From Battlefield to Bureaucracy: How the Veterans Administration Addressed Agent Orange Exposure, 1977-1991

Jordan McIntire
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Introduction

On February 6, 1991, President George H. W. Bush signed into law the Agent Orange Act. This law was the first legislation to officially establish a group of presumptive conditions for Vietnam Veterans exposed to herbicides, meaning that Veterans with non-Hodgkin's lymphoma, soft tissue sarcomas, and chloracne could now receive medical benefits from the Veterans Administration (VA) as a result of their service in Vietnam. This legislation was applauded by Veterans' groups, government officials, and the general public. Yet, it was rooted in over a decade of fierce debate over the long-term health effects of Agent Orange and dioxin exposure.

This paper seeks to analyze the key events, studies, legislation, and people who played a part in this debate, with a specific emphasis on the ways VA addressed the Agent Orange issue. VA played a very visible and often highly criticized part in addressing concerns over Agent Orange, largely because they handled the medical claims submitted by Veterans alleging exposure. They likewise conducted several in-house studies on Vietnam Veterans' health and formed multiple committees to both conduct these studies and make policy recommendations. VA first began receiving Agent Orange claims in 1977. Thus, this paper will focus on the time period between 1977 and the passage of the Agent Orange Act of 1991. While VA's efforts to confront Agent Orange issues during this time period were not perfect, their actions were typically based on the best available scientific information on herbicides. Even so, this paper will address both their struggles and successes with this approach.

Most sources for this paper originate from the National VA History Center in Dayton, Ohio, namely their Post-Deployment Health/Epidemiology Collection. This collection comprises records from multiple VA offices and committees created during the mid-1980s in response to concerns over herbicide exposure. It includes meeting minutes, internal VA memoranda, reports on Agent Orange studies, various correspondence, and transcriptions of Congressional testimonies, as well as other related material. Other primary and secondary sources, both at the National VA History Center and elsewhere, were consulted as needed.

Agent Orange in Vietnam

In January 1962, the U.S. Air Force launched Operation Ranch Hand in South Vietnam. This operation, which consisted of spraying chemical herbicides to thin heavy jungle foliage and destroy enemy farmland, sought to deprive Viet Cong forces in the area of both food and shelter. During the first three years of the operation, the Air Force sprayed just over one million gallons of herbicides. Yet, as time passed, the frequency and extent of these missions increased substantially. When Ranch Hand came to an end in January 1971, some 18.85 million gallons of herbicides had been spread across Vietnam, Laos, and Cambodia. Over 3.6 million acres of land were sprayed, with 34% percent of this land area sprayed more than once. Nearly 75% of the herbicides, or just over 14 million gallons, were sprayed during the operation's peak years of 1967, 1968, and 1969.[1]

The herbicides sprayed during these missions have come to be known as the Rainbow Herbicides, with each herbicide's name deriving from the color of the stripe on the barrel in which it was stored. Agents Green, Pink, Purple, and Blue constituted the bulk of spraying efforts for the first four years of Ranch Hand. In 1965, however, the Air Force added Agent Orange to its arsenal of herbicides, and it quickly became the most accessible and prevalent

[1] Draft of "Need to Determine Long-Term Health Effects of Exposure to the Herbicide Agent Orange in South Vietnam," November 1978, NVAHCA.2022.07, box 69, VA Central Office Room A-11 Cleanout, National VA History Center Archives, Dayton, OH. [VA Central Office Room A-11 Cleanout]

herbicide of the war. It was made up of a 50:50 mixture of 2,4-D and 2,4,5-T, the latter of which contained a contaminant known as TCDD, which is a type of dioxin, or organic pollutant. Its effectiveness in contaminating farmland and clearing jungle foliage led to it becoming the most used herbicide each year between 1965 and 1970, with the Air Force spraying an average of three gallons of undiluted Agent Orange per acre. By the time the Air Force ceased herbicide spraying missions in 1971, Agent Orange alone accounted for 11.22 million of the 18.85 million gallons of herbicide sprayed in Southeast Asia.[2]

Early Agent Orange Concerns

Concern over the use of Agent Orange in Vietnam, specifically relating to the prevalence of 2,4,5-T, began even before the conclusion of Operation Ranch Hand. Although the herbicide had been produced in the United States since the 1940s, its use in domestic plant control programs had much stricter guidelines than were followed by the military in Southeast Asia. This included the recommendation that pure 2,4,5-T should, on average, only be sprayed at a ratio of roughly one pound per acre. Yet in Vietnam, concentrations of this herbicide were often much higher. A February 1970 article in *The New Yorker*, which was read before Congress in June of the same year, contended that the concentrations of 2,4,5-T being sprayed in Vietnam were up to 13 times higher than the recommended concentration in the United States.[3] In addition, by 1969, studies of the effects of 2,4,5-T and the contaminant TCDD in mice and rats showed a higher prevalence of deformities among offspring. This raised questions from American politicians, the scientific community, and South Vietnamese civilians. Viet Cong propaganda also began making

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[2] Draft of "Need to Determine…," November 1978, box 69, VA Central Office Room A-11 Cleanout.

