

Statement for the Record

of



Veterans for Common Sense

by

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National Chair and Director

Before the

**Senate Committee on Veterans’
Affairs**

Regarding a

Hearing on Pending Legislation

April 28, 2021

Thank you, Chairman Tester and Ranking Member Moran for this hearing regarding pending legislation. We are grateful for this opportunity to provide written testimony for the record.

Veterans for Common Sense is national veterans' organization focused on education and advocacy on behalf of veterans, military service members, and historically has helped to elevate veterans' voices in national policy discussions. Our national board of directors includes most of the leaders of the national Gulf War veterans organization formed in 1995. Our efforts resulted in the creation of critical Gulf War legislation and related measures, including the seminal Persian Gulf War Veterans Act of 1998 and the Gulf War provisions of the Veterans Programs Enhancement Act of that same year.

We appreciate the opportunity to share our views, today in particular, from the perspectives of Gulf War veteran advocates and veterans affected by Gulf War toxic exposures and the resultant Gulf War Illness. We hope that our testimony today can help illuminate lessons learned from the experiences of this often-overlooked cohort. We include eight (8) such "lesson learned"

In 1996, we developed a five-point plan at our first national conference of our coalescent national coalition of grassroots groups of ill Gulf War veterans and their loved ones. Our step-by-step plan included the following:

- 1) INVESTIGATION: an investigation into what happened to us Gulf War troops including to what we may have been exposed;
- 2) RESEARCH: medical research to determine the health outcomes associated with each exposure;
- 3) TREATMENT: effective treatment for the health outcomes associated with each exposure (later to be described as "evidence-based" treatment);
- 4) CLAIMS: an appropriate VA claims process to ensure that VA provided compensation for Gulf War-incurred disabilities that were long-term or permanent;
- 5) NEVER AGAIN: a pledge based on that of the Vietnam Veteran veterans who came before us – that never again should what happened to us be allowed to happen again.

In short, our plan was fairly simple to articulate: Investigation, Research, Treatment, Compensation, and Never Again. That plan was to serve as an early framework for our 1998 legislation. The 1998 legislation is described below, drawn from testimony we provided in 2016:¹

1998 PERSIAN GULF WAR VETERANS LEGISLATION

As I noted in my testimony of February 23 [2016], it took almost eight years after the war before Gulf War veteran' major legislative victory, with the enactment of the *Persian Gulf War Veterans Act of 1998* (Title XVI, PL 105-277) and the *Veterans Programs Enhancement Act of 1998* (PL 105-368, Title I—"Provisions Relating to Veterans of

¹ House Veterans' Affairs Committee, Subcommittee on Oversight and Investigations and Subcommittee on Disability Assistance and Memorial Affairs, March 15, 2016, "Twenty-Five Years After The Persian Gulf War: An Assessment Of VA's Disability Claims Process With Respect To Gulf War Illness": <https://archives-veterans.house.gov/submission-record/aanthony-hardie-gulf-war-veteran-and-director-veterans-common-sense>

Persian Gulf War and Future Conflicts”) – two landmark bills that set the framework for Gulf War veterans’ healthcare, research, and disability benefits.

For those of us involved in fighting for the creation and enactment of these laws, they seemed clear and straightforward, with a comprehensive, statutorily-mandated plan that would guarantee research, treatments, appropriate benefits, and help ensure that lessons learned from our experiences would result in never again allowing what happened to us to happen to future generations of warriors.

The legislation included a long list of known Gulf War exposures. VA was to presume our exposure to all of these, and then, with the assistance of the National Academy of Sciences (NAS), evaluate each exposure for associated adverse health outcomes in humans and animals. In turn, the VA Secretary would consider the reports by the NAS’s Institute of Medicine (IOM), “and all other sound medical and scientific information and analyses available,” and make determinations granting presumptive conditions. There was a new guarantee of VA health care. There would also be a new national center for the study of war-related illnesses and post-deployment health issues, which would conduct and promote research regarding their etiologies, diagnosis, treatment, and prevention and promote the development of appropriate health policies, including monitoring, medical recordkeeping, risk communication, and use of new technologies. There was to be an effective methodology for treatment development and evaluation, a medical education curriculum, and outreach to Gulf War veterans. Research findings were to be thoroughly publicized. To ensure the federal government’s proposed research studies, plans, and strategies stayed focused and on track, VA was to appoint a research advisory committee that included Gulf War veterans – presumably those who were ill and affected – and their representatives.

