AN ANALYSIS OF MILITARY SEXUAL ASSAULT
AND SUBSEQUENT PUNISHMENT

by

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Abstract

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In recent years, national attention has been drawn to the issue of sexual assault in the military. This is largely in part due to the number of reported offenses increasing each year, jumping 50% between 2012 and 2013 alone (DoD, 2013). Research has shown sexual assault offenses are greatly underreported and that the victimization rates among service members are higher than those of civilians (Turchik & Wilson, 2010). Past research efforts to understand why sexual assaults are so prevalent in the military have focused heavily on the victim and the effectiveness of preventative programs (Turchick & Wilson, 2010). Additionally, theories suggest that the isolated culture of the military and rigid rank structure may lead to an environment conducive to sexual assault and leave the victim with limited reporting options (Groves, 2013; Rosen, 2007; Snyder, Fisher, Scherer, & Daigle, 2012). The purpose of this study is to examine the relationship between an offender’s military rank and their subsequent punishment as a possible contributing factor to high prevalence and low reporting of military sexual assault. Data for the study was collected from the Department of Defense Annual Report on Sexual Assault in the Military, years 2008 through 2012. Implications of the findings and suggestions for future research are discussed.
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Chapter 1

INTRODUCTION

1.1 Statement of the Problem

According to the testimony of U.S. House Representative Jane Harman (2008), “A woman who signs up to protect her country is more likely to be raped by a fellow soldier than killed by enemy fire” (CNN, 2008). Her statement is supported by official Department of Defense (DoD) statistics, which show that in fiscal year 2012, there were a reported 3,374 sexual assaults, compared to 310 service members killed in action (“Coalition Military Fatalities By Year,” 2012; Department of Defense [DoD], 2012).

While this is not a new problem, the drastic increase in reported offenses in recent years is notable. Between 2010 and 2012, there was a 34% increase in the estimated number of service member victims of sexual assault (DoD, 2012). Between 2012 and 2013, the number of reported sexual assaults jumped 50% (DoD, 2013). More disconcerting is the fact that official reports do not capture how many service members have chosen to keep their sexual assaults a secret or whose claims have not been processed through the chain of command.

While these statistics may seem shocking, they probably do not come as a surprise to anyone who has followed the rising media coverage of this issue. Many people are familiar with news headlines chronicling scandalous cases of military sexual abuse. Some of the most publicized cases include the Tailhook Convention, Aberdeen Proving Ground, and Lackland Air Force basic training scandals (Hayden, 2011). All of these cases documented incidents of superior ranking commissioned and non-commissioned officers sexually abusing their subordinates.

More recently in 2013, a female cadet at the U.S. Naval Academy accused three academy football players of raping her. During the trial, the victim was forced to answer
questions such as, “Were you wearing a bra?” and asked if she “felt like a ho” the morning after her rape (Henneberger & Shin, 2013). Stories like this are not uncommon. A simple Internet search yields hundreds of stories of sexual assault victims being mistreated and not afforded proper investigations by the military.

This thesis seeks to further our understanding of why sexual assault in the military is more prevalent and more underreported than when compared to the civilian population (Turchik & Wilson, 2010). A variety of theories have been suggested as to why sexual assault is a problem in the military, however, testing of these theories has been limited (Suris & Lind, 2008). Most of the empirical research that has been conducted on military sexual assault focuses on the victim and vulnerability factors (Ormerod et al., 2005).

The aim of this thesis is to focus on the rank structure of the military as a possible reason for the underreporting of military sexual assault. If there are no discrepancies between rank and punishment, then the current methods of reporting and punishment may be seen as just. If, however, there is a correlation between rank and victimization, perpetration, or consequences, areas of change in the way the military handles reports of sexual assault may be warranted.
Chapter 2
LITERATURE REVIEW

Civilian academic research specifically studying sexual assault perpetrators in the military is severely limited for a variety of reasons. One of the main reasons is due to the difficulty in accessing military subjects, especially over time as they move from installation to installation. Researchers have generally been forced to rely on data obtained through mail-in or telephone surveys (Suris & Lind, 2008). While the return rate for these research methods is already generally lower than face-to-face methods, the military may also require potential participants to agree to participate before a researcher ever contacts them, further limiting the sample size and biasing the sample towards only motivated participants (Bocstock & Daley, 2007). Therefore, in this literature review, a discussion of theoretical motivations of sexual assault victimization is provided to frame the context of sexual assault perpetration in the military.

2.1 Military Terminology and Military Sexual Assault Definitions

The military uses specific terminology and definitions that are often different than those used in civilian courts. Therefore, it is instructive to offer terms as defined in the official Uniform Code of Military Justice (UCMJ).

Department of Defense (DoD): The Department of Defense is an arm of the executive branch of the federal government and is responsible for providing the military forces needed to deter war and protect the security of the United States of America. The DoD oversees the U.S. Department of the Army, the U.S. Department of the Navy, the U.S. Department of the Air Force and several national intelligence agencies. The Department of Defense if the largest employer in the world, with over 3.2 million service members and civilian employees (Alexander, 2012).
Uniform Code of Military Justice (UCMJ): The UCMJ is a federal law that has jurisdiction over all members of the United States Military. The UCMJ defines what constitutes bad conduct in conflict with the good order and discipline of the armed forces. If bad conduct is committed by military personnel, they are subject to punishment under the UCMJ (UCMJ, 2014)

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

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

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

2.2 Military Sexual Assault Statistics

It is commonly known that sexual assault is an underreported crime and gathering accurate measures of sexual assault is an extremely difficult task (Bostock & Daley, 2007; Brubaker, 2009; DoD, 2012; Meloy, 2005; USCR, 2013). Measuring the prevalence of sexual assault in the military is possibly more difficult, given the closed-off structure that can vary from unit to unit (Groves, 2013). According to Groves (2013),
when measuring incidents of sexual assault, “there is no clear-cut science for ensuring validity and reliability of results” (p. 748).

In 2008, Suris and Lind conducted a literature review of articles documenting the prevalence of military sexual assault. In a review of 25 studies, they found that the prevalence rates varied depending on the definition used to describe sexual assault, the method of assessment, and the type of sample used. For example, one study defined sexual assault as any time someone made the victim feel pressured into doing something sexual, another study defined sexual assault as a completed vaginal rape, and another study included oral, anal, or vaginal penetration by penis, finger, or object in their sexual assault definition (Suris & Lind, 2008). While the majority of researchers do acknowledge the faults with the various definitions of sexual assault used to study incidents both in the military and civilian sectors, there is still no standard definition being used among researchers examining this problem (Cook, Gidycz, Koss, & Murphy, 2011; Houser, 2007; Rosen, 2007; Suris & Lind, 2008).

Even with no standard definition of sexual assault used, it remains evident that the number of occurrences in the military is significant. According to the Department of Defense (2012), there were an estimated 26,000 service members who experienced some type of unwanted sexual contact in the 2012 fiscal year, as seen in Figure 2-1. Of those estimated incidents, only 2,949 reports were officially documented (DoD, 2012). Just two years prior in FY 2010, there were 2,617 reports of sexual assault with a service member victim, just a fraction of the estimated 19,300 incidents (DoD, 2012). Even though the number of estimated incidents drastically increased in only two years, the number of offenses reported only rose slightly, indicating that reporting may not be keeping pace with incidents.
Figure 2.1 Service member victim estimates and official reports (DoD, 2012)

Of the 3,374 total cases reported in 2012, which includes service member and civilians, 88% of the victims were female and 12% of the victims were male (DoD, 2012). Even though the victimization rates of females are higher than males, they do not explain the full reality of the problem. It must be kept in mind that of the 1.4 million people serving in the active duty military, just 14.5% are women (Smith & Smith, 2013). Even though women are more likely to be victimized, given the greater number males in the service, the total numbers of male versus female victims is roughly equal (Suris & Lind, 2008; Turchik & Wilson, 2010). Additional research confirms this, as in a 2002 survey, 22% of women and 1% of men enrolled as VA patients reported they had experienced military sexual trauma, with men totaling approximately 54% of the victims (Suris & Lind, 2008).