[3] *Effects of 2,4,5-T and Related Herbicides on Man and the Environment: Hearings before the Subcommittee on Energy, Natural Resources, and the Environment of the Committee on Commerce* (Washington, D.C: U.S. Government Printing Office, 1970), 100.

accusations against the use of herbicides, with one such charge stating that "U.S. poison substances have killed fetuses and seriously affected milk secretions of mothers, rendering them unable to feed their babies." In April 1970, under pressure from the Secretary of Health, Education, and Welfare; the Secretary of the Interior; and the Secretary of Agriculture, the Department of Defense ultimately banned the use of Agent Orange in military operations "pending a more thorough evaluation of the situation."[4] Herbicide spraying missions for the remaining nine months of Ranch Hand relied on Agent White, which did not contain TCDD.

By the late 1970s, less than a decade after the herbicide operation came to an end, Vietnam Veterans and their families had begun noticing adverse health conditions with seemingly no explanation as to their cause. In June 1977, Maude DeVictor, a claims representative at the VA hospital in Chicago, received a phone call from Ethel Owens, the wife of an Air Force Veteran who claimed that the "chemicals in Vietnam" were to blame for her husband's terminal cancer.[5] Although the Veteran ultimately passed away shortly after the call, his situation prompted DeVictor to begin gathering information on other Veterans who had been exposed to Agent Orange in Southeast Asia. She found a number of cases of ill health, ranging from cancer to severe birth defects. Despite having her superiors' approval in the early stages of her research, once DeVictor's alarming conclusions concerning the correlation between Agent Orange and adverse health effects became more clear, VA admonished her that she was "not looking at it the right way."[6] They later refused her request to inspect the causes of death of Vietnam Veterans buried at Arlington National Cemetery, where she hoped to further establish a

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[4] William A. Buckingham, Jr., *Operation Ranch Hand: The Air Force and Herbicides in Southeast Asia, 1961-1971* (Washington, D.C.: Office of Air Force History, 1982), 166.
[5] James Litke, "Phone Call in '77 Started Fight for Accountability: Ex-VA Employee Devoted to Agent Orange Crusade, *Los Angeles Times*, March 31, 1985.
[6] Maude DeVictor, "Maude DeVictor Discusses Veterans Affairs and Agent Orange," interview by the Chicago History Museum, Studs Terkel Radio Archive, October 12, 1981.

link between certain illnesses and Agent Orange exposure. According to DeVictor, this change of heart was driven by the government's fear that, should TCDD exposure be proven to have negative health effects, the political and legal consequences for the military would be profound. Yet despite this opposition, DeVictor shared her findings with a CBS affiliate in Chicago, and she, along with Owens, was ultimately interviewed as part of their March 1978 documentary titled *Agent Orange: The Deadly Fog*. The documentary explicitly called on the U.S. government to conduct testing on Veterans exposed to Agent Orange and included interviews with Veterans who had themselves been exposed and were now facing severe health concerns. Within weeks of the documentary's airing, VA received hundreds of claims from Veterans concerned about Agent Orange exposure.[7] At the time, however, VA denied all claims of Veterans claiming dioxin poisoning on the basis that there was not enough scientific evidence to prove correlation. Yet, DeVictor continued filing complaints over benefits for Vietnam Veterans, even while VA, who likely feared spreading seemingly unsubstantiated information, instructed her that she was not allowed to talk to members of Congress or have any phone calls lasting more than 15 minutes.[8] Although VA ultimately fired DeVictor in November 1983 for "conduct unbecoming of a federal employee," she continued advocacy for exposed Vietnam Veterans and became known as the "Mother of Agent Orange."[9] Her efforts to publicize the link between Veterans' poor health and TCDD exposure even became the subject of a 1986 movie titled *Unnatural Causes*.

While DeVictor is often recognized as the first to make the Agent Orange issue public, others soon followed. In early 1978, Vietnam Veteran Paul Reutershan appeared on national television and proclaimed the words, "I died in Vietnam and didn't even know it." Reutershan,

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[7] John T. Correll, "The Lingering Story of Agent Orange," *Air and Space Forces Magazine*, December 22, 2014, accessed July 10, 2024, https://www.airandspaceforces.com/article/the-lingering-story-of-agent-orange/.
[8] DeVictor, "Maude DeVictor Discusses…," October 12, 1981.
[9] Litke, "Phone Call in '77…," March 31, 1985.

who served as a helicopter door gunner in Vietnam, was diagnosed with abdominal cancer after returning to the United States, despite an otherwise clear health history. He believed Agent Orange was the cause and subsequently co-founded the nonprofit Vietnam Veterans Agent Orange Victims.[10] In June 1978, he became one of the first Veterans to pursue legal action against herbicide manufacturers when he filed a $10 million lawsuit against the Dow Chemical Company, who produced Agent Orange. Although Reutershan ultimately succumbed to his cancer in December 1978, his lawsuit was superseded in early 1979 when Frank McCarthy, who helped Reuetershan found Vietnam Veterans Agent Orange Victims, filed a class action lawsuit in New York for all Veterans claiming exposure to Agent Orange. The amended suit also included five other herbicide manufacturers among the defendants.[11] An additional five manufacturers were added by late 1979, bringing the total number of implicated companies to 11.[12] The lawsuit continued until May 1984, when the parties ultimately settled on a $180 million payout to exposed Veterans.

