



**STATEMENT OF AMI D. NEIBERGER-MILLER
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BEFORE THE

**HOUSE COMMITTEE ON VETERANS AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE & MEMORIAL AFFAIRS**

OCTOBER 30, 2013

Hearing: "Focused Issues on Dignified Burials: A National Cemetery Update"

EXECUTIVE SUMMARY

I. Opinions on Current Legislative Issues Facing National Cemeteries

Examines the Alicia Dawn Koehl Respect for National Cemeteries Act (S.1471, H.R. 3106), the Volunteer Veterans for Cemetery Service Act (H.R. 1957), and the Honor Those Who Served Act of 2013 (H.R. 2018).

II. Feedback about the VA National Cemetery Administration (NCA)

Our 131 national cemeteries honor the service and sacrifice of our veterans and service members for their country. Discusses delays in burial allowance benefits, which are not paid through the NCA, but do impact how families view their treatment by the VA and delay families from settling estates.

III. Arlington National Cemetery

Discusses changes at the cemetery, the memento policy at section 60 where the Iraq and Afghanistan war dead are interred, and the continued lack of a survivor representative on the Advisory Committee on Arlington National Cemetery.

IV. Limitations of the Corey-Shea Act

Parents of service members who do not die due to hostile act or in a training incident remain ineligible for interment in national cemeteries with their children. The Corey-Shea Act does not apply to Arlington National Cemetery. This leaves some surviving parents who would like to be interred with their child no option other than the waiver request process.

V. VA and Arlington National Cemetery's Burial Waiver Request Process

Expresses concern about the burial waiver request process for survivors who cannot qualify under the Corey-Shea Act and the decision-making time frames within these processes.

VI. Recommendations for Improvement

- (1) Provide sensitivity training in how to work with bereaved families for national cemetery staff and Arlington National Cemetery staff. TAPS is willing to assist with this type of training at a national level.
- (2) Continue the surviving family town hall meetings at Arlington National Cemetery twice per year and work toward a viable solution for the mementos at section 60 that does not impair family grieving, impinge on mourning practices, nor detract from the dignity of the cemetery.
- (3) Nominate or appoint a surviving family member with a loved one interred at Arlington National Cemetery and consider additional survivors to join the Advisory Committee for Arlington National Cemetery.
- (4) Consider legislatively modifying the Corey-Shea Act to include surviving parents of active duty service members who are buried in a national cemetery, regardless of location of death or cause of death, in circumstances where the service member does not leave behind an eligible spouse or child. Consider legislatively modifying the Corey-Shea Act to include Arlington National Cemetery.
- (5) Consider legislative improvements to define the waiver request process for the national cemetery system and Arlington National Cemetery, so those requesting interment or burial waivers can receive an indicator of a decision prior to their death, even if it cannot be a finalized decision.
- (6) Ask the VA Undersecretary for Memorial Affairs and the subcommittee to initiate discussions with the Veterans Benefits Administration about the slow payment of burial allowance benefits and explore what can be done to improve the backlog in survivor benefits, specifically, the burial allowance.

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to submit this testimony on behalf of the Tragedy Assistance Program for Survivors (TAPS).

TAPS is the national organization providing compassionate care for the families of America's fallen military heroes. TAPS provides peer-based emotional support, grief and trauma resources, grief seminars and retreats for adults, Good Grief Camps for children, online and in-person care groups, casework assistance, connections to community-based care, and a 24/7 resource and information helpline for all who have been affected by a death in the Armed Forces. Services are provided to families at no cost to them. We do all of this without financial support from the Department of Defense. TAPS is funded by the generosity of the American people.

TAPS was founded in 1994 by a group of surviving families following the deaths of their loved ones in a military plane crash. Since then, TAPS has offered comfort and care to more than 40,000 people. The journey through grief following a military death can be isolating and the long-term impact of grief is often not understood in our society today. On average, it takes a person experiencing a traumatic loss five to seven years to reach his or her "new normal."

TAPS has extensive contact with the surviving families of America's fallen military service members, making TAPS uniquely qualified to comment on issues affecting the survivors left behind. TAPS received an average of 13 newly bereaved survivors per day in 2012. Survivors are referred to TAPS through our relationships with the Armed Services casualty assistance officers and direct contact from those who are grieving the death of someone who died while serving the Armed Forces.

In 2012, 4,807 new survivors came to TAPS for comfort and care. In 2013, the number of newly-bereaved military families coming to TAPS for care and support continues to climb. Between January 1 and October 24, 2013, TAPS sadly welcomed 3,471 newly bereaved survivors for care and support.

