment, sexual assault, and rape.

requirements.[17] For each set of training materials, both analysts separately recorded their determination as to whether the materials (a) included, (b) partially included, or (c) did not include each leading practice and DOD requirement. Specifically, a practice or requirement was determined to be "included" if all facets of the practice were included in the training materials, and was determined to be "partially included" if some, but not all, facets were included. For records where the two analysts did not initially agree on a determination, they met and discussed the training materials and reached a final determination. We then compared the number of leading practices and DOD requirements that were included, partially included, and not included for each military service and DOD agency in our review.

Other sexual harassment and sexual assault prevention efforts. Further, we interviewed DOD, service, and agency officials about other prevention efforts for the civilian workforce, such as annual awareness events, strategies, and policies. We also conducted work at the previously discussed five installations in the United States where we interviewed installation EEO, MEO, and SAPR officials about installation-specific sexual harassment and sexual assault prevention efforts. Moreover, we interviewed officials from nongovernmental sexual violence prevention organizations about leading practices for sexual harassment and sexual assault training and prevention efforts. We determined that the information and communication component of internal control was relevant to this objective, along with the underlying principle that management should internally communicate the necessary quality information to achieve the entity's objectives.[18] We evaluated this standard by comparing the DOD components' training materials and prevention efforts to information contained in DOD guidance. We also compared information from our analyses and headquarters-level interviews to DOD guidance, Equal Employment Opportunity Commission

[17]We evaluated sexual harassment training materials for each of the military services and four nongeneralizable agencies in our review. We evaluated sexual assault training materials for the Army, the Department of the Navy (including the Marine Corps), the Air Force, and the Defense Logistics Agency. As discussed in the report, the Defense Commissary Agency and the Defense Contract Audit Agency do not provide mandatory sexual assault training to their employees. The Defense Intelligence Agency does provide mandatory sexual assault training to its employees, but due to the COVID-19 pandemic, officials were unable to provide us with their training materials.

[18]GAO-14-704G.

guidance, and Centers for Disease Control and Prevention guidance related to sexual violence prevention.[19]

Tables 6 and 7 present the DOD and non-DOD organizations we contacted during our review to address our three objectives.

[19]DOD Instruction 1400.25, Volume 410, *DOD Civilian Personnel Management System: Training, Education, and Professional Development* (Sept. 25, 2013); DOD Directive 1440.1, *The DOD Civilian Equal Employment Opportunity (EEO) Program* (May 21, 1987) (Certified Current as of Nov. 21, 2003); DOD Instruction 6495.02; U.S. Equal Employment Opportunity Commission, *Select Task Force on the Study of Harassment in the Workplace* (June 2016); and Centers for Disease Control and Prevention, *Stop SV: A Technical Package to Prevent Sexual Violence* (2016).

Table 6: DOD Organizations Contacted by GAO

Organization	Offices and Installations Contacted
Department of Defense (DOD)	• Defense Civilian Personnel Advisory Service, Virginia • Defense Commissary Agency, Fort Lee, Virginia • Defense Contract Audit Agency, Fort Belvoir, Virginia • Defense Equal Opportunity Management Institute, Patrick Air Force Base, Florida • Defense Health Agency, Virginia • Defense Intelligence Agency, Joint Base Anacostia-Bolling, Washington, D.C. • Defense Logistics Agency, Fort Belvoir, Virginia • Defense Sexual Assault Prevention and Response Office, Virginia • DOD Office of General Counsel, Washington, D.C. • Investigations and Resolutions Directorate, Virginia • Office for Diversity, Equity, and Inclusion, Washington, D.C. • Office of People Analytics, Virginia • Pentagon Force Protection Agency, Washington, D.C.
Department of the Army	• Army Criminal Investigation Command, Marine Corps Base Quantico. Virginia • Equity and Inclusion Agency, Fort Belvoir, Virginia • Joint Base Lewis-McChord, Washington • Redstone Arsenal, Alabama • Sexual Harassment/Assault Response and Prevention, Army Resilience Directorate, Virginia • U.S. Army Installation Management Command, Joint Base San Antonio-Fort Sam Houston, Texas • U.S. Army Office of the Judge Advocate General, Washington, D.C.
Department of the Navy	• Military Equal Opportunity, 21st Century Sailor Office, Tennessee • Naval Criminal Investigative Service, Marine Corps Base Quantico, Virginia • Naval Station Norfolk, Virginia • Office of Civilian Human Resources, Washington, D.C. • Office of the Judge Advocate General, Washington, D.C. • Sexual Assault Prevention and Response Office, Washington, D.C. • Sexual Assault Prevention and Response, 21st Century Sailor Office, Virginia
United States Marine Corps	• Equal Employment Opportunity, Marine Corps Base Quantico, Virginia • Marine Corps Air Station Cherry Point, North Carolina • Marine Corps Employee Benefits Program, Marine Corps Community Services, Marine Corps Base Quantico, Virginia • Military Justice Branch, Judge Advocate Division, Washington, D.C. • Sexual Assault Prevention and Response, Marine and Family Programs Division, Marine Corps Base Quantico, Virginia

Organization	Offices and Installations Contacted
Department of the Air Force	• Air Force Equal Opportunity, Washington, D.C. • Air Force Legal Operations Agency, Joint Base Andrews, Maryland • Air Force Office of Special Investigations, Marine Corps Base Quantico, Virginia • Employee Assistance Program, Wright-Patterson Air Force Base, Ohio • Hill Air Force Base, Utah • Office of the Judge Advocate General, Washington, D.C. • Sexual Assault Prevention and Response, Air Force Resilience, Washington, D.C.

Source: GAO. | GAO-21-113

Table 7: Non-DOD Organizations Contacted by GAO

Category	Organization
Department of Justice	• Criminal Division, Washington, D.C. • Executive Office for United States Attorneys, Washington, D.C. • Federal Bureau of Investigation, Washington, D.C.
Department of Health and Human Services	• Centers for Disease Control and Prevention, Georgia
U.S. Equal Employment Opportunity Commission	• Office of Federal Operations, Washington, D.C. • Office of Field Programs, Washington, D.C.
Nongovernmental organizations	• Crisis Services of North Alabama, Alabama • Futures Without Violence/Workplaces Respond, Washington, D.C. • National Sexual Violence Resource Center, Pennsylvania • Norfolk Family Justice Center/YWCA South Hampton Roads, Virginia • Promise Place, North Carolina • Rape, Abuse & Incest National Network, Washington, D.C. • Rebuilding Hope, the Sexual Assault Center of Pierce County, Washington • Safe Harbor Crisis Center, Utah • Your Community Connection, Utah

Source: GAO. | GAO-21-113

We conducted this performance audit from January 2020 to February 2021 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.

Appendix II: Characteristics of Equal Employment Opportunity Complaints, Fiscal Years 2015-2019

Each Department of Defense (DOD) component is responsible for maintaining its own data on Equal Employment Opportunity (EEO) pre-complaints and formal complaints, including those alleging sexual harassment, according to Office for Diversity, Equity, and Inclusion (ODEI) officials.[1] Because each DOD component is responsible for maintaining its own EEO data, we obtained and analyzed EEO data for the military services and four selected DOD agencies included in our review—the Defense Commissary Agency, the Defense Contract Audit Agency, the Defense Intelligence Agency, and the Defense Logistics Agency. The following describes key characteristics of EEO pre-complaints and formal complaints recorded by the military services and selected DOD agencies from fiscal years 2015 through 2019.

DOD components track some information about the complainant, such as the complainant's gender. Table 8 shows the number of pre-complaints and formal complaints by complainant gender from fiscal years 2015 through 2019 for the selected DOD components.

Table 8: Number of Equal Employment Opportunity Sexual Harassment Complaints for Selected Department of Defense Components, by Complainant's Gender, Fiscal Years 2015-2019

	Army	Navy	Marine Corps	Air Force[a]	Defense Commissary Agency[b]	Defense Contract Audit Agency	Defense Intelligence Agency	Defense Logistics Agency
Female	301	161	78	84	—	6	16	47
Male	96	38	12	30	—	7	*	11

[1]DOD defines its components as the Office of the Secretary of Defense, the military departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the combatant commands, the DOD Inspector General, the defense agencies, the DOD field activities, and all other organizational entities within DOD. According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

	Army	Navy	Marine Corps	Air Force[a]	Defense Commissary Agency[b]	Defense Contract Audit Agency	Defense Intelligence Agency	Defense Logistics Agency
Other	*	*	*	*	—	*	*	*
Missing/unknown	71	184	16	137	—	*	*	27

Source: GAO analysis of military service and select Department of Defense agency Equal Employment Opportunity data. I GAO-21-113

Note: An asterisk (*) denotes that there were fewer than five complaints for that category in a given fiscal year.

[a]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

[b]Defense Commissary Agency officials did not include complainant gender in the data they provided.

