

Minority Veterans of America Statement for the Record

for an Open Legislative Hearing of the
Committee on Veterans' Affairs, United States House of Representatives,
and in consideration of several Bills and Discussion Drafts

Wednesday, May 5, 2021

Chairman Takano, Ranking Member Bost, and Distinguished Members of the Committee,

My name is Andy Blevins, I am the Operations & Policy Director of the Minority Veterans of America (MVA). Our organization works to create belonging and advance equity and justice for the minority veteran community.

My position affords me the privilege and honor of representing more than 9.7-million veterans—including women, veterans of color, members of the LGBTQ community, and (non)religious minorities—and directly serving thousands of veteran-members across 48 states, 3 territories, and 4 countries. Thank you for allowing me to contribute this statement for the record to help supplement the testimony you will be hearing at this legislative session, and to support the work that you are doing to address the crucial issues raised in these Bills.

Vietnam Veterans Liver Fluke Study (HR 1273)

We applaud Representative Zeldin's efforts through the introduction of this Bill. We would also like to acknowledge the Congressmen's deliberate inclusion of various socioeconomic status, identity, and location markers in the directed research. Recent studies have indicated that there are definitive disparities between rates of incidence and survival of cholangiocarcinoma when looking at patients' ethnicity, race, age, and gender.¹ This is particularly concerning as cholangiocarcinoma metastasizes quickly and is generally advanced when found through exploratory surgeries. As a result, it is widely considered to be a rapidly lethal form of cancer, virtually incurable absent the ability to fully eliminate all tumors.²

The Department of Veterans Affairs (hereinafter "Department") has acknowledged the risk of cholangiocarcinoma for veterans exposed to liver flukes and dioxin via their service, though have consistently denied claims for benefits and care due to a lack of exhibited symptoms while in service.³

¹ See generally Antwi, S.O., Mousa, O.Y., & Patel, T. (2018). Racial, ethnic, and age disparities in incidence and survival of intrahepatic cholangiocarcinoma in the United States; 1995-2014. Comparative Study. *National Library of Medicine*. National Center for Biotechnology Information. 17(4): 604-614. doi.org/10.5604/01.3001.0012.0929. See also Rahnemai-Azar, A.A., Weisbrod, A., Dillhoff, M., Schmidt, C., & Pawlik, T.M. (2017). Intrahepatic cholangiocarcinoma: Molecular markers for diagnosis and prognosis. *J. Surg. Oncol.* 26(2): 125-137. doi.org/10.1016/j.suronc.2016.12.009,

² Su, C.h., Tsay, S.H., Wu, C.C., et. al. (1996). Factors influencing postoperative morbidity, mortality, and survival after resection for hilar cholangiocarcinoma. *Annals. Of Surgery.* 223(4): 384-394. doi.org/10.1097/00000658-199604000-00007.

³ Cholangiocarcinoma is an asymptomatic form of cancer and can remain so for 30 years before noticeable development. See generally www.cholangiocarcinoma.org/vietnam-veterans.

They also cite a lack of evidence in rebuttal to the argument that Vietnam-era veterans experience rates of incidence higher than other population groups because of their in-theater service. We hope that the introduction of this Bill serves as a reminder to the Department that their lack of internal studies to affirm an otherwise confirmed causal link between carcinogens and incidence rates should not be an argument to negate claims for benefits and care. We also hope that the swift passage of this Bill will serve to provide the framework needed for those internal studies which, while not necessary for the provision of medical care, will help the Department to adjust and tailor care systems and communicative platforms to ensure that our Vietnam-era veterans receive the due and necessary care for service-connected conditions that the Department has been charged with providing.

In addition to the research and efforts that will be furthered through passage of this Bill, we highly recommend that an informative campaign and literature be developed and heavily distributed to bring awareness of this presumptive service-connection to Vietnam-era veterans, their caregivers, and their medical teams outside of the Department.

K2 Veterans Care Act of 2021 (HR 1355)

We support Congressman Lynch's efforts through this Bill, and for his efforts in bringing to awareness a pandemic that has continued to be denied by Departmental health care facilities.

