

MG GUS HARGETT, PRESIDENT, NGAUS

WRITTEN TESTIMONY OF NGAUS PRESIDENT MG GUS HARGETT BEFORE THE
MARCH 22, 2012 JOINT HEARING OF THE SENATE AND HOUSE VETERANS' AFFAIRS
COMMITTEES

Thank you for all you have done for our veterans since 9/11 and for this opportunity to testify.

Background - Unique Citizen Service Member/Veteran

The National Guard is unique among components of the Department of Defense (DoD) in that it has the dual state and federal mission. While serving operationally on Title 10 active duty status in Operation Iraqi Freedom (OM) or Operation Enduring Freedom (OEF), National Guard units are under the command and control of the President. However, upon release from active duty, members of the National Guard return as veterans to the far reaches of their states, where most continue to serve in over 3,000 armories across the country under the command and control of their governors. As a special branch of the Selected Reserves they train not just for their federal missions, but for their potential state active duty missions such as fire fighting, flood control, and providing assistance to civil authorities in a variety of possible disaster scenarios.

Since 9/11, 455,461 National Guard members have deployed in contingency operations to gain veteran status. When they return from deployment, they are not located within the closed structure of a 24/7 supported active military installation, but rather reside in their home town communities where they rely heavily on the medical support of the Veterans Administration (VA).

While serving in their states, members are scattered geographically with their families as they hold jobs, own businesses, pursue academic programs, and participate actively in their civilian communities. Against this backdrop, members of the National Guard remain ready to uproot from their families and civilian lives to serve their governor domestically, or their President in distant parts of the globe, as duty calls and to return to reintegrate within the same communities when their missions are accomplished.

Using the National Guard as an operational force will require a more accessible mental health program for members and their families post-deployment in order both to provide the care they deserve as veterans and to maintain the necessary medical readiness required by deployment cycles. It cannot be a simple post-deployment send off by the active military of "Good job. See you in five years." To create a seamless medical transition from active duty to the VA, an improved medical screening of our members before they are released from active duty is essential to identify the medical issues that will be passed to the VA. The Department of Defense must also recognize its responsibility of sharing the burden with the VA in funding mental health care for our National Guard members between deployments, which remains an unmet readiness need.

Military service in the National Guard is uniquely community based. The culture of the National Guard remains little understood outside of its own circles. When the Department of Defense testifies before Congress stating its programmatic needs, it will likely recognize the indispensable role of the National Guard as a vital operational force, but it will say little about, and seek less to, redress the benefit disparities, training challenges, and unmet medical readiness issues for National Guard members and their families at the state level before, during, and after deployment. We continue to ask Congress to give the Guard a fresh look with the best interests of the National Guard members, their families, and the defense of the homeland in mind.

H.R. 1025-RECOGNITION AS VETERANS OF MEMBERS OF THE NATIONAL GUARD AND RESERVE WHO SERVE 20 YEARS TO EARN MILITARY RETIREMENT PAY

Congress needs to continue to act proactively on a broad front to appropriately recognize the value of National Guard service at home and overseas. The Senate Committee on Veterans' Affairs could go far in that effort by passing the budget-neutral H.R. 1025, which unanimously passed the House last year. The bill would authorize Veteran status under Title 38 for National Guard and Reserve members of the Armed Forces who are entitled to a non-regular retirement under Chapter 1223 of 10 US Code, but were never called to active federal service during their careers — through no fault of their own. Pertinent sections of Title 38 defining "veteran" are set forth in the Appendix. H.R. 1025 is cost-neutral because it would provide no benefits other than the honor and recognition provided by allowing these members to simply call themselves veterans for their careers of honorable service.

Most members of Congress and many serving and retired National Guard and Reserve members may not know that a reservist can complete a full Guard or Reserve career but not earn the title of "Veteran of the Armed Forces of the United States," unless the member has served on Title 10 active duty for other than training purposes. As one National Guard retiree has put it, "we gave the government a blank check for 20 years of our service to send us wherever they wanted. It was their choice, not ours."

Some National Guard members who have been protecting the homeland on Aerospace Control Alert (formerly known as Operation Noble Eagle) and southwest border missions on Title 32 orders may one day retire from the Guard, but will not qualify to be Veterans of our Armed Forces. Contrast the character of service in these missions with that of an active duty member serving his or her entire enlistment in the continental United States (CONUS) who is fully recognized as a veteran with full benefits. To bestow veteran status and benefits on the active member in this instance and not allow the 20 year Guard or Reserve retiree even to call himself or herself a veteran just does not add up.