During the pre-complaint counseling phase, complainants may choose to withdraw or settle their pre-complaint. If the complainant chooses to do neither, the relevant DOD component will provide the complainant with a Notice of Right to File a Formal Complaint. Table 9 shows the disposition of informal complaints, by DOD component and from fiscal years 2015 through 2019, where the complainant did not file a formal complaint within 15 days.

Table 9: Number of Closed Equal Employment Opportunity Sexual Harassment Pre-complaints for Selected Department of Defense Components, by Disposition, Fiscal Years 2015-2019

	Army	Navy	Marine Corps	Air Force[a]	Defense Commissary Agency[b]	Defense Contract Audit Agency	Defense Intelligence Agency	Defense Logistics Agency
Closed/other	*	67	23	9	—	*	*	*
Notice of Right to File Formal Complaint	144	59	11	39	—	*	8	33
Settlement	42	34	10	20	*	*	*	14
Withdrawn[c]	*	57	21	77	9	*	*	13

Source: GAO analysis of military service and select Department of Defense agency Equal Employment Opportunity data. I GAO-21-113

Note: An asterisk (*) denotes that there were fewer than five pre-complaints for that category in a given fiscal year.

[a]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

[b]It is unclear from the Defense Commissary Agency data whether the remaining informal complaints were closed or whether the complainants were provided a Notice of Right to File a Formal Complaint.

[c]According to Army officials, when a complainant withdraws from the pre-complaint process, the Army provides the complainant with a Notice of Right to File a Formal Complaint of Discrimination.

The DOD components can take different types of corrective action in response to a pre-complaint or formal complaint of sexual harassment. For example, the service or agency may pay the complainant a monetary

amount for attorney's fees, compensatory damages, and back pay, among other things. A service or agency may also take non-monetary corrective action, such as restoring the complainant's leave, reassigning or transferring a complainant, or issuing a non-monetary award, among other things.[2] Table 10 shows the number of closed formal EEO complaints of sexual harassment by the type of corrective action taken, if any, for selected DOD components from fiscal years 2015 through 2019.

Table 10: Number of Closed Equal Employment Opportunity Sexual Harassment Formal Complaints for Selected Department of Defense Components, by Corrective Action Type, Fiscal Years 2015-2019

	Army	Navy	Marine Corps	Air Force[a]	Defense Commissary Agency	Defense Contract Audit Agency	Defense Intelligence Agency	Defense Logistics Agency
Monetary	61	16	*	9	10	*	*	*
Non-monetary	34	16	*	8	*	*	*	*
Mixed (monetary and non-monetary)	*	*	*	*	*	*	*	6
None/unknown	82	47	13	89	19	*	6	11

Source: GAO analysis of military service and select Department of Defense agency Equal Employment Opportunity data. I GAO-21-113

Note: An asterisk (*) denotes that there were fewer than five formal complaints for that category in a given fiscal year.

[a]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

[2]According to Army officials, a complainant must request or agree to a reassignment or transfer as a non-monetary corrective action, or it could put the agency at significant risk of a finding of reprisal; these officials stated that agencies can involuntarily reassign or transfer the management official at issue as part of a disciplinary action resulting from an agency determination of management official culpability.

Appendix III: Sexual Assault Support Service Staffing Levels, Fiscal Years 2015-2019

The Department of Defense (DOD) maintains data on the staffing levels of the sexual assault support services available to servicemembers, dependents, and DOD federal civilian employees. The following are staffing levels for fiscal years 2015 through 2019 for Sexual Assault Prevention and Response (SAPR) personnel, Sexual Assault Medical Forensic Examiners, and Special Victims' Counsels (SVC)/Victims' Legal Counsels (VLC) (see tables 12-14). As discussed in this report, these services may not be available to all DOD federal civilian employees. Table 11 shows the total number of active-duty servicemembers and federal civilian personnel who may be served by these support services depending on their eligibility, as discussed in this report.

Table 11: Number of Personnel Permanently Assigned as of June 30, 2020, by Military Service or DOD Agencies

Service	Active-Duty Servicemembers		Appropriated Fund Civilians	
	Overseas	Total	Overseas	Total
Army	48,759	472,983	12,410	**252,175**
Navy	35,847	335,395	5,278	**204,478**
Marine Corps	30,744	182,729	631	**18,657**
Air Force	54,296	329,247	4,005	**172,218**
DOD agencies	N/A	N/A	11,546	**113,844**
Total	**169,646**	**1,320,354**	**33,870**	**761,372**

Source: GAO analysis of Department of Defense data. I GAO-21-113

Note: As of November 2020, the Department of Defense reported approximately 120,000 non-appropriated federal civilian employees across the department.

Table 12: DOD Sexual Assault Prevention and Response (SAPR) Program Staffing Levels, Fiscal Years 2015-2019

			2015	2016	2017	2018	2019
SAPR Program Managers	Army	Full-time	51	50	59	54	67
		Part-time	N/A	14	11	2	2
	Marine Corps		N/A	0	1	2	2
	Navy		2	2	2	2	1
	Air Force		6	6	6	9	8
	Defense Intelligence Agency		1[a]	1	1	1	1
	Defense Logistics Agency		N/A[b]	1	1	1	1
Sexual Assault Response Coordinators (SARCs)	Army	Full-time	349[c]	304	459	435	468
		Part-time	N/A	359	538	402	937
	Marine Corps		N/A	50	52	49	55
	Navy		95	103	106	104	106
	Air Force		73	89	89	160	172
	Defense Intelligence Agency		1	1	1	1	1
	Defense Logistics Agency		N/A	8	8	8	8
Victim Advocates	Army	Full-time	334	313	467	325	444
		Part-time	N/A	1518	2603	1767	3300
	Marine Corps		N/A	30	30	26	15
	Navy		69	68	70	70	67
	Air Force		77	78	79	71	107
	Defense Intelligence Agency		20[c]	20	20	20	20
	Defense Logistics Agency		N/A	N/A	N/A	N/A	N/A
Headquarters Staff	Army	Full-time	28	26	26	26	11
		Part-time	N/A	0	0	0	13
	Marine Corps		N/A	29	19	15	14
	Navy		11	11	11	10	5
	Air Force		29	32	25	26	25
	Defense Intelligence Agency		1	1	1	1	1
	Defense Logistics Agency		N/A	3	3	3	3

Source: GAO analysis of Department of Defense (DOD) data. | GAO-21-113

Note: With the exception of the Air Force, SARCs and victim advocates only provide services to DOD federal civilian employees outside the continental United States.

[a]The Defense Intelligence Agency SARC and Program Manager are positions held by the same person.

[b]The Defense Logistics Agency SAPR program was established in 2016.

[c]The Defense Intelligence Agency uses the services of volunteer victim advocates. The number of volunteers varied in fiscal years 2015-2017.

Table 13: Number of DOD Sexual Assault Medical Forensic Examiners, Fiscal Years 2015-2019

		2015	2016	2017	2018	2019
Army	Within the continental United States	90	76	87	96	96
	Outside the continental United States	72	57	52	36	48
	Deployed	Unknown	Unknown	Unknown	Unknown	21
	Total	**162**	**133**	**139**	**132**	**165**
Navy	Within the continental United States	Unknown	82	82	76	67
	Outside the continental United States	Unknown	137	127	114	99
	Deployed	Unknown	Unknown	44	44	44
	Total	**N/A**	**219**	**253**	**234**	**210**
Air Force[a]	Within the continental United States	2	2[b]	8	11	17[c]
	Outside the continental United States	11	15	46[d]	43	36
	Deployed	Unknown	Unknown	Unknown	22	29
	Total	**13**	**17**	**34**	**76**	**82**

Source: GAO analysis of Department of Defense (DOD) Defense Health Agency data. I GAO-21-113

Note: The first all-service cooperative training was held in fiscal year 2016. Prior to this, individual services had their own programs at military treatment facilities.

[a]In addition to Sexual Assault Medical Forensic Examiners, the Air Force created a role called the Sexual Assault Medical Manager. This person takes the 40-hour didactic course for sexual assault care, but does not perform exams.

[b]Within the continental United States there were 39 providers trained only on the didactic course and called Sexual Assault Nurse Examiner Points of Contact. Their role was like that of the Sexual Assault Nurse Examiner.

[c]Not all Sexual Assault Medical Forensic Examiners are active in a Forensic Healthcare Program seeing patients. The Air Force has not adopted the Department of Defense (DOD) policy intention to provide Forensic Healthcare at 24/7 emergency room medical treatment facilities within the continental United States, citing that sending patients to a facility that performs more exams is in better interest of the patient. According to DOD Health Affairs officials, it is the position of the Defense Health Agency Forensic Healthcare Program that better care is not often the case at civilian facilities because the average practice of a Sexual Assault Nurse Examiner is 2 to 3 years, and unless they are in a major city, they may not obtain a lot of experience. These officials stated that the more the services create Forensic Healthcare Programs at the military medical treatment facilities and train personnel, the better equipped DOD will be with knowledgeable and responsive Sexual Assault Medical Forensic Examiners to provide care around the world.

