STATEMENT OF
PETER S. GAYTAN, PRINCIPAL DEPUTY DIRECTOR
VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON HEALTH
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
DEPARTMENT OF VETERANS AFFAIRS (VA) EMERGENCY PREPAREDNESS ACT OF 2002 AND FORCE HEALTH PROTECTION

MARCH 27, 2003

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to present The American Legion's views on the implementation of Public Law 107-287, the *Department of Veterans Affairs Emergency Preparedness Act of 2002* and VA-DOD efforts to coordinate force protection in the active duty military forces of the United States. With our armed forces currently fighting a war in Iraq and the use of chemical weapons a major threat, not only to overseas troops but also to civilians within our borders, these topics are of vital importance and we commend the Subcommittee for holding this hearing.

After the terrorist attacks of September 11, 2001, there was a renewed interest in the nation's ability to adequately respond to a national emergency. Within that scope, the importance of VA's fourth mission, as principal medical care back up for military health care, was brought to the forefront. The role of VA in a national emergency as specifically stated under title 38, United States Code, §8111A is, "during and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Secretary may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty." It is the responsibility of Congress to ensure VA is provided the funding and the resources necessary to accomplish that mission.

Under the National Disaster Medical System (NDMS) and the Federal Response Plan (FRP) VA's specialized duties entail:

- Conducting and evaluating disaster and terrorist attack simulation exercises;
- Managing the nation's stockpile of pharmaceuticals for biological and chemical toxins;
- Maintaining a rapid response team for radiological releases; and
- Training public and private NDMS medical center personnel around the country in properly responding to biological, chemical, or radiological disasters.

In response to the tragic events of September 11, 2001 VA quickly mobilized employees to assist in answering questions, providing mental health services, filing for benefits, and assisting with

burial arrangements for the victims. VA also worked jointly with the Federal Emergency Management Agency (FEMA), the Office of Crime Victims (OCV), American Airlines and the American Red Cross. VA's National Center for Post-Traumatic Stress Disorder (PTSD) sent six team members from the Palo Alto Education Division to the Pentagon Family Assistant Center within days of the attacks. This team provided psychological support and education to the recovery workers and family members. For many weeks following the aftermath of 9/11, VA maintained a presence at the Pentagon and in New York to provide much needed services.

In the wake of the September 11th terrorist attacks it became clear that a first responders network was needed to address possible casualties as a result of the potential use of weapons of mass destruction. The VA healthcare system again became the focus of this mission as part of the comprehensive plan for homeland security. Testimony offered by the former Assistant Secretary of Defense for Health Affairs, Dr. Sue Bailey, October 15, 2001, outlined critical needs for that system that acknowledged VA's role.

A coordinated surveillance, identification, containment, communication, and response system will be necessary to minimize the effects of a biologic, chemical or conventional mass casualty incident. Essential facets of such a system would include:

· Adequate communications support between headquarters and field offices and on-site systems.

· Integrated communications among detection units, laboratories, ***first responders***, health care facilities, and federal agencies.

· Adequate detection equipment and enhanced laboratory capacities.

· Coordinated nation-wide medical surveillance for near real-time trend analysis.

· Accelerated specialized training of health care providers, ***first responders***, and other personnel.

· Increased protection for ***first responders*** and facilities.

· Ensured access to stockpiled medications and vaccines.

· Decontamination facilities at all hospitals.

· Enhanced surge/bed capacity and alternative/mobile medical facilities.

· Improved bed status and patient-tracking reporting systems.

Doctor Bailey expressed that it was vital that the resources of the VA and DOD Systems be included in these efforts so that in the event the National Disaster Medical System is activated, the full capacity of the nation medical resources could be brought to bear.

In April 2002, The American Legion submitted testimony to this Committee in support of *H.R. 3253, National Medical Emergency Preparedness Act of 2001.*

VA possesses the infrastructure and expertise to be a significant and vital link to providing myriad services to the national efforts in preparing coordinated emergency responses. Not only did VA demonstrate their effectiveness as a first responder after 9/11; they confirmed their value through their strong research program, medical education and health professions training program and their affiliations with nearly 1,400 medical and other allied health care schools. With that type of capacity and experience in place, VA is poised to become a much bigger player in national emergency.

In November 2002, President Bush signed into law the *Department of Veterans Affairs Emergency Preparedness Act*, which called for the establishment of four medical emergency preparedness centers, staffed by VA employees and located at VA hospitals. These centers would carry out research and develop methods of detection, diagnosis, vaccination, protection, and treatment for biological, chemical or radiological attacks. Additionally, these centers would provide education, training, and advice to health-care professionals, including those outside the Veterans Health Administration (VHA); and provide contingent rapid response laboratory assistance and other assistance to local health care authorities in the event of a national emergency. It further authorized $100 million for the centers over the next five years. The American Legion fully supported these recommendations.

