

**PERSONALITY DISORDER DISCHARGES:
IMPACT ON VETERANS' BENEFITS**

HEARING
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED ELEVENTH CONGRESS
SECOND SESSION

SEPTEMBER 15, 2010

Serial No. 111-97

Printed for the use of the Committee on Veterans' Affairs



U.S. GOVERNMENT PRINTING OFFICE

61-755

WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office,
<http://bookstore.gpo.gov>. For more information, contact the GPO Customer Contact Center,
U.S. Government Printing Office. Phone 202-512-1800, or 866-512-1800 (toll-free). E-mail, gpo@custhelp.com.

COMMITTEE ON VETERANS' AFFAIRS

BOB FILNER, California, *Chairman*

CORRINE BROWN, Florida	STEVE BUYER, Indiana, <i>Ranking</i>
VIC SNYDER, Arkansas	CLIFF STEARNS, Florida
MICHAEL H. MICHAUD, Maine	JERRY MORAN, Kansas
STEPHANIE HERSETH SANDLIN, South Dakota	HENRY E. BROWN, JR., South Carolina
HARRY E. MITCHELL, Arizona	JEFF MILLER, Florida
JOHN J. HALL, New York	JOHN BOOZMAN, Arkansas
DEBORAH L. HALVORSON, Illinois	BRIAN P. BILBRAY, California
THOMAS S.P. PERRIELLO, Virginia	DOUG LAMBORN, Colorado
HARRY TEAGUE, New Mexico	GUS M. BILIRAKIS, Florida
CIRO D. RODRIGUEZ, Texas	VERN BUCHANAN, Florida
JOE DONNELLY, Indiana	DAVID P. ROE, Tennessee
JERRY McNERNEY, California	
ZACHARY T. SPACE, Ohio	
TIMOTHY J. WALZ, Minnesota	
JOHN H. ADLER, New Jersey	
ANN KIRKPATRICK, Arizona	
GLENN C. NYE, Virginia	

MALCOM A. SHORTER, *Staff Director*

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Veterans' Affairs are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

September 15, 2010

	Page
Personality Disorder Discharges: Impact on Veterans' Benefits	1
OPENING STATEMENTS	
Chairman Bob Filner	1
Prepared statement of Chairman Filner	39
Hon. Steve Buyer	10
WITNESSES	
U.S. Government Accountability Office, Debra A. Draper, Ph.D., M.S.H.A., Director, Health Care	20
Prepared statement of Dr. Draper	56
U.S. Department of Defense:	
Lernes J. Hebert, Acting Director, Officer and Enlisted Personnel Manage- ment, Office of the Deputy Under Secretary of Defense (Military Per- sonnel Policy)	22
Prepared statement of Mr. Hebert	61
Major General Gina S. Farrissee, Director, Department of Military Personnel Management, G-1, Department of the Army	29
Prepared statement of General Farrissee	63
U.S. Department of Veterans Affairs, Antonette M. Zeiss, Ph.D., Acting Dep- uty Chief Patient Care Services Officer for Mental Health, Office of Patient Care Services, Veterans Health Administration	32
Prepared statement of Dr. Zeiss	65

Luther, Sergeant Chuck, Killeen, TX	4
Prepared statement of Sergeant Luther	47
Kors, Joshua, Investigative Reporter, <i>The Nation</i> . Magazine	3
Prepared statement of Mr. Kors	40
Veterans for Common Sense, Paul Sullivan, Executive Director	15
Prepared statement of Mr. Sullivan	50
Vietnam Veterans of America, Thomas J. Berger, Ph.D., Executive Director, Veterans Health Council	16
Prepared statement of Dr. Berger	54
SUBMISSION FOR THE RECORD	
Swords to Plowshares, Amy Fairweather, Policy Director, statement	71
MATERIAL SUBMITTED FOR THE RECORD	
Post-Hearing Follow-up Information:	
Clifford L. Stanley, Under Secretary of Defense (Personnel and Readiness), U.S. Department of Defense, to Secretaries of the Military Departments, Memorandum Regarding Continued Compliance Reporting on Personality Disorder (PD) Separations, dated September 10, 2010	73
Post-Hearing Questions and Responses for the Record:	
Hon. Bob Filner, Chairman, Committee on Veterans' Affairs to Joshua Kors, Reporter, <i>The Nation</i> ., letter dated September 21, 2010, and Mr. Kors responses	74
Hon. Bob Filner, Chairman, Committee on Veterans' Affairs to Thomas J. Berger, Ph.D., Executive Director, Veterans Health Council, Vietnam Veterans of America, letter dated September 21, 2010, and response memorandum dated, October 29, 2010	76

	Page
Post-Hearing Questions and Responses for the Record—Continued	
Hon. Bob Filner, Chairman, Committee on Veterans' Affairs to Gene L. Dodaro, Acting Comptroller General, U.S. Government Accountability Office, letter dated September 21, 2010, and response from Debra A. Draper, Director, Health Care, letter dated October 6, 2010	83
Hon. Bob Filner, Chairman, Committee on Veterans' Affairs to Hon. John M. McHugh, Secretary, Department of the Army, U.S. Department of Defense, letter dated September 21, 2010, and Army responses	87
Hon. Bob Filner, Chairman, Committee on Veterans' Affairs to Hon. Robert M. Gates, Secretary, U.S. Department of Defense, letter dated September 21, 2010, and DoD responses	89
Hon. Bob Filner, Chairman, Committee on Veterans' Affairs to Hon. Eric K. Shinseki, Secretary, U.S. Department of Defense, letter dated September 21, 2010, and VA responses	93

PERSONALITY DISORDER DISCHARGES: IMPACT ON VETERANS' BENEFITS

WEDNESDAY, SEPTEMBER 15, 2010

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 11:11 a.m., in Room 334, Cannon House Office Building, Hon. Bob Filner [Chairman of the Committee] presiding.

Present: Representatives Filner, Donnelly, Buyer, and Roe.

OPENING STATEMENT OF CHAIRMAN FILNER

The CHAIRMAN. Good morning. The hearing of the Committee on Veterans' Affairs will come to order. I apologize for our late start. As many of you know, we just went through a markup that took a little longer than expected. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks. Hearing no objection, so ordered.

Let me just give some background on the reason for this hearing. If the first panel would move up to the front, that would be fine.

In 2007, this Committee held a hearing to explore the problem of the U.S. Department of Defense (DoD) allegedly, improperly discharging servicemembers with preexisting personality disorders rather than mental health conditions resulting from the stresses of war, such as post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI). This means that servicemembers with personality disorder (PDs) discharges are generally denied key military disability benefits and the DoD is conveniently relieved from the responsibility of caring for our servicemembers in the long term.

These men and women continue to face an uphill battle when they seek benefits and services at the U.S. Department of Veterans Affairs (VA) because they must somehow prove that the so-called preexisting condition was aggravated or worsened by their military service.

Following our 2007 hearing, the National Defense Authorization Act for Fiscal Year 2008 included a provision requiring DoD to submit a report to Congress on this issue. DoD reported that from 2002 to 2007, the Department discharged 22,600 servicemembers with personality disorders. By the way, when the DoD has a chance to testify, I would like to see if they can answer the question, given this large number of discharges—why were they accepted in the first place?

DoD policy further stated that servicemembers must be counseled, be given the opportunity to overcome said deficiencies, and

must receive written notification prior to being involuntarily separated on the basis of a personality disorder. DoD also added rigor to their guidance by authorizing such separations only if servicemembers are diagnosed by a psychiatrist or a Ph.D. level psychologists of the personality disorder.

It has been over 3 years since we first exposed this issue at our hearing in 2007. I will add that after it was exposed in the press, we took it up in the Committee. Mr. Kors, did a lot of research on this issue and we are glad to have him here today. We appreciate all of his hard work. Mr. Kors and Sergeant Luther, could you come up now so that you can be ready.

It is my understanding that DoD's use of personality disorder discharges has decreased and that they concluded that no soldiers have been wrongly discharged. I am rather puzzled by this conclusion and would like to better understand the process and the criteria that were used to review the files of the thousands of servicemembers who were discharged with personality disorders. I cannot help but suspect that our men and women are not getting the help that they need and are struggling with PTSD, TBI, and other stresses of war on their own because of the wrongful personality disorder discharges.

Stresses of war such as PTSD are debilitating and the impact can be far reaching. We know of the negative impact that PTSD and TBI can have on the individual's mental health, physical health, work, and relationships. We also know that veterans attempt to self-medicate by using alcohol and drugs. This means that PTSD and TBI can lead veterans on a downward spiral towards suicide attempts and homelessness.

Just this past summer, we all heard that the United States Army reported suicide rates of over 20 per 100,000, which now exceeds the national suicide rate of about 19 per 100,000 in the general population. When high risk behaviors such as drinking and driving and drug overdoses are taken into account, it is said that more soldiers are dying by their own hand than in combat. Similarly, we know that homelessness continues to be a significant problem for our veterans, especially those suffering with PTSD and TBI.

Now, 3 years later, the Committee continues to hear of accounts of wrongful personality disorder discharges. This begs the question of how many soldiers have to commit suicide, go bankrupt, and end up homeless before real action is taken to remedy this problem. Clearly, our veterans must not be made to wait longer and must not be denied the benefits they are entitled to.

I look forward to hearing from our witnesses today as we further expose the problem of personality disorder discharges, better understand the steps that DoD has taken to deal with this problem, and forge a path forward to help our servicemembers who were improperly discharged with personalities disorders.

[The prepared statement of Chairman Filner appears on p. 39.]

The CHAIRMAN. When Mr. Buyer returns, I will be happy to give him time to do an opening statement.

The first panel is made up of Sergeant Chuck Luther, a veteran who will tell his own story of having personally experienced this practice. I mentioned Joshua Kors, who is an investigative reporter for *The Nation*. Magazine and who has done some real pioneering

research on this subject. We thank you, Mr. Kors, for your service to the Nation in this regard.

Mr. Kors, you have time before the Committee.

**STATEMENTS OF JOSHUA KORS, INVESTIGATIVE REPORTER,
THE NATION. MAGAZINE; AND SERGEANT CHUCK LUTHER,
KILLEEN, TX**

STATEMENT OF JOSHUA KORS

Mr. KORS. Thank you. Good morning. I have been reporting on personality disorder for several years, and I am here today to talk about the thousands of soldiers discharged with that condition since 2001.

A personality disorder discharge is a contradiction in terms. Recruits who have a severe preexisting illness like a personality disorder, do not pass the rigorous screening process and are not accepted into the Army. In the 3½ years I have been reporting on this story, I have interviewed dozen of soldiers discharged was personality disorder. All of them passed that original screening and were accepted into the Army. They were deemed physically and psychologically fit in a second screening as well, before being deployed to Iraq and Afghanistan, and served honorably there in combat. In each case, it was only when they became physically wounded and sought benefits that their preexisting condition was discovered.

The consequences of a personality disorder discharge are severe. Because PD is a preexisting condition, soldiers discharged with it cannot collect disability benefits. They cannot receive long-term medical care like other wounded soldiers. And they have to give back a slice of their signing bonus. As a result, on the day they are discharged, thousands of injured vets learn they actually owe the Army several thousand dollars.

Sergeant Chuck Luther is a disturbing example of how the Army applies a personality disorder discharge. Luther was manning a guard tower in the Sunni triangle north of Baghdad when a mortar blast tossed him to the ground, slamming his head against the concrete, leaving him with migraine headaches so severe that vision would shut down in one eye. The other, he said, felt like someone was stabbing him in the eye with a knife. When Luther sought medical care, doctors at Camp Taji told him that his blindness was caused by preexisting personality disorder.

Luther had served a dozen years, passing eight screenings and winning 22 honors for his performance. When he rejected that diagnosis, Luther's doctors ordered him confined to a closet. The sergeant was held in that closet for over a month, monitored around the clock by armed guards who enforced sleep deprivation—keeping the lights on all night, blasting heavy metal music at him all through the night. When the sergeant tried to escape, he was pinned down, injected with sleeping medication, and dragged back to the closet. Finally, after over a month, Luther was willing to sign anything—and he did, signing his name to a personality disorder discharge.

The sergeant was then whisked back to Fort Hood, where he learned the disturbing consequences of a PD discharge—no dis-

ability pay for the rest of his life, no long-term medical care, and he would now have to pay back a large chunk of his signing bonus. Luther was given a bill for \$1,500 and told that if he did not pay it, the Army would garnish his wages and start assessing interest.

Since 2001, the military has pressed 22,600 soldiers into signing these personality disorder documents at a savings to the military of over \$12.5 billion in disability and medical benefits. The sergeant's story was part 3 in my series on personality disorder. In part 2, I interviewed military doctors who talked about the pressure on them to purposely misdiagnose wounded soldiers. One told a story of a soldier that came back with a chunk missing from his leg. His superiors pressed him to diagnose that as personality disorder.

In 2008, after several Congressmen expressed outrage at these discharges, President Bush signed a law requiring the Pentagon to study PD discharges. Five months later, the Pentagon delivered its report. Its conclusion: Not a single soldier had been wrongly diagnosed and not a single soldier had been wrongly discharged. During this 5-month review, Pentagon officials interviewed no one, not even the soldiers whose cases they were reviewing.

Three years ago, during a hearing on personality disorder discharges, military officials sat in these seats and vowed to this Committee to fix this problem. Three years later, nothing has happened.

[The prepared statement of Mr. Kors appears on p. 40.]

The CHAIRMAN. Thank you, Mr. Kors.

Sergeant Luther, thank you for being here. Thank you for your service. I know it is not easy to talk about your personal situation, but we do appreciate it.

STATEMENT OF SERGEANT CHUCK LUTHER

Sergeant LUTHER. Mr. Chairman, Committee Members, and guests, thank you for the opportunity to speak and help my fellow soldiers and veterans by telling my story. I am here today to say that wearing the uniform for the U.S. Army is what defined me. I was, and still am, very proud of the service I gave to my country.

I entered the service on active-duty training status in February of 1988. I served 5 months on active-duty training status and then went on to 8 years of honorable Reserve service. I had a break in service and reentered the Reserves in 2003, and after serving 8 months honorably, I enlisted into the active-duty Army in October of 2004. I was stationed at Fort Hood, Texas. I served as an administrative specialist for 3 years and was given several awards for my leadership and service. I then went to retrain to become a 19D cavalry scout. Upon finishing school at Fort Knox, Kentucky, I returned to Fort Hood and was assigned to Comanche Troop, 1-7 CAV, 1st Brigade, and 1st Cavalry Division. I held the rank of Specialist ER when we left for Taji, Iraq, for a 15-month deployment.

We arrived in Iraq in November of 2006. We found ourselves in a very violent area at the beginning of the surge. On December 16, 2006, I was working in the company radio area monitoring the group that we had outside the forward operating base on an escort mission. I remember that day very clearly. The call came in from one of our staff sergeants in that patrol that they had been at-

tacked and one of our vehicles have been destroyed and we had three killed and one wounded. As we were receiving the information, we could hear the small arms fire in the background as they tried to recover the dead and wounded soldiers.

I served as the training room noncommissioned officer, so I was asked to translate the combat numbers given over the radio to my commander and first sergeant for identity. As the information came over, I realized the truck that had been destroyed contained one of my close friend, Staff Sergeant David Staats, and one of the soldiers that I had taken under my wing, PFC Joseph Baines. I focused on the mission at hand and that evening, drove the first sergeant and the platoon sergeant of these soldiers to the mortuary affairs and helped unload their bodies from the vehicles bringing them home. I pushed through and the next morning we got word, as we were preparing to head to Baghdad to see the wounded soldier, that he also passed away. For the next 2 months, we lost several other soldiers from our squadron and two Iraqi interpreters.

On February 16, 2007, I was a member of the convoy that drove out four boats and members of our troop to conduct a river recon/mosque monitoring mission. After an uneventful drive out, unload boats, troops, and the soldiers, we headed back to Forward Operating Base (FOB) Taji. As we pulled back on the FOB, the call came over the radio that the unit of soldiers had been ambushed on the river mission. We had to quickly head to the drop-off location to assist. Upon arriving, we received small arms and large-scale fire from the enemy. We found one of our staff sergeants lying in the middle of the beach bleeding from both legs. One of the lieutenants had been shot in the arm and two Iraqi police officers had been killed.

We quickly put together two boats of troops and ammo to retrieve our soldiers. After heading up river, we received fire on our boat and the boat had capsized and we were stranded on an island for approximately 14 hours before being picked up. We have had limited ammunition and no radio communications. We all thought we were going to die that day.

Fourteen days to the day after that event, I was sent home for R&R leave. I was very angry, had severe headaches, was depressed and would cry at times. I have fought with my wife and family while I was at home. I had an episode where I broke my hand punching walls. After not being able to cope, I welcomed the trip back to Iraq. Upon returning to Iraq, I was promoted to sergeant and received my combat action badge for my part in the river mission firefights.

After returning from R&R leave, several people in my unit said that something had changed in me. I tried to pull it together, but I had trouble sleeping, had anger problems, severe headaches, nose bleeds, and chronic chest pain. I was living at the combat post x-ray. While there, I went to see the medics to get my inhaler for asthma refilled. I was sent back to the forward operating base, and upon returning to the aid station, the squadron aid station doctor was not present. I was told he was busy preparing for his triathlon he would be competing in after our deployment. I came back the next day and was seen.

I asked to see the chaplain because I was feeling very depressed and needed to talk. After talking to the chaplain, I was sent to the quarters for 2 days and then I was allowed to go back to the combat outpost. Around the first of April, I was in guard tower 1 alpha when a mortar landed between the tower and the wall around the outpost. When it exploded, it threw me down and I hit my right shoulder and head. I had severe ringing in my right ear with clear fluid coming from it and had problems seeing out of my right eye. After a few minutes, I went to the medics on the outpost and was given ibuprofen and water and sent back to duty. I started to have worse headaches and could not sleep.

They sent me back to the forward operating base and I was seen by the aid station by doctors and medics and then sent to the mental health center. I spoke with the lieutenant there who was a licensed clinical social worker. He had a 15-minute talk with me and gave me Celexia and Ambien. I was sent back to my quarters. The next 2 days, I began to get angry and hostile due to the medications, and I was sent back to the lieutenant colonel. He informed me that if I did not stop acting like this, that they were going to chapter me out under a 5-13, personality disorder discharge. I tried and went back to the aid station.

After several days on suicide watch for making the comment that if I had to live like this, I would rather be dead, I asked to be sent somewhere where I could get help and be able to understand what was wrong with me. I was told I could not go and demanded I be taken to the inspector general of the forward operating base. I was told by Captain Dewees that I was not going anywhere, and he called for all the medics, roughly six to ten. I was assaulted, held down, and had my pants ripped from my left thigh and given an injection of something that put me to sleep. When I awoke, I was strapped down to a combat litter and had a black eye and cuts on my wrists from the zip ties.

I eventually was untied and from that point forward for 5 weeks, I was held in a room that was 6 feet by 8 feet that had bed pans, old blankets and other old supplies. I had to sleep on a combat litter and had a wool blanket.

I was under guard 24/7, and on several occasions was told I was not allowed to use the phone or the Internet. I had slept through chow and asked to be taken to the chow hall or post exchange to get some food due to my medications. I was told no and given a fuel-soaked MRE to eat. I was constantly called a piece of crap, a faker, and other derogatory things. They kept the lights on and played all sorts of music from rap to heavy metal all night. The medics worked in shift, therefore, they didn't sleep. They rotated. These are some of the tactics that we would use on insurgents that we captured to break them to get information or confessions.

I went through this for 4 weeks and the HHC (headquarters and headquarters company) commander told me to sign this discharge, and if I didn't, they would keep me there for 6 more months and then kick me out when we got back to Fort Hood anyway. I said I didn't have a personality disorder, and he told me if I signed the paperwork that I would get back home and get help and have all my benefits.

After the endless nights of sleep deprivation, harassment, and abuse, I finally signed just to get out of there. I was broken. It took 2 more weeks before I was flown out and brought to Fort Hood. Upon returning, I was told by the rear detachment acting first sergeant and commander to stay out of trouble and they would get me out of there. I was sent out to wait on my wife in the rain with two duffel bags and another carry bag. This was my welcome home from war.

I went home and I went to sleep, only to be awakened by three sergeants at my door saying I had to go back to the mental health due to me being suicidal and they had not had me checked out yet. I went to the R&R center at Fort Hood, Texas, and was seen by a lieutenant colonel who was a psychologist. He asked me why I was brought back from Iraq. I explained they said I had a personality disorder, and he disagreed. He shook his head and said that I had severe PTSD and combat exhaustion. He told me to get to sleep and rest and followup in a week with him. I was never allowed to go back to see him.

The ironic thing is that in my military records, I held three Army jobs and had a total of eight mental health screenings that all found me fit for duty. Also, I had never had a negative counseling or a negative incident in my 12 years of Reserve and active-duty career. Two weeks after getting back, I was discharged from the Army. I had my pay held and they took my saved up leave from me for repayment of unearned reenlistment bonus. I received a notice in the mail 3 weeks after my discharge from the Department of Finance that I owed the Army \$1,501. Three months later, I went to the VA and I was told they could not see me for the mental health due to my preexisting disorder. I went back the next week and was seen by a psychologist.

After an hour with her, she scheduled me an appointment with a caseworker and then I had several follow-up mental health appointments. I was given my VA rating a year later in 2008 of 70 percent for post-traumatic stress disorder, knee injury, headaches, right shoulder, and asthma. Six months later, after several emergency room visits and neurology appointments, my rating was upgraded to 90 percent and I was given service-connection for traumatic brain injury.

In June of this year, after 2 years from the date that I filed a request with the Military Boards of Correction to have my discharge changed from a chapter 5-13 to a medical retirement, I was denied, even after the 3 years of VA medical documents and evidence from people that know me. I demand my discharge be changed and I receive the proper discharge for my service.

I have since founded Disposable Warriors and I have assisted many veterans and soldiers in a range of issues, from personality disorder diagnosis to soldiers on Active duty with diagnosed post-traumatic stress disorder that are not been treated or being discharged for misconduct other than honorable or bad conduct discharge, which also does not entitled them to VA benefits.

I want to say that it has been hell just to get my mind somewhat back on track and to exist. I have bouts of memory loss, agitation, flashbacks, paranoia, problems sleeping, and depression. I get angry every time I look at my DD-214 with the fraudulent person-

ality disorder discharge. It cost me my contract jobs for private security after my exit from the Army. I had to get a job 3 days after I was kicked out of the Army to feed my wife and three children. I was taught for years in the Army the definition of integrity, honor, respect, and selfless service, all of which I gave to the Army but none was given back to me.

I hold two things very dear to me this day, and it comes from the noncommissioned officers creed: the accomplishment of my mission and the welfare of my soldiers. I am on a new battlefield, with a new mission, and I will, at all cost, take care of soldiers and their families. I love my country, I love my Army, but we cannot stand by and watch this to continue to happen.

At the very same time that this Committee was having Specialist John Town testify in front of them in 2007, I was abused, broken, and discharged for the very same thing this he was testifying about. Please do not let us be here in 3 years again with another story of shame. The lack of care and concern, coupled with the stigma of asking for help that we have allowed to be put on us, has to be totally removed. Then and only then will we see the veterans homelessness rate drop, the active duty in veterans suicide rate drop, and the skyrocketing of divorce decrease. The senior level of the Armed Forces get it. But they can talk about it, design plans for it, and make PowerPoints about it, but if it is not being enforced at the soldiers' level, it is worthless.

In closing, I would like to state that I do not have, nor have I ever had a personality disorder. I suffer from post-traumatic stress disorder and traumatic brain injury from my service to my country while at war in Iraq. I raised my right hand on several occasions and swore to protect the Constitution at all cost. I did my part. Now it is time for the military to keep its part of the agreement that if I were injured, they would help me get back on my feet. Please help stop these wrongful discharges and help get our wounded servicemen and women back to service or back to their families. Thank you.

[The prepared statement of Sergeant Luther appears on p. 47.]

The CHAIRMAN. Thank you both for such compelling testimony.

Mr. KORS, the last figure that both you and I had were from 2002 to 2007, stating that DoD discharged 22,600 veterans. Has that number gone down since we had the first hearing?

Mr. KORS. It was the 22,400. They have added 200 more to the list. But even that is tremendously outdated. That goes to 2007.

The CHAIRMAN. So we don't know what has happened the last 3 years?

Mr. KORS. We don't at all. I think the number of families who have been purposely cheated out of benefits is just rising and rising, without stop.

The CHAIRMAN. I assume the later panels are here and heard that question. I hope it is answered. I am sure such an institution as the Army has more updated figures.

Mr. KORS. I hope so. It is worth mentioning this is not just the Army. We are seeing personality disorder discharges across all four branches.

The CHAIRMAN. What disorder did they have you down for, Mr. Luther?

Sergeant LUTHER. They gave me a personal disorder NOS, not otherwise specified. They didn't characterize it.

The CHAIRMAN. Nothing more specific than that?

Sergeant LUTHER. No, sir.

Mr. KORS. And that is something you see with all of these discharges. When you have wounds that clearly don't come from a personality disorder, a cleaner way to fudge it is to give a nonpsychological, nonaccurate diagnosis; NOS. You won't find that in any of the psychological manuals. But it prevents them from stating specifically what the issue is.

And, of course, these discharges are being used for some of the most absurd things. Of course, with him, with blindness. With John Town here 3 years ago after he was wounded by the rocket and won the Purple Heart, they said he wasn't wounded. That his deafness came from personality disorder. I think about Sergeant Jose Rivera. His arms and legs were punctured by grenade shrapnel. They said those shrapnel wounds were caused by personality disorder. Sailor Samantha Spitz, her pelvis and two bones in her ankle were fractured. They said that her fractured pelvis was caused by personality disorder.

In a case that really touched me of Specialist Bonnie Moore, she developed an inflamed uterus during service. They said her profuse vaginal bleeding was caused by personality disorder. Civilian doctors thought it was something a little more severe. She went to a hospital in Germany where they removed her uterus and appendix. But after being given that personality disorder discharge and denied all benefits, she and her teenage daughter became homeless. She called me just because she was concerned that at the homeless shelter her daughter would be raped.

The CHAIRMAN. Sergeant Luther, what you described in the month or so after they asked you to sign these papers can only be described as torture, as I listen to it. Did you take any legal action against the Army for torturing you?

Sergeant LUTHER. No, sir. At the time, my TDS (Temporary Duty Station) attorney told me to go ahead and sign it or I would stay there 6 months. When I got out it took approximately 90 days for me to even get out of my fog to even seek help and when I went to the VA when they immediately denied me at first and some psychologist heard me talking and asked me to come back and then. But I have not been able to take any legal action. We went through the proper channels to ask the Board of Corrections to take the evidence and look at it. I just recently got a copy of that back, and it was pretty astounding.

The CHAIRMAN. Maybe Mr. Kors knows this. Does he have any legal recourse to sue the Army for torture?

Mr. KORS. The *Feres* doctrine coming out of the Supreme Court case from 1950, *Feres v. U.S.*, provides a bubble for military doctors, which regardless of how egregious their behavior or diagnosis is, they cannot be a sued. A lot of the doctors I talked to who were pressured to purposely misdiagnose physical injuries as personality disorder, that was one of the tactics that their superiors gave them said, look you can go ahead and do this. You will be promoted for applying the false diagnosis, and there is no way you can be sued.

The CHAIRMAN. Sounds like during this detainment there were other people besides doctors involved.

Mr. KORS. I think legally it would be a tricky prospect.

The CHAIRMAN. All right. Mr. Buyer.

OPENING STATEMENT OF HON. STEVE BUYER

Mr. BUYER. Mr. Chairman, I am going to refer to my opening statement.

The Department of Defense has the responsibility to ensure that diagnosis of personality disorders within its ranks are accurate and the behavior abnormalities are not the consequence of combat or some other event that might result from post-traumatic stress. That being said, this Committee does not have jurisdiction over the military disabilities rating system nor the discharge procedures. I made this very point 3 years ago when we held a nearly identical hearing on how the Pentagon handles the identification and disposition of personality disorder diagnosis.

Today's hearing takes a slightly different approach as to how personality disorder discharges impact veterans' benefits, but the thrust of the discussion is the same. This is primarily a DoD issue. And if we hope to prompt any effective solutions, we should have had a joint hearing with the Armed Services Subcommittee.

As for the topic of today's hearing, I think most participants can summarize pretty quickly how personality disorder discharges impacts a veteran's position. Personality disorders are not considered diseases for VA compensation purposes and except in cases where they were proximately due to or aggravated by a service-connected condition. Clearly, if the VA provides a different diagnosis than the military, then the condition is considered to have been incurred on active duty. Service connection may then be established.

So the crux of the problem we are discussing lies with the accuracy of the diagnosis provided by military physicians. And if we question whether the misdiagnosis, if there is one, is due to deliberate actions by some nefarious purpose—that is my sensing as the testimony—as I listen to the testimony by a reporter—and they are simply the result maybe even of medical errors or a line of inquiry that leads back to the DoD. I expect we are going to hear from DoD and their response to the issues raised by the 2008 U.S. Governmental Accountability Office (GAO) report showed that in many instances, DoD was not following their own procedures and policies regarding personality disorder discharges. GAO will testify that even after that, they can still not reasonably say that all the services are following DoD policies on personality disorders.

Now what is really challenging here for me is—I just want to be really careful. Number one, Sergeant Luther, let me thank you for your willingness to serve the country and wear America's uniform. The United States Army. It is the same uniform that I have worn for 30 years. So I respect that.

I also have a lot of documents here about you that are nondiscloseable. And I am not going to discuss them in public. So when you make statements—you have made public statements—and I am not going to go into your personal life. I am not going to discuss your military conditions. But when you make certain statements and sitting to your left is a reporter that makes some

very exaggerated statements, you disadvantage DoD. They are going to come up here and, guess what? They can't specifically talk about your case. They can't come in here and testify about some of the things that you have said.

You have made some pretty strong statements that are not supported by what I have. And I am disadvantaged also because, number one, I am disadvantaged out of respect. I respect you, I respect your privacy. I also would say this. I would never, even when I was Chairman of whatever Subcommittee or full Committee, ever put a reporter on a panel to testify. I would never do that. Why? Because your testimony is hearsay. It is hearsay. Everything you say is hearsay. What we are supposed to do is get to the bottom of things so you can understand that. You can make whatever allegations you want. You can lead us to our professional staff and we can find the person. So the testimony is in first person.

So I would say to the gentleman, you can say whatever you say and basically you have and you surmised your opinion based on what you have seen and heard. But I think it is pretty shocking that you would even come here and provide testimony with regard to someone's medical condition. You are not a doctor. If you were a doctor, they would knock you right upside the head for that. I would be pretty upset if you went and testified about my medical conditions in a public place, let alone, where are your sensitivities to talk about a woman and her health? Wow.

I am pretty shocked that you would do that. So I'm going to yield back my time, Mr. Chairman. I just want to let you know, sir, I respect you and I couldn't be more than—gosh, I could go into this, but sir, my counsel would be to follow the counsel of some individuals that really have your interests at heart, and those doctors have your interests at heart. You are upset with regard to the diagnosis of a personality disorder. The PTSD has, in fact, been recognized. I have the records with regard to findings when you attempted to correct the military records. So I have seen everything that they have seen, and I have seen the documents with regard to that process.

We want you to get better. We want you get better with regard to the PTSD, and please, follow the counsel of your doctors and mental health professionals that take your interests best at heart, not somebody else that may want to use you or use your case to write stories or to do other things. If they truly had your interests at heart, they wouldn't take your case and what I know about you and put it on public display. That is Steve Buyer's opinion. I would never do that to a fellow soldier.

With that, I yield back.

The CHAIRMAN. Thank you, Mr. Buyer.

Would either of you like to make a comment? Please feel free to respond.

Mr. KORS. I would love to address those concerns. Thank you, Congressman Buyer.

First of all, as to this being hearsay, I hope it is clear that this is the furthest thing from that. As a reporter, I am here to summarize the 3½ years of research I have done on personality disorders with Sergeant Luther's case, particularly. I never would have gone into this investigation if it were a he said/she said story.

In addition to Sergeant Luther's detailed testimony, I have stacks of medical papers from his doctors at Camp Taji who documented his confinement. I have an interview with his commander who was there at the aid station. I have confirmed every piece of this story. I interviewed Sergeant Byington who came to visit him while he was confined in the closet. Also, one of the idiosyncrasies of the story is they did not take away Sergeant Luther's backpack which had his camera. He was able to document the closet, take photos of it. Nobody in this story disputes that this is what happened. The only question from here is what to do about it.

As for this being an isolated case, I think about Troy Daniels, a doctor who works extensively with Ft. Hood. He interviewed or he—sorry, treated Sergeant Luther following his return to Texas, said in no way did he have a personality disorder, this was clearly traumatic brain injury and that he wasn't surprised by this. He had seen a dozen of these personality disorder cases come out of Ft. Hood, all of them, he said, did not have personality disorder.

I am simply giving back to you the statements from the doctors that I have spoken with.

Mr. BUYER. The challenge is, you can't say an emphatic statement like you just said, all said he does not have. I have records in front of me.

Mr. KORS. All said what?

Mr. BUYER. I am not going to do this. My integrity as a gentleman will not permit me to do this.

Dr. Roe, will you take this seat? I am not going to participate. I'm not going to do it. This is wrong. This is wrong. Dr. Roe, take over.

The CHAIRMAN. Mr. Kors, I apologize for any further reaction, please, sir? Please.

Mr. KORS. Let me just say further that the Representative who was upset that I was sharing Specialist Bonnie Moore's story. These soldiers want their story to be told.

Sergeant Luther, I believe he came here today to represent those 22,600 families who have been shattered by these false diagnoses. It is a story that hasn't gotten out to the public as so many in the military hope it would, and if nobody knows about this, if these stories don't get out, then this problem is not going to be fixed. We'll be here, as Sergeant Luther said, 3 years later with another batch of stories.

The CHAIRMAN. I think you have control over your microphone. There is a button on there.

Sergeant LUTHER. Just what I would like to say is this. I am not here just about chuckles. This is larger than I. I haven't made any statements that were inflammatory or wrong. I wished I didn't have this story to tell. But what I will tell you is in the 3 years that I have been treated for post-traumatic stress disorder and the medications I have been given, several of my doctors have said to me at different intervals to make sure I continue to fight to have my discharged change because it doesn't reflect what my injury is.

I saw a licensed clinical social worker and a pediatrician in a combat theater for less than 2 hours of face time and was given the diagnosis of personality disorder. In doing study over 3 years, that is impossible to diagnose at that interval. In fact, in the last

3 years, I have been treated—prognosed and diagnosed for my PTSD and now traumatic brain injury to my cognitive function disability and if it was a case of a personality disorder, I think that those licensed psychologists and psychiatrists would, in fact, have found a personality disorder and seeing that I have never in my life had any issues prior to being blown up in Iraq.

Mr. KORS. Mr. Chairman, let me also add one misimpression I want to make sure that folks from this Committee do not come away with is that there is any kind of connection between PD, personality disorder, and PTSD. They have similar letters as Mark Twain said the difference between lightening and the lightning bug.

It is true that Sergeant Luther did get shell shock from his service in Iraq, but we are talking about physical injuries that are being diagnosed as personality disorder. You know, with PTSD, it is very easy to make this amorphous argument that, well, you think he was crazy before or after he served in Iraq, we think he was crazy before. I guess we both have our own opinion. With blindness, deafness, a mortar fire wound, fractured pelvises, you can't make that same argument.

The CHAIRMAN. Thank you. Mr. Roe, do you have any questions?

Mr. ROE. Yes, Mr. Chairman. I didn't hear a lot of the testimony but just as a veteran and as a medical officer in the Army, when I was in, I never felt any pressure, I never had anyone—maybe I was immune to it, I don't know, due to stubbornness, but I never felt pressure to make diagnosis one way or the other and certainly diagnosis can be right and can be wrong. I guess Roe's rule is they haven't invented the test or diagnosis that hasn't been wrong. So people can make mistakes, honest mistakes, but as a medical doctor in the military I never had anyone come to my clinic and pressure me to diagnose someone one way or the other so that an administrative discharge or whatever could be made. And I am not saying it did or didn't happen; I am just saying in the experience of this doctor it didn't happen. So I yield back.

