LEGISLATIVE HEARING ON H.R. 2355, H.R. 2996, H.R. 4299, H.R. 5735, H.R. 5880, H.R. 5881 AND H.R. 2720

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

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CONTENTS

June 6, 2012

Page

Legislative Hearing On H.R. 2355, H.R. 2996, H.R. 4299, H.R. 5735, H.R. 5880, H.R. 5881 and H.R. 2720 1

OPENING STATEMENTS

Chairman Jon Runyan 1
Prepared Statement of Chairman Runyan 42
Hon. Jerry McNerney, Ranking Democratic Member 3
Prepared Statement of Hon. Jerry McNerney 43
Hon. Steve Stivers, U.S. House of Representatives (OH–15) 4
Prepared Statement of Hon. Stivers 44
Hon. Vicky Hartzler, U.S. House of Representatives (MO–04) 5
Prepared Statement of Hon. Hartzler 44
Hon. Larry Kissell, U.S. House of Representatives (NC–08) 7
Prepared Statement of Hon. Kissell 45
Hon. John Culberson, U.S. House of Representatives (TX–07) 8
Prepared Statement of Hon. Culberson 45
Executive Summary of Hon. Culberson 47

WITNESSES

Mr. Raymond Kelley, National Legislative Director, Veterans of Foreign Wars 10
Prepared Statement of Raymond Kelley 48
Mr. James Young, President, National Association of County Veterans' Service Officers 12
Prepared Statement of James Young 49
Executive Summary of James Young 51
Mr. Jeff Hall, Assistant National Legislative Director, Disabled American Veterans 13
Prepared Statement of Jeff Hall 51
Ms. Debbie Lee, Founder, America's Mighty Warriors 22
Prepared Statement of Debbie Lee 54
Ms. Lisa Ward, Widow to Major Richard Ward, U.S. Army, Persian Gulf War 24
Prepared Statement of Lisa Ward 55
Mr. Kelly Shackelford, President, The Liberty Institute 25
Prepared Statement of Kelly Shackelford 56
Executive Summary of Kelly Shackelford 60
Mr. Jay Sanders, Senior Vice Commander, Veterans of Foreign Wars, District 4 26
Prepared Statement of Jay Sanders 61
Ms. Kathryn Condon, Executive Director, Army National Cemeteries Program 35
Prepared Statement of Kathryn Condon 62
Mr. Thomas Murphy, Director of Compensation and Pension Service, United States Veterans Administration 36
Prepared Statement of Thomas Murphy 63
Accompanied by:

Richard Hippolit, Office of the General Counsel, U.S. Department of Veterans Affairs

STATEMENT FOR THE RECORD

Hon. Ted Poe, U.S. House of Representatives (TX–02) 66

LEGISLATIVE HEARING ON H.R. 2355, H.R. 2996, H.R. 4299, H.R. 5735, H.R. 5880, H.R. 5881 AND H.R. 2720

Wednesday, June 6, 2012

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS,
Washington, D.C.

The Committee met, pursuant to notice, at 2:20 p.m., in Room 334, Cannon House Office Building, Hon. Jon Runyan [Chairman of the Committee] presiding.

Present: Representatives Runyan, Stutzman, McNerney, Barrow, and Walz.

OPENING STATEMENT OF CHAIRMAN JON RUNYAN

Mr. RUNYAN. Good afternoon. This legislative hearing on H.R. 5881, H.R. 5880, H.R. 2355, H.R. 2996, H.R. 4299, H.R. 5735, and H.R. 2720 will come to order. I know we have a few other Members that are on their way. So if we do have to go out of order we will do so. But we are here today because we have several important pieces of legislative on our agenda. Due to the high level of interest in some bills before us I am going to forego a lengthy statement and just touch on some of the bills on today's agenda, two of which I have introduced and another of which I have co-sponsored with the Ranking Member, Mr. McNerney.

H.R. 5881, the Access to Veterans Benefits Improvement Act, provides certain local government employees and certain employees of Congress with access to case tracking information throughout the Department of Veterans Affairs. We have a responsibility to serve our veterans by ensuring that every effort is made to simplify the claims process. Key actors of this effort are county veterans service officers whose expertise in claim development benefits veterans in many communities across America. Their assistance is especially critical to many thousands of veterans who live in rural areas, hours away from a VA regional office. Many veterans are overwhelmed as they try to navigate their way through the claims process and they are further frustrated when they ask for help from their county VSO or their member of Congress and that person cannot access even the most basic information about the status of their claim. This bill would allow these local government officials to check on the status of a veteran's claim and ensure that VA has

all of the information needed to process claims in the most efficient manner possible.

H.R. 5880, the Disability Examination Improvement Act, extends the authority of the Secretary of Veterans Affairs to enter into contracts with private physicians to conduct mental disability examinations. With the passage of this bill, the successful program that allows physicians outside of the VA to conduct contract examinations would continue. This would allow the VA to more quickly evaluate veterans' disabilities and facilitate access to the care they need.

Again, I have also co-sponsored with Ranking Member McNerney H.R. 4299, the Quality Housing for Veterans Act. It amends Title 38 of the U.S. Code to extend the authority of the Secretary of Veterans Affairs to provide specially adapted housing assistance to veterans who are residing in temporary housing owned by a family member. Our disabled heroes face many challenges as they adapt to their new lives after service. Maneuvering their way through their place of residence should not be one of them. Furthermore, many veterans have found that living in an environment in which they are surrounded by the care and support of family is a critical component to their successful recovery. This bill will ensure that our disabled veterans can live in housing that is adapted to their needs, whether they choose to live with family or elsewhere, better equipping them to return to the civilian world and move forward with their lives.

We will also be discussing the following bills: H.R. 2355, the Hallowed Grounds Act, which would prohibit the burial of certain categories of sex offenders in national cemeteries; H.R. 2996, the Gulf War Presumptive Illness Act, which would change the date by which veterans must present symptoms of illness covered under the service connected presumption from December 31, 2016 to December 31, 2018; H.R. 5735, which would provide a tomb of remembrance at Arlington National Cemetery for the purpose of proper interment of remain fragments of our deceased heroes which are otherwise unidentifiable or unclaimed; and finally, H.R. 2720, which would clarify the role of the Department of Veterans Affairs in providing a benefit or service related to interment or a funeral of a veteran, and for other purposes.

Again, in the interests of time I would like to reiterate my request that the witnesses abide by the decorum and rules of the hearing and summarize your statements to five minutes or less during your oral testimony. We have a large number of individuals ready to testify on the legislation today and I want to make sure that everyone is heard in a timely manner. And I would also like to remind all present that without any objection your written testimony will be made part of the hearing record. I appreciate everyone's attendance here today and would like to now call on the Ranking Member, Mr. McNerney, for his opening statement.

[THE PREPARED STATEMENT OF CHAIRMAN JON RUNYAN APPEARS IN THE APPENDIX]

OPENING STATEMENT OF HON. JERRY MCNERNEY, RANKING DEMOCRATIC MEMBER

Mr. MCNERNEY. I thank the Chairman. Today we have a full schedule. That includes seven bills before us that address some of the unique needs of our Nation's veterans. The bills pertain to issues ranging from burial eligibility to monuments, from claims processing, and C&P exams, to presumptive illnesses, and from adaptive housing benefits to freedom of speech issues.

H.R. 2996, the Gulf War Syndrome Presumptive Illness Extension Act of 2011, sponsored by Mr. Kissell of North Carolina, would extend the period of time in which the VA presumes the service connection of certain disabilities of veterans who served in the Persian Gulf War as well as Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, and Afghanistan. The regulation establishing the period of time that the VA has for identifying presumptive illnesses relating to certain veterans' military service will now expire according to current law on December 31, 2016 thanks to the VA's recent rulemaking. H.R. 2996 would extend this period to December, 2018, which would allow these veterans to file for a set of conditions that may arise years after their services, as we have seen in veterans following the Vietnam War. This bill would also extend the qualifying service area to include Afghanistan and other supporting areas for Operations Enduring Freedom, Iraqi Freedom, and New Dawn.

I understand that the VA opposes these extensions. But I think we need to look at whether expanding to these areas makes sense. I think H.R. 2996 reinforces Congress' intent that all veterans who served in these combat areas, and those serving in nearby areas, should be entitled to these presumptions as we await further scientific study on their illnesses.

Also included in today's hearing is H.R. 4299, the Quality Housing for Veterans Act, a bill which I introduced. And I thank the Chairman for his support of that bill. The bill seeks to provide specially adapted housing assistance to veterans residing temporarily in housing owned by a family caregiver.

Mr. Chairman, we have several other bills on the agenda today, including H.R. 5880 and H.R. 5881. While I support the bill H.R. 5880, which would extend the VA's contract authority with private providers of C&P exams, I also want to ensure that we remain vigilant in our oversight of this authority.

Your other bill, Mr. Chairman, H.R. 5881, would grant county veterans service officers and other state and local employees, as well as staff members of Congress, with greater access to veterans' claims information for tracking purposes. I wholeheartedly support the mission of this bill, and of our county veterans service officers who serve my constituents back home. I look forward to hearing from our witnesses today about the benefits of this bill and how we may improve upon it to avoid the privacy and security concerns voiced in the past by the VA and currently by the VSOs.

I also look forward to hearing from our other stakeholders on the potential impacts of 2720 and H.R. 2355 will have on our Nation's veterans. Again, I wholeheartedly support the goals of H.R. 5735 and hope we can make any necessary changes to be able to move this measure forward.

Finally, I look forward to hearing the VA's views on these bills and I thank the Members for their thoughtful legislation, all the Members in front of us. And I thank our other esteemed witnesses for joining us today. And I look forward to hearing your testimonies. Thank you, and I yield back.

[THE PREPARED STATEMENT OF JERRY MCNERNEY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank the gentleman. We will introduce our first panel quickly. First we will hear from the Honorable Steve Stivers from Ohio, who is sponsoring H.R. 5735. And then we will hear from the Honorable Vicky Hartzler from Missouri, who is sponsoring H.R. 2355. And then we will hear from the Honorable Larry Kissell from North Carolina, who is sponsoring H.R. 2996. And finally we will hear from the Honorable John Culberson from Texas, who is sponsoring H.R. 2720. I would like to welcome you all to this legislative hearing. And all of your complete and written statements will be entered into the hearing record. And Congressman Stivers, we will start with you. You are now recognized for five minutes.

STATEMENTS OF HON. STEVE STIVERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO; HON. VICKY HARTZLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI, LARRY KISSELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA; AND HON. JOHN CULBERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

OPENING STATEMENT OF HON. STEVE STIVERS, (OH–15)

Mr. STIVERS. Thank you, Mr. Chairman. I would like to thank the Chairman and the Ranking Member for holding this hearing on important legislation today, including my Place of Remembrance Act. This bill would create a Place of Remembrance at Arlington National Cemetery for veterans of Iraq and Afghanistan conflicts and all contingency operations moving forward.

I was shocked and horrified like everybody else when I read in the Washington Post on December 7th that Dover Air Force Base Mortuary Affairs had been sending unidentified remains of soldiers to Prince George's County Landfill. They actually uncovered that 976 fragments from 274 military personnel were cremated and then taken to a landfill between 2004 and 2008. I think this is an outrage and we have got to fix it permanently. Creating a proper memorial as a place of remembrance for these remains and a final resting place with honor for those who serve I think would ensure that a tragedy like this never occurs again.

I understand that the Department of Defense has changed the procedures to ensure that those cremated unidentified remains are now, the ashes are spread at sea. However, while this may be a satisfactory temporary measure, as an Army officer and veteran I believe in the warrior ethos which, you know, says never leave a fallen comrade behind. And I think bringing home those unidentified remains and putting them in a place of remembrance, of honor, is the proper long term solution.

So on May 10th I introduced H.R. 5735 that authorizes the Secretary of the Army to establish an appropriate location at Arlington National Cemetery as a place of remembrance for interring those cremated remains. And it will make sure that any unclaimed remains or unidentified DNA has an appropriate final resting place.

I understand that there is the significance associated with the Tomb of the Unknown Soldier. This legislation is not intended to detract from that honored memorial. And that is why we are going to be renaming it the Place of Remembrance as opposed to the Tomb of Remembrance to avoid any conflict.

My bill would allow for new and future generations of heroes to, you know, have a Place of Remembrance for each conflict moving forward for fallen, identified patriots from those conflicts. Those who have given their final measure of devotion in the service of our great Nation deserve a final resting place worthy of their dedication, commitment, and devotion.

So I hope that you will favorably consider this bill and give it every consideration. I appreciate you holding the hearing and look forward to working with you on any issues associated with the legislation. I do want to thank Debbie Lee, a Gold Star Mother, coming for the second panel to testify in favor of this legislation. Thank you, Mr. Chairman.

[THE PREPARED STATEMENT OF STEVE STIVERS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congressman Stivers. Congresswoman Hartzler, you are now recognized for five minutes.

OPENING STATEMENT OF HON. VICKY HARTZLER, (MO–04)

Mrs. HARTZLER. Thank you very much, Chairman Runyan, and Ranking Member McNerney, and distinguished Members. Thank you for this opportunity to present to you the bill H.R. 2355, which we are calling the Hallowed Grounds Act.

During a town hall that I held in my district last year a women stood up and asked for my help, and relayed a heart wrenching story of her childhood and the sexual abuse that she endured at the hands of her father. He was a veteran, and when he passed away he was buried in a national cemetery with full honors. And she asked me to please stop this injustice and do everything we can to prevent this from happening again.

He received a distinction afforded to war heroes despite violating his family's trust, abusing his child, and committing a violent crime. To honor this man with reverence and fanfare is a disgrace.

Under current law military veterans are entitled to burial in a veterans or national cemetery and to the receipt of honorary emoluments, including a military honor guard, a U.S. flag, and a certificate from the President. These honors rightly honor the Americans who have given of themselves so all in our Nation can live in safety and in peace.

However, there is a noteworthy exception. Following the Oklahoma City bombing by Timothy McVeigh, Congress passed and President Clinton signed S923 on November 21, 1997, which prohibits veterans convicted of a capital crime, such as murder and treason, from receiving military honors. Prior to this legislation

McVeigh, a veteran of the First Gulf War, would have been eligible to be buried in a national cemetery such as Arlington.

While veterans guilty of capital crimes justly have been denied the right to rest among our national heroes under this bill, veterans convicted of sexual abuse of children still remain entitled to these honors. During my research on the need to introduce the Hallowed Grounds Act after my constituent shared her story, I discovered that almost identical legislation called Jenny's Law was introduced by Representative John Shattuck during the last Congress and included in the National Defense Authorization Act for fiscal year 2011 that passed in the House. Regrettably, that legislation was stripped from the final bill due to the lame duck session in 2010 and need to pass quickly the MDAA before the end of the year.

I thank Representative Shattuck for his work in the past, and the House past support for the idea on this important issue. But while knowing that my constituent's case is not an isolated case is a terrible realization, this reality highlights the fact that work must be done to prevent the burial of serious sexual offenders in our treasured national cemeteries.

Current law affording military honor to veterans convicted of sexual abuse is an affront to decency and results in victims and their families being victimized all over again. It demeans of all those who have served this Nation to allow a child abuser to be buried alongside America's war heroes in a veterans cemetery.

Because I believe that no victim of sexual abuse should suffer the pain of knowing their abuser has received the honor befitting one who selflessly served others, I introduce the Hallowed Grounds Act. The Hallowed Grounds Act will prohibit an individual who is classified as a tier three sex offender under the Sex Offender Registration and Notification Act from being buried at a veterans or national cemetery. The Sex Offender Registration and Notification Act divides offenses into three tiers, and has various levels within those tiers. The most serious offenses are grouped in tier three.

These individuals have committed horrendous crimes against children accompanied by brutality and violence. These offenders behave in a manner that violates everything for which a soldier in our country fights, justice, the rule of law, and safety of our citizens. I believe these offenders have surrendered their right to be honored by victimizing and oppressing others.

During my time in Congress I am committed to ensuring that those veterans who have fought honorably in defending our great Nation receive the utmost respect and care they deserve. Veterans put their lives on the lines to preserve our Nation's freedom and we owe them an immeasurable debt of gratitude. The Hallowed Grounds Act will continue that work by making certain every man and every woman buried in our veterans our national cemeteries will not share their final resting place with someone who has committed such horrific crimes.

I appreciate your interest in the importance of this bill, and I ask for your support. It is vital that the final resting place of our heroes, our national cemeteries, remain hallowed grounds for our veterans who have served so valiantly and for the families who hold them dear. Thank you very much.

[THE PREPARED STATEMENT OF VICKY HARTZLER APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congresswoman Hartzler. Congressman Kissell, you are now recognized for five minutes.

OPENING STATEMENT OF HON. LARRY KISSELL, (NC–08)

Mr. KISSELL. I would like to thank the Chairman and Ranking Member, and the Members of this Subcommittee for allowing me to testify today on H.R. 2996, a bill that has been offered by my colleague from Tennessee, Phil Roe, and myself, the Gulf War Presumptive Illness Act of 2011.

Back when I worked in textiles I had a lady who I worked with whose husband was in the Gulf War action from the very beginning, came home, and there were things wrong. And he could not figure out what it was. And he would go to the VA, and they could not figure out what it was. As time went forward we came to know that many of our veterans coming back were suffering from a lot of different symptoms and not being able to assign it to a specific disease.

The Veterans Administration in 1994 started taking these actions seriously. And on March 18, 2010 there were nine specific diseases that were declared to be presumptive diseases for anyone serving in Southwest Asia in the military from September 19, 2001 on. And presumptive diseases means that if you have these symptoms of this disease, and you served there, then you do not have to prove what you did. You do not have to make the connection. There is a presumption that you came into contact with whatever that gave you the diseases.

There is also 13 undiagnosed symptoms that they have assigned. Things such as fatigue, muscle and joint pain, skin disorders, that also are under this presumption of have come in contact during this time period.

There are also three medically undiagnosed chronic multisymptom illnesses that they have also put into this statement of March 18, 2010.

It is interesting to note that approximately 250,000, estimated 250,000 of the 750,000 veterans that served in Southwest Asia have come in contact with whatever and had these presumptive illnesses.

It was mentioned by the Ranking Member that the VA is opposing this. I would like to also, what we are wanting to do is move the time period of this presumption to continue to 2018. I would like to point out that the VA was going to end this program in 2012 until Congressman Roe and myself entered this bill. Then they moved it to 2016.

I very much believe that those who have served for us, and continue to serve for us, we cannot predict what additional situations these folks may encounter as they move forward. We need to keep this situation a presumptive so that they can move forward without having to prove what they were doing. We saw this being true so much with Agent Orange and Vietnam. Here we are 40 to 50 years later still dealing with this, and we finally got to the point where we said you do not have to prove what you were doing. There is a presumption if you have certain symptoms that you were exposed

to Agent Orange. Our veterans should not have to worry about this.

We should keep this presumption going at least until 2018, and we should move this decision to Congress. It should be a legislative decision so that we make sure that our veterans, as we continue to have them come home, as we continue to see these symptoms maybe take on different versions, that we take care of our veterans. And I thank you for your consideration of this bill.

[THE PREPARED STATEMENT OF LARRY KISSELL APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Congressman Kissell. Congressman Culberson, you are now recognized for five minutes for your testimony.

OPENING STATEMENT OF HON. JOHN CULBERSON, (TX–07)

Mr. CULBERSON. Thank you, Mr. Chairman and Ranking Member. I appreciate very much the Committee's consideration of H.R. 2720, which Congressman Ted Poe and I filed and bring to you today to make certain that a veteran's funeral is absolutely private and sacred, as it always should be, between the family, the funeral director, and the veteran who made the arrangements for the funeral. We, and the legislation I find is unfortunately necessary because the VA, as recently as two months ago, has continued to deny that they ever interfered with the veteran's funeral, in my case in Houston, Texas, which I witnessed for myself.

We have, as I know in every one of our districts, either if you have the privilege of having a veterans cemetery in your district or nearby, the local VFW chapter always handles the ritual, the beautiful ritual that is performed over the grave of their fallen comrade at the time of the funeral service. The VFW also of course can provide a rifle team to do the 21-gun salute, which is also a marvelous and a very moving ceremony. And that has of course always been handled privately, with the family and the funeral director in direct contact and consultation with the Veterans of Foreign Wars.

Unfortunately until this happened in Houston. We had a funeral director at the, cemetery director at the cemetery, who repeatedly and deliberately interfered with the funeral service. I do not know, there is no telling how many veterans were buried in the Houston cemetery without the benefit of the ritual or a prayer being said over their grave by their comrades because of the interference of the director, the cemetery director. It went on for some time before we discovered it. She denied a prayer being said at the Memorial Day service last year. And a lawsuit resulted. The VA of course continued to deny it.

I got involved, of course, representing Houston and chairing the Veterans and Military Construction Subcommittee on Appropriations and I wanted to make certain that this never happened again. The VA continued to deny it. So frankly one afternoon I had, in Houston, Texas air conditioning is essential and my air conditioner died at our house in Houston. And I could not make it back in time for votes that evening. So I stayed behind to take care of the air conditioning, several thousand of dollars I did not have to get the air conditioner fixed. And while the guy was working on the

air conditioner I found out there was a funeral going on that day at noon. So I drove out to the cemetery, met with the honor guard, and frankly just feathered in with them to go in and see for myself. And sure enough, the honor guard commander came into the funeral home. And I had already been getting stories from the other members of the honor guard about the repeated interference. And he came in and said it has happened again. The cemetery director just told me that I cannot perform, we cannot perform the ritual for the service of our comrade here whose funeral is about to take place. And I said well you all just go ahead and do it. Let me see her do it right in front of us.

They backed off. The funeral director, the cemetery director did not interfere with that particular funeral. But the problem continued for some time. Another example of how fouled up the Federal government is, is it was impossible to get the cemetery director removed, virtually impossible. All we could do was get her transferred.

Ultimately the lawsuit was resolved with a settlement. The VA agreed in a 22-page, 20-page settlement agreement to stop doing all the things they said they had not been doing, that I witnessed with my own eyes they were doing. So I filed this legislation, Mr. Chairman and Members, to ensure that the funeral is absolutely private. The legislation before you makes it clear that the responsibility of the VA is limited to providing the plot of American earth that the veteran has earned by their service; to providing a headstone that the veteran has earned by their service; to providing security, maintenance, making sure they mow the lawn and keep the place clean and reverent and that they—she also closed the chapel, by the way. Closed the chapel and used it to store boxes. Padlocked the chapel, took out the Star of David, the cross, the Bible, used it to store boxes. Locked out the veterans. Closed their coffee room. Would not let these wonderful old gentlemen, two of whom had landed on Normandy Beach, fought in Patton's Third Army, all the way to Czechoslovakia. These 80-year-old gentlemen had never complained once, because they are military. They were not going to fuss. And they just did what she asked them to do.

So this legislation ensures the funeral is private between the family, the funeral director, and the VA's responsibility is to provide security, maintain the lawn, and otherwise stay out of the way. And make sure that the Veterans of, the VFW organizations are provided access to the cemeteries, and to ensure that there is that absolute zone of privacy around every American that the government cannot penetrate, including the right to conduct a funeral in the way that you see fit between you and your God. Thank you very much.

