



**STATEMENT OF
TAMMY BARLET, HEALTH POLICY COORDINATOR
VETERANS AFFAIRS & REHABILITATION DIVISION
THE AMERICAN LEGION**

BEFORE THE

**HOUSE COMMITTEE ON VETERAN'S AFFAIRS
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

ON

**"EXAMINING HOW THE DEPARTMENT OF VETERANS AFFAIRS SUPPORTS
SURVIVORS OF MILITARY SEXUAL TRAUMA"**

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Chairman Pappas, Ranking Member Bergman, and distinguished members who proudly serve on this subcommittee; on behalf of our National Commander, James W. “Bill” Oxford, thank you for the opportunity to comment on the important issue of how the Department of Veterans Affairs (VA) supports survivors of military sexual trauma (MST). It is my duty and honor to represent The American Legion and assist this subcommittee in better understanding this issue, how it impacts our veterans, and provide recommendations for improvement. It is imperative that we address these issues in an effort to ensure the institutions we built to care for our veterans are giving them the quality care and support they deserve.

The American Legion believes that our nation's veterans should never suffer at the hands of institutions whose existence and mission is to care for them. We believe in the quality of care at VA facilities, remain committed to a strong VA, and maintain that VA is a “system worth saving.”

System Worth Saving

The American Legion uniquely understands the challenges VA faces in order to support survivors of MST due to our routine site visits through our System Worth Saving (SWS) program. This innovative partnership was launched in 2003 to promote best practices at VA Medical Centers (VAMC), identify any challenges, and make recommendations to improve the quality of care for veterans. The mission of the SWS program is to assess the quality and timeliness of veterans' healthcare at VAMCs, the claims process at VA Regional Offices (VARO), and provide feedback from local veterans about the care and services offered. To accomplish this mission, The American Legion conducts site visits to VAMCs and VAROs nationwide. The American Legion compiles the reports from each visit for publication and distribution to the President of the United States, Congress, VA officials, and members of The American Legion.¹ This comprehensive report provides an understanding of VA challenges, best practices, and offers recommendations based on our observations through our 100 years of experience.

As a part of this program, Regional Office Action Reviews (ROAR) are conducted at VAROs nationwide. During ROAR visits, the American Legion randomly selects formerly adjudicated claims to review in order to determine development accuracy, examination efficiency, and rater competency related to the percentage assigned for each claimed disability contention by the

¹ <https://www.legion.org/systemworthsaving/reports>

veteran. Additionally, ROAR visits afford The American Legion an opportunity to interview employees on training, climate, leadership, systems and adjudication; and provides VARO leadership real time information of how a representative sample of employees are perceiving the aforementioned issues.

Lack of Training

In 2011, the Veterans Benefits Administration (VBA) began special training for employees who are involved in the MST-related claims process, including mental health clinicians and office personnel.² A VA Office of Inspector General (OIG) report, released in August 2018, recommended the Under Secretary of Veterans Affairs for Benefits to update the current training for processing MST related claims, monitor the effectiveness of the training, and take additional action as necessary.³ VBA's response to the OIG report at that time was to update the four lessons in the "PTSD Due to MST" training course, and mandate training to be completed by March 2019. In future ROAR visits, we will pay close attention to studying the quality and completion of the 2019 update. Investing in the training of Veteran Service Representatives (VSR) and Rating Veteran Service Representatives (RVSR) will correct errors in claims before they occur, saving time and money.

Lack of Adequate Time to Process MST Claims

In Fiscal Year 2019, the American Legion conducted a total of 12 ROAR site visits to VAROs nationwide. During these visits, VA employees who previously worked as MST coordinators, or who are currently working as MST coordinators, reported to The American Legion several internal issues, such as not being granted excluded time (extra time) to develop an MST claim by VA's Central Office and local leadership. Those interviewed stated that because MST coordinators had received the required MST training, it was perceived that the MST coordinators should not need extra time. However, we cannot verify the veracity of these complaints.