The CHAIRMAN. I thank you, Mr. Kors and Sergeant Luther. I hope you will stay for the next panels. We may want to have you respond to what happens. I want to thank you for your courage in being here. I want to thank you for pursuing this. You are up against a vast machine, some of that you just saw here, and I think it is extremely important that all the families get the best possible explanation. By telling your story, Sergeant, you have tried to do that.

Mr. Kors, there is nobody who has ever testified in front of this Committee that didn't reference some hearsay. I have read all of your materials and I have great confidence in both the ethics and the integrity of what you have said and the way you go about it. So, I want to thank you both for your courage and for your integrity for doing this.

Mr. KORS. Thank you. Mr. Chairman, if I could quickly address two concerns that were raised by Representative Roe. First to say that you had asked before about the consequences for these doctors, whether they be subject to lawsuits. Quite the opposite has been occurring. Those who have provided these false diagnoses have been rapidly promoted. I think about Lieutenant Colonel

Applewhite, the social worker who diagnosed personality disorder on Sergeant Luther. He was immediately given a slot to teach at Fort Sam Houston a course to other medical professionals on how to properly diagnose mental illnesses.

With Captain Wehri, who confirmed that Sergeant Luther was placed in that closet for over a month, he was promoted to major and those—and in fact, with that doctor I mentioned who was encouraged to diagnose that chunk of a missing leg as personality disorder, the superior who applied that pressure was immediately promoted to one of the top doctors in the military.

And also to address the concern of Representative Buyer that this is not—this is an Army issue and not a VA issue. Nothing could be further from the truth because so many of these soldiers, they are told you have a personality disorder discharge; you are not eligible for VA benefits. So these people don't go to the VA because they don't think they have a slot there for them. There are very, very few that find out through other means like maybe the press that they can get an independent review from the VA. They will go in and in those cases, you get the most bizarre outcomes. You have VA doctors who get to examine them in depth and say this soldier doesn't have a personality disorder. They have a broken arm or blindness or traumatic brain injury and then you have what you have in Sergeant Luther's case with traumatic brain injury and a large disability benefit finally for that injury but yet the Army is insisting that he has a personality disorder discharge and doesn't deserve any compensation. One soldier, two vastly different diagnoses.

Mr. ROE. Mr. Chairman, may I just make a comment. Mr. Kors, I don't know the details of this and I am just discussing this in the broader view. If I served in the military that I thought my promotion was based on me making a diagnosis, it isn't the Army that I was in. And you may be—maybe an officer got promoted after they saw someone. I am sure I did. I got promoted from captain to major when I was in the Army, and I saw a lot of people during that time. But the military has criteria that they do, objective criteria, hoops that you jump through, at least when I was in the Army to get promoted. I have never heard of any such thing where somebody made a diagnosis and then you suggest that they got promoted because of that. That would be outrageous.

Mr. KORS. This is not to say this was the only reason they were promoted, but in the case of the doctor who was pressed to diagnose the missing chunk of the leg, he came to me and said I want to speak out about this but I was not going to do it. He retired immediately instead of providing that diagnosis.

Mr. ROE. I yield back.

The CHAIRMAN. Again, thank you. I hope you will stay because we may want to recall you after we hear from the others. If panel two would come forward, please?

Thank you for being here. Paul Sullivan is the Executive Director of Veterans for Common Sense (VCS). Dr. Thomas Berger is the Executive Director for the Veterans Health Council for the Vietnam Veterans of America (VVA). We appreciate you being here today. The minority has not requested any background medical conditions on yourself so we will be fine. Mr. Sullivan.

STATEMENT OF PAUL SULLIVAN, EXECUTIVE DIRECTOR, VETERANS FOR COMMON SENSE; AND THOMAS J. BERGER, PH.D., EXECUTIVE DIRECTOR, VETERANS HEALTH COUNCIL, VIETNAM VETERANS OF AMERICA

STATEMENT OF PAUL SULLIVAN

Mr. SULLIVAN. Mr. Chairman, yes, I brought my glasses. That is my medical condition. I need to read my testimony.

I thank you, Chairman Filner and Ranking Member Buyer for inviting Veterans for Common Sense to testify about the impact of improper military discharges on our veterans. VCS testified about this issue 3 years ago. We remain alarmed DoD continues improperly discharging thousands of our servicemembers who had entered the military in good health and who served with honor while deployed to the Iraq and Afghanistan Wars.

DoD may have reduced the number of personality disorder discharges and that should be noted but DoD now improperly uses adjustment disorder and pattern of misconduct discharges instead. While we believe the military causes the problems associated with improper discharges, the solution requires cooperation between Congress, the military, VA and advocates. According to an *Army Times* article, "Jason Perry, a former Army judge advocate who helps troops going through medical retirement said he had seen dozens of such cases, it's very common and it's completely illegal."

We agree with Mr. Perry's assessment. VCS urges Congress to order an immediate stop to DoD's improper personality disorder adjustment disorder and pattern of misconduct discharges for those servicemembers deployed to the war zones since 2001. The main underlying cause of the improper discharges remains the enormous pressure from Secretary Gates to curb military medical spending.

VCS estimates between \$5 billion and \$20 billion in lost lifetime and other medical benefits for our veterans and families. DoD's policy improperly shifts costs from the Federal Government to veterans and private insurance companies as well as to State and local governments. VCS remains frustrated the military has not revealed how many of our Iraq and Afghanistan war servicemembers were administratively discharged since 2001. We need facts if we are going to stop the improper discharges and provide VA care and benefits to otherwise deserving veterans.

VCS used the Freedom of Information Act to try to obtain this information from DoD, and DoD said they could not obtain the data due to computer limitations. As advocates we want to offer solutions, please.

First, VA training. VA should train benefits and health care staff about DoD discharges to avoid improper VA denials for health care and benefits.

Two, there should be new DoD regulations. DoD should update separation rules to provide greater legal protections for servicemembers.

Three, correct records. DoD should identify and correct as many as 22,000 previous inappropriate discharges.

Four, enforce accountability. DoD must improve oversight and accountability. We are troubled that not a single military officer

was fired or reprimanded for apparently or allegedly violating servicemembers' rights.

Independent review. Congress should create an independent review of the overall health of our servicemembers; otherwise the absence of records allows DoD to plead ignorance, just as they did with exposures to radiation from atomic bomb blasts, Agent Orange, and Gulf war illness.

Six, conduct universal mandatory medical exams. VCS once again urges Congress to order the military to implement mandatory universal pre-deployment and post-deployment physical exams as required by the 1997 Force Health Protection Act that will help alleviate some of the fronts with confusing records.

Seven, fill mental health professional vacancies. VCS urges Congress to order the military to hire more medical professionals so our soldiers receive the mandatory universal exams as well as prompt treatment.

Eight, honor medical opinions. VCS urges Congress to eliminate the ability of line commanders to overrule the decisions made by medical professionals regarding the ability of a servicemember to deploy to a war zone.

Nine, expand anti-stigma education. VCS urges DoD and VA to expand the agency's anti-stigma education program and to encourage our servicemembers and veterans to seek care when needed.

In conclusion, DoD is responsible for most of the problems discussed here today. However, implementing pragmatic solutions requires cooperation between Congress, the military, VA, and advocates. This concludes my testimony, Mr. Chairman. I would be happy to answer any of your questions.

The CHAIRMAN. Thank you, Mr. Sullivan.

[The prepared statement of Mr. Sullivan appears on p. 50.]

The CHAIRMAN. Dr. Berger.

STATEMENT OF THOMAS J. BERGER, PH.D.

Dr. BERGER. Chairman Filner, Ranking Member and distinguished Members of the Committee who are still around here.

On behalf of President John Rowan, our board of directors and our membership, Vietnam Veterans of America thanks you for the opportunity to present our views on discharges for personality disorder and their impact on veterans benefits.

We have heard a great deal of pieces and parts about the history. I think it is important to remember that personality disorder is a severe mental illness that emerges during childhood or adolescence and is listed in military regulations as a preexisting condition, not a result of combat. Personality disorder contains symptoms that are enduring and play a major role in most, if not all, aspects of a person's life.

While many disorders vacillate in terms of symptom presence and intensity, personality disorders typically remain relatively constant. In other words, according to the Diagnostic and Statistical Manual of Mental Disorders (DSM)-IV, to be diagnosed with a disorder in this category, the symptoms have been present for an extended period of time, inflexible and pervasive, and are not the result of alcohol or drugs or another psychiatric disorder, and that history of symptoms can be traced back to childhood or adolescence.

At the time the issue first arose back in 2007, VVA and other veterans advocates, some of whom are present in this room, contended publicly and in meetings with Congress, that many of the servicemembers were suffering from post-traumatic stress disorder or traumatic brain injury but that it was easier and less costly for the military to separate them into the rubric of personality disorder, leaving some of us to believe that such a large number of personality disorder discharges—remember, 22,600 plus—were, in fact, fabricated to save on the cost of other more appropriate mental health treatments and disability benefits. We have also heard from the Chairman himself about some of the history of the hearings that have gone on since 2007.

I point out a couple of other elements missing from the history here, and that is in August of 2008, the Department of Defense, DoD, issued an instruction that took effect—without public announcement, okay—that revised how they were to apply the personality disorder discharge.

In addition, that same summer, the Senate also adopted an amendment to the Defense authorization bill at the time by then-Senator Obama, Senator Kit Bond and Senator Lieberman from Connecticut that directed DoD officials to report on the personality disorder situation. They did so. Subsequently in October 2008, GAO released its findings based on a review of service jackets for 312 members separated for personality disorder from four military installations. It concluded that the services were not reliably compliant, even with the pre-August 2008 regulation governing discharge separations. And, for example, only 40 to 78 percent of enlisted members separated for personality disorders had documents in their files showing that a psychiatrist or qualified psychologist determined that the disorder affected their ability to function in the service.

Fast forward to 2010. We now hear the Army say that any soldier—they deny that any soldier that was misdiagnosed before 2008, all right, if you look at the number of PTSD cases that jumped between 2008 and 2009. Something happened. And so we would like to ask, okay, can the Army explain why the number of the personality disorder discharges doubled between 2006 and 2008 and then shrunk after that by 75 percent? And how many of those who got those discharge separations were qualified to retain their benefits?

I would also like to follow-up with Paul's question: Is the Army now relying on a different designation, referred to as adjustment disorder, to dismiss soldiers? It is absolutely clear either through Congressional action or a Presidential directive that the Army needs to conduct a thorough review of its personality disorder diagnoses prior to 2008, treat those who need help and restore disability benefits where appropriate.

Thank you, Mr. Chairman, Mr. Roe, for holding this meeting. I'll be glad to answer any questions.

The CHAIRMAN. Thank you, Mr. Berger.

[The prepared statement of Dr. Berger appears on p. 54.]

The CHAIRMAN. Mr. Roe.

Mr. ROE. I have a meeting I have to go to at noon, but a couple of quick questions. And Dr. Berger, you may have the answer to

this. I don't and I hadn't studied this issue before I came here today, but do you know the incidence of personality disorder in the population in general.

Dr. BERGER. No, I can't give you that figure sir, not off the top of my head.

Mr. ROE. I wondered if—I guess the question I have is what percent of troops were diagnosed with personality disorder. In other words, of that 22,600, what percent of our troops that are in there have been diagnosed, and is that—you see what I am getting at? Is it higher or is this a diagnosis that all of a sudden has exploded in the military but it's not out there in real life. And your description of personality disorder is correct, at least my familiarity with it is, that it usually manifests itself in childhood or—

Dr. BERGER. In adolescence. The DSM-4 is clear on it, sir.

Mr. ROE. Kids that are acting out, whatever, you have trouble dealing with them in high school and so on and usually don't get into the military, but I think that is a couple, just from demographics that would be very interesting to see what is the incidence in the population in general, what is the diagnosis of that, and then what is the—is it higher here that we use this diagnosis. And I think if you can find out those two things you'd find out a lot. I think your question about between 2006 and 2008 where the incidences doubled and then dropped down, I think that begs an answer also.

Dr. BERGER. Thank you, sir. I am skeptical of the Army's claim that it didn't make any mistakes because the symptoms of PTSD, anger, irritability, anxiety, depression, all those kinds of things we have talked about at other hearings, can easily under certain kinds of circumstances, can easily be confused with the Army's description of personality disorder.

Mr. ROE. I yield back, Mr. Chairman.

The CHAIRMAN. Thank you. The figures that Mr. Berger referred to, the doubling from 2006 to 2008, you said shrunk by 75 percent but I didn't get the date by which they had shrunk.

Dr. BERGER. Two thousand eight, sir.

The CHAIRMAN. In 2008, they had shrunk by 75 percent?

Dr. BERGER. Yes. Between 2008 and 2009, the annual number of personality disorder cases dropped by 75 percent. Only 260 soldiers were discharged on those grounds in 2009. At the same time, the number of PTSD cases soared.

The CHAIRMAN. How about the other diagnosis that Mr. Kors brought up, the adjustment disorder or pattern of conduct? Do you have those figures?

Dr. BERGER. I don't have those figures with me, sir.

The CHAIRMAN. Okay. Mr. Sullivan, I want to thank you for being very specific in your recommendations so that we can try to deal with these problems. I don't have a doubt, personally, that something is going on here. It is hard to imagine—maybe I am too naïve—that somebody is ordering a diagnoses or are changing a diagnoses. Have you seen that happen or do you know where that happened that these changes in the figures somehow changed because of a policy change? It doesn't just happen.

Dr. BERGER. That is why we are asking the questions, sir.

Mr. SULLIVAN. Really what we need, Mr. Chairman, is more transparency from the Department of Defense because when we see the number of personality disorders drop after the hearing, yet the number of adjustment and pattern of misconduct discharges rise after the hearing, it looks as if the DoD is just playing one of those shell games, and that is what we want to make sure is not happening. We want to make sure that servicemembers have their due process rights upheld because we don't want anybody to be hazed, browbeaten or, as you used the word, tortured into possibly signing a document that gives up some of their VA health care and disability benefits.

Dr. BERGER. Mr. Chairman, in reference to the question you asked a few minutes ago, I can't honestly believe that they reviewed every single one of those 22,600 cases, okay. They made the statement in public, though, at least spokespersons for the U.S. Army medical command said that they did but there weren't any changes made. I find that—I really find that hard to believe.

The CHAIRMAN. Is there a more specific subset of examples of personality disorder, because when I asked the Sergeant what was his personality disorder, they just noted NOS. Are there more?

Dr. BERGER. There are four categories.

The CHAIRMAN. Can you give me those?

Dr. BERGER. Right off the top of my head—it just flew out of my head. I think there is three or four categories of personality disorder.

The CHAIRMAN. You would have expected these to be noted in the pre-physical or pre—

Dr. BERGER. Prescreening.

The CHAIRMAN. Before they enlisted or volunteered for the service?

Dr. BERGER. Yes, sir.

The CHAIRMAN. You would think that they would be noted.

Mr. SULLIVAN. Mr. Chairman, Dr. Roe actually asked a good question, but it could be phrased a little bit better if I may. He said, ask the military how many potential recruits were actually refused the opportunity to enlist because of the personality disorder, then you would actually get a better statistic about what is going on because if the military, suddenly you see an increase or a decrease in rejections for personality disorder, then you can say, well, what is the military doing that is different at the military entrance processing stations, these MEP stations, where they do these exams.

The CHAIRMAN. Have you seen these statistics?

Mr. SULLIVAN. No, I don't have them, but that is the kind of questions that should be asked.

The CHAIRMAN. Okay, for panel four, it is going to be asked. Thank you. We may want to talk to you further. I ask panel three to come forward.

Dr. BERGER. Thank you, sir.

The CHAIRMAN. Thank you.

Dr. Debra Draper is the Director for Health Care for the U.S. Government Accountability Office. You have made several studies on this issue and we thank you for what the GAO does. We welcome your testimony today.

**STATEMENT OF DEBRA DRAPER, DIRECTOR, HEALTH CARE,
U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Ms. DRAPER. Chairman Filner, thank you for the opportunity to be here today as you discuss personality disorder separations and the impact on veterans' benefits.

DoD policy allows enlisted servicemembers with a personality disorder to be involuntarily separated if the disorder is severe enough that it makes the servicemember unsuitable for military service. Those who are separated solely on the basis of a personality disorder are ineligible to receive disability compensation benefits because the disorder is considered to be preexisting and not a service-connected condition. Prior to separation, DoD requires the services to comply with three key requirements.

First, the servicemember must be diagnosed with a personality disorder, which interferes with his or her ability to function in the military. Second, the servicemember must receive notification of his or her impending separation, and third, the servicemember must receive formal counseling.

But the bottom line is that the military services have not demonstrated full compliance with DoD's requirements. In my statement today, I plan to first discuss findings and recommendations from GAO's 2008 report on personality disorder separations. I will then discuss what actions DoD and the military services have taken with regard to our recommendations.

In 2008, we reported that documented compliance with DoD's requirements varied by specific requirements and by military installations. For example, in a review of personnel records from four military installations, we found that documented compliance with the diagnosis requirement ranged from 40 to 78 percent; and from 40 to 99 percent for the formal counseling requirement. Based on these and other findings, we recommended that DoD direct the military services to develop a system to ensure compliance with the requirements; and that DoD monitor the services' compliance. In August 2008, after our review was completed, DoD clarified its existing requirements and added new requirements, including, for example: requiring that servicemembers with a personality disorder diagnosis be advised that this does not qualify as a disability; and requiring corroboration of the disorder for servicemembers who have served in imminent danger pay areas.

In response to our 2008 recommendations, DoD instructed each of the military services to provide compliance reports for each fiscal year, 2008 and 2009. The fiscal year 2008 reports indicated that approximately 2000 enlisted servicemembers were separated that year due to a personality disorder. Three of the four services did not demonstrate full compliance with any of the separation requirements, none of the services demonstrated full compliance with all of the requirements, and neither the Army nor the Navy reported the number of separations among servicemembers who had served in imminent danger pay areas in accordance with DoD instructions.

Although the fiscal year 2009 compliance reports were due March 31, 2010, we are unable to comment on them because despite repeated attempts to obtain them, DoD has not yet provided them to us. In response to our recommendations, DoD also instructed the military services to provide a plan of correction if com-

pliance for any personality disorder separation requirement was less than 90 percent.

According to the 2008 fiscal year reports, each service has planned or taken corrective actions to improve compliance. For example, the Army reported that the Army's office of the Surgeon General will review all personality disorder separation cases to ensure that each contains the required documentation.

To summarize, the military services have not demonstrated full compliance with DoD's personality disorder separation requirements. Consequently, some servicemembers may be at risk of being inappropriately separated and as a result, denied benefits for which they may be eligible. We, therefore, reiterate the importance of DoD fully implementing GAO's 2008 recommendations.

Mr. Chairman, this concludes my opening remarks. I am happy to answer any questions.

[The prepared statement of Ms. Draper appears on p. 56.]

The CHAIRMAN. Thank you, Dr. Draper. Your summary is very clear. You said—I am not sure I am quoting you exactly—but the Department of Defense has not provided information post 2008. Is that what you are saying?

Ms. DRAPER. They had required the military services to provide compliance reports for each fiscal year, 2008 and 2009. They provided us with the 2008 reports but we have attempted repeatedly to obtain the 2009 reports and they have been unable to produce them or give them to us.

The CHAIRMAN. What is your legal standing in regard to that? Can you subpoena them? Do you request them and have you notified Congress that they haven't complied?

Ms. DRAPER. Well, it is unclear whether the reports actually exist or they just don't know where they are. They just have been done so—

The CHAIRMAN. Did you ask them that?

Ms. DRAPER. Well, we did, but no one seems to know where they are.

The CHAIRMAN. Do you have any legal authority to compel them to provide those reports, assuming they exist?

Ms. DRAPER. We will have to check into that. Up until this testimony, we were still trying to obtain the reports.

The CHAIRMAN. I assume Congress has that subpoena authority but we need you to tell us whether you are getting the information or not. You haven't officially said you are having problems with those reports.

Ms. DRAPER. Not yet, no.

The CHAIRMAN. Okay. We do appreciate the work that you are doing and we appreciate your testimony. We will hear from the next panel and see if we need you back here.

Ms. DRAPER. Okay. Thank you very much.

The CHAIRMAN. Thank you, we appreciate it.

Panel three is excused. If panel four will come forward?

Joining us from the Department of Defense is the Acting Director of Officer/Enlisted Personnel Management, Lernes Hebert, accompanied by Dr. Jack Smith, who is Deputy Assistant Secretary of Defense for Clinical and Program Policy.

Major General Gina Farrisee is the Director of Military Personnel Management of the Office of the Deputy Chief of Staff for the United States Army, and General Farrisee is accompanied by Colonel Rebecca Porter, who is the Chief of Behavioral Health of the Office of the Surgeon General.

From the VA, we have Dr. Antonette Zeiss, who is the Acting Deputy Chief of Patient Care Services for the Office of Mental Health. Accompanying her is Tom Murphy, Director of Compensation and Pension Services.

And I said Mr. Hebert, I meant Hebert. Is that a better pronunciation? I apologize. You have prepared testimony but I would like you to submit those for the record and answer some of the questions that have come up, but I will leave it to your discretion to how you are going to do that. I would like you to throw away your prepared testimony and answer some of the interesting issues that have been raised, but I will leave it up to you.

Mr. Hebert.

STATEMENTS OF LERNES J. HEBERT, ACTING DIRECTOR, OFFICER AND ENLISTED PERSONNEL MANAGEMENT, OFFICE OF THE DEPUTY UNDER SECRETARY OF DEFENSE (MILITARY PERSONNEL POLICY), U.S. DEPARTMENT OF DEFENSE; ACCOMPANIED BY JACK W. SMITH, M.D., DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CLINICAL AND PROGRAM POLICY, U.S. DEPARTMENT OF DEFENSE; MAJOR GENERAL GINA S. FARRISEE, DIRECTOR, DEPARTMENT OF MILITARY PERSONNEL MANAGEMENT, G-1, DEPARTMENT OF THE ARMY, U.S. DEPARTMENT OF DEFENSE; ACCOMPANIED BY COLONEL REBECCA PORTER, CHIEF, BEHAVIORAL HEALTH, OFFICE OF THE SURGEON GENERAL, DEPARTMENT OF THE ARMY, U.S. DEPARTMENT OF DEFENSE; AND ANTONETTE M. ZEISS, PH.D., ACTING DEPUTY CHIEF PATIENT CARE SERVICES OFFICER FOR MENTAL HEALTH, OFFICE OF PATIENT CARE SERVICES, VETERANS HEALTH ADMINISTRATION (VHA), U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY THOMAS J. MURPHY, DIRECTOR, COMPENSATION AND PENSION SERVICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF LERNES J. HEBERT

Mr. HEBERT. Yes, sir. I will be happy to submit that, although it really does answer several questions that have come up. If you will allow me, I will address some of those.

[The prepared statement of Mr. Hebert appears on p. 61.]

The CHAIRMAN. Please.

Mr. HEBERT. For instance, you asked why individuals are accepted with personality disorder discharges. Many times the individuals don't share the information with the session professionals, and if it is not diagnosed at the time of entry, naturally there is no determination that such a diagnosis exists and there is no indication that they—

The CHAIRMAN. They may not tell you they have a broken leg, but you will find it, won't you?

Mr. HEBERT. We can test for that.

The CHAIRMAN. I hope that you can test for personality disorder.

Mr. HEBERT. I couldn't speak to that but we have someone who can.

[The DoD subsequently provided the following information:]

All applicants for military service go through a multi-step medical screening process:

1. Applicants are required to complete a medical pre-screening (DD 2807-2 MEDICAL PRESCREEN OF MEDICAL HISTORY REPORT) before reporting the Military Enlisted Processing station. That form is reviewed by Medical Staff at each Military Entrance Processing Station (MEPS) to identify individuals who require additional screening. The question on the form related to mental health issues is:
 - a. Seen a psychiatrist, psychologist, counselor or other professional for any reason (*inpatient or outpatient*) including counseling or treatment for school, adjustment, family, marriage or any other problem, to include depression, or treatment for alcohol, drug or substance abuse.
2. Furthermore, all applicants undergo a medical evaluation that includes a review of medical history and physical with a licensed physician. Included in the medical history at the time of the examination are the following questions:
 - a. Nervous trouble of any sort (anxiety or panic attacks)?
 - b. Received counseling of any type?
 - c. Depression or excessive worry?
 - d. Been evaluated or treated for a mental condition?
 - e. Attempted suicide?

All positive responses are addressed by the examining physician at the time of the physical examination.

The CHAIRMAN. You discharge people for it so you must have a test for it.

Mr. HEBERT. Well, we rely on medical professionals who—

The CHAIRMAN. Well, why don't you do it before they enlist?

Mr. HEBERT. We potentially could create some sort of scenario where they would.

The CHAIRMAN. But you don't now?

Mr. HEBERT. Well, sir, would you have them serve for some period of time? Many times—

The CHAIRMAN. I don't want them in if they have a personality disorder since you are discharging them. Why don't you figure it out before then? Since it is a preexisting condition, you can find out about it.

Mr. HEBERT. Sir, it is a behavioral condition that is tested—

The CHAIRMAN. Do you know how many people are diagnosed with personality disorder and are rejected for enlistment or volunteer service?

Mr. HEBERT. I do not, sir.

The CHAIRMAN. Do we have those records?

Mr. HEBERT. I suspect we do not, sir, but I will look into it.

[The DoD subsequently provided the following information:]

FY 2009 data show 1,018 potential recruits were rejected for personality disorders and a total of 9,698 potential recruits were rejected for various mental health conditions. Preliminary data for FY 2010 show 1,161 and 8,248, respectively. Subsequent to these disqualifications an applicant may be considered for a waiver of their condition. In FY 2009, 182 waivers were granted to applicants originally disqualified for personality disorders. Data for FY 2010 are still being tabulated.

The CHAIRMAN. You mean to say you can't tell me? Can you tell me how many people have applied for volunteer or have volun-

teered for service in a given year and how many people were rejected? Can you tell me that?

Mr. HEBERT. Yes, sir, I can tell you that.

The CHAIRMAN. Well then you must be able to tell me why they were rejected.

Mr. HEBERT. You asked whether or not we had the records. We do not presently have the records. We will take that question for the record and go back and research it and provide the Committee—

The CHAIRMAN. I assume you have this information, not that you have it here, but you must have that information.

Mr. HEBERT. We do have the information on a number of individuals who were rejected from enlistment, yes, sir.

The CHAIRMAN. All right. Continue.

Mr. HEBERT. Yes, sir. The question was raised with regard to how many personality disorder discharges have occurred since 2007. In 2008, we record 2,903. In 2009, 1,426.

The CHAIRMAN. The first one was 2,903?

Mr. HEBERT. Yes, sir.

The CHAIRMAN. Of those, 2008?

Mr. HEBERT. Yes, sir.

The CHAIRMAN. Two thousand nine, was what?

Mr. HEBERT. Two thousand nine was 1,426, and year to date, 2010, is 650.

The CHAIRMAN. Is that more or less than 2000 to 2007?

Mr. HEBERT. It is less. It is a continuing declining trend, and we see that declining trend across all four services.

The CHAIRMAN. Do you know why? Have you accounted for that?

Mr. HEBERT. We have no direct correlation, sir but we would attribute the more rigorous screening process that we are doing for PTSD and TBI as contributing to that trend.

The CHAIRMAN. Do you have any problem with the figures that I think either Dr. Draper or Mr. Sullivan said was shrinking by 75 percent in 2009 from the previous years? Is that accurate?

Mr. HEBERT. I am not—there was a shrinkage, it wasn't 75 percent. I am not sure whether that was specific to the Army or—

The CHAIRMAN. We will check that.

Mr. HEBERT. All right.

The CHAIRMAN. It appears to me that if you have 3,000 in those 3 years and 23,000 in 7 years, it is a big, big drop. Okay.

Mr. HEBERT. Yes, sir.

The CHAIRMAN. Go ahead.

Mr. HEBERT. And additionally, I believe you asked what were the incidence of personality disorder in the population versus the Department of Defense. We don't have that information with us. We will be glad to provide that for you.

[The DoD Subsequently provided the following information:]

Most epidemiologic studies on personality disorders derive an estimated prevalence (disease burden in the population) using survey data. Incidence rates (new cases of a disease or disorder diagnosed) of diagnosed personality disorders are not as easily estimated.

In the general population, prevalence of Personality Disorders is generally estimated to be 14.8 percent.¹ The estimated prevalence within the military care sys-

¹ <http://www.sciencedaily.com/releases/2004/08/040803095121.htm>.

tem is much lower; 0.03 percent for hospitalizations and 1.1 percent for ambulatory care.² Methods used to collect and report personality disorder data do not permit us to report aggregate prevalence rate statistics to compare the two groups. In addition, it is very difficult to have an accurate assessment because most people with Personality Disorders do not present to medical on their own accord since they do not think that their beliefs and behaviors are abnormal. Also, as indicated in the following discussion, there is no single diagnostic entity of "Personality Disorder;" each sub-type carries with it separate diagnostic criteria and occurs at different estimated prevalence rates.

The CHAIRMAN. Who did the report? Which one of you is responsible for the report—of the review that was required of the previous 23,600? Who should I ask about that when it is their turn?

Mr. HEBERT. Yes, sir. I believe that was—I am not sure, sir.

The CHAIRMAN. You didn't do that?

Mr. HEBERT. No, sir.

[The DoD subsequently provided the following information:]

The Office of the Under Secretary of Defense for Personnel and Readiness submitted the report to Congress, which reported 22,656 Personality Disorder discharges from FY 2002 through FY 2007. The report was prepared by the Officer and Enlisted Personnel Management Directorate and Mr. Hebert is the witness representing that office.

The CHAIRMAN. Does it sound reasonable to you that out of 23,600 of anything that not one mistake was made by anybody? I don't care if it is two plus two is four, somebody's going to make a mistake somewhere. Do you find that a little bit incredible—even incredible?

Mr. HEBERT. Without the information with regard to the review—

The CHAIRMAN. Does anybody here have responsibility for that, please?

Colonel PORTER. Sir, if I may, I am from the Army's Surgeon General office, and my understanding is that rather than the 20-some thousand records that is being quoted here, what, in fact, was reviewed in the Army's Surgeon General's Office amounted to approximately 600 records, and those were individuals who were separated with a personality disorder diagnosis who had been deployed to an imminent danger pay area, and in those years that the review was conducted, it was less than 600 people. The review was conducted by psychiatrists and psychologists in the Army who were brought to the Surgeon General's Office to do the review, and their findings were that they did not see any evidence that a misdiagnosis had occurred.

The CHAIRMAN. They didn't interview any of the 600 people?

Colonel PORTER. No, sir, they did not.

The CHAIRMAN. It doesn't sound like a good review to me. Mr. Buyer complained about hearsay. This is see-say. Somebody reads a report and somebody's written reports, somebody else sees it, somebody reviews it. That doesn't sound like a real investigation to me. Is there a word like see-say? We have hearsay. I guess you can have see-say. I invented a new word, actually.

I am sorry, this doesn't sound appropriate to me. I am just a layman. What do I know? How do you know there is no evidence? Because the guy wrote the diagnosis? Did the doctor give a reason for

²Those hospitalized may also be included in the denominator for those receiving ambulatory care.

the diagnosis? Was that reason reviewed? Did the guy check with the actual soldier who was reviewed in this way? This doesn't sound reasonable to me.

Colonel PORTER. I think the corrective action that we have taken and that we continue to take right now is that when we review those records, and they are sent to the Surgeon General's Office before they are endorsed, we ensure that not only is there a diagnosis written down, but that the documentation for that and the rationale that the provider used to come to the diagnosis are very clear in the record, and if we don't see that, then we ask for more information.

The CHAIRMAN. Are you telling me that wasn't done with the 23,000, that they weren't required to do that or that they didn't do it?

Colonel PORTER. I think, sir, that before the recordkeeping was not as clear as it could have been and now we—

The CHAIRMAN. That just begs the question then, if you were directed to investigate whether they were sound or not and you found out that there was no real rationale, it seems to me you should go back and ask the doctor what was the rationale and then check that with the patient. It just looks like you reviewed it and you found that there was no rationale. I would check the records of all 23,600 and say, hey, soldier, we didn't find any rationale, we better look at you again. Why didn't you do that?

Colonel PORTER. I am not sure I understand the question, sir. Why didn't we go and find—

The CHAIRMAN. If you are saying that based on your review of those 600 files, your forward-looking process is that you now require a far more specific rationale for that diagnosis, it leads me to think that didn't happen on the first 600 or the 22,600. If that didn't happen and if you were required to review the accuracy, it would seem to me that would force you to go back to the doctor and the patient and ask what was the specific rationale on which you based this diagnosis.

I am just a layman here, but it seems to me that you are concerned with your soldiers. I am concerned with your soldiers. If you are really concerned with them, find out why they are being diagnosed this way, and then you will find out that we didn't have any real accurate diagnosis. So, wouldn't you want to go back and try to correct the record?

Mr. HEBERT. Sir, if I may, what we are doing is reaching out to our veterans who have separated since 9/11 who have been characterized for separation of personality disorder, who had previously deployed as part of their service, and we are reaching out to them to inform them of what options are available to them if they consider their discharge mischaracterized and how to access VA benefits with respect to getting screening for PTSD?

The CHAIRMAN. You have notified or tried to notify all 22,600 plus?

Mr. HEBERT. That is not my number, sir, but we are notifying every veteran who separated since 9/11 who had been a separation characterized as personality disorder who had previously deployed to make sure that they have access—

The CHAIRMAN. You are not asking them to come back to re-examine them to see if you made the correct diagnosis, are you?

Mr. HEBERT. No, sir. We are asking them if they believe they have their separation was mischaracterized or if they believe that they have symptoms of PTSD or traumatic brain injury, that they seek help and that we are giving them the instructions, if you will.

The CHAIRMAN. Could you give me a copy of the outreach letter or whatever you are doing?

Mr. HEBERT. Yes, sir.

[The DoD subsequently provided the following information:]

On September 10, 2010, the Under Secretary of Defense for Personnel and Readiness directed the Military Departments to report by March 31, 2011, actions taken to: (1) identify servicemembers who have deployed in support of a contingency operation since September 11, 2001, and were later administratively separated for a personality disorder, regardless of years of service, without completing the enhanced screening requirements for post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI); (2) inform them of the correction of discharge characterization process; (3) inform them on how to obtain a mental health assessment through the Department of Veterans Affairs; and (4) identify these individuals to the Department of Veterans Affairs. A copy of that letter appears on p. 73.

The CHAIRMAN. Are you able to get in touch with everybody? Are letters coming back “no sufficient address?”

Mr. HEBERT. As a result of the inputs from the services with respect to the report that the GAO brought up, that is what is driving this outreach, and we are just in the initial stages of it?

The CHAIRMAN. Now, you are in initial stages? When you started, you said you are notifying everybody. So how many have you notified?

Mr. HEBERT. We will notify everybody.

The CHAIRMAN. How many have you notified?

Mr. HEBERT. We have notified no one.

The CHAIRMAN. No one?

Mr. HEBERT. Sir, the report came in—

The CHAIRMAN. Look, you led me to believe—I could ask the reporter to read back your words—that you already notified everybody. Anybody else have that sense? That is what I heard, that you have notified everybody. Now you are saying you haven’t even started the notification process. So you haven’t started it?

Mr. HEBERT. No, sir.

The CHAIRMAN. When will you do this?

Mr. HEBERT. We are in the process of—

The CHAIRMAN. How long does that process take? Since you are making me ask these stupid questions because, I don’t know whether you go to school to learn this or it is part of your personality disorder or—oh, excuse me, I couldn’t diagnose that so quickly. You are not telling me anything—I have to ask what your words mean. When are you going to do this?

Mr. HEBERT. We are doing it now, sir.

The CHAIRMAN. When will you notify all 22,600 plus 903, plus 1,426, plus 650?

Mr. HEBERT. Over the upcoming months we will notify everyone that we have contact information on.

The CHAIRMAN. I think all the civilians should be examined for personality disorder. I would discharge half of you. We are supposed to be talking English to each other. We are trying to get

some answers and you are not helping me very much. It sounds to me that you don't want to help me, and you are playing with words because you don't have the records. You knew what we were going to ask. It has all been published and the information has all been published. You just don't have the information. You got any other nuggets for me?

