



## Federal Update for August 26 - 30, 2013



### ***PTSD/TBI Joint Research Consortia***

In response to President Obama's Executive Order, the Departments of Defense (DoD) and Veterans Affairs (VA) highlighted today the establishment of two joint research consortia, at a combined investment of \$107 million to research the diagnosis and treatment of post-traumatic stress disorder (PTSD) and mild traumatic brain injury (mTBI) over a five-year period. "VA is proud to join with its partners in the federal government and the academic community to support the President's vision and invest in research that could lead to innovative, new treatments for TBI and PTSD," said Secretary of Veterans Affairs Eric K. Shinseki. "We must do all we can to deliver the high-quality care our Service members and Veterans have earned and deserve." The Consortium to Alleviate PTSD (CAP), a collaborative effort between the University of Texas Health Science Center – San Antonio, San Antonio Military Medical Center, and the Boston VA Medical Center will attempt to develop the most effective diagnostic, prognostic, novel treatment, and rehabilitative strategies to treat acute PTSD and prevent chronic PTSD.

The Chronic Effects of Neurotrauma Consortium (CENC), a collaborative effort between Virginia Commonwealth University, the Uniformed Services University of the Health Sciences, and the Richmond VA Medical Center will examine the factors which influence the chronic effects of mTBI and common comorbidities in order to improve diagnostic and treatment options. A key point will be to further the understanding of the relationship between mTBI and neurodegenerative disease. Since Sept. 11, 2001, more than 2.5 million American service members have been deployed to Iraq and Afghanistan. Military service exposes service members to a variety of stressors, including risk to life, exposure to death, injury, sustained threat of injury, and the day-to-day family stress inherent in all phases of the military life cycle.

To improve prevention, diagnosis, and treatment of mental health conditions, the President released an Executive Order directing the Federal agencies to develop a coordinated National Research Action Plan. The Department of Defense, Department of Veterans Affairs, the Department of Health and Human Services (HHS), and the Department of Education (ED) came forward with a wide-reaching plan to improve scientific understanding, effective treatment, and reduce occurrences of Post-Traumatic Stress Disorder, Traumatic Brain Injury, co-occurring conditions and suicide. [Source: A News Release 10 Aug 2013 ++]

## ***Agent Orange Lawsuits Update***

In a new suit filed in federal court in Washington DC, two veterans organizations have filed suit against the Secretary of Veterans Affairs, Eric Shinseki, for failing to provide benefits to a group of Vietnam War veterans who served aboard ship off the coast of Vietnam. Over a hundred thousand of these Blue Water veterans were exposed to Agent Orange through their drinking water while providing gunfire support, air support and logistic support in the territorial seas off the coast of the republic of Vietnam. The Blue Water Navy Vietnam Veterans Association, (BWNVVA) a not for profit corporation chartered to advance the cause of the Blue Water Navy veterans, along with Military-Veterans Advocacy (MVA) another non-profit who advocated for veterans, filed the 32 page suit charging that the Secretary ignored scientific evidence which showed the presence of Agent Orange in the waters off shore as well as solid proof that the shipboard distillation process, which converted saltwater to potable drinking water, enriched the effect of the dioxin.

As a "blue water sailor," Ralph Steele has a higher burden to prove Agent Orange-related illnesses than his counterparts who served ashore. Attorney John Wells, who brought the suit, is a retired Navy Commander and served as Chief Engineer on three Navy ships. "I am very familiar with the naval operations at the time and the distillation equipment that enriched the dioxin." Wells said. "We have taken this evidence to two separate committees of the Institute of Medicine, and they agree that the distillation process, based on Henry's law of thermodynamics, would have co-distilled and enriched the dioxin. This confirmed an earlier study by the University of Queensland." Wells is the Executive Director of MVA and previously serves as Director of Legal and Legislative Affairs for the BWNVVA. After retiring as a surface warfare officer he opened a law practice in Slidell

Louisiana with emphasis on military and veterans law. John Paul Rossie, a retired Information Technology expert, served in the Navy off the coast of Vietnam. Rossie has served the BWNVVA since its inception as its Executive Director. He said as follows: "Sea service personnel operating in the war zone were given a straight shot of Agent Orange into their drinking water. They drank it, showered in it and had their food prepared with it," Rossie continued, "but the VA has just ignored them. Now they are dying and leaving their families without the VA compensation that they earned."

Prior to 2002, the Blue Water Navy veterans were granted the presumption of exposure. This was rescinded based on a 1997 VA General Counsel's opinion that concluded the words "service in the Republic of Vietnam" meant "service in-country." Australia, an American ally in Vietnam, has been granting benefits to their naval personnel since 2003. The Blue Water Navy veterans actually won a restoration in benefits from the Court of Appeals for Veterans Claims in 2006 but that decision was set aside on administrative law grounds by the United States Court for the Federal Circuit in 2008. "This suit covers different grounds," Wells noted. "We are not attacking the lack of rulemaking as was the case in the previous suit, but we are showing that the Secretary's decision was arbitrary and capricious, unsupported by substantial evidence and in violation of existing law. The VA currently grants the presumption of exposure for ships that steamed into inland waterways that they have arbitrarily defined as rivers. What the VA either did not know or intentionally ignored, is that the 1958 Convention on the Territorial Seas and the Contiguous Zone, which the United States has signed and ratified, includes bays and harbors as inland waterways. Additionally the treaty makes the territorial seas part of the sovereign territory of the nation.