To lend more perspective to this problem, research has shown that the numbers of sexual assaults that occur among the military population are higher than compared to the civilian population. According to the research review conducted by Suris and Lind (2008), the rates of women experiencing sexual assault during their military service ranged from 25% to 33%, whereas the civilian rate was 17%. It should be noted that
these rates generally accounted for a period of 2 to 6 years for military victims, whereas
the civilian victim rates were lifetime prevalence (Suris & Lind, 2008; Turchik & Wilson,
2010). The discrepancies in the timeframes confirm that military rates of sexual assault
are higher than civilian rates, but indicate there is no way to accurately determine how
much higher (Suris & Lind, 2008; Turchik & Wilson, 2010).

However, a few have studies examined the lifetime prevalence of sexual assaults
among military members (Bostock & Daley, 2007; Turchick & Wilson, 2010). The majority
of these studies are based on the evidence that if a person experiences sexual assault
once in their lifetime, they are more likely to be repeatedly victimized. Bostock and Daley
(2007), found that the lifetime rate of sexual assault is higher in the military with 28% of
Air Force women being victimized at some point in their life, compared to 13% of the
national civilian sample.

In an effort to present a more accurate comparison of the rates of military and
civilian sexual assaults, a number of researchers have compared individuals entering the
military or military academies to individuals entering or attending college (Brubaker, 2009;
Stander, Merrill, Thomsen, Crouch, & Milner, 2008). This method measures incidents
occurring prior to entering college or the military, as the populations tend to share the
same characteristics, such as age (18 to 26), have a newly found independence and are
dealing with peer pressure to fit into their community (Potter & Stapleton, 2012). The
research has shown that 20% of women are the victims of sexual assaults while
attending college, while the victimization rates for women in the military reach up to 33%
(Potter & Stapleton, 2012). It may be beneficial for research to conduct further
comparisons of military populations to college populations to determine differences in
victim and perpetrator rates, as well as what factors may be similar or unique to sexual
assaults in both environments (Tharp et al., 2013).
Another group that is often compared to the military is law enforcement, as both are highly male-dominated fields and have similar rank structures. While sexual assault victimization rates within police departments are not generally accessible, The Cato Institute’s National Police Misconduct Statistic and Reporting Project (2011) found sexual misconduct was the second highest type of reported police misconduct, falling only second to excessive force misconduct. This research also found that when compared to the civilian population, law enforcement officers had similar rates of perpetrating all types of violent crime, yet they had higher rates specifically in the category of sexual assault, 28.7 vs. 67.8, respectively (NPMSRP, 2011). This could be indicative that there are certain similarities between law enforcement and the military that contribute to the likelihood of sexual assault perpetration.

2.3 Reporting Limitations

Research indicates that between 65% and 84% of civilian victims of sexual assault do no report the offense to the police (Bockstock & Daley, 2007). Many of the reasons for underreporting in the civilian community also apply to the military community, such as fear of reprisal, victim blaming, feeling embarrassed, and investigative ineffectiveness (DoD, 2012). Additionally, a service member victim may not wish to report their sexual assault due to their organizational position with the military.

When a sexual assault occurs against a person of low organizational power, the intimidating rank structure may make it less likely that the crime will be reported. Starting from the victim’s first line supervisor, each person in the chain of command is responsible for the actions of those below them, so they may have incentive for ignoring or covering up the crimes of their subordinates in order to not have any blame shifted onto themselves (Sorcher, 2013). For example, if a non-commissioned officer knew about a party thrown by his subordinates where alcohol was present on base, and then a rape
subsequently occurred, the non-commissioned officer would have a vested interest in
making sure higher-ups did not find out about the party in any way so as to avoid his own
punishment.

In cases when a sexual assault is reported up the chain of command, an informal
investigation is often the result, which can leave the victim feeling like they do not have
anonymity (Turchik & Wilson, 2010). There are a number of documented cases of leaked
reports of sexual assaults, resulting in the harassment and chastisement of the victim
(Sorcher, 2013). In fact, during an informal investigation, the victim may have to continue
to work with or have repeated contact with her assailant, as the parties likely live in close
proximity (Suris & Lind, 2008). Leaking a report made by a victim may even be a indirect
way to rid the organization of a “trouble maker”, by making the victim so uncomfortable
that they request a unit transfer or do not reenlist at the end of their service obligation
(Sorcher, 2013). Because of these common incidents, victims may not have confidence
in their chain of command and may not want to report their assault to their chain of
command (Snyder, Fisher, Scherer, & Daigle, 2012).

With this in mind, the military has created multiple ways of reporting, which may
partially explain the increase in reported assaults. The first method of reporting is
“unrestricted reporting”, in which the victim is afforded the opportunity to receive medical
treatment and the victim also opts for a full investigation through the military (DoD, 2012).
Due to the possibility of unrestricted reports resulting in retaliation or ostracism of the
victim, the military developed “restricted reporting.” Like unrestricted reporting, if a victim
files a restricted report, they are able to receive full medical and psychological treatment.
However, a restricted report prevents an investigation from being conducted. While the
implementation of restricted reporting may be encouraging more victims to come forward
with their reports, it could also be causing fewer offenders to be identified and punished.
2.4 Theories and Explanations for the High Prevalence of Military Sexual Assault

Research on the problem of military sexual assault rooted in criminological theory is limited. This is likely due to the fact that most research has been victim centered, rather than offender centered. For example, statistics show that a male perpetrator carries out the majority of sexual assaults in the military, yet the majority of sexual assault prevention programs are targeted toward women and how to lessen their chances of victimization (DoD, 2012). Research is then conducted to see if these victim-focused programs have affected sexual assault rates, without spending much effort focusing on perpetration. Even with the limited testing of criminological theories against the problem of military sexual assaults, theories rooted in sociology are often cited and ties to criminological theories are still evident.

2.4.1 Cultural Spillover Theory

One such theory that is often referred to as an explanation for military sexual assault is cultural spillover theory. According to this theory, “the more a society tends to endorse physical force to attain socially approved ends, the greater the likelihood that this legitimation of force will be generalized to other spheres of life where force is less socially approved” (Rosen, 2007, p. 945). By its very purpose, the military is a private society in which physical force is a means used to attain a goal. A key phrase mentioned in cultural spillover theory is ‘socially approved’. According to some studies, sexual violence perpetration in the military is a socially approved behavior (Rosen, 2007; Tharp et al., 2013). Behavior is often recognized as socially approved without formal definitions; instead behaviors are often justified through more subtle means, such as language. Language has the ability to change consciousness, which can be dangerous in terms of sexual assault perpetration (Katz, 2006). For example, saying “violence against women” gives the impression that the violence is something that just happens whereas saying...
“men’s violence against women” implies there is responsibility of a perpetrator (Katz, 2006). If sexual violence perpetration is indeed a socially approved behavior in the military, then service members may be influenced by their peers to be supportive of sexual violence (Tharp et al., 2013). Communities in which one’s peers are actively participating in or are supportive of a particular behavior, in this case sexual violence, the more likely it is to become normalized, accepted, and justified (Tharp et al., 2013).

It appears that even women in the military reach the conclusion that this behavior is normal and acceptable, with one female veteran saying that sexual victimization while serving in the military was just “part of the job” (Snyder, Fisher, Scherer, & Daigle, 2012, p. 3174). Additional research supports this, as the duration of service was found to be a factor in attitudes towards women. According to Vogt, Bruce, Street, and Stafford (2007), the longer a female was in the military, the more negative attitudes she possessed towards women, suggesting that being in a male-dominated work culture contributes to developing negative attitudes towards women. This may also suggest that women are more likely to leave the military if they are less tolerant of negative attitudes towards females (Vogt, Bruce, Street, & Stafford, 2007). Similarly, Katz (2006) believes that the structural and cultural problems associated with the acceptance of gender violence are so powerful, they overtake other belief systems that come from variables such as race, class, ethnicity, and possibly even gender.

Bradley (2007) tested cultural spillover theory comparing marital aggression to veteran status, and more specifically, combat experience. In this study, Bradley (2007) found that veteran status actually reduced the odds of violence within the marital relationship. Additionally, combat experience in which a veteran may have engaged in violent activities did not increase the likelihood of domestic violence (Bradley, 2007).
Rosen (2007) had similar findings exploring the rape rates of civilians in close proximity to military installations. Over a nine-year period, there were no significant correlations between civilian rape rates and the presence of Army, Navy, or Marine Corps service members, signifying a lack of support for cultural spillover theory (Rosen, 2007). However, Rosen (2007) did find a correlation between the presence of Air Force personnel and rape rates. Both researchers suggest that their findings do not disprove cultural spillover theory, but suggest that there may be other factors, such as stress or demographic characteristics, that may need to be present to validate the theory (Bradley, 2007; Rosen, 2007).

