United States Senate
WASHINGTON, DC 20510

January 29, 2024

The Honorable Denis McDonough
Secretary of Veterans Affairs
810 Vermont Ave. NW
Washington, DC 20420

Dear Secretary McDonough,

We write today regarding the readiness of Department of Veterans Affairs (VA) facilities and staff to address the needs of veterans who present to VA after experiencing a sexual assault. This follows the recently released Office of Inspector General (OIG) report (21-01445-30), *Greater Compliance with Policies Needed Related to the Management of Emergent Care for Patients Presenting with Acute Sexual Assault*. We urge the Department to work expeditiously to implement the recommendations in the report and take a more proactive stance towards preparing facilities, both emergent and non-emergent, and staff for how to respond to encounters related to sexual assault.

In the year's worth of care reviewed by the OIG, encounters related to acute sexual assault at VA emergency departments (EDs) and urgent care centers were infrequent, totaling 100 out of 2.7 million total patient encounters. This infrequency means VA staff lack consistent experience handling care for veterans who present with acute sexual assault – leading the OIG to find significant deficiencies in policy and care provided by VA in these cases. Despite the low volume of emergent acute sexual assault victims presenting in VA EDs and urgent care centers, we expect the Department to ensure our veterans receive the best possible health care and services, either onsite or via a warm handoff to a community provider.

Only six percent of facilities studied by the OIG reported having staff onsite certified as Sexual Assault Forensic Examiners (SAFEs), individuals specially trained in the collection of evidence relating to sexual assault cases. VA requires each of its EDs and urgent care centers to have access to a SAFE resource – either in-house or at a local community facility – 24 hours a day, 7 days a week, yet the OIG found twelve percent of VA EDs and urgent care centers identified lack of availability of community SAFE resources for referrals as a barrier. In conjunction with the OIG's recommendations, we request VA develop facility-specific policy requirements for coordination of health care with community resources in circumstances when the facility does not have SAFE resources onsite. Any such policies should include a requirement to transport the patient or obtain informed consent declining such transportation to the community provider in circumstances when health care cannot be provided onsite. In addition, we request VA be proactive in identifying staff with SAFE qualifications as part of onboarding, and regularly update its resource list and policies accordingly.

Due to the infrequent nature of these encounters, some health care related to sexual assault cannot be provided onsite by VA staff. However, even in terms of health care regularly performed by VA staff, the OIG found VA fell far short in providing appropriate health care when clinically-indicated for patients who sought care related to sexual assault. For example, one in three facilities reviewed did not include guidance on treatment of sexually transmitted infections (STIs) or emergency contraceptives in its policy regarding sexual assault. This was reflected in the encounters reviewed by the OIG, with fifteen percent of patients not receiving treatment for STIs and half not receiving access to emergency contraceptives despite clinical indication for both treatments.

VA also needs to be prepared to care for patients who are too medically unstable for transfer to community providers. It is unacceptable that forty-two percent of EDs and urgent care centers surveyed by the OIG were found to not have rape kits available for use onsite. To ensure veterans who are too medically unstable for transfer to a community provider with SAFE-certified staff still receive the appropriate standard of care, including evidence collection, we encourage VA to update its policies and directives to ensure rape kits are available at all VA EDs and urgent care centers and audit validity of those kits on a regular basis.

Equally concerning were the OIG's findings related to mental health care services offered to patients who sought care related to sexual assault. In more than half of the encounters during the year of care reviewed by the OIG, there was no documentation of mental health services being offered to patients who presented to VA EDs or urgent care centers for acute sexual assault. Despite VA's Department-wide focus on mental health care, the OIG cannot confirm if fifty-three percent of these patients were even offered this type of care. Beyond policy requirements concerning offering this care, the Department must also institute and enforce policies ensuring patients who request mental health care have an initial contact with a mental health provider within 24 hours, per VA's own guidelines.