Initial VA Response

While the lawsuit played out in court, however, various government agencies began taking action to address the rising issue of Agent Orange. For VA, these efforts began in earnest in May 1978, when they began conducting in-depth medical examinations of Veterans claiming Agent Orange exposure. The results of these examinations were then recorded in VA's newly established Agent Orange Registry. According to Max Cleland, VA's Administrator between

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[10] Vietnam Veterans Agent Orange Victims is also sometimes referred to as Agent Orange Victims International.
[11] "Suit Filed on Vietnam Defoliants," *Washington Post*, February 3, 1979.
[12] Alex Abboud, "In re Agent Orange Product Liability Litigation (1979-1984)," *Embryo Project Encyclopedia* (Arizona State University), April 10, 2017, accessed July 11, 2024, https://embryo.asu.edu/pages/re-agent-orange-product-liability-litigation-1979-1984.

1977 and 1981, the medical examinations and associated registry had three main objectives: detect diseases among Veterans in order to provide appropriate treatment, develop statistical data for any health abnormalities possibly related to Agent Orange, and educate Veterans on the effects Agent Orange may have on their health.[13] Importantly, these examinations and the establishment of the registry did *not* mean that the VA believed Agent Orange had definitive long-term effects on Veterans' health. The only exception to this belief concerned chloracne, a severe skin condition, which the National Academy of Sciences (NAS) proved was related to TCDD exposure in 1974.[14] With chloracne as the outlier, official VA policy called for physicians in their medical centers to refrain from prematurely attributing a Veteran's ill-health to Agent Orange exposure until more concrete evidence proving association became available. In May 1978, VA's Central Office (VACO) issued a letter to all VA medical center directors informing them of this policy, yet encouraging them to be "prompt, courteous, and compassionate" to any Veterans alleging exposure. The letter also reassures these medical directors that, if a Veteran claiming exposure has not yet experienced any negative, health-related symptoms stemming from that exposure, then the "likelihood of herbicide poisoning is virtually zero." In addition, physicians were advised to thoroughly examine Veterans' occupational histories for other chemical exposures, such as from agricultural agents, that are known to cause symptoms similar to those alleged to originate from Agent Orange.[15]

An additional directive to VA medical center directors from September 1978 included a medical questionnaire for physicians to include in their Agent Orange examinations. This

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[13] Statement of Max Cleland, February 25, 1980, NVAHCA.2021.17, box 10, Post-Deployment Health; Epidemiology Program, National VA History Center Archives, Dayton, OH. [Post-Deployment Health; Epidemiology Program]

[14] *The Effects of Herbicides in South Vietnam, Part A - Summary and Conclusions* (Washington, D.C.: National Academy of Sciences, 1974), II-48.

[15] VACO directive, May 18, 1978, box 10, Post-Deployment Health; Epidemiology Program.

questionnaire included inquiries into the details surrounding Veterans' alleged exposure to herbicides, their role within the military, their previous health history, and whether they had been exposed to other toxic agents before or after their time in the service. This information was then transferred to a 3x5 card and filed in the newly established Possible Toxic Chemical Exposure File. VACO also instructed directors to assign one or two staff members at each medical center as "environmental health physicians." These staff members would work exclusively with Veterans claiming exposure. The September 1978 directive also reaffirmed VA's stance that "there is no positive evidence for deleterious effects on the health of individuals exposed to these herbicides which is of a permanent nature." However, it also pledged the administration's commitment to provide appropriate follow-up care as additional information became available.[16]

The lack of scientific evidence surrounding the effects of herbicide exposure also meant that VA rarely granted medical claims to Veterans alleging that their health concerns stemmed from contact with Agent Orange. VA medical centers first began receiving these claims in 1977, and by September 1978, a total of 445 Veterans had submitted compensation claims for herbicide exposure. These Veterans expressed a myriad of health concerns including fatigue, various skin conditions, birth defects among their children, vision loss, and numbness. Cancer was also included in seven Veterans' claims.[17] Aside from chloracne, however, none of these conditions had yet been proven as direct consequences of Agent Orange exposure. By October 1978, VA had evaluated 90 Veterans' claims. While eight of these Veterans ultimately received benefits, only one Veteran, who had a skin condition, received benefits that VA linked to herbicide exposure. VA awarded the other benefits for other, non-herbicide-related reasons.

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[16] Circular 10-78-209, September 14, 1978, box 10, Post-Deployment Health; Epidemiology Program.
[17] Draft of "Need to Determine…," November 1978, box 69, VA Central Office Room A-11 Cleanout.

Even so, the number of Agent Orange claims increased in 1979. On February 25, 1980, Cleland appeared before the Subcommittee on Medical Facilities and Benefits of the House of Representatives' Veterans Affairs Committee. He testified that, as of the end of January 1980, VA had evaluated 1,233 claims for disability benefits for Veterans claiming exposure to Agent Orange. Of these, 286 did not allege a specific disability, instead merely stating that the Veteran was exposed. The remaining claims, however, included 1,624 physical and mental disorders which the Veterans claimed originated from their contact with Agent Orange. The most common disorders among these claims were skin conditions, followed by neuropsychiatric disorders, neurological disorders, and malignancies. However, after review, VA deemed only 21 of these disorders as service-connected, the vast majority of which were skin conditions. Notably, none of these disabilities were attributed to Agent Orange exposure. Like the benefits awarded in 1978, these conditions were deemed service-related on other grounds.[18]