2.4.2 Routine Activity Theory

An additional theory that does not receive as much attention in regards to military sexual assaults is classical theory, or more specifically, routine activity theory. Routine activity theory states that in order for a crime to occur, there must be a suitable target, a motivated offender, and absence of guardianship (Cullen & Agnew, 2011). Surveys have shown that 13% of males entering the military self-report having attempted or completed a rape prior to the start of their service, which is more than double the rate than reported by samples entering college (Turchik & Wilson, 2010). Additionally, research has shown that past perpetrators are likely to be repeat offenders (Houser, 2007; Stander et al., 2008). It is clear that there are more motivated offenders entering the military that have the propensity to commit assaults without any other external factors at play, and being in close proximity to a motivated offender puts a person at an increased risk for victimization (Snyder et al., 2012).

Groves (2013) suggests that there is also an increase in the lack of guardianship due to the recent ongoing military operations in Iraq and Afghanistan, with a higher number of service members being in remote locations with little supervision. Suris and
Lind (2008) describe this in broader terms, showing that the rates of sexual assault were lower in the Vietnam era, when women served in ancillary positions versus the more recent eras where women have jobs that place them in closer proximity and isolation with men.

Furthermore, research has also shown that past victimization is a key predictor of future victimization (Suris & Lind, 2008; Turchik & Wilson, 2010). Bostock and Daley (2007) found that the lifetime prevalence of rape among Air Force women was 28%, whereas it was just 13% for civilian women. Studies have additionally found that more female veterans experienced childhood sexual assault as compared to civilians who did not enter the military (Suris & Lind, 2008; Turchick & Wilson, 2010).

The DoD (2012) acknowledges that research has consistently shown that past sexual assault victimization is a risk factor for future victimization and according to their own research, 30% of women and 6% of men had experienced unwanted sexual contact prior to entering the military. It was been suggested a history sexual assault victimization might be a factor in choosing to join the military, providing a way to escape an abusive environment (Turchik & Wilson, 2010). Multiple studies report similar findings, indicating that if past victimization is indeed a risk factor for future victimization, there is an abundance of suitable targets, in line with routine activity theory (Kelley, Schwerin, Farrar, & Lane, 2005; Omerod et al., 2005).

2.4.3 Military Values and Culture

One of the most commonly cited reasons for such high rates of military sexual assault lies simply in the fundamental military values and culture, which even if risk factors are identified, may be impossible to change (Sorcher, 2013). It has been said that the military is a setting in which importance is placed on masculine qualities that also contribute to a lower value being placed on women (Vogt et al., 2007). Women may be
viewed as unable to meet the mental and physical demands necessary to maintain a cohesive fighting unit, leading to the rejection of women in the military as a whole (Vogt et al., 2007).

Additionally, research has shown that the military may actually attract individuals who already have negative attitudes towards women (Vogt et al., 2007). Having a negative attitude towards women or believing in strict gender roles may lead males to perpetrate sexual assaults as a way to express masculinity or assert their control (Groves, 2013). In fact, with the expansion of women in combat roles, sexual assaults may be occurring more frequently as a way to re-gain male domination over expanding female roles (Groves, 2013). This is supported by the fact that of victimized females, “the degree to which the respondent’s job was traditionally masculine were directly related to sexual harassment, which, in turn, was directly related to sexual assault” (Ormerod et al., 2005, p. 8).

Studies have shown that the sexual harassment of women in highly male-dominated fields is likely to occur (Brubaker, 2009; Turchick & Wilson, 2010; Vogt et al., 2007). With the military being comprised of 85% male service members, this is clearly a male-dominated environment, and victim surveys have shown sexual harassment in the military to be higher among males and females than when compared to civilian samples (Rosen, 2007). Furthermore, the majority of supervisors in the military are males, meaning the military is a place in which women have low overall organizational power (Tuchick & Wilson, 2010). The preponderance of high-ranking male officials may also contribute to a higher perception of tolerance for sexual assault, as the leadership may not be predispositioned towards handling gender or sexually related grievances (Tuchick & Wilson, 2010; Vogt et al., 2007).
This is further evidenced when examining sexual harassment and sexual assault in law enforcement agencies. According to Rabe-Hemp and Braithwaite (2013), the majority of past research confirms that policing is an occupation in which male dominance over women is a cultural value that can even extend outside of the workplace. Lonsway, Paynich, and Hall (2013) found that 91.3% of female officers had experienced some form of gender harassment during their career, yet the majority chose not to file a complaint. The top reasons for not filing a complaint were that the officer did not think it would do any good or that the behavior was “no big deal” and acceptable in law enforcement workplaces (Lonsway, Paynich & Hall, 2013).

In a study conducted by Maher (2008), he found that the majority of police chiefs did not believe sexual misconduct to be a serious issue within their departments, yet conceded that police culture may prevent occurrences from being reported. In describing police culture as a possible factor that contributes to sexual misconduct police chiefs mentioned, “the power and authority of police officers, the dangerous nature of law enforcement, the isolation from the public due to unique work schedules, the perception of policing as a male-dominated, masculine profession, and the willingness or commitment of officers to ‘stick together’ and to ‘keep quiet’” (Maher, 2008, p. 246). The majority of these factors are also present in military culture.

2.4.4 Rank Structure

Another key factor that may contribute to the high rates of sexual assault in the military is the structure and organization of the military. The rigid rank structure of the military can prove to be a double-edged sword, not only contributing to lower reporting of sexual assaults, but also effectively fostering an environment in which more sexual assaults are likely to occur. Research has shown that having less organizational power is directly related to being the victim of a sexual assault (Ormerod et al., 2005). When a
sexual assault does occur against a person of low organizational power, the rank structure makes it rather intimidating to report the crime. Starting from the first line leader, each person in the chain of command is responsible for the actions of those below them, meaning they may have incentive for ignoring or covering up the crimes of their subordinates in order to not have any blame shifted onto themselves (Sorcher, 2013). With this in mind, it is almost impossible to know how many sexual reports were actually reported, but never made it through the official processes and into the Department of Defense Annual Report on Sexual Assault in the Military.

Additionally, research has shown that in units where ranking officers seem to provide an environment of tolerance to sexual assaults by issuing only administrative punishments or ignoring cases of sexual harassment, give the impression to would-be assailants that sexual assault is an acceptable practice and perpetrators will not be held accountable for their actions (Snyder et al., 2012). This seems a logical conclusion, as victims of sexual assault often identified the offender as someone who had previously sexually harassed them (Ormerod et al., 2005). Indeed, having a ranking officer who seems to allow sexist behavior or sexual harassment has been found to be a risk factor for sexual assault victimization, and this again could be due to the perpetrator knowing the consequences of their actions will be limited (Ormerod et al., 2005). What is disturbing is the fact that the military provides support for ranking officers to limit the consequences to the offender with policies stating that, when proceeding with an investigation, the officer should first look at the character and service of the accused, as well as the circumstances of the offense and amount of harm caused (Houser, 2007).

Comparisons between the military and law enforcement can also be drawn in terms of rank structure. Lonsway, Paynich, and Hall (2013) found that 83.5% of police officers experienced some type of sexually harassing behavior and that much of it
occurred during the daily briefing, a meeting in which a supervisor is present. Additionally, the study found that male supervisors committed the majority of *quid pro quo* types of sexual harassment incidents and that retaliation was more likely to occur when the victim reported the incident in those types of situations than other forms of sexual harassment (Lonsway, Paynich, & Hall, 2013).

Rabe-Hemp and Braithwaite (2013) suggest that power, authority, and opportunity increase the likelihood of sexual misconduct by police officers and therefore examined rank and tenure as possible predictor variable for offending. The study found that police sexual violence offenders were typically a line officer with an average of 8.73 years of tenure (Rabe-Hemp & Braithwaite, 2013). Although the majority of police offenders were not considered to be high ranking, it is important to consider that the majority of victims in these cases were civilians, people whom police officers presumably have power and authority over. Stinson, Liederbach, Brewer, and Mathna (2014) found that the majority of police sexual misconduct victims were juveniles; however, in cases where the victim was an adult, the offense occurred most often while the officer was on-duty, further indicating that being in a position of power and authority over another person may be a factor leading to sexual assault perpetration.

