

Military Sexual Trauma: Recommendations to Improve the Reporting  
Process and Prosecution of Sex Crimes in the Military

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## ABSTRACT

### **Purpose**

The purpose of this research is to determine the differences that occur between the prosecution and sentencing of sexual offenses between the military and civilian criminal justice systems to establish patterns and discrepancies within the current systems to justify establishing standardized legislation and reporting protocols to prosecute sex crimes across all jurisdictions. Sexual assault encompasses a heinous set of crimes in the military, including, but not limited to rape, sexual assault, sexual harassment, and adultery (if a service member is raped) while serving in the military. In identifying legislation and policies that aid or impede the prosecution of rape and sexual assault, recommendations for change can be established.

### **Methods**

This paper used secondary data consisting of related empirical, statistical, and governmental research. Data from the following agencies were utilized: The Department of Defense, the U.S. Census Bureau, the Veteran's Affairs Administration, Military RAND surveys, and the Uniform Crime Report. Additional sources utilized included Article 32 of the Uniform Code of Military Justice, 10 U.S. Code § 920 - Art. 120, the Violence Against Women Act, the Federal Bureau of Investigation's Uniform Crime Report, UCMJ art. 20, 10 U.S.C., Department of Defense Annual Report on Sexual Assault in the Military Fiscal Year 2016, and the state sexual assault statutes and statistics for all fifty of the United States, and military sexual assault screening data that is available through the Veterans Health Administration. Routine activities theory and cultural spillover theory were applied to the context of a military culture to help further explain this crime. All of was done to recommend standardized protocols, and uniform state and federal laws for both civilian and military court systems for the reporting and prosecution of sexual offenses.

## **Key Findings**

Findings indicate that military hierarchy and unit cohesiveness deter the reporting of sexual assault. Military protocols and policies, both previously and currently in place, ensure local units investigate and prosecute sexual assaults instead of an unbiased court or panel. Avoiding 'in house' investigations by either the perpetrators or the victim's respective military commands would ensure a fair and judicious hearing for sexual assault reports and investigation.

Measures that should be taken to ensure confidence in the reporting process of sexual assault should be an implementation of safety protocols for the person reporting sexual assault. Victims that come forward should be free of reprisals from their unit, especially their attacker and superiors. These should be enacted on both state and federal levels to protect both state level service members (reservists and National Guard) in addition to active duty personnel. Once a report of sexual assault is made, the second measure that should be enacted would be to have it investigated by a separate military investigative panel to ensure the investigation and prosecution are unbiased. An additional recommendation for changes to be made would be to establish a federal registry for service members at both the state and federal level who have been reprimanded for sexual assault related offenses. This would ensure that commanders and any service members in their current and any units they may transfer to in the future will be aware of any sex crimes they have committed.

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## **Military Sexual Trauma: Recommendations to Improve the Reporting Process and Prosecution of Sex Crimes in the Military**

### **Section 1: Introduction**

#### **Statement of the Problem**

In a study of military personnel, one percent of men and 4.9 percent identified they were subjected to a sexual assault in the previous year (Morral et al., 2015). This equates to approximately 10,600 service men and 9,600 service women. Furthermore, this same study found 35 percent of men and 43 percent of women surveyed experience what are considered penetrative assaults. It also found that thirty-four percent of men described the incident as hazing (Morral et al., 2015). Of all assaults that occurred, nearly 90 percent took place in a military setting (workstation, training, military schools, etc.) or were perpetrated by military personnel (Morral et al., 2015). In addition, over 116,600 active component service members reported being sexually harassed in the past year. These numbers highlight there is a problem in the military as it relates to sexual assault that needs to be addressed.

One way to tackle this problem is to examine the differences in prosecution and the legal loopholes that prevent the successful prosecution of sexual assaults in the military. In looking at military cases, the Department of Defense (DOD) received 5,983 reports of sexual assault, with 4,501 being unrestricted. Less than a third (1,482) were "restricted" reports, meaning the victim sought only medical attention and did not want to participate in any investigation and prosecution (although a review of the military services' reports found 5,982 total reports). Of the 2,419 cases in which military commanders had a suspect, legal jurisdiction and a victim willing to assist in an investigation, commanders found sufficient evidence to take disciplinary action in about 1,764 cases, including 1,380 for sexual assault and 384 for misconduct other than sexual assault. Of the 1,380 cases that resulted in disciplinary action for sexual assault-related misconduct, 910 went to

court-martial, 283 received non-judicial punishment and 187 were discharged for other reasons (Uniform Code of Military Justice [UCMJ], 2012). This shows that of all the reported sexual assaults in the military, only 15 percent of them received disciplinary action through a court martial. With such statistics as an example for justice, there is little incentive to risk one's reputation and career to report a sexual assault while serving in the military.

One of the differences between civilian and military justice systems is the different levels of sanctions that can be imposed on military service members, and the lack of options for prosecution without fear of reprisal. Lack of standardized legislation, reporting protocols, prosecution, and punishment for sex crimes across jurisdictions impedes the government's ability to stop offenders from committing sex crimes (United States, 2014).

### **Purpose of Research**

The purpose of this research will be to examine legislation and policies in place that may aid or impede the prosecution of rape and sexual assault in the military in order to provide recommendation for improvement. Identifying areas that require improvement within the military infrastructure will enable those who are able to enact change to military policies to do so. Identifying target areas within the Veteran's Affairs System that require change to assist veterans in their recovery after sexually offenses will help improve the health care options available to service members. Furthermore, rectifying delays and availability within the veteran health care system will allow veterans to get better and quicker access to services for military sexual trauma (MST) more quickly. In correcting the problems within the military and VA systems, veterans will likely have decreased incidence of substance abuse, and suicide because of MST. Lastly, correcting problem areas within the infrastructure of the military can also help prevent future sexual assaults.

## **Methods of Approach**

This paper will use secondary data consisting of related empirical, statistical, and governmental research. Some of which include the Department of Defense, the U.S. Census Bureau, the Veteran's Affairs Administration, Military RAND surveys, and the Uniform Crime Report. Additional sources will also include Article 32 of the Uniform Code of Military Justice, 10 U.S. Code § 920 - Art. 120, the Violence Against Women Act, the Federal Bureau of Investigation's Uniform Crime Report, UCMJ art. 20, 10 U.S.C., Department of Defense Annual Report on Sexual Assault in the Military Fiscal Year 2016, and the state rape/sexual assault statutes and statistics for all fifty of the United States, and military sexual assault screening data that is available through the Veterans Health Administration. Routine activities theory and cultural spillover theory will be applied to the context of a military culture to help further explain this crime. All of this will be done to recommend standardized protocols, and uniform state and federal laws for both civilian and military court systems for the reporting and prosecution of rape and other sexual offenses.

