

Honorable Anthony J. Principi

Written Testimony

The Hon. Anthony J. Principi  
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Mr. Chairman and members of the Committee, good morning. Thank you for this opportunity to testify on decisions to presumptively service connect diseases related to the use of herbicides (dioxin in Agent Orange) in Vietnam.

This is not a new question. The Congress held its first hearing related to the possible effects of herbicide exposure in Vietnam on April 7 and 15, 1970—forty years ago. The most contentious issue has long been the criteria for providing service connections for veterans for health problems that might have resulted from their presumed exposure to herbicides.

In 1984, the Congress provided Vietnam veterans with automatic disability benefits for chloracne and porphyria cutanea tarda. Congress also directed VA to establish the Veterans Advisory Committee on Environmental Hazards, and asked VA to determine new standards for evaluating disability claims based on herbicide exposure.

At the time, Mr. Chairman, I was on the staff of this committee, and I was very proud to have been part of this important step forward for my fellow Vietnam veterans.

When I became Deputy Secretary for Veterans Affairs in 1989, I took up this issue from “the other side,” as it were—working closely with this committee to create the landmark legislation that became Public Law 102-4: the Agent Orange Act of 1991. The provisions of that Act have served our Nation well for twenty years, but I believe it is time to look at some of the Act’s unintended consequences—and to make a few changes that will allow the Act to remain useful in the future.

In PL 102-4, Congress permanently granted presumptive service connection for chloracne, non-Hodgkin’s lymphoma, and soft-tissue sarcoma: all diseases associated with exposure to dioxin in Agent Orange. The law also transferred the responsibility of reviewing scientific literature on the association between herbicide exposure and health outcomes suspected to be associated with that exposure from the Advisory Committee on Environmental Hazards to the National Academy of Sciences. Congress left the ultimate decision to presumptively service connect additional diseases in the hands of the Secretary of Veterans Affairs.

In response, VA developed a policy that if a positive association exists between the exposure of humans to a herbicide agent and the occurrence of a disease in humans, the Secretary would, by regulation, establish a presumption of service connection for that disease.

In theory, this is an even-handed, fair, and scientifically based method of making decisions on which illnesses should be presumptively service connected. As a former Secretary of Veterans

Affairs, however, I can tell you that such decisions are much more difficult than they would seem.

First of all, it has always been difficult, if not impossible, to determine the level of exposure to herbicides, if any, experienced by troops in Vietnam. While some of the evidence reviewed by IOM comes from evaluations of Air Force and Army troops who worked with herbicides, most of the documentation they use is from studies of people who were exposed to herbicides in civilian life or in industrial accidents.

It is also true that while levels of herbicide contaminants can still be detected in the blood of Vietnam veterans, those levels vary. All Americans are exposed to herbicides in their daily lives, and there is no way to tell where or when any individual with dioxin in his or her blood was exposed to the chemical.

IOM has soldiered on, however. Their biennial reports evaluate illnesses to determine whether an association with herbicide exposure exists, and whether there is a plausible biologic mechanism or other evidence of a causal relationship between herbicide exposure and the disease.

They categorize their findings in four ways: illnesses that have sufficient evidence of an association with herbicide exposure; illnesses that have limited or suggestive evidence of an association; illnesses with limited or suggestive evidence of no association; and illnesses with inadequate or insufficient evidence to determine whether an association exists.

Cases in which IOM believes sufficient evidence of an association exists, or in which they do not believe such evidence exists, are easy to decide. Where we can say for certain, with scientific evidence, that there is a direct link between a veteran's service and illness, it is clear that veterans should be service connected for that illness. On battlefields, not all injuries are caused by shrapnel and bullets.

But those illnesses in which IOM has found only limited or suggestive evidence of an association are much more difficult to decide. Today, fourteen diseases are presumed to be connected to exposure to herbicide use in Vietnam. Some are rare; others, like diabetes, prostate and lung cancer, and leukemia, are much more common.

In making this kind of decision, we are taking degrees of possibility; the possibility that veterans were exposed to dangerous herbicides; the possibility that such exposure might lead to illness; and the possibility that the illness in any individual veteran was caused by that exposure—and turning them into certainties with significant consequences for veterans and the American people. It is, unquestionably, a difficult process.