In addition to improving policies, training, and resources for clinical staff, the Department must ensure VA police are handling cases regarding acute sexual assault in a standardized, comprehensive, and compassionate manner. We were extremely concerned to find only 49 of 140 facilities reviewed by the OIG provided policies or guidance for VA police on responding to allegations of sexual assault, and thirty-nine percent of police chiefs reported VA police officers did not receive training on responding to sexual assaults – despite sexual assault training being added to the mandatory VA Police Officer Standardized Training course for new officers in 2017. Additionally, as a result of insufficient detail on reporting procedures within facility policy or guidance, the OIG could not determine whether VA police notifications were consistent with facility requirements for thirty-eight percent of the 100 ED or urgent care center visits related to acute sexual assault the OIG reviewed. Of those that did have sufficient detail, 1 in 3 were inconsistent with the VA facility's guidance on reporting.

These findings all point to a widespread disregard for outlining and implementing facility-specific policies, enforcing such policies, and documenting engagement relating to sexual assault. As such, we request the Department take swift action to ensure facilities have robust, location-specific guidelines and training in place for VA police regarding adequate, victim-centered protocols for responding to sexual assault allegations and acute sexual assault victims who present at VA facilities. Because the OIG also found many VA clinicians and police have differing views on reporting requirements related to sexual assault, we also request the guidelines and training provided to VA police be cross-referenced with those provided to VA clinical staff, to ensure consistency throughout VA facilities.

We request the Department respond to the following inquiries no later than February 28, 2024:

1. What is the Department's policy regarding treatment for sexual assault as part of an encounter that does not take place in a VA emergency or urgent care facility? When was the last time this policy was reviewed?
2. How often does VA emergency department and urgent care staff receive training regarding treatment for sexual assault, assault, and other care related to criminal activity or violence?
    a. How often do VA staff outside of emergency or urgent care receive such training?
3. VA's 2016 Emergency Medicine directive required the availability of rape kits in VA EDs and urgent care clinics, while the 2023 VA Emergency Medicine and Urgent Care directives do not. Please provide the rationale for excluding mentions of rape kits in the 2023 directives.
    a. How does VA plan to ensure rape kits are available in all VA EDs and urgent care centers, to meet the needs of veterans who are too medically unstable for transfer to a community provider with SAFE-certified staff?
4. How often do VA police officers receive training regarding responding to alleged sexual assault?

5. What is the Department's policy for treatment for sexual assault in facilities without VA police onsite, when the patient consents to notify law enforcement or the circumstances require mandated reporting?
6. Provide implementation status of each recommendation in the OIG report.

We look forward to continuing to support VA in its efforts to enhance the readiness of its facilities and staff to best care for veterans who have been victims of sexual violence.

Sincerely,

Jon Tester
United States Senator

Kirsten Gillibrand
United States Senator

Ron Wyden
United States Senator

Martin Heinrich
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John Hickenlooper
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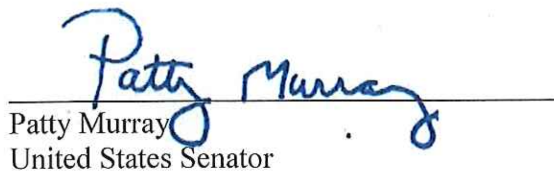
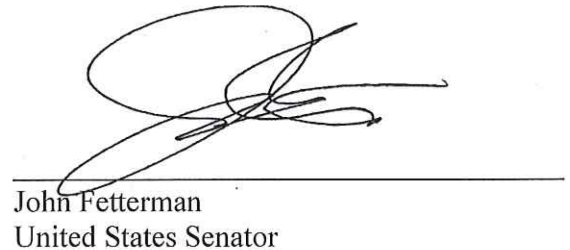
Tina Smith
United States Senator



Patty Murray
United States Senator



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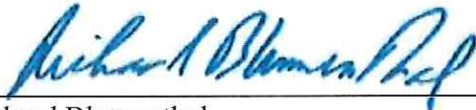
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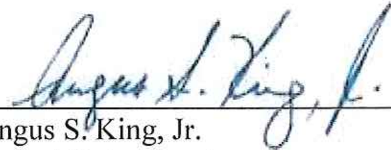
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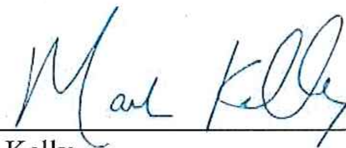
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United States Senator