[d]Two Sexual Assault Medical Forensic Examiners outside the continental United States were not performing exams. Some listed as Sexual Assault Medical Forensic Examiners may have been on deployment, but not counted as deployed.

Table 14: Number of DOD Special Victims' Counsels (SVC)/Victims' Legal Counsels (VLC) by Military Service, Fiscal Years 2015-2019

Fiscal Year	Army SVCs	Marine Corps VLCs	Navy VLCs	Air Force SVCs[a]
2015	44[b]	21	29	44
2016	44	20	32	51
2017	44	21	33	50
2018	44	21	33	50
2019	44	20	33	50

Source: GAO analysis of Department of Defense (DOD) data. I GAO-21-113

[a]Numbers reflect the number of authorized SVC billets and not the actual number of SVCs assigned.

[b]Army SVCs did not begin to serve civilians until fiscal year 2017.

Appendix IV: Characteristics of Military Equal Opportunity Sexual Harassment Complaints, Fiscal Years 2015-2019

Department of Defense (DOD) Instruction 1020.03 states that the military departments are to maintain data on harassment complaints, including informal, formal, and anonymous reports.[1] The military departments are to annually report these data to the Director of the Office for Diversity, Equity, and Inclusion (ODEI) through an automated data collection instrument. Among other things, the military departments are to maintain data on the type of harassment alleged, the demographics of the complainant and alleged offender, the relationship between the complainant and the alleged offender at the time of the incident, and whether the alleged offender had prior substantiated harassment complaints documented in personnel files. These data elements, among others, were outlined for the military departments in DOD guidance in February of 2018. As discussed in the report, the military services do not consistently track all informal complaints of sexual harassment.

The following are key characteristics of Military Equal Opportunity (MEO) sexual harassment complaints that involved DOD federal civilian employees as complainants or alleged offenders and were tracked by the military services from fiscal years 2015 through 2019.[2] Specifically, from fiscal years 2015 through 2019, the military services reported 52 informal and 155 formal complaints of sexual harassment that involved DOD federal civilian employees as complainants or alleged offenders and were addressed through the MEO process.[3] For the Army, the Navy, and the Marine Corps, 49.5 percent, 23.5 percent, and 23.5 percent, respectively,

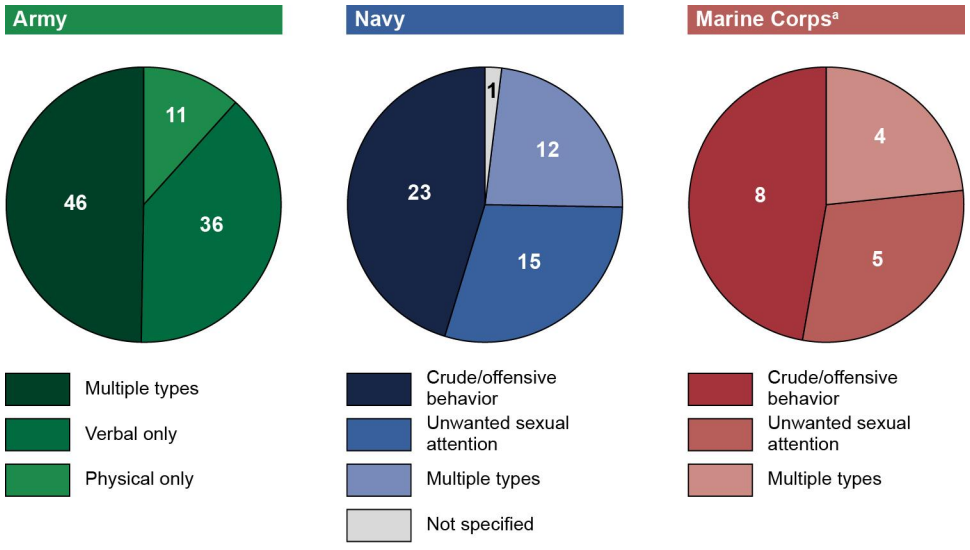
[1]DOD Instruction 1020.03, *Harassment Prevention and Response in the Armed Forces* (Feb. 8, 2018) (incorporating change 1, effective Dec. 29, 2020).

[2]The Marine Corps provided Military Equal Opportunity (MEO) data for fiscal years 2016 through 2019 due to Marine Corps officials' concerns about the reliability and comparability of the data for fiscal year 2015.

[3]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints.

of the MEO sexual harassment complaints that involved DOD federal civilian employees involved multiple types of harassment, such as verbal and physical harassment or crude/offensive behavior and unwanted sexual attention. While the Air Force also tracked this information from fiscal years 2015 through 2019, the types of harassment tracked changed over this time period. Figure 10 depicts MEO sexual harassment complaints involving DOD federal civilian employees, by type of harassment, from fiscal years 2015 through 2019 for the Army, the Navy, and the Marine Corps.

Figure 10: Military Equal Opportunity Sexual Harassment Complaints Involving DOD Federal Civilian Employees, by Harassment Type, Fiscal Years 2015-2019



Source: GAO analysis of the military services' Military Equal Opportunity data. | GAO-21-113

Data table for Figure 10: Military Equal Opportunity Sexual Harassment Complaints Involving DOD Federal Civilian Employees, by Harassment Type, Fiscal Years 2015-2019

Army	
Multiple types	46
Verbal only	36
Physical only	11

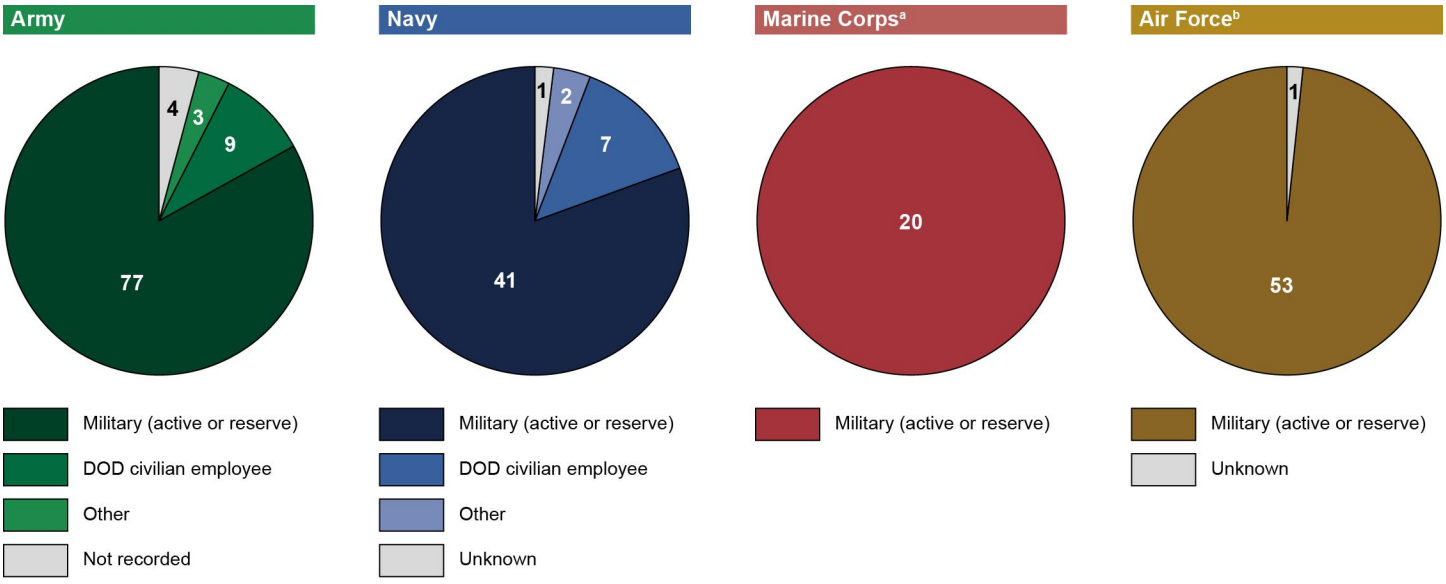
Marine Corps[a]	
Crude/offensive behavior	8
Unwanted sexual attention	5
Multiple types	4

Navy	
Crude/offensive behavior	23
Unwanted sexual attention	15
Multiple types	12
Not specified	1

[a]The Marine Corps provided Military Equal Opportunity (MEO) data for fiscal years 2016 through 2019 only, due to Marine Corps officials' concerns about the reliability and comparability of the data for fiscal year 2015. While the Air Force also tracked this information from fiscal years 2015 through 2019, the types of harassment tracked changed over this time period. Given that the number of civilian employees varies across the DOD components included in this review, the number complaints filed by the employees of each component should not be compared. Appendix III provides the number of appropriated-fund civilian employees employed by each of the military services and all DOD agencies and field activities combined as of June 2020.