Since sexual assault or sexual harassment is not always reported during service, part of VSR and RVSR training includes how to identify markers in a veteran's medical record and personnel record.⁴ Markers such as a sudden decrease in work performance, substance abuse, pregnancy tests, tests for sexually transmitted disease, panic attacks, and a request for transfer to another military duty assignment, are used to build the disability claim evidence of the MST claims. During our ROAR interviews, employees have reported that although they really want to perform quality work on these claims, they feel forced to choose between quality and quantity due to the current standards.⁵

² <https://www.benefits.va.gov/BENEFITS/factsheets/serviceconnected/MST.pdf>

³ <https://www.va.gov/oig/pubs/VAOIG-17-05248-241.pdf>

⁴ Morral, A. R., Gore, K. L., & Schell, T. L. (2015). Sexual assault and sexual harassment in the US military. Volume 2. Estimates for department of defense service members from the 2014 RAND military workplace study. RAND NATIONAL DEFENSE RESEARCH INST SANTA MONICA CA.

⁵ The American Legion. (May 2019). Wilmington Regional Office Action Reivew After Action Report. The American Legion System Worth Saving. https://www.legion.org/documents/legion/pdf/SWS_ROAR_Report_Wilmington_2019.pdf

High Rate of Attrition and Compassion Fatigue

VAROs expressed to The American Legion their challenge and concern over employee burnout and turnover due to employee stress. During our ROAR interviews, VARO employees mentioned being conflicted over their passion to help claimants, while working in an environment where morale is low and unequal workload, adds to the workplace stress. Employees confessed that the cost to fulfilling their quota usually means foregoing lunch and breaks, mental fatigue, suicide ideations, and increased requests for time off.⁶

It should be noted that when MST coordinators call the veteran to discuss the MST-related claim, it could expose them to the veteran's trauma.⁷ The conversation can also potentially revictimize and trigger the veteran. Both veteran and non-veteran employees have expressed to American Legion representatives their feelings of compassion fatigue when developing MST claims.

Implication of Biases and Subjective Ratings

The rating scale for PTSD ranges from 0 to 100 in increments of ten.⁸ Therefore, a PTSD claim from MST can vary widely depending on the rater. Coordinators have reported repeated instances of the violation of 38 CFR 4.23, “the attitude of the rater,” which states:

“It is to be remembered that the majority of applicants are disabled persons who are seeking benefits of law to which they believe themselves entitled. In the exercise of his or her functions, rating officers must not allow their personal feelings to intrude; an antagonistic, critical, or even abusive attitude on the part of a claimant should not in any instance influence the officers in the handling of the case. Fairness and courtesy must at all times be shown to applicants by all employees whose duties bring them in contact, directly or indirectly, with the Department's claimants.”

VBA processes and raters can cause harm with implicit biases if they lack sufficient knowledge regarding PTSD and MST. The scope of this issue encompasses discrediting the claim, victim-blaming, and accepting that men could also be victimized. Per Resolution 67 (August 2014), Military Sexual Trauma, The American Legion urges the VA to conduct an analysis of MST claims volume, assess the consistency of how these claims are adjudicated, and determine the need, if any, for additional training and testing on processing of these claims and urge the VA to employ additional Women Veterans Coordinators (WVCs) and to provide MST sensitivity training to claims processors and WVCs.⁹

⁶ The American Legion. June 2019. St. Petersburg VA Regional Office Action Review After Action Report. The American Legion System Worth Saving.

https://www.legion.org/documents/legion/pdf/SWS_ROAR_Report_St_Petersburg_2019.pdf

⁷ Suris A, Lind L, Kashner TM, Borman PD, Petty F. Sexual assault in women veterans: an examination of PTSD risk, health care utilization, and cost of care. *Psychosom Med.* 2004;66(5):749–756.

