

mC

NR

VOTER REGISTRATION FOR WOUNDED WARRIORS:

S. 3308, THE VETERANS VOTING SUPPORT ACT

- - -

MONDAY, SEPTEMBER 15, 2008

United States Senate,
Committee on Rules and Administration,
Washington, D.C.

The Committee met, pursuant to notice, at 11:08 a.m.,
in Room SR-301, Russell Senate Office Building, Hon. Dianne
Feinstein, Chairman of the Committee, presiding.

Present: Senators Feinstein and Bennett.

Staff Present: Howard Gantman, Staff Director;
Veronica Gillespie, Elections Counsel; Adam Ambrogi,
Counsel; Lynden Armstrong, Chief Clerk; Matthew McGowan,
Professional Staff; Justin Perkins, Staff Assistant; Mary
Jones, Republican Staff Director; Shaun Parkin, Republican
Deputy Staff Director; Michael Merrell, Republican Counsel;
and Rachel Creviston, Republican Professional Staff.

OPENING STATEMENT OF CHAIRMAN FEINSTEIN

Chairman Feinstein. I am going to convene the
hearing. Because Senator Bennett is on his way and I have
a statement that will take a few minutes to give, I think

mc

we should begin. And perhaps you would turn down this microphone a little bit so the resonance is a little bit less.

Election Day is 7 short weeks away, and it is a day of great consequence for our country. I believe that we need to do everything possible to ensure that the men and women who have served our Nation--and may have been wounded in battle--have every opportunity to cast a vote.

And that is why I am concerned that the Department of Veteran Affairs earlier this year indicated that most State election officials and nonpartisan organizations were prohibited from registering veterans at VA hospitals, rehabilitation centers, and other facilities. I believe that these veterans--many of whom have served our Nation bravely in Iraq and Afghanistan--good morning; I hope you will forgive me for beginning--should be given every opportunity to vote.

I was heartened last week when the VA issued a new directive that appeared to be a step forward, and I would ask that the letter of September 11th from the VA to me be placed in the record directly following my comments. So without objection, that will be the case.

mc

Serious questions, however, still remain, and the extent to which this new policy will be implemented will be the focus of this hearing.

I first became involved in this issue in March of 2007, when, in the wake of complaints about the lack of access by voter registration groups, I wrote the VA and requested information on any written policies currently in place. I also urged that the VA agree to be designated as a "Voter Registration Agency" under the National Voter Registration Act.

That act provides a process that allows Federal agencies, such as the VA, to provide significant registration support if requested by various States. And while many States have requested this, the VA has thus far refused.

After failing to get an adequate response, I was joined last March by Senator Kerry in requesting the VA to establish a written comprehensive policy to ask all veterans in their care if they are registered to vote, and if not, whether they would like to register to vote.

On April 25th, we received news that the VA had distributed a new nationwide directive that would create

mc

more specific requirements on how the VA would register veterans. The directive made some modest improvements, and we released a statement welcoming these changes. But two days later, the directive disappeared from the VA's website.

And on May 5th, a brand new directive was released. It added a broad, sweeping, and not previously proposed prohibition on voting registration activities at all VA facilities. It said, and I quote, "Due to Hatch Act requirements and to avoid disruptions to facility operations, voter registration drives are not permitted." No caveats, no exceptions.

From women's suffrage to the civil rights movement, voter registration groups like the League of Women Voters have gone into communities to ensure that the people's voice is heard. We know that these groups, as well as the Veterans of Foreign Wars and the American Legion, have been active supporters of voter registration for our wounded warriors.

In light of my concern on the impact of this ban, I invited staff from the VA to meet with Senate staffers who had indicated concern about this policy. At this meeting,

mc

my staff asked the VA staff if its prohibition included election officials. They replied that if the election officials belonged to a political party--which almost all of them do--then they also would be barred from holding such a drive, which means the Secretary of State could not hold a drive.

And last July, when Connecticut Secretary Susan Bysiewicz was planning on showing veterans how to use new, accessible voting equipment, she was turned away at the door.

She returned at a later point with the State Attorney General and met a 91-year-old veteran by the name of Martin O'Neil. He had served in World War II in the Army's 10th Mountain Division alongside former Senator Bob Dole.

Standing outside the VA facility, she registered him to vote, and he told her that he had wanted to vote last year, but there was no one to provide him information on voter registration at the hospital. Now, remember he is 91. None of the nursing staff could answer any of his questions on how or where to cast a ballot. Now, that is simply unacceptable.

We had invited Secretary Bysiewicz to our originally

mc

scheduled hearing last week, but due to a scheduling conflict she was not able to make our meeting today. She has shown real leadership in her efforts.

After consulting with voter registration groups, Secretaries of State and veterans groups. frustrated by the VA's policies, Senator Kerry and I introduced S. 3308, the Veterans Voting Support Act.

This legislation has received strong support from--and I would ask that these letters be placed in the record--the Veterans of Foreign Wars, the American Legion, the Disabled American Veterans, the Paralyzed Veterans of America, the AARP, and many others.

