

Rape Is Rape

How Denial, Distortion, and Victim Blaming Are Fueling a Hidden Acquaintance Rape Crisis

Reviewed by *Major Michael J. McDonald**

*The time has come for rape denial to become as unacceptable as Holocaust denial . . . There is only truth. And we must all tell the truth.*¹

I. Introduction

The Department of Defense reported that from October 2011 to September 2012, approximately 26,000 servicemembers experienced unwanted sexual contact.² While these statistics have left some doubtful about the prevalence of unwanted sexual contact in the military,³ they have also motivated our President⁴ and some members of our Congress⁵ to demand accountability and reform. The debate over what should or should not be done to counter sexual assault in society is not a new issue.⁶ On one side, there are those who would conduct surveys, create taskforces, and pass new laws in hopes that less sexual assaults would occur, more victims would come forward

when they do occur, and more allegations of sexual assault would result in conviction. On the other side, we have those who view sexual assault as a crime much like any other, which can be adequately addressed by current laws, standard police enforcement, and the normal judicial process. This latter group would view surveys, taskforces, and new laws as superfluous. What is this debate really about? Certainly, it is not that some are against rape while others are in favor of it. Are we not all in favor of fewer occurrences of sexual assault?

While few authors have taken the time to analyze why there seems to be two sides to the issue of sexual assault, Jody Raphael attempts to do just that. This book review addresses the basics of Raphael's argument; it discusses the statistics upon which Raphael bases her argument; it shows that Raphael's actual message is "rape is real"; and it analyzes the countervailing concerns of the criminal justice system. This review concludes by providing thoughts on the application of this book to the military setting.

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¹ JODY RAPHAEL, JD, RAPE IS RAPE: HOW DENIAL, DISTORTION, AND VICTIM BLAMING ARE FUELING A HIDDEN ACQUAINTANCE RAPE CRISIS 194 (2013).

² U.S. DEP'T OF DEF., ANN. REP. ON SEXUAL ASSAULT IN THE MILITARY FY 2012 19, fig.4 (Apr. 30, 2013), <http://s3.documentcloud.org/documents/697934/pentagon-report-on-sexual-assault-in-2012.pdf> [hereinafter DOD ANN. REP. ON SEXUAL ASSAULT IN THE MILITARY FY 2012]. Based on a survey of servicemembers, the Department of Defense (DoD) has estimated that in fiscal year 2012, 26,000 servicemembers experienced unwanted sexual contact, and that 2,949 of these servicemembers reported sexual assault to DoD authorities. *Id.*

³ See, e.g., Lindsay L. Rodman, Op.-Ed., *The Pentagon's Bad Math on Sexual Assault*, WALL ST. J., May 19, 2013, § A, available at <http://online.wsj.com/article/SB10001424127887323582904578484941173658754.html> (critiquing statistics regarding the prevalence of unwanted sexual contact in the military because DoD statistics are based on a relatively small number of surveys received which are more likely to have been completed by victims of unwanted sexual assault). Others have made similar critiques of the Center for Disease Control (CDC) studies on sexual assault. See, e.g., Christina Hoff Sommers, *How the CDC Is Overstating Sexual Violence in the U.S.*, WASH. POST (Jan. 27, 2012), http://articles.washingtonpost.com/2012-01-27/opinions/35441276_1_sexual-violence-assaults-cdc (critiquing CDC statistics as being "wildly at odds with official crime statistics").

⁴ Craig Whitlock, *Abuse Cases Up in Military*, WASH. POST, May 18, 2013, at A15. In the wake of the DoD statistics, President Obama said he has "no tolerance for [sexual assault]." *Id.*

⁵ See, e.g., Military Justice Improvement Act of 2013, S. 967, 113th Cong. (2013). Among other things, this bill would limit the commander's authority to refer serious crimes to courts-martial by giving convening authority to certain senior independent military officers. Craig Whitlock, *Law Makers Demand Crackdown on Sex Assault in Military*, WASH. POST, June 4, 2013, http://www.washingtonpost.com/world/national-security/military-chiefs-balk-at-sex-assault-bill/2013/06/04/cd061cc4-cd1c-11e2-ac03-178510c9cc0a_story.html.

