



**Federal Update
for
August 4 - 8, 2014**



From the Office of Congressman Kline

Last week the House of Representatives passed, and Congressman John Kline supported, bi-partisan comprehensive legislation to increase access to health care for veterans in Minnesota and across the country. The vote for passage was overwhelming in support of our veterans: 420-5.

The bill will help improve access to care by permitting veterans the option to access private care only if they live more than 40 miles from a Medical Center or are unable to receive an appointment in a timely manner. The bill funds the VA’s authority to hire more doctors and nurses to provide additional access to care and authorizes 27 new VA Health Care facilities across the country. To improve accountability, the bill authorizes the Secretary of the VA to remove senior leaders for misconduct.

This is not the first time this year Congressman Kline and the House of Representatives have acted to fund critical veterans’ programs. In April, the House passed the Fiscal Year 2015 Military Construction and Veterans Affairs Appropriations Act. Congressman Kline supported the bi-partisan legislation to ensure our veterans have quality medical care, important job and training programs, and other benefits they have earned for their service to our country.

The legislation now heads to the President for his approval so we can begin to expand access to care for many Minnesotans.

DoD Suicide Policy Update ► 6% Rate Decline in 2013

Suicides in the military dropped by 6 percent last year, a decline that Pentagon officials hope signals a reversal in a tragic trend — but that some advocates say

does not reflect the true scope of the issue in the military and veterans' community. According to data published 22 JUL by the Defense Department, 479 service members — 259 active-duty troops, 87 Reserve members and 133 National Guard members — died by suicide in 2013, down from 319 active-duty members and 203 non-activated Reserve and Guard members in 2012. The rate per 100,000 — a measure used to compare incidence across the services and the civilian population — also dropped for the active-duty force, from 22.7 to 18.7. The civilian rate, adjusted for demographics similar to those who serve in the military, is 18.8 per 100,000, according to calculations by the Army and the National Institutes of Mental Health.

A new method of accounting instituted this year by DoD presents a challenge in interpreting the extent of the drops within each service and the various force components. For the first time, the Pentagon counted as active duty only those in the active component, including academy cadets and midshipmen. Excluded were Reserve members and National Guard members who were mobilized at the time of their deaths, who previously had been counted as active-duty personnel. The Pentagon also changed its methods for calculating rates. Under the old system, the rate in 2012 was 17.5 per 100,000. But the new system indicates the rate for that year — which saw the highest number of military suicides since the Pentagon began close tracking in 2001 — was 22.7 per 100,000. The new rate for 2013, 18.7 per 100,000 among active-duty members, was calculated using the new definition of active component.

Defense officials say the change was made to improve programs to serve the individual components. According to Defense Suicide Prevention Office director Jacqueline Garrick, the new accounting methods provide a better perspective on which communities are affected, allowing DoD to tailor programs to the components. For example, while reserve members on active duty have access to numerous programs and initiatives on base and in their workplace, they may return home to areas where there is less support. Understanding how many reservists have been affected will improve strategies to help them, Garrick said. "We're trying to really target in on specific things ... we're looking at access to care in remote and rural areas," she said. DoD has implemented numerous mental health and suicide prevention programs to reverse what has been a growing problem since the advent of the wars in Iraq and Afghanistan. While military suicides are often thought to be linked to combat service and the

psychological stresses of war, Pentagon reports show that more than half the service members who commit suicide never deployed to a combat zone. Military suicides began rising in 2006 and hit 284 active-duty deaths before dipping slightly in 2010 and 2011, then soaring to 319 in 2012. The Army, the largest service, had the highest number of suicides among active-duty troops in 2013, 123. The Air Force recorded 48 suicides, down from 50 in 2012, while the Marine Corps had 45, down from 48. The Navy saw the largest percentage decrease — a 25-percent drop to 43. Among Reserve and National Guard troops, the Army Reserve had the highest number of suicides in 2013, 60, for a rate of 30.1 per 100,000. The Army National Guard also recorded a high rate, 33.4 percent per 100,000, with 119 suicides in 2013. Those numbers do not incorporate the Veterans Affairs Department estimate of 22 veterans — those who served at some point but have left the military — who die each day by suicide.

Paul Rieckhoff, founder and CEO of Iraq and Afghanistan Veterans of America, cautioned against declaring victory over the declining active-duty figures because the data is offset by the alarming increased numbers in the Reserves and National Guard. “We know that most post-9/11 suicides happen after veterans leave the Department of Defense. To get a full picture of the scope of veterans suicides, we must assess the rate for the entire population of veterans who have served since 9/11,” Rieckhoff said. DoD officials said that while they are heartened to see a decline, they continue to pursue the goal of zero suicides in the U.S. military. “One loss to suicide is one too many. We will continue to do everything possible to prevent [it],” Garrick said. If you or someone you know is considering suicide, the Veterans Crisis Line is available 24 hours a day, seven days a week at 800-273-8255. [Source: MilitaryTimes | Patricia Kime | Jul 22, 2014 ++]

POW/MIA Update ► IG Issues Scathing Report of Pentagons Efforts

The Defense Department's inspector general has drafted a stinging rebuke of the Pentagon's struggling effort to recover the remains of missing servicemembers from past wars, concluding the mission lacks the most elemental building blocks for success. According to a draft report of its investigation obtained by ProPublica, the mission lacks agreed upon goals, objectives and priorities. It lacks a strategic plan and up-to-date policies. It lacks standard operating procedures, a complete

centralized database of the missing, and a disinterment plan, among other flaws. Many of these same issues were also laid out by a ProPublica and NPR investigation earlier this year. The shortcomings have contributed to a remarkably low number of identifications each year — just 60 in 2013 out of the tens of thousands missing from World War II, Korea and Vietnam 2014 despite about \$100 million annually to get the job done.