Instead, we learned that enactment of those laws was just another battle in our long war.

From the beginning, VA officials fought against implementing these laws, dragging their feet and upending their implementation.

In addition to the failures I noted in my February 23 [2016] testimony, the process for determining presumptions has failed to yield new presumptions without Congressional intervention. And, the laws aimed at providing a clear path for Gulf War veterans’ compensation by VA while awaiting the development of effective treatments has been not just problematic, but with extraordinarily high denial rates, as VA’s own data shows and as will be discussed below.

For Gulf War veterans, getting VA to approve a disability claim for a presumptive condition has been nearly impossible for most. And, as with all denied VA claims, the backlog of appealed claims is daunting and adds years to the process.

That leads now to a discussion of components drawn from Gulf War veterans’ experience and the lessons that can be learned for advancing new legislation related to toxic exposures:

A. Access to care. Prior to our 1998 legislation, the ability of veterans was very limited for accessing VA healthcare unless they had an already-approved claim for VA compensation or pension. Of course, medical evidence was required to win a compensation claim, but without access to healthcare, it was difficult to impossible to receive needed healthcare.

The 1998 legislation provided for two years of VA healthcare for combat veterans. Later legislation expanded that period to five years. Of great importance, the TEAM Act would significantly expand that care for veterans with toxic exposures.

LESSON LEARNED: 1) Granting VA healthcare access to veterans with toxic exposures is critical.

Treatment-focused Research. However, related to accessing healthcare and as I testified before a House Veterans' Affairs Subcommittee on Health hearing in 2007, while it was certainly possible "for Gulf War veterans to be seen at VA medical facilities, however, *being seen is not the same as being treated.*"² [emphasis added]

For many Gulf War veterans suffering the adverse health effects of Gulf War toxic exposures, science and medicine did not yet have answers for why they were sick or how to treat their illness. This remains the case not only for far too many Gulf War veterans, but also for many veterans with burn pits and other toxic exposures.

Even worse, health risk communications publicized by the Department of Defense (DoD) and VA consistently minimized the association between Gulf War service and the adverse health outcomes so many of us were experiencing. Similar minimization continues even through to the present: alleging no clear links have been found associating deployment or exposures or deployment with adverse health outcomes, "more research is needed," legislation seeking to resolve these issues is "premature". This persistent denial messaging only serves to anger the already injured veteran population.

While the story is too long to tell in this statement, eventually Gulf War veterans benefitted from the creation of the Gulf War Illness Research Program (GWIRP), one of the Congressionally Directed Medical Research Programs (CDMRP) created and funded by Congress through annual Department of Defense Health Agency appropriations. For reasons that have been provided in detail in past House Veterans' Affairs Committee hearings, it was and remains of critical importance that this program remains outside of VA. A Burn Pits Exposure topic area within the Peer Reviewed Medical Research CDMRP (PRMRP) and other disease- and exposure-specific research programs and approved topic areas remain of equally critical importance. We are deeply grateful to Congress for continuing to support these critically important medical research programs.

Also of critical importance is streamlining the process to speed successful research treatments and diagnostic findings to clinicians treating the patients who are affected. As effective

² H.HRNG 37-476, House Committee on Veterans' Affairs, Subcommittee on Health, "Gulf War Exposures", July 26, 2007: <https://www.govinfo.gov/content/pkg/CHRG-110hhrg37476/html/CHRG-110hhrg37476.htm>

treatments for Gulf War Illness and other toxic exposures and conditions are found, processes to add evidence-based treatments to VA's formulary and clinical practice must be enhanced.

LESSON LEARNED: 2) Funding treatment-focused medical research aimed at improving health and lives – and bench-to-bedside translational efforts to speed research successes to clinical care – is critically important to ensure veterans being “seen” by VA clinicians are provided with evidence-based healthcare that in fact improves their health and lives.

B. Framework for determining new presumptive conditions.

The 1998 Gulf War legislation provided a framework for determining presumptive conditions for VA compensation claims. That framework should have provided a clear path for additional deployment- or exposure-associated conditions to be determined by the VA Secretary, based on reports from the NAS, as “presumptive”.