[THE PREPARED STATEMENT OF JOHN CULBERSON APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you very much. And I will add, Mr. Culberson, on a personal note, and to the Committee also, I believe you said you were there July 8th for that specific incident. I can tell you my father-in-law was buried in the exact same cemetery 12 days later. And I had the very inverse experience that you had. It was straightforward, most likely because of your oversight of the

situation. And I thank you for that. And I did actually hang around afterwards and have a conversation with the color guard. And everybody was straightforward and said we do what the family asks of us. And I think that, the interference is the one thing that we are trying to tackle here. And I thank you for that. It was a trying battle and a long battle with cancer from actually his service in Vietnam, and he was a Purple Heart recipient also.

But I thank all the Members. I know they have a long list of things to do today. We will have plenty of questions for our stakeholders. But I thank all of you for your leadership in bringing all these bills forward. And, I know several of you asked to amend the bills. And we will get through that, through that process, both before and during the mark up process. So I look forward to working with each of you to make these good pieces of legislation that truly honor our veterans and their service to this great country. And with that, you are all excused. And I will call the second panel forward.

I call the second panel forward, Raymond Kelley, James Young, and Jeff Hall. First, we will hear from Mr. Raymond Kelley, the National Legislative Director for Veterans of Foreign Wars on behalf of H.R. 2355, H.R. 2996, H.R. 4299, H.R. 5735, H.R. 5880, H.R. 5881, and H.R. 2720. And next we will hear from Mr. James Young, President of the National Association of County Veterans Service Officers on behalf of H.R. 5881. And then we will hear from Mr. Jeff Hall, the Assistant National Director for Disabled American Veterans who will testify on H.R. 2996, 4299, 2355, 5735, 5880, 5881, and 2720. Thank you all for your testimony today. Welcome. And we will begin with Mr. Kelley.

STATEMENTS OF MR. RAYMOND KELLEY, NATIONAL LEGISLATIVE DIRECTOR, VETERANS OF FOREIGN WARS; MR. JAMES YOUNG, PRESIDENT, NATIONAL ASSOCIATION OF COUNTY VETERANS SERVICE OFFICERS; AND MR. JEFF HALL, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

STATEMENT OF RAYMOND KELLEY

Mr. KELLEY. On behalf of the two million members of the Veterans of Foreign Wars and our auxiliary, thank you, Mr. Chairman, for the opportunity to testify today.

In 1997 Congress recognized that veterans convicted of the most violent crimes should lose their right to be interred in national cemeteries. The logic was commission of capital crimes should trump veterans' burial benefits. Burial in a national cemeteries is a privilege, a place where service and sacrifice can be honored by the American public on sacred ground. The most violent and reprehensible crimes break faith with society and our servicemembers and veterans who have been laid to rest.

The VFW believes in this law and believes it should be expanded to include the most predatory and violent sex offenders. The VFW fully supports H.R. 2355, which would exclude tier three sex offenders from burial in our national cemeteries.

Despite decades of research on Gulf War Illness we do not yet have a definitive answer on its causality. Though some encouraging

research is showing signs of hope, it is imperative that treatment of the men and women with illness related to their Gulf War service continue without interruption. This legislation will provide presumption for veterans of current conflicts who may be struggling with conditions that VA cannot diagnose, a provision the VFW strongly supports. Granting presumption for undiagnosed illnesses is critically important in ensuring that these veterans receive the care that they have earned while science catches up with these illnesses. We encourage the Committee to pass H.R. 2996.

The VFW supports the reauthorization of H.R. 4299. Through VA's adaptive housing grant program hundreds of the most severely injured veterans have been given the opportunity to ease back into civilian life without making them choose between future and current needs. By expanding the grant program through 2014 you will maintain flexibility and make a difference in the quality of life for many disabled veterans and their families.

The VFW supports H.R. 5735, which would ensure fragmented remains of American servicemembers killed in Iraq, Afghanistan, and any subsequent conflicts be treated with the dignity and honor worthy of their sacrifice. Never again should a family be left to wonder whether their fallen hero's remains end up in a landfill. This bill will set a new standard for honoring the sacrifices of the fallen by memorializing the brave men and women on sacred ground in Arlington National Cemetery.

Congress gave VA the authority to contract with non-VA doctors to perform disability examinations. This authority will expire at the end of this year. This has been a useful tool for VA to provide timely evaluation exams without taking VA doctors away from direct patient care. The VFW strongly supports H.R. 5880.

The VFW cautiously supports H.R. 5881, which would grant certain congressional staffs and local government agency employees access to VA's case tracking information. However, we have some concerns. There is no provision that will ensure that employees are properly trained in privacy issues, nor is there any oversight or reporting back to VA on who has access and what prompted the employee to look into that particular case. This provision will greatly improve the responsiveness to veterans' requests and it should be pursued. But assurances must be made to protect privacy and limit searches to only those who make formal requests. Also, state and county service officers currently have access to case tracking information by virtue of a power of attorney. The VFW believes it would be wise to continue to limit these employees' access to only veterans with whom they hold a power of attorney.

The VFW supports the intent of H.R. 2720, which will provide clarity for both National Cemetery Administration staff and families and estates of deceased veterans on what is statutorily available and allowable at NCA funerals, memorial services, and cemeteries. This legislation will give clear guidelines for VA employees to follow and provide piece of mind for veterans families who are planning funeral arrangements. The VFW agrees that every effort and preference should be made to ensure VA cemetery directors are veterans. But requiring veteran status to fill vacancies could keep VA from filling positions, which could have a greater adverse effect on cemetery operations than hiring a non-veteran.

Mr. Chairman, thank you for the opportunity to testify today and I look forward to any questions from the Committee.

[THE PREPARED STATEMENT OF RAYMOND KELLEY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Kelley. Mr. Young, you are now recognized for five minutes for your testimony.

STATEMENT OF JAMES YOUNG

Mr. YOUNG. Good afternoon, Mr. Chairman, Members of the Committee, and staff. It is truly my honor to be here for this hearing. As President of the National Association of County Veterans Service Officers, I am here today to comment on the proposed bill to grant access of Veterans Administration information to governmental veterans service officers.

The National Association of County Veterans Service Officers is an organization made up of local government employees. Local government employees that believe we can help the Department of Veterans Affairs reduce the number of the backlog benefit claims that veterans are currently waiting to have adjudicated by the Department of Veterans Affairs. Our members work in local government offices as an arm of government, if you will, in 37 states, and currently are comprised of 2,400 full time employees in 700 communities. We are not like veterans service organizations. We are not dues driven, nor membership driven. Every veteran, their dependents, and their survivors who live in our respective jurisdictions are all our clients. We serve them at no cost to the client. We are equipped to handle and ready to assist veterans one on one with every Department of Veterans Affairs benefit, state and local benefits. And the reason we are here today, to assist them in tracking their claims.

There are over 22 million honorably discharged veterans of the armed forces of the United States. During the course of their life after the military they may have the occasion to file a benefits claim for pension or compensation. To the citizens of our communities, we are the Veterans Administration.

The main issue we are here to talk about today is the lack of cooperation by the Department of Veterans Affairs in recognizing our members as an arm of government. We are treated as if we are a service organization rather than who we are. As governmental employees we are not unlike the VA itself. There is just a failure to recognize us in that light.

Let us say that a veteran comes into my office to file a claim for a knee injury that occurred while the veteran was on active duty in the Army. We first have to determine eligibility based on war time or peace time service, and a number of other factors established by the VA. We help the veteran select a veterans service organization to represent the veteran through a power of attorney. This is done so that the veteran may have representation at the VA regional office and for any subsequent appeals that may occur. Our local government veterans service officers may hold the power of attorney, but many are just too far away from the regional offices to adequately represent their clients.

Then after about three months the veteran comes back to my office and asked what the status of his claim is, as he has heard nothing. I have no way to gain access to this knowledge, even though the claim originated in my office. I have to refer him to the VA's 1–800 number and hope he can ask the right questions, or to the veterans service organization that holds his power of attorney and who he does not know and probably will not call.

We are asking in this bill under consideration is to allow the governmental veterans service officers to have read only access to their client's information. This would allow the local governmental veterans service officer to properly track and provide follow up for their clients. Sometimes the veteran will file a claim or an appeal on a denied claim, and go to another veterans service office in another jurisdiction and file another claim for the same thing. This ultimately adds to the backlog and unnecessarily bogs down the system.

If enacted this bill would avoid duplication of claims and which in turn will assist in reducing the current backlog of the claims itself. We know there is much consternation on the part of Veterans Affairs regarding this issue. They have had some problems in the past in keeping secure the information that the veteran must give to the government to claim benefits that they have earned.

And in closing, we ask in this day and age in our great Nation it is unthinkable that a young man or woman enters into military service honorably and upon discharge finds difficulties in obtaining the rights and the benefits that they earned through service and sacrifice. It is our responsibility, the people of the United States, to live up to the promise of a better and brighter future. The promise that includes a myriad of veterans benefits should the servicemember become injured in defense of our freedom, but also the underlying promise that says if you serve your country with honor your country will be there to serve you, not with a handout but with a hand up.

NACVS has been in existence since 1990 and we believe that we can reverse the growing backlog of claims, Mr. Chairman, by enacting this legislation. Thank you very much for the privilege of being here today. Thank you.

[THE PREPARED STATEMENT OF JAMES YOUNG APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you for your testimony, Mr. Young. Mr. Hall, you are now recognized for five minutes.

STATEMENT OF JEFF HALL

Mr. HALL. Thank you. Chairman Runyan, Ranking Member McNerney, and Members of the Subcommittee. On behalf of DAV and its membership of 1.2 million wartime service disabled veterans we appreciate the opportunity to be here today to offer our views regarding pending legislation being considered by this Subcommittee. My full written statement has been submitted for the record so in the interest of brevity my oral remarks will be limited only to a couple of bills being considered.

Initially DAV supports H.R. 2996 as it is consistent with our long standing resolution to extend the presumptive period for service connection for certain disabilities incurred by veterans who served in the Persian Gulf War, Operations Iraqi and Enduring Freedom, and Operation New Dawn. Countless veterans who have served in these conflicts and many who are still not home suffer from chronic unexplained illnesses. These illnesses are still not fully understood while answers and proper treatment remain elusive. Vigilant research must continue until all of these brave men and women are compensated and cared for appropriately.

Additionally, DAV supports H.R. 4299 to extend the authority of the Secretary to provide temporary residence adaptation, or TRA grants, to the seriously disabled veterans who are eligible for specially adaptive housing grants from the VA. However, consistent with our resolution DAV believes the TRA grant amount should be a separate and distinct, stand alone benefit and not deducted from the full amount of the specially adaptive housing grant, which they will assuredly need when they are ready to move into their own residence.

Mr. Chairman, DAV also has a long standing resolution to reform the VA's disability claims process which we believe provides a reasonable corollary for us to support H.R. 5880, which extends the Secretary's authority for the utilization of privately contracted disability compensation examinations. We believe this could improve the disability claims process, specifically the amount of time VA spends coordinating and accomplishing these examinations. As such, DAV supports H.R. 5880.

And lastly, H.R. 5881 is intended to improve the access to veterans benefits by providing certain employees of members of Congress or local government agencies, such as county veterans service officers or CVSOs, with access to VA's case tracking system. Clearly the intent of the bill is for covered employees to be able to expand their assistance to veterans by obtaining the status of a veteran's pending claim through direct and remote access into VA's case tracking system. DAV supports the intent of H.R. 5881 as we believe this would be beneficial to all parties considered. However, we have concerns about the language of the bill and recommend that the Subcommittee broaden the language to ensure our veterans' privacy and personal information is safeguarded. Allowing an individual, such as a CVSO, to obtain private information, even the status of a pending claim, for any veteran without the need for a properly executed power of attorney from the veteran poses serious concerns.

Mr. Chairman, DAV NSOs who are highly trained experts in claims representation are accredited by the VA and have the ability to access a veteran's records in any format. However, DAV, like other VSOs, can only access the records for those veterans we represent by way of a properly executed power of attorney. While we do see the benefits for a CVSO to be able to ascertain the status of a pending claim and inform the veteran as such, we do not agree to a covered employee being able to access the VA's system without first obtaining a written request and consent from the veteran to do so, and then before access is given electronic certification must

be completed by the covered employee verifying the veteran's written request and consent have been obtained.

Additionally Mr. Chairman, we think the bill should plainly state that access to the VA's case tracking system be limited only to the status of a pending claim and the specific issues contained therein. Likewise, the bill should also contain a provision specific to the penalties for any violation, such as accessing or attempting to access the status of any pending claim without the written request and consent from the veteran or claimant.

And lastly, we believe the Subcommittee should consider incorporating into the bill an additional safeguard provision wherein the veteran is notified by the VA when his or her record is being accessed by a covered employee. As you know, this is done by many companies when something such as changing an account information occurs online, an individual is notified of such activity. We feel this would offer further assurance to the veteran, especially those without representation, that has authorized this action and is aware of its occurrence, as well as alerting VA to any unauthorized accessing attempts.

As stated, Mr. Chairman, DAV supports the intent of H.R. 5880. We simply want to ensure that proper security measures are in place to protect the privacy of our veterans. Although DAV is unable to support the bill at this time we would be pleased to work closely with the Subcommittee to make these recommended changes to the bill language. This concludes my remarks. I would be happy to answer any questions from you or the Subcommittee.

[THE PREPARED STATEMENT OF JEFF HALL APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you very much. I will begin the first round of questioning. I think we all agree that being able to access veterans' claims is a sensitive area, and we do have to work on that. I think both Mr. Hall and Mr. Kelley raised that, and we will continue to work on that. I know when veterans approach my office for assistance, they do have to sign consent forms for us to actually access their files and provide any kind of assistance, whether it is with the VA or social security. So those type of things are in place.

My first question is for Mr. Young. Why do you believe that the VA is reluctant to grant access to county veterans service officers?

Mr. YOUNG. Based on experience, Mr. Chairman, like these two gentlemen alluded to, access and privacy, we totally agree with that. A person comes to my office, as an example, inquiring about the status of his or her claim. I can log on to Virtual VA and I get a message that says I do not hold the POA. Not a problem. Then that person, we get on the phone, and call the 1–800. And we get through. First we get an automated message that says that due to the large volumes of calls please leave a call back number, and these are the available times that the VA can call you back. Normally it is 72 hours out or longer. The person is sitting across from me and we are waiting on this. Before we do any action in our offices at all, I do not know if these gentlemen are aware of this or not, but our officers are the ones who assign the POAs to DAV, VFW, or any other service organization.

Additionally we have an additional document giving our office permission from the veteran to do that. And that person signs that, and we send that documentation along with the 2122 to the service organization, and ultimately to the Veterans Administration. All we are trying to do is ensure that person gets a proper and speedy representation. But having to wait four or five days for a call back, and sometimes the person will call us, not physically come into the office. But call and want to know, "Jim, can you check on the status of my claim?" He or she is not physically sitting there, and if we do not hold POA, and I hold five cross accreditations, if I do not hold a POA for that person I cannot help them. So the best I can do is call back and tell them, "I am sorry. I cannot help you. These are your options."

And we are in the business at the county level to assist the veterans in whatever endeavor it is that they are pursuing within the Veterans Administration. That is what we are trained to do. That is our mission in life. The veteran.

Mr. RUNYAN. So do you think from the VA's perspective it is more of a legal situation?

Mr. YOUNG. Correct.

Mr. RUNYAN. Okay. A couple of questions for Mr. Kelley. In dealing with 5735, which is the The Tomb of Remembrance bill, are we precluding future heroes from being included in the Tomb of the Unknown Soldier with starting something like that?

Mr. KELLEY. I do not think so. They are two separate, two separate issues. The Tomb of the Unknown are remains of people that we do not know who they were. This is we know who they were, but because of circumstances, whether they just could not identify a specific body part, or that the family has said we no longer want you to pursue anything further, we are trying to close a chapter in the book. But there still needs to be respect given to those remains. So we see them completely separate. And we feel that the legislation should move forward.

Mr. RUNYAN. Mr. Hall, and maybe Mr. Kelley if you want to, pertaining to Mr. Culberson's legislation, I think we all agree on the aspect that if we only hire veterans as NCA cemetery directors, it shrinks our talent pool. I think we are all on the same page with that. For the record, I want everybody to know that the National Cemetery Administration is one of the leading agencies in the Federal government that hires veterans. I believe they are at about 80 percent. So they are one of the leaders in that. And, I think you brought it up in your testimony, Mr. Kelley, that, if there is not a qualified veteran to do that and the agency is forced to hire a veteran anyway, you are not going to get the best director in there to do the best job. And I think we can all agree on that.

Mr. KELLEY. I think thinking long term as well, that right now less than one percent of folks serve in the military. In 20 years from now our Vietnam era veterans, and all our veterans who were forced into service, are going to be at a retirement age. And we are going to be trying to draw from a pool that is very, very minute. And so thinking long term, yeah, sure today we might be able to find cemetery directors who are veterans. But 20 years from now we may have a struggle on our hands, with finding veterans to fill these types of jobs.

Mr. RUNYAN. I will recognize the Ranking Member Mr. McNerney. I will probably have a few more questions. But the gentleman from California is recognized.

Mr. MCNERNEY. Thank you, Mr. Chairman. There is a large number of bills so it can be kind of confusing. The bill which I introduced, 4299, Mr. Hall, you commented that you had a modification you would like to see on that. And basically that means that what you are suggesting is that if those benefits are applied to a family that is caring for a veteran, that they should not be deducted from that veteran's sort of allocation. Is that correct? Is that what you are advocating?

Mr. HALL. That is correct. We have a resolution, we have had it for quite some time, that essentially if you have an overall amount allowed for a special adaptive housing grant, I think the amount is $60,000 at the present time, the temporary residence assistance grant means $14,000 is deducted from that, as we understand it. And so when the individual in the temporary state, and they might need to be in that state for a while, when they are ready to finally move on to their own residence, they are $14,000 short of what their full amount would be. And we would like to see those be separate amounts, or separate benefits rather.

Mr. MCNERNEY. Okay, that is a good suggestion. I also found your suggestions on 5881, the Access to Veterans Information, to be helpful. I guess what I am concerned is how burdensome will those recommendations end up being for the VA to implement? So what I would like to do is work with you on looking at those. Let us not create a whole new bureaucracy but let us see what we can do that make that happen.

Mr. HALL. We agree. We are not trying to create a cumbersome situation here. We want, again at the center of it we want to ensure the, you know, the privacy is protected from just random access. And so in doing so I guess we can envision if a veteran were to come in to see Mr. Young where they did not have a power of attorney executed in that situation that essentially they would have a form, and I think the Chairman had alluded to that, where you simply, this acknowledges that you are requesting us to access this information and giving us consent to do so. That signature alone on a form like that would be something simple that could be executed. And then when they go to access it electronically, to go into the VA system, I do not know if VA has this particular aspect of it or how hard it would be, or difficult, for them the first thing that would come up is an acknowledgment that you have this type of consent and authorization to do so. And by clicking that any violations thereafter, should there be, you know, could be dealt with within the law.

Mr. MCNERNEY. Okay. Thank you. Mr. Kelley, on 2720, my reading of your oral testimony was that VA supports the intent. And I think I do, too. What I am concerned about is how, again, how burdensome is that going to be in implementing that? I mean, do we want to have the VA that disconnected from the process? There may be a need to have the VA involved to make sure, or other entities involved, to make sure that people's desires are met. In other words, if a family wants a certain sort of a ceremony that they can have a right to have that ceremony. If they do not want a certain

kind of a ceremony, that they would also have the right to not have that kind of ceremony?

Mr. KELLEY. I think that is what this piece of legislation is trying to do, is prevent any outside influence. Allow that family member, or those family members, to have complete control over the process without interference or influence. And there was a very unfortunate case in the Houston cemetery that showed a light on something that needs to be statutorily changed, or codified I guess. I think that it was out there, it just was not being followed so making it statute would go a long way to ensuring that VA employees understand what they are supposed to do, and as a member of a family of a veteran they can look and say, ah, this is what my expectations can be and what I can ask of and work with the service organizations who are providing the ceremony.

Mr. MCNERNEY. Do you think there is, that the VFW, the VFW normally handles these sorts of——

Mr. KELLEY. All the, most service organizations have color guards. So the American Legion, AMVETS, and I am sure a lot of the other——

Mr. MCNERNEY. Are there specific guidelines within the VFW in particular that requires them to make sure that the family's wishes are met?

Mr. KELLEY. That is, yes, I do not know if it is something in some statute that we have in our constitution and bylaws. And that is the, just the precedent that we have set. That we ask the family what they want and that we abide by that.

Mr. MCNERNEY. All right. I will yield back.

Mr. RUNYAN. Mr. Walz is now recognized.

Mr. WALZ. Thank you, Chairman, and Ranking Member, and thanks for bringing up these good pieces of legislation. To all of our witnesses, thank you for being here and helping us out. Mr. Hall, I absolutely hear you on this issue. I think this privacy issue on accessing data is absolutely critical. And it is nonnegotiable. And I think Mr. Runyan who put this out, and we have been talking about this for quite some time, is certainly open to making this stronger. I do think though an all hands on deck attitude towards getting these claims backlogs off, making more access especially in the areas, the rural areas, the more experts we have and the better ability to move these claims is better.

My experiences have been that the CVSOs do a fabulous job of protecting those. We can make sure those safeguards are in there. But I do believe and have been a strong believer that this is just one more asset to assisting the veterans and processing these claims. And I think it is an evolving process but I am certainly glad to have you, and Mr. Kelley sort of cautiously supports for the same exact reason. You need to be watchdogs on that. You need to dog this thing. And you need to make sure as this is written that we close every potential loophole for that. So very appreciative of where you work there.

And I think on many of these, I too wanted to make segue on 2720. I think Mr. Culberson's intent is exactly where it should be. This sacred ability of bearing someone the way the family wants it is absolutely critical. And this is maybe where the rub is on this. The situation in Houston, as you said, I think unfortunate is prob-

ably a light term for it. You had, if a family has a problem on the day of a burial that is absolutely, you cannot rectify that. It is a memory that is burned. And you have to get that right. I clearly understand that.

And I say this, that I think we have to be thoughtful in how we do this. I have unfortunately been part of too many honor guards for this. I am honored to do it, but it is always, it is heart breaking when you go to it. And these are your fellow warriors. So the one thing I have noticed is, though, it is hard to get honor guards, especially in rural areas. It is hard to get information when our warriors are being interred and maybe the funeral home or the local post do not have the ability to notify them. I think it is VA again, to make sure that they are maintaining the plot, as Mr. Culberson said, and doing everything there. But we have got to ensure, I said, as my team that went around, we had to be conscious of what the family wanted. And I was parts of burials where they wanted very little reference to religion in it. That was their personal choice. Whether that was my belief or not was up to them. And I have also been part of elaborate rituals that I thought was appropriate for us to be part of, the 13 folds, for example. That can be that. I am very proud of that. That was my job as the team leader to make sure we did that. And I think that is, for the families that want the 13 folds said over them they should have that ability.

I think the thing that I am, we are trying to figure out is how do we get to that point to make sure we do not inadvertently put something into a service that that family does not want? Or pull it back out? And I think the indelicate nature of the default position was to pull all references out and make it difficult for the family was the wrong approach. I think maybe the default position is there, as long as that family, this is a tough time for them though. It is a tough time to get good information. It is a tough time to understand where those are at. And I think having folks who are there to listen and the folks who will say if they tell us. Because it is a challenge when somebody tells you, it is hard to understand, well we want this type of ceremony, or we want this type of ceremony if it does not mesh strictly with you. So I want to make sure we get that right. And make sure that, again, it has been expressed by the author of the legislation that the intent was to ensure that the family's rights were honored at that point and that is absolutely the way it should be.