Yet, Veterans with denied claims pushed back. In May 1979, a group of Veterans filed suit against VA in the U.S. District Court, claiming that VA had wrongfully denied the claims of over 330 Vietnam Veterans because they "refused to consider scientific data linking Agent Orange to disabilities."[19] This suit was just a small part of the immense public pressure faced by VA in the summer of 1979, when concern over Agent Orange and press coverage on alleged dioxin poisoning reached a new high. In late June, two Vietnam Veterans and their families appeared before a Congressional subcommittee and testified that Agent Orange was the cause of the medical disabilities in both them and their children. One Veteran's child in attendance had suffered from 18 birth defects, including missing bones, disfigured limbs, and deformed

[18] Statement of Max Cleland, February 25, 1980, box 10, Post-Deployment Health; Epidemiology Program.
[19] "Vietnam Veterans Sue for Disability Claims Involving Agent Orange," May 28, 1979, box 69, VA Central Office Room A-11 Cleanout. This author was unable to find a ruling resulting from this suit.

intestines. A VA representative gave a statement asserting that, while studies had shown that children whose mothers were exposed to 2,4,5-T may experience defects at birth, no evidence suggested those same defects could occur as a result of the father's exposure. Even so, members of Congress heavily critiqued VA for "inadequately examining Veterans for medical problems relating to Agent Orange." One congressman went so far as to call the government's inability to properly study the Agent Orange issue a "national disgrace."[20] Congressional hearings continued into July, with several other Veterans testifying of the medical conditions they developed since returning from Vietnam. Again, VA received criticism over their treatment of these Veterans. Representatives from VA, however, maintained that there was no definitive link between herbicide exposure and poor health, and that all Veterans alleging exposure received thorough examinations at their medical centers.[21] One VA spokesperson even assured Veterans that they "have been exposed to worse things" than Agent Orange, echoing an earlier VA statement that "the toxicity of [Agent] Orange is no higher than that of Aspirin."[22]

Yet in an effort to more fully understand the effects of Agent Orange, VA had begun working with experts in the field on interagency committees, in addition to establishing their own. On April 12, 1978, less than a month after the release of *Agent Orange: The Deadly Fog*, an ad hoc interagency meeting met at VACO to discuss growing concern about herbicide exposure and brainstorm ways that the represented agencies could work together towards a solution. This unofficial committee met two other times throughout 1978, and in April 1979 it was legitimized as the VA Advisory Committee on Health-Related Effects of Herbicides. The

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[20] "A Sinister Drama of Agent Orange Opens in Congress," June 27, 1979, box 69, VA Central Office Room A-11 Cleanout.
[21] "Veterans: 'Herbicide is Misery,'" July 15, 1979, box 69, VA Central Office Room A-11 Cleanout.
[22] "Agent Orange Testimony Growing More Ominous," July 5, 1979, box 69, VA Central Office Room A-11 Cleanout; "Viet Vets' Exposure to Defoliant Studied," May 24, 1978, box 69, VA Central Office Room A-11 Cleanout.

committee included a myriad of medical professionals representing organizations both inside and outside of the government, such as VA, the American Legion, the Environmental Protection Agency, the Department of Agriculture, the Armed Forces Institute of Pathology (AFIP), Disabled American Veterans, the Army Environmental Hygiene Agency, National Institute of Environmental Health Sciences, and the Center for Disease Control (CDC), in addition to several universities around the country. As of December 1979, the committee consisted of 15 members. They studied and prepared answers to numerous, pertinent questions concerning Agent Orange, including what types of studies would adequately prove whether there were any herbicide-related health defects. Their meetings, held in June, September, and December 1979, were also open to the public for comments and questions, thereby providing a line of communication between concerned Veterans and the government agencies from whom they sought answers.[23]

Studies suggested by the advisory committee, however, as with all contemporary studies on Agent Orange, faced a serious obstacle: there was no reliable way to determine exposure levels among Vietnam Veterans. In fact, aside from those who were directly responsible for transporting and spraying the herbicides, it became difficult to prove most Veterans were exposed *at all*. According to the Department of Defense, "military personnel [on the ground] did not enter areas treated with Agent Orange in most instances until 4-6 weeks after treatment, thereby greatly minimizing their chance of contacting or inhaling the herbicide."[24] The Department of Defense also maintained that it was unlikely dioxin impacted the diets of servicemen in Vietnam, as crops sprayed with herbicides died quickly and would have been

[23] Statement of Max Cleland, February 25, 1980, box 10, Post-Deployment Health; Epidemiology Program.
[24] Draft of "Need to Determine…," November 1978, box 69, VA Central Office Room A-11 Cleanout.

obviously unsafe to consume.[25] For VA, this information further complicated how they responded to Veterans who claimed exposure, when no proof of exposure existed.