Mr. HEBERT. Mr. Chairman, we are committed to our veterans who are serving and our former members, and as a Department, you are looking at a team here that represents a much larger team that works together on a daily basis to try and make sure that after a diagnosis occurs that accurate separation characterizations occur and that our members, most importantly, are taken care of with the respect they deserve.

The CHAIRMAN. Given the fact that you have 23,600 discharges in 7 years wouldn't that lead you to believe that your intake interview has to be better? Have you changed that? If you are taking people that have a personality disorder and you find out about them after they have gone through combat, had severe injuries, and blast compressions, and then you find out they have personality disorders, doesn't that lead to some conclusion? Why would you take them in? I can't figure that out.

Dr. SMITH. Sir, if I could comment, the screening process is certainly one that presents some difficulties. It does rely upon self-volunteered information. In many cases, people with personality disorders may never have been diagnosed. There have been additions of additional mental health questions to the screening questionnaire, but again, that hasn't identified a great number of people, and it is usually in the performance of duties that problems come to light and then can be more thoroughly evaluated by medical personnel after they been accessioned.

The CHAIRMAN. After they get clumps of shrapnel in their leg, then you will figure out they have a personality disorder? You are not giving me a lot of confidence that you know what you are doing. I can't figure out how you screen in the beginning and then all of the sudden, these people have a personality disorder. Mr. Kors wrote about this, that it is designed to save money. You haven't given me any a reason not to accept that conclusion.

Dr. SMITH. The people who are eventually diagnosed with personality disorder ordinarily are brought to light through difficulties adjusting to military life. And most of those will occur early in their service and have difficulties adjusting to the requirements.

The CHAIRMAN. How many of those have you found since 2001?

Dr. SMITH. I believe the numbers Mr. Hebert quoted were inconclusive of those who were early in service. I think the percentages of people who have served in an imminent danger pay area are a small percentage of those totals, if I am correct about that.

The CHAIRMAN. So it is a small percentage of the total, is what you just said.

Dr. SMITH. The number of people who have served in an imminent danger pay zone who are subsequently diagnosed with personality disorder are a small percentage.

The CHAIRMAN. You said you find out about them early in their military service. So what is the percentage of the discharges that you find within a year, versus those that occur after they have

been in combat. Did this 23,600 figure include those earlier discharges?

Dr. SMITH. I believe that is correct.

The CHAIRMAN. So what percentage is which? Do you know?

Mr. HEBERT. We can provide those numbers for you.

[The DoD subsequently provided the following information:]

Eleven thousand sixty-nine (49 percent) of the 22,656 Personality Disorder discharges that took place from FY 2002 through FY 2007, involved servicemembers who were in their first year of service. Also, 3,372 (15 percent) of those 22,656 personnel had deployed in support of Operation Iraqi Freedom or Operation Enduring Freedom.

The CHAIRMAN. Apparently I don't hear very well because your words seem to mean something else after you say them. You were trying to justify the fact that you did not find them earlier by saying you will find them during boot camp or in the first year. It sounds to me that you are saying, we find them before they become a real problem for our combat. I just wanted to know the percentage.

Dr. SMITH. No, sir, I didn't say that we find them before—at any particular time. I think that people who are having difficulties adjusting to military life are oftentimes referred for evaluation. And that may occur very early in their time. It may be at some later point in their service. That is rather hard to predict.

The CHAIRMAN. All right. The next person on the panel, please.

STATEMENT OF MAJOR GENERAL GINA S. FARRISEE

General FARRISEE. Mr. Chairman, I will submit my comments for the record and attempt to answer any questions you have.

[The prepared statement of General Farrissee appears on p. 63.]

The CHAIRMAN. Tell me how your sphere is different from their sphere so I know what kind of questions to ask.

General FARRISEE. Sir, I am from the Deputy Chief of Staff for Personnel in the Army. And I am working in the policy area.

The CHAIRMAN. Okay. You are aware of the review that was done of the 600 now?

General FARRISEE. Yes, Mr. Chairman. I knew that they did do a review of those records. I did not know the conclusion until this week.

The CHAIRMAN. I am sorry?

General FARRISEE. I did not know the conclusion of the review until this week.

The CHAIRMAN. When was that done?

Colonel PORTER. Mr. Chairman, that review was done in 2007 and 2008.

The CHAIRMAN. Takes a while for the Army to figure out what is going on. You just found out about it 3 years later. And this is your sphere of responsibility?

General FARRISEE. No, sir, not the results of the record review.

The CHAIRMAN. That is not your sphere of responsibility?

General FARRISEE. No, sir.

The CHAIRMAN. So you didn't care what they found out but you knew this was taking place.

General FARRISEE. Sir, I do care. I knew it was taking place. I did not hear the results. I probably should have heard the results, yes, sir.

The CHAIRMAN. Did my layman's critique of the way it was done have any validity, in your view? You didn't talk to the soldiers. You found out that there was no specific rationale so you didn't go back to the doctors. You only had a small sample to begin with. Is any of that valid?

General FARRISEE. Mr. Chairman, as far as the small sample, the only sample that we took was going to be soldiers who had been deployed or who had gone to an imminent danger pay area. So it was specifically for only those soldiers who had deployed; that they would do a relook of those records. I did not know that they did not speak to anyone until this week. I was not told how they were going to do the review. I believe that the certain General's office would, in fact, do that review again of those records.

The CHAIRMAN. You heard some of the testimony, which talked about physical injury and that it was somehow related to personality disorder. Could that happen?

General FARRISEE. Mr. Chairman, I can't answer that question. The first time I have ever heard that was when I saw Mr. Kors' article. I had never heard that before.

Dr. SMITH. Sir, if I can comment on that. I think that it is possible for someone who has a personality disorder to have other diagnoses. So someone who has broken a leg may also have a personality disorder. But there is certainly not a connection between those two diagnoses, or causality, which I think was suggested in panel 1.

The CHAIRMAN. So all 600 that you are looking at for their personality disorder seem to come to light after a major fiscal injury or major psychological injury.

Dr. SMITH. I am not sure that it did come to light. I think the review the Army conducted was of people who were diagnosed with personality disorder and had been separated administratively—

The CHAIRMAN. But I asked you what percentage of that was based on their time in combat versus some officer saw something. I asked you and you said you didn't know the percentage of that. It sounds to me that when these people had physical injury that it may have led to their discharge and that is when you found out about the "personality disorder."

Dr. SMITH. No, sir, I don't believe that is correct. I think the 600 cases reviewed by the Army were all people who had been deployed to an imminent danger pay zone. They may not have had any other physical diagnosis or injuries. There may have been some.

The CHAIRMAN. Do you know how many of each?

Dr. SMITH. I do not know.

The CHAIRMAN. I asked you for figures. You don't have them, but you are making judgments based on your sense of the figures.

Dr. SMITH. The review of the record was for people separated for personality disorder.

The CHAIRMAN. But you can't tell me, because I just asked you, how many had physical injury, which brought that diagnosis to light and you said not very many. But you are not giving me any numbers.

Dr. SMITH. Personality disorders would not ordinarily come to light as a result of a physical injury.

The CHAIRMAN. But that is the whole reason that we are having this hearing. They get discharged not for PTSD or TBI or shrapnel in their thigh—they get discharged for personality disorder. So they were only diagnosed because they were getting treatment for these other things, it sounds to me.

Dr. SMITH. I am not sure that I can say that that is accurate.

The CHAIRMAN. But you can only say it is not if you give me the figures. Until you give them to me—

Dr. SMITH. We would have to take that question for the record. [The DoD subsequently provided the following information:]

According to the Department of Defense (DoD) report to Congress required by Section 597 of the National Defense Authorization Act for Fiscal Year 2008, an analysis of separation data showed that only 3,400 (15 percent) of the 22,600 servicemembers with personality disorder coded separations had deployed in support of the Global War on Terror. Additionally, the data indicate that the majority, 19,200 (85 percent) of the 22,600 servicemembers with personality disorder coded separations, had two or fewer years in the service.

It is DoD policy that any servicemember with an illness or injury that makes her or him unfit for retention must be referred to the Physical Evaluation Board for a disability determination. If a servicemember has both a potentially unfitting injury or illness and another condition (e.g. personality disorder or sleepwalking) that could be a possible cause for administrative separation, referral for disability evaluation (and medical separation or retirement, if appropriate) would be required prior to any consideration for administrative separation.

The CHAIRMAN. Well, I would like you to do that.

Who would be responsible, General? Sergeant Luther's report of what I call torture, could that happen in the Army? Was it ever investigated and did the people who are accused of doing this—there were pictures and witnesses—was that ever investigated?

General FARRISEE. Mr. Chairman, to my knowledge, it was not. When it first came out in the media, it was referred to Fort Hood. I have will have to followup with them to find out if there is any investigation.

The CHAIRMAN. If I were you, I would have jumped. We can't let that happen in the Army. If it is true, somebody has got to be punished and if it is not true, that has to be known, too. Some people are making these charges in public session here where they are sworn to tell the truth. They have been in the newspaper. Surely, you would be concerned if the Army was accused of torturing its own soldiers, wouldn't you?

General FARRISEE. Yes, Mr. Chairman.

The CHAIRMAN. Would you find out if there was any investigation for me?

General FARRISEE. We will take that question for the record, yes, Mr. Chairman.

[The DoD subsequently provided the following information:]

Sergeant Luther's battalion and company commanders were interviewed regarding the allegations. Sergeant Luther indicated suicidal ideations to his chain of command and doctors; in response, his chain of command placed him on a suicide watch. The chain of command stated that they acted out of genuine concern to protect Sergeant Luther and possibly other soldiers. Once placed on suicide watch, (which included continuous line-of-sight observation) Sergeant Luther spent days and nights in the squadron aid station, so that he would be close to medical care, if required, and so that he could be continuously monitored. Every day, Sergeant Luther was escorted to the life support area (about 1 mile away) so that he could take a shower. He was also afforded opportunities to visit the internet cafes and

dining facility. During the day, Sergeant Luther sat in the waiting room of the squadron aid station. The description of the small sleeping quarters in the aid station is accurate. However, the small sleeping quarters was not set up specifically for Sergeant Luther. It was a sleeping quarters used by medics during the night as they remained on duty 24/7 for possible casualties. Neither Sergeant Luther nor any other soldier complained to the chain of command about his living conditions. It has been confirmed by the chain of command and the U.S. Army Inspector General Offices that no investigations have been initiated as a result of any allegations being reported to the chain of command, inspector general, or through the criminal investigative channels.

The CHAIRMAN. Who is next?

STATEMENT OF ANTONETTE M. ZEISS, PH.D.

Dr. ZEISS. Well, I will go next. I represent VA. So I am happy to make just a couple of points since the issues for VA have not been as much in focus. So I won't go through my full written testimony or oral testimony, but will just want to make a couple of points and then happy to answer whatever questions you have.

[The prepared statement of Dr. Zeiss appears on p. 65.]

The CHAIRMAN. Thank you.

Dr. ZEISS. First of all, we would just like to say that my oral testimony did go over the diagnostic criteria for personality disorders. There are three clusters with 10 different personality diagnosis. Dr. Berger has really gone through the basics of that so we need not—

The CHAIRMAN. You didn't have any problem with his testimony.

Dr. ZEISS. No.

The CHAIRMAN. When I read your testimony—it is, again, underlined from Dr. Draper it is enduring. Manifested in both cognition, affects impulse control. Would you expect that all to be diagnosed by the military's intake testing of these guys?

Dr. ZEISS. I can't comment on how thorough the intake testing would be and whether they could reach a diagnosis. The second point I would like to make that is eligible veterans can get the health care they need from VA, whatever their mental health or physical health diagnosis and whatever their diagnosis when they leave the military, assuming that they are eligible, and that is based on two factors—the character of the discharge and the completion of service. If they enter VA care, they will be routinely screened on an early visit to primary care for PTSD, for depression, for problem drinking, for TBI, for military sexual trauma. And if any of those screens are positive, there will be a full evaluation and a full diagnostic process to guide health care decisions. In addition, veterans who seek compensation and benefits can do so on the basis of whatever diagnosis they choose to present. While information from prior experiences may be part of the C-file that comes to the VHA clinical examiner, they will do a full clinical examination based on DSM-IV-TR criteria to determine whether or not that is an appropriate diagnosis.

The fact that someone may have been separated for personality disorder diagnosis would not be compelling information. The information would really come from the clinical exam that would be done by the VHA doctor level psychologist or psychiatrist.

So we are committed to providing care to eligible veterans. We are eager for veterans, whatever their diagnosis, when they are discharged, to know about their ability to access VA care. We have

tried to get that word out. We have contacted all Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) veterans who have not sought care to let them know about their eligibility and how to do so. So we are eager—

The CHAIRMAN. You have contacted or in the process?

Dr. ZEISS. We have contacted. That was done a couple of years ago.

The CHAIRMAN. It can be done.

Dr. ZEISS. We certainly want to cooperate and look forward to potentially receiving some additional veterans who seek care with us after the outreach that the Department of Defense plans.

The CHAIRMAN. Are you aware of the situation that this is a hearing of people that were discharged for personality disorder and feel it was wrong and want to get health care for their service-connected disability? Is that common? Do you know how many people that would be? I don't know if your diagnosis would be counter to that, but it is a different situation, I guess. Are there people who have come in diagnosed with personality disorder that you haven't found had personality disorder, or you didn't diagnose in that way?

Dr. ZEISS. We know that of OEF/OIF veterans who have sought VA care, at this point cumulatively since 2002, 7,348 have received a personality disorder diagnosis. They may have additional diagnoses. But that is about 1.3 percent of those veterans who have come to seek VA care. And that is a diagnosis given by a VA clinician.

The CHAIRMAN. Do you know how many people came in with a personality diagnosis from the military and didn't receive that diagnosis from the VA?

Dr. ZEISS. I don't have those numbers.

The CHAIRMAN. Do we know that? Would we keep such information?

Dr. ZEISS. We can certainly go back to Public Health and Environmental Hazards, who get the separation files from the Department of Defense, and see whether there is information in that file about what the discharge diagnoses were. Again, we seek to establish our own diagnosis, but we can—I can certainly try to get that information.

[The VA subsequently provided the following information:]

The Office of Public Health and Environmental Hazards does not receive complete data on military separation codes from Department of Defense DoD Manpower Data Center (DMDC) for the Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) Veteran population. Of the 1,168,953 OEF/OIF Veterans with final out-of-country dates through February 2010, only 625,660 (53.5 percent) had complete information related to their military separation, and of these Veterans, less than 1 percent were coded as having separated due to "character or behavior disorder". Therefore, we cannot provide accurate information on the number of personality disorder discharges among OEF/OIF Veterans from military separation codes as provided to us by DMDC.

We can, however, provide the total number of OEF/OIF Veterans who have been diagnosed at a VA health care facility with personality disorders (ICD-9CM 301). Through the second quarter of FY 2010 (March 30, 2010), of all OEF/OIF Veterans who sought medical care at VA since October 2001 (n=565,024), 7,988 (1.4 percent) unique OEF/OIF Veterans were diagnosed at least once with personality disorders (ICD-9CM 301).

VHA program office: 13-Doug Dembling

The CHAIRMAN. The 1 percent or 1 percent-plus figure was 1 percent of what, of all the people that come to see you from VA?

Dr. ZEISS. I would add—Of those OEF/OIF veterans who have sought care in VA—

The CHAIRMAN. Only 1 percent had a diagnoses with personality disorder.

Dr. ZEISS [continuing]. One point 3 percent. The other thing that we are very aware of is that Congress has given Vet Centers the legal authority to work with veterans who want guidance to appeal their discharge status. And they certainly take that charge seriously and do work with veterans who want to return to the Department of Defense with additional information and attempt to see whether the discharge status can be changed.

The CHAIRMAN. Do we know how many have done that yet?

Dr. ZEISS. Vet Centers, we work very collaboratively with them, but they don't enter data in the electronic medical records, as you know, and they take very seriously their confidentiality. So we won't get specific data.

The CHAIRMAN. The military should know who has appealed their case and how many of those come to VA specifically for personality disorder?

Mr. HEBERT. We will take that question.

The CHAIRMAN. You don't have that either.

Does anybody want to correct anything I have said? You have a chance to say anything you want before I let you go about this issue. How should we be looking at it? What would help us and help you do your job better?

Dr. ZEISS. The only thing I would add from the VA perspective is that PTSD, in particular, is a diagnosis that we know can have late onset. So we don't assume in VA if we make a different diagnosis than the diagnosis that was made in the Department of Defense that it was necessarily an incorrect diagnosis. They were working with whatever information they had at the time. And people are dynamic. They all change. And PTSD can have late onset. That would not be as true, obviously, for TBI and for some other disorders. So we want to be clear that while we want to do our own diagnosis, we are working with the veteran as they are when they appear to us at VA.

The CHAIRMAN. I understand that. If something like 98 percent of what you worked with you differed with the military, it would tell us something. Not that they were wrong, but you found out in every case that they seemed to make the wrong diagnosis or a different diagnosis.

Anybody from the Army or Defense Department care to comment?

Colonel PORTER. Mr. Chairman, I want to express that we sincerely appreciate the concern that you have for both the serving members and the veterans. I think to speak to some of the GAO observations that perhaps the Army wasn't complying with the directives that had gone out, what I would say is that in the Army we have started within the OTFG or the Surgeon General's Office we have started an inspection program where we go out and we pull records and we look at what is happening at the ground treatment facilities just to make sure that they are not ignoring the directives. The other thing that we have in the works—it is not done yet, but it is being done, and it is on its way to the Surgeon Gen-

eral for approval—is stricter guidelines for any kind of separation—administrative separation that has a mental health diagnosis in it.

So whether it is a personality disorder, an adjustment disorder, PTSD, any of those will have to come to the Surgeon General's Office for review so that we can have an oversight of any of those. And we are requiring the regional medical commanders to acknowledge receipt of that guidance so there isn't any more people saying we didn't know. That is all I have, sir.

The CHAIRMAN. I think Dr. Draper mentioned that she was having trouble getting a document for 2009. Do you know anything about that?

Colonel PORTER. I don't know anything about it, but we will certainly get what we can.

The CHAIRMAN. You will be glad to help us find the right documents?

Colonel PORTER. Yes.

The CHAIRMAN. Thank you. Department of Defense, anybody want to say something? I will give you the last word.

Mr. HEBERT. Sir, Mr. Chairman, if your question to the Department is whether or not we are satisfied with the progress we have made, the answer is no. Can we do more? Yes. Will we do more? Absolutely. Admittedly, the amount of time we have had since 2007 to develop a full body of knowledge about the complexities of this issue. I mean before you see the medical community, you see the human resource community, and I will tell you our legal communities have been arm-and-arm with us as well. And together we have forged a very structured, very rigorous screening process to ensure that no veteran leaves from active service without having been properly screened and diagnosed, to the extent that it is possible. Beyond that, we are working with our partners in the VA to make sure that anyone who hasn't passed through those screening process will be identified and will get the proper care. And we will continue to do that. While we have not begun that fight, we will continue to endeavor.

The CHAIRMAN. When you heard the story of Sergeant Luther about this closet, does anybody in the Department of Defense have authority or responsibility to investigate that type of charge?

Mr. HEBERT. Allegations of misconduct are generally referred to the Inspector General's Office, yes, sir.

The CHAIRMAN. You just heard that charge. Would you refer it or do I have to do it?

Mr. HEBERT. We will look into it, sir.

The CHAIRMAN. Thank you. All right. I appreciate your testimony. I sound a little frustrated and upset only because I am. But it just seems to me we have some pretty significant allegations here and it just doesn't sound like we have the information or testimony to allay my fears or my sense that they are right. If you could give me the answers to the questions you said you would, I would get a better understanding. I appreciate that. Thank you for your testimony. Panel four is excused.

I would like, Mr. Kors, if you could, return for a second.

I see you as not a person of hearsay, as was alleged, but as somebody who really understands this issue and is trying to do the best

for our soldiers. What questions—do you have any response to some of the testimony you heard since you testified this morning or what questions we should ask these panels?

Mr. KORS. I do. About the hearsay, I think they would make me return my Military Reporters and Editors Award if that were the case.

The CHAIRMAN. Right. Thank you.

Mr. KORS. First of all, about the VA looking at cases in which a soldier clearly did not have personality disorder but were discharged with that, finding that out would take about 30 seconds. When the soldier was called in for VA medical screening, they would say hey, bring your discharge papers. Every soldier has them. On the discharge paper it would say: Discharged for personality disorder. Now they would know who they have there.

The CHAIRMAN. Is Dr. Zeiss still back there?

I had asked you how many people who were discharged for PTSD—I mean, personality disorder that you didn't find that. I don't think you answered me. Can we figure that out? Do we have that information?

Dr. ZEISS. I will go back and check with our office that gets the separation information and find out what we can abstract from it. I am happy to do that.

The CHAIRMAN. Thank you.

Mr. KORS. And then, of course, in those cases the Department of Defense remains firm in its decision with Sergeant Luther. The VA came to a radically different conclusion. It said severe traumatic brain injury. Yet a few weeks ago he got a letter for his appeal for his discharge. And they said, Yeah, the VA came to that conclusion, but we are sticking with ours. And you see that over and over in the rare few soldiers who were discharged were personality disorder and know that they can attend VA. So many of the soldiers we are talking about here are soldiers who don't even know they can enter VA's doors because of this discharge.

I think it goes well beyond money. That is another important factor here. So many of these soldiers come to me, they say, This discharge is like a scarlet letter they just can't wash off. In today's job economy, can you imagine going into a potential employer and handing them a paper saying you are mentally ill? You are not going to get that job. And so that is how you end up with so many of these soldiers not just with without any benefits, but also then broke and then homeless.

The CHAIRMAN. The issue you raise, of course, with all the witnesses we have had since your panel, talk about the law or the regulations. But you are saying that if somebody is told they get no benefits, they don't distinguish between the VA, DoD or—

Mr. KORS. Exactly. They are told they can get no benefits. They don't realize they can get a fresh review at the VA.

The CHAIRMAN. I notice that will be clear in the letter that is now going to go out to those 23,000 veterans. Right?

Mr. HEBERT. Yes, sir.

Mr. KORS. This idea of, Well, how do you find out whether those 22,600 soldiers had preexisting conditions, well, that is where not interviewing anybody comes into play. If they made a single phone call to a single one of those families or their doctors, all of them

would say this is ridiculous; this soldier has been perfectly healthy, that is why he won 22 honors and was able to serve a dozen years. So by just dealing with the papers they had produced, they are just recycling their same information over and over.

I think about the earlier review done by the Army Surgeon General Gail Pollock. She said that they had done a 5-month thoughtful and thorough review. But with a touch more reporting, I found that in that case, again, they did not interview a single person. All they did was go back to one of the doctors who created the false diagnosis and said hey, did you get it right the first time? The doctor said yep, I did. And they shut down the review at that point. They even—you have to have a dark sense of comedy to report on this stuff—they sent a letter—

The CHAIRMAN. You have come to the right Committee.

Mr. KORS. They sent a letter out saying that they had additionally reviewed a stack of hundreds of cases out of Fort Carson the last 4 years of personality disorder discharges and realized that—and came to the conclusion that all of those soldiers were also properly diagnosed. But accidentally one of the Surgeon General's staff sent out an e-mail to a fellow military reporter of mine saying hey, we couldn't even find those cases. And the internal reply was okay, just say that they were properly diagnosed even if we couldn't locate them. Ten minutes later, the e-mail to that reporter came and said, oops, we shouldn't have sent that to you. Please ignore. She went ahead and forwarded it to me so that I could see what was going on. But I contacted the Surgeon General's Office at that point and said how did you know that those 4 years of cases were properly diagnosed when you couldn't even locate them? And the reply came that they could not answer that question.

The CHAIRMAN. Well, again, I want to thank you and many of the soldiers you have interviewed who have gone on the record with very painful things to share especially in public. You have opened up something that we need to know about. As you saw, I am not convinced by the testimony we have heard that there is not an issue there. We have to figure out exactly how to get to it.

Mr. KORS. This is not an example of soldiers slipping through the cracks. When you have soldiers who are wounded and discharged with this, the purpose of this discharge is to get them out the side door. Again, it is not just money. Think about the PR factor as well. Everyone knows about the 5,670 who are dead from Iraq and Afghanistan and the 91,000 who are officially wounded. But the Rand Corporation, an independent agency, looked at that and found that over 400,000 soldiers from these wars were suffering from traumatic brain injury. By giving those soldiers personality disorder discharges, you are essentially sliding them out the side door and keeping them off the books and records of the wounded.

The CHAIRMAN. I will give you another statistic. You have the official casualty count that you recited there. My sense—and I may not have the exact figures—but it is certainly close—that almost a million veterans of these wars have come to the VA for help. A million versus 45,000 reported wounded. It is not a rounding error. This is a deliberate attempt not to let us know what is going on in the battles.

Mr. KORS. And these aren't just number. They are not 1 percent. We are talking about 22,000 shattered families who, first, they have to deal with the wounds from the war, and now they have to deal with the devastation of no benefits, no long-term medical care. The demand that they give back a chunk of their signing bonus just immediately drives so many of these families into debt, if they already weren't there.

The CHAIRMAN. Well, again, I appreciate the service you are rendering to our country and look forward to trying to see if we can help all these folks. Thank you so much.

This hearing is adjourned.

[Whereupon, at 1:05 p.m., the Committee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Bob Filner, Chairman, Full Committee on Veterans' Affairs

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

In 2007, this Committee held a hearing to explore the problem of the Department of Defense (DoD) improperly discharging servicemembers with pre-existing personality disorders rather than mental health conditions resulting from the stresses of war such as Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI).

This means that servicemembers with personality disorder discharges are generally denied key military disability benefits and DoD is conveniently relieved from the responsibility of caring for our servicemembers in the long-term. These men and women continue to face an uphill battle when they seek benefits and services at the Department of Veterans Affairs (VA) because they must somehow prove that the so called pre-existing condition was aggravated or worsened by their military service.

Following the 2007 hearing on personality disorder discharges, the National Defense Authorization Act for Fiscal Year 2008 included a provision requiring DoD to submit a report to Congress on this issue. DoD reported that from 2002 to 2007, the Department discharged 22,600 servicemembers with personality disorders.

DoD policy further stated that servicemembers must be counseled, be given the opportunity to overcome said deficiencies, and must receive written notification prior to being involuntarily separated on the basis of a personality disorder. DoD also added rigor to their policy guidance by authorizing such separations only if servicemembers are diagnosed by a psychiatrist or Ph.D. level psychologists of the personality disorder.

It has been over 3 years since we first exposed this issue at our hearing in 2007. It is my understanding that DoD's use of personality disorder discharges has decreased and that they concluded that no soldiers have been wrongly discharged.

I am deeply puzzled by this conclusion and would like to better understand the process and the criteria that were used to review the files of the thousands of servicemembers who were discharged with personality disorders. I cannot help but suspect that our men and women are not getting the help that they need and are struggling with PTSD, TBI, and other stresses of war on their own because of wrongful personality disorder discharges.

Stresses of war such as PTSD and TBI are debilitating and its impact can be far-reaching. We know of the negative impact that PTSD and TBI can have on the individual's mental health, physical health, work, and relationships. We also know that veterans attempt to self-medicate using alcohol and drugs. This means that PTSD and TBI can lead veterans on a downward spiral towards suicide attempts and homelessness.

Just this past summer, we all heard the United States Army reporting suicide rates of 20.2 per 100,000 which now exceeds the national suicide rate of 19.2 per 100,000 in the general population. And, when high-risk behaviors such as drinking and driving and drug overdoses are taken into account, it is said that more soldiers are dying by their own hand than in combat. Similarly, we know that homelessness continues to be a significant problem for our veterans, especially those suffering with PTSD and TBI.

Three years later, the Committee continues to hear of accounts of wrongful personality disorder discharges. This begs the question of how many soldiers have to commit suicide, go bankrupt, and end up homeless before real action is taken to remedy this problem? Clearly, our veterans must not be made to wait longer and must not be denied the benefits that they are entitled to.

I look forward to hearing from our witnesses today as we further expose the problem of personality disorder discharges, better understand the steps that DoD has taken to deal with this problem, and forge a path forward to help our servicemembers who were improperly discharged with personality disorders.

**Prepared Statement of Joshua Kors, Investigative Reporter,
The Nation. Magazine**

Good morning. I've been reporting on personality disorder for several years, and I'm here today to talk about the thousands of soldiers discharged with that condition since 2001.

A personality disorder discharge is a contradiction in terms. Recruits who have a severe, pre-existing illness like a personality disorder do not pass the rigorous screening process and are not accepted into the Army.

In the 3½ years I've been reporting on this story, I've interviewed dozens of soldiers discharged with personality disorder. All of them passed that original screening and were accepted into the Army. They were deemed physically and psychologically fit in a second screening as well, before being deployed to Iraq and Afghanistan, and served honorably there in combat. In each case, it was only when they became physically wounded and sought benefits that their pre-existing condition was discovered.

The consequences of a personality disorder discharge are severe. Because PD is a pre-existing condition, soldiers discharged with it cannot collect disability benefits. They cannot receive long-term medical care like other wounded soldiers. And they have to give back a slice of their signing bonus. As a result, on the day of their discharge, thousands of injured vets learn they actually owe the Army several thousand dollars.

Sergeant Chuck Luther is a disturbing example of a how the Army applies a personality disorder discharge. Luther was manning a guard tower in the Sunni Triangle, north of Baghdad, when a mortar blast tossed him to the ground, slamming his head against the concrete, leaving him with migraine headaches so severe that vision would shut down in one eye. The other, he said, felt like someone was stabbing him in the eye with a knife. When Luther sought medical care, doctors at Camp Taji told him his blindness was caused by pre-existing personality disorder.

Luther had served a dozen years, passing eight screenings and winning 22 honors for his performance. When he rejected that diagnosis, Luther's doctors ordered him confined to a closet. The sergeant was held in that closet for over a month, monitored around the clock by armed guards who enforced sleep deprivation: keeping the lights on all night, blasting heavy metal music at him all through the night. When the sergeant tried to escape, he was pinned down, injected with sleeping medication and dragged back to the closet. Finally, after over a month, Luther was willing to sign anything—and he did, signing his name to a personality disorder discharge.

The sergeant was then whisked back to Fort Hood, where he learned the disturbing consequences of a PD discharge: no disability pay for the rest of his life, no long-term medical care, and he would now have to pay back a large chunk of his signing bonus. Luther was given a bill for \$1,500 and told that if he did not pay it, the Army would garnish his wages and start assessing interest.

Since 2001, the military has pressed 22,600 soldiers into signing these personality disorder documents, at a savings to the military of over \$12.5 billion in disability and medical benefits. The sergeant's story was Part 3 in my series on personality disorder. In Part 2, I interviewed military doctors who talked about the pressure on them to purposely misdiagnose wounded soldiers. One told the story of a soldier that came back with a chunk missing from his leg. His superiors pressured him to diagnose that as personality disorder.

In 2008, after several congressmen expressed outrage at these discharges, President Bush signed a law requiring the Pentagon to study PD discharges. Five months later the Pentagon delivered its report. Its conclusion: not a single soldier had been wrongly diagnosed, and not a single soldier had been wrongly discharged. During this 5-month review, Pentagon officials interviewed no one, not even the soldiers whose cases they were reviewing.

Three years ago, during a hearing on personality disorder discharges, military officials sat in these seats and vowed to this committee to fix this problem. Three years later nothing has changed.

Key Links

Personality Disorder series: www.joshuakors.com/military
 Sergeant Luther article: www.joshuakors.com/part3
 Luther on BBC: <http://bit.ly/BBC1interview>
 ABC News on Personality Disorder: www.joshuakors.com/abcnews.mov
 Personality Disorder discharge stats: www.joshuakors.com/statistics
 Personality Disorder legislation: www.joshuakors.com/legislation

The Nation,
 April 26, 2010

“Disposable Soldiers: How the Pentagon is Cheating Wounded Vets”

By Joshua Kors

The mortar shell that wrecked Chuck Luther’s life exploded at the base of the guard tower. Luther heard the brief whistling, followed by a flash of fire, a plume of smoke and a deafening bang that shook the tower and threw him to the floor. The Army sergeant’s head slammed against the concrete, and he lay there in the Iraqi heat, his nose leaking clear fluid.

“I remember laying there in a daze, looking around, trying to figure out where I was at,” he says. “I was nauseous. My teeth hurt. My shoulder hurt. And my right ear was killing me.” Luther picked himself up and finished his shift, then took some ibuprofen to dull the pain. The sergeant was 7 months into his deployment at Camp Taji, in the volatile Sunni Triangle, twenty miles north of Baghdad. He was determined, he says, to complete his mission. But the short, muscular frame that had guided him to twenty-two honors—including three Army Achievement Medals and a Combat Action Badge—was basically broken. The shoulder pain persisted, and the hearing in his right ear, which evaporated on impact, never returned, replaced by the maddening hum of tinnitus.

Then came the headaches. “They’d start with a speckling in the corner of my vision, then grow worse and worse until finally the right eye would just shut down and go blank,” he says. “The left one felt like someone was stabbing me over and over in the eye.”

Doctors at Camp Taji’s aid station told Luther he was faking his symptoms. When he insisted he wasn’t, they presented a new diagnosis for his blindness: personality disorder.

“To be told that I was lying, that was a real smack in the face,” says Luther. “Then when they said ‘personality disorder,’ I was really confused. I didn’t understand how a problem with my personality could cause deafness or blindness or shoulder pain.”

For 3 years *The Nation* has been reporting on military doctors’ fraudulent use of personality disorder to discharge wounded soldiers. PD is a severe mental illness that emerges during childhood and is listed in military regulations as a pre-existing condition, not a result of combat. Thus those who are discharged with PD are denied a lifetime of disability benefits, which the military is required to provide to soldiers wounded during service. Soldiers discharged with PD are also denied long-term medical care. And they have to give back a slice of their re-enlistment bonus. That amount is often larger than the soldier’s final paycheck. As a result, on the day of their discharge, many injured vets learn that they owe the Army several thousand dollars.

According to figures from the Pentagon and a Harvard University study, the military is saving billions by discharging soldiers from Iraq and Afghanistan with personality disorder.

In July 2007 the House Committee on Veterans’ Affairs called a hearing to investigate PD discharges. Barack Obama, then a senator, put forward a bill to halt all PD discharges. And before leaving office, President Bush signed a law requiring the defense secretary to conduct his own investigation of the PD discharge system. But Obama’s bill did not pass, and the Defense Department concluded that no soldiers had been wrongly discharged. The PD dismissals have continued. Since 2001 more than 22,600 soldiers have been discharged with personality disorder. That number includes soldiers who have served two and three tours in Iraq and Afghanistan.

“This should have been resolved during the Bush administration. And it should have been stopped now by the Obama administration,” says Paul Sullivan, executive director of Veterans for Common Sense. “The fact that it hasn’t is a national disgrace.”

On Capitol Hill, the fight is not over. In October four senators wrote a letter to President Obama to underline their continuing concern over PD discharges. The president, almost 3 years after presenting his personality disorder bill, says he remains concerned as well.

Veterans' leaders say they're particularly disturbed by Luther's case because it highlights the severe consequences a soldier can face if he questions his diagnosis and opposes his PD discharge.

Luther insisted to doctors at Camp Taji that he did not have personality disorder, that the idea of developing a childhood mental illness at the age of 36, after passing eight psychological screenings, was ridiculous. The sergeant used a vivid expression to convey how much pain he was in. "I told them that some days, the pain was so bad, I felt like dying." Doctors declared him a suicide risk. They collected his shoelaces, his belt and his rifle and ordered him confined to an isolation chamber.

Extensive medical records written by Luther's doctors document his confinement in the aid station for more than a month. The sergeant was kept under twenty-four-hour guard. Most nights, he says, guards enforced sleep deprivation, keeping the lights on and blasting heavy metal music. When Luther rebelled, he was pinned down and injected with sleeping medication.

Eventually Luther was brought to his commander, who told him he had a choice: he could sign papers saying his medical problems stemmed from personality disorder or face more time in isolation.

'Every Night It Was Megadeth'

Luther entered the Army in 1988, following in the footsteps of his grandfathers, both decorated World War II veterans. In 2005, after Hurricane Katrina, he and his unit were deployed to New Orleans, where he helped evacuate residents and dispose of bodies left in the street. In 2006 he was deployed from Fort Hood in Texas to Camp Taji, where he performed reconnaissance with the First Squadron, Seventh Cavalry Regiment, led by Major Christopher Wehri. "Luther was older and more mature than most of the soldiers. He was forthcoming, very polite," says Wehri. "He seemed to have a good head on his shoulders."