Through this framework, the National Academy of Sciences, Engineering, and Medicine (NASEM) has released numerous literature reviews of Gulf War research. Most of these reports include conclusions regarding the strength of association between deployment to the Gulf War or Gulf War exposures and particular health outcomes.

The five categories are:

- **Sufficient evidence of a causal relationship**, that is, the evidence is sufficient to conclude that between being deployed to the Gulf War causes a health outcome.
- **Sufficient evidence of an association**; that is, a positive association has been observed between deployment to the Gulf War and a health outcome in humans.
- **Limited/suggestive evidence of an association**; that is, some evidence of an association between deployment to the Gulf War and a health outcome in humans exists.
- **Inadequate/insufficient evidence to determine whether an association exists**; that is, available studies are of insufficient quality, validity, consistency or statistical power to permit a conclusion regarding the presence or absence of an association.
- **Limited/suggestive evidence of no association**; that is, several adequate studies are consistent in not showing an association between deployment and a health outcome.

For Gulf War veterans, the bar for determining these conditions as “presumptive” has been too high and few conditions have met this bar.

Veterans for Common Sense has compiled a complete list³ of all conditions considered by NAS in the Gulf War and Health series, comprising over 400 exposures, along with their NAS categories of association. Nearly all fall in the lower three tiers of NAS strength of association determinations.

LESSON LEARNED: 3) A presumptive condition determination framework should set the bar at the “Limited/suggestive evidence of an association” level.

³ <http://veteransforcommonsense.org/wp-content/uploads/2020/02/Conditions-Associated-with-Gulf-War-exposures-consolidated-NAS-IOM-listing.pdf>

C. List of exposures. The Persian Gulf War Veterans Act of 1998 provided a list of 32 potential exposures for Gulf War veterans.

(A) The following organophosphorous pesticides: (i) Chlorpyrifos. (ii) Diazinon. (iii) Dichlorvos. (iv) Malathion. (B) The following carbamate pesticides: (i) Proxpur. (ii) Carbaryl. (iii) Methomyl. (C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis. (D) The following chlorinated hydrocarbons and other pesticides and repellents: (i) Lindane. (ii) Pyrethrins. (iii) Permethrins. (iv) Rodenticides (bait). (v) Repellent (DEET). (E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms: (i) Sarin. (ii) Tabun. (F) The following synthetic chemical compounds: (i) Mustard agents at levels below those which cause immediate blistering. (ii) Volatile organic compounds. (iii) Hydrazine. (iv) Red fuming nitric acid. (v) Solvents. (vi) Uranium. (G) The following ionizing radiation: (i) Depleted uranium. (ii) Microwave radiation. (iii) Radio frequency radiation. (H) The following environmental particulates and pollutants: (i) Hydrogen sulfide. (ii) Oil fire byproducts. (iii) Diesel heater fumes. (iv) Sand micro-particles. (I) Diseases endemic to the region (including the following): (i) Leishmaniasis. (ii) Sandfly fever. (iii) Pathogenic escherichia coli. (iv) Shigellosis.⁴

D. Concession of exposures. As directed by the law, VA contracted with the NAS for reviews of these exposures (and not limited to these exposures) and whether Gulf War veterans “may have been exposed.” In report after report in the NAS’s “Gulf War and Health” series, the NAS was unable to determine actual levels of exposure for Gulf War troops, including dose-response relationships, due in large part to flawed, inadequate, and incomplete troop location data, lost troop medical and other records, inadequate environmental sampling data, and so on.

Unfortunately for Gulf War veterans, the list of 32 exposures in the enacted legislation and resulting law⁵ did not rise to the level of an actual concession of exposures. Instead, the enacted legislation used indeterminate language: “may have been exposed”; “may have been exposed for purposes of any report under subsection...”.

The end result of the Gulf War framework has been deeply disappointing to Gulf War veterans: **no concessions of exposure** to any of the toxic and hazardous exposures identified by Congress in law (with the exception of nine rare endemic infectious diseases, which have been of little consequence for most veterans deployed to the theatre of operations) and essentially **no new presumptive conditions resulting from that framework**.

Thus, Gulf War veterans have never received the same benefit of a concession of exposures granted to Agent Orange veterans, and as would be granted -- to a more limited extent -- by pending toxic exposures legislation. That task probably falls to Congress to determine. To date, Gulf War veteran reliance on DoD and VA to concede exposures has not succeeded despite a

⁴ Persian Gulf War Veterans Act of 1998 [Title XVI, P.L. 105-277, “Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999”], Sec. 1603(d) [“Initial Consideration of Specific Agents”].

