

SEXUAL ASSAULT IN THE MILITARY:
ETHICAL DILEMMA OR NATIONAL SECURITY ISSUE?

A Thesis
submitted to the Faculty of
The School of Continuing Studies
and of
The Graduate School of Arts and Sciences
in partial fulfillment of the requirements for the
degree of
Master of Arts in Liberal Studies

By

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Washington, D.C.
October 25, 2012

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ABSTRACT

Women have fought for equality in society and despite making great strides there is still a level of inequality within specific areas of the United States Armed Forces. While not technically allowed to take part in combat operations, women have been heavily involved in the fighting in Iraq and Afghanistan. This thesis will search for the answers to why women are still being sexually assaulted while serving and how the U.S. government and armed forces can offer safety and justice to those who volunteer. This thesis will specifically focus on sexual assault policies and the lack of enforcement. I will use the terms sexual assault and military sexual trauma (MST) interchangeably. Major issues of contention concerning sexual assault in the military exist despite damning evidence. Due to our continued participation in two straining and expensive wars as well as added pressure from the media, civilian organizations, and social media outlets this topic has become front page news.

Do social trends and social media affect the progression of females within the military or could it hinder progress? How can social media cause adverse effects in high-profile sexual assault cases? Will sexual assault victims ever be able to come forward, get justice, and then move forward with their lives and careers? Sexual assault policies

are now more important than ever since our modern day military consists of a volunteer service which is seeing an unprecedented number of lengthy deployments. Additionally this thesis will examine previous policies and their implementation as well as current procedures and possible future initiatives. Furthermore, military officials and their objections and/or denial of these issues will be discussed. Research and data from scholarly and medical experts will be utilized to further bolster my proposals for bettering the policies as well as initiatives to prevent sexual assault.

DEDICATION

I would like to thank Dr. Elizabeth and Mr. Richard Duke as well as Assistant Dean Anne Ridder. Thank you for answering my incessant questions. I owe an incredible amount of gratitude to Dr. Gregory Havrilak. I could never have hoped for a more honest and encouraging advisor. You took a chance on working with me and I am so grateful for it. A special thanks to my sisters and brothers-in-law. It is difficult to follow in the footsteps of such amazing big sisters. I am convinced you two ladies are secret superheroines. To my friends and family, I thank you for your unwavering support. From my Godparents to my study buddies, I couldn't have done this without you. Most of all, thank you to my Mum and Dad-doo. There are no words which could adequately express how thankful I am for you. You've been my driving force and inspiration on this oh-so long journey and now that we stand together at the destination, I know I could never have succeeded without you. Thank you for the millions of tiny (and not so tiny) sacrifices you made so my sisters and I could have the best life imaginable. I hope this thesis makes you proud and can start to repay you for some of those stressful, sleepless nights I caused. Thank you and I love you. To those who served, suffered, and fought back; your courage will not be forgotten. This thesis was written in the hopes that sexual assaults in the military will become anomalies and the victims will no longer become empty statistics.

“If you are going through hell, keep going.” – Sir Winston Churchill

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CHAPTER ONE

WOMEN IN THE MILITARY AND THE ACADEMIES

Women have been told they are just as capable as men in the workforce. Anti-discrimination laws have ensured that women are not treated as inferiors in the workplace. Since women have entered so many areas of employment it is no surprise the military has had to make adjustments due to the burgeoning number of women serving. Since World War II women served in regular military forces whereas before they were only allowed to participate in support services (Iskra 2010). The numbers and roles of women changed after the armed forces became a volunteer service. Statistics now find that number of women in the military has dramatically increased in the last 60 years, from less than 2 percent to about 15 percent of the total force (Iskra 2010). This presented a new set of challenges for government and military as they tried to uphold the high standards and stringent regulations while ensuring an accepting and safe environment for the new servicemembers.

A study completed in 1996 provided astounding numbers of the proliferation of sexual harassment in the military. Nearly 2/3 of females in the service admitted they had received unwanted, uninvited sexual behavior while in the military (Nelson 2002). These statistics are not the outcome of an epidemic or several anomalies but more indicative of a pervailing sexist culture within the military.¹ Some high ranking officials have called

¹ While a strong statement, continuous efforts by the DoD and Academies supported by the government have yielded nothing but many different studies on how many servicemembers are being assaulted. So much money is being spent on studying the numbers, the statistics, the PTSD and other medical issues that can follow but the true issue is how to prevent assaults because even one military

for the Pentagon to create and enforce new policies. The commander of the 104th area support group in Germany, Colonel Charles Glover is one of these advocates. In 1997 he released a statement chastising the status-quo culture of the armed forces observing that a general lack of respect and a failure in leadership was to blame for the assaults (Nelson 2002). He further acknowledged that the ‘zero tolerance’ policy is a decent concept on paper but until it is enforced, it is nothing but a slogan. Glover did not rationalize, minimize, or victim blame. He admitted there are shortcomings that can and need to be addressed and rectified. Glover did something that both military policy makers and the civilian legal system should be doing; acknowledging the issue of sexual assault and sexual harassment.

Exact statistics vary depending on the data supplying agency so it is difficult to know how many assaults take place in a year. There is a myriad of reasons the numbers are indefinite. First of all, rape and sexual assault are the least reported violent crimes. There is a deep sense of shame in the victim and there is also fear of reprisal or blame. From most first person accounts, most say they feared for their career. Secondly, there is a lack of education and leadership. Many service members have stated they were unaware of where to go for help or if there was even a crime to report. The third reason is an extension of the second, leaders have failed to create new policies and have done little to enforce the existing rules.

A. Historical Background of Women in the Armed Forces

member being sexually assaulted is too much. Billions of dollars could be saved if these assaults were prevented.

When women began serving their country it was in support of the troops. Women were nurses who served in separate branches (e.g., Navy nurse corps) and later they were able to become clerical workers with their own personnel policies, pay scales, and other structural differences. They were purely support staff with no authority, no ranking or hierarchy, and little to no protection against harassment. With the absence of a culture which stressed equity there were generally no laws or official policies concerning sexual assault, sexual harassment, or discrimination.

Unofficially women have served in the military as far back as the Revolutionary War (Coletti 2010). The first wave of women welcomed into the armed forces came in the 1940s. It would be three more decades for women to be fully integrated into the military. To this day, women are not allowed to enter into certain military jobs. This is important to note as it shows an inability of some to accept women who volunteer for these roles despite continuing to volunteer even when unwelcome. Their commitment to serve should be noted since these women were not forced into this life; they chose it.

As far back as the Civil War women participated in support services like laundry and nursing. Additionally, a larger group of women who were wives, sisters, and daughters volunteered to become nurses (Skaine 1999). Unofficially women have served for far longer than recognized. The historical view of the noncombatant nurse is measured by the military branches and their nursing corps.

Nurses that were attached to military units (Harrell 2002) were rarely held in regard as authorities of their craft. Of the 33,000 women that served in WWI, 20,000 were attached to the Army and Navy Nurse Corps. Due to manpower shortages in WWII

350,000 women were soldiers (Harrell 2002). Nurses later received the status of “relative rank” after serving and fighting for 50 years. Further limitations were explained in the text *Women in Combat*² (Fenner and de Young 2001).

- Female Signal Corps recruits who served with the Army overseas did not gain military benefits, even though they were subject to court marshal and military regulations.
- Black women had involvement in their participation in the Nurse Corp; in WWII they did not receive the same benefits as white women.
- White women who served in the Navy, Coast Guard, and the Women’s Air Service Pilots (WASP) were limited in pay, rank, opportunities, and benefits.

“Women have officially served in the Army uniform since the Army Nurse Corps was established in 1901. The Navy Nurse Corps was established in 1908. In 1918 the Army School of Nursing was founded. The Air Force did not establish a nurse corps until 1949, however” (Skaine 1999). In 1942 the Women’s Army Auxiliary Corps (WAAC) was formed as a support service for the military. This was an achievement but not an easily won advancement. This concept of women supporting the armed forces was intensely debated for over six months in the House. Finally in 1943, the WAAC became the Women’s Army Corps (WAC) which gave a larger number of women a chance to serve. The WAC enabled women of a greater age range to serve (20 – 49 whereas before the age limitation was 21 – 45) as well as payment and benefits they had previously been denied. Since these women were not technically in the military, there was a cap to how high they could advance, rank wise. WAC continued to serve and found itself with

² This is an important source due to the writers not only being female but also officers in the military. Both Colonel Lorry Fenner (USAF) and Capt. Marie E. deYoung (USAR) have illustrious military careers that have spanned decades.

99,388 women in its ranks on Victory in Europe Day, May 8, 1945. Women had fought the battles that helped win the war but soon faced elimination after the war ended.

Legislation was created that enforced a six month disbandment period once fighting ceased. The bright spot of this legislative slap in the face came in the form of General Dwight Eisenhower who prior to becoming president, supported women's right to serve. Through his efforts the "WAC bill" was enacted to support women pursuing military careers. His continued efforts largely contributed to the Women's Armed Service Integration Act of 1947 which was approved by Senate on July 15, 1947.

This was not the end of the fight for women's equality in the military nor was it the final piece of legislature on the subject. The Women's Armed Services Integration Act of 1947 morphed into the Women's Armed Services Integration Act of 1948. The gates had been broken open and additional support flooded Congressional hearings. Colonel Mary A. Hallaren, director of WAC, participated, as did Leslie S. Perry of the National Association for the Advancement of Colored People (NAACP). Serious opposition included legislators and Carl Vinson who notably has an air craft carrier which bares his moniker. Such points of contention included if women were allowed to serve, how many? Whether married women would be required to prove the dependent status of a husband and would women with children be eligible to serve.

Several arguments concerning the WAC existed before and after it President Truman signed it on June 12, 1948. The WAC stayed intact until its termination in 1978. Society's view of women had progressed, partially due to the women's movement.

Moreover, the war in Vietnam once again created the need for females to serve.

Americans were forced to view the world and their military differently.

Continuously throughout time, females have participated in war time efforts in every conflict America has fought. In Vietnam 80 percent of the military women in Vietnam were nurses, mostly Army (DeGoot and Peniston-Bird 2000). In acknowledgement to the changes of the American soldier, there have been initiatives to improve the quality of workplace environments for female military members. James Haley's introduction to *Women in the Military* detailed initial laws and acts that provided forward movement in women's equality as well as the year enacted are as follows:

- Armed Forces Women's Integration Act (1948)
- Reserve Officer Training Corps (ROTC) began accepting women (1972)
- All-Volunteer Force (AVF) (1973)
- U.S. Military Academy, the Naval Academy, and the Air Force Academy admit women (class of 1976)³
- Additional protocols of 1949 added to the Geneva Convention of 1949 provided that women be especially protected against any attack on their honor (Skaine 1999). This focused on civilian safety during a war.

³ According to the Women in Military Service for American Memorial Foundation, Inc. website, "The first women graduated from the service academies as a result of Public Law 94-106 signed by President Gerald Ford on Oct. 7, 1975." This historic ruling was not passed without impediments. "The law passed the House by a vote of 303 to 96 and the Senate by voice vote after divisive argument within Congress, resistance from the Department of Defense and legal action initiated by women to challenge their exclusion." When first able to apply, over 300 women enrolled at the US Military Academy, US Naval Academy, US Air Force Academy and the US Coast Guard Academy. This first class graduated in 1980 with the following results. "Sixty six percent of the women in the first coeducational classes graduated—comparable to 70 percent of the men whose attrition rate due to academic failure was twice that of women." For more reading please see the website of the Women in Military Service for American Memorial Foundation, Inc. website under History & Collections section (Women in Military Service for American Memorial Foundation 2012).

The military has taken steps to show intent to create an environment of equality and opportunities for minority volunteers. The issue is a lack of full commitment to these ideas. Many members of Congress, the military, and veterans support groups, alongside victims' rights groups such as Service Women's Action Network have been outspoken on the Department of Defense's failure to follow through, create new policies, and enforce existing policies. Aside from the Tailhook and Aberdeen Proving Ground scandals there are several examples of the DoD failing to protect servicemembers. In October 2011, for example, Cmdr. Jay Wylie, 40, was sentenced to 42 months in prison. He pled guilty to sexually assaulting two female subordinates (KTLA News 2011). He was able to plea bargain his sentence from ten years to 42 months. According to a veteran's advocacy social media site Syneeda Penland, "In 2011, 23 were relieved of command, up from 17 in 2010, according to the Naval Personnel office." Most of these dismissals were justified due to "personal conduct" issues (Penland 2012). Dismissal from United States Navy was the standard punishment meaning the majority of these officers were not additionally prosecuted under the Uniform Code of Military Justice (UCMJ) or civilian legal system.

The onus is on the Department of Defense, the Pentagon, and the Armed Forces to ensure an understanding that females are fellow service members and are entitled to the same safety, rights, responsibilities, and opportunities of their brethren. Creating cohesion between the genders has been further marred by the prevalence and difficulty that sexual assault and sexual harassment bring to the military. Section two of chapter

one will focus on the current status of women in the military, specifically the Academies as well as the two ongoing wars in Iraq and Afghanistan.

B. Current Status of Sexual Assault of Women in the U.S. Military specifically focusing on Iraq, Afghanistan, and the Academies

Far too much can be said on women's rights, the feminists' movements, and women's roles in the military since Vietnam. This thesis will not focus on these events rather, the after affects. It is assumed the reader is educated on the two following topics. One: The second wave of feminism⁴ has greatly advanced women's roles in government and the military. Two: Rape is about power, not sex. In addition to the research completed on the topics in question, there are theories, facts, and assumptions. Numerous researchers and scholars are in agreement with experts on this topic and therefore, I will draw heavily upon their findings but will also offer my own conclusions. Furthermore, this thesis will examine sexual assault in the military as a cultural problem as opposed to a shortcoming of the women's movement. Focusing my research on this specific area in today's military creates a different view. Some argue the military exists in a vacuum, but instead research will show this is not the defining concept. The armed forces are not a college campus or an international conglomerate with human resource issues at stake. It is perceived and represented as the prevailing ideal society within the free world. It should have a level of transparency that accompanies the standards it is expected to exceed. The United States military is the best of the best, "The few, the proud" and the elite of all nations' services. It has evolved in order to sustain itself and is

⁴ The second wave of feminism began in the 1960s where women's rights groups key goals involved women's equality in the workplace, paid labor force, higher education, the sexual revolution, the civil rights movement, and political issues such as the anti-Vietnam War and anti-draft movements.

a microcosm within society, which is why findings and theories will focus on the status of the current military.

Abundant discussion is paid to the topic of whether women should or should not be in the military and if so, in what capacity. Quite possibly, a resolution will never be met but indisputable facts exist. Although my raw data comes from many different sources; government, civilian, and scholarly there are inconsistencies. None the less, these variances cannot delegitimize the information.

According to the book *The Lonely Soldier: The Private War of Women Serving in Iraq*, almost 200,000 females have been deployed and served in the Middle East, most stationed in Iraq. The book goes on to state the 200,000 women in question is “nearly five times more than in the 1991 Gulf War and twenty-six times more than in Vietnam. And by September 2008, 592 American female soldiers had been wounded in action and 102 had died in Iraq, more than in the Korean, Vietnam, first Gulf, and Afghanistan combined” (Benedict 2009). Factions represented in the book state how easy it has been for the U.S military and government to make strides for women in the military when it best suited them. Times of war, declining interest from males, and numbers shortages have forced the government to allow women in additional classifications. From 1993 to present day, the number of females on active duty has increased and now according to the Department of Defense (DoD), “(W)omen comprise 14 percent of all active duty forces, 11 percent of soldiers deployed to the Middle East, over 17 percent of the National Guard and reserves. In 2006’s *Women in the Line of Fire* offered statistics for Operation Iraqi Freedom or Operation Enduring Freedom. “Between September 2001 and March 2006,

143,381 female soldiers, sailors, airmen and Marines, and nearly 70,000 from the Regular Army, Army National Guard and Army Reserve, had deployed to Operation Iraqi Freedom or Operation Enduring Freedom, out of a total of 1,312,221” (Solaro 2006).

RAND’s National Defense Research Institute published *The Status of Gender Integration in the Military* after the Under Secretary of Defense for Personnel and Readiness to compile statistics in order to “(A)ssess the degree to which women are represented in the military occupations open to them and to determine whether there are factors that inappropriately hinder or preclude women’s opportunities to work within their military specialties” (Harrell 2002). The study produced findings on different specialties within different branches. Inconsistencies were found within positions that are technically open to women as well as positions and billets that are currently converting to allowing women via structural modification. The Navy reported the greatest number of gender exclusions, with approximately 31,277 enlisted slots and 2,842 officer slots are closed due to physical location deficiencies (Harrell 2002).

Recently women have begun serving on submarines, and continue to change the face of what was once considered warfare. Modern warfare is now on a spectrum. On one end of the spectrum, war is fought in long range using weapons and technology. The opposite end of the spectrum is Afghanistan, where terrorist cells wage war in the streets, on the roads, and in the hillsides. The front line has been eliminated since our enemy is no longer easily distinguishable. Exercising a decision that women are forbidden from war zones is useless since designated war zones no longer exist. Women are now in highly visible positions and unable to avoid combat. The Pentagon has faced facts,

despite longer deployments, berthing condition complications, and the ever increasing regions of conflict have forced, women will continue to serve.

