AJPS AMERICAN JOURNAL of POLITICAL SCIENCE

Care or Justice: Care Ethics and the Restricted Reporting Sexual Assault Policy in the US Military

Jennet Kirkpatrick Arizona State University
Carolyn M. Warner University of Nevada, Reno

Abstract: *Many care-ethics scholars argue that care and justice should harmonize. While agreeing in general, we argue for a hard limit on justice in some instances. For example, we find evidence to support limiting justice in favor of care in the US military's restricted reporting policy in cases of sexual assault. This policy allows victims to receive medical treatment without initiating a criminal investigation. Moreover, the article finds additional evidence to normatively prioritize care in the policy's attentiveness and responsiveness, two values emphasized by care-ethics scholars. This article gives insight into how care and justice can devolve into an antagonistic relationship, something many care-ethics scholars seek to avoid. Finally, this article suggests how a more harmonious relationship between care and justice might be restored.*

In the pervasive political controversies over how universities, the military, and other institutions should handle adult sexual assaults, politicians and policymakers have focused on compelling institutions to take sexual assaults seriously as crimes and to hold perpetrators accountable (Bennett 2018; Gillibrand 2017; Rhode 2016; Speier 2017; Turchik and Wilson 2010). Not wanting to appear soft on crime, they have adopted an "offender-centered approach." This approach encourages victim reporting, strengthens investigative and punitive processes, and pursues justice by punishing perpetrators (Carson and Carson 2018; Henninger et al. 2019; Perkins and Warner 2017; Richards 2019; United States Department of Defense Sexual Assault Prevention and Response Office 2020b). In an offender-centered approach, what the adult victim wants to be done with the case is secondary to what the institution needs to do with the alleged offender.

The US military has adopted a different strategy, a "victim-centered" approach that deemphasizes investigations and punishment and shifts focus from the perpetrator to the victim. Since 2005, the military has focused on the victim's care to the extent of sometimes forgoing holding the perpetrator accountable at all.

The military's victim-care approach raises a question about the relationship between care and justice. Some scholars of care ethics argue that care ethics and justice are not competing, mutually exclusive approaches (Clement 1996; Deveaux 1995; Engster 2001; 2007; Held 2015; 2018; Slote 2009; Tronto 2013). Instead, they contend that care ethics and justice, though discrete, should be harmonized. We call this group the complementary school. Though individual scholars differ in relating justice and care, theorists in the complementary school maintain that care and justice should be connected in a mutually supporting relationship. A pathbreaking strand of research has begun exploring conflicts between care and justice and whether justice should be limited to care (Engster 2020a; Held 2020).

Against some in the complementary school, we argue that care and retributive justice should not be harmonized in some circumstances. We argue in favor of a hard limit on justice. We find evidence for prioritizing care to the exclusion of justice in the US military's "restrictive reporting" option for sexual assault victims. This option permits victims to obtain medical, psychological, and spiritual care without triggering a criminal investigation. When a victim chooses to file a

Jennet Kirkpatrick is an Associate Professor of Political Science at Arizona State University, 975 S. Myrtle Avenue, Tempe, AZ, U.S.A. (jennetk@asu.edu). Carolyn M. Warner is the Vail Pittman Professor and Department Chair of Political Science, University of Nevada, Reno, 1664 N. Virginia St., Reno, NV, 89557 U.S.A. (carolynwarner@unr.edu).

The authors are grateful for comments from Lars Rensmann, Cheshire Calhoun, Joan McGregor, and three anonymous reviewers. We thank Allie Williams for her research assistance, and the Office of Knowledge Enterprise Development, Arizona State University for financial support of the research.

American Journal of Political Science, Vol. 00, No. 0, January 2023, Pp. 1–13

©2023, Midwest Political Science Association. DOI: 10.1111/ajps.12755

restricted report, authorities only record that an assault occurred. No details about the case are collected (Loeb 2004; United States Department of Defense Care for Victims of Sexual Assaults Task Force 2004; United States Department of Defense Sexual Assault Prevention and Response Office 2006). Forensic evidence of the sexual assault may be collected and preserved. Victims can pursue a criminal case in the future but are not required to do so.[1]

We argue that prioritizing care and, if necessary, excluding justice is normatively beneficial in this case. We find evidence for the policy's alignment with care ethics in the policy's values of attentiveness and responsiveness, both of which are vital elements of care (Clement 1996; Engster 2001; Fraistat 2016; Hankivsky 2014; Kittay 2001; Tronto 2005).

Before proceeding, we define two key terms: care ethics and justice. Care ethics is a contextual approach that assigns moral significance to providing care, receiving care, and dependent relationships in human life (Engster 2007; Gilligan 1993; Held 2018; Tronto 1993; 2010). Scholars of care ethics emphasize building healthy relationships and meeting an individual's nurturing, healing, and growth needs. They focus on how to foster beneficial human relationships in concrete situations. Rather than appealing exclusively to abstract principles or ideals, they are attentive to the specific requirements of an individual or a group in a particular context. Policy and programs address "what is actually the problem as experienced" (Sevenhuijsen et al. 2003, 315). Ethics of care scholars emphasize the interdependency of actors who need care and can provide care to others, rather than a society of autonomous rational actors pursuing diverse life plans (Barnes 2006; Tronto 1993, 168). Taking vulnerability and dependence as a starting point, scholars argue that laws should not assume that those receiving care are failures or problems (Clement 1996; Minow 1990).

While there are many ways to define justice, we focus on retributive justice because this kind of justice is central to sexual assault policy in the US military. Retributive justice means adhering to the rule that crime requires punishment in most cases. According to Jeffrie Murphy, retributive justice is based on the "Kantian idea of *human dignity*" (Murphy 2016, 28, emphasis original). One way to respect the dignity of persons is "through holding them responsible and sometimes resenting or even punishing them for what they do instead of insulting them by regarding them as sick or helpless victims of their fixed natures of social circumstances" (Murphy 2016, 28). Scholars engaged in the care-justice debate have defined justice more universally than retributive justice. Still, they have also relied on a Kantian definition of justice that appeals to universal principles and abstraction for justification. Following Kant, they understand justice as deriving from individual rationality and consisting of universal principles abstracted from context or immediate consequences (Clement 1996; Deveaux 1995; Engster 2001; Held 2015; Walker 2007).

This article first examines scholars in the complementary school who have argued that care and justice should be harmonized in a nonconflicting relationship. Next, the article turns to the policy in the second section to demonstrate how care can be prioritized to the exclusion of justice in restricted reporting. The third section looks at the evidence that restricted reporting prioritizes care in the policy's attentiveness and responsiveness to victims. The fourth section argues for valuing care over justice in sexual assault policy. Finally, in the fifth section, we argue that care is one way to build institutional trust. In conclusion, we note the conflict between care under restricted reporting and a different kind of justice, restorative justice.

The Complementary School

Following the publication of Sara Ruddick's "Maternal Thinking" and Carol Gilligan's *In a Different Voice*, scholars raised questions about the relationship between care and justice (Gilligan 1993; Ruddick 1980). Scholars first understood care ethics as a challenge to justice, aiming to unseat neo-Kantian, deontic forms of justice (Held 2015, 19). Some early care-ethics scholars also portrayed care and justice as contrasting or incompatible approaches (Gilligan 1993; Held 1995; Noddings 1984). These scholars emphasized that a care-ethics approach examines moral issues in context and focuses on the details of individual cases. It roots morality in human relationships, care, and dependency. This theory implies a moral significance to giving care, receiving care, and dependent relationships in human life (Gilligan 1993; Held 2018; Noddings 2019; Ruddick 1980; Sevenhuijsen 1998; Tronto 1987). It emphasizes maintaining relationships, establishing networks of social relations, and meeting our and others' needs. For these reasons, care and justice appeared to clash.