## **Limitations**

Data on sexual assault and rape are significantly under reported in both civilian and military sectors, limiting the understanding of the true scope of the issue. Data access will be restricted to information that is available and accessible to the public.

Rape is extremely difficult to prosecute between jurisdictions; this is even more pronounced when a person is serving the military and prosecution of the crime lies outside modern court jurisdiction. Fluctuating definitions of rape for the last thirty years has made it difficult to prosecute rape when the crime, the perpetrator, or the victim, or the crime occurs under separate jurisdictions. This difficulty is even more pronounced when you are in the military due to the way

the case is prosecuted. Within this paper, only unrestricted reports of sexual assaults will be discussed. Restricted reports are for reports submitted to commanders where multiple assailants and assaults were reported for the same incident (gang rape). Most of these reports do not contain concrete statistics (rank, race, etc.) of the perpetrators involved in the sexual assaults, so they are disregarded in this report due to lack of concrete data.

### **Significance**

Protocols need to be established to protect the rights of victims in the military sector, and data found within this research would establish the need for it. All too often, it is the victim that is penalized for being assaulted or raped in the military. This paper can be used as a guide to establish uniform reporting protocols, with harsher punishments for individuals who knowingly do not report incidents of rape or destroy evidence after a victim has come forward. There needs to be a system of accountability in place for people who not only violate military regulations regarding sexual offenses in the military and in the civilian justice system, but also for those who attempt to cover it up to protect the perpetrators.

## **Section II. Literature Review**

To fully understand the differences in how rape and other sex crimes are prosecuted, one first must understand military terminology and acronyms as they pertain to the subject. The first part of this section contains terminology and definitions to describe how they apply to the military and civilian justice systems. This is followed by a review of the military justice system, including its court structure. Next, is an examination of how rape is prosecuted in both the civilian and military justice systems; followed by a comparison between the two, including a review of the repercussions victims of rape face in the aftermath of reporting rape. Lastly, is a depiction of rape statistics as they are defined or prosecuted as a part of the military justice system.

### **Definitions**

To better understand the full scope of the differences between the military and the civilian criminal justice systems, a person must understand the dialogue differences and definitions used between the civilian and military systems. There are many subtle differences between the military and civilian justice systems, and this section will provide a review of definitions in addition to a discussion of how different offenses are prosecuted between military and civilian justice systems. As the military serves in foreign countries, in the United States and outside of its borders, both on land and water, there are significant subtleties that govern the prosecution of sex crimes. Considerations as regulations during a time of war, determinations of the age of consent are all factored in after the differences in the prosecution of sex crimes between the military and civilian justice systems.

**Department of Defense (DoD)**

The DoD is an arm of the executive branch of the federal government and is responsible for providing the military forces needed to deter war and protect the security of the United States of America. The DoD oversees the U.S. Department of the Army, the U.S. Department of the Navy, the U.S. Department of the Air Force and several national intelligence agencies. The DoD is the largest employer in the world, with over 3.2 million service members and civilian employees (Alexander, 2012).

**Uniform Code of Military Justice (UCMJ)**

The UCMJ is a federal law that has jurisdiction over all members of the United States Military. The UCMJ defines what constitutes bad conduct in conflict with the good order and discipline of the armed forces. If bad conduct is committed by military personnel, they are subject to punishment under the UCMJ (UCMJ, 2014)

**Court-Martial**

This refers to the process after a pre-trial investigation and hearing in which the commanding officer has referred a case for trial. If the trial results in a conviction, a convening authority with the discretion to overturn the ruling or change the punishment reviews the case. Punishments include death, a bad conduct or dishonorable discharge, dismissal of an officer, confinement, or hard labor with rank reduction.

**Non-Judicial Punishment**

The UCMJ gives authority to military commanders to exercise punishment to their subordinates without a judge or jury. Punishments include reduction in rank, fines and forfeitures, restriction of privileges, extra duty, and written reprimands.

### **Sexual Assault**

The definition of sexual assault in the UCMJ has changed several times over the past several years. For the purposes of this research, the definition in effect from October 1, 2007 to June 27, 2012 will be used. Therefore, “sexual assault” refers to the crimes of rape, aggravated sexual assault, aggravated sexual contact, abusive sexual contact, wrongful sexual contact, nonconsensual sodomy, and attempts to commit these acts.

### **Civilian Definition of Rape**

The U.S. Department of Justice changed the definition of rape for the Uniform Crime Reporting (UCR) program in 2012. The previous definition as it was phrased allowed solely for the rape of a woman by a man per the following definition, “The carnal knowledge of a female forcible against her will” (Rape Addendum, 2014). This definition excluded several forms of sexual offenses, including oral and anal penetration, penetration with objects, and the rape of males. The revised definition of rape was changed and implemented in 2013 was as follows, “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim” (UCR, 2014).

### **Military Definition of Rape**

Per Title 10 of the Uniform Code of Military Justice (2010), Article 120a defines the crime of rape as any person who commits or inflicts a sexual act upon a person through one of the following means:

1. Forcing someone to engage in a sexual act by force
2. Using force of being likely to cause death or grievous bodily harm to the other person
3. By threatening death, bodily harm or kidnapping
4. Rendering a person unconscious before taking sexual advantage
5. Administering by force without the person's consent, an intoxicant that renders him or her incapacitated or impaired, rendering them unable to regulate or control their conduct.

Per Title 10, any person who has committed one of the offenses may be prosecuted to the full extent of the law (U.S. Code, 2010).

The civilian definition of rape encompasses the penetration of any orifice of the body by another person with any object or part of their body without the consent of the victim. In contrast, the military definition of rape encompasses not only sexual force, but the threat of force or harm, in addition to the utilization of alcohol, drugs, or other means to incapacitate another service member in order to take sexual advantage of them without their consent.

### **Age of Consent**

There are many components that influence whether a person is prosecuted for rape or sexual misconduct. Except for mental incapacitation deeming a person unfit to consent to a sexual contact or a relationship with another person, age is perhaps the most important factor in determining criminal charges. The age of consent varies by state and federal law, with the minimum ages of consent being fifteen, sixteen, or seventeen in the United States. Per the Uniform Code of Military Justice (*Uniform Code of Military Justice*, 2016), the age of consent for sex in the military is sixteen years of age. This stipulates that if a person in the military (on

active duty), regardless of their age, is guilty of rape if their partner or victim is under sixteen years of age.

### **Military Justice System**

The military justice system oversees more than 1.4 million active duty service members and 850,880 service members in reserve components when they are performing active duty service or inactive duty training (IDT) in a federal capacity (United States Defense Department, 2014). On rare occasions, the military justice system also applies to active duty retirees, civilians attached to U.S. military units as in times of war, and prisoners being detained by the U.S. armed forces (*United States v. Ali*, 2012).