Quite possibly, some women do not relish the idea of being on the front lines, just as some men would prefer to avoid combat zones. This thesis does not suggest that women want or deserve special treatment for their involvement. Establishing the need to eliminate the idea of “other” as it pertains to women in the military would show a commitment to progress in the ranks. Classic feminist pedagogy often describes women as “other” and in my argument that term leads to infinite complications. As Mike Hall stated in *Woman at War*, if you take away the idea of “other” and assimilate all military members in the same training, atmosphere, and culture it would create a more cohesive environment (Skaine 1999). If training and military protocols are designed to create a level of brotherhood and bonding between the men, who is to say women are unable to do the same. The military is not the civilian world therefore rife with pronounced differences. Such as a definitive set of values which call for higher standards. A “weeding out” process exists in military training for a reason. The military is not a suitable life choice for every American since its values are not just a slogan on a recruiting poster. With social media, transparency demanded by the public, multiple ongoing military commitments, and a greater number of female service members the Pentagon must implement more effective policies.

Admittedly, the current status of women in the military is better than ever, but that does not mean it is acceptable to follow the status – quo. Obviously, physical and psychological differences exist between men and women and cannot be discounted;

however, the subject of this thesis is not to discuss whether women *should* be allowed to serve. With the escalating numbers of sexual assaults in the military combined with our continued involvement in many occupations and conflicts the military needs a single, enforced policy for the cohesion of its service members. A strong and able military requires many different pieces of a puzzle coming together. The military is more than a job; it is a career and a family in one. Americans from different backgrounds choose to join and while it is true that the basic level of military training is to “break everyone down and rebuild them” to an identical copy, we need to acknowledge that our cultural, religious and gender differences can be an asset instead of a hindrance.

Chapter two will discuss sexual assault statistics for U.S. military forces and the academies with special attention on previous and current military policies and procedures. Subsections of Chapter two will additionally analyze current sexual assault policies specific to Iraq, Afghanistan, and the Academies. Chapter three will contain a critical analysis of the aforementioned concerns and ethical implications associated with sexual assault and resulting post-traumatic stress in the U.S. military. Areas of special focus will be the pros and cons of theories and regulations, opposing views of issues and theories in addition to the effect social media and society have on the defined issues. Special consideration will be given to the ethical implications with a values and ethics assessment. Furthermore, the effect of said issues on military readiness will be examined. Chapter four will focus on prospective for the future including government and civilian proposals, ways ahead, and supporting evidence for said recommendations.

CHAPTER TWO

SEXUAL ASSAULT STATS FOR U.S. MILITARY FORCES AND ACADEMIES

Putting men and women together in close quarters creates a myriad of difficulties. The logistics of everyday life in the military (e.g., bathrooms and sleeping arrangements) are enough to require the efforts of the Pentagon's problem solvers. Even with more women entering the Armed Forces they still find themselves the minority by a large margin. According to a 2007 Le Moyne College / Zogby Poll, 88 percent of officers are male (Benedict 2009). The military is attempting to make changes but they are slow moving and often at the mercy of budgetary restrictions. In light of public scandals which challenged the very ideals the military was formed on, the government is now making highly publicized attempts to ensure additional servicemembers never suffer these indignities.

A. Previous and Current Military Policies and Procedures Concerning Sexual Assault

By now, the legendary Tailhook scandal which took place in 1991 has made its way into text books. Another famous failure of the DoD was the Aberdeen Proving Ground case which brought dishonor to the Army in 1996. Tailhook became revealed as the Navy's dirty little secret when 90 victims were identified or came forward after the convention and/or during the investigation. The investigation resulted in the following disciplinary measures. "Over 30 admirals and nearly 40 lower ranking officers were fined or disciplined with letters. Between the high ranking officers and 117 junior officers that were implicated in one or more incident, the military failed to proceed to court-martial or any additional punitive measures" (Iskra 2010). Indeed, this was a

complete failure on all levels of the Navy and government to protect female sailors and civilians.

At Aberdeen Training Facility drill instructors were having inappropriate and illegal relationships with multiple trainees. “As the investigation unfolded the Army identified some 12 male drill sergeants involved in sexual misconduct” (DeGoot and Peniston-Bird 2000). This was a particularly shameful example of male bonding gone awry. The drill instructors admitted they had covered for each other as well as created a game of their exploits. The least serious of the charges was unlawful fraternization, of a consensual nature, with trainees. The most serious offenses were rape and forcible sodomy (DeGoot and Peniston-Bird 2000). The Army took action and the punishments ranged from dishonorable discharges to 25 years confinement for the worst offender.

In the aftermath of these two embarrassments Congress, the DoD, and the Pentagon found themselves on trial by the American public. The scandals caused outrage not only due to the heinous nature of the crimes but also because the perpetrators were in positions of authority. The assailants were men trained and expected to mold, teach, and prepare new soldiers. Instead they utilized their power and influence to prey upon trainees. The Aberdeen court trial was widely publicized and put the military’s ethics and policies in the spotlight. The trial gave credence to those who had criticized the military and their lack of adequate policies concerning sexual assault and sexual harassment. Today in the Armed Forces, females are finding themselves in more specialties in greater numbers. Although rape is an act of violence and power, the absence of force does not define sexual misconduct. With the cases at Aberdeen many

victims admitted that they insisted against sexual intercourse but after being threatened by a superior they relented. When force is implied the definition needs to be broader due to the fact that threatening someone's career could lead to a psychological consequence of fear in the victim. According to an article published in Newsweek in April 1997 entitled "A question of consent: in an army barracks, where sex and power intersect, a woman's sergeant can be both mentor and tormentor", "drill sergeant(s) who obtained sex through blackmail could not be charged with rape – or any similar offense" (Thomas and Vistica 1997, 41). According to the investigators in the case, the issue went far beyond military articles and legal issues. Some victims confessed that they felt "responsible" for the abuse and questioned their own attack and the validity of the label 'rape' because they had not been physically beaten. The military has a far greater responsibility to these victims. Since education and prevention policies could have potentially avoided some of these attacks.

Discourse over the military's most public and greatest failures involving sexual misconduct is essential to any argument focusing on sexual ethics and the laws of the DoD. The military and the Academies are an extraordinary example of a microcosm within our society. The DoD established a justice system to be contained and supported from within and is dissimilar from U.S. policy, law and legal systems. According to *Connections: The Bi-Annual Publication of the Washington Coalition of Sexual Assault Programs*, "The military legal system is comprised of three elements that work together: the Uniform Code of Military Justice, the Judge Advocate General (JAG) Corps, and command discretion" (Programs 2005). The military justice system has additional

idiosyncrasies such as the lack of victim protection laws. What civilians understand to be “rape shield laws” do not exist in military investigations and proceedings.¹ Rape laws exist in the hope that tougher laws protecting the victim would encourage more reports of sexual assaults.

Another major discrepancy between civilian and military justice systems is that victims have no legal representation. When a sexual assault is reported, investigated, and subsequently progresses to a trial, the victim does not have a dedicated legal agent. They lack a formal advisor on proceedings and involved formalities as well as a support system. A victim may have access to a JAG attorney but that does not mean the attorney is representing or defending the servicemember² (The Washington Coalition of Sexual Assault Programs, 2005). In the civilian world this situation would be highly discouraged if not forbidden as it would be a clear conflict of interest.

The most criticized and obvious distinction is the concept of command discretion. Command discretion has no formal or defined laws or policies attached to it other than the commanders can decide if a case moves forward to a court martial. This is the most highly debated area of the military justice system since detractors argue this gives commands the ability to ignore sexual assaults. Further, this also enables the commander

¹ Rape shield laws were created to avoid victim blaming scenarios such as using a victim’s previous sexual history or proclivities against them during an investigation or trial. The specific laws can differ by state but most focus on the exclusion of prior sexual activities and reputation evidence and/or opinions of the victim to be exploited as evidence. In high profile cases these laws also have certain standards pertaining to release of information to the public; such as the name of the victim.

² According to the text Connections published by The Washington Coalition of Sexual Assault Programs, “JAG attorneys do not function independently, but are under the authority of the commander. The JAG office functions as both the investigating authority like a civilian prosecutor and at the same time, as defense council to the accused.”

to “(D)etermine which JAG officer will serve as prosecutor and which as defense council; who oversees the investigation; they may serve as the convening authority in court martial; and determine disciplinary action” (Programs 2005). This affords a tremendous amount of power and decision making to one person. Victims of sexual assault have claimed their attacks went uninvestigated and their attackers unpunished by their own command. Commanders have been accused of abusing power by electing to not recommend a court martial or by imparting a sentence far too lenient for the crime committed.

“Article 120 of the (Uniform Code of Military Justice) Code defines rape as sexual intercourse ‘by force and without consent’. When enacted in 1950, this definition seemed adequate.” Many behaviors that are punishable today were seen as “boys being boys” in 1951. Since 1950, no significant changes have been made to the UCMJ. According to a document released by a military legal intern “Recognition of marital rape was not codified until 1996. Two elements must be present for rape to exist in the military. It must be by force and without consent. In some areas of the armed forces, the force element has been interpreted as a loophole to avoid the charge of rape” (Programs 2005). The 1998 edition of the Manual for Court-Martial United States supplies Article 120 – Rape and carnal knowledge. It echoes the UCMJ aforementioned definition of rape that it is “sexual intercourse by a person, executed by force and without consent of the victim.” The latter part of the definition is the most crucial as the article (c) (1) (b) expressed that “force and lack of consent are necessary to the offense.” The military has made changes to Article 120 to broaden the scope of offenses but has also made efforts to

make the language more concise and less open to interpretation. The aforementioned initiatives show the government has taken the initial steps to protect service members but increasing numbers of assault show a continued failure to enforce any kind of consequences. The lack of enforcement has led to public outcry.

Additional statutes in the military justice system have drawn criticism; such as the lack of victim protection directives. Implied importance of discretion exists but when the chain of command is used, there could be dozens of people who have access to the report. Critics of women serving and opponents of the armed forces can easily supply this information to the public with the hopes of further damaging the military's reputation. The availability of news via news, papers, television, and social media has changed and privacy laws have not evolved as quickly. This allows the possibility for secondary victimization and victim blaming, especially in high-profile cases which is not only traumatic for the survivor but also perpetuates certain rape myths.

Rape myths³ and their acceptance are an interesting caveat to sexual assault policies pertaining to the military. For the majority of its history, the military has always been viewed as male-dominated, very male-centric and even misogynistic.⁴ Military

³ Examples of rape myths are as follows: Rape is sex. Women incite men to rape. A victim should be discouraged from dwelling on the rape. She should "forget it". Rape trauma syndrome is a transient problem. Most healthy people will return to a normal state of functioning within a year. Rapists are non-white. Rapists are lower class. Rapists are "Criminal types". Women often make false reports of rape. Only "bad" women get raped. Sexual assault usually occurs between strangers. Rape is a crime of passion. Most rapists only rape one time. Rapists are strangers. If the assailant, victim, or both are drunk, the assailant cannot be charged with rape. If a person doesn't "fight back" she/he wasn't really raped. A person who has really been assaulted will be hysterical. Women "ask for it" by their dress or actions.

⁴ As defined in the previous footnote, one of the most popular accepted rape myths is that the female victim was wearing clothing found to be suggestive and that by her dress and/or demeanor she

stereotypes and preconceived notions are important, not only because they give the public a poor impression of the Armed Services but also because those who commit to the stereotypes make it difficult for those who do not. Attitudes and personal creeds are a significant concern to the military based upon their most basic code of integrity. Unit cohesion can be affected if the members do not hold the same morals and standards. The military is a unique place because one volunteers for service and Basic Training. No matter what branch you serve, all Basic Training programs have the same goal; to break you down individually and build you back up as a team.

Differences in the military legal system are necessary due to the separation from the civilian world as well as the need for a structured organization. The argument is not to alter the entire military justice system, but instead to improve it and enforce set provisions.

In June of 2012 *Military Medicine* magazine released a clinical trial which goal was to evaluate the effectiveness of the Navy Sexual Assault Intervention Training (SAIT). The participants of the study were men who had completed basic training within the last 90 days. The sample of the study began with 1,546 men and was reduced by 41 (3%) who declined to participate, leaving 1,505 men as the final sample (Rau, et al. 2010). This study gained knowledge to support previous studies from 1998 and 2008.⁵ Introduction of this study revealed that “between 13% and 15% self-reported perpetrating

was somehow inviting an attack. It should be acknowledged that this myth is prevalent and has been heard by most adults throughout their life. If this argument was used against a male victim, it sounds preposterous. No one would tell a man he was assaulted because his shirt was too tight.

⁵ For additional reading of previous studies which corroborate the findings of the Rau, et al. 2010 study, see Merrill et al. 1998; 163: 209-12 as well as Stander et al. 2008; 23: 636-53.

preliminary rape or attempted rape” (Rau, et al. 2010). This statistic is more than just a number. These numbers should be of great concern to the Department of Defense because men who have previously exhibited sexually aggressive behavior or committed sexual assaults are likely to do so again. (Rau, et al. 2010) An additional study by Dr. Gene Abel and colleagues was reported by the National Violence Against Women Prevention Research Center article supplying the statistic. “A study of nonincarcerated sex offenders found that 126 men admitted that they had raped. These 126 rapists had committed a total of 907 rapes involving 882 different victims” (Kilpatrick 2000). While this is a relatively small sample of rapists it does illustrate this is not a one-time crime perpetuated by a young man who had too much to drink.

This study revealed strengths and weaknesses of the SAIT program. According to pre and post-test numbers, the program does raise knowledge of sexual assault and its definition. It also showed a decrease of participant’s acceptance of rape myths. An article from 2005 used 69 studies that involved 102 treatment interventions and 18,172 was cited to illustrate the importance of the success of this training. This study found “meta-analytic review found that interventions that include information about rape generally have a positive impact on rape knowledge and rape myths” (Anderson and Whiston 2005). The scope and numbers of this study are impressive and lend a considerable amount of credibility to the findings. The study also concluded there are multiple limitations and strategies for success associated with sexual assault training. “Moderator analyses also suggest that the content of programming, type of presenter, gender of the audience, and type of audience may also be associated with greater program

effectiveness.” Lessons learned from this study could be invaluable to an organization the size of the military. This study supports the idea that the military is a macrocosm within society and a cultural shift would lead to greater realization of their goals associated with sexual assault education and prevention.

B. Analysis of Sexual Assault Protocol Specific to the Wars in Iraq, Afghanistan and the Academies.

The wars in Iraq and Afghanistan have changed the military. Waging two wars in two different countries is expensive, engaging, exhausting and has caused an increased need for volunteers and supplies. In these wars, women were finding themselves at the front line and in combat situations where the military had previously forbade.

Statistics are being compiled but there are many issues associated with obtaining accurate statistics. Rape is the most underreported crime. The different military branches have different methods for reporting sexual assault. There is an extremely controversial measure in the Army that allows a military member to seek treatment after a sexual assault but not formally report it.⁶ It can be difficult immediately after an assault to make a definitive decision since the victim could be suffering shock and/or Post Traumatic Stress Disorder (PTSD)⁷.

⁶ There are two types of report filing. The first is unrestricted, the second is restricted. Restricted filing allows the victim to file a report and seek treatment without the report moving forward to any command or criminal investigation. According to a DoD congressional report released on March 17, 2009 during FY 2008 there were 2,923 reports of sexual assault. Of those, 2,280 were unrestricted and 643 were restricted. For additional statistics and information from this report, please see article (Kruzel 2009).

⁷ The diagnosis of PTSD is unique since the initial onset of the disorder and the psychological symptom is preceded by a traumatic event such as sexual assault, harassment, events of war, etc. PTSD varies based on trauma and/or the cause of onset.

In a report released by the Pentagon and reported in the text *The Lonely Soldier: The Private War of Women Serving in Iraq*, 18 – 20.5 percent of troops came back from Iraq with PTSD. This statistic is for all military, male and female but the same report also acknowledged that experiencing sexual violence is four more times likely to cause PTSD than combat (Benedict 2009). The Pentagon previously did not keep reliable statistics and this subject matter makes the data even less consistent. Top military members and advisors such as Colonel Elizabeth Brooks and Donald Rumsfeld have called for improved education and increased documentation since the wars in Iraq and Afghanistan have produced considerable numbers of assaults.

There have been many studies conducted to show the success of the military health care and legal systems specifically in sexual assault and sexual assault related PTSD. A study was presented in *Psychology of Women Quarterly* after it found the efforts of the military's social systems are failing veterans. Researchers performed their investigation on the accepted theory that secondary victimization⁸ is associated with subsequent increase in rates of PTSD symptomology, physical health distress and risky health behaviors (sexual and life decisions). This study disclosed incredibly alarming results such as medical and legal professionals were more likely to offer unresponsive care based on the attitudes and values imposed on them by their organization. Meaning “the less time and effort spent on these incidents the more time they could spend on other work that is considered more important to the organization. The priorities of the organization take precedence over the needs of the victim” (Campbell and Raja 2005).

⁸ Secondary victimization has also been deemed the second rape, the second assault, and revictimization.

