STATEMENT OF
KATIE A. PURSWELL, DIRECTOR
NATIONAL VETERANS AFFAIRS & REHABILITATION DIVISION
THE AMERICAN LEGION

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS, SUBCOMMITTEES ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS AND HEALTH

ON

"SUPPORTING SURVIVORS: ASSESSING VA'S MILITARY SEXUAL TRAUMA PROGRAMS"

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Chairwoman Luria, Chairwoman Brownley, Ranking Member Nehls, Ranking Member Bergman, distinguished members the House of Representatives Subcommittee on Disability Assistance and Memorial Affairs and Health on behalf of National Commander Paul E. Dillard, and our nearly two million members, thank you for the opportunity to discuss supporting survivors of military sexual trauma (MST) through assessing Department of Veterans' Affairs (VA) programs. The American Legion appreciates this opportunity and we look forward to continuing our partnership with you and with VA in an effort to better serve those veterans who were, are, and unfortunately, will be affected by MST.

The American Legion believes that the Department of Veterans Affairs is the best place for veterans to receive care. Through continued efforts with our System Worth Saving Program, we have proven it is one of our highest priorities. The American Legion knows VA is a system that understands veteran issues and is trained to take care of our veteran's unique needs. We also understand that we have a responsibility to ensure this care is being held to the highest standard. After careful review of the recent VA Office of Inspector General (OIG) report, we are alarmed to find that guidance given from VA OIG was not followed, and in fact, the status of MST claims has worsened.[1]

Less than a month ago, The American Legion submitted a statement for record for this Subcommittee's legislative hearing.[2] Our statement outlined support for three bills regarding the processing of MST claims and the support needed for claimants. This statement summarizes our continued efforts in ensuring veterans receive the best care. These three bills will require Congressional oversight to ensure effectiveness.

While VA has taken great strides in their inclusion and equity of veterans by identifying and creating programs for women and minority veterans, The American Legion would like to address the inequity of claims approvals for survivors of MST. The Hill reports, "while both men and women have seen substantial increases in the percent of PTSD claims granted due to military

[1] "Challenges for Military Sexual Trauma Coordinators and Culture of Safety Considerations." Oversight.gov, August 5, 2021.
[2] "Statement for Record for The Subcommittee on Disability Assistance and Memorial Affairs for the House Committee on Veterans' Affairs." Washington D.C.: The American Legion, October 20, 2021.

sexual trauma, the grant rate for men has lagged significantly behind, at just 44.7 percent, compared to 57.7 percent for women."[3]

Oversight

The VA OIG report, published August 2021, stated that VA took initial steps in rectifying the issues VA OIG indicated in an August 2018 report, but failed to provide sufficient evidence of the reccomendations.[1] Insufficient oversight is a perpetual issue at VA and has been acknowledged in multiple articles, reviews, reports, and in the Veterans Benefits Administration's (VBA) responses to VA OIGs August 2021 recommendations.[1] VA OIG conducted a review in February 2020, to determine if MST claims were being processed in accordance with VBA policy prior to denying claims. Based on the review, VA OIG found half of denied MST claims were not properly processed.[4]

The same August 2018 report stated that the Veteran Health Administration (VHA) must ensure administrative and oversight responsibilities are being carried out by MST Coordinators with MST training.[5] From our written testimony on legislation entitled "*To improve coordination between the Veterans Health Administration and the Veterans Benefits Administration with respect to claims for compensation arising from military sexual trauma, and for other purposes,"* we support the need for VBA and VHA MST staff to be fully trained according to current VA standards.[6]

Table 1 of the August 2018 report identifies four categories of incorrectly processed denial errors which includes the staff's lack of medical examination requests, evidence gathering issues, staff failure to use proper notification to contact the veteran for more information regarding their claim, and a medical provider who did not use clear language to support the MST claim.[4] This resulted in 49 percent of 1300 cases improperly denied.[4] Of the four categories, there were four different VA positions that incorrectly processed these claims. They include the claims specialist, veterans service representative, MST coordinator, and the regional veteran service representative.[5] All of these factors could have been identified before the claim was denied if proper oversight processes were in place and utilized.

Recommendation

The American Legion believes a way to improve the oversight of MST claims and subsequent care, is to combine VHA and VBA MST processes by creating a stand-alone MST office. Collaboration will ensure veterans have access to support and care during the claims process and will allow the veteran the ability to be cared for while they await a decision on their claim. Since MST services are already provided to veterans, regardless of enrollment status, providing veterans

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[3] Williams, Kayla. "VA Continues to Fail Male Victims of Military Sexual Trauma." The Hill, August 6, 2019. https://thehill.com/opinion/healthcare/429355-va-continues-to-fail-male-victims-of-military-sexual-trauma.
[4] Statement of Julie Kroviak, M.D., deputy assistant inspector general for healthcare inspections, VAOIG, before the House Subcommittee on Oversight and Investigations, February 5, 2020.
[5] Department of Veterans Affairs Office of Inspector General, "Denied Posttraumatic Stress Disorder Claims Related to Military Sexual Trauma." Report No. 17-05248-241 (2018).
[6] The American Legion Resolution No. 18 *Veteran Military Sexual Trauma (MST) Claims Training*

with services while they await a decision on their claim is beneficial to both the veteran and VA.[7] Receiving treatment during the claims process can also provide additional supportive documentation for the claim.

