

**RFI Category and Number:** PREGNANCY IN THE MILITARY, RFI 15

In accordance with DACOWITS' Terms of Reference, the Well-Being and Treatment (WB&T) Subcommittee will determine if there are gaps in institutional policies and procedures that obstruct pregnant servicewomen from progressing in their military career and recommend policy changes

**RFI Question:**

The Committee understands the Defense Department will continue to ensure that servicewomen have access to reproductive health care in the wake of the Supreme Court decision to overturn *Roe v. Wade* (known as *Dobbs v. Jackson*), which ended constitutional protections for abortion. As the Defense Department continues to examine this Supreme Court decision and evaluate policies to ensure Service members, dependents, beneficiaries, and Defense Department civilian employees are provided seamless access to essential women's health care services, as permitted by federal law, the Committee is concerned about potential impacts to servicewomen.

The Committee requests a written response from the Department of Defense (via the organizations annotated below) on the following:

a. Military Services: With the repeal, many of the restrictive states with trigger laws also have large military populations. Subsequently, servicewomen stationed in these restrictive states who seek a medical or surgical abortion will need to take leave and travel to states where it remains legal. How are the Military Services' assuring servicewomen's privacy and confidentiality are maintained, while leave requests are routed through various levels within the servicewomen's chain of command? Additionally, are the Military Services' preserving records (e.g., leave requests, electronic messages, etc.) that could potentially be used against servicewomen in states that criminalize abortion?

b. Health Affairs: According to Air Force (AFI41-210), Army (AR 40-400), Navy and Marine Corps (BUMEDINST 6320.72), and Coast Guard (COMDTINST M6000.1E), Service members are required to complete a number of steps before obtaining an elective surgery. When servicewomen seek a surgical abortion, are they required to follow these same processes? Additionally, if a servicewomen returns from leave after obtaining a medical or surgical abortion and becomes ill, will she subsequently be admitted into military treatment facility (MTF) and/or placed on convalescent leave?

c. Health Affairs: In 2010, the military lifted the ban on emergency contraception (e.g., Plan B), making it available to servicewomen without a prescription. However, as state trigger laws go into effect, some restrictive states have begun making it harder and sometimes illegal for women to obtain emergency contraceptives. Will these restrictions apply to servicewomen stationed within those states, seeking emergency contraceptives from their MTF? Additionally, will servicewomen be afforded access to the abortion pill (i.e., medication abortion) at MTFs?

d. Health Affairs: In addition to restrictions on servicewomen obtaining safe and legal abortions, the Committee is also concerned about the unintended consequences related to servicewomen accessing

assisted reproductive services (i.e., infertility care), which in some cases is contracted to civilian providers. How does the Supreme Court's opinion now impact servicewomen's access to assisted reproductive services, as some state-level abortion bans utilize broad or imprecise language that prohibits reproductive medicine?

e. Military Community and Family Policy (MC&FP) via the Family Advocacy Program (FAP): In 2019, the Committee reviewed DoDI 6400.06, "DoD Coordinated Community Response to Domestic Abuse Involving DOD Military and Certain Affiliated Personnel." As a result, the Committee made multiple recommendations related to domestic abuse that involves servicewomen. In 2021, a study published in *Obstetrics & Gynecology*, indicated that homicide was the leading cause of death during pregnancy and the postpartum period in the United States. Additionally, according to the American College of Obstetricians and Gynecologists, one in six abused women is first abused during pregnancy. With some servicewomen now lacking safe and legal access to medical or surgical abortions in restrictive states, are additional processes being put into place to assist pregnant servicewomen who find themselves in a domestic abuse situation?

#### RFI Response 15a:

Existing Department policy authorizes active duty Service members to travel as necessary to receive abortion care - either as government-funded, official travel for a covered abortion, or at the Service member's own expense on regular leave for all other cases. A Service member does not need to be in a leave or liberty status in order to receive a covered abortion. Service members on Active Duty may be granted regular leave or special liberty in order to receive a non-covered abortion. Special liberty, however, would be limited to no more than four days. Service members on Active Duty requesting regular leave or special liberty to receive a non-covered abortion would use their Military Service's normal procedures to request the leave or liberty.

DoD-level leave and liberty policies do not require Service members to share the specific reason they are requesting regular leave or special liberty. However, inherent in the authority and responsibilities conferred upon a unit commander is the commander's discretionary authority to grant or deny leave or special liberty. In exercising their discretion, unit commanders are expected to consider the health and welfare, morale, and needs of individual Service members requesting leave (or special liberty), as well as the commander's responsibilities in maintaining the readiness and good order and discipline of his or her unit. Thus, Service members may be required to disclose the minimum amount of information necessary regarding the purpose of the requested regular leave or special liberty to allow the unit commander to make an informed decision on whether to grant the leave or special liberty.

With respect to records, the Navy and Marine Corps continue to follow records management regulations.