⁶ RAPHAEL, *supra*, note 1, at 4.

II. Raphael's Argument

In *Rape Is Rape*, Raphael aptly describes the history and psychology behind the sexual assault debate.⁷ She demonstrates that a large part of the debate centers on the prevalence of rape and the perceived credibility of rape prevalence statistics.⁸ A large part of *Rape Is Rape* is aimed at analyzing the psychology behind people whom Raphael calls "rape deniers"—people who do not believe that sexual assault is as prevalent as some statistics suggest.⁹ Raphael explains that "rape deniers" may also disbelieve victims' accounts of rape or believe that acquaintance rape is often just "bad sex" or the result of lowered inhibitions due to alcohol.¹⁰ In response to these denial strategies, Raphael cites to social science data demonstrating the frequency of acquaintance rape, and she shares victim accounts of acquaintance rape to show that acquaintance rape can

⁷ RAPHAEL, *supra*, note 1, at 41, 53. Notably, Raphael finds roots of rape denial in both feminist and conservative theory. *Id.* at 41–73. Some feminists on the one hand argue that rape is "an acceptable risk of sexual freedom" and "view the issue of acquaintance rape as a threat to women's sexual liberation." *Id.* at 41. Some conservatives denied a "rape epidemic," viewing the problem instead as an issue of "promiscuity." *Id.* at 53.

⁸ *Id.* at 23–29.

⁹ See generally *id.*

¹⁰ *Id.* at 53–54.

happen in a variety of settings to a variety of women.¹¹ Raphael states, “Any reaction to rape today must be to [the] accounts [of rape victims]—not to an idea of rape put forth by those somehow needing to minimize and deny rape.”¹²

III. The Statistics

Rape Is Rape provides critical information to any reader regarding the statistical prevalence of sexual assault in society. Raphael aims to dispel the idea that the statistics on rape prevalence are inflated and based on inaccurate data.¹³ *Rape Is Rape* does an outstanding job of explaining how the distortion of sexual assault statistics has fueled the arguments of “rape deniers.”¹⁴ Raphael fully addresses concerns of those who believe that social scientists use an expanded definition of rape in their studies, and she explains how such arguments have hindered the movement against sexual assault since the 1970s.¹⁵

Raphael contends that many rape deniers are mistakenly focused on definitional mistakes made in one decades-old study, and that they erroneously attribute these mistakes to all rape prevalence studies.¹⁶ In 1987, a social-science survey conducted by Mary Koss found that 27.5 percent of college-aged women had experienced sexual assault since the age of fourteen.¹⁷ That survey asked participants a series of questions, including whether the participants engaged in unwanted sexual intercourse due to psychological coercion.¹⁸ Many critics have challenged these and similar rape prevalence statistics,¹⁹ claiming that they must be based on an overly broad definition of rape.²⁰ Raphael shows that

more recent studies²¹ have segregated questions regarding forcible rape.²² Even when the definition of rape is limited to forcible penetration, these studies indicate that between 10 and 16 percent of American women report they have been victims of forcible sexual assault.²³

While *Rape Is Rape* addresses concerns of those who believe rape prevalence studies use overly broad definitions of rape, it ignores many other concerns regarding collection of data.²⁴ For example, *Rape Is Rape* generally ignores concerns²⁵ such as those posed by Captain Lindsay Rodman²⁶ in her article entitled *The Pentagon’s Bad Math on Sexual Assault*.²⁷ Rodman critiques statistics regarding the prevalence of unwanted sexual contact in the military presented in the U.S. Department of Defense Annual Report on Sexual Assault in the Military for Fiscal Year 2012 because these results are based on only 22,792 surveys received out of a total of 108,478 surveys sent.²⁸ According to Rodman, developing estimates based on surveys received is flawed because people who complete the surveys are more likely to have been the victim of unwanted sexual contact.²⁹ *Rape Is Rape* largely ignores this area of concern.³⁰ This failure may cause readers to question Raphael’s credibility and the credibility of the statistics she references.

¹¹ *Id.* at 86.

¹² *Id.* at 5.

¹³ *Id.* at 194.