"I sat down with John Gingrich, who at the time was the Chief of Staff for the VA and showed him a picture of Da Nang Harbor, which is surrounded on three sides by land. He thought that the harbor was covered. I had to show him his own manual which specifically excepted the harbors. He agreed that the VA's position did not make sense and agreed to re-visit it. Instead last December, the VA published a Notice saying that they would not change their policy. The VA did not return the telephone calls I made to them after the notice was published." The plight of the Blue Water Navy veterans has support in Congress. Presently 127 members of the House (including Rep Mike Michaud (D-ME) ranking member of the Veterans Affairs Committee) are co-sponsoring a bill by Rep. Chris Gibson (R-

NY) to restore the presumption of exposure to those who served in the territorial seas of the Republic of Vietnam. “We are heartened by the bi-partisan support of this bill,” Rossie said, “but despite the support, it is still stalled in Committee. So while we are continuing to gather support in Congress, we felt the need to also move forward in court. Our people are dropping like flies and we need to try any avenue we can to obtain these benefits.” [Source: Salem-News.com | John B. Wells | 3 Aug 2013 ++]

## ***Vet Toxic Exposure~C-123 Aircraft Update***

The Department of Veterans Affairs has reversed its denial of Agent Orange-related disability benefits for an Air Force veteran who flew on potentially contaminated C-123 aircraft after the Vietnam War, a decision advocates describe as the first of its kind for veterans seeking compensation for postwar exposure to the toxic defoliant. Paul Bailey, a retired Air Force lieutenant colonel who is gravely ill with cancer, received notice Monday that he would receive “a total grant of benefits” for cancer associated with his 1970s-era service in the United States aboard the aircraft, which had been used to spray the toxic defoliant during the war. “The preponderance of the evidence suggests that you were exposed to herbicide onboard U.S. Air Force C-123K aircrafts,” said the VA decision, dated 31 JUL. “Reasonable doubt in regards to the exposure to certain herbicide, to include Agent Orange, as the result of occupational hazards onboard C-123K aircrafts is resolved in your favor.”

While stationed at Westover Air Force Base in Massachusetts in the 1970s, Bailey often flew the most famous of the C-123s, known as Patches for the holes left by enemy fire. After it was retired to a museum, tests by Air Force toxicologists in 1994 found that Patches was “heavily contaminated” with dioxin. Bailey’s claim for disability benefits was denied in February by the office in Manchester, N.H., which wrote that “VA regulations do not allow us to concede exposure to herbicides for Veterans who claim they were exposed to herbicides after the Vietnam war while flying in aircraft used to spray these chemicals.” Bailey appealed the decision in April. Bailey was featured in a recent Washington Post article about a controversy concerning C-123 aircraft, many of which were destroyed in 2010 by the Air Force. Tests in the 1990s showed that some of the planes might still be contaminated with TCDD dioxin, a carcinogen associated with Agent Orange. Bailey, 67, who suffers from prostate cancer and metastatic cancer

of the pelvis and ribs, said the disability compensation will allow his wife to stay in their new home after he dies. “The financial and emotional support this provides is just tremendous,” he said in a telephone interview Wednesday. “It takes a huge burden off me.”

Wes Carter, a retired Air Force major and friend of Bailey’s who heads the C-123 Veterans Association said the decision is “greatly significant”. The organization contends that postwar crews should be eligible for the same disability compensation for Agent Orange exposure provided to military veterans who served in Vietnam during the war. Several C-123 veterans in recent years have been granted disability benefits after appealing denials to the Board of Veterans’ Appeals, an administrative tribunal. But Bailey’s case marks “the first time an award has been made short of the BVA,” Carter said. Rick Weidman, executive director for policy and government affairs for the Vietnam Veterans of America, called the decision “fantastic news” and added: “That’s the first case we’ve heard of that’s been successful.” Sen. Richard Burr (NC), the ranking Republican on the Veterans’ Affairs Committee, was also pleased with the reversal. “I hope this is a sign that VA will start to make decisions on these claims based on the weight of information submitted in each case, rather than blanket-denying every claim from C-123 veterans,” he said.

VA said there is no policy against C-123 claims. The department said in a statement that it does not track whether there have been previous claims granted for C-123 crew members but that the ruling in the Bailey case does not establish a precedent. “Where cases are not clear cut, reasonable doubt is always decided in the claimant’s favor,” the agency said. In a statement 7 AUG addressing the VA reversal, Brad Mayes, director of the Manchester office, said “the issues described in Lt. Col. Bailey’s claim illustrate the difficulty VA faces when evaluating whether a particular veteran’s claim of Agent Orange exposure outside of Vietnam has merit. VA considers these issues on an individual basis, along with any other evidence available.” Burr said he is “concerned that there are other veterans who did not receive this same level of attention to their claims.” [Source: Washington Post | Steve Vogel | 7 Aug 2013 ++]

## *TRICARE Prime Update*

The Defense Department will reduce the number of TRICARE Prime service areas in the United States beginning 1 OCT, affecting about 171,000 retirees and their family members. Those beneficiaries, who mostly reside more than 40 miles from a military clinic or hospital, received a letter earlier this year explaining their options. They will receive a second letter later this month. TRICARE Management Activity officials said changing the location of Prime service areas has been planned since 2007 as part of the move to the third-generation of managed care support contracts and will allow them to continue their commitment to making high-quality health care available while supporting DOD efforts to control the rising cost of health care for 9.6 million beneficiaries. Health care under TRICARE Prime costs about \$600 more annually per enrollee, but on average, each member of a family of three using TRICARE Standard will pay only about \$20 more per month than if they were using Prime. “The first thing TRICARE beneficiaries should know about the reduction in the number of Prime service areas is that it doesn’t mean they’re losing their TRICARE benefit,” said Dr. Jonathan Woodson, assistant secretary of defense for health affairs. “Next, it’s important to remember this change does not affect most of the more than 5 million people using TRICARE Prime, and [it affects] none of our active duty members and their families.”