Much like the civilian criminal justice system, the military justice system functions due to laws and regulations that are granted by law through legal decisions and constitutional powers. The power of the military justice system is due to the constitutional powers that are granted to Congress to make rules for the government and to regulate the land and naval forces of the United States (U.S. CONST., art. I, § 8, cl. 14). Congress grants the President of the United States, the power to set the rules allowed for the court martials that govern service members, as he or she is Commander in Chief of the armed forces (U.S. CONST., art. II, § 2, cl. 1). Congress established the current military justice system by passing the UCMJ in 1950, which has had subsequent revisions in 1968, 1983, and 2013 (Uniform Code of Military Justice, 1950; Military Justice Act of 1968; Military Justice Act of 1983; National Defense Authorization Act for Fiscal Year 2014, 2013).

The UCMJ places control of the military judicial system into the hands of the commanders; they are the ones responsible for determining what type of legal repercussions the defendant should face. Commanders can use non-judicial tools to address concerns, such as

counseling, administrative discharges and extra duty. The UCMJ allots four methods of dispensing with charges against defendants for alleged offenses: 1. Non-judicial punishment; 2. Summary courts martial; 3. Special courts martial; and 4. General courts martial (National Defense Authorization Act for Fiscal Year 2014, 2013). Court martials for misconduct can occur in the United States, in foreign countries when deployed, or on naval vessels at sea. The ability to conduct court martials wherever troops are located is a means to ensure swift discipline and maintain combat readiness (United States Defense Department, 2014).

The authority for non-judicial punishment lies with military commanders and the officers in charge (UCMJ, 2012). While non-judicial punishments are generally given for lesser infractions, the severity of the punishment depends on the rank of the officer giving and the service member receiving the punishment. Maximum punishments include correctional custody for up to 60 days (enlisted service members only), forfeiture of half pay for two months, and rank reduction (UCMJ, 2012). The five-armed forces (marines, army, navy, air force, and coast guard) received a combined total of 62, 148 non-judicial punishments during Fiscal Year (FY) 2013 (UCR, 2014).

A summary court- martial is a one officer court, authorized to conduct the proceedings charged to them by a military commander. The officer in charge does not need to be a lawyer, and this type of court is created to arbitrate minor offenses such as dereliction of duty, being drunk on duty. A summary court martial cannot be used to try officers, cadets or midshipmen (UCMJ, 2012). Maximum punishments that can be handed out in a summary court martial include confinement for up to thirty days, restriction of personal movements (place of duty, place of worship, quarters and dining facility) for up to two months, forfeiture of 2/3 pay for one

month, and reduction to lowest pay grade (UCMJ, 2012). The five-armed forces tried 1,101 summary courts-martial during FY 2013 (UCMJ, 2012).

A special court-martial is a formal trial that is presided over by a military judge advocate (uniformed attorney). Like a civilian trial, they follow evidentiary rules almost identical to the federal rules of evidence; convictions made in this court are considered federal criminal convictions, which can result in the defendant being required to register as a sex offender or have restrictions on their rights to own or possess ammunition and firearms due to their status as a felon (UCMJ, 2012). Special court-martial punishments can include bad conduct discharges for enlisted service members since officers cannot be discharged using a special court-martial (UCMJ, 2012). Other punishments can include confinement for up to 12 months for enlisted service members only (officers are exempt from confinement through a special court-martial), forfeiture of up to  $\frac{2}{3}$  pay per month for up to 12 months, and reduction to the lowest pay grade (enlisted service members only) (UCMJ, 2012).

At a special court-martial, the service member may choose if they would like to be tried by a military judge alone, or with a panel of three service members to be chosen by the convening authority, which is usually the judge presiding over the case. If the service member on trial is enlisted, he or she may choose to have  $\frac{1}{3}$  of the panel be enlisted service members. If the service member chooses to be tried by a panel, the panel will also dole out the sentence. The military judge gives out the sentence only when the service member elects to be tried by him/her in place of a panel. In these trials, a  $\frac{2}{3}$  majority is required for conviction, a lesser fraction results in acquittal, the  $\frac{2}{3}$  majority is also used when voting on punishment requirements for the sentence. In FY 2012, the five-armed forces had a total of 1,213 special court-martials (UCMJ, 2014).

The final form of punishment is a general court-martial. These are also considered formal judicial proceedings and resultant convictions are considered federal criminal convictions. A general court martial may impose any sentence authorized in the UCMJ for an offense, including death (UCMJ, 2012). Generals and admirals in command can convene general courts-martial, and unless waived by the accused an Article 32 preliminary hearing will need to be held to determine if there is a factual basis to the charges (National Defense Authorization Act for Fiscal Year 2014, 2013). The convening authority must receive written advice from their judge advocate on staff, advocating that there is enough evidence to indicate a violation of the UCMJ severe enough to warrant an Article 32 proceeding, and that the court-martial has jurisdiction over the accused, the victim, and the offense (UCMJ, 2012).

A general court-martial must have a panel of twelve in capital cases and five in non-capital cases. In non-capital cases, the accused may elect to be tried by a military judge in place of a panel. As was described in the special courts-martial, a 2/3 majority is required for conviction. For sentencing a unanimous vote is required to impose the death sentence, a 3/4<sup>th</sup> majority is required for a sentence of confinement for more than ten years. All other sentences given require a 2/3 vote as was seen in the special courts-martial (UCMJ, 2012). The only exception to the rule is for spying during war-time, which warrants an automatic death sentence if convicted per the UCMJ (2012). In FY 2013, the five-armed forces had a combined total of 1,239 general court-martials (UCMJ, 2014).

### **Prosecutorial Process for Rape**

#### **Civilian**

After a rape or sexual assault is reported by a civilian, the investigative process begins by law enforcement. They will then forward their information to the district attorney's office who

will determine if there is enough evidence to file charges. At this point in the proceedings, the prosecutor will file a warrant for arrest if there is enough evidence to go to trial to charge the defendant with one or more crimes (Rape Recovery Center, 2010).

The prosecutor determines who will be charged, what charge will be filed, who will be offered a plea bargain, and what type of plea bargain may be offered. The prosecutor can also offer sentence recommendations. Per the Supreme Court, if the prosecutor has probable cause to believe the accused committed an offense, as it is defined within the legal statutes, then the discretion on whether to file charges (or not) resides with the prosecution (*Bordenkircher v. Hayes*, 1978).

Once a defendant is charged with committing a crime, they can be ordered to answer the charges in court via a summons, or they can be arrested if the charge warrants it. If the defendant is arrested, they can be detailed until trial until the case is either dismissed or the trial is complete. Often however, the defendant is released from custody on their own recognizance (ROR) or released on bail using money or property that is pledged to ensure the defendant will arrive for their required court appearance (Rape Recovery Center, 2010).