Defense Secretary Chuck Hagel announced an overhaul in late March of the MIA effort. The current agencies involved in the mission will be consolidated within the next year into a new agency. The revamped organization will have quite a job ahead of it. The Inspector General also laid out problems with leadership at the main agency involved with the mission, which have yet to be publicly acknowledged by the Pentagon. Complaints from about 50 current and former Joint POW/MIA Accounting Command employees, "paint a picture of long-term leadership and management problems resulting in a hostile and dysfunctional work environment," the report states. "If left uncorrected, the problems driving these complaints will be brought into the new Defense agency ... hindering mission accomplishment." About a dozen former JPAC employees have told ProPublica that they loved the mission but quit because of leadership issues.

When the Pentagon announced the revamp of the mission this spring, it stressed a structurally flawed system rather than issues regarding individual leaders and sidestepped any questions about accountability. Most of the leaders within the various agencies have been in charge in different positions for decades. The Inspector General recommended that the Pentagon immediately "take corrective action" on the leadership problems, as well as cut back on staff to eliminate duplicative positions among the various agencies. In addition to personnel issues, the IG also criticized the Pentagon for lacking defined metrics. The report says the Pentagon needs to develop a policy to address the nearly 10,000 unidentified servicemembers who have been buried as "unknowns" in American cemeteries around the world. It also calls for realistic prioritization of the 83,000 total MIAs, including "uniform criteria and policies across conflicts to categorize and declare a MIA service member as not likely to be recoverable." About 50,000 were lost at sea in downed ships or aircraft, making their remains unlikely to be found. Failing to acknowledge that prevents objectives from being set, in both accomplishment and for efforts like collecting family DNA reference samples, the IG said. "If DoD established policy criteria to make a "non-recoverable" determination, many MIA

cases could be re-categorized and the families notified that DoD will no longer actively pursue these cases," the report states.

The Pentagon can't make all the changes on its own. The law currently requires a body to be found before someone can be taken off the MIA list. The Pentagon also must figure out when to stop the entire mission. The IG writes that "in the absence of a defined end state and sunset criteria for actively searching for past conflict MIAs, the accounting mission can be expected to continue in perpetuity with ever-diminishing results and ever-increasing difficulty justifying costs." In an addendum to the report, under "additional issues," the inspector general defended JPAC's limited use of DNA, which was contrary to what ProPublica and NPR found to be standard practice around the world. The report repeated JPAC claims that dental and other medical records are often the better and faster source of identification. Outside scientists told ProPublica that while there are limitations to DNA, JPAC should be using it more. The Pentagon declined to comment on the report, saying the draft report was "pre-decisional." A final report, after comments are gathered from all agencies involved, is expected to be publicly released by the end of the month. [Source: ProPublica | Megan McCloskey | Jul 12, 2014 ++]

POW/MIA Update ► New Agency Will Be Stood Up on 1 JAN

Defense Department officials testified 15 JUL that the new agency to replace the troubled POW/MIA accounting community in charge of recovering and repatriating the remains of troops killed in past conflicts will be stood up on 1 JAN. Joint Personnel Accounting Command as ordered by the secretary of defense in February, said Michael Lumpkin, the assistant secretary of defense for special operations and low-intensity conflict. Lumpkin testified before the House Armed Services' military personnel subcommittee, which for years has pressed for reform and in 2009 helped pass a congressional mandate that the DOD recover at minimum of 200 remains annually beginning next year. On Tuesday, Rep. Joe Wilson (R-SC), chairman of the House subcommittee, said he was pleased that the DOD is moving ahead with the changes. "What a positive report — that is very unusual in Congress," he said.

The DOD efforts to recover 83,000 Americans still missing from past conflicts have so far fallen far below the goal set by Congress and been dogged by incompetence and dysfunction, including claims agencies ignored leads, arguing against identifying remains in government custody, desecrated and mishandled of remains, and failed to keep critical records. An interim inspector general report, obtained last week by ProPublica, outlined some of the problems:

- A remarkably low number of identifications each year — just 60 in 2013.
- No standard operating procedures, or central database of the missing.
- Leadership and management problems resulting in a hostile and dysfunctional work environment.
- No acknowledgment that as many as 50,000 missing at sea are unlikely to be recovered.
- Defense secretary Chuck Hagel ordered the overhaul and consolidation in February and called maximizing the number of identifications a top priority for the DoD.

