



STATEMENT FOR THE RECORD

Legislative Hearing

MISMANAGEMENT OF CONTRACTS AT ARLINGTON NATIONAL CEMETERY

SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Committee on Homeland Security and Governmental Affairs

UNITED STATES SENATE

July 29, 2010

Submitted for the Official Record of the Hearing

Madam Chair McCaskill, Ranking Member Scott Brown and Members of the Subcommittee on Contracting Oversight, the Military Officers Association of America (MOAA) respectfully requests that this Statement on Mismanagement of Contracts at Arlington National Cemetery (ANC) be entered in the official record of this hearing.

With 370,000 members, MOAA is the largest professional association for officers in the nation. MOAA does not receive any grants or contracts from the federal government.

Background. Senator McCaskill invited MOAA's National President, VADM (Ret.) Norb Ryan, USN in a July 21 letter to submit testimony for the record on the subject hearing.

During its 80 year history, MOAA has often requested information and advice from ANC officials. The majority of MOAA's membership is eligible for interment in ANC. Over the years, our members and the survivors of deceased MOAA members have desired clarification on the rules governing eligibility for interment at ANC; sought information to schedule military funeral honors and memorial services; supported MOAA legislative objectives to expand ANC's in-ground capacity; commented on ANC policies regarding headstones, potential for interment in older Cemetery sections and related memorial issues; and expressed concern over interment of unauthorized persons, among other matters.

In general, MOAA is pleased with the responsiveness of the ANC professional staff on these matters and in particular with now-retired Superintendent John ("Jack") Metzler.

MOAA was deeply disappointed to learn of the reports of mismanagement and allegations of waste, fraud and abuse at ANC. We appreciate that the Subcommittee is holding hearings on this matter.

The U.S. Army Inspector General's (IG) Report on the Special Inspection of Arlington National Cemetery (June 2010) details the findings, deficiencies and recommendations of its investigation of ANC policies, procedures, management, operations and "information assurance".

MOAA has no experience or expertise in Army or Federal contracting issues and accordingly offers no comment on the primary purpose of this hearing.

MOAA, however, is particularly interested in the Army IG's findings and recommendations for its "Objective 1" tasking: "assess policy and procedures for the operation of ANC.

Rules Governing Interment in Arlington National Cemetery

The Army IG reported that “all governing documents concerning operations at ANC are outdated and the cemetery has codified few aspects of daily operations.” The IG’s “Deficiency 1.3” noted that 32 Code of Federal (CFR) 553 governing the Department of the Army requires updating before Army Regulations can be updated.

§ 553.15 Persons eligible for burial in Arlington National Cemetery. MOAA has long maintained that the placement of the interment rules in a fairly obscure federal regulation is not in the best interest of those who have worn the uniform of the nation and who may or may not be eligible for interment in our nation’s most hallowed resting place for its national heroes.

MOAA continues to support the codification in public law of the rules governing access to ANC. The rules are not well understood, even at times within the defense establishment including, apparently, the Army. The IG noted a “lack of internal organizational SOPs and published policy guidance” for ANC and that “policy was disseminated circumstantially and verbally, never captured on paper.”

Informal, word-of-mouth policies and procedures increase the chance of error and cause confusion over who is actually eligible to be buried in ANC.

Moreover, since ANC is a national shrine and the interment rules apply to all of the Armed Forces, certain veterans and public officials, MOAA maintains that the rules should be set out in public law. We do not believe that one military Department, the Army, should own responsibility for the rules of interment.

Recent Legislative Initiatives

In 1998, the House of Representatives upon the recommendation of the Committee on Veterans Affairs (HVAC) passed by unanimous vote a bill to codify in public law the rules for interment in ANC. The House passed similar legislation in 1999 by a near-unanimous vote.

The measure passed by the House in 1999, H.R. 70, would have established in law authorization for burial in ANC to:

- members of the Armed Forces who die on active duty;
- retired members of the Armed Forces, including Reservists who served on active duty;
- former members of the Armed Forces who have been awarded the Medal of Honor, Distinguished Service Cross, Air Force Cross, or Navy Cross, Distinguished Service Medal, Silver Star, or Purple Heart;

- former prisoners of war;
- members of the National Guard / Reserve who served on active duty and are eligible for retirement, but who have not yet retired;
- the President or any former President;
- the spouse, surviving spouse, minor child and at the discretion of the Superintendent of Arlington, unmarried adult children of the above categories.

MOAA agrees with this framework with the exception of the last ‘bullet’. The discretionary authority for burial of unmarried children of the listed categories should be vested in the Secretary of Defense or his designee at the Department level.

September 11, 2001 and Captain Charles Burlingame, USNR (Ret.)

Retired Navy Reserve Captain Charles Burlingame piloted the American Airlines jet that was crashed into the Pentagon by terrorists on Sept. 11, 2001. CAPT Burlingame completed a full career in the Navy Reserve, was qualified for retirement from the Navy, and would have been eligible for interment in ANC, except for the fact that he had not yet reached 60 years of age.

Under 32 CFR 553.15, the Army initially declared that CAPT Burlingame was ineligible for interment in ANC. A huge national outcry followed and an exception was granted for his remains to be buried in ANC alongside other American heroes.

Later in the Fall of 2001, then-Chairman of the HVAC Christopher Smith (R-NJ), introduced H.R. 3423, a bill to change existing law by eliminating the age requirement for retired reservists who would otherwise be eligible for in-ground burial at ANC. In addition, H.R. 3423 would have authorized in-ground burial of reservists who die in the line of duty while on training duty.

As a proposed standalone provision of law governing ANC interment rules, H.R. 3423 was never taken up.

The confusion and uncertainty over the eligibility of CAPT Burlingame for burial in ANC illustrates the perennial problem over the rules governing the nation’s most hallowed ground.

During the same time that the 1999 bill, H.R. 70, was passed by near-unanimous House vote, that the Senate was in general agreement with the legislation but desired additional flexibility to accommodate worthy exceptions.

The Senate would have endorsed the H.R. 70 framework provided it included a provision to give the Secretary of Defense the authority to approve the burial of any veteran in ANC after consultation with the Chairmen of the House and Senate Veterans

Affairs Committees; and, in addition, a provision to authorize the President to approve the burial of any citizen who has made a distinguished contribution to the United States.

Unfortunately, when House and Senate Veterans Affairs Committees' conferees met to resolve their differences over codification of the rules, they were unable to reach a compromise.

MOAA continues to recommend that Congress take up the issue of the codification of the rules governing ANC burial at the earliest opportunity. The American people need to be reassured that the rules are clearly defined, properly codified and available for all to see.

MOAA recommends that the Subcommittee work with the Senate Committee on Veterans' Affairs to sponsor legislation to codify the rules governing interment in ANC. The legislation should include eligibility of "gray area" reserve servicemembers – those who have completed reserve service requirements and are eligible to retire, except for not yet having attained age 60 – and National Guard and Reserve servicemembers who die in the performance of inactive duty training or traveling to / from such duty, and their eligible dependents, for burial in ANC.

CONCLUSION

The Military Officers Association of America appreciates the Subcommittee on Contracting Oversight holding hearings to examine the management of Arlington National Cemetery. Thank you for the opportunity to submit testimony on behalf of our membership.