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THE PERSIAN GULF VETERANS ACT OF 1998

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

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THE PERSIAN GULF VETERANS ACT OF 1998

THURSDAY, APRIL 22, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2247, Rayburn House Office Building, Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Wise, Sanders, and Schakowsky.

Staff present: Lawrence J. Halloran, staff director and counsel; Newman, Wharton, Raphael, and Gosa.

Mr. SHAYS. I would like to call this hearing to order and to welcome Senator Byrd. Senator Byrd, I am just going to read a very short statement. Then we are going to get right to you.

Last month, witnesses from national veterans service organizations urged this subcommittee to keep close watch on the Department of Veterans Affairs [VA] as the Secretary and his staff implement new statutory mandates to meet the needs of sick Gulf war veterans. Today we heed their advice.

Legislation enacted in 1998 contains clear directives and fixed deadlines to create a presumption in favor of those seeking to connect toxic war exposures to chronic health effects. But veterans' advocates warned that bureaucratic resistance and scientific uncertainty threatened more delays in their 9-year struggle for recognition their illnesses are real, their wounds war-related. They were right.

Under the Persian Gulf War Veterans Act of 1998, April 21, 1999, yesterday, was the deadline for submission of an interim report from the National Academy of Science [NAS] to VA on the toxins to be studied for links to illnesses. But because VA waited 3 months for the Department of Justice to interpret overlapping but by no means contradictory provisions of two statutes, that deadline has already been missed.

The good news: VA contracted with NAS in late 1997 for a study of exposure-related illnesses that may meet most, but not all, the requirements of the laws. This hearing is to determine more precisely, and more publicly, how the VA and NAS plan to go forward to meet the spirit, if not always the letter, of the statutes.

The process we oversee today is the culmination of a 3-year effort by this subcommittee. We held 13 hearings and adopted a report containing 18 specific recommendations, the first two of which were that: Congress should enact a Gulf war toxic exposure act estab-

lishing the presumption, as a matter of law, that veterans were exposed to hazardous materials known to have been present in the Gulf war theater; and the VA should contract with an independent scientific body composed of non-government scientific experts for the purposes of identifying those diseases and illnesses associated in peer-reviewed literature with singular, sustained or combined exposures to the hazardous materials to which Gulf war veterans are presumed to have been exposed.

We are very honored to be joined this morning by the author of the Persian Gulf War Veterans Act, Senator Robert Byrd of West Virginia. While this subcommittee's hearings and recommendations may have helped keep the cause alive, it was his vision and determination, and that of his staff that, in the end, enacted them and put the law on the side of the sick Gulf war veteran.

Mr. Byrd, we welcome you. We welcome all our witnesses. I ask if Mr. Wise has any comment that he would like to make and obviously welcome him to this hearing.

[The prepared statement of Hon. Christopher Shays follows:]

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Statement of Rep. Christopher Shays
April 22, 1999

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> *Congress should enact a Gulf War toxic exposure act establishing the presumption, as a matter of law, that veterans were exposed to hazardous materials known to have been present in the war theater.*

and,

> *The VA should contract with an independent scientific body composed of non-government scientific experts ... for the purposes of identifying those diseases and illnesses associated in peer-reviewed literature with singular, sustained or combined exposures to the hazardous materials to which Gulf War veterans are presumed to have been exposed.*

We are honored to be joined this morning by the author of the Persian Gulf War Veterans Act, Senator Robert Byrd of West Virginia. While this Subcommittee's hearings and recommendations may have helped keep the cause alive, it was his vision and determination that, in the end, put the law on the side of the sick Gulf War veteran.

We welcome him, and all our witnesses this morning, as we work together to heal the hidden wounds of the desert war.

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NEWS RELEASE

For Immediate Release
April 15, 1999

Contact: Robert Newman
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Rep. Christopher Shays to Convene April 22 Hearing on VA's Response To Mandates in "The Persian Gulf War Veterans Act of 1998"

(Washington, DC) -- Congressman Christopher Shays (R-CT), Chairman of the Subcommittee on National Security, Veterans Affairs, and International Relations, will convene an oversight hearing April 22 to examine the Department of Veterans Affairs' (VA's) implementation of "The Persian Gulf War Veterans Act of 1998." The hearing was announced today by Congressman Dan Burton (R-IN), Chairman of the Committee on Government Reform.

The new law calls for the National Academy of Sciences (NAS), under contract to the VA, to identify toxic agents present in the Gulf War theater such as nerve agents, environmental or wartime hazards, vaccines and experimental drugs and diseases known to be associated with exposure to one or more of these substances. The legislation specifically identifies over 30 such toxic agents as potential health threats to U.S. troops during the Gulf War.

"The purpose of this legislation is to establish a presumption of service-connection for illnesses associated with service in the Gulf War," Shays said. "We may never know precisely what caused thousands of veterans to become sick, but such a presumption of exposure will allow them to finally receive appropriate treatment and compensation for their war-related injuries."

The lead witness at the hearing will be Senator Robert Byrd, author of the Senate version of the new law. Other witnesses will be representatives from the VA and NAS.

The April 22 hearing will convene at 2:00 p.m., Room 2247, of the Rayburn House Office Building, in Washington, DC.

Chairman Shays' subcommittee conducted a 3-year investigation, including 13 hearings, producing a major report recommending a presumption of service-connection. He and 212 bipartisan co-sponsors introduced a bill to implement the legislation last year. In the Senate, similar legislation was proposed by Senator Byrd, and was included in the omnibus appropriations bill, H.R. 4328, under Title XVI, Division C, Sections 1601&1602, entitled "The Persian Gulf War Veterans Act of 1998." It was enacted on October 21, 1998.

The Subcommittee on National Security, Veterans Affairs, and International Relations has oversight responsibilities over those department and agencies of government responsible for national security, veterans affairs, and international relations, including all anti-terrorism efforts and intelligence gathering activities.

Mr. WISE. Thank you Mr. Chairman. Mr. Chairman, thank you for conducting this hearing. You have been one of the leaders as well in this fight for the Persian Gulf war veterans. I just wanted to say, Mr. Chairman that it is a privilege to be able to participate in the same hearing with Senator Byrd.

Senator Byrd knows well that our State of West Virginia has historically the highest number of veterans per capita. It has for many, many years. West Virginians, as well as those across the country always answer the call. When word first began to develop, and symptoms and problems began to develop, Senator Byrd cut through a lot of the talk about what could be done and got something done.

We are delighted now to have the Senator here, and also to find out what it is that needs to be done to make the promise of the Congress into reality. Thank you very much.

Mr. SHAYS. Senator Byrd, I am just going to get two bookkeeping things out of the way. I would first ask unanimous consent that all members of this subcommittee be permitted to place an opening statement into the record and that the record will remain open for 3 days for that purpose. Without objection; so ordered.

I ask further unanimous consent that all witnesses be permitted to include their written statement in the record. Without objection; so ordered. Senator, I know that Senators are legendary for having quite a lot to say. With no reluctance at all, we do not have a clock for you. You are welcome to speak as long as you would like.

STATEMENT OF ROBERT C. BYRD, A U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator BYRD. Mr. Chairman, I appreciate that consideration. I thank you for inviting my comments on the implementation of the Persian Gulf War Veterans Act of 1998. I am extremely grateful for the opportunity to appear before this committee today. I am especially happy to see my colleague, Robert Wise, here as well.

I think of Bob Wise sometimes as a steam engine in britches. He is so blessed with energy and drive. He is a very hard worker for his District. I am sure he works well with his colleagues here. I consider it a privilege to have the opportunity to be introduced by him.

Chairman Shays, I have especially enjoyed the way that you and I have been able to work across a sometimes deep divide that can separate our Houses and our parties in order to do what is right and long over-due for the veterans of the Persian Gulf war. Concern for our Nation's veterans should be non-partisan in the sense of political parties, but wholly and completely partisan in our hearts.

Today as we watch daily reports of bombing runs over Yugoslavia, it is easy to recall the eerie precision of the video war that was Operation Desert Storm. Many Americans' initial impression of Desert Storm was of a technically precise, almost bloodless operation in which bombs dove to their targets with such deadly accuracy that Iraq's much feared military might seemed to evaporate before our eyes.

As allied pilots assailed Iraq's chemical and biological warfare industry, military planners crowed that Iraqi military commanders

could not bring themselves to use the weapons that we had feared most, the chemical and biological warfare agents that we suspected Iraq of possessing.

Chemical alarms blared incessantly. To protect troops, vaccines unproved for military use were employed and other preventative medical measures were widely taken. To combat disease, pesticides and repellents were sprayed, adding to the foul smog created by burning oil wells set alight by retreating Iraqi forces.

Soldiers quite literally operated in a fog of war for weeks on end. In retrospect, it is hardly surprising that so many veterans of the Gulf war have been in ill health as the result of their service. The official response has been slow; slow to recognize the prevalence of illness; slow to react; slow to organize; slow to respond.

Until the admission in June 1997 that United States forces had in March 1991 blown up large amounts of Iraqi chemical warfare agents at more than one site, no serious effort has been made to investigate the role that exposure to chemical or biological warfare agents may have played in injuring soldiers' health.

The Persian Gulf Veterans Act of 1998 attempts to make up for lost time by requiring the National Academy of Sciences [NAS] to review exposure to many potential hazardous agents during the war and determine what illnesses may be linked to those exposures.

The NAS is also required to recommend further studies where needed in order to resolve questions. With the NAS study in hand, the Persian Gulf War Veterans Act gives the Secretary of Veterans Affairs the ability to administratively make a determination that the illness is service connected for the purposes of providing health care and benefits to the affected veterans.

The most critical element of the Persian Gulf War Veterans Act is that no intervening act of Congress is required to make a determination of service connection happen. I know that I am preaching to the choir here when I observe that requiring an act of Congress to make something happen in a timely manner is perhaps more difficult than requiring an act of God to happen.

I am far more confident, far more confident, that any Secretary of Veterans Affairs will exercise undue restraint than I am, that he or she will be excessively generous in making such a determination of service connection.

I can only urge this and all future Secretaries of Veterans Affairs to act in a just and reasonable manner, ensuring that, to paraphrase President Theodore Roosevelt, veterans get a square deal. I am getting a bit ahead of myself, however. Before those determinations can be made, the reviews have to be conducted.

The first deadline in the act requires the Secretary to seek to enter into an agreement with the NAS not later than 2 months after the date of enactment of this act. That would have been December 21st, Chairman Shays, 1998. However, the VA delayed, seeking a legal opinion from the Justice Department that was received on March 12, 1999.

It basically told the VA to proceed. The second deadline in the act called for an interim report from the NAS specifying the agents, the hazards, the medicines, and vaccines to be considered. That re-

port should have been delivered on April 21st, which was yesterday, 6 months after the date of enactment.

The next and first full report should be delivered on April 21st of next year, with the Secretary's determination of service connection made by June 21, 2000. Even if lost time is made up, no veteran will receive any benefit from this act before November 21, 2000—10 years, 3 months, and 20 days after Iraq invaded Kuwait.

I know that the intent of this hearing is to press the Department of Veterans Affairs to move out swiftly to implement this act. I applaud you for your diligence in conducting this kind of oversight. On the other side of the Capitol, I have joined the subcommittee on VA, HUD, and Independent Agencies of the Senate Committee on Appropriations in order to better oversee the implementation of this and other programs designed to help our Nation's veterans.

Together, then, we can maintain the same vigilant defense of our Nation's veterans that they have provided to us for so long and so well. So, I thank you again for this opportunity to testify, Mr. Chairman. Thank you and all of the members of the committee.

[The prepared statement of Hon. Robert C. Byrd follows:]

Testimony of
Senator Robert C. Byrd
before the
Subcommittee on National Defense, Veterans Affairs, and International Relations
House Committee on Government Reform
April 22, 1999

Chairman Shays, Ranking Member Blagojevich, thank you for inviting my comments on the implementation of the Persian Gulf War Veterans Act of 1998. Chairman Shays, I have especially enjoyed the way that you and I have been able to work across a sometimes deep divide that can separate our Houses and our parties in order to do what is right, and long overdue, for the veterans of the Persian Gulf War. Concern for our nation's veterans should be nonpartisan in the sense of political parties, but wholly and completely partisan in our hearts.

Today, as we watch daily reports of bombing runs over Yugoslavia, it is easy to recall the eerie precision of the 'video war' that was Operation Desert Storm. Many Americans' initial impression of Desert Storm was of a technically precise, almost bloodless operation, in which bombs dove to their targets with such deadly accuracy that Iraq's much-feared military might seemed to evaporate before our eyes. As allied pilots assailed Iraq's chemical and biological warfare industry, military planners crowed that Iraqi military commanders could not bring themselves to use the weapons we feared most — the chemical and biological warfare agents that we suspected Iraq of possessing. But chemical alarms blared incessantly. To protect troops, vaccines unproved for military use were employed, and other preventative medical measures were widely taken. To combat disease, pesticides and repellents were sprayed liberally, adding to the foul smog created by burning oil wells set alight by retreating Iraqi forces. Soldiers quite literally operated in a "fog of war" for weeks on end.

In retrospect, it is hardly surprising that so many veterans of the Gulf War have been in ill health as a result of their service. And they are sicker than veterans of other foreign deployments like Bosnia or Haiti, as reputable studies have noted (The Journal of the American Medical Association [JAMA], September 16, 1998, for U.S. veterans; and The Lancet, January 16, 1999, for British veterans, for example). The official response has been slow — slow to recognize the prevalence of illness, slow to react, slow to organize, and slow to respond. Though Congress, the Department of Defense, and the Department of Veterans Affairs can all point to actions or statements made relatively soon after the war, many veterans feel that the level of effort to discredit their suffering as something akin to hysteria has far outweighed the level of effort made to seriously examine their physical ailments. And until the admission in June 1997 that U.S. forces had in March 1991 blown up large amounts of Iraqi chemical warfare agents at more than one site, no serious effort had been made to investigate the role that exposure to chemical or biological warfare agents may have played in injuring soldiers' health.

The Persian Gulf Veterans Act of 1998 attempts to make up for lost time by requiring the National Academy of Sciences (NAS) to review exposures to many potentially hazardous agents

during the war and determine what illnesses may be linked to those exposures. The NAS is also required to recommend further studies, where needed, in order to resolve questions. With the NAS study in hand, the Persian Gulf War Veterans Act gives the Secretary of Veterans Affairs the ability to administratively make a determination that the illness is service connected for the purposes of providing health care and benefits to the affected veterans. And, this Act does not require that the veteran prove the impossible by providing documentary evidence of an exposure when those records likely were never kept. If the disease or illness can be shown to be linked to exposures or combinations of exposures known to exist in that theater of war, and a veteran of that war has that disease or illness, then he or she is assumed to have become ill as a result of his or her service. Veterans are not required to wait for a so-called "statistically significant incidence" of a particular illness to appear among this population before a determination can be made. Not all of the passenger pigeons must disappear before we acknowledge that the flock might be in decline.

I was able to include the Persian Gulf War Veterans Act in last year's Omnibus Appropriations bill, despite opposition from some quarters that favored a more curtailed approach that stopped short after the NAS review. That approach leaves the veterans in the familiar and unenviable position of being studied to death rather than helped.

The most critical element of the Persian Gulf War Veterans Act is that no intervening act of Congress is required to make a determination of service connection happen. I know that I am preaching to the choir here when I observe that requiring an act of Congress to make something happen in a timely manner is, perhaps, more difficult than requiring an act of God to happen. At least in that instance one can rely on the power of prayer! There is no reason for Congress to second guess the National Academy of Sciences in this manner — Congress may be composed of representatives of the people, but there are disproportionally fewer representatives of the scientific community than there are of the legal profession. I am far more confident that any Secretaries of Veterans Affairs will exercise undue restraint than I am that he or she will be excessively generous in making such a determination of service connection. I can only urge this and all future Secretaries of Veterans Affairs to act in a just and reasonable manner, ensuring that, to paraphrase President Theodore Roosevelt, veterans get a square deal.