Once a report of MST has occurred in service, the Department of Defense (DoD) should permanently maintain records of reported MST allegations, thereby expanding victims' access to documented evidence which is necessary for future VA claims.[8] While most documentation is already kept for an unrestricted MST report, some documents are found to be sanitized or redacted, before the service member leaves service.[9] This is especially true for restricted MST reports. These records are critical to the veterans claim process.

In addition to DoD supporting documentation, a specific MST disability benefit questionnaire (DBQ), will provide the claims specialist with a more complete picture and reduce the burden of proof from the veteran. Currently, the process of filing a claim for MST requires the veteran to submit a claim for post-traumatic stress disorder (PTSD). The PTSD DBQ has no language in reference to MST. The provider is required to place MST in the "stressor" section of the form. This entails the veteran has a mental disorder which in and of itself can be particularly harmful. MST survivors have reported that military doctors will ask questions probing into childhood traumas and other past psychological issues unrelated to the event in question.[10] These veterans are pigeonholed with a PTSD diagnosis when the condition is the outcome of sexual trauma. Other diagnoses include anxiety, depression, and physical injuries.[9] As reported in VA's OIG 2018 and 2021 reports, there are conditions that are overlooked including physical injury when a veteran files a claim for MST.[1,5] Mental and physical MST injuries vary in severity, and these injuries are separated into different DBQs. A single DBQ that addresses both mental and physical injuries from an MST would give VA adjudicators a clear understanding of the situation, and provide the veteran a chance to receive the appropriate rating.

Inequity in Claims Adjudication

According to the DoD's 2018 Sexual Assault Prevention and Response report, 37 percent of female servicemembers who experienced sexual assault reported the crime, and the percentage of men was only 17 percent.[11] A 2014 RAND study found that approximately 1 percent of men and 4.9 percent of women experienced a sexual assault during that year, or an estimated 10,600 servicemen and 9,600 servicewomen.[12] This statistic applies to today's numbers of reported cases of MST, but it does not answer the question of why there is still inequity between male and female MST claim approvals.

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[7] "Military Sexual Trauma (MST)." Veterans Affairs, n.d. https://www.va.gov/health-care/health-needs-conditions/military-sexual-trauma/.
[8] The American Legion Resolution No. 67 *Military Sexual Trauma*
[9] "How to File a Well-Developed MST Claim." How to File a Well-Developed MST Claim | Stateside Legal, n.d. https://www.statesidelegal.org/how-file-well-developed-mst-claim.
[10] Joanna Bourke (2021): Military Sexual Trauma: Gender, Military Cultures, and the Medicalization of Abuse in Contemporary America, Journal of War & Culture Studies, DOI: 10.1080/17526272.2021.188478
[11] Sexual Assault Prevention and Response Report. Department of Defense, 2018. https://www.sapr.mil/sites/default/files/Appendix_B_Statistical_Data_on_Sexual_Assault.pdf.
[12] Morral, Andrew R., Kristie L. Gore, Terry L. Schell, Barbara Bicksler, Coreen Farris, Bonnie Ghosh-Dastidar, Lisa H. Jaycox, et al. "Sexual Assault and Sexual Harassment in the U.S. Military." RAND Corporation, May 1, 2015. https://www.rand.org/pubs/research_briefs/RB9841.html.

Sexual harassment and assault have been widely reported and framed as a predominantly women's issue, even though statistically speaking, more than half of survivors are men.[3] Our women members have been more outspoken about their experiences when compared to their male counterparts. The American Legion feels the inequity in claims approvals for male MST survivors is influenced by military and sociocultural expectations of male veterans. According to these expectations, male veterans are expected to handle unwanted sexual situations in the moment so as to not allow it to happen in the first place. Conversely, women are somehow painted as victims who cannot defend themselves, so their claims are more credible.

The American Legions believes both oversight and inequity will benefit from a joint VHA/VBA endeavor. VBA has already moved towards this goal by centralizing their regional offices to five locations in order to streamline internal controls.[1] The American Legion will continue our assessments through our System Worth Saving and Regional Office Action Review reports which provide insight into VHA and VBA through site visits, staff and veteran feedback, and the collection of data through questionnaires and direct observation. These programs allow us to find ways we can support VA's ability to serve veterans.

Conclusion

Chairwoman Luria, Chairwoman Brownley, Ranking Member Nehls, Ranking Member Bergman, distinguished members the House of Representatives Subcommittee on Disability Assistance and Memorial Affairs and Health, The American Legion thanks you for the opportunity to illuminate the positions of the nearly two million members of this organization. It is a priority of The American Legion that all our nation's veterans receive the quality care and support we expect from VA. The American Legion knows first hand that VA is the best place for veterans to receive care. We also know there are always improvements that can be made especially when an issue like MST claims is identified. This issue is personal to us because it is personal to our membership and to all veterans.

As always, The American Legion thanks this committee for the opportunity to elucidate the position of the nearly two million veteran members of this organization. For additional information regarding this testimony, please contact Ms. Katie Purswell, Director, Veterans Affairs and Rehabilitation, at kpurswell@legion.org or (202) 263-2700.