The first appearance is the first time a defendant is required to appear in court to face criminal charges. If the defendant is unable to afford an attorney to defend them, a court appointed attorney will be assigned to the defendant to represent them. These lawyers are often known as public defenders (Rape Recovery Center, 2010). The next appearance in court for the defendant will be a bail hearing if the defendant is unable to post bail. The defense and the prosecution are both able to present evidence at this hearing, and the judge will determine if and how much bail is warranted to secure the defendant to ensure they appear in court (Rape Recovery Center, 2010). The next part of the trial will be arraignment, it is at this point, that the

defendant enters a plea of guilty or not guilty. If the defendant pleads guilty, the judge will set a date for sentencing, if s/he pleads not guilty, the judge will set a date for a pre-trial conference (Rape Recovery Center, 2010). Motion hearings and pre-trial conferences are two additional court proceedings that may take place. Motion hearings may be scheduled for the lawyers involved, so they may discuss pre-trial legal motions or to rule on how the trial will be conducted, or which types of evidence may be admissible as evidence (Schmallegger, 2017). One example is discussing a victim's prior sexual history, which is often not permissible due to Rape Shield Laws.

Part of the process is the trial itself. The trial is where the prosecution is required to prove the defendant committed the crime beyond a reasonable doubt. During this process, a judge presides over the trial, including the jury selection, permissibility of evidence, and determining who is allowed to remain or must be removed from the court room throughout the trial. The judge can also instruct the jury on laws that apply to the case. During this process, the jury will listen to evidence from both the prosecution and the defense (Rape Recovery Center, 2010). After hearing all arguments and evidence, the jury will deliberate over the evidence as it proves or disproves the charges. The jury needs to reach a consensus and must determine if the defendant is guilty or not guilty (Rape Recovery Center, 2010).

If the defendant is found guilty, the judge can either remand the defendant into custody immediately or allow the defendant to remain free on bail, then set a date for sentencing. If the defendant is found not guilty, they can leave, completing the court process (Rape Recovery Center, 2010). Being found not guilty, does not necessarily mean the defendant was not guilty of their crimes, but that the defendant could not be found guilty of the charges presented by the prosecution (Rape Recovery Center, 2010).

After the guilty verdict, the defendant will enter the sentencing process. Prior to sentencing, a probation and parole agent will conduct his or her own investigation into the charges and meet with the victim and the defendant before compiling their report with a sentence recommendation to send to the courts. In felony cases, the defendant usually must serve out their sentence in prison due to mandatory minimum laws that have been imposed for federal offenses (USSC, 2017). Many factors are taken into consideration during sentencing, but the recent imposition of mandatory minimums ensures defendants will serve time if they are found guilty. While the federal government has its own set of sentencing laws, each state has its own unique system or set of laws for sentencing sexual assault. Many states have similar laws, where a defendant can serve less than a year for 4<sup>th</sup> degree sexual assault such as non-consensual touching either directly or through clothing with the intent to gratify the perpetrator or humiliate the victim (a Class A Misdemeanor in most states) to life imprisonment for 1<sup>st</sup> degree sexual assault of a child under 13 if an injury is caused (a Class A felony) (USSC, 2017).

While on probation, the defendant will have a list of regulations they must follow. If they violate their probation, they must answer to the judge in court for violating their probation. If a defendant was remanded to prison, they will be released on supervised parole when they are released from prison. If the defendant/parolee violates their parole, they must answer and report to the parole board instead of facing a judge like someone on probation would be required to do. Once a defendant has completed their parole or probation, the criminal justice process for that charge is complete (Rape Recovery Center, 2010).

## **Military**

Crimes of a sexual nature are among the sixty-five punitive articles of the UCMJ, many of which contain more than one offense. The articles regarding sexual offenses appear in Article

120 of the UCMJ (UCMJ, 2012). Article 120 is rape and sexual assault in general. Article 120b is the Rape and Sexual Assault of a Child, and Article 120c is defined as ‘other sexual misconduct.’ These three articles together comprise and encompass ten crimes: rape; sexual assault; aggravated sexual assault; abusive contact; rape of a child; sexual assault of a child; sexual abuse of a child; indecent viewing, visual recording or broadcasting; forcible pandering; and indecent exposure. Committing or attempting to commit any of these offenses will be prosecuted under Article 80 of the UCMJ. Other sexual offenses that a service member can be charged with, but are not listed under Article 120, include forcible sodomy (Article 125, but chargeable under Article 120 as sex offense), and pandering and prostitution (Article 134) (UCMJ, 2012).

These are all offenses that can be prosecuted by military commanders. Military commanders are limited in their prosecutorial powers. They can only take actions against persons who are subject to the Uniform Code of Military Justice, and thus are only able to take legal and disciplinary action in cases if the subject (perpetrator) or the subject and victim are both enlisted in the military. Military commanders are unable to prosecute a perpetrator if they committed a crime of any nature, especially sexual offenses if they were a civilian or a foreign national (United States, 2013).

### **Comparison of Military and Civilian Justice Systems**

There are several subtle similarities and differences between military and civilian judicial systems. In the military, the influence a commander has over his or her subordinates can corrupt the military justice system, through intentional or unintentional means (United States, 2013). Article 37 of the UCMJ (2012) is designed to prohibit interference with or taking adverse actions against court and juror members on behalf of the commanders. When facing trial, military defense counsel is provided to every service member who is being tried in a special or general

court martial (United States, 2013). This service is included at every conceivable level, even up to a review in front of the Supreme Court, at no cost to the service member (United States, 2013). In sexual assault cases, the victim is eligible to receive free legal assistance through the Services' Special Victims Counsel. In the case of plea bargaining, it occurs between the subject (defendant) and the convening authority (officer presiding over the case) (United States, 2014).

In the case of sentencing, the convening authority may allow the subject to plead guilty to a lesser offense like civilian cases, the difference occurs with sentencing, agreeing on a maximum amount of time to be served. The panel charged with sentencing may offer a lesser punishment than what was agreed upon between the convening authority and the subject. If this occurs, the subject receives the lesser sentence. If the sentencing authority offers a higher punishment than the agreed maximum as previously described, the subject will receive the maximum punishment that was agreed upon for the plea deal in place of the sentence imposed by the sentencing authority (United States, 2014).

One glaring difference between military and civilian judicial systems is the ability of the convening authority to set aside convictions or alter sentences; this was far more pronounced prior to the National Defense Authorization Act (NDAA for FY2014). After the NDAA was enacted in 2014, military commanders retained their power to grant clemency for certain court-martial sentences and it allowed them to set aside convictions for minor offenses. This is not allowed to take place in capital cases or cases involving sex offenses (United States, 2014).