Over these 5 fiscal years, the majority of complainants were military personnel. However, for the Army 9.7 percent of complainants were DOD federal civilian employees. For the Navy, 13.7 percent of complainants were DOD civilian employees. Additionally, across the military services, the most common relationships between the alleged offender and the complainant were co-worker, DOD or service federal civilian employee, and supervisor. Figures 11 and 12, respectively, depict the number of MEO complaints by complainant status and by relationship of alleged offenders to complainants from fiscal years 2015 through 2019.

Figure 11: Military Equal Opportunity Sexual Harassment Complaints, by Complainant Status, Fiscal Years 2015-2019



DOD Department of Defense

Source: GAO analysis of the military services' Military Equal Opportunity data. | GAO-21-113

Data tables for Figure 11: Military Equal Opportunity Sexual Harassment Complaints, by Complainant Status, Fiscal Years 2015-2019

Army	
Military (active or reserve)	77
DOD civilian employee	9
Other	3
Not recorded	4

Navy	
Military (active or reserve)	41
DOD civilian employee	7
Other	2
Unknown	1

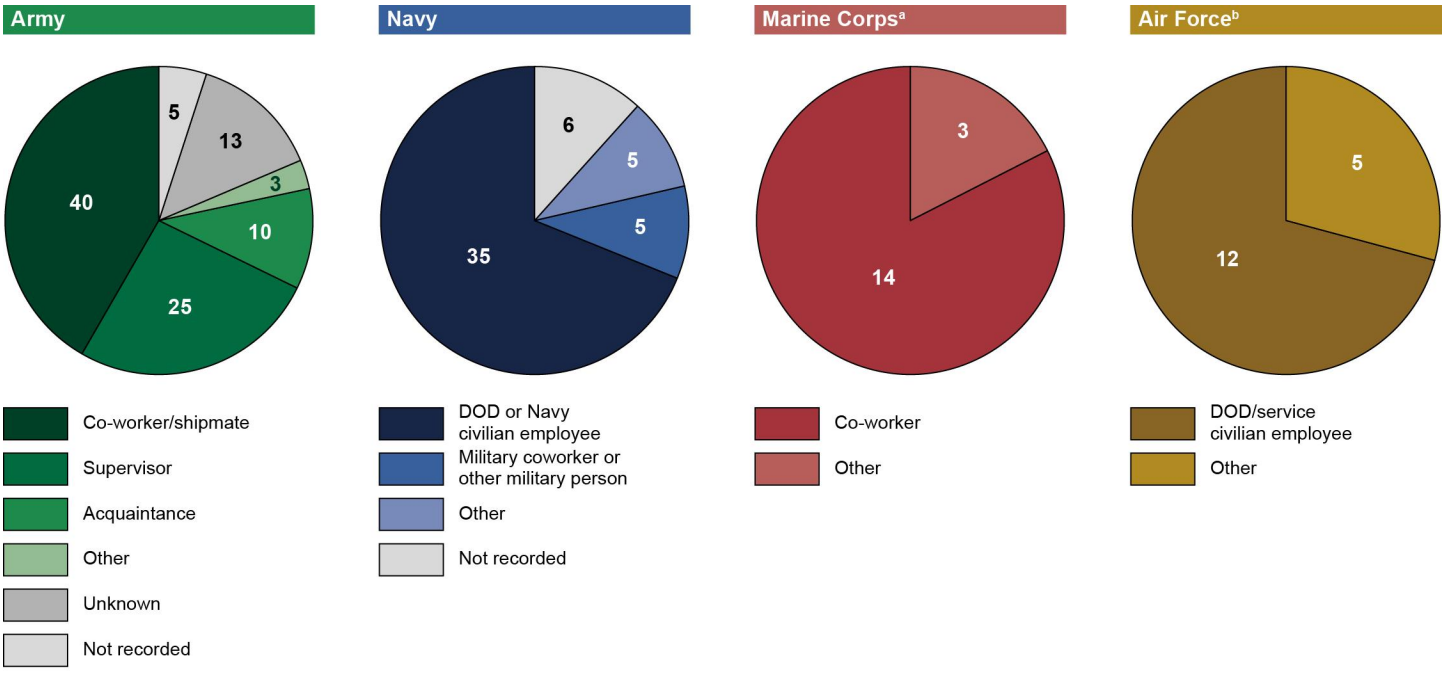
Marine Corps[a]	
Military (active or reserve)	20

Air Force[b]	
Military (active or reserve)	53
Unknown	1

[a]The Marine Corps provided Military Equal Opportunity (MEO) data for fiscal years 2016 through 2019 only, due to Marine Corps officials' concerns about the reliability and comparability of the data for fiscal year 2015.

[b]According to Air Force officials, Air Force data for fiscal years 2016 and 2017 may not be complete due to the transition to a new database for tracking sexual harassment complaints. Given that the number of civilian employees varies across the DOD components included in this review, the number complaints filed by the employees of each component should not be compared. Appendix III provides the number of appropriated-fund civilian employees employed by each of the military services and all DOD agencies and field activities combined as of June 2020.

Figure 12: Military Equal Opportunity Sexual Harassment Complaints, by Alleged Offender Relationship to Complainant, Fiscal Years 2015-2019



DOD Department of Defense

Source: GAO analysis of the military services' Military Equal Opportunity data. | GAO-21-113

Data table for Figure 12: Military Equal Opportunity Sexual Harassment Complaints, by Alleged Offender Relationship to Complainant, Fiscal Years 2015-2019

Army	
Co-worker/shipmate	40
Supervisor	25
Acquaintance	10
Other	3
Unknown	13
Not recorded	5

Navy	
DOD or Navy civilian employee	35
Military coworker or other military person	5
Other	5
Not recorded	6

Marine Corps[a]	
Co-worker	14
Other	3

Air Force[b]	
DOD/service civilian employee	12
Other	5

[a]The Marine Corps provided Military Equal Opportunity (MEO) data for fiscal years 2016 through 2019 only, due to Marine Corps officials' concerns about the reliability and comparability of the data for fiscal year 2015.

[b]The Air Force only tracked relationship status in fiscal years 2018 and 2019. Given that the number of civilian employees varies across the DOD components included in this review, the number complaints filed by the employees of each component should not be compared. Appendix III provides the number of appropriated-fund civilian employees employed by each of the military services and all DOD agencies and field activities combined as of June 2020.

Appendix V: Characteristics of Sexual Assaults Involving Department of Defense Civilian Employees, Fiscal Years 2015-2019

The Department of Defense (DOD) maintains data on reported sexual assaults recorded by the military services in the Defense Sexual Assault Incident Database (DSAID), the department's centralized case-level database for the collection and maintenance of information regarding sexual assaults involving persons covered by DOD policy, including servicemembers, their adult dependents, and certain DOD federal civilian employees. The following describes key characteristics of reported sexual assaults involving DOD federal civilian employees as victims or alleged offenders that were recorded in DSAID from fiscal years 2015 through 2019 and closed as of April 2020.

Over those 5 fiscal years, DOD recorded 541 reported incidents of sexual assault involving DOD federal civilian employees. Of those, 357 incidents involved DOD federal civilian employees as victims and 198 incidents involved DOD civilian employees as alleged offenders.[1] The majority of these incidents involved male offenders (65.5 percent) and female victims (87.2 percent). In addition, of these incidents that were investigated, 75 percent were investigated by a military criminal investigative organization versus another law enforcement organization. According to SAPRO officials, a victim's case will remain open in DSAID until the victim no longer requests support services and any related investigation is complete. The average number of days an incident of sexual assault involving a DOD federal civilian employee was open in DSAID was 395 days. The average length of any associated investigation was 97 days. Figure 13 depicts characteristics of reported incidents of sexual assault

[1]An incident of sexual assault can involve more than one victim and offender. From fiscal years 2015 through 2019, for reported sexual assaults involving DOD civilian employees as victims or alleged offenders, the average number of victims per incident was 1.2 and the average number of alleged offenders per incident was 1.1.

that involved DOD federal civilian employees as victims or alleged offenders from fiscal years 2015 through 2019.