However, beginning in the late 1990s, care-ethics scholars articulated a complementary approach to

[1]The term "victim" is sensitive, especially for individuals who have experienced sexual assault. We use the term in keeping with legal terminology. We also acknowledge that some individuals do not survive sexual assaults. It is not our intent to deny victims' agency or pass judgment on their status.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

harmonize care with justice. In general, the complementary school sees care and justice as distinct approaches that can be deployed together to address a wide range of issues (Clement 1996; Deveaux 1995; Engster 2001; 2007; Held 2015; 2018; Slote 2009; Tronto 2013). Scholars point out that it may be hard to parse good care without justice. Justice allows us to separate care from particularism, paternalism, or exploitation (Friedman 1993, 126–31; Goodin 1996; Tronto 1989, 181–83). For most scholars in the complementary school, justice is a broad concept. We understand justice to include retributive justice.

Within the complementary school, scholars differ on relating justice to care. However, most complementary theorists argue against limiting care ethics to the family or the private realm. Instead, they have used care ethics to evaluate a wide range of public policy programs and issues (Barnes 2006; Engster 2015; 2020b; Greenswag 2018; Hankivsky 2014; Sevenhuijsen 1998, 90–121; Stensöta 2010; 2015; Tronto 2013; Walker 2006; White 2000).

Grace Clement, for instance, argues that "care and justice should not be understood as mutually exclusive," but that the two approaches should "influence each other" (Clement 1996, 90). For Clement, then, care and justice are "allies." Both are necessary. Care and justice are "indispensable to one another in our attempts to create a world more conducive to human well-being" (109).

Although he unites care and justice, too, Daniel Engster takes a different approach. Relying on natural law theory, Engster argues that the basic principle of morality is that we are all dependent on others for care. We need care for survival and basic social functioning (Engster 2007, 11). For Engster, care ethics is the "heart" of justice. Engster argues that governments should provide all individuals "the opportunity to satisfy their basic needs, develop and sustain their innate capabilities…and live as much as possible free from unwanted suffering and pain" (11). Elsewhere, Engster argues that a just social structure is necessary to promote healthy, genuine care. Breaking "down the dichotomy between justice and care," Engster maintains that justice "facilitates the healthy expression of care and provides a criterion for healthy care giving" (2001, 587).

Contributing to an emerging area of scholarship, Engster (2020a) has recently examined conflicts between care and justice. Arguing against predefining parts of society as suited for care or justice, Engster favors an approach that creatively combines or layers elements from justice theories and care ethics to create optimal policy (2020a, 175). Each theory offers valuable insights from different perspectives, and thus both perspectives should be deployed. In sexual harassment policy, for instance, he argues in favor of training as a mechanism of care and automatic reporting rules to preserve a justice perspective. "Though [automatic reporting] rules can feel like a betrayal of trust," Engster argues, they serve the goal of justice (180).

Like Clement and Engster, Virginia Held (2015, 22) seeks to "integrate" care and justice. She takes issue with Clement and Engster's arguments because they hold care and justice as having equal value and similar applications. When confronted with a moral problem, they deploy care and justice to provide different, complementary views on the problem. According to Held, equivalency leads to indeterminacy (27). Seeing a moral problem from the perspective of care and justice does not provide any criteria to choose between these perspectives.

Held argues that an ethics of care is a comprehensive morality that should take priority in most moral matters. For Held, care and justice are not equal. With two important exceptions, the care perspective is superior. Throughout most of society, people and institutions "should look primarily, I think, to the ethics of care" to solve their moral dilemmas (Held 2015, 27).

For Held, a justice perspective should take priority in two areas: legal and political institutions (Held 2015, 27; 2020). Legal institutions are best suited to a deontological Kantian approach to justice, while political institutions are best suited to a consequentialist approach to justice (2015, 30). In Held's framework, then, classification matters a great deal. If sexual assault were classified as a legal matter, then Held's argument suggests using a deontological Kantian approach, a framework that has been used to justify retributive justice. If, however, sexual assault is classified as a medical issue, a care perspective should take priority (32).

In the inchoate area of conflicts between justice and care, Engster and Held have pioneered two distinct approaches. Though they have covered much new ground, questions remain about the limits of justice. Engster does not advocate for a hard limit on justice but instead seeks to include the justice perspective in social policy. In the case closest to ours, sexual harassment, Engster favors automatic reporting requirements to meet the demands of justice. Held argues for a limit on justice; it should be confined mainly to the realms of law and politics. Still, her limit is not well defined in cases where law and society overlap in complicated ways. In contrast to Held and Engster, we argue that justice should be delayed or even denied when seeking justice harms the care of sexual assault victims.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

Restricted Reporting Policy

Many care theorists argue that, in general, care and justice should be mutually supporting systems. These scholars have illuminated policy contexts in which care and justice can be combined or harmonized in beneficial ways. This section examines a policy in which care and justice are at odds: sexual assault in the US military and the restricted reporting option.

Sexual Assault

For many decades, the military prioritized organizational needs over sexual assault victims' needs. Numerous studies of sexual assault have documented victims' concerns about reporting, including the intrusiveness and embarrassment of an investigation and fear of retaliation from the perpetrator or the institution in which the assault may have taken place (Lea, Lanvers, and Shaw 2003, 598; Spohn, Beichner, and Davis-Frenzel 2001, 231). Victims may fear that others will not believe them. Those whose assault profile does not fit rape myths (rape is by a stranger and violent, the victim is a woman, and she fights back) are less likely to report (Anders and Christopher 2011, 93). Victims may have little trust in reporting systems, given low conviction rates (Anders and Christopher 2011; Smith and Freyd 2014). Finally, the legal context may heighten victims' reluctance to report. Some legal feminists see the adversarial, procedure-based, ostensibly objective legal system as "the institutionalization of the male point of view" (Connell 1987, 128; MacKinnon 1987, 88–89).

Victims also fear that reporting may negatively affect their careers (Dardis et al. 2018, 418–19). Some studies have noted that victims often say that their experience reporting to the institution after was as bad or worse than the assault itself. They feel revictimized and betrayed (Greeson and Campbell 2011; Shaw et al. 2017, 603; Spohn, Beichner, and Davis-Frenzel 2001, 231). The military may magnify these factors because it is a closed and close-knit institution (Warner and Armstrong 2020).

These issues are consequential. Sexual assault, including rape, is more underreported than other crimes in the military (United States Department of Defense Sexual Assault Prevention and Response Office 2021a). Victims forego physical and mental health care and a forensic sexual assault examination when they do not report. Suspects are neither identified nor investigated. When victims do not report, perpetrators do not face justice. When victims choose to report, they may also encounter difficulties. Reporting may trigger an official investigation that can be intrusive, lengthy, or uncertain. In addition, investigations may result in social or institutional retaliation. Victims sometimes left the service due to a lack of care. Nevertheless, in the military until 2005, reporting was the only way to access primary medical and psychological care.

Restricted Reporting

In the early years of the United States-led wars in Iraq and Afghanistan, journalists exposed the sexual assaults of service members. Unfortunately, they revealed a problem: victims could not report assaults and obtain care confidentially. Once a victim made a report, their commander was notified, and sometimes an inevitably intrusive investigation was launched. As a result, victims hesitated to report with potential social and career retaliation and few convictions. In response, the US military implemented the option of victims filing a "restricted report" for sexual assaults (Loeb 2004; Moffeit and Herdy 2004; United States Department of Defense Sexual Assault Prevention and Response Office 2006). To the best of our knowledge, restricted reporting is unique among militaries. Although others, such as the Canadian, British, and Australian, have had severe problems with sexual assault, none has adopted a restricted reporting approach.