I am pleased to say, like Chairman Runyan said, the ones I have been to that has seemed to have been the case. But whether we had an overzealous or a personal agenda on someone there, that needs to be protected against to make sure that does not happen. So I think we can get this thing right, making sure it is there, and still adhering to those religious liberties, whatever that denomination may be and that choice. So I appreciate the thoughtfulness on this. I think we can certainly take a look at it more.

And again, Mr. Chairman, I congratulate you. This is, this is certainly how governance should be done and legislation should be written. Constituents bring up things, they bring it to their member of Congress, they are brought with experts to testify on this, we look at them, we are willing to make the changes, and we come

back again and start moving through the process. So thanks for keeping regular order in here. And I yield back.

Mr. RUNYAN. I thank the gentleman. I know Mr. Stutzman said he will pass on his questions right now. But I do have two more questions. Number one for Mr. Hall, and you brought this up in your testimony, talking about the presumptives from the Persian Gulf and needing the research to know really what is happening. As we sit here right now, being four years out from that expiring, is it appropriate to just tack on two years now? Or do we wait another year or two and maybe tack on five, six, or seven more years?

Mr. HALL. I think that is the way it has been going since the first, the inception of it. You get to a sunset period and legislation is introduced to extend it. Certainly it is not wrong to do so, and we are not suggesting to make it necessarily open ended. DAV's resolution calls for a reasonable period, which can probably be defined by a lot. I mean, extending it two years now, it is already to 2016, this is extending it to 2018. So six years from now. I do not know if that is acceptable, how that is going to account for it. I am a Persian Gulf War veteran and I am still able to do so from my discharge in 1992, so 20 years. That is a long time. But there is a young soldier still on active duty serving in Afghanistan that is not even home yet, you know, that may have or be susceptible. And we just want to ensure that there is an adequate period of time. And whether it is, we get to 2017 and you introduce legislation that says to extend it beyond the 2018 date, that I cannot say. But we just want to make sure that it is reasonable and it can accommodate those individuals.

Mr. RUNYAN. Thanks for that. Mr. Kelley, dealing with 2355, which is Congresswoman Hartzler's legislation that deals with preventing sex offenders from being buried in an NCA cemetery. Obviously at the surface I think we all understand that. But when we start to analyze it, traditionally, the government does not take away benefits. And what if, for example, a veteran had a traumatic brain injury that caused this person to behave like that, something we caused, and now we are dishonoring them. Do you have any insight on that?

Mr. KELLEY. We struggled organizationally because I agree, that benefits are something that you have earned. But there are some behaviors that supercede that service. And tier three sex offenders, whatever the causality, and I believe the congresswoman that spoke to this gave an exceptional example of why. That just the heartache that someone could go through for having a veteran get that service. And it degrades the service of other veterans, for whatever the rationale is. Hopefully VA can work with people who have brain injuries or any other psychological injuries, and work with them, and get them the care and the help that they need to prevent them from having that behavior. But we would prefer to side on the caution side and say remove that benefit.

Mr. RUNYAN. I understand that. But again, there will be ones that are going to slip through the cracks. And turning to the issue of verifying tier III sex offender status, are we looking at the state database? Is the state database wrong? There are all those things that fall through the cracks, that you may be punishing people for things that by statute, they should be receiving treatment for. Not

receiving necessary treatment often results in unintended consequences a lot of time, and that is why it is so important to ensure that veterans receive any treatment that they are entitled to.

Mr. KELLEY. Absolutely.

Mr. RUNYAN. That is all I have. Mr. McNerney, anything else?

Mr. MCNERNEY. Thank you, Mr. Chairman. I am just going to follow up with a few comments on your concerns about 2355. Of course the intent is absolutely correct. But uniform application of a bill like that, when every state has its own set of statutes that classified offenses of different kinds, and then requiring the VA to go through state by state for every veteran that has died and try to find offenses, the application of it is the problem. I think the intent is good. The devil is going to be in the details to get that right, in my opinion. Mr. Kelley?

Mr. KELLEY. I think it is harder for the capital crimes. Because states have, the tier three sex offenders is a national standard on that registry. The capital crimes, that each state has its own list of things that are considered a state capital crime, along with the Federal ones. So I see that the former would have been a little harder than moving forward with this. Because the tier three is a very set, finite set of violations. So.

Mr. MCNERNEY. Well yeah, I would like to, in my opinion we need to look at that a little more carefully to make sure that we are not hurting people that have earned benefits. Now Mr. Young, I just wanted to ask you what your opinion was on the sort of improvements that Mr. Hall suggested on the H.R. 5881? Whether you think those are something that would benefit the bill or not?

Mr. YOUNG. There is a good possibility. But I think, Mr. Hall I believe he does understand the fact that if I, if he walked into my office and I do not hold POA, I can call the VA until the cows come home. They are not going to tell me anything about Mr. Hall. Nothing. Zero. Nada. They are going to tell me, "You do not hold POA." Now Mr. Hall can call himself from my office and he, they will ask him certain questions about himself for identification purposes, and does he give the VA permission to talk to me about his particular issues. And if he says yes, they will. If he says no, they will hang up on me. Rightfully so. But yeah, I am all for that.

My livelihood is veterans. And so whatever it takes to make that person's claim work a little faster, I am for it. And if that needs to be relooked or tweaked, I am all for that. But they just will not arbitrarily talk to me when I call, or log onto that secure Web site. That does not happen. Those safeguards are in place as we are speaking.

Mr. MCNERNEY. Okay. Thank you. Mr. Chairman, I yield back.

Mr. RUNYAN. Mr. Stutzman, do you have any questions? Mr. Walz? No? Well, that being said I thank you all for your testimony and look forward to working with you on moving these pieces of legislation forward. And you are all excused. And we will ask our third panel to come to the table.

First we will hear from Ms. Debbie Lee, a Gold Star Mother and founder of Americas Mighty Warriors, who will testify on H.R. 5735. Then we will hear from Ms. Lisa Ward, widow of U.S. Army Ranger Richard Ward, who will testify on H.R. 2720. And then we will hear from Mr. Kelly Shackelford, President of the Liberty In-

stitute, testifying on behalf of 2720. And finally we will hear from Mr. Jay Sanders, Vice Senior Commander of VFW District 4, testifying on behalf of H.R. 2720. Ms. Lee, you are now recognized for five minutes.

STATEMENTS OF MS. DEBBIE LEE, FOUNDER, AMERICA'S MIGHTY WARRIORS; MS. LISA WARD, WIDOW TO MAJOR RICHARD WARD, U.S. ARMY, PERSIAN GULF WAR; MR. KELLY SHACKELFORD, PRESIDENT, THE LIBERTY INSTITUTE; AND JAY SANDERS, SENIOR VICE COMMANDER, VETERANS OF FOREIGN WARS, DISTRICT 4

STATEMENT OF DEBBIE LEE

Ms. LEE. Thank you for inviting me to speak today on behalf of our fallen warriors who gave up their lives and their voices defending you and I. The freedoms that you and I enjoy every single day and often take for granted are paid for by the brave men and women who for centuries have sacrificed greatly, many giving their very last breath defending America. There is a price for our freedom and our family knows it all too well.

My son Marc Alan Lee was the first Navy SEAL killed in Iraq on August 2, 2006. Many of you may remember Ramadi in 2006 was a bloody battlefield. The SEALs had been in intense firefight for two hours in 120-degree temperatures. Four of the SEALs were on a rooftop when Marc's buddy Ryan was shot and had severe shrapnel injuries to the head. They could tell by looking at him it did not look good. They did not know if he would survive the next few moments. Two of the SEALs dropped to their knees to help Ryan. Marc could have made the very same choice, but he made the choice to stand up into the direct line of fire hoping the enemy would fire on him and they could sneak the medic up to the roof. They successfully got the medic up there and he took one look at Ryan and said, "We have got to get him out of here immediately or there is no chance for survival." So a second time Marc made the choice to stand up into the direct line of fire to provide the cover so they could get down off of that roof.

When they got down they sent Ryan off in Medevac and they crawled back in their Bradleys. They headed back to the base, which I am proud to tell you was named Camp Marc Lee in his memory. And as they got in there they started to rip off their gear and they got some water to refresh themselves.

You know, we have watched our Navy SEALs do some absolutely amazing things lately. But that was Marc's final gift to me, was his teammates. I know them very well. I know they were exhausted emotionally, physically. And the Chief came in and he said, "We just found 30 insurgents that just attacked us." And without hesitation Marc looked at his Chief and he said, "Roger that, let us go get them." So they climbed back in their Bradleys and they headed back into Ramadi. They cleared several houses and they went in the last house that Marc would be in. They cleared the bottom of the house and started to proceed up the steps when they heard Marc yell, "On me." And they knew that meant he was going to take the lead and they were to follow. And as they went up those steps for the final time they drew fire through a window. Marc

made the choice again to turn into that line of fire. He willingly gave his life for you, for me, for this country that he so loved.

I have dedicated my life to our troops, to their families, and especially to the families of the fallen. Marc successfully completed his mission and I know where he is, and one day I will see him again. He laid down his boots and his weapon. He gave all of his tomorrows so that we could have today. In response to Marc's last letter home I founded America's Mighty Warriors and used my voice, and have dedicated my life to honoring and supporting our troops, and defending our defenders, and taking care of our Gold Star Families. They have given their very best for this Nation.

So today I speak on behalf of our fallen heroes and their families. When our loved ones signed to defend our country against enemies foreign and domestic, they knew they could be giving their lives for this country and for what they believed in. They fought honorably and nobly. And I know that if you asked them if they were to die in combat, their first request would be to take care of my family.

As family members we entrusted our loved ones lives into the hands of our military and our government. And we expect that, God forbid, they did not make it back into our arms, that as a Nation we would respect and honor them every step of the way as the heroes they are, and bring them back home to a proper and dignified burial. I have watched videos and heard stories of how Marc was escorted home. From the moment he was carried off the battlefield by his teammate who was a medic, who administered CPR on Marc for 30 minutes until they got to the hospital, knowing that Marc was already dead, hoping somehow to revive him. To the honor line, as they loaded Marc on his Angel Flight back home where all branches of the military in Ramadi had gathered to pay respects to a fallen hero. I cannot begin to imagine receiving the news that they had found another fragment of Marc, and learning that instead of bearing that part of Marc respectfully that he was sent to the dump like 274 of our fallen heroes were.

These men and women gave their lives under horrific battle conditions, many having been blown to pieces by IEDs or RPGs. And for years their remains were carelessly sent to the dump with the garbage. Just this past week it was brought to light that a veteran had been found buried in a cardboard box in a cemetery in Florida. We are still working on locating remains in Vietnam. Why would we as a Nation not have an honorable and dignified place to bury the remains of our war heroes?

Congressman Stivers has introduced a bill to have a place of remembrance in Arlington, where the ashes of unidentifiable or partial remains of our heroes could be laid to rest with dignity. Thank you, Congressman Stivers, for standing for your fallen brothers and choosing to be a voice when they have none. I hope each one of you see the urgency to pass this bill, H.R. 5735, and guarantee our troops and their families and we will continue to honor those who gave everything and ensure that we will never forget them, their families, or the sacrifices that have been made for our freedoms. Thank you, and hooyah, Marc Lee.

[THE PREPARED STATEMENT OF DEBBIE LEE APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Lee. And thank you for your sacrifice, and your testimony, and your heartfelt—I would say story, but it is a reality. But thank you. Ms. Ward, you are now recognized for your testimony.

STATEMENT OF LISA WARD

Ms. WARD. My name is Lisa Ward. I am the widow of Major Richard Ward. I am also the Senior Vice Commander of the Veterans of Foreign Wars Post 12075, the William Amundson Memorial Post, which is located outside of Houston, Texas. I am also a Gulf War veteran and served in the U.S. Army for six years.

My husband Rick loved the Army and served in it for 30 years. He spent time serving our country overseas in the Gulf War and in Korea. Rick and I served in Desert Storm together, although we were not dating or married at the time. We were married for 20 years and have one daughter, Brenda Ward, who is currently a student in the College of Criminal Justice at Sam Houston State University.

On May 27, 2011 I buried my husband Rick at the Houston National Cemetery, although I wanted to have the funeral service at the national cemetery. Because of the restrictions the national cemetery director placed on the religious speech contained in the traditional VFW burial ritual, I chose to hold the service at a private chapel so the government could not interfere with my husband's funeral. My daughter Brenda and I arranged Rick's funeral service with Larry Matthews at American Heritage Funeral Home. Earl Conley, a fellow veteran and good friend of my family, was also present for support. During the planning of the arrangements I told Mr. Matthews I wanted Rick to have the military funeral because of his 30 years of military service. My daughter Brenda and I previously decided to have Rick's ashes buried at the national cemetery.

During the course of our discussion with Mr. Matthews he informed us that the national cemetery would not allow the traditional VFW burial ritual to be performed on national cemetery grounds because it contained the word God. Mr. Matthews further stated that the cemetery director had implemented many new restrictions. In addition to disallowing the traditional VFW burial ritual she was also limiting the length of all funerals to 15 minutes and would not allow the horse drawn caisson. I was shocked and confused. I could not comprehend why my husband, who was a Gulf War veteran and faithfully served our country for 30 years, would not be able to have the honor of the VFW burial ritual at the national cemetery.

After discussing it with my daughter we decided that we wanted Rick to have the honor of the traditional VFW burial ritual at his funeral. We therefore decided to have the service held at the private chapel at American Heritage Funeral Home instead of the national cemetery. American Heritage Funeral Home opened the doors of the chapel so that those in attendance could hear the rifle salute and the playing of the taps, although they were not able to see them like they would have had the service been held at the national cemetery.

About a week and a half after the funeral service Rick's ashes were buried at the national cemetery. I had to incur additional expenses to have the funeral held at the private chapel instead of the national cemetery grounds. If the national cemetery had allowed the traditional VFW burial ritual I would have held Rick's funeral there.

For all of the years that my husband served, and all of the time he spent overseas, he deserved to have the traditional VFW burial ritual at the national cemetery. I felt very disappointed and very broken hearted. I felt like something had been taken away from me at the hardest point in my life. The Houston National Cemetery director's policies took away the traditional VFW burial ritual and I can never have it back again. I cannot redo my husband's funeral.

What happened to my family is not fair. I do not want any other family to have to go through what I have had to go through.

[THE PREPARED STATEMENT OF LISA WARD APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mrs. Ward. And also, sorry for your loss. And thank you for your husband's service to this country. That being said, Mr. Shackelford, you are now recognized for your testimony.

STATEMENT OF KELLY SHACKELFORD

Mr. SHACKELFORD. Chairman and honorable Committee, my name is Kelly Shackelford. I am President and CEO of Liberty Institute. Liberty Institute is the largest legal organization in the country that focuses exclusively on religious freedom issues.

Last year, about almost a year exactly, a little over, we received a very disturbing call. It was from a pastor whose name was Scott Rainey. And Scott told us that he had been invited by a private veterans group to give the prayer at the Memorial Day service. This private veterans group was in charge of the service. It was held at a national cemetery. The next thing he knew he was getting a call from the Federal government, from the cemetery officials, asking him to submit his prayer in writing. That was followed by them telling him what he could and could not pray as a pastor at the Memorial Day prayer. He was specifically told he could not pray in Jesus' name.

When he contacted us to ask for assistance, because we specialize in the First Amendment, we said we thought this could be easily cleared up. And we realized we just had a few days so we sent a letter immediately to the very top at the VA, to Secretary Shinseki, and got actually a response from the general counsel, the deputy general counsel for the entire VA. And we were shocked by the response. The response was this is our policy, this is our national policy, and we are not budging. We actually had to file a lawsuit in Federal court, at which the judge issued a temporary restraining order against the VA. And specifically informed them that to his shock that the Federal government in this country does not tell our pastors how to pray, whether they are on a national cemetery ground or anywhere else.

We thought that was the end of the matter but we were wrong. There were more facts that were even more disturbing. You just

heard from Lisa. But one of the first thing we found is that the national memorial ladies who go to all of the veterans' funerals to make sure that someone is there to remember, and they simply give a card, a condolence card to the families and just say, "God bless you." They were banned and told that they could not do that anymore. We had the VFW burial ritual, which has been used since 1914, it was being banned because it had the word God in it. Nobleton Jones, who all he would do as an honor guard was collect the shell casings from the 21-gun salute, put those in a bag, and present those to the families. And there are certain statements that are given that have been given for many years. He ends that by saying, "And may God grant you and your family grace, mercy, and peace." He was told that was prohibited from now on, he could not do that anymore.

So we found the chapel that was there had actually been converted into a storage facility. The cross, the Star of David, and the Bible were thrown into a closet. And when questioned the officials, the Federal officials specifically stated that that was done because people who were not of faith would feel more comfortable with the chapel being used in such a manner. Of course, completely neglecting people who are of faith who would want to use the chapel in connection with their funerals.

So we at that point filed a lawsuit because we, obviously this was the policy and they were not going to change the policy. And at the end of the policy as Congressman Culberson mentioned, we have a final consent decree, an order of the court, 20 pages with 50 different orders to the VA changing not only the national policies but the local policies as well, that the director there said were based on the national policies, and really enjoining them from interfering anymore with the families who choose to have some sort of religious part of their service, or choose the VFW burial ritual.

Look this, obviously this is outrageous. This should never have happened to our veterans. They deserve better than this. Our veterans and our active service military are risking everything for our freedoms. And it is just unconscionable that we would actually have stripped them of their religious freedom, and their family of their religious freedom, at the very moment of their death. So we are very much in support of this bill, of 2720. And we will do everything we can to help. And we have done that in the lawsuit. We will continue to do that. If we can be of any assistance in any way, we think our veterans deserve nothing less than that.

[THE PREPARED STATEMENT OF KELLY SHACKELFORD APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Shackelford. Mr. Sanders, you are now recognized.

STATEMENT OF JAY SANDERS

Mr. SANDERS. Thank you, Chairman. My name is Jay Sanders. I am the incoming Commander of the Veterans of Foreign Wars, District 4. District 4 is a volunteer veterans organization that oversees 17 VFW posts in Houston. Approximately 4,000 veterans are members of the VFW.

I am also currently serving as the Commander of VFW Post 912. I have served there through the ranks, Junior Vice on up, and as

the chaplain. I am a three-time winner of the National-Aide-de-Camp, which is an award given for outstanding service to the VFW.

For the last 20 years the VFW District 4 honor guard at the request of family of the deceased has honored veterans by performing the VFW ritual during private funeral services at the Houston National Cemetery. VFW District 4 follows the official VFW burial ritual, which was written and approved by the VFW National Council of Administration. The VFW burial ritual includes a pre-written prayer by the VFW, District 4 honor guard chaplain and religious speech by the VFW honor guard commander, which includes references to God.

Prior to 2011 national cemetery officials never asked the VFW District 4 honor guard to remove any parts of its ritual or prohibited the honor guard from performing the entire ritual unless the family requested, or required that special prayers be submitted to the cemetery employees. Furthermore, the VFW ritual was never before divided between so called core elements and additions to the core elements. Prior to 2011 the government never interfered with private decisions made between the family, the funeral home, and the VFW District 4 honor guard.

Early in 2011 the director of the Houston National Cemetery met with VFW District 4 line officers in our office. I was one of those. During the course of the meeting the national cemetery director told us she wanted the Department of Defense burial team to train the VFW burial team so that every burial team was trained the same way. The national cemetery director then stated that the VFW District 4 honor guard could not longer perform the entire VFW ritual but could only do what she described as the four core elements. Folding the flag, presentation of the flag, the rifle salute, and the playing of taps. This removed all of religious speech and references to God from VFW ritual burial. The national director then stated that the VFW district honor guards could not provide text of prayer to the family for consideration. She stated that if a family member wanted a certain prayer read they would have to submit the prayer to the cemetery in writing and cemetery officials would then give the prayer to the VFW District 4 honor guard to read.

In March of 2011 the national cemetery director issued a policy entitled Houston National Cemetery Honor Guard Guidelines. Among other things this policy stated that funeral military honors should consist only of the core elements, the folding of the flag, the presentation of the flag, the taps, and the rifle salute. It further stated that additions to these core elements can only be made at the request of the deceased's survivors. The policy also stated that if the family has a member of the clergy provide a religious service then the honor guard team is not allowed to include religious elements, such as readings from scripture or prayer. It also stated that volunteer honor guards shall not provide the texts or any recitations to the deceased's survivors for consideration.

On the same day the policy was issued the director held a training in the chapel for the District 4 honor guard which performs the burial ritual. During this, I noticed that the chapel at that time was full of boxes. It had to be unlocked, and it appeared as though

it was being used for storage. During this training, which had nothing to do with burial, Junior Vice Commander of the Honor Guard, Nobleton Jones, asked if he could recite the following while handing the shell cases to the family. "On behalf of a grateful United States of America, a grateful Nation, and the Veterans of Foreign Wars, I present you these shell casings from the shots that were fired to honor our departed comrade. We ask that God grant you and your family grace, mercy, and peace." The national director stated no. Junior Vice Commander Jones then asked if he was allowed to hand the shell cases to the families. The national director said no, unless the family specifically asks for the shell casings. The national cemetery director further stated that Mr. Jones was not allowed to have any direct contact with the family.

A few weeks later the national director met with VFW line officers in her office. During the course of the meeting she instructed the VFW line officers that the VFW district honor guard could not perform the entire ritual unless it was requested in writing by the family. The national cemetery director also stated that if a family wanted VFW honor guard to read any special prayer during the service that the family would have to submit the text of the prayer to her and then she would provide the prayer to the national honor guard.

One of the VFW district line officers recognized that these conditions are not included in the honor guard guidelines and requested to see the policy in writing. She agreed to provide the policies to us in writing but never produced a copy of these.

These oral and written policies implemented in 2011 were not only unprecedented by they substantially interfered with the private funerals of our deceased veterans. What is spoken during a private funeral is a very private and personal decision that the government has no right to interfere with. The families of the deceased veterans have been thankful and touched by the VFW ritual. It is an honor for a veteran to have the VFW ritual performed and the government has no business removing the religious portions for this nearly 100-year-old ritual. Thank you.

[THE PREPARED STATEMENT OF JAY SANDERS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Sanders. And now we will begin the round of questioning. My first question is for Mr. Sanders. You stated that you were asked to remove the word God from your name. Are there other words that were specifically asked to be removed as well?

Mr. SANDERS. Basically just God was it. Any reference to it, but that is all we remember, was God. And we had it seven times in our ritual and she wanted it out.

Mr. RUNYAN. Seven in that ritual?

Mr. SANDERS. Seven.

Mr. RUNYAN. Is that ritual uniform throughout the VFW nationwide?

Mr. SANDERS. Yes, it is.

Mr. RUNYAN. And it has been for how long?

Mr. SANDERS. Since it was wrote, years back. We have a book. Every VFW member gets a book. And it is the same ritual for every VFW post in the world. It is all the same.