Causes of death were reported as follows by military families turning to TAPS for help and support:

Suicide or suicide suspected	22.88 % (794)
Hostile action/killed in action/Navy Yard shooting	22.47 % (780)
Accident – auto/aviation/other	22.13 % (768)
Sudden illness	17.11 % (594)
Unknown cause of death	10.89 % (378)
Homicide	2.74 % (95)
Non-hostile/non-combat incidents	1.73 % (60)
Friendly-fire	0.06 % (2)

We have been asked by the subcommittee to discuss issues facing veterans cemeteries, including the classes of authorized parties permitted to request a headstone or marker or commemorate a decedent and the Secretary's authority to reconsider decisions to inter remains or honor the memory of a person in a national cemetery. The hearing will also address the state of various veterans cemeteries, including upkeep and areas for improvement, and the operations of Arlington National Cemetery, including the handoff of leadership, ongoing planning, design and construction.

I. Opinions on Current Legislative Issues Facing National Cemeteries

The subcommittee has requested our opinion on recent legislative matters concerning the administration of the National Cemetery Administration and Arlington National Cemetery.

Regarding the **Alicia Dawn Koehl Respect for National Cemeteries Act (S.1471, H.R. 3106)**, which would provide the Secretary of Veterans Affairs and the Secretary of Defense the authority to reconsider decisions to inter or memorialize veterans in national cemeteries, in situations where there is sufficient evidence that a veteran has committed a state or capital crime, but had not been convicted of such a crime because the veteran was not available for trial due to death or flight to avoid prosecution. If a veteran has committed a state or federal capital crime, he or she is not eligible to be buried in a national cemetery, and it is reprehensible to think that a person who committed a capital crime would be interred in a cemetery alongside our veterans. The Tragedy Assistance Program for Survivors (TAPS) would not be opposed to this legislation, which allows both secretaries decision-making latitude and provides for appeals processes if they are needed.

Regarding the **Volunteer Veterans for Cemetery Service Act (H.R. 1957)**, which would authorize the Secretary of Defense and the Secretary of Veterans Affairs to accept voluntary services from veterans and veterans service organizations at national cemeteries. TAPS appreciates this legislation's intent to provide improved educational programs that would include veterans sharing with visitors the cemetery the stories of their military service.

Regarding the **Honor Those Who Served Act of 2013 (H.R. 2018)**, which further identifies the persons who are eligible to request headstones or markers furnished by the Secretary of Veterans Affairs. This act would enable local historians, genealogists, state veterans agencies, military researchers and others to request headstones or markers for grave sites newly identified that may have been unmarked for many years. Because the intention of this act is to improve appreciation for our veterans and their service to our country, TAPS is pleased to support this act.

II. Feedback about the VA National Cemetery Administration

Since our founding in 1994, TAPS has worked cooperatively with the National Cemetery Administration (NCA) administered by the Department of Veterans Affairs. The national cemetery system and its 131 cemeteries is the ultimate metaphor for the TAPS model of honoring the service and sacrifice of all those who died while serving in the Armed Forces, regardless of where or how they died.

The shrine status of our national cemeteries is deeply appreciated by survivors and reflects the care and devotion of our nation to honoring those who serve and sacrifice for our freedoms. TAPS appreciates the stewardship of our national cemeteries undertaken by the National Cemetery Administration and its commitment to serving veterans and their families. TAPS is available and willing to provide bereavement care training for cemetery administration staff as requested.

TAPS appreciates the care and concern Undersecretary Muro and his staff recently showed to the family of a National Guardsman who submitted a request for a waiver to Secretary Shinseki so they could place their loved one to rest. Their loved one had died by suicide. This complicated case was brought to a resolution recently for the family. They were granted a waiver and placed their loved one on September 27, 2013 in a grave site with another relative who was interred in a national cemetery. It was a fitting tribute to her service to her country and has given her family the peace of knowing that she is at rest.

While we realize that the National Cemetery Administration is not responsible for the payment of burial allowances by the Veterans Benefits Administration, this is an issue which we would like to highlight for the subcommittee. VA burial allowances are partial reimbursements of an eligible Veteran's burial and funeral costs. When the cause of death is not service related, the reimbursements are generally described as two payments: (1) a burial and funeral expense allowance, and (2) a plot or interment allowance.