[The letters follow:]

/ COMMITTEE INSERT

mc

Chairman Feinstein. Three days before our originally scheduled hearing on this legislation, and 3 weeks prior to the close of voter registration in most States, the VA finally issued its new directive.

I applaud the leadership at the VA for the changes that they are willing to make. They have removed the broad prohibition on voter registration drives. They have established a process by which the VA can provide access to election officials and nonpartisan groups, subject to time, place, and manner restrictions.

I still, however, have some serious questions. How quick will the VA make the determination that a group is nonpartisan? Or will they drag it on until after the election? Will the bureaucracy slow down groups like the American Legion from registering voters? Will most veterans who receive services from the VA be affirmatively informed of their right to vote? Or will it just be a few? Will facilities that provide services for homeless veterans be covered?

We are pleased that there is a new policy, but if procedures are not written into a policy, something which is public and transparent that groups and officials can

mc

count on, I have concern. And, candidly, the credibility of the VA on this issue is very low right now.

That is why we introduced the Veteran Voting Support Act. This bill does the following: it requires the VA to make voter registration services available at VA facilities in States that request it--not everywhere, but giving the opportunity to States to request it--in accordance with the National Voter Registration Act. These services include voter registration forms, answers to questions on registration issues, and assistance with submitting voter registration forms. Those services would be available to veterans using VA facilities.

It would require the VA to assist veterans at facilities to receive absentee ballots if the veterans choose to vote by absentee.

It would allow nonpartisan groups and election officials to provide nonpartisan voter information and registration services to veterans.

And it would require an annual report to Congress from the Department of Veterans Affairs on progress related to the legislation.

Now, this should not be an overwhelming burden on

mc

anybody. It ought to be, in my view, accepted.

I am pleased to see that the House Administration Committee passed a companion bill out of Committee by a unanimous voice vote. And I would like to thank Representatives Brady and Filner for their work and leadership on this issue.

I hope, Senator Bennett, that we would be able to resolve this and pass this bill out because the House is ready to move, and if we are ready to move, I think it is the best way to guarantee that at least these nonpartisan services are available for veterans.

Thank you.

[The letter follows:]

/ COMMITTEE INSERT

mc

Chairman Feinstein. Mr. Ranking Member, do you have a statement?

OPENING STATEMENT OF SENATOR BENNETT

Senator Bennett. Thank you very much, Madam Chairman.

It is very clear that your concern and your activities have stimulated the VA to move in the direction of the current new policy which you applaud and which I applaud as well. And I think it is appropriate that we have this hearing to determine whether or not that is sufficient or whether legislation might be necessary. So, with that, I am ready to hear the witnesses.

Chairman Feinstein. Excellent. We will proceed, and I will introduce them en banc and then ask Mr. Hutter to begin.

Paul Hutter is the General Counsel of the Department of Veterans Affairs. In this position, he provides legal service and representation to the Department. He began working for the VA in 1992, previously served as the VA's Deputy Assistant Regional Counsel. He was also a colonel in the U.S. Army Reserves in which he served as a Judge Advocate for 30 years.

Paul Sullivan served in the Army in Saudi Arabia,

mc

Kuwait, and Iraq during the Gulf War. He represents Veterans for Common Sense. He was the Executive Director of the National Gulf War Resource Center and also served on its board of directors during the 1990s. He joined the Department of Veterans Affairs in 2000 and worked at the agency until 2006. He currently serves as Executive Director of Veterans for Common Sense, and that is a nonprofit organization based in Washington which focuses on issues related to national security, civil liberties, and veterans benefits.

The third person testifying is Lisa Danetz. Ms. Danetz is Senior Counsel at Demos. That is a nonpartisan public policy research and advocacy organization headquartered in the Big Apple, New York City, where she specializes in voting rights and campaign finance law. Her current work includes litigation and negotiation with States regarding implementation of the National Voter Registration Act, constitutional litigation to promote and defend campaign finance reforms, and FEC enforcement work.

And I thank the three of you for being here today. We will begin with Mr. Hutter.

Mr. Hutter, we have your written statement. I would

mc

ask you to confine your remarks to 5 minutes and summarize your statement so we have a chance to ask some questions.

mc

STATEMENT OF PAUL J. HUTTER, GENERAL COUNSEL,
U.S. DEPARTMENT OF VETERANS AFFAIRS, WASHINGTON,
D.C.

Mr. Hutter. Thank you, Senator, and I would ask that my statement be admitted to the record.

Chairman Feinstein. It is. Thank you.

Mr. Hackler. Chairman Feinstein, Ranking Member Bennett, members of the Committee, thank you for this opportunity to discuss Senate bill 3308, the Veterans Voting Support Act, and clarify VA's policy and practices regarding our efforts to assist veterans to register to vote, obtain absentee ballots, and actually vote.

I would like to introduce my colleague, Laura Balun, who sits behind me, Director of Voluntary Services for the Veterans Health Administration, who may be helpful in answering some of your questions.

As a veteran of 30 years of service in the Army, the son of a veteran of World War II, the Korean conflict, and Vietnam, and the father of two sons who are now actively serving as naval aviators, I understand the importance of voting to the military and veteran communities. I also understand the impact that a deployment or a hospital stay

mc

away from home may have on an individual's access to voting registration materials, absentee ballots, and polling places. We at VA are determined to help veterans overcome those difficulties and ensure, consistent with the Patient's Bill of Right, that we assist veterans to register and vote.