Mr. RUNYAN. Thank you. Ms. Ward, besides the religious aspect of it, were there any other factors that led you towards having a private ceremony, as opposed to a ceremony at the Houston Cemetery?

Ms. WARD. The limit of the time.

Mr. RUNYAN. The limit of the time?

Ms. WARD. She would only allow 15 minutes. And there would, no one would be able to gather afterwards either. So if I wanted to speak with Jay afterwards, since we are friends over and above, we could not, we could not stay after the service, you know, to discuss anything, or just, you know, share in any type of friendship, or discussion, or anything.

Mr. RUNYAN. All right. I thank you for that. Because I think that is the first time any of us have probably heard that. That is shocking. Now, Mr. Shackelford, dealing with the terms of the consent decree, do you think they were adequate to address the problem we had?

Mr. SHACKELFORD. Absolutely. A number of the policies were changed permanently and it is a court order. So if they are violated you can be held in contempt. So, I mean, there were 50 different provisions. Not all of those were policy changes. Some of them were just injunctions that they would not interfere in certain ways in the future. But it definitely took care of all the violations that we saw by the consent decree.

Mr. RUNYAN. So moving forward, what does this piece of legislation do?

Mr. SHACKELFORD. You know number one, I mean, as somebody who has been doing First Amendment cases for 23 years, officials like statutes better. They can read those better. They are easier to follow. The Constitution is a little more difficult for them. So when you put something, yes we have these provisions in a consent decree. But to put something in statute, I think, really helps a lot of people know what their rights are. It gives people guidelines as to what not to do, and I think helps avoid a lot of these problems. You know, we are certainly willing to represent people in this situation but we would rather not have to. We would rather them to have a statute in place which avoids this and hopefully, you know, educates people into doing the right thing so that we never have violations.

Mr. RUNYAN. Thank you. That is all I have. I now recognize the Ranking Member, Mr. McNerney.

Mr. MCNERNEY. Thank you, Mr. Chairman. Ms. Lee, I certainly want to thank you for the great sacrifice you have endured. And it sounds like something that should be done, move forward with. I cannot imagine disposing of remains in any way that would be disrespectful. So I appreciate you coming and testifying today.

Mr. Sanders, I just want a clarification. You said that when, that the director required a family to submit prayers that were to be used? Spoken?

Mr. SANDERS. Yes. She wanted the family to submit their prayers so she could look at them before she gave them to us, is what it amounted to.

Mr. MCNERNEY. Do you know if she approached, or the VA approached the family in any way and asked them to submit prayers? Or was it up to the family's initiative to submit a prayer?

Mr. SANDERS. I can tell you that on many occasions they approached the family as they were coming out of the lead car, and told them that, said we cannot use the VFW ritual. One of our commanders right now stepped in when it happened to one of his members and said we are using the VFW ritual, and they backed away.

Mr. MCNERNEY. So it seems to me that the core thing that we want to accomplish here is making sure that the family's wishes are——

Mr. SANDERS. Correct.

Mr. MCNERNEY. —in a delicate way. I mean, you do not want to, you know, badger them, or you do not want to cause them undo grief, you know, when they are getting out of a car, or when they first hear the news. I mean, this needs to be done in a way that protects the family's interests, and the, if the deceased had a specific request as well that should be honored. So what I would like to see is something that guarantees that the family's wishes are honored in the most delicate way possible. I am not sure that this would accomplish that, what is proposed. But I think that is our goal, and that should be our goal.

Mr. SANDERS. What normally happens is the family, if they know of it, they tell the funeral director where their loved one has been taken to start out with, what their wishes are. She asked us not to tell the family that the VFW has rituals. To tell the funeral director that, it is up to him. That was kind of bad. Then she, you know, when we get there with the prayer, and she wants to eliminate it, that was terrible. Terrible.

Mr. MCNERNEY. Well I would certainly want to move forward with legislation, if it is needed, that would guarantee the family's discretion at the highest level, as the highest priority.

Mr. SHACKELFORD. One of the things I would mention is the national memorial ladies who, I think there is an average of about 60 a week, of funerals in this Houston cemetery alone. They have done this so long that they actually have a process where they know what the families want. I mean, if they, on the condolence card there is no God bless you or anything if there is no religious part of the ceremony that the family has chosen. And if there is a prayer then they provide that. So they, a lot of the groups, you know, have a process by which they know how to respect the family's wishes. And typically, as was mentioned, the family is talking to the funeral director. And the problem in this case is that we saw a lot was the interference by the, you know, cemetery director in that process. And actually attempting to overrule family wishes. One of the sworn statements was what Jay just mentioned here, which was actually a family had chosen the full burial ritual and they tried to stop it. And fortunately one of the honor guard was a former judge who was not easily intimidated and he overruled that somewhat. But typically it is the family going to the funeral director and then working with the service organizations so that the family's wishes are carried out.

Mr. MCNERNEY. Well here is my concern, that the law as written would allow people that do not have a good understanding of the

family to force prayers or something that that family would find offensive. So I mean, I think we need, if we move forward, we need to fine tune this to make sure that that is not ultimately one of the unintended consequences.

Mr. SHACKELFORD. Yes, I think the key is that the family knows they have a choice and that they are aware of the choices, like the VFW ritual, the American Legion ritual, or one that does not have any reference to God at all. And I think once they know that choice I think most families will move pretty naturally towards the direction they want to go.

Mr. SANDERS. If I may, when the hearse arrives the funeral director or his employee comes with them. They come straight to our honor guard. They tell us the wishes that the family wants at that time. If they do not want, you know, if they are of Jewish faith we are not going to embarrass them by saying the wrong thing. We are going to eliminate that part. If it is a certain part of any other religion, and they do not want God in there, they do not want the prayer, we are not going to do it. These guys have been doing this for a long time. Like they said, there are two of them that are way up in their eighties. They all volunteer. They are out there everyday, in the heat, dressed up like this, it is hot. But they do it everyday because they love doing that and they want to see our comrades being shown respect, with dignity.

Mr. MCNERNEY. Okay. Thank you.

Mr. RUNYAN. I thank the gentleman. I just have one quick question. Dealing with the funeral directors, were they being influenced by the cemetery director? Or was it just that they were being pushed aside?

Mr. SANDERS. At one time it seemed like she was trying to cut distance between them. We were not to have any contact with the funeral directors. So it was a bad situation for us.

Mr. RUNYAN. And I think you just said it, because the funeral director just by the nature of the job is the closest one to the family.

Mr. SANDERS. That is exactly right.

Mr. RUNYAN. And would understand what that family wants, what their background is, what their religious background is and everything.

Mr. SANDERS. Correct.

Mr. RUNYAN. I just wanted to clarify that.

Ms. WARD. Well if I may, when I was speaking with Mr. Matthews he had already been spoken to by his boss because Ms. Ocasio had already called his supervisor. Because he was telling the families you cannot have the traditional VFW ritual at the cemetery. She did not want any, she did not want him telling anybody that. So my question was, well when was I supposed to find out about this? And when, I guess I was supposed to find out as I was getting out of the car? I guess they were going to stop the funeral at that time, I guess that that is when I was supposed to find out. Was, you know, after it was too late. So luckily I was, the former, or I guess the current District 4 Commander Inga Conley, her husband had gone with me to the funeral home. We have been friends since our kids were in the first grade. They are both in college now. Her husband had gone with me to the funeral home, and

he had confirmed, yes, you know, that there are issues with the whole honor guard situation and she is not allowing it. So she, Ms. Ocasio was already trying to prevent, she did not want the families to know that she was not allowing it. But she did not want anybody to know that. She was really cutting everyone out.

Mr. RUNYAN. Mr. Stutzman?

Mr. STUTZMAN. Thank you, Mr. Chairman. Thank you for being here today. I just attended a funeral this past week of JaBraun Knox, Sergeant JaBraun Knox in Auburn, Indiana. And obviously I know this is a very, very difficult time for a family. And to just sit here and listen to the stories and the experiences that you had to go through just seems so unnecessary, that you would have to experience that. And that people would not be thinking about you and your loss and the family at a time of, you know, that we are remembering American heroes. And also the emotions that you all are dealing with. So thank you for being here. It is, it is unfortunate that we have to even be discussing something like this. But if it was happening and we were not aware of it, that would be just as unfortunate. And so thank you for your willingness to be here.

My question would be for Ms. Lee. First of all, sorry for your son's loss. And I talk to young people back home after the loss of the soldier just recently, that they are, I want to remind them and to let them know to look up to people like this, because they really are the heroes of our day. Because they are, first of all the characteristics that they exhibit in their time of service is what all of us should strive to achieve.

We have been told that the Department of Mortuary Affairs has affirmed that these sorts of acts, and procedures have taken place, and that they would never happen again. It is, the new process, or the new, the memorial that is being proposed here, do you think that that is the appropriate way or sufficient way that we can handle these sorts of ceremonies? Or do you think that there are, the proposal by the Department of Defense and the standardized practices that they have currently put in place, are those sufficient? Which, you are here in support of the bill——

Ms. LEE. Right.

Mr. STUTZMAN. —so I am guessing that, can you talk about that a little bit more, and why that is more important?

Ms. LEE. And I think they are working, you know, and have changed that so that it will not happen again.

Mr. STUTZMAN. Mm-hmm.

Ms. LEE. And the current policy is that they are dumping the ashes at sea.

Mr. STUTZMAN. Mm-hmm.

Ms. LEE. I know that would not be what my son would have wanted. He would not have wanted to be dumped at the sea. So I think this gives an alternative, a place where people can go. They can also recognize when they visit Arlington that war is an ugly thing.

Mr. STUTZMAN. Mm-hmm.

Ms. LEE. And that we do have those that, you know, there is pieces of them. There is not even a body to be buried somewhere. And so to have a place where those families can go and remember

their loved ones, a place where as a Nation we can stand proudly and honor those, and remember those, I think this is a right place.

Mr. STUTZMAN. Mr. Chairman, I have got a quick question about the bill. Does this give the families an option? I am sorry I was not in here earlier for the testimony of the authors of the bill. But does this give them an option where they could allow for the Department of Defense to follow their new procedure? Or it gives them the option to bury those ashes at the memorial? Do you know? Does this bill, does it give the families an option to allow for burial at sea, or for the remains to be buried at the memorial?

COUNSEL. This bill as written deals primarily with establishing the tomb. And I think Ms. Condon will testify to this later, DoD would ask to have control over how the Place of Remembrance is administered once it is put in place. So I think that that would be a question that is more appropriate to ask Ms. Condon when she testifies.

Mr. STUTZMAN. Okay. Okay. But Ms. Lee, would you agree that it would be best for the families to have that option, if they feel comfortable with allowing the burial at sea, the Department of Defense could do that? But if they would rather have the burial at the memorial that would be appropriate as well?

Ms. LEE. I think this is the best place, to have a memorial place where we have got it set aside. I cannot imagine what these families go through when their loved one has been killed, where there is, you know, pieces of them left over. And to keep getting a phone call saying, "We found another fragment. We found another, you know, piece."

Mr. STUTZMAN. Yeah.

Ms. LEE. And so that gives them a place then where each time when they find it they do not have to, you know, go out to sea again. It is right here. They know all of it is right there.

Mr. STUTZMAN. Mm-hmm. Mm-hmm.

Ms. LEE. What they find.

Mr. STUTZMAN. I know my time is expired, but Ms. Ward thank you for your service, and of course thank you for being here today. And again, I am sorry for your loss as well. And it is just hard to imagine that you would have to experience that. It is ridiculous. And hopefully what we are doing today will address that issue and no one else would have to experience that. So thank you to you, and to Mr. Shackelford for the work that you are doing as well. Thank you.

Ms. WARD. Thank you.

Mr. STUTZMAN. I yield back.

Mr. RUNYAN. I thank the gentleman. Mr. Walz?

Mr. WALZ. Thank you, Chairman. And thank you all for your service, and for being here and helping us out. And Ms. Lee, thank you again. It is always, it is great to have people come here as the conscience of this country and speak to the issues that matter. And I think getting this right is critically important. I think my colleague was asking some of the questions.

I can tell you this, and I think it is important to say, Representative Stivers has been a great voice on this issue. He has spoken to me on many occasions on the floor as we have talked back and

forth on how to get this right. And he is very personally invested. So I am appreciative of his work, as you were too.

Again, Ms. Ward, as I said earlier, again you unfortunately are the example I was giving. You do not get a redo on something that important. And these are times of closure. They are times of, while sadness, they are times of celebration of a life. And when those of us who have military service, that is how I hope to be buried someday. And I have participated in many of these, as I was saying earlier. And I think being part of an honor guard, the one thing is I was part of many that I did not know the family. And because there is a shortage of us, and they needed to get folks out there. And I think being cognizant of those wishes is critically important.

So I think there is a sophisticated argument going on here. It is one that does get, and Mr. Shackelford you talked about statute over Constitution type of thing. I think there is a clarification on that. We understand the Constitution has been built on by precedence over time. But the issue here is establishment clause versus that all going free expression. And it is finding and striking that balance between establishment clause and free expression. And I think many times, and it is the most overused thing because common sense certainly is not common nor is there sense sometimes in the things that happen.

But I think trying to come to that, I hope Mr. Sanders you know. And I speak to you as a retired sergeant major on this, when you say the government did this. We are all part of the government. I certainly do not condone that behavior that happened there. And you are going to see in a minute when you hear Ms. Condon speak I think your faith in the people who work for the Cemeteries Administration is going to be restored, when you see someone and the work that has been done out at Arlington. And what happened to your folks is unacceptable and there has to be something done to that. There has to be, and apparently, I cannot speak nor will I try an interpret what Ms. Ocasio was thinking. But she was obviously not thinking of the family's best interest at heart. She was obviously not thinking perhaps there is a better time on this. I think maybe she thought in her mind she was following the letter of the law and the establishment clause, but there is two sides of that. There is the free expression. And if you lean too far one way at the expense of the other we lose that ability.

So I think all of us, and the Ranking Member was getting at this, that default position. This chapel situation, I understand we only have two. They are blessed to have one in Houston. There are only two in our cemeteries. There are not very many of these. But the issue that we know we are going to deal with too is what the family's choice is. Is that if the, and I have seen this happen, where the VFW has changed their ritual on this. They have left the words out. I think that is the key of getting this in. I have read through the court case findings of what was there. I think it is very clear of where they put it out.

And I have to tell you this. That I have never witnessed this anywhere else. I have never seen this with another cemetery. It certainly does not mean that it is not happening more, and that we need to take a look at that. I understand that. But I want to be very careful that we strike that perfect balance. We allow to make

sure Ms. Ward never goes through, or anyone like her, ever goes through that again. That our heroes at the VFW are there for the family, and if the family says no that needs to be their right on how they do that. But the default position cannot be to exclude that, to not make that available to the families.

So I struggle with this. I am appreciative, Mr. Shackelford, you spent a life of doing it, and it is complex. Sometimes there is strange things on how we see this, and the different groups that are involved. But if we never lose sight of however Ms. Ward and her family chose to honor that warrior, that is what matters, first and foremost. And that is, in my opinion I think the courts would stand up to that, is striking that proper balance between the establishment and the free expression clause.

So I appreciate you bringing this forward. And Mr. Culberson, thank you. We will spend time talking about it and thinking about it. It makes us dig deeper. This is, this is, yes it is an individual issue that is absolutely, is sacred, on what happens with these families. But it is a broader issue for the country to deal with. But thank you all for being here. Thank you for helping us understand this.

I will reiterate again to the Chairman, this is the way I hope you would think democracy should work and be done, where people are advising their elected representatives and we get this right. And if there is something that has been done as an injustice, let us fix it and make sure it does not happen again. So I yield back.

Mr. RUNYAN. I thank the gentleman. And on behalf of the Subcommittee I thank all of you for your testimony, and for your sacrifice. And you are now excused.

And I will ask the fourth panel to come forward. The first witness we will hear from is Ms. Kathryn Condon, the Executive Director of the Army National Cemeteries Program. And then we will hear from Mr. Thomas Murphy, Director of Compensation and Pension Service for the Department of Veterans Affairs. Ms. Condon, you are now recognized for five minutes for your testimony.

STATEMENTS OF MS. KATHRYN CONDON, EXECUTIVE DIRECTOR OF ARMY NATIONAL CEMETERIES PROGRAM, U.S. DEPARTMENT OF DEFENSE; AND MR. THOMAS MURPHY, DIRECTOR OF COMPENSATION SERVICE, VETERANS BENEFITS ADMINISTRATION

STATEMENT OF KATHRYN CONDON

Ms. CONDON. Chairman Runyan and distinguished Members of the Subcommittee, thank you for the opportunity to provide the Department of the Army's views on the proposed legislation as it affects Arlington National Cemetery and our other national cemeteries.

As it is written the Army supports the intent of H.R. 2355, the Hallowed Grounds Act. But we defer to Veterans Affairs the applicability and implementation of the proposed legislation on their 131 cemeteries. But we support it at Arlington and those cemeteries under Defense.

As it is written the Hallowed Grounds Act only precludes convicted tier three sex offenders from burial and memorialization at

Arlington. There is no provision in the bill for those accused but not yet convicted. And we would like to work with the Subcommittee if we could, Mr. Chairman, to insert suitable language in the bill that would address this concern as we would have to apply that as well.

The Army supports fully H.R. 5735, the Tomb of Remembrance Act. The final disposition of unidentifiable remains would be executed with the same dignity, honor, respect, and reverence that we exhibit everyday when conducting services for our veterans and their loved ones at Arlington National Cemetery. We would be honored to have the tomb at Arlington.

But as written the legislation does not stipulate how eligibility for the interment of the remains at the Tomb of Remembrance would be done. So we ask that that determination remain with the Department of Defense, on who would be in the Tomb or not.

Mr. Chairman, I understand that H.R. 2720 is before the Subcommittee for consideration which stipulates that each VA cemetery director be a veteran. The Department of the Army supports veterans preference in hiring. However, the Army and Veterans Affairs should always choose the best qualified candidate to run their cemeteries. If that is a veteran, that is who you should select. If it is not then you should select someone else.

Lastly Mr. Chairman, in H.R. 2720 I appreciate the opportunity to comment on the affirmation of every veteran's right to have a religious service of their choice at their interment. Arlington's practice and policy recognizes that religion is indeed a deeply personal matter, and as is their service. And as such we respect the wishes of each family. To include those who request to have no religious service at all at Arlington, because we only have one opportunity to get it right for that family on the day that we are placing their loved one for their final rest.

So that concludes my testimony and I look forward, Mr. Chairman, I look forward to your questions on these legislations.

[THE PREPARED STATEMENT OF KATHRYN CONDON APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Condon. Mr. Murphy, you are now recognized for five minutes for your testimony.

STATEMENT OF THOMAS MURPHY

Mr. MURPHY. Chairman Runyan, Ranking Member McNerney, and Members of the Committee. I am accompanied today by Richard Hipolit, Associate General Counsel, Department of Veterans Affairs. At the outset I would like to offer the Committee an apology for the tardiness of our written testimony.

I am pleased to be here to offer VA's views on bills concerning disability compensation, on grants to provide injured veterans with housing adaptation grants when they are residing temporarily with family members, and matters affecting VA's national cemeteries.

H.R. 2720, which would make significant changes to VA's national cemetery system, was added to the Committee's agenda May 31st and thus could not be addressed in my testimony today. We will provide the Committee views on that bill, as well as H.R. 5881, the Access to Veterans Benefits Improvement Act in a follow up letter. However, I do want to reassure the Committee that the will

of the families and the veteran is of absolute importance to the NCA, and that they will be respected, and their religious freedoms will be upheld.

We defer to the Department of Defense and Department of the Army on H.R. 5735, which would require establishment of a Tomb of Remembrance at Arlington National Cemetery.

H.R. 4299, the Quality Housing for Veterans Act would extend authority for VA to provide temporary residence adaption grants for severely disabled veterans who reside temporarily with family members. We strongly support this legislation and appreciate your placing this bill on the agenda. Veterans residing temporarily with family members instead of their own residence have no less need for adaptations that will help them in their day to day living.

VA strongly supports H.R. 5880, which would extend VA's ability to contract for compensation and pension medical exams. Having this authority allows VA flexibility in meeting increased demands for these medical exams, and that is an essential component in addressing the backlog. This flexibility also allows the Veterans Health Administration to focus more of its resources on providing medical care to veterans.

H.R. 2996 concerns authorities that govern the period and scope of certain disability presumptions established for Persian Gulf War veterans. VA recently by regulation extended the period during which these presumptions will be in effect to December 31, 2016. VA has no objection to this bill's mandate that the presumption be in place at least until December 31, 2018.

The bill would also change the scope of these presumptions to include service in Afghanistan or locations that supported operations there. VA does not support that change because the scientific organizations that examine the bases for presumptives have simply not found an association of the same hazards that led to the Persian Gulf War presumptions with service in Afghanistan or supporting locations. We would be glad to brief the Committee in more detail on this topic, including the relevant scientific studies.

H.R. 2355 would prohibit the interment of remains of convicted tier three sex offenders, which is a classification used under the Sex Offender Registration and Notification Act. VA absolutely understands the depth of feeling that led to the introduction of this bill and we support the goal of keeping the most heinous sex offenders from receiving burial honors that reflect the highest American ideals. There are detailed practical issues with carrying out this law, however, that merit discussion with the Committee, with veterans service organizations, and the Department of Justice. For example, there may be issues with the consistency and reliability of information contained in the state databases. There also may be issues with consistent application for similar offenses. Finally, we want to make sure that the labor intensive searches and reviews that would be required could reduce our ability to provide timely decisions on burial requests. We look forward to further discussion on this bill.

Mr. Chairman, I noted at the beginning of the beginning that we would followup on the record of H.R. 2720, which was placed on the agenda last week. We appreciate the opportunity to report to the Committee soon in detail on the impact of this bill. We can say

now, however, that it would have a very significant effect on the personal services to families and honors to departed veterans that NCA now provides as a measure of the Nation's gratitude for a veteran's service. We will have those details views to the Committee very shortly.

Mr. Chairman, thank you for the opportunity to appear before your Committee this afternoon, and I look forward to your questions.

[THE PREPARED STATEMENT OF THOMAS MURPHY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you for your testimony. That is votes being called, but we have plenty of time. Ms. Condon, you alluded to this in your statement, and Mr. Stutzman asked the question earlier, dealing with DoD regs. When you are dealing with the Remembrance Memorial, to your knowledge, is there a DoD reg that states if a remain is identified, say through DNA, that those remains would have to be buried with that warrior? Is there going to have to be a separate analysis of the DoD regs in dealing with this or will they have the option to do one or the other?

Ms. CONDON. Sir, no, there is not, we would not want to, there would not be a reg on that. But what it would be is we would, as we do when we put up a group memorial at the cemetery, you know, for remains. We just work with each and every member of the family to respect their wishes. So that would be, you know, what we would have to do is if, you know, there were unidentified remains but we knew the incident that happened is we would discuss with the next of kin on, you know, that would be would you want to be in the Tomb of Remembrance? Or would you want to be buried at sea? So it would be a policy. It would not be a whole regulation thing that would have to be written to address that.

Mr. RUNYAN. Thank you. I just want to touch on this, because I think Mr. Walz alluded to it. Ms. Condon, your expertise is doing Arlington very well, and I commend you for the job you are doing over there to truly right the ship, if you will. Your experience as a civilian director, has served Arlington National Cemetery very well. But again, I think Mr. Kelley testified that we have a declining pool of veterans to work with as potential future cemetery directors. There is not a question there, but I think much like you, there are many civilians qualified to do it. And I think that is something we really have to look at. So I applaud you on that aspect of it.