⁵ Persian Gulf War Veterans Act of 1998 [Title XVI, P.L. 105-277, “Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999”], Sec. 1603(d) [“Initial Consideration of Specific Agents”].

carefully articulated and well-intentioned framework enacted in the 1998 legislation.

LESSONS LEARNED: 4) Conceding exposures is critical, and that task probably falls to Congress to legislate.

E. Plausibility of etiology. An important method for determining the plausibility of adverse health outcomes has been the use of experimental models of exposures. These models have primarily involved the use of experimental rats and mice, though others have used cockroaches, cell lines, and machine learning.

We have provided extensive prior testimony on this critical aspect of any NAS or similar studies to determine the association between exposures (or deployment) and health outcomes.

See: “Statement for the Record of James Binns, Roberta White, Anthony Hardie, & Paul Sullivan for a September 23, 2020 Hearing of the Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs, Entitled: “Toxic Exposures: Examining Airborne Hazards In The Southwest Asia Theater Of Military Operations”.

LESSON LEARNED: 5) Animal studies of toxic exposure are critical to understanding plausible health outcomes associated with toxic exposures.

F. List of Presumptive Conditions.

Gulf War legislation enacted in 1994 provided for presumptive “undiagnosed illness” (UDX) claims. However, VA’s high rates of denial of these claims led to Congress’ 1998 Gulf War legislation to develop an elegant, science-based, framework for specifying new presumptive conditions for Gulf War veterans. Unfortunately, VA’s persistent high rates of denial of these presumptive UDX claims led to legislation enacted in 2001 making “medically unexplained chronic multisymptom illnesses” (MUCMIs) presumptive.

Tragically for Gulf War veterans, VA’s high rates of denial of Gulf War veterans’ presumptive claims for “undiagnosed illness” (UDX) and “medically unexplained chronic multisymptom illnesses” (MUCMIs) persist to the present time – along with similarly high rates of denial of Burn Pits Exposure-related claims.

By contrast, Vietnam veterans with presumed exposure to Agent Orange have fared better, with a long list of presumptive conditions now approved. It is noteworthy that many of these named presumptive conditions required legislation. Indeed, one of the bills now before the Committee would name additional Agent Orange presumptive conditions that VA has failed to make presumptive despite strong evidence and favorable NAS review.

While a framework for Vietnam veterans that presumes exposure to Agent Orange has led to some favorable determinations for new presumptive conditions, Congress has been required to legislate other named presumptive conditions.

LESSON LEARNED: 6) Named presumptive conditions are critical for toxic exposure veterans. 7) A science-based presumptive determination framework is of significant value. 8) Congress is likely still going to be called upon to act when the science is clear regarding associations of health outcomes with exposures when VA fails to take appropriate action on its own.

S. 437 – Veterans Burn Pits Exposure Recognition Act of 2021:

Veterans for Common Sense supports this legislation conceding exposure to four types of airborne hazards and toxic exposures for covered veterans.

We encourage the Committee, in considering this legislation, to expand the covered veterans in this legislation to be as complete as in other current toxic exposure legislation (including airspace and contiguous waters veterans, so as not to create a new class of Blue Water Navy/Air veterans), such as the *Presumptive Benefits For War Fighters Exposed To Burn Pits And Other Toxins Act*.

We express concern regarding the inclusion of the “causal” terminology in the bill as currently drafted: “...the Secretary shall request a medical opinion as to any *causal* link between the disability and a toxic substance, chemical, or hazard set listed in subsection (c)...” [emphasis added]. We are concerned this may be interpreted by VA as parallel to the NAS causation standard of association, an impossibly high bar to meet.

Veterans for Common Sense is grateful to Senator Sullivan and Senator Manchin for their introduction of this legislation, and to the many Senators who have cosponsored it.

Veterans for Common Sense is also deeply grateful to the Disabled American Veterans (DAV) for their leadership efforts in seeking to improve disability claims outcomes for veterans with toxic exposures.

S. 444 – AUTO for Veterans Act:

Currently, veterans and service members eligible for the VA automobile allowance and adaptive equipment program as the result of specified service-connected disability or impairment may not receive more than one automobile or other conveyance under the program. Motor vehicles do not last forever.