### 2.5 Gaps of Perpetrator Information in Research

To date, the number of studies on sexual assault in the military are not proportional to the military population. Thirteen percent of U.S. citizens are active military or veterans, but under 2% of studies conducted focused on this group (Tharp et al., 2013). Of the research that has been conducted, most focuses on victimization with regards to prevention or health consequences, virtually ignoring the risk for perpetration (Tharp et al., 2013). There are many reasons why it is important to learn about the perpetrators of military sexual assault. Research has shown that the perpetrators of
sexual assault are likely to repeat the behavior in the future and have multiple victims (Houser, 2007; Stander et al., 2008). Sorcher (2013) points out that perpetrators who go unchecked are likely to find more victims. An additional area of concern is that thirteen percent of men who enlist self-report that they have attempted or completed a rape prior to their service, as compared to 6% to 9% of civilian males (Foubert & Masin, 2012). It may even be possible that the military offers an environment that attracts individuals who are more likely to perpetrate these crimes (Vogt et al., 2007).

Most of the literature on military sexual assaults focuses on the victim characteristics and vulnerability factors that can lead to sexual assault victimization (Houser, 2007; Ormerod et al., 2005; Suris & Lind, 2008). Victim characteristics and vulnerability factors include past experiences, demographic data, and behaviors (Ormerod et al., 2005). The problem with research conducted in this way is that most of it is focused on only a single factor or use small samples to apply to larger groups of women (Ormerod et al., 2005). In fact, although much research has been conducted by focusing on the victim, victim characteristics and vulnerability factors are not useful in predicting future sexual assault victimization (Ormerod et al., 2005).

Contrasting vulnerability factors, risk factors are identified as variables that may be related to perpetrators committing sexual assaults (Ormerod et al., 2005). The risk factors are the same characteristics used to study victims, but instead represent the offender (Ormerod et al., 2005). Alcohol use has been shown to be a factor in a high amount of sexual assaults, and is a commonly studied variable as an example of the difference between vulnerability and risk factors (DoD, 2012). If the victim was under the influence of alcohol, this is considered a vulnerability, while if the perpetrator was under the influence, this would be a risk factor (Ormerod et al., 2005). It is important to differentiate who was under the influence, as research has shown that the use of alcohol
by the offender is a better indicator of a sexual assault than the use by the victim (Ormerod et al., 2005). Although the DoD captures the use of alcohol in the annual report, it does not distinguish between whether it was the victim or perpetrator who consumed the alcohol (DoD, 2012). Considering this one example, it is evident that studying more risk factors may be more beneficial to predicting sexual assaults than studying victim vulnerabilities. Other studies agree that no single factor can predict sexual violence, and prevention efforts should look at multiple risk factors for creating strategies (Meloy, 2005; Tharp et al., 2013).

Due to focusing heavily on victimization, research up to this point has consistently come up short on the perpetrators of military sexual assault. In general, the study of sexual offenders is difficult, as offenders usually do not want to be detected (Houser, 2007). Even in past studies where subjects are asked to anonymously identify themselves as sexual assault perpetrators, the accuracy of this method is questionable, as perpetrators would likely still want to describe themselves in a favorable light, or may not even agree that their actions were assaults (Stander et al., 2008; Voller & Long, 2010). In fact, according to Foubert and Masin (2012), “men, regardless of whether or not they have already committed sexual assault, typically do not perceive themselves to be potential rapists” (p. 913).

Offender data provided by the Department of Defense is also severely limited. For example, the Department of Defense Annual Report on Sexual Assault in the Military does not capture the number of perpetrators in the military (Rosenthal & Miller, 2013). Due to the fact that 26 percent of women reported multiple offenders participated in their assaults, the number of perpetrators could be higher than the number of victims (Rosenthal & Miller, 2013). As Houser (2007) puts it, “a tally of the number of reported sexual assaults will not result in a tally of the number of assailants, as most offenders are
serial offenders, and one victim may be assaulted by any number of perpetrators acting as a group” (p. 962). The Department of Defense also does not provide information on if perpetrators were linked to multiple sexual offenses, allowing for studies to be conducted of similarities in their patterns (Houser, 2007).

What information is known about military sexual offenders from crime statistics and research studies is not consistent. Data that has been provided by the Department of Defense about military sexual offenders states that 97% of offenders are male, and most were of junior rank (E1-E4), and under the age of 25 (DoD, 2012). Another study suggests that the offender was typically “a noncommissioned officer or a peer of similar rank” (Ormerod et al., 2005). However, many of the publicized stories showcase perpetrators who are higher ranking than the lower enlisted soldiers, and the term ‘noncommissioned officer’ can refer to a wider range of ranks that are all higher than that of lower enlisted (Ormerod et al., 2005). The discrepancies may be due to an underreporting of sexual assaults committed by higher-ranking individuals through official means, out of fear for retaliation or cover-ups by the chain of command.

When conducting research on perpetrators, it is imperative to study the relationship between the perpetrator and the victim. Studies have shown that the nature of the victim-perpetrator relationship is significant in the severity of post-assault symptoms, and it is therefore important to determine exactly what the relationship is between the victims and perpetrators of military sexual assaults (Bostock & Daley, 2007; Brubaker, 2009; Suris & Lind, 2008). Snyder et al. (2012) also cites that “having perpetrator information would allow for examining the relationship between type of perpetrator and measure of intolerance and morality” (p. 3187), in reference to the information on perpetrators collected by the DoD not being made public. The official reports do provide the rank of both the victim and perpetrator, but this is not helpful when
establishing a past relationship or if the perpetrator was in the victim’s chain of command (DoD, 2012).

When conducting research on military sexual offenders, it is also important to consider the impact of these offenders on civilian communities. According to Rosen (2007), “there is little or no publicly available information of the impact of the military on crimes in local civilian communities” (p. 946). These offenders may not only be committing assaults against their fellow service members, but also against civilians in close proximity to their bases (Houser, 2007; Rosen, 2007). Houser (2007) suggests that the lack of sharing information on military sexual offenses with the civilian community reveals a lack of responsibility by the DoD towards civilian community safety. It is suggested that policies should be created that not only identify military sexual offenders, but also allow for the proper control and supervision of those individuals (Houser, 2007).

2.6 National Debate on Military Sexual Assault

Official data from the Department of Defense Annual Report on Sexual Assault in the Military shows there are a low number of offenses that result in a conviction compared to the number of offenses that were reported. During fiscal year 2012, there were 3,374 reported offenses (DoD, 2012). However, not all of these reports had investigations opened and closed in fiscal year 2012, making it difficult to measure the exact disposition rates. The Department of Defense Annual Report on Sexual Assault in the Military does report the dispositions reached each year, including cases that were reported during the fiscal year or any years prior that were still awaiting a disposition. The numbers reported for 2012 include 1,714 cases reviewed for possible disciplinary action, with disciplinary action being initiated against only 880 military subjects for sexual assault charges, resulting in 594 court-martial proceedings, 238 convictions, and 133 discharges (DoD, 2012).
The Department of Defense boast that these numbers are strong, with 68% of service member subjects who received disciplinary action for sexual assault having court-martial charges preferred against them in FY 2012, a sharp increase over the 30% who had court-martial charges in FY 2007 (DoD, 2012). It has been suggested that the Department of Defense is simply over-prosecuting offenses in response to harsh criticism, which is not actually fixing the problem but is simply further hiding the issue (Kuersten, 2014). In fact, Spohn (2013) found that although the rates of prosecution between military and civilian populations for sexual assault crimes are roughly equal, the conviction rates are lower in the military. Kuersten (2014) states that by prosecuting cases that are not strong enough to result in a conviction, or a conviction of only lesser charges, this perpetuates the cycle of reduced victim confidence in the justice system and could hinder future reporting. It should also not be forgotten that the cases which have been identified in the annual report may only be the tip of the iceberg, especially considering the fact that of the estimated 26,000 incidents in FY 2012, only 3,374 reports were made (DoD, 2012).
Of the cases that were identified in the annual report, 834 or 49% of subjects reported for military sexual assault did not have action taken against them for a variety of reasons including the victim declined to prosecute, insufficient evidence, allegations unfounded by command, or only non-sexual assault offenses substantiated (DoD, 2012). Spohn (2013) found that rate of unfounded cases in the military in 2012 was 22.4%, much higher that the FBI’s estimated 8% to 10% rate of civilian unfounded cases. These numbers should be viewed with caution, as the military definition of sexual assault is more encompassing that the FBI definition therefore making the numbers not directly comparable (Spohn, 2013).