The restricted report enables victims to obtain physical and mental care, be assigned a Special Victim's Advocate (SVA, or "VA"), and have a forensic sexual assault exam without triggering an investigation. A unit commander is only informed that an assault occured. Command is not told the victim's identity or other details about the assault. The suspect is not identified, so the suspect cannot be investigated, charged, or prosecuted. The military retains the physical exam evidence for 10 years in a restricted report and the restricted report for 50.[2] Victims may convert their report to unrestrict at any time, triggering an investigation.[3]

Among formally reported assaults, restricted reports are relatively common and growing. For example, when restricted reporting began, 18% of initial reports were restricted, out of about 2,400 total reports, while in 2019, it

[2]To maintain the confidentiality of the restricted report, the victim may not speak to mandatory reporters in the military. Sexual Assault Response Coordinators (SARCs), chaplains, legal counsel for the victim, SVAs, and the medical staff involved in the immediate exam, are not mandatory reporters (Electronic Code of Federal Regulations 2020).

[3]Because victims can convert their reports at any time, perpetrators can be charged at any time. There is no statute of limitations on trial by general courts-martial for sexual assault or rape. The impact of statutes of limitations on care ethics for the alleged perpetrator (who might only be identified if there is an unrestricted report) is beyond the scope of this article.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

was 35% out of about 7,800 total reports (United States Department of Defense Sexual Assault Prevention and Response Office 2019, 7, 29; United States Department of Defense 2006, 2). In 2018, women filed 80% of restricted reports and 78% of unrestricted reports (United States Department of Defense Sexual Assault Prevention and Response Office 2018, 2, 11). Estimates of the prevalence of sexual assault, based on extrapolations from surveys of sampled service members, show a range since 2006 of 4.3–6.8% for women and a range of 0.6–1.8% for men per year (Office of People Analytics 2017, ix). Out of approximately 1.3 million active-duty service members, about 15%–17% are women; the number of service members has remained stable over the past two decades.[4]

The introduction in 2005 of the restricted reporting option for sexual assault raised some challenges. Because restricted reporting was limited to sexual assault, it made this crime and the victim seems distinct. Also, the option prevents commanders from knowing and doing anything about the case. Finally, restricted reporting blocks judicial efforts to hold perpetrators accountable or even investigate a crime (Lasker 2011). In an institution like the military, which relies on discipline and command authority to accomplish its mission, the restricted report may undercut that authority and efforts to enforce discipline.

In 2019, the "CATCH" program was introduced to better harmonize care and justice. Through CATCH, victims who file a restricted report can add details about their suspected assailant to a confidential database. With these details, military investigators "match" reports and identify potential repeat offenders. For example, suppose military investigators find a matching suspect from another assault case. In that case, they contact the Victim's Advocate, who, in turn, presents the new information to the victim and asks if the victim would like to flip the report to unrestricted (which would allow an official investigation to proceed). If the victim declines, the military does not pursue the suspect for that case, and the victim remains anonymous. The program is already yielding some results (Congressional Research Service 2021, 36).

Restricted Reporting Elevates Care

We have examined the complementary school of care ethics and the establishment of restricted reporting, and, as such, we are in an excellent position to bring the two together. We argue that elements of the restricted reporting policy are normatively desirable from a care-ethics perspective. Moreover, in contrast to the complementary school, we argue that care ethics rightly marks the limits of retributive justice and should be prioritized in this case.

First, we provide a conceptual mapping of victim options that clarifies the relationship between care and justice. Following the establishment of restricted reporting in 2005, sexual assault victims in the US military have four main options that differ concerning care and justice. One option is nonreporting; victims do not report the crime to the military. There is no care or justice. The second option is to file an unrestricted report, which means pursuing retributive justice through the military criminal justice system and receiving care (United States Department of Defense 2019). When victims file an unrestricted report, they identify their perpetrator to authorities and agree to participate in a formal legal investigation by the military criminal investigative organization.[5] Victims simultaneously receive medical care, legal advice, and spiritual care while activating an investigation into the alleged crime.

Victims have a third option: they can file a restricted report that they then convert to unrestricted. This option means that they receive care first through the military and then decide to pursue retributive justice (while continuing to receive care). These victims file the restricted report and, when they are ready, convert their report to unrestricted status. We believe that this aspect of restricted reporting, "conversion," comes the closest to harmonizing care and justice as described by scholars in the complementary school because the demands of care and justice are met.

Crucially, though, for our inquiry, restricted reporting also allows victims to receive care and *never* convert the report to unrestricted. This feature of the policy, option 4, allows victims to receive care without ever triggering a criminal investigation. Some victims may never want to engage with the formal legal process that can override a focus on their needs (Campbell and Raja 2005; Herman 2005; Martin and Powell 1994). These victims may fear losing control over what happens to them or control over the narrative. In addition, they may feel that their privacy is invaded by the legal system (Defense Manpower Data Center 2016; Hansen 2011). The restricted reporting policy addresses these victims and those who want care and then decide to allow an investigation. As one DoD office puts it, restricted reporting (options 3 and 4) aims to show the "first

[4]Data from 2005 to 2020 are available in links at Department of Defense (DoD) Personnel, Workforce Reports, and Publications. https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp

[5]They can withdraw their participation at any time.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

priority is for victims to be treated with dignity and respect and to receive the medical treatment, mental health counseling, and the advocacy services that they deserve" (United States Department of Defense Sexual Assault Prevention and Response Office 2021a).

We argue that the policy allowing the victim the option of never converting their report to unrestricted is a striking example of elevating care ethics for the victim to the exclusion of retributive justice for the offender. This section shows the benefits of concentrating on care for the victim, even if it means delaying or denying punishment. To make the case, we rely on Joan Tronto's four elements of care: attentiveness, responsibility, competence, and responsiveness (Tronto 2005). Because it is beyond the scope of this article to consider all four elements, we focus on attentiveness and responsiveness.

Attentiveness in Restricted Reporting

Attentiveness, according to care-ethics scholars, is being open and receptive to understanding the needs of others (Engster 2001, 577–78; 2020b, 628–30; Fraistat 2016, 893, 895–97; Kittay, Jennings, and Wasunna 2005, 453; Tronto 1989, 176–79; 1996, 146; 1998; 2005, 252–53; 2010, 165). Being attentive requires dialogue and listening. Attentive policymakers avoid dominating citizens with their own agendas and goals (Engster 2020b). Instead, they focus on paying attention to citizens, especially those who have been disregarded. By listening to ignored or passed over individuals or groups, policymakers can grasp moral problems that have been obscured or unnoticed in the past (Tronto 2005, 253). Issues that authorities sidelined in the past should be given a hearing. As a result, policymakers become aware of many moral problems and develop a deeper understanding of their complexity.

We can see attentiveness in restricted reporting (options 3 and 4). The policy sees victims as a varied group; not all victims react to a sexual assault in the same way. Before restricted reporting, some victims reported these crimes and wanted to pursue retributive justice. Some victims were reluctant to report. The policy also attends to another need articulated by some victims: specialized caregivers knowledgeable about the military (Dostie 2019). In the past, untrained authorities expected victims to yell, cry, and fight, even though the military trained them to be silent, strong, and obedient. The policy fills this need by providing specially trained professionals who understand sexual assault in the military, a closed or "total" institution that relies on a highly disciplined and loyal workforce.