The Karshi Khanabad base in Uzbekistan quickly became a critical site following the attacks on September 11, 2001, due to its proximity to at Qaeda and Taliban targets in Northern Afghanistan.⁴ A 2015 study found that 61 persons stationed at the contaminated base had died from some form of radiation-connected cancers and diseases.⁵ That number is believed to be much lower than actual numbers, as special operations units that were also assigned to the base were not fully documented given their sensitive missions.

Over the past two decades, the Department has seen a 61% increase in the incidence and treatment rates of cancers that research has show are tied to toxic exposures.⁶ Despite this statistic, the Department has refused to acknowledge a presumptive connection between a veteran's exposure to toxic environments through their military service, and the cancers and diseases they are being diagnosed with later in life.⁷ They have repeatedly denied service-connected care and treatments for these veterans because their conditions are not considered a "presumptive condition,"⁸ a concern that would be alleviated through the passage of this Bill. This is particularly damning with the knowledge that an internal investigation by the Defense Department's U.S. Central Command, completed November 2001, confirmed that ground contamination in the airfield posed a health risk to all service members therein deployed.⁹ The report further detailed that the tents used for sleeping,

⁴ Kirpalani, R. & Copp, T. (2019). Cancers strike veterans who deployed to Uzbek base where black goo oozed, ponds glowed. *McClatchy*. Accessed on May 2, 2021, at www.mcclatchydc.com/news/nation-world/national/national-security/article238510218.html.

⁵ *Id.*

⁶ Copp, T. (2019). VA to study whether military toxic exposures are tied to veterans cancers, illnesses. *McClatchy*. Accessed on May 2, 2021, at www.mcclatchydc.com/news/nation-world/national/national-security/article237333764.html.

⁷ *Supra* note 4.

⁸ *Id.*

⁹ *Id.*

eating, showering, and working were located directly on top of soil that was contaminated with four carcinogenic hazards.¹⁰

While we have no further recommendations to be considered alongside this Bill, we urge its swift passage to ensure that these veterans are able to access the life-saving care they should be afforded.

Mark Takai Atomic Veterans Healthcare Parity (HR 1585)
and
Enewetak Atoll Cleanup Radiation Study (HR 2530)

We support Congresswoman Meng's and Congressman Nehls's efforts introduced through these Bills, especially where they build upon the efforts of the 100th Congress and former President Bill Clinton's Administration.¹¹

Enewetak Atoll, located in the Marshall Islands, became a part of the Trust Territory of the Pacific Islands after its capture from the Japanese in 1944, and until its independence in 1986.¹² During that period, our nation's military conducted 67 nuclear tests¹³ and expanded nuclear research and development until the Nixon Administration directed cleanup efforts to begin in the 1970s.¹⁴ Between 4,000 and 6,000 service members were directed to participate in the clean-up and were provided boots, shorts, t-shirts, and hats as their protective gear.¹⁵

Precedent exists for the Congresswoman's push in healthcare parity. In 1988 a similar Bill was signed into law which provided due and necessary healthcare to all veterans that were involved with atomic testing up through 1958; though, the cut-off date unilaterally discluded the veterans that participated in directed clean-up efforts. Radiation-related cancers and birth defects remain a significant problem for Marshallese populations living near Enewetak Atoll and Bikini Atoll.¹⁶

We appreciate the Congressman's intentional framework for continued research, and would recommend that these additional studies be conducted to determine if there is a significant linkage between rates of incidence and treatment within affected minority populations and whether there are any disparate impacts that exist, especially within racial and ethnic minorities who are already disproportionately impacted by many of the illnesses and conditions that would be covered under this healthcare parity Bill.

¹⁰ The hazardous contaminants identified in the report included explosive residue and propellant from the decommissioned missile storage facility; a combination of oils, hydraulic fluids, gases, and solvents; and runoff from a nearby chemical weapons decontamination site. *Id.*

¹¹ Atomic Heritage Foundation. (2019). Atomic veterans 1946-1962. *National Museum of Nuclear Science & History*. Accessed on May 2, 2021, at www.atomicheritage.org/history/atomic-veterans-1946-1962.

¹² See generally www.marshallislands.ln.gov/enewetak.php.