### **Repercussions for reporting rape**

One of the differences between civilian and military justice systems, is that a service member can be reprimanded through an Article 15, or prosecuted for adultery and fraternization

(UCMJ, 2012). These charges can stem from sexual assault incidents, inhibiting some service members from reporting sexual assaults for fear of reprisal (United States, 2014). Of all active component service women who reported their sexual assaults, 52% felt they experienced professional and social retaliation, thus many indicated they did not report their sexual assaults because they wanted to get past it and move on (Morrall et al., 2015).

Common reactions to rape that occur are the presentation of post-traumatic stress disorder (PTSD), anxiety, depression, failure to form positive social attachments, and a high startle reflex (James & Gilliland, 2015). Post-traumatic stress occurs at rates up to 30% higher in the military, this is likely because of service members having to work in proximity to their attackers (Tiet, Leyva, Blau, Turchik, & Rosen, 2015).

Many states have sexual offender registry requirements in addition to registries for all other offenses including citations, misdemeanors, and felonies. Registries for federal crimes are tracked through the National Crime Information Center and the Federal Bureau of Investigation. The military keeps track of those who commit crimes that would be considered felonious under general court martial standards and for crimes that would require service members to be listed under federal sexual offender registries, there is not a standardized list for service members who have been accused or repeatedly accused of sexual offenses, or for those who have gone to military trial repeatedly for such offenses. Like the civilian court system, service members cannot be remanded to custody if they are not found guilty. Service members, especially those enlisted in active service, are able to travel from state to state, or to other countries even, where it is more difficult to keep standardized records as they pertain to military court or sexual offenses. This is a doubled edged sword; while it ensures that innocent service members will not be

punished, the sheer nature of military culture does not allow for a controlled reporting system to ensure sexual predators are held accountable for their offenses.

For service members who are found guilty of harassment, it should be annotated in their military record in the event he/she perpetrates another sexually related offense for the purpose of establishing a pattern of sexually deviant/criminal behavior. For crimes of sexual assault, the service member should be removed from the same unit as the victim, and they should be demoted a minimum of three ranks, with monetary sanctions placed against them to paid to the victim for a period of no less than three years, or the end of the term of their enlistment. If another unit is not willing to let them transfer into theirs, they should be discharged with a less than honorable discharge and stripped of military and veteran's benefits. For service members who would be allowed to transfer into another unit, they should have their movements monitored, and restricted at the end of the work day; they would have to report for extra duty assignments until it was time to turn-in for lights out. In accordance with the civilian justice system, if the severity of the crime would require it, offenders would be required to register as a sex offender. Any crimes against minors under seventeen, especially children under twelve would result in an automatic dishonorable discharge and the service member would be required to register as a sex offender and For service members who were convicted for crimes of rape, they should be remanded to military prison for the duration of their sentence, and discharged to file as a sexual offender with the civilian registry upon the completion of their sentence in addition to being stripped of all military and veteran's benefits that would have otherwise been available to them.

## **Statistics**

In 2004, before the Sexual Assault Program (SAPR), the Department of Defense received 1,700 reports of rape (United States, 2016). There was a 40% increase in sexual assaults reported between 2004 and 2005. By 2013, there was an increase of 53% and the following year there was an 11% increase (United States, 2016). There were not concrete statistics regarding rank upon rank crime, delineated by sex. For example, male enlisted sex crimes upon female enlisted, male enlisted upon male enlisted, female enlisted upon female enlisted, female enlisted upon male enlisted, etc. (United States, 2013).

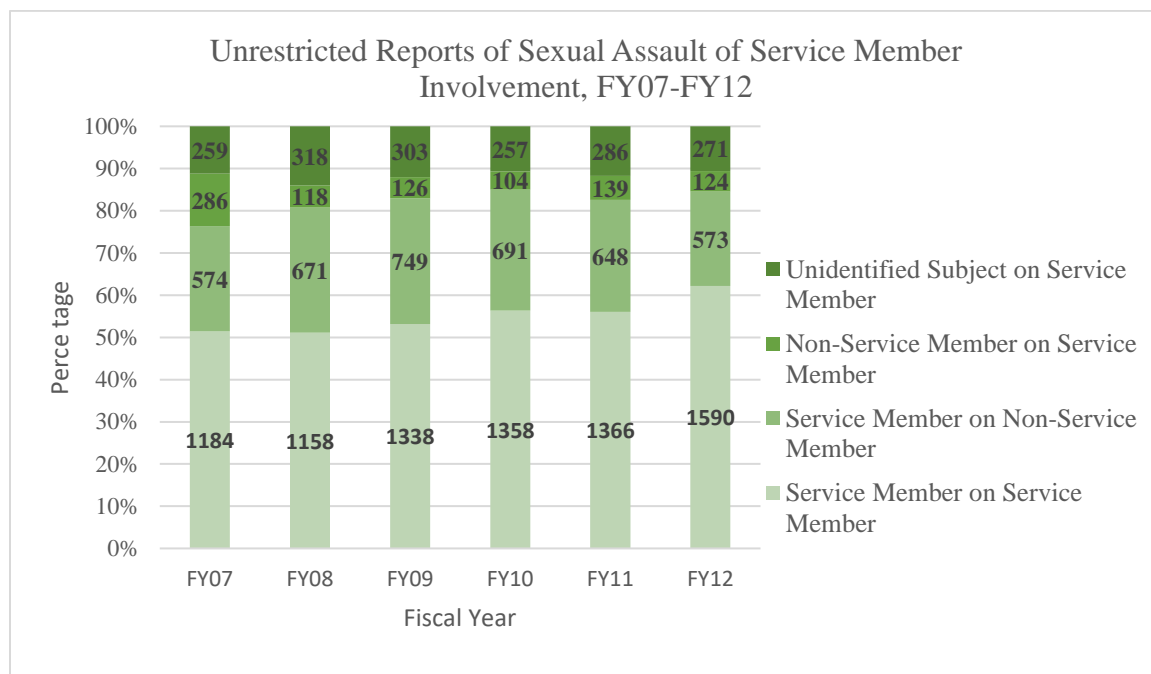
Data reported to military commanders offered one set of data provided by the service members that were brave enough to report their sexual assaults. The following tables and charts display the data reported to commanders for the fiscal year 2014. Table 1 displays the breakdown of offenses reported to commanders, that involved a service member as the perpetrator (subject) of the alleged crime. It shows all sexual offenses perpetrated by service members, and whether the victim was either a service member or a non-service member victim. Most of cases were categorized as wrongful sexual contact at 28%, aggravated sexual assault cases accounted for 24% of all cases, and rape cases represented all sexual offenses in 2014.

