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Vets battle VA on post-Vietnam Agent Orange claims

Say C-123 'spray birds' caused illnesses long after war



One of the 18 C-123 aircraft used to spray Agent Orange in Vietnam that were scrapped in 2010 at the Davis-Monthan Air Force Base, Ariz., 'boneyard' because of concerns that they were too contaminated with chemical residue to permit commercial resale. (Air Force)

Retired Air Force Lt. Col. Paul Bailey never fought in Vietnam, Laos or Cambodia, where many U.S. troops were exposed to the toxic defoliant Agent Orange.

But last July, Bailey, then 67, won a hard-fought and groundbreaking battle when the Veterans Affairs Department finally approved his claim that Agent Orange caused his prostate cancer and metastatic pelvic cancer.

The C-123 aircraft that were used to spray Agent Orange in the war zone were kept in the operational inventory until 1982, years after the last U.S. troops came

home from Southeast Asia. Though Bailey never served in the combat zone, he was among the roughly 2,100 pilots and aircrew members who flew aboard the planes in those postwar years.

The “spray birds,” as they were known, were stripped of their chemical dispensing gear after the war and sent to reserve bases in Massachusetts, Ohio and Pennsylvania. VA contends that exposure to residual Agent Orange inside the aircraft is unlikely, and has denied numerous claims for compensation and benefits from veterans who served on C-123s.

Bailey became the first postwar veteran to win a claim for exposure to Agent Orange from a C-123 without having to file an appeal. But his victory proved bittersweet: He got the news while in home hospice care, stricken by the cancer that was eating away at him.

“My cancer has spread to the bones throughout my back, shoulder, spine and upper pelvis,” Bailey wrote to another C-123 pilot. “Let’s continue to pray for each other as that seems to be the best treatment for both of us.”

Denying the science

For years, an advocacy group of former pilots and crew members led by retired Air Force Maj. Wes Carter has sought to be included among those presumed to be exposed to Agent Orange as a result of their military service.

Backed by letters of support from researchers at Columbia University, the National Institute for Environmental Health Sciences and the Oregon Health and Sciences University, the veterans have lobbied VA, Capitol Hill and the Defense Department for recognition.

A 2012 analysis by the Center for Disease Control and Prevention’s Agency for Toxic Substances and Disease Registry found that swabs taken of the planes in 1994 tested 182 times higher for dioxin than the screening values established by the Army Center for Health Promotion and Preventive Medicine — samples that represent a 200-fold excess cancer risk, according to then-director Christopher Portier.

But the veterans’ appeals continued to fall on deaf ears at VA.

Their efforts recently received another shot in the arm: In an article published in Environmental Research, scientists from Columbia, OHSU, Boston University School of Public Health and elsewhere said the potential for dioxin exposure among the C-123 crews “is greater than previously believed, and inhalation, ingestion and skin absorption were likely to have occurred during the post-Vietnam era.”

Using algorithms developed by the Army and data from the 1994 samples, researchers compared estimates with available guidelines and standards.

“Our findings ... contrast with Air Force and VA conclusions and policies,” said Jeanne Stellman of Columbia University. “The VA concept of a ‘dried residue’ that is biologically unavailable is not consistent with widely accepted theories of the behavior of surface residues.”

VA still contends that those who believe they were exposed must show a “factual basis that they were exposed in order to receive disability compensation” — and VA “does not presume exposure” for C-123 crewmembers like Bailey.

“VA will continue to review new scientific information on this issue as it becomes available,” spokeswoman Genevieve Billia said.

But it has asked the Institute of Medicine, the health arm of the National Academies, to review the possible health effects. A report is expected in late 2014.

Millions of gallons

From 1962 to 1971, C-123s sprayed more than 10 million gallons of Agent Orange on enemy encampments and the dense jungles of Southeast Asia.