Even though burial allowances, ranging from \$300-\$2,000, are not managed by the National Cemetery Administration, when excessive delays in payment of these allowances happen, they often sour the experience of the family. The perception of the surviving family is that these agencies are connected. And delays in payment can delay the closure of a decedent's estate and delay the family in being able to move forward following the death.

While the survivor benefits backlog for burial allowances and other survivor benefits such as pension and Dependency and Indemnity Compensation, pales in comparison to the veterans disability benefits backlog, it includes thousands of family members who served alongside their loved ones for many years, who are waiting often many months after a funeral to receive their rightfully-owed benefits from our government. We recently had a case where a surviving father was told by VA staff that he would have to wait 14 months to receive a burial allowance for his son.

Looking at the VA's Monday Morning Workload reports on a quarterly basis, the number of pending burial allowance claims is currently more than double what it was four years ago. The volume of pending claims appeared to peak at just under 67,000 pending claims in 2012 and began to decline in 2013. Each pending claim represents a family that is waiting for their benefits.

09/30/13 - 45,671 pending claims

07/01/13 - 51,078 pending claims

04/01/13 - 62,094 pending claims

12/31/12 - 63,979 pending claims

10/01/12 - 63,126 pending claims

07/02/12 - 66,754 pending claims

04/02/12 - 65,835 pending claims

01/03/12 - 59,204 pending claims

10/03/11 - 49,819 pending claims

07/05/11 - 49,819 pending claims

04/04/11 - 37,976 pending claims

01/03/11 - 28,115 pending claims

10/04/10 - 26,609 pending claims

07/06/10 - 26,854 pending claims

04/05/10 - 27,198 pending claims

01/04/10 - 22,710 pending claims

10/05/09 - 21,004 pending claims

While we realize the burial allowance benefit does not rest within his jurisdiction for his agency, TAPS would appreciate it if Undersecretary Muro could inquire with the Veterans Benefits Administration about this situation and ask what could be done to improve it. The delay in benefits reflects on the entire VA, not just the Veterans Benefits Administration. TAPS also appreciates the subcommittee's interest in this matter.

III. Arlington National Cemetery

The new telephone system, GPS mapping and application, Google Street View mapping project, improved website, and plans for growth with the Millennium project are moving the cemetery's management from being behind the times, to becoming a leader in innovation and development.

We feel this track record of progress is helping surviving families move forward beyond the scandals and revelations of 2010. TAPS has worked proactively with surviving families and the administration of Arlington National Cemetery for many years. We hosted a public forum in 2010 for families to meet the new superintendent and executive director of the Army Cemeteries Program. We also supported families grappling with issues connected to the mismanagement at the cemetery, including two families who dis-interred their loved ones to determine if they were buried in the correct locations. We are relieved to be beyond those difficult days and to see improved management and financial oversight in place.

Section 60 Memento Removal & Compromise Permitting Mementos for Six Months Per Year

At the same time, changes in leadership and policies have been difficult at times. As was recently and widely reported in the news media, Arlington National Cemetery began removing mementos and items from section 60, where 868 of the Iraq and Afghanistan war dead are interred, on a consistent basis in late July and early August 2013, and a total of 2,000 active duty service member deaths are interred, within a section of 10,503 grave sites.

Unfortunately, it was found that cemetery staff removed photographs and items from tombstones that had been placed by grieving families. Some of the items that were removed, such as a small crucifix that had been at a gravesite for four years, were not unsightly and posed no harm to others in the cemetery. The crucifix would not have been picked up by the section 60 memento history collection project, because it does not collect religious objects, and would have surely been disposed of in the section 60 clean-up.

To provide some idea of volume and how many items are being left at section 60 routinely, historians have collected in the last four years approximately 28,000 items in section 60. Since 2009, the Army has operated a section 60 memento history collection project within the cemetery. This program was created to collect some of the historically interesting and unusual items in the cemetery from gravesites of those who died by hostile act in Iraq or Afghanistan, when it was realized by many that families today are grieving differently, than they did decades ago. Many families and battle buddies take solace in leaving an item or placing a rock to show that they visited.

The “enforcement” of the floral policy in section 60 represented a significant departure from the status quo, as the cemetery had permitted families for the past four years a degree of latitude in what they left at gravesites, and typically only removed items that were deemed “unsightly.” The change in “enforcement” of the floral policy meant that the section was completely stripped of rocks, mementos, photographs and other items left by surviving families and battle buddies of our fallen troops. Multiple families began talking with peer mentors at TAPS and others about visiting the cemetery to leave small mementos or items, such as a special rock or laminated photo not attached to the head stone, and returning the following day to find the items removed.