Figure 13: Characteristics of Reported Incidents of Sexual Assault Involving Department of Defense Federal Civilian Employees as Victims or Alleged Offenders, Fiscal Years 2015-2019

Source: GAO analysis of Sexual Assault Prevention and Response Office data and information. | GAO-21-113

Data table for Figure 13: Characteristics of Reported Incidents of Sexual Assault Involving Department of Defense Federal Civilian Employees as Victims or Alleged Offenders, Fiscal Years 2015-2019

Victim sex	
Female	87.2%
Male	12.8%

Offender sex	
Male	65.5%
Unknown	28%
Female	6.4%

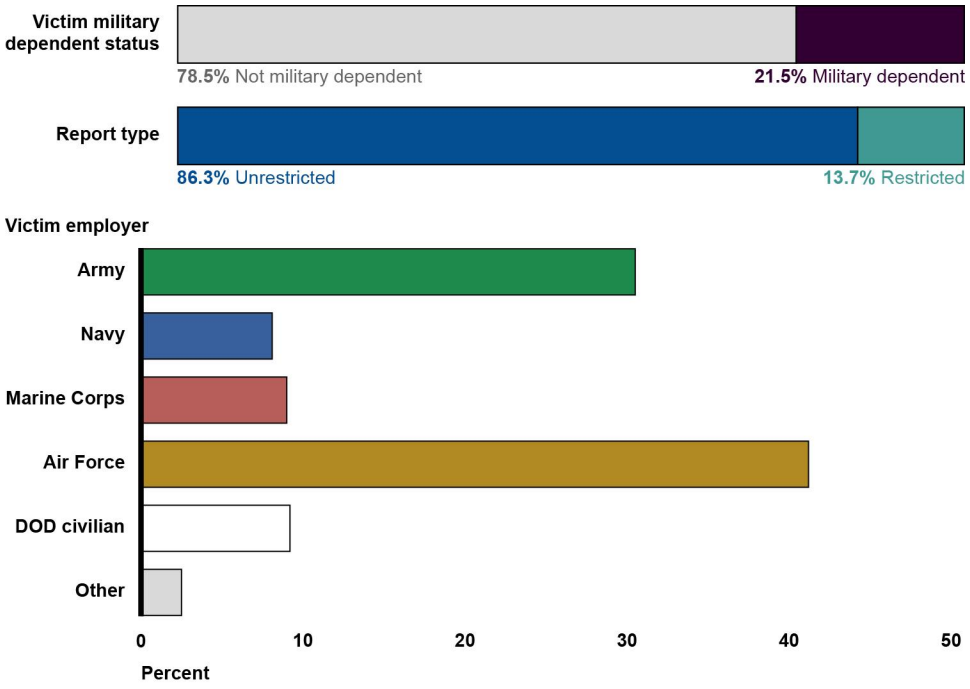
Investigation (if pursued)	
Investigated by a military criminal investigative organization	74.8%
Other	25.2%

Average days report open	**395**
Average days of investigation	**97**

Of the incidents involving DOD federal civilian employees as victims of sexual assault, the majority involved civilians employed by the military

services. Specifically, 41.2 percent of incidents involved civilians employed by the Air Force, 30.5 percent Army civilians, 9 percent Marine Corps civilians, and 8.1 percent Navy civilians. Most incidents involving DOD federal civilian employee victims involved civilian employees who were not military dependents (78.5 percent). Further, 86.3 percent of those incidents resulted in an unrestricted report of sexual assault, versus 13.7 percent that involved a restricted report and would not have been investigated by law enforcement. Figure 14 depicts characteristics of reported incidents of sexual assault that involved DOD federal civilian employees as victims from fiscal years 2015 through 2019.

Figure 14: Characteristics of Reported Incidents of Sexual Assault Involving Department of Defense (DOD) Federal Civilian Employee Victims, Fiscal Years 2015-2019



Source: GAO analysis of Sexual Assault Prevention and Response Office data and information. | GAO-21-113

Data table for Figure 14: Characteristics of Reported Incidents of Sexual Assault Involving Department of Defense (DOD) Federal Civilian Employee Victims, Fiscal Years 2015-2019

Victim military dependent status	
Not military dependent	**78.5%**
Military dependent	**21.5%**

Report type	
Unrestricted	**86.3%**
Restricted	**13.7%**

Victim employer

Army	30.5%
Navy	8.1%
Marine Corps	9%
Air Force	41.2%
DOD civilian	9.2%
Other	2.5%

However, as discussed in the report, the military departments do not track all reported sexual assaults involving DOD federal civilian employee victims, such as those occurring in the continental United States and not involving a servicemember as an alleged offender. In addition, for the reported sexual assaults involving DOD civilian employee victims, DOD may be undercounting the number of victims because there is no way to determine from DSAID data how many military dependent victims were also DOD civilian employees.

Appendix VI: GAO-Identified Leading Practices and Required Elements for Sexual Harassment and Sexual Assault Training

Leading Practices and Required Elements for Sexual Harassment Training

To identify leading practices for sexual harassment training, we reviewed relevant reports and studies, consulted with internal and external subject-matter experts, and conducted an analysis to identify areas of overlap across the leading practices identified. We then validated the identified leading practices with internal and external subject-matter experts, including the Department of Defense's (DOD) Office for Diversity, Equity, and Inclusion (ODEI), and incorporated their comments as appropriate. This resulted in 13 leading practices for sexual harassment training content. Through a review of DOD guidance we also identified two DOD requirements for sexual harassment training content. Table 15 lists the leading practices and DOD requirements we identified and against which we evaluated selected DOD components' sexual harassment training materials for civilian employees.

Table 15: GAO-Identified Leading Practices and DOD Requirements for Sexual Harassment Training

Leading Practices	
1.	Clearly defines and describes prohibited sexual harassment and conduct that, if left unchecked, might ultimately rise to the level of prohibited sexual harassment.
2.	Clarifies what type of conduct is not considered sexual harassment.
3.	Provides explanations of the range of possible consequences for engaging in conduct unacceptable in the workplace, including that corrective action will generally be proportionate to the severity of the conduct.
4.	Includes information about non-supervisory and supervisory employees' respective rights and responsibilities if they experience, observe, or become aware of conduct that they believe may be prohibited.
5.	Encourages employees to report harassing conduct.

Leading Practices
6. Includes information that explains, in practical terms, the agency's federal sector EEO process and its alternative complaint process, including that: a. the federal sector EEO process and an agency's internal complaint process exist for different purposes; b. filing a claim under the agency's internal complaint process does not extend the time deadline for initiating EEO contact in the federal sector EEO process; and c. the internal complaint process will likely be concluded before the EEO process and the investigation may be considered if the matter goes formal.
7. Describes, in a clear and concise manner, the processes for reporting sexual harassment and other lesser forms of sexual misconduct that are experienced, observed, or that employees otherwise become aware of. Distinguishes between reporting pursuant to internal agency policy and initiating an EEO complaint of discrimination.
8. Describes in simple terms how allegations reported pursuant to internal agency policy will investigated, including: a. an assurance that, to the extent possible, the agency will protect the confidentiality of participants; b. how an investigation will take place; and c. the information that may be requested during an investigation, including: the name or a description of the alleged harasser(s), alleged victim(s), and any witnesses; the date(s) of the alleged harassment; the location(s) of the alleged harassment; and a description of the alleged harassment, if the employee is able to provide it. Lack of such information does not preclude an employee filing a complaint.
9. Makes clear that the agency will take all reports seriously and investigate them in a prompt, thorough, and impartial manner.
10. Makes clear that the agency will not tolerate retaliation and will ensure that applicants and employees who report sexual harassment, participate in investigations, or engage in other protected activity will not be retaliated against for doing so.
11. Includes examples that are tailored to the specific workplace and workforce.
12. Identifies and provides contact information for the individual(s) and/or office(s) responsible for addressing sexual harassment and sexual misconduct questions, concerns, and complaints.
13. Provides a short video or prerecorded remarks from senior leadership. This shows demonstrated commitment from agency leadership and sets the tone for the training.
DOD Requirements
14. Explains how to identify and prevent sexual harassment.
15. Explains the distinction between sexual harassment and sexual assault and that both are unacceptable forms of behavior even though they may have different penalties. Emphasizes the distinction between civil and criminal actions.

Source: GAO analysis of leading practices and Department of Defense (DOD) information. | GAO-21-113

We evaluated the mandatory sexual harassment training materials for DOD federal civilian employees of the military services and DOD agencies included in our review, as applicable, against the content elements above. Table 16 shows the extent to which we found each component's training included, partially included, or did not include each leading practice and DOD required element. A practice or requirement was determined to be "included" if all facets of the practice were included in the training materials, and was determined to be "partially included" if some, but not all, facets were included.

