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17 November 2013

Mr. Chuck Hagel
The Honorable Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1400

Subject: Combat Infantryman badge (CIB)

Dear Secretary Hagel,

We represent WWII veterans who survived and/or next of kin of veterans involved in battles at Bataan and Corregidor. The battles occurred during the period of 7 December 1941 to 10 May 1942. Substantial numbers were killed in action or lost their lives in captivity on the Philippine Islands. Included, are those thousands of prisoners of war who perished at an untold number of locations in Asia, and the Pacific Ocean where ships transporting them were mistakenly attacked and sunk by American aircraft and/or submarines. We would appreciate if our presence is accepted to honor the particular veterans involved by describing while exposing evidence of the unbalanced scale of recognition from *misinterpreting and/or ignoring particular guidelines which apply to veterans of these specific battles.*

We wish to reveal the confusion by many active duty and/or civilian employees of the U.S. Army when involved with the military method of awarding the Combat Infantryman badge (CIB) post WWII to January 2003 in accordance with guidelines specifically pertaining to the time period of battles. According to an individual directly involved with requests for the CIB have been denied the past eight years based on circumstances listed in guidelines *after* the fact.

The earliest request located for the CIB is dated 2 June 1948. Retired USAF Colonel Harrison Henry Richards (deceased) was denied based on circumstances listed in AR 600-70, dated 15 April 1948.

A Disposition Form, dated 10 March 1952 describes recommendations by General MacArthur. Even though General MacArthur recommended that the Combat Infantryman badge be awarded to those who acted as Infantry in defense of the Philippines, the Board recommended and its recommendations were approved by Assistant Chief of Staff, G-1, that the award be confined to officers, warrant officers, and enlisted men assigned to Infantry Regiments, Infantry Battalions, and elements thereof designated as infantry in Tables of Organization and Equipment.

Circumstances listed in the above paragraph are nearly identical to War Department Circular (WDC) 408, dated 17 October 1944, and AR 600-70, dated 15 April 1948 which was applied in the case of Colonel Richards.

An Information Paper (no date) located in a former POW's biography described the procedure to apply for the Bronze Star Medal (BSM) [with] CIB. Involved are veterans of 21st and 34th Pursuit Squadrons, among other units. Veterans were required to submit a letter to the U.S. Army Reserve Components Personnel and Administration Center located in St. Louis. The response involved a DD Form 215 which corrects items 31 and 33 of the separation report to show the addition of the awards of the Combat Infantryman Badge and Bronze Star Medal.

A Memorandum, dated 18 March 1988, "Subject: Awards for Soldiers in the Philippines". It identified an AAF veteran of the 34th Pursuit Squadron (one of the units mentioned on the Information Paper), 24th Pursuit Group. The former Sergeant Hayne W.J. Dominick fought the enemy as an infantryman, meeting circumstances listed in War Department Circulars (WDC's) 269, dated 27 October 1943 and 105, dated 13 March 1944. The latter amended the former WDC and made retroactive on or after 6 December 1941. There are no circumstances requiring the combatant to be assigned to an Infantry unit or possess the military occupational specialty (MOS) of an infantryman.

[Please note: WDC 105, page 2, para IV states (in part) the Combat Infantryman badge may be awarded to *any* infantryman].

An alternative to awarding the CIB to Army Air Force (AAF) veterans was requested by the Secretary of the Army. LTC Hickman suggested to award the BSM en masse to every soldier who fought on Luzon and Corregidor from 7 December 1941 to 10 May 1942. The Secretary approved this alternative.

There is no doubt use of the Uniform Code of Military Justice (UCMJ), Article 92. Failure to obey order or regulation was not followed by LTC Hickman. Furthermore, according to Executive Order 9075, dated February 26, 1942, the Secretary of War is hereby authorized and directed to issue a citation in the name of the President of the United States, as public evidence of deserved honor and distinction, to any organization, unit, detachment, or installation of the Army of the United States or the Army of the Philippine Commonwealth for outstanding performance of duty in action on or after December 7, 1941.

According to War Department Army General Order (WD AGO) 22-42 as amended by Department of the Army General Order (DA GO) 46-48 states "Citation of units of both military and naval forces of the United States and Philippine Governments-As authorized by Executive Order 9075 (sec II, Bull II, W. D., 1942) a citation in the name of the President of the United States, as public evidence of deserved honor and distinction, is awarded to all units of both military and naval forces of the United States and Philippine Governments engaged in the defense of the Philippine Islands since 7 December 1941.

[A. G. 210.54 (4-12-42)]"

Every member of the military who participated in the campaign since 7 December 1941 are entitled at least one Distinguished Unit Citation (DUC) aka Presidential Unit Citation (PUC).

Every recipient is entitled the BSM. (Ref: Army Regulation (AR) 600-8-22, and Code of Federal Regulations).