I am getting a bit ahead of myself, however. Before those determinations can be made, the reviews have to be conducted. The first deadline in the Act required the Secretary to "seek to enter into an agreement" with the NAS "not later than two months after the date of enactment of this Act." That would have been December 21, 1998. However, the VA delayed, seeking a legal opinion from the Justice Department which was received on March 12, 1999. It basically told the VA to proceed. The second deadline in the Act called for an interim report from the NAS specifying the agents, hazards, medicines, and vaccines to be considered. That report should have been delivered yesterday, April 21, six months after the date of enactment. The next and first full report should be delivered on April 21 of next year, with the Secretary's determination of service connection made by June 21, 2000. Even if lost time is made up, no veteran will receive any benefit from this Act before November 21, 2000 -- ten years, three months and

twenty days after Iraq invaded Kuwait.

That is a long time to be sick, and a long time to have an illness go unrecognized. These soldiers are casualties of war, just as though they had taken a bullet into the flesh. It is high time that we as a nation recognized this hidden cost of battle. Even as we spend money on bombs, aircraft, and ships, we probably should be putting some of those funds away to deal promptly and effectively with these bloodless casualties.

I know that the intent of this hearing is to press the Department of Veterans Affairs to move out swiftly to implement this Act, and I applaud you for your diligence in conducting this kind of oversight. On the other side of the Capitol, I have joined the Subcommittee on VA, HUD, and Independent Agencies of the Senate Committee on Appropriations in order to better oversee the implementation of this and other programs designed to help our nation's veterans. Together, we can maintain the same vigilant defense of our nation's veterans that they have provided to us for so long and so well. Thank you again for this opportunity to testify.

Mr. SHAYS. Senator Byrd, thank you for your willingness to come today and for your very strong statement. Also, thank you for not just putting this legislation in and then doing the next good deed, but making sure that the intent of the legislation is fulfilled. Thank you as well for serving on that subcommittee to be a little bit more of an oversight directly with the VA, which will be extraordinarily helpful.

Senator BYRD. Thank you.

Mr. SHAYS. We are joined by Bernard Sanders who has been frankly as strong as any member on this subcommittee in focusing on this issue. I welcome him as well. I do not have any questions to ask you, Senator. I do not know if either of my colleagues would like to make a comment or ask a question.

Mr. SANDERS. I just want to echo your thoughts, Senator Byrd. We knew at the end of this last session when this legislation was somewhat up in the air, you played a very important and pivotal role in making sure that it got through. We appreciate that very much. I agree with you.

After all of these years, these Gulf war veterans deserve a fair shake and you helped make it happen. We are very appreciative for your efforts.

Senator BYRD. Thank you, sir. Let me thank on the record my very able assistant, Lisa Tuite, who is here seated just behind me. She followed that legislation through its journey, even into the conference. I cannot over-estimate or over-state the contribution that she made in the enactment of that legislation. I thank you, Mr. Sanders.

Mr. SHAYS. Thank you. Bob, any closing comment?

Mr. WISE. Simply just thank you very much, Senator, for coming and making us aware, and prompting all of us to make sure that this legislation is implemented as enacted.

Senator BYRD. Thank you. Mr. Chairman, I served in the House 47 years ago. You did not have this beautiful building then. I first served in the House when Speaker Martin, a Republican from Massachusetts I believe.

Mr. SHAYS. So, is it a little nostalgic or are you just happy not to be here?

Senator BYRD. I started in the Longworth Building, I believe it was and then the Cannon Building. This building was I guess, not even in the plans, but it is a beautiful building. I congratulate you on having such a beautiful edifice in which to serve.

Mr. SHAYS. Senator, thank you again for being here. It has really been a pleasure. You have honored our committee and thank you.

Senator BYRD. Thank you. Thank you very much.

Mr. SHAYS. We are going to have our second panel.

We welcome Dr. Susan Mather, Chief Public Health and Environmental Hazards Officer, Department of Veterans Affairs. I only hesitated a bit because I went to Mather Junior High School. It is spelled the same way.

She is accompanied by Dr. Frances Murphy, Mr. John Thompson, and Mr. Robert Epley. Our second testimony will be from Susan Stoiber, Executive Officer, Institute of Medicine. She is accompanied by Dr. Carolyn Fulco. Also, our third testimony is from David Tollerud, professor.

We welcome all testimony, as well as those witnesses who are accompanying those who are giving testimony.

[Pause]

Mr. SHAYS. While we are setting up the cards and so on, I would just preface your testimony by saying that this is not a hearing on whether there are Gulf war illnesses or not. It is really a hearing on getting a sense of where the VA and you all are in terms of following the legislation that is passed.

I do not anticipate that this has to be a particularly long hearing. We just want to be monitoring what is happening. We want to know what your thoughts are about how you implement the legislation.

Now, some of the people who are accompanying, are they just sitting behind? What I will do is, I would like everyone whose name I called—are we missing some people here? Now, I read seven people off and I see five. Are two sitting behind?

Dr. MATHER. Dr. Tollerud is on his way from Philadelphia.

Mr. SHAYS. OK. We will have to swear him in separately then. If I could invite you all to stand. Let me just say that we did not swear in Senator Byrd because he was giving a statement and we were not going to ask him questions, but we swear in all of our witnesses. Thank you very much.

Do you solemnly swear or affirm that the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth?

[Chorus of ayes.]

Mr. SHAYS. Thank you very much.

For what it is worth, I would just like to tell you that my state of mind is one, that this is a new year. I am just interested in getting this legislation moving forward. So, I am not as focused as to why it has taken us to this point to get here, but just really what do we do from here to move forward. You are welcome to talk about anything you want.

We are going to have the 5-minute clock, but we are going to roll it over. Hopefully within 10 we can cover what each of you want. I do not want any of you to leave today if you did not say something that you felt needed to be said.

So, I will tell you that you will be able to end if you did not have it in your testimony and we did not ask the question; have you make sure to make it a part of the record. All set.

Mr. SANDERS. Do you want to do opening statements?

Mr. SHAYS. We did opening statements before, but if you have an opening statement you would like to give, I would welcome it.

Mr. SANDERS. Yes. Let me make a brief opening.

Mr. SHAYS. That is fine.

Mr. SANDERS. Thank you for holding this important hearing. We have worked hard on this issue. I think we are making some progress. Today's hearing is very important to make sure that we continue to go forward. As all of you know, last year at the end of the last sessions, Chairman Shays and myself, along with 211 others in a bipartisan way introduced the Persian Gulf War Veterans Health Act of 1998.

The bill would have established in law a presumption of service connection for illnesses associated with exposure to toxins present

in the war. The VA's Secretary, under the proposed legislation, would be required to accept the findings of an independent scientific body as to the illness' link with actual and presumed toxic exposures.

By establishing a rebuttal presumption of exposure, and the presumption of service connection to exposure affects, the bill places the burden of proof on the VA where it belongs and not on the sick veteran. That is precisely what we wanted to do and that is important. Senator Byrd introduced a similar bill in the Senate.

As we all know, this bill was then concluded in the Omnibus Appropriations bill and was enacted into law in October 1998. The presumption of exposure law is critical for our Gulf war veterans as it requires that they be provided medical care for Gulf war illness, as well as disability benefits for any illness that they may have received as a result of toxic exposure in the Gulf.

The law mentions 31 specific "biological, chemical, or other toxic agents, environmental, or wartime hazards, or preventative medicines, or vaccines to which members of the Armed Forces who served in the theater of operations during the Persian Gulf war may have been exposed."

We are here today to determine if the VA and the National Academy of Sciences have been doing their work. According to the law passed last October, the NAS should be delivering an interim report on the review and evaluation of the 31 toxic agents, environmental, or wartime hazards, or preventative medicines, or vaccines associated with Gulf war service that were enumerated in the legislation. Of course, the NAS cannot accomplish its duties without the cooperation of the VA.

So, we are here to see if that cooperation is taking place and if not why not and where do we go from here. The interim NAS report is the first step in the process of diagnosing the treating of Gulf war veterans. As I have said, this has been a long time coming.

Some of us are very mindful of what happened to Vietnam veterans with regard to Agent Orange. We are very determined, very determined not to see that happen again. Mr. Chairman, I look forward to hearing our first report from the VA on the implementation of this very important new piece of legislation that you were so active in getting passed. Thank you.

Mr. SHAYS. Thank you Mr. Sanders. Thank you very much. This is a team effort; hopefully a bigger team here. Dr. Mather, we welcome you. Thank you.

STATEMENTS OF DR. SUSAN MATHER, CHIEF PUBLIC HEALTH AND ENVIRONMENTAL HAZARDS OFFICER, DEPARTMENT OF VETERANS AFFAIRS; DR. FRANCES MURPHY, CHIEF CONSULTANT, OCCUPATIONAL AND ENVIRONMENTAL HEALTH; JOHN THOMPSON, DEPUTY GENERAL COUNSEL; ROBERT EPLEY, DIRECTOR, COMPENSATION AND BENEFITS; SUSAN STOIBER, EXECUTIVE OFFICER, INSTITUTE OF MEDICINE; DR. CAROLYN FULCO; AND DR. DAVID TOLLERUD

Dr. MATHER. Thank you. Mr. Chairman and members of this subcommittee, it is a pleasure to appear before you to describe and discuss implementation of the Persian Gulf War Veterans Act of

1998, which was enacted on October 21, 1998 as a part of the Omnibus consolidated appropriations legislation.

Accompanying me today are Mr. John Thompson, Deputy General Counsel; Dr. Frances Murphy, Chief Consultant, Occupational and Environmental Health; and Mr. Bob Epley, Director of the Compensation and Pension Service. Although the letter inviting us today refers to VA's implementation of the Persian Gulf War Veterans Act of 1998, VA is also charged with simultaneously implementing the provisions of Section 101 of the Veterans Program Enhancement Act of 1998, which established an overlapping frame work for addressing issues related to the health status of Persian Gulf veterans.

Thus, our implementation of the former statute must take into account our responsibilities under the later. The Program Enhancement Act was passed by the House of Representatives on October 10, 1998 and subsequently passed without amendment by the Senate and cleared for the President on October 21, 1998.

Passage by the Senate occurred only hours after its final action on an Omnibus appropriation measure, which included the Gulf War Veterans Act provisions based on the adoption of an amendment offered by Senator Byrd. The Omnibus appropriation measure was signed into law that day. The Program Enhancement Act was signed into law on Veterans Day, November 11, 1998.

Thus, VA was presented with the unusual situation of interpreting and implementing two similar purpose acts that were passed within hours of each other. Although similar in purpose, there are several instances in which these measures take seemingly inconsistent approaches to the study of health risks associated with service in the Gulf war and the provision of compensation to veterans who may have incurred disability as a result of Gulf war service.

In addition, the Gulf War Veterans Act contains a provision to nullify Section 101 of the Veterans Program Enhancement Act of 1998 or ''any similar provision of law enacted during the second session of the 105th Congress requiring an agreement with the National Academy of Sciences regarding an evaluation of health consequences of service in Southwest Asia during the Persian Gulf War.''

In view of the inconsistencies in the two statutes and the purported nullification provision in the Gulf War Veterans Act, on December 8, 1998, VA's General Counsel asked the Department of Justice's Office of Legal Counsel for an opinion regarding VA's implementation of the two statutes.

The Justice Department responded to the General Counsel's letter on March 12, 1999. In brief, the Justice Department opines at Section 1604 of the Gulf War Veterans Act is constitutionally invalid and ineffective in so far as it purports to nullify certain described legislation, including Section 101 of the Program Enhancement Act that might be enacted in the future.

The respective provisions of the two laws, although redundant and burdensome in some respects, if both laws are given effect, are not inherently conflicting or mutually exclusive. Therefore, the provisions of both laws must be treated as valid and effective.

With respect to the areas of conflict between the two statutes, the Justice Department found the most significant variation between the two bills to be the action required to be taken by the Secretary after receiving a report from the NAS.

Following receipt of the opinion, VA's General Counsel conducted an intensive review of the provisions of each statute in order to ensure proper implementation of both statutes by all concerned parties. As a result of this review, the General Counsel has advised VA's program officials as to the measures needed to fulfill VA's duties under the two laws.

I understand that you are particularly interested in the contract with the NAS, including its status, terms, conditions, and time lines. I will briefly summarize this information and will be happy to provide a copy of the full contract to you.

Because of the real concerns and fears of Gulf war veterans and their families about the health consequences of military service in the Gulf war, the Under Secretary for Health sent a letter to NAS on October 31, 1997 requesting that NAS comprehensively review, evaluate, and summarize the available scientific and medical information regarding the association between exposures during the Gulf war and adverse health effects experienced by some Gulf war veterans.

The National Academy of Sciences' proposal was accepted and the contract was signed on June 24, 1998, which was 4 months prior to the enactment of Public Law 105–277. An NAS committee will provide a comprehensive review, evaluation, and summary of available scientific and medical information regarding the association between exposures during the Gulf war and adverse health effects experienced by Gulf war veterans.

This review will include an assessment of biologic plausibility that exposures or synergistic effects of combined exposures are associated with illnesses experienced by Gulf war veterans. The NAS will make recommendations for additional scientific studies to resolve areas of continued scientific uncertainty related to health consequences.

The total estimated cost of this review is $1,250,000 over a 27-month period from June 1, 1998 through August 31, 2000. The initial year funding was established at $500,000. The project is being conducted in three phases. In the initial phase, the NAS is identifying health outcomes of interested and selected exposures to be examined.

Exposures may include, but are not limited to depleted uranium, pesticides, insecticides, chemical and biological warfare agents, vaccines, pyridostigmine bromide, health stress, solvents, paints, fuels, smoke from oil well fires, and sand.

A review of the literature regarding some prototypic exposures and associated health effects is being conducted to develop methods to be used for analysis and synthesis of different types of research findings.

For example, animal toxicology data, occupational exposure data, and epidemiology data. Latency periods between exposures and manifestation of illnesses will also be assessed.

The analysis will take into account the strength of scientific evidence and the appropriateness of the methods used to identify as-

sociation; whether the evidence indicates the levels of exposure were comparable to the exposures of Gulf war veterans, and whether there exist a plausible biological mechanism or other evidence for an association.

A report of the activities and finds of the committee will be produced. During phase II the remaining exposures will be subject to similar review and analysis. Finally, VA will seek to enter into a contract with NAS for a series of updated reviews to be conducted every 2 or 3 years. The committee plans to meet 6 or 7 times during the 27 months.

Meetings were held in January and February 1999. The third is scheduled for April 27th and 28th. A report will be prepared and issued which describes the framework by which association is to be determined, criteria by which specific exposures and adverse health outcomes are to be considered for study, a list of exposures and outcomes to be considered in the first two phases, and language to be used to categorize the associations under study.

The report will include a literature review of the association between specific health effects and three to six exposures experienced during Gulf war deployment, and directions for future scientific research to resolve continued scientific uncertainty for the exposures assessed within the report. The exposures covered in this first report will be chosen to reflect a variety of data sources and methodology problems.

For example, a review of associations which depend most heavily on biologic plausibility in animal toxicology data will differ from associations dependent upon occupational exposure and populations other than Gulf war veterans, and from associations dependent on exposure data and epidemiology data from Gulf war veterans.

Because this effort predated the enactment of Public Law 105–277, it does not conform precisely to the legislative language. The study has been designed by the NAS to be of high scientific merit and to be completed in the shortest timeframe deemed feasible. Therefore, we feel that it fully meets the intent of Public Law 105–277 and the similar Public Law 105–368. More importantly, this study will provide a thorough review of the scientific literature by an expert committee. Their conclusions are of utmost importance because they will form the basis for compensation decisions.

We are certain that the current contract sets out the minimum time required to provide a high quality, comprehensive literature review. This genuine effort responds to the concerns of Gulf war veterans and their families and the intent of Public Law 105–277. The Persian Gulf Veterans Act of 1998 also asked VA to enter into an agreement with the NAS to review and identify empirically valid models of treatment for various chronic illnesses that employ success treatment modalities for populations with similar symptoms.

Under this review the NAS would make recommendations for additional scientific studies and treatment trials. In 1998 VA contracted with the NAS to provide advice on the optimal methods to assess the health status of Gulf war veterans and the effectiveness of treatments being delivered by the Department. The NAS will complete this project in June 1999. After the final report is com-

pleted, the committee will continue and expand its study to address the mandate of Public Law 105–277 concerning treatment models.