All affected beneficiaries will receive a letter this month following up on their initial notification to ensure they have the time and information to make important decisions about their future health care options, officials said. Current details on Prime service areas and the option for beneficiaries to sign for email updates are available at <http://www.tricare.mil/PSA>. A ZIP code tool is available on the site to help beneficiaries determine if they live in an affected area. As always, officials noted, TRICARE beneficiaries still are covered by TRICARE Standard. For those living within 100 miles of a remaining Prime service area, re-enrolling in Prime may be an option, depending on availability. To do this, beneficiaries must waive their drive-time standards, and they may have to travel long distances for primary and specialty care. “I urge all impacted beneficiaries to carefully consider their health care options – they should talk them over with family members and their current health care provider,” Woodson said. “Many beneficiaries may be able to continue with their current provider using the

Standard benefit. Being close to your health care team usually offers the best and safest access to care.”

Those enrolled in TRICARE Prime are assigned a primary care provider who manages their health care. Retirees pay an annual enrollment fee and have low out-of-pocket costs under this plan. TRICARE Standard is an open-choice option with no monthly premiums and no need for referrals, but it has cost shares and an annual deductible. The Prime service areas being eliminated are not close to existing military treatment facilities or base realignment and closure sites, officials said. Prolonged protests resulted in a staggered transition, they added, and all Prime service areas were retained until all three new regional contracts were in place. The West region completed the transition April 1. To provide affected beneficiaries with enough time to plan, Defense Department officials elected to delay the Prime service area reductions until Oct. 1. [Source: TMA News Release 7 Aug 2013 ++]

## ***POW/MIA Update***

"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 (73,000+), Korean War (7,900+), Cold War (126), Vietnam War (1,655), 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](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 (703) 699-1420.

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 DPMO announced 2 AUG 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. Army Sgt. 1st Class William Robinson, 26, of Denison, Texas, will be buried Aug. 7, in Indiantown Gap, Pa. In late Nov. 1950 Robinson and elements of the 31st Regimental Combat Team (RCT) were deployed along the east of the Chosin Reservoir near Sinhung-ri, South Hamgyong Province, in North Korea. On Nov. 29, 1950, remnants of the 31st RCT, known historically as Task Force Faith, began a fighting withdrawal to a more defensible position near the Hagaru-ri, south of the reservoir. It was during this withdrawal, Robinson was reported missing. Between 1991 and 1994, North Korea gave the United States 208 boxes of remains believed to contain the remains of 200-400 U.S. service members. North Korean documents, turned over with some of the boxes, indicated that some of the human remains were recovered from the area where Robinson was last seen. In the identification of Robinson, scientists from the Joint POW/MIA Accounting Command (JPAC) and the Armed Forces DNA Identification Laboratory (AFDIL) used circumstantial evidence, and forensic identification tools such as dental comparisons and mitochondrial DNA – which matched Robinson’s brother.
- The DPMO announced 8 AUG 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. U.S. Marine Corps Pfc. Jonathan R. Posey Jr., 20, of Dallas, will be buried 12 AUG in Arlington National Cemetery near Washington, D.C. In Dec. 1950 Posey, assigned to L Battery, 4th Battalion, 11th Marine Regiment, 1st Marine Division, was serving provisionally as an infantryman with the 7th Marine Regiment at Yudam-ni in the vicinity of the Chosin Reservoir. On Dec. 2, 1950, Posey was killed in action while the 5th and 7th Marine Regiments withdrew to Hagaru-ri. In 1954, United Nations and Communist Forces exchanged the remains of war dead in what came to be called “Operation Glory.” All remains recovered in Operation Glory were turned over to the Army Central Identification Unit for analysis. Those which were unable to be identified were interred as unknowns at the National Memorial Cemetery of the Pacific in Hawaii, known as the “Punchbowl.” In 2012, analysts from

the Joint POW/MIA Accounting Command (JPAC) reevaluated Posey's records and determined that portions of the remains recovered from Operation Glory should be exhumed for identification. To identify the remains, scientists from JPAC used circumstantial evidence and forensic identification tools, such as dental and radiograph comparison, which matched Posey's records. Using modern technology, identifications continue to be made from remains that were previously turned over by North Korean officials. Today, more than 7,900 Americans remain unaccounted for from the Korean War.