The planes later were assigned to squadrons at Westover Air Reserve Base, Mass.; Pittsburgh Air Reserve Base, Pa.; and Rickenbacker Air National Guard Base, Ohio.

Carter served as a medical services officer aboard an aircraft nicknamed “Patches,” now located in the National Museum of the Air Force at Wright-Patterson Air Force Base, Ohio.

Patches began its combat career dispensing Agent Orange; it later was equipped to spray malathion to kill mosquitoes.

When the aircraft was moved to the museum in 1994, it was deemed too contaminated to go on display. A hazardous materials crew had to scrub it down before it could even be moved into the facility.

“We ate in that plane, slept on the floor, lived in it on tactical deployments, and it was too contaminated for public display?” Carter said.

Patches is among a handful of the 34 C-123s that sprayed Agent Orange and other chemicals. The Air Force destroyed 18 of the planes in 2010, cutting them down and smelting them out of concerns about potential liability for Agent Orange, according to Air Force documents.

Given that the Air Force itself destroyed aircraft out of concern of contamination, Carter said he is shocked and saddened by VA’s continued refusal to place postwar C-123 veterans on the list of veterans presumed to have been exposed to Agent Orange.

“It means death for my friends, for folks who need medical care and are not getting it from VA and we’ve been told they’ll never get it, regardless of scientific reports or proof,” said Carter, who has a 100 percent service-connected rating for diabetes, peripheral neuropathy and prostate cancer that has been deemed as service-connected — but not linked to his work on C-123s.

He has made it his mission to help friends with terminal illnesses get medical care and benefits.

Congressional interest

In June, Sen. Richard Burr, R-N.C. and Sen. Jeff Merkley, D.-Ore. asked the VA Office of Inspector General to review the department’s response to C-123 Agent Orange claims.

On June 7, VA Secretary Eric Shinseki sent a letter to Burr stating that VA does not have a blanket policy denying such claims.

“There are a number of issues that will be considered by VA, along with any other lay or scientific evidence available, when evaluating disability claims based on Agent Orange exposure from veterans who flew aboard C-123 aircraft previously flown in Southeast Asia,” Shinseki wrote. “VA is committed to assisting these veterans.”

More recently, three Colorado Democrats — Sens. Mark Udall and Michael Bennet and Rep. Jared Polis — wrote to Shinseki, urging him to extend eligibility for this group of veterans.

“C-123 veterans have substantiated their exposure claims with scientific evidence,” they wrote. “VA’s policy on herbicide exposure benefits for pilots and crewmembers of C-123 aircraft is inconsistent with these independent findings.”

Veterans groups, including the Veterans of Foreign Wars and American Legion, have long fought to have C-123 veterans as well as other former service members, such as those who worked on large ships stationed just off Vietnam’s shores, be declared eligible for benefits based on presumed exposure.

“The Legion is committed to ensuring that veterans receive the benefits they deserve,” American Legion National Commander Daniel Dellinger said. “We will work with Congress and VA to promptly designate C-123K aircraft as Agent Orange exposure sites.”

No blanket policy

To date, five C-123 air crew members have had their claims approved — Bailey, the sole veteran to be compensated through the regular claims process, and the remainder on appeal, according to Carter.

Yet despite mounting scientific evidence that these veterans likely were exposed, VA will continue to consider each C-123 claim only on a case-by-case basis.

“The scientists and medical doctors at the VA Office of Public Health have documented with scientific literature that residual trace amounts of dioxin on metal surfaces is not biologically available for skin absorption and inhalation,” Thomas Murphy, VA’s Director of Compensation, wrote to Stellman at Columbia University.

Carter said that while VA continues to question hard science and evidence, and denies facts such as the Air Force's removing 18 C-123s from its inventory of surplus aircraft available for commercial sale "because of Agent Orange contamination," other veterans will continue to die.

"There's a quarter billion dollars at stake. Eventually, we'll die and they won't have to worry about us," Carter said.

Paul Bailey died on Oct. 28.