Lumpkin said the new central agency will open at the start of 2015 but will not be fully operational until January 2016. “Throughout this process, operations to account for the missing and to keep their families informed will continue,” he said. Jamie Morin, director of DOD Cost Assessment and Program Evaluation, said JPAC and DPMO as well as the Life Sciences Equipment Laboratory, which handles forensic work, will continue on recovery efforts until the new agency is completely operational in 2016. “We are building something up while we are shrinking something down to ensure that this is seamless,” Morin said. Plans for the new agency call for:

- Oversight by a newly created DOD policy undersecretary who’s central task will be the recovery effort.
- A medical examiner in charge of all identification and scientific operations.
- Centralized data base and case management system containing all POW/MIA case information.

Lumpkin said the department will also try to improve the way it treats the families of those still missing in action. “From a business perspective, who is the customer here? We haven’t focused on the families as much as we could,” he said. “I think

that is the underlying piece we all agreed upon." [Source: Stars & Stripes | Travis J. Tritten | July 15, 2014 ++]

POW/MIA Recoveries

"Keeping the Promise", "Fulfill their Trust" and "No one left behind" are several of many mottos that refer to the efforts of the Department of Defense to recover those who became missing while serving our nation. The number of Americans who remain missing from conflicts in this century are: World War II (73,539) Korean War (7,822) Cold War (126), Vietnam War (1,642), 1991 Gulf War (0), and OEF/OIF (6). Over 600 Defense Department men and women -- both military and civilian -- work in organizations around the world as part of DoD's personnel recovery and personnel accounting communities. They are all dedicated to the single mission of finding and bringing our missing personnel home. For a listing of all personnel accounted for since 2007 refer to http://www.dtic.mil/dpmo/accounted_for.

For additional information on the Defense Department's mission to account for missing Americans, visit the Department of Defense POW/Missing Personnel Office (DPMO) web site at <http://www.dtic.mil/dpmo> or call or call (703) 699-1169. The remains of the following MIA/POW's have been recovered, identified, and scheduled for burial since the publication of the last RAO Bulletin:

Vietnam - None

Korea

The Department of Defense POW/Missing Personnel Office (DPMO) announced 25 JUL that the remains of a U.S. serviceman, missing from the Korean War, have been identified and will be returned to his family for burial with full military honors. Master Sgt. Lawrence O. Jock, assigned to Battery A, 955th Field Artillery, 8th U.S. Army, was lost July 14, 1953, in North Korea. He was accounted for June 25, 2014 -- the 64th anniversary of the start of the Korean War. He will be buried with full military honors Aug. 1, 2014, in Malone, N.Y. The 37-year-old soldier was serving as a forward observer with a field artillery battery in the 8th Army when his position was attacked on July 15, 1953 by Chinese forces in Kangwon Province, North Korea. After the battle, Jock was listed as MIA. His remains were among those of 350 to 400 U.S. servicemen turned over by North Korea between 1991 and 1994. They were identified through DNA samples provided by his family.

Lawrence Jock's surviving relatives in northern New York knew next to nothing about the Army combat veteran. Since he was identified relatives have learned that he was decorated veteran of World War II who enlisted before America entered the conflict in December 1941. "He was a patriot even before the Japanese attacked us. That was something I could tell the family," said 1st Sgt. Ronald Spanton of the New York Army National Guard. Spanton, a casualty assistance officer in northern New York, researched Jock's military background. He learned that Jock joined the service in the 1930s, served as an infantryman in Europe with the 100th Infantry Division during WWII and was awarded a Purple Heart and a Bronze Star for Valor. Jock also served with U.S. occupation forces in Japan. The only living relative with a memory of Jock is his niece, now 78, who recalls him coming to her mother's house to say goodbye before going to Korea.

World War II

- The Department of Defense POW/Missing Personnel Office (DPMO) announced July 9, 2014, that two U.S. servicemen, missing from World War II, have been identified and are being returned to their families for burial with full military honors. The two servicemen are Army Air Force Staff Sgts. Robert E. Howard, 21, of Moravia, Iowa, and David R. Kittredge, 22, of Oneida, Wis. The individually identified remains of Howard will be buried on July 19, in Moulton, Iowa. The individually identified remains of Kittredge will be buried at a date and location still to be determined. Some of the remains could not be individually identified and they will be buried as a group in a single casket, at a future date at Arlington National Cemetery near Washington, D.C. On April 16, 1945, three aircraft were flying in a formation on a bombing raid to Wittenberg, Sachsen-Anhalt, Germany, when the pilots of two other aircraft reported seeing Howard and Kittredge's aircraft hit by enemy fire. The B-26B descended into a deep dive and exploded upon ground impact. In 2007, a German aircraft researcher interviewed eyewitnesses, who reported seeing two deceased crew members buried near the crash site under an apple tree. He also reported the crew members as being exhumed in 1947 or 1948, by an allied recovery team. In June 2012, a German national informed the U.S. government that he found possible human remains in Muhlanger, which he believed to have been associated with an April 1945, B-26B crash, and turned them over to the local police. In July 2012, a JPAC team began excavating the site recovering human remains, personal effects and aircraft

wreckage. JPAC also took custody of the remains that the local German national had previously recovered. To identify Howard's remains, scientists from JPAC and the Armed Forces DNA Identification Laboratory (AFDIL) used circumstantial evidence and forensic identification tools such as mitochondrial DNA (mtDNA). To identify Kittredge's remains, scientists from JPAC and AFDIL also used mtDNA and dental comparisons, which matched his records.