S. 444 would allow for eligible veterans and service members to be provided with an additional automobile or other conveyance under this chapter every 10 years.

Accordingly, **Veterans for Common Sense strongly supports S. 444, the *AUTO for Veterans Act*.**

Veterans for Common Sense is sincerely grateful to Senator Collins, Senator Manchin, Senator Boozman, Senator Blunt, and Senator Hassan for their introduction of the commonsense *AUTO for Veterans Act*, which is of critical importance to the affected veterans.

Veterans for Common Sense also commends Paralyzed Veterans of America (PVA) for their instrumental advocacy in supporting this legislation.

S. 454 — *K2 Veterans Care Act of 2021:*

Veterans for Common Sense supports this legislation conceding exposure to certain hazards and toxic exposures for covered veterans. However, we express concern that some of these, like Depleted Uranium, have previously been the subject of NAS reviews without favorable consideration and “more study is needed”-type recommendations.

Veterans for Common Sense is grateful to Senator Blumenthal, Senator Baldwin, Senator Brown, Senator Menendez, and Senator Feinstein for their introduction of this legislation.

S. 565 — *Mark Takai Atomic Veterans Healthcare Parity Act of 2021:*

Veterans for Common Sense supports efforts to provide full eligibility for VA healthcare eligibility and service-connected disability compensation benefits to all Atomic Veterans.

Veterans for Common Sense also supports efforts, including by the National Association of Atomic Veterans (NAAV), to authorize, create, and award, including posthumously, an Atomic Veteran Service Medal to all Atomic Veterans.

According to the NAAV, Atomic Veterans include all of the following:

“Atomic Veterans were members of the United States Armed Forces who participated in atmospheric and underwater nuclear weapons tests from 16 July 1945 to 30 October 1962. They also include veterans who were assigned to post test duties, such as “ground zero” nuclear warfare maneuvers & exercises, removing radiation cloud samples from aircraft wing pods, working in close proximity to radiated test animals, de-contamination of aircraft and field test equipment, retrieval and transport of test instruments & devices, and a host of other duty assignments that provided an opportunity for a radiation exposure & contamination event. Also included are military personnel who were a part of the Occupation Forces assigned to Hiroshima and Nagasaki, Japan soon after the detonation of Atomic-Bombs over those respective cities, and those American prisoners of war (POW’s) who were housed in close proximity to those cities.”

“There is a second group of veterans who may have been involved in radiation exposure events. These include post test events related to nuclear weapon devices detonated underground or in shafts (after 1962) that may have provided a radiation exposure event, or those [whose] duties involved regular use of radiation producing equipment or

processes, such as power plant technicians aboard nuclear powered Aircraft Carriers and Submarines, X-ray technicians, and those veterans assigned to the Enewetak Atoll radiation clean-up projects.”⁶

According to a 2019 *Stars and Stripes* article:

“We were experimental subjects who did not give our advised consent to be experimental subjects,” said [Atomic Veteran Linclon] Grahlfs, 96, a retired sociology professor and author of the book “Voices From Ground Zero: Recollections and Feelings of Nuclear Test Veterans.”

At least 200,000 U.S. troops participated in the tests and cleanup operations during World War II and later in the Pacific Ocean, the Nevada desert, New Mexico and the Atlantic Ocean. They took the human brunt of deadly ionizing radiation that contaminated nearby lands, water and communities. Even today, the wide-ranging implications of hundreds of tests conducted from the 1940s until the 1960s and cleanup operations that followed in the late 1970s has yet to be fully understood. In all, the U.S. has conducted more than 900 such tests.

Until 1996, the atomic vets were sworn to silence, forced to keep their burdens from their families, their friends and doctors. They had limited records and medical help for their illnesses, and faced a threat of prison if they revealed the secret too soon.⁷

It is unclear whether all Atomic Veterans who are still living know that the *Nuclear Radiation and Secrecy Agreements Act*, which bound these veterans to secrecy regarding the operations that exposed them to radiation, was repealed. S. 565 would expand Atomic Veteran-related benefits to veterans who participated in the “Cleanup of Enewetak Atoll during the period beginning on January 1, 1977, and ending on December 31, 1980”.

