

**Congress of the United States**  
Washington, DC 20510

May 19, 2016

The Honorable Ashton B. Carter  
Secretary of Defense  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, D.C. 20301-1400

Dear Secretary Carter:

We write to express our concern regarding outdated policies at the Department of Defense (DOD) that prevent our nation's veterans from pursuing adequate recourse when improperly discharged after experiencing military sexual trauma. Despite recent DOD policy improvements to better respond to current sexual trauma charges, there are still thousands of veterans with discharges that prohibit full access to Department of Veterans Affairs (VA) benefits. These bad paper discharges and the ineffective, discriminatory discharge appeals process at the Boards of Correction for Military Records (BCMRs) re-traumatize survivors. We urge you to implement policies that will enable veterans to determine precedence for discharge upgrades, ensure legal consultation for all sexual trauma survivors prior to administrative discharge, and train Board members to understand the impact of discharge characterizations on VA benefit eligibility.

Currently, BCMRs do not base discharge upgrade rulings on precedence when deciding cases unless an applicant or legal counsel specifically references prior rulings. Though online reading rooms exist for veterans and attorneys to review past Board decisions, these reading rooms are dysfunctional and lack user-friendly features. BCMRs should be required to index, summarize, and publish all decisions in an online database that is searchable by keyword so that applicants and their attorneys can cite legal precedence in appeal applications and Board members can review past decisions when adjudicating cases. This requirement will yield more informed applications and more consistent decisions.

BCMRs should further ensure that any survivor of military sexual trauma is granted access to legal consultation prior to administrative discharge to better prepare for the discharge upgrade review process. DOD should require that the process to waive legal consultation should only be conducted in the presence of legal counsel. In addition, Board members should receive formal training on the consequences of different discharge characterizations on veterans' access to VA benefits. Greater understanding of the benefits for which a veteran would be ineligible under each discharge characterization will better ensure that the BCMRs do not unwittingly and unjustly deny benefits and services that a military sexual trauma survivor may require.

The Senate Armed Services Committee recently reported out the Fiscal Year 2017 National Defense Authorization Act, which includes legislative text to require BCMRs to include mental health specialists when reviewing post-traumatic stress claims and require that the service branches publically disclose claims online to better understand the impact of mental health issues on discharges. It would additionally encourage military boards to give liberal consideration to cases where symptoms of post-traumatic stress are present and consider post-traumatic stress and other mental health conditions as potential mitigating factors for misconduct. These provisions are crucial to ensuring that BCMRs fairly consider mental health conditions that resulted from military sexual trauma when adjudicating cases. Further, the House-passed Fiscal Year 2017 National Defense Authorization Act also includes language directing DOD to examine the feasibility of incorporating commercial, off-the-shelf video and video teleconferencing technologies.

We will work to ensure that these provisions are included in the final National Defense Authorization Act and look forward to working with you to implement these policies in a way that fairly captures the needs of military sexual trauma survivors. Thank you for your immediate attention to this pressing issue.

Sincerely,



Richard Blumenthal  
United States Senate



Chellie Pingree  
Member of Congress