I understand that some observers have expressed concerns about delays in research and the negative impact on medical care and other benefits and services that Gulf war veterans have earned through their military service. Please be assured that research efforts and other important efforts on behalf of Gulf war veterans are continuing uninterrupted. Large numbers of Gulf war veterans are receiving medical attention from VA. Over 230,000 Gulf war veterans have received health care services at VA facilities. More than 74,000 Gulf war veterans have completed the VA Gulf War Registry Examination Program.

Gulf war veterans with difficult to diagnose illnesses are still being transferred to our four national Gulf war referral centers for intensive in-patient examinations and special consultation. Gulf war veterans with chronic undiagnosed illness, as well as those with diagnosed service connected illnesses are receiving disability compensation.

VA has granted claims for service connection for more than 128,000 Gulf war theater veterans have. We are totally committed to providing the benefits and services to which these veterans are entitled. Mr. Chairman, we were recently advised of the committee's interest in the status of the number of Gulf war veterans disability claims for which additional review was determined to be warranted.

On July 16, 1996 our Compensation and Pension Service mandated a review of all previously disallowed Gulf war disability claims. The purpose of the review was to assure that all necessary development had been completed, and to assure that all evidence had been properly considered in reaching the decision.

At that time, 10,736 claims were developed for readjudication. The results of that readjudication are as follows: service connected was granted in 2,802 claims. Compensation for undiagnosed illness was granted in 1,348 claims. That figure includes 1,044 previously denied undiagnosed conditions, and 304 newly considered undiagnosed conditions. Diagnosed conditions were granted service connection in 1,454 claims. That figure includes 597 previously denied undiagnosed conditions and 857 newly considered diagnosed conditions. In 5,264 claims there were no changes on review, but service connection had already been granted for another condition. In the remaining claims, service connection could not be granted for any condition and denial of service connection was confirmed. There are four cases for which action has yet to be completed under this review. That concludes my statement. My colleagues and I would be happy to answer any questions that you have.

[The prepared statement of Dr. Mather follows:]

Statement of
Susan H. Mather, M.D., M.P.H.
Chief Public Health and Environmental Hazards Officer
Department of Veterans Affairs
Before the House Committee on Government Reform
Subcommittee on National Security, Veterans Affairs
and International Relations
Hearing on VA's Implementation of the
"Persian Gulf War Veterans Act of 1998"

April 22, 1999
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Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you to describe and discuss implementation of the "Persian Gulf War Veterans Act of 1998," which was enacted on October 21, 1998, as part of omnibus consolidated appropriations legislation, Public Law 105-277. Accompanying me today are Mr. John H. Thompson, Deputy General Counsel, Dr. Frances M. Murphy, Chief Consultant, Occupational and Environmental Health, and Mr. Bob Epley, Director, Compensation and Pension Service.

Although the letter inviting us today refers to VA's implementation of the "Persian Gulf War Veterans Act of 1998," (Gulf War Veterans Act), VA is also charged with simultaneously implementing the provisions of section 101 of the "Veterans Programs Enhancement Act of 1998" (Programs Enhancement Act), which establishes an overlapping framework for addressing issues relating to the health status of Persian Gulf War veterans. Thus, our implementation of the former statute must take into account our responsibilities under the latter.

The Programs Enhancement Act was originally introduced in the 105th Congress as H.R. 4110. H.R. 4110 was passed by the House of Representatives on October 10, 1998. It was subsequently passed, without amendment, by the Senate and cleared for the President on October 21, 1998. Passage of this measure by the Senate occurred only hours after its final action on an omnibus appropriation measure, H.R. 4328 (Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999), which included in Division C, title XVI, the Gulf War Veterans Act provisions (based on the adoption of an amendment offered by Senator Robert Byrd). The omnibus appropriation measure was signed into law that same day. The Programs Enhancement Act was signed into law on Veterans Day,

November 11, 1998. Thus, VA was presented with the unusual situation of interpreting and implementing two similar-purpose acts that were passed within hours of one another.

Although similar in purpose, there are several instances in which these measures take seemingly inconsistent approaches to the study of health risks associated with service in the Gulf War and to provision of compensation to veterans who may have incurred disability as a result of Gulf War service. In addition, the Gulf War Veterans Act contains a provision (section 1604) purporting to nullify "section 101 of the Veterans Programs Enhancement Act of 1998, or any similar provision of law enacted during the second session of the 105th Congress requiring an agreement with the National Academy of Sciences (NAS) regarding an evaluation of health consequences of service in Southwest Asia during the Persian Gulf War."

Section 101 of the Programs Enhancement Act requires the Secretary of Veterans Affairs to seek to enter into a contract with the NAS for the purpose of conducting a review and evaluation of available scientific and medical information regarding the health status of Gulf War veterans and the health consequences of exposures to risk factors during service in the Gulf War, including identification of risk factors to which Gulf War veterans may have been exposed, the illnesses that are associated with such factors, and the illnesses that are manifest in such members to a higher degree than in comparison groups. The measure contemplates that, under the contract, the NAS will be required to determine (to the extent available scientific evidence permits) whether, for each illness identified, there is scientific evidence of an association with Gulf War service or exposure during Gulf War service to one or more risk factors. Under the contemplated contract, the NAS will be required to perform subsequent reviews of available evidence and data and to periodically report to the Secretary of Veterans Affairs and the Committees on Veterans' Affairs concerning its activities.

The Secretary is, in turn, required to review each report from the NAS and, based on that review, submit to the Committees on Veterans' Affairs a report on the available scientific and medical information regarding the health consequences of Gulf War service and of exposures to risk factors during service in the Gulf War. The Secretary is required to include in the report the Secretary's recommendations as to whether there is sufficient evidence to warrant a presumption of service connection for the occurrence of a specified condition in Gulf War veterans.

The Gulf War Veterans Act also includes requirements for the Secretary to seek to enter into an agreement with the NAS for the review of available scientific information regarding the health of Gulf War veterans and for submission by the NAS of its findings and recommendations. However, there is a major distinction between the two statutes as to actions the Secretary of Veterans Affairs must

take following receipt of a report from the NAS. In particular, the Gulf War Veterans Act requires the Secretary to determine, based on the NAS report, whether particular illnesses warrant a presumption of service connection and, if so, to promulgate regulations establishing a presumption of service connection for each such illness. This contrasts sharply with the Programs Enhancement Act requirement that the Secretary report to Congress any recommendation regarding the establishment of a presumption of service connection for any illness. In addition, the two acts differ in several respects concerning study details and the timing and submission of reports.

In view of the inconsistencies between the two statutes and the purported nullification provision in the Gulf War Veterans Act, on December 8, 1998, VA's General Counsel asked the Department of Justice, Office of Legal Counsel (OLC), for an opinion regarding VA's implementation of the two statutes. The General Counsel requested OLC's opinion on the legal effect of section 1604 of the Gulf War Veterans Act, including whether this provision improperly infringes on Congress' power under the Constitution to legislate changes to existing law. The General Counsel requested that, in the event OLC were to conclude that section 1604 of the Gulf War Veterans Act is not effective to nullify section 101 of the Programs Enhancement Act, OLC render an opinion as to whether the two statutes as a whole, or particular provisions identified by the General Counsel which appear to take inconsistent approaches to particular aspects of the matter covered, could be reconciled. The General Counsel asked further that, to the extent that irreconcilable conflicts were found to exist between the two statutes, the OLC provide guidance in resolving these conflicts.

The OLC responded to the General Counsel's letter on March 12, 1999. In brief, the OLC opined that: "(1) section 1604 of the [Gulf War Veterans Act] is constitutionally invalid and ineffective insofar as it purports to nullify certain described legislation (including section 101 of the [Programs Enhancement Act]) that might be enacted in the future; (2) under governing principles of statutory interpretation, every effort must be made to reconcile the provisions of two statutes enacted under the circumstances presented, before resorting to rules of construction for giving one primacy over the other; and (3) the respective provisions of the two laws ... although redundant and burdensome in some respects if both laws are given effect, are not inherently conflicting or mutually exclusive, and therefore the provisions of both laws must be treated as valid and effective."

The OLC determined that since the Programs Enhancement Act was passed by Congress and signed into law by the President after the Gulf War Veterans Act, the Programs Enhancement Act constitutes the later enacted of the two statutes. Next, the OLC determined that section 1604 of the Gulf War Veterans Act cannot constitutionally nullify the subsequent enactment of section 101 of the Programs Enhancement Act.

With respect to the areas of conflict between the two statutes, the OLC found the most significant variation between the two bills to be the action required to be taken by the Secretary after receiving a report from the NAS. The OLC determined, however, that the two provisions are not mutually exclusive, that compliance with both of these provisions would not appear to be inordinately burdensome, and that VA must, therefore, attempt to comply in good faith with both provisions. Consequently, VA must not only make an administrative determination with respect to creation of presumptions of service connection for particular diseases, but must also submit recommendations to Congress concerning the issue. In addition, the OLC advised that compliance with both provisions will require VA to contract with the NAS to address all study elements in either of the two provisions and to adhere to the earlier of any time-specific reporting requirements.

Following receipt of the opinion of the OLC, VA's General Counsel conducted an intensive review of the provisions of each statute, consistent with the guiding principles set forth by the OLC, in order to insure proper implementation of both statutes by all concerned parties. As a result of this review, the General Counsel has advised VA's program officials as to the measures needed to fulfill VA's duties under the two laws.

I understand that you are particularly interested in the contract with the NAS, including its status, terms, conditions, and timelines. I will briefly summarize this information, and will be happy to provide a copy of the full contract to you.

Aware of the real concerns and fears of Gulf War veterans and their families about long-term health consequences of military service in the Gulf War, the Under Secretary for Health sent a letter to the NAS on October 31, 1997 requesting that NAS comprehensively review, evaluate, and summarize the available scientific and medical information regarding the association between exposures during the Gulf War and adverse health effects experienced by some Gulf War veterans. The National Academy of Sciences' proposal was accepted and the contract was signed on June 24, 1998, which was four months prior to the enactment of Public Law 105-277.

The project will be carried out by the NAS' Institute of Medicine's (IOM) Board on Health Promotion and Disease Prevention. An NAS Committee will provide a comprehensive review, evaluation, and summary of available scientific/medical information regarding the association between exposure during the Gulf War and adverse health effects experienced by Gulf War veterans. This review will include an assessment of biologic plausibility that exposures, or synergistic effects of combinations of exposures, are associated with illnesses experienced by Gulf War veterans. The NAS will make recommendations for additional scientific studies to resolve areas of continued scientific uncertainty related to health consequences. The total estimated cost of this review is

$1,250,000 over a 27-month period from June 1, 1998 through August 31, 2000. The initial-year funding was established at $500,000.

The project is being conducted in three phases. In the initial phase, the NAS is identifying health outcomes of interest and the selected exposures to be examined. Exposures may include but are not limited to depleted uranium, pesticides, insecticides, chemical and biological warfare agents, vaccines, pyridostigmine bromide, health stress, solvents, paints, fuels, smoke from oil-well fires, and sand. A review of the literature regarding some prototypic exposure-health effect associations is being conducted to develop methods to be used for analysis and syntheses of different types of research findings (for example, animal toxicology data, occupational exposure data, and epidemiology data). In conducting the reviews, the NAS committee established for this project is, for each medical condition considered, assessing the latency periods, if any, between exposures to the potential risk factors and manifestation of illnesses.

Scientific evidence concerning association of exposures and illness is being examined, taking into account the strength of scientific evidence and the appropriateness of the methods used to identify associations; whether the evidence indicates the levels of exposure of the studied populations were comparable to the exposures of Gulf War veterans; and whether there exists a plausible biological mechanism or other evidence of an association between exposures to the risk factor or factors and the medical condition. A report of the activities and findings of the Committee will be produced.

During phase two the remaining exposures will be subject to a similar review and analysis. Finally, VA will seek to enter into a contract with NAS for a series of updates of the literature and the associations, to be conducted every two or three years.

The overall process is governed by a committee of experts from a broad range of scientific endeavors. Dr. Harold Sox chairs the committee. Dr. Sox directs the Robert Wood Johnson Generalist Physician Initiative at Dartmouth. He currently serves as President of the American College of Physicians-American Society of Internal Medicine. The Institute of Medicine Board on Health Promotion and Disease Prevention is overseeing the project.

The committee plans to meet six times during the 27 months. The initial meeting was held on January 11-12, 1999. The second, February 16, 1999. The next meeting is scheduled for April 27-28. A report will be prepared and issued which describes the framework by which association is to be determined, criteria by which specific exposures and adverse health outcomes are to be considered for study, a list of exposures and outcomes to be considered in the first two phases, and language to be used to categorize the associations under study.

The report will include a literature review of the association between specific health effects and 3-6 exposures experienced during Gulf War deployment, and directions for future scientific research to resolve continued scientific uncertainty for the exposures assessed within the report.

The exposures covered in this first report will be chosen to reflect a variety of data sources and methodologic problems. For example, the review of associations which depend most heavily on biologic plausibility and animal toxicology data will differ from associations dependent upon occupational exposure in populations other than Gulf War veterans and from associations dependent on exposure data and epidemiologic data from Gulf War veterans.

Because this effort pre-dated the enactment of Public Law 105-277, it does not conform precisely to the legislative language. The study has been designed by the NAS to be of high scientific merit and to be completed in the shortest timeframes deemed feasible. Therefore, we feel that it fully meets the intent of Public Law 105-277 (and the similar Public Law 105-368). More importantly, this study will provide a thorough review of the scientific literature by an expert committee. Their conclusions are of utmost importance because they will form the basis for compensation decisions.

We are certain that the current contract sets out the minimum time required to provide a high quality, comprehensive literature review. This genuine effort responds to the concerns of Gulf War veterans and their families and the intent of Public Law 105-277.

The "Persian Gulf War Veterans Act of 1998" also asks VA to enter into an agreement with the NAS to review and identify empirically valid models of treatment for various chronic illness which employ successful treatment modalities for populations with similar symptoms. Under this review, the NAS would make recommendations for additional scientific studies and treatment trials. In 1998, VA contracted with the NAS to provide advice on the optimal methods to assess the health status of Gulf War veterans and the effectiveness of treatments being delivered by the Departments. The NAS will complete this project in June 1999. After the final report is completed, the committee will continue and expand its study to address the mandate of Public Law 105-277.

I understand that some observers have expressed concerns about delays in research and the negative impact on medical care and other benefits and services that Gulf War veterans have earned through their military service. Please be assured that research efforts and other important efforts on behalf of Gulf War veterans are continuing uninterrupted.

Large numbers of Gulf War veterans are receiving medical attention from VA. Over 230,000 Gulf War veterans have received healthcare services at VA facilities, and more than 74,000 Gulf War veterans have completed the VA Gulf

War Registry Health Examination program. Gulf War veterans with difficult to diagnose illnesses are still being transferred to our four national Gulf War Referral Centers for intensive in-patient examinations and special consultations. Gulf War veterans with chronic undiagnosed illness, as well as those with diagnosed service-connected illnesses, are receiving disability compensation. VA has granted claims for service connection for more than 128,000 Gulf War theater veterans.

We are totally committed to providing the benefits and services to which these veterans are entitled.

Review of Previously Disallowed Disability Claims

Mr. Chairman, we were recently advised of the Committee's interest in the status of a number of Gulf War veterans' disability claims for which additional review was determined to be warranted.

On July 16, 1996, our Compensation and Pension Service mandated a review of all previously disallowed Gulf War disability claims. The purpose of the review was to assure that all necessary development had been completed, and to assure that all evidence had been properly considered in reaching the decision. At that time, 10,736 claims were developed for readjudication. The results of the readjudication are as follows: Service connection was granted in 2,802 claims. Compensation for undiagnosed conditions was granted in 1,348 claims. That figure includes previously denied undiagnosed conditions (1,044) and newly considered undiagnosed conditions (304). Diagnosed conditions were granted service connection in 1,454 claims. That figure includes previously denied undiagnosed conditions (597) and newly considered diagnosed conditions (857).

In 5,264 claims, there were no changes on review, but service connection had already been granted for another condition. In the remaining claims, service connection could not be granted for any condition, and denial of service connection was confirmed. There are four cases for which action has yet to be completed under this review.

That concludes my statement. My colleagues and I would be happy to answer any questions you may have.

Mr. SHAYS. Thank you very much, Dr. Mather.

We did not swear in two witnesses. Dr. Tollerud, we need to swear you in and we also need to swear in Dr. Carolyn Fulco. If you do not mind standing up and I will administer the oath. Thank you.