Attentiveness to the victims of sexual assault did what care-ethics scholars said that it should: it moved the moral problems of nonreporting victims from the margins to the center (hooks 2015b). When Congress and military officials were attentive, they uncovered moral problems that had been hidden or misunderstood. They exposed the suffering of victims caught in moral binds that were complex and misconstrued. Moreover, being attentive revealed a perverse and troubling situation. For some victims, the military system of justice added to their hardship and distress. Retributive justice, which was supposed to alleviate victims' tribulation, was making it worse for some. The attentiveness of restricted reporting allows victims to define what care they need and whether retributive justice should be part of their healing.

Responsiveness in Restricted Reporting

Being attentive to the needs of victims of sexual assault does not necessarily imply addressing those needs. Listening and learning are not the same things as creating a responsive policy. Scholars argue that a pivotal element of care ethics is responsiveness (Engster 2020b; Fraistat 2016; Hankivsky 2014; Held 2008; Stensöta 2010; Tronto 2005; 2010). They generally define responsiveness as adjusting policies or behaviors in response to the expressed needs of the vulnerable (Tronto 2005, 255).

Being responsive does not mean addressing every citizen's request or need in a policy context. Instead, "street-level bureaucrats should take seriously citizens' self-definition of their needs and problems and do what they can to accommodate policies to address them" (Engster 2020b, 628). Responsiveness at the policy level also implies developing a caregiving policy that is sensitive to and preserves human differences. Policymakers who are responsive to citizens' varied lived experiences and needs construct policies that acknowledge racial and ethnic differences among citizens. As bell hooks and Stanley James have pointed out, members of different racial and ethnic kinship groups may construct care differently (hooks 2015a; James 1993). Responsive policymakers should be open to complexity among citizens and the intersectional interplay between gender, race, class, ability, age, sexuality, and other differences (Alfaro 2020; Hankivsky 2014).

Congress mandated that the military create a sexual assault policy that responded to the varied needs of victims. The current policy allows those victims who would like to pursue criminal justice simultaneously with care to do so through an unrestricted report (option 2). The policy also addresses the needs of victims who

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

want to address their own needs before initiating a criminal investigation (option 3) or who only want to receive care (option 4). Option 4 decouples the link between law enforcement and care. Victims receive care from a range of professionals tasked with improving their health and well-being. These professionals do not report the incident to criminal investigators or command officials (United States Department of Defense Sexual Assault Prevention and Response Office 2021b).

If looked at in terms of the relationship between care and justice, option 4 detaches retributive justice from care. Moreover, care takes priority. Victims receive care first, and they are under no obligation to pursue retributive justice. The report cannot be converted to unrestricted without the victim's permission, short of extenuating circumstances.[6] Option 4 of restricted reporting entails a significant sacrifice: some offenders may never be investigated, punished, or rehabilitated for their crimes.[7] As critics have pointed out, there are reasonable concerns about restricted reporting impeding community safety (United States Department of Defense Care for Victims of Sexual Assaults Task Force 2004, 31–32). Victims who choose never to report allow perpetrators to go free. If nonreporting is common, as it was before restricted reporting, many serial perpetrators will also not receive their just deserts.

Still, restricted reporting (options 3 and 4) is responsive because it allows victims the opportunity to construct their path to "moral repair" (Walker 2007). As Margaret Urban Walker notes, the process of moving from harm, loss, or damage to "a situation where some degree of stability in moral relations is regained" is varied (2007, 6). A key component of moral repair is responsiveness to the diverse needs of victims. "Retaliation, punishment, and retribution are only some of the responses that victims seek and are not always or only the ones that lead a victim to experience vindication" (9). Walker argues that many actions address and redress wrongdoing. These can replace punishment or accompany it (10). Option 4 of restricted reporting is an example of how victims can experience moral repair without public punishment, retaliation, or retribution.

Responsiveness in Restrictive Reporting Caregiving

Restricted reporting (options 3 and 4) is also responsive in its implementation of caregiving. The policy constructs a flexible caregiving platform in which victims' can choose the array of caregiving that best suits their needs. Scholars have emphasized that care-ethics policy should be responsive and flexible. Policymakers should avoid being overbearing, dominating, or paternalistic. Citing Robert Goodin's *Protecting the Vulnerable*, Tronto observes that "champions" of the vulnerable may mistakenly "come to assume that they can define [their] needs" (2005, 255; Engster 2020b, 628). Being responsive means creating a context in which vulnerable people can continue to express their needs and caregiving can adjust. Responsiveness means flexibility, feedback, and adjustment (Tronto 2015, 30).

The military's restricted reporting policy constructs a comprehensive assemblage of caregivers trained to respond to sexual assault (United States Department of Defense Sexual Assault Prevention and Response Office 2021b). Victims can receive medical care from healthcare personnel trained to conduct a sexual assault forensic exam and educated on addressing the medical issues associated with sexual assault. In addition, victims have access to mental health care from trained professionals. Priests, ministers, and other religious clergy offer confidential spiritual support. Victims filing a restricted report may also consult with specialized military attorneys to receive legal advice and assistance. All communications with lawyers are confidential and protected. Finally, all victims can access a specialized and secure online service, safehelp.org, that offers anonymous, worldwide crisis intervention services, emotional support, referrals, and educational programs. Because Safe Helpline can be accessed anytime via the Internet or telephone, it may be helpful to victims on deployment.

This array of care options can be overwhelming, as can the bureaucratic process of arranging care. To help with these and other challenges, a Sexual Assault Response Coordinator (SARC) provides victims with confidential support and helps coordinate care. Each victim is also assigned a Victim Advocate (VA), a professional caregiver who offers one-on-one support, education, and resources for the victim. VAs and SARCs are repeat players who have assisted other victims and are

[6]The Victim Reporting Preference Statement identifies five circumstances in which a sexual assault may be disclosed even with a restricted report (United States Department of Defense 2014, 2; 2020, 2).

[7]Some might argue that the military does not want to hold perpetrators accountable (Cerretti 2016; Wood and Toppelberg 2017). However, restricted reporting arose in response to pressure to increase overall reporting to hold perpetrators accountable. The military has implemented several programs to improve investigations and prosecutions of sexual assaults (Carpenter 2017; Warner and Armstrong 2020).

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

knowledgeable about institutional resources. In addition, they help victims determine which permutation of medical care, mental health care, religious counsel, or legal advice is best for them.

Why Value Care

Restricted reporting makes victims' care a matter of great importance. Elevating care over retributive justice entails significant sacrifices for victims and communities. Due to confidentiality, victims who opt for restricted reporting are not eligible for Military Protective Orders, civilian protective orders, or an Expedited Transfer. If they do not convert their report to unrestricted, these victims will not get the satisfaction of retributive justice, and some perpetrators may never be punished. As a result, these perpetrators will be free to commit future crimes in military and civilian communities. Future victims will not be protected.

Though consequential and weighty, these sacrifices may be justified because restricted reporting is one path to healing for the victim while stabilizing and restoring institutional trust. Recall the original problem that led to restricted reporting—that is, victims were not reporting sexual assaults, with some leaving the service due to lack of care. Underneath some reasons for not reporting is a lack of faith in criminal justice institutions. Some victims do not have confidence that these institutions will protect them from social retaliation or will punish perpetrators. Others are unsure that institutional officials will believe them or treat them fairly (Alderden and Long 2016; Anders and Christopher 2011; Smith and Freyd 2014).