Take the example from a message last year from a retired Guard general officer who served 30 years in the Guard during the Cold War. Although never deployed, he served on numerous reformation exercises and on other training missions far from his home and family while occupying a key leadership position in managing the National Guard in his state. The general recalled

ordering an AWOL Guard soldier to active duty who then served 3 years in CONUS and was given full veteran status and benefits. However, the general who served honorably for 30 years ready and willing to answer any call for deployment cannot even call himself a veteran. This is just not right.

We believe that Senate Committee on Veterans' Affairs (SCVA) has uncertain plans about moving this bill forward. It may be inclined toward folding it into an omnibus bill that would go back to the House as a joint conference item with no guarantee that it would successfully emerge from the pack in that secretive process.

As many may recall, a predecessor bill to H.R. 1025 passed the House unanimously in 2010 only to stall in the Senate after it was placed on the unanimous consent calendar and not moved forward because members wanted it vetted by the SCVA. It is now properly before the SCVA where it warrants proper consideration as a standalone bill. As it is already approved by the House, it would likely become law if separately approved by that committee without the risk of possible rejection that it would face if sent back to House for reconsideration as part of an omnibus bill in joint conference.

NGAUS is concerned from reports it has received that there exists pushback exists against this bill from lower echelon staff within the VA and congressional staff, feeling that passing this bill would be "allowing the camel's nose under the tent." This metaphor is both puzzling and deeply troubling to National Guard members. If any of you before me can tell me what this means, please do so today so I can respond. If it means that there is fear that National Guard members and NGAUS will be asking for more Veterans' services and benefits if the bill is passed, it's true — asking for better services and benefits is what every veteran and veterans service organizations does, and should continue to do, in asking for protection from Congress. If you expect our National Guard members and veterans to be any less diligent and responsible in asking Congress to address their needs and those of their families than any high-priced lobbyist walking these halls, then you are selling your National Guard short. The metaphor "allowing the camel's nose under the tent" is really nothing more than bias-driven code that the National Guard is not worthy of recognition by Congress. If passed, H.R. 1025 would help tear down the remnants of the wall of prejudice that sadly still exists in some quarters against the National Guard, who is always ready and always there in cost effectively protecting our nation.

As a cost-neutral standalone bill, H.R. 125 provides an excellent opportunity for a divided Congress to come together to honor our National Guard and Reserve. NGAUS respectfully asks members of the Senate Committee on Veterans' Affairs to please join your colleagues in the House and move this bill forward as a standalone bill to support its passage into law. Our career National Guard and Reserve members deserve nothing less.

REQUIRE THE VA TO FULLY IMPLEMENT SECTION 304 OF THE CAREGIVERS AND VETERANS OMNIBUS HEALTH SERVICES ACT OF 2009, PUBLIC LAW 111-163, TO PROVIDE MENTAL HEALTH SERVICES TO IMMEDIATE FAMILY MEMBERS OF OIF/

OEF VETERANS

Post-deployment, our National Guard members and their families heavily rely on the VA for mental health care. Congress recognized as much in passing The Caregivers and Veterans Omnibus Health Services Act of 2009, Public Law 111- 163, enacted May 6, 2010, which now requires the VA to reach out not just to veterans but to their immediate families as well to assist in the reintegration process. Unfortunately, the VA has not fully complied with this law.

Section 304 of the Family Caregiver Act (reproduced in the Appendix) now requires the VA to make full mental health services available to immediate family members of OIF/OEF veteran for three years post-deployment. However, the VA refuses to comply with the law by insisting that it does not have any obligation beyond providing the counseling at Vet Centers, which it has been doing since well before the law was passed. As terrific as Vet Centers are with their peer-to-peer outreach, they do not have the full range of mental health services that are present in the highly praised VA Office of Mental Health Services (OMHS). To the best of our knowledge, the VA will not make the full range of OMHS mental health services available to immediate to families as required by Section 304.

Section 304 was enacted on May 6, 2010, but we still await any VA regulations or instructions implementing this program. For many, the three year post-deployment period during which the VA is required by Section 304 to provide mental health services to immediate family members of returning veterans will begin to lapse in 2013. The VA OMHS needs to fully comply with Section 304. Our veterans and their immediate families may be a small subset, but they are worth it.