Table 16: GAO-Identified Leading Practices and DOD Requirements Included, Partially Included, and Not Included in Selected DOD Components' Federal Civilian Employee Sexual Harassment Training

	Army	Navy	Marine Corps	Air Force	Defense Commissary Agency	Defense Contract Audit Agency	Defense Intelligence Agency	Defense Logistics Agency
Leading Practices								
1. Clearly defines and describes prohibited sexual harassment.	●	◐	◐	◐	●	●	●	●
2. Clarifies conduct that is not sexual harassment.	●	○	○	○	●	◐	◐	●
3. Explains possible consequences for sexual harassment.	●	◐	○	○	◐	○	○	●
4. Describes employees' rights and responsibilities.	●	◐	◐	◐	◐	●	◐	◐
5. Encourages employees to report harassing conduct.	●	●	◐	◐	●	●	◐	○
6. Explains the agency's EEO process and alternative complaint process.	◐	◐	◐	◐	◐	◐	◐	○
7. Describes the reporting process and distinguishes between internal agency and EEO complaints.	●	◐	◐	◐	◐	◐	◐	○
8. Describes how internal complaints will be investigated.	◐	◐	◐	○	◐	○	○	◐

9. Clearly states that reports will be taken seriously and investigated.	◐	◐	◐	○	◐	◐	◐	◐
10. Clearly states that retaliation is will not be tolerated.	○	○	○	○	○	○	○	○
11. Includes examples that are tailored to the specific workplace and workforce.	●	◐	●	●	●	○	●	●
12. Identifies and provides contact information for addressing sexual harassment questions, concerns, and complaints.	◐	●	●	○	●	●	●	●
13. Provides a short video or prerecorded remarks from senior leadership.	○	○	○	○	○	○	◐	○
DOD Requirements								
14. Explains how to identify and prevent sexual harassment.	●	◐	◐	◐	◐	●	◐	●
15. Explains the distinction between sexual harassment and sexual assault.	●	○	○	◐	◐	○	◐	●

Source: GAO analysis of Department of Defense (DOD) information. | GAO-21-113

Note: DOD agencies reviewed include the Defense Commissary Agency, the Defense Contract Audit Agency, the Defense Intelligence Agency, and the Defense Logistics Agency. Included elements are indicated by a full circle (●); partially included elements are indicated by a half circle (◐); and elements that were not included are indicated by an open circle (○). Leading practices and DOD requirements are paraphrased. For full practices and requirements, see Table 15. Our evaluation of the DOD components' mandatory sexual harassment training was based on written training materials. DOD officials noted that some topics may be discussed in more detail during in-person training courses than what appears in the written training materials.

Leading Practices and Required Elements for Sexual Assault Training

To identify leading practices for sexual assault training, we conducted background research and consulted with external subject-matter experts. The Rape, Abuse & Incest National Network developed a list of leading practices for sexual misconduct awareness and response training, which organization officials stated could be applied to training specific to sexual assault.[1] The leading practices included practices specific to trainer qualifications, delivery approach, and content. We validated the leading practices relevant to sexual assault training content with internal and external subject-matter experts, including DOD's Sexual Assault Prevention and Response Office (SAPRO) and the Defense Civilian Personnel Advisory Service, and incorporated their comments as appropriate. This resulted in 10 leading practices for sexual assault training content. Through a review of DOD guidance we also identified 13 requirements for the content of sexual assault training provided to servicemembers and DOD federal civilian employees who supervise servicemembers. While there are no DOD requirements for the content of sexual assault training provided to DOD federal civilian employees who do not supervise servicemembers, we included the requirements for servicemembers and civilian supervisors in our review to assess how the content of the training provided to servicemembers may differ from what is provided to civilian employees. Table 17 lists the leading practices and DOD requirements we identified and against which we evaluated selected DOD components' sexual assault training materials for civilian employees.

[1]The Rape, Abuse & Incest National Network defines sexual misconduct as an all-encompassing, non-legal term that describes a range of behavior that may or may not be criminal. Sexual misconduct references the entire spectrum of sexually inappropriate behavior, which includes inappropriate jokes, inappropriate touches, sexual harassment, sexual assault, and rape.

Table 17: GAO-Identified Leading Practices and DOD Requirements for Sexual Assault Training of Servicemembers and Civilians Who Supervise Servicemembers

Leading Practices
1. Builds in interactive elements in order to provide participants an opportunity to practice new skills and obtain feedback from the trainer.
2. Scenarios demonstrate theories and concepts related to sexual misconduct in settings that are familiar to participants, allowing them to connect and apply their learning to situations.
3. Discusses recognizing and removing biases.
4. Discusses impact of trauma from sexual misconduct.
5. Discusses role of boundaries and consent in sexual misconduct prevention.
6. Discusses bystander intervention.
7. Discusses organizational reporting process and procedures, including both victim and alleged offender rights, with a work nexus.
8. Discusses expected responses to reports of sexual misconduct with a work nexus.
9. Discusses well-being and self-care.
10. Discusses resources for those affected by sexual misconduct.
DOD Requirements for Servicemembers and Civilians Who Supervise Servicemembers
11. The SAPR training, at a minimum, incorporates adult learning theory, which includes interaction and group participation.
12. Defines what constitutes sexual assault. Utilizing the term “sexual assault” as defined in DOD Directive 6495.01.
13. Explains why sexual assaults are crimes.
14. Defines the meaning of “consent” as defined in DOD Directive 6495.01.
15. Explains offender accountability.
16. Explains the distinction between sexual harassment and sexual assault and that both are unacceptable forms of behavior even though they may have different penalties. Emphasizes the distinction between civil and criminal actions.
17. Explains available reporting options (restricted and unrestricted, as applicable), the advantages and limitations of each option, the effect of independent investigations on restricted reports.
18. Provides an awareness of the sexual assault prevention and response (SAPR) program (DOD and Service) and command personnel roles and responsibilities, including all available resources for victims on and off base.
19. Identifies prevention strategies and behaviors that may reduce sexual assault, including bystander intervention, risk reduction, and obtaining affirmative consent. Identifies strategies to safely intervene and to guard against retaliation, reprisal, ostracism, or maltreatment because of that intervention.
20. Provides information to victims when the alleged perpetrator is the commander or in the victim’s chain of command, to go outside the chain of command to report the offense to other commanding officers or an Inspector General. Provides that victims shall be informed that they can also seek assistance from a special victims’ counsel (SVC)/victims’ legal counsel (VLC), a legal assistance attorney, or the DOD Safe Helpline.
21. Discusses 50-year document retention for sexual assault documents (DD Forms 2910 and 2911 as applicable), to include retention of investigative records. Explains that the SAFE Kit is retained for 5 years in restricted report cases to allow victims the opportunity to change their minds and convert to unrestricted. Explains that the SAFE Kit is retained for 5 years in unrestricted report cases.
22. Explains the eligibility for SVC/VLC for individuals who make restricted or unrestricted reports of sexual assault, and the types of legal assistance authorized to be provided to the sexual assault victim. Explains that the nature of the relationship between an SVC/VLC and a victim in the provision of legal advice and assistance will be the relationship between an attorney and client.
23. Explains what constitutes retaliation, reprisal, coercion, ostracism, and maltreatment in accordance with Service regulations and procedures for reporting allegations of reprisal.

Source: GAO analysis of leading practices and Department of Defense (DOD) information. | GAO-21-113

We evaluated the mandatory sexual assault training materials for DOD federal civilian employees of the military services and DOD agencies included in our review, as applicable, against the content elements above. Our review included training provided by the Defense Logistics Agency, but did not include Defense Commissary Agency or Defense Contract Audit Agency training because those agencies do not provide sexual assault training to civilian employees. The Defense Intelligence Agency does provide sexual assault training to civilian employees, but was not included in our review because the agency was unable to provide us their training materials because they did not have access to the office where the materials were stored due to the Coronavirus-19 (COVID-19) pandemic. Table 18 shows the extent to which we found each component's training included, partially included, or did not include each leading practice and DOD element. A practice or requirement was determined to be "included" if all facets of the practice were included in the training materials, and was determined to be "partially included" if some, but not all, facets were included.

Table 18: Leading Practices and DOD Elements Included, Partially Included, and Not Included in Selected DOD Components' Federal Civilian Employee Sexual Assault Training

	Army	Navy and Marine Corps	Air Force	Defense Logistics Agency
Leading Practices				
1. Includes interactive elements.	●	●	●	●
2. Scenarios include settings familiar to participants.	●	●	●	●
3. Discusses recognizing and removing biases.	●	○	○	◐
4. Discusses impact of trauma from sexual misconduct.	●	●	○	◐
5. Discusses role of boundaries and consent in sexual misconduct prevention.	●	●	●	◐
6. Discusses bystander intervention.	●	●	●	●
7. Discusses organizational reporting process and procedures, including both victim and alleged offender rights.	◐	◐	◐	◐
8. Discusses expected responses to reports of sexual misconduct with a work nexus.	●	◐	●	◐
9. Discusses well-being and self-care.	○	○	●	○
10. Discusses resources for those affected by sexual misconduct.	●	●	●	●
DOD Sexual Assault Prevention and Response Training Requirements for Servicemembers and Civilians Who Supervise Servicemembers				
11. Incorporates interaction and group participation.	●	●	●	●
12. Defines sexual assault per DOD Directive 6495.01.	●	●	◐	◐

	Army	Navy and Marine Corps	Air Force	Defense Logistics Agency
13. Explains why sexual assaults are crimes.	●	●	●	●
14. Defines consent per DOD Directive 6495.01.	●	◐	●	◐
15. Explains offender accountability.	●	●	◐	●
16. Explains the distinction between sexual harassment and sexual assault.	●	●	●	●
17. Explains reporting options.	◐	◐	●	◐
18. Provides awareness of the SAPR program, command roles and responsibilities, and available resources for victims on and off base.	◐	◐	●	◐
19. Identifies prevention strategies and behaviors and strategies to safely intervene and to guard against retaliation.	●	◐	●	◐
20. Provides information to victims when the alleged perpetrator is the commander or in the victim's chain of command.	◐	○	●	◐
21. Discusses record retention policies for sexual assault documents and Sexual Assault Medical Forensic Exam kits.	◐	○	●	○
22. Explains eligibility for legal assistance for victims.	◐	○	●	◐
23. Explains what constitutes retaliation, reprisal, coercion, ostracism, and maltreatment, and procedures for reporting allegations of reprisal.	●	○	●	○

Source: GAO analysis of Department of Defense (DOD) information. | GAO-21-113

Note: Included elements are indicated by a full circle (●); partially included elements are indicated by a half circle (◐); and elements that were not included are indicated by an open circle (○). Leading practices and DOD requirements are paraphrased; for full practices and requirements, see Table 17. The Department of the Navy training materials are used for Navy and Marine Corps civilian employee training. Our review included training provided by the Defense Logistics Agency. The Defense Commissary Agency and the Defense Contracting Audit Agency do not provide sexual assault training to civilian employees. The Defense Intelligence Agency was unable to provide us their sexual assault training materials because they did not have access to the office where the materials were stored due to the COVID-19 pandemic. Our evaluation of the DOD components' mandatory sexual assault training was based on written training materials. DOD officials noted that some topics may be discussed in more detail during in-person training courses than what appears in the written training materials.