⁸ United States Department of Veterans Affairs. Veterans Benefits Administration References: 38 CFR - Book C, Schedule for Rating Disabilities. <http://www.benefits.va.gov/warms/bookc.asp>

⁹ <https://archive.legion.org/bitstream/handle/20.500.12203/3716/2014N067.pdf?sequence=1&isAllowed=y>

VHA Facility MST Coordinators

In addition to ROAR, our SWS program includes three-day visits to VAMCs to inquire about that facility, as a whole, and how the departments within the facility operate. During a visit, The American Legion staff meets with the MST Coordinator to ensure the facility is in compliance with Veterans Health Administration (VHA) Directive 1115, MST program. This directive outlines the responsibilities of implementing policies, educating staff, directing, engaging in outreach activities, developing partnerships, and serving as the expert for MST-related care. They are also responsible for communicating with national, VISN, facility-level leadership, and other stakeholders.

Per Resolution No. 147, August 2014, Women Veterans, The American Legion supports the VA's establishment of a women veterans awareness training programs that educates employees about the changing roles of women in the military, their combat-related exposures and MST sensitivity.¹⁰

End Harassment Campaign

No discussion about MST would be complete without acknowledging harassment. Harassment has been a widely reported and ongoing cultural problem within the military¹¹, and many believe continues in VA facilities. It has been reported that many veterans do not return to the VA because of the hostile environment.¹² The current VA **#EndHarassment** Campaign must be updated. The message of zero-tolerance must be clearly stated to bring awareness, empower bystanders, lay out instructions for reporting incidents, and provide support for the victim. The campaign should also follow through with investigations and establish consequences in order to change behavior and culture. One best practice at a VAMC that The American Legion saw during the SWS program, was the use of televisions in waiting areas to display messages about health conditions, details on VBA and VHA benefits, and other pertinent information. Televisions displaying VA **#EndHarassment** Campaign videos, along with other valuable messaging can be a useful tool to spread awareness. Studies show when leadership takes harassment seriously, their employees raise their concern to the same level.¹³

Recommendations

The American Legion believes all veterans deserve to have their claims developed and rated by knowledgeable, competent, and bias-free VSRs and RVSRs. Veterans deserve to have access to healthcare providers for mental and physical health as a result of their MST experience. Therefore, The American Legion recommends the following steps to alleviate this issue:

¹⁰ <https://archive.legion.org/bitstream/handle/20.500.12203/5488/2016N147.pdf?sequence=1&isAllowed=y>

¹¹ <https://www.militarytimes.com/news/pentagon-congress/2019/05/02/defense-department-to-make-sexual-harassment-a-crime/>

¹² <https://www.nytimes.com/2019/03/12/us/politics/women-veterans-harassment.html>

¹³ National Academies of Sciences, Engineering, and Medicine. 2018. Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/24994>.

1. Reevaluate and change policy, if necessary, to set a specified amount of excluded time that can be allotted for the development of MST claims.
2. Enforce the existing zero-tolerance policy concerning attitude of the rater with regard to MST claims. Any rater violating this policy should face appropriate disciplinary action.
3. Enforce that document raters who repeatedly fail to consider markers in their rating decision of MST claims be retrained. If they continue with the same behavior, they should face appropriate disciplinary action.
4. Provide resources and remind employees of existing resources they can use for self-care when triggered or experiencing compassion fatigue due to handling MST cases.
5. Re-educate VBA employees about immediate healthcare resources at VA facilities and Vet Centers so veterans may begin the path to healing.
6. Re-evaluate the duties and responsibilities of MST coordinators and consider a possible increase of the percentage of full-time equivalent.

The American Legion recommends Congress ensure the VA has all the necessary resources to remain committed to providing veterans access to help they need to recover from MST and end sexual harassment within VHA facilities.

Conclusion

Chairman Pappas, Ranking Member Bergman, and distinguished members who proudly serve on this subcommittee, The American Legion thanks you for the opportunity to illuminate the positions of the nearly two million veteran members of this organization. Safeguarding those who have selflessly raised their right hand in defense of this nation receive the benefits and care they deserve is a priority of The American Legion. By the action of this committee, we can see that it is for you as well.

As always, The American Legion thanks this committee for the opportunity to elucidate the position of the nearly 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. John Medin, Legislative Associate, at JMedin@legion.org or (202) 263-5756.