JAMES TERRY SCOTT, LTG, USA (RET) CHAIRMAN VETERANS' DISABILITY BENEFITS COMMISSION

STATEMENT OF
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CHAIRMAN
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BEFORE THE
UNITED STATES SENATE
HEARING OF THE VETERANS' AFFAIRS COMMITTEE
ON
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Chairman Akaka, Ranking Member Burr, and Members of the Committee:
It is my pleasure to appear before you today representing the Veterans' Disability Benefits Commission.

You asked that I focus directly today on areas of overlap between the recommendations of our Commission and those of the President's Commission on Care for America's Returning Wounded Warriors (the Dole/Shalala Commission), the Task Force on Returning Global War on Terror Heroes (the Nicholson Task Force), and the DoD Independent Review Group (the Marsh/West Group.) You also asked for views on how to improve VA and DoD collaboration and cooperation and to resolve the long standing issue of creating a VA/DoD electronic health record.

First, let me say that there is a tremendous amount of consistency among the findings and recommendations of the four reports. The scope of the four efforts was quite different and this resulted in variations in some areas. But we all want to see improvements in benefits and services for injured and disabled service members and veterans. Our Commission generally agrees with the advice provided by the Independent Review Group and the Task Force and more recently by the Dole/Shalala Commission, but we differ with two of the Dole/Shalala suggestions. We believe that all disabilities and injuries should be compensated based on severity of disability and not be limited to combat or combat-related injuries. Nor does our Commission believe that VA disability compensation should end and be replaced with Social Security at retirement age.

For our own purposes, we prepared a matrix comparing the findings and recommendations of the four reports which I am pleased to share with the Committee. I caution that the matrix is not intended to be exhaustive nor a verbatim listing of all findings and recommendations. Rather it is a broad overview that I found useful.

The matrix contains a description of each study group's focus and a brief summary of findings and recommendations and a summary of topics that overlap. The major topics with considerable overlap are: VA/DoD Disability Process; Case Management; Family Support; IT Compatibility; PTSD; TBI; Ancillary Benefits; Quality of Life; and Vocational Rehabilitation. Other topics with limited overlap include: Concurrent Receipt; Hazards and Exposures; Combat/Combat Related,

Social Security, and Walter Reed. Our Commission addressed all of these topics except Walter Reed, which was not within the scope of our charge.

VA/DoD Disability Process

All four reports addressed the problems with the process used when service members are determined to be fit or unfit for military duty. Our Commission conducted a detailed analysis of those separated or retired as unfit for duty during the seven-year period from 2000 through 2006 and compared their ratings with ratings subsequently completed by VA. We found that the combined ratings by VA were higher, on average, than ratings by the Services. For example, individuals rated zero percent by the Services were rated an average of 30 percent by VA and those rated 30 percent by the Services were rated an average of 56 percent by VA. Among individuals rated by the Services as zero, 10, or 20 percent, VA rated them 30 percent or higher 61 percent of the time. This was largely because VA rated 2.4 to 3.3 more conditions than the Services. When comparing the ratings for individual diagnoses, VA ratings were statistically significantly higher than the Services for 10 of 13 frequent diagnoses analyzed.

We concluded that there should be a realignment of the process and this is essentially the same conclusion reached by the Dole/Shalala Commission, the Independent Review Group, and the Nicholson Task Force. We also believe that the Services should determine if the service member is fit or unfit and VA should be responsible for assigning disability ratings to all conditions found as part of a single, comprehensive examination. The Dole/Shalala Commission made the same recommendation.

In redesigning the VA/DoD disability process and specifying the benefits available for these service members, it may be appropriate to focus specifically on the severely disabled. However, we should also recognize that the overwhelming proportion of service members medically discharged as unfit do not meet the several definitions of severely disabled. During the seven-year period 2000 through 2006, there were 83,008 service members medically discharged as unfit. DoD rated 81 percent of these as 0 through 20 percent disabled and provided separation pay. Only 5,060 (6.1 percent) were rated by DoD as 50 percent through 100 percent and, of these, only 1,478 (1.8 percent) were rated 100 percent. The process and the benefits should be appropriate for all service members found unfit, not just the severely disabled.

Our Commission did not specify which department should conduct the single examination; in fact we believe that this should be determined more by the capabilities of the two departments at the local level. Our Commission extensively reviewed the examination process used by VA with the advice of the Institute of Medicine and made recommendations relating to the use of templates, training and certification of examiners, and quality assurance. Completion of a thorough and comprehensive examination is essential for accurate ratings and these recommendations should be addressed no matter which department conducts the examinations.

Case Management

All four study groups recommended developing a case management system for severely injured service members and their families to ensure the right care and support at the right time and in the right place. A single case manager should have overall responsibility. The Dole/Shalala

Commission also recommended comprehensive recovery plans. Improving case management is a key topic upon which there is strong agreement.