This is disturbing when applied to the military considering the emphasis on the importance of unit cohesion and a basic reality of the military that the organization is more important than an individual. The study performed through an unnamed Veteran's Administration Hospital Women's Clinic found that 82% of the women who were sexually assaulted while on active duty were victimized by a military peer or supervisor. The majority of these women were discouraged from filing a formal report and this behavior was more common among military legal representatives compared to the civilian police officers (70% vs. 59%) (Campbell and Raja 2005). Possibly the most damning statistic came when 83% of victims admitted that after their experience with the military legal system, they were reluctant to seek further assistance.⁹

As these initiatives have been attempted there are still many gaps in the system. United States Government Accountability Office's June 2011 report shows that the DoD acknowledges the need for a complete overhaul of their system. In 2010 \$4.4M was allotted to the Army for improvement of sexual assault and sexual harassment policies (Office 2011). It is considered a wonderful start but the money can only improve areas where it is dispersed. The new Article 120 has done little to nothing to solve the confusion associated with the UCMJ laws and the military's point of view on sexual assaults. Currently there are multiple ongoing discussions concerning the new direction of these policies.

⁹ This study did not offer specific details but stated that many participants reported they were refused assistance from their military social systems. These refusals came in the form of an official refusing to take a report to the victim being informed her case was not serious enough to pursue further.

Since the wars in Iraq and Afghanistan began there have been many initiatives to “overhaul” the system. In March of 2003, the Air Force rolled out their new program, “Agenda for Change” which included a plan for future change at the Air Force Academy. Along with this new strategy came the change of key leadership in the form of four senior officers being replaced (Programs 2005).

In June 2011, the United States Government Accountability Office gave a less than stellar report on the DoD’s efforts to combat sexual assault in the military.

Pursuant to the National Defense Authorization Act for Fiscal Year 2005, the Office of the Secretary of Defense (OSD) developed a policy on sexual assault prevention and response. In June 2006, OSD [published DoD Instruction 6495.02], which specifies that the DoD Inspector Generals’ Office shall develop policy and oversee sexual assault investigations and related training for the DoD criminal investigative organizations. However, the Inspector General’s Office has not performed these responsibilities, primarily because it believes it has other, higher priorities. For example, GAO found no evidence of Inspector General Oversight at the service level for any of the 2,594 sexual assault investigations that DoD reported the services completed in fiscal year 2010 (Office 2011).

This report gave harsh criticism after seeing many efforts failing from lack of follow through as well as reports and complaints from military members. They acknowledged the military’s efforts to make changes but stated that some of the new policies may be making the situation worse. The changes made to the UCMJ could be doing more harm than good by making it extremely difficult to prosecute already difficult cases with the new added lack of clarity in the amended article.

GAO met with judge advocates who consistently expressed concerns, similar to those noted in a 2009 Defense Task Force report, that a 2007 amendment to Article 120 of the Uniform Code of Military Justice complicates sexual assault prosecutions and may be causing unwarranted acquittals (Office 2011).

The serious accusations in this report are extremely important since the criticism is not coming from a civilian group or a wronged or disgruntled veteran but from a government oversight agency. GOA based their recommendations on the severity of the issue of sexual assault and the detriment it caused to the military by undermining the core values. The group admitted the inherent complexities of the military alongside the special challenge of its legal system which is why the GAO demands immediate action on the DoD's behalf. The military and DoD were given three very clear and distinctive recommendations and further inaction could jeopardize future budgetary decisions.

C. Current State of Government Hearings on Sexual Assault and Possible New Policies

SANE, SAPR and Article 120 are some of the more well-known DoD regulations concerning sexual assault. According to the SAPRO website, there are different programs and directives for each branch of service. The Army has the Army Command Policy. The Marine Corps has the Sexual Assault Prevention and Response Program. The Navy has the Navy Sexual Assault Victim Intervention Program. The Air Force enforces the Air Force Policy Directive 36-60. Finally, the Coast Guard has the Coast Guard Instruction 1754.10C. As stated before, the UCMJ follows Article 120 for sexual assaults. There are additional articles pertaining to specific acts and specific situations. The first level of accountability starts at the command. The head of a command can choose to keep the assault charges at the lowest level, i.e. in-house such as Captain's Mast.¹⁰

¹⁰ The numbers of those penalized with punishments such as restriction, Captain's Mast and other informal punishments is difficult to track. In FY 2007, 47 percent were "dismissed as unworthy of

According to the most recent DoD Annual Report of Sexual Assault, in 2010 Kaye Whitley, Ed. D. the Director of SAPRO reported the new prevention campaign slogan is, “Hurts One, Affects All.” On page 25, they acknowledged the need to reach out to civilian resources. Since the military is a lifestyle, there is a cloistered aspect to sexual assault reporting and treatment. They have realized the need to remove any undue influence which could be imposed upon assault victims. This admission gives some insight into the DoD acknowledging there are factions inside the system that need to be eliminated. The military and Academies have faced intense scrutiny for their inability to prevent revictimization of sexual assault victims.¹¹

The Center for Military Readiness analyzed and recounted salient point from two additional reports the Army ‘Gold Book’ released in January 2012 and a Defense Department SAPRO from April 2012. It seems as though publication of these documents will offer little support to those saying the new policies in the military are sufficient. Some notable statistics from the articles include the following:

- A hike of 22 percent since 2007 in the sexual assaults in all branches
- A doubling since 2006 of the number of violent attacks and rapes in the Army, from 663 in 2006 to 1,313 last year

investigation” and only 8 percent went forward to a court martial – the majority of these cases ended with “nonjudicial punishments, administrative actions and discharges.” For additional reading see *The Lonely Soldier* chapter fourteen (Benedict 2009).

¹¹ Revictimization is also commonly referred to the “second rape” in modern women’s studies and feminist pedagogy. Revictimization can lead to intensifying PTSD or other mental and physical psychosomatic symptoms. Sexual assault victims often feel revictimized when faced with a lack of support within their community, work place, family or social environment. The absence of trained professionals such as counselors or law enforcement officials can further exacerbate stress. Trauma can also be intensified by the investigating or testifying process after the assault.

- A “chilling trend” of violent sex crimes rising at the rate of 14.6 percent annually, “and the rate is accelerating”
- 28 percent increase in the offense rate and a 20 percent increase in offenders from 2006-2011 in sex crimes in the active-duty Army
- A jump in male sexual assault victims from 10 percent in 2010 to 14 percent in confidential reports for 2011
- The need to fire senior enlisted Navy officers at the rate of nearly two per month because of sexual misconduct. (Center for Military Readiness 2012)

The DoD releases reports including statistics from every fiscal year associated with violent crimes and sexual assault. The Air Force released a set of reports which transitioned from the 2007 to 2008 fiscal years that found an 8% increase between the two years. Officials warned that this does not conclude that there was an increase in assaults but an increase in reports of assaults. Victims can find little comfort in report rates rising with no significant change in investigation and conviction rates. As a matter of fact, this study and many like it omitted statistics on convictions within the DoD. This article further infers that there will be a decline in the number of investigations and convictions due to the DoD’s new policy that allows a servicemember to file a “restricted report.”¹² For the fiscal year involved with this report, 79 percent of women and 78 percent of men chose not to report unwanted sexual contact.¹³ These numbers are

¹² Restricted report is defined as a process where a servicemember can report the assault without the command or law enforcement being notified. The victim can also receive a forensic test, such as a rape kit, with the findings being available for up to a year should they choose to move forward with an unrestricted report and open an investigation.

¹³ This is important to note for several reasons. The first is how these facts were obtained since the report does not specify. Secondly, the reasons for choosing to not report are troublesome. Some of the most shocking conclusions are as follows:

- 58 percent of women and 51 percent of men did not feel comfortable
- 56 percent of women and 41 percent of men were afraid they would be labeled a troublemaker
- 56 percent of women and 47 percent of men did not want anyone to know

possibly more harm than help since there are no reliable statistics. The DoD reports they are doing more to prevent and follow-up on sexual assaults but continue to be unable to provide consistent, reliable statistics. When ¾ of victims refuse to report assaults it is clear that the pervasive stigma associated with sexual assault is a cultural issue.

The DoD acknowledged this and in the FY10 report, admitted to seeking networking and cooperative efforts with groups such as:

- White House Council on Women and Girls;
- Defense Advisory Committee on Women in the Services (DACOWITS);
- Iraq and Afghanistan Veterans of America;
- Stop Military Rape;
- Veterans of Foreign Wars;
- National Center on Domestic and Sexual Violence;
- National Organization for Women;
- National Women's Law Center;
- Women's Research and Education Institute;
- Alliance for National Defense
- Shelia Wellstone Institute;
- National Center for Victims of Crime;
- Women Organizing Women (VetWoW); and

- 53 percent of women and 44 percent of men thought nothing would be done about the assault
- 50 percent of women and 38 percent of men feared retaliation
- 18 percent of women and 26 percent of men answered they did not know how to make a report

- Service Women Action Network¹⁴ (Defense, Sexual Assault Prevention and Response 2011).

The FY10 report also confirms an increase of sexual assaults in combat areas of interest, or CAI.¹⁵ According to the report, 268 reports of sexual assault in CAI were reported with 238 being filed as Unrestricted Reports and 30 Restricted. An important statistic which this report found was the location of the sexual assaults. “Of the 238 Unrestricted Reports, 128 (or 54 percent) were made in Iraq and 62 (or 26 percent) were made in Afghanistan” (Defense, Sexual Assault Prevention and Response 2011).

In February 2011 a historic lawsuit was filed against former Secretaries of Defense Donald Rumsfeld and Robert Gates. The case was filed by 28 survivors of military sexual trauma. According to the case *Cioca et. Al. v. Rumsfeld* (E.D. Va.), “(W)idespread sexual assault in the US military and a systematic gross failure (a) to investigate, prosecute, and punish abusers, and (b) to protect victims against retaliation for reporting their assault, and to provide them legal and medical support” (Rose 2011). Multiple plaintiffs offered specific accounts of their chain of commands in US military refusing to assist them. The first is Kori Cioca, who after reported being raped; her attacker was allowed to plead guilty to physically assaulting her and was punished with 30-day base restriction and a minor loss of pay. When she refused to sign paperwork that documented her consensual sexual relationship with her superior she was denied medical care for her facial injuries which were caused by her attacker. Another alleged that when

¹⁴ Any reference to any non-federal entity is not intended to be an endorsement of that entity by the Department of Defense.

¹⁵ Combat areas of interest (CAI) include Bahrain, Iraq, Jordan, Lebanon, Syria, Yemen, Egypt, Djibouti, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates, Iran, Pakistan, Afghanistan, and Kyrgyzstan.

she sought assistance from a military chaplain she was counseled that it had been “God’s will for her to be raped” and she should attend church more often (Barakat 2011).

This lawsuit was groundbreaking for a myriad of reasons. Precedents have been set and accepted in terms of military members and veterans being unable to sue their government. The specific regulation is known as the Feres doctrine ¹⁶ (Kutsch 2010). The Feres doctrine is not limited only to cases of alleged military medical malpractice. The lawsuit was also newsworthy due to the public outcry by civilian organizations such as SWAN. The lawsuit named two of the highest ranking members of the United States government. Never before have two Secretaries of Defense been named in a multi-member federal lawsuit under charges that they had “(F)ostered a culture that allowed rapists to thrive and punished assault victims” (Barakat 2011). These are strong allegations against powerful men. According to the Presidential Succession Act of 1947 signed by President Harry Truman these men were fourth in line to ascend to the role of the President of the United States of America should catastrophic events cause need (Amar and Amar 1995). The case was dismissed by Judge Liam O’Grady based on the idea that “(T)he judiciary should not intervene in matters involving military discipline” (Barakat 2011). Despite this lawsuit being dismissed on December 13, 2011 the plaintiffs seem to have retained their resolution in moving forward with appeals. As of the first week in January 2012 the plaintiffs’ attorney, Susan Burke filed an official

¹⁶ As defined by The United States Army Medical Department Journal “The Feres doctrine is the term describing the result of a case which generally precludes successful suits by service members for personal injury or death that is incurred incident to service, whether or not they were suffered in the performance of their duties.” For further reading please see article *Consent to Medical Treatment* (Zucker, et al. 2012).

appeal and according to the American Association of University Women (AAUW) “Oral arguments will be held in the 4th U.S. Circuit Court of Appeals in the coming months.” (American Association of University Women 2012) The Legal Advocacy Fund (LAF) associated with AAUW also detailed the far-reaching magnitudes of this lawsuit. “Burke and several of the plaintiffs from the case, including the named plaintiff Kori Cioca, are featured in *The Invisible War*, a documentary about sexual assault in the military. The documentary premiered at the Sundance Film Festival in Utah in January 2012 and won the Audience Award” (American Association of University Women 2012).

The dismissal and quickly filed appeal have not ended the dispute for those involved; instead, they continue to speak out. Army Specialist Andrea Neutzling has suffered the indignity of not only having been raped and beaten by two fellow soldiers in her unit, the attack was also recorded. The assailants were showing the video to other soldiers and when Neutzling complained to her supervisor she was told he believed she “didn’t struggle enough” for it to be considered sexual assault. His follow up was to never file a formal report and label the assault as sexual harassment (Rose 2011).

A secondary lawsuit was filed on Tuesday, March 6, 2012 by the same attorney Susan Burke. She reported after the first lawsuit she received an overwhelming number of calls from other servicemembers and eight have filed the new lawsuit. This case alleges that Secretary of Defense Leon Panetta, Robert Gates and Donald Rumsfeld, along with six current and former heads of the Marine Corps and Navy failed to take action and address sexual assault in a manner that actually prevented or prosecuted rapists. Their inaction to follow rules set forth in earlier government mandates assisted in

fostering an environment where victims were traumatized after their initial assault and offenders were able to continue to serve and possibly rape again. One plaintiff faced such violent retaliation, after three denied requests to be sent to Afghanistan away from her unit, she attempted suicide. The most recent statistics for sexual assault are found within the lawsuit in addition to the speculation that the military has had little to no success in reducing the number of assaults. They cited DoD statistics that reported only two percent of reported sexual assaults in the military end in a conviction. A more staggering fact is that ninety percent of those who report an assault are involuntarily discharged. Due to the ability to file a restricted statement as well as the low numbers of reports overall the DoD is unable to give concrete numbers. The best guess is, “fifteen percent of the estimated 19,000 assaults that occurred in 2009 were reported”¹⁷ (Ellison 2012).

To avoid the continued spreading of misinformation, groups are using government policies to their advantage. As stated in other sections, exact data is nearly impossible to obtain. Most statistics are educated presumptions at best due to the low rates of reporting coupled with the government’s inability to maintain figures. In April 2012, a federal district court judge decided the military had been indolent long enough and ruled the military must turn over documents involving sexual assaults. The initial request was filed under the Freedom of Information Act by the Service Women’s Action Network (SWAN) and the American Civil Liberties Union (ACLU) (Strasser 2012).

¹⁷ 19,000 (estimated assaults) 15% (reported) equals 2,850. Out of those 2,850, only about 2% end in a conviction. $19,000 \times 15\% = 2,850$ $2,850 \times 2\% = 57$ sexual assault convictions. These numbers should embarrass the Department of Defense.

According to the lawsuit, “The Army Crime Records Center claimed it couldn’t provide records about “sexual assault” because its records are organized by specific criminal offenses, not under the generic heading of “sexual assault”.” Groups are arguing that previous failures on part of the military and the government can only fully be rectified if all parties share accurate and legitimate information. This request and subsequent ruling are directly related to the lawsuits against Secretary of Defense Leon Panetta, Robert Gates and Donald Rumsfeld, along with six current and former heads of the Marine Corps and Navy.

In April 2012 a new lawsuit was filed by two women who allege military academies fail to protect sexual assault victims. According to the lawsuit, the women consider, “Secretary of Defense Robert Gates, the former superintendents of the two academies and the current secretaries of the Army and Navy” to be failing their sailors and soldiers at an epic pace. The merits of the two cases mentioned are yet to be seen. Any military personnel, male or female who have come forward alleging sexual assault have been faced with detractors no matter the amount of evidence present.

The outcome of these lawsuits and the consequences that follow remain to be seen. Those involved demanding justice are more determined than ever since they have representation in the way of lawyers, elected officials, and media outlets. One report they are sure to cite is the *Report of the Defense Task Force on Sexual Assault in the Military Services* from February 3, 2010, which was the product of a hearing before the Military Personnel Subcommittee of the Committee on Armed Services House of Representatives. This report echoed previous calls for military leadership to be more involved in

preventative education and counseling as well as harsher and more consistent punishments. Rep. Joe Wilson chastised the military community leadership for being in a situation “65 years after WWII demonstrated the military necessity to expand roles for women in the military... we are here today to receive yet another report that clearly indicates so much more needs to be done” (Military Personnel Subcommittee 2010)? He further acknowledged that this is a problem with a solution that will require more than writing a policy. It will require time, money and effort and a long-term process of changing the culture of the military. The summary stated that this is not an issue where moral ambiguity will be tolerated. Institutional recommendations need to be focused on preventing sexual assault and protecting victims. “Doing so is not just a moral imperative but also critical to military readiness” (Military Personnel Subcommittee 2010). The largest and possibly most expensive and time consuming recommendation is for the restructure of the SAPR program. It has been found to be “inconsistent and insufficient.” The report also found the DoD’s procedures, policies and documentation to be “lacking in accuracy, reliability, and validity.”¹⁸ The Task Force found so many lapses and failures in the system they made a specific request for “the Deputy Secretary of Defense to provide oversight for Sexual Assault Prevention and Response Office (SAPRO) for at least one year or until the Program is meeting established institutional goals.”