Spohn (2013) believes that further research is needed as to why victims initially report an offense and then choose not to participate in the investigation. For example, the military established restricted reporting as a mechanism for victims to receive services without proceeding with a criminal investigation. With that being the case, then why did 196 victims initially request an investigation and later choose not to participate (DoD, 2012)? While there are many reasons this may legitimately occur, the fact of the matter is that the general public just does not know the story behind the numbers. There is no report that gives information as to the number of how many victims felt bullied or treated unfairly after reporting a sexual assault. There is no report that identifies if a particular unit or commander repeatedly finds that there is insufficient evidence to prosecute an offense. There is no report of how many victims did report their sexual assault, but had it brushed under the rug by someone in their chain of command. Up to this point, the public and researchers have had to mostly rely on what the Department of Defense releases, as there is no outside audit conducted of the military’s numbers, and records are not generally released to the public (Rosenthal & Miller, 2013).
Critics of the Department of Defense raise issue with the perceived protection of military sexual offenders due to the limited release of information. Houser (2007) points out that although the Department of Defense continually issues findings and recommendations on how to address the problem of military sexual assault, they fall short of ever saying that the problem is offenders who choose to commit these crimes. The Department of Defense seemingly releases the perpetrator from any responsibility in their actions. Additionally, the way the Department of Defense collects their data on military sexual assaults provides nothing more than a tally of very few categories regarding the perpetrator, making it impossible to identify serial offenders or detect similarities in perpetration (Houser, 2007).

2.7 Military Justice

In terms of military justice, the Department of Defense continues to support their policy of allowing commanding officers to have the final say in a case disposition. Until Congress passed a law in 2013 forbidding it, unit commanders traditionally had the authority to overturn a court martial conviction. The Department of Defense encourages commanders to consider the military service and character of a perpetrator when deciding how to proceed with sexual assault investigations, since these are often he-said/she-said situations (Sorcher, 2013). This is controversial, as the majorities of commanding officers have not had sufficient training to make complex legal decisions and may revert to relying on their personal feelings (DoD, 2013).

In examining police departments, Shane (2012) studied how the negative actions of individuals may actually be attributed to shortcomings in the disciplinary systems of management and the organization as a whole. This research is highly applicable to the military, as police departments generally also have a rigid rank structure and function in a militaristic manner. According to Shane (2012), administering fair and consistent
punishment is essential to ensure potential violators do not doubt that they will be held accountable for their actions, creating a deterrent. However, some of the barriers to consistent punishment include bias based on race, sex, rank, length of service, and favoritism (Shane, 2012). Previous research has also found that lower members of an organization perceive those in command to receive more lenient punishment than other members of the organization (Shane, 2012). This can lead to cynicism in the organization, causing more people to act in deviant ways (Shane, 2012).

Additionally, existing research on police punishment may only include cases that are so egregious, they cannot be ignored by an organization that typically protects their own (NPMSRP, 2010; Stinson et al., 2014). According to the NPMSRP (2010), the conviction rate for members of the general public for any crime was 68%, whereas the rate was approximately 36% for law enforcement officers. The report also stated that members of the general public received an average sentence time for any crime of 49 months, whereas law enforcement officers received approximately 34.6 months (NPMSRP, 2010). This again suggests that there are certain factors that may be causing a disparity in punishment, and that those factors may also be supported by the court system.

Shane (2012) concluded that the major problems in terms of enforcing equal and fair punishments in law enforcement included a lack of collated disciplinary files, no system for comparing past offense situations with the administered punishment, and the involvement of superior officers in the incident that they are then delegated to determine a punishment. One study revealed that some of the strongest predictors between a police officer being charged with a sexually related crime and losing their job were the officer’s gender, years in service at the time of the arrest, whether the officer’s chief was under scrutiny as a result of the arrest, and whether the arrested officer’s supervisor was
disciplined as a result of the arrest (Stinson et al, 2014). The result is punishments that are not based on rational management practices, but simply based on personal opinions and discretion (Shane, 2012). The problems identified in this study are consistent with what is seen in the military.

In light of these facts, there has been a national outcry for the Department of Defense to take away the power of officers to make these discretionary decisions and instead initiate an independent military judiciary or civilian panel to handle cases (Groves, 2013). This proposes to reduce commander leniency due to multiple factors such as personal relationships, release of personal responsibility, unit cohesion, and career advancement. Additionally, an independent panel may be more likely to follow a decision matrix in terms of punishment and sentencing (Shane, 2012). The Department of Defense argues that taking away this power will cause a breakdown in military order and discipline, as a superior officer will no longer be seen as the single most powerful person in a chain of command (USCR, 2013). It is yet unknown if Congress taking away the power to overturn court martial convictions will result in stricter punishments, or if it will lead to fewer commanders recommending court martial proceedings be initiated.

2.8 Summary

The problem of military sexual assaults is no longer seen as an issue internal to the military, but as an issue important to society as a whole. Service members are only active in the military for a portion of their lives, with both perpetrators and victims returning to civilian society at some point. With this in mind, it is important to determine why this crime occurs in the military at higher rates than in the civilian population. Research to date has focused on studying the victim, including their vulnerabilities and the effects on the victim of a sexual assault. Other research has been conducted to study the effectiveness of preventative programs on military sexual assaults. Up to this point,
there is limited empirical research on the perpetrators of military sexual assaults. It is imperative to identify if there are common characteristics or patterns among offenders in order to establish policies and programs that fully understand the offender.

For example, research has shown that heterosexual adult rapists recidivate at a rate of 40%, which is higher than the recidivism rate of familial child molesters (3%) (Meloy, 2005). This is concerning in terms of military sexual offenders, since the majority of subjects listed in the annual report targeted other adults (DoD, 2012). Additionally, Meloy (2005) found that the number of residential moves made by a sex offender was positively related to sexual crime recidivism. This finding may also be applicable to military sexual offenders, as members of the military are known to change their duty station every two to four years.

Due to the potential of recidivism, civilian sexual offenders are required to register as such, always keeping law enforcement abreast of their home address. Sex offender registries serve multiple purposes; registries are a tool for law enforcement to monitor sex criminals, a way for residents to gather information that may help them to better protect their families from victimization, and are a deterrent to potential sexual offenders who fear the stigmatization of being on the sex offender registry (Meloy, 2005). Just as in the civilian criminal justice system, it should also be the responsibility of the DoD to hold sexual offenders accountable and maintain a tracking system of these individuals, in order to protect not only service members, but also the civilians around these individuals.
Chapter 3

METHODS

The primary purpose of this study was to examine possible reasons that could help in explaining the prevalence of sexual assault in the military and why it may be more underreported than when compared to the civilian population. Due to wide criticism of how the military handles sexual assault cases, this study focused on punishment decisions after an official report had been filed. For the purposes of this study, all forms of punishment were grouped into three categories: (1) No Punishment, (2) Administrative Punishment, and (3) Court Martial Proceedings. Court Martial Proceedings were further examined in terms of if the trial resulted in a discharge or no discharge.

3.1 Research Question

Prior literature has suggested that organizational rank structure may lead to an environment conducive to sexual harassment and sexual assault (Ormerod et al., 2005; Shane, 2012; Turchick & Wilson, 2007). Additionally, critics of the Department of Defense have raised issue with the perceived lack of universal punishments for offenders who commit these crimes (Sorcher, 2013). Therefore, the research question is as follows:

RQ: Is there a correlation between the rank of a military sexual assault offender and the subsequent punishment for their crime?

3.2 Sample Selection

In order to examine punishment decisions, a quantitative content analysis was conducted. This method was chosen because a content analysis is useful when research is conducted on inaccessible subjects, such as the military sexual assault perpetrators this study gathers information on (Maxfield & Babbie, 2011). The content analysis was conducted using the Department of Defense Annual Report on Sexual Assault in the Military for the years 2008 through 2012. The annual reports for the years 2008 through
2012 were chosen in order to gather relatively recent data and also due to the fact that 2008 was the first year in which the Department of Defense collected data based on a fiscal year instead of a calendar year.