¹³ Twenty-three tests were conducted at Bikini Atoll, and 44 were conducted at Enewetak Atoll. *Id.*

¹⁴ *Id.*

¹⁵ Clothing choices were cited in response to extreme heat and a gutted budget. *Id.*

¹⁶ National Cancer Institute. (n.d.). NCI dose estimation and predicted cancer risk for residents of the Marshall Islands exposed to radioactive fallout from U.S. nuclear weapons testing at Bikini and Enewetak. *Division of Cancer Epidemiology & Genetics*. U.S. Department of Health and Human Services, National Institutes of Health. Accessed on May 2, 2021, at www.dceg.cancer.gov/research/how-we-study/exposure-assessment/nci-dose-estimation-predicted-cancer-risk-residents-marshall-islands.

Fair Care for Vietnam Veterans (HR 1972)

We support Congressman Harder's efforts through this Bill and have no additional recommendation. We would like to acknowledge the impact passage of this Bill would have on our minority veteran populations, especially our African American veteran populations, who already experience hypertension¹⁷ and monoclonal gammopathy¹⁸ at higher rates than their non-African American counterparts.

TEAM Act (HR 2127)

We support the Ranking Member's efforts through the introduction of this Bill. By further defining terms and determinants of exposure, we will ensure that our nation's veteran communities, especially those that are most marginalized and underserved, experience fewer hurdles in accessing life-changing and life-saving benefits and services directly related to their service-connected conditions.

We would continue to urge for the inclusion of minority-focused statistics in all Commission- and Agency-focused research and studies that are conducted. We would also urge that all awareness campaigns that are conducted, as identified in Sec. 301, be intentionally designed as to target the innumerable veterans, especially minority veterans, who may not currently utilize the Department for healthcare.

Keeping Our Promises Act (HR 2268)

We appreciate Congressman Westerman's advocacy to ensure other forms of cancers and conditions associated with toxic exposure are afforded the presumptive connection that has already been laid out by this body for many other diseases and conditions.¹⁹

Presently, it is common practice for the Department to assign a 100% disability rating upon a service-connected cancer diagnosis and up through six months following the successful completion of a treatment program. Further inclusion of the numerated cancers within the Congressman's Bill will help to extend that presumptive connection, availing additional veterans and their families to due and necessary care and support. We have no further comments or suggestions to provide at this time.

¹⁷ Carnethon, M.R., Howard, G., Pu, J., et. al. (2017). Cardiovascular health in African Americans: AHA statement. *American Heart Association Council on Epidemiology and Prevention*. *Circulation* 2017, Oct 23.

¹⁸ Landgren, O., Graubard, B.I., Kumar, S., Kyle, R.A., Katzmann, J.A., et. al. (2017). Prevalence of myeloma precursor state monoclonal gammopathy of undetermined significance in 12372 individuals 10-49 years old: a population-based study from the National Health and Nutrition Examination Survey. *Blood Cancer Journal*. 7(1): e618. doi.org/10.1038/bcj.2017.97,

¹⁹ See generally 38 USC § 1116 and 38 CFR § 3.309.

COVENANT Act (HR 2368)

We applaud Representative Luria's comprehensive and intentional efforts provided through this Bill, and for identifying the need to address insufficient data hindering the Department's provision of due and necessary care. We would continue to advocate for minority-specific metrics in associated research and studies but have no additional comments to provide at this time.

Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act of 2021 (HR 2372)

and

Veterans Burn Pits Exposure Recognition Act of 2021 (HR 2436)

We applaud the comprehensive legislation penned by Congressman Ruiz and the efforts pushed by Congresswoman Slotkin. Many of the conditions identified in Congressman Ruiz's expansion are routinely dismissed and deemed to be related to a veteran's lifestyle choices (i.e., tobacco use) rather than their military service. Further inclusion of these conditions in the list of presumptive service-connection will avail many veterans and their families to much needed benefits and services.

In the face of prolonged logistics concerns, burn pits became a crude fix to deal with aggregated and non-discriminate waste across military bases in much of the Middle East.²⁰ The burn pits included many items that are known to emit toxic and carcinogenic fumes when burned, including jet fuel, electronics, and human waste.²¹ The Defense Department has estimated that nearly 3.5-million service members have been exposed to burn pits.²² Despite this confirmed, and overwhelming, statistic, the Department of Veterans Affairs has denied approximately 75% of all burn pit-related claims, ranging from asthma to cancer.²³ Civilian providers are unprepared to supplement the Department's failure to provide care as they generally do not have the basic understanding or expertise of the dangerous conditions that burn pits presented, nor of the diseases and conditions that may manifest as a result of the toxic exposure. As the Congresswoman has noted in her own legislation, burn pits are still being utilized in fifteen countries across the globe today.