Appendix VII: Comments from the Department of Defense

PERSONNEL AND READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

January 19, 2021

Brenda S. Farrell
Director, Defense Capabilities and Management
Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Ms. Farrell:

Attached is the Department of Defense response to the recommendations in the Government Accountability Office (GAO) draft report, "Sexual Harassment and Assault: Guidance Needed To Ensure Consistent Tracking, Response and Training For DoD Civilians," (GAO Engagement #104012).

The Department generally concurs with the recommendations in this report and is currently taking steps to address them. The Department objects, however, to disclosure of privileged information related to the legal concerns posed by a policy to permit civilian employees to make restricted (non-actionable) reports of sexual assault or sexual harassment to the employing agency. The Department does encourage a discussion of the competing public policy concerns posed by such a policy, which the report fails to address. The Department also requests that the enclosed technical comments prepared by various Departmental entities also be considered in preparing the final version of the report.

Major General Clem Coward, Director, DoD Sexual Assault Prevention and Response Office, is the point of contact for this action. He may be reached at clement.s.coward2.mil@mail.mil, or (571) 372-2638.

Matthew P. Donovan

Attachment:
As stated

GAO DRAFT REPORT DATED DECEMBER 2, 2020
GAO-21-113 (GAO CODE 104012)

"SEXUAL HARASSMENT AND ASSAULT: GUIDANCE NEEDED TO ENSURE CONSISTENT TRACKING, REPONSE, AND TRAINING FOR DOD CIVILIANS"

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATIONS

RECOMMENDATION 1: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, takes steps to assure that as the department finalizes the development of the central repository for Equal Employment Opportunity data, the planned repository includes data for all DOD components and is updated frequently, such as on a quarterly basis.

DoD RESPONSE: Concur

RECOMMENDATION 2: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, expands guidance that specifies and defines uniform data elements that all DOD components should use when collecting and reporting on allegations of harassment made by DOD federal civilian employees outside of the Equal Employment Opportunity process, such as information about the parties involved, the type of harassment, and actions taken to respond to the allegation.

DoD RESPONSE: Concur

RECOMMENDATION 3: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, clarifies guidance regarding the requirement for the Secretaries of the military departments to maintain data on informal complaints of harassment, including the definition of an informal complaint for tracking purposes; how such data should be maintained, including by a headquarters-level organization; and which informal complaints should be reported to the Office for Diversity, Equity, and Inclusion on an annual basis.

DoD RESPONSE: Concur

RECOMMENDATION 4: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance for the military departments to comprehensively track information about reported work-related sexual assaults involving DOD federal civilian employee victims in the continental United States, regardless of eligibility for DOD-provided sexual assault support services, including the status and affiliation of the victim and alleged

GAO-21-113 (GAO CODE 104012)

offender and actions taken by DOD in response, such as any referrals or support services provided.

DoD RESPONSE: Concur

RECOMMENDATION 5: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance that requires all DOD components, including agencies and field activities, to track reported work-related sexual assaults involving their federal civilian employees as victims or alleged offenders, including the specific data elements to be collected, such as status and affiliation of the victim and alleged offender and actions taken by DOD in response, and common definitions for those data elements.

DoD RESPONSE: Concur

RECOMMENDATION 6: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office, issues guidance that directs Sexual Assault Response Coordinators to ensure that all DOD civilian employee victims of sexual assault are categorized in the Defense Sexual Assault Incident Database as both federal civilian employees and military dependents, if applicable, for work-related incidents of sexual assault.

DoD RESPONSE: Concur

RECOMMENDATION 7: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office, take steps to provide DOD-credentialed Sexual Assault Response Coordinators across the department, including coordinators assigned to an agency or field activity, access to record and review their components' reported work-related sexual assaults in the Defense Sexual Assault Incident Database.

DoD RESPONSE: Concur

RECOMMENDATION 8: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness takes steps to increase distribution of the biannual DOD Civilian Employee Workplace and Gender Relations reports to ensure that all relevant offices with a responsibility for sexual harassment and assault prevention and response have access to the complete results for use in informing program efforts. These steps could include providing copies of the biannual reports to the Equal Employment Opportunity and Sexual Assault Prevention and Response offices of all DOD components.

DoD RESPONSE: Concur

2

RECOMMENDATION 9: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, clarifies guidance specifying how DOD components' anti-harassment programs should be separated from the formal EEO process when the EEO office oversees the anti-harassment program.

DoD RESPONSE: Concur

RECOMMENDATION 10: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion and the Secretaries of the military departments, issues guidance that clearly defines which civilians under 10 U.S.C. § 1561 are eligible for command investigations of complaints alleging sexual harassment.

DoD RESPONSE: Concur

RECOMMENDATION 11: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Deputy Assistant Secretary of Defense for Civilian Personnel Policy, establishes guidance requiring the establishment of Sexual Assault Prevention and Response programs for federal civilian employees of DOD components, including agencies and field activities, where they do not currently exist. For example, DOD may establish or designate a program for use by multiple DOD agencies or require each component to establish its own program based on common department-wide standards.

DoD RESPONSE: Concur

RECOMMENDATION 12: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Secretaries of the military departments, reports to the congressional defense committees on the status of restricted reporting for DOD federal civilian employee victims of sexual assault. This should include, but not be limited to, the history of restricted reporting for DOD federal civilian employees by military department, the anticipated benefits and challenges of extending restricted reporting to DOD federal civilian employees, and requests for congressional actions, if any, that are considered appropriate and necessary to extend restricted reporting to DOD federal civilian employees who are otherwise eligible to file unrestricted reports of sexual assault.

DoD RESPONSE: Concur with providing reports, if requested. Nonconcur with providing requests for congressional action outside of the Executive Branch process administered by the Office of Management and Budget.

RECOMMENDATION 13: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and the Deputy Assistant Secretary of Defense for Civilian Personnel Policy, conducts an analysis to determine the feasibility, benefits, and challenges of

expanding eligibility for filing unrestricted reports and providing sexual assault support services to all DOD federal civilian employees within the continental United States and reports to Congress on the findings of this analysis.

DoD RESPONSE: Concur with conducting a feasibility determination and cost-benefit analysis. Concur with providing reports, if requested.

RECOMMENDATION 14: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office and Deputy Assistant Secretary of Defense for Civilian Personnel Policy, clarifies guidance regarding notification responsibilities of SAPR personnel, if any, when a DOD federal civilian employee who is either not eligible or does not file a restricted or unrestricted report discloses work-related sexual assault.

DoD RESPONSE: Concur

RECOMMENDATION 15: The Secretary of the Navy should clarify guidance regarding the responsibilities, if any, of Sexual Assault Prevention and Response personnel in notifying military criminal investigative organizations of unrestricted reports of sexual assault in accordance with Department of Defense Instruction 6495.02 to ensure immediacy of these reports.

DoD RESPONSE: Concur

RECOMMENDATION 16: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Office for Diversity, Equity, and Inclusion, issues additional guidance to clearly specify minimum frequency and required content for mandatory sexual harassment training for DOD federal civilian employees in line with leading practices.

DoD RESPONSE: Concur

RECOMMENDATION 17: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance for all DOD components to provide training on sexual assault prevention and response to all DOD federal civilian employees and military leaders who supervise federal civilian employees. The guidance should include, but not be limited to, the minimum frequency for such training and required content, in line with leading practices identified by subject-matter experts, such as those identified by GAO or those currently required in Sexual Assault Prevention and Response training for servicemembers, appropriately adapted for the civilian workforce.

DoD RESPONSE: Concur

RECOMMENDATION 18: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Office for Diversity, Equity, and Inclusion, incorporates clearly detailed DOD-wide sexual harassment prevention efforts specific to DOD federal civilian employees in existing or additional strategic guidance.

DoD RESPONSE: Concur

RECOMMENDATION 19: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, incorporates clearly detailed DOD-wide sexual assault prevention efforts specific to DOD federal civilian employees in existing or additional strategic guidance.

