

STATEMENT OF
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VETERANS OF FOREIGN WARS OF THE UNITED STATES
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
AND
SUBCOMMITTEE ON HEALTH

WITH RESPECT TO

Supporting Survivors: Assessing VA's Military Sexual Trauma Programs

Washington, D.C.

November 17, 2021

Chair Luria, Chairwoman Brownley, Ranking Members Nehls and Bergman, and members of the subcommittees, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our views on this important subject.

Scale of the Problem

According to the *Department of Defense Annual Report on Sexual Assault in the Military* for fiscal year (FY) 2020, released May 13, 2021¹, the number of reported sexual assaults that occurred during military service increased from 6,236 in FY 2019 to 6,290 in FY 2020. This represents about 6.2 percent of active duty women and .7 percent of men who experienced a sexual assault last year, for a total of 20,500 service members.

The rate of sexual assault in the military directly affects the lives of service members once they transition out of the military. According to Dr. Maureen Sayres Van Niel, president of the American Psychiatric Association Women's Caucus, "There is a clear correlation between the experience of sexual harassment or sexual assault for a women and adverse effects on her life, be they physical or mental health consequences."² These health problems can include anxiety, depression, high blood pressure, and poor sleep. According to the RAND Corporation's 2018

¹ Department of Defense, *Annual Report on Sexual Assault in the Military: Fiscal Year 2020*, May 13, 2021.

² Geggel, Laura, *Study: Lingering illnesses can trouble women for years after assault, workplace harassment*, Washington Post, Oct 6 2018, https://www.washingtonpost.com/national/health-science/study-lingering-illnesses-can-trouble-women-for-years-after-assault-workplace-harassment/2018/10/05/de909854-c72e-11e8-b1ed-1d2d65b86d0c_story.html.

report titled *Needs of Male Sexual Assault Victims in the U.S. Armed Forces*, male sexual assault victims experience depression, anxiety, nightmares, or problems with anger control. Both men and women have a higher rate of post-traumatic stress disorder (PTSD) and other anxiety and depressive disorders than their peers who did not experience a sexual assault.³

It is, therefore, imperative that the Department of Veterans Affairs (VA) provide support for survivors of military sexual trauma (MST) and deliver benefits and services with dignity and respect at the forefront. According to VA's fact sheet on MST, data collected from VA's national screening program reveals that about one in three women and one in fifty men respond "yes" that they experienced MST, when asked by their VA provider.⁴ VA data also shows that over the last ten years, MST-related outpatient mental health care increased by more than 158 percent for women veterans and 110 percent for men.⁵

Recent OIG Reports

The accurate processing of VA claims related to MST is critical to veterans receiving their associated disability benefits. An August 2018 report by the VA Office of Inspector General (OIG) detailed how VA erroneously adjudicated 49 percent of the PTSD claims for MST between April 1 and September 30, 2017.⁶ The report indicated six specific recommendations for VA to review and correct denied claims and implement a series of changes needed to improve claims processing for MST.

The most recent OIG report from August 5, 2021, found that VA had not effectively implemented the OIG's recommendations, did not ensure adequate governance over MST claims processing, and that 57 percent of the previously denied claims reviewed by VA had still not been processed correctly.⁷ The VFW is concerned that VA's lack of improvement to accurately process MST claims has unfairly denied veterans their benefits, forcing those willing to continue the process to go through unnecessary and emotionally distressing appeals.

In addition to reviewing previously denied MST claims, the OIG recommended that since MST claims are complex, they should be processed only by designated and specially trained personnel. The Veterans Benefits Administration (VBA) subsequently updated its training courses for MST claims processors and, as of November 2018, made it a requirement that MST claims be processed only by personnel who had taken the training. OIG found that the

³ Matthews, Miriam, Coreen Farris, Margaret Tankard, and Michael Stephen Dunbar, *Needs of Male Sexual Assault Victims in the U.S. Armed Forces*. Santa Monica, CA: RAND Corporation, 2018.

https://www.rand.org/pubs/research_reports/RR2167.html.

