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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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June 28, 2017

The Honorable David J. Shulkin
Secretary
U.S. Department of Veterans Affairs
810 Vermont Ave., NW
Washington, D.C. 20420

Dear Mr. Secretary:

I am writing regarding a recent Government Accountability Office (GAO) report titled “Actions Needed to Ensure Post-Traumatic Stress Disorder and Traumatic Brain Injury Are Considered in Misconduct Separations.” I am requesting information on the Department of Veterans Affairs’ (VA) role in determining eligibility for benefits of servicemembers with misconduct separations.

GAO’s review of Department of Defense (DoD) data showed that 91,764 servicemembers were separated for misconduct from FY 2011-2015; 62% of those separated for misconduct had been diagnosed with PTSD, TBI, or certain other conditions within two years prior to their separation.¹ GAO found that 13,283 servicemembers with these diagnoses received an “other than honorable” characterized discharge, likely barring them from VA benefits and services, including healthcare.² DoD is responsible for characterizing the nature of a servicemember’s military services at the time of their discharge, often referred to as character of service determinations. The character of service determination has a direct impact on whether a servicemember may be eligible for benefits.³

¹ Government Accountability Office, *Actions Needed to Ensure Post-Traumatic Stress Disorder and Traumatic Brain Injury Are Considered in Misconduct Separations* (GAO-17-260) (May 2017).

² Government Accountability Office, *Actions Needed to Ensure Post-Traumatic Stress Disorder and Traumatic Brain Injury Are Considered in Misconduct Separations* (GAO-17-260) (May 2017).

³ Department of Veterans Affairs, *Claims for VA Benefits and Character of Discharge: General Information* (Mar. 2014) (http://www.benefits.va.gov/benefits/character_of_discharge.asp).

You have stated a commitment to providing mental health services for separated servicemembers in this category.⁴ However, it is unclear whether and how the VA determines that veterans are eligible for care needed for service-related mental health issues. In order to better understand the processes in place to make these determinations I request that you provide the following information on or before July 19, 2017:

1. What is the Veterans Benefits Administration's (VBA) process for determining eligibility for benefits for servicemembers with misconduct separations?
2. Does the VBA review military service records, including medical records, when making character of discharge determinations for servicemembers with misconduct separations?
3. How much discretion does the VBA yield when making character of discharge determinations, particularly in cases of misconduct separations?
4. Does the VBA consider whether diagnosed conditions may have been a mitigating factor in a servicemember's misconduct separation when making character of discharge determinations?
5. Does the VBA communicate with DoD or individual military branches to learn more about a servicemember's misconduct separation prior to determining the character of discharge?
6. How exactly will the VA provide additional mental health services for servicemembers with other than honorable discharges? Will this require a change in benefits eligibility for an affected veteran?

In addition to providing responses to the above questions, I request that relevant officials from the VA brief my staff regarding benefits eligibility for servicemembers with misconduct separations. I request that the VA provide this briefing on or before July 19, 2017.

Thank you for your attention to this matter. Please have your staff contact Hannah Berner with my Committee staff at (202) 224-5065 with any questions. Please send any official correspondence relating to this request to Amanda_Trosen@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman

⁴ House Committee on Veterans Affairs, *Hearing on Shaping the Future: Consolidating and Improving VA Community Care*, 115th Cong. (Mar. 7, 2017).