For TAPS peer mentor Kristen Santos-Silva, surviving spouse of Army Sergeant First Class Carlos Santos-Silva who was killed in 2010 in Afghanistan, the changes at section 60 were upsetting. She wrote:

“Arlington National Cemetery is a unique and special place in the hearts of individuals. Many soldiers have been buried here and will continue to be buried here. In regard to the memento policy, as a surviving spouse and mother of a child whom has his father buried in Section 60 we ask for permission to allow our story to continue of our soldier.”

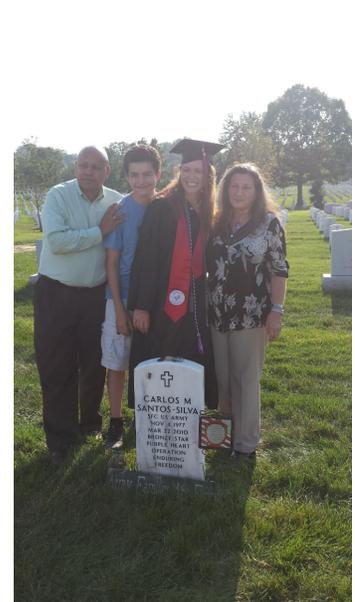
My husband was KIA at the age of 32. His life ended but his legacy can continue to others with the mementos that are left at his tombstone marker. My son (at the time his father died, he was 11 years old), and I moved to Maryland to be close to Carlos, our hero. For three and a half years we have celebrated all the holidays, birthdays, and anniversaries in Section 60, with friends, family, and many of his soldiers, who continue to battle with post-traumatic stress.

For three and a half years photos have been placed on the back of his tombstone marker. This is our environment as survivors and comrades. To share who he was as a soldier, father, husband, son, and friend. The photos offer a face to the name, which offers respect.

In walking around Arlington National Cemetery and section 60 it brings peace and comfort to see the decorated photos, mementos, stones on top of the tombstones, and little “gifts” that are left. We learn about the soldier who laid his life down for us, our country, and pure sacrifice. Section 60 brings solace with the life that comes alive in this special section.

In touring section 60 after the rule implication of the past couple of months it is a “ghost town.” No, peace, comfort or solace provided, just empty grave markers and tombstones. This is more depressing and another reminder our soldier is gone. The mementos and pictures bring this unique section to life, we as survivors, and as a nation need to remember and experience the joy of a few minutes visiting our soldier and knowing that others that visit will be able to experience the joy that we have when they were alive. We need the pictures to continue to tell their story and legacy.

Having my husband’s tombstone mementos removed caused utter shock. My mother-in-law, father-in-law, my son, and personal friends were all together the day that we saw everything gone in late July 2013. My mother-in-law, was so upset that somebody could rip her son’s photos and coin off his tombstone. How does this hurt anybody with pictures being on the tombstone, she asked? We have to suffer as family survivors. It is just wrong to treat our heroes this way. Just pure disbelief in regard to no pictures or coins being available to view.”



Left: Kristen Santos-Silva at her husband’s gravesite in section 60 before the floral policy enforcement change with the medallion designed by her mother-in-law in honor of her husband’s sacrifice and small stones on the top of the head stone. Center: the head stone after the medallion was removed and the floral policy enforced. Right: The Santos-Silva family on the cemetery in late July when they discovered the medallion and photos on the back of the head stone were gone.

It should be noted that the families themselves have a variety of opinions about what is appropriate to leave at gravesites. Many want to leave small objects, cards, flowers and photos that are not attached to the headstones. Some want to attach a small item to the stone or photos to the back of the stone. Some want to leave only

flowers and comply completely with the regulations. Many survivors feel that even if what someone else leaves at a gravesite is not consistent with their own customs, that it is not appropriate to criticize another survivor for what he or she needs to do to grieve a death. In most cases, there is great reluctance within the survivor community to criticize mourning practices, due to the personal nature of grief and loss.

It should also be recognized that mourning practices are specific to individuals and their family customs, religious beliefs and the circumstances surrounding the death. In some religious traditions, leaving rocks or coins at a gravesite is considered a substitution for flowers because they won't wilt or blow away. The leaving of pennies, nickels, dimes and quarters carries different meanings within the survivor and veteran communities. The leaving of mementos in cemeteries is common and not specific to Arlington National Cemetery or our national cemeteries. Some families leave mementos not because they are "stuck" in their grief, but rather because they are trying to incorporate their loved one into their new life after the loss. Rather than viewing memento leaving as a way for people to be held back in their grief, many families we know talk about how leaving an item at a grave site helps them live a normal life.