VA did, however, make efforts to establish this proof. In mid-1978, they initiated a study of Veterans known to have been exposed to Agent Orange. Included in the study were 20 Vietnam Veterans claiming Agent Orange exposure, some of whom were exhibiting symptoms that they attributed to said exposure; three Air Force officers who worked with Agent Orange but possessed no adverse health effects; and 11 Vietnam Veterans who believed they had not been exposed. Each participant volunteered to have VA medical staff remove a sample of fat from their abdominal wall, and VA subsequently sent those samples to a university chemist for evaluation. Of the 34 Veterans in the study, 11 had dioxin levels measuring at or above three parts per trillion. This included all three Air Force officers, seven Veterans from the group alleging exposure, and one Veteran who claimed he had not been exposed. Interestingly, the three Air Force officers' levels all ranged between three and four parts per trillion, while one of the Veterans who had claimed but had no proof of exposure had significantly higher dioxin levels of 89 parts per trillion. Yet while the study showed that dioxin could be observed in fat samples, the fact that this method of detection required both surgery and lengthy analysis meant that it was unsuitable for use in large Veteran populations.[26] It also was not an effective means of determining precise exposure levels among those who served in Vietnam. In addition, the study did little to appease Veterans' groups looking to VA for answers. In an August 1979 magazine article, Veterans argued that the fat study had no benefit because they claimed dioxin in the body could disappear over time. They also pointed out that the study had no way of determining how the dioxin came to be in one's system, as it could have appeared from both military service or

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[25] Statement of Max Cleland, February 25, 1980, box 10, Post-Deployment Health; Epidemiology Program.
[26] Statement of Max Cleland, February 25, 1980, box 10, Post-Deployment Health; Epidemiology Program.

from non-military occupational exposure.[27] VA turned to other means of determining exposure, such as requesting maps of sprayed areas from the Department of Defense, but still struggled to come up with a reliable means of determining whether all Veterans submitting VA claims did, indeed, come into contact with Agent Orange while in Vietnam.

However, a November 1979 study from the United States General Accounting Office offered alarming insight into herbicide use in Vietnam. The study, originally initiated by Senator Charles Percy, concluded that the Department of Defense took few precautions to limit servicemen's exposure to Agent Orange, based on their belief that it was not dangerous to one's health. Army manuals used in Vietnam asserted that the herbicide was "relatively nontoxic to man or animals." While this belief was more or less consistent with the prevailing knowledge of TCDD at the time, the report also cast serious doubt on the Department of Defense's claim that only select groups of Veterans were exposed. Researchers at the General Accounting Office used battalion reports to analyze the locations of Marine units in the I Corps section of South Vietnam and subsequently cross-referenced those locations with the Department of Defense's maps of herbicide use. Whereas Defense officials originally claimed that military personnel would not have entered sprayed areas until at least four weeks after treatment, the report indicated that an estimated 5,900 Marines were stationed within 0.5 kilometers of sprayed areas on the *same day* that the spraying took place. That number rose to an estimated 16,100 Marines within four weeks of spraying, even though, according to the Department of Defense, that should have been the first instance of military personnel entering the area. If one expanded the distance from the sprayed area from 0.5 kilometers to 2.5 kilometers, the number of Marines entering the area within four

[27] "Agent Orange Furor Continues to Build," August 24, 1979, box 69, VA Central Office Room A-11 Cleanout.

weeks rose to an estimated 39,400.[28] Again, these numbers only represent Marines in the I Corps section of Vietnam. They do not account for Marines in other areas, or for the thousands of Army personnel who likely were also stationed in close proximity to spraying missions. However, Army records from Vietnam were both disorganized and often incomplete, making a similar analysis difficult to achieve. Regardless, while this report still did not provide a way to determine precise exposure levels for Veterans, it did provide strong evidence that more Veterans were exposed than originally believed.

The internal and public response to this report was swift. While the Department of Defense expressed reservations about the study, they conceded that the study's conclusion of "a large number of U.S. ground troops [being] in close proximity to herbicide orange is probably correct."[29] Senator Percy, who initiated the study, wrote a letter to Max Cleland expressing concern that VA medical centers were not conducting thorough enough examinations of Veterans alleging exposure. He also questioned VA's policy of not explicitly seeking out Veterans who were not already part of the VA health care system for their Agent Orange Registry examinations, especially since most of the Marines included in the General Accounting Office's report could be easily identified and contacted.[30] Percy's critique of VA's examination policy, in addition to the report's findings that many ground troops may have been exposed to Agent Orange, appeared in an article from *The Washington Post* less than two weeks after the report's release.[31] In addition, Senator Alan Cranston, chairman of the Senate Committee on

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28 "U.S. Ground Troops in Vietnam Were in Areas Sprayed with Herbicide Orange," November 16, 1979, box 69, VA Central Office Room A-11 Cleanout.
29 "U.S. Ground Troops in Vietnam Were in Areas Sprayed with Herbicide Orange," November 16, 1979, box 69, VA Central Office Room A-11 Cleanout.
30 Charles Percy letter to Max Cleland, November 20, 1979, box 69, VA Central Office Room A-11 Cleanout.
31 "Thousands of U.S. Vietnam Veterans Exposed to Agent Orange, Study Says," November 25, 1979, box 69, VA Central Office Room A-11 Cleanout.