The Department opened the Airborne Hazards and Open Burn Pit Registry in 2014, in an attempt to aggregate data and to share research about potential health effects of airborne hazardous exposures.²⁴ While the Department's efforts to both aggregate data and to spread information should be commended, it should be noted that many veterans, especially within the minority veteran community, have become so disenfranchised with the military-veteran industrial complex and its healthcare frameworks that they harbor significant reservations in participating in such studies or are not receptive to incoming communications from the Department entirely. As a result, it is likely that the information being aggregated through the Registry is not inclusive of the disparate impacts

²⁰ Conder, K.K. (2021). Veterans face uphill battle to receive treatment for burn pit exposure. *NBC News*. Accessed on May 2, 2021, at www.nbcnews.com/news/military/veterans-face-uphill-battle-receive-treatment-burn-pit-exposure-n1263862.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ See generally www.publichealth.va.gov/exposures/burnpits/registry.asp.

that our nation's most underserved and marginalized communities may be facing. It is imperative that the studies conducted in conjunction with professional institutions intentionally seek to identify these socioeconomic indicators and any potential disparate impacts.

Much of the legislation being discussed in this Hearing is looking towards the correction of the intentional and negligent lack of care to our aging veteran populations exposed to hazardous and toxic conditions. We must dedicate the requisite time, awareness, and resources to ensure we do not similarly fail the veterans that have been exposed to these newer toxic conditions.

Agent Orange Exposure Equity (HR 2569)

We appreciate Representative Cartwright's expansion of 38 USC § 1116 to include outlying dates and regions of which veterans may have been exposed to toxic conditions through their military service in the Republics of Vietnam and Thailand, and in Cambodia.

Though the Defense Department desegregated its military ranks, racial inequality continued through our nation and into our military's ranks at the height of the war.²⁵ African American troops continued to face discrimination and in their basic MOS training and assignment allocations.²⁶ Despite representing only 10.5% of the population at large,²⁷ African American troops represented more than 20% of the Airborne units stationed in Vietnam.²⁸ With less access to education than their white counterparts, lower testing scores forced African American troops into less desired billets that may have placed them in theater, or nearby, outside of the dates that are presently accounted for within the U.S. Code.²⁹

It has been noted that the higher ratios of African American service led to a disproportionate number of casualties.³⁰ It can be further deduced that when coupled with subpar equipment and facilities, our aging African American veteran populations may also be experiencing conditions and diseases at markedly higher rates than their non-minority counterparts. Passage of this Bill will help to ensure that this aging population of veterans is no longer subjected to the innate discriminatory frameworks that stem from their military service.

Palomares Veterans (HR 2580)

We support Congresswoman Hayes' efforts in re-introducing this Bill, which would further the relief granted through the Court of Appeals for Veteran Claims in 2020 for service members involved in the clean-up of toxic debris in Palomares, Spain.³¹

²⁵ Podlaski, J. (2017). African Americans in the Vietnam war. *The United States of America Vietnam War Commemoration*. Accessed on May 2, 2021, at www.vietnamwar50th.com/assets/1/7/African_Americans_in_the_Vietnam_War.pdf.

²⁶ *Id.*

²⁷ Statistical Abstract of the United States. (2003) We, the American Blacks. *U.S. Census Bureau*.

²⁸ *Supra* note 25.

²⁹ *Id.*

³⁰ *Id.*

³¹ See *Victor B. Skaar v. Robert L. Wilkie*, No. 17-2574 (Vet. App. 2020).

Following an Air Force bomber crash in 1966, radioactive plutonium dust spread throughout the Spanish countryside, and 1,600 service members were sent to clean up the debris.³² For the past fifty years, the Department has denied associated claims, arguing that a lack of sufficient evidence to prove presumptive correlation exists, leading to the rejection of life-saving care for a service-connected condition and even resulting in the needless deaths of many.³³

Passage of this Bill would formally recognize the service of these affected veterans, and ensure they are able to access the due and necessary benefits and services. It would also send a strong signal to the Department, that unsound methodology and unreliable data cannot be used in the determination of benefit and service allocation for our veteran communities now or in the future.