⁴ VA Fact Sheet, *Military Sexual Trauma*, accessed November 1, 2021,

https://www.mentalhealth.va.gov/docs/mst_general_factsheet.pdf.

⁵ "

⁶ VA OIG, *Denied Posttraumatic Stress Disorder Claims Related to Military Sexual Trauma*, Report No. 17-05248-241, August 21, 2018.

⁷ VA OIG, *Improvements Still Needed in Processing Military Sexual Trauma Claims*, Report No. 20-00041-163, August 5, 2021.

requirement was not followed in practice and that 80 percent of the MST claims denied from October through December 2019 were not reviewed by the specified MST claims personnel. The VFW agrees with all of the OIG's recommendations in these two reports and urges VA to properly implement them to avoid a worsening situation and retraumatization for veteran survivors of MST.

Feedback from VFW Claims Representatives

The VFW has over 1,900 VA-accredited claims representatives throughout the United States and abroad helping veterans apply for their disability benefits. Our representatives provide services at the county and state level, as well as at twenty-four pre-discharge offices on or near major military installations across the country. Feedback from VFW representatives on MST claims and the overall veteran experience indicates there are difficulties that veterans face throughout the process.

Hesitancy to File MST Claims

VFW representatives at pre-discharge offices on military bases report that transitioning service members often hesitate to include incidents of MST when filing their claims. Reasons for hesitancy include not wanting to collect the necessary evidence or lay statements, or to attend a mental health exam while still in service, as well as fear of not being believed, chain of command notification, retribution from fellow service members, and poor reflection on their service.

For service members, mental health exam records which are part of the claims process become accessible within their military medical records and are, therefore, accessible by their military medical providers and potentially their commanders. This adds to the reluctance to file MST claims. It may also be the case that a veteran waits years after they leave the military before deciding to file for conditions related to MST, adding more complications to gathering evidence so long after the incidents.

Evidence

Despite the fact that sexual assault reporting in the military continues to rise, the Department of Defense estimates that two of every three sexual assaults that occur in military service go unreported.⁸ Lack of documentation leads to challenges in gathering evidence to support a veteran's MST claim. VFW claims representatives report the negative emotional impact that collecting evidence to substantiate incidents of MST has on veterans. A veteran's account of an MST incident alone is typically insufficient for a VA claim, leaving veterans feeling that their stories are not believed. Additional evidence such as lay statements can be helpful, though if a

⁸ Department of Defense, *Annual Report on Sexual Assault in the Military: Fiscal Year 2018*, April 26, 2019.

veteran waited years after the trauma occurred, it can be difficult to find and contact individuals from their time in service to obtain those statements.

VA has recognized that not all sexual trauma incidents are reported. To address this reality, VA has provided a list of “markers”—signs, events, and circumstances—that can indicate the MST occurred. Markers can include records from law enforcement, rape crisis centers, mental health counseling centers, hospitals, or physicians. It could include pregnancy tests or tests for sexually transmitted diseases, statements from family members, roommates, clergy, fellow service members, or counselors. Markers also include requests for transfer to another military duty assignment, decrease in work performance, substance abuse, or episodes of the following without clear cause: depression, panic attacks, anxiety, relationship issues, divorce, or sexual dysfunction.⁹

One VFW claim representative in Idaho indicated that frequently markers do not occur in service and even when the claimant includes a stressor statement, VA will still require more information to substantiate the trauma occurred. A representative in Georgia reported that markers tend to be considered when there is evidence of disciplinary issues during service, or drug or alcohol use. If those issues lead to an other than honorable discharge, VA can then make the determination to deny the claim based on the period of service being dishonorable for VA purposes. The VFW would like VA to recognize the significance of all possible markers as evidence of MST events.

Exams and the Veteran Experience

Compensation and pension (C&P) exams are part of the claims process when additional information is needed to decide a claim. These exams help VA to understand the severity of a veteran’s disability in order to determine a rating for benefits. For MST claims involving PTSD, anxiety, or depression, a mental health exam is typically required.