Veterans' Affairs, wrote a letter to the Secretary of Defense, Harold Brown, urging him to analyze the Marine battalion reports not included in the General Accounting Office's report in order to determine whether exposure was likely for the other units as well. In addition, Cranston recommended the cancellation of an ongoing Air Force study, often referred to as the Ranch Hand study, which sought to determine the long-term health effects of dioxin exposure. As an element of the Department of Defense, any conclusions reached by the Air Force concerning Agent Orange would, according to Cranston, "have little, if any, credibility with Vietnam Veterans and the public," particularly after the General Accounting Office's conclusions became public. Cranston felt that the study, if it should continue, should be transferred to the Secretary of Health, Education, and Welfare.[32] Cranston also argued that VA should not conduct any studies on dioxin exposure, due to their direct role in compensating Veterans for health concerns related to Agent Orange.[33] Should VA reach the conclusion that Agent Orange did not lead to long-term health effects, it seemed doubtful that Veterans and their families would agree.

The report from the General Accounting Office likely also contributed to a subsequent VA policy change regarding exposure. On April 3, 1980, the Department of Veterans Benefits issued an internal letter with updated guidelines on how to review claims of Veterans alleging exposure to Agent Orange. This message read, in part, that "given the considerable uncertainties as to the disposition of defoliants in Southeast Asia and troop positions at pertinent times, we will accept in the absence of positive evidence to the contrary a Vietnam Veteran's contention of exposure." Only Veterans who "could not have been exposed" due to their assignment in Vietnam (e.g. working an administrative position at an American air base) were not included in

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[32] Alan Cranston letter to Harold Brown, November 29, 1979, box 69, VA Central Office Room A-11 Cleanout.
[33] Alan Cranston letter to Patricia Roberts Harris, November 29, 1979, box 69, VA Central Office Room A-11 Cleanout.

this policy change.[34] For all other Vietnam Veterans, proof of exposure was no longer required. This new policy, however, did not change the fact that scientific evidence connecting Agent Orange exposure to medical disabilities remained lacking. In a letter to the editor the week before the policy change, Max Cleland claimed that he, too, was exposed to Agent Orange in Vietnam. Yet he also asserted that "there have long been known causes for some of the ailments that are currently being blamed on Agent Orange. If a link can be found between a disease…and a Veteran's time in service, VA will award compensation no matter…the cause."[35] As for Veterans already dealing with the alleged aftereffects of herbicide exposure, all they could do was wait for this link to, hopefully, come to light.

As concerns over herbicide exposure continued to grow, VA established several new committees in the early 1980s tasked with addressing various concerns relating to Agent Orange. The Office of Special Assistant to the Chief Medical Director for Herbicide Orange Affairs was established in April 1980, and later operated under the guidance of the Policy Coordinating Committee, which was created in June 1980.[36] The Office of Special Assistant to the Chief Medical Director became a central coordinating point for all VA activities relating to Agent Orange, and helped provide policy suggestions directly to VA's administrator. In October, the office was renamed as the Environmental Medicine Office, before ultimately becoming the Agent Orange Projects Office in October 1982. In addition, VA established a Chloracne Task Force in June 1980 and charged them with developing a protocol for chloracne diagnosis that could be used by VA dermatologists. They also assisted in studying the causes and treatment for

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[34] DVB Circular 21-80-1, April 3, 1980, box 10, Post-Deployment Health; Epidemiology Program,

[35] "Letters to the Editor: Max Cleland on Agent Orange," March 30, 1980, box 69, VA Central Office Room A-11 Cleanout.

[36] *Scientific Community Report on Agent Orange: Hearing before the Subcommittee on Medical Facilities and Benefits of the Committee on Veterans' Affairs* (Washington, D.C.: U.S. Government Printing Office, 1981), 126.

chloracne, especially concerning cases caused by Agent Orange exposure.[37] At the request of Max Cleland, VA's Data Analysis Task Force was also created in 1980, with the express purpose of "reviewing and recommending Agent Orange Registry procedures."[38] This included evaluating data from the registry, ensuring consistent follow-up with Veterans after their examinations, and determining ways to identify recurring medical conditions among Veterans exposed to Agent Orange.[39] The Data Analysis Task Force met regularly with the Environmental Medicine Office to discuss relevant findings or offer suggestions. The Task Force also worked alongside VA's Agent Orange Research and Education Office, established in February 1982.[40] In addition to the establishment of its own committees, VA also joined other interagency committees concerning herbicide exposure, such as the Agent Orange Working Group, which it joined in mid-1981.[41] Along with VA's previously established Advisory Committee on Health-Related Effects of Herbicides, these committees worked in tandem to develop and improve studies, medical practices, public outreach, and other activities relating to Agent Orange exposure among Vietnam Veterans.

The establishment of these committees also coincided with increased VA education efforts concerning Agent Orange. In October 1980, the Environmental Medicine Office, in conjunction with officials at VACO, launched a series of ongoing conference calls with VA medical center staff around the country who were directly involved in Agent Orange concerns. These calls served as a means of providing up-to-date information on Agent Orange, while also

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[37] IL 10-81-21, June 17, 1981, box 10, Post-Deployment Health; Epidemiology Program.
[38] Data Analysis Task Force Statement of Purpose, undated, box 4, Post-Deployment Health; Epidemiology Program.; Max Cleland letter to the Special Assistant to the Chief Medical Director, undated, box 4, Post-Deployment Health; Epidemiology Program.
[39] IL 10-81-21, June 17, 1981, box 10, Post-Deployment Health; Epidemiology Program.
[40] *Agent Orange Review*, November 1982, vol. 1 no. 1.
[41] IL 10-81-54, December 17, 1981, box 10, Post-Deployment Health; Epidemiology Program.

giving local physicians the chance to ask questions on any unresolved topics or newfound concerns. In addition, VA launched the *Agent Orange Bulletin* in December 1980. This recurring informational report became a separate method of providing updates on Agent Orange activities for VA medical center staff.[42] With frequent updates on herbicide research and continued heightened publicity over the concerns of Agent Orange, the conference calls and *Agent Orange Bulletin* helped ensure that VA staff, especially those involved with Agent Orange examinations, possessed the latest information needed to treat Veterans in their medical centers.