¹⁸ The Task Force offered a specific example of a DoD report to Congress that combined offender and victim data rendering the information useless. They also stated that it was consistent for victims and other military personnel to be uninformed of disciplinary results relating to sexual assault. The panel found that many of these issues were due to incompetent leadership.

This report was yet another disgrace to the DoD's already tarnished reputation concerning sexual assault and sexual harassment. It would be easy to dismiss unsubstantiated claims such as those leveled by less than credible radical groups which urge outrageous policies in the military concerning women in the military but in this report and the previous mentioned lawsuits, the DoD has proven to be its own worst enemy. It is an oversimplification to say the views in this topic are polarized and complex. It is a reality the DoD is spending too much money on research for statistics they are unable to obtain and not enough time and attention focusing in preventing and prosecuting these crimes. The military has created terms such as Military Sexual Trauma (MST) and Rape Knowledge Scale (RKS) which have been criticized for removing the power of the word rape. This word has connotations surrounding it that directly or obliquely startle for a reason since it is a heinous crime and should be dealt with as such. Many detractors of these labels say there is a threat of leaving survivors with feelings of disenfranchisement and delegitimization.

Terminology in the report and associated policies are important for other reasons. According to the UCMJ and for litigation purposes the kind of sexual assault that took place can make a significant difference in the severity of charges and punishment. According to the Army Study Guide there are four types of sexual assault.

“Sexual assault includes what acts?

- 1) Rape
- 2) Nonconsensual Sodomy

3) Indecent Assault and

4) Attempts to commit these acts” (ArmyStudyGuide.com 2005).

Accordingly, the punishment is supposed to fit the crime. An official Sexual Assault Prevention and Response Program pre and post-deployment brief from the United States Army contains a slide titled “Legal Sanctions” which states the following:

Sexual Assault is punishable under UCMJ: Sexual assault includes such offenses as rape, forcible sodomy, and indecent assault. Depending upon the offense and the circumstances of the offense, the maximum punishments include death, confinement for life without eligibility for parole, confinement for life with eligibility for parole, confinement for a period of years (for example 5 years), total loss of all pay and allowances, dishonorable discharge (enlisted Soldiers only), bad conduct discharge (enlisted Soldiers only), dismissal from the service (commissioned officers only), and reduction to E-1 (enlisted Soldiers only) (United States Army 2012).

This is the Army’s exact and specific stance on punishment for sexual assault. There are different punishments for the type of offense as well as the rank of the criminal. The level of commitment the military asserts they demonstrate is not the issue. The issue is the lack of enforcement. If a rapist can leave the military or plead down to adultery, what kind of message is this? It shows a level of acceptance at worst, tolerance at best which is in direct contrast to the Zero Tolerance they claim is the rule, not the exception.

Whether pressure from the public, internal factions or lawmakers has attributed to the changes is unknown but there have been successful strides. In March 2012 the Army reported a staggering 20 percentage point jump in prosecution rates for sexual assault (J. C. Staff, Strategic Direction to the Joint Force on Sexual Assault Prevention and Response 2012). The writer mentioned the pending lawsuits and highly publicized movie, *The Invisible War* as possible catalysts for this transformation. The Army itself

could have been the defining reason for the change as a SAPRO report stated that less than 6 percent of sexual assaults proceeded to court-martial. The Army has publicly acknowledged their failing and has hired civilians to provide feedback and guidance on new policies, procedures and training. There is hope that other branches will adopt new policies such as bringing specialists in to assist sex assault casework. The Army now gains insight from special prosecutors and a special victims unit which is a first among DoD groups.

Chapter three will contain a critical analysis of sexual assault in the military and discussion of the ethical implications. Specifically the pros and cons of this topic and surrounding theories, opposing views as well as current social media and their effect on the issues will be discussed. Subsections will examine values and ethics assessment and how morale and military readiness is affected. Finally, PTSD will be examined with special consideration to military sexual trauma and sexual assault related PTSD¹⁹ and supporting Veterans Health Administration and independent research data.

¹⁹ Some examples of PTSD include flashbacks, irritability, nightmares and irrational behaviors. Sexual assault related PTSD can cause the same issues with the added difficulty of being unable to experience intimate interpersonal relationships. There is a huge gap in sexual assault PTSD related treatment for female military members and veterans. According to the text *The Lonely Soldier* "At least 191,500 women have served in the Middle East. The VA has six inpatient PTSD programs for women and only twenty-two stand-alone women's health clinics that offer a full range of services" (Benedict 2009). These numbers are a pending catastrophe for the DoD since females are the fastest growing category of veterans. For more statistics and further reading, please see *The Lonely Soldier* chapter thirteen.

CHAPTER THREE

CRITICAL ANALYSIS OF PROBLEMS AND ETHICAL IMPLICATIONS

According to an article in the *American Journal of Public Health*, a report titled “The Veterans Health Administration and Military Sexual Trauma,” rape holds the highest risk associated with developing posttraumatic stress disorder. Sexual assault is a higher determining factor than combat exposure, which explains the high correlation between PTSD (posttraumatic stress disorder) and MST (Military Sexual Trauma) cases (Kimberling, et al. 2007).

The military has realized the need to reach out to experts in the civilian world to assist with research and policies. Recently, the government has publically acknowledged a lack of diligence in efforts to monitor the number of sexual assaults and harassment within the military. When outside agencies requested statistical information, the military has been unable to offer reliable facts. Now with external and internal pressure on the military to calculate and report reliable figures, the Office of the Secretary of Defense has created a Sexual Assault Prevention and Response (SAPR) Office which reports data included in the yearly fiscal reports. The FY2009 was the first year that yielded a report, the Department created SAPR program which was implemented as an across the board Department of Defense initiative. The main goal of this initiative was to prevent sexual assaults from occurring. Below is the listing of their goals and specific tasks.

Goal 1: Institutionalize Prevention Strategies in Military Community¹

¹ Through prevention efforts that influence the knowledge, skills, and behaviors of Service members, the Department’s objective is to stop sexual assault before it occurs. A key component of

Goal 2: Increase Climate of Victim Confidence Associated with Reporting²

Goal 3: Improve Sexual Assault Response³

Goal 4: Improve System Accountability⁴

Goal 5: Improve Knowledge and Understanding of SAPR⁵

Each branch's senior leadership was briefed and the key component of these educational sessions was to "educated audiences on prevention" (Defense, Department of Defense Fiscal year 2009 Annual Report on Sexual Assault in the Military 2010).

The most recent update from this program was released in May 2012 and was titled *Strategic Direction to the Joint Force on Sexual Assault Prevention and Response*.

The objective of this document was for military professionals "to fully understand the destructive nature of these acts, lead our focused efforts to prevent them, and promote

DoD's sexual assault strategy is to educate audiences on prevention. A new social marketing campaign was launched during Sexual Assault Awareness Month.

² The Department worked to educate on reporting and reduce stigma associated with reporting sexual assault, with the end goal of encouraging more victims to come forward. The Department aggressively publicized the benefits of its two sexual assault reporting options, Unrestricted and Restricted. In FY09, there were a total of 3,230 reports of sexual assault involving military Service members as either victims or subjects, representing an 11% increase from FY08.

³ In FY09, the Department focused efforts to improve response through programs, policies, and activities that advance victim care and enhance the military criminal justice process. In collaboration with Military Criminal Investigative Organizations, the Department created a DoD sexual assault investigators course and obtained funds to support military trail counsel training activities. The Sexual Assault Prevention and Response Office (SAPRO) partnered with the Pennsylvania Coalition Against Rape on an educational curriculum to improve civilian rape crisis center support of military victims.

⁴ To ensure the sexual assault prevention and response works as planned, the Department focused its FY09 effort on strategic planning, improving data collection, and reporting, and enhancing oversight procedures. In order to improve data collection, analysis, and case management, the Department initiated the development of the Defense Sexual Assault Incident Database.

⁵ The Department continues to inform and educate stakeholders on the progress of SAPR in the Military Services. SAPRO has created and tailored two web addresses for different stakeholders. SAPRO received a complete review of sexual assault literature research from the RAND Corporation. The office anticipates that it will use this information as a base for the development and dissemination of SAPR military research.

positive command climates and environments that reinforce mutual respect, trust and confidence” (J. C. Staff, Strategic Direction to the Joint Force on Sexual Assault Prevention and Response 2012). This document was created specifically for higher ranking officers and command leaders. It was set forth with the guidance that the document contained the groundwork and stipulations which would allow the leaders to “take positive actions that reinvigorate our military culture” (J. C. Staff, Strategic Direction to the Joint Force on Sexual Assault Prevention and Response 2012). The document defines Sexual Assault, Aggravated Sexual Contact, Rape, and Abusive Sexual Contact as the four individually recognizable offenses. Legislature and policy ratification are slow processes and the most recent amendment to the UCMJ is a perfect example. In 2007, Congress decided to modify the UCMJ with the four categories which further define and categorize sexual assault. The final revisions of Article 120 went into effect on June 28, 2012. There were no revisions or newly mandated provisions referencing stricter sentencing or the military’s effort to correct previous unethical behavior.

The May 2012 document was a slight departure from previous versions. “Zero tolerance” was never mentioned. This term had been the DoD’s catchphrase for sexual assault policies. In other ways this report was much of the same. The document delineates the dynamics of sexual assault and the high-risk behaviors that are stereotypically accepted in what this report calls, “precursors to the offense” such as alcohol consumption. Statements within this document seemed to hold steadfast to preconceived notions which now seem archaic and offensive. Furthermore, the text

refused to utilize any supporting data from all the studies and research that exist on specific facets of this issue.

A study published in the *Journal of Women's Health* November 6, 2009 used data from the Veterans Affairs (VA) Women's Health Project. This study reported data on the "health-related quality of life of women who use VA ambulatory services." The study echoed the following previously hypothesized ideas. Sexual assault in the military (SAIM) and sexual dissatisfaction were closely related and had further negative health implications: (1) lower emotional health-related quality of life, (2) lower physical health-related quality of life, (3) gynecological problems, and (4) disruption in interpersonal relationships as measured by lack of a close partner (McCall-Hosenfeld, et al. 2009). This report also discussed the issues specific to current military service members as well as veterans. With the numbers of female active and prior service members increasing, healthcare providers will see more survivors of SAIM and should therefore "focus on treatable sequelae of this adverse life event, including mental health consequences" (McCall-Hosenfeld, et al. 2009).

A. Pros and Cons of Theories and Regulations

From the legislation, studies, and academic articles investigated, only one implicitly stated new laws and successive enforcement of said laws were essential because "It's the right thing to do." In a hearing held March 6, 2009 of the Committee on Armed Services House of Representatives, Dr. John Floubert, Associate Professor and Program Coordinator, College Student Development Master's Program, Oklahoma State University stated before the committee:

“...I wonder how much money the military could save if they did really effective prevention programming, and there were less rapes committed, and you had more women who weren't leaving the military? How much does it cost when you train a woman to do a specialized job and she leaves because she is sexually assaulted? So I think there is a short-term investment, but the long-term gains can be so cost effective, not to mention the fact that it is just the right thing to do.”

Dr. Floubert makes an interesting point by acknowledging the multiple advantages of overhauling the military's policies. It seems this would be an obvious reflection of the current system but this is in fact, a very bold statement. Rape, sexual assault, and sexual harassment are extremely unpleasant topics to discuss. Discomfort of the alleged victim and chain of command has to be acknowledged as a considerable factor as to why these crimes go unreported and unexamined. The most influential and possibly the most problematic change would be cultural shift that moves away from victim blaming and moves toward respect and support. Few individuals want to discuss the humiliating circumstances and details of their sexual assault or harassment. Dr. Floubert's assertion that there is a financial motivation is a harsh but pragmatic take on these devastating crimes. This is, if nothing else, a question which needs to be addressed. Even for those who maintain the government has done all they can to stop sexual assault and harassment in the military cannot deny that there is a very real and quantifiable cost of these crimes. Far beyond the human dignities that are lost, it costs money to create and maintain support programs which assist sexual assault and sexual harassment victims.

There are multiple reports and studies that verify the costs of treating sexual assault victims. According to a February 4, 2010⁶ Healthcare Inspection Report by the Department of Veterans Affairs Office of Inspector General (OIG) titled, “Review of Inappropriate Copayment Billing for Treatment Related to Military Sexual Trauma,” the Veterans Health Administration (VHA’S) numbers appear to be inconsistent and disconcerting. It is important to note that this particular report was requested by the Senate Veterans’ Affairs Committee Chairman Daniel K. Akaka due to concerns veterans were being billed for medical care administered as a result of military sexual trauma. These initial allegations prompted a VA-wide (National) “(E)valuation of copayment billing practices for care rendered for MST-related conditions” (Department of Veterans Affairs Office of Inspector General 2010). The VHA⁷ released the following results.

Among the 5,340,754 patients treated in (FY) 2009, 65,264 (1.2 percent) received at least one outpatient care encounter for MST (Military Sexual Trauma) related conditions at VHA (Veterans Health Administration) facilities. Sixty percent of these patients who sought care for MST-related conditions were women veterans. We found that use of the clinic stop code specifically designated for MST-related care is inconsistently implemented at VHA medical facilities. As a result, MST treatment data are not readily accessible across the VA system based on the clinic stop code (Department of Veterans Affairs Office of Inspector General 2010).

⁶ Due to the lag time in analysis and reporting these statistics were gathered during FY 2009 at the Austin Outpatient Clinic, which is included in the Central Texas Veterans Health Care System (CTVHCS).

⁷ It should be understood that there are special qualifications to be eligible for VA health care benefits. The report delineated these requirements as such. “They must have served on active duty and the uniformed services for the minimum amount of time specified by law and were discharged or released under conditions other than dishonorable. Reservists and National Guard members also qualify for VA health care benefits if they were called to active duty (other than for training only) by a Federal order and completed the full period for which they were called to duty” (D. O. Affairs 2009).

Complications associated with billing ranged between computer coding to human error. Billing and copayment are issues applicable to all VA medical recipients based upon their income and disability rating. The VA does offer free medical care (counseling and treatment) to veterans who face ongoing mental and physical health issues resulting from MST that occurred on active duty or training for National Guard or Reserve members. During FY2009 it was reported that of the 65,264 patients who sought care for a MST-related condition with 38,895 being female and 26,369 male utilizers (Department of Veterans Affairs Office of Inspector General 2010).⁸

Recent wars in Iraq and Afghanistan have changed the way we view our military and veterans. Not to say that previous veterans were immune to the potentially debilitating illness but today PTSD treatment is more accessible than ever. Americans have finally realized the previous injustices faced by veterans, such as those who served in Vietnam, who suffered from PTSD but experienced little to no support. Finally the aftermath is being viewed as a disservice. The United States government has acknowledged a need to improve services based on extreme necessity. Unfortunately, here are overwhelming statistics to support the need. As of early March 2012 a report from “Injury Prevention” shows “suicide rates among U.S. Army personnel increased 80 percent between 2004 and 2008” (Castillo 2012). The study also states updated statistics on women serving in Iraq an Afghanistan. According to the Veterans Administration, who supplied statistics for this article, “Not only are women more likely to get PTSD, 23

⁸ The outcome of this report stated all those who were erroneously charged were refunded. The VHA acknowledged its need to improve tracking of MST information as well as a need for training among VHA staff.

percent report sexual assault when in the military, and 55 percent say they have experienced sexual harassment, factors that can add more stress to an already stressful situation, according to the department” (Castillo 2012). This is important to note due to the increased possibility for PTSD in women who experience sexual harassment or assault while serving.⁹

Possibly the greatest and most basic support for overhaul of the system is that it’s “the right thing to do.” Many maintain it is a discredit to our servicemembers to even question policies or changes which could ensure safety. In all fairness, cons of ratification are simple to establish. The most obvious are the considerations involving the vast amount of time these improvements would require, the associated level of difficulty, and the exorbitant expense required to revamp military culture. Currently some Americans believe women should not be in the military, so if they choose to be, they are deserving of associated negative consequences.¹⁰

B. Opposing Views of the Issues and Theories

⁹ This article also explained the importance of the military and Veterans Affairs being more proactive as those suffering from PTSD are more likely to suffer from associated depression or alcohol-related problems. The main advisor of this article was Dr. Joseph Hullett, a board-certified psychiatrist as well as a Vietnam-era Marine, who acknowledge the special challenges veterans and the military face concerning Iraq and Afghanistan. For further reading see The National Center for PTSD of the U.S. Department of Veteran Affairs (U. S. Affairs 2012).