In keeping with the goals stated above, **Veterans for Common Sense strongly supports S. 565, the Mark Takai Atomic Veterans Healthcare Parity Act of 2021.**

Veterans for Common Sense is grateful to Senator Smith, Senator Tillis, Senator Leahy, Senator Hirono, Senator Klobuchar, Senator King, Senator Warren, Senator Wyden, Senator Van Hollen, Senator Coons, Senator Merkley, Senator Markey, Senator Sinema, Senator Blumenthal, Senator Collins, and Senator Baldwin for their introduction of this legislation.

Veterans for Common Sense commends the tireless and unwavering efforts of the National Association of Atomic Veterans, on behalf of the entire cohort of Atomic Veterans they represent, to achieve justice, healthcare, benefits, and recognition for these long-overlooked veterans. As our national works to achieve justice for veterans with toxic exposures, it is of great importance that these Atomic Veterans veterans are finally awarded all the measures of justice that they have long sought.

⁶ NAAV website: <https://www.naav.com>

⁷ *Stars and Stripes*, “Conspiracy of silence: Veterans exposed to atomic tests wage final fight,” by Claudia Grisales, June 16, 2019: <https://www.strips.com/news/special-reports/conspiracy-of-silence-veterans-exposed-to-atomic-tests-wage-final-fight-1.585789>

S. 657 – A bill to modify the presumption of service connection for veterans who were exposed to herbicide agents while serving in the Armed Forces in Thailand during the Vietnam era, and for other purposes:

Veterans for Common Sense supports this legislation, which would make reduce the burden of proof necessary for certain veterans exposed to Agent Orange.

Veterans for Common Sense thanks Senator Boozman, Senator Tester, Senator Wyden, Senator Gillibrand, Senator Warren, Senator Portman, Senator Hassan, and Senator Braun for their leadership in introducing this legislation.

S. 810 – *Fair Care for Vietnam Veterans Act of 2021:*

The *Fair Care for Vietnam Veterans Act* would beneficially add two additional conditions to the list of named conditions already approved as “presumptive” for Vietnam War and other veterans presumed to be exposed to Agent Orange.

A 2015 study of the Ranch Hand cohort of Vietnam veterans published in a peer-reviewed *Journal of the American Medical Association* found a 2.4-fold increased risk for Monoclonal Gammopathy of Undetermined Significance (MGUS) in Ranch Hand veterans versus comparison veterans after adjusting for age, race, and other relevant factors. The study authors concluded: “Operation Ranch Hand veterans have a significantly increased risk of MGUS, supporting an association between Agent Orange exposure and multiple myeloma.”⁸ According to a press release by the National Academy of Sciences, Engineering, and Medicine (NASEM) for the release of its, “Agent Orange: Update 11 (2018)” report, “MGUS is a clinically silent condition that is a precursor to the cancer multiple myeloma, but only an estimated 1 percent of MGUS cases progress to multiple myeloma each year.”⁹

NASEM’s *Update 11 (2018)* also upgraded its conclusions regarding the strength of association between exposure to the chemicals of interest and hypertension. Previously, NASEM had rated hypertension as, “*limited/suggestive evidence of an association*”, the middle tier of its five-tier rating system for strength of association. In *Update 11 (2018)*, NASEM upgraded its rating regarding hypertension in Vietnam War veterans to, “*sufficient evidence of an association*,” the second-highest rating, based on the available published scientific evidence.

This MGUS study was published than half a decade ago and the NASEM report more than two years ago, but VA has yet to take action to make these conditions presumptive for veterans exposed to Agent Orange. It is notable that Congressional action is once again required to add these presumptive conditions via legislation, conditions which have already been found by science to be of greater prevalence in Vietnam veterans than comparison veterans.

⁸ Ola Landgren, Youn K Shim, Joel Michalek, Rene Costello, Debra Burton, Norma Ketchum, Katherine R Calvo, Neil Caporaso, Elizabeth Raveche, Dan Middleton, Gerald Marti, Robert F Vogt Jr, *JAMA Oncol*, “Agent Orange Exposure and Monoclonal Gammopathy of Undetermined Significance: An Operation Ranch Hand Veteran Cohort Study,” 2015 Nov;1(8):1061-8. <https://doi.org/10.1001/jamaoncol.2015.2938>.

⁹ <https://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=25137>. See: National Academies of Sciences, Engineering, and Medicine. 2018. Veterans and Agent Orange: Update 11 (2018). Washington, DC: The National Academies Press. <https://doi.org/10.17226/25137>.