Do you solemnly swear or affirm that the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth?

[Chorus of ayes.]

Mr. SHAYS. Thank you very much. Thank you Dr. Mather. Now, we will go to Dr. Susanne Stoiber.

Ms. STOIBER. Good afternoon Mr. Chairman. I am Susanne Stoiber. I am executive officer of the National Academy of Sciences Institute of Medicine. My colleagues and I are here today to provide testimony and answer questions about the current IOM study related to the health effects associated with exposures experienced during the Persian Gulf war, and the IOM contract with the Department of Veterans Affairs, sponsors of that study. I am accompanied today by Dr. David Tollerud who is professor at the School of Public Health at the Medical College of Pennsylvania, Hahnemann University in Philadelphia. Dr. Tollerud has served on three Institute of Medicine committees to review the health effects of Vietnam veterans' exposure to herbicides. He chaired two of those committees. Has indicated, also present are two senior IOM colleagues, Carolyn Fulco, Director of the Gulf war study and Dr. Kathleen Stratton who oversees our general work in this area. My testimony summarizes the National Academy of Sciences Institute of Medicine procedures for conducting studies and the history and status of our current project on the health effects of Persian Gulf war exposures. I will not repeat that testimony.

The credibility and value of our reports rest on the processes that we follow to ensure that the work of our committees is independent and is scientifically rigorous. To that end, we enlist the Nation's leading scientists to conduct the studies. These scientists serve without compensation and do the work for us in addition to their regular jobs. We protect against bias and conflict of interest and have very rigorous procedures for ensuring that end.

We require a comprehensive and rigorous review of the evidence. Following the completion of the committee's work, we have an equally difficult, rigorous peer review of the committee's work by a second group of leading scientists who mirror the expertise on the original committee.

This is a time consuming process, and especially so when the subject is complex and the evidence to be examined extensive. The resulting reports however provide accurate and conclusive answers. That is our commitment. We believe that nowhere is this more important than in the work we conduct on behalf of the Nation's veterans.

The IOM is especially pleased to have the opportunity to work on studies that shed light on the nature of illnesses experienced by our country's veterans. I will now turn to Dr. Tollerud who will provide more extensive information on the way our study committees have conducted their work on Agent Orange.

Our work on Agent Orange provided the model, the blue print for how we propose to conduct the work on Persian Gulf exposures. Therefore, I think knowing slightly more detail about how they proceeded and the difficulties they encountered will help in our discussion on how quickly work can be completed on Persian Gulf.

[The prepared statement of Ms. Stoiber follows:]

The Persian Gulf War Veterans Act of 1998

Statement of

Susanne A. Stoiber
Executive Officer
The Institute of Medicine

accompanied by

David Tollerud, MD, MPH
Chairman, Committee to Review the Health Effects in Vietnam Veterans of Exposure to Herbicides (First and Second Biennial Updates)
and
Professor at the School of Public Health at MCP Hahnemann University in Philadelphia

before the
Subcommittee on National Security, Veterans Affairs, and International Relations

April 22, 1999

Statement of Susanne A. Stoiber
National Academy of Sciences
Institute of Medicine
to the
Subcommittee on National Security, Veterans Affairs,
and International Relations

April 22, 1999

Good morning, Mr. Chairman and members of the committee. My name is Susanne Stoiber. I am the executive officer of the National Academy of Sciences' Institute of Medicine. The Institute of Medicine (IOM) was chartered in 1970 by the National Academy of Sciences to enlist distinguished members of the appropriate professions in the examination of policy matters pertaining to the health of the public. I am here today to comment briefly on the IOM study related to health effects associated with exposures experienced during the Persian Gulf War, and the IOM contract with the Department of Veterans Affairs, the sponsors of the study, and how the contract relates to the Persian Gulf Veterans Act of 1998.

I am accompanied today by Dr. David Tollerud who is a professor at the School of Public Health at MCP Hahnemann University in Philadelphia. Dr. Tollerud has served on three IOM Committees to Review the Health Effects in Vietnam Veterans of Exposure to Herbicides. He was Co-Chair of the first committee — which produced the report *Veterans and Agent Orange* — and chaired two succeeding committees responsible for follow-ups to the report. The Vietnam veterans studies are very similar to the Gulf War study, and Dr. Tollerud will provide remarks, following mine, on lessons learned from his committee experience. Dr. Tollerud and I appreciate the opportunity to provide testimony to you today regarding the IOM study and contract with the Department of Veterans Affairs. Also present today are Carolyn Fulco, director of the Gulf War study, and Dr. Kathleen Stratton who has oversight responsibility for much of our work on Agent Orange and the Gulf War.

The Institute of Medicine is pleased to have the opportunity to work on studies that are shedding light on the nature of the illnesses experienced by our country's veterans. The IOM has studied health concerns of veterans from World War II, through the Korean and Vietnam conflicts, to the Gulf War, and has several on-going studies related to the health of Vietnam and Gulf War veterans. I have provided a list of recent Academy Reports on veterans' health and a list of current IOM studies on this topic.

We believe that the IOM's work has made important contributions to assuring that veterans and their families are provided with accurate information about exposures and their potential health effects. Further, we hope that our reports will continue to be used to inform policy decisions; to assist in setting research priorities; and to guide diagnostic, treatment, and prevention efforts.

Following Academy procedures, the IOM devotes considerable time and effort in the nomination and selection process for individuals that will serve on our committees. We cast a wide net in requesting nominations from many individuals in different fields of expertise; we go beyond our own membership to other leaders in the appropriate fields, and, in the case of veterans studies, we contact representatives of the many veterans organizations. The IOM has high standards to ensure that committee members will objectively and independently perform their task without bias or conflict of interest. Further, the IOM requires that prospective committee members must not have had prior direct involvement with the issue being studied, nor have taken a public position on any of the topics to be addressed. Therefore, committee members often need time to become acquainted with the many issues before them.

Studies such as those involving veterans' health are very complex and challenging undertakings. Such studies involve extensive reviews of the scientific and medical literature. Committee members carefully read, assess, and deliberate on a very large body of scientific information. Each committee member must be willing to approach the material without preconceived opinions or biases. In addition to the extensive literature review, the committee hears from numerous individuals during scientific workshops and public hearings. All the information must be collected, studied, reported on, and reviewed in a uniform way to assure that they have reached scientifically sound conclusions. Our reports are consensus documents and committee members work very hard to achieve unanimity on their findings and recommendations. Once a consensus has been reached, our reports are subject to extensive, in-depth peer review.

The process assures that we are able to defend our results and attest to the accuracy of our findings not only before the scientific and medical communities, federal officials, members of Congress, and the general public, but most importantly, before the veterans, their representatives, and their families.

The Department of Veterans Affairs contacted the IOM in November 1997 to ask that we comprehensively review the scientific literature regarding the health consequences of Gulf War service. In response to that inquiry, we developed a proposal and plan of work similar to that of the first Veterans and Agent Orange study, with timelines and dates for deliverables based on our experiences with Agent Orange. The Agent Orange study took approximately two years and looked at one exposure category--the major herbicides used in Vietnam--with a focus on the compound dioxin. Therefore, we could predict the time frame for the Persian Gulf study, which includes at least 12 major exposures categories-each comprised of numerous chemicals.

Following discussions with the VA, a contract to conduct the Gulf War study was signed on June 29, 1998. Our contract with the Department of Veterans Affairs provides for a three phase study, modeled on our experience with Veterans and Agent Orange. Phase one includes a determination of the methodology to conduct the study and a review of the literature for a subset of the total number of exposures. The committee's findings in phase one will be submitted in a report to the Department of Veterans Affairs in August 2000. Phase two of the IOM study will examine the remaining exposures and provide the Department of Veterans Affairs with a report in August 2002. Phase three, if it is funded, will provide periodic updates, approximately every two years, to review new research on all the exposures. For the record, our current contract with the Department of Veterans Affairs will expire on May 31, 2003, and therefore does not include future updates.

Although our contract with the VA was signed two months before passage of the Persian Gulf Veterans Act of 1998, and was therefore not specifically responsive to the act, we believe that our studies will fulfill the requirements and spirit of the Persian Gulf Veterans Act. However, as I have described, our timelines are different from those specified in the Act. A comparison table is provided for your information listing our deliverable dates for each item that is specified in the Persian Gulf Veterans Act.

While we look forward to the challenges before us in carrying out the Gulf War analysis, we are also keenly aware of the people who await our conclusions and recommendations. We are committed to producing a report that is sound and meets institutional standards for objectivity, evidence, and responsiveness to the charge.

In the final analysis, the value of the investment in time to carry out this study will be measured in its ability to respond to the concerns of Gulf War veterans and their families and to provide recommendations for consideration by the Department of Veterans Affairs as they carry out their responsibilities to Gulf War veterans.

Thank you for your attention, I will be happy to answer any questions you may have today.

Recent Academy Reports on Veterans' Health

Gulf War:

- Adequacy of the VA Persian Gulf Registry and Uniform Case Assessment Protocol (1998)
- Measuring the Health of Persian Gulf Veterans: Workshop Summary (1998)
- Adequacy of the Comprehensive Clinical Evaluation Program: A Focused Assessment (1997)
- Adequacy of the Comprehensive Clinical Evaluation Program: Nerve Agents (1997)
- Health Consequences of Service During the Persian Gulf War: Recommendations for Research and Information Systems (1996)
- Health Consequences of Service During the Persian Gulf War: Initial Findings and Recommendations for Immediate Action (1995)

Vietnam Conflict:

- Veterans and Agent Orange: Update 1998
- Characterizing Exposure of Veterans to Agent Orange and Other Herbicides Used in Vietnam: Scientific Considerations Regarding a Request for Proposals (1997)
- Veterans and Agent Orange: Update 1996 (1996)
- Veterans and Agent Orange: Health Effects of Herbicides Used in Vietnam (1994)

Korean Conflict:

- The Health of Former Prisoners of War: Results from the Medical Examination Survey of Former POWs of World War II and the Korean Conflict (1992)

World War II:

- Veterans at Risk: The Health Effects of Mustard Gas and Lewisite
- The Health of Former Prisoners of War: Results from the Medical Examination Survey of Former POWs of World War II and the Korean Conflict (1992)

Other Veterans' Health Studies:

- Interactions of Drugs, Biologics, and Chemicals in U.S. Military Forces (1996)
- Mortality of Veteran Participants in the CROSSROADS Nuclear Test (1996)
- Adverse Reproductive Outcomes in Families of Atomic Veterans: The Feasibility of Epidemiologic Studies (1995)

Current Academy Studies on Veterans' Health

- Health Effects Associated with Service in the Persian Gulf War
- Measuring the Health of Persian Gulf Veterans
- Follow-up of Army Personnel Potentially Exposed to Chemical Warfare Agents
- Strategies to Protect the Health of Deployed US Forces
  - Analytical Framework for Assessing Risks
  - Technology and Methods for Detection and Tracking of Exposures to a Subset of Harmful Agents
  - Physical Protection and Decontamination
  - Medical Surveillance, Recordkeeping, and Risk Prevention
- National Center on War-Related Illness and Post-Deployment Health Issues
- Epidemiologic Studies of Multiple Sclerosis and Other Demyelinating Diseases in U.S. Military Veterans
- An Evaluation of Radiation Exposure Guidance for Military Operations
- Morbidity and Mortality Index for Nested Case-Control Biomarker Studies in Korean War Veterans
- Mortality Follow-Up of Former Prisoners of War of WWII and the Korean Conflict
- Mortality of Military Personnel Present at Atmospheric Tests of Nuclear Weapons (Five Series)
- Patterns of Illness and Health Care Seeking Prior to Deployment to the Persian Gulf War
- World War II Veteran Twin Registry :
  - Head Injury/Alzheimer's Disease
  - Macular Degeneration
  - Parkinson's Disease
  - Prostate Disease

PERSIAN GULF VETERANS ACT OF 1998

MILESTONE	DUE	VA/IOM DATES
(a) Enactment	October 21, 1998	
(b) Secretary seeks to enter into aggreement with NAS or other independent entity	December 21, 1998	November 4, 1997
(c) NAS Report (interim report)	April 21, 1999	interim report not specified by VA/IOM contract
(d) NAS Report (full report)	April 21, 2000	**August 2000 (first report on 4 exposures)**
• On the extent that available scientific data permit a meaningful determination that either: 1. A statistical association exists between exposure and illnesses taking into account the strength of the evidence and the appropriateness of the scientific technolody used to detect the association; or, 2. There is an increased risk of illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; or 3. Aplausible biological mechanism exists between exposure to agent, hazard, or medicine or vaccine and the illness.		
• On the results of the review of potential treatment models	April 21, 1999	**funding expected to begin study July 99**
• On the recommendations for additional scientific studies	April 21, 1999	**August 2000 (on exposures studied)**
(e) Secretary's determination whether a presumption of service connection is warranted for each illness covered by report	June 21, 2000	
(f) Secretary issues proposed regulations	August 21, 2000	
(g) Secretary issues final regulations	November 21, 2000	
Extension of new awards for presumed service connection for undiagnosed illness expires	December 31, 2001	

(h) NAS Periodic Report	April 21, 2002	**August 2002 (phase two-remaining exposures studied)**
(i) NAS Periodic Report	April 21, 2004	**current VA/IOM contract expires May 31, 2003**
(j) NAS Periodic Report	April 21, 2006	
(k) NAS Periodic Report	April 21, 2008	
(l) NAS Periodic Report	April 21, 2010	
(m) Sunset	April 21, 2010	

Mr. SHAYS. Can I interrupt you? I feel a little guilty taking off my coat without inviting any of you to do this. It is kind of hot in here. Please feel welcome to do so.

Dr. TOLLERUD. Good morning, Mr. Chairman, and members of the committee. My name is David Tollerud. I am a professor in the school of public health at MCP Hahnemann University in Philadelphia. I also have the unique distinction of having served as co-chair of the original IOM Committee to review the health effects in Vietnam veterans of exposures to herbicides, and as chair of the two followup committees.

In total, I have served on these committees for some 8 years. I appreciate the opportunity to provide testimony to you today based on my experience from the veterans and Agent Orange studies. I was requested to provide testimony because the Vietnam veterans studies are very similar to the Persian Gulf veterans study that is the subject of this hearing.

The Gulf war committee will use the Veterans and Agent Orange reports as their model. However, I must point out an important difference between these efforts. The Veterans and Agent Orange studies examined only one category of exposures: the major herbicides used in Vietnam and the herbicide contaminant dioxin.

Within this category of exposures, the committee focused primarily on a single compound dioxin; more specifically 2378, tetrachlorodibenzo-p-dioxin, because of the vast number of scientific studies suggesting adverse health outcomes that might be associated with exposure to it.

Each of the Veterans and Agent Orange studies took approximately 18 months to 2 years to complete. The Gulf war study will include at least 12 categories of exposures each comprised of multiple chemicals. I am told there are approximate 34 specific chemicals or chemical compounds listed in Section 1603 of Public Law 105–277; a list similar to that specified in the Department of Veteran Affairs contract with the Institute of Medicine.

Given the far larger number of categories of exposure proposed for the Gulf war study, it is my opinion that the timeframe developed by the IOM and the Department of Veterans Affairs, and delineated to you today by Ms. Stoiber, is reasonable.

I do not believe that the time table stipulated in the Persian Gulf Veterans Act of 1998, which requires a final report addressing all 12 categories in 18 months would allow an Institute of Medicine committee to complete its tasks with he scientific rigor and attention to the interest of veterans that this work demands.

In support of these opinions, I would like to relate to you the elements that went into making the Veterans and Agent Orange series of reports and that are proposed for the Persian Gulf veterans study. Almost all National Academy of Sciences reports are written by committees of scientists. Committee members are individuals who serve on a volunteer basis and receive no compensation for their work.

Assembling a committee for an effort like the Veterans and Agent Orange studies and this Gulf war study is a time consuming task because IOM holds the members of its veterans health committees to its highest standards for participation. Committee members must not have any research grants from the Department of

Veterans Affairs because in conducting its work the committee must operate independently of DVA.

They must also have no research or consulting involvement with businesses that might have an economic stake in matters under the committee's consideration. Staff must find scientists who are willing to devote considerable time and energy to a project that is not directly related to their own research because committee members must not have had prior direct involvement with the issues before them, nor have taken a public position on them.