**Table 1: UCMJ Breakdown of Sex offenses by victim in FY 2014**

Offender Status by Assault Type (All Unrestricted Cases)	Service Member Victim	Non-Service Member Victim	Total Cases	Percent of Total
Rape	166	77	243	19%
Forcible Sodomy	71	17	88	7%
Aggravated Sexual Assault	233	71	304	24%
Sexual Assault	42	12	54	4%
Aggravated Sexual Contact	27	8	35	3%
Abusive Sexual Contact	145	29	174	14%
Wrongful Sexual Contact	287	63	350	28%
Indecent Assault	1	0	1	<1%
Total	972	277	1249	100%

(United States, 2014)

To analyze the patterns and number of servicemembers involved in sexual assaults over a number of years, Table 2 depicts the offender and the rapist, and identifies as to whether or not they were a servicemember or a non-servicemember. The majority of rapes committed between 2007 and 2012 were servicemember (rapist) on servicemember (victim), with the numbers increasing gradually each year with the exception of FY 2008. The second highest category of rape cases fell under the category of servicemember on non-servicemember. The highest peaking year under this category occurred in 2009, with 749 rapes occurring in this category, and steadily decreasing during that timeframe. While the numbers varied over years, the lowest number of rapes reported by servicemembers alternated between an unidentified subject and a non-service member. For the last two categories, non-servicemember on servicemember has a higher number of sexual assaults for FY 2007 at 286 compared to unidentified person on servicemember, but the five subsequent years from FY2008-2012 unidentified subject on servicemember reported a higher number of sexual assaults compared to non-servicemember on servicemember. In FY 08 (318 vs 118), FY09 (303 vs 126), FY10 (257 vs 104), FY11 (286 vs 139), and FY12 (271 vs 124).

**Table 2: Service Member Victimization Report for FY07-FY12**

(Morrall et. al, 2014; United States, 2014)

Due to increasing numbers of sexual assaults and rape being reported, in 2014, the DoD decided to have RAND Military Workplace Study (RMWS) conduct an independent investigation into the levels of sexual assaults that were occurring in the military. Surveys were sent to 560,000 service members, making it one of the largest workplace surveys ever conducted (Morrall et. al, 2015). In contrast to the data provided by the Department of Defense, the RMWS reported significantly different statistics.

The data submitted by the service members indicated 1.0 percent of men and 4.9 percent of women surveyed were subjected to a sexual assault in the previous year (Morrall et al., 2015). This resulted in approximately 10,600 service men and 9,600 service women, accommodating for

rounding. Thirty-five- percent of men and 43 percent of women surveyed experience what are considered penetrative assaults. Of all assaults that occurred, nearly 90 percent took place in a military setting (workstation, training, military schools, etc.) or were committed (perpetrated) by military personnel. 116,600 active component service members reported being sexually harassed in the past year. Thirty-four percent of men who reported being sexually assaulted, described the incident as hazing.

### **Military Culture and Military Sexual Trauma**

Such high rates of military sexual assault lays with the fundamental values of the military and its culture, making it difficult to change people's attitudes towards it (Sorcher, 2013). The military places value on strength and masculine qualities; as a result, lower value is placed on women. Women may be viewed as being unable to meet the mental and physical demands necessary to maintain unit cohesion in a combat setting (Vogt et al., 2007). Believing in strict gender roles may allow men who hold such feelings to believe they are justified in perpetrating sexual assaults as a means of asserting their masculinity or male dominances, especially in combat roles (Groves, 2013). Females who have been victimized due to their job roles in the military felt they were targeted due to the masculinity of the job roles they held (Ormerod et al., 2005).

With the military being comprised of 85% male service members, it is clearly a male-dominated environment, so it is not surprising that sexual harassment of women is likely to occur. Victim surveys have indicated sexual harassment in the military is higher than among males and females in the military than their civilian counterparts (Rosen, 2007). Most supervisors in the military are males, resulting in women having fewer numbers of power at all levels of rank (Tuchick & Wilson, 2010). The high numbers of high-ranking male officials may

contribute to the increased perception of tolerance of sexual assault; this have project the view that leadership in the military is predisposed to be ill-equipped to handle gender or sexually related grievances (Turchick & Wilson, 2010; Vogt et al., 2007). Of the 3,374 cases of sexual assault reported to the DoD in 2012, which included both service members and civilian personnel (this includes civilian perpetrators of the rape of a service member and civilian victims of rape by a service member), 88% of the victims were female, and 12% were male (Durham, 2014).

### **Rank Structure**

The organizational structure of the military may contribute to the high rates of sexual assault in the military. The rigid and well-defined structure of the military both enables and contributes to sexual assault through lower rates of reporting. Ormerod (2005) has demonstrated that having less organizational power is directly related to becoming a victim of sexual assault. The structure and rank of those in power deters the reporting of sexual assault. From the person at the very bottom, with the lowest amount of power, to those highest in power, the incentive to cover crime is high in order to deflect blame from oneself so they may stay in power (Sorcher, 2013). It is impossible to know how many people made reports of sexual assault that never were processed or reported to the Department of Defense Annual Report on Sexual Assault in the Military.

One of the many problems plaguing the military justice system, is that when accusations of sexual assault or harassment are made, is that a court martial may be convened. While a court martial is the military's judicial process, court martials are not sitting courts as are seen in civilian justice systems. Court martials are convened by commanders, and the commanders select the court members (jurors), decide (subject to review by a military judge) pretrial motions to produce

witnesses, in addition to discovery motions. Commanders are also able to agree to plea bargains with defendants, or grant immunity to defendants to encourage them to testify. This is known as command influence, and it taints the military justice process.

When service members reside under a military command that appears tolerant of sexual assaults by issuing only administrative punishments or ignoring incidents of sexual harassment, it gives the impression to would-be assailants that sexual assault is not only an acceptable, but that they will not face retribution for committing such acts (Snyder et al., 2012). Such a conclusion is easily made, as most victims of sexual assault, when they knew their attacker, were able to identify them as a person who had sexually harassed them on previous occasions (Ormerod et al., 2005). According to Houser (2007), the military supports military officers who limit the consequences of the offender (of sexual assault) with military policies. These include policies that state the officer should first examine the character and service record of the accused, the circumstances of the offense, and the harm that was caused.

### **Section III: Theoretical Explanations for Military Rape**

Research on the issue of MST as it pertains to criminological theories is limited since most research has been focused on the victim rather than the offender. Statistics demonstrate that males carry out the majority of sexual assaults in the military against both female and male victims. In contrast, most sexual assault prevention programs in the military focus on how women can reduce their risk of being victimized (DOD, 2012). Theories targeting the problem of military sexual assaults are often sociologically based instead of criminologically based, when criminal theories and evidence demonstrate such connections between the perpetrator and military sexual assaults that take place.