IMPLEMENT COMMUNITY BASED MENTAL HEALTH CARE FOR VETERANS

Section 304 also authorizes the VA to contract with private entities in communities to bridge the geographical barriers preventing many of our veterans, and now their families, from receiving mental health treatment. The issues of veterans' unemployment and mental health maintenance cannot be separated. Before veterans can maintain gainful employment in a challenging job environment, they must be able to maintain a healthy mental status and establish supportive social networks.

In 2007, the Rand Corporation published a study titled, "The Invisible wounds of War." It found that at the time 300,000 veterans of Operation Iraqi Freedom and Operation enduring Freedom suffered from either PTSD or major depression. This number can only have grown after five more years of war. The harmful effects of these untreated invisible wounds on our veterans hinder their ability to reintegrate with their families and communities, work productively, and to live independently and peacefully.

Rand recommended that a network of local, state, and federal resources centered at the community level be available to deliver evidence-based care to veterans whenever and wherever they are located. Veterans must have the ability to utilize trained and certified services in their

communities. In addition to training providers, the VA must educate veterans and their families on how to recognize the signs of behavioral illness and how and where to obtain treatment.

To facilitate the leveraging of mental health care providers in our communities, the VA can actively exercise its authority under section 304 to contract with private entities in local communities, or creatively implement its fee-based option by issuing voucher cards that would allow our veterans to seek fee-based treatment with VA certified providers outside the brick and mortar of the Veterans Administration facilities.

VA facilities are often located hundreds of miles from a veteran in need, particularly our National Guard veterans living in rural areas. Requiring a veteran, once employed, to drive hundreds of miles to obtain care at a VA facility necessitates the veteran taking time off from work, which most employees can ill afford, particularly after an extended absence from deployment in the case of our Guard veterans. The VA needs to leverage community resources to proactively engage veterans and their immediate family members in caring for mental health needs in a confidential and convenient manner that does not require long distance travel or delayed appointments.

Several of our veterans have fallen through the cracks of the VA health care system, and will continue to do so. According to the Vietnam Veterans of America, only 30% of our veteran population has enrolled in VA medical programs. Many veterans end up in the care of state social service programs in cooperation with state and national veteran organizations. The VA has the authority to assist in maintaining this safety net of care for veterans in a stressful economic climate for our states with a voucher program or expanded contracting with private entities. It needs to act.

CONFIDENTIALITY MUST BE OBSERVED WITH MENTAL HEALTH CARE

Most of our National Guard veterans of OIF/OEF eligible for VA care post-deployment are still serving with their units and subject to redeployment. Given the evolving electronic medical records interoperability between the VA and the Department of Defense (DoD), a confidentiality issue exists relative to mental health treatment records for these veterans who remain in the military who do not want their records shared by the VA with their military commanders for fear of career reprisals.

It is essential that confidentiality be maintained by the VA for the mental health treatment records of these veterans to encourage their treatment with VA providers. It is critical that this be established as soon as possible legislatively, as the VA is believed to be operating under advice from its legal staff that all VA medical records can be transferred to DoD. Lack of confidentiality will chill the treatment process and is likely contributed to the under utilization of VA medical care by our veterans.

THE DEPARTMENT OF DEFENSE MUST COOPERATIVELY WORK WITH THE VA IN SCREENING BEHAVIORAL HEALTH CARE NEEDS OF OUR MEMBERS BEFORE THEY

ARE RELEASED FROM ACTIVE DUTY

At all stages of PTSD and depression, treatment is time sensitive. However, this is particularly important after onset, as the illness could persist for a lifetime if not promptly and adequately treated, and could render the member permanently disabled. The effects of this permanent disability on the member's entire family can be devastating. It is absolutely imperative that members returning from deployment be screened with full confidentiality at the home station while still on active duty by trained and qualified mental health care providers from VA staff and/or qualified health care providers from the civilian community. These providers could include primary care physicians, physician assistants, and nurse practitioners who have training in assessing psychological health presentations. Prompt diagnosis and treatment will help to mitigate the lasting effects of mental illness. This examination process must be managed by the VA in coordination with the National Guard Director of Psychological Health for the respective state, and the state's Department of Mental Health to allow transition for follow up treatment by the full VA and civilian network of providers within the state.