Veterans represented by the VFW have provided mixed feedback about their mental health exams. Some veterans who had virtual (video teleconference) exams conducted by contract examiners reported positive experiences. One veteran stated, “The woman was so compassionate and understanding that I just cried from relief at being listened to.”

However, the VFW has heard recurring issues regarding mental health exams. It has frequently been reported that veterans perceive exams conducted by the Veterans Health Administration (VHA) as inadequate and that they more often result in claim denials. While there is some positive feedback on contract exams, complaints include that the exams are very brief (sometimes only fifteen minutes), veterans feel they were not being heard or believed as a victim of MST by the examiners, and that the examiners do not understand military culture.

⁹ VA Fact Sheet, *Military Sexual Trauma: Disability Compensation for Conditions Related to Military Sexual Trauma (MST)*, Updated August 2018, accessed November 1, 2021, <https://www.va.gov/HOMELESS/nchav/resources/docs/trauma/mst/MST-disability-comp.pdf>.

As reported by a VFW claim representative, a question such as “Why didn’t you sleep in the girl tent?” is a telling sign of a lack of cultural awareness and an accusatory manner of questioning by the examiner. Several veterans also reported that the contract examiner stated that their mental health conditions were due to childhood trauma and not a result of the MST experienced while in service.

VFW representatives also observed that examiners may not consider that lay statements indicating markers or behavioral changes in the veteran following an incident of MST are sufficient to substantiate a veteran’s claim. In one example from Georgia, a claimant’s mental health exam statement read, “Veteran seemed to excel in service, therefore I find no markers to substantiate the claim.” The VFW representative explained that a service member may work harder and excel at everything trying to prove that the assault would not hold them back, while at the same time emotionally disconnecting in other areas of life. The representative also added, “That being said, very often after leaving the service we see a pattern of [the veteran] not being able to hold a job, increase in depression and their quality of life diminishes.”

In another reported MST case, the service member had requested and was granted an early discharge following the MST event in service. This was included in the claim as a marker indicating evidence of a behavioral change. The C&P examiner stated that, "There is no history of Article 15, Court Martial or any other disruptive behavior during the military service." Additionally, the veteran’s spouse wrote a lay statement further explaining behavioral changes following the veteran’s discharge including that he was sad, crying often, had frequent flashbacks and nightmares, had a lack of trust in others, became aggressive when talking about his time in service, and also became aggressive with the spouse causing her to fear him. The examiner concluded that, “The veteran does not fulfill the symptoms criteria for persistent re-experiencing the traumatic event.... Neither did the military service or the trauma exposure cause impairment in marital relation.” The veteran is currently pursuing an appeal.

These issues have added to the emotional stress of claimants and create an overall adversarial environment within the claims process. To improve the quality of mental health C&P exams, the VFW recommends that VA mandate that all examiners have training to improve cultural competencies and use of trauma-informed language, that veterans have the option of selecting the gender of the examiner, and are provided an opportunity to report on their experiences during the exams for quality assurance purposes.

VA MST Coordinators

Per VHA directive, all VA medical facilities must have an MST coordinator “who is typically given at least .2 FTE of time specifically dedicated to the administrative responsibilities of the role”. Additionally, “...the MST Coordinator should be a licensed, credentialed clinician or otherwise have extensive knowledge of issues arising in the clinical care of MST survivors.”¹⁰

¹⁰ Veterans Health Administration Directive 1115.

The purpose of an MST Coordinator is to be a resource for veterans and VHA staff on accessing MST-related services, as well as the VBA claims process for conditions resulting from MST.

In August 2020, the VA OIG conducted a national survey to evaluate the workload of MST coordinators.¹¹ The surveys were completed by 136 MST coordinators with 39 percent reporting they did not have sufficient resources to fulfill their responsibilities. Interviews were also conducted with 18 MST coordinators and the combined feedback indicated that coordinators did not have enough protected administrative time, had demands from their other roles, had limited funding, and had a lack of support staff and outreach materials.

According to VFW representatives, very few claimants say they have been contacted by an MST coordinator after filing their disability claims. In the few cases when it has been mentioned, veterans find the MST coordinators helpful in preparing for their mental health exams and understanding the next steps in the disability claims process.