Because the public is aware of section 60 and its community of grieving families and graves of the war dead, the section is visited by the public. It is not a private place for families to grieve, but rather a public place. This means the cemetery cannot guarantee items will remain if left by families, but in practice, items have often stayed for many weeks, months, and in some cases, years. Some families leave photos because they would like for these visitors to see pictures of their loved ones and to understand the price their loved ones paid for the freedoms enjoyed by all of us.

Paula Davis, surviving mother, wrote to the Advisory Committee on Arlington National Cemetery, about her feelings on the floral policy enforcement at section 60:

"I'm aware of the Arlington regulations that ask families not to leave items other than flowers on the graves. I am writing to ask you to consider leniency for the Gold Star Families with loved ones buried in section 60. Because of the sensitivity of who is buried in Section 60 right now – our young men and women who have passed in our nation's current war, I'm asking that you leave for a period of time items (mementos) that aren't supposed to be there and then pick them up later. We don't have a Memorial Wall like the Vietnam Memorial Wall. Our son's and daughter's tombstones are our wall. Gold Star Families and Veterans need a place to heal their wounds and mourn our children, brothers, sisters, and their brothers and sisters in arms. Section 60 is our wall for now. Permitting a laminated picture no larger than a certain size, 5x7 to be placed in front of the stone would not be the same as attaching the picture to the stone. Section 60 is a place of healing and honor for the Gold Star Families. It means a lot to the families who have loved ones buried there."

After a concerned surviving parent contacted Senator Mikulski's office, the cemetery agreed to a meeting to talk with surviving families, which was held on October 6, 2013 in the cemetery's administration building. For many of the families attending the meeting, it was the first time they had been in the administration building since the day of their loved one's funeral. TAPS provided bereavement care and support at the meeting, including a licensed counselor who sat with families and several peer mentors attended. Superintendent Hallinan and several members of his staff attended the meeting.

During the emotional meeting where families explained how the changes had impacted them, Superintendent Hallinan apologized multiple times to the families for the pain that these changes had caused them and for the lack of communication by the cemetery staff with the families ahead of these changes. He said they are permitted to leave small mementos and photographs, if they are not attached to the head stones, and asked them to refrain from leaving glass objects or items that might pose a hazard to others. We also suggested some ideas for ways the cemetery could work with families to share the legacies of their loved ones and improve the educational programs at Arlington National Cemetery – perhaps through starting a docent program with the

families, allowing families to share information through the app about the cemetery for visitors, or creating exhibits using some of the items collected by the history collection project.

A few days after the meeting, the staff at Arlington National Cemetery contacted the families who attended with this note:

“Ladies and Gentlemen, Mr. Hallinan requested I extend his heartfelt thank you for your participation in our round table discussion with us on October 6, 2013. We felt the meeting was positive and generated several suggestions for improving communications between the family and ANC as we addressed issues associated with cemetery maintenance and the Section 60 Mementos Pilot Program. Mr. Hallinan has agreed to hold Gold Star Family roundtables twice a year and we are working to identify flexibility within our existing policies. For example, as the cemetery enters the non-growing season (where mowing of the grounds is less frequent), the cemetery will allow small photographs and small handcrafted items not affixed to the headstone to be left alongside your loved ones' headstone. Additionally, he has waived the scheduled pick up for tomorrow. Pickup of items not collected under the Mementos Policy will begin on October 25th and will occur on the second and fourth Friday of each month.

Arlington National Cemetery policy, which is similar to that of other national cemeteries, allows artificial flowers to be left at gravesites between October 10 and April 15. Allowing additional items to be left at gravesites during this time period is consistent with that policy. We will continue standard grounds' maintenance during this time period and remove unsightly flowers, items that are affixed to headstones or which pose a safety hazard to visitors and staff, such as tobacco, alcohol, ammunition, or glass items. Cemetery personnel will also remove items considered to detract from the dignity and decorum of ANC. We are committed to keeping the Gold Star Families informed and provide notice prior to implementation of any changes.”

Cemetery staff confirmed that mementos and photos will not be removed by the cemetery's staff if they are not unsightly and comply with the requirements between October 10 and April 15 (when the cemetery regulations permit artificial flowers).