¹⁰ Although the next few quotes are not scholarly, they do belong to Americans who have opinions and voting rights. Gary North wrote, “Women should be removed from the military chain of command, top to bottom. If men won’t defend their country, then the country isn’t worth defending.” (North 2004) Liz Trotta made the next statement on Fox News which blames women for the creation of programs concerning sexual assault. “They have sexual counselors all over the place, victims’ advocates, and sexual response coordinators. ... you have this whole bureaucracy upon bureaucracy being built up with all kinds of levels of people to support women in the military who are now being raped too much.” (Newbold 2012) She blamed feminist for the changes involving additional policies and support systems and the accompanying costs.

This section will examine the aforementioned issue of opposition to constructing new policies and designing and enforcing stronger penalties. Some argue that if women were forbidden to serve there would be no sexual assaults. Eliminating females from the ranks would remove women from serving in positions in close proximity to men who could rape them. An expert on this matter is Air Force lawyer Wayne Dillingham. In the text *Women in Combat* some of Dillingham's writings are explained in support of why women should maintain the right to volunteer and serve. "(W)omen should be treated as adults with inherent free will, able to decide for themselves if they want to volunteer or be subjected to such potential harm" (Fenner and deYoung 2001). Dillingham is in no way condoning sexual assault but is acknowledging that women have the right to honor their country with their service and furthermore, when women make this choice, they deserve to serve without the potential of violence coming at the hands of their fellow service members.

Another common argument for banning women from the military is that women are "built differently than men" and "unable to emotionally withstand the rigors of war" (Fenner and deYoung 2001). In conjunction with lessening opportunities for rape this would also place the military at a disadvantage. Women have long served in potentially hazardous job rates in dangerous locations back to the earliest history of the Armed Forces. Nurses were surely exposed to the most horrific scenes of war. Tending to wounded soldiers who would become amputees, disabled, or deceased is surely no worse than other types of war efforts. Barring women from the military under this notion completely undermines the principles of the Armed Forces. The United States military is

a volunteer service. The draft is long gone and the purpose of this thesis is not an argument based on the stance of, “You take what you can get.” A rational justification for women in the military is the armed services will function at its best when those who serve believe in the cause they defend. Supporters of new policies claim diversities should be viewed as an asset due to the significant number of servicemembers.

Obviously there are physical, emotional and psychological differences between men and women. It is the lowest form of ignorance of this topic to boil it down to stereotypical gender issues. The preponderance of male misconduct cannot be waived away as gender normality; not all men rape or act abusively. The authors of *Women in Combat* do acknowledge service members are humans and therefore sexual beings. Consensual sex even illegal fraternization aside, the issue is improper and illegal sexual acts. The authors Colonel Lorry Fenner (USAF) and Captain Marie deYoung (USAR) state those who stand against women in the military based on the argument that women need extra protection while serving should “(E)xcercise their considerable efforts to protect women from the epidemic of peacetime male violence” (Fenner and deYoung 2001). These writers further insist the government move away from these theories as they are another form of victim blame. It is unproductive and cruel to assert that female military members who have been assaulted to claim that had they not been serving their country, they never would have been attacked. To tell a victim of sexual assault, “Had you not been there, this wouldn’t have happened” would be viewed as shortsighted and reductive.

A Presidential election in the year 2012 will surely find candidates focusing on issues surrounding women in the military. Former Presidential Candidate (R - Pa) Rick Santorum has stressed the importance of women not being involved in combat deployed military efforts since “Men would be compelled to protect the women and it would remove their focus from the task at hand” (W. P. Staff 2012). In contrast to Mr. Santorum’s statement, some argue the best course of action may not be alienating those who chose to serve. It is ironic this argument continues to surface despite all evidence that a female military member is more likely to be harassed, sexually assaulted, raped or murdered by a fellow soldier, sailor, airman or Marine than by the “enemy” they are fighting.

As previously mentioned, many believe women have no place in the general population of the Armed Services. The prevailing argument to limiting their involvement declares that if women were limited to secretarial support services or nursing they would prove to be less of a target. Research for this thesis has proven the aforementioned theory to be the standard for those who decry efforts to improve sexual assault policies, procedures, and punishment. Due to the popularity of this theory, many researchers, government officials, and scholars have actively worked to prove contrary evidence. In the book *A Few Good Women* by Evelyn Monahan and Rosemary Neidel-Greenlee theories that women are more of a liability than an asset are disputed. The authors recognize certain philosophies of their opponents. For example, females’ transitioning into the military has been problematic due to cultural and societal ingrained beliefs. Still in our modern age, there are factions of society who hold the preconceived notion that

women are the “weaker, lesser gender.” An associated idea is a major change to the military system, which is recognized as a norm, is an affront to the “natural order” and therefore will be met with great opposition. Beliefs such as these are not held by the majority but still cause continuous tension and barriers.

There are two very complicated ways to view this issue.

- 1) Since women have joined the military through legal and unlawful means, for almost as long as the Armed Forces has existed, why is this still an issue?
- 2) Women have earned and been granted the right to serve in nearly all areas of the Armed Services, why does the debate persist?

Considerations such as these have raged on in the face of multiple wars and conflicts where women served alongside men. Congress, Senate, and the Pentagon have been forced to respond. On March 7, 2011 the Military Leadership Diversity Commission issued a report which recommended the services “eliminate combat exclusion policies for women, as well as other barriers and inconsistencies, to create a level playing field for all qualified service members” (Daniel 2011). The Department of Defense released an official statement after the report received additional support from high ranking military members. The DoD contributed the additional facts. “Women make up about 15 percent of active-duty service members; 18 percent of National Guard and reserves; and ten percent of Iraq and Afghanistan combat veterans; and 10 percent of those who have served in the Iraq and Afghanistan theaters” (Daniel 2011).

Despite a plethora of studies, research, and reports this subject continuously appears on television programs, in our newspapers, and online. An article titled “Role of Women in the Military Is Again Bringing Debate,” discussed this struggle before it

became a front-page worthy story.¹¹ This story was published in December 1996 long before lawsuits, in-depth investigations, and discussed the topic whether women should serve in the military. The article touched upon the lack of women in the military could lower the numbers of assault and abuse. Removing women from the military would eliminate the need for additional legislation and protocols. Since this story, disagreements have turned decidedly political. In 1994 a federal law called the "Violence Against Women Act" was passed and became due for reauthorization within the last year. Republicans refused to pass the law. Instead, they finally passed an alternate version with significant edits¹² (CNN Political Unit 2012).

Another criticism against military sexual assault policy overhaul focuses on an accusation that numbers are inflated and unreliable. Sadly, this is partially true since it is an accepted fact that rape and sexual assault are the least reported crimes. Yes, it is nearly impossible to determine the numbers since even the DoD has reported they do not have a trustworthy method for collecting information. Declaring the Department of

¹¹ I agree with the subject matter as well as the content but the title is misleading since this debate has never been put to rest. This article was published after the Aberdeen sex abuse case which led to the sensationalism involved. The most compelling criticism from the article was paraphrased by "A Few Good Women" was "The possibility (of justice for victims of sexual assault) seems unlikely in a country that depends on bringing volunteers into the military with the promise of cash bonuses, and a failure of leadership that tolerates felons within its ranks rather than institute a draft or universal service, which politicians are fairly certain will alienate voters who are happy with the secondary gains they receive from tolerating an all-volunteer military they do not have to deal with in their civilian lives." These are strong words but is it so far off-base? Men, especially in male dominated arenas such as fraternities, the military and sport teams usually find themselves compared to women in derogative terms such as crude slang for the female anatomy among other more disturbing labels. The article further ties these behaviors and attitudes to victim blaming.

¹² For additional reading please read the following press releases:
1) Conservatives hit back in 'war on women' (Yellin, et al. 2012)
2) Violence Against Women Act Becomes Political Controversy (Dill 2012)
3) The Campaign Against Women (Editorial 2012)

Defense does not know how many sexual assaults took place within the ranks is a damning announcement. While an increasingly startling number of military members were being deployed, extended and redeployed to Kuwait, Iraq and Afghanistan the numbers of assaults, harassment, rapes and murders climbed. These numbers should show the Department of Defense there was a positive correlation between soldiers in combat and violent crimes against their fellow servicemembers. The DoD released a shocking statistic in 2004. Of the 1,700 reported sexual assaults, only 329 resulted in charges being brought against the accused men. This statistic measures charges filed, not convictions, as that number was not reported. These reports were drawing so much public fire the DoD formed a “task force” on the topic of sexual assaults. On May 13, 2004 a report named the “Task Force Report on Care for Victims of Sexual Assaults, Overview Briefing” was released.¹³ Pressure forced the DoD to create this task force but unfortunately no amount of pressure was great enough to produce follow-through. As of August 2008 the only action accomplished by this group was naming fifteen members to a civilian task force. Members of the group had neither met nor taken further action and proved to be worthless after the summer of 2008. According to the text *A Few Good Women*, during congressional hearings in July and August of 2008 it was revealed the Principal Deputy Undersecretary of Defense, Michael Dominguez, had ordered Dr. Kaye Whitley, chief of Sexual Assault Prevention and Response Office (SAPRO), to “refuse to

¹³ A broad spectrum of the findings included DoD policies and standards must focus on sexual assaults. Commanders need guidance to ensure their goals are prevention and response. Victim responders need more resources. Efforts to hold offenders accountable should become more transparent. Following the findings, they delineated nine recommendations for the program ranging from accountability to leadership responsibilities, convening a summit and establishing additional councils.

comply with the subpoena issued by the U.S. House of Representatives subcommittee of National Security and Foreign Affairs to address the problem of sexual assault, rape, and sexual harassment, and to refuse to discuss why” (Monahan and Neidel-Greenlee 2010).¹⁴ Conspiracy theories aside, it would appear that the military was more concerned with giving the appearance of addressing the issue as opposed to actually finding a resolution.

The most contentious issue involved in this argument is those who say the numbers are inflated due to false accusations. Once again, there is some truth to this argument but not to the extent denigrators of change would want the public to believe. Yes, there are those who file false reports. For every person who files a false report, it makes it tougher for those who were assaulted to come forward. Numbers of false reports are unreliable and inconsistent. Since it is difficult to determine how many sexual assaults take place each year, it is equally as difficult to conclude how many of these reports are false. The search for these numbers is even more problematic in the military where the UCMJ is interpreted by a service member’s command. One cannot deny the tragedy of an innocent person being wrongfully convicted but judging the statistics of the embarrassingly low number of sentences stemming from sexual assaults cases, it is hardly a reason to not prosecute. The majority of sexual assaults and rapes will never result in criminal charges being filed; therefore the number of convictions would be even lower. It is nearly statistically impossible for the majority of reports to be false; consequently it would be reprehensible to dismiss all claims based on the fact that they could be a fabricated report.

¹⁴ Currently, I have found no forward momentum accomplished by this group.

In March 2001 *the Hilltop Times*, a U.S. Air Force weekly news publication released an article describing the Air Force's stance on false reporting and the realities of sexual assault in the military.¹⁵ Janaee Stone, a Sexual Assault Response Coordinator for the Air Force explained, "False reports also help contribute to the stigma that the majority or all sexual assault reports are false. Approximately two percent of all reports made involving military members are false" (McNally and Stone 2011). The authors further acknowledge these statistics are not 100% accurate based upon the aforementioned issues concerning low report numbers and inconsistent investigation policies. An additional important point from the story is that those who make false reports can (and should be) punished under the UCMJ.

C. Current Social Media Trends and Their Effect on the Issues Such as Rape Myths

Technology in the modern world provides greater access to information than ever before. Sites like Facebook, Google, internet news sources, television, radio, and literally thousands of popular social media outlets such as Twitter and Wikipedia give 24-hour access to users. Availability and ease of access can lead to a disadvantage. Due to our rabid consumerism for information, often facts and research are afterthoughts.

Overstimulation from mass media saturation is only intensified by the associated political and social agendas. Fox news is usually categorized as a more Conservative "Right Winged" view of the world. The Washington Post has been criticized for leaning left and

¹⁵ The Air Force's policy on Sexual Assault is listed as AFI 36-6001 which states: "Sexual Assault is defined as intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority, or when the victim does not or cannot consent. Sexual assault includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive or wrongful (to include unwanted and inappropriate sexual contact), or attempts to commit these acts."

utilizing a “Liberal assessment.” Greater access comes with a price since many of these discussions become issues of faith, political affiliation and personal philosophy.

Freedom of Information Act and Victim Protection Laws are affected and interpreted by the military differently than the civilian world. News outlets putting their own “spin” on stories make it nearly impossible to locate unbiased information.

The media has been a scapegoat and a tool for sexual assault issues. In February 2012, Fox News commentator Liz Trotta made a statement during an interview concerning sexual assault in the military that started a news firestorm. It was the media equivalent of attempting to extinguish a fire with gasoline. She stated women in the military should be expected to be raped because “Well, what did they expect? These people are in close contact” (Benen 2012). This statement fueled a fire of publicity that caused the interview to go viral immediately and created a controversy which included demands for Trotta’s firing. Her most inflammatory statement pointed blame at feminists for women creating scandals regarding sexual assault.

“We have women once more, the feminist, going, wanting to be warriors and victims at the same time,” adding that feminists “have also directed them, really, to spend a lot of money. They have sexual counselors all over the place, victims’ advocates, sexual response coordinators.... [Y]ou have this whole bureaucracy upon bureaucracy being built up with all kinds of levels of people to support women in the military who are now being raped too much.”¹⁶

The statement “raped too much” caused an uproar from Republicans and Democrats, men and women, military and civilians. Due to social media outlets such as Facebook, Twitter, the Daily Show as well as countless other programs and websites these statements became front page news. The resulting storm was an instance where

¹⁶ For further excerpts from this interview as well as video clips please see (Benen 2012)

information became accessed immediately and eliminated the chance for retraction from Ms. Trotta who later claimed she was misquoted. Text and video from her interview will live on forever. The backlash caused one positive outcome, which is the discourse associated with her comments. A typically silenced and ignored topic became a main talking point. Support for victims of sexual assault came from unusual allies as Ms. Trotta's statements were branded "shameful," "abhorrent" and "breathtakingly offensive." Anu Bhagwati, Executive Director of the Service Women's Action Network and herself a former Marine Captain released the following response:

"It has become a desperate but popular myth among commentators recently that women's presence in the military necessarily means they will get raped. First, the mere presence of women in the workplace does not turn men into rapists. Second, the majority of victims of military rape over time have been men. In fact, half of the Military Sexual Trauma patients being treated at Veterans Affairs hospitals today are men" (Armbruster 2012).

One of the major barriers of improvement concerning sexual assault is the level of shame associated with this issue. True, it is an uncomfortable topic and there is no gentle way to delve into a discussion on rape. Communication between leaders, government officials and servicemembers is the first step to lessening the indignity suffered by sexual assault victims. Support from different levels could open doors for others to speak out.

The issue of sexual assault in the military cannot be solved by a single Congressional hearing, it cannot be decided in the media and it will not be resolved by hasty, unplanned solutions. Depending on the view of the source, military members can be portrayed as pillaging monsters or saviors. Stereotyping military members is prevalent in the media and society. The views of the military can be polarized at best,

depending on the source, vilified or worshipped. In some opinions after September 11, 2001, to question a member of the volunteer military's integrity is nearly treasonous. In today's society servicemembers volunteer and must address various circumstances previous generations could never have imagined. An example of a modern day military paradox is one which concerns technology. The majority of those joining the military are young and accustomed to putting their lives on the internet. Sites such as YouTube, Twitter, and Facebook can be monitored by the government and some young military members find themselves unprepared to abandon the luxury of personal privacy they left behind.

Posting updates, pictures, and personal information on social media sites could permit possible negative impacts. For example, the possible negative outcome associated with this information being used to exploit victims of sexual assault during legal proceedings. Creating, passing, and enforcing laws is not customarily an expeditious process. Often, lapses in generating and enacting policies can lead to an inability to protect the innocent. Rape shield laws and the Freedom of Information Act are quintessential examples. Social media has played an interesting role in victim blame. If an accused rapist can use an alleged victim's sexual history and other personal and health information in their defense it is not unlikely to think the next step is utilization of social media accounts. Facebook and Twitter statuses and photographs will surely become the next area of contention. Prevalent and accepted rape myths include the issues of the alleged victim's attire, whether they consumed alcohol or drugs, as well as the company they kept prior to the attack. Rape myth acceptance is an issue that should be addressed

sooner rather than later to protect the innocent. Supporters for alteration claim laws and policies which could protect victims are not materializing fast enough. If a sexual assault case goes to trial and the alleged rapist is able to show pictures of him and his accuser drinking and dancing, how likely is it for that case to not utilize victim blame as a defense?

Social media has been used to vilify alleged victims of sexual assaults. Pictures of victims drinking with their alleged attackers can be used to discredit a victim's character and story. A study by David Lasik and Paul Miller titled *Repeat Rape and Multiple Offending Among Undetected Rapists* revealed an interesting twist to the use of social media. They contend that social network sites could be utilized to reveal additional crimes perpetrated by the accused. "By questioning acquaintances who frequent the same bars, parties, fraternities.... Investigators may uncover previous victims." This concept is incredibly interesting, possibly groundbreaking and could also be utilized in military legal cases. The UCMJ can be modified and updated as the needs of the military and those who serve transform.