#### **Cultural Spillover Theory**

Cultural spillover theory was first developed in the late 1980's by Baron, Straus, and Jaffee (Baron & Straus, 1987). It surmised that the more a culture (or subculture such as the military) tends to condone violence to achieve its end goal, the more likely violence will spill over into other facets of life. Cultural spillover theory holds the tenet that the more a society condones the use of violence to achieve or attain its ends, that there is likely either widespread social approval of violence to get what one wants. The more a society approves of using violence to achieve its ends, the greater the likelihood of resorting to illegitimate violence (Bloom & Smith, 1996). One factor related to cultural spillover theory is the support for 'legitimate violence.' Legitimate violence is measured using an index of twelve indicators of noncriminal violence (Baron, Straus, & Jaffee, 1988).

#### **Application of Cultural Spillover to Military Sexual Trauma**

In the military, service members (SM) are re-socialized to adhere to military culture, norms, and values. As a part of the military, SM's are conditioned to support other service

members, and to protect their unit, no matter the cost. Another of these new military norms is that violence is sometimes necessary to achieve goals (Bradley, 2007). Cultural spillover theory is one such explanation for military sexual assault. According to Rosen (2007, p. 10), “the more a society tends to endorse physical force to attain socially approved ends, the greater the likelihood that this legitimation of force will be generalized to other spheres of life where force is less socially approved.”

The military on the other hand is essentially a private albeit government organization, that uses physical force as dominance to attain its end goals. One of the key phrases in cultural spillover theory is ‘socially approved.’ Certain studies (Rosen, 2007; Tharp et al., 2013) indicate that the perpetration of sexual violence in the military is a socially approved behavior. Behavior is often justified using subtle and malleable means such as language. According to Katz (2006), language can alter how people view certain acts, words or topics, which is a slippery slope when attempting to define and prosecute sex crimes, especially in the military. The statement “violence against women” implies that violence is something that just happens to women, whereas “male violence against women” implies the perpetrator of such violence is somehow complicit and responsible for such violence (Katz, 2006). Living in or being a part of a social group, like the military, where one’s fellows are either actively participating in or being supportive of a behavior, in this case, sexual violence, the more likely it will be normalized, accepted, and justified (Tharp et al., 2013).

The acceptance of sexual victimization has become normal and is often deemed “a part of the job” for women (Snyder et al., 2012). Research supports the attitude of acceptance towards sexual assault; time in service is also a factor in how women are perceived in the military. The longer women are in the military, the more negative attitudes they would possess toward women,

which suggests being a part of a male-dominated culture contributes to negative attitudes toward women (Vogt et al., 2007). According to Katz (2006), the cultural and social hierarchies associated with gender violence are so strong, that they overpower other belief systems that identify a person such as race, class, ethnicity and gender. This results in both men and women being targeted due to the practice of violence, both for self-defense and against others being the common norm in the military.

### **Routine Activity Theory**

Routine activity theory states that for a crime to be committed, three specific criteria must be involved. These criteria are that there must be a motivated offender, a suitable target, as well as the absence of a capable guardian (Schmallegger, 2017). This theory attempts to show that crime rates are not generally affected by macro changes in society such as economic recessions and unemployment rates. The lifestyle of an individual plays an important part of routine activities theory. The more one is exposed to criminal behavior as a part of their daily lifestyle, the increased likelihood that a person will commit criminal activity in the future.

Introduced by Cohen and Felson (1979), routine activity theory is comprised of three motivating factors committed during everyday activities when an opportunity presented itself to a perpetrator. They defined these situations as direct contact predatory violations. They also felt that they lack of any one of these motivating factors could prevent the completion of a direct contact predatory crime. Cohen and Felson (1979), surmised that even an increase in suitable targets in conjunction with a lack of a protective guardian or crime deterrent, that an offender with a high motivation was not entirely necessary to commit crime. They theorized, a mildly motivated offender would commit a crime if there were significant opportunities to do so, and if the perpetrator felt they would not get caught due to a lack of security of their intended victim.

### **Application of Routine Activities Theory to Military Sexual Assault**

Routine activities theory relates closely to sexual assault. Within the military, there are a high number of victims, often in close quarters. Unit cohesion is protected due to military values. There is a lack of oversight and protection of victims, especially in the reporting and prosecution phases of sexual assault offenses. Military and criminal offenses are often handled in house, often by unit commanders depending on the severity of the crime (UCMJ, 2012). Surveys have demonstrated that 13% of males who enter the military self-report having attempted or completed a rape prior to their enlistment, which is over twice the rate of 4.4% of males who admit to the same offenses, who are applying to and entering college (Turchik & Wilson, 2010). According to Houser (2007), past offenders of rape and sexual assault are likely to be repeat offenders, making it clear that offenders who are motivated to commit rape or sexual assault have a higher propensity to commit such crimes. This places victims at increased risk when they are near offenders (Snyder et al., 2012).

A lack of supervision due to ongoing military operations in Iraq and Afghanistan, has resulted in minimal supervision of many service members (Groves, 2013). Rates of sexual assault were lower in Vietnam and World War II eras when women served in ancillary positions in place of the combat roles seen in more recent years (Suris & Lind, 2008). Women now have roles that place them in closer proximity and isolation with men. This is further supported because past victimization has been demonstrated to be a predicting factor in whether a person will be sexually victimized in the future (Suris & Lind, 2008; Turchik & Wilson, 2010). The lifetime prevalence of rape among Air Force female personnel was 28%, while it occurred at a rate of 13% for civilian women (Bostock & Daley, 2007). Studies have also demonstrated that

more female veterans have experience childhood sexual assault compared to those who had not enter the military (Suris & Lind, 2008; Turchick & Wilson, 2010).

Research conducted by the DoD (UCMJ, 2012) acknowledges that being a victim of a sex crime is a risk factor for future victimization. According to DoD research, 30% of women, and 6% of men had endured an unwanted sexual incident prior to entering the military.

According to Turchik and Wilson (2010), a history of sexual assault may be a factor in choosing to join the military, to escape an abusive environment. According to multiple studies, similar findings have been found to indicate that past victimization is a predictor for future assaults, which falls in line with routine activities theory due to the number of potential targets when enlisted in the military (Kelley, Schwerin, Farrar, & Lane, 2005; Omerod et al., 2005).

## **Section IV: Recommendations and Conclusions**

Military hierarchy and military culture permeate the ranks of all branches of the military. From day one of basic training, regardless of one's branch of service, service members learn to conform to the group. Each person must be able to meet the standard of training to be a part of their branch of service. Part of this training is remaining strong mentally and physically in the face of adversity, and to follow military laws. Failure to do so can result in separation from one's branch of service, or more severe sanctions. This is exacerbated in the event of a sexual assault of a service member, especially if it was perpetrated by another service member working under the same military command. When a service member is sexually assaulted by one of their peers or superiors, they have limited options to report what happened to them, as the investigation is initiated by their own unit before being prosecuted. The victim is often placed in a position where they must work with or see their attacker on a regular basis, which causes revictimization, leading to further trauma and stress for the him/her.

