



Legislative Priorities
&
Policy Initiatives

Presented by

Marsha Four
National Vice President

Before the

House and Senate
Veterans' Affairs Committees

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Good morning Chairmen Isakson and Miller, Ranking Members Blumenthal and Brown, and members of these two most distinguished committees.



The long-held top priority of Vietnam Veterans of America is achieving the fullest possible accounting of America's Prisoners of War and Missing in Action. Today, there remain more than 1,600 American servicemen "unaccounted for" or "killed in action, body not recovered."

We commend the Department of Defense for having reorganized and consolidated its quest for those unaccounted for in the Defense POW/MIA Accounting Agency; and we honor those service members whose job it is to seek to uncover and recover remains and bring closure to the families of the unaccounted for. We ask the assistance of you all in helping us continue to keep this issue front and center as a national priority.

The founding principle of Vietnam Veterans of America (VVA) is: "Never again will one generation of America veterans abandon another."

The highest priority on our legislative agenda this year is legislation that is in line with that principle: the enactment of S. 901 and H.R. 1769, the Toxic Exposure Research Act. This bill recognizes the need to seek the causes of the birth defects and learning disabilities and cancers afflicting too many of the children and grandchildren of Vietnam War veterans, but also the children of other generations of veterans.

This is multi-generational, multi-exposure proposed legislation. It covers the progeny of veterans of all deployments and all eras, including those who never deployed overseas, who were exposed to an array of toxic substances, from El Toro Naval Air Station in California to Fort McClellan in Alabama and Camp Lejeune in North Carolina, and to Natick Labs in Massachusetts and Fort Detrick and Aberdeen Proving Ground in Maryland.

Those of us who served in the Vietnam War were exposed to a toxic mix of highly concentrated herbicides, pesticides, organophosphates, PCBs, and who knows what else. Could these exposures have impacted the health and well-being of our children? Of *our children's* children? And what health conditions might be caused in the offspring of the men and women caught in the path of the toxic plumes generated by the detonation of chemical weapons ammunition dumps near the end of the Persian Gulf War? What maladies in the children of those who have served in Operations Enduring Freedom, Iraqi Freedom and New Dawn might in the future be associated with the toxic fog inhaled by one or both parents from the burn pits that littered the landscape in Iraq and Afghanistan?

To get answers we need serious epidemiological research, skilled research in the “hard sciences,” not DOD/VA psychobabble. To **not** do this peer reviewed research is unacceptable: it is in fact willful ignorance.

Vietnam Veterans of America (VVA) was the lead VSO advocating for the passage of what became the Agent Orange Act of 1991. This legislation recognized and acknowledged that troops who served in the Vietnam Theater of operations had been exposed to toxic agents from various sources to include, but not limited to Agent Orange and other herbicides.

Over the past quarter-century, Secretaries of Veterans Affairs have added diseases and health conditions found to have some positive degree of “association” as determined by an eminent assemblage of professors and clinicians empaneled by the Institute of Medicine of the National Academies of Science.

Yet the only health conditions currently recognized for our progeny are spina bifida and, for the offspring of female veterans of Vietnam, an array of anomalies in children. As you know, these are as a result of statute, and not anything, the VA has done.

There is a growing body of anecdotal evidence about our children, and *their* children, seemingly wounded in the womb. With our state councils and

local chapters, we have conducted more than 200 town hall meetings across 42 states to provide information to, and to hear from, veterans and their families devastated by the severe health issues of their offspring. They now believe the proximate cause for these conditions was the exposure of the veteran to Agent Orange and/or other toxic exposures in Vietnam.

This is why VVA is working so hard with all of you to enact the *Toxic Exposure Treatment Act of 2016*. Legislators from both sides of the aisle, in both the House, with 177 co-sponsors, and 37 co-sponsors in the Senate, support enactment of this bill. And here we want to express our gratitude to Senators Jerry Moran and Dick Blumenthal, as well as to Congressmen Dr. Dan Benishek and Mike Honda, and their staffs. Of course our deep thanks to the Chairmen and ranking members for your strong leadership, as well as our thanks to committee staff for their hard work under your direction.