However, the fiscal year 2003 omnibus appropriations bill contained no provisions for establishing medical emergency preparedness centers or funding a new office within VA for operations, security and preparedness. The American Legion is outraged that the appropriators cut funding for the emergency preparedness centers at a time when we need them most.

VA cannot be expected to fulfill mandates without dedicated funding. The medical care accounts are already perpetually stretched to fulfill VA's primary mission of providing health care and services to veterans and their families. We urge this Subcommittee to support full funding needed to implement the provisions of Public Law 107-287.

Force Protection

As American military forces are once again engaged in an overseas war, the health and welfare of our deployed troops is of utmost concern to The American Legion. The need for effective coordination between VA and DOD is paramount.

Twelve years have past since the first Gulf War, many of the hazardous health conditions, apart from combat, are still major concerns in the current operations. Advancing coalition forces are encountering burning oil wells and toxic smoke, increasing the potential for respiratory illnesses. Naturally occurring virus such as anthrax and malaria are still ever present in the region. In addition to the environmental hazards are our own medical protocols to counter these health threats. Pyridostigmine Bromide (PB), a pretreatment for Soman nerve agent, has been recently approved by the FDA. Currently its use is at the commander's discretion but it has been suspect as a possible cause for the multi-symptom illness reported by thousands of 1991 Gulf War veterans. The continued use of depleted uranium munitions and the unresolved possibility of exposure contributing to further health complications are real threats to our service-members' health.

Many questions remain regarding the unexplained multi-symptom illnesses, referred to collectively as Gulf War veterans' illnesses, still plaguing thousands of Gulf War veterans. Troops in today's war will encounter many of the same hazards and agents previously identified as possible causes of these unexplained illnesses. We must be vigilant in our efforts to ensure that the mistakes made in 1991 are not repeated today.

Prior to the first Gulf War deployment, troops were not systematically given comprehensive pre-deployment health examinations, nor were they properly briefed on the potential hazards, such as fallout from depleted uranium munitions, that they might encounter on the battlefield or in the theater. Record keeping was also poor. Numerous examples of lost or destroyed medical records of active duty and reserve personnel have been identified. Vaccines were not administered in a consistent manner and vaccination records were often unclear or incomplete. Moreover, personnel were not provided information concerning vaccines or prescribed medications. Some medications were distributed with little or no documentation or dosage instructions, to include possible side effects or instructions to immediately report unexpected side effects to medical personnel.

Physical examinations, pre and post deployment, were not comprehensive and information regarding troop movements/locations and possible environmental hazard exposures was severely lacking. The lack of such baseline data and other information is commonly recognized as a major limitation in the evaluation and understanding of potential causes of Gulf War veterans' illnesses. We are doomed to repeat this pattern in this second war in Iraq if these failures are not corrected.

To avoid the procedural problems encountered both during and after the 1991 Gulf War, "lessons learned" have precipitated the enactment of legislation and policies designed to create a concept of Force Health Protection (FHP). The goal of the Department of Defense (DOD) FHP policies and programs is to promote and sustain the health of service members during their entire length of service. On the surface, the concept of Force Health Protection and related policies appear to have addressed the major problems of the past. Unfortunately, reality may be a different story. Last year, in testimony before this subcommittee, an official from the General Accounting Office (GAO) reported that although DOD placed the responsibility for implementing its FHP policies with a single authority, the Deputy Assistant Secretary of Defense for Force Health Protection and Readiness, each service branch is ultimately responsible for implementing DOD initiatives and policies to achieve FHP goals. GAO noted that this caused concerns about how the services would uniformly collect and share core data on deployments and how they will integrate information on the health status of service members. According to GAO, DOD officials also verified that DOD's medical surveillance policies and efforts depend on the priority and resources dedicated to their implementation.

The American Legion would like to specifically identify an element of Force Health Protection that deals with DOD's ability to accurately record a service member's health prior to deployment and document or evaluate any changes in their health that occurred during deployment. This is exactly the information VA needs to adequately care for and compensate service members for service-related disabilities once they leave active duty. However, DOD must do a better job of

accurately recording this information. Section 765 of PL 105-85 directed DOD to take specific actions to improve medical tracking for personnel deployed overseas in contingency or combat operations, outlining a policy for pre and post deployment health evaluations and blood samples. The conduct of a thorough "examination" (pre and post deployment), including the drawing of blood samples was specifically identified in the law.

