

Chairman Larry E. Craig Opening Statement

STATEMENT OF SENATOR LARRY E. CRAIG

CHAIRMAN, U.S. SENATE COMMITTEE ON VETERANS AFFAIRS

Preserving Sacred Ground: Should Capital Offenders be Buried in America's National Cemeteries?

September 22, 2005

Good morning ladies and gentlemen. The Committee on Veterans' Affairs will now come to order.

I have called this hearing to examine a very sensitive topic, one that the Congress first addressed in 1997. We were then confronted with the fact that the perpetrator of the Oklahoma City bombings ? Timothy McVeigh ? was legally entitled to burial and memorialization in America's national cemeteries.

Largely in response to McVeigh's eligibility, the Congress passed a law to deny interment in Arlington National Cemetery and VA National Cemeteries to any person convicted of a Federal capital crime or a State capital crime for which a sentence of death or life imprisonment without parole is given. The intent of the 1997 law was clear: We should not bury brutal murderers alongside America's honored dead.

The circumstances surrounding the placement of a convicted double-murderer's cremated remains at Arlington National Cemetery in late July caused me, and many of my colleagues, to wonder what impact the 1997 law actually had. The media coverage of former Chief Justice William Rehnquist's Arlington Cemetery funeral only served to confirm my bewilderment: How could an individual who committed such heinous acts be placed in the same hallowed ground as Chief Justice Rehnquist, Justice Thurgood Marshall, President Kennedy, and hundreds upon hundreds of servicemembers to whom this country owes its eternal respect?

Russell Wagner's two life sentences carried with them the possibility of parole. The 1997 law only bars national cemetery interment to State capital offenders sentenced to death or life in prison without parole. Thus, we have our first example of the ?parole? loophole.

We will hear in a moment from Mr. Vernon Davis, son of Daniel and Wilda Davis, the victims of Wagner's crime. Mr. Davis, who himself is a veteran, will give us his thoughts about all of this, a story I am sure causes him profound anguish.

To further explore how wide the ?parole? loophole is for state capital offenders, I asked my staff to have the Congressional Research Service analyze the sentencing of Dennis Rader, the infamous ?BTK serial killer,? ? BTK? being short for Rader's method to dispose of his ten victims: Bind, Torture, Kill. Rader was given ten consecutive life terms for which he must serve a minimum of 175 years in prison. However, because the Kansas law under which Rader was tried did not allow for a sentence of death, nor did it allow for a sentence of life without

parole, CRS concluded that, as an honorably discharged veteran of the Air Force, ?it would appear that he is not statutorily precluded from interment in a national cemetery.? If the 1997 law cannot prevent the interment of a notorious serial killer, then what good is it? Answering that question is what we hope to accomplish today. However, one thing is certain already: the parole loophole must be closed; I will soon introduce legislation to, at a minimum, make that necessary reform to the 1997 law.

Let me make a point that decisions to take away benefits earned by virtue of honorable military service should never be made without careful, reasoned deliberation. I want to thank the Veterans of Foreign Wars, The American Legion, the Disabled American Veterans, the Vietnam Veterans of America, and the Paralyzed Veterans of America, for agreeing to submit unified testimony which drives this point home. Their unified testimony illustrates the complexity involved in this sensitive, highly-charged issue. It takes courage to recommend a path of caution and prudence when emotions are riding high, so I appreciate very much their testimony today.

Joining Mr. Davis on our first panel is his able Senator from the state of Maryland, Senator Mikulski. Senator Mikulski sent a forceful letter to me just days after the Wagner story broke urging the Committee to act. We are fortunate to have her here with us this morning.

On our second panel we have Richard Wannemacher, VA Acting Under Secretary for Memorial Affairs, and Thurman Higginbotham, Deputy Superintendent of Arlington National Cemetery. Mr. Wannemacher is accompanied by Patrick Hallinan, Acting Director of VA's National Cemetery Administration's Office of Field Programs; and by Mr. Richard Hipolit, Assistant General Counsel at the Department of Veterans Affairs. Mr. Wannemacher and Mr. Higginbotham will testify about the existing law, its adequacy, and the process in place to determine whether individuals are barred as capital offenders.

Finally, we have the aforementioned unified testimony of the veterans' organizations. The spokesman for them today is Mr. Dennis Cullinan, Director of the VFW National Legislative Service. He is accompanied by Mr. Brian Lawrence, Assistant National Legislative Director with the Disabled American Veterans.

Welcome to all of our witnesses this morning. I now turn it over to Sen. Akaka for any statement he might have