¹⁴ *Id.* at 23–26.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 24 (citing Mary P. Koss et al., *The Scope of Rape: Incidence and Prevalence of Sexual Aggression and Victimization in a National Sample of Higher Education Students*, J. OF CONSULTING & CLINICAL PSYCHOL. 55, no. 2, at 168 (1987)). Mary Koss is a University of Arizona public health professor, well known for a 1987 study that first found that 25 percent of college women had experienced rape. Heather MacDonald, *The Campus Rape Myth*, 18 CITY JOURNAL 1 (Winter 2008), available at http://www.city-journal.org/2008/18_1_campus_rape.html.

¹⁸ RAPHAEL, *supra*, note 1, at 24.

¹⁹ See MacDonald, *supra* note 22 (citing a survey of University of Virginia sorority girls, which found that “only 23 percent of the subjects whom the survey characterized as rape victims felt that they had been raped” and a 200-campus rape study by the Department of Justice in which the alleged “victims . . . generally did not state that their victimization resulted in physical or emotional injuries.”).

²⁰ RAPHAEL, *supra*, note 1, at 24–26.

²¹ See, e.g., Dean G. Kilpatrick et al., *Drug-Facilitated, Incapacitated, and Forcible Rape: A National Study* (Charleston, SC: Medical University of South Carolina, 2007), 27, 44, available at www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf; MICHELLE C. BLACK ET AL., THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY (NISVS): 2010 SUMMARY REPORT 18–19 (2010) (Atlanta GA: Nat’l Ctr. for Injury Prevention and Control, Ctrs. for Disease Control and Prevention) (finding that 12.3 percent of responding women had experienced forcible penetration within their lifetime), available at http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf.

²² *Id.* at 83–86.

²³ *Id.* at 86.

²⁴ See *id.* at 24–26.

²⁵ See generally *id.* She briefly mentions these concerns as a type of “rape denial,” but does not seem to acknowledge them as a valid concern worth addressing. See *id.* at 24–26.

²⁶ Captain Lindsay Rodman, United States Marine Corps, is Deputy Legal Counsel in the Office of the Legal Advisor to the Chairman of the Joint Chiefs of Staff. *Captain Lindsay L. Rodman, USMC*, CENTER FOR A NEW AMERICAN SECURITY, <http://www.cnas.org/LindsayRodman>. She is on detail from headquarters Marine Corps, where she served at the Judge Advocate Division in the front office of the Staff Judge Advocate to the Commandant of the Marine Corps. Previously, she served as defense counsel and legal assistance attorney at the Legal Services Support Section, Combat Logistics Regiment-37 in Okinawa, Japan. She also served as the operational law attorney for 1st Marine Division (Forward) in Helmand, Afghanistan. Rodman was an associate at Arnold & Porter before joining the Marine Corps. She earned her B.A. in Mathematics from Duke University, her J.D. from Harvard Law School, and her Masters in Public Policy from the Kennedy School of Government. *Id.*

²⁷ See Rodman, *supra* note 3.

²⁸ *Id.*

²⁹ *Id.*

³⁰ See RAPHAEL, *supra*, note 1, at 86.

IV. Rape is Real

While Raphael's message is valuable, her book is not exactly what it purports to be. As the title implies, Raphael believes society misunderstands the definition of rape, and that this misunderstanding fuels arguments made by "rape deniers."³¹ Raphael briefly discusses theories of rape denial which suggest that acquaintance rape is not "real rape" because it may not include physical force.³² To these deniers, Raphael sends a clear, but brief, message that "rape is rape."³³ However, a much more prominent message of her book is "rape is real."³⁴ All of the rape victim accounts³⁵ in the book involve physical force, and Raphael never discusses any definitional misunderstanding in depth.³⁶ Instead, Raphael's main focus is to educate the reader on the prevalence of rape in society.³⁷ Her statistics and her victim accounts are aimed at addressing those who believe that rape happens infrequently and only in certain scenarios—such as when alcohol is involved.³⁸ Raphael's misleading title and thesis contribute to a muddled message throughout the book. Readers who understand Raphael's main focus from the beginning of the book may come away with a clearer understanding of her message.