So much of our culture comes from what we view in the surrounding world. Television, music, movies, the internet and social media are literally shaping future generations. Sadly, there is far too much information concerning the effect of culture on rape myths and hypermasculinity to address in this thesis but it is important to view some of these issues and their direct impact on the military. In 2010, a thesis was submitted to the University of North Carolina Wilmington to partially fulfill a Degree of Master of Arts by Lindsey E. Martin. The thesis discussed some attitudinal norms among male

military personnel and discussed many important studies. One key item was written by L.L. O'Toole and J.R. Schiffman titled *Gender violence: Interdisciplinary perspectives*. O'Toole and Schiffman's study found that "attempts by organizations to maintain internal continuity, as well as to justify socialization rituals, often result in institutional tolerance for the violent behavior of members" (L. Martin 2012). Cultural socialization begins well before an individual enters the military but it is an intuitive leap to propose that this environment could exacerbate the ideal view of masculinity. Martin's thesis proposes that perception is the goal. What one witnesses in their immediate environment affects behavior. The military could be called a microcosm of society but it does not exist in a vacuum. An additional contributed concept is that like-minded people gravitate toward each other or alter their own behaviors/beliefs to mirror adjacent associates. If culture and media are creating a high level of pressure for men to act a certain way or objectify women, then an incredibly strict and strong infrastructure has to be in place to combat those ideas.

D. Rape Myths and Associated Research

In a previous chapter this thesis briefly discussed victim blaming, rape culture, and the acceptance of rape myths. Issues such as these and the associated accepted beliefs are so engrained into society, while some blame could be placed on the media for reinforcing said opinions. Mass media could prove to be an essential resource to combat and correct biased philosophies surrounding sexual assault. The misconception that rape is perpetrated by a hooded man that drags unsuspecting women into bushes is not how most sexual assaults take place. Another common misunderstanding involving rape is

that only women who wear shorts skirts and “ask for it” find themselves the victim of an attack. Research has disproved these ideas as untrue and illogical but still, some rape myths pervade society. Studies have been conducted on rapists and the findings are alarming. Many rapists refuse to acknowledge their actions as unlawful or unethical. When researchers use the word “rape” in a survey or study, the answers are dramatically altered when compared to applying terms such as “having sex with a woman who was too intoxicated to consent.” The typical rapist is anything but typical. Many do not view their behavior as rape since they just had sex with someone while intoxicated. David Lisak and Paul Miller’s report on repeat rape built their findings on a foundation of dozens of previous studies. Although the studies focused on university environments the statistics are relatable. The study reported the following figure. “Between 6% to 14.9% of men report acts that meet legal definitions of rape or attempted rape” (Lisak and Miller 2002). A predators understanding of rape and sexual assault definitions directly tie back to rape myths. The traditional picture of a sexual assault victim is a woman who was beaten, bruised, and battered but often rape takes place without overt violence. Threats or coercion are often used as tools of rape. Changing the perception is important so that victims of sexual assault receive support, proper medical care, and access to law enforcement; should they choose. Also, ambiguity leads to loopholes in the justice system. When an attacker claims he could not have committed rape because he never hit his victim, this can delegitimize her case as well as leading to further exacerbating the symptoms of PTSD. To prevent false reports, the chain of command, officials and law enforcement continuously require continuity and comprehension from the alleged victim.

By the time a sexual assault case moves to the point of a trial or disciplinary action the alleged victim has been questioned multiple times and made to understand the seriousness of the associated claims.

Another statistic that repeats itself among scholarly research is that most rapists are repeat offenders. Not only are they more likely to perform multiple sexually assaults but there is a higher propensity for other violent acts. According to the Lisak and Miller paper, reoffending rapists exhibit aggression, violent tendencies, and have a low regard for women. According to the study *Repeat Rape and Multiple Offending Among Undetected Rapists*, several points from previous studies were confirmed. Some similarities among repeat rapists are “High levels of anger at women, a need to dominate women, hypermasculinity, lack of empathy, psychopathy and antisocial traits” (Lisak and Miller 2002). The surveyed attackers were found to have less success at rehabilitation with a far greater chance to reoffend. The most startling facts from the report were the following statements. The rapists reported:

- 1) A 39% sexual reoffending rate over a 25 year follow-up among rapists who had undergone sex offender treatment (Lisak and Miller 2002).
- 2) A 20% rate of reconviction for sexual offenses after only a four year follow-up period (Lisak and Miller 2002).

The study acknowledged complications in acquiring accurate numbers and stated that in reality, these numbers are probably much higher due to underreporting and lack of prosecutions. Underreporting creates impediments and barriers associated with trying to ascertain exact figures. An added difficulty involves the subjects participating in the study. Confidentiality and anonymity challenge researchers’ efforts. If this study were to

be repeated in a military environment you can estimate that there would be similar complexities such as providing accurate information without further implicating oneself in additional crimes. When rapists were given the reassurance of discretion their responses were appalling. The report disclosed that “126 identified rapists admitted to 907 paraphillic acts against 882 victims” (Lisak and Miller 2002). These offenders have reinforced the belief of law enforcement and scholars that sexual assault perpetrators rarely attack one victim, one time.¹⁷ This study concluded that higher report rates and prosecutions could greatly decrease the number of sexual assaults since a small number of men are committing a large number of assaults. Eliminating opportunities for rapists to reoffend alongside other preventative measures is the best course of action.

Prosecuting rapists and sentencing them with jail time would be the most effective way to prevent rapes. Changing our culture, education, and dispelling rape myths are also incredibly important to preventing sexual assaults.

E. Values and Ethics Assessment and Effect on Morale and Military Readiness

This is a complicated topic due to the delicate subject matter which can vary dramatically between sources. Basic ethics associated with women serving in the military as well as combat areas is a complex discipline. Additionally, ethics and bioethics of treating, reporting, and prosecuting sexual assault in the military adds a significant component of complexity. The fact remains that most cases involve an alleged victim and alleged attacker who both serve in the military. Circumstances surrounding those dynamics only create additional hurdles. When one joins the military

¹⁷ For further reading please see the studies and research that were the basis of the Lisak and Miller paper.

there is an inherent understanding of forfeiting certain rights or liberties that a civilian may take for granted, such as the inability to quickly and seamlessly change jobs, or relocate. United States military members cannot bring legal action against the government or simply resign. Soldiers, sailors, Marines, and Guardsmen are bound by obligation and a contract to adhere to far stricter guidelines of everyday life due to the possibility of far reaching consequences. A common grievance of sexual assault victims is the lack of anonymity or protection after an assault. Some have likened the military to a small town where everyone talks, as to say that nothing is private and a situation of this magnitude would surely become gossip.

Even in the civilian world, the complexities of medical and psychological treatments following sexual assault are not without impediments. After an assault, often a period of shock, depression, or other psychosomatic episode may occur. Episodes of extreme anxiety and depression which intensify or continue over an extensive period are warning signs. Medical professionals recognize those ailments as common symptoms of PTSD. A military member diagnosed with PTSD is not grounds for automatic dismissal. Posttraumatic Stress Disorder is a disease which produces varying levels of intensity and symptoms for which the course of treatment specifically follows the diagnosis. A more serious diagnosis of PTSD is that of a personality disorder which is considered a career death sentence by servicemembers. According to documents obtained by the Vietnam Veterans of America through the Freedom of Information Act, the following statistic was released in a CNN article. "From 2001 to 2010, the military discharged more than 31,000 service members because of personality disorder" (D. Martin 2012). Countless men and

women have been discharged under this statute and unfortunately no quantifying measure exists to determine the exact number of discharged veterans who reported or sought treatment for sexual assault. At this time, the DoD has reported it does not track figures associated with the aforementioned data. The article did mention that even though there is no procedure in place to verify the number of dismissals associated with sexual harassment or sexual assault cases, there is a vast disparity among the numbers when associated with gender. Statistics acquired by Yale Law School's Veterans Legal Services Clinic were released in the article and prove inconsistencies in the process of determining personality disorders as well as the dismissals which followed.

- Army, 16% of all soldiers are women, females constitute 24% of all personality disorder discharges.
- Air Force: women make up 21% of the ranks and 35% of personality disorder discharges.
- Navy: 17% of sailors are women and 26% of personality disorder discharges
- Marines: 7% of the Corps and 14% of personality disorder discharges

Statistics which substantiate claims of unfair dismissals are troublesome and should be alarming to the government and military officials. Evidence such as this begs the question, “Why is the military so quick to pin victims of sexual assault with this diagnosis?” Theories include the military’s inability or ineffectiveness of competently addressing women’s’ issues. No additional break down of these numbers exists to indicate how many of these women have reported or sought assistance for sexual assault. Theories like this amalgamated in conjunction with compelling data is disturbing due to the significant number of women serving. Dismissing shocking evidence such as this

could be viewed as a great injustice and a severe disservice to male and female military members. Dangerous bioethical implications exist if this is a common diagnosis used to disregard servicemembers since it could have long term implications on the mental and physical health of veterans. Additional possible bioethics repercussions could be levied against medical staff that analyzed and identified conditions such as possible cases of maleficence. Misdiagnosing servicemembers in order to discharge them from service could have serious implications. Legal, medical and ethical implications aside, medical professionals could be violating their most sacred creed, the Hippocratic Oath, by possibly causing detriment to the patient.

Other serious theories abound such as the military and government are guilty of trying to suppress victims through humiliation. Dismissing and discrediting victims of sexual assault would enable the military with all-encompassing control of the situation. If true, this is not just a miscarriage of justice but also an ethical catastrophe. Reports from veterans are surfacing asserting they were maligned as “crazy” or “liars” and this set of contrived circumstances led to their dismissal. Releasing members under the guise of concern for impairment to unit cohesion¹⁸ is derisive to victims of rape and sexual assault. The military and those who serve make personal sacrifices for the greater good; being sexually assaulted is not a compromise one should tolerate. The CNN article from

¹⁸ There are cases when the severity of the PTSD suffered by the servicemember has given reasonable cause for dismissal. According to the 2010 Dissertation for a Doctor of Philosophy by Anupma Veera Dhingra, MPH titled *Cognitions and Anger in Veterans with Post-Traumatic Stress Disorder from Military Sexual Trauma*, disclosed that some studies have found that “anger is not only an arousal symptom, but also an avoidance symptom. The association between anger and fear in PTSD represents a unique dysregulation of affective processes among anxiety disorders.” (Dhingra 2010) Furthermore, this study stated the correlation between PTSD and anger is “stronger and more fixed” than one between anger and any other anxiety disorder. (Dhingra 2010) This is incredibly important since a servicemember who is unable to control their anger is certainly a danger to unit cohesion.

April 2012 echoed previous research of other sources. “Despite the Defense Department's "zero tolerance" policy, there were 3,191 military sexual assaults reported in 2011” (D. Martin 2012). This statistic is from the most recent report issued by the DoD which admitted the number of actual sexual assault is probably closer to 19,000.

A crucial acknowledgement has to be understood that not every survivor of rape will develop PTSD and it is dangerous to generalize responses to trauma as this can further perpetuate destructive stereotypes. Not all those who are assaulted want treatment or traditional therapy, but evidence-based research has determined that it is important for high levels of discourse. “Trauma-exposed individuals in research have the potential to ultimately enhance treatment and care for persons living with PTSD” (Jain, et al. 2011). Statements such as this lead to additional ethical dilemmas including the process for which the DoD treats those suffering from PTSD while ensuring an adequate level of informed consent and autonomy. The VA and other independent researchers are trying to develop an arrangement between the military medical and justice systems to create a more objective and competent process.

Additional ethical and legal repercussions exist outside the courtroom and medical center. Severe consequences could derive from delayed reactions or refusing to investigate claims. An extreme example of a victim who suffered professionally and personally and subsequently lost her life due to inaction was Marine Lance Corporal Maria Lauterbach (Lasker 2012). Lance Corporal Lauterbach was 19 years old when she was raped at Camp Lejeune. She was 20 years old when she was murdered by her rapist. The aftermath of this tragedy revealed she had been denied a transfer which she requested

after her case was not investigated. The senior officer who raped and murdered Lance Corporal Lauterbach burned her body in his backyard. The secondary victim in this brutal murder was the eight month old fetus she was carrying. Her attacker has since been found guilty of first-degree murder and is serving a life sentence. This is obviously the most extreme case and few rapes escalate to the point of murder but had her case been investigated, had one person in her chain of command assisted her, chances are she would be alive.

For those who refused to act, there is little to no ethical justification. According to official documents, NCIS never followed up on the suspect's alibi to ensure validity. An Inspector General's investigation of this case was unable to determine if the NCIS agent had ever followed up or even attempted to investigate the report of rape. Camp Lejeune alleged there were safeguards in place to protect servicemembers who report sexual assault. One of these safety measures was the Sexual Assault Response Coordinator (SARCs) who supposedly was trained to support sexual assault victims. According to documents reported by City Beat, "Camp Lejeune has a SARC overseeing the entire base, but he wasn't alerted to Maria's rape until after she was murdered" (Lasker 2012). This case is wrought with examples of oversight and incompetence which include professional and personal ethical failures. All parties involved were partially responsible for the systematic breakdown which led to murder. Lance Corporal Lauterbach's mother has testified at official House Subcommittee¹⁹ meetings and her daughter has become a case study. On October 18, 2011 the Department of Defense

¹⁹ For additional reading please see the Statement of John F. Tierney, Chairman Subcommittee on National Security and Foreign Affairs Committee on Oversight and Government Reform (Tierney 2012).

Office of the Deputy Inspector General of Policy and Oversight released a report titled, *Review of Matters Related to the Sexual Assault of Lance Corporal Maria Lauterbach, U.S. Marine Corp. (Report No. DoDIG-2012-003)*. The seventy two page document details the negligence of the chain of command, NCIS, the Camp Lejuene SAPR officials, and others. The report concludes with the following recommendation. “We recommend the Secretary of the Navy take corrective action, as necessary, with respect to officials whom we identified as accountable for the regulatory violations and procedural deficiencies described in this review” (Review of Matters Related to the Sexual Assault of Lance Corporal Maria Lauterbach, U.S. Marine Corp. 2011). Research of subsequent punishments and/or corrective actions for follow-up of the report was unsuccessful.

The Lauterbach case is in every aspect a catastrophic failure. Education, training, and procedures were ignored leading to a complete breakdown of the system. Conversely, military readiness is the foundation for success. The government and military have put themselves to task in order to continuously improve military readiness based on the threat. The gov.track.us website monitors all bills and their current status; whether they have passed the House, the Senate, and signed by Committee or by the President. Since February 2011, twenty nine bills have involved military readiness (Civic Impulse, LLC 2012). Furthermore, a study by the Veterans Health Administration revealed a positive correlation between the reporting and judicial process linked to the outcome and treatment of alleged victims within the military when unit cohesion is considered. “Unit cohesion may create environments where victims are strongly encouraged to keep silent about their experiences, have their reports ignored, or are

blamed by others for sexual assault, all of which have been linked to poorer outcomes among civilian assault survivors” (Kimberling, et al. 2007). The VA has observed and reported an increased demand for health services but programs which involve PTSD, MST, and SAIM²⁰ are fairly new. In 2004, Public Law 108-422 provided that sexual assault services become a permanent benefit (Kimberling, et al. 2007). Agreeing to extend services for MST showed the government recognizes an issue that is affecting a fair amount of servicemembers. The DoD has acknowledged that servicemembers health and wellbeing behoove the military. Sexual assault compromises military readiness. If the defining factor of a successful military operation or organization is the people involved, sexual assaults are detrimental to the cause.

F. Veterans Health Administration and Independent Research

Social stigma still exist surrounding mental illness and research and medical findings have ameliorated the lack of acceptance and treatment. Now that medical professionals and scholars have become interested in what causes someone to suffer PTSD²¹ as well as the resulting psychological, mental and physical illnesses, there is additional hope on the horizon. Adding the specific difficulties associated with active duty or veteran status to sexual assault related PTSD research only intensifies the

²⁰ PTSD has been defined previously as Posttraumatic Stress Disorder. MST has been established as Military Sexual Trauma. SAIM is described as Sexual Assault In the Military. Oftentimes, these terms are used interchangeably but there are specific cases where their utilization is independent.

²¹ There are many symptoms that were previously listed. For a more in-depth definition and understanding of PTSD, please read the dissertation of Anupma Veera Dhingra, MPH titled *Cognitions and Anger in Veterans with Post-Traumatic Stress Disorder from Military Sexual Trauma*. This dissertation partially fulfilled the requirement for a degree of Doctor of Philosophy from The University of Texas Southwestern Medical Center at Dallas. This dissertation went into far greater medical definition of PTSD and MST including the symptoms and the required severity and length of disturbance for a positive screen.

complexity of acquiring reliable figures. The wars in Iraq and Afghanistan and the subsequent rising number of PTSD cases and sexual assaults have opened a virtual floodgate to these types of studies.