- The Department of Defense POW/Missing Personnel Office (DPMO) announced 21 JUL that the remains of a U.S. serviceman, lost during World War II, have been identified and are being returned to his family for burial with full military honors. Marine Pfc. Randolph Allen of Rush, Kentucky, will be buried July 29 in Arlington National Cemetery, Washington D.C. In November 1943, Allen was assigned to the 2nd Marine Division, which landed on the small island of Betio in the Tarawa Atoll, in an attempt to secure the island against stiff Japanese resistance. Over several days of intense fighting approximately 1,000 Marines were killed and more than 2,000 were wounded. As a result of these attacks, Allen was reported killed in action on Nov. 20, 1943. In the immediate aftermath of the fighting on Tarawa, U.S. service members who died were buried in a number of battlefield cemeteries. During World War II, U.S. Navy Combat Engineers, "SeaBees," significantly restructured the landscape to convert the island for use by the military. In 1946 when U.S. Army Graves Registration Service personnel attempted to locate all of the battlefield interments, many of the burials could not be located. From Nov. 12-27, 2013 a private organization, known as History Flight, excavated what was believed to be a war time fighting position on the island of Betio. During this excavation History Flight recovered five sets of remains, personal effects and military equipment. Four sets of remains were determined to be Japanese service members and the fifth set was believed to be that of a U.S. Marine. Two sets of military identification tags which correlated to Allen were also found in the fighting position. In the identification of Allen's remains, the Joint POW/MIA Accounting Command (JPAC) used circumstantial evidence and forensic identification tools such as dental and skeletal comparison, which matched Allen's records. [Source: http://www.dtic.mil/dpmo/news/news_releases/ Jul 30, 2014 ++]

VA Health Care Access Update ► Private Care | Don't Open Floodgates

The ambitious push by Congress and its veteran affairs committees to swiftly solve a health care wait-time crisis for tens of thousands of veterans by granting access to private-sector care appears to have run hard aground. After four weeks, House-Senate conferees, working through their staffs to iron out differences in separate veteran health reform bills, need some major breakthroughs, according to lawmakers and staff. “I am very concerned that this conference committee will end up taking a step backward for veterans’ health care in this country,” said Sen. Jon Tester (D-MT). “That cannot happen. Veterans deserve better.” Worries center on the showpiece of both bills: that VA for two years will make private sector care available to veterans if they face waits for VA care longer than 30 days or live more than 40 miles from a VA care facility.

The trouble goes beyond costs, though they are considerable. Lawmakers negotiating a final deal appear only now to be learning the challenges for veterans to access civilian care, and the need for VA to have the resources to monitor and coordinate expansion of purchased care. The unease among lawmakers surfaced during a 16 JUL hearing of the Senate Veterans Affairs Committee where acting VA Secretary Sloan Gibson presented the VA’s longer-term plan to improve access to care. Sen. Patty Murray (D-WA), for example, asked about difficulties VA has in getting medical records returned from civilian providers, and monitoring the quality of care veterans receive in the private sector. “One of the biggest challenges we have with purchased care in the community is maintaining continuity of care for the veteran,” Gibson said. “The ability to get medical record information back and forth is a vital part of this, [to] ensure the quality of care. I will tell you, if the floodgates open, it will present the department with challenges.” The Congressional Budget Office dropped an anvil of hefty cost estimates on both bills, to the shock of fiscal conservatives among supporters.

The Senate voted to treat its bill as emergency legislation, which means not appropriating billions of dollars needed to pay for it; the costs simply would be added to the nation’s debt. House Republicans want the final bill paid for, but need to find budget offsets that colleagues will accept. With Sen. Bernie Sanders (I-VT), chairman of the Senate Veterans Affairs Committee, insisting on

emergency funding only, the search is on for ways to lower costs enough to entice House conferees to compromise. One idea is to cut, from two years to one, the window for easy access to private sector care for veterans facing long waits or long trips to get care. Another idea is to limit eligibility to current VA care enrollees, eliminating the threat of an enrollment rush and yet addressing the current care backlog.

After discussions with committee staffs, the Congressional Budget Office did lower its cost estimate for the Senate bill (H.R.3230) to \$35 billion in direct spending over 10 years. But CBO cautioned this new estimate ignores any costs from higher usage of VA care after October 2017, even if triggered by the bill's design. In an earlier cost estimate, CBO said VA health costs could spike by \$50 billion a year if as many as two million veterans are enticed to drop current health plans to seek VA-paid care from local docs. The VA's new plan to address the wait-time crisis includes expanding VA medical staff by 10,000 personnel, including 1500 physicians, over the next three years. That sounds like a lot, Gibson said, but it's only a three percent hike to the Veterans Health Administration current staff of 300,000. VA's audit of wait times at health facilities, he said, found that the "number-one cause for scheduling difficulties" was a shortage of doctors. "We have not historically managed to requirements. We have managed to a budget number" regardless of actual need. "And the veterans wound up being the shock absorbers in that process," Gibson said.