V. The Motives of "Rape Deniers"

As part of Raphael's attempt to analyze the psychology driving "rape deniers," she gives an informative account of the history of rape denial in both feminist and conservative circles.³⁹ While her information is valuable, she is not as persuasive as she could be for two reasons. First, by using the term "rape deniers," she alienates the same people she aims to educate. Second, Raphael fails to address valuable and legitimate reasons why certain acquaintance rape cases may not be pursued legally.⁴⁰

³¹ *Id.* at 4–5.

³² *Id.* at 53–58.

³³ *Id.* at 194.

³⁴ *See id.* at 83–87.

³⁵ Raphael tells the story of Tracey, who was forcibly raped by an acquaintance. *Id.* at 35–40. Although Tracey knew the man who raped her and "stopped crying, fighting, and wrestling," she also had a piece of her tongue bit off and was anally penetrated so forcefully that she bled and could not sit for days. *Id.* at 37–38. Raphael also tells the story of Nafissatou Diallo, a housekeeper at a luxury Manhattan hotel who was sexually assaulted by Dominique Strauss-Kahn, a hotel customer and managing director of the International Monetary Fund. *Id.* at 7. She entered the hotel room to clean when Struass-Kahn forced her to her knees and forced his penis into her mouth. *Id.*

³⁶ *See id.* at 7, 12, 37, 77, 80, 98.

³⁷ *See id.* at 4–5.

³⁸ *See id.* at 5.

³⁹ *Id.* at 41–73.

⁴⁰ *See generally id.*

Rape is indeed real, and many need to come to terms with their own biases to be effective responders to the rape crisis. Acknowledging the prevalence of rape and the accounts of victims is important, and nothing minimizes that importance. There are, however, other important values that may at times conflict with rape prosecutions. These countervailing concerns are not an excuse to avoid the difficult issues presented, but they also cannot be ignored. Unfortunately, Raphael does not fully understand some of these countervailing concerns.

Consider a criminal prosecutor, for example. Raphael seems to assume that prosecutors do not pursue rape cases because of perceived social biases that may influence a jury.⁴¹ She cites Kaethe Morris Hoffer, legal director of the Chicago Alliance Against Sexual Exploitation:

That the jury won't convict is not an acceptable, or legal, reason for a prosecutor to refrain from charging a perpetrator with rape. To do so is the same as saying to a black man who was almost killed by a posse and a hanging, "We totally believe you, but in this community we could never get a conviction, so we are not going to prosecute the lynch mob." Fundamentally, if a prosecutor believes a crime was committed, he or she must not allow social biases to prevent him or her from seeking justice. Prosecutors certainly ought to tell victims when they think a conviction would be unlikely—due to social biases that make people doubt what women report—but they should always be willing to put the offender on trial if the victim, understanding the difficulty of winning, nonetheless wants the rapist charged. . . . [G]irls and women do not receive the protection of the laws to which they are entitled, which invests men who rape to engage in rape with impunity.⁴²

While it is true that prosecutors should not make charging decisions based solely on the social bias of the jury, there are other legitimate reasons a prosecutor may be unable to proceed with an acquaintance rape case. A prosecutor may agree that "rape is rape" and that acquaintance rape is a pervasive problem, but may be limited in certain circumstances by the ability to prove the case beyond a reasonable doubt.⁴³ Unlike the case of a man

⁴¹ *See id.* at 183–85.

⁴² *Id.* at 184 (quoting Interview with Kaethe Morris Hoffer, Legal Dir., Chi. Alliance Against Sexual Exploitation (Apr. 16, 2010)).

⁴³ *See* MODEL CODE OF PROF'L CONDUCT R. 3.8 (a) (2011); *id.* R. 1 cmt. ("A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations

who was almost killed and hung, a case of acquaintance rape may have no physical evidence or witnesses. While it is unfortunate, it is the secret and easily-disguised nature of this crime that “invite[s] men who rape to engage in rape with impunity.”⁴⁴ Raphael should acknowledge that prosecutors do not necessarily reject cases because they are “rape deniers.” A prosecutor may turn down a case simply because of important and valuable realities of our criminal justice system. If a prosecutor’s only evidence is the testimony of the rape victim, the presumption of innocence⁴⁵ ensures that conviction would be difficult even with an unbiased jury. When the presumption of innocence and a lack of evidence make conviction highly unlikely, it is responsible for a prosecutor to choose to use limited time and resources where convictions can be obtained. Raphael is correct in declaring that prosecutors should not “shrink from charging in difficult cases” or “back off filing charges for fear of public criticism.”⁴⁶ It is important to remember, however, that prosecutors who are overly zealous on any issue will risk violating their ethical and professional responsibilities.⁴⁷ In this respect, Raphael loses credibility and alienates certain readers.