Although the Annual Report on Sexual Assault in the Military presents data collected by the Department of Defense for their purposes, the data is too unstructured to use for secondary analysis. For example, the annual report includes a synopses section of the offenses reported for the year, but the categories included in their table vary from year to year. Additionally, the “disposition” category does not always reflect the full outcome of a case, such as whether a court martial resulted in a discharge. Therefore, the narrative of each case was read in order to gather the necessary pieces of information for the purposes of this study. Figure 3.2 provides an excerpt of the synopsis section from the Annual Report on Sexual Assault in the Military for reference purposes.
<table>
<thead>
<tr>
<th>No.</th>
<th>Quarter Disposition Completed</th>
<th>Subject Grade</th>
<th>Victim Grade</th>
<th>Subject Gender</th>
<th>Victim Gender</th>
<th>UCMJ Violation Investigated</th>
<th>Disposition</th>
<th>Synopsis</th>
</tr>
</thead>
<tbody>
<tr>
<td>T23</td>
<td>Third</td>
<td>E4</td>
<td>E6</td>
<td>M</td>
<td>F</td>
<td>Rape</td>
<td>Commander Declined action pursuant to UCMJ RCM 306(e)(1)</td>
<td>Occurred: CONUS off-base; alcohol; Y; drugs; U. Where Subject allegedly committed Rape against 1 Victim. UCMJ RCM 306(e)(1) Prosecution declined/Other, no action taken.</td>
</tr>
<tr>
<td>T23</td>
<td>Fourth</td>
<td>W02</td>
<td>CIV</td>
<td>M</td>
<td>F</td>
<td>Abusive Sexual Contact</td>
<td>Evidence Supports Command Action - Administrative Discharge</td>
<td>Occurred: CONUS on-base; alcohol; N; drugs; Y. Where Subject allegedly committed Abusive Sexual Contact against 1 Victim. Administrative Discharge. Chapter 2 - MIPRO of Warrant Officer, and oral consulting.</td>
</tr>
<tr>
<td>T30</td>
<td>Fourth</td>
<td>E4</td>
<td>CIV</td>
<td>M</td>
<td>F</td>
<td>Rape</td>
<td>Evidence Supports Command Action - Courts-Martial Preferred</td>
<td>Occurred: CONUS on-base; alcohol; Y; drugs; N. Victim(s) 1. Subject was found Guilty (Aggravated Sexual Assault) in General Courts-Martial, reduced to E1, confinement for 2 years, and SGO.</td>
</tr>
<tr>
<td>T31</td>
<td>Fourth</td>
<td>E2</td>
<td>E2</td>
<td>M</td>
<td>F</td>
<td>Aggravated Assault</td>
<td>Evidence Supports Command Action - Other Administrative Action</td>
<td>Occurred: CONUS off-base; alcohol; U; drugs; U. Where Subject allegedly committed Aggravated Sexual Assault against 1 Victim. Other administrative actions received no contact order and reassigned to different units.</td>
</tr>
<tr>
<td>T32</td>
<td>Fourth</td>
<td>E3</td>
<td>E4</td>
<td>M</td>
<td>F</td>
<td>Aggravated Assault</td>
<td>DoD Action Precluded - Insufficient evidence of any offense</td>
<td>Occurred: OCRUS on-base; alcohol; N; drugs; N. Where Subject allegedly committed Aggravated Sexual Assault against 1 Victim. Weak or insufficient evidence to action taken.</td>
</tr>
<tr>
<td>T33</td>
<td>Fourth</td>
<td>E7</td>
<td>CIV</td>
<td>M</td>
<td>F</td>
<td>Rape</td>
<td>Evidence Supports Command Action - Other Administrative Action</td>
<td>Occurred: CONUS on-base; alcohol; N; drugs; N. Where Subject allegedly committed Rape against 1 Victim. Administrative action</td>
</tr>
<tr>
<td>T34</td>
<td>Third</td>
<td>E3</td>
<td>CIV</td>
<td>M</td>
<td>F</td>
<td>Wrongful Sexual Contact</td>
<td>Evidence Supports Command Action - Non-Judicial Punishment</td>
<td>Occurred: CONUS on-base; alcohol; Y; drugs; U. Where Subject allegedly committed Wrongful Sexual Contact against 1 Victim. Subject found guilty at Company Grade N/J.N, reduced to E3, forfeit $500, and 14 days extra duty and restriction.</td>
</tr>
<tr>
<td>T35</td>
<td>Fourth</td>
<td>E3</td>
<td>E2</td>
<td>M</td>
<td>F</td>
<td>Wrongful Sexual Contact</td>
<td>Evidence Supports Command Action - Non-Judicial Punishment</td>
<td>Occurred: CONUS on-base; alcohol; U; drugs; U. Where Subject allegedly committed Wrongful Sexual Contact against 1 Victim. Subject found guilty at Field Grade N/J.P.</td>
</tr>
</tbody>
</table>

Figure 3.1 Annual report sexual assault synopses excerpt (DoD, 2009)
Cases were selected using systematic sampling. This method was chosen due to the necessity of the researcher to hand enter cases into a separate database. Systematic sampling allows the researcher to manually select cases without bias, resulting in a sample that is selective of the population. The cases do not provide names of the victims or subjects. Therefore, each chosen case was filed by the report year and case number pre-designated by each military branch. When a case number was not designated, the selected case was filed by the page number and case placement on the page. Fifty cases were selected from each of the 5 years, for a total of 250 cases. Of the 250 cases selected, 17 cases were excluded because the rank of the offender was missing or placed them outside of the scope of possible military justice, such as having a civilian status. Therefore, the remaining sample of 233 was used to conduct the study.

Four types of independent variables were examined: offender rank, victim rank, offender gender, and victim gender. Offender and victim rank were coded into five separate categories, which were subsequently coded either yes or no. Therefore, the suspect and victim rank variables are as follows: (1) Lower Enlisted (E1-E4) (0 = no, 1 = yes), (2) Non-Commissioned Officer (E5-E6) (0 = no, 1 = yes), (3) Senior Non-Commissioned Officer (E7-E9) (0 = no, 1 = yes), (4) Commissioned Officer (O1-O9) (0 = no, 1 = yes), and (5) Civilian (0 = no, 1 = yes). Suspect and victim gender were coded (1) Gender (0 = female, 1 = male).

The dependent variables analyzed in this study are possible punishment decisions, grouped into three categories. The variables were bivariately coded as follows: (1) No Punishment (0 = no, 1 = yes), (2) Administrative Punishment (0 = no, 1 = yes), and (3) Court Martial (0 = no, 1 = yes). Court Martial outcomes were further analyzed in terms of military discharge as follows: (1) Discharge (0 = no, 1 = yes). Please reference Appendix A for a complete list of how the variables were coded into specific categories.
3.3 Sample

Table 3.1 provides descriptive statistics for the independent and dependent variables of the sample. The cases were comprised of 54.1% lower enlisted offenders \((n = 126)\), 27.9% non-commissioned officer offenders \((n = 65)\), 12.4% senior non-commissioned officer offenders \((n = 29)\), and 5.6% commissioned officer offenders \((n = 13)\). The victim was lower enlisted in 67.4% of cases \((n = 157)\), a non-commissioned officer in 5.2% of cases \((n = 12)\), a senior non-commissioned officer in 0.9% of cases \((n = 2)\), a commissioned officer in 3.9% of cases \((n = 9)\), and a civilian in 22.7% of cases \((n = 53)\). The offender was male in 98.3% of cases \((n = 229)\) and female in 1.7% of the cases \((n = 4)\). The victim was female in 87.6% of cases \((n = 204)\) and male in 12.4% of cases \((n = 29)\).

For comparison purposes, in the Department of Defense Annual Report on Sexual Assault in the Military for fiscal year 2012, the cases were comprised of 51% lower enlisted offenders, 28% non-commissioned officer offenders, 5% commissioned officer offenders, 5% civilian offenders, and 10% unknown offenders. The victim was lower enlisted in 73% of cases, a non-commissioned officer in 12% of cases, a commissioned officer in 5% of cases, and a civilian in 10% of cases. The offender was male in 90% of cases, female in 2% of the cases, and unknown in 8% of cases. The victim was female in 88% of cases and male in 12% of cases (DoD, 2012).