The VFW believes MST coordinators have an essential role in guiding and supporting veterans as they maneuver through the often emotionally distressing process of filing a claim for MST conditions. Survey comments and interview responses collected by the VA OIG showed that the majority of coordinators “reflected a sincere commitment to the role, thoughtful consideration about the challenges to fulfilling the role successfully and completely, and enthusiasm about service in this capacity.”¹² We urge VA and Congress to ensure that MST coordinators receive the time and resources needed to effectively conduct their duties.

VHA and MST

The Veterans Health Administration offers free mental health services for veterans who are victims of military sexual trauma, regardless if they have ever filed a disability claim for conditions resulting from MST. A veteran is eligible for MST-related care as long as their character of discharge was under conditions other than dishonorable, even if ineligible for other VHA health care. Mental health services are also available at community-based and mobile Vet Centers for eligible veterans and their families.¹³

Many veterans are not aware that these services are available to them. The VFW recommends improving communication and coordination between VBA and VHA. Wherever a veteran makes contact with VA, whether if first through filing a claim or by attempting to receive VHA care, there should be pamphlets, signage, contact sheets, and other materials to provide veterans the resources they need to fully engage with VA to have their needs met. For example, if through a medical screening a veteran acknowledges they have experienced MST, the provider will often refer the veteran to a psychologist for further evaluation. The provider may also mention that the veteran can initiate a disability claim for any MST-related conditions. Providers should have

¹¹ VA OIG, *Challenges for Military Sexual Trauma Coordinators and Culture of Safety Considerations*, Report No. 20-01979-199, August 5, 2021.

¹² “

¹³ Veterans Health Administration Directive 1115.

materials and information on hand so that veterans can be informed of what steps to take to begin that process. These materials should also be available at medical center waiting rooms.

One positive outcome from the Covid-19 pandemic is the greater availability of telehealth for mental health appointments. MST survivors tell us that the telehealth option brings the added comfort of conducting appointments from the privacy of their homes. It also eases the fear of sexual harassment as veterans navigate their way through a VA medical center. Telehealth can eliminate extensive travel and wait times, which can remove geographic barriers or lessen the need to arrange for child care.

Another recent and positive VHA initiative is the online Bystander Intervention Training¹⁴ for veterans which was included in the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*.¹⁵ The training provides tools and techniques on how to respond if a veteran witnesses harassment or sexual assault at a VA medical facility. The VFW recommends promoting this training more widely through all communication channels, but also suggests that posters and flyers be displayed throughout VA facilities so it is clear to veterans where to report inappropriate behavior.

A common complaint veterans have with their VA mental health care is that providers all too often leave or move and the veteran is assigned a new provider, sometimes multiple times. For MST survivors, it can be particularly distressing, tiring, and frustrating to recount their trauma over and over again, to the point that they may not want to continue their care.

Apart from VHA health care, a provision within the *MISSION Act of 2018* requires community care providers to take online training on safe opioid prescription management.¹⁶ Additional but not mandatory courses include training on MST, PTSD, and military culture. The VFW recommends mandating this important training and not leaving it optional for community care providers.

Lastly, the VFW supports expanding the definition of military sexual trauma in order to incorporate harassment which may come from technology, online communications, text messaging, and social media. We recommend that VA takes steps to accept claim evidence of MST resulting from these forms of communications.

Chair Luria, Chairwoman Brownley, Ranking Members Nehls and Bergman, this concludes my statement. I am prepared to answer any questions you or the subcommittee members may have.

¹⁴ VHA, Bystander Intervention Training for Veterans, <https://www.veterantraining.va.gov/bystandertraining/index.asp>.

¹⁵ H.R. 7105, *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*, <https://www.congress.gov/bill/116th-congress/house-bill/7105>

¹⁶ S.2372, *VA MISSION Act of 2018*, Library of Congress, <https://www.congress.gov/bill/115th-congress/senate-bill/2372?q=%7B%22search%22%3A%5B%22MISSION+ACT%22%5D%7D&r=5>.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2021, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.