Just as prosecutors may have valid and important reasons for not being overly zealous with respect to certain allegations of sexual assault, military members in the chain

to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence . . .”).

⁴⁴ *Id.* at 184.

⁴⁵ *Coffin v. United States*, 156 U.S. 432 (1985) (“The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.”).

⁴⁶ See RAPHAEL, *supra*, note 1, at 183.

⁴⁷ See MODEL CODE OF PROF’L CONDUCT R. 3.8 (2011). A prosecutor may choose to prosecute without knowing for certain that he can prove the case beyond a reasonable doubt and he does not need to predict what the jury will decide. However, a prosecutor who proceeds on a case with no physical or other strong evidence or with significant exculpatory evidence may be tempted to engage in ethical violations such as overreaching and withholding of evidence. While surely an extreme example, the case of prosecutor Mike Nifong and the Duke Lacrosse Players demonstrates this temptation perfectly. *Mike Nifong Disbarred Over Ethics Violations in Duke Lacrosse Case*, ASSOCIATED PRESS, June 17, 2007, <http://www.foxnews.com/story/2007/06/17/mike-nifong-disbarred-over-ethics-violations-in-duke-lacrosse-case/>. Nifong prosecuted three members of the Duke Lacrosse team based on allegations of rape made by an exotic dancer who attended one of their parties in March 2006. *Nifong: Offers Apology, Says No “Credible Evidence” of Crime in Lacrosse Case*, ASSOCIATED PRESS, July 26, 2007, <http://www.foxnews.com/story/2007/07/26/nifong-offers-apology-says-no-credible-evidence-crime-in-lacrosse-case/>. He continued to claim that a rape had occurred even after evidence mounted indicating that the defendants were innocent. Nifong was eventually disbarred. *Id.* The committee for the state bar characterized the prosecution as “selfish,” claiming that he did it to boost his chances of winning the election for district attorney. *Mike Nifong Disbarred Over Ethics Violations in Duke Lacrosse Case*, ASSOCIATED PRESS, June 17, 2007, <http://www.foxnews.com/story/2007/06/17/mike-nifong-disbarred-over-ethics-violations-in-duke-lacrosse-case/>. They found that he “committed ‘a clear case of intentional prosecutorial misconduct’ that involved ‘dishonesty, fraud, deceit and misrepresentation.’” *Id.*

of command may also have valid and important reasons for acting with restraint in the same circumstances. In the military context, those in the chain of command must consider their position and influence and ensure that they do not exert unlawful command influence⁴⁸ on the military justice process.⁴⁹ An example of this was seen recently in the reaction to President Obama’s remarks on sexual assault in the military.⁵⁰ In early May of 2013, President Obama stated to reporters in a speech regarding military sexual assault, “I don’t want just more speeches or awareness programs or training but, ultimately, folks look the other way. If we find out somebody is engaging in this stuff, they’ve got to be held accountable—prosecuted, stripped of their positions, court-martialed, fired, dishonorably discharged. Period.”⁵¹ While his zealous advocacy for an end to sexual assault in the military is commendable, as the Commander-in-Chief, he is at the top of the chain of command, and his comments could amount to unlawful command influence on courts-martial.⁵²

⁴⁸ Unlawful Command Influence (UCI) is prohibited by Article 37(a) of the UCMJ, which provides:

No authority convening a general, special, or summary court-martial, nor any other commanding officer, may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercises of its or his functions in the conduct of the proceedings. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts. The foregoing provisions of the subsection shall not apply with respect to (1) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or (2) to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel.

UCMJ art. 37(a) (2012). Unlawful command influence has been called a “mortal enemy of military justice.” See *United States v. Thomas*, 22 M.J. 388, 393 (C.M.A. 1986).

⁴⁹ MANUAL FOR COURTS-MARTIAL, UNITED STATES, R.C.M. 104 (2012) [hereinafter MCM].