While VA respectfully opposes Senate bill 3308, our policies demonstrate our commitment to this critically important issue. VA is doing almost all of the activities required in the bill, but strongly opposes the designation of our facilities as voter registration sites under the National Voter Registration Act.

In April and July of this year, courts in California and D.C. upheld VA's proscription of partisan activity on its premises. All three courts determined VA facilities are not the equivalent of public sidewalks or the courthouse steps and that reasonable and viewpoint-neutral restrictions on visitor speech are lawful.

In the words of the Federal Circuit, "[t]he VA must be able to maintain a place of healing and rehabilitation for the veterans for which it provides services."

In January, however, the California District Court--

mc

one of the three I just mentioned--advised that VA reexamine its 1983 policy on voter registration. VA did so and issued the May 5, 2008, directive.

The May directive tasked the VA voluntary services officers in each medical center with informing all inpatients or residents of the opportunity to receive voting information and assistance. In executing this policy, volunteer service officers proactively reached out to the Secretaries of State, requesting information and materials that veterans would find useful. Each inpatient veteran received voter registration materials upon admission and, consistent with the voting registration deadlines in each State, received updated voter registration materials and assistance. In addition, voluntary services personnel displayed posters concerning voter registration in medical centers and provided advice and assistance to outpatients.

Since VA began tracking the implementation of the policy in July, over 46,000 veterans who have been admitted to our facilities received voting information; 426 inpatients requested and received assistance after receiving the material; we have assisted 199 outpatients;

mc

and VA has recruited 173 volunteers to provide additional voting assistance. We are partnering with voter registration officials throughout the country, and in addition, we have displayed over 2,000 posters across our medical centers throughout the country.

A couple of examples of our partnering efforts.

Three facilities in Illinois are working with the Secretary of State's office and the local election officials to conduct voter registration activities. Members of the Secretary of State's staff will be at the Jesse Brown VA Medical Center in Chicago on September 29th.

In Big Springs, Texas, the local election judge has offered to provide one-on-one training to assist with voting machines.

The Temple, Texas, facility provides daily announcements to let patients know about voter registration.

The Bay Pines Health Care System in Florida reports registration events scheduled for their community living center on September 22nd and their domiciliary on September 26th.

On September 8th, Florida's Secretary of State Kurt

mc

Browning issued a joint statement with our Veterans Integrated Service Network Director Nevin Weaver, supporting voter registration activities for veterans.

I spoke at the National Secretaries of State meeting in Grand Rapids, Michigan, on July 26th and have had frequent visits with the executive director since that time. I am meeting with the current president of that organization, Pedro Cortez, on Thursday.

That gives you a little bit of an insight as to how proactively we are implementing this policy. With that background, I now turn to VA's opposition of S. 3308.

That would permit States to designate the VA as a voter registration agency and allow election officials as well as nonpartisan groups unprecedented access to facilities to provide voter registration information and assistance to the public. VA cannot support this legislation because it would detract from VA's ability to fulfill its current statutory missions, disrupt the care and services currently provided in our facilities, and invade the privacy of those veterans seeking care.

Further, the goals of this legislation are being achieved through the agency's current policy and

mc

initiatives.

My time is up, but I want to thank you again for this opportunity--

Chairman Feinstein. I will allow you--I do not want to cut you off just when you are criticizing the bill.

Mr. Hutter. Thank you very much.

Chairman Feinstein. Because I want to come back to you.

Mr. Hutter. Okay. Thank you, Senator. I appreciate it.

Authorizing States to designate VA as a voter registration agency would depart from the National Voter Registration Act, which permits Federal agencies to decide whether or not to take on this responsibility, and would limit the Department's control over the manner in which VA facilities are used.

In addition, Section 6 of this bill would give election officials unlimited access to any and all VA facilities to provide voting information to veterans. This bill would also provide election officials "reasonable access" to provide voter registration services to any individual, regardless of whether they are a veteran. This

mc

would establish a competing use for VA facility space beyond the needs of veterans who rely on that facility for its primary mission.

Also of concern is that the bill would not distinguish between the various types of VA facilities which provide a myriad of treatments designed for veterans and their unique circumstances.

Many facilities are simply not appropriate locations for voter registration activities. For example, we endeavor to make our National Cemeteries places of quiet refuge, contemplation, and dignity. Even nonpartisan voter registration activities are inconsistent with that atmosphere and purpose.

Similarly, Vet Centers are generally very small facilities that provide readjustment and outreach services to veterans who served in combat zones, including family support services. Providing voter registration activities, particularly those that invite in the broader community, would be highly disruptive to the services offered, which are often of a very sensitive and personal nature.

The additional traffic brought to the Vet Centers may also adversely impact the treatment of individual veterans

mc

and may discourage others from seeking those services.

VA must be able to be a place of healing and rehabilitation for veterans seeking services in our hospitals, our community-based outpatient clinics, Veterans Centers, and offices.