In light of VA's failure to act on the published scientific evidence regarding the excess prevalence of these conditions among Vietnam War veterans, **Veterans for Common Sense strongly supports S. 810, the *Fair Care for Vietnam Veterans Act of 2021*, to add hypertension and Monoclonal Gammopathy of Undetermined Significance (MGUS) as Agent Orange presumptive conditions.**

Veterans for Common Sense is sincerely grateful to Senator Tester, Senator Wyden, Senator Brown, Senator Durbin, Senator Cortez Masto, Senator Menendez, Senator Schumer, Senator Casey, Senator Leahy, Senator Manchin, Senator Blumenthal, Senator Coons, Senator Murray, Senator Klobuchar, Senator Hirono, Senator Smith, and Senator Booker for introducing the *Fair Care for Vietnam Veterans Act* to add named "presumptive" conditions for VA disability compensation for Vietnam War veterans.

Veterans for Common Sense also commends Vietnam Veterans of America for its enduring leadership in ensuring that health conditions identified as greater in prevalence among Vietnam Veterans continue to be added as named presumptive conditions by whatever means necessary for the Vietnam War veterans VVA so powerfully represents.

S. 927 – Toxic Exposure in the American Military Act (TEAM) Act:

Veterans for Common Sense strongly supports the expansion of access to VA healthcare that would be granted under this legislation.

Veterans for Common Sense strongly supports the provision of this legislation that would set the bar for NAS strength of association determinations at the "Limited/suggestive evidence of an association" level.

Veterans for Common Sense cautiously supports this bill's creation of a framework for determining presumptive conditions but given the experience of Gulf War veterans with a similar enacted framework, we are understandably concerned about whether such a process will in actuality result in new, fair, and timely presumptive conditions consistently being added for veterans with those conditions.

Veterans for Common Sense strongly supports the creation of the advisory and oversight body described in this legislation. While the Research Advisory Committee for Gulf War Illnesses (RAC) created in Gulf War legislation enacted in 1998 did an excellent job in its mission, ultimately, its scope and membership were slashed by VA. Legislation to properly restore the RAC, which passed the House with unanimous consent, had a new structure and process for naming members that is somewhat similar to that contained in the TEAM Act.

We express concern that language in the current draft of the legislation would not allow for the appropriate and necessary consideration by the NAS of animal studies modeling toxic exposures and health outcomes in those animals. That language is as follows: "...that a positive association exists between the exposure of humans to a toxic substance and the occurrence of a disease in humans..." Such animal studies can be critical for understanding plausible health

outcomes in humans, particularly in cases of toxic or hazardous exposures where there is a paucity of human health outcomes data and it would be unethical to conduct experiments exposing humans to such toxins or hazards for scientific evaluation purposes.

Veterans for Common Sense thanks Senator Tillis, Senator Hassan, Senator Moran, Senator Klobuchar, Senator Blackburn, Senator Baldwin, and Senator Capito for their leadership in introducing this legislation. Veterans for Common Sense commends the TEAM Coalition, led by the Wounded Warrior Project, for its collaborative efforts in developing these legislative proposals.

S. 952 – Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act:

In the strongest possible terms, Veterans for Common Sense supports the list of named presumptive conditions in this legislation, including respiratory conditions, cancers, and the conditions already presumptive for Agent Orange veterans.

Veterans for Common Sense also very strongly supports the comprehensiveness of covered veterans in this legislation, which includes veterans awarded various service medals for their Global War on Terrorism (GWOT) service, and extends back to August 1990 and veterans awarded the Southwest Asia Service Medal (SWASM), Armed Forces Expeditionary Medal (AFEM), and other service medals.

As we previously stated publicly, For many veterans with toxic exposures, there has been -- for them -- a clear timeline connecting their toxic exposures during their military deployments to the debilitating health outcomes that followed them home. Far too many veterans who were exposed to open burn pits and a veritable toxic soup have developed terrible respiratory conditions, Parkinson's and other diseases, and cancers, including the brain cancer that has taken so many of their lives. This critically important legislation will provide the missing link to help these veterans. Indeed, this is the only current, major toxic exposure legislation to actually name presumptive conditions for VA disability claims rather than lay out a bureaucratic process that relies on trusting VA to do the right thing -- the same VA that currently denies Gulf War and Burn Pits-related claims at 80 percent denial rates. In this year of the 30th anniversary of the beginning of the Gulf War (Operation Desert Storm), we are deeply grateful to Senator Gillibrand and the many powerful cosponsors for ensuring this legislation will help so many veterans who served, including Gulf War, other pre-9/11, and post-9/11 veterans alike.”