As an American Legion staffer at Walter Reed once stated, the main problem for Reserve Component injured service members is that they are "rushed out of the system" before their service connected injuries and disability claims have been resolved. Our injured members should not be given the "bum's rush" and released from active duty until a copy of their complete military medical file, including any field treatment notes, has been transferred to the VA, their discoverable service connected military medical issues have been identified, any service connected VA disability physicals has been performed similar to what is provided to the active forces before they are released from active duty, and the initial determination of any service connected VA disability claim has been rendered. Unless medically not feasible, our members should be retained on active duty in their home state for treatment to discourage them from reporting injuries out of fear of being retained at a distant demobilization site.

It is absolutely necessary to allow home station screening for all returning members by trained health care professionals who can screen, observe, and ask relevant questions with the skill necessary to elicit medical issues either unknown to the self-reporting member, or unreported for fear of being retained at a far removed demobilization site. In performing their due diligence before the issuance of an insurance policy, insurance companies do not allow individuals to self assess their health. Neither should the military. If geographical separation from families is causing some to underreport, or not report, physical or psychological combat injuries on the PDHA, then continuing this process at the home station for those in need would likely produce a better yield at a critical time when this information needs to be captured in order for prompt and effective treatment to be administered.

Please see the copy of a November 5, 2008 electronic message to NGAUS from Dr. Dana Headapohl set forth in the Appendix, which strongly recommends a surveillance program for our members before they are released from active duty. Dr. Headapohl opines the obvious in stating that inadequate medical screening of our members before they are released from active duty is "unacceptable to a group that has been asked to sacrifice for our country."

ENHANCE EMPLOYABILITY FOR OUR NATIONAL GUARD VETERANS BY AMENDING 10 USC 1097c TO ALLOW EMPLOYERS TO OFFER ENROLLMENT IN TRICARE RESERVE SELECT AND DECLINE MORE EXPENSIVE EMPLOYER SPONSORED PLANS

Included among our unemployed Gulf War II veterans are members of the National Guard and Reserve who are home from combat and, for the most part, remain in the Select Reserve as they return to civilian life and train for the next deployment. A prospective employer in a challenged economy may think twice before hiring one of our deployable members who has a guaranteed future ticket to war.

One potential solution worth considering is to remove statutory prohibitions against employers offering incentives for National Guard and Reserve members to enroll in TRICARE Reserve Select (TRS) in lieu of the employer's more expensive plan, in order to make Guard and reserve job candidates for employment more competitive.

According to the Department of Defense, TRS has been available to members of the Reserve Components since October 2007, but it remains under subscribed, with only 7 percent of the eligible population participating. This is surprising, given the current low monthly premium rates of \$192.89 for family coverage and \$54.36 for individual coverage.

Under current law, 10 USC Section 1097c, employers of members of the Select Reserve cannot offer incentives to members of the Select Reserve to decline coverage under the Employer's more expensive health care plan and enroll in less expensive TRICARE Reserve Select with the premiums paid by the member from pre-tax dollars deposited into a health savings account by their employers.

The current law prevents our member veterans from leveraging their ability to be covered with low-cost health insurance as an inducement for prospective employers to hire them. It is a challenge for all of our unemployed members to convince employers that they are worth hiring, especially in the face of disruptive, long-term absences due to deployments. Amending 10 USC 1097c would have the beneficial effect of making our member veterans more attractive to potential employers because they would be less expensive to insure. This savings would be significant for employers providing employees with health insurance.

STATUTORILY ESTABLISH AND SUSTAIN THE TRANSITION ASSISTANCE ADVISOR PROGRAM

The Yellow Ribbon Program needs to statutorily establish the Transition Assistance Advisor (TAA) Program, which currently operates with 62 TAAs managed by the Joint Staff of the National Guard Bureau under the auspices of the Department of Defense Office of Reintegration. The "go to" feature of TAA makes it invaluable and personal to our members and their families, by helping them learn and understand the benefits programs that exist at the VA and elsewhere before, during, and after deployments. So many programs have proliferated during the current war that many members and family complain that that the information thrown at them at

PowerPoint benefit briefings is like "drinking from a fire hose." Because of this, the reintegration briefers from the behavioral care staff of Johns Hopkins refuse to use PowerPoint, because its lack of interactivity loses the trust and attention of the audience. The TAA program provides a necessary interactive and trustworthy alternative to the one-time electronic briefing, or the many lost in the shuffle web sites. TAA has staying power and, simply put, it works. It needs to be resourced and sustained with statutory backing.