Our impression is that the meeting went well for all involved. The families felt heard and supported in talking about the changes that had caused many of them pain. The cemetery administration has indicated a willingness to talk with the families and is working to identify flexibility in its current regulations. At the same time, while this compromise allows items to remain at the gravesites for six months of the year, it is still a radical departure from what has been permitted for the last four years by the administration and it will have a long-term effect on the families.

While these compromises are laudable and much appreciated by many of the families, we would like to know what will happen to mementos left in section 60 between April 16 and October 9, as this six-month period is the time of year when many families visit the cemetery. Many families leave items at gravesites in advance of Memorial Day. If items will be removed during this six-month period on a weekly basis, it will continue to be upsetting to some of the families, especially those who live far away and only visit a few times a year. It will be very important for the cemetery staff, TAPS and other organizations supporting survivors to educate families about these changes and the policies, in order for families to understand.

We hope that plans for the next meeting of the Advisory Committee on Arlington National Cemetery will be well-publicized, as the committee is scheduled to discuss the floral policy and advance notice would permit families to submit statements to the committee and attend the meeting.

TAPS is available and willing to provide bereavement care training for Arlington National Cemetery administration staff as requested.

Survivor Representative Needed on the Advisory Committee on Arlington National Cemetery

As we testified in April 2013, the community of surviving families was saddened greatly by the death from cancer of Janet Manion in April 2012. Mrs. Manion was a gold star mother who served on the Advisory Committee on Arlington National Cemetery. Her son is buried at Section 60 among the many other heroes who gave their lives in Iraq and Afghanistan.

Mrs. Manion was the only identified surviving family member of a service member buried at Arlington National Cemetery on the committee. The cemetery staff have talked about how critical her input was as the committee considered the cemetery's floral policy. More than a year after her death, no survivor has been named to replace her and additional vacancies exist on the committee. Mrs. Manion is currently buried at section 60 with her son.

The current members of the committee all have exceptional credentials with the military and veterans service, but none are identified as a surviving family member. This important stakeholder population – the families that are grieving their loved ones - is impacted by decisions made by the advisory committee and could contribute to the decisions this committee makes, and we believe there should be at least one survivor, if not more, on the committee.

Plans for the Section 60 Historical Memento Collection Project

We appreciate the Army's history memento collection project at Section 60, which collects artifacts and mementos of historical significance once per week on Thursdays and archives them for posterity. The project has been operating since 2009 and collected more than 28,000 items. It has helped some of the families, who feared their mementos were thrown away in the clean-up efforts, to find out that some of the items were collected by the history collection project and preserved. In some cases, families have been able to get photographs of the items from the cemetery administration and this has helped them. We hope the cemetery will be able to utilize the collection to share information in partnership with families that further educational programs about our fallen military and their legacies.

IV. Limitations of the Corey-Shea Act

An area that TAPS would like to bring to the attention of the subcommittee is the limitations of the Corey-Shea Act (Public Law 111-275, Title V, Section 502) and its impact on surviving military families. This act permits the burial or interment of a biological or adoptive parent in a national cemetery with their child who served in the military and died by hostile action or from a training-related injury. Parents are only eligible if the service member does not leave behind a spouse or child who would be eligible to be interred with the service member, and if the Secretary of Veterans Affairs determines that there is space available at the gravesite. The Corey-Shea Act does not apply to Arlington National Cemetery.

It is not uncommon for grieving military parents to want to be buried with their children who have pre-deceased them. TAPS supports the Corey-Shea Act for assisting some parents in fulfilling this desire. However, not all grieving military parents are eligible for these burial privileges, because the Corey-Shea Act limits eligibility to only cases where a service member dies due to hostile action, friendly fire, or from an injury incurred in military training for a combat mission.

Of the 4,489 deaths [reported by the Pentagon](#) as part of Operation Iraqi Freedom and Operation New Dawn, approximately 957 service member deaths (21%) were due to non-hostile acts. Of the 2,285 deaths [reported by the Pentagon](#) as part of Operation Enduring Freedom, approximately 489 service member deaths (21%) were not due to hostile action. While a handful of these non-hostile deaths might qualify under the friendly-fire

provision in the legislation, many of these parents who lost their child who was deployed in a war zone would not be eligible.