## **World War II**

- The Department of Defense POW/Missing Personnel Office (DPMO) announced 2 AUG that the remains of a U.S. serviceman, lost in World War II, have been identified and are being returned to his family for burial with full military honors along with his fellow crew member. Army Air Force Sgt. Dominick J. Licari, 31, of Frankfort, N.Y., will be buried on Aug. 6, in Frankfort, N.Y. On March 13, 1944, Licari was a crew member of an A-20G Havoc bomber that failed to return to base in a country now known as Papua New Guinea. The aircraft crashed after attacking enemy targets on the island. Licari died along with crewmember 2nd Lt. Valorie L. Pollard. In 2012 the A-20G crash site in the mountains of Papua New Guinea was excavated and the remains of Licari and Pollard were recovered. To identify the remains of Licari, scientists from Joint POW/MIA Accounting Command (JPAC) and the Armed Forces DNA Identification Laboratory (AFDIL) used circumstantial evidence and forensic identification tools such as dental comparisons and mitochondrial DNA, which matched Licari's brother. There are more than 400,000 American service members that were killed during WWII, and the remains of more than 73,000 were never recovered or identified.

## ***POW/MIA Update 2***

The Joint POW/MIA Accounting Command wants to take the unprecedented step of exhuming all of the Dec. 7, 1941, casualties of the USS Oklahoma buried as "unknowns" at Punchbowl cemetery — more than 330 crew members — to help it reach a higher number of annual identifications mandated by Congress. But the Hawaii-based military command, known as JPAC, is getting resistance from the

Navy, which prefers to maintain the "sanctity" of the graves at the National Memorial Cemetery of the Pacific, officials said. Further, the Navy would like to take the partial and commingled remains of more than 100 Oklahoma crew members who were disinterred in 2003 from a single casket at Punchbowl, possibly rebury them at a memorial and grave site to be created on Ford Island, and invite family members to an interment ceremony on Dec. 7, 2014, righting operations on the capsized USS Oklahoma at Pearl Harbor in March, 1943.

JPAC, on the other hand, said it also wants to disinter and try to identify crewmen from the battleships California and West Virginia. "We've actually already done most of the legwork on the request for the California and the West Virginia and some of the others," said John Byrd, director of JPAC's Central Identification Laboratory. "So we have gotten our ducks in a row to pursue those, but we're waiting for the Oklahoma issue to move forward before we proceed with the others." There are other unknowns who Byrd said may be candidates for exhumation, including about 100 casualties from the Battle of Tarawa in 1943 and nearly 400 service members, mostly soldiers, who died in 1945 as captives on the Japanese "hell ship" Enoura Maru. The contradictory JPAC and Navy goals have set up a conflict that might be settled by an unlikely party: the Army, which actually has "next-of-kin" authority over all unknowns at Punchbowl, regardless of service.

JPAC, headquartered at Joint Base Pearl Harbor-Hickam, was established to investigate, search for and identify Americans missing from past wars as an extension of the soldier's creed to leave no man behind. The pace of that effort has come under fire in recent years, with JPAC averaging only about 69 identifications a year and the families of the missing growing old and dying. In the 2010 National Defense Authorization Act, Congress required JPAC to make 200 identifications annually by 2015. Technology and procedural advancements have made it possible to identify a greater number of unknowns from Punchbowl, JPAC said. A recent Government Accountability Office study reported JPAC as saying that it has the potential to achieve more than 100 identifications from disinterments annually, but only to the extent that disinterments are not a detriment to JPAC's field operations worldwide.

JPAC can make recoveries from Punchbowl, which is practically in its backyard, at a fraction of the cost needed for overseas missions to remote locations.

Several months ago JPAC made a request to the Army to disinter all of the more than 330 Oklahoma crew members whose remains are commingled — meaning the bones of many individuals are together — and buried in more than 50 graves at Punchbowl, said Byrd, the lab director. The plan is to lay out the remains at a \$5 million satellite lab opened by JPAC in June at Offutt Air Force Base in Nebraska. So far, JPAC has received no word back from the Army, Byrd said. "The Navy leadership, secretary of the Navy's office, from what we understand, is against it," Byrd said. "Now, they don't have the ultimate authority — the Army has the authority — but the Army, as a courtesy, has gone to the Navy and asked them what is their feeling on this. 'Do you want to do it or not?' And I think the Navy said no."The Navy confirmed it is opposed to the disinterments. The service contends that during any identification process the unknown sailors and Marines would be "outside the sanctity of the grave" again (they were buried in Nuuanu or Halawa before being moved to Punchbowl) and that DNA testing and accounting could take many years and still leave some crew members unidentified. Still, the Navy can only make a recommendation to the Army.

Punchbowl Director Gene Castagnetti said Army Secretary John McHugh visited the cemetery recently and "was very interested in trying to fulfill the congressional mandate (of 200 identifications annually)." Castagnetti said there are 466 unknowns at Punchbowl from the Dec. 7, 1941, attack; 2,090 total from World War II; and 810 from the Korean War. JPAC expects it will have made 40 Korean War disinterments this fiscal year, which runs through September. Research by Pearl Harbor survivor Ray Emory, who lives in Kahala, led to the 2003 disinterment of a USS Oklahoma casket with commingled remains. Five crew members were identified and sent home to families.

But incomplete sets of bones of more than 100 men were also were found, complicating further identifications and putting the brakes on other exhumations from the ship, which represents the single largest group of buried unknowns from the Pearl Harbor attack. Robert Newberry, then-deputy assistant secretary of defense for POW/ Missing Personnel Affairs, wrote in a 2009 memo that disinterment of additional Oklahoma caskets would not occur until progress was made identifying those already exhumed. "Identifying the remains of unknowns already recovered and buried with honor in U.S. national cemeteries at home and abroad must take a lower priority" than recovering Americans "that still lie in the foreign countries in which they fell," he added.