VA educational efforts also extended to Veterans themselves. In January 1981, VA released a 30-minute videotape titled *Agent Orange: A Search for Answers*. Plans for the creation of this educational video first began in February 1980, with officials at VACO hoping that it could help relieve "unwarranted anxiety" about Agent Orange.[43] Thus, the videotape reemphasized the fact that chloracne remained the only known medical condition directly attributable to herbicide exposure. It also noted that researchers were currently looking into possible links between dioxin exposure and conditions of the liver, skin, nervous system, and reproductive system, although "there [was] still no definite scientific proof" that these conditions could be caused by Agent Orange. For Veterans concerned about the health risks of exposure, the video urged them to take part in the Agent Orange examination program at their local VA medical center and talk to their local environmental health physicians. It also stressed that VA shared the same frustrations as Veterans over the lack of answers surrounding dioxin exposure and offered updates on ongoing VA studies into the matter.[44]

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[42] IL 10-81-21, June 17, 1981, box 10, Post-Deployment Health; Epidemiology Program.
[43] Statement of Max Cleland, February 25, 1980, box 10, Post-Deployment Health; Epidemiology Program.; IL 10-81-3, February 5, 1981, box 10, Post-Deployment Health; Epidemiology Program.
[44] "Tape 417. 1981," Youtube video, 29:25, June 8, 2023, https://www.youtube.com/watch?v=A6XPa8OV9r8.

Agent Orange: A Search for Answers was mailed to 341 medical centers, Vet Centers, clinics, regional offices, and information directors in late January 1981.[45] In a letter to medical center directors after the videotape's release, Donald Custis, VA's Chief Medical Director, encouraged local directors to show the video to all medical center staff as soon as possible, in addition to having regular showings for Veterans, civic leaders, and the public.[46] The film earned wide praise, and even received an Emmy from the National Academy of Television Arts and Sciences, in addition to several other awards. In conjunction with a newly released pamphlet titled "Worried About Agent Orange?," which was distributed as part of all Agent Orange examinations, VA hoped to provide an overview of Agent Orange activities, specifically those conducted by VA, as well as general information to Veterans concerned about exposure.

For ongoing updates, however, VA introduced the *Agent Orange Review* in November 1982. Like the *Agent Orange Bulletin* distributed to medical center staff, the *Agent Orange Review* was a recurring newsletter meant to keep Veterans up-to-date on the latest developments on Agent Orange research and policies. The first edition was mailed to Agent Orange Registry participants on November 10th, and included study updates, answers to common Agent Orange questions, and an overview of VA's role in addressing Agent Orange concerns.[47] While this was not the first informational mailing VA had sent to Veterans on the Agent Orange Registry, the *Agent Orange Review* established a more formal and reliable means of disseminating information to Veterans.[48]

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45 IL 10-81-21, June 17, 1981, box 10, Post-Deployment Health; Epidemiology Program.
46 IL 10-81-3, February 5, 1981, box 10, Post-Deployment Health; Epidemiology Program.
47 *Agent Orange Review*, November 1982, vol. 1 no. 1.; Policy Coordinating Committee meeting minutes, November 17, 1982; box 12, Post-Deployment Health; Epidemiology Program.
48 VA had sent a mailing to Registry participants in June 1982, which included an updated fact sheet on Agent Orange.

The *Agent Orange Review* also helped notify Veterans of new legislation on Agent Orange. For example, the first edition of the Review included details of Public Law 97-72, otherwise known as the Veterans' Health Care, Training and Small Business Loan Act of 1981. The law, passed on November 3, 1981, stipulates that VA is to "provide certain health care services to any Veteran of the Vietnam Era… who, while serving in Vietnam, may have been exposed to dioxin or to a toxic substance in a herbicide or defoliant used for military purposes."[49] These services were generally confined to hospital and nursing home care, and physicians retained the right to deny care for conditions not typically associated with exposure (e.g. tuberculosis, deformities, acute appendicitis) or conditions that are known to have not originated from one's military service. While this law did not establish a legal or scientific connection between Agent Orange exposure and health abnormalities, it did allow Veterans greater access to care at VA medical centers. Just over two weeks after the law was passed, Robert Nimmo, who succeeded Max Cleland as VA's Administrator in July 1981, testified before Congress that VA is "prepared…to receive and treat all Vietnam Veterans reporting for care at our health care facilities."[50] Numerous Veterans seemingly took advantage of this change in legislation. When discussing the law before the Committee on Veteran Affairs in May 1983, VA's Chief Medical Director noted that between February 1982 and February 1983, VA medical centers admitted 9,400 Veterans for inpatient services related to Agent Orange exposure, in addition to 369,000 outpatient visits.[51]

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[49] Veterans' Health Care, Training, and Small Business Loan Act of 1981, Pub. L. 97-72, 95 Stat. 1047, (1981).
[50] Statement of Robert P. Nimmo, November 18, 1981, box 10, Post-Deployment Health; Epidemiology Program.
[51] IL 10-83-20, May 19, 1983, box 10, Post-Deployment Health; Epidemiology Program.