Thank you again for this opportunity to testify and clarify the Department's views and actions concerning the important requirement to assist veterans with voting, and I look forward to answering your questions.

[The prepared statement of Mr. Hutter follows:]

mc

Chairman Feinstein. Just because it is fresh on my mind, the bill does not say that election officials would have unlimited access. I think you are right on that, Mr. Hutter. The bill says, "The Secretary of Veterans Affairs shall permit a meaningful opportunity for nonpartisan organizations to provide voter registration information and assistance at facilities."

I think you are correct about cemeteries. I have been to many of our major veterans facilities, and the ones I have been to have lobbies. People come, people go. It is public property, after all. And it seems to me that to have during the time of an election, if you wish, information on voting in the lobby of the L.A. Veterans Hospital, the San Francisco VA, the Palo Alto VA, should not be a problem to anybody, and it does not impugn anybody's privacy.

Mr. Hutter. May I respond, Senator, or would you prefer--

Chairman Feinstein. Well, I said it, so you respond. Then we will go to Mr. Sullivan.

Mr. Hutter. Fair enough. Senator Feinstein, we agree 100 percent with what you have just said, as long as it is

mc

focused on veterans. And what we are concerned about is if we are designated a voter registration site under the act, we will then be open to everyone who would like to use our site as a voter registration activity.

What we do not want to do--

Chairman Feinstein. No, that is not the intent. We will clear that up.

Mr. Hutter. Fair enough. Fair enough. Thank you.

Chairman Feinstein. Okay. Thank you.

Mr. Sullivan?

mc

STATEMENT OF PAUL SULLIVAN, EXECUTIVE DIRECTOR,
VETERANS FOR COMMON SENSE, WASHINGTON, D.C.

Mr. Sullivan. Chairman Feinstein, Ranking Member Bennett, and members, thank you very much for inviting Veterans for Common Sense to testify here today.

Veterans for Common Sense strongly endorses S. 3308, the Veteran Voting Support Act. There is a veteran voting rights crisis going on right now. As many as 100,000 of our veterans living in VA facilities may not be able to vote in our November 4 election.

Here is the problem. When a veteran moves into a VA facility, the veteran's old registration becomes invalid. The veteran must re-register before he or she can vote again.

On May 5, VA issued a ban on nonpartisan voter registration drives at VA facilities. We believe this ban was wrong and unconscionable. VA was blocking the rights of our veterans to register and vote. These veterans stood between enemy bullets and our Constitution, yet VA stood between our veterans and their right to vote.

On September 8, VA lifted the ban after Congress and veterans expressed outrage at this injustice. VA now says

mc

it will allow voting assistance for the estimated 100,000 veterans who can no longer vote since they have moved into VA facilities.

Where do we go from here now that VA issued a new policy? While we are pleased that VA has changed course, we are not confident that they will follow through because they have taken no action to date that we were aware of-- and I do want to note that I am glad to hear that you have taken some steps, and I do want to mention that.

First, on our two points that we want to make very strongly here, VA has changed their policy on veteran voting rights three times in the last 5 months. VA can easily reverse course again and issue yet another policy banning voting assistance for veterans.

Second, VA can easily fail to implement their new policy. Sadly, we know VA has a notorious reputation for dragging their feet on a host of issues, foremost the growing disability claims fiasco.

We are running out of time. With the election only 50 days away, we must act now. The best solution for this crisis is for Congress to fix this injustice against the men and women who have put themselves in harm's way in

mc

order to protect our freedom by enacting S. 3308 right away.

Here are four points that we would like to emphasize specifically about the legislation and the crisis.

First, even before the bill becomes law, we urge VA to quickly implement their new policy. Our veterans must have the right to participate in the November 4 Presidential and congressional elections without any delay. We are glad to hear that VA is doing some outreach, but we do expect VA leaders to pick up the phone today and call every State election official and also call some local and nonpartisan organizations, such as the League of Women Voters, so that they can start registration drives at all VA facilities. Time is running out. VA must begin their voter registration drives now.

Second, VA must quickly publicize their new policy using their pre-existing public affairs officers at each VA facility. We are glad to hear you mentioning that, that you are doing that now.

Third, we expect that early voting will be considered part of the absentee balloting process covered by the bill because that is available in some States.

mc

Fourth, we encourage Congress to be very specific about the information required in the Annual Report described in Section 7 of the bill. Given VA's poor history of complying with reporting requirements, diligent congressional oversight of this issue is essential. VCS provides detailed suggestions for VA's reporting requirements in our written statement. We believe that, when combined, our recommendations will provide Congress with the factual data to measure the impact of the bill.

Finally, there are two other issues about this bill that we would like to raise about the bill. First, we support VA voter registration outreach for our homeless veterans. According to VA, there are about 150,000 homeless veterans now in America. According to the National Coalition for Homeless Veterans, there are up to 840,000 homeless veterans at one point during the year. These veterans may be unable to vote because they lack a permanent address.

Second, VA should have a uniform VA-wide policy. Their latest voting policy applies only to the Veterans Health Administration and their medical facilities. We believe the law should cover all of VA, including Veterans

mc

Benefits Administration facilities. VA should be working with Congress and veterans groups to encourage registration and voting as both a right and a nonpartisan civic duty.