A surviving father named Frank Contreras of Albuquerque, New Mexico made contact with TAPS requesting help because he would like to be buried with his son, Army Specialist Vincent Frank Contreras. Specialist Contreras died at age 20 in an auto accident on September 3, 2011, while deployed in Germany for training. He is buried at Santa Fe National Cemetery. Mr. Contreras raised his son as a single parent and Vincent was his only child. Mr. Contreras had a close relationship with his son. In the obituary published for Specialist Contreras, Mr. Contreras is the only survivor and there are no other family members listed. Mr. Contreras was initially cheered by the passage of the Corey-Shea Act and the media reports about it, but then discovered that he was not eligible.



When asked why he wants to be buried with his son, Mr. Contreras said, “This would mean a lot to be right with him. I’d like to just be with him. One day I’ll be ready to visit him, but it would be better if I was with him...My only wish is to be with him when I die. He was only twenty-years old when he died. I would like for my last thing in life to be buried with him. It would be the greatest thing on earth. That would mean a lot, just to know that I would be there. It’s hard to describe, but that’s a man’s dream to be buried - it’s my dream to be buried with my son.”

If Specialist Contreras had died on the training field, his father would be eligible to be buried with him. But because he died on a roadside while in Germany for training, his father is not eligible for burial benefits. For other military families whose loved ones do not die in combat or from a training-related injury, the same denial happens. If their loved one dies from a sudden illness, a cancer potentially-related to burn-pit exposure in Iraq or Afghanistan, by homicide, suicide, or in an accident off-base, their parents cannot request to be buried with them in a national cemetery. The Corey-Shea Act does not apply to Arlington National Cemetery, so grieving parents have no option to be placed with their child, unless they pursue a waiver.

Because of its negative impact on survivors whose loved ones did not die in combat or from a training-related injury while preparing for combat, TAPS would support the future expansion of the Corey-Shea Act to include surviving parents of service members, regardless of manner of death or location of death, in cases where the veteran or service member does not leave behind an eligible spouse or child, and in cases where the Secretary of Veterans Affairs (for those interred in national cemeteries), the Secretary of the Army (for those interred at Arlington National Cemetery), or the appropriate representative, determines that there is space at the gravesite for the interment of additional remains.

We respectfully request the subcommittee consider making legislative modifications to the Corey-Shea Act to provide relief for these families.

V. VA and Arlington National Cemetery's Burial Waiver Request Process

One might think a potential solution for ineligible parents like Mr. Contreras, would be to apply to the Secretary of the VA for a waiver, requesting burial with their child in a national cemetery. A similar waiver process exists at Arlington National Cemetery. Waivers could, in theory, resolve the matter on a case-by-case basis. However, the process of requesting a waiver for burial or interment in a national cemetery, or at Arlington National Cemetery, is a process where these grieving parents can find no relief.

While Mr. Contreras and other parents ineligible for burial benefits with their children could request waivers— they would have to die not knowing if their requests to be buried with their children could be granted. In

practice, the VA and Arlington National Cemetery do not grant waivers until after the person has died. This means that a requesting parent has to die without knowing if the request to be buried with the child will be permitted.

When talking with another parent about the waiver process a few years ago before the Corey-Shea Act was passed, a surviving mother told me she found no relief in having to die without knowing if she would be placed with her son, who is buried in a national cemetery and was killed in action.

Because the VA and Arlington National Cemetery determine "at the time of need" if space is available for someone who is ineligible, the people desiring waivers have to die not knowing if their waiver requests will be granted.

Typically the Next of Kin of the Decedent must be entrusted to steward the request for a waiver after a survivor has died. The standards used by Arlington National Cemetery's instructions tell those requesting an exception to pay particular attention to explaining how the requestor has served honorably in the U.S. military and/or has lifetime achievements that have provided significant and notable support to the U.S. military.

In a [2011 memorandum](#) VA examined National Cemetery Administration records from 2001 to 2009 to determine the potential impact of the Corey-Shea Act. NCA's examination found a total of 135 requests for waivers were received. Twenty-three of the 135 waiver requests were for the burial of parents. VA approved only 8 of the 23 requested burial waivers for parents. It is reasonable for a parent to expect, with only this type of information available, that his or her request to be buried with a child may not be granted. Dying without knowing whether one can be buried with one's child when a parent desires it, is an emotional burden for a grieving parent to carry.

This is an area where better defining the waiver request process could help survivors. A legislative solution could empower the National Cemetery Administration and Arlington National Cemetery to make a preliminary determination on a waiver request, so parents would have more assurance before their deaths, if their desire to be buried with their children could be granted. While it might not be a full declaration of eligibility, nor a guarantee, it could at least give these grieving parents some relief so they could plan their affairs accordingly.