The pre-2005 sexual assault policy may have exacerbated victims' institutional distrust. Under the old policy, victim participation in a criminal investigation was necessary to receive even the most basic medical treatment. Care and retributive justice were joined. Victims may have felt they had to cede agency to the institution to get care (Christie 1977). As a result, some victims may have felt that the institution gave them little choice: either participate in a criminal investigation or do not get treatment for injuries.

Studies of a related crime, intimate partner violence, also suggest that making care contingent on law enforcement negatively affects victims. Radha Iyengar finds that laws which require police to arrest abusers when a domestic violence incident is reported increased intimate-partner homicides (Iyengar 2009, 2019). One potential reason for this increase in homicides is decreased reporting by victims. If victims know that reporting will lead to an arrest, they may hesitate to report, and, absent police intervention, domestic violence can escalate to a homicide (Iyengar 2009). Chin and Cunningham find policies that preserve police discretion by not mandating arrest reduce homicide rates (Chin and Cunningham 2019; Iyengar 2019). These studies suggest that when police cannot consider the needs of victims and respond with discretion, victims may suffer (Iyengar 2019). Here again, attention and responsiveness appear beneficial.

This research suggests that victims of sexual crimes or intimate-partner violence may be suspicious of officials or institutions that remove their agency or bind them to a narrow set of choices. Recall that military victims often said that their experience with criminal justice was as bad or worse than the assault itself. They felt revictimized and betrayed by the institutions to which they report. Because the crime of sexual assault can be destructive to victim agency, victims may be especially guarded against criminal justice institutions that appear to minimize or remove agency. Restricted reporting can reverse this trend because, through it, the US military sends a strong signal that it values and supports the agency of victims. As we have seen, the policy shows attentiveness and responsiveness to victims. It permits victims the time, the space, and the institutional support (via the contributions of VAs and SARCs, for instance) to determine what is best for them. This policy neither rushes victims into making snap decisions nor leaves them alone and bereft of institutional support.

The policy can create what Philip Pettit calls "trust-responsiveness" or a virtuous cycle of trust creation (Pettit 1995, 203, 212–217). By putting care first, authorities signal that they trust the victim. They demonstrate their belief that the victim is the kind of person who is reliable and, if possible, will help with the criminal investigation when ready. The authorities' trust that the victim is dependable (shown by putting care first) can prompt the victim to become worthy of that trust (Pettit 1995, 203; Walker 2007, 72–109).

A critic might say that a more direct way to build institutional trust is to reform the military's criminal justice system and eliminate restricted reporting. If military justice worked better, sexual assault victims would be more willing to report, just as they are for other crimes. The benefits of this approach are that resources are directly targeted at improving criminal justice institutions, offenders are punished (conditional on reporting), and the community is protected from future assaults (conditional on reporting).

However, a multiprong approach that includes restricted reporting is a more prudent pathway to building institutional trust for victims. For two decades, Congress

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

has been engaged in reforming military criminal justice. Still, problems persist. Some evidence suggests that certain demographics such as LGBT and junior enlisted are more vulnerable to being victims of sexual assault. Ensuring that they are confident they can report, either restricted or unrestricted, is a key aspect of creating institutional trust (Congressional Research Service 2021, 68–69).

Allowing victim agency through restricted reporting is a way to build institutional trust separate from the ongoing process of reforming military criminal justice. Restricted reporting policy puts victims first, allowing them the capacity and the institutional support to decide how best to proceed considering their context. With this policy, the institution may signal that it prioritizes the victim over its institutional agendas, and, following Pettit's framework, it perhaps trusts the victim. As a rape victim advocate put it in a hearing of the House Armed Services Committee on Victim Support and Advocacy, restricted reporting creates "an atmosphere and environment in which people believe that they can come forward, that they are safe in doing so" (Congressional Research Service 2021, 38).

Conclusion

From the inception of care ethics in the late twentieth century, scholars focused on the relationship between care and justice. An influential group, which we call the complementary school, argued for a harmonious relationship between care and justice. This group believes that care and justice are ideally complementary and reinforcing. A perfect democracy, they argue, should have both care *and* justice.

We approach this established question in a new way. We turn to a policy area in which the relationship between care and justice is varied: the sexual assault policy in the US military. In this policy, some evidence supports the complementary view of care and justice. Victims who convert a restricted report to an unrestricted report (option 3) exemplify a harmonious relationship between care and justice. These victims first file a restricted report and, so doing, prioritize their care by using medical, psychological, or spiritual caregivers within the military. Then, at a later point, these victims convert their report to unrestricted, an act that triggers the criminal justice process within the military and potentially retributive justice. While it may not replicate the ideal harmonization of justice and care in theory, this process allows the victim to pursue care for as long as they want and then pursue retributive justice. Victims who convert their reports show how care and retributive justice can be combined in policy.

However, the policy also reveals a less harmonious relationship between care and justice. This conflict is most visible with victims who choose the restricted reporting option and never convert their reports to pursue retributive justice (option 4). Instead, these victims focus on their care and healing without engaging in the formal legal process.

Though not perfect from a care-ethics standpoint, restricted reporting exhibits two vital qualities that care-ethics scholars highlight: attentiveness and responsiveness. It assumes that all victims are not alike and allows for adaptation to victims' changing and varied needs. In addition, the policy shows responsiveness by providing a flexible caregiving platform. Victims can choose the array of caregiving that best suits their needs (medical, psychological, spiritual care, and legal advice). In addition, victims can access support online, a helpful feature if they are deployed. The policy also offers "bureaucratic" care: victims are assigned two organizational caregivers, SARCs and VAs, to help navigate the military's institutional structure and find appropriate caregivers.

While a full analysis is well beyond the scope of this article, the DoD has fielded studies to assess the experience of victims of sexual assault with the reporting, care, and judicial systems. An overwhelming majority of victims, in anonymous surveys, say their SARCs and VAs, and others tasked with their medical, emotional, legal and logistical care, are supportive, attentive, and caring (Defense Manpower Data Center 2014). They appreciate the range of resources offered. Many say they would not have reported at all, and thus forgone care, if the restricted reporting option had not been available (Office of People Analytics 2019, 36).

A critic might argue that care ethics could be expanded. For instance, the military could include a restorative justice approach to respond to offenders' need for care (Daly 2006; Sullivan 2019, 21–30, 142–46). While this is a logical extension of care ethics, we suggest caution. Restorative justice responds to criminal behavior by bringing together victims, offenders, and the community to restore harmony between the parties. It generally requires victims to identify their perpetrators and expose themselves to the community through a judicial process. It also requires that the perpetrator has been correctly identified as guilty of the crime. Restricted reporting, in contrast, allows victims to remain unidentified, retain agency over the crime, and receive care without identifying their perpetrators. Requiring victims to

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

pursue restorative justice could reverse the gains in victim care made by the restricted reporting policy, especially in terms of anonymity and agency (Burns and Sinko 2021, 7; Hopkins and Koss 2005, 709–16). While rehabilitation of the offender is an important goal, especially when pursued in line with care ethics, it should not jeopardize care for the victim.

A logical question is whether the restricted reporting approach to sexual assault might be extended outside the military. Although a complete answer to this question requires additional research, we think that restricted reporting type policies could be extended to sexual assault in other institutional settings. American universities, which generally require mandatory reporting according to Title XI legislation, and the Catholic Church, which covered up decades of sexual abuse, are two likely candidates for a restricted reporting approach. Both organizations may have a similar problem as the military: nonreporting because victims do not trust these institutions. Moreover, both possess the organizational resources to provide extensive care to all victims, even those who choose to never punish perpetrators by making a formal legal complaint. A restricted reporting approach would be less effective in noninstitutional settings or in resource-poor institutions that cannot offer extensive victim care. An empty promise of care might erode victim trust, not build it up.