As shown in Table 3.1, more than half of the reported sexual assaults in this sample did not result in judicial action. Of the cases that did result in judicial action, under 20% resulted in the discharge of the subject from the military. This indicates that the majority of the subjects accused of committing a sexual assault remain in the military. For comparison purposes, for dispositions reached in fiscal year 2012, no punishment was
administered in 34% of cases, administrative punishment was given in 29% of cases, and court martial proceeding were initiated in 37% of cases (DoD, 2012).

Table 3.1 Descriptive statistics for the independent and dependent variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rank of Offender</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lower Enlisted</td>
<td>126</td>
<td>54.1%</td>
</tr>
<tr>
<td>Non-Commissioned Officer</td>
<td>65</td>
<td>27.9%</td>
</tr>
<tr>
<td>Senior Non-Commissioned Officer</td>
<td>29</td>
<td>12.4%</td>
</tr>
<tr>
<td>Commissioned Officer</td>
<td>13</td>
<td>5.6%</td>
</tr>
<tr>
<td>Total</td>
<td>233</td>
<td>100%</td>
</tr>
<tr>
<td>Gender of Offender</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>229</td>
<td>98.3%</td>
</tr>
<tr>
<td>Female</td>
<td>4</td>
<td>1.7%</td>
</tr>
<tr>
<td>Total</td>
<td>233</td>
<td>100%</td>
</tr>
<tr>
<td>Rank of Victim</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lower Enlisted</td>
<td>157</td>
<td>67.4%</td>
</tr>
<tr>
<td>Non-Commissioned Officer</td>
<td>12</td>
<td>5.2%</td>
</tr>
<tr>
<td>Senior Non-Commissioned Officer</td>
<td>2</td>
<td>0.9%</td>
</tr>
<tr>
<td>Commissioned Officer</td>
<td>9</td>
<td>3.9%</td>
</tr>
<tr>
<td>Civilian</td>
<td>53</td>
<td>22.7%</td>
</tr>
<tr>
<td>Total</td>
<td>233</td>
<td>100%</td>
</tr>
<tr>
<td>Gender of Victim</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>29</td>
<td>12.4%</td>
</tr>
<tr>
<td>Female</td>
<td>204</td>
<td>87.6%</td>
</tr>
<tr>
<td>Total</td>
<td>233</td>
<td>100%</td>
</tr>
<tr>
<td>Punishment Decision</td>
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<td></td>
</tr>
<tr>
<td>No Punishment</td>
<td>73</td>
<td>31.3%</td>
</tr>
<tr>
<td>Administrative Punishment</td>
<td>73</td>
<td>31.3%</td>
</tr>
<tr>
<td>Court Martial</td>
<td>87</td>
<td>37.3%</td>
</tr>
<tr>
<td>Total</td>
<td>233</td>
<td>100%</td>
</tr>
<tr>
<td>Court Martial Discharge</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>17</td>
<td>19.5%</td>
</tr>
<tr>
<td>No</td>
<td>70</td>
<td>80.5%</td>
</tr>
<tr>
<td>Total</td>
<td>87</td>
<td>100%</td>
</tr>
</tbody>
</table>

3.4 Analysis

Findings for this content analysis were generated using SPSS. The aim was to perform a quantitative statistical analysis of the punishments taken by the military after a subject was accused of sexual assault. This was achieved by conducting a bivariate
analysis between the independent variables (offender rank, victim rank, offender gender, and victim gender) and the dependent variables (no punishment, administrative punishment, and court martial) using a chi-square ($\chi^2$) test of independence. This test identified which independent variables were statistically significantly related to the dependent variables.

Additionally, a multivariate logistic regression analysis was performed when significance was found on the bivariate level to determine which independent variables were predictors of whether there would be no punishment, administrative punishment, or a court martial after the report of a sexual assault. This method was chosen due to the nature of the variables being categorical and dichotomous. The results of the Hosmer and Lemeshow goodness of fit test were also included to ensure the model was appropriate.

The statistical analysis was modeled after research conducted by Alderden and Ullman (2012). Their study examined civilian sexual assault case processing decisions, specifically what factors were related to a case moving forward (Alderden & Ullman, 2012). Some of their variables included victim and suspect characteristics, which is similar to the variables used in the present study. The model utilized by Alderden and Ullman (2012) was successful in identifying victim and suspect characteristics that were positively related to case processing, and therefore is applicable to this research.
Chapter 4

FINDINGS

Table 4.1 shows the bivariate chi-square analysis results. The analysis revealed that for the dependent variable of no punishment, there was statistical significance with multiple independent variables. The chi-square test showed there was a relationship between being a non-commissioned officer and receiving no punishment $x^2[1, N = 65] = 6.929, p < .01$). There was also a relationship between being a senior non-commissioned officer and receiving no punishment $x^2[1, N = 29] = 4.421, p < .05$). The relationship between no punishment and victim gender was also statistically significant. Offenders that victimized males were less likely to receive no punishment. A reported sexual assault was less likely to result in no punishment if the victim was a male than either administrative punishment or court martial proceedings to be initiated (10.3% vs. 89.7%, respectively; $x^2[1, N = 29] = 6.780, p < .01$). All cells had an expected frequency greater than 5. A multivariate logistic regression model was conducted for the dependent variable of no punishment.

For the dependent variable of administrative punishment, statistical significance was only found in the independent variable of non-commissioned officer offender ($x^2[1, N = 65] = 5.782, p < .05$). A multivariate logistic regression was not performed for this dependent variable, since only one independent variable was statistically significant.
Table 4.1 Bivariate relationship between independent and dependent variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>No Punishment</th>
<th>Administrative Punishment</th>
<th>Court Martial</th>
<th>Court Martial Discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Offender Rank</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lower Enlisted</td>
<td>81(64.3)</td>
<td>45(35.7)</td>
<td>92(73.0)</td>
<td>34(27.0)</td>
</tr>
<tr>
<td>NCO</td>
<td>53(81.5)</td>
<td>12(18.5)**</td>
<td>37(56.9)</td>
<td>28(43.1)*</td>
</tr>
<tr>
<td>Senior NCO</td>
<td>15(51.7)</td>
<td>14(48.3)*</td>
<td>22(75.9)</td>
<td>7(21.1)</td>
</tr>
<tr>
<td>Commissioned Officer</td>
<td>11(84.6)</td>
<td>2(15.4)</td>
<td>9(69.2)</td>
<td>4(30.8)</td>
</tr>
<tr>
<td><strong>Offender Gender</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>156(68.1)</td>
<td>73(31.9)</td>
<td>159(69.4)</td>
<td>70(30.6)</td>
</tr>
<tr>
<td>Female</td>
<td>4(100.0)</td>
<td>0(0.0)</td>
<td>1(25.0)</td>
<td>3(75.0)</td>
</tr>
<tr>
<td><strong>Victim Rank</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lower Enlisted</td>
<td>112(71.3)</td>
<td>45(28.7)</td>
<td>104(66.2)</td>
<td>53(33.8)</td>
</tr>
<tr>
<td>NCO</td>
<td>10(83.3)</td>
<td>2(16.7)</td>
<td>7(58.3)</td>
<td>5(41.7)</td>
</tr>
<tr>
<td>Senior NCO</td>
<td>1(50.0)</td>
<td>1(50.0)</td>
<td>1(50.0)</td>
<td>1(50.0)</td>
</tr>
<tr>
<td>Commissioned Officer</td>
<td>6(66.7)</td>
<td>3(33.3)</td>
<td>7(77.8)</td>
<td>2(22.2)</td>
</tr>
<tr>
<td>Civilian</td>
<td>31(58.5)</td>
<td>22(41.5)</td>
<td>41(77.4)</td>
<td>12(22.6)</td>
</tr>
<tr>
<td><strong>Victim Gender</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>26(89.7)</td>
<td>3(10.3)**</td>
<td>18(62.1)</td>
<td>11(37.9)</td>
</tr>
<tr>
<td>Female</td>
<td>134(65.7)</td>
<td>70(34.3)**</td>
<td>142(69.6)</td>
<td>62(30.4)</td>
</tr>
</tbody>
</table>

The relationship is significant *p < .05 **p < .01 ***p < .001
Table 4.2 shows the results of the multivariate logistic regression model of no punishment. As shown, two of the three significant variables at the bivariate level remain statistically significant when controlling for the effects of all other variables in the model. Being a non-commissioned officer offender ($p < .05$) or victimizing a male ($p < .05$), were both statistically significant for the dependent variable of no punishment. Cases in which the offender was a non-commissioned officer increased the odds of punishment twofold. Cases in which the victim was a male also increased the odds of punishment, in line with the bivariate analysis, which showed a large discrepancy in the percentages of no punishment between male (10.3%) and female victims (34.3%). The variable of senior non-commissioned officer was not statistically significant when controlling for other predictors of no punishment in the model.