Doctors at the aid station didn't see him that way. Following the May 2007 mortar attack, Luther entered the base's clinic and described his concussion symptoms to Captain Aaron Dewees. Dewees, a pediatrician charged with caring for soldiers in the 1-7 Cavalry, grew suspicious of Luther's self-report. "It is my professional opinion," Dewees wrote in his medical records, "that Sergeant Charles F. Luther Jr. has been misrepresenting himself and his self-described medical conditions for secondary gain." The doctor suggested that Luther was faking his ailments to avoid reconnaissance duty. He called the sergeant "narcissistic" and said Luther's descriptions of his injuries were a mixture of "exaggeration and flat-out fabrication."

Luther's medical records document severe nosebleeds and "sharp and burning" pain. Still, the sergeant says he could sense that his doctors didn't believe him. It was at that point—frustrated, plagued by blinding migraines—that he spoke of pain so severe he wished he were dead. "I made clear that I was not going to kill myself, that it was just a colorful expression to explain how much pain I was in." Dewees agreed. In their records, Luther's doctors note a "suicide gesture" and "off-handed comments" that the sergeant was going to kill himself, but Dewees said those gestures were "unlikely to have been a serious attempt" at self-harm. Nonetheless, Dewees wrote, such statements "must be taken seriously and treated as such," that Luther "remains a threat to himself and others given his need for attention, narcissistic tendencies and impulsive behavior."

Luther was taken to an isolation chamber and told this was his new sleeping quarters. The room, which Luther captured on his digital camera, served as a walk-in closet. It was slightly larger than an Army cot and was crammed with cardboard boxes, a desk and a bedpan. Through a small, cracked window, he could look out onto the base. Through the open doorway, the sergeant was monitored by armed guards.

Both Dewees and Lieutenant Colonel Larry Applewhite, an aid station social worker, declared Luther mentally ill, suffering from a personality disorder. The next step was to remove him from the military as fast as possible. "It is strongly recommended that Sergeant Luther be administratively separated via Chapter 5-13," wrote Applewhite, citing the official discharge code for personality disorder. In a separate statement, Dewees endorsed the 5-13 discharge and urged that it be handled rapidly. "I feel the safest course of action," he wrote, "is to expedite his departure from theater."

That didn't happen. For more than a month Luther remained in his six-by-eight-foot isolation chamber, weeks he describes as "the hardest of my life." He says the guards would ridicule him and most nights enforced sleep deprivation, keeping the

lights on all night and using a nearby Xbox and TV speakers to blast heavy metal into his room. “Every night it was Megadeth, Saliva, Disturbed.” The sergeant pulled a blanket over his head to block out the noise and the light, but it was no use.

“They told me I wasn’t a real soldier, that I was a piece of crap. All I wanted was to be treated for my injuries. Now suddenly I’m not a soldier. I’m a prisoner, by my own people,” says Luther, his voice tightening. “I felt like a caged animal in that room. That’s when I started to lose it.”

Isolated, exhausted, the sergeant who had been confined for being mentally ill says he began feeling exactly that. Finally Luther snapped. He stepped out of his room and was walking toward a senior official’s office when an altercation broke out. In the ensuing scuffle, Luther bit one of his guards, then spit in the face of the aid station chaplain. The sergeant was pinned to the floor and injected with five milligrams of Haldol, an antipsychotic medication. Sedated, Luther was returned to isolation.

Staff Sergeant James Byington, who was serving at Camp Taji with the 1–7 Cavalry, walked the half-mile to the aid station to visit his fellow soldier. Byington says that off the battlefield, Sergeant Luther was “animated and peppy,” the comedian of the chow hall. During combat, he says, Luther was focused and prepared, a key component in a farmland raid just outside Taji that discovered a cache of weapons and money. The man he found in the isolation chamber was neither the soldier nor the comedian, he says, but something altogether odd and decrepit. “He wasn’t energetic like he used to be. He wasn’t cutting jokes. Chuck’s one of those guys that talks with his hands. You go into a room with twenty guys, and you’re going to hear Chuck Luther,” says Byington. “Now he seemed half-asleep. He looked worn out.”

A few hours after Byington’s visit, Luther was called to his commander’s office. Major Wehri was frank. He held the personality disorder discharge papers in his hand. “And he said, ‘Sign this paperwork, and we’ll get you out.’ I said, ‘I don’t have a personality disorder.’ But it was like that didn’t matter,” says Luther. “He said, ‘If you don’t sign this, you’re going to be here a lot longer.’”

The sergeant signed. “They had me broke down,” he says. “At that point, I just wanted to get home.” Luther’s voice grows quiet as he recounts that final meeting. “I still remember Wehri’s face,” he says. “He was smiling.”

Wehri confirms his statements to Luther. He says he pressed the sergeant to sign because he felt it was in Luther’s best interest and in the best interest of the Army. The sergeant, he says, “had gotten so belligerent. If we had returned him to his unit, he would have been a danger to himself and to others. His behavior was not suitable to military service. And he wanted to get home. So I told him, ‘If your goal is to get home, and we’ve diagnosed you with personality disorder, your fastest way is to sign the papers. If you don’t sign, you’re just subjecting yourself to further anguish and discomfort.’”

Wehri insists that his comments to Luther were not pivotal to the sergeant’s discharge. Even without a soldier’s signature, a PD dismissal can proceed. But the papers would then move to an Army lawyer, and the process would be delayed. “You can’t force anyone to sign,” he says. “But if you’re going to be stubborn and not sign, try to play hardball, you run the risk of a dishonorable discharge. With Luther’s biting and spitting, I could have court-martialed him out right there for failure to perform in a military manner.”

The major says Luther’s real story is that of a good soldier who came home for leave, saw his wife’s new haircut and slimmed figure and was driven mad by fears of her infidelity. “When he came back to Iraq, something had changed. He had a negative attitude. He wouldn’t respond to direct orders. His head wasn’t in the game.” Wehri says it became clear to him that Luther was intent on returning home right away, a realization that left him disappointed but not shocked. “Soldiers are conniving,” he says. “They are manipulative. If they get in their minds they want to do something for personal gain, including going home, they’ll go to any lengths to get it.”

Wehri rejects the idea that the mortar attack and subsequent concussion could have triggered Luther’s woes. “That mortar attack was nothing,” he says. “Insignificant. Maybe he fell down. Sure. I’ve fallen down lots of times.” The major wonders aloud whether Luther is using that injury to justify his instability. He says if he thought the attack was significant, he would have investigated it fully and gotten the ball rolling for a Purple Heart.

The major confirms that Luther was confined to the aid station for several weeks and that his room was minuscule. But he says those circumstances were unavoidable. “Discharging a soldier with personality disorder is a very long and drawn-out process,” he says. “And Luther was a danger to himself and others. He needed to be watched. The aid station, that’s where they had 24–7 supervision.”

Wehri says he marvels at the idea that Luther could be a poster child for false personality disorder discharges. He has seen seven personality disorder cases in his career, he says. "And Chuck Luther was by far the clearest one." The major says that when Luther's troubles began, the sergeant's behavior confounded him. Then, says Wehri, he heard from a commander who said Luther's family had spoken with him and revealed that Luther had suffered from psychiatric problems before entering the military and had been treated with medication. "Then suddenly it made sense to me," says Wehri. "This was not new. His symptoms were just popping up now, after he'd kept a lid on them for many years. It all clicked into place."

But Luther's wife and his mother say that story is flatly false. Both say they never had such a conversation with an Army commander and are emphatic that the sergeant never faced any psychiatric problems before entering the military. "Hearing that makes me really angry," says Luther's mother, Barbara Guignard. "Chuck was an all-American boy. He never took any medication, and he never had a problem."

How Dewees and Applewhite came to the conclusion that Luther was suffering from a pre-existing mental illness remains unclear. They declined to elaborate on their notes or discuss the diagnosis of personality disorder in general. What is clear is that neither Dewees nor Applewhite spoke with Luther's family before determining that his problems existed before his military service. The sergeant's wife and his mother say that had they been asked, both could have provided key information demonstrating Luther's stability and health before the mortar attack.

Specialist Angel Sandoval says he could have helped as well. Sandoval, who was stationed at Camp Taji and served under Luther in the 1-7 Cavalry, laughs at the idea that the sergeant was mentally ill. "Chuck was a lot more than 'not mentally ill,'" he says. "He saved my life." Sandoval describes heading into combat under Luther's command. The specialist was ready to dump his side-SAPIs, large ceramic plates that strap to the side of a bulletproof vest, protecting the kidneys from machine-gun fire. "They're bulky and kinda heavy, but he said, 'No way, you have to wear them,'" says Sandoval. "Two days later I got shot right there, under my arm. It could have killed me."

Luther, he says, was "one of the greatest leaders I had. He never steered me wrong. If they thought he was ill and needed medical help, they should have given it to him instead of kicking him out of the Army."

But it was Wehri and Applewhite's view that mattered. Soon after signing the personality disorder papers, Luther was placed in a DC-10 and whisked back to Fort Hood. There he would learn about Chapter 5-13's fine print: he was ineligible for disability benefits, since his condition was pre-existing. He would not be receiving the lifetime of medical care given to severely wounded soldiers. And because he did not complete his contract, he would have to return a slice of his signing bonus.

At the base, a Fort Hood discharge specialist laid out the details. "He said I now owed the Army \$1,500. And if I did not pay, they'd garnish my wages and assess interest on my debt," Luther says.

Luther was then released into a pelting Texas rain. He called his wife, Nicki, to pick him up. "When I got to Fort Hood he was in the parking lot, alone, wet, sitting on his duffel bag," Nicki recalls. "He had lost a lot of weight. He looked like... a little boy. I remember thinking, My God, what have they done to my husband?"

The President 'Continues to Be Concerned'

Luther's case is not an isolated incident. In the past 3 years, *The Nation* has uncovered more than two dozen cases like his from bases across the country. All the soldiers were examined, deemed physically and psychologically fit, then welcomed into the military. All performed honorably before being wounded during service. None had a documented history of psychological problems. Yet after seeking treatment for their wounds, each soldier was diagnosed with a pre-existing personality disorder, then discharged and denied benefits.

That group includes Sergeant Jose Rivera, whose hands and legs were punctured by grenade shrapnel during his second tour in Iraq. Army doctors said his wounds were caused by personality disorder. Sailor Samantha Stitz fractured her pelvis and two bones in her ankle. Navy doctors cited personality disorder as the cause. Specialist Bonnie Moore developed an inflamed uterus during her service. Army doctors said her profuse vaginal bleeding was caused by personality disorder. Civilian doctors disagreed: they performed emergency surgery to remove her uterus and appendix. After being discharged and denied benefits, Moore and her teenage daughter became homeless.

"The military is exacerbating an already bad situation," says Sullivan of Veterans for Common Sense. "This is more than neglect. It's malice." Sullivan's organization has spent the past few years pressing officials in Washington to take action on the

personality disorder issue. In July 2007 he testified before the House Committee on Veterans' Affairs. Sullivan told the Committee that PD discharges needed to be halted immediately.

That month Obama put forward his bill to do just that. The bill was matched in the House by legislation from Representative Phil Hare, and it had passionate support on both sides of the aisle, from prominent Democrats like Senator Barbara Boxer to high-ranking Republicans like Senator Kit Bond. Sullivan and other veterans' leaders say they were hopeful that Obama would use the spotlight of the presidential campaign to generate further momentum for his bill.

That didn't happen. In the twenty-one months of his presidential run, the Illinois senator never spoke publicly about PD discharges or his bill to halt them. Eventually, without widespread public knowledge or support, and facing opposition from senators who had never heard of personality disorder and worried the bill would open a floodgate of expensive benefits, Obama and Bond, the bill's co-author, were forced to reshape it into an amendment and water down its contents. Their amendment did not halt PD discharges. Instead, it required the Pentagon to investigate PD dismissals and report back to Congress. The amendment, part of the Defense Authorization Act, was signed by President Bush in January 2008.

Five months later the report landed on Obama's and Bond's desks. The Pentagon's conclusion: no soldiers had been improperly diagnosed, and none had been wrongly discharged. The report praises the military's doctors as "competent professionals" and endorses continued use of pre-existing personality disorder to discharge soldiers whose "ability to function effectively" is impaired. The report's author, former Under Secretary of Defense David Chu, further notes that though the Navy's official label for the discharge is "Separation by Reason of Convenience of the Government," soldiers "are not wantonly discharged at the convenience of the Military."

It is unclear how Chu came to these conclusions. The report does not cite any interviews with soldiers discharged with personality disorder, or their families, doctors or commanders. That fact infuriated many military families, as it triggered memories of a 2007 study by former Army Surgeon General Gale Pollock. Pollock had been asked to examine a stack of PD cases. Five months later she released her report, saying her office had "thoughtfully and thoroughly" reviewed them. Like Chu, she commended the soldiers' doctors and determined that they all had been properly diagnosed. *The Nation* later revealed that Pollock's office did not interview anyone, not even the soldiers whose cases she was reviewing.

"He doesn't talk to soldiers, and he doesn't talk to their families?" says Nicki Luther, the sergeant's wife, her eyes welling with tears. "I heard the same thing from that surgeon general, and I thought, You haven't been in my house. You don't know what I've dealt with. How dare you sit there and say you've investigated thoroughly and found nothing. That's a crock."

The Chu report does recommend several changes to the PD discharge system, alterations, it says, that will protect soldiers from being wrongly discharged. Those protections include requiring that a doctor diagnose the soldier's personality disorder and a lawyer counsel him on the ramifications of the discharge. The report also recommends that the surgeon general review each soldier's case and endorse the PD discharge before releasing the soldier from the military.

Chu, a Bush appointee, left office in 2008 with the president. But his findings remain as the Defense Department's position on PD discharges. In early April the Pentagon released a statement saying that Clifford Stanley, the current under secretary, is implementing Chu's recommendations and fully embraces his findings.

That fact left many on Capitol Hill enraged. "This study, with the new requirement to have the upper-ups approve discharges—all it basically did was set up one more hurdle. As far as we can tell, the impact has been somewhere between zero and less," says Senator Bond. Bond says the Pentagon still hasn't explained the fundamental contradiction of a PD discharge: recruits who have a severe pre-existing mental illness could not pass the rigorous screening process and would not be accepted into the military in the first place. Yet he says his office is looking at several cases, like Luther's, in which the soldiers have been deemed physically and psychologically fit in several screenings before their personality disorder is diagnosed. "These men and women who have put their lives on the line, we owe them," says Bond. "We have a responsibility. Discharging them with personality disorder—it's just an easy way to duck that responsibility."

The Republican from Missouri says he's hopeful that Obama, his partner on the PD bill, will take action from the White House. "He has a unique chance now to change the whole operation, to alter the system from the inside." In October Bond gathered a small coalition of senators and wrote a letter to the president, asking him to confront the issue once again. "In 2007 we were partners in the fight against

the military's misuse of personality disorder discharges," wrote the senators. "Today, we urge you to renew your commitment to address this critical issue."

The next week Senator Boxer, a co-sponsor of the original bill, submitted a statement of her own. "It is simply appalling that any combat veteran with a Traumatic Brain Injury [TBI] or Post-traumatic Stress Disorder would be denied medical care for injuries sustained during combat," Boxer wrote. Even with the reforms that followed the Chu report, "we must make sure that the new discharge process... is working."

The White House responded quickly, assuring the senators that the president still has his eye on personality disorder. President Obama "is determined to fulfill America's responsibility to our Armed Forces," says White House spokesman Nicholas Shapiro. "The president was concerned with personality disorder discharges as a senator, and he drafted a bill. He continues to be concerned as commander in chief."

Disposable Warriors

Luther hopes that concern will translate into action. The sergeant stands in his backyard, 1,500 miles from Washington, five miles from Fort Hood, talking about Obama's bill and watching his 7-year-old daughter floating high above the family's oversize trampoline, her face wild with joy. Luther looks on with sullen eyes. "Right now I can't worry about Washington, or even about fixing my discharge papers," he says. "First thing, I got to fix myself." He gestures to his daughter, a mop of blond hair leaping to and fro. "I used to be like that: a goofball, all this energy. Now... I don't know."

Some nights he doesn't sleep. Others he's back in Iraq, in the aid station, in endless isolation. The blinding headaches and piercing shoulder pain still plague him, he says, along with panic attacks and bursts of post-traumatic stress-fueled rage. Luther broke four bones in his hand punching a hole in his bedroom wall. His family's hallway is pocked with holes from similar incidents.

"He's not the man I married," says Nicki Luther. "And when I'm honest with myself, I don't think I'll ever have that man again. He wakes up screaming in the middle of the night, sweating, swearing." Nicki says he tries to be a good dad to their kids. "He used to wrestle around with them. But his body's like an old man's now. And he's so quick to anger. The kids say, 'We want our dad back.' I don't know what to tell them."

Three years after the mortar blast, Luther's life is still on shaky ground. Some days he's posting love notes on his wife's Facebook page and hand-delivering her favorite salad to her office at lunchtime. Another day, in the midst of an argument, he knocked down a family photo, then ripped the furniture out of the living room and dumped it in the garage, scaring his children. Soon after the birth of their fourth child, Marlee Grace, Luther and his wife separated. They reunited a few months later, in time for their eighteenth anniversary.

Luther knew he needed help. This time he sought it outside the military. He began seeing Troy Daniels, a psychologist, once a week. One fact was clear immediately, says Daniels. "He did not have personality disorder. The symptoms we were looking at looked more like traumatic brain injury and post-traumatic stress disorder. To take a soldier having problems with vision, hearing and so forth—and to say he has personality disorder—that's a bogus kind of statement. I don't even think a master's student would make that kind of mistake."

While Daniels dismisses the Army doctors' diagnosis as a "gross error," he says he was not surprised by it. "I've treated hundreds of soldiers over the years, and I've seen a dozen personality disorder diagnoses. None of them," says the psychologist, "actually had personality disorder."

Yet all of those soldiers, he says, faced serious repercussions because of their discharge. "Many of the soldiers can't get hired anymore. Every time they go for a job, they'll have this paper that says they've been diagnosed with a personality disorder. Employers take one look at that and think, 'This guy's crazy. We can't hire him.' For most of the soldiers," says Daniels, "it becomes a lifetime label."

Luther luckily has secured a job, as a truck driver for Frito-Lay. Securing benefits has proved a bit tougher. Since being released from the Army, the sergeant has been locked in battle with the VA, fighting to prove that despite his PD discharge, his wounds are war related and thus worthy of disability and medical benefits.

Those efforts stumbled at first. In May 2008 the VA declared Luther "incompetent" and demanded that a fiduciary collect any disability benefits he may receive. Eventually, following a slew of paperwork and medical exams, the sergeant re-established his full standing. This past December—after VA doctors found Luther to be suffering from migraine headaches, vision problems, dizziness, nausea, difficulty hearing, numbness, anxiety and irritability—the VA cited traumatic brain injury

and post-traumatic stress disorder and declared Luther 80 percent disabled. "PTSD, a consequence of the TBI," wrote one VA doctor, "is a clear diagnosis."

The VA rating cleared the way for the sergeant to receive disability benefits and a lifetime of medical care. But it hasn't changed the Army's view—or altered Luther's discharge papers, which still list the sergeant as suffering from personality disorder. The sergeant, in return, has refused to pay back the \$1,500 of his signing bonus that the Army says he owes, despite threats to garnish his wages. "I told them, Let me put it this way: as long as I'm breathing of my own free will, I'm not paying you a dime."

Luther says what really boils his blood is having to accept that his military career is over while the careers of those who devised his discharge are flourishing. After Luther's dismissal, Wehri, a captain at the time, was promoted to major and selected to be an executive officer with NATO. Dr. Dewees returned to Kentucky, where he continues to serve with the National Guard. Social worker Applewhite is now an instructor at Fort Sam Houston, where he teaches a class on how to identify mental disorders.

With or without the Army, Luther says he will continue to serve. With his health gradually improving and the bulk of his battle over, the sergeant is taking on a new mission: fighting the military on behalf of other soldiers like himself. Luther is now the founder and executive director of Disposable Warriors, a one-man operation that assists soldiers who are fighting their discharge and veterans who are appealing their disability rating.

Luther's organization did not receive a hero's welcome. Soon after founding the group, he discovered a threatening note on his windshield. "Back off or you and your family will pay!!" it read, in careful, black ink cursive. Weeks later, thieves broke into the home of a veterans' organizer who worked closely with Luther, taking nothing but the files of the soldiers they were assisting.

The sergeant, characteristically, is undaunted. "This is the right path for me," he says, his voice resolute. "I got to be there for these other soldiers. I'm not the only one who needs help."

Prepared Statement of Sergeant Chuck Luther, Killeen, TX

Mr. Chairman, Committee Members, and guests, thank you for the opportunity to speak and help my fellow soldiers and veterans by telling my story.

I am here to day to say that wearing the uniform for the U.S. Army is what defined me. I was and still am very proud of the service that I gave to my country. I entered the service on active duty training status in February of 1988. I served 5 months and then went on to 8 years of Honorable Reserve service. I had a break in service and reentered the Reserves in 2003, and after serving 8 months honorably, I enlisted into the active duty Army in October 2004. I was stationed at Fort Hood Texas. I served as an admin specialist for 3 years and was given several awards for my leadership and service. I then went to retrain to become a 19D cavalry scout, upon finishing school at Fort Knox, KY. I returned to Fort Hood and was assigned to Comanche Troop, 1-7 CAV, 1st Brigade, and 1st Cavalry Division. I held the rank of specialist (E4) when we left for Taji, Iraq, for a 15 month combat deployment.

We arrived in Iraq in November of 2006. We found ourselves in a very violent area at the beginning of the surge. On December 16, 2006, I was working in the company radio area monitoring the group that we had outside the FOB on an escort mission. I remember that day very clearly. The call came in from one of our Staff sergeants in that patrol that they had been attacked and one of our vehicles had been destroyed and that we had three killed-in-action and one wounded-in-action. As we were receiving the information we could hear the small arms fire in the background as they tried to recover the dead and wounded soldiers. I served as the training room noncommissioned officer, so I was asked to translate the combat numbers given over the radio to my commander and first sergeant for identity. As the information came over, I instantly realized that the truck that had been destroyed contained one of my closest friends, SSG David Staats, and one of the soldiers that I had taken under my wing, PFC Joe Baines. I focused on the mission at hand and that evening drove the first sergeant and the platoon sergeant of these soldiers, to the mortuary affairs and helped unload their bodies from the vehicles bringing them home. I pushed through and the next morning we got word. as we were preparing to head to Baghdad to see the wounded soldier that he had died. For the next 2 months, we lost several other soldiers from our squadron and two Iraq interpreters.

On February 16, 2007, I was a member of a convoy that drove out 4 boats and members of our troop to conduct a river recon/mosque monitoring mission. After an

uneventful drive out, unload boats, troops and soldiers, we headed back to FOB Taji. As we pulled back on FOB Taji, the call came over the radio that the unit of soldiers had been ambushed mission. We had to quickly gather up troops and head back to the drop off location to assist. Upon arriving, we received small arms and large scale fire from the enemy, we found one of our SSG's (SSG Thompson) lying in the middle of the beach bleeding from the legs, one of our Lieutenants had been shot in the arm, and two Iraq police officers had been killed. We quickly put together two boats of troops and ammo to retrieve our soldiers. After heading up river we had received fire and our boat had capsized and we were stranded on an island for approximately 14 hours before being picked up. We had limited ammunition and no radio communications. We all thought that we were going to die that day.

Fourteen days to the day after that event, I was sent home for R and R leave. I was very angry, had severe headaches, was depressed and would cry at times. I fought with my wife and family while I was home. I had an episode where I broke my hand punching walls. After not being able to cope, I welcomed the trip back to Iraq. Upon returning to Iraq, I was promoted to SGT and received my Combat Action Badge for my part in the river mission firefights. After returning from R and R leave, several people in my unit said that something had changed in me. I tried to pull it together but had trouble sleeping, had anger problems, severe headaches, nose bleeds and chronic chest pain. I was living at the combat outpost x-ray. While there I went to see the medics to get my inhaler for asthma filled. I was sent back to the FOB, upon returning to the FOB aid station, the squadron aide station doctor, CPT Aaron Dewees was not present. I was told he was busy preparing for his triathlon that he was going to be in after deployment. I came back the next day and was seen. I asked to see the chaplain because I was feeling very depressed and needed to talk. After talking to the chaplain, I was sent to quarters for 2 days and then I was allowed to go back to the combat outpost. Around the first of April I was in guard tower 1 alpha when a mortar landed between the tower and the wall around the combat outpost. When it exploded it threw me down and I hit my right shoulder and head. I had severe ringing in my right ear with clear fluid coming from it and had problems seeing out of my right eye. After a few minutes, I went to the medics on the outpost and was given ibuprofen and water and sent back to duty.

I started to have worse headaches and could not sleep. They sent me back to the FOB and I was seen by the aid station doctors and medics and then sent to the mental health center. I spoke with a LTC there who was a licensed clinical social worker. He had a 15-minute talk with me and they gave me celexia and ambien. I was sent back to my quarters. The next 2 days I began to get angry and hostile (due to the meds) and was sent back to the LTC. He informed me that if I did not stop acting like this that they were going to chapter me out under a 5-13. I tried and went back to the aid station. After several days on suicide watch for making the comment that "if I had to live like this I would rather be dead," I asked to be sent somewhere where I could get help and to be able to understand what was wrong with me. I was told I could not go and I then demanded that I be taken to the Inspector General of the FOB. I was told by CPT Dewees that I was not going anywhere and he called for all the medics, roughly 6 to 10. I was assaulted, held down, and had my pants ripped off my left thigh and given an injection of something that put me to sleep. When I awoke, I was strapped down to a combat litter and had a black eye and cuts on my wrists from the zip ties. I eventually was untied and from that point forward for 5 weeks I was held in a room that was 6 feet by 8 feet that had bed pans, old blankets and other old supplies. I had to sleep on a combat litter and had a wool blanket. I was under guard 24/7 and on several occasions was told I was not allowed to use the phone or internet, and when I would take my meds and fall asleep I was not awakened to get food. On one occasion, I had slept through chow and asked to be taken to the chow hall or PX to get some food. I was told no and given a fuel soaked MRE to eat. I was constantly called a piece of crap, a faker, and other derogatory things. They kept the lights on and played all sorts of music from rap to heavy metal very loud all night, the medics worked in shifts, therefore, they didn't sleep; they rotated. These are some of the same tactics that we would use on insurgents that we captured to break them to get information or confessions. I went through this for 4 weeks and the HHC Commander, CPT Wehri told me to sign this discharge and that if I didn't that they would keep me there for 6 more months and then kick me out when we got back to Fort Hood anyway, I said I didn't have a personality disorder and he told me that if I signed the paperwork that I would get back home and get help and I would have all my benefits. After the endless nights of sleep deprivation, harassment and abuse I finally signed just to get out of there. I was broken.

It took 2 more weeks before I was flown out and brought to Fort Hood. Upon returning I was told by the rear detachment acting 1SG and Commander to stay out of trouble and they would get me out of there. I was sent out to wait on my wife in the rain with 2 duffle bags and another carry bag. This was my welcome home from war. I went home and went to sleep only to be awakened by three sergeants at my door saying I had to go back to mental health due to me being suicidal and they hadn't had me checked out. I went to the R and R center at Fort Hood and was seen by LTC Baker, who was a psychologist. He asked why I was brought back from Iraq, I explained they said I had a personality disorder and he disagreed, he shook his head and said that I had severe PTSD and combat exhaustion. He told me to get some sleep and rest and follow up in a week with him. I was never allowed to go back to see him. The ironic thing is that in my military records I held 3 Army jobs and had a total of 8 mental health screenings that all found me fit for duty. Also, I had never had a negative counseling or negative incident in my 12 years of Reserve and active duty career. Two weeks after getting back, I was discharged from the Army, I had my pay held and they took my saved up leave from me for repayment of my unearned reenlistment bonus. I received a notice in the mail 3 week after my discharge from the department of finance that I owed the Army \$1501. Three months later, I went to the VA and was told they could not see me for mental health due to my preexisting disorder. I went back the next week and was seen by a psychologist, after an hour with her she scheduled me an appointment with a caseworker and then I had several follow-up mental health appointments. I was given my VA rating a year later in 2008 of 70 percent for PTSD, knee injury, headaches, right shoulder and asthma. Six months later after several emergency room visits and neurology appointments, my rating was upgraded to 90 percent and I was given service-connection for Traumatic Brain Injury. In June of this year, after 2 years from the date that I filed a request with the Military Boards of Correction to have my discharge changed from a Chapter 5-13 to a medical retirement, I was denied, even after the 3 years of VA medical documents and evidence from people who know me. I demand that my discharge be changed and that I receive the proper discharge for my service.

I have since founded Disposable Warriors and have assisted many veterans and soldiers in a range of issues from Personality Disorder diagnosis to soldiers on active duty with diagnosed PTSD that are not being treated or being discharged for misconduct under other than honorable or bad conduct discharge (which does not entitle them to VA benefits either). I want to say that it has been hell to just get my mind somewhat back on track and to exist; I have bouts of memory loss, agitation, flashbacks, paranoia, problems sleeping and depression. I get angry every time I look at my DD-214 with the fraudulent personality disorder discharge. It cost me contract jobs for private security after my exit from the Army. I had to get a job 3 days after I was kicked out of the Army to feed my wife and three children. I was taught for years in the Army the definition of Integrity, Honor, Respect and Selfless Service, all of which I did I have given to the Army, but did not get in return.

I hold two things very dear to me to this day. It comes from the NCO Creed, the accomplishment of my mission and the welfare of my soldiers. I am on a new battlefield, with a new mission, and I will at all cost take care of soldiers and their families. I love my country, I love my Army but we cannot stand by and watch this continue to happen. At the very same time that this Committee was having SPC Jon Town testify in front of them in July of 2007, I was abused, broken and discharged for the very same thing that he testified about. Please do not let us be here in 3 years again with another story of shame. The lack of care and concern, coupled with the stigma of weakness for asking for help that we have allowed to be put on us, has to be totally removed. Then, and only then, will we see the veterans homelessness rate drop, the active duty and veteran suicide rate drop, and the skyrocketing rate of divorce decrease. The senior level of the armed forces gets it, but they can talk about it, design plans for it, make PowerPoints of it, but if it is not being enforced at the soldier's level, it is worthless.

In closing I would like to state that I do not have, nor have I ever had, a personality disorder. I suffer from PTSD and Traumatic Brain Injury from my service to my country while at war in Iraq. I raised my right hand on several occasions and swore to protect the Constitution at all cost. I did my part and now it is time for the military to keep its part of the agreement that if I were injured they would help me get back on my feet. Please help stop these wrongful discharges and help get our wounded servicemen and women back to service or back home to their families.

Thank you for your time.



**Prepared Statement of Paul Sullivan, Executive Director,
Veterans for Common Sense**

Veterans for Common Sense (VCS) thanks Committee Chairman Filner, Ranking Member Buyer, and Members of the Committee for inviting us to testify about the impact of improper Department of Defense (DoD) “personality disorder” discharges on our veterans seeking benefits from the Department of Veterans Affairs (VA).

VCS is here today because we remain alarmed DoD continues improperly discharging our servicemembers who had entered the military in good health and served with honor while deployed to the Iraq and Afghanistan Wars, only to be administratively discharged, often without access to medical care or benefits from DoD or VA.

We begin our testimony with an urgent request that Congress put an immediate stop to DoD’s improper “personality disorder,” “adjustment disorder,” and “pattern of misconduct” discharges for servicemembers deployed to war since 2001.

The main underlying cause of the improper discharge remains the enormous pressure from top Pentagon officials, including Secretary Robert Gates himself, to curb military spending. A recent news article by Noel Brinkerhoff at www.AllGov.com is a recent example of significant pressure to reduce military medical spending: “With the Department of Defense staring at enormous cost increases for its health care program, Defense Secretary Robert Gates is proposing raising premiums for the first time ever since the creation of the TRICARE system in 1996.”

VCS believes the military’s improper discharges will continue so long as there is pressure to reduce medical costs and so long as military recruitment standards remain artificially low due to strong public opposition to the current wars.

Our testimony today focuses on three areas. First, how many of our Iraq and Afghanistan war veterans were improperly released by the military? Second, what are the financial incentives for our military to continue the policy, and what does it cost our veterans in terms of lost benefits? And, third, what are the solutions Congress can implement to repair the damage, and how do we prevent this from happening again?

First, How Many Veterans are Impacted?

According to *Army Times* and U.S. Senator Christopher “Kit” Bond, discharges for “other designated physical or mental conditions not amounting to disability”—which includes adjustment disorder—have shot from 1,453 in 2006 to 3,844 in 2009 (“Adjustment disorder discharges soar; Military boots PTSD troops with no benefits, vets advocates say,” *Army Times*, Kelly Kennedy, August 16, 2010, is included in testimony).

The increase in personality disorder discharges skyrocketed 165 percent in 3 years without any plausible explanation from the military. Now, *Army Times* observed, “Over the same time, personality disorder discharges dropped from a peak of 1,072 in 2006 to just 260 last year.” In 2007, one estimate of the total number of improper discharges was as high as 20,000 based on an investigation by *The Nation* Magazine.

Congress and advocates need additional accurate and consistent information in order to understand the full scope of this issue. VCS urges Congress to demand the military produce statistics on the number of “personality disorder,” “adjustment disorder,” and “pattern of misconduct” discharges, every year since 2001, sorted by deployment status and military branch. DoD’s refusal to release all of the data to Senators speaks volumes about DoD’s intent to conceal this problem from Congress, continue the improper discharges, and otherwise avoid a proper resolution.

Based on the limited statistics available, VCS believes the military switched from “personality disorder” discharges to “adjustment disorder discharges” after this Committee exposed “personality disorder” discharges during a July 2007 hearing.

Again, quoting *Army Times*, “Jason Perry, a former Army judge advocate who helps troops going through medical retirement, said he has seen dozens of such cases. ‘It’s very common. And it’s completely illegal.’” In our view, the military was caught by investigative reporter Joshua Kors at *The Nation* Magazine. In response to his investigation, and subsequent Congressional hearings featuring veterans and advocates, the military did change the rules. Shortly thereafter, the military went back the department’s old ways, simply changing a few words on servicemembers’ discharge forms and continuing the same shameful, outrageous, and improper practice.

From our 2007 testimony, VCS restates the obvious. Using the “personality disorder,” “adjustment disorder,” or “pattern of misconduct” discharges to remove servicemembers who served honorably during war is wrong and a violation of mili-

tary regulations. Our servicemembers need medical exams and medical care, not improper discharges creating a cloud over their military service and access to VA care.

Second, Who Wins and Who Loses?

The answer is obvious. The military wins while our veterans and local governments lose. The military's illegal activity means DoD spends less on health care and benefits during a time of tight budgets. Our veterans and families lose because some won't receive urgently needed health care, disability payments, and other VA benefits. When VA does not provide care, then state and local governments pick up the tab.

The losses to our veterans are staggering. The average cost for VA care and benefits, over a period of 40 years, is between \$500,000 to \$1,000,000 per veteran. To date, DoD stands to illegally deny between \$5 billion to \$20 billion in lifetime health care and benefits to the estimated 10,000 to 20,000 veterans improperly kicked out by the military. This estimate is based on the academic research found in the book, *The Three Trillion Dollar War*, by Linda Bilmes and Joseph Stiglitz, published in 2008. The authors estimate the lifetime medical and benefit costs for our deployed Iraq and Afghanistan war veterans may be \$500 billion or higher for nearly one million patients and claims.

Based on our conversations with veterans, those with "personality disorder" discharges frequently believe they are not entitled to full VA benefits. In many cases, that's partly true. VA is supposed to provide 5 years of free medical care for veterans who deployed to a war zone after November 11, 1998 (except those with a dishonorable discharge). There are plenty of examples of veterans diagnosed with post-traumatic stress disorder (PTSD) and/or Traumatic Brain Injury (TBI) who urgently need VA care and benefits for those conditions. However, they either do not seek VA care, they are unreasonably delayed in obtaining care due to VA paperwork nightmares, or they are denied care by VA.

