



**STATEMENT OF  
THE RETIRED ENLISTED ASSOCIATION (TREA)**

**Submitted for the RECORD to the**

**HOUSE ARMED SERVICES  
SUBCOMMITTEE ON MILITARY PERSONNEL**

**concerning**

**Military Survivor Benefit Plan Issues**

**December 9, 2015**

**Presented by**

**Deirdre Parke Holleman**

**TREA Washington Executive Director**

**And**

**Co-Chair of The Military Coalition's Survivors Committee**

### **Disclosure of Federal Grants or Contracts**

The Retired Enlisted Association does not currently receive, nor has it received during the current fiscal year or either of the two previous years any federal money for grants or contracts. All the Association's activities and services are accomplished completely free of any federal funding.

### **CHAIRMAN HECK, RANKING MEMBER DAVIS, AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE,**

TREA, the Enlisted Association is grateful to this Subcommittee for holding this hearing on such an important issue that needs to be corrected. This hearing held before the coming legislative year shows, once again, the concern you have for the survivors of those who have protected and sacrificed to keep our nation safe and strong. TREA is a nation-wide Congressionally Chartered VSO made up of retirees and veterans who have served in all branches of the U.S. military as well as their spouses, families and survivors. Ending the SBP/DIC offset has been one of our memberships' long time legislative goals. We hope this hearing may indicate that the time may have finally arrived.

### **SBP/DIC offset**

A small percentage of the American people are fighting her wars, protecting her shores and preserving her freedoms. And their families and loved ones are bearing the terrible loss and loneliness when one of them dies. Of course America wants to protect and help those that are left behind. It is our duty. As President Lincoln said in his Second Inaugural address it is America's duty to "care for his widow and orphan" This same quote can be found on the front of the Department of Veterans Affairs National Headquarters. TREA is grateful for the time and effort Congress has spent trying to make this pledge a reality.

TREA strongly urges Congress to end the unfair SBP/DIC offset and to make DIC equivalent to other federal survivor programs. Long time bi-partisan champions of this issue have once again sponsored bills to end the offset. Representative Joe Wilson R-SC) has introduced **H.R. 1594** in this session of Congress. Senator Bill Nelson (D-FL) has once again introduced a bill in the Senate, **S. 979**. Both bills have large bi-partisan support in both houses of Congress. They would finally end the unfair dollar for dollar offset of military SBP and VA's DIC. Currently the

flat DIC payment for 2015 and 2016 (No COLA) is \$1,254 a month so approximately \$15,000 a year.

- **SO** survivors of all but the most senior enlisted retirees never receive a dime of the SBP that was purchased either with their retired pay or their lives on active duty. As, of course, you well know there are two groups of widows (and widowers) who are harmed by this offset. The first group is made up of those whose spouses died on active duty and the second group is made up of those whose spouses died of service-connected disabilities or injuries. Both groups should be relieved of this burden.

Each payment covers a different purpose and should be treated separately. The DIC is an indemnity (compensation or insurance) payment that is paid by the Department of Veterans Affairs (VA) to the survivor of a member of the military whose service directly causes his or her death. The SPB annuity, paid by the Department of Defense reflects the longevity of the service of the military member. It is ordinarily calculated at 55% of retired pay. Military retirees who elect SPB pay a portion of their retired pay to ensure that their family has a guaranteed income should the retiree die. If that retiree dies due to a service connected disability, only then would their survivor become eligible for DIC.

SBP was created as a purchased annuity- an earned employee benefit. This is a retirement plan. Qualification for SBP for an active duty death was added to stop the grim but extremely well intended practice of medical personnel keeping a lost comrade “technically alive” until he or she could be retired.

As the DC Federal Court of Appeals stated in its ruling in Patricia R. Sharp v. U.S. (2008-5108): “After all, the service member paid for both benefits: SBP with premiums; DIC with his life.”

There is no offset if a federal civilian retiree dies of a service connected disability. The survivors will receive the civilian SBP and the VA’s DIC without offset.) As stated above it takes into account longevity of service. The vast majority of families affected by this offset served a full career in the military. We all now accept the maxim that you recruit a member but you retain a family. This is part of the retirement package.