This case provides insight into why care and justice can become adversarial. As we mentioned in the introduction, care-ethics scholarship can benefit from understanding how an opposition between care and justice arises. A key question concerns why the need to disaggregate care and justice came about. One issue, among others, stands out in this policy case: a lack of institutional trust. Before restricted reporting, many victims opted not to participate in a system that combined care and retributive justice because they did not trust the institutional process. For various reasons, the military's conviction rate for sexual assault was low, although higher than in civilian jurisdictions (Schlueter and Schenck 2020; Warner and Armstrong 2020). Many victims may have concluded that the military did not want to hold perpetrators accountable (Brownstone et al. 2018). Victims' lack of trust led them away from reporting. Many did not want to receive care if it meant initiating a retributive justice process with authorities, a process that they did not have faith in.

Sexual assault policy in the US military suggests that care and justice can fragment when there is a lack of institutional trust. Since 2004, Congress has passed and the military has implemented over 100 provisions to prevent and address sexual assault, some of which aim to increase victims' sense of safety and trust (Congressional Research Service 2021, 2–3). Restricted reporting is a part of this much broader congressional effort to reform a vast institution with a long history of unfair treatment of sexual assault victims. There may be ways to measure if institutional trust is increasing. If restricted reporting and other reform efforts successfully build institutional trust, we would expect to see a higher percentage of unrestricted reports, an increased conversion rate of restricted to unrestricted reports, and greater participation in the CATCH program. There are some modest indications of positive change. The DoD's first published count of sexual assault cases was in 2004, one year before introducing restricted reporting. In 2004, there were 1,700 reports of sexual assault, whereas in 2005, after restricted reporting was introduced, there were 2,374 reports, a 39% increase. Of the 2,374 reports in 2005, 435 were initially restricted, with about 25% of them later converted to unrestricted. The overall number of reported cases was 7,816 in 2020 (up 359% from 2004), while the estimated number of sexual assaults, based on anonymous surveys, has remained fairly stable since the surveys were introduced in 2006.

Another indicator of increased institutional trust is that the number of reports of assaults that occurred *prior* to the victim entering the military has gone from 82 in 2010 to 614 in 2020, accounting for 9% of 2020 reports (United States Department of Defense Sexual Assault Prevention and Response Office 2020a, 9–10). If victims of assaults that happened before the victims entered the service are reporting, they trust that the institution will treat them with care, even if the incident is out of the military's jurisdiction. The percentage of restricted reports converted to unrestricted was stable at 15% between 2007 and 2013 but rose to 20% in 2014, where it remains today (Congressional Research Service 2021, 80). These data are not definitive, but they are the best indicators available given the dearth of data on sexual assault in the US military prior to establishing restricted reporting in 2005.

Although it is too soon to know, we hope that the inverse relationship between care and justice holds as well: care and justice can be reharmonized when institutional trust increases. This idea would mean that, as institutional trust increases, more sexual assault victims will report sexual assault crimes to authorities, receive all the care they need, and see perpetrators punished. Victims will get care and retributive justice. The US military faces challenges in this respect, but a restricted reporting policy is a step in the right direction.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

References

Alderden, Mega, and LaDonna Long. 2016. "Sexual Assault Victim Participation in Police Investigations and Prosecution." *Violence and Victims* 31(5):819–36.

Alfaro, Ange-Marie Hancock. 2020. "Stewardship of Intersectionality: A complex proposition." In *Gender, Considered: Femininist Reflections Across the US Social Science*, edited by Sarah Fenstermaker and Abigail J. Stewart, 363–380. New York: Springer International Publishing AG.

Anders, Mary C., and F. Scott Christopher. 2011. "A Sociological Model of Rape Survivors' Decisions to Aid in Case Prosecution." *Pyschology of Women Quarterly* 35(1):92–106.

Barnes, Marian. 2006. *Caring and Social Justice*. Basingstoke: Palgrave Macmillan.

Bennett, John. 2018. "Combating Sexual Assault With the Military Ethic: Exploring Culture, Military Institutions, and Norms-Based Preventive Policy." *Armed Forces & Society* 44(4):707–30.

Brownstone, Lisa M., Brooke Dorsey Holliman, Holly R. Gerber, and Lindsey L. Monteith. 2018. "The Phenomenology of Military Sexual Trauma Among Women Veterans." *Psychology of Women Quarterly* 42(4):399–413. https://doi.org/10.1177/0361684318791154.

Burns, Courtney Julia, and Laura Sinko. 2021. "Restorative Justice for Survivors of Sexual Violence Experienced in Adulthood: A Scoping Review." *Trauma, Violence & Abuse* 44(4):707–30. https://doi.org/10.1177/15248380211029408.

Campbell, Rebecca, and Sheela Raja. 2005. "The Sexual Assault and Secondary Victimization of Female Veterans: Help-Seeking Experiences with Military and Civilian Social Systems." *Psychology of Women Quarterly* 29(1):97–106. https://doi.org/10.1111/j.1471-6402.2005.00171.x.

Carpenter, Eric R. 2017. "An Empirical Look at Commander Bias in Sexual Assault." *Berkeley Journal of Criminal Law* 22(1):45–89.

Carson, Julie K., and Brad R. Carson. 2018. "The Historical Roots and Future Directions for Military Law and Policies on Rape and Sexual Assault." *Military Psychology* 30(3):181–92.

Cerretti, Josh. 2016. "Rape as a Weapon of War(riors): The Militarisation of Sexual Violence in the United States, 1990–2000." *Gender & History* 28:794–812.

Chin, Yoo-Mi, and Scott Cunningham. 2019. "Revisiting the Effect of Warrantless Domestic Violence Arrest Laws on Intimate Partner Homicides." *Journal of Public Economics* 179:104072. https://doi.org/10.1016/j.jpubeco.2019.104072.

Christie, Nils. 1977. "Conflicts as Property." *British Journal of Criminology, Delinquency and Deviant Social Behaviour* 17(1):1–15. https://doi.org/10.1093/oxfordjournals.bjc.a046783.

Clement, Grace. 1996. *Care, Autonomy, and Justice: Feminism and the Ethic of Care*. Boulder: Westview Press.

Congressional Research Service. 2021. *Military Sexual Assault: A Framework for Congressional Oversight*. Washington, DC: Congressional Research Service.

Connell, Raewyn W. 1987. *Gender and Power*. Stanford: Stanford University Press.

Daly, Kathleen. 2006. "Restorative Justice and Sexual Assault: An Archival Study of Court and Conference Cases." *British Journal of Criminology* 46(2):334–56.

Dardis, Christina M., Kristen M. Reinhardt, Melissa M. Foynes, Nina E. Medoff, and Amy E. Street. 2018. "Who Are You Going to Tell? Who's Going to Believe You?: Women's Experiences Disclosing Military Sexual Trauma." *Psychology of Women Quarterly* 42(2):414–29.

Defense Manpower Data Center. 2014. *2014 Survivor Experience Survey*. Alexandria, VA: United States Department of Defense.

Defense Manpower Data Center. 2016. *2015 Focus Groups on Sexual Assault Prevention and Response Among Active Duty Members*. Ft. Belvoir, VA: United States Department of Defense.

Deveaux, Monique. 1995. "Shifting Paradigms: Theorizing Care and Justice in Political Theory." *Hypatia* 10(2):115–19.

Dostie, Ryan Leigh. 2019. "She Didn't Act Like a Rape Victim." *The New York Times*, July 22, 2019.