In conclusion, VCS strongly believes that Congress must act today to pass The Veteran Voting Support Act. This bill will restore and protect the voting rights of our veterans living in VA facilities. This is a critical time. There are only 50 days before the election. And we hope that never again should there be a fight over the fundamental constitutional right of voting.

I would like to ask that our full written statement be entered into the record. Thank you, Chairman. I will be glad to answer any of your questions.

[The prepared statement of Mr. Sullivan follows:]

mc

Chairman Feinstein. Thank you very much, Mr. Sullivan, and I would just like to thank both you and Mr. Hutter for your service to our country. And I know Senator Bennett joins in that as well.

Ms. Danetz?

mc

STATEMENT OF LISA J. DANETZ, SENIOR COUNSEL,
DEMOS, BRIGHTON, MASSACHUSETTS

Ms. Danetz. Thank you, Chairwoman Feinstein, Ranking Member Bennett, and members of the Committee, for inviting me to testify--

Chairman Feinstein. Could you speak--is your microphone on?

Ms. Danetz. Yes. Thank you again. Currently I serve as senior counsel at Demos, where I have worked extensively to ensure better compliance with and implementation of the agency-based voter registration requirements of Section 7 of the National Voter Registration Act.

Our Nation's veterans, who have risked their lives in defense of the Nation, deserve every chance to exercise the most cherished and fundamental right of citizenship: the right to register and vote in this and future elections.

S. 3308 does that by ensuring veterans broad access to voter registration opportunities through agency-based voter registration, through voter registration drives, and there voter registration by election officials. This is important because U.S. census data indicates that 5.3 million veterans were unregistered to vote in 2006. That

mc

is 23.2 percent of all veterans.

As a major service provider to our country's veterans and with an \$80 billion budget, the VA is uniquely suited to reach out to these unregistered veterans. It is simply the right thing to do.

The purpose of the NVRA was to make voter registration broadly accessible by ensuring that people could register to vote, not just at city hall or the county clerks' offices, but at a variety of Government agencies where citizens go for a broad range of services.

Facilities and programs run by the Department of Veterans Affairs can and should play a vital role in providing ready access to voter registration for the men and women who have served their country in conflicts around the world.

Indeed, many VA facilities are similar in their function, in their procedures, and in the populations served as other mandatory voter registration agencies, including the Armed Forces Recruitment Centers, and the procedures through which voter registration services have been integrated into these other agencies can be readily imported into the VA's services.

mc

Contrary to what I understand the VA's position to be, Director 2008-053 does not require the same voting assistance that S. 3308 and the NVRA require. The NVRA requires a designated agency to affirmatively offer voter registration. Conversely, the new policy--which is certainly an improvement, and I do not want to take away from that--requires only notification and posting of information about available assistance. Indeed, the volunteers who have responsibility for the policy are prohibited from affirmatively offering voter registration because each must sign a form that does two things: it strictly limits voter registration assistance to those veterans who specifically request it, and also prohibits any encouragement to political participation through voting.

Simply stated, notifying patients of voting assistance is not sufficient to ensure meaningful voter registration opportunities. Providing assistance as part of procedures is what is needed. And, incidentally, this integration of procedures ensures minimal disruption at VA facilities.

Posting of information and opportunities is not sufficient. Interacting with clients is the key in

mc

providing voter registration.

I certainly understand the VA's concerns about costs and resources, although I do not agree that these problems will come to bear. And in that regard, I would like to make sure the record includes a letter I received from the State of North Carolina last week. In that letter, that State's chief elections official described the minimal manpower demands and limited form reproduction costs that were the sum total of costs imposed on agencies as a result of Section 7 implementation.

Getting back to the directive, I would like to quickly identify the other reasons we do not believe it is a complete solution to veteran voter registration.

I see my time is running out. May I have permission to continue?

Chairman Feinstein. Yes, if you would conclude.

Ms. Danetz. Thank you.

First, the directive appears to make voter registration services available only to patients residing in VA facilities and not to other veterans availing themselves of services. We do not believe that this difference in treatment is justified.

mc

Second, it is not clear in terms of how the policy will be implemented, to what extent outside groups will actually be permitted to come in.

And, finally, we are concerned that the policy will not be implemented quickly enough to ensure registration for the upcoming election.

Thank you very much.

[The prepared statement of Ms. Danetz follows:]

mc

Chairman Feinstein. Thank you very much, and I thank all three of you.

Mr. Sullivan, let me begin with you. I think you indicated one very important and compelling fact, and that is, when a veteran goes into a veterans facility to live, they lose their registration. How many do you estimate have lost their registration say in the past--you give me a timeline, whether it is 5 years, a year. But what is the number we are talking about?

Mr. Sullivan. Senator, the only estimate we have is that VA has reported in the press that there are about 100,000 veterans living in VA facilities. And if they have moved--

Chairman Feinstein. Inpatients.

Mr. Sullivan. Yes, ma'am. Inpatients. And that means that their former voter registration from the house they moved out of is no longer valid. I do not know the number for each year, but I gather if VA was asked that, they could probably provide it to you.