Even the name of the Dependency Indemnity Compensation’s (DIC) name makes clear that it was created for a very different reason. It is an indemnity program to compensate a family for the loss of a loved one due to his or her military service. Again, they are different programs created to fill different purposes and needs. The survivor does receive a taxable pro-rated share of the paid SBP premiums back without interest in a lump sum. But that cannot make up for the cost and difficulty paying those premiums all those years of retirement caused. If a disabled veteran earns a civilian pension as a federal civil servant the family will never lose either their survivor payment or their DIC to any offset. The service member did what he could to provide for his spouse. This is behavior the Federal Government wishes to encourage. This offset makes his or her attempts a failure. Year after year we (and many other VSOs and MSOs have asked that this unfair offset be completely abolished. Perhaps 2017 bill be that blessed year.

### SSIA Program

While it may seem unwise to mention half a loaf when asking for the full loaf it is also crucial for this Subcommittee in these extremely difficult budgetary times to look at the need of extending a program that partially corrects the SBP/DIC offset. In 2008 a Special Survivor Indemnity Allowance was included in that year's NDAA to partially deal with this obviously unfair practice. It was lengthened in 2009. Starting at \$50 a month in 2009 and increasing in steps until reaching \$310 per month in 2017 this inequity is being partially offset. At the scheduled 2017 level approximately 25% of the offset will have been corrected. But then the allowance **disappears**. While this payment does not permanently and completely correct this unfair SBP/DIC these partial payments are extremely important to many of our military widows and widowers. (When one realizes that many of them are living on little more than \$15,000 a year one can see how important the payment is.)

By creating this special Allowance Congress made clear that it agreed that this offset is unfair and should be abolished. The 2008 program was paid for with the selling of federal assets while the lengthened and enlarged SSIA program was paid for with money from the smoking settlements.

Therefore at the very least we urge you in FY2017 to lengthen and increase the present SSIA Special Survivors Indemnity Allowance.

As the late HASC Chairman Ike Skelton (D-MO) said when commenting on the SSIA legislation: *"This legislation is the latest step in our continuing effort to eliminate the so-called 'widow's tax', which has long denied surviving family members the full payment of their Survivor Benefit Plan (SBP) benefits. I am grateful to House Oversight and Government Reform Committee Chairman Ed Towns for working with me on this initiative. Chairman Towns' cooperation made it possible to find the funding needed in order to change the law. I would also like to commend Congressman Solomon Ortiz, who has introduced legislation on the SBP offset and has been a great leader and advocate for the military families affected by this issue. While I regret that this bill does not completely end the offset, the House Committee on Armed Services will continue to explore every opportunity to pursue legislation that brings us closer to eliminating the 'widow's tax', just as we did today with the help of Chairman Towns."*

While it is clear that funding the allowance was difficult then and will surely be difficult now. But it is a promise made and should be a promise kept.

These survivors have been patient and calm almost beyond endurance. We are always telling them that we will never forget. This is a way to show that we do indeed remember and appreciate all they and their loved ones have done for our country.

Again, TREA thanks this Subcommittee for holding this important hearing and allowing us to submit testimony for the record.

## **Biography of Deirdre Parke Holleman, Esq.**

Washington Executive Director, The Retired Enlisted Association (TREA)

Deirdre Parke Holleman, Esq. is the Washington Executive Director of The Retired Enlisted Association. She is the Chairman of the Health Care and Retiree/Survivor Committees for the National Military and Veterans Alliance (NMVA) where she was Co-Director for several years and the Co-Chairman of The Military Coalition's (TMC) Survivors and MWR & MILCON Committees. In all three organizations and as a member of TMC's Health Care Committee Mrs. Holleman focuses on healthcare, financial and benefit matters for the Military's retirees, the active duty, the National Guard and Reserves and all their families and survivors.

Prior to joining TREA Mrs. Holleman was the Washington Liaison for The Gold Star Wives of America, Inc. There she represented the concerns of active duty widows and widows of Military members who die of service connected disabilities Before Congress, the Department of Defense, the Department of Veteran Affairs and other Veteran Service Organizations.

Mrs. Holleman is an attorney licensed to practice in the State of New York and before all Federal Courts. She argued many cases before all the Appellate Courts of New York including the New York Court of Appeals, the highest appellate court in the state. She successfully argued **In the Matter of Marie B.**, a case that struck down a New York statute as unconstitutional. For years she was a civil trial attorney in New York primarily handling Domestic, Family and Juvenile cases. She was the Associate Director of The Legal Aid Society of Mid-New York, Inc. This charity represents people who cannot afford to hire counsel in civil matters over nine counties in Upstate New York. She has a B.A. in History and Journalism from George Washington University and a J.D. from Vanderbilt University School of Law.

She lives in Rosslyn Virginia with her husband Christopher Holleman, an Administrative Judge for the Small Business Administration.