Mr. Murphy, in talking about identifying tier three sex offenders, has there been any thought process as to what the cost of doing that type of analysis would cost the VA?

Mr. MURPHY. No, sir. There has not been a cost analysis. We have got to get more detail of exactly what the requirements in the bill are going to be before we are able to put down on here. We have looked at it from the standpoint on what is the impact going to be, not necessarily in cost in terms of dollars and cents, but in productivity of the individual. How much time is it going to take to make sure that when somebody is excluded using this database that they are truly supposed to be excluded from that?

Mr. RUNYAN. And Ms. Condon too, I know we have dealt with it on several other levels, several other monuments, and the issue of

space at Arlington always comes up. Are we still having that discussion and wondering where is the most appropriate and best place to put a monument or memorial without it affecting your ability to, have more interments out there?

Ms. CONDON. Sir, when the first notice that there could potentially be an ossuary that we would build at Arlington National Cemetery, we looked at locations around the cemetery, to include even by the columbarium court where it would not impact the burial space of a veteran. We would make sure that it would be in a place that would be suitable for the honor and dignity that we would need to place the ossuary if it is in Arlington, but we would also not put it in a place that would take up a place for an eligible veteran's burial.

Mr. RUNYAN. Thank you. With that I will recognize the Ranking Member, Mr. McNerney.

Mr. MCNERNEY. Thanks, Mr. Chairman. Ms. Condon, would you elaborate briefly please on why the DoD is not supporting H.R. 2355?

Ms. CONDON. Sir, we are supporting 2355. I am sorry, the one on——

Mr. MCNERNEY. That is the Hallowed Grounds Act.

Ms. CONDON. We are, in my statement I said we do support the Hallowed Grounds Act. The only thing that we wanted to do was to make sure that there was a clarification on, you know, if a tier three sex offender is not yet convicted. But that was the issue, that we just want clarification in the law on how we would handle that.

Mr. MCNERNEY. Okay. Do you have any involvement in H.R. 2720? That is the clarification on the VA's role on conducting funeral services?

Ms. CONDON. Sir, no I do not.

Mr. MCNERNEY. So you probably can give me sort of a non-biased answer then, probably. Is it your estimate that the incidents as described in Houston are the rule or the exception to the rule in terms of how services are conducted and how the VA gets involved in whether prayers are used or not in services?

Ms. CONDON. Sir, from my knowledge of how the NCA cemeteries are run I think that was an exception to the rule rather than the rule across the board. So I do not think that that was something that was systemic across all the 131 VA cemeteries.

Mr. MCNERNEY. Okay. Thank you. Mr. Murphy, about the Gulf War presumptive illness. What happens when the statute, when the time of limitation expires and a veteran starts presenting? What is the result to the veteran? What is the consequence to the veteran?

Mr. MURPHY. What we are talking about here is a presumptive condition, which means we do not need to go out and prove that there is a nexus between the symptoms and the service that the veteran had. It is automatic under a presumptive. So if this statute were to expire, and there was no longer a presumptive condition, we would still rate each case on an individual based and if warranted find that there is a service-connection and still grant that veteran the same benefits they——

Mr. MCNERNEY. So the veteran is not shut out?

Mr. MURPHY. Exactly. Exactly.

Mr. MCNERNEY. Thank you. That is what I wanted to know. Concerning the Quality Housing for Veterans Act, the DAV had a suggestion that residence adaptation be a stand alone benefit. Do you agree with that recommendation?

Mr. MURPHY. I would say that we do not disagree with that recommendation. The way it stands today Mr. Hall stated that the authority was approximately $60,000. The exact dollar figure is $65,000. And anything we do currently under this act is subtracted from that amount, just like he stated. $14,000, and the balance is brought forward. So VA would not object to if you were to——

Mr. MCNERNEY. Make that stand alone?

Mr. MURPHY. Correct.

Mr. MCNERNEY. Okay. Thank you. One last question. Have there been any injuries that were not included that we should be including in granting those temporary residence adaptation grants?

Mr. MURPHY. I am going to ask Dick on this one. I do not believe that there is any specific conditions that are out there.

Mr. HIPOLIT. This is on the housing adaptations. I think there is a fairly specific list of what those conditions are this statute. I have not heard commentary that that list is not adequate. But we could certainly take a look at that and see if there are any concerns about that out there.

Mr. MCNERNEY. Okay.

Mr. MURPHY. Yes, the same, exactly the same comment. I am not hearing anything from any avenue telling us that we do not have this adequately covered. If there is somebody that has got that I would like to hear about it because I would be willing to take it on.

Mr. MCNERNEY. Okay, thanks. I yield back.

Mr. RUNYAN. Thank the gentleman. Mr. Walz is recognized.

Mr. WALZ. I will go quickly here. Thank you all again for your service. Thanks for being here helping understand this. Mr. Murphy, the bill to allow a little more access from the CVSOs, if we get the privacy side of that right, can those folks be a force multiplier for you to help process and at least ease some of the confusion amongst veterans? Or are you nervous that it is another addition?

Mr. MURPHY. I am very nervous from the standpoint of how do we protect the confidentialities that other laws have put in place for veterans and Americans in general, and allow the accesses to expedite the process——

Mr. WALZ. —everything else that goes with it.

Mr. MURPHY. Exactly.

Mr. WALZ. Very good.

Mr. MURPHY. But along those same lines, I have been out to see the county veterans service officers at their state conference in Ohio. I am going up to speak with them later today in New Jersey——

Mr. WALZ. I appreciate that. They are good folks and they have got the same mission as you.

Mr. MURPHY. Yes.

Mr. WALZ. They are just trying to figure out how to deliver it.

Mr. MURPHY. Exactly.

Mr. WALZ. So, I appreciate that. Any advice or any input in improving and looking at this bill Mr. Runyan has introduced would

be greatly appreciated. We want to make sure we get it right for you, that is the intent. And again, Ms. Condon, thanks for your work out there. I am always grateful for your service and also appreciative of it. You heard the folks here and you heard Ms. Ward. This is, the problem you have when a situation like that happens, people move from a healthy skepticism of government to a cynicism of government. And it becomes kind of gross generalization. When you heard that story, what did you think? I know that is a very subjective question. But I know you know how to strike that balance between establishment and free expression.

Ms. CONDON. You know, sir, immediately my concern was that it would have an impact across every veterans cemetery in this country. You know? And the ramifications of that. Because it, you know, could have been an isolated incident. But it probably affected the, you know, every veteran and their loved one who has someone buried in a national cemetery, of which Arlington is one.

Mr. WALZ. Well it is one of those stories that strikes you. And then it takes on, I know, this one down in Houston, you heard the real story, this was an issue that is unacceptable. But it takes on a bigger story that it becomes that the whole system is corrupt, someone is trying to deny freedoms and all that. What are we doing, or what do you do, to ensure than when these people with legitimate concerns, we have a bunch of rightfully upset folks that testified here, what do you do? Is it just doing it right over time after time after time that takes that down?

Ms. CONDON. And sir, that is exactly it. And the bottom line is you can never let, it is the only chance to get it right is the day that you bury someone's loved one. And what you cannot do is to rush them at the time when they are the most vulnerable.

Mr. WALZ. Yeah, that is outrageous. That part about, I mean the rest of this I think I could understand that. I do not even have an explanation based on constitutional interpretation why you are rushing somebody out from 15 minutes. And if they are lucky enough to have a place of worship, then let them use it. That part, you know, as long as we are giving them the resources to upkeep it, or whatever it was. But, well I thank you for that. I yield back, Mr. Chairman.

Mr. RUNYAN. I thank the gentleman. And on behalf of the Subcommittee I thank each of you for your testimony, and I look forward to working with you in the future on the wide range of challenges facing our Nation's veterans.

I ask unanimous consent that all Members have five legislative days to revise and extend their remarks and include extraneous material. Hearing no objection, so ordered. I thank the Members for their attendance today and this hearing is now adjourned.

[THE PREPARED STATEMENT OF HON. TED POE APPEARS IN THE APPENDIX]

[Whereupon, at 4:37 p.m., the Committee was adjourned.]

APPENDIX

Prepared Statement of Hon. Jon Runyan, Chairman

Good morning. This legislative hearing on H.R. 5881, H.R. 5880, H.R. 2355, H.R. 2996, H.R. 4299, H.R. 5735 and H.R. 2720 will now come to order.

Today we have several important pieces of legislation on our agenda. Due to the high level of interest in some of the bills before us, I am going to forgo a lengthy opening statement in the interest of time.

Instead, I will just briefly touch on three bills on today's agenda; two of which I have introduced and the other which I co-sponsored with Ranking Member McNerney.

H.R. 5881 the Access to Veterans Benefits Improvement Act, provides certain local government employees, and certain employees of Congress access to case tracking information through the Department of Veterans' Affairs.

We have a responsibility to serve our veterans by ensuring that every effort is made to simplify the claims process. Key actors in this effort are county veteran service officers, whose expertise in claim development benefits veterans in many communities across America. Their assistance is especially critical to many thousands of veterans who live in rural areas, hours away from a VA regional office.

Many veterans are overwhelmed as they try to navigate their way through the claims process, and they are further frustrated when they ask for help from their county VSO, or their member of Congress, and that person cannot access even the most basic information about the status of their claim.

This bill would allow these local government officials to check on the status of a veterans claim, and ensure that VA has all of the information needed to process claims in the most efficient manner possible.

H.R. 5880, The Disability Examination Improvement Act, extends the authority of the Secretary of Veterans Affairs to enter into contracts with private physicians to conduct medical disability examinations.

With the passage of this bill, this successful program allowing physicians outside of VA to conduct contract examinations would continue. This would allow VA to more quickly evaluate veterans disabilities, and facilitate access to the care they need.

I also co-sponsored H.R. 4299 with Ranking Member McNerney. The Quality Housing for Veterans Act, amends title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to provide specially adapted housing assistance to veterans who are residing temporarily in housing owned by a family member.

Our disabled heroes face many challenges as they adapt to their new lives after service, but maneuvering their way through their place of residence should not be one of them.

Furthermore, many veterans have found that living in an environment in which they are surrounded by the care and support of family is a critical component of their successful recovery.

This bill will ensure that our disabled veterans can live in housing that is adapted to their needs, whether they choose to live with family or elsewhere, better equipping them to return to the civilian world and move forward with their lives.

We also will be discussing the following bills:

H.R. 2355, the Hallowed Grounds Act, which would prohibit the burial of certain categories of sex offenders in national cemeteries;

H.R. 2996, The Gulf War Presumptive Illness Extension Act, which would change the date by which veterans must present symptoms of illnesses covered under the service-connected presumption from December 31st, 2016 to December 31st, 2018;

H.R. 5735, which would provide a tomb of remembrance at Arlington National Cemetery, for the purpose of proper interment of remain fragments of our deceased heroes, which are otherwise unidentifiable or unclaimed.

And finally, H.R. 2720 which would clarify the role of the Department of Veterans Affairs in providing a benefit or service-related to the interment or funeral of a veteran, and for other purposes.

Again, in the interest of time, I would like to reiterate my request that today's witnesses abide by the decorum and rules of this hearing and to summarize your statement to five minutes or less during oral testimony. We have a large number of individuals ready to testify on legislation today, and I want to make sure everyone is heard in a timely manner. I would also remind all present that, without any objection, your written testimony will be made part of the hearing record.

I appreciate everyone's attendance at this hearing and I would now call on the Ranking Member for his opening statement.

Prepared Statement of Hon. Jerry McNerney,
Ranking Democratic Member

Thank you Mr. Chairman.

Today, we have a full schedule that includes seven bills before us that address some of the unique needs of our Nation's veterans' population. The bills pertain to a variety of issues ranging from burial eligibility to monuments, from claims processing and C&P exams to presumptive illnesses, and from adaptive housing benefits to freedom of speech issues.

H.R. 2996, the Gulf War Syndrome 'Presumptive Illness' Extension Act of 2011, sponsored by Mr. Kissell of North Carolina, would extend the period of time in which the VA presumes the service-connection of certain disabilities of veterans who served in the Persian Gulf War, as well as Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, and Afghanistan.

The regulation establishing the period of time that the VA has for identifying presumptive illnesses related to certain veterans' military service will now expire on December 31, 2016 thanks to VA's recent rulemaking. H.R. 2996 would extend this period to December 2018, which would allow these veterans to file for a set of conditions that may arise years after their service, as we have seen in veterans following the Vietnam War. This bill would also extend the qualifying service area to include Afghanistan and other supporting areas for Operations Enduring Freedom, Iraqi Freedom, and New Dawn.

I understand that VA opposes these expansions but I think we need to look at whether expanding to these areas makes sense. I think H.R. 2996 reinforces Congress's intent that all veterans who serve in these combat areas and those serving in nearby areas should be entitled to these presumptions as we await further scientific study on their illnesses.

Also, included in today's hearing is **H.R. 4299, the Quality Housing for Veterans Act,** a bill which I introduced. This bill seeks to provide specially adapted housing assistance to veterans residing temporarily in housing owned by a family caregiver.

According to the Department of Defense, more than 48,000 servicemembers have been wounded in action while serving in the recent conflicts. In caring for our injured men and women in uniform, we must continue to address their needs so they may live as independently and comfortably as possible after their honorable military service. Currently, the Temporary Residence Adaptation Grant is available to eligible veterans temporarily residing in a home owned by a family member, but this benefit is set to expire at the end of 2012.

I look forward to working with you, Mr. Chairman, Members of this Subcommittee and the other stakeholders to ensure that our most critically wounded servicemembers and veterans are provided adequate housing benefits and that this program will be extended until 2014.

Mr. Chairman we have several other bills on the agenda today, including H.R. 5880 and H.R. 5881. While I support the bill, H.R. 5880, which would extend VA's contract authority with private providers of C&P exams, I want to ensure that we remain vigilant in our oversight of this authority.

Your other bill, Mr. Chairman, H.R. 5881, would grant county veteran service officers, other State and local employees as well as staff of Members of Congress with greater access to veterans' claims information for tracking purposes. I wholeheartedly support the mission of this bill and our county veterans service officers, who serve my constituents back home. I look forward to hearing from our witnesses today about the benefits of this bill and how we may improve upon it to avoid the privacy and security concerns voiced in the past by VA and currently by the VSOs.

I also look forward to hearing from our stakeholders on the potential impact that H.R. 2720 and H.R. 2355 will have on our Nation's veterans. Additionally, I wholeheartedly support the goals of H.R. 5735 and hope we make any necessary changes to be able move this measure forward. Finally, I look forward to hearing VA's views on these.

I thank all of the Members for their thoughtful legislation. And, I thank our other esteemed witnesses for joining us today and look forward to receiving their testimonies.

Thank you and I yield back.

Prepared Statement of Hon. Steve Stivers (OH–15)

I want to thank Chairman Runyan for holding this important legislative hearing today on my legislation, the Place of Remembrance Act. The measure before the committee today would create a Place of Remembrance at the Arlington National Cemetery for Iraq and Afghanistan conflicts and all wars and contingency operations moving forward.

I have served over 26 years in the Ohio Army National Guard and have been honored to serve with so many brave men and women over the years. Our service members and veterans have protected the United States at immense personal cost to themselves and their families – and at times pay the ultimate sacrifice with their lives to defend our nation and its ideals of democracy and freedom. They and their families deserve our respect and our gratitude, and we owe a debt to them for their service.

As a Member of Congress and service member I was as shocked and horrified as everyone else by the stories late last year on the Dover Air Force Base mortuary sending veterans' remains to the Prince George's County landfill. The Washington Post in an article from December 7, 2011 uncovered that "976 fragments from 274 military personnel were cremated, incinerated and taken to the landfill between 2004 and 2008."

This is an outrage, a terrible injustice to our service members and their families, and should not be allowed to stand. The first step to address this issue is creating a proper memorial for these particular remains of those who served, so a travesty like this can never occur again.

I understand that the Department of Defense (DoD) has instituted a new policy to continue to cremate these fragmented remains and spread the service member's ashes at sea. However, while this may be satisfactory to those in the Navy and Marines, as a member of the Army – I believe some soldiers and their families would like a different solution for their loved one.

That is why on May 10, 2012, I introduced H.R. 5735 that authorizes the Secretary of the Army to establish at an appropriate location in Arlington National Cemetery – a Place of Remembrance for the interment of cremated fragments. Remains from members of the Armed Forces that are unidentifiable by DNA or are unclaimed after a reasonable period of time could be interred at the Place of Remembrance.

I understand and appreciate the significance of the Tomb of Unknown Soldiers for our previous generations of veterans. This legislation is not intended to overshadow or detracts from this time honored memorial. This will allow a new and future generation of our heroes, families and the public to come to Arlington Cemetery to honor these patriots.

Those who gave the final measure in their service to our great nation deserve a final resting place worthy of their dedication, commitment and devotion.

Again, I appreciate the Chairman for allowing me to testify today and holding this hearing.

Prepared Statement of Vicky Hartzler (MO–04)

Executive Summary

H.R.2355, the *Hallowed Grounds Act* will prohibit an individual who is classified as a Tier III sex offender under the *Sex Offender Registration and Notification Act* from being buried at a veteran's or national cemetery.

Under current law, military veterans are entitled to burial in a veteran's or national cemetery and to the receipt of honorary emoluments including a military honor guard, a U.S. flag, and a certificate from the President. These honors rightly

honor the Americans who have given of themselves so all in our nation can live in safety and peace. However, there is a noteworthy exception.

Following the Oklahoma City bombing by Timothy McVeigh, Congress passed and President Clinton signed S.923 on November 21, 1997 which prohibits veterans convicted of a capital crime, such as murder and treason, from receiving military honors. Prior to this legislation, McVeigh, a veteran of the first Gulf War, would have been eligible to be buried in a national cemetery such as Arlington National Cemetery. While veterans guilty of capital crimes justly have been denied the right to rest among our national heroes under S.923, veterans convicted of sexual abuse of children still remain entitled to these honors.

Current law affording military honors to veterans convicted of sexual abuse is an affront to decency and results in victims and their families being victimized all over again. It demeans the honor of all those who have served this nation to allow a child abuser to be buried alongside America's war heroes in a veteran's cemetery. Because I believe that no victim of sexual abuse should suffer the pain of knowing their abuser has received the honor befitting one who selflessly served others, I introduced the *Hallowed Grounds Act.*

The *Sex Offender Registration and Notification Act* divides offenses into three tiers and has various levels within those tiers. The most serious offenses are grouped in Tier III. These individuals have committed horrendous crimes against children, accompanied by brutality and violence. These offenders behave in a manner that violates everything for which a soldier in our country fights—justice, the rule of law, and the safety of our citizens. I believe these offenders have surrendered their right to be honored by victimizing and oppressing others.

Prepared Statement of Hon. Larry Kissell (NC–08)

As the son of a World War II veteran, I hold the deepest respect for the sacrifice and dedication of the men and women who wear our country's uniform. Before serving as Postmaster in my hometown of Biscoe, my father served in the "Old Hickory" division, landing at Normandy and continuing on across Europe, pushing back Hitler's forces at the Battle of the Bulge. When folks stand up and wear our flag, in combat or in peacetime, they deserve the honor and respect that they themselves hold for our nation. My district is home to almost 100,000 veterans and active duty military members. Their safety, well-being and continued care are of great concern to me, and the focus of my work on the House Armed Services Committee.

In 2011, the Veteran's Administration considered and almost ended the review period regarding Gulf War illnesses. As many of you may know, Gulf War veterans continue to develop often unexplained illnesses long after their military service to our nation ends. The VA has set a December 31, 2016 deadline for the time in which "unidentified presumptive illnesses" can surface that can be attributed to their duty serving in the Gulf War. Twenty-two years after the start of the war, many of these illnesses, symptoms, and causes still remain unknown. Even to this very day, our Vietnam-era Veterans continue to experience unexplained sickness and declining health. Some of these Veterans served more than four decades ago, yet we're still fighting to give them the care they so much deserve—including working to further expand coverage for Agent Orange exposure and equally recognizing all of our air, land and sea units for their sacrifices.

Illnesses do not recognize government statutes or regulatory time tables. Therefore, to help allow for additional review time, I have introduced the Gulf War Syndrome Presumptive Illness Extension Act of 2011, legislation to reinstate this review period for an additional 2 years, until December 31, 2018. Let's ensure that every single consideration and element is considered. We need these additional 2 years because we cannot fully and immediately determine what illnesses may arise over time from all that our soldiers have endured. Our government exists today because of the sacrifices of those who came before us, and I don't believe it is right to arbitrarily limit the care of those who have made our freedom possible.

Prepared Statement of Hon. John Culberson (TX–07)

Statement of the Honorable John Culberson in support of HR 2720

The Houston National Cemetery holds an annual Memorial Day ceremony to honor the service and sacrifice of our fallen soldiers. During last year's ceremony a pastor from the Living Word Church of the Nazarene in Houston, Texas, was invited to give the prayer. Prior to the service, the cemetery director, Ms. Arlene

Ocasio, requested that the prayer be submitted to her for pre-approval. It included the Lord's Prayer and closed by stating: "in the name of Jesus." Ms. Ocasio asked the pastor to remove this language because the prayer was written "specific to one belief" and "on Memorial Day we will be commemorating veterans from all cultures and religious beliefs." Therefore, "the tone of all messages must be inclusive of all beliefs, needs to be general, and its fundamental purpose should be ... non-denominational in nature." The pastor had said a prayer at this same ceremony in both 2009 and 2010 and had not been subjected to such religious censorship then.

Following this event, I began receiving reports from my constituents and members of veteran's organizations concerning additional and deliberate acts of religious censorship at the cemetery. Censorship escalated to such a point that Veteran Service Organizations (VSOs) filed a lawsuit against the Department of Veterans Affairs (VA). They reported that Ms. Ocasio prohibited VSOs from including prayer or religious speech in funeral rituals unless families submitted the prayer or religious speech in writing to her prior to the committal services. Also under Ms. Ocasio's direction, the cemetery chapel was closed and used for storage and the carillon bells were no longer being used. When questioned about these actions, Ms. Ocasio stated that she was simply enforcing existing VA policy for funeral services. After personally investigating their claims, I introduced H.R. 2720 to clarify the role of the VA in providing funeral services for veterans. Limiting the free speech of any American is outrageous and unconstitutional, but it is especially offensive to restrict the First Amendment rights of veterans when they have fought and sacrificed to defend those rights.

I personally wrote to VA Secretary Shinseki to express my outrage with the events and demanded that the VA remedy this problem immediately. Additionally, I, along with 27 other members of Congress, wrote a separate letter to Secretary Shinseki requesting the removal of the Houston National Cemetery Director, Ms. Arlene Ocasio. Under her direction, the cemetery restricted the free speech of patriotic members of VSOs as they joined in mourning the loss of the service members. We also requested assurance that the cemetery chapel remain open permanently and that any religious objects or symbols that were removed from the chapel be restored to their original location. Finally, we asked for her assurance that the chapel's carillon remain in operation, fulfilling its original purpose.