DoD RESPONSE: Concur

Text of Appendix VII: Comments from the Department of Defense

Page 1

January 19, 2021

Brenda S. Farrell

Director, Defense Capabilities and Management Government Accountability Office

441 G Street NW Washington, DC 20548

Dear Ms. Farrell:

Attached is the Department of Defense response to the recommendations in the Government Accountability Office (GAO) draft report, "Sexual Harassment and Assault: Guidance Needed To Ensure Consistent Tracking, Response and Training For DoD Civilians," (GAO Engagement #104012).

The Department generally concurs with the recommendations in this report and is currently taking steps to address them. The Department objects, however, to disclosure of privileged information related to the legal concerns posed by a policy to permit civilian employees to make restricted (non-actionable) reports of sexual assault or sexual harassment to the employing agency. The Department does encourage a discussion of the competing public policy concerns posed by such a policy, which the report fails to address. The Department also requests that the enclosed technical comments prepared by various Departmental entities also be considered in preparing the final version of the report.

Major General Clem Coward, Director, DoD Sexual Assault Prevention and Response Office, is the point of contact for this action. He may be reached at clement.s.coward2.mil@mail.mil , or (571) 372-2638.

Matthew P. Donovan

Attachment:

As stated

GAO DRAFT REPORT DATED DECEMBER 2, 2020 GAO-21-113 (GAO CODE 104012) “SEXUAL HARASSMENT AND ASSAULT: GUIDANCE NEEDED TO ENSURE CONSISTENT TRACKING, REPONSE, AND TRAINING FOR DOD CIVILIANS”

DEPARTMENT OF DEFENSE COMMENTS TO THE GAO RECOMMENDATIONS

RECOMMENDATION 1: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, takes steps to assure that as the department finalizes the development of the central repository for Equal Employment Opportunity data, the planned repository includes data for all DOD components and is updated frequently, such as on a quarterly basis.

DoD RESPONSE: Concur

RECOMMENDATION 2: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, expands guidance that specifies and defines uniform data elements that all DOD components should use when collecting and reporting on allegations of harassment made by DOD federal civilian employees outside of the Equal Employment Opportunity process, such as information about the parties involved, the type of harassment, and actions taken to respond to the allegation.

DoD RESPONSE: Concur

RECOMMENDATION 3: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, clarifies guidance regarding the requirement for the Secretaries of the military departments to maintain data on informal complaints of harassment, including the definition of an informal complaint for tracking purposes; how such data should be maintained, including by a headquarters-level organization; and which informal complaints should be reported to the Office for Diversity, Equity, and Inclusion on an annual basis.

DoD RESPONSE: Concur

RECOMMENDATION 4: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the

Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance for the military departments to comprehensively track information about reported work-related sexual assaults involving DOD federal civilian employee victims in the continental United States, regardless of eligibility for DOD-provided sexual assault support services, including the status and affiliation of the victim and alleged offender and actions taken by DOD in response, such as any referrals or support services provided.

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DoD RESPONSE: Concur

RECOMMENDATION 5: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Deputy Assistant Secretary of Defense for Civilian Personnel Policy and the Director of the Sexual Assault Prevention and Response Office, issues guidance that requires all DOD components, including agencies and field activities, to track reported work-related sexual assaults involving their federal civilian employees as victims or alleged offenders, including the specific data elements to be collected, such as status and affiliation of the victim and alleged offender and actions taken by DOD in response, and common definitions for those data elements.

DoD RESPONSE: Concur

RECOMMENDATION 6: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office, issues guidance that directs Sexual Assault Response Coordinators to ensure that all DOD civilian employee victims of sexual assault are categorized in the Defense Sexual Assault Incident Database as both federal civilian employees and military dependents, if applicable, for work-related incidents of sexual assault.

DoD RESPONSE: Concur

RECOMMENDATION 7: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Sexual Assault Prevention and Response Office, take steps to provide DOD-credentialed Sexual Assault Response Coordinators across the department, including coordinators assigned to an agency or field activity,

access to record and review their components' reported work-related sexual assaults in the Defense Sexual Assault Incident Database.

DoD RESPONSE: Concur

RECOMMENDATION 8: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness takes steps to increase distribution of the biannual DOD Civilian Employee Workplace and Gender Relations reports to ensure that all relevant offices with a responsibility for sexual harassment and assault prevention and response have access to the complete results for use in informing program efforts. These steps could include providing copies of the biannual reports to the Equal Employment Opportunity and Sexual Assault Prevention and Response offices of all DOD components.

DoD RESPONSE: Concur

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RECOMMENDATION 9: The Secretary of Defense should ensure that the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Director of the Office for Diversity, Equity, and Inclusion, clarifies guidance specifying how DOD components' anti- harassment programs should be separated from the formal EEO process when the EEO office oversees the anti-harassment program.

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Page 5

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DoD RESPONSE: Concur

Appendix VIII: GAO Contact and Staff Acknowledgments

GAO Contact

Brenda S. Farrell, (202) 512-3604 or farrellb@gao.gov

Staff Acknowledgments

In addition to the contact named above, Kimberly Mayo (Assistant Director), Molly Callaghan (Analyst in Charge), Vincent M. Buquicchio, Christopher Gezon, Chad Hinsch, Suzanne Kaasa, Angela Kaylor, Mike Silver, Megan Stewart, Frances Tirado, and Lillian M. Yob made significant contributions to this report.

Related GAO Products

Workplace Sexual Harassment: Experts Suggest Expanding Data Collection to Improve Understanding of Prevalence and Costs. GAO-20-564. Washington, D.C.: September 30, 2020.

Sexual Harassment: VA Needs to Better Protect Employees. GAO-20-654T. Washington, D.C.: July 22, 2020.

Sexual Harassment: Inconsistent and Incomplete Policies and Information Hinder VA's Efforts to Protect Employees. GAO-20-387. Washington, D.C.: June 15, 2020.

Sexual Harassment Policies: Smithsonian Has Procedures for Prevention, but Could Improve Guidance and Monitoring. GAO-20-414R. Washington, D.C.: April 9, 2020.

Sexual Harassment in STEM Research: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration. GAO-20-187. Washington, D.C.: March 19, 2020.

Sexual Harassment in STEM Research: Preliminary Observations on Policies for University Grantees and Information Sharing among Selected Agencies. GAO-19-583T. Washington, D.C.: June 12, 2019.

Sexual Violence: Actions Needed to Improve DOD's Efforts to Address the Continuum of Unwanted Sexual Behaviors. GAO-18-33. Washington, D.C.: December 18, 2017.

Sexual Assault: Better Resource Management Needed to Improve Prevention and Response in the Army National Guard and Army Reserve. GAO-17-217. Washington, D.C.: February 27, 2017.

Military Personnel: DOD Has Processes for Operating and Managing Its Sexual Assault Incident Database. GAO-17-99. Washington, D.C.: January 10, 2017.

Sexual Violence Data: Actions Needed to Improve Clarity and Address Differences Across Federal Data Collection Efforts. GAO-16-546. Washington, D.C.: July 19, 2016.

Sexual Assault: Actions Needed to Improve DOD's Prevention Strategy and to Help Ensure It Is Effectively Implemented. GAO-16-61. Washington, D.C.: November 4, 2015.

Military Personnel: Actions Needed to Address Sexual Assaults of Male Servicemembers. GAO-15-284. Washington, D.C.: March 19, 2015.

Military Personnel: DOD Needs to Take Further Actions to Prevent Sexual Assault during Initial Military Training. GAO-14-806. Washington, D.C.: September 9, 2014.

Military Personnel: DOD Has Taken Steps to Meet the Health Needs of Deployed Servicewomen, but Actions Are Needed to Enhance Care for Sexual Assault Victims. GAO-13-182. Washington, D.C.: January 29, 2013.

Military Personnel: Prior GAO Work on DOD's Actions to Prevent and Respond to Sexual Assault in the Military. GAO-12-571R. Washington, D.C.: March 30, 2012.

Preventing Sexual Harassment: DOD Needs Greater Leadership Commitment and an Oversight Framework. GAO-11-809. Washington, D.C.: September 21, 2011.

Military Justice: Oversight and Better Collaboration Needed for Sexual Assault Investigations and Adjudications. GAO-11-579. Washington, D.C.: June 22, 2011.

Military Personnel: DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Need to Be Further Strengthened. GAO-10-405T. Washington, D.C.: February 24, 2010.

Military Personnel: Additional Actions Are Needed to Strengthen DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs. GAO-10-215. Washington, D.C.: February 3, 2010.

Military Personnel: DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Face Implementation and Oversight Challenges. GAO-08-924. Washington, D.C.: August 29, 2008.

Military Personnel: The DOD and Coast Guard Academies Have Taken Steps to Address Incidents of Sexual Harassment and Assault, but

Greater Federal Oversight Is Needed. GAO-08-296. Washington, D.C.: January 17, 2008.

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