This legislation will, quite simply, be the most significant and important veterans' legislation since the enactment of the Agent Orange Act 25 years ago.



Reports in the media brings home the true costs of war: the disabling and often catastrophic physical wounds suffered by our troops, most recently in Afghanistan and Iraq, and the lifelong care many will need; the suicides and array of mental and emotional hurts – Post-traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI) among them – that plague so many.

As reported in a very sobering story by Dave Phillips in the *New York Times*: “Since 2001, more than 300,000 people, about 13 percent of all troops, have been forced out of the military with less-than-honorable discharges.” If this figure is anywhere near accurate, that is just about one out of every eight-service members, an astounding number.

As Representative Mike Coffman – an Iraq war veteran himself, as many of you know – noted, “We put out an unprecedented number of troops for minor infractions, and I believe a lot of them were suffering from PTSD.” We understand that he is set to introduce legislation, which would shift the burden of proof about PTSD from veterans to the military. We strongly endorse this legislation.

Tens of thousands of veterans were discharged from the military since 9/11 before the military acknowledged its mistakes and began to change its policies

For those of us who served in Vietnam, it is déjà vu all over again. The Army Board for Correction of Military Records (BCMR), the supreme authority in the Army’s review agency, ruled against veterans in 2013, as the *Times* reported, in about 96 percent of PTSD-related cases, according to an analysis done by Yale Law School’s Veterans Legal Services Clinic. VVA was (and is) the plaintiff in that case.

In an attempt at a solution in 2014, then Defense Secretary Chuck Hagel instructed the military review boards to give “liberal consideration” to all veterans seeking an upgrade of their discharge because of PTSD.

<https://www.law.yale.edu/studying-law-yale/clinical-and-experiential-learning/our-clinics/veterans-legal-services-clinic/vva-ptsd-discharge-upgrades>

<http://arba.army.pentagon.mil/documents/SECDEF%20Guidance%20to%20BCMRs%20re%20Vets%20Claiming%20PTSD.pdf>

Since then, rulings in favor of veterans at the Army Board for Correction of Military Records have surged to 45 percent from 4 percent, according to records.

But again, what of all of those who have not benefitted from the military’s belated attempt to redress this injustice? The nature of their discharges effectively denies them a range of benefits, especially the mental health care many very desperately need.

It must also be said that even as efforts to provide redress of the injustice done to veterans who served faithfully, often valiantly, and with honor are providing an avenue to belated justice for some, the military continues to act unjustly toward others.

The effort of many commands to meet reductions in strength by just throwing young people out of the military on any pretext continues unabated including, most shamefully of all, in Wounded Warrior Transition Units (WWTU) across the nation. We will continue our work in this area until we are able to focus enough attention on these terrible abuses to effect lasting change.



As you well know, the VA healthcare system has been subjected to several “scandals” of its own making. This, in turn, has occupied much of the focus of your committees. After having recognized a situation of lack of access that had existed for some two decades, a situation that was well-known to the VSOs and to many of you in Congress, you responded with righteous outrage, eventually giving veterans, for better or worse, more choice in their healthcare decision-making.

Is this at least part of the answer? VVA believes it is part of the answer to provide options in the private sector where VHA is short on the needed personnel to perform vital services in a locality. Said simply, VA does not have enough clinicians to meet the growing needs of the eligible veterans who use the system.

A significant part of the problem at VA has been poor leadership in many key slots within VHA, as well as at VBA.

Going forward, there must be a sense of urgency that in the past was all too often missing. Caring for veterans is part of the continuing cost of war, and a wounded warrior’s travails do not end when his/her war does.