We believe that improving the waiver process with greater clarity and earlier decision-making could alleviate some of the pain that grieving families now experience in the waiver process, and request the subcommittee consider legislation that would provide relief for parents of service members and veterans seeking a waiver.

VI. Recommendations for Improvement

- (1) Provide sensitivity training in how to work with bereaved families for national cemetery staff and Arlington National Cemetery staff. TAPS is willing to assist with this type of training at a national level.
- (2) Continue the surviving family town hall meetings at Arlington National Cemetery twice per year and work toward a viable solution for the mementos at section 60 that does not impair family grieving, impinge on mourning practices, nor detract from the dignity of the cemetery.
- (3) Nominate or appoint a surviving family member with a loved one interred at Arlington National Cemetery and consider additional survivors to join the Advisory Committee for Arlington National Cemetery.
- (4) Consider legislatively modifying the Corey-Shea Act to include surviving parents of active duty service members who are buried in a national cemetery, regardless of location of death or cause of death, in

circumstances where the service member does not leave behind an eligible spouse or child. Consider legislatively modifying the Corey-Shea Act to include Arlington National Cemetery.

(5) Consider legislative improvements to define the waiver request process for the national cemetery system and Arlington National Cemetery, so those requesting interment or burial waivers can receive an indicator of a decision prior to their death, even if it cannot be a finalized decision.

(6) Ask the VA Undersecretary for Memorial Affairs and the subcommittee to initiate discussions with the Veterans Benefits Administration about the slow payment of burial allowance benefits and explore what can be done to improve the backlog in survivor benefits, specifically, the burial allowance.

Thank you for the opportunity to submit this testimony on behalf of the Tragedy Assistance Program for Survivors.

Curriculum Vitae – Ami Neiberger-Miller

Ami Neiberger-Miller is the director of outreach and education at TAPS. Her work with TAPS includes working with the news media, designing strategic outreach campaigns, advising surviving families on media relations, speaking to organizations about TAPS, conducting online outreach to raise awareness with core audiences, writing press releases and other materials, and forging partnerships that build support for TAPS and surviving families.

Because she is a surviving family member, Neiberger-Miller brings a unique perspective to her role with TAPS. Her 22-year-old brother, U.S. Army Specialist Christopher Neiberger, was killed in action on August 6, 2007 by a roadside bomb while serving with the U.S. Army in Baghdad, Iraq. Her brother is buried in section 60 at Arlington National Cemetery among hundreds of others who gave the ultimate sacrifice in Iraq or Afghanistan. Her father-in-law, Marine Corps Captain (retired) Norman Vann Miller, who died in 2003 of natural causes, is buried in section 66 at Arlington National Cemetery. '

In her role as a staff member with TAPS, Neiberger-Miller has supported many surviving families of our fallen military and veterans in communicating with Arlington National Cemetery, organized and supported meetings between surviving families and administrative officials, assisted a family in applying for a burial waiver with the National Cemetery Administration, supported TAPS casework programs assisting surviving families in communicating with administrators, and represented TAPS at meetings with the National Cemetery Administration.

Neiberger-Miller works frequently with journalists on stories related to survivors of our fallen military, issues impacting survivors, suicide and mental health care in the military, veteran's benefits, and post-traumatic stress disorder. She has emerged as a leading advocate for surviving families through her work with TAPS and the media. She has been interviewed by CNN, MS-NBC, CBS Sunday Morning, ABC World News, National Public Radio, the Washington Post, the New York Times, the Associated Press and other media outlets. She appears in the HBO documentary "Section 60: Arlington National Cemetery."

Neiberger-Miller has devoted more than 15 years of her career to helping organizations improve how they communicate and work with the media. She specializes in helping nonprofit organizations like TAPS, improve their public relations strategies and outreach, with expertise in helping groups that support trauma survivors.

Neiberger-Miller authored a guide to managing the news media for military families dealing with traumatic situations. She has spoken at events sponsored by the Dart Center for Journalism and Trauma at Columbia University and the Carter Center. She has spoken on communications for nonprofits at American University, George Washington University, Marymount University, the Public Relations Society of America – National Capital chapter and Public Relations Society of America - Maryland chapter.

She holds bachelor of arts and master of arts degrees in history from the University of Florida and is accredited in public relations.

DISCLOSURE STATEMENT

Neither Ami Neiberger-Miller, nor the Tragedy Assistance Program for Survivors (TAPS), have received any Federal grant or contract, relevant to the subject matter of this testimony, during the current or previous two fiscal years.