Committee members are thus required to learn and comprehend a new topic; a process that necessarily takes time. The Veterans and Agent Orange Committee realized from the beginning that it could not conduct a credible scientific review without a full understanding of the experiences and perspective of the veterans.

Therefore, to supplement its standard scientific process, the committee opened several of its meetings to the public to allow veterans and other interest individuals to voice their concerns and opinions, to provide personal information about their exposures and associated health effects, and to educate the committee on recent research results and studies still underway.

While it takes time for the committee to gather this type of information, it provides a meaningful backdrop for the numerous scientific articles that the committee reviewed and evaluated. I am pleased to hear that the IOM proposes to conduct the Gulf war study in a similar manner. I believe it is important that they be given the time to do so.

The Veterans and Agent Orange Committee gathered information from multiple sources, always with the goal of seeking the most accurate information and advice from the widest possible range of knowledgeable sources.

Consistent with the procedures of the IOM, the committee met in a series of closed sessions and working group meetings in which members could freely examine, characterize, and weigh the strengths and limitations of the vast array of scientific evidence.

In addition to these formal meetings, the committee actively and continually sought information from a broad array of individuals and organizations with interest or expertise in assessing the effects of exposures to herbicides, just as the Gulf war committee has planned. These interactions include frequent meetings with representatives of veteran service organizations, congressional committees, Federal agencies, and scientific organizations. One of the many ways the Vietnam Veterans Committee heard from the public was through several hundred telephone calls, letters, and e-mails, each of which received a response from IOM staff, just as the Gulf war committee and staff are doing.

This important part of the process takes a great deal of time. During the course of the first Agent Orange study, which I would again remind you focused on one exposure, the committee or staff read approximately 6,400 abstracts of scientific and medical articles which were all entered into a computerized bibliographic data base.

I am told that the Gulf war committee and its staff have already reviewed and cataloged over 10,000 abstracts and their work is just beginning. As time consuming as the beginning efforts are in such

studies, the real work is in evaluating the articles, determining the strength of the findings, and discussing the outcomes among the committee members.

The value of the iterative and deliberate processes that are the hallmark of such studies is that the result is a comprehensive, unbiased, scientific review of all of the available evidence regarding the potential health effects of an exposure. More importantly, the document that is produced is a consensus of the collective knowledge of that committee. Each committee member is able to defend the findings, conclusions, and recommendations in the final report because each has been through a lengthy committee process that has built a bond of trust among all participants.

In my opinion, it is simply not possible to substantially shorten the period of time necessary for this confidence to develop. All of the evidence from multiple sources must ultimately be assembled into coherent chapters. The draft chapters are discussed, written, and rewritten multiple times before they accurately reflect the committee's findings and conclusions.

The chapters must be organized into a document that characterizes the committee's thinking and conclusions, and represent a consensus of the committee's collective recommendations. This process is also iterative and deliberative and represents an additional investment of time.

Finally, the IOM requires an extensive and lengthy peer review process for the document in order to assure its scientific integrity and the appropriateness of its conclusions. The review process requires identifying and nominating a panel of external reviewers who are also volunteers. There is also an internal academy review committee.

These external and internal reviewers provide feedback which strengthen and enhances the scientific integrity and effectiveness of the committee's product. This independent review is regarded as an essential safeguard in maintaining a high standard for all academy reports and lends credibility to each approved manuscript.

This process which takes several months to complete is a hallmark that distinguishes the academy from many other organizations offering the Federal Government scientific and technical advice. It is one of the primary reasons that academy reports are often the final word on issues of importance to the Government and others.

The review process, like each step in conducting an academy study, is thoughtful, deliberative, and requires time. I hope I have been able to provide you with insight into why academy studies of veterans health issues take time and need to take time, and to lend support to the time line in the current Department of Veteran Affairs' contract with the IOM to study the health effects associated with exposures experienced during the Persian Gulf war.

Thank you for your attention. I will be happy to answer any questions.

[The prepared statement of Dr. Tollerud follows:]

The Persian Gulf Veterans Act of 1998

Statement of

David Tollerud, MD, MPH
Chairman, Committee to Review the Health Effects in Vietnam Veterans of Exposure to Herbicides (First and Second Biennial Updates)
and
Professor at the School of Public Health at MCP Hahnemann University in Philadelphia

before the
Subcommittee on National Security, Veterans Affairs, and International Relations

April 22, 1999

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April 22, 1999

Good morning, Mr. Chairman and members of the committee. My name is David Tollerud. I am a professor at the School of Public Health at MCP Hahnemann University in Philadelphia. I also have the unique distinction of having served as Co-Chair of the original IOM Committee to Review the Health Effects in Vietnam Veterans of Exposure to Herbicides and as Chair of two follow-up committees. In total, I have served on these committees for some eight years. I appreciate the opportunity to provide testimony to you today based on my experience from the Veterans and Agent Orange studies.

I was requested to provide testimony because the Vietnam veterans studies are very similar to the Persian Gulf veterans study that is the subject of this hearing. The Gulf War committee will use the *Veterans and Agent Orange* reports as their model. However, I must point out an important difference between these efforts. The *Veterans and Agent Orange* studies examined only one category of exposures: the major herbicides used in Vietnam and the herbicide contaminant dioxin. Within this category of exposures, the committees focused on a single compound, dioxin — more specifically 2,3,7,8-tetrachlorodibenzo-*p*-dioxin — because of the vast number of scientific studies suggesting adverse health outcomes might be associated with exposure to it. Each of the *Veterans and Agent Orange* studies took approximately 18 months to two years to complete. The Gulf War study will include at least twelve categories of exposures, each comprised of multiple chemicals. I am told there are approximately 34 specific chemicals or chemical compounds listed in Section 1603 of Public Law 105-277, a list similar to that specified in the Department of Veterans Affairs contract with the Institute of Medicine.

Given the far larger number of categories of exposure proposed for the Gulf War study, it is my opinion that the timeframe developed by the IOM and the Department of

Veterans Affairs — and delineated for you today by Ms. Stoiber — is reasonable. I do not believe that the timetable stipulated in the Persian Gulf Veterans Act of 1998, which requires a final report addressing all twelve exposure categories in 18 months, would allow an Institute of Medicine committee to complete its tasks with the scientific rigor and attention to the interests of veterans that this work demands.

In support of these opinions, I would like to relate to you the elements that went into the making of the *Veterans and Agent Orange* series of reports and that are proposed for the Persian Gulf veterans study.

Almost all National Academy of Sciences reports are written by committees of scientists. Committee members are individuals who serve on a volunteer basis and receive no compensation for their work. Assembling a committee for an effort like the *Veterans and Agent Orange* studies and this Gulf War study is a time consuming task, because IOM holds the members of its veterans' health committees to its highest standards for participation. Committee members must not have any research grants from the Department of Veterans Affairs, because in conducting its work the committee must operate independently of DVA. They must also have no research or consulting involvement with businesses that might have an economic stake in matters under the committee's consideration. Staff must find scientists who are willing to devote considerable time and energy to a project that is not directly related to their own research, because committee members must not have had prior direct involvement with the issues before them nor have taken a public position on them. Committee members are thus required to learn and comprehend a new topic, a process that necessarily takes time.

The *Veterans and Agent Orange* committee realized from the beginning that it could not conduct a credible scientific review without a full understanding of the experiences and perspectives of the veterans. Therefore, to supplement its standard scientific process, the committee opened several of its meetings to the public to allow veterans and other interested individuals to voice their concerns and opinions, to provide personal information about their exposures and associated health effects, and to educate the committee on recent research results and studies still under way. While it takes time for the committee to gather this type of information, it provides a meaningful backdrop for the numerous scientific articles that the committee reviewed and evaluated. I am pleased to hear that the IOM proposes to conduct the Gulf War study in a similar manner and believe that it is important that they should be given the time to do so.

The *Veterans and Agent Orange* committees gathered information from multiple sources, always with the goal of seeking the most accurate information and advice from the widest possible range of knowledgeable sources. Consistent with the procedures of the IOM, the committee met in a series of closed sessions and working group meetings in which members could freely examine, characterize, and weigh the strengths and limitations of the vast array of scientific evidence. In addition to these formal meetings, the committee actively and continually sought information from a broad array of individuals and organizations with interest or expertise in assessing the effects of exposures to herbicides, just as the Gulf War committee has planned. These interactions included frequent meetings with representatives of veterans service organizations, congressional committees, federal agencies, and scientific organizations. One of the many ways the Vietnam Veterans committee heard from the public was through several

hundred telephone calls, letters and emails, each of which received a response from IOM staff — just as the Gulf War committee and staff are doing. This important part of the process takes a great amount of time.

During the course of the first Agent Orange study—which I would again remind you focused on one exposure— the committee or its staff read approximately 6,400 abstracts of scientific or medical articles which were all entered into a computerized bibliographic database. I am told that the Gulf War committee and its staff have already reviewed and cataloged over 10,000 abstracts, and their work is just beginning. As time consuming as the beginning efforts are in such studies, the real work is in evaluating the articles, determining the strength of the findings, and discussing the outcomes among the committee members. The value of the iterative and deliberative processes that are the hallmark of such studies is that the result is a comprehensive, unbiased scientific review of all the available evidence regarding the potential health effects of an exposure. But more importantly, the document that is produced is a consensus of the collective knowledge of that committee. Each committee member is able to defend the findings, conclusions, and recommendations in the final report, because each has been through a lengthy committee process which has built a bond of trust among all the participants. In my opinion, it is simply not possible to substantially shorten the period of time necessary for this confidence to develop.

All of the evidence, from multiple sources, must ultimately be assembled into coherent chapters. The draft chapters are discussed, written and rewritten multiple times before they accurately reflect the committee's findings and conclusions. The chapters much be organized into a document that characterizes the committee's thinking and conclusions and represents a consensus of the committee's collective recommendations. This process is also iterative and deliberative, and represents an additional investment in time.

Finally, the IOM requires an extensive and lengthy peer review process for the document, in order to assure its scientific integrity and appropriateness of its conclusions. The review process requires identifying and nominating a panel of external reviewers who are also volunteers. There is also an internal Academy review committee. These external and internal reviewers provide feedback which strengthens and enhances the scientific integrity and the effectiveness of the committee's product. This independent review is regarded as an essential safeguard in maintaining a high standard for all Academy reports and lends credibility to each approved manuscript. This process, which takes several months to complete, is a hallmark that distinguishes the Academy from many other organizations offering the federal government scientific and technical advice. It is one of the primary reasons that Academy reports are often the final word on issues of importance to the government and others. The review process, like each step in conducting an Academy study, is thoughtful, deliberative, and requires time.

I hope I have been able to provide you with some insight on why Academy studies of veterans health issues take time and need to take time, and to lend support to the timeline in the current Department of Veterans Affairs contract with the IOM to study the health effects associated with exposures experienced during the Persian Gulf War.

Thank you for your attention. I will be happy to answer your questions.

Mr. SHAYS. Thank you very much, Doctor. I would just like to first acknowledge the presence of Janice Schakowsky who is from Illinois. It is nice to have you here. She is a new Member and a very effective Member of Congress. I am trying to get a sense of where we are headed here.

One of the things that I take as given, and I would ask the three witnesses to respond in the order of their testimony; my general understanding is that the VA accepts the fact that they have two mandates of Congress that while having some differences clearly are not incompatible and that the VA intends to abide by the law and the language. I guess, Dr. Mather, that is your question.

Dr. MATHER. Yes, sir. That is the case.

Mr. SHAYS. I do not care, given the other things I am interested in to figure out whether the lawsuit made sense or, excuse me, the request made sense to the Justice Department or not. It may have or it may not have. I am less concerned with that. I am more concerned with getting a sense of the effort to live by the spirit of the law. I wanted to know what that means.

You clearly had a contract the year before to begin this process. Is there any inability on the part of the VA to renegotiate the contract to try to have it conform as closely as possible to the law?

Dr. MATHER. No, sir. We feel though that the contract that we have now is a good approach and is the best approach. We certainly agree that the law is firm in the interim report. After the meeting on the 27th of this month, we expect that there will be a report from the committee that will talk about where they are so far.

It will be a brief report. We get quarterly reports on contracts anyway. I think this would be a reasonable point at which to expect a report. We have already talked informally with the National Academy about the points of the law which do not appear to be covered in our current contracts and how we can expand those contracts.

I think what we have now is basically a very sound approach to a very, very complex problem. I think the current contract will stand, should stand, and will need to be amended to take care of the other items within the laws.

Mr. SHAYS. If something cannot be done, even if the law requires it, it will not get done, or if it can get done but it is absurd to try to do it, then there are some issues that have to be dealt with.

What flexibility does a Department have in deciding, and I am not even talking the merits of this particular issue, to basically live by the spirit and not the letter? How does that work? Maybe Mr. Thompson you could tell me.

Mr. THOMPSON. That is a fascinating question. What we are trying to do is to execute the law as faithfully as we can. Now, if it appears that there is an area that is just not feasible to do or cannot be done within the time constraints that Congress has ordained, we would attempt to come as close as we can. We would notify the committees of interest of what difficulties we were having.

Mr. SHAYS. Congress could try to mandate that an elephant can fly, but it is not going to fly even though I sometimes think the 747 is kind of like that and it does fly. Dr. Tollerud, you make it very

clear from your testimony that there is a process that you feel has to be followed and it is going to take a certain amount of time.

I am going to make an assumption that there is some time you wanted to take to fit into your schedule and the schedule of everyone else that is involved in this research. There is the schedule that Congress wants and they conflict. But I make an assumption that to the best of your ability, if you can speed up a process the law requires it, you will do it as long as it does not create bad scientific results. Is that a fair assumption?

Dr. TOLLERUD. I guess I would like to have the IOM answer from their perspective.

Mr. SHAYS. Yes. I think that would be more appropriate.

Dr. TOLLERUD. I will be happy to give you my personal view based on 8 years of experience.

Mr. SHAYS. Ms. Stoiber, I am sorry. I should have asked you to do that question.

Ms. STOIBER. That is fine. Our commitment and our interest in the IOM is in doing this work as rapidly as we can possibly do it and still produce scientifically valid and complete answers. So, we actually have spent a substantial amount of time with our Persian Gulf Committee.

Dr. Tollerud is not on that committee. He was on the Agent Orange Committees; talking about whether or not we could devise a way to do the work faster, given the large number of exposures to be considered.

After very extensive discussions with the volunteers who will be doing the analysis on the Persian Gulf Committee, we concluded that we really could not figure out a way to speed up the process and still feel confident that we would be able to deliver accurate and valid results.

We have given it a great deal of thought. It is not just a matter of the volunteers trying to fit it in with the rest of their obligations. There is simply an enormous amount of literature to be absorbed in this and a need to make sure that we are treating it consistently across the different exposures. So, our belief is there is not a way to speed up this particular analysis.

Mr. SHAYS. Let me do this. Mr. Sanders has to be at another hearing. So, why do I not give him the floor. I am going to be here.

Mr. SANDERS. Thank you very much. I will do my best to come back. I think I will be able to do that. Just two questions, Mr. Chairman. I think Dr. Mather might be the right one to answer, if not, whoever can answer it. The Persian Gulf War Veterans Act of 1998 provides the Secretary of Veterans Affairs with the authority to administratively determine and issue regulations, determining a presumption of service connection between the disease, illness condition, and an exposure to a hazardous material or combination of materials, et cetera, during service in the Gulf based on the recommendations of the NAS study.

That is what the Persian Gulf War Veterans Act does. The Veterans Program Enhancement Act of 1998 requires the Secretary merely, here is the difference, to review the NAS recommendations and subsequently forward his recommendations regarding determination of service connection to Congress.

I know what you are trying to do is implement to the best degree that you can both laws. You have a conflict over here to some degree. So, my question is what assurances can you give us that NAS findings will be reflected completely and accurately in the regulations called for in the Persian Gulf War Veterans Act to actually provide assistance to deserving Gulf war veterans?

In other words, the bottom line of this and the reason that Chris, others, and I worked so hard on this was not some academic reason or scientific reason. Essentially we want to make sure that those people who are hurting were sick as the result of exposure actually get benefits. Could you, Dr. Mather, or Mr. Thompson, or whoever else answer that?