No doubt, many facets of the VA need fixing. Some argue that the VA is incapable of fixing itself, that it is failing veterans. With inspired leadership and capable, caring management – and with your vital assistance both in funding and in oversight – the VA can be a disabled veteran’s best hope. A lot of what the VA does it does well, Lucretia McClenney, a commissioner on the Commission on Care, said at a recent meeting. A community-based outpatient clinic in Pittsburgh “is doing terrific work,” she said. “You can’t fake passion; you can’t fake caring for veterans.” And the VA has expertise in addressing the so-called invisible wounds of war, “which are going to be around for a long time.”

The Commission on Care, created by the Choice Act, is to submit its final report. Perhaps the crux of this report, which will strive to envision the shape and role of the VA 20 years into the future, is this: *Should the VHA continue as **provider and payer** for healthcare services for eligible veterans, **or** should the VHA evolve to become a **payer only**?*

We do not know how many commissioners have actually gone to a VA medical center or CBOC as patients. If they did, they would know what we do, that despite the issues and various scandals that crop up every now and again, veterans get very good to excellent care at just about every VA healthcare facility. The majority of VA Staff, from janitors to administrators, from kitchen workers to clinicians, appreciate the veterans who choose to receive their healthcare from the VA.

And there is something we hope this commission, as well as you here in Congress, will consider: Go to any VAMC or CBOC and sit with the vets in a common area, such as in the atrium at the VAMC here in Washington, D.C. You will see – you will *feel* – the camaraderie among many of the men and women there. Where else are you going to witness this? At a general medical facility at which a veteran is just another patient with a problem? We do not think so.

Michael Blecker, Executive Director of Swords to Plowshares, has been fighting on behalf of veterans for four decades. He is a member of the

commission. “We’re not going to help nine million veterans [registered in the VA healthcare system] by diminishing VA care,” he said. “And diminished care is what will occur” by outsourcing the majority of VA’s healthcare functions. “War is a wounding of mind, body, and spirit. And if you’re not championing veterans, they’re invisible” in any privatized system.



There are also a number of health-related issues and legislation we note here for your consideration.

Hepatitis C: Veterans, especially those who served in and around Vietnam in the 1960s and ‘70s, experience hepatitis C infection rates that are twice as high as their civilian counterparts. Yet previously, too many people who tested positive for hepatitis C preferred to forego treatment and risk cirrhosis, hepatic cancer, liver damage, and/or organ failure rather than undergo the harsh and largely ineffective regimen of chemotherapy required to attempt to rid their bodies of the virus.

Fortunately, an unprecedented advancement in the treatment of hepatitis C (HCV) has brought new hope to those veterans living with this potentially fatal virus -- less than two years ago, the Food and Drug Administration (FDA) approved several new treatments with cure rates of up to 98 percent with few – if any – side effects. However, when faced with this new reality, the VA claimed that it was not prepared financially to initiate wholesale treatment for all affected veterans because of the high costs of these curative treatments. So the VA developed a protocol for which veterans would receive the new treatments.

Thus, on one hand, we were most gratified that in last December’s Omnibus bill, Congress provided the VA with nearly three times the requested amount for both FY’16 and FY’17 to treat veterans with HCV. These resources will go a long way to beginning to eradicate the scourge of HCV within the veteran community. However, VVA believed new problems had arisen, even with such a significant increase in hepatitis C funding. Because

according to Secretary Bob McDonald's testimony in early February of this year, ". . . VA will focus resources on the sickest patients and most complex cases and continue to build capacity for treatment through clinician training and use of telehealth platforms. Patients with less advanced disease are being offered treatment through the Veterans Choice program in partnership with community HCV providers . . ."

However, our fears that HCV-infected veterans were being marginalized became unfounded, when on February 24, the VA's Assistant Deputy Under Secretary for Health for Clinical Operations and Acting Assistant Deputy Under Secretary for Health and Patient Care Services issued a joint memo to VA facility management and Chiefs of Pharmacy that stated in part: "...Effective immediately for the rest of FY 2016, all Veterans with HCV may receive treatment within VA facilities without regard to stage of liver disease; the use of prioritization protocol to determine eligibility for treatment within VA is no longer in effect . . ." (VA's emphases).