Some non-medical VA benefits may be lost by veterans with improper "personality disorder" discharges. For example, an early release from active duty may block access to VA's home loan guaranty and education benefits.

PTSD symptoms may mimic "personality disorder" discharges with anger, self-medicating, and minor infractions. A proper diagnosis by a psychologist or psychiatrist is imperative, rather than DoD's current process of rushing veterans through a non-medical administrative discharge. According to DoD and VA policy, if PTSD symptoms last longer than 6 months, then the veteran's diagnosis should be changed to PTSD. With a PTSD diagnosis, a veteran may be medically retired with an honorable discharge, a disability rating of at least 50 percent, and free medical care.

In the worst case examples of lost benefits among veterans, VA has improperly denied veterans' PTSD disability compensation claim because the veterans' DD-214 listed "personality disorder," even when the veterans had deployed to a war zone, were diagnosed with PTSD, and were clearly given an improper military discharge.

Third, what are the solutions?

VCS urges Congress to take several steps toward resolving the crisis of improper military discharges often preventing access to VA services for our Iraq and Afghanistan war veterans. These steps include modernizing military separation regulations, identifying and righting past inappropriate discharges, and dramatically improving oversight and accountability of military health surveillance. VCS encourages veterans to seek care and benefits at VA, without fear of discrimination or stigma. An improper discharge by the military may unfairly stigmatize a veteran and impede access to health care, benefits, and employment that are often vital for a smooth transition from combat to community.

Improve VA Training. VCS recommends that VA train staff to identify potential veterans at risk of falling in the cracks. While some veterans may have a properly issued "personality disorder," "adjustment disorder," or "pattern of misconduct" discharge, VA needs to look beyond that frequently incorrect DoD label. VA medical staff should be sure to welcome home deployed veterans with 5 years of free medical care. Similarly, VA claims adjudication staff should look beyond DoD's discharge documents and carefully review each veteran's mental health symptoms and diagnoses, especially those cases where the veteran deployed to a war zone.

Update DoD's Discharge Regulations. VCS recommends DoD modernize military separation regulations to provide protection against abuse of mental health related administrative discharges. Although the governing Department of Defense Instruction, DoDI 1332.14, was updated, the language fails to guarantee protection from abuses and retains loopholes which continue to contribute to this problem. Specifically, Enclosure 3, paragraph 3(8)(a) still permits the individual services to au-

thorize administrative separation for “other designated physical or mental conditions, not amounting to disability, that interfere with assignment to or performance of duty,” without providing any new protections against abuse of this authority, *except* for the recent protections for “personality disorder.”

Joshua Kors’ article on this subject in *The Nation*, contributed greatly to the political pressure that led the Senate to submit amendments to the 2008 National Defense Authorization Act preventing DoD from discharging returning veterans with a “personality disorder.” While these strong protections against abuse were appropriate and beneficial, they have been effectively sidestepped merely by characterizing the early manifestations of mental health problems, such as PTSD, as “other ... mental conditions, not amounting to disability.” DoD has simply shifted from “personality disorder” discharges to “adjustment disorder” and “pattern of misconduct” discharges.

All mental health-related administrative separations under this section should be subject to the same rigid review and validation process as those for “personality disorder” discharges under subparagraphs (8)(a) through (d). VCS recommends that no servicemember previously deemed fit to deploy be processed for administrative separation for a mental condition unless such condition has been centrally reviewed and validated by the principal advisor for mental health issues of the component service.

Review All Administrative Discharges Since 2001. To ensure no veteran is left behind, VCS recommends Congress legislate a mandatory review of all administrative separations for mental health conditions made since the start of combat operations in 2001. DoD was supposed to contact the 22,000 personality disorder discharges to determine if the discharges were correct. Congress should mandate that DoD retroactively correct and properly characterize all such discharges in accordance with these new recommended revised guidelines. In cases where the DoD made an error, DoD would upgrade the veteran’s discharge. Unfortunately, in the 3 years since the hearing, the military did not contact the veterans or conduct a review.

Enforce Stronger Oversight. VCS emphasizes how these episodes underscore the critical need to dramatically improve oversight and accountability for military health surveillance. Time and time again, DoD has proven itself a poor steward of military health information, failing to proactively identify disturbing and incriminating trends in patterns of administrative discharges, failing to release important information to Congress and the public, and as at least one recent episode suggests, engaging in outright lies in defense of its actions. For example, when the issue of improper discharges was first raised by Senator Kit Bond and then-Senator Barack Obama in 2007, DoD investigated itself. DoD fabricated a ghost-written review and claimed the Department had done nothing wrong. After Acting Surgeon General Gale Pollack released the report to Congress, advocates Steve Robinson and Andrew Pogany revealed the Pentagon report was falsified. To the best of our knowledge, no military officials were held accountable.

Independent Review. Congress needs to create a method for an independent review of the overall health of our servicemembers. As VCS has argued on numerous occasions, the lack of timely and accurate health data has a chilling effect on the ability of Congress to perform effective oversight in the best interests of our servicemembers. On numerous occasions DoD has deeply troubling patterns of misconduct in relation to its sole ownership of this information: Delaying the release of information; feigning confusion as to the meaning or accuracy of information; and claiming requested analyses are not possible. Most often this happens with toxic exposures. This also happens with PTSD, TBI, and the improper discharges discussed at this hearing. DoD’s actions serve to protect DoD’s interests at the expense of servicemembers, and are conducted in many instances with the purpose of stalling Congressional investigations and reform.

Conduct Universal, Mandatory Medical Exams. VCS urges Congress to order the military to implement mandatory, universal pre-deployment and post-deployment medical exams as required by the 1997 Force Health Protection Act. This means every soldier sits down, face-to-face, with a medical care provider before and after going to a war zone to identify—and then treat—identified medical conditions when care is more effective and less expensive. We support DoD’s continued use of medical assessments 6 months after veterans return. This upholds our military’s need to field a fit fighting force while protecting the health of our individual servicemembers.

Fill Mental Health Professional Vacancies. VCS urges Congress to order the military to hire more medical professionals so our soldiers receive mandatory, universal exams. The creation of lifetime electronic records remains a superb and urgently needed reform for our servicemembers and veterans. However, the new electronic records will be rendered useless if the military fails to include examination, exposure, and other salient medical information in the new records. Secretary

Shinseki must make it very clear to Defense Secretary Gates that VA expects DoD to perform pre-deployment and post-deployment medical exams as well as record toxic exposures. This military medical history, currently missing for many veterans, remains absolutely essential so VA may provide veterans with accurate claims decisions and health care.

Honor Medical Opinions. VCS urges Congress to eliminate the ability of line commanders to overrule the decisions made by medical professionals regarding the ability of a servicemember to deploy to a war zone or to remain in the military. In too many cases commanders override medical opinions and send unfit soldiers back into combat, recklessly endangering the servicemember, the unit, and the mission.

Expand Training and Anti-Stigma Education. VCS urges DoD and VA to expand the agencies' anti-stigma education program encouraging our servicemembers with PTSD and/or TBI to seek care, beyond what has already been established. VCS also supports mandatory reintegration training for every servicemember, regardless of discharge, except for dishonorable discharges.

In conclusion, the problem of improper discharges is caused by the military, yet the solution requires cooperation between Congress, the military, and VA.

News Articles Cited:

1. Defense Secretary Gates Suggests Raising Health Care Premiums for Employed Veterans

by Noel Brinkerhoff, www.AllGov.com

September 08, 2010—With the Department of Defense staring at enormous cost increases for its health care program, Defense Secretary Robert Gates is proposing raising premiums for the first time ever since the creation of the TRICARE system in 1996.

Health care costs for the Pentagon have ballooned from \$19 billion in 2000 to an estimated \$50 billion for next year, and \$65 billion by 2015. Gates wants to avoid increasing premiums for active-duty personnel and their families. Instead, he's suggesting charging higher premiums and co-pay fees for retired veterans using TRICARE who have access to private health care plans through their current employers.

Gates' idea is likely to have a tough time gaining approval in Congress, where both Democrats and Republicans have been reluctant to lift TRICARE premiums for any military personnel.

2. 'Adjustment disorder' discharges soar; Military boots PTSD troops with no benefits, vets advocates say

By Kelly Kennedy, *Army Times*

August 16, 2010—Two years ago, Congress enacted rules to curb the military's practice of separating troops with combat stress for pre-existing personality disorders—an administrative discharge that left those veterans without medical care or other benefits. Now, veterans advocates say, the military is using a new means to the same end: giving stressed troops administrative discharges for "adjustment disorders," which also carry no benefits. And just as before, Congress appears poised to wade in. Senator Christopher "Kit" Bond, R-Mo., plans to ask President Obama to have the Pentagon provide details on discharges for adjustment disorder in recent years. In the meantime, Bond's office has been gathering more general data that show discharges for "other designated physical or mental conditions not amounting to disability"—which includes adjustment disorder—have shot from 1,453 in 2006 to 3,844 in 2009. Over the same time, personality disorder discharges dropped from a peak of 1,072 in 2006 to just 260 last year. Shana Marchio, an aide to Bond, said the issue was brought to the Senator's attention by Steve Robinson, a former Army Ranger who is now a veterans advocate. "The good news is that the Pentagon has moved away from personality disorders, but we feel [adjustment disorder] could be another piece of the same problem," Marchio said. At press time, Pentagon officials had not responded to a request for comment about the recent rise in administrative discharges. According to the DSM-IV, the psychiatric manual for mental health issues, adjustment disorder may occur when someone has difficulty dealing with a life event, such as a new job or a divorce—or basic training. It also may occur after exposure to a traumatic event. The symptoms can be the same as for post-traumatic stress disorder: flashbacks, nightmares, anger, sleeplessness, irritability and avoidance. According to military and Veterans Affairs Department rules, if symptoms last longer than 6 months, the diagnosis should change to PTSD. Under the law enacted in 2008, that means medical retirement, an honorable discharge, a 50 percent disability rating and medical care. That is not always happening, Robinson said. "This is a case of inappropriate discharges. There are hundreds of cases."

'I could barely function' During a deployment to Iraq with the 4th Infantry Division in 2008, former Army Pfc. Michael Nahas, 22, said he survived 2 roadside bomb explosions and 1 rocket-propelled grenade attack, and watched people die in another explosion in Mosul. Two months after returning to Fort Carson, Colo., he began feeling anxious and guilty about people he believed had died needlessly. He went to the post mental health clinic. Over 3 weeks, he said he had 3 appointments—and a lot of medication, including 14 milligrams of Xanax a day. “I was drooling on myself,” he said. “I could barely function.” His mother and veterans advocates verified his doses. As enlisted supervisors in his unit chain found out he was going to behavioral health, Nahas said some made fun of him, calling him “crazy” and telling him to kill himself so he would not be a problem. Veterans advocates who worked on Nahas’ case verified his information, citing police and medical records as well as conversations with commanders. Army Lieutenant Colonel Steve Wollman, spokesman for the 4th Infantry Division, declined to comment on Nahas’ specific charges. “The allegations . . . were thoroughly investigated,” he said. “Some . . . were unsubstantiated and some of them were substantiated. Appropriate corrective actions were made, and the investigation is closed.” In February, Nahas said he had a reaction to his medication that, coupled with the stress he was under, led him to try to commit suicide by sticking IV needles in his arms to bleed out. In a photo of the aftermath provided by Nahas’ family, blood fills the bathtub and a red smiley face gazes from the tiles above. His wife found him and called for help, and Nahas survived. After his suicide attempt, he said he spent time in an inpatient clinic where he was diagnosed with PTSD, then went back to his unit. But rather than beginning the medical retirement process for PTSD, in late April his unit gave him an administrative discharge for adjustment disorder and sent him back to civilian life. “I was told I had PTSD, and then I was told I didn’t,” he said. His situation is not unique, according to people familiar with the military disability system. Jason Perry, a former Army judge advocate who helps troops going through medical retirement, said he has seen dozens of such cases. “It’s very common,” Perry said. “And it’s completely illegal.”

**Prepared Statement of Thomas J. Berger, Ph.D., Executive Director,
Veterans Health Council, Vietnam Veterans of America**

Chairman Filner, Ranking Member Buyer, and distinguished Members of the House Veterans’ Affairs Committee, on behalf of President John Rowan, our Board of Directors, and our membership, Vietnam Veterans of America (VVA) thanks you for the opportunity to present our views on discharges for personality disorders and their impact on veterans’ benefits.

Some in this room may well remember that the issue of personality order discharges first surfaced publicly back in the spring of 2007 because of an article in *“The Nation”* by Joshua Kors and a subsequent *CBS Evening News* special. They reported that since the attacks of 9/11, more than 22,600 servicemembers had been discharged for a “personality disorder”. Nearly 3,400 of them, or 15 percent, had served in combat or imminent danger zones. Those numbers include personnel who had served multiple tours.

Now, please remember that a personality disorder is a severe mental illness that emerges during childhood and is listed in military regulations as a pre-existing condition, not a result of combat. Personality disorder contains symptoms that are enduring and play a major role in most, if not all, aspects of the person’s life. While many disorders vacillate in terms of symptom presence and intensity, personality disorders typically remain relatively constant. In other words, according to the DSM-IV, to be diagnosed with a disorder in this category, the symptoms have been present for an extended period of time, are inflexible and pervasive, and are not a result of alcohol or drugs or another psychiatric disorder, and the history of symptoms can be traced back to childhood or adolescence. Thus, those who are discharged with a personality disorder are denied a lifetime of disability benefits. Soldiers discharged with a personality disorder are also denied long-term medical care, and they may have to give back a portion of their re-enlistment bonus.

At the time, VVA and other veterans’ advocates contended that many of these servicemembers were suffering from Post-traumatic Stress Disorder (PTSD) or traumatic brain injury (TBI), but that it was easier and less costly for the military to separate them under the rubric of “personality disorder”, leading some to believe that such a large number of personality disorder discharges were in fact fabricated to save on the cost of other, more appropriate mental health treatments and disability benefits.

Then, after several Congressional hearings—including one before this committee—and criticism from VVA and other veterans' advocates on the overuse of personality disorder separation, a revised Department of Defense (DoD) instruction (No. 1332.14) took effect without public announcement on August 28, 2008. This revision only allows separation for personality disorder for members currently or formerly deployed to imminent danger areas if: (1) the diagnosis by a psychiatrist or a Ph.D.-level psychologist is corroborated by a peer or higher-level mental health professional; (2) if the diagnosis is endorsed by the surgeon general of the service; and (3) if the diagnosis took into account a possible tie or "co-morbidity" with symptoms of PTSD or war-related mental injury or illness. The DoD director of officer and enlisted personnel management noted that "rigor and discipline" is "very important" when separating deployed members for personality, considering what is at stake for the servicemember.

In addition, the Senate also adopted an amendment to the fiscal 2008 defense authorization bill introduced by then-Senator Obama (D-Ill.), Senator Kit Bond (R-Mo.), and Senator Joseph Lieberman (ID-Ct.) that directed DoD officials to report on service use of personality disorder separations, and the Government Accountability Office (GAO) to study how well the services follow DoD's own rules for processing such separations.

The Army, meanwhile, reviewed its own use of personality disorder separations for more than 800 soldiers who had wartime deployments. That review quickly found some "appalling" lapses, said an official, including incomplete files and missing counseling statements. In the following months, the Army claimed to have tightened its own rules for using personality disorder separations.

DoD then reported to Congress that it would add "rigor" to its personality disorder separation policy, previewing the changes implemented in late August. The Navy had strongly opposed the changes because it frequently uses personality disorder separations to remove sailors found too immature or undisciplined to cope with life at sea. Requiring their surgeon general to review every personality disorder separation from ships deployed in combat theaters would be too burdensome, the Navy argued. But DoD officials insisted on the changes.

DoD's report showed the Navy led all services in personality disorder separations. For fiscal years 2002 through 2007, the Navy total was 7,554 versus 5,923 for the Air Force, 5,652 for the Army, and 3,527 for the Marine Corps. The Army led in personality disorder separations of members who had wartime deployments, with a total of 1,480 over 6 years. The Navy total was 1,155, the Marine Corps 455 and the Air Force 282. But DoD said it found "no indication" that personality disorder diagnoses of deployed members "were prone to systematic or widespread error." Nor did internal studies show "a strong correlation" between personality disorder separations and PTSD, brain injury or other mental disorders. "Still, the Department shares Congress' concern regarding the possible use of personality disorder as the basis for administratively separating this class of servicemember," the report said.

In late October 2008, the GAO released its findings based on a review of service jackets for 312 members separated for personality disorder from four military installations. It concluded that the services were not reliably compliant even with the pre-August regulation governing separations. For example, only 40–78 percent of enlisted member separated for personality disorder had documents in their files showing that a psychiatrist or qualified psychologist determined that their disorder affected their ability to function in service.

After all that, the annual number of personality disorder cases dropped by 75 percent. Only 260 soldiers were discharged on those grounds in 2009. At the same time, the number of PTSD cases has soared. By 2008, more than 14,000 soldiers had been diagnosed with PTSD—twice as many as 2 years before.

Fast-forward to August 2010: the Army denies that any soldier was misdiagnosed before 2008, when it drastically cut the number of discharges due to personality disorders and diagnoses of PTSD skyrocketed. The Army attributes the sudden and sharp reduction in personality disorders to its policy change. Yet Army officials deny that soldiers was discharged unfairly, saying they reviewed the paperwork of all deployed soldiers dismissed with a personality disorder between 2001 and 2006. According to an AP report, "We did not find evidence that soldiers with PTSD had been inappropriately discharged with personality disorder," said Maria Tolleson, a spokeswoman at the U.S. Army Medical Command.

But with the problem apparently solved, the Army is still refusing to treat those discharged before 2008, insisting that their diagnoses of these personnel were correct. Army officials "reviewed the paperwork of all deployed soldiers dismissed with a personality disorder between 2001 and 2006" and said they "did not find evidence that soldiers with PTSD had been inappropriately discharged with personality disorder." What does this mean? It means that thousands of soldiers, misdiagnosed as

having a personality disorder, are still suffering without treatment in the wake of the U.S. military's mental health reform in 2008.

We at VVA are skeptical of the Army's claim that it didn't make any mistakes because symptoms of PTSD—anger, irritability, anxiety and depression—can easily be confused for the Army's description of a personality disorder. There is no reason to believe the number of personality discharges would decrease so quickly unless the Army had misdiagnosed hundreds of soldiers each year in the first place. That leaves us to ask this Committee to ascertain the following:

- During its review of previous cases, did the Army interview soldiers' families, who can often provide evidence of a shift in behavior that occurred after the soldier was sent into a war zone?
- Can the Army explain why the number of the personality disorder discharges doubled between 2006 and 2009 and how many of those qualified to retain their benefits?
- Is the Army now relying on a different designation—referred to as “adjustment disorder”—to dismiss soldiers?

It is absolutely clear, either through Congressional action or a Presidential directive, that the Army needs to conduct a thorough review of its personality disorder diagnoses prior to 2008, treat those who need help, and restore disability benefits where appropriate.

VVA thanks you, Mr. Chairman, for holding this hearing. And we thank you and the Members of this Committee for the opportunity to present our views on this very troubling mental health care issue. I shall be glad to answer any questions you might have.

**Prepared Statement of Debra A. Draper, Ph.D., M.S.H.A., Director,
Health Care, U.S. Government Accountability Office**

**Defense Health Care: Status of Efforts to Address Lack of Compliance with
Personality Disorder Separation Requirements**

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the Department of Defense's (DoD) separation requirements for enlisted servicemembers diagnosed with personality disorders and the military services' compliance with these requirements. DoD requires that all enlisted servicemembers, including those serving in support of Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF), be physically and psychologically suitable for military service.¹ Enlisted servicemembers who fail to meet this standard may be involuntarily separated from the military.² One psychological condition that can render an enlisted servicemember unsuitable for military service is a personality disorder, which is defined as a long-standing, inflexible pattern of behavior that deviates markedly from expected behavior, has an onset in adolescence or early adulthood, and leads to distress or impairment.³ Although a personality disorder by itself does not make enlisted servicemembers unsuitable for military service, DoD policy allows for involuntary separation from the military if a servicemember's disorder is severe enough that it interferes with his or her ability to function in the military.⁴ DoD data show that from November 1, 2001, through June 30, 2007, about 26,000 enlisted servicemembers were separated from the military because of a personality disorder. Of these 26,000 servicemembers, about 2,800 had deployed at least once in support of OEF/OIF.

In 2007, your Committee held a hearing on how a personality disorder separation may affect a veteran's ability to receive support from the Department of Veterans Affairs (VA). Specifically, enlisted servicemembers who receive only a diagnosis of personality disorder are ineligible to receive disability compensation benefits from VA after their military service because a personality disorder is not considered a

¹ Operation Enduring Freedom, which began in October 2001, supports combat operations in Afghanistan and other locations, and Operation Iraqi Freedom, which began in March 2003, supports combat operations in Iraq and other locations. In September 2010, Operation Iraqi Freedom became known as Operation New Dawn.

² We discuss only enlisted servicemembers in this testimony because officers are generally able to resign at any time rather than be involuntarily separated.

³ Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision (Washington, D.C.: American Psychiatric Association, 2000).

⁴ Department of Defense Instruction 1332.14, Enlisted Administrative Separations (Mar. 29, 2010).

service-connected mental health condition.⁵ At the hearing, a representative from Veterans for America, a veterans' advocacy group, expressed concern that some enlisted servicemembers may have been incorrectly diagnosed with a personality disorder, resulting in unfair denial of disability compensation.

Accurately diagnosing enlisted servicemembers who have served in combat with a personality disorder can be challenging. Specifically, some personality disorder symptoms—irritability, feelings of detachment or estrangement from others, and aggressiveness—are similar to the symptoms of post-traumatic stress disorder (PTSD), a condition for which OEF/OIF enlisted servicemembers may also be at risk. According to mental health experts and military mental health providers, one important difference between a personality disorder and PTSD is that a personality disorder is a long-standing condition, whereas PTSD is a condition that follows exposure to a traumatic event. According to the American Psychiatric Association and the American Psychological Association, the only way to distinguish a personality disorder from a combat-related mental health condition, such as PTSD, is by obtaining an in-depth medical and personal history from the enlisted servicemember that is corroborated, if possible, by others such as family members and friends.

DoD has three key requirements that the military services—Army, Air Force, Marine Corps, and Navy—must follow when separating enlisted servicemembers because of a personality disorder. Specifically, before they are separated because of a personality disorder, enlisted servicemembers

1. must receive notification of their impending separation because of a personality disorder;
2. must receive, prior to the notification, a diagnosis of personality disorder by a psychiatrist or psychologist⁶ who determines that the personality disorder interferes with the enlisted servicemember's ability to function in the military; and
3. must receive formal counseling about their problem with functioning in the military.⁷

The separation process is typically initiated by an enlisted servicemember's commander, who must then follow the requirements established by DoD when separating an enlisted servicemember because of a personality disorder. Once an enlisted servicemember has been separated from military service, he or she receives a certificate of release from the military, which includes information on the reason for separation and an official characterization of his or her time in the service.⁸

In my statement today, I will provide information from a report we issued in 2008 on our review of personality disorder separations in the military services.⁹ I will also update you on the actions DoD has taken since August 2008 related to the recommendations we made in that report.

To do the work for our 2008 report, we analyzed DoD data and identified installations that had the highest or second highest incidence of enlisted OEF/OIF servicemembers separated because of a personality disorder from November 1, 2007, through June 30, 2007. We then selected four of these installations to visit—Fort Carson (Army), Fort Hood (Army), Davis-Monthan Air Force Base (Air Force), and Camp Pendleton (Marine Corps). We also reviewed the personnel records, which contain the separation packet—the documents necessary to separate a servicemember—for selected servicemembers from the four installations we visited. In our review, we determined whether the packets contained documentation demonstrating that DoD's personality disorder separation requirements had been met. Our findings from the four installations that we visited can be generalized to each of these installations, but not to the military services. In addition to the four military installations from the Army, Air Force, and Marine Corps, we also visited Naval Base San Diego and reviewed the personnel records from servicemembers who were identified to

⁵ Enlisted servicemembers who are separated because of a personality disorder may receive other support, such as medical services, from VA if they have other illnesses or injuries possibly related to their service.

⁶ According to a DoD official, DoD does not hire psychologists who are not doctoral-level psychologists.

⁷ Although DoD separation policy does not specify who needs to conduct the formal counseling session, according to a DoD separation policy official, the counseling should be conducted by the enlisted servicemember's supervisor. The counseling can occur at any time up until the enlisted servicemember is notified of the separation.

⁸ Enlisted servicemembers who are separated because of a personality disorder receive either an "honorable" or "general under honorable" characterization, or description, of service that is given at the time of separation.

⁹ GAO, Defense Health Care: Additional Efforts Needed to Ensure Compliance with Personality Disorder Separation Requirements, GAO-09-31 (Washington, D.C.: Oct. 31, 2008).

have been separated because of a personality disorder from this installation. Due to the structure of the Navy, we cannot attribute our findings to the particular installation we visited, and so we reported these results separately from the findings of the other four military installations.¹⁰ In total, we examined 371 enlisted servicemembers' personnel records for compliance with personality disorder requirements—312 for servicemembers from the Army, Air Force, and Marine Corps installations we visited and 59 records for enlisted servicemembers from the Navy. We also reviewed DoD and the military services' separation regulations and instructions and interviewed relevant officials to determine how DoD ensures the military services' compliance with its personality disorder separation requirements.

To obtain updated information on the actions DoD has taken related to the recommendations in our 2008 report, we reviewed documentation provided by DoD's Office of Inspector General (OIG)—the DoD office responsible for following up and tracking the status of GAO recommendations. We also contacted DoD officials to clarify information in the documentation we reviewed. We conducted this performance audit from July 2010 through September 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, our 2008 review found that the documented compliance with DoD's requirements for personality disorder separations varied by requirement and by military installation. Additionally, we found that DoD did not have reasonable assurance that its key personality disorder separation requirements had been followed by the military services. Since our 2008 review, DoD has taken some action to implement our recommendations. However, we have not verified whether the actions the services planned or reported to DoD to increase compliance were actually realized. Because the military services have not demonstrated full compliance with DoD's personality disorder separation requirements, we reiterate the importance of DoD implementing our 2008 recommendations.

In 2008, we found that, while compliance with DoD's requirement that servicemembers be notified of an impending personality disorder separation was high among the four installations, it varied considerably for the other two requirements. (See table 1.) Specifically, at the four installations, we found that

- compliance with the notification requirement was at or above 98 percent,
- compliance with the requirement related to the personality disorder diagnosis by a psychiatrist or psychologist ranged from 40 to 78 percent, and
- compliance with the requirement for formal counseling ranged from 40 to 99 percent.

Table 1: Rate of Documented Compliance at Selected Military Installations with Three Key Personality Disorder Separation Requirements, for Separations Completed from November 1, 2001, through June 30, 2007

Installation	Notification requirement ^a	Diagnosis-related requirement ^b	Formal counseling requirement ^c
Fort Carson (Army)	99%	73%	92%
Fort Hood (Army)	98%	57%	76%
Davis-Monthan Air Force Base (Air Force)	100%	40% ^d	40%
Camp Pendleton (Marine Corps)	99%	78%	99%

Source: GAO analysis of enlisted servicemembers' personnel records obtained from the military services.

Note: We determined whether servicemembers' records demonstrated compliance with the requirements that servicemembers be diagnosed with a personality disorder by a psychiatrist or psychologist who determines that the personality disorder interferes with the servicemember's ability to function in the military and that the servicemembers receive formal counseling only if the servicemembers' records had documentation that the servicemembers were notified of their impending separation because of a personality disorder. In total, four records did not indicate that the servicemembers were notified of their separation as required.

^a The Department of Defense (DoD) requires that before enlisted servicemembers are separated because of a personality disorder they must receive notification of their impending separation because of a personality disorder.

¹⁰We were told that the separation process for enlisted Navy servicemembers may occur at various locations, such as on a ship or in a transition center at a naval base. Because of this, we could not attribute our findings to the particular installation we visited. Additionally, we could not generalize these findings to the Navy.

^b DoD requires that before enlisted servicemembers are separated because of a personality disorder they must receive, prior to the notification, a diagnosis of personality disorder by a psychiatrist or psychologist who determines that the personality disorder interferes with the enlisted servicemember's ability to function in the military.

^c DoD requires that before enlisted servicemembers are separated because of a personality disorder they must receive formal counseling about their problem with functioning in the military.

^d Air Force officials acknowledged that prior to October 2006 some enlisted servicemembers with a mental health diagnosis other than a personality disorder, such as an adjustment disorder, were erroneously separated under the reason of a personality disorder. However in October 2006, Air Force officials stated that they took steps to correct this error. Some of the servicemembers separated from the Air Force installation they visited may have been affected by this error.

We also found variation in the enlisted Navy servicemembers' personnel records we reviewed. Ninety-five percent of these records demonstrated compliance with the notification requirement, 82 percent demonstrated compliance with the requirement related to the personality disorder diagnosis, and 77 percent demonstrated compliance with the requirement for formal counseling.¹¹

Moreover, we found in our prior work that DoD did not have reasonable assurance that its key personality disorder separation requirements had been followed by the military services. To address this issue, we recommended that DoD (1) direct the military services to develop a system to ensure that personality disorder separations are conducted in accordance with DoD's requirements, and (2) monitor the military services' compliance with DoD's personality disorder separation requirements.

In August 2008, after our review was completed, DoD updated its requirements for personality disorder separations to clarify its three key requirements and include additional requirements to help ensure that servicemembers are not incorrectly separated because of a personality disorder. DoD's revised requirements for personality disorder separations required that enlisted servicemembers be advised that the diagnosis of a personality disorder does not qualify as a disability. Additionally, the revised policy specified additional requirements for enlisted servicemembers who have or are currently serving in imminent danger pay areas.¹² Specifically, for servicemembers serving in these pay areas, their diagnosis of personality disorder must be corroborated by a psychiatrist or PhD-level psychologist, or a higher level mental health professional,¹³ and the diagnosis must be endorsed by the Surgeon General of the respective military service prior to the separation. In addition, for these enlisted servicemembers, the diagnosis of personality disorder must also discuss whether or not PTSD or other mental health conditions are present.

DoD has taken two actions in response to our 2008 recommendations. First, in a January 2009 memo, the Under Secretary of Defense directed each of the military services to provide reports on their compliance with DoD's personality disorder separation requirements for fiscal years 2008 and 2009. Regarding these reports, the memo specified the following.

- The first report, for fiscal year 2008, was due on June 30, 2009. The second report, for fiscal year 2009, was due on March 31, 2010.
- Both compliance reports were to include a random sample of at least 10 percent of all personality disorder separations in the fiscal year and were to document compliance with the three key requirements listed in our 2008 report as well as the requirements DoD added in August 2008.
- The military services were to report the total number of personality disorder separations for that fiscal year, as well as the total number of these separations that were for enlisted servicemembers who had served in imminent danger pay areas at any time since September 11, 2001.

The DoD OIG has collected the services' fiscal year 2008 compliance reports, which were due June 30, 2009. Overall, these reports showed that in fiscal year 2008, three out of the four services were not in compliance with any of the personality disorder separation requirements. (See table 2.) Each military service reported their findings of compliance based on their review of a sample of personality dis-

¹¹ If the psychiatrist or psychologist determines that servicemembers are a threat to themselves or others, the Navy waives the requirement that servicemembers must receive formal counseling. We considered enlisted servicemembers' separation packets that included documentation of this waiver to indicate compliance with DoD's counseling requirement.

¹² An imminent danger pay area is defined by DoD as an area in which enlisted servicemembers were in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period they were on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines. A foreign area in which enlisted servicemembers were subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions is also considered an imminent danger pay area.

¹³ A higher level mental health professional generally refers to a mental health professional who is of higher rank than the diagnosing official.

order separations; the sample size for each service ranged from 10 to 35 percent of the respective service's total personality disorder separations for fiscal year 2008. In addition, in a summary of the services' compliance reports, the Office of the Under Secretary of Defense stated that the military services' compliance with the additional personality disorder separation requirements that DoD added in 2008 was generally well below 90 percent. The Office of the Under Secretary attributed this level of compliance to the services not revising their own requirements to reflect DoD's changes until after fiscal year 2008 was complete.¹⁴

Table 2: Number of Separations Because of a Personality Disorder and Compliance with Key Personality Disorder Separation Requirements, by Military Service, for Fiscal Year 2008

	Army	Air Force	Marine Corps	Navy
Total number of enlisted servicemembers separated because of a personality disorder	567	86	409	946
Number of enlisted servicemembers separated because of a personality disorder who served in imminent danger pay areas ^a	Not reported ^b	15	60	Not reported ^c
Compliance with requirement that enlisted servicemembers receive notification of impending separation	✗	✓	✗	✗
Compliance with requirement that enlisted servicemembers receive a diagnosis by an appropriate professional ^d	✗	✓	✗	✗
Compliance with requirement that enlisted servicemembers receive formal counseling	✗	✗	✗	✗ ^e

Source: GAO analysis of Department of Defense documents.

^a An imminent danger pay area is defined by the Department of Defense (DoD) as an area in which enlisted servicemembers were in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period they were on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines. A foreign area in which enlisted servicemembers were subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions is also considered an imminent danger pay area.

^b The Army's report did not include the total number of servicemembers separated for a personality disorder during fiscal year 2008 who had served in imminent danger pay areas. The report did note that of the 60 records reviewed for the compliance report, 21 servicemembers (35 percent) had served in imminent danger pay areas.

^c According to the Navy's report, the office performing the compliance analysis did not have the capability to screen records to see which individuals separated for a personality disorder served in an imminent danger pay area.

^d According to DoD policy, an appropriate professional to diagnose a personality disorder is a psychiatrist or PhD-level psychologist. This professional must determine that the personality disorder interferes with the enlisted servicemember's ability to function in the military.

^e The Navy attributes its noncompliance with this requirement to an error in its personality disorder separation regulations. The Navy regulation allowed for an exemption to the counseling requirement if servicemembers were deemed a danger to themselves or others.

Key:

✓ = Military service met DoD's 90 percent compliance threshold for the personnel records reviewed of enlisted servicemembers who were separated because of a personality disorder. The services' compliance rates were based on their review of a sample of personality disorder separations. The sample size for each service ranged from 10 to 35 percent of the respective service's total personality disorder separations for fiscal year 2008.

✗ = Military service did not meet DoD's 90 percent compliance threshold for the personnel records reviewed of enlisted servicemembers who were separated because of a personality disorder. The services' compliance rates were based on their review of a sample of personality disorder separations. The sample size for each service ranged from 10 to 35 percent of the respective service's total personality disorder separations for fiscal year 2008.

According to DoD OIG officials with whom we spoke, as of August 31, 2010, the DoD OIG had not received copies of the military services' fiscal year 2009 compliance reports, which were due March 31, 2010. It is unclear if DoD will require the military services to report compliance beyond fiscal years 2008 and 2009.

Regarding DoD's second action to address our recommendations, in the January 2009 memo, DoD also required the military services to provide a plan for correcting

¹⁴ DoD's revisions to its personality disorder separation requirements became effective August 28, 2008.

compliance deficiencies if the services found that their compliance with any DoD personality disorder separation requirement was less than 90 percent. According to their fiscal year 2008 reports, each service has planned or taken corrective actions to improve compliance. For example, the Army's report stated that as of March 13, 2009, the Army's Office of the Surgeon General will review all personality disorder separation cases to ensure that each contains the required documentation. Similarly, the Marine Corps will require the General Court Martial Convening Authority¹⁵ to certify that the requirements have been met. The military services also reported actions they will take to implement DoD's revised personality disorder separation requirements. For example, the Marine Corps will incorporate a checklist of the new requirements to be used with all personality disorder separations. We did not verify whether the actions the services planned or reported as of March 2009 were actually realized.

Since the military services have not demonstrated full compliance with DoD's personality disorder separation requirements, we reiterate the importance of DoD implementing our 2008 recommendations.

Mr. Chairman, this concludes my prepared remarks. I will be pleased to respond to any questions you or other Members of the Committee may have.

Contacts and Acknowledgments

For further information about this testimony, please contact Debra Draper at (202) 512-7114 or draperd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. GAO staff who made key contributions to this testimony include Randall B. Williamson, Director, Health Care; Mary Ann Curran, Assistant Director; Susannah Bloch; Rebecca Hendrickson; Lisa Motley; and Rebecca Rust.