Chairman Feinstein. And I would assume that if you go to live in a VA facility, you are quite possibly elderly and wounded, or you are possibly paraplegic from a war or

mc

have some disabling injury that compels you to live in a facility. Would that be a correct analysis?

Mr. Sullivan. Yes, Senator, it is. And according to a report prepared by the Census about the 2004 election, veterans are slightly more likely to register and to vote than the general public. However, people who are disabled--and the census report does not sort out veterans disabled versus non-disabled. They just lump disabled together. The disabled are among the least likely to register and vote. This is one of the reasons why it is important that those veterans who are disabled, wounded, injured, or ill, so long as they are mentally competent and citizens, have the right to vote.

Chairman Feinstein. Yes. Well, I would just submit this as a compelling reason for the bill. I do not understand how we can let that continue. It seems to me that somebody who was seriously disabled fighting for our country, the very least of which we can do is to provide them with the opportunity to register to vote.

Now, according to the U.S. Census, 50 percent of veterans also between the ages of 18 and 24 are not registered. Do you have a number of what that 50 percent

mc

would represent? Either Mr. Hutter or Mr. Sullivan.

Mr. Hutter. I do not, Senator.

Chairman Feinstein. Mr. Sullivan?

Mr. Sullivan. No, I do not.

Chairman Feinstein. Okay. Is it possible for the VA to get us that number? Would you have it easily accessible or not? I do not want to ask you to go to any lengths to get it because I do not--

Mr. Hutter. I do not know, Senator, but I will find out.

Chairman Feinstein. Okay, if you would.

Mr. Hutter. And I will report back to you.

Chairman Feinstein. If you would, I would appreciate that.

We had planned to have Lee Page of Paralyzed Veterans of America talk about the difficulties that disabled veterans have in registering and voting, and he was unable to attend the meeting, but he pointed out the difference in access. And I do not think it needs any more--I think every one of us can understand how difficult it would be and how important it would be.

Mr. Hutter, I indicated to you that I think we need to

mc

clean up the language of what "meaningful access to nonpartisan groups" actually means. Assuming that we do that and that we confine it to a public area, such as a lobby, and we prohibit this at cemeteries, would you then have objection to the bill?

Mr. Hutter. Senator, I believe we would, unless we were able to incorporate into the bill some ability for each facility to proscribe the time, place, and manner of the voter registration activity.

Chairman Feinstein. I am prepared to do that. Between certain hours, we could put in that. That should not be a problem. You are right.

Now, of course, I am thinking of facilities that I have been in, whether it is Walter Reed, with an expansive lobby, or the L.A. VA or any other VA, people are coming and going all the time. And veterans are coming in and they are leaving. And it seems to me to have the League of Women Voters in there with a voter registration booth should disturb nobody, nor should it impose on anybody's privacy.

Mr. Hutter. A couple of points, if I might, Senator.

One, our focus in our policy consistently has been

mc

those inpatients that you were discussing with Mr. Sullivan. Those inpatients do not have access to the lobby, and, therefore, we want to make sure that when we bring in external groups--and, by the way, we have defined for our medical centers that any elected official is nonpartisan by definition.

Chairman Feinstein. You have defined that?

Mr. Hutter. We have defined that.

Chairman Feinstein. That is a step forward.

Mr. Hutter. There you are. And I told this to the Secretaries of State.

Anyway, so we are not sure that in a facility like Los Angeles or San Francisco, even if we were to set up in the public lobby, that we would be reaching those veterans who really need assistance with voter registration. Indeed, what we might want--what we would do and what we are doing is providing voter registration activities either for those on the ward or in the domiciliary or in the long-term care facilities, or for those veterans who are living off of the facility, but really the only meaningful outside access is from where they live to the medical center and back.

Chairman Feinstein. Well, would you be willing to sit

mc

down and work out this language which would allow some contact of seriously infirm veterans, who obviously cannot move, to be able to register to vote? I mean, to me it is such a no-brainer. I do not understand it.

Mr. Hutter. Senator, we are doing that and--

Chairman Feinstein. Then you won't mind if we codify it.

Mr. Hutter. No, and if we--no, I do not. But the other piece that I would like to make reference to is the Veterans Benefits Administration. We are housed for the most part, almost 99 percent of our regional offices are housed in either Federal buildings or buildings that we do not control. And our lobby space is very limited in our regional offices. And we believe it would not be appropriate to require this kind of voter registration activity from outside groups, nonpartisan groups, whatever, in those facilities.

Now, having said that, we can provide--

Chairman Feinstein. Now, what facilities are these, again?

Mr. Hutter. These are the regional benefits offices, Senator. These are the offices where veterans come--less

mc

and less because we are more reliant on web and other means of outreach--to access their education benefits, their compensation and pension benefits, their loan guarantee benefits, those kinds of things.

Chairman Feinstein. Well, what about directly outside, right in front?

Mr. Hutter. Again, we would not control that, and that is my concern, because--

Chairman Feinstein. Well, why would you want to control it? I mean, look, I put ironing boards all over the city when I was mayor and in a campaign, and volunteers stood, "Would you like to register here?" At the ironing boards, and this was done all over San Francisco. I do not quite understand why suddenly a veterans facility should be so pristine that nobody can stand in front of it with a table.