My decision to establish a presumptive service-connection for Vietnam veterans with type II diabetes illustrates this point. While IOM's report pointed out significant uncertainties and possible confounding factors, IOM's findings on the relationship of herbicide (dioxin) exposure and type II diabetes reported positive associations in most of the morbidity studies they evaluated.

These included the Air Force's Ranch Hand study; a National Institute for Occupational Safety and Health study of U.S. Chemical Workers; and studies of male and female veterans from Australia. Only the survey of female Australian veterans did not show a positive association: 5 self-reported cases of diabetes were found while 10 were expected. However, the study of male Australian Vietnam veterans did find a statistically significant excess of self-reported diabetes (2,391 cases were reported when 1,780 were expected.)

To me, this was an indication that only one data set kept IOM from declaring a "positive association" instead of a "limited/suggestive" one between Type II diabetes and exposure to Agent Orange. In addition, I received a report from the Under Secretary for Health, whose staff thoroughly reviewed the entire report from a scientific viewpoint. The recommendation was to presumptively service connect for diabetes. And finally, my belief that America's veterans have earned the benefit of any doubt led me to decide in favor of presumptively service connecting type II diabetes for Vietnam veterans.

Make no mistake: these decisions do not merely affect those who may or may not receive presumptive service connections and their families. The American people watch these decisions closely, both to ensure that those who have defended our nation while in uniform are treated fairly, and to ensure that those who have been given the responsibility to administer the program are good stewards of the resources with which they have been entrusted. If the American people lose faith in the integrity of our disability benefits system, veterans and their families will be the ones who will suffer. The surest way for that to happen is for the public to be convinced that presumptive service connection decisions are based on anything other than sound scientific advice.

Accordingly, I have three suggestions I believe will improve the process. First, medicine and medical research have made tremendous strides in the twenty years since the Agent Orange Act of 1991 was enacted. In those twenty years, has anyone found a better way to measure dioxin levels in blood for Vietnam veterans and a control group? Is there now a way to differentiate between those service members who received repeated and prolonged exposure to dioxin in Vietnam and those whose exposure was brief or nonexistent? And are there new studies that now exist, or can be commissioned, that might improve our ability to base future presumptive service connection decisions on strong scientific evidence? One such study might be a replication of the Centers for Disease Control's Vietnam Experience Study of the 1980s. IOM, or some other scientific organization, should look into these issues and report back to VA and Congress.

Second, I would suggest that Congress, or the Secretary of Veterans Affairs, direct the IOM to provide VA with an estimate of a latency period for the illness; that is, a point after which it is no longer likely that the illness' onset is a result of exposure, but rather of other factors. For example, heart disease is prevalent in older people and not in younger ones. It may be that the best policy here is to establish a presumptive service connection for veterans who develop that disease for a fixed post-service period of time, but not the rest of their lives.

This has already been done twice: first, presumptive service connection for peripheral neuropathy was limited to those cases that manifested themselves within one year of herbicide exposure; and second, IOM in 2004 decided that the effects of herbicides on respiratory cancer "could last many decades". IOM's best estimate for each new disease, and perhaps a review of

previous decisions, would be helpful for the public record and to any Secretary in his or her decision-making.

And third, IOM should be asked to estimate the number of Vietnam veterans who might be affected by an illness with limited or suggestive linkage to herbicide exposure. In other words, if 100,000 veterans in the age cohort of Vietnam veterans could be expected to develop a disease, approximately how many more veterans will develop that disease as a result of exposure to herbicides. Secretaries must weigh that information too before making a final decision on presumptive service connection.

Mr. Chairman, I am proud of the role I played during my long career of service in getting my fellow Vietnam veterans the benefits they have earned for their service and sacrifices on behalf of our Nation. The benefits Vietnam veterans now have were earned in the heat of battle during a difficult and often unpopular war. But I am also aware that the American public is the source of those benefits, and I believe all Americans are entitled to know veteran benefits are rooted in the reality of science and good public policy.

I hope that you, and VA, will consider my suggestions to help us make better and more informed decisions of this nature in the future.

Thank you again for this opportunity to testify. I look forward to your questions