Dr. MATHER. I can certainly answer from my understanding. My understanding is that the scientific associations will be reflected in the Secretary's action on presumptions of service connection when they are received. He will both report to Congress and he will use that information to establish presumption.

This is certainly the way it has happened with the Agent Orange reports. As the scientific evidence of an association was sufficient, either the presumption was established or in the case of birth defects, VA sought legislation to provide that.

Mr. SANDERS. So, if the presumption is established, if we find the cause and effect——

Dr. MATHER. It does not have to be a cause and effect, only that there is a significant association.

Mr. SANDERS. Yes, OK, right. That will then result in regulations being drawn up. Somebody has the illness and that person will then get the benefits to which they are entitled.

Dr. MATHER. That is my understanding.

Mr. SANDERS. OK. The second question; maybe for Dr. Tollerud. You mentioned using Agent Orange as perhaps a basis of how we are proceeding here. You referred to Agent Orange quite often. Would you comment on the fact that if you talk to the Vietnam Veterans of America, for example, they will suggest, as many other Vietnam era veterans, that they are not happy with the status of the Agent Orange work with Operation Ranch Hand.

The fact that unless I am mistaken, and I do not think I am, that the vast majority of requests for benefits that go forward are denied. So, I get a little bit nervous. I am happy with Dr. Mather's answer, but I get a little bit nervous if you say, hey, we did Agent Orange pretty well and now we are going to continue along that path. Some of us have real concerns with that. Comment on that.

Dr. TOLLERUD. My comments about the Agent Orange Committee had to do with process. I do not think that this is the forum to further debate the findings of the committee. Each of these committees were made up of, I do not know, 15 to 18 independent scientists. A part of the reason why it takes time to get there is that if you take 18 scientists and you put them in a room, you will get at least 21 opinions about any given question.

It takes time to resolve that. Our commitment was to have a consensus report that every single committee member could stand behind. Sometimes that meant going back to the literature, bringing in others, et cetera. My comparison of Agent Orange to the Persian

Gulf was not dealing with the findings but was dealing with the process.

When we started that committee, there really was no template. I mean this was the first, at least in our view, it was the first time that a committee like this had taken on quite this kind of an effort, and particularly looking at such a large number of individuals who were exposed at such a long time in the past.

So, we took models from other organizations in terms of how they weighed the evidence. We looked into the process and we had veterans and other interested parties come and give testimony. All of that testimony was considered. So, that is what I was referring to.

Mr. SANDERS. That is fair enough. I will just state that in fact, one of the things that motivated me, and I will not speak for Chris, is my knowledge that in Vermont and throughout this country, there are a whole lot of veterans who today are very upset about how the Government responded to Agent Orange and their health problems.

In fact, the reason that I played my role in pushing this thing forward is I did not want to see that happen again. I wanted the assumption to be that if scientists believe there is an association between an illness and an exposure to a chemical or environmental hazard, we are going to give the benefit of the doubt to the veteran this time and give them the benefits and the health care they need, rather than fighting them as we had for so many years with Agent Orange.

Mr. SHAYS. Ms. Schakowsky, did you have any questions?

Ms. SCHAKOWSKY. Yes. Thank you Mr. Chairman.

I am new to this issue. So, you will forgive me if I ask a silly question. You talked about the time line, Dr. Tollerud and as you did, Ms. Stoiber, about how long the committee takes to deliberate. Of course, we want good scientific data.

Why do we just have one committee? Why cannot we have more committees to look at more substances so that we can move a bit faster? I mean if one committee is good, why is not two committees better or three committees better?

Ms. STOIBER. It is a very reasonable question and it is one we asked ourselves because as we looked at the requirements of the legislation and understood what the Congress wanted and obviously what the veterans wanted, we brought together our core committee for the Persian Gulf study and examined the question of whether or not we could divide the work and consider more exposures more rapidly.

I will let Carolyn Fulco comment on this in more detail. The conclusion was we need first of all to make sure that the methodology we are using for these exposures is one that will meet the committee's standards in terms of assessing the scientific literature.

That phase I of this study in which we will be looking at five exposures is the process by which we will know that our approach to this is going to yield the results that we think it should. Phase II of our study will in fact, in a shorter period of time, enable us to complete analysis of the remaining exposures.

Our committee members felt that until phase I is completed, we simply cannot be certain that it could be divided into multiple groups and essentially run in parallel. There is an enormous need

to make sure that we keep consistency in the analysis of the different exposures and also a need to make certain that we have carefully looked at all of the available literature.

If we hurry it, we may end up missing some critical evidence that would establish a conclusion that may be missed otherwise.

Ms. SCHAKOWSKY. Let me just ask you a question then based on what you have said. After Phase I it would seem to me possible, unless a methodology is established, that one could have more committees; could one not?

Ms. STOIBER. We do not believe that multiple committees are the right approach. We believe that you have to maintain consistency across all of these. The remaining exposures can be analyzed as we have proposed more quickly because we have the methodology in place and we are confident of it.

Dividing the work among independent committees who will then have to confer with each other and review each other's work to make certain that everything is being treated consistently would not shorten the process. It might in fact lengthen it as we go into the overall review. If I could ask, Carolyn, do you have anything to add to that?

Mr. TOLLERUD. Can I add a comment?

Ms. STOIBER. Sure.

Mr. TOLLERUD. I think from the standpoint of a committee member, and we have not had any discussions related to that particular question or issue. I have not been involved with any of the IOM's internal deliberations. So, this is just off the cuff from me. First of all, there are no silly questions. There are only silly answers.

From a committee's standpoint, I guess I would second the notion that adding manpower essentially and dividing into small groups is not likely to shorten the process and in fact may well lengthen the process.

What I observed in three consecutive IOM Committees where each subsequent committee was made up about 50 percent old members and 50 percent new members in order to have a new infusion was this.

The first third or so of the second committee's process or the subsequent committee's process was heavily involved with understanding what the first committee had done so that they could either disagree and do something differently and then explain it or carry on that process with some consistency.

We as scientists reviewing other scientists' work are extraordinarily skeptical people. You start with the premise that you probably screwed up and let us see if we can make it better. It takes a long time to work through that and make a decision about whether or not in fact the process did work or did not work.

Each committee came to the conclusion that the process in fact did work. By the end of their deliberations all were confident that the process has worked very well. My concern is that if you have several committees or two committees going on in parallel, they are going to be divergent.

You will end up at the end with either a conflict in the reports or some inconsistency in the reports which I think is the last message that anybody wants to send to the veterans, that after all of that amount of time and effort, they still did not get it right.

I appreciate the committee members' comments that there continue to be veterans who are dissatisfied with the sum total of what has been done with Agent Orange. I fully understand those. As a physician I understand those concerns. Nonetheless, It has been my sense in talking with veterans' organizations and my scientific colleagues that virtually nobody agrees with everything in the report. That is fine. At a minimum, I think virtually everyone agrees that the process was sound. That the work has integrity. That it has stood the test of time.

The last committee in fact found very little to tinker with in terms of the levels of evidence. Each of the conclusions of the prior committee were found to be strengthened by the dozen or 2 dozen major new studies that have come out in the last 2 years.

So, that gives us a lot of confidence that we in fact did it right and that the documents are there and they will stand the test of time. They will not have to be second- guessed in the future. I think that is important.

I understand the difference between 18 months and 3 years, whatever the time difference is, for somebody who is suffering, for somebody who has a condition, for somebody who is waiting for compensation, or for somebody's spouse who is waiting for compensation, or children. It seems like an eternity.

I think it is just critical that we do it right. If you rush the process and do it wrong, or do it substandard, or do it in a way that can be challenged, then that difference in time span will, I think, I mean any level of conflict about the results, any challenge to the results in my view will absorb much more time than the marginal amount of time commitment to do it right the first time. This was just a personal opinion.

Ms. SCHAKOWSKY. Can I ask one more?

Mr. SHAYS. One of the advantages of having less members is that we do not have a clock.

Ms. SCHAKOWSKY. OK. Again, I feel disadvantaged by not being a scientist. My understanding is the committee is reviewing these sets of exposures. If there is a certain methodology that has been established to do it that clearly if we are talking about 13 groups or 30 different chemicals or whatever it is, if you have to repeat the same thing over, and over, and over again, that dividing it up again, explain to me why once you have established what the scientific method is, the methodology, why you have to have it all done by the same group.

Mr. TOLLERUD. Well, the reason is because the methodology is not unfortunately a numerical approach where a board or a group of people can rank different papers or whatever and at the end of the day count it up and it comes down. I mean the exposures are complex. The levels of exposures are complex.

The studies to evaluate them are complex. They are rarely, if ever, sort of direct measurements. There are a lot of assumptions that go into that. In the end, the reason the IOM I believe chose to bring together independent scientists who did not have prior experience is because in the end these are judgment calls.

There are very few, with Agent Orange for example, there were a few conditions, which seemed apparent from the beginning, and they were in the sufficient evidence category. Frankly, we did not

spend a great deal of time looking at those. If the evidence was clear, if the evidence seemed to be overwhelming, the evidence was reviewed and it was cataloged, but that went very quickly.

Unfortunately, for most of the conditions of concern to veterans, I would say the vast majority of conditions that are of concern to veterans do not fall into those sort of clean evidence categories for a variety of reasons, not the least of which has met most of the concerns that I have heard relate to conditions that are relatively common in the general public.

The current theme for Agent Orange, for example, one of the biggest concerns that is sort of on the scientific horizon is whether or not diabetes might be associated with Agent Orange exposure. There is an enormous amount of scientific evidence to go into it.

This is something that is so prevalent in society that it becomes a very complex question and a lot of judgment to understand whether in fact this is diabetes in and of itself or diabetes that might have been related to a specific exposure.

The answer to the question is that it is a difficult process with a lot of judgment. We say methodology and it sounds clear cut. The methodology in this that ultimately decides where conditions are placed in the categories of evidence which ultimately influences VA's reaction, in terms of the legislation, if you read those categories of evidence, and we can provide them if you want, but if you read those categories of evidence, they are judgmental.

The sufficient evidence means that one or more studies are evaluated as being high quality without bias and a whole bunch of other things that can cripple the value of a study. All of those are judgment calls. For the conditions that are of most concern there are studies on one side and studies on another side. It takes a lot of weighing of that evidence to come forward.

Ultimately what a single committee does is they will make up their mind in the first part of the study, phase A if you will or whatever the beginning is. They will make up their mind. Everybody will sort of lock into it. The committee will lock into sort of an understanding of where they are going to make the cuts. What is going to be the standard that this committee is going to evaluate in terms of strength of evidence?

It will be a judgment. There is always a gray zone there. The committee will say that this is going to be our standard that we are going to stand by. Once you do that, then you can begin clicking through the various exposures much more quickly than starting up other committees that have to go through that whole process, lock into a certain way they are going to make their divisions between the categories, and pray that, that committee's divisions are the same as the first.

I think what we all would not like to see is to have veterans who were exposed to depleted uranium treated differently than veterans who were exposed to biologicals, for example, because one committee thought differently from another committee. Again, I think that the time consuming part of this process and the gelling of a committee are a real phenomenon.

It is not artificial. It takes time for those independent thinkers to come to a consensus. Once you have done that, once you have got that committee gelled, then you can move fairly quickly

through the other exposures. I think that at that point adding manpower simply dilutes the process.

Mr. SHAYS. Thank you very much. They were excellent questions. That was very helpful to the committee and I appreciate the responses. I know that this committee is going to attempt to monitor this process, but I am really unclear right at the moment how we are going to do that.

Jim Toote had given us his reading of the act and the time line. I believe that the VA has given us their kind of sense of what the time line is. I think that maybe I need to understand something pretty basic. The VA has asked you to do this study.

So, this issue is, I mean through Congress, but this issue, you have a contract with the VA. So, the whole issue of time lines is an issue that I need to address more with you than with the VA?

Ms. STOIBER. Our contract has certain time lines specified in it. In terms of what we are able to do and deliverables at a certain date, then we need to discuss it. Obviously, any matters that are at issue with the VA we cannot speak to.

Mr. SHAYS. Well, let me just cut through some of this as I see it. If this is an issue that the contract allows you a certain process, then that is one thing. If it is an issue that is that science simply does not enable you to do it differently, then that is another.

As I listened to your questions the gentle lady from Illinois, I am struck by the fact that says—well, my understanding is, for instance, the bill requires a list of 34 toxins. It is my sense that we are going to begin with five, give or take.

Ms. STOIBER. That is correct.

Mr. SHAYS. You have attempted logically to identify the five that the veterans were most concerned with and what scientists as well thought might be the most serious. Is that correct?

Ms. STOIBER. The scientists felt there were any number of ways you could begin the analysis and that the proposed exposures favored by the veterans groups are as good scientifically as any other approach. There was no difference in terms of thinking about priorities.

Mr. SHAYS. Well tell me why, other than resources, you could not do a study of the five, a study of another five, a study of another five, and a study of another five all at the same time, other than resources?

Ms. STOIBER. Right. Let me first answer the question that was implicit in your preface to the question, and that is was the contract the constraint for us? When the VA approached us initially about doing this study, they did not have a specific timetable specified in their approach to us. They asked us basically to give them a proposal for how we could approach this work.

Therefore, the timeline that is provided in our contract is really a timeline that we recommended to the VA for assessing the 34 exposures. So, the constraints are not artificial from the VA to us. They really are reflective of what we thought it would take to do the job in terms of our committee process. There are some obviously ancillary issues of interim reports and so forth that I think can be dealt with. So, that is not what I am addressing.

Mr. SHAYS. Let me just tell you. I take a bit of a bias here and I am going to be really candid. I would always want to be candid,

but I am going to say what I think about that. I can ask someone to build my house. I am going to tell him what I want built. He is going to tell me how it fits in with his schedule of other houses he is building.

I need you to be a little more precise about the timetable because the law is clear. It would be really misleading for us to leave today thinking that the only restraint would be good science. If in fact we put more resources into this, then could it be done sooner? Were you, for instance, given a specific contract with a certain amount of money allocated?

Ms. STOIBER. I was not a part of that negotiation. I think my colleagues could answer that, that was not a part of the discussion.

Mr. SHAYS. I need you to come up. Let me say to you that I would think that you had been given some kind of budget. So, it is not a criticism. I just want to know the score.

Ms. STRATTON. Actually, Mr. Chairman, we proposed a budget to them. So, VA did not tell us how much they have in their pot to pay for this study. Rather we decide what it will take to do the project in the best interest of the science and develop a budget based on our experience from doing many studies similarly. Then we submit a proposal with a budget to the VA, which they accepted in full with no modifications. So, in fact it really was what we proposed to them.

Mr. SHAYS. This is basically allowing, in a sense, the consultants to write their own contract. You are going to write it, in my judgment, to fit your needs as well as the needs of the person providing the request.

Dr. MURPHY. I do not know that you got a sense of the kind of process we go through in developing contracts with the National Academy of Science. They are an independent organization. We sent a letter to the NAS on October 31, 1997 requesting that they consider doing this committee work for us with a specific set of criteria that we would like to see the committee include in their study.

Also, I think that it would be fair to say that the IOM and the VA had lengthy informal discussions about how to proceed. They developed a process, developed a budget, gave the proposal back to us then Kathleen Stratton and I discussed in detail whether there was any way, knowing the urgency and the concerns of the Gulf war veterans and their families, whether this process could be shortened.

From the very beginning, VA recognized that Gulf war veterans do not want answers 2 years from now or 5 years from now. They wanted answers back in 1992 when they first returned from the Gulf.

Mr. SHAYS. I think that is accurate.

Dr. MURPHY. So, we recognized that from the very beginning and discussed at length about how the process might be shortened. We came to the conclusion jointly that NAS had developed the best proposal that would produce valid scientific answers.

Mr. SHAYS. Let me just say to you that I was with you until that last point. It is just hard for me to imagine that it is only one way and one way only. I cannot believe that. I cannot believe that with additional resources that it could not be done more quickly, unless

you are telling me that you have to allocate your resources somewhere else.

Ms. MURPHY. The resources that are scarce for us are not those that we could buy with additional money in the contract. The core of our work is our ability to identify and engage the volunteer time of a diverse range of scientists who not only have to be the leading experts in the given areas on a committee, but also are precluded as we indicated in the beginning from holding contracts with the sponsoring agency, of having any kind of consulting or other financial or personal relationships with businesses that could benefit or suffer from the findings of the committee.

