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*If Veterans don't help Veterans, who will?*

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02 July 2014

## **VA Inspector General Complaint Submitted by C-123 Veterans Seeking Agent Orange Care**

To: VA Inspector General

As this issue concerns the denial, or delay, of benefits to approximately 2100 eligible veterans, this is a national, systemic concern. It has led to death and suffering. I request an acknowledgement from the IG for receipt of this concern.

Challenges to VA ethics and science by veterans' associations, legislators, other federal agencies, and by university experts, were answered in June 2014 by Dow and Monsanto-sponsored letters, and by VA-contracted reports described in the attached VA 21-4138.

The construction of claims delays by unscientifically rephrasing of fundamental terms in toxicology, also challenged by other federal agencies, has left eligible veterans denied VA care and forced to seek medical care elsewhere, with resultant death and suffering. This was done without peer review or regulatory authority.

When faced with juried scientific articles clarifying the veterans' situation, and faced with legal findings from Yale University challenging the VA's improper perspective on "exposure," VA's reaction was to create yet another delay in the form of a study.

By contracting an unnecessary study with the Institute of Medicine, and phrasing the charge to the IOM in such a way that regardless of the IOM finding, no change in the eligibility of the affected veterans could ensue. The information gathered by the hard work of the IOM is of interest but also mostly available from VA and other federal agencies. The study imposed a delay of many months in resolving veterans' access to VA care, and the request for an interim presumptive eligibility was refused.

Calling together a committee of the Institute of Medicine to evaluate the veterans' degree of medical harm, the VHA then sought to frustrate its own

process by advocating in the negative, using outside consultants to present the VA perspective who had personal experiences with the issue, and publicly-expressed disdain for the concerned veterans, and who were thus inappropriate advocates for the VA's position, a position itself inappropriate in opposing C-123 veterans' claims.

No VA contracts were let to affirm the veterans' claims, only to oppose them. Veterans, as individuals, lacked the funds to sponsor research or investigations to counter VA's well-funded advocacy against them.

VA should seek a path to qualify, not disqualify veterans from receiving VA medical care and benefits. VA most especially must not construct barriers for what the law permits, but here VA has built and reinforced those illogical, unscientific and extra-legal barriers since 2011.

Faced with input from a committee of concerned renowned toxicologists, VBA determined the scientists were not qualified to opine on the issue of exposure and veterans' health. Faced with input to the Joint Services Records Research Center from acknowledged experts, medical schools and other federal agencies including CDC, NIH and the US Public Health Service, VA directed JSRRC not to forward any affirming scientific information or interpretation of original scientific source documents, clearly frustrating the veterans' claims by preventing science from reinforcing their arguments.

The standard of "as likely to as not" and "every benefit of the doubt rests with the veteran" is not observed in this instance. Further, VHA and VBA sought not to qualify these veterans but to obstruct their claims. Although repeated assurances published in the Federal Register made clear to Congress VA's commitment to treat Agent Orange exposures of non-Vietnam veterans the same as veterans of that war and that VA informed Congress that no new legislation was needed to do so, VBA and VHA then unscientifically redefined exposure in a VA-unique manner to prevent exposure claims from C-123 aircrew and maintenance veterans.

Attempts by veterans to address this issue through the Secretary, Under Secretary for Benefits, General Counsel, VBA Director Compensation and Pension Service, Portland VARO supervisor, JSRRC and other authorities

were unproductive and over three years have passed with continued abuse of these veterans' earned right to VA medical care. VA thus avoided the cost of their medical care and reduced waiting time for appointments by preventing these veterans from entering VA hospitals.

The issue was well-reported in the press, beginning in 2011. The issue was brought to the attention of the Secretary by Senators and Congressmen. The issue was brought to the attention of the Secretary by concerned scientists and physicians. The issue was brought to the attention of the Under Secretary for Benefits by other federal agencies. The issue was brought to the attention of the VA National Center for Ethics in Health Care. All without solution.

VBA even created an Advisory Opinion denying a veteran's Agent Orange exposure claim with the statement, "In summary, there has been no conclusive evidence that TCDD exposure causes any adverse human health effects." Denying Agent Orange exposure benefits because Agent Orange exposure is harmless is wrong. When read in person to the Director Compensation and Pension (over whose signature the opinion was issued) no correction or explanation was made and the Opinion left to stand in denying the veteran's claim.

Denial of VA medical care has predictable suffering and death. Creating special definitions of exposure to prevent exposure claims is a situation demanding classification as to what kind of wrong.

The C-123 veterans consider that the VA redefinition of exposure to prevent our exposure claims is unethical and borders on the criminal, at least from the perspective of our own pain and suffering, and watching dear comrades die with claims delayed or denied.

Wesley T. Carter, Major USAF Retired