Electronic Code of Federal Regulations. 2020. "*National Defense. Reporting Options and Sexual Assault Reporting Procedures*". In *Title* 32, edited by United States of America Federal Government.

Engster, Daniel. 2001. "Mary Wollstonecraft's Nurturing Liberalism: Between an Ethic of Justice and Care." *American Political Science Review* 95(3):577–88.

Engster, Daniel. 2007. *The Heart of Justice: Care Ethics and Political Theory*. New York: Oxford University Press.

Engster, Daniel. 2015. *Justice, Care and the Welfare State*. New York: Oxford University Press.

Engster, Daniel. 2020a. "Care and Justice." In *The Ethics of Care: The State of the Art*, edited by Frans Vosman, Andries Baart, and Jaco Hoffman, 163–85. Leuven: Peeters.

Engster, Daniel. 2020b. "A Public Ethics of Care for Policy Implementation." *American Journal of Political Science* 64(3):621–33. https://doi.org/10.1111/ajps.12487.

Fraistat, Shawn. 2016. "Domination and Care in Rousseau's *Emile*." *American Political Science Review* 110(4):889–900.

Friedman, Marilyn. 1993. "*What are Friends For?*" *Feminist Perspectives on Personal Relationships and Moral Theory*. Ithaca: Cornell University Press.

Gillibrand, Kirsten. 2017. *Snapshot Review of Sexual Assault Report Files*. Washington, DC: United States Senate.

Gilligan, Carol. 1993. *A Different Voice: Psychological Theory and Women's Development*. Cambridge: Harvard University Press.

Goodin, Robert E. 1996. "Structures of the *Political Order*: The Relational Feminist Alternative." In *Political Order*, edited by Ian Shapiro and Russell Hardin, 498–521. New York: New York University Press.

Greenswag, Kari. 2018. "Care Ethics and Public Policy: A Holistic, Transformative Approach." *Politics & Gender* 15(4):912–40.

Greeson, Megan R., and Rebecca Campbell. 2011. "Rape Survivors' Agency Within the Legal and Medical Systems." *Psychology of Women Quarterly* 35(4):582–95.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

Hankivsky, Olena. 2014. "Rethinking Care Ethics: On the Promise and Potential of an Intersectional Analysis." *American Political Science Review* 108(2):252–264.

Hansen, Emily. 2011. "Carry That Weight: Victim Privacy within the Military Sexual Assault Reporting Methods." *John Marshall Journal of Computer & Information Law* 28(4):551–592.

Held, Virginia, ed. 1995. *Justice and Care: Essential Readings in Feminist Ethics*. New York: Routledge.

Held, Virginia. 2008. "Moral Inquiry, Action, and Care." In *How Terrorism is Wrong: Morality and Political Violence*, 144–164. Oxford: Oxford University Press.

Held, Virginia. 2015. "Justice and Care, Still." In *Care Ethics and Political Theory*, edited by Daniel Engster and Maurice Hamington, 19–36. New York: Oxford University Press.

Held, Virginia. 2018. "The Ethics of Care." In *The Oxford Handbook of Distributive Justice*, edited by Serena O'lsaretti, 213–34. New York: Oxford University Press.

Held, Virginia. 2020. "Care Ethics and the Social Contract." In *The Ethics of Care: The State of the Art*, edited by Frans Vosman, Andries Baart, and Jaco Hoffman, 137–162. Leuven: Peeters.

Henninger, Amy L., Michiko Iwasaki, Marianna E. Carlucci, and Jeffrey M. Lating. 2019. "Reporting Sexual Assault: Survivors' Satisfaction With Sexual Assault Response Personnel." *Violence Against Women* 26(11):1362–82. https://doi.org/10.1177/1077801219857831.

Herman, Judith Lewis. 2005. "Justice From the Victim's Perspective." *Violence Against Women* 11(5):571–602.

hooks, bell. 2015a. *Ain't I a Woman: Black Women and Feminism*. New York: Routledge.

hooks, bell. 2015b. *Feminist Theory: From Margin to Center*. New York: Routledge.

Hopkins, C. Quince, and Mary P. Koss. 2005. "Incorporating Feminist Theory and Insights Into a Restorative Justice Response to Sex Offenses." *Violence Against Women* 11(5):693–723.

Iyengar, Radha. 2009. "Does the Certainty of Arrest Reduce Domestic Violence? Evidence from Mandatory and Recommended Arrest Laws." *Journal of Public Economics* 93(1-2):85–98.

Iyengar, Radha. 2019. "Corrigendum to "Does the certainty of arrest reduce domestic violence? Evidence from mandatory and recommended arrest laws."" *Journal of Public Economics* 179:104098. https://doi.org/10.1016/j.jpubeco.2019.104098.

James, Stanlie M. 1993. "Mothering: A Possible Black Feminist Link to Social Transformation?" In *Theorizing Black Feminisms: The Visionary Pragmatism of Black Women*, edited by Stanlie M. James and Abena P. A. Busia, 45–56. New York: Routledge.

Kittay, Eva Feder. 2001. "When Caring is Just and Justice is Caring: Justice and Mental Retardation." *Public Culture* 13(3):557–79.

Kittay, Eva Feder, Bruce Jennings, and Angela Wasunna. 2005. "Dependency, Difference and the Global Ethic of Longterm Care." *Journal of Political Philosophy* 13(4):443–69.

Lasker, John. 2011. "Military's 'Restricted Reporting' Draws Fire." *Women's eNews*, https://womensenews.org/2011/02/militarys-restricted-reporting-draws-fire/, Feb. 9, 2011.

Lea, Susan J., Ursula Lanvers, and Steve Shaw. 2003. "Attrition in Rape Cases: Developing a Profile and Identifying Relevant Factors." *British Journal of Criminology* 43(3):583–99.

Loeb, Vernon. 2004. "Inquiry Ordered Into Attacks on Femail GIs." *Washington Post*, Feb. 7, 2004.

MacKinnon, Catharine A. 1987. *Feminism Unmodified: Discourses on Life and Law*. Cambridge, MA: Harvard University Press.

Martin, Patricia Yancey, and R. Marlene Powell. 1994. "Acounting for the 'second assault': Legal Organizations' Framing of Rape Victims." *Law and Social Inquiry* 19(4):853–90.

Minow, Martha. 1990. *Making All the Difference: Inclusion, Exclusion, and American Law*. Ithaca: Cornell University Press.

Moffeit, Miles, and Amy Herdy. 2004. "Rape and Violence Against Women in the Military." *Denver Post* Jan. 25, 2004.

Murphy, Jeffrie G. 2016. "The Last Words of Retribution." In *The Routledge Handbook of Criminal Justice Ethics*, edited by Jonathan Jacobs, 28–41. New York: Routledge.

Noddings, Nel. 1984. *Caring: A Feminine Approach to Ethics and Moral Education*. Berkeley: University of California Press.

Noddings, Nel. 2019. *Caring: A Relational Approach to Ethics and Moral Education*. Berkeley: University of California Press.

Office of People Analytics. 2017. 2016 Workplace Gender Survey FY16 Overview. Report. Ft. Belvoir, VA: Department of Defense.

Office of People Analytics. 2019. 2018 Workplace and Gender Relations Survey of Active Duty Members. Overview Report. Ft. Belvior, VA: Department of Defense.

Perkins, Wendy, and Jessica Warner. 2017. "Sexual Violence Response and Prevention: Studies of Campus Policies and Practices." *Journal of School Violence* 16(3):237–42.

Pettit, Philip. 1995. "The Cunning of Trust." *Philosophy & Public Affairs* 24(3):202–25.