VA also wants more facility space to provide direct care, so VA is asking Congress to fund eight large medical facilities from VA's construction backlog list, support leases for 77 more outpatient clinics, and cover minor construction and maintenance projects that would open even more space. Those projects combined would allow eight million more VA health appointments annually, Gibson said. The entire plan would cost \$17.6 billion over three years. Gibson hinted it's a better plan than some lawmakers seek. "I believe the greatest risk to veterans over the intermediate-to-long-term is that additional resources are provided only to support increased purchase care in the community and not to materially remedy the historic shortfall in internal VA capacity. Such an outcome would leave VA even more poorly positioned to meet future demand," Gibson said.

More VA facilities and staff, however, are precisely what Tea Party conservatives in Congress vehemently oppose. And their view is said to be influencing debate among House-Senate conferees. Sen. Mike Johanns (R-Neb.), a Tea Party favorite who will retire from the Senate in December, told Gibson that what VA needs is competition from private sector health care providers and not more billions of dollars to spend. "If somebody were biting at your backside because they were providing better care, faster care, honest waiting lists, [VA leaders] would go, 'Holy smoke! If we don't get our act together [and] if we don't see more patients during the day, we're going to lose out,'" Johanns said. Gibson countered that many veterans like and depend on VA care. "But at the end of the day," Johanns interrupted, "these veterans fight for our freedoms. Why don't they have the freedom to make their own choice about their health care? And maybe they say... 'That hospital 20 minutes down the road is simply a better situation for me than the [VA] hospital that's 250 miles from where I'm at, with a long waiting list.'"

To a question from Tester, Philip Matkovsky, assistant deputy under secretary for health administrative operations, said purchasing care in the private sector generally costs taxpayers more than care in VA facilities. Sanders expressed confidence that conferees will reach a deal in time to get a final bill passed before Congress goes on its August break. [Source: Stars & Stripes | Tom Philpott } Jul 17, 2014 ++]

VA Funding Needs ► \$18B to Hire Medical Staff, Lease Space

Veterans Affairs Department officials want nearly \$18 billion more in funding over the next three years to hire more clinicians, lease more space and cut down on wait times for medical appointments. The money is also partly designed to serve as a down payment on rebuilding VA's reputation, proving to the public that with enough resources, the department can once again be a reliable asset for veterans seeking care. In his first testimony on Capitol Hill, acting VA Secretary Sloan Gibson acknowledged to the Senate Veterans' Affairs Committee that VA today "has serious problems" that will take years to correct. "We understand the problems we face. We own them. We are taking decisive action to begin to resolve them," Gibson said. "We can turn these challenges into the greatest opportunity for improvement in the history of the department."

Those challenges include nearly nonstop scandals over the past four months, including recent revelations about whistleblower retaliation and data manipulation in dozens of facilities. But the overarching issue that forced the resignation of Gibson's predecessor — retired Army Gen. Eric Shinseki, who stepped down in May — was system wait time problems, covered up by administrators trying to protect performance bonuses. As of July 3, more than 636,000 veterans — about 10 percent of VA's total appointment caseload — faced a wait of a month or more for medical appointments. To fix that, Gibson wants to hire 10,000 clinicians in coming years and find more space for medical appointments through leases, VA facility improvements and new construction — moves that he said would provide not only a short-term fix but also a longer-term solution to the underlying resource issues. "I know it sounds like huge numbers," he told lawmakers. "But [VA] historically has not managed to veterans' requirements, we've managed to budget numbers." Congress is already considering an emergency VA reform bill that would boost funding by about \$30 billion over the next three years, according to Congressional Budget Office estimates. But that measure would allot only \$500 million to new hiring initiatives; the rest would be used to increase access to private care options for veterans having trouble accessing VA care.

The department already has seen dramatic jumps in funding over the last decade, adding about \$100 billion to its base budget since fiscal 2004 and about \$70 billion since fiscal 2008. The additional funding request drew concerns from several senators, who questioned whether better management and use of existing resources would provide more results for veterans. But Gibson insisted that addressing the fundamental problems behind the wait times will require more resources, and failing to back those plans "will mean that the wait times will get longer." He also outlined a number of recent audits and policy updates to address the other scandals, and repeated his promise that VA whistleblowers will be protected — and those who retaliate against them will face punishment. The pending reform legislation would also make it easier to fire senior executives for mismanagement and poor performance. Committee chairman Sen. Bernie Sanders, I-Vt., said he hopes that measure will move forward soon. But so far, issues of the cost and scope of the bill have held up a final draft. [Source: NavyTimes | Leo Shane | Jul 16, 2014 ++]

VA Claims Backlog Update ► VBA Completes 1M Claims in FY 2014

The Department of Veterans Affairs (VA) on 14 JUL announced that the Veterans Benefits Administration (VBA) has completed its one millionth disability claim in fiscal year 2014, and is on track to complete more than 1.3 million claims this year – ensuring that nearly 200,000 more Veterans will receive decisions on their disability claims than fiscal year 2013. Since 2011, VBA has been implementing the largest transformation in its history, fundamentally redesigning and streamlining the way it provides benefits and services to Veterans, their families and survivors. “VBA has made significant progress toward eliminating the backlog, but there is more work to be done to reach our goal of processing all disability claims within 125 days at a 98-percent accuracy level in 2015.” said Allison Hickey, Under Secretary for Benefits. “VBA’s employees, half of whom are Veterans themselves, believe that Veterans should not have to wait for the benefits they have earned and deserve. While we work to drive down the backlog of disability claims, we must also improve productivity on other categories of non-rating work.”