On July 8, 2011 I personally attended a funeral service at the cemetery and was horrified to witness the censorship firsthand. Members of the honor guard from the Veterans of Foreign Wars (VFW) were there performing the funeral ritual. Cemetery officials instructed the commander of the honor guard to confront a grieving widow as she approached her husband's grave site to reconfirm that she wanted the word God mentioned during the service. He quite correctly said, as a Texan and a man of honor and integrity, "I'm not bothering that poor woman at this most terrible time of her life. We're going to do the ritual." Right in front of me, VA officials deliberately attempted to prevent the VFW from doing their magnificent, spiritual ritual over the grave of this fallen hero.

Ms. Ocasio denied these allegations and said she told the VA Voluntary Services trainees that they needed to ensure that their military funeral honors were reflective of the desires of the families of the veterans being honored, that there is no "do over" for a committal service, and that no veteran's family should ever leave offended or unhappy with the services provided by the cemetery staff or the registered VA volunteers. I agree that there is no "do over" for a committal service, which is why I strongly believe that a veteran's family should have the freedom to choose the language of the funeral ritual. The family should also have the opportunity to hear from the VSOs as to what ritual options are available so that they can knowledgably choose what is best for them.

The VA has repeatedly declared that they did nothing wrong. In fact, the VA Deputy General Counsel, John H. (Jack) Thompson, in a letter to the Liberty Institute, wrote that directors of national cemeteries can apply whatever limitations they deem reasonable. VA officials strongly denied they banned any religious speech and offered support for Ms. Ocasio. I vehemently disagree. I fail to understand how this could possibly be the correct interpretation of VA policy when the issues at Houston National Cemetery did not arise at any other veteran cemetery in the country. No individual or government agency has the authority to restrict the constitutional rights of American citizens.

In September 2011, the lawsuit was mediated between the VSOs and the VA. Ms. Ocasio has since been removed as cemetery director. However, this does not make up for the pain, suffering and religious censorship the families endured during Ms. Ocasio's tenure. It is deeply disappointing that it took a lawsuit and congressional action to force the VA to do the right thing. H.R. 2720 ensures that no veteran or

veteran's family will ever suffer such religious censorship at the behest of our federal government again.

This bill prohibits the federal government from interfering with the content of funeral services. It will require that any new VA Cemetery Director is a veteran and can therefore relate to the circumstances of those interred there. It will limit the role of the VA to provide only services that are supportive of veteran burials and removes the risk of religious censorship. It will also require the VA to ensure that a chapel is provided at the cemetery and accessible to the deceased family and that any requested honor guard or other nongovernmental group is provided access. I urge your support of H.R. 2720, a bill to clarify the role of the Department of Veterans Affairs in providing a benefit or service related to the interment or funeral of a veteran.

Executive Summary

Executive Summary of the Honorable John Culberson's Statement in support of HR 2720

In the summer of 2011 I began receiving reports from my constituents and members of Veterans Services Organizations (VSOs) concerning religious censorship at the Houston National Cemetery. Censorship escalated to such a point that a lawsuit was filed against the Department of Veterans Affairs (VA). Ms. Arlene Ocasio, the cemetery's director, had prohibited VSOs from including prayer or religious speech in funeral rituals unless families submitted the prayer or religious speech in writing to her prior to the committal services. Also under Ms. Ocasio's direction, the cemetery chapel was closed and used for storage.

I personally wrote to VA Secretary Shinseki to express my outrage with the events and demanded that the VA remedy this problem immediately. Additionally, I, along with 27 other members of Congress, wrote a separate letter to Secretary Shinseki requesting the removal of Ms. Ocasio and assurance that the cemetery chapel remain open permanently.

On July 8, 2011 I personally attended a funeral service at the cemetery and was horrified to witness the censorship firsthand. Members of the honor guard from the Veterans of Foreign Wars were there performing the funeral ritual. Cemetery officials instructed the commander of the honor guard to confront a grieving widow as she approached her husband's grave site to reconfirm that she wanted the word God mentioned during the service. He quite correctly said, as a Texan and a man of honor and integrity, "I'm not bothering that poor woman at this most terrible time of her life. We're going to do the ritual." Right in front of me, VA officials deliberately attempted to prevent the VFW from doing their magnificent, spiritual ritual over the grave of this fallen hero.

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Prepared Statement of Raymond C. Kelley

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than 2 million men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify on today's pending legislation.

H.R. 2355, Hallowed Grounds Act:

In 1997, Congress recognized that veterans convicted of the most violent of crimes should lose their right to interment in national cemeteries. The logic was capital crime cases should trump veterans' burial benefits that were granted to them for their service to our nation. Burial in a national cemetery is a privilege - a place where service and sacrifice can be honored by the American public on scared ground. The most violent and reprehensible crimes break faith with society and our service members and veterans who have been laid to rest in our national cemeteries. That is why the VFW agrees with denying burial to veterans convicted of capital crimes. It is also our belief that the most predatory and violent sex offenses should be added to the list of crimes that preclude veterans from interment. The VFW fully supports H.R. 2355, which will exclude tier III sex offenders from burial in our veterans' cemeteries.

H.R. 2996, Gulf War Syndrome "Presumptive Illness" Extension Act of 2011:

Despite decades of research into the causes of Gulf War Illness, we do not yet have definitive answers on the cause or causes of these conditions. Though some encouraging research is showing signs of hope, it is imperative that treatment for the men and women with illnesses related to their Gulf War service continue without interruption. Even as we make investments in medical research to improve our diagnoses and treatment options as we move forward, we have to do all we can to care for these men and women using the best options currently available.

This legislation also provides presumption for veterans of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation New Dawn who may be struggling with conditions that VA cannot diagnose – a provision that VFW strongly supports. Granting presumption for undiagnosed illnesses is critically important to ensuring that these veterans receive the care they have earned, while science catches up with these illnesses. We hope the committee will pass this bill without delay.

H.R. 4299, Quality Housing for Veterans Act:

The VFW supports the reauthorization of this critical benefit. Through VA's adaptive housing grant program, hundreds of our most severely injured veterans have been given an opportunity to ease back into civilian life, while gaining some sense of independence as they recuperate under the care of a family member without making them choose between current and future needs. With the ongoing war, it is important to continue providing a benefit that significantly improves the lives of our severely injured veterans. By extending the grant program through December 31, 2014, you will increase the flexibility of the benefit while making a difference in the quality of life for many disabled veterans and their families.

H.R. 5735, providing for the establishment of a Tomb of Remembrance at Arlington National Cemetery:

The VFW supports H.R. 5735, which would ensure fragmented remains of American service members killed in Iraq, Afghanistan or any subsequent conflict will be treated with the dignity and honor worthy of their sacrifices. The VFW was an outspoken critic on the issue of improper remains disposal from Dover Air Base last year, which is why we will work to ensure that our fallen heroes' remains are properly handled when either fragments cannot be identified through DNA testing, when remains go unclaimed, or when grieving families request "No Further Pursuit" after burying their loved ones. Never again should a family be left to wonder whether their fallen hero's remains ended up in a landfill. We as a nation owe a debt of gratitude to the men and women who lay down their lives in defense of our nation, and we know this bill will set a new standard for honoring the sacrifices of the fallen by memorializing these brave men and women on the sacred grounds of Arlington National Cemetery.

H.R. 5880, Veterans Disability Examination Access Improvement Act:

In 2003, Congress gave VA the authority to contract with non-VA doctors to perform disability examinations. The authority was extended again in 2009. This has been a useful tool for VA to provide timely evaluation exams without taking VA doc-

tors away from direct patient care. In December of this year this authority will expire. Allowing this provision to end would put added strain on VA's medical staff and reduce accessibility for our veterans. The VFW strongly supports this legislation and asks for its quick passage.

H.R. 5881, Access to Veterans Benefits Improvement Act:

The VFW cautiously supports this legislative proposal, which would grant certain congressional staff members and local governmental agency employees access to VA's case-tracking information. However, we have some concerns. There is no provision that will ensure these employees are properly trained in privacy issues, nor is there any oversight or reporting back to VA on who has access and what prompted the employee to look into a particular case. This provision will greatly improve the responsiveness to veterans' requests and it should be pursued, but assurances must be made to protect privacy and limit searches to only those who make formal requests.

Also, state and county service officers currently have access to case-tracking information by virtue of a power of attorney (POA). The VFW believes it would be wise to continue to limit these employees' access to only veterans for whom they hold a POA. Again, case-tracking information is private information and every effort should be made to protect that privacy.

H.R. 2720, to clarify the role of the Department of Veterans Affairs in providing a benefit or service related to the interment or funeral of a veteran, and for other purposes:

The VFW supports the intent of H.R. 2720. It will provide clarity for both National Cemetery Administration (NCA) staff, and families and estates of deceased veterans on what is statutorily available and allowable at NCA funerals, memorial services and ceremonies. This legislation will give clear guidelines for VA employees to follow and provide peace-of-mind for veterans' families who are planning funeral arrangements.

The VFW agrees that every effort and preference should be made to ensure VA cemetery directors are veterans, but requiring veteran status to fill vacancies could keep VA from filling positions, which could have a greater adverse effect on cemetery operations than hiring a non-veteran.

Mr. Chairman, this concludes my testimony and I will be happy to answer any question you, or the Committee may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any federal grants in Fiscal Year 2012, nor has it received any federal grants in the two previous Fiscal Years.

Prepared Statement of James P. Young

Good morning Mr. Chairman, members of the committee, and staff, it is truly my honor to be here for this hearing. As President of the National Association of County Veterans Service Officers, I am here today, to comment on the:

✔ The proposed bill to grant access of Veterans Administration information to Governmental Veterans Service Officers

The National Association of County Veterans Service Officers is an organization made up of local government employees. Local government employees that believe we can help the Department of Veterans Affairs reduce the number of backlogged benefits claims that veterans are currently waiting to have adjudicated by the Department of Veterans Affairs.

Our members work in local government offices, an "arm of government" if you will, in 37 States and currently are comprised of 2,400 full time employees in 700 communities. We are not like the Veterans Service Organizations. We are not dues driven or membership driven. Every veteran, their dependents and their survivors who live in our respective jurisdictions are all our clients. We serve them at no cost to the client. We are equipped to handle and ready to assist veterans one on one, with every Department of Veterans Affairs benefit, state and local benefits, and the reason we are here today, to assist them in tracking their claim.

There are over 22 million honorably discharged veterans of the armed forces of the United States. During the course of their life after the military they may have occasion to file a benefits claim for pension or compensation. Most veterans are not members of a Veterans Service Organization, but chances are that they live within

one of our communities served by a State, County or City Veterans Service Officer. To the citizens of our communities, we are the Veterans Administration.

The main issue we are here to talk about today is the lack of cooperation by the Department of Veterans Affairs in recognizing our members as an arm of government. We are treated as if we are a Veterans Service Organization rather than what we are. As governmental employees we are not unlike the VA itself. There is just a failure to recognize us in that light.

Let's say that a veteran comes into my office to file a claim for a knee injury that occurred while the veteran was on active duty in the Army. We first have to determine eligibility based on war time/peace time service and a number of factors established by the VA. Let's say this veteran appears to be eligible. We then put together a claim for compensation, gather up medical evidence, service medical records, service records, buddy statements, and other pertinent information and submit the claim to one of a number of Veterans Service Organizations. We help the veteran select a Veterans Service Organizations to represent the veteran through a Power of Attorney. This is done so that the veteran may have representation at the VA Regional Office and for any subsequent appeals that may occur. Our local Governmental Veterans Service Officers may hold the Power of Attorney but many are just too far away from the Regional Offices to adequately represent their client.

Then after about 3 months the veteran comes back into my office and asks what the status of his claim is as he has heard nothing. I have no way to gain this knowledge even though the claim originated in my office. I have to refer him to the VA's 1–800 number and hope he can ask the right questions or to the Veterans Service Organization who holds his Power of Attorney and who he does not know and probably won't call. Hopefully he won't go to another jurisdiction and file another claim which adds to the backlog.

What we are asking in this bill under consideration is to allow the Governmental Veterans Service Officers to have "read only" access to their client's information. This will allow the local Governmental Veterans Service Officer to properly track and provide follow-up for their clients. Sometimes a veteran will file an appeal on a denied claim and go to another Veterans Service Officer in another jurisdiction and file another claim for the same thing. This ultimately adds to the backlog and unnecessarily bogs down the system. If enacted, this bill will avoid duplication of claims which in turn, will assist in reducing the current backlog of claims.

We know there is much consternation on the part of the Veterans Administration regarding this issue. They have had some problems, in the past, in keeping secure, that information that veterans must give to the government to obtain the benefits that they earned. We understand this and are held to the same standards as the VA already. Remember that a majority of claims for compensation and pension originate in local Governmental Veterans Service Offices. We are required to keep secure that information that we supplied to the Veterans Service Organization and ultimately to the Veterans Administration. As a prerequisite to receive access to the VA databases, the government employee must be accredited with the Veterans Administration, must have attended and successfully completed Training, Responsibility, Involvement and Preparation of Claims (TRIP) training and must have had a background check performed on them as a condition of employment.

There has been much cooperation between the Federal, State and Local Government over many years. There are cooperative Memorandums of Understanding (MOU) the Department of Agriculture, Department of Justice and other Federal arms of government routinely sign every year. The United States Forest Service cooperatively works with local jurisdictions to safeguard the resources on the National Forest. The FBI and Homeland Security work closely with local law enforcement jurisdictions in an effort to safeguard local residents. A local law enforcement officer can run a records check on a subject and get most everything the FBI has on the subject in a few minutes. There are safeguards in place to make sure the information is not released improperly and it works very well. If the FBI treated local law enforcement like the VA treats our members there would be anarchy in the streets.

In this day and age of our great nation it is unthinkable that a young man or woman enters the military service, serves honorably and upon discharge finds difficulties in obtaining the rights and benefits that they earned through service and sacrifice. It is our responsibility, the people of the United States, to live up to that promise of a better and brighter future. That promise that includes a myriad of veterans benefits should the service member becomes injured in defense of freedom; but also an underlying promise that says that if you serve your country with honor your country will be there to serve you, not with a hand out, but a hand up. Together we must develop a mechanism for solutions, so that veterans are able to return and find their part of the American Dream.

The National Association of County Veterans Service Officers has been in existence since 1990, primarily as a vehicle to provide continuing education and accreditation training in Department of Veterans Affairs' procedures and regulations governing veterans' benefits. The Association provides basic and advanced training for County Veterans Service Offices and also serves as a vehicle for them to obtain national accreditation with the Department of Veterans Affairs.

The National Association of County Veterans Service Officers is grateful for this opportunity to testify to this Committee. If we work together, I believe that we can reverse the growing backlog of veterans benefit claims and get our heroes what they earned and truly deserve.

In Closing, the National Association of County Veterans Service Officers recommends that this committee move this bill along in the legislative process. We believe that this bill has the potential to make a significant difference in the lives of returning veterans and will afford them a better opportunity to obtain their earned benefits. Thank you for your time and attention.

Executive Summary

RECOMMENDATIONS:

That the full House Veterans Affairs Committee hold hearings on a proposed bill to grant Governmental Veterans Service Officers limited access to Department of Veterans Affairs data bases.

That the House Veterans Affairs Committee enact legislation to grant Governmental Veterans Service Officers limited access to Department of Veterans Affairs data bases.

This is a no cost issue for congress. The National Association of County Veterans Service Officers is an organization made up of local government employees. Local government employees that believe we can help the Department of Veterans Affairs reduce the number of backlogged benefits claims that veterans are currently waiting to have adjudicated by the Department of Veterans Affairs.

Our members work in local government offices, an "arm of government" if you will, in 37 States and currently are comprised of 2,400 full time employees in 700 communities. We are not like the Veterans Service Organizations. We are not dues driven or membership driven. Every veteran, their dependents and their survivors who live in our respective jurisdictions are all our clients. We serve them at no cost to the client. We are equipped to handle and ready to assist veterans one on one, with every Department of Veterans Affairs benefit, state and local benefits, and the reason we are here today, to assist them in tracking their claim.

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Prepared Statement of Jeffrey C. Hall

Chairman Runyan, Ranking Member McNerney and Members of the Subcommittee:

Thank you for inviting the Disabled American Veterans (DAV) to testify at this legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs. As you know, DAV is a non-profit veterans service organization comprised of 1.2 million wartime service-disabled veterans focused on building better lives for America's disabled veterans and their families. DAV is pleased to be here today to present our views on the bills under consideration by the Subcommittee.

H.R. 2996

H.R. 2996, the Gulf War Presumptive Illness Extension Act of 2011, would extend the period of time through December 31, 2018, in which the Secretary of Veterans Affairs presumes the service connection of certain disabilities of veterans who served in the Persian Gulf War, Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn. Countless veterans who have served in Southwest Asia since the first deployment of the Gulf War in 1990 still suffer from chronic unexplained illnesses. The numerous symptoms experienced by these veterans still are

not understood, answers remain elusive, and significant research is still needed. Extending this presumptive period would allow for continued research for all who have and are still serving in Southwest Asia. VA must be vigilant in their research and treatment and Congress must not waiver in their oversight to ensure these men and women are being cared for and compensated for their illnesses. Therefore, H.R. 2996 being consistent with our longstanding resolution, DAV supports this bill.

H.R. 4299

H.R. 4299, the Quality Housing for Veterans Act, would extend the authority of the Secretary of Veterans Affairs through December 31, 2014, to provide specially adapted housing assistance to individuals residing temporarily in housing owned by a family member. While DAV is supportive of extending this program, we believe the grant amount of $14,000 allowable for temporary residence adaptation (TRA) should be a stand-alone benefit. As our current resolution seeks, we believe this amount should not be deducted from the total amount of $60,000 allowed for a specially adapted housing (SAH) grant. Although we do not have the current statistics, we do know that in the four years following inception of the TRA grant program, less than 20 applications had been received by the Department of Veterans Affairs (VA). In our opinion, this number was extremely low due to the amount of the TRA grant being subtracted from the SAH grant. The intent of this benefit is to afford qualified, seriously disabled veterans the ability to make some modifications to a residence they reside in temporarily, such as their parents' home; however, as they move forward into their own residence requiring adaptations they should not have less than the maximum benefit available to them to accomplish such.

H.R. 2355

H.R. 2355, the Hallowed Grounds Act, would exclude individuals who have been convicted of committing certain sex offenses from receiving certain burial-related benefits and funeral honors that are otherwise available to certain veterans, members of the Armed Forces who served honorably, and related individuals. Specifically, this legislation would expand title 38, United States Code, section 2411(b), to include those who are tier III sex offenders under the Sex Offender Registration Notification Act. Being outside the scope of our mission, DAV has no resolution or position on this particular matter.

Of concern, however, is the treatment to be accorded veteran status once earned through satisfactory fulfillment of service to the nation. Veteran status is a legal status, which, as a practical matter, is realized through the special rights created for veterans to enjoy as restitution for the sacrifices of military service. Almost without exception, this status, once accrued, is considered indefeasible. It is conferred by the completion and honorable character of the recipient's military service and is not conditioned upon subsequent conduct in civilian life. Logically, that is as it should be. Veterans should be secure in the knowledge that their veteran status, and benefits that flow therefrom, is vested and will not be held hostage to irrelevant, post-service factors. If veterans' rights are intended to remunerate for disabilities incurred, opportunities lost, extraordinary rigors suffered, or contributions made in connection with and during the time of military service, such rights should, like wages earned, not be withheld or recalled because of subsequent performance or unconnected actions or events, even when such actions or events are of a character that evoke very negative public sentiments. The special value of service to one's country and the integrity of veteran status would be defeated by departure from that tradition. Fidelity to this principle admits exceptions for only the most highly exceptional circumstances.

H.R. 5735

H.R. 5735 would establish a Tomb of Remembrance at Arlington National Cemetery for interment of cremated fragments of the remains of members of the Armed Forces killed in Afghanistan, Iraq, or a subsequent conflict when the fragments are unidentifiable by use of DNA testing or other means, or are unclaimed, or are identified and authorized by the person designated to direct disposition of the remains for internment in such memorial. Although DAV has no resolution on this particular matter, we support the intent of this legislation to give proper respect and dignity to our servicemen and servicewomen in cases such as this and would not oppose passage of this legislation.

H.R. 2720

H.R. 2720 would clarify the role of the VA in providing a benefit or service being related to the interment or funeral, memorial service, or ceremony of a deceased veteran. Additionally, this bill would require that each VA cemetery director be a veteran themselves, while also prohibiting officials of the Federal Government, including the Secretary of Veterans Affairs, from interfering with the content and creed of a funeral, memorial service, or ceremony of a deceased individual or veteran as expressed by the individual's last will and testament or as determined by the family or agent of such individual or veteran. Being outside the scope of our mission, DAV has no resolution or position regarding this matter.

H.R. 5880

H.R. 5880, the Disability Examination Improvement Act, would extend the authority of the Secretary of Veterans Affairs through December 31, 2017, to enter into contracts with private physicians to conduct medical disability examinations. Although DAV has no specific resolution on this particular matter, our resolution regarding reforming the VA's disability claims process provides a reasonable corollary for us to support the bill, as the utilization of privately contracted disability examinations is intended to improve the disability claims process.

H.R. 5881

H.R. 5881, the Access to Veterans Benefits Improvement Act, would amend title 38, United States Code, to provide certain employees of Members of Congress and certain employees of local governmental agencies with access to case-tracking information of the VA. DAV supports the intent of the bill; however, we have concerns about the broad language, which would seemingly allow certain individuals to gain unrestricted access to veterans' claims information without accreditation or security permission. Clearly, the primary benefit in this legislation will be for authorized individuals to gain remote access to the VA's electronic database system for the single purpose of determining the status of a veteran's pending claim for benefits; however, Congress must consider making significant changes to the language to ensure a veteran's privacy and personal information is safeguarded from illegal or fraudulent activity.

DAV National Service Officers (NSOs) are accredited by the VA and given access to veterans' records and computerized processing systems, but only for those in which we hold power of attorney. DAV NSOs regularly interact with certain local government employees, such as County Veterans Service Officers (CVSOs), who provide local assistance to veterans. When the assistance desired involves obtaining an update as to the status of a pending claim, CVSOs generally are not able to access the information and they must contact the accredited representative of record, such as a veterans service organization (VSO) to obtain a status of the pending claim, and then inform the veteran. If the veteran does not have an accredited representative, such as a VSO, the CVSO is very limited as to the information that may be accessed. Likewise, an accredited representative only has access to those cases for which they hold power of attorney.

Allowing certain covered employees of Members of Congress or local government agencies to access the VA's case-tracking system to obtain a status of a claim submitted by a veteran without a properly executed power of attorney poses many serious questions. As a matter of privacy, veterans or other claimants must be protected from anyone without accreditation from being allowed to access VA's system and gain private information on the veteran or other claimant.

This legislation sets out to amend title 38, United States Code, by adding a new subsection 5906, which, as written, would allow virtually any covered employee to gain access to any veteran's private information; far greater access than afforded to an accredited representative. First, the bill should contain the explicit language contained in title 5, United States Code, section 552a(b), requiring the covered employee to have the written permission of the veteran or claimant requesting assistance from the covered employee. Without such request and written permission, the covered employee has no proprietary reason to access any veteran's information.