Even with this new VA HCV policy statement, VVA still believes early detection of hepatitis C and the new curative treatments prevent liver cancer and are more cost-effective in the long run, than liver transplants. Most importantly, *it will save veterans' lives.*

Veteran Suicide: In 2012, the VA published veteran suicide data, which subsequently resulted in a continuing stream of stories across the media accepting as unchallenged fact that "22 veterans a day commit suicide." From that report, we also learned that more than 70 percent of veteran suicides occur in veterans over the age of 50 – Vietnam era vets. While problems with the database from which this figure was calculated are known, they have not reported widely. This this raises another question: how long will it be before the VA's veteran suicide database is upgraded and revised to calculate accurate, current numbers of veteran suicides?

In addition, we are deeply troubled by recent reports of an increase in suicides by women veterans, especially since women vets are reportedly at six times the risk for suicide than their female civilian counterparts. How exactly does the VA plan to deal with this, considering that the numbers of

women in the military are increasing and new DoD provisions permit women to serve in combat roles?

Military Sexual Trauma: Like suicide, military sexual trauma, now well known as MST, is an issue that many do not wish to talk about. But it is very real and occurs more frequently to both servicemen and -women than leadership is willing to admit. In fact, data released *back in May 2015* by Senator Kirsten Gillibrand revealed a high prevalence of assault among civilian women and military spouses, raising new questions about the scope of both the survivor population and under-reporting. The analysis reaffirms a lack of trust in the military justice system as nearly half of the survivors in the cases reviewed declined to move forward after initially filing a report. Even when cases did proceed, just over 20 percent went to trial and only 10 percent of all cases resulted in a sexual assault conviction with penalties of confinement and dishonorable discharge. The cases that did proceed to trial but failed to obtain a sexual assault conviction typically resulted in more lenient penalties, such as a reduction in rank or docked pay.

Senator Gillibrand's review also echoed the findings of DoD's own report on sexual assault in the military for FY'14. Despite the implementation of reforms to address sexual assault, 75 percent of servicemen and -women so lack the confidence in the military justice system that they do not report the crimes committed against them. Retaliation rates also remain high, with 62 percent of women who reported a sexual assault or unwanted sexual contact perceiving some form of retaliation.

VVA believes that one step in the process of building support for professionalizing the military justice system and making sure that MST survivors know they have a fair shot at justice is the re-introduction and passage of the Military Justice Improvement Act, which Senator Gillibrand had introduced in the 113th Congress.

Extending Caregivers Eligibility: VVA supported legislation to assist family caregivers of troops catastrophically wounded or injured in the wake of 9/11. Thanks to the bravery and tenacity of medevac crews and military medical personnel at evacuation hospitals, catastrophically wounded

warriors who would surely have perished in Vietnam were being saved. Heart-rending testimony before congressional committees by surviving vets and their wives and mothers moved Congress to pass the Caregivers and Veterans Omnibus Health Services Act of 2010 to assist these caregivers – of the catastrophically wounded after 9/11.

There was a significant caveat in this legislation: the VA Secretary was to report to Congress on how the caregiver program was working and what, in his considered judgment, might be the efficacy of extending the program to family caregivers of veterans of Vietnam, Africa, and the Gulf War. That report was two years late. Needless to say, these caregivers were not accorded the benefits of this legislation. Why not? The budget deficit was to blame, then sequestration. How many caregivers of Vietnam vets still suffering daily debilitating wounds from combat during their youth might potentially be eligible to benefit from the caregivers program? Who knows?