Family Support

Family support is addressed by all of the study groups except the Nicholson Task Force. The families of the severely injured are assisting in the care and rehabilitation of these wounded warriors. Some are sacrificing jobs, careers, homes, and health insurance, and facing a tremendous impact on their own health in order to support their injured family members. Our Commission recommended that VA be authorized to provide similar services as currently provided by DoD to families of the severely injured. We also recommended extending ChampVA medical care to caregivers (currently this benefit is provided only to dependents of 100 percent disabled veterans, not caregivers) and providing a caregiver allowance. We also recommended eliminating any Tricare copays and deductibles for the severely disabled because we do not believe the injured should have to pay in any way for their injuries. We feel that our recommendations would more fully meet the needs of the families and caregivers of all severely disabled. The Dole/Shalala Commission would limit Tricare coverage to only families of those unfit due to combat-related injuries.

PTSD and TBI

All four reports recommend improvements in awareness, research, treatment, staffing, and diagnosis/examination of posttraumatic stress disorder (PTSD) and traumatic brain injury (TBI). Our Commission focused more on compensating and rating these conditions and recommend that a "holistic" approach to PTSD be established that couples compensation, treatment, and vocational assessment. We also believe that re-evaluation should occur every two to three years to gauge treatment effectiveness and encourage wellness. Regarding TBI, we recommend including medical criteria for this diagnosis as a priority in the revision to the VA Schedule for Rating Disabilities.

Ancillary Benefits

Our Commission recommended increases to several benefits that have not kept pace with cost of living, extending eligibility in some instances to burn victims, and expanding auto and housing allowances. We also recommended eliminating the premiums for Traumatic Servicemembers' Group Life Insurance (TSGLI) as we do not believe service members should have to insure themselves for traumatic injuries. Perhaps most importantly, our Commission recommends establishing a pre-stabilization allowance of up to 50 percent of current compensation for up to 5 years to address the real out-of-pocket expenses for the severely disabled. The Dole/Shalala Commission recommended a transition pay of three months' base pay or longer-term payments if participating in rehabilitation, education, or training. This is conceptually similar to our Pre-stabilization recommendation.

Quality of Life

Both our Commission and the Dole/Shalala Commission recommend a compensation payment for the impact of disability on quality of life. We believe the level of compensation should be based on the severity of disability and should make up for average impairments of earnings capacity and the impact of disability on functionality and quality of life. It should not be based on whether it occurred during combat or combat training; or the geographic location of injury, or whether the disability occurred during wartime or a time of peace.
Current compensation payments do not provide payment above that required to offset earnings loss. Therefore, there is currently no compensation for the impact of disability on quality of life for most veterans. While permanent quality of life measures are developed and implemented, we recommend that compensation payments should be increased up to 25 percent with priority to the more seriously disabled.

Vocational Rehabilitation

All but the Independent Review Group addressed vocational rehabilitation. Both the Dole/Shalala Commission and our Commission found that the effectiveness of the program is not currently assessed and graduates are not followed except for a very brief time period. Both commissions recommend either an incentive bonus of up to 25 percent (Dole/Shalala) or exploring incentives as a way to encourage completion. The Nicholson Task Force focused on using existing programs and opportunities.

Concurrent Receipt

Regarding concurrent receipt of military retirement and VA disability payments, our Commission found these to be two different programs with entirely different missions. DoD retirement recognizes years of service and VA disability payments compensate for impairment in earnings and should compensate for impact on quality of life.

Over time, Congress should eliminate the ban on concurrent receipt for all military retirees and for all service members who are separated from the military due to service-connected disabilities. Priority should be given to veterans who separate or retire with less than 20 years of service and a service-connected disability rating of 50 percent or greater or disability as a result of combat. Payment offset should also be eliminated for survivors of those who die in service or retirees who die of service-related causes so that the survivors can receive both VA Dependency and Indemnity Compensation (known as DIC) and DoD Survivors Benefit Plan (known as SBP.)

The Dole/Shalala Commission also recommends that DoD compensate for years of service while VA compensates for disability.

Hazards and Exposures

Our Commission and the Nicholson Task Force both addressed hazards and exposures but in different ways. The Nicholson Task Force recommended creating a center of excellence and a registry for embedded shrapnel or fragments from blast injuries. Our Commission recommended a new presumption process as proposed by the Institute of Medicine. The new process includes enhanced registries of service members and veterans based on exposure, deployment, and disease histories.

Improving VA and DoD Collaboration

In addition to assessing areas of overlap among the four reports, you asked my views on how to improve collaboration and cooperation between VA and DoD. Our Commission made several recommendations that we believe would enhance benefits and services for service members and veterans, both while they are transitioning from the military to civilian status and for many years in the future. We found many encouraging signs and also areas which need improvement.