Fort McClellan Health Registry (Draft)

We support Congressman Tonko's efforts through this Bill, though have an item for further consideration detailed below.

Fort McClellan, located in Alabama, served as a training center and scientific research ground for our nation's military services.³⁴ Beginning in the 1920s, the Fort stored polychlorinated biphenyls (PCB), sulfur mustard, white phosphorus, plutonium, Agent Orange, Agent Blue, uranium, Napalm-B, nerve agents, blister agents, Cesium (Cs-137), and Cobalt in containers while awaiting incineration.³⁵ The toxic substances leaked from their containers, contaminating nearby ecosystems, including those that led to the wells located on the Fort itself.³⁶ Closed in 1999 via Congressional action, it is estimated that 600,000 service members were subjected to toxic chemical exposure over a 72-year period,³⁷ including the Women's Army Corps³⁸ and the Buffalo Soldiers.

As written, the Bill would avail veterans subjected to toxic exposure to benefits and services as far back as 1935. While commendable, this negates the potentially thousands of veterans that may have served on the base between 1922 and 1935. While many that served during that time-period may have pre-deceased and are unable to apply for the benefits and services no available to them through this action, it cuts off the sparse benefits that would have been offered to their spouses and children, especially when looking towards indemnity compensation. We would recommend that the Bill be amended to cover all veterans that served on the base when it housed toxic substances and conditions.

³² Yale Law School. (2020). Court rules in favor of veterans exposed to radiation. *Yale University School of Law*. Accessed on May 2, 2021, at www.law.yale.edu/yls-today/news/court-rules-favor-veterans-exposed-radiation#:~:text=The%20Palomares%20veterans%20are%20led%20by%20named%20plaintiff,Chief%20Master%20Sergeant%20who%20participated%20in%20the%20cleanup. See also Yale Law School. (2019). Court certifies class of veterans exposed to radiation. *Yale University School of Law*. Accessed on May 2, 2021, at www.law.yale.edu/yls-today/news/court-certifies-class-veterans-exposed-radiation.

³³ *Id.*

³⁴ Crosby, C. (2020). Fort McClellan and toxic exposures. *Hill & Ponton Disability Attorneys*. Accessed on May 2, 2021, at www.hillandponton.com/fort-mcclellan-toxic-exposures-veterans-need-know.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸

PFAS Registry Act of 2021 (Draft)

We appreciate Congressman Pappas' efforts with the establishment of this Registry, especially as it will allow the Department to better serve our nation's veteran communities, especially those that have been exposed to per- and poly-fluoroalkyl substances.

Classified as a carcinogen by the International Agency for Research on Cancer, the Department has confirmed that most individuals that receive care through its facilities have small amounts of PFAS in their blood.³⁹ While the Environmental Protection Agency confirms that small amounts generally do not pose a large threat to the average person, the U.S Fire Administration has unilaterally stated that prolonged exposure can be harmful.⁴⁰ There are several existing lawsuits filed by civilian and military firefighters because of the cancers and diseases derived from their toxic exposures.⁴¹

Military bases have used aqueous film forming foam (hereinafter "AFFF") to fight on-installation fires since 1970.⁴² PFAS is a major component of AFFF fire suppression systems. While this piece of legislation aims to target individuals that had direct interaction with PFAS and PFOS containing materials, it is important to note that the chemicals also impact individuals that may have come into contact with the substances outside of direct interactions. We would recommend that additional consideration be provided to individuals that have had passive interaction with the toxic substances, especially within rural military bases and onboard ships and submarines.

Once again, I thank you for the opportunity to submit this statement for the record. My team and I look forward to continuing to work with you and your offices., and to support your efforts in better supporting and serving our minority veteran populations. If we can be of further assistance, please feel free to contact me directly.

Respectfully Submitted,

/s/

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³⁹ Turner, T. & Borwick, K. (2021). Aqueous film forming foam (AFFF). *Consumer Notice*. Accessed on May 2, 2021, at www.consumernotice.org/environmental/afff.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* See also www.publichealth.va.gov/exposures/pfas.asp.