The JPAC lab's Byrd said identity data exist for as many as 20 more individuals out of that one exhumed Oklahoma casket. "But you know, the lab's position is that we don't want to make any more identifications until we exhume the rest of the (Oklahoma) remains and do a proper (bones) segregation," he said. The Navy would prefer to bury the remains of those 100 crew members, possibly on Ford Island in conjunction with a memorial. "Obviously, we want to identify those remains and return them to their families, so we wouldn't necessarily be in favor of that," said JPAC spokesman Lee Tucker. The technology exists now to identify many of the Oklahoma unknowns, and JPAC has developed standard operating procedures for working on large quantities of remains with Korean War casualties, Byrd said.

Emotions remain high among veterans and family members. Paul Goodyear, a 95-year-old survivor of the Oklahoma who was aboard when it was pounded by Japanese torpedoes, is a strong proponent of exhuming his shipmates. "About 135 percent," Goodyear said of the interest level in identifications. "Not only amongst the families, but amongst the little towns, the communities that these kids came from." Goodyear said he has seen entire towns turn out with banners and fire trucks for the return of missing service members from World War II. "I cannot tell you how many brothers and sisters, grandsons and granddaughters are just dying to have those kids home," the Arizona man said. Eighty-year-old Bob Valley, a Michigan resident who lost his 19-year-old brother, Lowell, on the Oklahoma and is part of the USS Oklahoma Family Inc. group, would also like to see the Oklahoma unknowns disinterred. His brother was a fireman down in the boiler room on the port side, which he said took the brunt of nine to 12 torpedoes. Eventually the big ship rolled on its side. "I've talked to some of the other firemen that survived and they were on the other side ... and they said those guys never had a chance. I mean, they were killed instantly with those torpedoes," Valley said. "That's all that we've been able to find out, because he's just (missing in action)." If all the Oklahoma casualties are disinterred, there's a possibility his brother could be identified. "I'd love to bring my brother home," Valley said. [Source: The Honolulu Star-Advertiser | William Cole | 12 aug 2013 ++]

## ***Military Entitlements***

The Pentagon and President Obama understand that military entitlements are killing readiness. So why doesn't Congress? Members of Congress rarely miss an

opportunity to trumpet their support for the troops, and the 2014 Defense Appropriations bill passed 24 JUL by the House trumpeted away. Health coverage for life with minimal cost sharing? Check. Retiree pensions? Check. Generous housing allowances, grocery discounts, tuition assistance, tax breaks and more? Check. That's just a small recompense to the men and women who risk their lives for us, right? Not exactly. America has arrived at a moment when the honorable instinct to keep boosting military compensation risks harming the very men and women Congress claims to be helping. The reality is that the U.S. doesn't have one sacred contract with our troops: It has two. In addition to generous care and compensation, we owe them the best possible preparation for combat—weapons and other technologies that outmatch the enemy, excellent intelligence, training and logistics support. When they fight, our troops should prevail quickly and decisively. These two noble promises are now in direct conflict. Defense entitlements are well on their way to crowding out military readiness and capacity, a fact even the Pentagon has acknowledged. But lawmakers refuse to address this challenge. Unless Congress reverses budget sequestration and restores three years' worth of additional cuts, the Pentagon is in for more belt tightening. The Navy will retire more ships over the next five years than it will build. The fleet now stands at about 285. (At the height of the post-Soviet "peace dividend" era, it was 375.) The Air Force is even worse off. The U.S. has less than one-third the bombers it had during the Vietnam era. Most of the Air Force's planes are B-1s and B-52s that predate modern stealth technology, and even the stealthy B-2s are nearly two decades old. Troop numbers are also declining. By the end of fiscal year 2014, active duty Army and Marine Corps personnel are set to decrease by about 13% and 10%, respectively, from 2010 levels. Some of these cuts may be acceptable, even necessary, but sequestration will soon make the situation much worse. Mandatory and arbitrary cuts are already forcing many service members to "take the summer off," forgoing crucial training time. Additional automatic cuts looming for 2014 will mean more downtime.

Now consider the realities of Defense Department entitlements: Between fiscal year 2001 and 2012, the inflation-adjusted compensation cost per active-duty service member grew by 56%. From 2000 to 2010, defense health-care costs skyrocketed nearly 180%, to \$49.8 billion from \$17.8 billion—more than double the rate of the national increase. The nonpartisan Congressional Budget Office projects that military health-care costs will nearly double again by 2030. Some benefits should remain unassailable. Solid salaries, world-class health care for our

service members and their families, educational benefits through the GI Bill for those returning to civilian life, and Veterans Administration services for the disabled (which are resourced outside the defense budget) must not be threatened. But it is time to reconsider other benefits. Doing so will not make sequestration a good idea, though it may lead to fewer cuts elsewhere that harm readiness. The Tricare program, highly subsidized health care for military retirees, supposedly honors a promise made many years ago by some military recruiters to provide service members free health care for life. Setting aside that such a promise was never officially made, Tricare is incentivizing overuse of the health-care system. In 2004, for example, the rate at which Tricare recipients used outpatient services was 44% higher than in civilian plans; the inpatient rate was 60% higher. That is unsustainable, and it is the main reason President Obama has promised to veto the House appropriations bill unless Tricare fees for military retirees are raised.