Rhode, Deborah L. 2016. "Rape on Campus and in the Military: An Agenda for Reform." *UCLA Women's Law Journal* 23:1–27.

Richards, Tara N. 2019. "An Updated Review of Institutions of Higher Education's Responses to Sexual Assault: Results from a Nationally Representative Sample." *Journal of Interpersonal Violence* 34(10):1983–2012.

Ruddick, Sara. 1980. "Maternal Thinking." *Feminist Studies* 6(2):342. https://doi.org/10.2307/3177749.

Schlueter, David A., and Lisa M. Schenck. 2020. "National, Military, and College Reports on Prosecution of Sexual Assaults and Victims' Rights: Is the Military actually Safer than Civilian Society?" *Gonzaga Law Review* 56(2):285.

Sevenhuijsen, Selma. 1998. *Citizenship and the Ethics of Care: Feminist Considerations on Justice, Morality, and Politics*. New York: Routledge.

Sevenhuijsen, Selma, Vivienne Bozalek, Amanda Gows, and Marie Minnaar-McDonald. 2003. "South African Social Welfare Policy: An Analysis Using the Ethic of Care." *Critical Social Policy* 23(3):299–321.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License

Shaw, Jessica, Debi Cain, Rebecca Campbell, and Hannah Feeney. 2017. "Beyond Surveys and Scales: How Rape Myths Manifest in Sexual Assault Police Records." *Psychology of Violence* 7(4):602–14.

Slote, Michael. 2009. "The Justice of Caring." *Social Philosophy and Policy* 15(1):171–95.

Smith, Carly Parnitzke, and Jennifer J. Freyd. 2014. "Institutional Betrayal." *American Psychologist* 69(6):575–87.

Speier, Jackie. 2017. Sexual Misconduct Involving Fort Benning. https://speier.house.gov/media-center/press-releases/rep-speier-responds-allegations-sexual-misconduct-involving-fort-benning. Accessed Aug 22, 2022.

Spohn, Cassia, Dawn Beichner, and Erika Davis-Frenzel. 2001. "Prosecutorial Explanations for Sexual Assault Case Rejection: Guarding the Gateway to Justice." *Social Problems* 48(2):206–35.

Stensöta, Helena Olofsdotter. 2010. "The Conditions of Care: Reframing the Debate about Public Sector Ethic." *Public Administration Review* 70(2):295–303.

Stensöta, Helena Olofsdotter. 2015. "Public Ethics of Care — A *General* Public Ethics." *Ethics and Social Welfare* 9(2):183–200.

Sullivan, Michael John. 2019. *Earned Citizenship*. New York: Oxford University Press.

Tronto, Joan. 1987. "Beyond Gender Difference to a Theory of Care." *Signs: Journal of Women in Culture and Society* 12(4):644.

Tronto, Joan. 1989. "Women and Caring: What Can Feminists Learn about Morality from Caring?" In *Gender/Body/Knowledge*, edited by Alison M. Jaggar and Susan R. Bordo, 172–187. New Brunswick: Rutgers University Press.

Tronto, Joan C. 1993. *Moral Boundaries: A Political Argument for an Ethic of Care*. New York: Routledge.

Tronto, Joan C. 1996. "Care as a Political Concept." In *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory*, edited by Nancy J. Hirschmann and Christine Di Stefano, 136–156. Boulder: Westview Press.

Tronto, Joan C. 1998. "An Ethic of Care." *Generations* 22(3):15–20.

Tronto, Joan. 2005. "An Ethic of Care." In *Feminist Theory: A Philosophical Anthology*, edited by Ann E. Cudd and Robin O. Andreasen, 251–63. Oxford: Blackwell Publishing.

Tronto, Joan C. 2010. "Creating Caring Institutions: Politics, Plurality, and Purpose." *Ethics and Social Welfare* 4(2):158–71. https://doi.org/10.1080/17496535.2010.484259.

Tronto, Joan. 2013. *Caring Democracy: Markets, Equality, and Justice*. New York: New York University Press.

Tronto, Joan. 2015. "Making the Caring-With Revolution Happen." In *Who Cares?: How to Reshape a Democratic Politics*, 28–40. Ithica: Cornell University Press.

Turchik, Jessica A., and Susan M. Wilson. 2010. "Sexual Assault in the U.S. Military: A Review of the Literature and Recommendations for the Future." *Aggression and Violent Behavior* 15:267–77.

United States Department of Defense. 2006. Victim Reporting Preference Statement.

United States Department of Defense. 2014. *Victim Reporting Preference Statement. DD Form 2910, 2014*. Washington DC: United States Department of Defense.

United States Department of Defense. 2019. "Sexual Assault Response Report Flow Chart." https://sapr.mil/public/docs/policy/SexualAssault_sample_response_flowchart.pdf.

United States Department of Defense. 2020. *Victim Reporting Preference Statement. DD Form 2910, April 2020*. Washington, DC: United States Department of Defense.

United States Department of Defense Care for Victims of Sexual Assaults Task Force. 2004. *Task Force Report on Care for Victims of Sexual Assault*. Washington, DC: Department of Defense.

United States Department of Defense Sexual Assault Prevention and Response Office. 2006. *Annual Report on Sexual Assault in the Military 2005*. Washington, DC: Department of Defense.

United States Department of Defense Sexual Assault Prevention and Response Office. 2018. *Appendix D. Aggregate DoD Data Matrices*. Washington, DC: United States Department of Defense.

United States Department of Defense Sexual Assault Prevention and Response Office. 2019. *Appendix B: Statistical Data on Sexual Assault. Fiscal Year 2019*. Washington, DC: United States Department of Defense.

United States Department of Defense Sexual Assault Prevention and Response Office. 2020a. *Appendix B, Statistical Data on Sexual Assault, Fiscal Year 2020*. Washington, DC: Department of Defense.

United States Department of Defense Sexual Assault Prevention and Response Office. 2020b. *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2019*. Washington, DC: United States Department of Defense.

United States Department of Defense Sexual Assault Prevention and Response Office. 2021a. "Reporting Options." https://www.sapr.mil/reporting-options.

United States Department of Defense Sexual Assault Prevention and Response Office. 2021b. "Victim Reporting Options Guide." https://sapr.mil/sites/default/files/public/docs/victim-assistance/Victim_Reporting_Options_Guide.pdf.

Walker, Margaret Urban. 2006. "The Curious Case of Care and Restorative Justice in the US Context." In *Socialing Care: Feminist Ethics and Public Issues*, edited by Maurice Hamington and Dorothy Miller, 145–62. Lanham, MD: Rowman and Littlefield.

Walker, Margaret Urban. 2007. *Moral Understandings: A Feminist Study in Ethics*. 2nd ed. New York: Oxford University Press.

Warner, Carolyn M., and Mia A. Armstrong. 2020. "The Role of Military Law and Systemic Issues in the Military's Handling of Sexual Assault Cases." *Law & Society Review* 54(1): 265–300.

White, Julie Anne. 2000. *Democracy, Justice, and the Welfare State: Reconstructing Public Care*. University Park: Pennsylvania State University Press.

Wood, Elizabeth Jean, and Nathaniel Toppelberg. 2017. "The Persistence of Sexual Assault within the US Military." *Journal of Peace Research* 54:620–33.

15405907, 0, Downloaded from https://onlinelibrary.wiley.com/doi/10.1111/ajps.12755 by Arizona State University Acq & Analysis, Lib Continuations, Wiley Online Library on [29/03/2023]. See the Terms and Conditions (https://onlinelibrary.wiley.com/terms-and-conditions) on Wiley Online Library for rules of use; OA articles are governed by the applicable Creative Commons License