Secondly, before the covered employee is able to access the VA's system, he or she should be required to complete an electronic certification affirming that written consent from the veteran has been obtained to access the status of the veteran's pending claim. Thirdly, the access should be limited to only the status of a pending claim and the specific issues contained therein. Lastly, the bill should plainly set forth the penalties for any violations, such as accessing or attempting to access the status of any pending claim without the expressed written consent of the veteran or claimant.

Moreover, we believe the bill should also contain an additional safeguard provision wherein the veteran or claimant is notified when his or her record is being accessed by a covered employee. This would further assure the veteran or claimant, especially those without representation, has authorized the covered employee to perform such action on their behalf and is aware when it is occurring. This would also alert VA when a covered employee is attempting to gain access without the express written consent of the veteran or claimant.

Again, the intent of this bill is to help veterans by providing these covered employees limited access to VA's electronic database solely for the purpose of obtaining the status of a claim. DAV believes this could be very beneficial to the veteran or claimant, the covered employee, as well as our National Service Officers when DAV is the accredited representative of record. DAV simply wants to ensure that proper security measures are in place to protect the privacy of veterans and claimants. As such, without changes in the bill's language, DAV cannot offer our support for H.R. 5881. We feel the bill's current language is not explicit enough to ensure the privacy of a veteran or claimant is safeguarded; however, DAV would be pleased to work with the Subcommittee to make these necessary changes in the bill's language.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions from you or members of the Subcommittee.

Prepared Statement of Debbie Lee

Thank you for inviting me to speak today on behalf of our fallen warriors who gave up their lives and their voices defending you and I.

The freedoms that you and I enjoy every single day and often take for granted are paid for by the brave men and women who for centuries have sacrificed greatly, many giving their very last breath defending America.

There is a price for our freedom and our family knows it all too well.

My son Marc Alan Lee was the first Navy SEAL killed in Iraq 8–2-06. Many of you may remember Ramadi, Iraq in 2006 was a bloody battlefield.

The SEALs had been in an intense firefight in 120 degree temperatures for 2 hours. Four of the SEALs were on a rooftop when Marc's buddy Ryan was shot and had severe shrapnel injuries to his head. They could tell by looking at him it didn't look good.

Two of the SEALs dropped to their knees to help Ryan. Marc made the choice to stand up into the direct line of fire laying down suppressive fire and hoping the enemy would be focused on him and the medic could sneak up to the roof.

The medic got up on the roof and took one look at Ryan and said we have to get him down immediately or there was no chance for survival. So a second time Marc made the choice to stand up into the direct line of fire to provide cover so they could get down off of the roof.

They all successfully got down off of the roof and Medevac'd Ryan out and climbed back into their Bradleys and headed back to the base, which later was named Camp Marc Lee in his memory.

We have watched our Navy SEALs do some amazing things and at times they seem superhuman. Marc's final gift to me was his teammates and I know these young men well. I know they were exhausted emotionally and physically. As they started to take off their gear and get some water, the Chief came in and said "We just found thirty of the insurgents who just attacked us." Without hesitation Marc said "Roger that let's go get'em."

They headed back into Ramadi and cleared several houses. They went in to the last house Marc would be in and cleared the bottom of the house. They started to go up the steps when they heard Marc yell "On me." The guys knew that meant Marc was going to take the lead. As they went up the steps they drew fire through a window and for the last and final time Marc made the choice to turn into the direct line of fire and gave his life so his teammates could live.

Marc successfully completed his mission, and I know where he is and one day I will see him again. He laid down his boots, his weapon. He gave all of his tomorrows so that we could have today.

In response to Marc's last letter home I founded America's Mighty Warriors and use my voice and have dedicated my life to honoring and supporting our troops and defending our defenders and taking care of our Gold Star families. They have given their very best to this nation. So today I speak on behalf of our fallen heroes and their families.

When our loved ones signed to defend our country against enemies foreign and domestic they knew they could be giving their lives for this country and what they

believed in. They fought honorably and nobly and I know that if you asked them if they were to die in combat their first request would be to take care of my family.

As family members we entrusted our loved ones lives into the hands of our military and our government. We expect that, God forbid they didn't make it back to our arms, that as a nation we would respect and honor them every step of the way as the heroes they are and bring them back home to a proper and dignified burial

I have watched videos and heard stories of how Marc was escorted home. From the moment he was carried off the battlefield, by his teammate, a medic, who administered CPR on Marc for 30 minutes until they got to the hospital, knowing he was already dead, hoping somehow to revive him, to the honor line as they loaded Marc on his Angel Flight back home where all branches of the military in Ramadi had gathered to pay respects to a fallen comrade.

I can't imagine receiving the news that they had found another fragment of Marc and learning that instead of burying that part of Marc respectfully, that he was sent to the dump like 274 of our fallen heroes were?

These men and women gave their lives under horrific battle conditions, many having been blown to pieces by IEDs or RPGs., and for years their remains were carelessly sent to the dump with the garbage?

Just this past week it was brought to light that a Veteran had been found buried in a cardboard box in Florida. We are still working on locating remains in Vietnam. Why would we as a nation not have an honorable, dignified place to bury the remains of our War Heroes!

Congressman Stivers has introduced a bill to have a "Place of Remembrance in Arlington" where the ashes of unidentifiable or partial remains of our Heroes can be laid to rest with dignity. Thank you Congressman Stivers for standing for your fallen brothers and choosing to be a voice when they have none.

I hope each one of you see the urgency to pass this bill HR 5735 and guarantee our troops and their families that we will continue to honor those who gave everything and ensure we will never forget them, their families or the sacrifices that have been made for our freedoms.

Thank you . . . .HOOYAH MARC LEE!

Prepared Statement of Lisa Ward

My name is Lisa Ward. I am the widow of Major Richard ("Rick") Ward. I am also the Senior Vice Commander of the Veterans of Foreign Wars ("VFW") Post 12075, the William "Bill" C. Amundson Memorial Post, which is located outside of Houston Texas. I am a Gulf War Veteran and served in the U.S. Army for 6 years.

My husband Rick loved the Army and served in it for 30 years. He spent time serving our country overseas in the Gulf War and in Korea. Rick and I served in Desert Storm together, although we were not dating or married at the time. We were married for 20 years and have one daughter, Brenda Ward, who is currently a student in the College of Criminal Justice at Sam Houston State University.

On May 27, 2011, I buried my husband Rick at the Houston National Cemetery (the "National Cemetery"). Although I wanted to have the funeral service at the National Cemetery, because of the restrictions the National Cemetery Director placed on the religious speech contained in the traditional VFW Burial Ritual, I chose to hold the service at a private chapel so that the government could not interfere with my husband's funeral.

My daughter Brenda and I arranged Rick's funeral service with Larry Matthews at American Heritage Funeral Home. Earl Conley, a fellow veteran and a good friend of my family, was also present for support. During the planning of the arrangements, I told Mr. Matthews that I wanted Rick to have a military funeral because of his thirty years of military service. My daughter Brenda and I had previously decided to have Rick's ashes buried at the National Cemetery. During the course of our discussion with Mr. Matthews, he informed us that the National Cemetery would not allow the traditional VFW Burial Ritual to be performed on National Cemetery grounds because it includes the word "God." Mr. Matthews further stated that the Cemetery Director had implemented many new restrictions; in addition to disallowing the traditional VFW Burial Ritual, she was also limiting the length of all funerals to 15 minutes, and would not allow horse-drawn caissons. I was shocked and confused. I couldn't comprehend why my husband, who was a Gulf War Veteran and faithfully served our country for 30 years, would not be able to have the honor of the VFW Burial Ritual at the National Cemetery.

After discussing it with my daughter, we decided that we wanted Rick to have the honor of the traditional VFW Burial Ritual at his funeral. We therefore decided

to have the service held at the private chapel at American Heritage Funeral Home instead of at the National Cemetery. American Heritage Funeral Home opened the doors of the chapel so that those in attendance could hear the rifle salute and the playing of Taps, although they were not able to see them like they would have had the service been held at the National Cemetery. About a week and a half after the funeral service, Rick's ashes were buried at the National Cemetery.

I had to incur additional expenses to have the funeral service held at the private chapel instead of on the National Cemetery grounds. If the National Cemetery would have allowed the traditional VFW Burial Ritual, I would have held Rick's funeral there.

For all of the years that my husband served, and all of the time that he spent overseas, he deserved to have the traditional VFW Burial Ritual at the National Cemetery. I feel very disappointed and brokenhearted. I feel like something has been taken away from me at the hardest point of my life. The Houston National Cemetery Director's policies took away the traditional VFW Burial Ritual, and I can never have it again. I cannot redo my husband's funeral. What has happened to my family is not fair. I do not want another family to have to go through what I had to go through.

Prepared Statement of Kelly Shackelford

Introduction

I am Kelly Shackelford, the President and Chief Executive Officer of Liberty Institute. Liberty Institute is the largest non-profit law firm in the nation dedicated solely to defending religious liberty in America. It was our privilege and honor to represent Pastor Scott Rainey, VFW District 4, The American Legion Post 586, the National Memorial Ladies, and Lisa Ward, James Haycraft, and Geraldine Lakey, family members of recently deceased veterans, in their lawsuit against the United States Department of Veterans Affairs, Hon. Eric Shinseki, Secretary of the VA, and Arleen Ocasio, Director of the Houston National Cemetery, seeking to prohibit religious censorship and discrimination at the Houston National Cemetery.

The claims in this lawsuit were supported by the sworn testimony of 25 veterans and their supporters who witnessed firsthand religious hostility occurring at the Houston National Cemetery. This lawsuit was resolved in October 2011, with the entry of a 20 page Consent Decree that includes 50 specific court ordered requirements restoring the religious liberty rights of our clients, other veterans across the country and those who seek to serve and honor them.

What happened to our veterans is outrageous. They deserve better than this. Our veterans and active service military have paid and are paying the ultimate price for our freedoms. It is unconscionable to strip their religious freedom from them and their families at the time of their death.

Censorship of Prayer at Houston National Cemetery

This lawsuit began in May of 2011 when the Director of the Houston National Cemetery attempted to edit and censor Pastor Scott Rainey's prayer at a Memorial Day ceremony held at the cemetery by a private, nonprofit organization. Pastor Rainey prayed at the ceremony the prior two years without any governmental interference. Unlike previous years, the Director of the Houston National Cemetery (overseen by the VA), Arleen Ocasio, told Pastor Rainey that his prayer needed to be submitted to her for prior approval and that its contents needed to be "non-denominational."

Pursuant to Director's Ocasio's instructions, Pastor Rainey submitted to Director Ocasio a draft of his prayer in advance of the Memorial Day ceremony. In response, Director Ocasio told Pastor Rainey, "I must ask you to edit it." Director Ocasio further stated the prayer cannot be "specific to one belief" and "on Memorial Day we will be commemorating veterans from all cultures and religious beliefs." Therefore, "[t]he tone of all messages must be inclusive of all beliefs, need to be general, and its fundamental purpose should be ... non-denominational in nature." After receiving Director Ocasio's email, Pastor Rainey contacted her by phone. Director Ocasio instructed Pastor Rainey that if he did not remove the references in his prayer that are specific to one religion (including praying in Jesus' name) that he would not be allowed to deliver a prayer at the Memorial Day ceremony.

On May 24, 2011, a demand letter was sent to VA Secretary Eric Shinseki and Director Ocasio, informing them of the relevant law and requesting that they inform Liberty Institute in writing by 5:00 p.m. on Wednesday, May 25, 2011 that Pastor Rainey may provide a prayer at the Memorial Day ceremony without removing ref-

erences to his religion. The following day, May 25, 2011, Jack H. Thompson, VA Deputy General Counsel, responded to the demand letter via email. He stated that "[c]ertainly, the decision to keep pastoral remarks non-denominational—a viewpoint neural policy—is appropriate in this instance." Mr. Thompson further stated that "the ceremony will commemorate veterans of all cultures and beliefs, and the tone of remarks must therefore be inclusive." He went on to state that Pastor Rainey must notify Director Ocasio by 3 p.m. the following day if "he agrees to modify the message he wishes to deliver in compliance with [Director Ocasio's] directive to him dated May 19, 2011...."

On May 26, 2011, Pastor Scott Rainey filed a complaint and a motion for a temporary restraining order in the U.S. District Court for the Southern District of Texas, Houston Division, seeking that Defendants Director Ocasio and the VA be enjoined from censoring the contents of his prayer and religious expression at the May 30, 2011 Memorial Day ceremony, hosted by the National Cemetery Council for Greater Houston.

On May 26, 2011, U.S. District Judge Lynn Hughes enjoined Defendants VA and Director Ocasio and all those acting in concert with them from dictating the content of speeches, including prayer, at the May 30, 2011 Memorial Day ceremony.

Restrictions Placed Upon Veterans Honor Guards at Houston National Cemetery

While we were presenting the arguments to the Court about Pastor Rainey, we learned of several other instances of religious hostility occurring at the Houston National Cemetery, including religious censorship directed at veterans honor guards.

For at least 30 years at Houston National Cemetery, families of deceased veterans worked with private funeral homes to arrange military honors. If the family requested that the VFW District 4 burial team, or any other volunteer burial team such as The American Legion Post 586 burial team, perform military honors, the funeral home contacted VFW District 4 or The American Legion Post 586 directly. If the funeral home contacted the VFW District 4 Honor Guard, they would perform the VFW Burial Ritual, a ritual that dates back to 1914. If the funeral home contacted the American Legion Post 586, they would perform the American Legion Burial Ritual. Both rituals include religious speech and prayer and references to God.

It was only after Director Ocasio's arrival at the Houston National Cemetery that the government inserted itself into this process and began discriminating against religious speech and expression. Prior to Director Ocasio's arrival at the Cemetery, the VFW District 4 and American Legion Post 586 honor guards included religious speech and prayer in their burial rituals without interference from any representatives of the Cemetery. Cemetery officials never required that the families of the deceased veteran submit requests to them, either written or oral, before the honor guards performed their burial rituals. Funeral arrangements were made through the private funeral homes, not by Cemetery officials. These veterans groups never heard a complaint about performing their burial ritual. To the contrary, families praised these groups' honor guards.

During several meetings in 2011, Director Ocasio told the leadership of VFW District 4 that its honor guard could no longer do the entire VFW Burial Ritual. Instead, they could only do what she described as the "four core elements," the folding of the flag, the presentation of the flag, the rifle salute, and the playing of Taps. At these meetings, Director Ocasio stated that the VFW District 4 Honor Guard members could not provide texts of prayer to the family for consideration. She also stated that if family members wanted a certain prayer read, they would have to submit the prayer to the cemetery in writing and cemetery officials would then give the prayer to the VFW District 4 Honor Guard to read.

Also, in 2011, a cemetery representative told the VFW District 4 Honor Guard that they were not allowed to do the entire VFW Burial Ritual because the word "God" is forbidden. The cemetery representative did state that they could say the Lord's Prayer and the 23rd Psalm since the word "God" is not included in those texts. When questioned regarding the source of the authority for these pronouncements, the cemetery representative responded "by my supervisor's orders."

Further, in 2011, a cemetery employee instructed American Heritage Funeral Home, which sits next to the Houston National Cemetery and specializes in veterans' funerals, that the VFW District 4 Honor Guard team is forbidden from including prayer or religious messages in its ritual, and must only do the "four core elements," unless the family pre-submits the prayer or religious message that it would like in writing prior to the funeral. Incredibly, the cemetery employee also admittedly told the private funeral home that it was not allowed to inform families that they could have the VFW Honor Guard team include prayer or a religious mes-

sage if they pre-submitted it in writing since that would be trying to influence the families.

For approximately two and a half years, VFW District 4 Honor Guard Junior Vice Commander Nobleton Jones recited to family members of the deceased veteran as he handed them the discharged shell casings from the gun salute: "On behalf of the United States of America, a grateful nation, and the Veterans of Foreign Wars, I present you with these shell casings from the shots that were fired to honor our departed comrade. We thank him for his honorable service to our country. We thank you and your family for your support. We ask that God grant you and your family grace, mercy, and peace."

At a meeting in 2011, Mr. Jones asked Director Ocasio if he was permitted to make this recitation. Director Ocasio stated "no." Mr. Jones then asked if he was allowed to hand the shell casings to the family. Director Ocasio again said "no." Director Ocasio further stated that Mr. Jones was prohibited from having any direct contact with the family. Moreover, after a burial ceremony in 2011, a cemetery employee, who was monitoring the funeral service, instructed Mr. Jones that he was no longer allowed to recite his message as he hands the discharged shells to the family, presumably because the message includes the word "God."

In 2011, Director Ocasio implemented a policy entitled "Houston National Cemetery Honor Guard Guidelines" (the "Houston Guidelines"). The Houston Guidelines required that the volunteer honor guards delete all religious elements from their rituals, unless the family specifically requests otherwise. The policy stated that "funeral military honors should consist only of the core elements: the folding of the United States Flag; presentation of the flag to the veteran's family; playing of traditional Taps; and a rifle salute. Additions to these core elements can only be made at the request of the deceased's survivor(s)." 4.a. The Houston Guidelines also stated that if the family of the deceased veteran has a member of the clergy recite a prayer or read from scripture that the volunteer honor guard may not also read scripture or recite a prayer. ¶ 7. The Houston Guidelines further restricted the speech of the honor guards by stating that they are forbidden from providing the texts of optional recitations for the committal service to the deceased's survivors for consideration. ¶ 8.b.

According to Director Ocasio, the Houston Guidelines were based upon national VA policy. On November 1, 2007, Under Secretary for Memorial Affairs William F. Tuerk issued a memorandum with the subject "Policy on Recitations on the Meaning of Folds of an Honor Guard Funeral Flags" (the "2007 National Policy"). The 2007 National Policy provided that "NCA employees, including VA-sponsored Volunteer Honor Guards, may read such recitations at committal services, but only if the recitation to be read is presented by the deceased's survivor(s). NCA employees, including VA-sponsored Volunteer Honor Guards, shall not provide texts of any such recitations to the deceased's survivors for consideration."

Restrictions Placed Upon The National Memorial Ladies at Houston National Cemetery

The National Memorial Ladies ("NML") is a private, nonprofit organization that was founded in 2008. The NML's mission is to ensure that no soldier is ever buried alone. The NML began attending veterans' funerals at Houston National Cemetery in September 2008. To that end, the group attends most veterans' funerals at Houston National Cemetery, approximately 60 a week, to honor veterans and console their families. Since 2008, NML volunteers have attended thousands of veterans' funerals at the Houston National Cemetery.

If the family members of the deceased veteran attend the funeral, the NML will hand them a condolence card with both a printed and handwritten message. When handing the family members the card, the volunteers will often orally thank them for their sacrifice. Previously, NML volunteers would write "God Bless You and Your Family" in their condolence cards and would sometimes say "God Bless You and Your Family" or "we're praying for you" to the families of the deceased veterans.

NML volunteers have always been sensitive to the religious backgrounds of the families. NML volunteers can usually discern the religious background of the family by observing what type of clergy member is present. If the cemetery employee attending the funeral informs a NML volunteer that the veteran or the veterans' family is atheist, the volunteer will not mention "God" or say any other religious message, and will not hand the family a condolence card with "God" or any other religious message. No one has ever complained about a NML volunteer; to the contrary, many individuals have praised the NML for their volunteer efforts.

In September 2010, Director Ocasio approached NML's President, Cheryl Whitfield, and asked her what the NML volunteers write in the condolence cards.

Ms. Whitfield told her that the ladies write something to the effect of "On behalf of the people of the United States of America, we are grateful to [name of deceased veteran] for his [or her] selfless service he [or she] gave our country—our nation is grateful. God bless you and your family, [name of NML volunteer]." Director Ocasio then told Ms. Whitfield that the word "God" is forbidden. Director Ocasio stated that "God Bless You" could no longer be written in the condolence cards or spoken to the families, and that the NML volunteers could no longer speak or write any religious message. Director Ocasio instructed Ms. Whitfield that all speech, both oral and written, has to be "generic" so that the NML volunteers do not offend anyone.

Later that month, Director Ocasio met with Ms. Whitfield and five other NML volunteers in the cemetery lunchroom/conference room. During the meeting, Director Ocasio stated that NML volunteers could no longer speak or write religious words or messages such as "God," "Jesus," or "God Bless You." Director Ocasio stated that NML volunteers could instead speak or write "peace be with you" or "our thoughts are with you." Director Ocasio stated that all speech needs to be "generic." Director Ocasio explained that NML volunteers needed to remove religious references from their speech because they are on government property. Director Ocasio stated that the cemetery was trying to achieve "shrine status" and that in order to do this, cemetery employees and volunteers need to work on "customer service." Director Ocasio said that "we can't take a chance of offending anyone" so we don't hurt "customer service." She further stated that removing all religion would make the cemetery "neutral" towards religion.

Closure of Houston National Cemetery's Chapel and Removal of its Religious Symbols

The Houston National Cemetery chapel previously displayed religious symbols, such as a large Bible, a cross and a Star of David. Before Director Ocasio's arrival at Houston National Cemetery, the cemetery chapel was open during Cemetery operating hours, it was not used for storage, its carillon was tolling three times per day and playing hymns at various times, and it was used for funeral services. In addition to being used for funeral services, the cemetery chapel served as a place for individuals to pray, reflect, or mediate on the sacrifices of our veterans. Special events, such as a reception for the Gold Star Mothers, an organization of mothers who have lost a son or daughter in the service of our country, were also held at the cemetery chapel.

Sometime around the Fall of 2010, the cemetery chapel was closed. The doors remained locked during Houston National Cemetery operating hours, it was no longer used for funeral services, and the carillon was no longer tolling. This occurred after Director Ocasio's arrival at the Cemetery, approximately February 2010, and before Cemetery construction commenced, approximately January 2011. Director Ocasio only unlocked the chapel doors when Houston National Cemetery meetings or training sessions were held in the building. Furthermore, Director Ocasio did not refer to the building as a "chapel" but a "meeting facility." The back pews were filled with boxes, making the building appear more like a storage facility than the chapel for which it was originally intended.

In January 2011, Director Ocasio confirmed to the leadership of VFW Post 9182 that the chapel was closed and stated that she had closed it to make the Houston National Cemetery more "comfortable" for people of all faiths.

Sometime after June 27, 2011, when the First Amended Complaint was filed in our lawsuit, the chapel was unlocked. However, the Bible, the Cross, and the Star of David were still kept in storage until after the entry of the Consent Decree,

Interference with the wishes of the families of deceased veterans at Houston National Cemetery

At least on three occasions, cemetery officials interfered with families of deceased veterans in their making arrangements for burial service. James Haycraft, Geri Lakey and Lisa Ward are representatives of families of deceased veterans, whom cemetery officials interfered with and sought to, or in fact, precluded the families' wishes in honoring their deceased loved one. As result of the cemetery's actions, Mr. Haycraft's brother did not receive the burial service he desired, being prohibited from having the VFW Honor Guard perform the entire VFW Burial Ritual. In the case of Ms. Lakey, cemetery officials attempted to stop her husband from receiving the entire VFW Burial Ritual. But for the actions of her husband's VFW Post Commander (a former judge), his final wishes would have been thwarted. Finally, with regard to Ms. Ward, in light of the cemetery's practices and policies, Ms. Ward had to have her husband's burial service at a private funeral home rather than the Houston National Cemetery so that the honor guard could perform the entire VFW

Burial Ritual, as she desired. Nevertheless, because of the cemetery's restrictions, her desire to have the service at the cemetery was denied.