Military retirees receive an extremely generous pension. For example, under the "High-3" retirement system—one option available for troops who entered the military after Sept. 8, 1980—retired active-duty forces receive 50% of an average of their three highest years of basic pay after 20 years of service, up to a maximum of 75% of their "High-3" pay after 30 years of service, along with an annual cost of living adjustment determined by the Consumer Price Index. Begun in an era when those leaving the military often struggled in the workforce, the military retirement system is long overdue for an overhaul. It cost the Pentagon nearly \$20 billion in 2011 and does nothing to address the fact that the vast majority of combat veterans (who are officially "veterans" but not "retirees") don't serve a full 20 years—and therefore get zero pension. In other words, those who deploy overseas and fight are often getting nothing while those who may well have stayed stateside for two decades before leaving the military get a very generous post-service pension. Conveniences like commissaries also need rethinking in the era of Wal-Mart and Home Depot. So does military pay, which should generally track the rate of inflation but need not increase faster (as it often has of late), given the solid and generous compensation packages already provided to service members. There is plenty more to consider, including addressing the 20% excess capacity in military bases and the bloat in the roughly 760,000-strong civilian workforce, which has grown even as the uniformed military has shrunk. A 10% cut to that bureaucracy, implemented intelligently and without furloughs, is sensible and fair. This sort of prioritizing—something every

American family does in hard times—apparently hasn't occurred to Congress. The fact that the two pacts with Americans in uniform are on a collision course has been shrugged off. Even the Pentagon's own requests for base closures, increases in health-care premiums, and a slowdown in the growth of military pay were ignored in the appropriations bill just passed by the House. It is important that the U.S. maintains its contract with those who serve by providing them generous pay and benefits. But it is unfair to those very same troops to undercut the other sacred contract we have with them, which demands they have access to the best weapons a

## ***Military Food Stamps***

The House action that stripped food stamp funding from a massive farm bill would threaten vital assistance for about 5,000 military families, mostly from the junior enlisted ranks, Pentagon officials said 12 JUL. A Department of Agriculture report last year showed that more than 5,000 of the 48 million Americans receiving SNAP (Supplementary Nutritional Assistance Program) food stamps listed their employment status as "active duty military," the Pentagon officials said. "Military members who receive SNAP tend to be made up of members in junior pay grades with larger than average household sizes," said Navy Lt. Cmdr. Nate Christensen, a Defense Department spokesman. "Military members normally 'promote out' of the need for additional subsistence benefits, due to the corresponding statement, "It's a small population but it's a vulnerable population," Joye Raezer, executive director of the National Military Families Association, said of the active duty military families receiving food stamps. Older recruits who already have several children and join the military because of the poor job market tend to need SNAP, Raezer said. "If you're junior enlisted and you're single, fine," Raezer said, but if the servicemember has children and a non-working spouse, "you're going to be on food stamps." "It gets tough, even with a housing allowance," Raezer said.

The 5,000 military families receiving food stamps was a tiny percentage of the 48 million recipients nationwide, but it was a major increase over the previous year when the Department of Agriculture reported that only 1,000 recipients listed "active duty military" as their employment status. In addition, the Defense Commissary Agency reported that food stamps were being redeemed at base commissaries at a record pace. Last year, \$99 million in food stamps were cashed

in at bases by military families, disabled vets and others with military identification, and more than \$53 million in food stamps were cashed in this year through June, according to Defense Commissary Agency data provided to the Huffington Post. The concerns over the threat of a food stamp funding cutoff were raised by the 218-208 vote in the House 11 JUL that passed a \$500 billion farm bill that stripped out \$80 billion in SNAP funding. It was the first time since 1973 that a farm bill failed to join farm subsidies and food stamp funding.

Rep. Frank Lucas (R-OK), the House Agriculture Committee chairman, said he would introduce a separate food stamp bill "as soon as I can achieve a consensus," but consensus could be difficult to reach in the gridlocked Congress. Democrats charged that the bill would devastate poor families and the White House threatened a veto of the farm bill if the House and Senate failed to reach a compromise that would restore SNAP funding. White House Press Secretary Jay Carney said that House Republicans were using poor children as pawns "in the name of deficit reduction. It smacks of hypocrisy to me." [Source: Military.com | Richard Sisk | 13 Jul 2013 ++]

## ***Reserve Retirement Age Update***

More than 600,000 members of the National Guard and the Reserves would benefit from a bill introduced by Rep. Joe Wilson (R-SC). The National Guardsmen and Reservists Parity for Patriots Act, or H.R. 2907, would provide early retirement pay to qualifying members who served between Sept. 11, 2001, and Jan. 28, 2008. This would repair a flaw in a law passed in 2008 that offers retirement pay to a reserve-component member three months prior to age 60 for each aggregate of 90 days of service spent on Title 10 status to support a contingency operation or while responding to a national emergency on Title 32 status. The law applies only to service after Jan. 28, 2008, the date the National Defense Authorization Act which included the law was passed. "Whether these brave men and women were putting their lives on the line during heavy combat in Iraq and Afghanistan or tending to devastating natural disasters at home like Hurricane Katrina," Wilson said, "each of our Guard and Reserve members deserves to receive appropriate recognition for their active-duty service." [Source: NGAUS Washington Report 13 Aug 2013 ++]

## *Vet Benefit Legislation Update*

With no heed of a debt crisis, the Senate Veterans Affairs Committee voted 24 JUL to help more veterans find work, help more injured vets to gain reproductive health services, and to pay caregivers of seriously disabled veterans who left service before 9/11 a monthly stipend plus expenses. How to cover the \$12 billion cost of these initiatives, over just the next five years, is still to be determined, conceded Sen. Bernie Sanders (I-VT), committee chairman. But he promised colleagues to try to find the money. More proposals than these were approved in the catchall “omnibus” bill, S.944, forwarded to the full Senate for further debate and amendments before passage, and later, reconciliation with more modest House plans.