<table>
<thead>
<tr>
<th>Variable</th>
<th>$B$</th>
<th>$SE$</th>
<th>$OR$</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Rank of Offender</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Commissioned Officer</td>
<td>.934*</td>
<td>.372</td>
<td>2.54</td>
</tr>
<tr>
<td>Senior Non-Commissioned Officer</td>
<td>-.454</td>
<td>.418</td>
<td>.635</td>
</tr>
<tr>
<td><strong>Gender of Victim</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>1.584*</td>
<td>.635</td>
<td>4.877</td>
</tr>
<tr>
<td>Constant</td>
<td>-.785</td>
<td>.141</td>
<td></td>
</tr>
<tr>
<td>Model $x^2$</td>
<td>$X^2=18.124^{***}$</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-2LL</td>
<td>271.59</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nagelkerke $R^2$</td>
<td></td>
<td>.105</td>
<td></td>
</tr>
<tr>
<td>Hosmer and Lemeshow Goodness of Fit Test</td>
<td>$X^2=.227$, $p = .973$</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The relationship is significant *$p < .05$ **$p < .01$ ***$p < .001$
Chapter 5

CONCLUSION AND DISCUSSION

There was one research question examined in this thesis: Is there a correlation between the rank of a military sexual assault offender and the subsequent punishment for their crime? The results of this study show that for non-commissioned officer offenders, some form of punishment is more likely to occur than among other ranks. This finding is contrary to previous research and literature that suggests that those with more organizational power are likely to receive more lenient punishments (Shane, 2012). This finding also suggests that rank is not the main contributing factor used to decide a course of action in cases of military sexual assault, as rank was not found to be statistically significant in administrative punishment, court martial proceedings, or court martial discharges.

An unintended and surprising finding to this research was the fact that offenders who victimized males were more likely to receive some sort of punishment than those who victimized females. These findings could lend further support to the notion that the military is a culture that has negative attitudes towards women and may victim-blame when a female reports a sexual assault (Vogt et al., 2007). Military authorities may place more value on the report of a male rather than a female. This finding may also evidence there are stricter punishments for homosexual activity. The data used in this analysis did include a time period in which the military was still under the “don’t ask don’t tell policy”, which may mean punishment had to be issued due to the homosexual element of the offense.

5.1 Policy Implications

In order to create better policies to combat the problem of sexual assault in the military, it is imperative to understand the perpetrators of these assaults. The results of
this study show that rank may not be an influential factor in deciding punishment. However, data provided by the Department of Defense (2012) does show that only a fraction of reported offenses result in the conviction and discharge of perpetrators of military sexual assault. With that being the case, policies should also be put in place to allow for better data collection and tracking of offenders to allow for analysis of other factors that may be responsible for the difference in reports and convictions. Data should be presented in a way in which it captures the number of offenders, not only the number of assaults. Identifying what unit the offender was in and where the offender was stationed when they perpetrated the assault may also be helpful in identifying particular installations in which there may be a culture more supportive to sexual assault.

Additionally, there should be firm policies on sharing information regarding sexual assault investigations with civilian law enforcement agencies. The Annual Report on Sexual Assault in the military shows that the victim was a civilian in 10% of the reported cases (DoD, 2012). This includes only cases in which the victim knew for sure that the perpetrator was a military service member and the offense was reported to the chain of command. There are likely many cases in which the victim does not know the attacker was a service member. If the military handles cases solely internally, it does not afford civilian law enforcement the opportunity to discover if the offender could possibly be a suspect in a case that occurred off-post.

Kuersten (2014) points out that the military is a perfect place to foster change, both within and outside of the military. The military has the ability to implement radical changes, as the Department of Defense is less susceptible to political pressure than those who try and implement changes in the civilian legal system (Kuersten, 2014). Additionally, the military has extensive resources and centralized command structure that can quickly implement policy changes (Kuersten, 2014). With the current scrutiny on
sexual assault offenses in the military, now is a prime time to make major changes and study the effects, which may then be useful in combating problems outside of the military.

5.2 Limitations of the Study

There were three primary limitations in this study. First, the data was limited only to cases that were included in the Department of Defense Annual Report on Sexual Assault in the Military. This report is not exhaustive of all incidents of sexual assault that occurred in the military and is rather only a summary of cases that were reported and also taken seriously enough to be officially documented by the chain of command. There is no data regarding victims who claim their reports were ignored or covered up by their command.

Second, the research was limited to the content and quality of information included for each case. The content and number of variables included in the reports varied from year to year, limiting the amount of information that could be used for comparison purposes. This also prevented the research from exploring other variables of interest, such as victim-offender relationship, offender unit assignment type, victim and offender race, and victim and offender years of service. A survey may be more useful in gathering information on these additional variables, however due to the large size of the military sample, potential harm to victims by reliving their experiences while completing a survey, and time limitations of this study, a content analysis of existing data was chosen instead.

Lastly, many of the variables that were used in this study yielded a low number of cases in certain categories, rendering them unable to be tested for statistical significance. This was most prevalent as rank increased and form of punishment became more severe. This limits the types of conclusions that can be drawn from the findings. Due to the sample being too small in these areas, it could actually support the perspective that
the more organizational power a person holds, the less likely they are to receive punishment, as reported incidents may be handled under the table. A larger sample size may be necessary to draw more conclusive findings.

5.3 Suggestions for Future Research

Future research on sexual assault in the military should examine additional factors in conjunction with rank. For example, researchers should collect a sample from outside of official Department of Defense documents to better determine if there is consistency between official reports and independent accounts. The relationship between victim gender and punishment should be further explored in sexual assault cases both internal and external to the military. It is important for future research efforts to focus on the characteristics of the perpetrators of military sexual assaults, rather than the sexual assault victims, to determine potential risk factors for committing a sexual assault.
Appendix A

Variables and Coding
The variables designated for this study were selected in order to identify characteristics among military sexual offenders and punishment in relation to rank.

**Independent Variables:** The independent variables of this study were (a) offender rank, (b) victim rank, (c) offender gender, and (d) victim gender. The operational definitions of the variables are as follows:

(a) Lower Enlisted (E1-E4), Non-Commission Officer (E5-E6), Senior Non-Commissioned Officer (E7-E9), or Commissioned Officer (O1-O9)

(b) Lower Enlisted (E1-E4), Non-Commission Officer (E5-E6), Senior Non-Commissioned Officer (E7-E9), Commissioned Officer (O1-O9), or Civilian

(c) Male or Female

(d) Male or Female

**Dependent Variables:** The dependent variables of this study were (a) no punishment, (b) administrative punishment, and (c) court martial. The operational definitions of the variables are as follows:

(a) No punishment includes reports in which there was no further action taken due to a lack of victim cooperation, insufficient evidence, being referred to a civilian authority, or the command choosing to take no further action.

(b) Administrative punishment includes reports in which there was adverse action against the suspect, but the case was not referred to court martial. This includes the non-judicial punishments, which were defined at the beginning of this thesis.

(c) Court martial refers to cases in which judicial action was taken against a subject. In cases where a court martial was pursued, further analysis was conducted to determine if the subject was adversely discharged from the military.
References


Foubert, J. D., & Masin, R. C. (2012). Effects of the men’s program on U.S. Army soldiers’ intentions to commit and willingness to intervene to prevent rape: a pretest


Biographical Information

Christina Durham earned a Bachelor of Arts degree in Political Science from the University of North Texas in 2009. Upon completion of her Master's degree in Criminology and Criminal Justice, she plans on continuing her career as a Crime and Intelligence Analyst. Christina gained interest in the topic of this thesis through her service and experiences in the United States Army. Her research interests include law enforcement, procedural justice, and offender profiling.