### **Recommendations**

As cultural and social patterns demonstrate, being a part of a closely-knit group that engages in and condones violence (as can be seen in the military), can normalize violence. When women (or men) are in the minority in a social group, they are statistically more likely to engage and condone violence, especially sexually promiscuity or sexual violence if it is viewed as a normal part of the culture of a particular social group, in this case, the military. Service members living in close quarters, especially residing overseas on deployment, are statistically more likely to report sexual assaults and sexual harassment (Durham, 2014; Turchik & Wilson, 2014). These statistics are reinforced due to the lack of oversight, supervision, and jurisdiction of a civil court that service members can use in the event of a crime.

While military self-reported statistics indicate report that men are sexually assaulted at significantly higher rates than women, women report sexual assaults committed against them at higher rates than men. This can be due to military culture. A man reporting a sexual assault committed against him implies a weakness on his part; it implies that he was not strong or manly enough to defend or protect himself according to military standards, something that all service members should be able to do. A woman reporting a sexual assault is viewed as destroying unit cohesiveness or readiness, because she is already viewed as the physically weaker sex in the military (Durham, 2014; Turchik & Wilson, 2014).

Women represent a minority in the military, so when they are placed in a male dominant society (the military), they are automatically placed at a disadvantage, and are subject to sexual assault at high rates due to being at a disadvantage of their gender, and the lack of oversight of higher ranking peers to discourage sexual assault due to the lack of reprisal and repercussions for committing sex crimes in the military (Snyder, Fisher, Scherer, & Daigle, 2012). These ideas relate extensively to cultural spillover theory as well. Living in close confines in a male dominated culture, women are automatically placed at a disadvantage. In a community where both men and women are conditioned to assimilate into the group as a cohesive unit, in addition to being conditioned to perpetrate violence against their fellow 'man' if it is required. This can range from fighting to rape to taking another's life.

A remedy to rectify the inconsistencies in the reporting of sexual assault in the military would be to have an independent panel for investigating and prosecuting military sexual assaults at each military station, or capital if it is a reserve or National Guard unit within a state. If a crime occurs while a soldier is not on active orders as a part of the National Guard, or if it occurs during after-duty hours, service members could have their rape or sexual assault cases tried in a civilian

court. While a service member is officially on duty during their monthly drill weekends, they receive military reprimand for any infractions that occur after duty hours during military service. It could be argued that if a National Guard unit is not in active status for a military assignment, that they could report crimes committed against them, or in turn, be prosecuted if they were the perpetrator.

A standardized investigative and prosecutorial process for all sexual allegations should be formed to ensure proper management and justice for victims of sexual assault. There should be a checklist established of what needs to be documented for evidence in the aftermath of a sexual assault. While there is a standardized procedure for sexual assaults that occur within the civilian criminal justice system, there is not a regulated or established procedure for assaults that occur on military bases and hospitals. There should be a list of evidence to be collected, in addition to the assault being reported to the military police so it can be followed up with the offender's unit or referred to the civilian criminal justice system if the offender was a civilian. This would establish a system of checks and balances from the reporting of an incident through prosecution or dismissal based on the evidence.

Currently, there is not a military registry for sexual offenders, or service members who have committed, or been found guilty of sexual offenses. Military commanders have a vested interest in making sure accusations of sexual harassment or other sexual offenses do not cause any type of professional or unit repercussions for them; this is known as 'covering your six' (back) in the military. A unit commander is less likely to address, prosecute, or refer accusations of sexual assault or sexual harassment because if such crimes are occurring under their command, it reflects poorly on them as a commander.

The difficulties commanders face when investigating and referring accusations of sexual harassment are also applicable in the decision of the convening military authority when they determine whether to send a sexual harassment case (the most common sexual offense in the military) to trial by court martial. The convening authority or commander not be allowed to determine on whether a sexual harassment case goes to trial. With the lack of oversight of sexual offense determinations by commanders, and the lack of a military wide sexual offender's database, it's impossible to determine if the convening authority of a military court martial is, or has been investigated for sexual offenses, which would likely make them biased in favor of other military sexual offenders rather than the victims that come before them in their courts. The civilian criminal justice system would not allow a prosecutor under investigation for a crime to decide in a case with a defendant charged with a similar crime. Commanders who refer cases of sexual harassment to the convening authorities for court martials in sexual harassment cases may be pressured to cover-up allegations or charges of sexual harassment to avoid the impression that a problem exists under his/her command, as it demonstrates a lack of leadership and oversight on their part.

It could be beneficial to track the criminal history of perpetrators of sexual assault violations if they have a record before enlisting, and while they are serving in the military to determine any patterns that indicate certain service members are more likely to perpetrate sexual assaults in the military, to learn what drives them to commit such crimes, and to make other service members aware of their presence if they have a transfer pending to go to a different military unit. If service members have committed a sexual assault and are found guilty under the suggested, regulated prosecutorial process for military sexual assaults, the perpetrator should be remanded to military prison for the duration of their sentence, then stripped of any military or veteran's privileges or benefits before being discharged to a civilian probation and parole board near their

home of record. Ultimately, sexual assault investigations in the military should not be dealt with 'in house' within either the victim's or the perpetrators military command because it corrupts the investigative process and impedes justice. Current military regulations depending on the offender's rank and branch of service, can allow certain sexual offenses to be prosecuted or judged by a military panel or a senior officer within the accused's military unit. To ensure a proper prosecution in all cases, they should not be handled within an offender or victim's current military unit to avoid bias or corruption of the investigative or prosecutorial process during the trial. To avoid such dilemmas, regulations should be implemented to ensure continuity and avoid the perversion of criminal investigations and any potential punishments that may result from such trials. Civilian systems are not allowed to have friends, acquaintances, or family members on their juries due to bias. The same should be upheld in the military justice system, so there need to be policies in place to ensure it.

In conclusion, establishing a military sexual offender registry would most certainly cause a seismic shift in how the military reports, prosecutes and punishes those who commit sex crimes. Most service members possess outstanding moral character, but military culture, especially war culture enables those who would seek to evade punishment for sex crimes. This occurs due to current military and political policies, and victim shaming tactics that dictate how the American military functions as whole. The current military status quo ensures that the unit can survive and function as a whole at the expense of the silence it's victims due to the repercussions they would face when reporting sexual assault.

## **Conclusion**

It can be concluded that the strength of military culture and its associated hierarchy overpower the sense of self after a person is sexually assaulted in the military. Sexual assaults and

their subsequent prosecution are often mismanaged, or not properly prosecuted due to associates of the perpetrator being placed in charge of the investigative or prosecutorial processes. When a person is a part of the military, they are taught to protect the unit at all costs, and military culture has often propagated this belief. Only recently have military sexual misconduct scandals become prominent in the media as other social movements have gained traction in the fight against sexual abuse and misconduct.

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