The Joint Executive Council (JEC) established by statute has demonstrated how both departments can benefit from coordinated planning and increased cooperation. We applaud the results that are evident in specific initiatives. These include the integration of the North Chicago VA Medical Center and the Naval Health Clinic Great Lakes (named last week for astronaut James Lovell), in the coordinated treatment of severely injured in dedicated poly trauma centers, and in shared rehabilitation units. These are all indications of how joint efforts can benefit both departments and improve service to veterans and service members. However, we believe that the JEC planning effort can be significantly improved by including specific milestones and designating responsible officials for each. We also suggest that transition coordination and effectiveness could be improved by including the Department of Labor and the Social Security Administration in some capacity in the JEC since these organizations have major transition roles.

Successfully transitioning service members to civilian life is crucial and ensuring that service members understand the benefits and services that are available to them is essential. Information is disseminated through the Transition Assistance Program (TAP) and the Disabled Transition Assistance Program (DTAP.) We believe that the TAP briefings should be mandatory for all separating service members, especially the Guard and Reserves and those in medical hold status. Currently, these briefings are not mandatory in all Services. In addition, we found that funding for these briefings has been static for the last decade and we recommend that adequate funding be provided. All service members should be knowledgeable about benefits prior to leaving the service.

After leaving service, many veterans find it difficult to prove that injuries and diseases that occur later in life are the result of military service. The veteran, with the assistance of VA, has to produce evidence that the condition originated in service. This is made more difficult because not all separating service members receive separation examinations; only those who intend to file a claim for VA disability benefits. We believe that all separating service members should receive a separation examination to establish a baseline for medical conditions. An entrance examination is required to enter active duty and a separation examination should be required to leave active duty.

Application for disability benefits is expedited through the Benefits Delivery at Discharge (BDD) process which is currently available at some 140 military facilities and these claims are processed at two VA locations. Two problems exist with the BDD process: (1) it is not available unless the individual has an established date of discharge and is within 180 days of that date; and (2) it is not available at all locations. Those on medical hold or on the temporary disability retired list are often precluded from participating in BDD and Guard and Reserves often separate at locations where BDD is not available. We believe that BDD should be available to virtually all separating service members, including Guard and Reserves.

One cause for delay in claims processing even in the BDD process is availability of the DD-214 discharge document. Our Commission recommends that DoD immediately provide VA with an authenticated electronic document so that processing can begin right away.

IT Compatibility

All of the reports address the absolute necessity for VA and DoD to have compatible information systems. All recognize the importance of this capability but also recognize that this will not solve all problems.

Much has been said over the past several years about "seamless transition." This is an admirable goal but it is not a current reality. Not all of DoD's medical and personnel records are electronic and those that are electronic are not yet fully compatible between the Services, much less between VA and DoD. The AHLTA and VistA systems are not compatible. AHLTA may provide a more modern platform than VistA, but significant functions in the older VA system are not available to DoD users. For example, inpatient discharge summaries and digital images are not yet available in AHLTA. Therefore, DoD cannot easily transfer these types of information to VA upon a service member's discharge or transfer for medical care without paper copies first being scanned. In January 2007, VA and DoD announced an agreement to create a joint inpatient electronic record that would be instantly accessible to clinicians in both departments. As far as we know, the departments have not committed to a completion date although the Nicholson Task Force identified January 31, 2008 as the date for completion of an analysis of alternatives.

Veterans Benefits Administration continues to use paper claims folders and has no long-term plan to convert them to electronic records. Both VA and DoD will have to continue to use paper records well into the future. Plans need to be made to convert existing paper records and finally be able to exclusively use electronic records at some time in the future.

Our Commission believes that development and implementation of compatible information systems should be expedited. We also agree with the Government Accountability Office that a detailed project management plan should be developed with a lead agent designated and with specific milestones and planned completion dates. We understand why the departments are reluctant to establish planned completion dates since they will be expected to achieve those goals. However, we believe that planned completion dates for specific actions are absolutely essential in order to estimate resource requirements and to monitor progress.

Compatible electronic systems will greatly enhance the ability of both departments to share information and work together. This critical interface will also improve claims processing and avoid some of the unfortunate cases that "slip though the cracks" during the transition from VA to DoD.

In conclusion, VA and DoD have much to gain by greater coordination and collaboration but service members and veterans have even more to gain by the two departments working better together. A lot of valuable work has been done by VA and DoD and they should be commended for the progress made. However, a great deal of work remains and the only way that the goal of a reasonably seamless transition will ever be realized is if the two departments are required to develop realistic, yet challenging, goals with specific milestones. Joint ventures, sharing

agreements, and integrations should be the norm rather than the exception. Congress should review the plan and oversee progress. Congress also has the responsibility to ensure that sufficient funding is provided to accomplish the goals and objectives contained in the plan.