So, you start with a relatively small pool of experts who would be suitable to serve on the committee. You diminish that pool further by the exclusion of those who might bring bias or conflict of interest to it. Then you have to find people who can fit this in their otherwise busy schedules.

The quality and the authority of our work depend entirely upon our ability to get people to volunteer their time for this. It is a very significant amount of time that they have to devote to it. In just the first exposures that we will look at in the study that we have commenced, the committee members will be expected to review probably 12,000 to 15,000 articles that yield information of different quality and different perspectives on these exposures.

That means a great deal of not only of the literature, but then coming together to deliberate and argue about the value of different studies. So, it is an enormous time commitment for them to make.

So, our constraints are not those of the IOM. I would gladly go higher several additional staff people and wrap up a process if that could enable us to give accurate and conclusive results. Our limitations really are those of finding the scientists who can meet our standards and participate.

Second, what Dr. Tollerud said of assuring that you do not create a process in which multiple activities end up giving you a lesser quality product and one in which different groups of veterans, depending on the exposure and the committee, might have different levels of consideration. So, if we could do it faster, we certainly would and would not hesitate to ask for the resources to do it.

I want to assure you that we spent a great deal of time internally trying to figure out if there was a way to create parallel committees and not diminish the authority of the work that we provide.

Dr. TOLLERUD. Could I.

Mr. SHAYS. Sure.

Dr. TOLLERUD. I need to follow that up. I am glad you jumped in front of me. I do consulting for industry. I do consulting for the city of Philadelphia in dealing with some of their environmental concerns. I know how consultants work. There is no question in my mind that VA could find a consultant to get this done in half the time that is even asked for in the law and to come up with a document that gave all of the looks of integrity.

You could not pay me enough to be on this committee, if it were a matter of resources. I have been at this for 8 years because it is the Institute of Medicine. There are very, very few other organiza-

tions that I would put this level of effort into. I belong to a dozen or so professional organizations. I do not give any of them any comparison level of time that got me to the first committee.

Mr. SHAYS. How does that relate to my question?

Dr. TOLLERUD. Because the whole key to why this takes time is that the scientific process of those of us who participate is the limiting factor. It is not staff. It is not anything you can buy with more money. The fact of the matter is I have been a part of the selection process of choosing or at least recommending colleagues of mine to be on the second committee and the third committee for Agent Orange. There are not very many of us out there.

Mr. SHAYS. None of this is intended to be disrespectful or to anything other than to just try to understand this, but why do you have to be the only person?

Mr. TOLLERUD. I do not, but the pool of people who fulfill the particular criteria that the IOM have taken with respect to veterans studies, which is a different set of criteria than for some of the IOM studies I believe. It is one that eliminates the vast majority of potential candidates for participation.

Mr. SHAYS. I respect your organization, Ms. Stoiber, more than you can imagine. So, I kind of give deference to it, especially since I do not have the expertise and since I would be a generalist in this issue. I have this analogy. I can understand that if I plant a seed, then I cannot mandate by law that this grows into a beautiful plant in 1 month when it is going to take 3 months. I can wonder why we do not plant more seeds.

If I have a sense that we are going to do five and then we are going to wait until that plant grows, then we are going to study it, and then we are going to plant another seed and wait until that plant grows and then we are going to study it, you know, way off in the distance we are going to be able to collect all of this information, and that is what I am wondering. Why can't we plant more seeds?

Let me say this to you. Whether you recommend it or not, I am talking about the cannot. I am talking about that first. I want to understand if it is resources, if it is that there are only a few good men and women to do this study, and I do not mean that sarcastically.

I sounded that way, but I do not. I truly do not; whether there truly are only a few good people to do it. I want to understand that. Then I am going to have a better sense of the timeline.

Ms. STOIBER. It truly is not a question of resources that are money dependent. It is a question of whether or not we can first of all conduct the study in a way that meets your expectations and our expectations for the accuracy and the conclusiveness of the answers that we give you.

I assure you that the IOM would be very willing to speed up this process if we believed there were a way to do it without compromising the final report. Based on the strong need of the veterans community to have answers to this, and the interest of the Congress and speeding up those answers, we can certainly revisit the question with our committee at the conclusion of phase I in which we have worked through the first exposures. We will then have a level of experience in whether or not there is any feasible way to expand

the committee, operate with sub-panels, or in any other way get the process moving faster.

I assure you that until the conclusion of phase I, it is not possible to even have that conversation, but that we would have not the slightest hesitation in coming back to you and coming back to the VA and saying that we could cut this by months or longer if we were able to accelerate phase II. At this stage, I do not want to hold out the possibility that we could do that because we have consulted extensively and do not think that is possible.

Mr. SHAYS. Phase I will be done when?

Ms. STOIBER. Phase I is August of the year 2000.

Mr. SHAYS. We required it to be done when?

Ms. STOIBER. April 2000, but you required that the entire set of exposures be done by April 2000. We are delivering a sub-set of exposures by August 2000.

Mr. SHAYS. Have up to five, give or take?

Ms. STOIBER. Seven, I am sorry. I misspoke.

Mr. SHAYS. Let me just say this to you. I am not convinced about this one part. I am not convinced of that, and I could be just totally off base, but I will tell you. My mind says that you can do more than or maybe I do not understand this. Does the same group of people have to do each one of these phases in order for there to have this common knowledge or can different people do each one of the toxins? You could have a group of toxins here and toxins here?

Ms. STOIBER. Let me let my more scientifically qualified colleagues answer that.

Ms. STRATTON. I think it is a little bit of both. The answer is a little bit of both. Basically, the committees tend to break into working groups who have primary responsibility for specific compounds or health outcomes. That is most likely the way that this Persian Gulf Committee will choose to operate. We believe that they will.

They will firm that up next week when they have their committee meeting. That does not mean that they do not need to spend a great deal of time together explaining to each other what the primaries for that particular compound have read, have studied, and the questions. They need to be able to test each other back and forth and make sure that everyone is in the agreement and the full breadth of the scientific questions have been evaluated.

So, they are in small groups. There is a great deal of time spent as a whole sharing the information back and forth. This is the consistency and consensus requirement that Dr. Tollerud referred to that, by experience with veterans and Agent Orange, we understand to be critical to the quality of the work that we have done.

Mr. SHAYS. Let me allow other Members to ask some questions. I will just say, Ms. Schakowsky, your question really generates an answer that I am not, well I guess I will ask you to come back to the subcommittee and just let us know what truly is a financial restraint and what is a resource restraint. In other words, there are only so many people that you can turn to.

If in the end a good faith effort to live by the statute, which will not be abided by, by the letter it seems fairly clear by the statements here, but the spirit could be respected even more. I would love to know if this committee of 18 can be expanded a bit; if you

can be looking at more toxins at the same time by allowing others to be involved in this process and still be able to tie it together in a package.

I am going to just conclude at the end, when my colleagues are done, to go through the timeline with you just a little bit. Maybe you could start to look at it now and tell me which ones tend to be the biggest hurdles. That would be very helpful to me. Mr. Sanders.

Mr. SANDERS. Thank you and my apologies to everybody. I had to run out to another hearing. Let me concur with the chairman's concerns. I hope I am not repeating and if I am, please stop me. I do not want to go over the stuff that you may have gone over.

Very briefly, I became involved in this whole issue, not only because of concerns with veterans and so forth, but of a prior experience. That is people in my District were becoming ill because of exposure to certain types of carbons and so forth and so on. I became then more involved. I got kind of sucked into the whole issue of multiple chemical sensitivity.

I do not want to speak for the chairman, but I think one of the frustrations we have in this whole process is we saw veterans who came before us who were very terribly ill and the VA was saying we do not know what the cause of the problem is, and they do a study, and the study does not show. It proves that of everything out there, nothing causes the problem.

In my own State of Vermont, I had a meeting. We are a small State. We did not send a whole lot of folks over to the Gulf. A couple of months ago I had a meeting in Burlington, VT. We had 120 people who were at the meeting who are ill from Gulf war illness. Every time we ask the VA what is the cause of the DOD, there is no cause. We do not know. Where there is a problem, we do not know. We do not know.

Sometimes I am wondering if they are looking in the right direction to start with. The bottom line is I, personally, believe in a phenomenon called multiple chemical sensitivity. I believe we live in a toxic society. I believe the Gulf war theater was an enormously toxic environment combined with pyridostigmine bromide, combined with the possibility that some of these guys absorbed depleted uranium, combined with the fact that nerve gas was out there when we blew up a depot.

We are looking at a real toxic environment. Now, my concern is that there are very honest, decent, intelligent, hard working scientists who just do not believe this. They do not believe this. I know the AMA is split on this. I have in my District guys who when they walk down a supermarket aisle, if they are exposed to detergents, they get sick.

Their wives cannot wear perfume. They have short-term memory loss. These are hard working guys who have never experienced this phenomenon until they went over to the Gulf. So, my concern is and maybe Dr. Tollerud if you could begin this discussion, do we have people, and are we going to have people looking at this who are sympathetic to the concept who believe in the concept of multiple chemical sensitivity, or do we have folks that say hey, that is really quackery and fraud as some believe and there is nothing there?

Dr. TOLLERUD. I cannot give you a direct answer because actually I know nothing about the make up of the Gulf war committee. I can speak from the makeup of the Agent Orange Committees. I would guess since the process is the same that the choice of scientists would be similar.

I do not recall in the committee process ever actually having a discussion about multiple chemical sensitivity. I think if we had, it would have been set aside right away because we relied on what the scientific literature said.

For somebody to say I am not going to look at that scientific article because I do not believe in MCS would be the same as saying I am not going to look at that article because I do not believe in leukemia, because I do not believe in brain cancer, or because I do not believe in diabetes. The fact of the matter is that the peer review literature, which is what we relied on, and I mean there is the point.

Mr. SANDERS. Who reviews peer review literature? In other words, if you do not believe in it, and I have seen this many times, I have talked to several hundred physicians who inform me that they are treating people who are made ill by carpets. I am telling you a fact.

I can go to other physicians who say that is all nonsense. That does not exist. There is no illness made by toxic carpets. Who is right and who is wrong? If you have as your peer review those people who do not believe it, then you are going to have all, and I have seen this. There is a wall between these guys. Is that true or is that not true?

Dr. TOLLERUD. That is true. There are similar disagreements in the scientific community as there is in the therapeutic community. What I would say with respect to the peer review literature, which is why we in a scientific sense we always go back to the peer review literature. That process is one that is supposed to not allow for opinion to be an overriding consideration.

In fact, there is a whole appeal process for scientific journals. If a scientist believes that their article was crossed out of the journal or prevented from coming into the journal because of an opinion rather than scientific fact, then there is an appeal process.

Recently, there has actually been much more use of a different process where when you submit an article to a scientific journal, to a high quality journal, you submit the names of several reviewers who you would suggest as the writer of the article would have the scientific integrity and opinions and knowledge to be able to judge that article.

By and large, at least one of those people ends up being reviewers. The second list that I submit is a list of people that I believe are conflicted and have a conflict of interest. I do not have to specify what that conflict is. As in any other thing, there are scientific people who believe in cold fusion and who do not believe in cold fusion.

If you are going to submit an article to a scientific journal, you can list people who you believe have already made a stance who are closed-minded. Ultimately, it is the editors of the journal and the editorial boards of the journal who make that final decision about how exclusionary you can be. That is the process we use. We

needed to rely on that because otherwise, frankly, we would be faced and we were faced in testimony, for example, where we would have testimony from veterans who were clearly affected by disease and who were explaining the exposures and stuff to us.

Then we would get testimony from somebody else who might have been a veteran, who might have been a contractor, who might have been a politician who would have given equally strong testimony in the other. We did not feel that it was possible for us to judge the absolute validity of either of them.

We believe that people were telling us what they thought. Ultimately, what we could do as scientists, if we wanted to have something that the VA and Congress could use on which to base their policy judgment, we simply had to stick by the science.

Mr. SANDERS. All that I would say, and I will conclude in a moment, is this. There is some good news out there. The good news out there is that there are a number of scientists and physicians who I think are making some breakthroughs in Gulf war illness in terms of understanding the problem and in treating the problem.

There is right now through the Veterans Administration two clinical trials for $20 million testing a thesis by Nicholson who was here from California. There is another trial based on some of the work done at Walter Reed Hospital for disease management. That is good news.

The bad news is that, and I would love to be corrected, as of today, I do not think the Veterans Administration or the DOD, I think their official position is, yes, there is a problem. If you were to say to them what is the cause of the problem? We do not know. We have done this study; nothing. We have done that study; nothing. Please correct me if I am wrong. Dr. Mather, am I right or wrong? What is the cause of Gulf war illness?

Dr. MATHER. Gulf war illness, I do not think we know.

Mr. SANDERS. That is the answer we have been getting for 8 years, after spending many millions of dollars in studies. Now, does that mean to say that they have bad scientists, or scientists who do not want to help the veterans? That is not what we are saying. I think there is a mindset.

I think what Chris and I, do you remember that; that whole week over, and over, and over again? There are people who are approaching these problems in a different way. The VA and the DOD have been pretty conservative. There are some folks who are making breakthroughs out there.

So, if all that happens after all of this stuff comes back that say, well, you know, we know there are 100,000 or 50,000 people who are hurting, they are in my State. I talk to them every day. They are hurting.

Mr. SHAYS. Not everyday.

Mr. SANDERS. Not everyday. I talk to them often. They are hurting. We are failing them if all we say is, yes, we know you have a problem, but after 8 years and tens of millions of dollars we do not know the cause. We are not doing a good job. I would hope that you, in whatever capacity you approach this problem, are more open-minded. Go out to people who you may think are eccentric.

Every time I hear peer review I get a little nauseous because it always says to me it is the same old folks saying this is a crazy

idea. It does not work. We do not know what is going on but this is a crazy idea. Are you following what I am saying? Does it make any sense to anybody?

Dr. TOLLERUD. I think that the process that is so difficult in finding participants for the committees and why in fact as the problems get more complex and more serious it becomes more and more difficult to find qualified scientists who have not already taken a stand. That is one of the resource issues we are talking about for the reason that popping up several other committees is just not feasible.

What you do not want is to have those people who have already made their decisions on the committee. I mean it is like a jury process where they have already made up their mind before they are on the committee.

The whole intent of gathering the scientists the way the IOM is doing it is to have people whom in fact have not made up their mind. In fact, they have not even spent a great deal of time thinking about it. Sometimes a fresh look will, you know.

Students do that all of the time. Students ask the damnedest questions because they are not smart enough to keep their mouth shut and to not look in a different way. The committee members are very much like that. They will say, you know, well why? Why? Why? Why? Why?

Mr. SANDERS. The VA has just told us, and please correct me if I am wrong, that after 8 years and tens of millions of dollars, they do not know the cause of Gulf war illness. I do not mean to be critical. I have been critical in the past. I do not mean to be critical today. It is not a personal thing.

I do not think they are going to get it, not because they do not want to but for whatever reason. I am asking you to get it. That means do not continue doing what has failed in the past. Do not come back 5 years from now say, gee, everybody is ill. We do not know the cause. Tell us what the cause is.

Go to people you think are a little bit strange who may not be peer reviewed by the folks who do not know the answer. That is what I really beg of you because I do talk. We had a conference. Chris was not there, but some folks were. In Atlanta, veterans are very frustrated. They are angry. They are bitter. They do not think they are getting a fair shake. They are right. They are not getting a fair shake. So, let us break the model. Let us talk to some different people. Thank you Mr. Chairman.

Mr. SHAYS. We are going to conclude very soon. That is not to say, Ms. Schakowsky, feel free to ask any question.

Ms. SCHAKOWSKY. I just have a short comment. I really want to thank my colleagues, Congressmen Shays and Sanders, for the years of work that you have done on this. I find with my very short exposure to this that maybe I understand now why I am not a scientist. I am not a patient person. What it sounds like you are saying is that this is going to take a long time.

I think that a part of what is missing in this whole process, and I do not feel it so correct me if I am wrong, is a sense of urgency about this. Mr. Sanders has been talking about the last 8 years. What I do not hear back from this panel is that an acknowledgment that, you know what, the fact that these committee members

are busy people is not a real good answer for veterans who are really suffering and looking for an answer.