There are innumerable psychological effects of PTSD. Increased alcohol related abuse and dependency issues, lower self-esteem, riskier life and sexual choices, and flashbacks are just a few of the most common aftereffects of PTSD. A recent study published in *the Journal of Abnormal Psychology* discussed the changing roles of women in the military since the beginning of the wars in Afghanistan (Operation Enduring Freedom; OEF) and Iraq (Operation Iraqi Freedom; OIF). Technically, women are banned from direct combat but with the types of battles being fought in these two wars, it is difficult to completely avoid combat exposure. The study was devised to explore the effects of women in combat. Recently, this topic has garnered a large amount of media attention but there is little empirical analysis on a scholarly level. Therefore this study hoped to determine whether there are “(G)ender differences in the mental health consequences of combat exposure” (Vogt, et al. 2011). The outcome of this study was groundbreaking due to the finding that women had lower levels of combat exposure but common “levels of subjective perceived threat in the war zone as men.” The authors found that females revealed a significant amount of stress related to sexual harassment and sexual assault.²² Thus their perceptions of surrounding threats were comparable to those in their male counterparts.²³

²² For further reading, see (Vogt, et al. 2011) and associated research. This study did recognize its limitations including sample sizes and that this is a new concern so there was little statistical data to add to.

Several studies focus on women in combat, women with PTSD, postemployment PTSD, and now sexual assault related trauma. Previous studies concluded there are many manifestations of sexual assault-related PTSD, or MST. In 2008 an analysis was performed concerning PTSD survivors and a determination via longitudinal MRI if there were significant differences in hippocampal volume (Bonne, et al. 2001). The study revealed a smaller hippocampal volume is not a determining factor for developing PTSD, meaning a smaller hippocampal area is not a predetermining factor. The second hypothesis of the study was to determine if PTSD could change the brain by causing the hippocampal volume to atrophy (Bonne, et al. 2001). This study could be considered unsuccessful since it could not prove dissimilarities in hippocampal volume (left or right, 1 week and 6 months) but it was able to show that after six months, “the PTSD group had significantly higher scores on the State-Trait Anxiety Inventory, state version, Impact of Event Scale, Mississippi Scale for Combat-Related PTSD, and total Clinician-Administered PTSD Scale” (Bonne, et al. 2001). This proves that the brain weight may not change at six months but mental health is affected and could further show greater reaction to stimuli. This study was one of many like it which attempted to prove health

²³ For further reading on specific health issues which affect military members, please read *Sexual harassment and assault experienced by reservists during military service: Prevalence and health correlates* published in the Journal of Rehabilitation Research & Development in 2008. The study sampled 3,946 former reservists (of both genders) about their experiences with sexual harassment or sexual assault while serving. If the participant reported no experience with either situation they were not eliminated. Sexual assault was reported by 13.1% of females surveyed. This study relied on earlier finding of other larger studies such as one which reported a significant number of female veterans reported “Readjustment problems after discharge (e.g., difficulties finding work, higher rates of substance abuse disorders, poorer general psychological and physical health).” The study concluded that even a decade after discharge from the armed service, the veterans still reported substantially lower health as opposed to reservists that did not experience sexual harassment or sexual assault. (Street, et al. 2008)

consequences of PTSD are not just invisible mental issues but also physically manifested in patients.

An additional study published in 2008 titled, *Reduced Posterior Hippocampal Volume in Posttraumatic Stress Disorder* built their studies and hypotheses on earlier research to determine which part of the brain is most affected by PTSD (Boone, et al. 2008). The study concluded that “Total hippocampal volume was lower in patients with PTSD ($p = .2$), with a significant diagnosis by hippocampal-subregion interaction ($p = .2$), Post hoc analysis revealed significantly smaller posterior hippocampi in PTSD ($p = .006$), with no difference in volumes of anterior hippocampus or subiculum.”²⁴ Results concluded that there were no differences in volume between subjects with multiple episodes of trauma, e.g., childhood abuse, compared to a single adult trauma exposure, e.g., sexual assault as detailed from that high-resolution 3T magnetic resonance imaging (MRI) to obtain volumes of the entire hippocampus as well as the anterior, posterior, and subiculum subregions.²⁵

Veteran’s healthcare professionals could find studies like this to be invaluable. Consequential research could indicate how military personnel exhibit difficulties assimilating to stressful situations after a sexual assault. Such studies could be utilized to reinforce the military’s assertions that those who suffer sexual assault are “unfit for duty”

²⁴ This study and others like it are important due to the area of research. The posterior hippocampus is associated with storage, processing, and retrieval of spatiotemporal memories. These areas are central to one’s “fear conditioning” as they provide “protective functioning” which we now know has a great effect on how a human handles subsequent stress and trauma. These affected areas can also lead to exaggerated physical, mental, and psychological adverse effects later in life.

²⁵ Constrains involved with this study are the limited sample size; 22 and the overwhelming ratio of women to men; 19 to 3.

but more likely it proves that these servicemembers need support, not rejection or condemnation, as some have expressed. Many soldiers and sailors have come forward with stories detailing the reactions from their commands which are more horrific than the original attack. Marine Lieutenant Ariana Klay is a Naval Academy graduate, in addition to an Iraq war veteran who was dismissed after she reported being raped by a superior officer. She was told she was to blame for the attack since she provoked it by wearing make-up and running shorts. Neither Ms. Klay's attacker nor his friend was convicted for the assault. Later, her superior officer was found guilty of adultery (N. Parrish 2012). If these were isolated cases or studies, the findings could be easily dismissed but with more veterans returning home and being more outspoken about abuse, many believe this is just the tip of the iceberg.²⁶

A groundbreaking study from the *Society of Biological Psychiatry* found that mismatch negativity (MMN)²⁷ can reflect the process of detecting dangerous situations or environments. These abilities are a fundamental characteristic in biological organisms surviving and thriving. If the ability to detect danger is compromised, one can experience symptoms of PTSD such as nervousness, stress, hypervigilance, and fear (Morgan and Grillon 1999). This study is so important due to its specific topic of sexual-assault

²⁶ An additional study published in 1999 titled *Abnormal Mismatch Negativity in Women with Sexual Assault-Related Posttraumatic Stress Disorder* reported evidence of abnormalities in preconscious auditory sensory memory in PTSD. The data found suggested a positive correlation between an increased sensitivity to stimulus changes and PTSD. (Morgan and Grillon 1999)

²⁷ According to the study mismatched negativity "reflects activation of local, modality-specific, neural mechanisms in the primary auditory cortex, or the adjacent supratemporal auditory cortex, which automatically react to changes in a repetitive sound."

related posttraumatic disorder and involved event-related potential (ERPs) in studying the effect of stimulus change on the brain.

The existence of MMN study offers additional credence to other studies performed on the Veterans Health Administration (VHA). A report titled *The Veterans Health Administration and Military Sexual Trauma* focused on the prevalence of MST and the associated modalities. The study reported the obvious limitation as it involves veterans, not active duty or reservists; however it had stronger data since it focused in veterans and MST. The study further concluded the side effects normally associated with MST may be magnified in military members due to the fact they might live and work with their assailant and possibly lack a support system. Pressure from superiors and other servicemembers could add stress and coercion to avoid seeking medical or legal assistance. Epidemiological data has proven many victims of MST will face more health, mental and psychological issues in their lifetime but this study cited specific adverse effects. “For both women and men, liver disease and chronic pulmonary disease showed moderate association with MST. For women, obesity, weight loss, and hypothyroidism were significantly associated with MST” (Kimerling, et al. 2002). The study disclosed that the VHA reported that veterans who positively screened for MST also associated “most strongly” with mental health complication. A startling statistic involves a more than double likelihood of having a mental health condition when there is an MST diagnosis. The most common MST related mental health issues were PTSD, dissociative

disorders, eating disorders, and personality disorders. Furthermore, suicide and self-harm were significantly associated with MST.²⁸

Another study which focused on female veterans who sought medical care through the VA system was *Health-Related Consequences of Physical and Sexual Violence: Women in the Military*. The following troubling data was released:

One half of rape victims sustain vaginal or perineal trauma. Fifteen percent of victims have significant vaginal tears and 1% require surgical repair of lacerations. Thirty-nine percent of rape victims sustain nongenital injuries, over half of which require medical attention. Sexually transmitted diseases (STDs) occur in 43% of victims. Rape is associated with increased symptoms involving nearly all body systems, higher levels of injurious health behaviors, and greater medical service use (A. Sadler, et al. 2000).

The study went on to name additional maladies and negative effects of these life events.

Socioeconomic, demographic, and lifetime trauma factors were eliminated and still

“cumulative physical and emotional sequelae of rape and physical assault were similar to or worse than those associated with major chronic illnesses” (A. Sadler, et al. 2000).²⁹

²⁸ For further reading and similar study data; please read *Health-Related Consequences of Physical and Sexual Violence: Women in the Military*, which reported on the long term effects of sexual assault and found that sexual violence can lead to “life-long medical repercussions.”

²⁹ For additional reading on adverse health effects after sexual assault, please read *Sexual Assault in the Military and Its Impact on Sexual Satisfaction in Women Veterans: A Proposed Model*. This study was published in a 2009 edition of the *Journal of Women’s Health* and had extremely interesting analysis of sexual health dysfunctions and maladies associated with sexual assault victims. The study focused on four areas of interest to show association between sexual assault in the military (SAIM) and decreased sexual satisfaction: (1) emotional health-related quality of life, (2) physical health-related quality of life, (3) lack of a close partner, and (4) gynecological illness. It concluded there are strong associations between the four mediators, SAIM, and sexual dissatisfaction when using age-adjusted logistic regression analyses. Physical and mental health sequelae were strong attenuated with negative outcomes. The study was performed on 3632 women veterans in a national study. It would be easy to dismiss this study by considering sexual satisfaction to have limited influence on overall wellbeing but the truth is that a low sexual satisfaction directly correlates to a lower health-related quality of life. The greatest adverse effect is seen in mental health. The findings of this study are further evidence to the overall mental and physical health implications associated with SAIM or MST.

It is not guaranteed that a person who is sexually assaulted will develop PTSD or MST. Data shows that only “5-10% of people are estimated to develop symptoms qualifying them for diagnosis of posttraumatic stress disorder” (Aupperle, et al. 2011). Scientists are still researching how the brain reacts to trauma since there is no simple, single answer. Learning, memory, executive functioning, and other brain competences have the possibility of being influenced by severe trauma. The brain’s dynamics, resiliency, pre and post-trauma functioning can possibly impact the intensity of trauma.³⁰ The results and initial reasoning for this study figure prominently into my theory that sexual assault in the military is causing far-reaching and long-term predicaments.

One could infer the statistic involving the percentage of people that develop PTSD is higher due to the unreliability of reports involving sexual assault. Deduction is used in several aspects of these reports and theories as a result of lacking hard facts. Although the exact cost of sexual assault (e.g., reporting, investigating, prosecuting, subsequent health care including mental health care and prescriptions) is unknown, it is understood that devoting efforts to preventing these heinous crimes would pale in comparison. If the ethical or moral implications are not enough to convince lawmakers and the Department of Defense to act; surely the monetary amounts will. According to the aforementioned study, “between 20 and 50% of patients do not respond to current, first-line treatments for PTSD.” This means more money will be spent researching and

³⁰ It is important to note this report relied on cross-sectional studies concerning “frontal lobe” dysfunction associated with PTSD, focusing on simple attention and working memory, “higher-order” executive functions flexibility, and inhibition, and the effects of emotional context on attention and executive function.” The mode of analysis of the report focused on differentiating emotional or trauma-related stimuli, among other factors, to determine if or how these elements alter a clinical profile of PTSD.

creating medications and therapies to treat the millions of patients who are unable to recover.

Progress has been established in some areas of this epidemic. The Department of Defense and the Department of Veterans Affairs released a report with the assistance of the North Carolina Institute of Medicine and the Duke Endowment which revealed “PTSD in the most common mental health diagnosis, followed by depression” (Brancu, Straits-Troster and Kudler 2011). The study possibly gives the most damning testimony since the data was generated from the DoD and VA. The statistics are recent, based on the numbers from military conflicts in Afghanistan and Iraq. Over 50% of veterans who are eligible and enroll to receive care through the VA health system are diagnosed with a mental health disorder. These investigations are not solely constructed based on MST but instead consider the treatment for all mental health issues. The paper described the cost benefit analysis involved with evidence-based care and reported within two years a savings of \$1.7 billion (Brancu, Straits-Troster and Kudler 2011).

Sometimes the greatest barrier to solving a problem is to convince people that it is worth investing attention, time, and money. Gaining public and government support concerning the issue of sexual assault in the military has proven to be an immense impediment to correcting their previous failures. Chapter Four will focus on recommendations from government groups and civilian associations, as well as the way ahead.

CHAPTER FOUR

PROSPECTIVE FOR THE FUTURE

A: Recommendations, Outcomes as well as Possible Barriers

Sexual assault in the military has many key points to address. The first is the battle to prevent sexual assaults from happening. Secondly, there has to be a judicial system and policies established befitting the heinous crimes when they do occur. Last but not least, the government must be prepared to offer adequate services to victims after an attack. The research and statistics are plentiful and can be utilized to construct policies, procedures, and services to achieve better outcomes. The potential medical and mental repercussions are well established and the government can now understand the consequences of an attack. The military has taken vital steps to better the system by allowing undocumented reporting which allows victims access to services even if they choose to not press charges. Additional steps taken by the VA to ensure a full range of services to sexual assault victims have been viewed as tremendously progressive.

Detractors of the military's policies and recent statements claim these statements are nothing more than lip service or a device to appease the masses as they ignore the real issues. The wait and see approach has been scrutinized as inadequate when the predicted number of sexual assaults reached 19,000. Performing lengthy and costly studies will provide valuable statistics but they will not solve this catastrophe without follow through. Spending the time, money, and effort without succeeding accomplishments could further damage the reputation of the military.

The current state of the military is not the only barrier to changing policies and procedures. Military health and service records follow a person after they are discharged

or separated. Future job applications and security clearance questionnaires could require disclosure of mental health issues. Being branded as mentally unstable by the United States government could unfairly cause judgment which would lead to detrimental outcomes. Furthermore, these standards could impede the personal and professional growth of the alleged victim or survivor. Stressful situations could further exacerbate PTSD or MST which would be considered revictimization by continuously demanding the victim to relive their attack. Several apprehensions have been raised involving these practices and subsequent recommendations have been given for amendment of current statutes. According to a *Navy Times* article from February 2012, victims' rights groups, U.S. Intelligence agencies, and Congress are attempting to create security questionnaires that will obtain necessary information without infringing upon the applicants privacy rights. James Clapper, the director of national intelligence, alongside Rep. Chellie Pingree, D-Maine, have led the fight to create modification in the process or provide an exception. According to a letter composed by Mr. Clapper, "The change in Standard Form 86, the Questionnaire for National Security Positions, would also apply to sexual assault victims who are federal civilians or contractors" (Maze 2012).

The question relates to psychological and emotional health and is in contention not only for the information it requests but also information that is exempt from the scope of concern.

Question 21 asks that any person "applying for or renewing a security clearance to provide specific details on any therapy for a mental or emotional health condition, either as an outpatient or inpatient, in the previous seven years. Exempt is any treatment related to adjusting to returning from combat, marital or family issues, or grief, as long as it did not involve any violence by the applicant" (Maze, Sexual assault counseling question to change 2012).

The applicant is not asked or given opportunity to explain the circumstances or purpose for treatment, but detractors of this form claim it could cause undue stress and possible repercussions beyond the applicant's control. The Defense Department will have the final say on the wording of the question but it is a step in the right direction since some claim additional measures are needed to safeguard personal privacy without risking the nation's security. Sen. Jon Tester, D-Mont., has reached out to Clapper and Defense Secretary Leon Panetta with a plea on behalf of his position as a member of the Senate Veterans' Affairs Committee requesting the military create and enforce policies which "do not unnecessarily traumatize these men and women" (Maze, Sexual assault counseling question to change 2012). Sen. Tester is speaking of the estimated one percent of men and 20 percent of women who have been sexually assaulted while serving in the military. Questions such as these may not necessarily need to be removed but it is only fair that an applicant would have the chance to explain their background.

When one joins the Armed Forces, it is understood this servicemember relinquish certain rights and freedoms as they are presumed to comprehend and willingly undertake the moral and ethical expectations associated with their service. Such a serious life decision and commitment should not and cannot be entered into lightly. The United States Armed Forces has always publicized their long-standing pledge to being the most elite and ethically sound military but some admit to a level of hypocrisy in this process. The issue of felony waivers has been contested and challenged, more so recently when the DoD released numbers that show from the year 2003 to the year 2006, the number of felony waivers the Armed Forces granted had almost doubled. In 2003 the Defense

Department issued 824 felony waivers. In 2006 that number skyrocketed to 1,605. A story in the *Army Times* reported these troubling statistics along with an annotation which stated “The military does not accept anyone convicted of a violent crime such as murder, rape or armed robbery, nor does it take in anyone who has a pending criminal charge or is on probation or parole. It also does not let people enlist as part of a plea bargain to avoid prosecution” (Maze 2007). Sadly, statistics have proven this statement to be untrue.