Prepared Statement of Lernes J. Hebert, Acting Director, Officer and Enlisted Personnel Management, Office of the Deputy Under Secretary of Defense (Military Personnel Policy), U.S. Department of Defense

Mr. Chairman, Mr. Ranking Member, and Members of the Committee, thank you for the opportunity to testify on Personality Disorder discharges and the Department's progress in implementing recommendations made by the Government Accountability Office (GAO) to improve oversight of the Personality Disorder discharge process. In response to the October 2008, GAO audit, the Department implemented policy changes and established a reporting process to maintain oversight of the Military Departments' progress in carrying out these requirements. Today, I will report on those policy changes and how the Military Departments' compliance with those policy changes has progressed.

Separation Policy

Through the Department's separation policies, individuals are provided an orderly transition after service to the Nation and the Department can properly husband the forces under arms to meet national security needs. As the requirements for service are often physically demanding, fitness for duty is a key element of these policies.

Medical fitness determination is an area where great care must be taken to ensure accuracy and fairness. In that regard, the nature of the signature injuries sustained in Operations Iraqi Freedom and Enduring Freedom (OIF/OEF) of Traumatic Brain Injuries (TBI) and Post-Traumatic Stress Disorder (PTSD) has challenged the Department's understanding and treatment of those injuries. As the body of knowledge of PTSD and TBI has matured, personnel policies have also evolved to provide Servicemembers a thorough evaluation prior to consideration of a discharge from military service. The Department's separation and transition policies offer multiple levels of oversight to tender the appropriate characterization of each servicemember's separation. This critical review by medical professionals is especially important in ensuring the proper diagnosis and treatment of wounded warriors with PTSD, TBI, or other physical and psychological conditions and initiate an appropriate, compensable, physical disability discharge when warranted.

Leadership awareness and understanding of PTSD and TBI, and accurate diagnosis of mental health conditions, as they relate to Personality Disorder separations, are Department priorities. On August 28, 2008, the Department issued new policy

¹⁵In the Marine Corps, the General Court Martial Convening Authority, typically a high ranking commanding officer, is designated as the official who approves personality disorder separations.

on personality disorders separations, which added greater rigor and oversight. The revised policy only permits a personality disorder separation if diagnosed by a psychiatrist or PhD-level psychologist. Implementation of this change has increased the Department's confidence in our ability to accurately diagnose personality disorders, which by themselves are not compensable. This change serves to help ensure accurate diagnoses of mental health conditions and improve the identification of any comorbidity of PTSD or TBI, which are compensable disabilities.

In addition, members who have served in an imminent danger pay area must have their diagnosis corroborated by a peer psychiatrist, PhD-level psychologist, or higher level mental health professional and endorsed by The Surgeon General of the Military Service concerned. This change specifically addresses concerns early in the War that members suffering PTSD or TBI might be separated without proper treatment under the non-compensable, exclusive diagnosis of a personality disorder. To ensure continued monitoring of this critical process, the Department implemented oversight mechanisms to include an annual personality disorder report and periodic reviews of personality disorder separation data by the Department's Medical and Personnel (MedPers) Council.

By adding new requirements for personality disorder separations to the requirements that were already contained in Department of Defense Instruction 1332.14, *Enlisted Administrative Separations*, there are now eight requirements that must be met prior to separating a Servicemember for personality disorder.

Personality Disorder Separations Oversight and Compliance

On January 14, 2009, the Under Secretary of Defense for Personnel and Readiness directed the Secretaries of the Military Departments to report their compliance with the personality disorder separation requirements in DoDI 1332.14, for two fiscal years beginning with fiscal year 2008. The Services were directed to review, at a minimum, a random sampling of at least 10 percent of all personality disorder separations for compliance with the eight DoD personality disorder separation requirements and report the total number of personality disorder separations for Servicemembers who had served in an imminent danger pay area since September 11, 2001.

Of note is that fact that the early reports were impacted by the delay between when the Department issued new personality disorder separation policy and the incorporation of that new guidance into Military Service regulations. The Military Departments made considerable progress between FY 2008 and FY 2009 to fully comply with the personality disorder separation requirements in DoDI 1332.14. To ensure this progress is not lost, the Under Secretary of Defense for Personnel and Readiness has extended the requirement for the Military Departments to report their compliance until FY 2012.

The number of personality disorder separations across the Department by more than a third since 2008 when the more rigorous processes were implemented. Each of the Military Services has similarly experienced decreases in personality disorder separations. While other factors may have contributed to this decrease, the increased oversight and awareness clearly supported this trend.

PTSD Disability Evaluation System (DES) Case Disposition Trends

The Military Departments combined reported 979 more PTSD DES case dispositions (a 47 percent increase) in FY 2009 versus FY 2008. There were 3,063 PTSD DES case dispositions in FY 2009 versus 2,084 PTSD DES case dispositions in FY 2008. The Army accounted for 81 percent of all PTSD DES case dispositions.

The Military Departments reported they complied with requirements in the Veterans Affairs Schedule for Rating Disabilities (VASRD) when rating mental illness due to traumatic events. Conditions classified as mental disorders by the VASRD existed in 5,141 (27 percent) of 19,215 FY 2009 DES case dispositions.

PTSD DES case dispositions comprised 16 percent of the total 19,215 DES case dispositions in FY 2009. In FY 2008, PTSD DES case dispositions comprised 11 percent of the total 19,583 DES case dispositions.

In FY 2009, 119 (3.9 percent) of the PTSD DES case dispositions resulted in the Servicemember being placed on the Permanent Disability Retirement List (PDRL). 2,936 (95.8 percent) of the FY 2009 PTSD DES case dispositions resulted in the Servicemember being placed on the Temporary Disability Retirement List (TDRL). This represents 42 percent of the total of 6,965 Servicemembers placed on the TDRL in FY 2009. Six (.2 percent) case dispositions resulted in Separation with Severance Pay and three (.1 percent) case dispositions resulted in Separation without benefits.

In FY 2008, 233 (11.2 percent) of the PTSD case dispositions resulted in the Servicemember being placed on the PDRL. 1,352 (64.9 percent) of the FY 2008 PTSD DES case dispositions resulted in the Servicemember being placed on the

TDRL. 489 (23.5 percent) case dispositions resulted in Separation with Severance Pay and two (.1 percent) case dispositions resulted in Separation without Benefits.

Mental Health Assessments

A Mental health assessment is a bio-psycho-social evaluation examining every aspect of the patient's life. A psychiatric diagnosis is made if the patient demonstrates symptoms that meet clinical criteria as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR).

Symptoms that may be present in PTSD represent a challenge in the differential diagnosis and treatment of the disorder. Moreover, chronic PTSD is frequently complicated by co-morbid (dual diagnosis) psychiatric disorders including depression and other mood disorders, substance abuse, dissociative disorders, other anxiety disorders, and psychotic symptoms or disorders. These co-morbidities offer a further challenge in the diagnosis and management of PTSD. Concurrent (*pre-existing*) character pathology (personality disorders) is important to diagnose since it may affect the course, severity, and prognosis of PTSD. When personality changes (*newly*) emerge and persist after an individual has been exposed to extreme stress, a diagnosis of Post-Traumatic Stress Disorder should be considered.

Policy issuances currently require an examination and multiple reviews by medical professionals prior to administrative separation for a Personality Disorder. Servicemembers diagnosed with or reasonably asserting post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) fall under guidance provisions for psychiatric and/or medical disorders, respectively (DoDI 1332.38). If a Servicemember is diagnosed with PTSD or TBI at the time of their separation examination, it is policy that a Medical Evaluation Board should be initiated. If a Personality Disorder is diagnosed after all other medical and mental health disorders have been ruled out, and the patient is considered to be a hazard to themselves or others and unable to function in the military setting, one of the criteria for an administrative separation would be met. Ultimately, it is the Servicemember's commander, with the advice of medical professionals, who makes the final decision as whether the Servicemember should be processed for Administrative Separation.

PTSD and TBI Related Discharge Review Board and BCMR Request

The Department realizes that the new policies and body of knowledge of PTSD and TBI evolved too late to benefit many Servicemembers. In that regard, the Department continues to encourage veterans who are later diagnosed with PTSD or other mitigating disorders to request review of their separations through their respective Military Department Discharge Review Board (DRB) and Board for Correction of Military Records (BCMR). As expected, the number of DRB and BCMR appeals related PTSD or TBI has increased. This process has worked well, and we continue to work with the Military Departments and the Department of Veterans Affairs to identify those with PTSD and TBI who may have transitioned prior to our current understanding of these conditions.

Conclusion

The Department is confident that given the positive trends Servicemembers who experience or assert PTSD or TBI are being diagnosed and that those diagnoses are being considered prior to separation. Rigorous execution and oversight of the Department's separation policies is crucial to ensuring the proper transition of our veterans and the readiness of the military forces. The Department is committed to continue efforts to improve the accuracy and efficacy of these policies. I will be happy to answer any questions you might have at this time.

**Prepared Statement of Major General Gina S. Farrissee, Director,
Department of Military Personnel Management, G-1, Department of the
Army, U.S. Department of Defense**

Introduction

Chairman Filner, Representative Buyer, Distinguished Members of this Committee, thank you for the opportunity to appear before you on behalf of America's Army. Our greatest heroes are America's most precious resource—our Soldiers and Veterans. These Soldiers and Veterans represent the very best of America's values and ideals and faithfully shoulder the load that our Nation asks of them. Their dedicated service and sacrifice are deserving of the very best services, programs, equipment, training, benefits, lifestyle, and leadership available.

Personality Disorder

The Army is dedicated to ensuring that all Soldiers with physical and mental conditions caused by wartime service receive the care they deserve. The Army remains committed to tracking personality disorder separations for our Soldiers. Our culture is shifting away from the stigma associated with having post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) and ensuring Soldiers know that it is expected that they seek help for these hidden wounds to restore and maintain their health and readiness.

A personality disorder is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with a Soldier's ability to perform duty. The onset of a personality disorder is frequently manifested in the early adult years and may reflect an inability to adapt to the military environment as opposed to an inability to perform the requirements of specific jobs or tasks. As such, observed behavior of specific deficiencies are documented in appropriate military counseling records to include history from sources such as supervisors, peers, and others, as necessary to establish that the behavior is persistent, interferes with assignment to or performance of duty, and has continued after the Servicemember has been counseled and afforded the opportunity to overcome the deficiencies.

In 2006 and 2007, public concern arose that some Soldiers returning from combat tours who were also suffering from PTSD or TBI as a result of their combat experiences had been discharged from the military for personality disorder. To address these concerns, the Army's Office of the Surgeon General issued policies in August 2007 and May 2008 requiring higher-level review of recommendations to administratively separate Soldiers for personality disorder and requiring screening for PTSD and TBI for administrative separation for personality disorder and other types of administrative separation. In August 2008, the Department of Defense (DoD) mandated similar requirements across DoD including the requirement that the diagnosis of personality disorder for Servicemembers who had served or were serving in imminent danger pay areas must be endorsed by the Military Department's Surgeon General.

Army administrative separations policy was subsequently updated implementing the recommendations of the Government Accountability Office, the requirements of Department of Defense Instruction 1332.14 and the National Defense Authorization Act for Fiscal Year 2010. Included were the requirements that a psychiatrist or PhD-level psychologist be the mental health professional diagnosing the personality disorder, that a Personality Disorder diagnosis be corroborated by a peer or higher-level mental health professional (Medical Treatment Facility Chief of Behavioral Health or equivalent official), that the Personality Disorder diagnosis be endorsed by the Director, Proponency of Behavioral Health, Office of The Surgeon General, and that the diagnosis address PTSD or other co-morbid mental illness, if present. The Army also provided for the distinction between Soldiers who were separated for Personality Disorder who had less than 2 years time in service (Chapter 5-13/Personality Disorder) with Soldiers with 2 or more years of service (Chapter 5-17/Other Designated Physical or Mental Conditions).

Commanders make maximum use of counseling and rehabilitation before determining that a Soldier has limited potential for further military service and, therefore, should be separated. When a Soldier's conduct or performance becomes unacceptable, the commander will ensure that the Soldier is formally counseled on his or her deficiencies and given a reasonable opportunity to overcome or correct them. If the commander believes a medical issue may be the basis of the misconduct or poor performance, the commander refers the Soldier for a medical evaluation. Separation for personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the Soldier's ability to function effectively in the military environment is significantly impaired. The Soldier is counseled that the diagnosis of a personality disorder does not qualify as a disability. When it is determined that separation for personality disorder is appropriate, the unit commander takes action to notify the Soldier. Separation authority for personality disorder for Soldiers who are or have been deployed to an area designated as an imminent danger pay area is the General Court Martial Convening Authority (General Officer-level commander). In all other cases, the separation authority is the Special Court Martial Convening Authority (Colonel-level commander).

Separated Soldiers may request review and change of their discharge by petitioning the Army Review Boards Agency (ARBA). ARBA's case management division screening team hand carries these cases to the Army Discharge Review Board (ADRB), which prioritizes review and boarding of applications for upgrades or changes in discharges where either PTSD or TBI is diagnosed. ARBA's Medical Advisor serves as a voting board member when PTSD/TBI cases are boarded by the ADRB.

Army Career and Alumni Program

Soldiers who are separated from Active Duty prior to their actual separation date, also known as unanticipated losses, are fully eligible for all transition services provided by the Army Career and Alumni Program (ACAP). Programs available for Soldiers within ACAP include pre-separation counseling, employment assistance, Veterans Benefits Briefing, and the Disabled Transition Assistance Program (DTAP).

Pre-separation counseling provides Soldiers information about services and benefits they have earned while on active duty. The following areas are covered in this counseling: effects of a career change, employment assistance, relocation assistance, education and training, health and life insurance, finances, Reserve affiliation, Veterans benefits, Disabled Veterans benefits, post government service employment restriction and an Individual Transition Plan. Each of these areas have several items that support the specific area. This pre-separation counseling is mandatory for all separating Soldiers who have at least 180 days of active duty upon time of separation.

Employment assistance consists of individual one-on-one counseling, attending a Department of Labor two-and-a-half day long employment workshop, finalizing a resume, practice employment interviews, using various automated employment tools and using the internet to access job data banks. This is strictly voluntary; Soldiers do not have to participate.

The Veterans Benefits Briefing is a 4-hour long briefing provided by Veterans Affairs (VA) counselors covering all VA-controlled services and benefits that a Soldier can receive or may be eligible for after separation. Transition counselors strongly encourage separating Soldiers to attend.

The Disabled Transition Assistance Program (DTAP) is a 2-hour long briefing provided by VA counselors. Soldiers who are separated due to medical or physical injuries, as well as Soldiers who believe that they will file a VA Disability Claim, are highly encouraged to attend this briefing.

Soldiers out-processing as an unanticipated loss normally have limited time remaining on active duty and will in almost all cases have insufficient time to take advantage of the above programs except for the legally-mandated pre-separation counseling. However, these Soldiers are fully eligible to receive these services for up to 180 days after separation. Additionally, they are referred by the transition counselor to go to the nearest Department of Labor Career One Stop after separation for assistance in obtaining employment and are instructed to use the VA E-benefits Web site to obtain information concerning their eligibility for VA benefits.

Congressional Assistance

The Army remains dedicated to making sure that all Soldiers with physical and mental conditions caused by wartime service receive the care they deserve. The Army is grateful for the continued support of Congress for providing for the well-being of the best Army in the world.

Conclusion

The Army leadership has confidence in our behavioral health providers and the policies in place to ensure proper treatment for our Soldiers. We continue to monitor these processes to ensure the accurate diagnosis of PTSD and TBI and to further corroborate each diagnosis of personality disorder. Veterans who feel that they were discharged inappropriately are encouraged to seek a remedy through the Army Review Boards Agency (ARBA).

The mental and physical well-being of our Soldiers and Veterans depends on your tremendous support. We must continue to maintain an appropriate level of oversight on PTSD and TBI, wounds all too frequently associated with the signature weapon of this war, the improvised explosive device. The men and women of our Army deserve this; we owe this to them. The Army is committed to continuing to improve the accuracy and efficiency of these policies and their implementation. Thank you for the opportunity to appear before you this morning. I look forward to answering any questions you may have.

**Prepared Statement of Antonette M. Zeiss, Ph.D., Acting Deputy Chief
Patient Care Services Officer for Mental Health, Office of Patient
Care Services, Veterans Health Administration,
U.S. Department of Veterans Affairs**

Good morning Chairman Filner, Ranking Member Buyer, and Members of the Committee. Thank you for inviting me to discuss the mental health services the De-

partment of Veterans Affairs (VA) provides our Veterans, and how a Veteran's discharge for a personality disorder affects his or her access to key VA benefits. I am accompanied today by Mr. Tom Murphy, Director of the Compensation & Pension Service (VBA).

A personality disorder is defined by the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (Text Revision, or DSM-IV-TR) as an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, manifested in cognition (ways of perceiving or interpreting events and others' behavior), affect (including the range, intensity, ability to manifest, or appropriateness of emotional responses), interpersonal functioning, and impulse control. Essentially, this means that a person with a personality disorder displays behavior and attitude that is a consistent, long-term characteristic of the individual and that differs from cultural norms in problematic ways.

In DSM-IV-TR, personality disorders differ fundamentally from other types of mental health disorders. DSM-IV-TR requires that a new diagnosis of a personality disorder should only be made after considering the possibility that there may be other causes of the behavioral change, such as another mental disorder, the physiological effect of a substance (such as medication), or a general medical condition like head trauma. Primarily, these requirements exist because many of the problems exhibited by individuals with personality disorders can also be symptoms of other mental health disorders or other health problems, and without a prior personality disorder diagnosis, the clinician cannot assume that these symptoms represent long-standing, enduring characteristics of the individual. For example, traumatic brain injuries (TBI) and Post-Traumatic Stress Disorder (PTSD) can have effects similar to the symptoms of some personality disorders.

Given the complexity associated with personality disorders and other cognitive and behavioral issues, VA has developed a comprehensive system involving outreach, screening and treatment for Veterans to determine if they have mental health disorders or TBI. Our intensive programs ensure that any problems are recognized, diagnosed, and treated, and our benefits programs provide compensation and support for Veterans whose conditions were the result of service in the military. My testimony today will begin by discussing Veterans' eligibility for benefits from VBA and health care. I will then describe the process by which Veterans are screened for cognitive and behavioral problems and discuss three conditions: personality disorders, TBI and PTSD. Finally, I will cover the health care benefits and services available to Veterans in VA health care facilities and Vet Centers.

Veteran Benefits Administration

Veterans' eligibility for benefits under title 38 is generally conditioned on two factors: 1) the character of discharge, and 2) the completion of an enlistment or period to which called. Title 38 U.S.C. § 101(2) and 38 CFR § 3.1(d) define a Veteran "as a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable." The uniformed services, when separating a Servicemember, characterize his or her service as one of the following: honorable; general, under honorable conditions; under other than honorable conditions; bad conduct; dishonorable; or, uncharacterized.

VA accepts discharges that are characterized as honorable or general, under honorable conditions, as "other than dishonorable" for VA purposes. Such discharges generally do not disqualify a Veteran for health care, disability compensation and pension, educational assistance, vocational rehabilitation and employment services, home loan guaranty, and burial and memorial benefits offered by VA as long as the Veteran meets the minimum active duty requirement of 2 years of service or "the period called" to service if activated for less than 2 years. Service "for the period called" would be applicable in the situation of a Reservist or National Guard member called to active duty by a Federal Order (for other than training purposes) and completing the full call-up period. If VA determines that a Veteran has a service-connected disability the minimum active duty requirement does not apply. In addition, for purposes of the Montgomery GI Bill and the Post-9/11 GI Bill, a Veteran must have received an honorable discharge.

VA uses the process outlined in 38 CFR § 3.12 to determine whether other than honorable and bad conduct discharges may be considered "other than dishonorable" for VA purposes. Dishonorable discharges are all disqualifying. A separation resulting from a reported personality disorder is of potential significance to VA only if it results in a separation that is less than honorable or if it results in a separation before completion of the minimum active duty requirement.

Personality disorders are considered constitutional or developmental abnormalities and thus are not service-connected. Therefore the law does not permit payment of compensation for a personality disorder. However, Veterans who are eligible to

enroll for VA health care can be examined by VA clinicians, who may diagnose other mental health disorders. Veterans are not bound by any diagnosis from the Department of Defense (DoD) when seeking treatment from VA or when submitting a claim for service connection.

Veterans Health Administration

- Eligible Veterans may enroll in the VA health care system. Once enrolled, they are provided all needed care set forth in the medical benefits package. VA's enrollment system manages the enrollment of Veterans in accordance with priority categories. Currently, the following Veterans are eligible to enroll:
 - The Veteran was a former Prisoner of War;
 - The Veteran received a Purple Heart Medal;
 - The Veteran is determined to have a compensable service-connected disability;
 - The Veteran receives a VA pension;
 - The Veteran received a Medal of Honor;
 - The Veteran is determined to be catastrophically disabled;
 - The Veteran has an annual household income below applicable income thresholds.

In addition, Operation Enduring Freedom and Operation Iraqi Freedom (OEF/OIF) combat Veterans may enroll and receive free VA medical care for any condition related to their service. Under the "Combat Veteran" authority, VA provides cost-free health care services and nursing home care for conditions possibly related to military service to:

- Combat Veterans who were discharged or released from active service on or after January 28, 2003, for 5 years from the date of discharge or release if they enroll for VA health care during this period.
- Combat Veterans who were discharged from active duty before January 28, 2003, but who did not enroll in VA health care system now have until January 27, 2011 to enroll and receive care as combat veterans. Veterans who enroll with VA under this authority will continue to be enrolled even after their combat-Veteran eligibility period ends but may be required to make applicable co-payments.

Screening for Cognitive and Behavioral Conditions

VA clinicians routinely and systematically screen enrolled Veterans for a range of health concerns. Every Veteran who visits a VA health care facility is screened initially and periodically for PTSD, problem drinking, and depression, and all Veterans receive a one-time screening for Military Sexual Trauma (MST). Veterans from OEF/OIF are screened for possible TBI as well. Any Veteran who screens positive for any of these conditions is referred for further assessment and care. With the widespread integration of mental health into primary care settings, this process has become easier for Veterans, and the potential stigma of being referred to an exclusively mental health environment has been reduced.

VA's universal screens are primarily health assessments meant to ensure that appropriate care is delivered, but such assessments may be relevant to service connection claims as well. VA clinicians, including psychologists or psychiatrists, conduct detailed assessments when Veterans apply for disability benefits for a mental health condition connected to their military service. These experts review medical records, including screening and further test results, as part of this assessment.

Compensation and pension (C&P) examinations for mental health disorders follow established guidelines and cover psychosocial functioning, as well as self-reports of symptoms of mental disorders that manifested before, during, or after military service. VA clinicians also assess the Veteran's individual military experience, including exposure to traumatic events or other stressful experiences that could trigger a mental health problem, and compare this information with the timing of symptoms to determine if the condition is likely to be connected to military service. If the Veteran exhibited a pattern of maladaptive behavior prior to military service, VA must determine whether there has been a change in behavior connected to and a result of military service. All VA clinicians, including those responsible for completing C&P evaluations, adhere to the DSM-IV-TR, which is widely recognized as the most current and authoritative source for mental health conditions.

Personality Disorders, TBI, and PTSD

As I stated earlier, some personality disorders, TBI, and PTSD can share common symptoms. Behavioral changes may be the result of physical or psychological injuries, or both, and it is our responsibility to properly identify which condition a Vet-

eran has to ensure an accurate record for benefits administration and effective treatment planning. For this reason, I will spend some time describing the similarities and differences of these conditions.

Personality Disorders

At the beginning of my testimony, I provided an overview of the DSM-IV-TR definition of a personality disorder. For a VA clinician to make a diagnosis that a Veteran meets criteria for a personality disorder, the clinician must use the full definition and establish each component. Generally speaking, this means that a personality disorder is not situational, temporary, or recently acquired, and that the person's behavior has been adversely affected and cannot be explained by other disorders.

Events characterized by repeated exposure to traumatic stress can result in symptoms and behaviors that appear, on the surface, to resemble some of these personality disorders. In addition to a comprehensive psychological assessment of the individual, VA advises clinicians to consult with family members or others with knowledge of the individual prior to his or her military service when considering whether a Veteran should be diagnosed with a personality disorder.

Traumatic Brain Injury

Traumatic brain injury is the result of a severe or moderate force to the head, where physical portions of the brain are damaged and functioning is impaired. Depending upon where the injury is sustained and its severity, the effects of a TBI on a person's behavior will vary. A mild TBI, which is also commonly called a concussion, may simply require some time to recover. Short term effects might include dizziness, nausea, memory lapses, or other conditions, and in many cases, there are no long term effects. Moderate and severe TBI can have more lasting effects and may impact a person's behavior. For example, a person may be more irritable or aggressive as a result of a brain injury.

Due to the severity and complexity of their injuries, Servicemembers and Veterans with moderate to severe TBI require an extraordinary level of coordination and integration of clinical and other support services. Veterans who screen positive for TBI are referred for a comprehensive evaluation at one of 22 Polytrauma Network Sites or one of 83 Polytrauma Support Clinic Teams. This comprehensive evaluation assesses the Veteran's current physical, behavioral, emotional, and cognitive status. The evaluation includes a 22-item Neurobehavioral Symptom Inventory, which allows for systematic assessment of a wide array of potential current problems. This diagnostic tool allows VA to develop an appropriate diagnosis of current TBI-related symptoms and problems and to contribute to developing an interdisciplinary plan for care.

PTSD

According to the DSM-IV-TR clinical criteria, PTSD can follow exposure to a severely traumatic stressor that involves personal experience of an event involving actual or threatened death or serious injury. It can also be triggered by witnessing an event that involves death, injury, or a threat to the physical integrity of another. The person's response to the event must involve intense fear, helplessness or horror. The symptoms characteristic of PTSD include persistent re-experiencing of the traumatic event, persistent avoidance of stimuli associated with the trauma, numbing of general responsiveness, and persistent symptoms of increased arousal. It is extremely rare that an individual would display all of these symptoms, and a diagnosis requires a combination of a sufficient number of symptoms, while recognizing that individual patterns will vary.

PTSD can be experienced in many ways. Symptoms must last for more than 1 month, and the disturbance must cause clinically significant distress or impairment in social, occupational, or other important areas of functioning. Military combat certainly can create situations that fit the DSM-IV-TR description of a severe stressor event that can result in PTSD, and VA recognizes that being stationed in a combat area where there is constant danger and inability to predict or control the threat of danger also can meet the description of a severe stressor event. The likelihood of developing PTSD is known to increase as the proximity to, intensity of, and number of exposures to such stressors increase. In addition, PTSD can be a result of many other experiences besides combat exposure, such as sexual assault, life-threatening accidents, or natural disasters.

PTSD is associated with increased rates of other mental health conditions, including Major Depressive Disorder, Substance-Related Disorders, Generalized Anxiety Disorder, and others. PTSD can directly or indirectly contribute to other medical conditions. Duration and intensity of symptoms can vary across individuals and within individuals over time. Symptoms may be brief or persistent; the course of

PTSD may ebb and return over time, and PTSD can have a delayed onset. Clinicians use these criteria and discussions with patients to identify cases of PTSD, sometimes in combination with additional psychological testing.

Comparing and Contrasting Personality Disorders, TBI, and PTSD

The significance of an accurate diagnosis cannot be underestimated, as the diagnosis will inform our approach to treatment and care, and a person can meet criteria for more than one problem at a time. For example, a Veteran could have experienced events that led to both PTSD and TBI. A person previously able to function in spite of a long-standing mild-to moderate personality disorder can develop PTSD after trauma. Such a person could also have sustained a TBI, which could contribute to aggression, poor impulse control, or suspiciousness.

Since the onset of personality disorders by definition occurs by late adolescence or early adulthood, there typically should be evidence of the behavior pattern prior to adulthood. A history of solid adjustment and good psychosocial functioning prior to adulthood would not be expected in an individual with a personality disorder. Following an extended event characterized by traumatic stressors, it is particularly important to determine if problematic behaviors are due to PTSD. The DSM-IV-TR explicitly states, "When personality changes emerge and persist after an individual has been exposed to extreme stress, a diagnosis of Post-Traumatic Stress Disorder should be considered" (p. 632). PTSD can induce irritability or outbursts of anger, feelings of detachment or estrangement from others, and restricted range of affect (unable to experience feelings such as love). In addition, PTSD may increase the risk of self-destructive and impulsive behavior, social withdrawal, hyper-vigilance, and impaired relationships with others.

Many Veterans who screen positive for possible TBI and who are seen for a comprehensive evaluation have co-occurring conditions, including PTSD. A Veteran may exhibit significant interpersonal difficulties that were not present prior to the TBI. Inability to control anger, trouble with social tact, and other interpersonal difficulties are examples, and these occur more frequently in those with moderate to severe TBI. Clinicians are able to distinguish a TBI-related interpersonal change by taking a thorough history and obtaining collateral interview data. Pinpointing the onset of interpersonal and personality change to the time of sustaining a TBI provides evidence of acquired interpersonal dysfunction and rules out a longstanding personality disorder.

The symptoms and problems related to TBI and PTSD can be particularly challenging to differentiate for several reasons, most notably because the same event may have resulted in TBI *and* led to the development of PTSD. However, specific criteria in the DSM-IV-TR guide clinicians in distinguishing between the two conditions by looking for symptoms that are specific to one or the other disorder, such as persistent re-experiencing of a traumatic event and avoidance of stimuli associated with the trauma, which would only be related to PTSD.

To address this, VA uses interdisciplinary polytrauma rehabilitation teams and neuropsychologists and rehabilitation psychologists to determine if a Veteran with TBI also has PTSD. Standardized questionnaires such as the PTSD Checklist—Military Version (PCL-M) and structured interviews such as the Clinically Administered PTSD Scale (CAPS) also aid VA clinicians in determining whether a Veteran meets criteria for PTSD, with or without TBI. VA clinicians consider factors such as symptom presentation and a psychosocial history from the Veteran that creates a timeline of symptom development. Clinicians also conduct a medical record review, a psychological and neuropsychological assessment, and interviews. Following a thorough evaluation, the polytrauma rehabilitation team, often in concert with mental health providers, collaborates to develop and execute a comprehensive treatment plan.

According to the DSM-IV-TR classification system, these clinical scenarios involving personality change after a TBI are diagnostically distinct from Personality Disorders and are coded as such. Most frequently, they fall under the category of Mental Disorders Due to a General Medical Condition (i.e., diagnostic code 310.1—Personality Disorder Due to General Medical Condition) or Relational Problem Related to a General Medical Condition (code V61.9). When these diagnostic codes are used, TBI also must be coded as the relevant medical condition.

Treatment

VA offers mental health services to Veterans through medical facilities, community-based outpatient clinics (CBOC), and in VA's Vet Centers, discussed later in my testimony. VA has been making significant enhancements to its mental health services since 2005, through the VA Comprehensive Mental Health Strategic Plan and special purpose funds available through the Mental Health Enhancement Initiative

from fiscal years 2005 to 2009. In 2007, VA approved the *Handbook on Uniform Mental Health Services in VA Medical Centers and Clinics* to define what mental health services should be available to all enrolled Veterans who need them, no matter where they receive care, and to sustain the enhancements made in recent years.

VA's enhanced mental health activities include outreach to help those in need to access services, a comprehensive program of treatment and rehabilitation for those with mental health conditions, and programs established specifically to care for those at high risk of suicide. To reduce the stigma of seeking care and to improve access, VA has integrated mental health into primary care settings to provide much of the care that is needed for those with the most common mental health conditions. In parallel with the implementation of these programs, VA has been modifying its specialty mental health care services to emphasize psychosocial as well as pharmacological treatments and to focus on principles of rehabilitation and recovery. VA is ensuring that treatment of mental health conditions includes attention to the benefits as well as the risks of the full range of effective interventions. Making these treatments available responds to the principle that when there is evidence for the effectiveness of a number of different treatment strategies, the choice of treatment should be based on the Veteran's values and preferences, as well as the clinical judgment of the provider.

Veterans with TBI seen in VA receive some of the best care available. The VA Polytrauma System of Care, which is composed of 4 regional Polytrauma/TBI Rehabilitation Centers, 22 Polytrauma Network Sites, and 83 Polytrauma Support Clinic Teams, currently provides specialty rehabilitation care. Veterans with TBI can also be seen at other VA facilities for treatment, including via telehealth.

Vet Center Services

In addition to the clinical care and diagnostic services discussed previously, VA's Vet Centers offer an important complement that assists Veterans with readjustment issues. Vet Centers provide quality outreach and readjustment counseling services to returning war Veterans of all eras and their family members in confidential, easy to access community-based sites. The Vet Centers' mission goes beyond medical care in providing a holistic mix of services designed to treat the Veteran as a whole person in his or her community setting. Vet Centers provide an alternative to receiving treatment in traditional mental health care settings that helps many combat Veterans overcome the stigma and fear related to accessing professional assistance for military-related problems. Vet Centers are staffed by interdisciplinary teams that include psychologists, nurses and social workers, many of whom are Veterans themselves.

Vet Center care consists of a continuum of social and psychological services including community outreach to special populations, professional readjustment counseling to Veterans and families, and brokering of services with community agencies that provides a key access link between the Veteran and other needed services both in and outside of the VA. Readjustment counseling offered at Vet Centers may address problems such as war-related psychological readjustment, PTSD counseling, family or relationship problems, lack of adequate employment or career goals, lack of educational achievement, social isolation, homelessness and lack of adequate resources, and other psychological problems such as depression or substance use disorders. Vet Centers also provide military-related sexual trauma counseling, bereavement counseling, employment counseling and job referrals, preventive health care information, and referrals to other VA and non-VA medical and benefits facilities.

The Vet Center program promotes early intervention and ease of access to services by helping combat Veterans and families overcome all barriers of care. To facilitate access to services for Veterans in hard to reach outlying areas, 50 mobile Vet Centers have been deployed across the country to provide assistance to Veterans, military service personnel, and family members. There are currently 267 operational Vet Centers nationwide, with another 33 expected to open in 2011, for a total of 300.

In addition to the wide range of services and increased accessibility for Veterans to access these services, Vet Centers provide assistance and support for combat Veterans through referrals to other agencies. Section 402 of the Caregivers and Veterans Omnibus Health Services Act of 2010 (Public Law 111-163) provides VA the authority to assist Veterans with problematic discharges through referral to services outside VA or referral for assistance with discharge upgrades when appropriate. Until 1996, VA had specific statutory authority to refer ineligible Veterans to non-VA resources and to advise such individuals of the right to apply for review of the individual's discharge or release. With this renewal, the Vet Centers have the authority to help combat Veterans with problem discharges that may be related to traumatic war-time stress. We appreciate the renewal of this provision, and VA has

advised its readjustment counselors that they should provide such help to Veterans when needed.

Conclusion

Thank you again for this opportunity to speak about VA's role in providing care for all our Veterans, including those with personality disorders, PTSD, or TBI. VA recognizes the sacrifice all of our Veterans have made, and we seek to ensure we offer the right diagnosis in all clinical settings, whether for a compensation and pension examination or as part of a standard mental health assessment and treatment plan. Once a Veteran is enrolled in the VA health care system, it does not matter when or where the condition developed; we will deliver appropriate, Veteran-centered care as set forth in the medical benefits package. We are prepared to answer your questions at this time.

Statement of Amy Fairweather, Policy Director, Swords to Plowshares

Thank you Chairman Filner, Congressman Buyer and the members of the House Veterans Affairs Committee for the opportunity to submit testimony on this important topic; Personality Disorder discharges and their impact on our veterans.

Founded in 1974, Swords to Plowshares is a community-based not-for-profit organization that provides counseling and case management, employment and training, housing and legal assistance to homeless and low-income veterans in the San Francisco Bay Area. We promote and protect the rights of veterans through advocacy, public education, and partnerships with local, state and national entities. Swords to Plowshares is a Congressionally recognized Veteran Service Organization which represents veterans in VA Compensation and Pension claims as well as discharge review matters. As such we have represented many veterans who have unjustly received inappropriate personality disorder (PD), adjustment disorder (AD) and pattern of misconduct discharges and been denied treatment for their PTSD.