The National Guard Transition Assistance Advisor (TAA) program differs from the active duty program primarily by the time and manner in which assistance is delivered, as well as the content of assistance programs. Where the active duty program will allow the TAAs to work over a matter of days with a captured active duty audience by providing training on job searching skills, the National Guard TAAs have time to deliver only very short briefings during the limited time our members remain on active duty at installations before returning to their homes. However, the TAAs remain reachable to provide personalized service to all callers, at all stages of deployments. A TAA program similar to the active forces could be considered if our returning members remained on active duty longer at National Guard installations after deployment.

The TAAs serve as statewide points of contact, primarily to provide a professional person to assist in accessing veterans' benefits and medical care for members and families before, during, and after deployment. However, they can troubleshoot virtually all deployment-related issues, ranging from processing medical compensation claims, accessing veterans' benefits, pursuing medical care options, assisting with job searches, financial assistance, referral for counseling, and obtaining dependent care. The TAAs, 90% of whom are either veterans or spouse of military members, make themselves available to members of all components and veterans of any service. It is the "go to" feature and personal interaction follow up that distinguishes the TAA program from other reintegration assistance programs.

A description of what a TAA does is best provided by the following message sent in response to a NGAUS inquiry by Marine, Steven B. Sheppard, TAA for the Massachusetts National Guard.

"As the single point of contact for all Veterans of all branches of all eras, TAA's are very busy. We track our troops through both the Military and civilian healthcare sectors, which can be daunting to say the least. Often the more complicated cases require significant follow-up care. Veterans rarely call with just one problem.

A typical case that is brought to the TAA desk can include the following:

Unemployed Guard Member with no service connection has no capability to travel because his vehicle needs service

SM has been unemployed for 8 months with no end in sight Health problems due to Line-of-Duty injuries / illness

Can't afford car payment / rent / vehicle repair

This means that the TAA has to:

- Help fill out need-based financial grant applications for emergency aid

Coordinate with financial planning and state resources to prevent foreclosure

Help coordinate military health services for possible return to active duty for treatment

- Coordinate VA Healthcare services, i.e. enrollment, primary care and specialty clinic care

Provide compensation and pension evaluation and VA Disability claim via Certified National Service Officer -employment

consultation with LVER/DVOP and Career Center

Training/Services

Arrange for legal consultation if necessary (home foreclosure, child support modification, will/power of attorney, etc)

Multiply this by any number of cases that the TAA may be managing, add in follow-up care, and you can see that this adds up quickly. This is in conjunction with helping Veterans of all eras which present additional hurdles. Though our primary mission is to focus on the OIF/OEF era Veterans, coordinating end-of-life or elder care for WWII and Korean era Veterans is a necessary and much needed skill-set.

This brings us to what I like to call my "weekend job." At least once a month, sometimes more, the TAA facilitates seminar and

classroom learning sessions at Yellow Ribbon reintegration events. We meet individually and in groups with returning or deploying Veterans in order to educate Guard/Reserve members on benefits and services. Because of the large number of troops in both the outgoing and incoming stages of deployment, this means that the TAA often works multiple weekends a month, if not all of them.

Most TAArs also are on a number of planning committees to help coordinate services and events in the future as well. Panel discussions, coordination and feedback meetings with VHA and VBA, and consultation with the military chain-of-command are additional duties that help to forge the working relationships that we use on a daily basis. The bottom line is that the TAA is, by definition, a central point of contact, and we are used heavily by every state, federal, military and Veteran organization on a regular basis.

Although necessarily different from the active duty program because of the limited time our members remain on active duty at National Guard our installations post deployment, clearly, the TAA program in the National Guard performs a valuable service to members and families. The program needs to be expanded.

VETERANS PREFERENCE STATUS FOR ALL WHO HAVE HONORABLY SERVED IN THE NATIONAL GUARD AND RESERVE

NGAUS recently received a letter from Monique Elling, a former member of the Delaware National Guard, who served honorably for 10 years in domestic assignments, but who has been denied veterans preference points because her only Title 10 active duty time was in training

status after enlistment. With her permission, a copy of her letter is set forth in the Appendix. Such restrictive definitions of veteran disrespect the honorable service of our members and unfairly restrict employment opportunities for otherwise qualified candidates. Veterans' employment preference points must be extended to all those who have served honorably in the Select Reserve and active forces.

Conclusion

Thank you for that you have done for our veterans since 9/11. Please view our efforts as part of a customer feedback process to refine and improve the ongoing vital and enormous undertaking of the VA. Our National Guard veterans, both still serving and separated, will remain one of your largest base of customers who will continue to require your attention. Thank you for this opportunity to testify.