In March 2012 the deliberation regarding waivers was still raging in the government and the public arenas. Previous statements and associated policies were panned as little more than propaganda. With no way to dismiss the high number of lawbreakers entering the military as a minor oversight, action was demanded. The criminals who entered the military were not isolated situations; rather this became a predicament so enormous and egregious a bill was presented to codify a 2009 Defense Department policy. An article titled *Bill Would Bar Sex Offenders From Military* detailed the work of Sen. Barbara Boxer, D-Calif., sponsored a bill, S 2137, which would prevent waivers being issued for any recruit convicted of a sex crime (Maze 2012). The bill would provide a safeguard which would prevent any branch of the service lowering their criteria and admitting a convicted felon. Furthermore, the bill acknowledges sex crimes vary by state but would address rape, sodomy, sex with a minor and possession of child pornography as felonies.¹ Supporters of this bill, such as Army Secretary John McHugh have expressed serious concerns over the high number of criminals serving within the ranks. Of course, not every person who receives a waiver is underserving. It

¹ Public indecency and sex between minors is often considered a misdemeanor.

is understood that some servicemembers were able to turn their life around after a mistake in their youth. There is something to be said for adults who were able to turn their life around and now choose to serve their country but these high numbers suggest the reason is more likely connected to enlistment quotas. According to data from the Army, previous offenders are far more likely to commit additional crimes. The Army released the following statement. "From 2001 to 2011, 0.5 percent of soldiers who entered the military with a criminal waiver committed a sex crime. In comparison, 0.3 percent of soldiers who entered without a waiver committed a sex crime during those years" (Maze, Sexual assault counseling question to change 2012). No certainty exists that a person who receives a waiver will commit additional crimes of sexual nature but statistics and research are not in their favor. It is a recommendation of this thesis that waivers need to be further curtailed to prevent rapists from joining the armed forces.

Data used to sponsor and gain support for S 2137 can easily be referred back to the Lisak and Miller study and others like it that prove the majority of sexual predators are repeat offenders. The report stated two extremely significant facts. The first is most rapists are repeat offenders who will average 5.8 rapes over their lifetime. The second fact echoed a statement the military has confirmed; most rapists are never brought to justice. Lack of justice is not just heartbreaking but also fixable. The military has the ability to create a standard for the rest of society. One surrenders certain personal rights in order to join the armed forces. The military can and should create and enforce harsher penalties for sexual assault. Given the knowledge of the collective damage sexual assault forces on the victim, the victims' family, military readiness and the community there has

to be more severe penalties. The research contained in this thesis has presented various injustices which could have been avoided. The Lisak and Miller study additionally revealed that rapists, repeat or singular, have a higher propensity for committing other types of interpersonal violence. Interpersonal violence is not solely defined as domestic abuse but also one's propensity to display general violent behavior. The following statistic is pulled directly from the report, "more than two-thirds (68.4%) of the repeat rapists admitted to other forms of interpersonal violence, compared to 40.9% of single-act rapists."² Strikingly, the repeat rapists were responsible for 1,045 of the 1,225 total acts of interpersonal violence³ perpetrated by these 120 rapists" (Lisak and Miller 2002).

Tying the facts from the waiver bill to the Lisak and Miller paper leads to the next proposal for amendments. The previously mentioned study, *Evaluation of a Sexual Assault Education/Prevention Program for Male U.S. Navy Personnel*, could be the next logical step in the process to preventing sexual assaults within the ranks.

Servicemembers must complete sexual assault and sexual harassment training on a regular basis but there is special emphasis placed on the training periods of boot camp, pre- and post-deployment. The study focused on male Navy recruits and uncovered an alarming piece of information. "Men who reported a premilitary history of rape perpetrated, compared with those who did not, were nearly 10 times more likely to commit rape or attempted rape during their first year of military service" (Rau, et al.

² $\chi^2(1, N = 120) = 8.68, p < .01$.

³ The types of violent acts which were used in the questioning of the rapists are as follows: rape and attempted rape, sexual assault (not rape), battery of an adult (intimate partner), physical abuse of a child, sexual abuse of a child, and any type of non-rape offending.

2010). It is important to note the time period established by the study. The first year of military service puts the majority of rapists in the same age group as the average college student which confirms the relevance of prior research from college environments.

Evidence has proved sexual assault is typically not a crime that an offender commits once. Theories abound concerning the effect military training and atmosphere can have on a servicemembers' psyche. Some have gone as far to claim the male-dominated, testosterone-laden world of the military turns men into rapists but that is not an area of focus in this thesis. An issue of concern is how the system has addressed systematic failures to prevent and prosecute sexual assaults. The government has admitted training needs to be refocused and taken seriously by all levels within the military. Utilizing questionnaires such as the aforementioned study which was published in the June 2010 issue of *Military Medicine* could assist in identifying potential predators. Questionnaires and training exercises should not be the basis of a witch hunt but those who display troubling behavioral factors on a predetermined scale would be eliminated from the armed forces. If the government created a system like those which they routinely employ to select appropriate job classifications, they could possibly prevent rapes. Currently, the Navy does employ separate Sexual Assault Intervention Training (SAIT) for male and female sailors (Rau, et al. 2010) and an additional evaluation could save lives. The military could use its autonomy from the civilian justice system to implement changes more effectively.

The *Evaluation of a Sexual Assault Education/Prevention Program for Male U.S. Navy Personnel* study revealed promising information such as SAIT, and has positive

results exhibited in pre- and post-training surveys. The training revealed an increase in rape knowledge among men, as well as a reduction in endorsement of rape myths accompanied by escalation of sympathy for rape victims. “Collectively, these findings are compelling because rape knowledge, rape myth acceptance, and rape empathy have all been associated with the likelihood of male perpetration of sexual assault” (Rau, et al. 2010). All the training in the world will never entirely eliminate sexual assaults but it could reduce the likelihood of coerced rape. Males who display encouraging outcomes from the training are probably less likely to tolerate duplicitous behavior from fellow servicemembers. Another possible constructive outcome could be the acknowledgement that using impairment and intoxication in order to obtain sexual gratification is assault.

Coercive sexual assault is not only the most difficult to prove and prosecute but it also has the most questionable recommendations for avoidance. Rapes which result in the victim questioning if a crime took place due to the lack of a physical attack are just as illegal as a sexual assault which accompanied battery. The DoD released a series of posters used as a “marketing campaign” to prevent sexual assaults in the service. The posters show men of different races and ethnicities accompanied by the slogan, “Ask Her When She’s Sober” (United States Army 2009). Slogans and training sections like this are highly controversial due to the objection that messages such as this could easily be modified into victim blame scenarios. The truth is that most rapes are not accidental. Rapists are predators who for the most part, are never prosecuted. Programs such as this face an uphill battle since the training is only as effective as the instructor. The chances of success for a series of posters to reduce sexual assault are slim. Policies set forth be

the DoD and enforced by a chain of command with unwavering integrity is what will prove to be effective.

Not all recommendations, such as eliminating waivers and training analyses are feasible to be conceived and enacted in a short amount of time but this thesis does encourage the government to look beyond its own leadership for corrective action. Groups such as the VA, the ACLU (American Civil Liberties Union), SWAN (Service Women's Action Network), medical and mental health entities, alongside scholarly research groups could greatly improve the military's policies and procedures. The government has taken the first step by admitting failure. In June 2012 during a Pentagon news briefing, Defense Secretary Leon Panetta confessed that he was very concerned about the current state of sexual assaults in the military. Secretary Panetta reiterated his support for the new system he announced in January 2012. He delineated the four part strategy as:

- Creation of a DoD sexual assault advocate certification program;
- Expanded support for assault victims who are military spouses or adult military dependents;
- Ensuring DoD civilians stationed abroad and DoD U.S. citizen contractors in combat areas receive emergency care and the help of a response coordinator and victim advocate; and
- Increased training funds for investigators and judge advocates by \$9.3 million over five years (K. Parrish 2012).

Despite military leaders' best efforts to cultivate an impression of concern and involvement towards eliminating sexual assaults they face tough criticism. In June 2012 Rep. Jackie Speier, D-Calif., requested the House Armed Services committee to hold a

hearing to probe the sexual misconduct investigations which took place at Lackland Air Force base in Texas (Saenz 2012). It appears to some that for all the military's boasting of progress little has changed. The most recent DoD disappointment is the thirty-one female victims of sexual assault at the hands of twelve male drill instructors. These airmen were identified in incidents dating back to 2009 (Saenz 2012). The aforementioned strategy Secretary Panetta presented is a step in the right direction but additional articles must be incorporated for sweeping action to take place. For instance, harsher penalties, eliminating the opportunity for rapists to plead to lesser charges, and removing the option to separate from the military in lieu of prosecution would prove the military's commitment to preventing sexual assault. It is encouraging to see the government improving regulations for victims of sexual assault but proactive preventative measures cannot be overlooked or undervalued. A sexual assault that is prevented eliminates the need for victims' services.

The military and government are in the advantageous position of being able to accept assistance from external sources. Tremendous amounts of time, resources, and money can be saved by accepting and executing suggestions, not to mention the countless lives these changes would affect. Recognizing the number of sexual assaults could be as high as 19,000 should require immediate attention. Possibly the military's greatest assets are not independent findings but those who serve. Gen. Mark Welsh III, the Air Force chief of staff nominee, has been an outspoken critic of the military's current policies and has demanded significant action. He recognized recent efforts but admits all attempts

have failed. He stated, “The Air Force's goal should not be to just reduce the number of sexual assaults each year, the goal should be zero” (Hoffman 2012).

Gen. Welsh has received a great deal of support for his strong words but sadly there are those who still see sexual assaults as isolated incidents and not part of a larger societal issue. Most of the Lackland Base cases are still being investigated or have recently been closed. So far, thirty-one women had been acknowledged as victims and who knows how many more will be identified or come forward during the judicial process. In July 2012, the vice chairman of the House Armed Services Committee said the assaults at Lackland were not “evidence of a widespread problem” (Blades 2012). If thirty-one women being assaulted at one training facility is not cause for immediate concern then it seems some people will never be convinced of the need for change.⁴

U.S. Rep. Jackie Speier, D-Calif., has worked to sponsor and advocate for significant changes surrounding sexual assault in the military. In November 2011 she sponsored another piece of legislation titled the Sexual Assault Training Oversight and Prevention (STOP) Act. This Act has garnered encouragement from legislatures, military members, survivors of sexual assault, as well as advocacy groups. The STOP Act would “remove authority from the chain of command to investigate military sexual-assault allegations” (Hamedy 2012). A piece of legislation which calls for governing authority to be removed from military commanders is unheard of. The military has always allowed

⁴ There have been multiple changes and updates to the Lackland Air Base assaults. On August 10, 2012 Air Force has removed the top commander of basic training at Lackland Air Force Base in San Antonio, Texas. On the day of Colonel Glenn Palmer’s removal, the numbers of involved parties had risen to 15 military instructors and 38 victims. There is a strong possibility that as the investigations move forward more assailants and victims will be identified. For further reading please see the article *Air Force relieves commander over sex scandal* (Weber and Baldor 2012). Additional reading can be found in the article titled *Air Force Commander Ousted in Wake of Lackland Assaults* (Lerman 2012).

higher ranking officials discretionary power on disciplinary decisions how they see fit. That is the specific reason Rep. Speier and 125 co-sponsors are demanding change. The group contends that the current ethical and legal atrocities taking place are the culmination of decades of inaction. Many Veterans are rallying around the bill saying the government and military's incompetence to administer justice and govern itself is why external officials should be consulted. This thesis contends the STOP Act could be invaluable to the DoD based upon their sullied image and inadequacy in prosecuting offenders. Supports claim the scale of blame ranges from every Commanding Officer to the DoD. They had tools available to hold criminals accountable and for whatever reason chose not to.⁵ It bears repeating that the military has a rather sullied past when it comes to prosecuting sexual assaults. According to the article "Ask Her When She's Sober," the figures are embarrassing. "Only eight percent of sexual assault allegations in the military are prosecuted compares to five times that figure in the civilian world. Fewer than 21 percent of those go to trial. Only two percent of reported assaults result in conviction" (Kaplan 2012). The Department of Defense should not be proud of these statistics. Critics of this bill and others like it have voiced concerns over an increase of false reports/convictions. This program, by definition would prevent those injustices. It would necessitate extra investigative experts and measures which would ensure the thorough examination of reports. The STOP Act's supplemental processes regulated by

⁵ True, this is a strong statement but with possibly 19,000 sexual assaults in the ranks in the year of 2011 it is difficult to hear leaders excuse their inaction and state they take rape in the military seriously. In an article criticizing the "Ask her when she's sober" campaign, a startling fact was reiterated. "Over the past decade, a female soldier in Afghanistan or Iraq was more likely to be raped by another soldier than to be killed by the enemy." The facts do not lie. For further reading please see the article published on the Huffington Post website (Kaplan 2012).

independent agents would encourage more victims to come forward as well as deter false reports.

Reports that result in an investigation should be one of the first steps in the judicial process, not the last. Giving offenders the option to plead to a lesser charge and/or voluntarily be discharged from military service is not the intended use of the UCMJ. As stated previously, being a victim of sexual assault can morph into an unshakable shadow which follows these veterans for the rest of their lives. One survivor is trying to ensure that rapists cannot disregard their crimes once they depart from the military. Nicole McCoy has launched a petition at the website, Change.org requiring the military to track sexual predators. The petition focuses on the lack of monitoring while in the military and post-service. There is no convicted sexual offender registry for servicemembers. “Guilty parties often continue their service – and even discharge into civilian life – with little-to-no public record of their crimes” (Drummond 2012).

The Department of Defense and all singular branches have to start recording quantifiable data and such information pertaining to sexual assault in the military should be available to the public. There are countless reasons these statistics are useful, such as education, research, recommendations for future practices, prevention and general monitoring purposes. Unfortunately, the Department of Defense has not kept records. Had they tracked the numbers over the years they would have been able to see it was a much larger issue than a few servicemembers that drank too much and found themselves in precarious situations. The DoD was able to explain the numbers away until interested outside parties took notice. If a huge scandal was what it took to draw attention, one can

only imagine the fallout if they refuse to follow-up. All levels of elected officials and the military can no longer claim ignorance of the scope of the problem. This thesis only reached the tip of the iceberg of information, statistics, and research available on this topic. Sexual assault in the military could best be viewed as throwing a pebble into a lake. The initial contact on the water is the assault with the resulting ripples being the victim's family, friends, and career. Further ripples are the victim's command and community with the swell finally stretching out to the entire military.

Reducing the number of sexual assaults from 19,000 to zero is almost incomprehensible with the current system. Incremental improvements are encouraging but will not create the dramatic transformation the military necessitates. Adjusting the culture and environment⁶ will be a slow but necessary process. Immediate changes such as recommended in this thesis could prove the military's dedication to eliminating sexual assaults. With no foreseeable future where sexual assault is eradicated, the most powerful and easily adjusted change the DoD could make would be to prosecute criminals to the fullest extent of the UCMJ in order to ensure the inability to reoffend.

⁶On May 7, 2012 the Joint Chiefs of Staff released the *Strategic Direction to the Joint Force on Sexual Assault Prevention and Response*. Included in this report was the following statement. "Sexual Assaults endanger our own, violate our professional culture and core values, erode readiness and team cohesion and violate the sacred trust and faith of those who serve and whom we serve." There is a footnote associated with this quote discussing the different terms associated with the military setting. "There is an important distinction here between culture and climate/environment: Culture represents inherent aspects of professionalism and core values that promote social responsibility, team cohesion and trust; climate/environment represent those actions by commanders to integrate unit members, build team cohesion, and provide seamless oversight to reduce high-risk behavior (e.g., responsible drinking and social activities that contribute to Servicemember risk and vulnerability) (Jtozer 2012).

CHAPTER FIVE

CONCLUSION

It is impractical to believe every sexual assault can be prevented. In a perfect world, rape would never occur but sadly we live in a society where predators do exist. Although the United States military is considered to be a paragon of virtue and excellence, those who rape are the antitheses of the military's code of ethics. In other areas of society extreme barriers would prevent radical modification of policies and laws. The military has the ability and the obligation to make extreme changes to their legal and justice systems. The ethical imperatives are far too abundant to elicit anything less than dramatic revolution.

This thesis has explored the background of females in the armed forces, their current status and the implications of sexual assault with emphasis of concurrent ethical and medical repercussions. Posttraumatic stress and military sexual trauma are detrimental to military readiness and could produce devastating consequences to those assaulted while serving. Research substantiated numerous adverse health related outcomes associated with being a victim of sexual assault. The subsequent monetary losses are collateral damage in comparison to the lives ruined. Although essential, allocating countless resources to understanding rape within the ranks undermines the mission and weakens the military. Sexual assault is unacceptable in any sector of society but within the military it poses an even greater threat and possible consequences. The military is in place to protect the American public from enemies both foreign and domestic and when attention and efforts are focused on combatting sexual assault, other efforts can suffer.

In order to avoid further damage to the military's proficiency or image this thesis provided achievable recommendations. Realistic expectations must be defined and met. Sexual assault in the armed forces is not just the military's concern; it is a human issue and should be

addressed as such. It will take the collaboration of the American public, the government, the entire military, and the justice system to eradicate the crimes. Holding rapists responsible for their crimes will prevent them from committing future assaults and could give victims a sense of closure needed to move on.

Continuous treatment and support of servicemembers and veterans has been an encouraging sign of the government's pledge of "zero tolerance," but these are initial steps in a broader process. The DoD should build on these modest accomplishments to construct a military which holds its members in the highest regard and dignity deserving of their sacrifices.

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