In the past four fiscal years, VA surpassed one million completed claims by the end of each year. Passing the one-million mark this year in early July represents major progress in providing more Veterans and their family members with timely, accurate decisions. VBA has reduced the claims backlog by more than 55 percent from its peak of 611,000 in March 2013 – and Veterans with pending claims have been waiting, on average, 128 fewer days for a decision on their claim. At the same time, the accuracy of rating decisions continues to improve. VA’s national “claim-level” accuracy rate is currently 91 percent – an eight-percentage-point improvement since 2011. These rating decisions often determine eligibility for other VA benefits and services, including non-rating claims, which are tracked and managed in other categories on the Monday Morning Workload Report. These categories also have increased as more rating claims are completed, but VBA has not lost focus on non-rating work. VBA has taken the following actions to automate and improve the timeliness and accuracy of non-rating claim decisions:

- **Online Dependency Claims** – VBA developed a new Rules-Based Processing System (RBPS) to automate dependency claims. Since inception, self-service

features in RBPS have enabled over 75,000 Veterans to add or change the status of their dependents online. Over 50 percent of the dependency claims filed through RBPS are now automatically processed and paid in 1-2 days.

- **Dependency Claims Contract** – VA recently awarded a contract for assistance in entering data from paper-based dependency claims into VA’s electronic rules-based processing system. The contractor is entering the information from the paper-based dependency claims just as a claimant would enter information if filing the claim online. The contract calls for 40,000 dependency claims to be processed per month when operating at full capacity. The contractor is currently ramping up to that capacity.
- **Up-front Income Verification for Pension** – A new data-sharing initiative with the Social Security Administration and the Internal Revenue Service enables VBA to verify the income of pension applicants before awarding benefits and eliminates the annual income reporting requirement for pension beneficiaries.
- **Burial Claims** – VBA published a new regulation, effective July 7, 2014, that allows automatic payment of the one-time burial allowance to a Veteran’s spouse without requiring the surviving spouse to apply for the benefit. Under this new regulation, as many as 62,000 surviving spouses will now receive timely burial benefits each year.
- **Drill Pay Adjustments** – Veterans cannot legally receive VA benefits and drill pay concurrently. VBA is working to streamline and automate the drill pay offset process through an upfront agreement from National Guard and Reserve members.
- **National Call Center Initiative** – Effective July 14, employees at the St. Louis and Phoenix National Call Centers are now also processing dependency claims. The initiative begins on July 14 at the St. Louis and Phoenix Regional Offices and will be expanded to all of our Call Centers shortly thereafter.
- **Hiring Temporary Employees** – VBA is in the process of hiring 200 temporary employees, who will be provided specialized training in processing the less complex non-rating claims and work actions.

VBA posts data on the disability claims backlog, the non-rating workload, and other publicly available data on their performance on a weekly, monthly, and annual basis through their reports website <http://www.vba.va.gov/reports>. For

more information about disability and other Veterans benefits, go to <http://www.ebenefits.va.gov>. [Source: VA News Release Jul 14, 2014 ++]

VA Appeals Backlog Update ► Appeals Resolution Time 923 Days

While there are clearly some doubters most people think that the backlog for disability adjudications has dropped dramatically. Indeed, this week the VA proudly announced that they had just adjudicated their 1,000,000th claim for this fiscal year. However, this is predictably leading to another backlog increase. There is now a backlog for pending appeals of denied claims... as well as increased delays in other claims matters.

One of the areas that have suffered while most of the VA's focus has been on adjudicating initial disability claims is the simple job of changing the number of dependents that is covered by a claim. The VA's own figures show that the number of claims to change the status of a dependent has risen from 35,734 at the start of 2012 to 191,464 on June 28 of this year. As of June 28th the number of pending appeals has reached 279,435. This has been seen as a growing problem since 2012 when the VA's Inspector General (IG) suggested that the VA "revise productivity standards" to ensure review officers get credit only for work that moves an appeal forward, according to the most recent IG report to Congress. That has not yet happened. Laura Eskenazi, Principal Deputy Vice Chairman Board of Veterans' Appeals U.S. Department of Veterans Affairs and the executive in charge of the Board of Veterans' Appeals, said appeals rates have held steady for nearly 20 years, but the total number has risen as more claims have been filed. "If the expectation is a short time frame [to get a decision on an appeal] that would require some trade-off in the due process," she said.

The average time for a denied claim to work its way through the VA's appeals process shot up to more than 900 days last year After staying between 500 and 750 days for the past decade, what the VA refers to as its "appeals resolution time" hit 923 days in fiscal 2013. That is a 37% jump in one year, from 675 in fiscal 2012. The VA's long time goal is for an appeal to take 400 days to resolve. It should be remembered that veterans have a provision in our appeals process that almost no one else has. It permits all appellants (veterans, survivors or their representatives) to submit at any time in the appeal new evidence or information.