The Memorandum also states “there were some Navy in the Philippines and one regiment of Marines which was under the operational control of the Army between 7 December 1941 and 10 May 1942. Every Secretary of the Navy has rejected appeals from its veterans for award of the mass BSM. The Navy has not seen fit to follow the Army and Air Force on this matter.”

Ref: Under the provisions of NAVMC 2922, MMMP, dated 1 March 2006, the 4th Marine Regiment was awarded the following:

1. Army Presidential Unit Citation,
For action in the Philippines 7 Dec 41 - 10 May 42.
2. Army Presidential Unit Citation w/1 Bronze Oak Leaf Cluster,
For action in defending Manila, 14 Mar - 9 Apr 1942.

All personnel (including Navy and Army) assigned to the 4th Marine Regiment are entitled to the PUC w/OLC. Again, all recipients of the DUC aka PUC are entitled the BSM.

A newspaper article dated January 6, 2003 describes the presentation of the CIB to a WWII veteran by Congressman Patrick Kennedy (RI). The AAF veteran, James Brennan (now deceased), was a former member of the Provisional Air Corps Regiment. [The Army possesses sole authority to award the CIB].

Please note: Today, the Army Board for Correction of Military Records, the Review Boards Agency located in the Pentagon, and Awards and Decorations Branch-Policy located at Ft. Knox, Kentucky disapprove the CIB to all former members of PACR, and other veterans of Bataan and Corregidor based on similar circumstances from guidelines dated *after* the fact identified in the letter involving Colonel Richards, and Disposition Form.

Finally, the most recent request involved 95 year old retired Army Lt. Colonel Edwin P. Ramsey. He was denied the BSM [with] CIB last year based on guidelines dated 1944, 1945, 1948, and during the Vietnam era. An appeal was submitted, but denied last February. The veteran was assigned to the 26th Cavalry Regiment, one of the first units to face the invasion by the enemy on Luzon. Ramsey escaped to mobilize and later lead as many as 40,000 guerrilla fighters in central Luzon until liberation. General MacArthur presented the Distinguished Service Cross for his actions in combat. Yet, not eligible for the CIB contrary to the only two War Department Circulars which apply to veterans during the campaign. The veteran died a month later.

Records reveal other commanders of guerrilla forces were awarded the Combat Infantryman badge. The following are just two examples:

1. William Bowen enlisted on 1st February 1930. He was later paced as Technical Sergeant with 228th Signals Corps on the Philippines. When the Japanese invaded the Philippines, Bowen was the Communications Chief in Camp John Hay when Troop C, 26th Cavalry Regiment retreated through the Camp and Bowen joined them. He and the Troop started a guerilla force on the Philippines. Lt. Colonel Bowen is a recipient of the DSC and CIB among other awards and decorations. He lost his life in captivity.

2. Early in 1941, Wendell Fertig was on leave in Manila from his job on Samar. Due to his military classes in college, he held a reserve commission in the United States Army Corps of Engineers. As a result, he was called to duty on 1 June 1941, as a Captain (reserve) in the Army Engineers as the United States prepared for war in the Pacific theater. At that time, U.S. analysts believed that the Philippines might be one of the first areas Japan would attack. Fertig's first assignments were as Assistant Engineer, Bataan Field Area, then as Engineer. He was promoted to an Army Colonel, wartime guerrilla General, and overall guerrilla commander on Mindanáo. He was awarded the DSC and CIB among other awards and decorations. He is deceased.

An attorney, (retired USAFR Colonel Theodore C. Jarvi, former JAG Officer) provided a five page letter of legal opinion regarding a different case where the military applied a 1951 policy to a 1945 event. The following is a portion of his letter:

ISSUE - APPICABILITY OF LATER POLICY

In fact application of a later policy to facts surrounding a WWII event constitutes ex post facto application of law, specifically prohibited in the US Constitution by the prohibitions in Article 1, Section 9, Clause 3, against bills of attainder and ex post facto laws. Awards and decorations, like other rights, must be considered as of the date that the benefit was earned. Application of different standards, arising out of different sensibilities in different wars, wreaks havoc on any sense of equal application of laws.

We have been very brief with our presentation of the unbalanced scale of recognition involving the BSM and CIB. Records reveal hundreds (if not thousands) of WWII veterans who served in the Pacific Theater of Operations (PTO) and European Theater of Operations (ETO) [Battle of the Bulge] were assigned to various units and/or did not possess the MOS of an infantryman, took up arms, and fought the enemy as infantrymen. They earned and were awarded the CIB. However, others are denied the CIB contrary to applicable guidelines, previous procedures applied by the USA, USAR, and history of recipients they fought alongside.

Again, several of us involved would be honored to personally present the evidence. At this time, we would also describe the events which took place to cause substantial numbers of combat veterans who were killed in action, lost their lives in captivity or survived the war only to go to their graves being denied full recognition by their country.

We are looking forward to the course of action your office is interested to take to correct this injustice.

The signatures below are for the purpose to support full recognition to all veterans and next of kin of veterans of Bataan and Corregidor.