Entry of Consent Decree; Restoration of Religious Liberty at National Cemeteries

During the course of the litigation, the VA revealed the national policies it had in place authorizing Director Ocasio to engage in religious discrimination. After almost five months of litigation, on October 19, 2011, U.S. Federal District Judge Lynn Hughes entered a consent decree resolving this litigation. This landmark consent decree restores the religious liberty rights of our clients and ended the religious hostility occurring at the Houston National Cemetery. This Consent Decree not only impacts religious freedom at Houston National Cemetery, but has national implications since the VA agreed to change the national policies under which Director Ocasio acted.

In summary, the Court ordered the Government to:

1. Amend the VA's national policy (National Cemetery Directive 3170) that restricted free speech during special ceremonies and events (e.g., Memorial Day, Veterans Day, etc.) at VA national cemeteries, eliminating the requirement that invocations and benedictions be "inclusive" and "nonderogatory." (¶7)
2. Amend the VA's national policy (November 1, 2007, National Cemetery memorandum issued by Under Secretary William F. Turek on the Meaning of Folds of an Honor Guard Funeral Flag) that restricted volunteer honor guards from performing their entire burial ritual. (¶18)
3. Rescind provisions of the Houston National Cemetery Honor Guard Guidelines (¶¶ 4.a., 7, 8.a., 8.b., and 8.c.) that restricted volunteer honor guards from performing their entire burial rituals. (¶¶ 10, 14, 17)
4. Not edit, control or exercise prior restraints on the content of private religious speech and expression by speakers during special ceremonies and events (e.g., Memorial Day, Veterans Day, etc.) or private committal services at Houston National Cemetery. (¶8)
5. Not ban, regulate or interfere with prayers, recitations or words of religious expression absent family objections at veterans' committal services. (¶1)
6. Allow veterans' families to hold committal services with any religious or secular content they desire. (¶2)
7. Not ban religious speech or words, such as "God" and "Jesus" in oral and written communications at committal services. (¶¶21, 22)
8. Not ban, regulate, or otherwise interfere with the giving of gifts, including gifts that contain a religious message or viewpoint at committal services. (¶23)
9. Keep the Houston National Cemetery chapel open and unlocked during normal operating hours, allow its use for private committal services, for prayer, or for reflection, and not use the public area of the chapel for storage. (¶¶40, 41, 45)
10. Return the Bible, the Cross and the Star of David for display in the chapel. (¶42)
11. Pay Plaintiffs' attorneys fees and expenses.

Conclusion

As our lawsuit demonstrates, there is a real threat to religious liberty at national cemeteries. This legislation (H.R. 2720) will further protect the religious freedom of veterans and those who seek to serve and honor them. We support this effort and will do everything we can do to stand with our veterans. They deserve nothing less.

Executive Summary

Kelly Shackelford is the President and Chief Executive Officer of Liberty Institute, who represented Pastor Scott Rainey, VFW District 4, The American Legion Post 586, the National Memorial Ladies, and Lisa Ward, James Haycraft, and Geraldine Lakey, family members of recently deceased veterans, in their lawsuit against the United States Department of Veterans Affairs, Hon. Eric Shinseki, Secretary of the VA, and Arleen Ocasio, Director of the Houston National Cemetery, seeking to prohibit religious censorship and discrimination at the Houston National Cemetery. The claims in this lawsuit were supported by the sworn testimony of 25 veterans and their supporters who witnessed firsthand religious hostility occurring at the Houston National Cemetery. This lawsuit was resolved in October 2011, with the entry of a 20 page Consent Decree that includes 50 specific court ordered requirements restoring the religious liberty rights of our clients, other veterans across the country and those who seek to serve and honor them.

The religious hostility discovered during the lawsuit included: (1) the attempted censorship of a pastor's prayer at a Memorial Day ceremony held at the Houston National Cemetery by the cemetery's director; (2) restrictions placed on veterans

honor guards at the Houston National Cemetery by the cemetery's director prohibiting the entire veterans burial ritual, which mentions God; (3) restrictions placed upon the National Memorial Ladies at Houston National Cemetery by the cemetery's director prohibiting them from writing and saying "God bless you" to the families of deceased veterans; (4) closure of the Houston National Cemetery's Chapel and removal of its religious symbols, including a large Bible, a cross and a Star of David; and (5) the interference with the wishes of the families of deceased veterans at Houston National Cemetery by restricting religious content in burial services.

During the course of the litigation, the VA revealed the national policies it had in place authorizing the cemetery director to engage in religious discrimination. After almost five months of litigation, on October 19, 2011, U.S. Federal District Judge Lynn Hughes entered a consent decree resolving this litigation. This landmark consent decree restores the religious liberty rights of our clients and ended the religious hostility occurring at the Houston National Cemetery. This Consent Decree not only impacts religious freedom at Houston National Cemetery, but has national implications since the VA agreed to change the national policies under which the cemetery director acted.

Prepared Statement of Jay Sanders

My name is Jay Sanders. I am the incoming Commander for the Veterans of Foreign Wars ("VFW") District 4. The VFW District 4 is a nonprofit, volunteer veterans organization that oversees the 17 VFW Posts in Houston. Approximately 4,000 veterans are members of VFW District 4. Previously, I served as the Senior Vice Commander and the Junior Vice Commander of VFW District 4. I am also currently serving as the Commander of VFW Post 912. I have also served as the Junior Vice Commander of VFW Post 912 and as the Post Chaplain. I am a three-time winner of the National-Aide-de-Camp, which is an award given for outstanding service to the VFW.

I am a Navy Veteran; I served in the Navy from 1960 through 1964. I served as a Machinist Mate 3rd Class and served on the U.S.S. Bonhommie Richard CVA–31, an attack carrier. I received my eligibility for the VFW from August through October of 1964 where I served in the Tonkin Gulf Incident. I received the National Defense Citation Award from the Navy. I also received the Expeditionary Ribbon from the Navy.

For at least 20 years, the VFW District 4 Honor Guard, at the request of the family of the deceased, has honored veterans by performing the VFW Burial Ritual during private funeral services at Houston National Cemetery. VFW District 4 follows the official VFW Burial Ritual, which was written and approved by the VFW National Council of Administration. The VFW Burial Ritual includes a pre-written prayer by the VFW District 4 Honor Guard Chaplain and religious speech by the VFW Honor Guard Commander, which includes references to God.

Prior to 2011, National Cemetery officials never asked the VFW District 4 Honor Guard to remove any parts of its ritual, prohibited the honor guard from performing the entire ritual unless the families requested it, or required that special prayers be submitted to cemetery employees. Furthermore, the VFW ritual was never before divided between so-called "core elements" and "additions to the core elements." Prior to 2011, the government never interfered with private decisions made between the family, the funeral home, and the VFW District 4 Honor Guard.

In early 2011, the Director of the Houston National Cemetery met with the VFW District 4 Line Officers in her office. During the course of the meeting, the National Cemetery Director told us that she wanted the Department of Defense burial team to train the VFW burial team so that every burial team was trained the same way. The National Cemetery Director then stated that the VFW District 4 Honor Guard could no longer perform the entire VFW ritual, but could only do what she described as the "four core elements," the folding of the flag, the presentation of the flag, the rifle salute, and the playing of Taps. This removed all of the religious speech and references to God from the VFW Burial Ritual. The National Cemetery Director further stated that the VFW District 4 Honor Guard members could not provide texts of prayer to the family for consideration. She stated that if family members wanted a certain prayer read, they would have to submit the prayer to the cemetery in writing and cemetery officials would then give the prayer to the VFW District 4 Honor Guard to read.

In March 2011, the National Cemetery Director issued a policy entitled "Houston National Cemetery Honor Guard Guidelines." Among other things, this policy stated that funeral military honors should consist only of the core elements: the folding of

the flag, the presentation of the flag, the playing of Taps, and the rifle salute. It further stated that additions to these core elements can only be made at the request of the deceased's survivors. The policy also stated that if the family has a member of the clergy provide a religious service, then the honor guard team is not allowed to include religious elements, such as readings from scripture or prayer. It also stated that volunteer honor guards shall not provide the texts of any recitations to the deceased's survivors for consideration.

On the same day the policy was issued, the National Cemetery Director held training in the chapel for the VFW District 4 Honor Guard, which performs the Burial Ritual during the funerals. I noticed that the chapel was filled with boxes and appeared like it was being used for storage. During the training, Junior Vice Commander of the Honor Guard, Nobleton Jones asked if he could recite the following while handing the shell casings to the family:

> On behalf of the United States of America, a grateful nation, and the Veterans of Foreign Wars, I present you with these shell casings from the shots that were fired to honor our departed comrade. We ask that God grant you and your family grace, mercy, and peace.

The National Cemetery Director stated "no." Junior Vice Commander Jones then asked if he was allowed to hand the shell casings to the family. The National Cemetery Director said "no" unless the family specifically asked for the shell casings. The National Cemetery Director further stated that Mr. Jones was not allowed to have any direct contact with the family.

A few weeks later, the National Cemetery Director met with VFW District 4 line officers in her office. During the course of the meeting, the National Cemetery Director instructed the VFW District 4 line officers that that the VFW District 4 Honor Guard could not perform the entire ritual, unless specifically requested by the family in writing. The National Cemetery Director also stated that if the family wanted a VFW Honor Guard member to read any special prayer during the service, that the family would have to submit the text of the prayer to her, and then she would provide that prayer to the VFW Honor Guard. One of the VFW District 4 line officers, recognizing that these conditions are not included in the honor guard guidelines, requested to see this policy in writing. The National Cemetery Director agreed to provide these policies to us in writing, but never produced a copy of these policies.

These oral and written policies implemented in 2011 were not only unprecedented, but they substantially interfered with the private funeral services of our deceased veterans. What is spoken during a private funeral service is a very private and personal decision that the government has no right to interfere with. The families of the deceased veterans have been thankful and touched by the VFW Burial Ritual. It is a great honor for a veteran to have the VFW Burial Ritual performed, and the government has no business removing the religious portions of this nearly 100-year old burial ritual.

Prepared Statement of Kathryn A. Condon

Introduction

Mr. Chairman, Ranking Member McNerney and distinguished members of the Subcommittee, thank you for the opportunity to provide the Department of the Army's views on pending legislation.

Arlington National Cemetery is the preeminent national military cemetery, a place on the world stage where hundreds-of-thousands of American military service members lie in silent repose. At Arlington we uphold appearance and operational standards that are second to none and that are befitting the acts of bravery and sacrifice committed by those who rest into eternity within these hallowed grounds. It is a distinct honor to appear here before you and to testify as to the Army's position on H.R. 2355, "The Hallowed Grounds Act" and H.R. 5735, which encourages erecting "The Tomb of Remembrance."

In testifying before you this afternoon, I have the opportunity to reinforce the ideals we have worked hard to implement and strengthen at Arlington.

H.R. 2355

H.R. 2355 would amend Title 38, United States Code, to exclude individuals who have been convicted of committing certain sex offenses from receiving certain burial-related benefits and funeral honors which are otherwise available to certain vet-

erans, members of the Armed Forces, and related individuals, and for other purposes.

Arlington National Cemetery's primary mission is to honor the service of our nation's Veterans. The Army fully supports the intent of the proposed legislation to keep the most heinous of sex offenders from receiving the honor of interment or memorialization at Arlington National Cemetery. The Army also defers to the Department of Veterans Affairs on the applicability and implementation of the proposed legislation within the 131 National Cemeteries as those cemeteries are operated by that Department.

The Army cannot support H.R. 2355 as drafted. Specifically, the bill only precludes convicted tier III sex offenders from burial or memorialization at Arlington National Cemetery. There is no provision in the bill to prevent the interment or memorialization of a person found by an appropriate federal authority to have committed a tier III sex offense, but not yet convicted.

The Army looks forward to the opportunity to work with the Committee in an effort to resolve our concerns.

H.R. 5735

H.R. 5735 would provide for the establishment of a Tomb of Remembrance at Arlington National Cemetery for interment of cremated fragments of the remains of members of the Armed Forces killed in Afghanistan, Iraq, or a subsequent conflict when the fragments are unidentifiable by use of DNA testing or other means because of the condition of the fragments, are unclaimed, or are identified and authorized by the person designated to direct disposition of the remains for interment in such memorial.

The Army supports passage of H.R. 5735. One of the most dignified ways to affect the final disposition of unidentifiable remains is to release them into an ossuary, a receptacle for burying human remains. Arlington is the natural place to preserve the remains and memories of our unknown service members, using funds from the Office of the Secretary of Defense to erect an ossuary. We would execute these duties with the same dignity, honor, respect and compassion that we exhibit every day with all services conducted at Arlington.

As the capable staff at Arlington National Cemetery is well versed in the complexities of burials, we recommend H.R. 5735 be amended to allow the determination of burial eligibilities into the Tomb of Remembrance to be left with the Department of Defense, rather than articulated specifically in the legislation.

CONCLUSION

The Army fully supports the intent of H.R. 2355, however, passage as currently drafted would fail to give the Department the full range of options required to appropriately implement the intent of the legislation, and we would appreciate the opportunity to confer with the Committee.

Passage of H.R. 5735 would appropriately extend Arlington National Cemetery's role in the proper disposition of service members' remains in a way that presently is not practiced.

On behalf of Arlington National Cemetery and the Department of the Army, I would like to express our appreciation for the support that Congress has provided over the years.

Prepared Statement of Thomas Murphy

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the views of the Department of Veterans Affairs (VA) on several bills of interest to Veterans and VA. Accompanying me today is Richard Hipolit, Assistant General Counsel. VA does not yet have cleared views on H.R. 2720 or H.R. 5881, the "Access to Veterans Benefits Improvement Act." VA will forward views and estimated costs on these bills as soon as they are available.

H.R. 2355

Section 2411 of title 38, United States Code, prohibits the interment of the remains of certain persons in a cemetery in the National Cemetery Administration or Arlington National Cemetery. Section 2411 also prohibits honoring of the memory of those persons in a memorial area in those cemeteries. These prohibitions apply to persons who have been finally convicted of a Federal capital crime, persons who

have been finally convicted of a state capital crime, and persons who have been found, in administrative proceedings, to have committed a Federal or state capital crime but not to have been convicted by reason of unavailability for trial due to death or flight to avoid prosecution.

Section 2(a) of H.R. 2355, the "Hallowed Grounds Act," would add to section 2411 another category of persons subject to those prohibitions. Under this amendment, a person "who is a tier III sex offender for purposes of the Sex Offender Registration and Notification Act" could not be interred or honored in a national cemetery. Tier III is the most serious category of sex offenders in the Sex Offender Registration and Notification Act. Although the caption of section 2(a) refers to a bar to receiving certain funeral honors, section 2411 does not pertain to the provision of funeral honors as such, as that term is used to refer to ceremonial activities that accompany the interment of remains. Under section 2(b) of the bill, these provisions would apply to interments and memorializations that occur on or after the date of enactment. VA defers to the Department of the Army on the applicability of the proposed amendment to burial in Arlington National Cemetery, which is operated by that Department, and defers to the Department of Defense as to any effect on the provision of funeral honors, which the Department of Defense provides to eligible Veterans.

VA supports the goal of keeping the most heinous sex offenders from receiving the honor of interment or memorialization in VA cemeteries. VA has concerns about some practical issues that implementation of H.R. 2355, as currently drafted, would raise. VA would like to confer with the Committee, the Department of Justice (DOJ), and with VA's Veterans Service Organization partners following the hearing regarding the sensitive issues that it raises. VA would like to further investigate specific concerns with DOJ about the accuracy and reliability of information currently contained in State databases and whether those databases contain the information VA needs to make eligibility determinations and ensure consistent application for similar offenses across the Nation. In addition to the current accuracy of the databases, VA is also concerned by the fact that when sex offenders die, States are not required to maintain their records. This could give rise to circumstances that could necessitate labor-intensive searches and review in the implementation of the prohibitions and could reduce VA's ability to provide timely decisions on burial requests. VA will work closely with the Committee, DOJ, and other partners to attempt to resolve these questions.

H.R. 2996

Section 1117 of title 38, United States Code, authorizes VA to pay compensation to Persian Gulf Veterans with a qualifying chronic disability that became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War or during a presumptive period prescribed by VA, as authorized by section 1117(b). Under current regulations, that presumptive period will end December 31, 2016. Section 2(a) of H.R. 2996, the "Gulf War Syndrome 'Presumptive Illness' Extension Act of 2011," would prohibit the presumptive period prescribed by VA from ending earlier than December 31, 2018. Section 1117(f) defines the term "Persian Gulf veteran" for purposes of section 1117 as "a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War." Section 2(b)(1) of the bill would require VA to treat as a Persian Gulf Veteran eligible for compensation authorized by section 1117 any "veteran who served on active duty in the Armed Forces during Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn in the Southwest Asia theater of operations, Afghanistan, or other location that supported such an operation, as determined by the Secretary."

Section 1118(a) of title 38, United States Code, authorizes presumptions of service connection prescribed by VA regulations for certain illnesses found to have a positive association with exposure to a biological, chemical or other toxic agent; environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War. Section 1118(a)(3) requires VA to presume that a Veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has a pertinent illness to have been exposed to the agent, hazard, or medicine or vaccine associated with the illness in the prescribed regulations unless conclusive evidence establishes that the Veteran was not exposed to the agent, hazard, or medicine or vaccine. Section 2(b)(2) of the bill would require VA to treat as "a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War" a "veteran who served on active duty in the Armed Forces during Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn in the Southwest

Asia theater of operations, Afghanistan, or other location that supported such an operation, as determined by the Secretary."

VA does not object to prohibiting the end of the section 1117 presumptive period before December 31, 2018, but does not support extending the definition of "Persian Gulf veteran" to include service in Afghanistan or other location that supported such operations. The term "Persian Gulf veteran" as used in section 1117 was initially associated with Veterans who served during Operation Desert Shield and Operation Desert Storm in 1990–1991. Section 1117 was based on complex of chronic symptoms that developed among those Veterans, and 38 U.S.C. § 1118 addresses environmental hazards associated with service in that theater of operations. The National Academy of Sciences' Institute of Medicine, whose studies VA uses to determine which disabilities are associated with such service, has considered several hazards associated with that service, but those hazards are generally not associated with service in Afghanistan or in other locations supporting operations there. Consequently, VA does not support expanding the scope of sections 1117 and 1118 to include service in Afghanistan or in other support locations.

VA did not have sufficient time to accurately estimate costs for H.R. 2996 and will submit that information when it is available.

H.R. 4299

S. 4299, the "Quality Housing for Veterans Act," would amend 38 U.S.C. § 2102A(e) to extend through December 31, 2014, VA's authority to make Temporary Residence Adaptation grants to severely disabled Veterans who reside temporarily with family members. Currently, this authority will expire on December 31, 2012.

VA strongly supports the extension of this specially adapted housing authority. VA's legislative proposal submitted to Congress on May 19, 2011, included a proposal to extend this authority for ten years.

No benefit or administrative costs would result from enactment of H.R. 4299.

H.R. 5735

H.R. 5735 would require the Secretary of Defense to establish in Arlington National Cemetery a "Tomb of Remembrance" for the interment of the cremated fragments of the remains of certain members of the Armed Forces who were killed in Operation Enduring Freedom in Afghanistan, Operation Iraqi Freedom or Operation New Dawn in Iraq, or any war or contingency operation designated after the date of enactment. The bill would require the Secretary of Defense to transfer the funds necessary to cover the costs to be incurred in establishing the Tomb of Remembrance from the account of the Office of the Secretary of Defense to the Account of the Secretary of the Army used to fund the operation and maintenance of Arlington National Cemetery.

Because H.R. 5735 would not affect the operations of or programs administered by VA, VA defers to the Department of Defense and the Department of the Army as to the merits of the bill. Nevertheless, because VA now provides the headstones and markers used at Arlington National Cemetery for individual gravesites and columbaria niches and the markers placed in memorial sections of the cemetery, VA could incur a cost to provide a marker for placement on the Tomb of Remembrance. However, VA cannot estimate the potential cost until a final design is determined.

H.R. 5880

H.R. 5880, the "Disability Examination Access Improvement Act," would extend for five years VA's authority to provide compensation and pension examinations by contract examiners. Under current law, this authority will expire on December 31, 2012.

VA strongly supports the extension of this authority, which is essential for VA's ability to continue to provide prompt and high-quality medical disability examinations. If this authority is allowed to expire, VA will not be able to provide contracted disability examinations, and VA's priority goal to eliminate the disability claims backlog will be adversely affected. Extending the authority for another five years would enable VA to effectively leverage discretionary appropriations as part of our response to increasing demands for medical disability examinations. Contracting for examinations is essential to VA's objective of ensuring timely adjudication of disability compensation claims and allows the Veterans Health Administration to better focus its resources on providing needed heath care to Veterans.

No benefit or administrative costs would result from enactment of this bill. The Administration's Fiscal Year 2013 budget request included this proposal.

This concludes my statement, Mr. Chairman. I would be happy to entertain any questions you or the other Members of the Subcommittee may have.

Statement For The Record

Hon. Ted Poe (TX–02)

Chairman Runyan, Ranking Member McNerney and other Members of the Subcommittee, thank you for the opportunity to speak on behalf of HR 2720.

On June 28th of last year, constituents of mine came to meet with me about a big problem at the National Cemetery in Houston. The National Cemetery in Houston is the second-largest in the nation and the place where four Medal of Honor winners were laid to rest. These constituents were members of the VFW, American Legion, and the Houston branch of the National Memorial Ladies who had been serving veterans and their families as they laid their loved ones to rest. They said the Director of the Cemetery was not letting them exercise their First Amendment rights. They claimed the VA was censoring free speech and preventing the free exercise of religion at the National Cemetery in Houston. They said the chapel at the cemetery was closed. The Bible, the cross, and the Star of David were removed, and the chapel became a storage shed. They also said the Director of the cemetery, who was not a veteran, censored prayers and prohibited the religious ceremony during burial of veterans.

The Director defended herself by saying she was simply enforcing VA regulations that all speech be "inclusive." That meant this was not just an isolated incident, but a problem at the very highest levels and one that could be repeated unless a stop was put to it. The VFW sued the VA, and the VA naturally denied the whole thing. Recently, a Federal judge approved and agreed to an order requiring the chapel to be reopened, the Bible, the cross, the Star of David to be returned, and said that the VA must not interfere with free speech or the free exercise of religion at burials. Since then, the VA refused to fire the Director, instead choosing to transfer her back to Washington DC.

I am a cosponsor of HR 2720 because if passed, it would make sure travesties like the one I just described do not happen again. The bill is clear that the VA cannot limit the freedom of speech of our veterans, must provide veterans a place where they can worship, make sure that VSOs like the ones that came to me are allowed to serve veterans, and require that all cemetery directors are veterans.

It is ironic that Americans who have gone to war and fought for the principles of the Constitution, come home to face government hostility and the denial of their First Amendment rights. To deny anyone of their right to free speech or freedom of religion is unacceptable, but to deny our veterans, those who fought for those very freedoms we enjoy today, is inexcusable. The fact that this was done at funeral services, when families were saying goodbye to loved ones, makes it even worse. The First Amendment is sacred, funerals are sacred and when our veterans are buried, that soil becomes sacred. It is the constitutional duty of the federal government to protect speech and religion, not prohibit it. I urge this subcommittee to support HR 2720. That's just the way it is.

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