That triggers a fresh review of the entire appeal. The Board of Veterans' Appeals can grant, deny or remand the case to one of the VA's regional offices for additional review. This of course slows appeals down but it is a terrific advantage for the veteran and his/her family. [Source: TREA News for the Enlisted Jul 21, 2014 ++]

VA Credibility Update ► Gibson's SVAC Testimony on Actions Taken

In testimony before the Senate Committee on Veterans' Affairs, Acting Secretary of Veterans Affairs Sloan D. Gibson told members of the Senate Veterans Affairs Committee on 16 JUL that it would take years for the department to rights its wrongs. "I believe in as little as two years the conversation can change. That the VA can be the trusted provider for care and benefits," Gibson said. He outlined serious problems regarding access to healthcare and key actions the Department of Veterans Affairs (VA) has taken to get Veterans off wait lists and into clinics. "The trust that is the foundation of all we do – the trust of the Veterans we serve and the trust of the American people and their elected representatives –has eroded," said Acting Secretary Gibson. "We have to earn that trust back through deliberate and decisive action, and by creating an open and transparent approach for dealing with our stakeholders to better serve Veterans." Gibson discussed six key priorities to begin restoring trust:

1. Get Veterans off wait lists and into clinics;
2. Fix systemic scheduling problems;
3. Address cultural issues;
4. Hold people accountable where willful misconduct or management negligence are documented;
5. Establish regular and ongoing disclosures of information; and,
6. Quantify the resources needed to consistently deliver timely, high-quality healthcare.

Gibson testified that VA needs approximately \$17.6 billion in additional resources to meet current demand for the remainder of FY 2014 through FY 2017. This funding would address challenges such as clinical staff, space, information technology, and benefits processing necessary to provide timely, high-quality care and benefits. "We understand the seriousness of the problems we face. We own

them. We are taking decisive action to begin to resolve them,” said Gibson. “We can turn these challenges into the greatest opportunity for improvement in the history of the department.” Gibson also outlined actions that VA is taking now in order to address problems with access to VA healthcare, including:

- The Veterans Health Administration (VHA) has reached out to over 160,000 Veterans to get them off wait lists and into clinics. VHA has also made over 543,000 referrals for Veterans to receive care in the private sector – 91,000 more than in the comparable period a year ago.
- VHA facilities are adding more clinic hours, aggressively recruiting to fill physician vacancies, deploying mobile medical units, using temporary staffing resources, and expanding the use of private sector care.
- VA is moving rapidly to augment and improve its existing scheduling system while simultaneously pursuing the purchase of a “commercial off-the-shelf” state-of-the-art system.
- Gibson has directed Medical Center and Network Directors to conduct monthly inspections, in person, of their clinics to assess the state of scheduling practices and to identify any related obstacles to timely care for Veterans. To date, over 1,100 of these visits have been conducted.
- Gibson has directed a comprehensive external audit of scheduling practices across the entire VHA system.
- Gibson has personally visited ten VA Medical Centers in the last six weeks to hear directly from the field on the actions being taken to get Veterans off wait lists and into clinics, and he will continue to make site visits.
- The inappropriate 14-day access measure has been removed from all individual employee performance plans to eliminate any motive for inappropriate scheduling practices. In the course of completing this task, over 13,000 performance plans were amended.
- Where willful misconduct or management negligence is documented, appropriate personnel actions will be taken, including cases of whistleblower retaliation.
- Gibson froze VHA Central Office and VISN Office headquarters hiring – as a first step to ensure all employees are working to support those delivering care directly to Veterans.

- VHA has dispatched teams to provide direct assistance to facilities requiring the most improvement, including a large team on the ground, right now, in Phoenix.
- All VHA senior executive performance awards for fiscal year 2014 have been suspended.
- VHA is expanding use of private-sector care to improve access.
- Gibson sent a message to all 341,000 VA employees – and has reiterated during every visit to VA facilities – that whistleblowers will be protected, and that he will not tolerate retaliation against whistleblowers.
- Gibson has conducted over a dozen meetings and calls with senior representatives of Veteran and Military Service Organizations (VSOs/MSOs) and other stakeholder groups to solicit their ideas for improving access and restoring trust.
- Gibson has made a number of personnel announcements in recent weeks, including: Dr. Carolyn Clancy as interim Under Secretary for Health; Dr. Jonathan Perlin, a former Under Secretary for Health, on temporary assignment as Senior Advisor to the Secretary; Dr. Gerard Cox as Interim Director of the Office of Medical Inspector (OMI); and Ms. Leigh Bradley as Special Counsel to the Secretary.

As VA completes reviews, fact-finding, and other investigations, the department is beginning to initiate personnel actions to hold those accountable who committed wrongdoing or were negligent in discharging their management responsibilities Vice President Joe Biden told the St. Louis annual national convention of the Veterans of Foreign Wars on 22 JUL that the country has learned there are "many, many" things that must be done to fix the VA. Acting Secretary of Veterans Affairs Sloan D. Gibson speech at the convention went into much more detail on what has been learned and what is being done to rectify the situation. [Source: VA News Release Jul 16, 2014 ++]

GI Bill Update ► Housing and Book Stipend Delayed Payments

Nearly 80,000 veterans eligible for the new G.I. Bill saw their college terms disrupted last year because the VA was late distributing \$61 million in housing and book stipends, according to estimates released by the Department of

Veterans Affairs Inspector General Friday. Investigators extrapolated the figures in a review of 200 student cases where the VA was late paying out book and housing money to 18% of the veterans. Most of those delays were only a few weeks. But for 8% of the students, it took a month or longer to get money for housing or books, long enough to detrimentally impact their school year, investigators said. The VA, which administers the new G.I. Bill, paid out \$5.4 billion in housing and book stipends to 789,000 students in 2013. The agency has vastly improved its processing time from the program's inception in 2009, when more than half the veterans seeking benefits had to wait weeks or months for their money.