Veterans for Common Sense profoundly thanks Senators Gillibrand and Rubio for their leadership in introducing this legislation in the Senate, and for Representatives Ruiz and Fitzpatrick for introducing a companion bill in the House. Veterans for Common Sense wholeheartedly commends Burn Pits 360, Jon Stewart, John Feal, and the many supportive organizations involved for their efforts on this crucial legislation.

S. 1039 – *Improving Benefits for Gulf War Veterans Act:*

Veterans for Common Sense strongly supports this bill's provision to make permanent the period for filing Gulf War related claims. VA has provided multiple five-year extensions to date, and we understand is currently working on another. However, medical research has consistently shown that the health of veterans with Gulf War Illness is not improving and is likely worsening. After 30 years, there is little justification that any more study is needed as to whether Gulf War veterans are ill.

Veterans for Common Sense strongly supports the provision in this legislation that would extend eligibility to VA benefits and healthcare currently available to most Gulf War veterans to also include veterans with qualifying service in Afghanistan, Egypt, Israel, Jordan, Syria, and Turkey. Veterans for Common Sense published an analytical issue paper in 2017 which may be of interest to the Committee regarding Gulf War veterans issued the Southwest Asia Service Medal (SWASM) but not included as Gulf War veterans by VA for healthcare and benefits purposes.¹⁰ It remains unclear to us why these Gulf War veterans awarded the SWASM for their Gulf War service were not initially included by VA in 1994 as Gulf War veterans. We have long sought a remedy for these veterans and are grateful for its critically important inclusion here.

We note that as currently drafted, this legislation would not also grant coverage to veterans with service in the airspace above or the contiguous waters of these added six countries. This is the result of the technical interplay between the wording added to 38 USC 1117 by this legislation and 38 CFR 3.317, which includes the current geographic definition for covered veterans. We would be happy to work with the Committee on this issue.

Veterans for Common Sense strongly supports the reduction in threshold for eligibility provided by this bill.

Veterans for Common Sense strongly supports the bill's requirement for a single Disability Benefits Questionnaire (DBQ) for Gulf War Illness symptoms and issues. Since the 1994 enactment of legislation making "undiagnosed illnesses" (UDX) presumptive for VA compensation claims, VA's high denial rates of these claims have persisted. VA's denials of presumptive "medically unexplained chronic multisymptom illness" (MUCMI) claims remain a serious issue for the denied veterans. A 2017 GAO report and related House Veterans' Affairs Committee hearing at which we testified showed a roughly 90 percent denial rate of UDX claims and a denial rate nearly as high for MUCMI claims.¹¹ VA is no longer publicizing benefits utilization data, including claims grant and denial rates, so there is no reason to believe there have been substantial improvements.

Given the persistent high rates of denial of GWI claims, Veterans for Common Sense has recommended the creation of a symptom-based schedule of ratings for symptoms-based disabilities like Gulf War Illness. We have suggested that it be modeled at least loosely upon the current schedule of ratings for traumatic brain injury (TBI), with "buckets" of types of symptoms

¹⁰ <http://veteransforcommonsense.org/wp-content/uploads/2019/05/ISSUE-Resolving-Differences-in-Definitions-of-Persian-Gulf-War-Veteran-.pdf>

¹¹ <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=106223>

and a points-based system for rating disability. Such a schema could also be applied to veterans with toxic exposure-related symptoms that do not current (or do not yet) meet diagnostic criteria for existing diseases. Again, we would be happy to work with the Committee in this regard.

Veterans for Common Sense strongly supports the bill's provisions regarding training for VA personnel. We recommend that the bill's language be expanded to cover VBA benefits personnel in addition to the VA health care personnel currently specified in the bill.

In keeping with the goals and recommendations stated above, **Veterans for Common Sense strongly supports S. 103, the *Improving Benefits for Gulf War Veterans Act***. Veterans for Common Sense is deeply grateful to Senator Menendez for the introduction of this legislation. Veterans for Common Sense is also deeply grateful to the Veterans of Foreign Wars (VFW) for the strong support of this legislation.