The purpose of this testimony is to emphasize how the inappropriate use of personality disorder, adjustment disorder and pattern of misconduct impact our veteran clients on the ground. Such discharges have a tremendously negative impact on our veteran clients. We will not go into data on a broader scale as our colleagues at Veterans for Common Sense have done an excellent job framing the issues. Instead, we can tell you that client after client with PTSD and traumatic brain injury and inappropriate PD discharges come to us feeling that they have been branded as damaged goods, their combat service has been invalidated, and their identity and self worth as once proud warriors destroyed. The fallout can be tragic, this practice exacerbates PTSD, depression, homelessness and suicidally, and creates obstacles to employment, and access to health care and benefits.

At Swords to Plowshares we have 35 years experience in picking up the pieces and pulling our Vietnam era clients out of poverty, and chronic homelessness, mental health need and substance abuse stemming from their military service. We hope that we have learned lessons and may be proactive, prevent future homelessness and suffering by ensuring that this generation of combat veterans are afforded the honor, care and support they need for successful outcomes.

The following are some of our observations regarding personality disorder, adjustment disorder and pattern of misconduct discharges for veterans with PTSD, TBI and other mental health needs.

The Impact of Misdiagnosis

Many of our clients served honorably and without any disciplinary or mental health concerns for several years prior to receiving a personality disorder or adjustment disorder discharge. Unlike PTSD, schizophrenia and psychosis, personality disorder does not develop following a traumatic stressor or deployment. It does not manifest suddenly. Instead it is a pre-existing condition and was allegedly present at the time the servicemember joined the military. If the servicemember had a pre-existing personality disorder which led to such a discharge it should have been identifiable in the preceding years of service. Indeed, it should be identified in boot camp or a school. We are seeing and hearing from veterans who have been diagnosed with personality disorder after multiple deployments. The military is simply not following the diagnostic criteria set forth in the DSM-IV, and its failure to do so should not forever punish former servicemembers.

The DoD is shirking their responsibility to treat PTSD to the VA and the community-based system of care. If these servicemembers were properly and legally discharged they should receive medical retirement, an honorable discharge, a 50 percent disability rating and medical care. Instead they are kicked out of the military

with a less than honorable discharge status with no readily available means of support or health care. Veterans come to Swords to Plowshares in financial and psychological crisis, many believe that they are not eligible for VA care and benefits because personality disorder, as a pre-existing condition is not service connectable. Even with the help of our legal and social services staff, this status causes significant delays in care, causing unnecessary exacerbation of their symptoms. The cost of care should never have been externalized to our communities. Further the cost in suffering, poverty, and the shame inflicted on warriors is immeasurable.

The DoD is taking advantage of vulnerable disabled servicemembers. Many of our clients have signed away their right to a just and proper discharge because they are suffering from PTSD or TBI and cannot bear remaining in the military environment. Some because their PTSD and depression are too acute, others because of the stigma and mistreatment they receive in seeking care. In other cases, their symptoms have led to some diminished capacity which interferes with performance or have engaged in some degree of misconduct symptomatic of their true diagnosis and are being met with discipline rather than care. These servicemembers will sign anything to escape a hostile environment and do not have the capacity for informed consent in signing away their right to a proper medical discharge.

Personality, adjustment and pattern of misconduct discharges can unjustly strip veterans of their GI Bill benefits. A personality disorder discharge in itself is not a bar to benefits however, in our experience; they often arise in the context of a pattern of misconduct and disciplinary action. If the veteran received an other than honorable discharge they are barred from the GI Bill benefits. This unjustly throws more obstacles in their path to healing, employment, housing and economic stability.

To assign a PD, AD or BCD discharge to a mentally ill warrior is a devastating betrayal. It is a cruel injustice to servicemembers who have served their country for some years, deployed to combat, been exposed to trauma and injury, witnessed the deaths of friends, and struggled with the demons of PTSD. Rather than honoring their service and healing their wounds, the military with which they have identified and sacrificed for has labeled them 'crazy' and sent them packing. This overwhelming psychic blow to our clients cannot be overstated. The military is a not just a job, it is an all-encompassing culture of its own, and these injured veterans are in essence banished from society.

There is virtually no access to justice for disabled veterans who have illegally and unjustly received PD, AD and BCD discharge. There are very very few attorneys who specialize in discharge upgrades and corrections. And only a handful in the country that provide this service free of charge. Our own funding for discharge review has been cut back and we have had to severely restrict our client representation in these matters. Without competent affordable representation too many combat veterans will fall into a life of chronic mental illness, poverty and homelessness due to the military's illegal and inexcusable mistreatment of wounded servicemembers.

In closing, we urge the HVAC committee will ensure that servicemembers with mental health needs receive appropriate discharges and streamlined access to all the benefits and care they have earned. To that end, we fully concur with the recommendations of Veterans for Common Sense.

MATERIAL SUBMITTED FOR THE RECORD

U.S. Department of Defense
 Under Secretary of Defense
 Personnel and Readiness
 Washington, DC.
September 10, 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Continued Compliance Reporting on Personality Disorder (PD) Separations

Reference: USD (P&R) Memorandum, dated January 14, 2009

In October 2008, the Government Accountability Office released a report titled, *Additional Efforts Needed to Ensure Compliance with Personality Disorder Separation Requirements*, which found that the Military Departments were not wholly compliant with DoD personality disorder separation guidance contained in DoD Instruction 1332.14, *Enlisted Administrative Separations*. The Department endorsed the subsequent recommendation that DoD review compliance on a regular basis.

In January 2009, the Military Departments were directed (reference) to provide a report on compliance with DoD PD separation guidance contained in DoDI 1332.14 for PD separations during fiscal year (FY) 2008 and FY 2009. While improvement has occurred, it is clear that compliance reporting should continue through FY 2012. Your report is due by March 31 of the year following the close of the FY.

The report provided shall be based, at a minimum, on a random sampling of at least 10 percent of all PD separations for your respective Military Department for the designated FY. Each case file sampled shall be checked for compliance with the DoD requirements listed in the attached document titled, "DoD Personality Disorder Separation Requirements." Additionally, the report shall include the total number of PD separations for the applicable FY and the total number of PD separations of Servicemembers who had served in imminent danger pay areas since September 11, 2001.

If a Military Department finds that compliance with any DoD PD separation requirement is less than 90 percent, then the report shall also contain the Military Department's plan for correcting compliance deficiencies.

We owe special care to those Servicemembers who have deployed in support of a contingency operation since September 11, 2001, and were later administratively separated for a personality disorder, regardless of years of service, without completing the enhanced screening requirements for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). Our knowledge in these areas has evolved significantly and we need to make every effort to ensure our veterans are advantaged by the latest medical knowledge in this area.

Accordingly, I am directing that your FY 2010 Compliance Report on Personality Disorder Separations include actions taken to: (1) identify these discharged Servicemembers; (2) inform them of the correction of discharge characterization process; (3) inform them on how to obtain a mental health assessment through the Department of Veterans Affairs; and (4) identify these individuals to the Department of Veterans Affairs

If you should have any questions regarding this matter, please contact my action officer, Michael Pachuta, at (703) 695-6461 or michael.pachuta@osd.mil.

Clifford L. Stanley

Attachment:
 As stated

cc:
 ASA (M&RA)
 ASN(M&RA)
 SAF(MR)

DoD Personality Disorder (PD) Separation Requirements

All references listed refer to DoD Instruction 1332.14, *Enlisted Administrative Separations*, August 28, 2008.

- Member received formal counseling and was afforded adequate opportunity to improve his or her behavior prior to being separated on the basis of PD (Ref: Paragraph 3.a.(8)(a)).
- Member's PD diagnosis was made by a psychiatrist or Ph.D.-level psychologist (Ref: Paragraph 3.a.(8)(c)).
- The PD diagnosis included a statement or judgment from the psychiatrist or Ph.D.-level psychologist that the Servicemember's disorder was so severe that the member's ability to function effectively in the military environment was significantly impaired (Ref: Paragraph 3.a.(8)(c)).
- Member received written notification of his or her impending separation based on PD diagnoses (Ref: Paragraph 3.a.(8)(f) and Enclosure 6, Paragraph 2.a).
- Member was advised that the diagnosis of a personality disorder does not qualify as a disability (ref: Paragraph 3.a.(8)(a))—(only required for PD separations after August 28, 2008).
- For Servicemembers separated on the basis of PD who served in imminent danger pay areas (only required for PD separations after August 28, 2008).
 - Member's PD diagnosis was corroborated by a peer psychiatrist or Ph.D.-level psychologist or higher level mental health professional (Ref: Paragraph 3.a.(8)(c)).
 - Member's PD diagnosis addressed Post-Traumatic Stress Disorder (PTSD) or other mental illness co-morbidity (Ref: paragraph 3.a.(8)(c)). (NOTE: According to paragraph 3.a.(8)(d), unless found fit for duty by the disability evaluation system, a separation for PD is not authorized if Service-related PTSD is also diagnosed.)
 - Member's PD diagnosis was endorsed by The Surgeon General of the Military Department concerned prior to discharge (Ref: Paragraph 3.a.(8)(c)).

Committee on Veterans' Affairs
Washington, DC.
September 21, 2010

Joshua Kors
Reporter
The Nation.
190 E. 7th Street, Suite 503
New York, NY 10009

Dear Joshua:

In reference to our Full Committee hearing entitled "Personality Disorder Discharges: Impact on Veterans' Benefits," that took place on September 15, 2010, I would appreciate it if you could answer the enclosed hearing questions by the close of business on October 29, 2010.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for materials for all full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Debbie Smith by fax at 202-225-2034. If you have any questions, please call 202-225-9756.

Sincerely,

BOB FILNER
Chairman

CW:ds

Responses from Joshua Kors

Question 1: Of the 22,600 servicemembers who have been discharged with personality disorder, how many do you believe are due to improper diagnosis?

Response: All of them. A personality disorder discharge is a contradiction in terms. Applicants with a severe mental illness like a personality disorder do not pass the military's rigorous screening and are not accepted into the Army. ... My years of reporting on this problem further indicate how the diagnosis/discharge are being used, applied to thousands of soldiers only after they suffer physical injuries from combat. These are soldiers deemed perfectly healthy in multiple screenings, many of whom even served in multiple combat tours.

Worth mentioning that the recent hearing revealed that the current count of fraudulent PD discharges since 2001 is now over 25,500 soldiers. The 22,600 figure went through 2007. In his testimony, the Army's acting director of Officer/Enlisted Personnel Management, Lernes Hebert, provided the numbers for recent discharges. (Note: I'll have to go back and look at the tape, but I'm curious to see whether Hebert just gave the number of post-2007 Army PD discharges. In which case, he was really giving one-quarter of the true PD discharge figure, as the fraudulent discharges are spread equally through all four branches.)

For further info on PD discharge stats: www.joshuakors.com/statistics.

Question 2: What recommendations do you have for DoD in correcting the wrongful diagnosis of personality disorders? Do you believe that DoD should eliminate personality disorder discharges altogether or find alternative, rigorous means of validating personality disorders? Please explain.

Response: The "personality disorder discharge" should certainly be eliminated altogether. It has no honest purpose, existing solely to rapidly discharge wounded soldiers and deny them benefits. Even the staunchest defenders of PD discharges—and I have met very few in my 3.5 years of speaking with military personnel on this topic—would say that after a soldier has been deployed and suffers a clear physical wound (broken bones, aural damage, Traumatic Brain Injury) or notable psychological injury (like shell shock/PTSD) and can no longer serve, the honest thing to do is chapter them out for those injuries. In each case I've looked at, the military then claims this pre-existing mental illness, on soldiers who had been perfectly healthy, with no proof presented that a mental illness did indeed exist before the soldier joined the Armed Forces.

Question 3: When speaking with military doctors, how prevalent do you believe the pressure is to purposely misdiagnose wounded soldiers with personality disorders?

Response: It's a great question, and it's very hard to say, since military doctors are so afraid to speak out. As Sergeant Luther learned this week, speaking out has severe consequences for them and their family.

Of course, you have obvious examples of that pressure, like the Perez memo (www.joshuakors.com/perezmemo), in which Norma Perez, former coordinator of the PTSD program at the VA hospital in Temple, Texas, urged the doctors under her command to guard against "compensation seeking veterans" by diagnosing pre-existing conditions. And the Knorr memo (www.joshuakors.com/part2#knorrmemo), in which Colonel Steven Knorr, chief of Fort Carson's Behavioral Health unit, posted a memo to his doctors urging them not to "believe everything Soldiers tell us" about their injuries and instead move to a rapid discharge, like a PD discharge. In the words of his memo: "Get rid of dead wood."

An indication of how "mainstream" those views are within the military is the fact that for the first PD discharge review, former Army Surgeon General Gale Pollock tapped Knorr—and only Knorr—to do the review: www.joshuakors.com/part2#SGreview. Further reporting revealed that in the Knorr/Surgeon General 5-month "thoughtful and thorough" review, to determine that all the soldiers were suffering from severe, pre-existing mental illness, they interviewed no one, not even the soldiers whose cases they were reviewing. As with the Pentagon review 3 years later, the Knorr/Surgeon General review determined that all soldiers had been properly diagnosed and all had been properly discharged, even the soldiers' whose cases they couldn't even find (www.joshuakors.com/part2#lostcases).

Then again, the doctors who spoke with me about being pressured to misdiagnose wounded soldiers weren't even at these two facilities. I think of the military doctor who worked far from Colorado (Fort Carson) and Texas (Perez's VA facility) and was pressured to diagnose the soldier with a chunk missing from his leg as suffering

from a personality disorder—an indication of how widespread this is, a reason why the fraudulent discharge figures are so high.

Finally I would say that my sense is, after reporting on this for several years, that this pressure on doctors is simply part of the military culture. I think of the VA's manual for its doctors, which advises doctors not to trust soldiers' reports of their own wounds because injuries like shell shock are "relatively easy to fabricate." When you're instructing doctors to begin with that mindset, suspecting dishonesty from wounded soldiers, it's not too far from there to arrive at "personality disorder" as the diagnosis.

Question 4: Beyond personality disorder discharges, have you observed a problem with DoD wrongfully using "adjustment disorder" and "pattern of misconduct" discharges?

Response: Yes. As Paul Sullivan, director of Veterans for Common Sense, testified at the hearing, from the cases he's seeing, "adjustment disorder" is becoming the new PD. Of course, adjustment disorder is just another phony pre-existing condition that prevents benefits, so we're talking about the same trick with only a small change in the language. (The Perez memo actually uses the term "Adjustment Disorder.") Needless to say, yes, I've seen pre-existing "adjustment disorder" diagnoses too, and yes, they do screen for that mental condition as well before applicants are accepted into the military.

As for "pattern of misconduct," so many of these soldiers fall into immediate trouble when they're faced with these fraudulent discharges, get stressed, and smoke some marijuana or lose their temper and punch someone. You'll recall Major Wehri, Luther's commander, in my recent article speaking about Luther's attempted escape from his closet and how, in the ensuing ruckus, Luther bit one of his guards and spit in the face of the aid station chaplain. Wehri said his pushing Luther to sign the PD discharge papers was truly an act of kindness. "With Luther's biting and spitting," he said, "I could have court-martialed him out right there for failure to perform in a military manner."

If Luther, like so many others in his shoes, did end up receiving that dishonorable discharge, it would have meant a whole new batch of devastating consequences.

Committee on Veterans' Affairs
Washington, DC.
September 21, 2010

Thomas J. Berger, Ph.D.
Executive Director, Veterans Health Council
Vietnam Veterans of America
8719 Colesville Road
Silver Spring, MD 20910

Dear Tom:

In reference to our Full Committee hearing entitled "Personality Disorder Discharges: Impact on Veterans' Benefits," that took place on September 15, 2010, I would appreciate it if you could answer the enclosed hearing questions by the close of business on October 29, 2010.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for materials for all full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Debbie Smith by fax your responses at 202-225-2034. If you have any questions, please call 202-225-9756.

Sincerely,

BOB FILNER
Chairman

CW:ds

Veterans Health Council
Improving Veterans Health through Information and Education

To: The Honorable Bob Filner, Chair, U.S. House of Representatives Committee on Veterans' Affairs
 From: Thomas J. Berger, Ph.D., Executive Director, Veterans Health Council Vietnam Veterans of America
 Date: October 29, 2010

Question 1: What recommendations do you have for DoD in correcting the wrongful diagnosis of personality disorder? Do you believe that DoD should eliminate personality disorder discharges altogether or find another alternative rigorous means of validating personality disorder discharges?

Response: First, we at Vietnam Veterans of America remain skeptical of the claims by both DoD and the individual military services that each of the 22,600 personality disorder discharges reported back in 2007 were, in fact, reviewed appropriately to determine the possibility of a misdiagnosis. Our skepticism was bolstered by the October 2008 GAO report and the testimony presented by GAO Director Dr. Draper before the HVAC on September 15, 2010 that "only 40 to 78 percent" of the reviews of service jackets for "312 members separated for personality disorder from four military installations" were not compliant with the regulations governing such separations. In addition, after the GAO report was issued in 2008, the number of personality disorder discharges dropped by 75 percent, while the number of PTSD diagnoses soared. Thus, there is no reason to believe the number of personality disorder discharges would decrease so quickly unless hundreds of military personnel had been misdiagnosed in the first place.

Secondly, VVA believes that the military services, with the Army in particular, may now be using different administrative designations—"adjustment disorder" and/or "readjustment disorder"—to erroneously discharge members of the Armed Forces who are experiencing symptoms of Post-traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI), instead of making sure they can receive the mental health medical care worthy of their service and sacrifice.

Because of these concerns, VVA and the Jerome N. Frank Legal Services Organization at the Yale School of Law have filed a FOIA request with DoD and each military service (including National Guard) to provide the records and demographic details of all personality disorder discharges, adjustment disorder discharges and readjustment disorder discharges from October 2001 through October 2010 (see attached letter to the Air Force). This FOIA request is a more detailed complement to the October 15, 2010 request from Senators Bond, Brownback, Grassley, and Leahy to Secretary Gates for information about the use of personality disorder discharges (see attached letter from U.S. Senate).

As a result, As a result, VVA suggests that a review of the FOIA information should take place before making a recommendation to keep or eliminate the personality disorder discharge altogether.

Question 2: In your view, does VA do a good job of ensuring that veterans who have been inappropriately discharged with a personality disorder discharge are correctly diagnosed and provided the appropriate care and benefits?

Response: According to the statement of the VA's Acting Deputy Chief of Patient Care Services, Dr. Antoinette Zeiss, at the September 15, 2010 HVAC hearing, "A separation resulting from a reported personality disorder is of potential significance to VA only if it results in a separation that is less than honorable or if it results in a separation before completion of the minimum active duty requirement. Veterans are not bound by any diagnosis from the Department of Defense (DoD) when seeking treatment from VA or when submitting a claim for service connection." However, VVA does not know how many "veterans who have been inappropriately discharged with a personality disorder" have been subsequently "correctly diagnosed and provided the appropriate care and benefits". So VVA and the Jerome N. Frank Legal Services Organization at the Yale School of Law have also filed a FOIA request with the VA to provide the records and demographic details of inappropriate personality disorder discharges handled by VA's mental health services.

The Jerome N. Frank Legal Services Organization
 Yale Law School
 New Haven, CT.
October 22, 2010

U.S. Air Force
 HAF/ICIOD
 1000 Air Force Pentagon
 Washington, DC 20330-1000

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. § 552, we request access to and copies of records¹ in possession of the Air Force (and all its component offices). These records are requested by the Veterans Legal Services Clinic at the Jerome N. Frank Legal Services Organization on behalf of Vietnam Veterans of America and Connecticut Greater Hartford Chapter 120 of Vietnam Veterans of America ("Requesters"). This letter requests all records related to the use by the United States Air Force ("Air Force")² of personality disorder discharges and adjustment disorder or readjustment disorder discharges to separate members of the Air Force³ from service since October 1, 2001.

These records include, but are not limited to:

1. Any records containing information indicating the total number of servicemembers of the Air Force from October 1, 2001, through the present time who have been separated from the Air Force on the basis of a personality disorder, adjustment disorder, or readjustment disorder, including information indicating the number of these servicemembers who were deployed as part of Operation Iraqi Freedom, Operation Enduring Freedom, and/or Operation New Dawn; information indicating the number of these servicemembers who served multiple tours in Operation Iraqi Freedom, Operation Enduring Freedom, and/or Operation New Dawn; information indicating the number of these servicemembers who served on aircraft carriers deployed in support of Operation Iraqi Freedom, Operation Enduring Freedom, and/or Operation New Dawn. Where possible, records breaking down this information into the following categories should also be provided:
 - Indicating the number of such discharges given to active duty servicemembers and reservist servicemembers respectively.
 - By number of enlisted servicemembers and number of officers.
 - By year, whether by fiscal year or calendar year.
 - By gender.
 - By whether or not servicemembers served multiple tours in Operation Iraqi Freedom, Operation Enduring Freedom, and/or Operation New Dawn.
2. Any records containing information indicating the total number of members of the Air Force, broken down by year and rank, if available, or combined if not available, from October 1, 2001, through the present time, who have been separated from the Air Force on the basis of an administrative discharge for the convenience of the government.
3. Any record identifying which types of personality disorder, adjustment disorder, and/or readjustment disorder have been used as the basis for personality disorder, adjustment disorder, or readjustment disorder separations of members of the Air Force from October 1, 2001, to the present.
4. Any reports, documents, memoranda, or the like prepared, issued, submitted, or otherwise produced by the Air Force from January 1, 2008 to the present regarding compliance with the Department of Defense personality disorder

¹ The term "records" as used herein, includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

² The terms "United States Air Force" or "Air Force," as used in this letter, refers to the Air Force and any subcomponents of that branch of service including, but not limited to, the Reserves.

³ The terms "servicemembers" or "members of the Air Force," as used in this letter, refer to officers and enlisted members of the Air Force, and includes both active duty members and reservists.

separation requirements⁴ and any record containing information regarding these reports.

5. All records relating to claims made by the Air Force or any of its component parts regarding the accuracy of the personality disorder discharges made before 2008, including, but not limited to all records (e.g., interviews with family members) relied on by the Air Force in reaching these conclusions and all records regarding the methodology used.
6. Any and all memoranda, manuals, guidance or other record, in effect at any time from October 1, 2001, to the present, containing information regarding the policies governing the administrative separation of members of the Air Force based on personality disorder, adjustment disorder, or readjustment disorder.
7. Any record containing information regarding measures implemented from October 1, 2001, to the present to ensure that members of the Air Force who should be evaluated for disability separation or retirement due to mental health conditions are not processed for separation from the Air Force on the basis of a personality disorder, an adjustment disorder, or a readjustment disorder.
8. Any record containing information regarding whether members of the Air Force who were discharged on the basis of a personality disorder, an adjustment disorder, or a readjustment disorder since October 1, 2001, have been allowed access to service-connected disability compensation, pension benefits, and health care; and an identification of the various forms of personality, adjustment, or readjustment disorders forming the basis for such separations.
9. Any record containing information regarding any evaluation, review, or other assessment since October 1, 2001 of the adequacy of policies controlling administrative separations of members of the Air Force for ensuring that covered members of the Air Force who may be eligible for disability evaluation due to other mental health conditions are not separated from the Air Force on the basis of personality disorder, adjustment disorder, or readjustment disorder.
10. Any record containing information regarding measures implemented since October 1, 2001, to ensure that members of the Air Force who should be evaluated for disability separation or retirement due to other mental health conditions are not processed for separation from the Air Force on the basis of a personality disorder, an adjustment disorder, or a readjustment disorder.
11. Records relating to any application for a discharge upgrade or record correction submitted by any former servicemember who received a personality disorder, adjustment disorder, or readjustment disorder discharge after October 1, 2001, including but not limited to the total number of servicemembers who have submitted such petitions to the Air Force Review Board, or to the Board of Correction of Military Records of any service branch; the number of petitions that have been granted; the number that have been appealed, whether appealed to the Board of Correction of Military Records or to a U.S. District Court, after their initial application for a discharge upgrade was denied; the judicial districts in which such appeals were brought; and the city and state where any veteran seeking such a discharge upgrade resides.

Requesters request that any records that exist in electronic form be provided in electronic format on a compact disc. If this information is not available in a succinct format, we request the opportunity to view the records in your offices.

Requesters agree to pay search, duplication, and review fees up to \$100. If the fees amount to more than \$100, requesters request a fee waiver pursuant to⁵ U.S.C. § 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii), as the information is not sought for commercial uses and its disclosure is in the public interest, because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not in the commercial interest of the requester. If the request is denied in whole or in part, please justify all deletions by reference to the specific exemptions of the Act. In addition, please release all segregable portions of otherwise exempt material. We reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

FOIA's legislative history makes clear that the "fee waiver provision ... is to be liberally construed in favor of waivers for non-commercial requesters." *Fed. Cure v.*

⁴ See Department of Defense, Instruction No. 1332.14 §(3)(a)(8)(b) (Aug. 28, 2008).

⁵ The Department of Defense's regulations related to the Freedom of Information Act "take[] precedence over all DoD Component publications that supplement and implement the DoD FOIA Program." 32 CFR § 286.1 (b).

Lappin, 602 F. Supp. 2d 197,201 (D.D.C. 2009) (internal quotation marks omitted). Department of Defense (DoD) FOIA regulations (which apply to all DoD Components explain that a fee waiver will be granted where “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government,” and “is not primarily in the commercial interest of the requester.” 32 CFR § 286.28(d)(3)(i), (ii).

To determine whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, DoD regulations look to: (i) The subject of the request; (ii) The informative value of the information to be disclosed; (iii) The contribution to an understanding of the subject by the public likely to result from disclosure; and (iv) The significance of the contribution to public understanding. 32 CFR § 286.28(d)(3)(i)(A–D).

The subject of requesters’ request certainly “involves issues that will significantly contribute to the public understanding of the operations or activities of the Department of Defense.” 32 CFR § 286.28(d)(3)(i)(A). The records requested concern how (and how often) DoD and its Components determine that a soldier merits a personality disorder, adjustment disorder, or readjustment disorder discharge; the methodology by which DoD determined that only two of . . . the nearly 30,000 soldiers discharged since 2001 with personality disorder were designated incorrectly; and how DoD responds to requests for personality disorder or adjustment or readjustment disorder discharge upgrades. All these issues are integral to public understanding of governmental operations and activities.

The information which requesters seek has significant informative value because it is “meaningful” and “shall inform the public on the operations or activities of the Department of Defense.” 32 CFR § 286.28(d)(3)(i)(B). DoD has refused to fully explain, on a case-by-case basis, the methodology by which it determined that nearly 30,000 soldiers had a “personality disorder,” and the methodology by which it later determined that only two of these soldiers were diagnosed incorrectly. DoD’s decision to release the number of soldiers who were discharged with personality disorder between 2001 and 2007 and to discuss its official policies related to these discharges did not provide the public with the meaningful information necessary to understand the way in which DoD determined, on a case-by-case basis, whether soldiers had personality disorder.⁶ The disclosure of the requested records will enable the public to verify DoD’s unsubstantiated statements that nearly all personality disorder discharges between 2001 and 2006 were appropriate.⁷ Disclosure is particularly meaningful because the public remains unaware of whether DoD has misused personality disorder discharges, how DoD polices its own discharge policies in practice, and whether disabled veterans continue to be unjustly denied the benefits they are due by virtue of their service to the Nation while in uniform. In addition, the public does not know whether adjustment disorder or readjustment disorder discharges have increased in the past few years, let alone whether DoD and its Components have been using adjustment or readjustment disorder discharges inappropriately.

Disclosure of the requested records will contribute to an understanding of the subject by the general public, rather than simply informing “the individual requester or small segment of interested persons.” 32 CFR § 286.28(d)(3)(i)(C). Vietnam Veterans of America (VVA) is a highly respected 32-year-old nonprofit organization with 60,000 members and 635 chapters nationwide.⁸ VVA’s legislative efforts have led to the establishment of the Vet Center system and the passage of legislation assisting veterans with job training and job placement, assisting Agent Orange victims, and permitting veterans to challenge adverse VA decisions in court.⁹ Connecticut Greater Hartford Chapter 120 is a 27-year-old chapter of VVA.¹⁰

Requesters’ research will involve determining, on a case-by-case basis, why and how DoD discharged soldiers on the basis of personality disorder, adjustment disorder, and readjustment disorder; whether these diagnoses were inaccurate and improper; and the methodology by which DoD determined that all but two of these discharges had been appropriate. This information will be used to inform the public whether DoD has unjustly denied disabled veterans the benefits they deserve, and

⁶See OFFICE OF THE UNDER SECRETARY OF DEFENSE, REPORT TO CONGRESS ON ADMINISTRATIVE SEPARATIONS BASED ON PERSONALITY DISORDER (2008) [hereinafter DoD, 2008 Report].

⁷ Anne Flaherty, *Advocates See Trouble for Misdiagnosed Soldiers*, ASSOCIATED PRESS, Aug. 15, 2010, available at <http://abcnews.go.com/Politics/wireStory?id=11404572>.

⁸ A Short History of VVA, VIETNAM VETERANS OF AMERICA, <http://www.vva.org/history.html> (last visited Sept. 29, 2010).

⁹ *Id.*

¹⁰ VVA CONNECTICUT CHAPTER 120, <http://www.vva120.org/> (last visited Sept. 29, 2010).

to enable the public to prevent DoD from misusing personality disorder and adjustment or readjustment disorder discharges in the future. The general public is highly interested in this issue. *The Nation*¹¹ and *The Associated Press*¹² have recently published articles on personality disorder and adjustment disorder discharges for popular consumption. In addition, Congress has responded to public discontent by holding a hearing on personality disorder discharges.¹³ VVA is immensely capable of disseminating its findings to the public. VVA continuously produces publications related to veterans' health and government affairs, and disseminates these publications via mail and on its Web site.¹⁴ In addition, VVA has a long history of working with the media and testifying at Congressional hearings in order to publicize information and issues.¹⁵ VVA plans to disseminate its research on personality disorder and adjustment disorder discharges via publications, work with the media, and attendance at Congressional hearings.

Disclosure of the requested records will "lead to a significant understanding of the issue" of personality disorder and adjustment disorder discharges, and will "be unique in contributing unknown facts, thereby enhancing public knowledge." 32 CFR § 286.28(d)(3)(i)(D). DoD's use of adjustment disorder discharges is completely unknown to the public. And DoD has kept the public in the dark about how, in practice and on a case-by-case basis, it determined that nearly 30,000 soldiers should be discharged with personality disorder. The public knowledge of the number of personality disorder discharges between 2001 and 2007 and of DoD's official policies related to personality disorder discharges is worthless unless the public gets to look at the ways in which DoD *actually* dealt with real soldiers on a case-by-case basis.¹⁶ Yet DoD continues to conceal the procedures and processes by which it determined that soldiers had personality disorder and the methodology by which it determined that all but two of these discharges were appropriate.

DoD's refusal to admit that the overwhelming number of the discharges were inappropriate is shocking in light of the fact that the number of personality disorder discharges has dramatically decreased since DoD released its report at the behest of Congress in 2008.¹⁷ The public has a right to know whether DoD is unjustly preventing the disabled veterans who defended their country from receiving veterans benefits. Only if the public fully understands how DoD uses personality disorder and adjustment or readjustment disorder discharges will it be able to prevent misuse of these discharges in the future and to help improperly discharged soldiers access the benefits they deserve.

In determining whether disclosure of information is primarily in the commercial interest of the requester, DoD and its Components will consider "[t]he existence and magnitude of a commercial interest," and, if a commercial interest exists, whether the requester's primary interest in disclosure is commercial. 32 CFR § 286.28(d)(3)(ii)(A–B).

Requesters have no commercial interest in gaining access to the requested records. Requesters are both nonprofit organizations whose primary goal is to assist veterans. Because no commercial interest exists, the requesters' primary interest in disclosure is not commercial.

Finally, pursuant to 5 U.S.C. § 552(a)(6)(A)(i), we expect a response within the twenty (20)-day statutory time limit.

Should you have any questions in processing this request, we can be contacted by mail at the address below or by telephone at (203) 432-4800.

Please furnish all applicable records to:

Tasha Brown, Law Student Intern
 Melissa Ader, Law Student Intern
 Michael Wishnie, Supervising Attorney
 Veterans Legal Services Clinic
 Jerome N. Frank Legal Services Organization
 P.O. Box 209090 New Haven, CT 06520

¹¹ Joshua Kors, *Disposable Soldiers: How the Pentagon Is Mistreating Wounded Vets*, NA-TION, Apr. 26, 2010, at 11.

¹² Flaherty, *supra* note 7.

¹³ Personality Disorder Discharges: Impact on Veterans' Benefits, HOUSE COMMITTEE ON VETERANS' AFFAIRS, <http://veterans.house.gov/hearings/hearing.aspx?newsid=622> (last visited Sept. 29, 2010).

¹⁴ VVA Publications, VIETNAM VETERANS OF AMERICA, <http://www.vva.org/brochures.html> (last visited Sept. 29, 2010).

¹⁵ A Short History of VVA, *supra* note 8.

¹⁶ DoD, 2008 Report, *supra* note 6.

¹⁷ Flaherty, *supra* note 7.

Thank you for your assistance and prompt attention to this matter.

Sincerely,

Tasha N. Brown
Law Student Intern

Melissa S. Ader
Law Student Intern

Michael J. Wishnie
Supervising Attorney
Veterans Legal Services Clinic
Jerome N. Frank Legal Services Organization

CC: Representative Robert Filner
Chairman, United States House Committee on Veterans' Affairs

U.S. Congress
Washington, DC.
October 15, 2010

The Honorable Dr. Robert Gates
Secretary of Defense
The Pentagon
Washington, D.C. 20301

Mr. Secretary

In 2007, several members of the Senate formed a bipartisan coalition to identify and combat the misuse of personality disorder (PO) discharges in the Armed Forces, and as a result, improved mental health care and services for combat veterans. Today, we request your assistance to ensure that a new loophole has not been created that abuses the administrative discharge system by erroneously discharging members of the Armed Forces who are experiencing symptoms of Post-Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI) rather than providing them with medical care worthy of their service and sacrifice.

While it is a good thing that the Pentagon has moved away from unfairly discharging combat troops by erroneously claiming a servicemember had a PO rather than addressing the harmful effects of combat stress, we need to ensure a new method is not being used to deny combat veterans the care and benefits they deserve. Unfortunately, the recent drop in discharges for PDs has been accompanied by a disturbing rise in discharges for the "convenience of the government" for "other physical or mental conditions not amounting to disability." According to Pentagon data, while PO discharges have decreased from 1,072 in Fiscal Year 2006 to just 64 through March, 2010, discharges for "other physical or mental conditions" have more than doubled from 1,453 in Fiscal Year 2006 to 3,844 in Fiscal Year 2009. We fear the rise in this category of discharges could reflect a failure to identify and treat troops for whom a deployment related disability board would be more appropriate.

Under a discharge for the "convenience of the government," troops may be separated from the Army for mental or physical conditions "manifesting . . . behavior sufficiently severe that the Soldier's ability to effectively perform military duties is significantly impaired". We are concerned that many of these discharges are occurring among Soldiers in whom the diagnosis reflected in the discharge may actually represent a deployment-related mental health condition which might-had the Soldier continued on active duty—otherwise have progressed towards a diagnosis eligible for a disability evaluation. Specifically, we are aware of numerous discharges for "adjustment disorder", a mental health condition which, according to U.S. Army documents, exists along a spectrum of deployment-related stress occurring in progressive severity, from acute stress reaction to PTSD. We are particularly concerned that troops who display symptoms of combat stress are being expeditiously chaptered out of the military by the medical bureaucracy prior to their condition meeting formal diagnostic criteria for PTSD or other conditions that would constitute disability.

This problem appears to be most acute in the U.S. Army, which is why in early August of this year we asked the Army to provide information on the number of soldiers discharged with an "adjustment disorder" or similar mental health diagnosis under the provisions of Army Regulation 600-235 (Enlisted Separations),

chapter 5-17, and the number of troops who served in combat. Army officials assured us they would provide the information in 30 days, but as the due date arrived, announced their data search would take 6 months to complete and even at that late date would only include soldiers discharged in fiscal year 2009. As a result of this disappointing response and our ongoing concern for the treatment of our combat troops, we request your assistance in obtaining information on the use of the adjustment disorder discharge by the Army.