Mr. Hutter. My point, Senator--and maybe I am not making myself clear--is that we are a floor or two floors in a Federal building or another building that we do not control. So we would not control access with the ironing boards or any other--

Chairman Feinstein. Well, then you would not care.

mc

Mr. Hutter. Then we would not care. That is exactly correct.

Chairman Feinstein. Okay. Well, that solves the problem then.

Mr. Hutter. That is correct. So I understand your point, and if we were able to--I just want to make sure that you and your colleagues understand that the--we are not trying to limit access for veterans to vote. In fact, quite the reverse.

Chairman Feinstein. I do not believe that--

Mr. Hutter. We did not express it very well with the first policy in May, but we are actively--as you saw from the figures that I enunciated in my testimony, we are actively outreaching.

Chairman Feinstein. Mr. Hutter, the heat is on. There is substantial interest in this bill. Every veterans organization in America is supportive of it, virtually. I do not believe the Veterans Administration would have moved one iota had it not been for the publicity and the support that this bill has had out there. And it is all over the Nation. I can show you an article in the Sacramento Bee, which is a McClatchy Bee newspaper, a large newspaper,

mc

supporting it. As Mr. Sullivan said, you all have changed policy five times. So why should I believe that when another administration comes in the policy might not change again? What I am trying to establish, what Senator Kerry is trying to establish, is every veteran should have an opportunity to register to vote.

Mr. Hutter. Agreed.

Chairman Feinstein. And we should make that available.

Mr. Hutter. Agreed. Agreed, Senator. And I believe that we are doing that. A couple of points of clarification. It is about 57,000 inpatients that we have at any one time in our facilities. Those are the folks that do not have access to the community resources, voter registration resources that my colleague on the panel, Ms. Danetz, referred to. Those are the folks that we need to focus on, and we agree, and that is what we are doing.

The second point that I would like to make is that even before the new policy came out, we began tracking with the statistics that I recited to you how our various medical centers were doing in terms of outreach and in terms of making sure that the resources were available to

mc

veterans to vote. We are tracking those right now. And we would be happy to share them with you, with your staff, with the Rules Committee staff, at any time on an ongoing basis. So we are tracking it.

The third point I would make is that our policy changed in May of 2005 in response to a mere suggestion by a judge in Santa Clara County that we re-look at our policy.

Chairman Feinstein. That what? I am sorry. I did not understand. A judge in Santa Clara County that--

Mr. Hutter. A judge recommended that we re-look at our policy.

Chairman Feinstein. Re-look.

Mr. Hutter. Re-look. And our policy had not changed before that since 1983. So I think that the likelihood of our changing our policy is not evident. We changed our policy recently because we were not clear in what we were doing. That is the point I am trying to make.

Chairman Feinstein. And the point we are trying to make is that we want it to be very clear, precisely clear in the law so this does not have to be gone through again.

Mr. Sullivan, let me ask you this question: Speaking

mc

for veterans, assuming we are able--and I do not know whether this is possible, but as nearly as we can--to come to terms with Mr. Hutter to be more precise in the specific wording with respect to meaningful--I cannot find that piece of paper right at the moment with the language--meaningful access and to define it, define some hours, place a methodology for handling paraplegics, quadriplegics, others that clearly cannot move around or be moved around, and have an understanding of how long it would take a regional counsel to approve this, because we are concerned that the regional counsel will take forever and a day to move it past the election, but to have a very truncated period of time, say within 5 days, it has to be approved by the regional counsel or else it happens, do you believe that veterans organizations would be satisfied? And if not, why not?

Mr. Sullivan. The primary goal is for expedited implementation that is uniform and nationwide. And the devil is in the details, as the saying goes, and this is why congressional oversight is critical and the report is critical.

I am glad to hear VA General Counsel Mr. Hutter

mc

mentioning several examples of doing outreach at various facilities around VA. However, does VA have examples for every facility and statistics for every facility? And are they added up for the whole Nation? And only when that information is collected on how many veterans registered and then how many actually voted, then we will be able to see the impact of the legislation.

This is why we are firmly in support of an expedited passage of the bill. We do believe that it would be reasonable and fair to give VA some time--not very much--to be able to do this.

Chairman Feinstein. To be able to compile all these figures? I will tell you, they would take a year and a half.

Mr. Sullivan. That is why the report should be once a year, correct. But on the implementation, in their rules for implementation, they should be able to do it very quickly. There are some very smart, good lawyers at VA.

Chairman Feinstein. Good, I am glad to hear that. That is excellent

Well, I trust that--I would like to try to work that language out in the next couple of days. Would you make

mc

yourself available, Mr. Hutter?

Mr. Hutter. I will, Senator.

Chairman Feinstein. And, Mr. Sullivan, will you make yourself available? Are you here?

Mr. Sullivan. I will be here through today, but I will make myself available, Chairman.