That may be part of the reality. I think then maybe we have to figure out how to coordinate schedules better, or whatever it is going to take, or find more people who are experts. I would hope that with all of the work that has been done and the legislation that has been passed, and the crying in the Districts of the people who are suffering that this will move quickly.

Mr. SANDERS. May I, Mr. Chairman?

Mr. SHAYS. Sure.

Mr. SANDER. Just let me ask one question. Dr. Murphy, Dr. Mather, after 8 or 9 years of this issue do you in fact believe that there is such a thing called Gulf war illness? Dr. Murphy, do you believe it in your heart?

Dr. MURPHY. I believe that there are veterans who are ill and they have multiple different kinds of illnesses. We have talked about that before. I do not think that everybody was exposed to the same thing. I do not believe that everyone has the same symptoms or the same illness. We treat veterans for the illness that they have.

We have 120 research projects going on. There are additional requests for proposals out to study this problem. I think the IOM Committee that has been setup will help us look at the scientific literature and determine from the available evidence whether there are associations between the exposures and any adverse health outcomes.

That will help us in making compensation decisions. We also have another committee that the IOM will be starting up soon that will look at the issue of effective and valid treatment models. That is a separate process. So, we have done the best we can to try to address this issue as quickly as possible.

What you need to recognize is that sometimes science does not always give us answers as quickly as we would like. Sometimes there needs to be a public policy decision about how to handle these things.

Mr. SHAYS. Let me just say, that is really a good lead in though in one sense because that is really why the legislation took place. Eventually, the VA has gone to the IOM to do what we would have liked them to have done years ago, but that is water over the dam as far as I am concerned; somewhat over the dam.

Mr. Epley, I just want to say I think your presence here today would have been to address issues dealing with the presumption issue. I do not want to open a whole door that we go in for a long time.

I made this assumption and I need to know, we have a presumption that a veteran who is ill, who served in the Gulf, that their illness will be related to their service and to the Gulf, and that they then become eligible for certain compensation and benefits depending on their illness and so on. Is that a false assumption that I am making?

Mr. EPLEY. No, sir. If I understand you correctly it is not. If under this law, through this study, or under another law where a presumption is legislated that says exposure to a toxin creates an association or a presumption that, that veteran who subsequently

comes down with a disease, if that presumption is legislated or if the scientific community comes through this study and says there is a significant association, we can create the regulatory frame work. We can pay compensation benefits under that.

Mr. SHAYS. OK. I just want to be a little clearer. It is not waiting for the results of this study though. We make a presumption now; correct?

Mr. EPLEY. Not under the legislative framework we have now. We have the undiagnosed illnesses and we do pay veterans under that legislation from a couple of years back. If a veteran presents himself to us today and says he was in the Persian Gulf, in the theater of operations, and he is ill, then based on medical examination we determine that symptomatology does exist. They cannot diagnose the illness. We will pay compensation for that undiagnosed illness. We are.

Mr. SHAYS. We are making the assumption, the presumption that their illness was service related. I am missing a fine point here though that you seem to want to make.

Mr. EPLEY. I am not trying to.

Mr. SHAYS. No, no, no. Mr. Thompson, do you want to enter in here? My sense was that the whole issue of presumption would be that a person who was clearly ill would be presumed to have had his illness, who served in the Gulf, would be presumed to have it be service connected.

Mr. THOMPSON. No, sir. Current law requires that VA be able to tie a disability to a period of service. Congress, at the administration's urging a few years ago, legislated a presumption only for undiagnosed illnesses.

Mr. SHAYS. Right.

Mr. THOMPSON. That is, those illnesses which defy medical science's ability to diagnose. Because of the uncertainty, the policy was to give the benefit of the doubt with respect to claimants.

Mr. SHAYS. The issue though relates to NAS making certain findings on presumption. I need to have a sense as to—I did not think it had to be the final package before that assumption or that presumption kicks in. So, maybe I need to be clear as to what you all think.

Mr. THOMPSON. The law requires that as the reports come back from the Institute of Medicine, the Secretary reviews those reports and within a specified period, 60 days, make determinations based upon the IOM report, as well as any other available evidence, as to whether the level of proof rises to the levels specified in the law to trigger the administrative creation of a presumption by regulation.

Mr. EPLEY. Excuse me, sir, may I add to that?

Mr. SHAYS. Right.

Mr. EPLEY. We have done that under the Agent Orange legislation. It is a tight timeframe, but it is something administratively we can do.

Mr. SHAYS. How tight is this timeframe?

Mr. EPLEY. It is 60 days to make the report and then 60 days to write a regulation.

Mr. SHAYS. A report after you have a finding?

Mr. EPLEY. Yes, sir.

Mr. SANDERS. Chris, can I jump in and ask a question on this issue?

Mr. SHAYS. Yes.

Mr. SANDERS. Help me out here. I am a police officer in Burlington, VT. I have blinding headaches that affect my ability to do work. I served in the Gulf. I believe it is associated with service in the Gulf. I walk into the hospital and I say I really cannot work right now. I am in trouble.

What help and what benefits do I get? Is there any other category other than Post Traumatic Stress that I can receive benefits on? What happens if I do not think it is stress? I do not want that on my record. Can I get a benefit? How many of those benefits are being given? Who wants to answer that?

Mr. EPLEY. Let me attempt to. If you present that way and are examined by a physician, if they diagnose you for a condition, first of all, and that diagnosis either is within a year of your separation from service or if it can be demonstrated.

Mr. SANDERS. Can it be demonstrated? I will give you an example. I served many years ago.

Mr. EPLEY. Right. If it can be demonstrated that there is continuity; those symptoms have been in existence since service we could provide service connected disability.

Mr. SANDERS. How often do you? I mean, I gave you an example. A guy has blinding headaches. It has gotten worse. He served over in the Gulf. I mean are you going to say, hey fellow, we cannot tell you that this was cause by service in the Gulf? We do not know what the cause of it is?

Mr. EPLEY. In that instance, if there we are not able to diagnose, the physician examined and said yes, we understand your symptoms. You have one or more symptoms. We cannot diagnose that condition. We acknowledge that you have the symptomology and it is disabling to you. That is a situation that we would consider for service connection under the undiagnosed illness rule.

Mr. SANDERS. How many people are receiving benefits who served in the Gulf?

Mr. EPLEY. People who served in the Gulf, in the conflict itself, within the theater of operations and when the conflict was going on, our records show a little over 86,000 veterans are receiving benefits. That represents 15 percent of the veterans who served in the Gulf war conflict.

Mr. SANDERS. Are these health-related benefits?

Mr. EPLEY. Yes, sir; service-connected disability or disabilities that they received coincident with service.

Mr. SANDERS. It is 85,000?

Mr. EPLEY. A little over that, yes, sir.

Dr. MURPHY. Any Gulf war veteran can receive health care from VA if the condition might be related to Gulf war service. There does not have to be a proven relationship with their service in the Gulf. If they are a Gulf war veteran, meaning they served between August 1990 and present day, they can get healthcare benefits.

Mr. SANDERS. What you are saying is that 85,000 does not necessarily include people that we would consider have Gulf war illness.

Dr. MURPHY. No.

Mr. EPLEY. That is correct.

Mr. SANDERS. All right.

Mr. EPLEY. May I elaborate on that, sir?

Mr. SHAYS. Yes, and then I want to claim back my time.

Mr. EPLEY. Going back to undiagnosed illness, under that rule the number of people that we are paying service connected benefits for is 2,800 and a few over that. So, that is a very much smaller population.

Mr. SANDERS. Is it fair to assume that under that rule we would consider those people to be suffering from Gulf war illness; that 2,800?

Ms. STOIBER. They have a lot of different things.

Mr. SHAYS. Dr. Tollerud, what are the toxins? I made a gigantic assumption that I am having to come to grips with here. What are the toxins that you intend to be in your first report?

Mr. TOLLERUD. I am not on the Gulf war committee.

Mr. SHAYS. I am sorry.

Mr. TOLLERUD. I think the IOM could answer that.

Mr. SHAYS. Right.

Ms. STOIBER. Those to be covered in the initial phase are nerve agents, including serine and cycleserine; vaccines anthrax and botulism. I always stumble on this one, pyridostigmine bromide and depleted uranium; uranium and depleted uranium.

Mr. SHAYS. When do we anticipate a finding will be made on those?

Ms. STOIBER. That is August of the year 2000. As I understand it then the VA would act on those findings within 60 days of that period. So, for these seven there would not be an extension beyond that 60 days after the August report delivery.

Mr. SHAYS. Basically, by the presumption we are giving the benefit of the doubt to the veteran; that the VA would have to prove that the illness was not service related. Now, you are shaking your head, Dr. Murphy. I want to be clear. It is all right to shake your head. I just want you to straighten me out here.

Dr. MURPHY. After the presumption.

Mr. SHAYS. You shook your head and I made a comment. Speak in the mic and tell me the facts.

Dr. MURPHY. The IOM Committee will produce its reports. Based on the scientific evidence that they find, VA will establish a process to weigh the evidence in that report and makes recommendations to the Secretary about what presumption should be created for particular disease entities. People who are then diagnosed with those diseases are presumed to have disabilities related to Gulf war service and can be compensated.

Mr. SHAYS. Let me just conclude then by asking is there any determination, for instance, the law requires that there be an interim report? I would prefer when we are given documents to have somebody's name that is attached to them. Are these from the VA or IOM? How would I know this is from the IOM?

Ms. STOIBER. We sent it to your staff with a cover letter.

Mr. SHAYS. So, it was a part of a cover letter.

Ms. STOIBER. Right.

Mr. SHAYS. I apologize; my fault. An interim report was required. That was not done on April 21 for obvious reasons. When will an interim report be provided?

Ms. STOIBER. We can provide interim report very quickly and will be happy to do so. It was not called for in our contract. So, we did not, but we will be happy to do it.

Mr. SHAYS. This is what I am going to end up then with my request. I would like very much for the VA to negotiate a new contract attempting to respect the legislation that passed. If you feel that the legislation requires something that is not to the benefit of the veterans, not feasible, or whatever, just tell me that in a paragraph or two. We will have a dialog about whether we need to amend the law or we need to somehow close our eyes to the law, but I would like that stated.

I cannot imagine why an interim report would not be helpful. I cannot imagine why it cannot be honored. I would think that we would go out of our way to honor the law as it is passed.

Dr. MURPHY. I think that the IOM, sir, has already testified that we have an informal agreement without having to go back and amend or renegotiate this contract.

Mr. SHAYS. I am just responding to this. I am responding to what you have provided us. I do not see an interim report here.

Ms. STOIBER. What your staff asked us to do is to compare what our contract with the VA required versus what the law requires. So, there is no implication that we would not try to deal with things that are not in the contract, but just that is the comparison of fact.

Certainly, we are happy to provide a progress report, an interim report on where we are. In the other areas, the VA shortly expects to award the study on treatment models. So, even though that is not a part of our original contract, we expect to begin that shortly. We did not mean to imply there that these were not doable, but just not in the original contract.

Mr. SHAYS. Finally, just to conclude again, the first report is due when?

Ms. STOIBER. On August 2000. The interim report will obviously come quickly. The first stage report is August 2000. That will include the seven exposures that I indicated.

Mr. SHAYS. What I am coming to grips with is the fact that I made a gigantic assumption. That presumption took place now either affirmed or not affirmed by the report, which is a gigantic flaw in my knowledge of the bill. So, I have to take the blame for that one. It is a shocker for me. I cannot understand why the VA fought this given that I do not even see the cost because we do not make a presumption for so damn long.

Dr. MURPHY. I would disagree with the assumption that VA ever tried not to implement this legislation or "fought" this. We established the process back in 1997.

Mr. SHAYS. Then that was done by Congress then. When we were voting on this last year, Dr. Murphy. When we were voting on this last year, we had tremendous opposition from the VA on this bill. That is a fact. Now, I am going to have to find whom that one person is, but we cannot hide from the fact that we had to fight tooth and nail to get that bill in.

We were told it was going to cost a horrendous amount of money. So, I will establish what my opinion was and yours on the record. So, we have, once again, a gigantic disagreement. I do not recall your asking that we pass this legislation. I recall that the VA was not supportive. Mr. Thompson, you can respond. Dr. Mather, you can respond.

Mr. THOMPSON. I would be glad to respond. The Department of Veterans Affairs never opposed such legislation. In fact, 4 months before this legislation was enacted, we had an agreement with the IOM to get started on the very thing that would create the sort of evidence that would allow us——

Mr. SHAYS. Is this your testimony that we had presumption; that you had anything to deal with presumption? Are you saying to us that you began the study with a presumption in it?

Mr. THOMPSON. Has IOM began a study?

Mr. SHAYS. Right.

Mr. THOMPSON. Hoping to get information.

Mr. SHAYS. Right.

Mr. THOMPSON. With which to create presumptions if the evidence dictated that presumptions were needed in order to give veterans a fair shake.

Dr. MURPHY. I think I understand how we are not communicating. Are you asking if VA wanted legislation to establish presumption of exposure? Is that your question?

Mr. SHAYS. Yes. That is one of the questions.

Dr. MURPHY. No. VA did not ask for that particular provision.

Mr. SHAYS. It opposed it. Maybe I am splitting hair here but my sense is that you were taking a stand against presumption.

Dr. MURPHY. I think perhaps our difficulty in communicating is due to our different understanding of "presumption." I mean I think when somebody says there is a presumption of an association, I would interpret that to mean that anyone who is sick today who served in the Gulf war we would presume that, that illness is due to their service in the Gulf war.

I do not think we have any scientific evidence that says that everyone who is sick today is ill due to Gulf war service, and we are not saying that there are not people who are sick. There are people who are sick. There are some people who are sick that we do not understand why.

Mr. SHAYS. The whole point of presumption was that even if 50 percent of those who are ill got it from the Gulf war, we were willing to cover the other 50 percent who were not, who were sick, who did not get it because we could not wait for science to catch up to the sickness.

I am slightly embarrassed and I put it on the record that my sense of presumption is different than evidently the law is written. I am embarrassed about that. That was my assumption. It was very clear to me that we took a lot of heat by my colleagues when this passed because the testimony from the sources that they were doing on the VA was that this was going to cost a phenomenal amount of money.

I do not see the cost because we are going to be waiting for each of these interim reports to happen before we are willing to make

the presumption. By then, I wonder why we even call it presumption?

So, that is my embarrassment. Fortunately, I am doing it on a Thursday afternoon. I do not feel that the VA was at all supportive of this legislation. Let me say something. I did not intend that we would end this way.

Mr. THOMPSON. Let me just say that the pattern for both the Senate bill and the House bill was the recommendation of the Presidential Advisory Committee on Gulf War Illnesses. Based upon their recommendation, the Department first drafted the prototype legislation that was then picked up by advocates in both the House and Senate and introduced.

That is the reason we got bills that do not look very different from what the administration first floated and which were enacted almost simultaneously the same day. So, I can say with certainty there was not legislation that would have just proposed that any illness suffered by a Persian Gulf veteran would be presumed to be service connected. The Department certainly therefore was not on record as opposing anything like that.

Mr. SHAYS. Any other comments? I will be happy to hear from any of you before we conclude.

Ms. STOIBER. I would just like to say on behalf of the IOIM that although this has been a calm discussion, it should not reflect any lack of commitment and real energy on our part to respond to what we do understand to be urgent needs and problems on behalf of veterans.

Our committee members and our staff have been working as rapidly as they could on this, including having a large amount of time for our committees actually devoted to hearing directly from the veterans and their representatives for exactly the reasons Mr. Sanders suggested. That is, you need to hear directly and not filtered through research what people are experiencing and their perspectives on it.

Please know that our commitment is to do this as quickly as we can possibly do it and maintain the integrity of the work. We will go back and reexamine whether or not there is any speeding up that can occur. We will discuss it with our committee when they meet next week or the week after next. If there is, then we will certainly do it.

Mr. SHAYS. Thank you. Anyone else?

[No response.]

Mr. SHAYS. OK. I will let the record note that the VA feels that they were very supportive of this legislation and that was not my understanding, but I respect the fact the VA feels that way.

Thank you. This hearing is adjourned.

[Whereupon, at 4:15 p.m., the committee was adjourned.]

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