⁵⁰ Whitlock, *supra* note 4.

⁵¹ *Id.*

⁵² Jennifer Steinhaur, *Obama Words Complicating Military Trials*, N.Y. TIMES, July 14, 2013, at A19.

In at least a dozen sexual assault cases since the president’s remarks at the White House in May, judges and defense lawyers have said that Mr. Obama’s words as commander in chief amounted to ‘unlawful command influence,’ tainting trials as a result. Military law experts said that those cases were only the beginning and that the president’s remarks were certain to complicate almost all prosecutions for sexual assault.

These presidential remarks have caused service-wide concern that military commanders, judges, juries, and prosecutors will be pressured to make unjust decisions in sexual assault cases.⁵³ Because of this concern, the Secretary of Defense issued an ameliorative memorandum regarding the integrity of the military justice process to every military officer and enlisted member.⁵⁴ The memorandum explained that there are no expected outcomes in military justice cases and that each military justice case must be resolved on its own facts.⁵⁵ The President's remarks and the problem of unlawful command influence demonstrate an important influence on the way that military leaders can respond to sexual assault that Raphael does not consider.

The purpose of *Rape Is Rape*, however, is to educate the reader regarding the prevalence and reality of rape in our society.⁵⁶ In this respect, Raphael is successful. This mission is valuable and may help many to acknowledge and change biases they may have to individual claims of acquaintance rape. It is critical that police, prosecutors, judges, jurors, and commanders be capable of believing that acquaintance rape does exist. Unfortunately, because it fails to address the valid reasons behind why rape allegations are sometimes not pursued, *Rape Is Rape* again loses credibility and misses an important concern of many readers.

VI. Application to the Military

Given the increasing occurrence of unwanted sexual contact in today's military,⁵⁷ *Rape Is Rape* is a valuable read for any military member because it provides insight into the variety of ways in which rape occurs and the prevalence of the problem. While *Rape Is Rape* does not specifically address rape in the military context, its lessons are still relevant. Every servicemember must understand that rape is a pervasive and real problem in our society. By providing a history of the debate surrounding sexual assault, *Rape Is Rape* may also help servicemembers come to terms with any biases that affect the way they react to claims of acquaintance rape. *Rape Is Rape* will help military readers understand the truth about rape both in the military context and in society at large.⁵⁸

Id.

⁵³ *See id.*

⁵⁴ *See* Memorandum from Sec'y of Defense, to See Distribution, subject: The Integrity of the Military Justice Process (6 Aug. 2013), available at <http://online.wsj.com/public/resources/documents/081413hagel.pdf>.

⁵⁵ *Id.*

⁵⁶ *See generally* RAPHAEL, *supra*, note 1, at 4.

⁵⁷ For fiscal year 2010, the DoD estimated that 19,000 servicemembers had experienced unwanted sexual contact. U.S. DEP'T OF DEF., ANN. REP. ON SEXUAL ASSAULT IN THE MILITARY FY 2010 90 Exh. 39 (March 2011) [hereinafter DOD ANN. REP. ON SEXUAL ASSAULT IN THE MILITARY FY 2010], available at [http://servicewomen.org/SAPRO%20 Reports/ hDoD_Fiscal_Year_2010_Annual_Report_on_Sexual_Assault_in_the_Military.p df](http://servicewomen.org/SAPRO%20Reports/hDoD_Fiscal_Year_2010_Annual_Report_on_Sexual_Assault_in_the_Military.pdf). These reports suggest a 35% increase in unwanted sexual contact over the two-year period between FY 2010 and FY 2012. Compare DOD ANN. REP. ON SEXUAL ASSAULT IN THE MILITARY FY 2012, *supra* note 2, at 19 fig.4, with DOD ANN. REP. ON SEXUAL ASSAULT IN THE MILITARY FY 2010, *supra* note 57, at 90 exh. 39. *See also* Craig Whitlock, *Obama Delivers Blunt Message on Sexual Assaults in the Military*, WASH. POST, May 7, 2013, available at http://articles.washingtonpost.com/2013-05-07/world/39078504_1_sexual-assault-offenders-kirsten-gillibrand.

⁵⁸ RAPHAEL, *supra*, note 1, at 194.