Chairman Feinstein. That would be excellent. All right. And then we will try to see if we cannot reconcile that language, which I do believe that Mr. Hutter is correct, it is too broad. "Meaningful access," nobody knows what that means. And we will try and narrow that down.

Do you have--

Mr. Hutter. Senator, if I may, just one point. I would offer for the record a set of statistics that we have compiled that are accurate through August of this year that define what we have done in this area. So it is not going to take us a year and a half.

Chairman Feinstein. Excellent.

Mr. Hutter. I would be happy to provide that for the record.

[The information follows:]

mc

/ COMMITTEE INSERT

Chairman Feinstein. Thank you very much. I appreciate it.

Senator Bennett?

Senator Bennett. I come new to this issue, and as I listen to it, I come to the conclusion that the VA has focused primarily on the mission of providing health care and has seen these kinds of efforts as a distraction from that and taken a position that has offended the various veterans groups. And now it seems to me that everybody is pretty much coming together. And I think the position that the Chairman has taken, which is we will amend the bill to reflect the reality on the ground, and with all due respect to the institution in which I sit, that is an unusual position for us to do. We will amend the bill to reflect the reality on the ground. The people who are now, in my view, in good faith trying to respond to the reality on the ground are perfectly willing to have their efforts codified. I see no reason why this thing cannot be resolved rather quickly and rather easily.

The only comment I would make to you Mr. Sullivan, as you become part of working this out, this is semantics, but

mc

semantics can be important. You talk about the right of veterans to vote. The bill and the efforts that are being pushed forward here do not focus on the right of veterans to vote; they focus on the right of outside groups to enter the VA presumably to help people to vote. That may seem to be a slight difference, but it is a difference, and that is at the core of the controversy here.

The Veterans Administration supports the right of people to vote absolutely. They are not convinced that the entry of outside groups is going to facilitate that to the degree that you are convinced.

I think you are both acting in good faith, and in good faith we ought to be able to work this thing out.

Thank you, Madam Chair.

Chairman Feinstein. Are there any other comments from the panel? Because I would really like to get this together and get this moved. I feel very strongly that now is the time to do this and that it is going to get done one way or another. And the only thing, Mr. Hutter, that would be gained is not getting it done in time for this election, but it is going to get done. I mean, I am not going to give up, so it is going to get done. The question is

mc

getting it done in the best possible way where you can live with it and manage it. And I think, you know, in the big world, these nonpartisan groups have become very well accepted. Now, there are always a few, there is always a problem here, there is always a problem there. But, by and large, you know, once they get certified and there is an understanding and how this works and the limitations on I, I think we are really talking about getting people registered to vote, and that should be done virtually everywhere, particularly when you have veterans that cannot walk or move.

Mr. Hutter. We are in absolute agreement on this, Senator, in terms of making sure that our veterans who need it get registered to vote. It is that simple.

And with respect to the nonpartisan groups, I met the Secretary of State of California in Grand Rapids this year, and she indicated she did not have staff in order to go all over the State to provide support for our various facilities and suggested a couple of nonpartisan groups that would help us in doing this. We have actively reached out to those groups, one of them being the Asian American Voter Registration Group, which actually, I think, one of

mc

the board of trustees of Demos is a member.

At any rate, my point is that we are cognizant and we are reaching out. So we will work with you.

Chairman Feinstein. Well, the League of Women Voters has traditionally done a very good job. I used to be a member a long, long time ago.

Mr. Hutter. Yes, ma'am. But our problem was that we were exclusive pursuant to that 1983 policy in allowing just the League of Women Voters in, and that is why the judge suggested that we re-look at our policy.

Chairman Feinstein. Well, I think that is an excellent idea. See, I think most people do not know that when a veteran goes into the hospital, they lose their voter registration. And that is the clincher in all of this. You cannot take it with you. You have to renew it. And, therefore, we have to make it easy to renew.

Are there any other comments that anybody would have on the panel?

Ms. Danetz. If I might make one comment.

Chairman Feinstein. Certainly, go ahead.

Ms. Danetz. I just would like to address something that Mr. Hutter said earlier, as well as Senator Bennett,

mc

and that is, those patients who are unable to easily access the voter registration opportunities and situations like the limited space availability at the Veterans Benefits Administration are precisely the situations where Section 7 agency-based registration would help solve the problem.

Chairman Feinstein. What does that section do?

Ms. Danetz. Section 7 of the NVRA. I am sorry. I should have been more clear, not Section 7 of this legislation. But the agency-based voter registration of the NVRA, which requires the VA to affirmatively say, "If you are not registered, would you like to register to vote here today?"

Chairman Feinstein. Yes. We want that in the bill. I mean, I think that ought to be a responsibility, no question. Thank you very much. And if you would like to help, too, we would certainly welcome your help.

Ms. Danetz. I am happy to do so.

Chairman Feinstein. I want to get this done right away. I think you are coming around, Mr. Hutter. Keep going.

[Laughter.]

mc

Chairman Feinstein. Thank you.

If there are no other comments, then I will close the hearing, and with the words that we would like to get this done just as soon as possible so we can mark it up.

Thank you very much. I appreciate it. The hearing is adjourned.

[Whereupon, at 12:08 p.m., the Committee was adjourned.]