Investigators blamed recent delays on several factors, including the complexity of the Post-9/11 G.I. Bill law. Veterans can be eligible for three different programs and must expressly indicate on their applications which ones they are not seeking money from. Failure to do this creates processing delays and the VA can do a better job of informing veterans about this issue, the Inspector General says. In addition, the veterans agency has not set a deadline for colleges to certify enrollments and many certifications come in late, creating further delay. Beyond those students who didn't get their money, investigators found about 4% who received cash for books that was never recovered after the veterans withdrew from college classes. The Inspector General estimated that on a yearly scale, this could amount to a loss of \$41 million. The VA, in response, agreed with the findings and promised to take steps to correct the problems. [Source: USA TODAY | Gregg Zoroya | July 11, 2014 ++]

Retiree Marijuana Use ► UCMJ Legal Gray Area

Retired from the military and want to light up a joint in a state that has legalized pot? Getting high will put you in a legal gray area, but no need to be paranoid. The chances of being charged with a crime are practically nil, legal experts say, even though retirees are technically still subject to military law that forbids pot smoking anywhere, including Washington state and Colorado where recreational marijuana use is now allowed. Cities and states around the country have adopted liberalized pot laws in recent years as American views on the drug have mellowed. But the Department of Defense has said unequivocally that servicemembers and civilian employees can never use marijuana because of prohibition by the Uniform Code of Military Justice and federal law, which still considers it an illegal street drug. The long arm of military law also extends to retired servicemembers who

draw pension payments. In rare cases, the services have recalled retirees to charge them with crimes. “As a practical matter, they can,” said Eugene Fidell, a Yale University law professor and former president of the National Institute of Military Justice. “But the chances that a retiree would get charged under the UCMJ for marijuana use are so close to zero, I don’t think anyone should lose sleep over it.”

Greg Rinckey, a former military prosecutor and partner in the Tully Rinckey law firm in Washington, D.C., also said pot charges are extremely unlikely. “I just don’t see them court-martialing any retirees for smoking pot,” he said. There are a growing number of places where getting high is OK. This week, Washington became the second state to open a regulated, recreational marijuana market, following suit with Colorado. The District of Columbia has made strong moves this summer toward decriminalizing use and possession, though Congress must approve. A total of 21 states have legalized marijuana use in some form. Recent changes to pot laws caused the DOD to underscore its position — pot remains a big no-no. In a memo to the services last year, the assistant secretary of defense for readiness and force management underscored the department’s prohibition on marijuana use among military personnel “at all locations.” The Joint Base Elmendorf-Richardson Air Force base in Alaska, a state where growing and using small quantities of pot has been legal since 2012, warned airmen earlier this year that “all servicemembers, including retirees, cadets and reserve members entitled to pay” can be charged for pot under the UCMJ.

Under military law, possessing more than an ounce can be punished with a dishonorable discharge, forfeiture of all pay and five years in the brig. Those caught with less than an ounce face the same discharge and pay punishments but only two years confinement, according to the Air Force. Courts martial for retirees are few and far between, but they do happen. In 2012, retired Gen. David Petraeus was found to be having an affair while working as CIA director. The case blew up into a nationwide scandal and talk ensued about criminal charges for adultery, which is illegal under the UCMJ. Petraeus was never charged, but in 1999, Army Maj. Gen. David Hale faced a similar situation and was recalled from retirement, then found guilty by a court martial for having affairs with the wives of four of his subordinates. The Army reduced his rank and cut back his pension payments as punishment. However, Fidell and Rinckey said the military is very selective in such prosecutions and typically only pursues the most severe crimes.

In Hale's case, the offenses were committed while he was still serving and happened during a time when the military was being hammered publicly for misconduct among top officers and feeling pressured to send a message. Recreational pot use among retirees does not rise to that level, they said. Charging a 70-year-old veteran for smoking a joint "just wouldn't look good for the military," Rinckey said. Retirees also do not need to worry about being reported to the military by their VA doctor. Those who smoke legal marijuana and receive treatment through the Department of Veterans Affairs may be asked for blood or urine in the course of routine care — that is for diagnosis purposes and not drug testing in any legal sense. The VA told Stars and Stripes it cannot prescribe medical marijuana to patients because of federal law, but it does not care whether veterans use pot in states where that is allowed. "VA is aware that some veterans who reside in states with marijuana programs and who also receive care in VA, do indeed participate in marijuana programs," spokeswoman Gina Jackson wrote in a statement. "Given the differences between state and federal laws regarding marijuana, a veteran's decision to participate in a state marijuana program is a personal one and not one dictated administratively by VA." Overall, retirees are likely in the clear when it comes to legal pot, but there may be only one option for those who want complete peace of mind. Rinckey said those looking for zero legal risk should just not smoke it. [Source: Stars & Stripes | Travis J. Tritten | July 12, 2014 ++]