Unfortunately, DOD's current implementation of this provision of the law does not, in our opinion, fulfill this requirement. In lieu of thorough pre and post deployment medical examinations as required by law, DOD has deploying and returning service members fill out brief health questionnaires. The pre-deployment questionnaire, DD Form 2795, contains eight questions and the post-deployment questionnaire, DD From 2796, contains six questions. A self-reported health assessment questionnaire is not of the same value as an examination conducted by a physician or other medical officer and is not an accurate gauge of an individual's health status prior to or following deployment. Thus, the law specifically requires pre and post deployment "examinations," not a simple self-reported questionnaire.

The American Legion also questions DOD's reliance on blood samples taken for human immunodeficiency virus (HIV) tests to fulfill the pre and post deployment blood drawing requirement of PL 105-85. According to DOD procedure, deploying military personnel must be tested and found negative for HIV no more than 12 months before deployment on contingency operations. Although a specimen of serum used for this testing is stored at the DOD Serum Repository, the pre-deployment sample could be up to a year old, or older, and would, therefore, not be an accurate gauge of health immediately prior to deployment. Likewise, a post-deployment HIV blood drawing may take place many months after the service member returns from deployment and would not be an accurate gauge of any changes in health that took place during deployment.

As U.S. forces move deeper into Iraq, the possibility of Iraq releasing chemical and biological weapons out of desperation increases dramatically. The American Legion is concerned about the ability of American military forces to operate and survive in a nuclear, biological or chemical (NBC) environment. During the 1991 war, the thousands of chemical detection alarms were later reported as "false alarms." The ability to properly detect the presence of NBC agents in the area of operation remains a grave concern. Questions have also recently surfaced around DOD's ability to properly identify, track and locate defective chemical protective suits. In October 2002, GAO reported that in May 2000, DOD ordered storage depots and units to locate 778,924 defective suits produced by a single manufacturer. As of July 2002, military officials were still unable to account for 250,000 defective suits. Responding to an American Legion inquiry, officials from the Deployment Health Support Directorate reported that they "believe" the remaining defective suits have either been destroyed or used in training activities. The difficulty in locating the defective suits was a result of inventory records lacking contract and lot numbers. GAO also reported that DOD could not determine whether its older suits would adequately protect military personnel because some of the systems' records do not contain data on suit expiration. Finally, GAO reported that the risk of shortages of protective clothing might increase dramatically from the time of its report (October 2002) through at least 2007.

While military service is inherently dangerous and certain risks are to be expected, the government is obligated to provide health care and compensation to those who sustain chronic disabilities as a result of such service. Title 38, United States Code places the burden of proof in establishing a service-connected disability on the veteran and establishing service connection directly impacts the veteran's ability to access VA health care. VA's ability to adequately care for and compensate our nation's veterans depends directly on DOD's efforts to maintain proper health records/health surveillance, documentation of troop locations, environmental hazard exposure data, and the timely sharing of this information with VA.

Without such information, the burden of establishing service connection and accessing entitled benefits is virtually impossible for the veteran to meet. Additionally, this information is also needed by VA to adequately complete its fourth mission of providing medical backup to DOD in times of war. If relevant health and environmental exposure information is incomplete or does not even exist due to previously discussed breakdowns in the system, discussions on how VA and DOD can better share this information is irrelevant.

Summary

The American Legion applauds Chairman Smith for the introduction of the Department of Veterans Affairs Preparedness Act of 2002 and we share the Chairman's disappointment with the appropriators' refusal to fund the provisions of this important law.

Nearly 18 months have passed since the shattering of the naïve perception that the United States is invulnerable to attack. The Armed Forces are once again fighting in a foreign land and every day they face the horrific possibility of a chemical, radiological or biological attack. In the event of any such warfare or national emergency, the nation must be prepared to respond rapidly, in a coordinated, national effort, and care for the wounded. VA must be funded at a level that will enable full and adequate fulfillment of the fourth mission.

Additionally, a sincere desire in information collection, sharing and mutual cooperation at the highest level of DOD and VA is needed in order to ensure effective force protection for U.S. servicemembers who may be exposed to chemical, biological or radiological weapons. The American Legion is heartened by a February 2003 letter from the Secretary of Veterans Affairs to the Secretary of Defense, expressing the importance of VA-DOD cooperation in collecting and sharing adequate health and exposure data from those currently deployed. This cooperation must continue if we are to provide effective protection for current and future members of the U.S. Armed Forces.

Again, I appreciate the opportunity to present testimony before the Subcommittee and The American Legion looks forward to working with each of you on these important issues. That concludes my testimony.