In order to identify discharge trends and ensure our combat troops are receiving proper care it is critical Congress be provided figures on the number of active duty Army servicemembers discharged from 2008 through 2010 for Personality Disorders (Chapter 5-13) and for "other designated physical or mental conditions" (Chapter 5-17). Specifically, we request the following information by fiscal year:

1. The total number of soldiers discharged each under provisions of Chapter 5-13 and 5-17; and
2. Among (1), the number of those each who had served in an imminent danger pay area.

As members of the United States Senate, we have an obligation to ensure that our troops receive the benefits and care they have earned on the battlefield. We are eager to work with you the Administration on these issues to ensure no soldier who has served their nation honorably in combat is unfairly discharged from the military or denied the care needed to heal their wounds, whether physical or mental.

Sincerely,

Kit Bond
Sam Brownback

Chuck Grassley
Patrick Leahy

Committee on Veterans' Affairs
Washington, DC.
September 21, 2010

Gene L. Dodaro
Acting Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Gene:

In reference to our Full Committee hearing entitled "Personality Disorder Discharges: Impact on Veterans' Benefits," that took place on September 15, 2010, I would appreciate it if you could answer the enclosed hearing questions by the close of business on October 29, 2010.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for materials for all full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Debbie Smith by fax at 202-225-2034. If you have any questions, please call 202-225-9756.

Sincerely,

BOB FILNER
Chairman

CW:ds

United States Government Accountability Office
Washington, DC.
October 6, 2010

The Honorable Bob Filner
Chairman
Committee on Veterans' Affairs
House of Representatives

Subject: Responses to Questions for the Record; Hearing Entitled *Personality Disorder Discharges: Impact on Veteran's Benefits*

Dear Mr. Chairman,

This letter responds to your September 21, 2010, request that we address several questions for the record related to the Committee's September 15, 2010, hearing on the impact of personality disorder discharges on veteran's benefits. Our responses to the questions, which are in the enclosure, are based on our previous work and updates on the actions DoD has taken since August 2008 related to the recommendations we made in our 2008 report.

If you have any questions about the letter or need additional information, please contact me on (202) 512-7114 or at draperd@gao.gov or contact Mary Ann Curran on 202-512-4048 or at curranm@gao.gov.

Sincerely yours,

Debra A. Draper
Director, Health Care

Enclosure

Enclosure 1

Responses to Post-Hearing Questions for the Record, Personality Disorder Discharges: Impact on Veterans' Benefits, Committee on Veterans' Affairs, U.S. House of Representatives, September 15, 2010, Questions for Debra A. Draper, Ph.D., M.S.H.A., Director, Health Care U.S. Government Accountability Office

Questions for the Record Submitted by the Honorable Bob Filner

Question 1: Has DoD taken sufficient action to implement GAO's 2008 recommendations?

Response: In our 2008 report—Defense Health Care: Additional Efforts Needed to Ensure Compliance with Personality Disorder Separation Requirements, GAO-09-31 (Washington, D.C.: October 31, 2008)—we recommended that DoD (1) direct the military services to develop a system to ensure that personality disorder separations are conducted in accordance with DoD's requirements, and (2) monitor the military services' compliance with DoD's personality disorder separation requirements. Although DoD strengthened its personality disorder separation policy and has taken some action in response to our recommendations, at this time, we do not believe that DoD has taken sufficient action to implement our recommendations. In August 2008, after our review was completed, DoD updated its requirements for personality disorder separations and included additional requirements to help ensure that servicemembers, especially those serving in imminent danger pay areas, are not inappropriately separated because of a personality disorder. Additionally, in January 2009, DoD required the military services to submit compliance reports on their fiscal year 2008 and 2009 personality disorder separations. The fiscal year 2008 compliance reports from the military services showed a high rate of noncompliance with the requirements we reviewed in our report. Specifically, three out of four of the military services were not in compliance with any of the personality disorder separation requirements. As of August 31, 2010, DoD did not have the services' fiscal year 2009 compliance reports available for our review. Because the military services have not demonstrated full compliance with DoD's personality disorder separation requirements, we reiterate the importance of DoD implementing our 2008 recommendations.

Question 2: Do you know why the military services have not provided the fiscal year 2009 compliance reports?

Response: At this point, we are unsure of the reason we have not been provided the military services' compliance reports for fiscal year 2009, as the services were required to submit them to DoD by March 31, 2010. Based on DoD's response to us, it is unclear to us if these fiscal year 2009 compliance reports actually exist, or if DoD simply does not know where the reports are.

Question 3: Of the requirements GAO reviewed, what requirement had the worst compliance rate among the military services?

Response: In our 2008 review, which covers the period November 1, 2001, through June 30, 2007, we found that for each of the four installations whose records we reviewed, the requirement that all enlisted servicemembers receive a diagnosis of personality disorder by a psychiatrist or psychologist who determines that the personality disorder interferes with the enlisted servicemembers' ability to function in the military had the lowest rate of documented compliance when compared with the other personality disorder separation requirements that GAO reviewed. Specifically, for these four installations, we found that the documented compliance rate for this requirement ranged from 40 to 78 percent. At one of these installations, compliance with the requirement that servicemembers receive formal counseling prior to their separation was equally low. For Navy servicemembers whose records we reviewed, the requirement that servicemembers receive formal counseling had the lowest rate of documented compliance (77 percent) of the personality disorder requirements that we reviewed.

In our review of the military services' compliance reports that covered fiscal year 2008, the requirement that all enlisted servicemembers receive formal counseling prior to their separation had the worst rate of compliance for all of the services; none of the services met DoD's 90 percent compliance threshold for this requirement. In particular, the Navy's policy allowed enlisted servicemembers to be separated without formal counseling if they were deemed a danger to themselves or others, which did not mirror DoD's policy.

Question 4: Why is formal counseling important?

Response: Formal counseling is an important requirement for a personality disorder separation because it is intended to inform the enlisted servicemember that his or her behavior is unacceptable in the military; it is also intended to provide the servicemember with an opportunity to change his or her behavior.

Question 5: Has DoD required any actions of the military services because of their reported noncompliance?

Response: Yes. In January 2009, DoD required the military services to submit, along with their compliance reports for fiscal years 2008 and 2009, corrective action plans for any requirements that did not achieve a 90 percent compliance rate.

Question 6: Can you provide an example or two of the types of corrective actions the services submitted?

Response: Each of the military services did not demonstrate compliance with all of DoD's personality disorder separation requirements for fiscal year 2008, and all of the services submitted corrective action plans for how each respective service planned to correct any deficiency in compliance. The Army, for example, stated in its fiscal year 2008 compliance report that its corrective action was to have the Army's Office of the Surgeon General review all personality disorder separation cases to ensure that each contains the required documentation. Each case that is found to not be in compliance with these requirements is to be returned for corrective action. This plan was to become effective as of March 13, 2009. The Marine Corps stated in its fiscal year 2008 compliance report that it would educate its personnel on the requirements for a personality disorder separation and provide a checklist of DoD's additional requirements to ensure these are followed during enlisted servicemembers' separations.

Question 7: DoD's additional requirements cover enlisted servicemembers who were separated as of August 28, 2008. What is DoD doing about servicemembers who were separated prior to August 28, 2008?

Response: Servicemembers who feel that their separations from the military were inappropriate can request adjudication through their respective service's Discharge Review Board. If a servicemember does not agree with the decision made by

his or her service's Discharge Review Board, he or she may appeal this decision by applying to the respective service's Board for the Correction of Military Records.

Question 8: Do you know if any servicemembers have gone before this discharge board to request adjudication of their separation?

Response: Of the 371 servicemembers' records that we reviewed for our 2008 report, we found that 3 servicemembers applied to their respective Discharge Review Board to challenge the reason for their separation. One of these servicemembers received a change to the reason for separation because the review board found the separation because of a personality disorder was unjust. This servicemember's reason for separation was changed to secretarial authority of the military service, meaning that the Secretary of the military service decided it was in the best interest of the service to separate the servicemember. The other two servicemembers did not receive a change to their separation reason because the Discharge Review Board found that the documentation in the personnel records supported the personality disorder separation.

Question 9: How long do servicemembers have to utilize the Discharge Review Board?


Response: The Discharge Review Board process has to be utilized within 15 years after a servicemember's separation. After 15 years, servicemembers may apply directly to their service's Board for the Correction of Military Records to have the reason for separation reviewed.

Question 10: Do enlisted servicemembers have any protections when going through the separation process?

Response: Yes, enlisted servicemembers going through a personality disorder separation have several protections that they can utilize when going through the separation process. Enlisted servicemembers can submit statements on their own behalf to the commander with separation authority, consult with legal counsel prior to separation, and obtain copies of the separation packet—the documents necessary to separate a servicemember—that is sent to the commander with the authority to separate the servicemember. Those enlisted servicemembers with 6 or more years of service are eligible to request a hearing before an administrative board. The Navy allows enlisted servicemembers with less than 6 years of service to request this hearing. The administrative board hearing allows servicemembers to have legal representation, call witnesses, and speak on their own behalf in defending against the separation.

Question 11: Did any of the servicemembers' records that GAO reviewed show that the servicemember selected any of the protections?

Response: In our 2008 review, we found that enlisted servicemembers utilized the protections available to them to a varying degree. For example, 41 of the 371 servicemembers whose records we reviewed—or 11 percent—submitted statements on their own behalf. Of the 41 servicemembers that submitted a statement, 8 of these servicemembers (20 percent) questioned the accuracy of the diagnosis or requested not to be separated. All were eventually separated. We also found that 120 of the 371 servicemembers' records (32 percent) indicated that the servicemembers wanted to consult with legal counsel prior to their separation. We could not verify if they met with legal counsel. Additionally, 328 of the 371 records that we reviewed (88 percent) had documentation that the servicemember requested a copy of their separation packet. For the 36 enlisted servicemembers in our review who were eligible to request an administrative hearing, we found that none of these servicemembers requested to do so.



Committee on Veterans' Affairs
Washington, DC.
September 21, 2010

The Honorable John M. McHugh
The Secretary
U.S. Department of the Army
The Pentagon, Room 3E700
Washington, DC 20310

Dear Mr. Secretary:

In reference to our Full Committee hearing entitled "Personality Disorder Discharges: Impact on Veterans' Benefits," that took place on September 15, 2010, I would appreciate it if you could answer the enclosed hearing questions by the close of business on October 29, 2010.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for materials for all full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Debbie Smith by fax at 202-225-2034. If you have any questions, please call 202-225-9756.

Sincerely,

BOB FILNER
Chairman

CW:ds

Army Questions for the Record
Hearing Date: September 15, 2010, Committee: HVA,
Member: Congressman Filner, Witness: Major General Farrisee

Response to Sergeant Luther

Question 1: Sergeant Luther was ordered confined to a closet and subjected to sleep deprivation so that he would sign his name to a personality disorder discharge. What is your response to this story?

Answer: This is a mischaracterization of the chain of command's actions to prevent Sergeant Luther from endangering his life or the lives of his fellow soldiers. Sergeant Luther indicated suicidal ideations to his chain of command and doctors; in response, his chain of command placed him on a suicide watch. Sergeant Luther's battalion and company commanders were interviewed by officials within the Department of the Army's Deputy Chief of Staff for Personnel about Sergeant Luther's suicide watch. The chain of command stated that they acted out of genuine concern to protect Sergeant Luther and possibly other soldiers. Once placed on suicide watch, Sergeant Luther spent days and nights in the squadron aid station, so he would be close to medical care, if required, and so that he could be continuously monitored. Every day, Sergeant Luther was escorted to the life support area (about 1 mile away) so he could take a shower. He was also afforded opportunities to visit the internet cafes and dining facility. During the day, Sergeant Luther sat in the waiting room of the squadron aid station. The description of the small sleeping quarters in the aid station is accurate. However, the small sleeping quarters was not set up specifically for Sergeant Luther. It was a sleeping quarters used by medics during the night as they remained on duty 24/7 for possible casualties. Sergeant Luther used the sleeping quarters at night following his suicidal ideations that led the chain of command to place him on a suicide watch.

The claim that sleep deprivation was used against Sergeant Luther to obtain his signature on his separation documentation is false. Sergeant Luther's signature was not required in order to process his separation packet. More importantly, the chain of command ensured Sergeant Luther's individual rights were protected and due process followed. Sergeant Luther was provided legal counsel throughout the separation proceeding; he was provided the opportunity to have his separation heard before an administrative separation board (he elected not to); he was provided the op-

portunity to submit matters to include supporting witness statement on his behalf (he elected not to).

Personality Disorder Separation

Question 2: Please explain how the Army reached the conclusion that no soldier was dismissed improperly with personality disorder.

Answer: In 2006 and 2007, the Office of The Surgeon General conducted two reviews of all separations, under Army Regulation (AR) 635–200, Enlisted Separations, Chapter 5–13 (Personality Disorder) for Soldiers who had deployed to an imminent danger pay area. The results of these two investigations indicated that there was no evidence of inappropriate discharges of enlisted personnel for Personality Disorders. Recently, the Office of The Surgeon General conducted a record by record review of all cases of enlisted Soldiers who have deployed and were administratively separated under the provisions of AR 635–200, Chapter 5–13 (Personality Disorder) or Chapter 5–17 (categorized as behavioral health) since 2009, and found that no enlisted Soldier was dismissed improperly during this time.

Investigation with Soldiers' Families

Question 3: During its review of previous cases, did the Army interview soldiers' families, who can often provide evidence of a shift in behavior that occurred after the soldier was sent into a war zone?

Answer: During its review of cases, the Army did not interview Soldiers' Families. While interviewing Family members could indeed yield helpful collateral information, in accordance with the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, a diagnosis of Personality Disorder is not contingent on collateral information being provided. Instead, it is based on the presence of an enduring, inflexible, and pervasive pattern of behavior that can typically be traced back to an individual's adolescence, and causes significant distress in different areas of the individual's life. Our review showed that in all these cases that there was a pattern of behavior that predated deployment.

Personality Disorder Diagnoses from 2006 to 2009

Question 4: Can the Army explain why the number of the personality disorder discharges doubled between 2006 and 2009 and how many of those qualified to retain their benefits?

Answer: The number of Soldiers discharged from the Army for personality disorder from 2006 to 2009 did not increase, the number decreased. In 2006, 1,071 Soldiers were separated for personality disorder. In 2007 a total of 1,066 Soldiers were separated compared to 641 Soldiers in 2008, and 575 Soldiers in 2009. Soldiers who are separated from Active Duty are fully eligible for all transition services provided by the Army Career and Alumni Program (ACAP). Programs available within ACAP include pre-separation counseling, employment assistance, Veteran's Benefits Briefing, and the Disabled Transition Assistance Program (DTAP). Pre-separation counseling provides Soldiers information about services and benefits they have earned while on Active Duty. Employment assistance consists of individual voluntary one-on-one counseling, employment workshop, resume, and more. The Veterans Benefits Briefing is a 4-hour long briefing provided by Veterans Affairs counselors covering all VA-controlled services and benefits that a Soldier can receive or may be eligible for after separation. DTAP is a 2-hour long briefing provided by VA counselors. Soldiers who are separated due to medical or physical injuries, as well as Soldiers who believe that they will file a VA Disability Claim, are highly encouraged to attend this briefing. Benefits are generally based on the Soldier's characterization of discharge as opposed to the chapter of AR 635–200 under which an administrative separation is processed. Soldiers discharged for personality disorder are normally awarded an honorable discharge and eligible for the same benefits as any Soldier separating under honorable conditions with similar lengths of service.

Adjustment Disorder Diagnoses

Question 5: Is the Army now relying on a different designation—referred to as "adjustment disorder"—to dismiss soldiers?

Answer: No. Adjustment disorders are a basis for administrative discharge under Army Regulation 635–200, Enlisted Separations, Chapter 5–17. To endorse an adjustment disorder separation, the Office of The Surgeon General requires clinical

documentation that the Soldier manifests a long-standing, chronic pattern of difficulty adjusting, and that the Soldier is not amenable to behavioral health treatment nor will respond to Command efforts at rehabilitation (e.g., transfer, disciplinary action, or reclassification).

DD 214

Question 6: On the DD 214 where it asks for a narrative reason for discharge is it common to list “personality disorder” if in fact the soldier was diagnosed with a personality disorder?

Answer: Yes, it is common to list “personality disorder” on the DD Form 214 when an enlisted Soldier has been diagnosed with personality disorder and separated for that reason in accordance with Army Regulation 635–200, Active Duty Enlisted Administrative Separations, paragraph 5–13. However, not all Soldiers diagnosed with personality disorder are separated for that reason. Separation for personality disorder is not appropriate when separation is also warranted under another chapter of the regulation. Enlisted Soldiers diagnosed with personality disorder but separated under a different chapter of the regulation will not have personality disorder listed on their DD Form 214.

Committee on Veterans’ Affairs
Washington, DC.
September 21, 2010

The Honorable Robert M. Gates
The Secretary
U.S. Department of Defense
The Pentagon
Washington, DC 20301–1155

Dear Mr. Secretary:

In reference to our Full Committee hearing entitled “Personality Disorder Discharges: Impact on Veterans’ Benefits,” that took place on September 15, 2010, I would appreciate it if you could answer the enclosed hearing questions by the close of business on October 29, 2010.

In an effort to reduce printing costs, the Committee on Veterans’ Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for materials for all full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Debbie Smith by fax at 202–225–2034. If you have any questions, please call 202–225–9756.

Sincerely,

BOB FILNER
Chairman

CW:ds

Hearing Date: September 15, 2010
Committee: HVA, Member: Congressman Filner, Witness: Mr. Hebert

Personality Disorders

Question 1: Some individuals contend that personality disorders are not possible for servicemembers who must demonstrate physical and mental fitness for duty. How do you respond to these assertions?

Answer: Qualified medical professionals have diagnosed Personality Disorders in Servicemembers who previously demonstrated physical and mental fitness for duty. Latent symptoms do occur and may present themselves after exposure to differing conditions.

FY 2009 Military Services Compliance Reports

Question 2: Do you know when the fiscal year 2009 compliance reports for each of the military services that were supposed to be submitted to DoD by March 31, 2010, will be submitted to DoD?

Answer: Yes. All Military Departments have submitted their fiscal year 2009 Personality Disorder Separation Reports. Dates submitted: Dept of Navy–6 Apr 10; Air Force–23 Apr 10; Army–14 Jun 10. Based on the Services reports, on 10 September 2010, USD (P&R) directed the Military Departments to report their compliance with DoD Personality Disorder separation guidance through FY 2012 for continued review by USD (P&R).

Oversight of FY 2008 Services Corrective Action Plans

Question 3: How is DoD ensuring that the corrective action plans discussed by each of the military services in their fiscal year 2008 compliance reports are being implemented by the services?

Answer: To ensure that the corrective action plans are being implemented, the Department required the Services to report their compliance with Personality Disorder separation guidance for FY 2008 and FY 2009. Significant compliance improvement was reported in FY 2009 versus FY 2008. However, the Services were not yet 100 percent compliant with all eight DoD Personality Disorder Separation requirements. Therefore, on 10 Sep 2010, the Under Secretary of Defense for Personnel and Readiness directed the Military Departments to continue to report on their compliance with DoD Personality Disorder Separation guidance through FY 2012, which will be reviewed by the Under Secretary of Defense for Personnel and Readiness.

DoD Plans to Implement a Long-Term Reporting System

Question 4: Does DoD plan to implement a long-term system of reporting, beyond the fiscal years 2008 and 2009 compliance reports, for each of the military services to document their compliance with personality disorder separation requirements?

Answer: Yes. On September 10, 2010, the Under Secretary of Defense for Personnel and Readiness directed the Military Departments to continue to report on their compliance with DoD Personality Disorder Separation guidance through FY 2012. These reports will be reviewed by the Under Secretary of Defense for Personnel and Readiness.

Personality Disorder Separation

Question 5: How does DoD plan to oversee the military services' compliance with DoD personality disorder separation requirements?

Answer: In order to oversee the Military Services' compliance with DoD Personality Disorder separation requirements, DoD requires the Military departments to provide a report on compliance. On January 14, 2009, the Military Departments were directed to provide a report on compliance with DoD Personality Disorder separation guidance contained in DoDI 1332.14 for FY 2008 and FY 2009. While significant improvement in compliance has occurred, it is clear that compliance reporting should continue. Therefore, on September 10, 2010, the Under Secretary of Defense for Personnel and Readiness directed the Military Departments to continue their compliance reporting through FY 2012. These reports will be personally reviewed by the USD (P&R). Further extensions will be considered until USD (P&R) is satisfied that full compliance is being achieved.

Personality Disorder Separation

Question 6: Please explain how enlisted servicemembers who are separated with a personality disorder diagnosis got into the service in the first place. Does DoD or the military services have any kind of test or assessment that could help detect a personality disorder prior to a recruit coming into the service?

Answer: All applicants for military service go through a multi-step medical screening process. An essential part of that screening is a medical exam at a Military Entrance Processing Station (MEPS). With respect to Personality Disorder, the following applies:

1. Applicants are required to complete a medical pre-screening (DD 2807–2 Medical Prescreen of Medical History Report) before reporting to the MEPS. That

form is reviewed by the MEPS' Medical Staff to identify individuals who require additional screening. The question on the form related to mental health issues is:

- a. Have you seen a psychiatrist, psychologist, counselor or other professional for any reason (*inpatient or outpatient*) including counseling or treatment for school, adjustment, family, marriage or any other problem, to include depression, or treatment for alcohol, drug or substance abuse?
2. Furthermore, all applicants undergo a medical evaluation that includes a review of medical history and physical with a licensed physician. Included in the medical history at the time of the examination are the following questions:
 - a. Nervous trouble of any sort (anxiety or panic attacks)?
 - b. Received counseling of any type?
 - c. Depression or excessive worry?
 - d. Been evaluated or treated for a mental condition?
 - e. Attempted suicide?

All positive responses are addressed by the examining physician at the time of the physical examination. In addition, through the course of interactions with military and medical professionals, symptoms which present themselves result in further examinations.

It is possible for a person who is separated with a personality disorder to enter a Service. If during the examination, an applicant fails to reveal a personality disorder or another mental health issue and none are detected, the applicant may be deemed qualified from a mental health standpoint. However, it should be noted that this screening process is unlikely to identify all cases of personality disorder. Even if a recruit has a history of difficulties working or getting along with others, which might provide a clue to possible personality disorder, that behavior might not have resulted in a medical evaluation or diagnosis that could later be reviewed during an entrance examination. A person also may enter service without a personality disorder and develop one over time that leads to separation.

Personality Disorder Separation

Question 7: DoD's August 2008 policy requires that the military services comply with additional requirements when separating enlisted servicemembers diagnosed with a personality disorder who served in an imminent danger pay area. This policy applies to servicemembers separated as of August 28, 2008, and is intended to make sure that these servicemembers do not have post-traumatic stress disorder or some other combat-related condition. What action is DoD taking for those servicemembers who were separated with a diagnosis of a personality disorder prior to August 28, 2008, and who served in an imminent danger pay area?

Answer: On September 10, 2010, the Under Secretary of Defense for Personnel and Readiness directed the Military Departments to report by March 31, 2011, actions taken to:

1. Identify Servicemembers who have deployed in support of a contingency operation since September 11, 2001, and were later administratively separated for a personality disorder, regardless of years of service, without completing the enhanced screening requirements for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI).
2. Inform Servicemembers of the correction of discharge characterization process.
3. Inform Servicemembers on how to obtain a mental health assessment through the Department of Veterans Affairs.
4. Identify these individuals to the Department of Veterans Affairs.

The Office of the Under Secretary of Defense (Personnel and Readiness) will examine the reports and ensure that the Services perform the latter three actions for any Servicemember found to have not received the services.

Adjustment Disorder Diagnoses

Question 8: Has DoD reviewed the allegation that the military services may be discharging enlisted servicemembers with a diagnosis of adjustment disorder in order to reduce the number of personality disorder discharges? If so, what did DoD find? If not, does DoD intend to review this?

Answer: Yes, the Department has conducted this review. When this allegation came to light, the Department examined the number of Servicemembers administratively separated for Personality Disorder and Adjustment Disorder since 2000. De-

fense Manpower Data Center (DMDC) data showed the Air Force was the only Service that separated Servicemembers for Adjustment Disorder.

Air Force clinicians are sensitive to the need and requirement to evaluate for potential disability when an administrative separation is being considered. Clinicians follow current DoD and Air Force guidance when making these recommendations regarding administrative separations. The Air Force is fully compliant with the DoD Personality Disorders separation guidance. It is understood that under the Diagnostic and Statistic Manual (DSM), Personality Disorders and Adjustment Disorders are not substitutes for one another. Data are collected and coded separately, but they often co-exist. Substituting one diagnosis for another simply to avoid administrative or clinical review is neither appropriate nor authorized.

The Air Force reviewed data related to the separation of Airmen for Adjustment Disorders and Personality Disorders. The percentage of Air Force mental health discharges for Personality Disorders has always been quite small (approximately 5–8 percent of the total number of mental health discharges).

Adjustment Disorder Diagnoses

Question 9: What action has DoD taken to ensure that servicemembers discharged with a diagnosis of adjustment disorder do not have post-traumatic stress disorder or traumatic brain injury? Do symptoms for an adjustment disorder overlap with symptoms for PTSD or TBI?

Answer: On August 28, 2008, the Department issued new policy on personality disorders separations, which added greater rigor and oversight. The revised policy only permits a personality disorder separation if diagnosed by a psychiatrist or PhD-level psychologist. Implementation of this change has increased the Department's confidence in our ability to accurately diagnose personality disorders. This change also serves to improve the identification of any co-morbidity of PTSD or TBI.

In addition, Servicemembers who have served in an imminent danger pay area must have their diagnosis corroborated by a peer psychiatrist, PhD-level psychologist, or higher level mental health professional and endorsed by the Surgeon General of the Military Service concerned. This change specifically addresses concerns that Servicemembers suffering PTSD or TBI might be separated without proper treatment under the non-compensable, exclusive diagnosis of a personality disorder. To ensure continued monitoring of this critical process, the Department implemented oversight mechanisms to include an annual personality disorder report and periodic reviews of personality disorder separation data by the Department's Medical and Personnel (MedPers) Council.

With regard to whether there can be overlap between the cognitive and behavioral symptoms of adjustment disorder (particularly mixed type) and PTSD or TBI, the answer is yes. Examples of potentially overlapping symptoms include subjective memory difficulties, mood problems, impulsivity, anger or withdrawal. However, diagnosis is not made solely on reported symptoms. Evaluation includes interview, medical history, and mental status examination. Additional physical examination, laboratories, imaging, psychological testing, and other evaluations are performed as appropriate. There are distinguishing factors of each condition used to make an accurate diagnosis. Prerequisite to each condition is the root cause of the inciting event. In the case of PTSD, it is exposure to an event where there was risk to life or limb of self or others. In the case of TBI, it is a blast or blow to the head. In the case of an adjustment disorder, the stressor is usually a more common psychosocial one, such as problems in a relationship, problems in adjusting to military life, or legal problems. When the stressor is removed, the adjustment disorder should resolve. With the understanding that an individual can have one, two, or all three diagnoses simultaneously, a review of personal history is necessary to separate the three conditions under most circumstances.

FY 2009 Military Services Compliance Reports

Question 10: Ms. Draper stated that, as of August 31, 2010, DoD had not received the military services' FY 2009 reports on compliance with the additional personality disorder requirements implemented in 2008. When do you expect to receive these reports?

Answer: These reports have been received by DoD. All of the Military Departments have submitted their fiscal year 2009 Personality Disorder Separation Reports. (Dates submitted: DoN–6 Apr 10; AF–23 Apr 10; Army–14 Jun 10.)

Committee on Veterans' Affairs
 Washington, DC.
 September 21, 2010

The Honorable Eric K. Shinseki
 The Secretary
 U.S. Department of Veterans Affairs
 810 Vermont Avenue, NW
 Washington, DC 20420

Dear Mr. Secretary:

In reference to our Full Committee hearing entitled "Personality Disorder Discharges: Impact on Veterans' Benefits," that took place on September 15, 2010, I would appreciate it if you could answer the enclosed hearing questions by the close of business on October 29, 2010.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for materials for all full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Debbie Smith by fax at 202-225-2034. If you have any questions, please call 202-225-9756.

Sincerely,

BOB FILNER
 Chairman

CW:ds

Questions for the Record
The Honorable Bob Filner, Chairman, House Committee on Veterans' Affairs, "Personality Disorder Discharges: Impact on Veterans' Benefits" September 15, 2010

Question 1: Does VA track the cases where veterans are granted service connection for PTSD or other mental health conditions even though they were discharged from the military with a personality disorder?

Response: VA does not systematically track instances where Veterans are discharged from the military with a personality disorder and are subsequently granted service connection for PTSD or other mental health conditions. VA generally reviews and decides issues that are specifically claimed by the Veteran. Unless the Veteran claims the issue of service connection for a personality disorder, there is no requirement for VA to electronically enter information about the condition into the corporate system. Thus, the requested data cannot be obtained through VA's corporate computer system.

Question 2: How many personality disorder discharges have you seen since the new policy was implemented where the servicemember may have served in combat?

Response: Deferred to Committee to forward to DoD.

Question 3: It's said that PTSD symptoms mimic personality disorders. Is there standard clinical guidance that allows for proper diagnosis of personality disorders?

Response: The standard clinical guidance for the diagnosis of both PTSD and personality disorders is found in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (*DSM-IV-TR*) published by the American Psychiatric Association. A personality disorder is defined by the *DSM-IV-TR* as an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, manifested in cognition (ways of perceiving or interpreting events and others' behavior), affect (including the range, intensity, ability to manifest, or appropriateness of emotional responses), interpersonal functioning, and impulse control. Essentially, this means that a person with a personality disorder displays behavior and attitude that is a stable, long-term characteristic of the individual and that differs from cultural norms in problematic ways. Specifically, *DSM-IV TR* requires that, "The pattern is stable and of long duration and its onset can be traced back at least to adolescence or early adulthood." On the

other hand, PTSD is an anxiety disorder that may develop at any point of the life-span as a response to traumatic event(s) and is not seen as a stable, longstanding characteristic of the individual.

When clinicians provide a differential diagnosis between PTSD and personality disorders, they take several factors into account. For example, a new diagnosis of a personality disorder should not be made if the person currently also meets criteria for another major mental health disorder. Specifically, it requires that, "The enduring pattern is not better accounted for as a manifestation or consequence of another mental disorder," and that, "The enduring pattern is not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a general medical condition (e.g., head trauma)." Primarily, these requirements exist because the problems exhibited by individuals with personality disorders can also be symptoms of other mental health conditions, and without a prior personality disorder diagnosis, the clinician cannot assume that these symptoms represent long-standing, enduring characteristics of the individual, rather than being symptoms of a new major mental health disorder.

Question 3(a): Are personality disorders inherently pre-existing, or is it possible to develop a personality disorder as a result of military service? If so, how does the C&P examination process consider this possibility?

Response: As noted above, a personality disorder is "an enduring pattern of inner experience and behavior ... The pattern is stable and of long duration and its onset can be traced back at least to adolescence or early adulthood." Therefore, most cases of personality disorders would manifest prior to a person's military experience. However, it is possible that the diagnosis may not be made until one's military service. A personality disorder would *not* be considered to develop as a result of military service in the same way that PTSD might have a precipitating event that occurred as part of an individual's military service. However, it is possible that some individuals may not have encountered the sorts of challenging experiences in a structured setting (which could include basic training or combat experiences) that would have precipitated recognition of the fact that the individual meets criteria for a personality disorder until the individual entered military service.

Compensation and Pension (C&P) examination processes begin with the Veterans submitting a claim. An appropriate interview is then arranged to examine the clinical basis for the claim. A diagnosis given by DoD when the Veteran separates, while reviewed as part of the medical record, is not determinative of the diagnosis established as a result of the C&P examination. The Veteran will be evaluated as to whether the diagnosis for which he or she submits a claim is substantiated according to DSM-IV-TR criteria. For mental health claims, only doctoral level, licensed Psychologists or Psychiatrists can conduct the diagnostic interview. Service connection may not be granted for a personality disorder; only acquired psychiatric disorders, which are categorized separately in the DSM-IV-TR, may be service connected.

Question 4: In your testimony, you note that veterans are not bound by any diagnosis from DoD when seeking treatment from VA or when submitting a claim for service connection. While this may be true, do you believe that these veterans face an uphill battle in proving that their pre-existing conditions were aggravated by or worsened by their service?

Response: Because personality disorders are considered constitutional or developmental abnormalities, they are not diseases in the meaning of applicable legislation for disability compensation purposes. Therefore, personality disorders are not subject to service connection (this includes service connection on the basis of aggravation). In instances where a Servicemember enters service with a pre-existing personality disorder, it is possible that a superimposed disease or injury could occur. In these cases, service connection would be warranted for the additional resultant disability. An example would be PTSD superimposed on the personality disorder. When adjudicating these types of cases, VA reviews all evidence of record and then renders a fair and equitable decision based on the merits of the case.

Question 5: Do VA clinicians administering C&P examinations receive training on distinguishing between PTSD or TBI and a personality disorder? Do non-VA clinicians contract to administer C&P examinations?

Response: The standard clinical guidance for the diagnosis of PTSD and personality disorders is found in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (*DSM-IV-TR*) published by the American Psychiatric Association. Psychiatrists and psychologists, who are the clinicians conducting the C&P examinations for mental health conditions, receive training on the

diagnostic nomenclature, as well as related guidance on differential diagnosis provided in the *DSM-IV-TR* during their graduate and postgraduate training. Knowledge of this clinical guidance is tested through state professional licensure exams and reinforced through professional continuing education.

VHA requires that its clinicians complete certification training before performing C&P examinations. Certification training is available and required for both PTSD and TBI. VHA has conducted in depth training programs on a variety of mental health subjects during National C&P Conferences. PTSD is included in these conferences, as is TBI. VHA held a four day National Conference August 5–7, 2008 specifically to address PTSD and TBI. Included in this national conference were programs titled:

- *Overview of PTSD Regulations;*
- *PTSD Stressor Identification and Other Key Exam Items;*
- *PTSD Measures; and*
- *PTSD, Psychiatric and Medical Co-Morbidities.*

The next conference is being planned for early summer 2011.

VHA can hire (contract) part time C&P exam services. Those providers examine on site and are required to follow the same certification and registration process as full-time examiners. Some facilities have chosen to contract with QTC Medical Services, Inc., one of VBA's large C&P exam contractors. These exams are done in private doctor's offices.

Non-VA clinicians are contracted to administer C&P examinations through a contractor. The contractor trains non-VA clinicians to conduct high quality examinations. Contractor training includes VA's rating criteria, issues identified in current VA fast letters, including PTSD and TBI, and other updates such as the recent PTSD regulation change.

The contractor subcontracts with mental health and medical professionals who are certified and licensed in their area of expertise. The contractor only uses physicians and psychologists for mental health assessments, rather than mid-level clinicians. Examiners are required to use examination worksheets for PTSD/Mental Health and TBI, which have specific guidelines. Initial examination worksheets are closely reviewed, and refresher training is provided to address any issues. The contractor provides annual refresher training and sends a monthly training letter with updates on C&P exams.

An examiner's quality is measured immediately after he is trained and begins doing C&P exams. The contractor does a 100 percent review of the first 10 exams of each worksheet before the examiner is allowed to work independently. The contractor also has an internal process to track the examiner's quality. If the work is unsatisfactory, then the individual is retrained before scheduling additional exams. If retraining fails to correct quality deficiencies, the examiner will not be allowed to continue conducting examinations. C&P Service's Contract Exam Staff also conducts quarterly reviews of exams done by the contractor.

Question 6: Mr. Sullivan of Veterans for Common Sense stated a concern that veterans who have been discharged due to a personality disorder "frequently believe they are not entitled to full VA benefits." Does VA provide any outreach to these veterans to ensure they understand the benefits they are entitled to?

Response: Although VA does not have a specific outreach program for Veterans discharged due to personality disorders, our current separation programs provide assistance to these Veterans. VA openly encourages all Servicemembers to complete the Transition Assistance Program (TAP) or Disabled Transition Assistance Program (DTAP). DoD supports VA by affording each Servicemember the opportunity to attend TAP/DTAP prior to and even after leaving the military.