One initiative having no cost would grant “veteran” status to more than 200,000 Reserve and Guard retirees -- those who have served 20 years or more to earn retirement at age 60, but didn’t serve at least 180 days on active duty to be viewed as a veteran under current law. Proponents of this measure say these retirees don’t seek more VA benefits. They simply want to be able to answer “yes” when asked if they are veterans, or to rise at public gatherings when veterans are asked to stand and be recognized. Other initiatives in S.944 would:

- Require public or state-run colleges and universities to charge veterans who use the GI Bill their lower in-state tuition rates.
- Require VA to report publicly once a quarter on disability claims processing goals and how those stack up against actual claim decisions.
- Make it easier for veterans traumatized by sexually assault in service to gain VA disability compensation.
- Increase veterans’ access to alternative medicine, chiropractic care and other new approaches to care delivery.

Rep. Richard Burr (NC), ranking Republican on the committee, was the lone voice opposing all provisions “not paid for,” he said, “so we won’t continue to saddle future generations of Americans with continued debt.” He opposed Sanders’ provision to expand the VA caregiver program, now limited to caregivers of seriously ill or injured post-9/11 veterans. The program pays a monthly stipend and also caregiver needs for counseling, training, respite periods and travel expenses. The committee agreed by voice vote to extend the program to

caregivers of any severely injured veteran. Before the vote, Burr noted the \$8.5 billion cost over the first five years, and urged Sanders to find offsets elsewhere in the budget before the full Senate votes on the measure. "You're right," Sanders told Burr. "This is an expensive piece of legislation. So is giving tax breaks to millionaires. So is having one out of four corporations in this county not paying a nickel in taxes." After delivering his slap to Republicans who oppose any sort of tax hikes, Sanders went on to promise to do his "best to find the funding" to be able to help more caregivers.

Burr also opposed Sanders's proposal to offer new incentives to employers to hire vets and to renew for two more years the popular Veterans Retraining Assistance Program enacted under the VOW to Hire Heroes Act of 2011. Burr offered a less costly jobs package, saying Sanders package would cost \$2.5 billion over five years and shouldn't be passed unless spending cuts are identified to pay for it. He also noted that the Government Accountability Office in 2011 urged consolidation of 47 existing federal employment and job training programs to save billions of dollars. Forty-four of these plans overlap with others in some way, Burr said, again citing GAO.

"To be consistent," Burr said, he also opposed Sen. Patty Murray's (D-WA) provision to improve VA reproductive assistance to severely wounded, ill or injured vets and spouses. It too is unfunded. Defense officials estimate that injuries from improvised explosive devices in Iraq and Afghanistan left almost 2000 veterans, male and female, unable to have children without special medical intervention, for example in vitro fertilization. That type of treatment is available on active duty but not usually from the VA after vets leave service, Murray said. All of these provisions cleared the committee by voice vote despite Burr's opposition. Burr quietly changed from black hat to white on the issue of veteran status for Reserve and National Guard retirees. For a third straight year, the House has passed The Honor America's Guard-Reserve Retirees Act , this time including the bill language in the fiscal 2014 defense authorization bill. It would grant vet status to those who served long enough to be eligible for reserve component retired pay. Most of the impacted retirees served during the Cold War when it was commonplace to serve full careers with no active duty except for training. These retirees often are surprised to learn they aren't veterans for lack of a DD Form 214, "Certificate of Release or Discharge from Active Duty." They

can't claim veteran preference in applying for federal jobs. Yet at age 60 they draw military retired pay, can use TRICARE and shop on base.

Burr had blocked Senate committee action on this issue for the past two years, fearing it would lead to expansion of benefits and higher VA costs. His resistance held even after language was added specifically barring a change in vet status from qualifying these retirees for more benefits. This week, however, Burr accepted a fresh compromise, which now virtually assures passage by year's end. The revised language would confer veteran status on Guard and Reserve retirees under a general law provision rather than under Title 38, which governs VA and access to VA benefits. It's an extra layer of protection against the possibility that these retirees, sometime in the future, will press for benefits that Congress intended as rewards for serving at least 180 days on active duty. [Source: Standard-Examiner | Tom Philpott | 31 Jul 2013 ++]

## ***Following is a Summary of Veteran Related Legislation Introduced in the House and Senate Since the Last Bulletin Was Published:***

- H.R.2785: Military Reserve Jobs Act. A bill to amend title 5, United States Code, to improve the hiring of veterans by the Federal Government and State governments, and for other purposes.
- H.R.2797: Homeless Veterans Assistance Fund Income. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate overpayments of tax as contributions and to make additional contributions to the Homeless Veterans Assistance Fund, and for other purposes.
- H.R.2841: Guard and Reserve Equal Access to Health Act. A bill to amend title 10, United States Code, to ensure that the Secretary of Defense affords each member of a reserve component of the Armed Forces with the opportunity for a physical examination before the member separates from the Armed Forces.
- H.R.2847: Wounded Warrior Service Dog Act of 2013. A bill to establish a grant program to encourage the use of assistance dogs by certain members of the Armed Forces and veterans.
- H.R.2882: Improving Opportunities for Service-Disabled Veteran-Owned Small Businesses Act of 2013. A bill to amend the Small Business Act and

title 38, United States Code to provide for a consolidated definition of a small business concern owned and controlled by veterans, and for other purposes.