Now, there are 17 co-sponsors of S. 1085, introduced ten months ago by Senator Patty Murray (D-WA), and 60 co-sponsors of H.R. 1969, companion legislation introduced by Congressman Jim Langevin (D-RI). This Military and Veterans Caregiver Services Improvement Act would extend eligibility for the VA's family caregiver program to include members of the Armed Forces seriously injured or wounded on active duty prior to September 11, 2001. Among its other provisions, it would also expand services to caregivers to include childcare services, financial planning services, and legal services; and it would terminate the support program for caregivers of covered veterans on October 1, 2020, except that any caregiver activities carried out on September 30, 2020, would be continued.

VVA of course supports enactment of this legislation, which we consider to be both fair and necessary.

Disability Compensation Claims Appeals: For several years, with a backlog of claims approaching the one million mark (by some calculations), congressional hearings were held exploring this troubling development, potential personnel and IT solutions, and appropriations of significant increases in funding to stanch the explosive increase.

Well, something worked. We credit the digitization of claims files. But as the claims backlog has shrunk, guess what? There has been a corresponding upsurge in appeals, which now number more than 450,000, has created an outcry about an appeals backlog. What are needed, certainly, are more judges for the BVA, the Board of Veterans Appeals, (There are at least 10 vacancies in the current number of slots for judges) which is significantly understaffed, and needs permanent effective leadership that is also creative.

The growing number of appeals is, however, not the real culprit here. If the claim had been adjudicated accurately and fairly the first time, almost all of these cases would not be languishing in claims purgatory.

Veterans' Preference/Senior Executive Service: The Senior Executive Service (SES) was created as a pilot in the Civil Service Reform Act of 1978. The Carter Administration tried to eliminate veterans' preference across the board, but was defeated in that effort by the veterans services organizations and our friends on Capitol Hill. Those same individuals in that Administration did manage to eliminate veterans' preference in the new pilot program, however. These same people were able to establish the so-called "outstanding scholar program" as a ruse to circumvent veterans' preference.

The idea of the SES as promulgated was to have a new senior public service that was modeled after the British senior service, who would be professional managers not beholden to any one of the Federal bureaucracies because they would often move laterally between various Departments and Agencies, help the Presidential appointees to effectively run the government of the country.

The fact is that today more than 90% of SES personnel retire from the same Department where they entered Federal Service. The number of SES who works their entire Federal career at VA only is over 98%.

This is a failed experiment, which should be scrapped and the current SES personnel transitioned into a new and more accountable system.

Again, on behalf of our membership, we thank you for the opportunity to present VVA's legislative agenda and policy initiatives for the 114th Congress, and we thank all of you for the work you are doing on behalf of our veterans and our families.

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**VIETNAM VETERANS OF AMERICA
Funding Statement**

March 3, 2016

The national organization Vietnam Veterans of America (VVA) is a non-profit veteran's membership organization registered as a 501(c) (19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

For Further Information, Contact:

Executive Director of Policy and Government Affairs
Vietnam Veterans of America
(301) 585-4000, extension 127

Date: 2/26/2016

JOHN ROWAN

John Rowan was elected National President of Vietnam Veterans of America at VVA's Twelfth National Convention in Reno, Nevada, in August 2005.

John enlisted in the U.S. Air Force in 1965, two years after graduating from high school in Queens, New York. He went to language school, where he learned Indonesian and Vietnamese. He served with the Air Force's 6990 the Security Squadron in Vietnam and at Kadena Air Base in Okinawa, helping to direct bombing missions.

After his honorable discharge, John began college in 1969. He received a BA in political science from Queens College and a Masters in urban affairs at Hunter College. Following his graduation from Queens College, John worked in the district office of Rep. Ben Rosenthal for two years. He then worked as an investigator for the New York City Council and recently retired from his job as an investigator with the New York City Comptroller's office.

Prior to his election as VVA's National President, John served as a VVA veterans' service representative in New York City. John has been one of the most active and influential members of VVA since the organization was founded in 1978. He was a founding member and the first president of VVA Chapter 32 in Queens. He served as the chairman of VVA's Conference of State Council Presidents for three terms on the national Board of Directors, and as president of VVA's New York State Council.

He lives in Middle Village, New York, with his wife, Mariann.