- H.R.2906: Fairness to Veterans for Infrastructure Investment Act of 2013. A bill to amend MAP-21 to improve contracting opportunities for veteran-owned small business concerns, and for other purposes.
- H.R.2907: National Guardsmen and Reservists Parity for Patriots Act. A bill to amend title 10, United States Code, to ensure that members of the reserve components of the Armed Forces who have served on active duty or performed active service since September 11, 2001, in support of a contingency operation or in other emergency situations receive credit for such service in determining eligibility for early receipt of non-regular service retired pay, and for other purposes.
- H.R.2913: Veterans' Local Access Act. A bill to authorize certain Department of Veterans Affairs major medical facility leases, and for other purposes.
- H.R.2941: Tribal Lands Nursing Home Grants. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make certain grants to assist nursing homes for veterans located on tribal lands.
- H.R.2953: Medicare VA Reimbursement Act of 2013. A bill to provide Medicare payments to the Department of Veterans Affairs medical facilities for items and services provided to Medicare-eligible veterans for non-service-connected conditions.
- H.R.2974: VA Sexual Trauma Care Beneficiary Travel Pay. A bill to amend title 38, United States Code, to provide for the eligibility for beneficiary travel for veterans seeking treatment or care for military sexual trauma in specialized outpatient or residential programs at facilities of the Department of Veterans Affairs, and for other purposes.
- H.R.3053: Healthcare for our Heroes Act. A bill to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out the Department of Veterans Affairs Health Professional Scholarship Program.
- H.R.3056: Warriors' Peer-Outreach Pilot Program Act. A bill to direct the Secretary of Veterans Affairs to carry out a pilot program on the provision of outreach and support services to veterans pursuing higher education under the Post 9/11 Educational Assistance Program of the Department of Veterans Affairs.

- S.1411: Rural Veterans Health Care Improvement Act of 2013. A bill to specify requirements for the next update of the current strategic plan for the Office of Rural Health of the Department of Veterans Affairs for improving access to, and the quality of, health care services for veterans in rural areas. [Source: <http://www.loc.gov> & <http://www.govtrack.us/congress/bills> 13 Aug 2013 ++]

## *House Vet Bill Progress*

The House VA Committee cleared an array of veterans' bills including Advance Appropriations which will provide funding one year in advance for all VA discretionary programs. The committee also moved the following bills to the full House for debate. They include:

- H.R.1443 Tinnitus Research and Treatment Act, requiring VA to recognize tinnitus as a condition for research and treatment by Auditory Centers of Excellence. It also requires allocation of resources for more research within VA and in cooperation with DOD Hearing Centers. HR 2011 extends the Veterans Advisory Committee on Education through December 31, 2015 and adds chapter 31 (Vocational Rehabilitation and Employment) to subjects for review by the committee.
- H.R.2072 Demanding Accountability for Veterans Act would authorize VA to provide contracted medical foster care for certain veterans eligible for VA-paid nursing home care. It also requires those veterans to receive VA home health services and requires recipients of VA homeless grant and per diem programs to certify that they are compliant with state building and safety codes.
- H.R.2189 establishes a commission to evaluate the disability claims backlog and to recommend ways to reduce the number of pending claims -- there is concern over the bill that 6 months is too short a time period for commission members to adequately learn and understand the disability benefit programs administered by VA, let alone propose substantive recommendations that would improve claims processing without harming veterans. The bill also includes provisions directing VA to make interim payments of claims involving multiple conditions, expediting records from SSA, DOD and National Guard duty station for claims purposes, establishing a two-year training program for claims processors, expanding the pilot

project allowing private physicians to provide C&P exams to 15 regional offices (currently 10 are underway), creating a Blue Water Analogous list and requiring numerous reports to Congress on the disability claims processing system.

- H.R.2481 the Veterans Economic Opportunity Act of 2013 establishes a Veterans Economic Opportunity Administration within the VA which would oversee all education, home loan and vocational rehabilitation programs. This bill would elevate the responsibility for veteran economic success in VA. However, there are concerns about interoperability between a new administration and the Veterans Benefits Administration (VBA) for certain benefits that rely on VBA eligibility decisions; how a new administration would affect the adoption of eBenefits among all new VA enrollees; and how the confirmation process would affect the ability of the administration to carry out its programs. Other provisions amended into the bill include a 5-year extension of homeless veterans reintegration programs, centralized reporting for GI Bill enrollment purposes, allowing children of deceased veterans to use Post 9/11 education benefits and expansion of eligibility for Fry scholarships for those children of veterans who received the Purple Heart and died within 31 days of discharge. It also amends SCRA with regards to mortgage protections for service members and surviving spouses and provides child custody protections for deployed service members.

[Source: VFW Washington Weekly 9 Aug 2013 ++]