Early Agent Orange Studies

Despite the aforementioned concerns of Senator Cranston and others over VA's credibility among Vietnam Veterans, the early 1980s also saw an abundance of VA-led studies on Agent Orange. In fact, in December 1979, only a month following Senator Cranston's remarks, Congress passed the Veterans Health Programs Extension and Improvement Act of 1979, which mandated that VA conduct an epidemiological study of Veterans exposed to dioxins during the Vietnam War. The law called for VA to begin submitting reports to Congress on the study's results no later than two years after the Act's enactment.[52] Yet, the study faced significant challenges from the start. In early 1980, the National Veterans Task Force on Agent Orange initiated a lawsuit in which they questioned whether VA could design an unbiased study.[53] Complaints were then filed with the General Accounting Office and the U.S. District Court, in the hopes that the study could be transferred to another, outside organization. In March 1980, VA had actually sent out a request for proposals from outside agencies interested in designing the study protocol, although VA would retain responsibility for the study overall.[54] Yet the new litigation necessitated that all work on the study, including gathering outside proposals, come to a standstill. It was not until February 2, 1981, 14 months after the passing of the original law, that the General Accounting Office, after review, announced that VA could continue its work on the study.[55] In a statement shortly after this decision, Gillespie "Sonny" Montgomery, Chair of the House Veterans' Affairs Committee, condemned any "abusive and unwarranted criticism" faced by the VA over the study's delay, as they legally could not move forward until

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[52] Veterans Health Programs Extension and Improvement Act of 1979, Pub. L. 96-151, 93 Stat. 1092 (1979).
[53] Bernard Weinraub, "Veterans Assail Comments By Doctor Heading Defoliant Study," *New York Times*, August 18, 1981.
[54] "Congressional Record," February 19, 1981, Congress.gov, https://www.congress.gov/97/crecb/1981/02/19/GPO-CRECB-1981-pt2-8.pdf.
[55] IL 10-81-21, June 17, 1981, box 10, Post-Deployment Health; Epidemiology Program.

the litigation brought against them had been resolved. He likewise expressed his hope that VA move quickly on the study now that their search for a contractor could resume. Even so, on the same day as Montgomery's testimony, Representative Benjamin Gilman gave a Congressional statement advocating for the passage of the Independent Agent Orange Study Act, which would relieve VA of the epidemiological study and transfer it to NAS. This, Gilman hoped, would "remove any suspicion of self-serving behavior in the conduct of [this] important…study."[56] Gilman's legislation ultimately did not come to fruition.[57] Yet concern over VA's role in the study remained.

Finally permitted to resume the creation of the study, VA awarded the contract for designing the study's protocol to the University of Southern California on May 1, 1981. Once again, criticism followed. One of UCLA's epidemiologists and the study's principal investigator, Dr. Gary Spivey, came under fire when he told a California Assembly committee that "Agent Orange was used primarily in areas where few or no troops were located," and that it was unlikely many troops were actually exposed. This statement directly contradicted the conclusions of the 1979 General Accounting Office report, which concluded many ground troops did, indeed, come into contact with dioxin while in Vietnam. In addition, Spivey expressed doubt that there were any health effects that could be directly attributable to herbicide exposure. Spurred by his comments, several Veterans' groups called on VA to release Spivey from the study, citing concerns of bias. Spivey assured concerned parties that, if his study did contain bias, it would be "picked up in independent review by peer groups. That's the way science works." Jon Furst, Chairman of the National Veterans Task Force on Agent Orange, stated that Spivey had "lost all

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56 "Congressional Record," February 19, 1981.
57 "H.R.1962 - 97th Congress (1981-1982): Independent Agent Orange Study Act," February 19, 1981, Congress.gov. https://www.congress.gov/bill/97th-congress/house-bill/1962.

credibility in the eyes of Vietnam Veterans."[58] Even so, he retained his role as principal investigator.

Delays and other troubles over the study continued. UCLA's initial study design, submitted to VA on August 6, 1981, was heavily critiqued by the Office of Technology Assessment, the Congressional office tasked with reviewing the protocol.[59] VA returned the study design to UCLA in November, accompanied with comments from OTA and other reviewers. Although VA initially directed UCLA to deliver an updated protocol within 35 days, Dr. Spivey came down with an illness in December, leading UCLA to ask for an additional 35 days. UCLA ultimately submitted the revised protocol in January 1982, but, after six months, it had yet to be finalized.

By September 1982, these continued delays prompted irritation among government leaders and the public, especially as, according to the original law mandating this study, VA was supposed to have begun reporting on the study's results by November 1981. Even though nearly a year had passed since this benchmark, the study had not yet begun. Representative Montgomery, who had previously voiced his support for VA's responsibility for the study, wrote a letter to Robert Nimmo on September 27 stating that, "due to the significant criticism of both the pace and conduct of the study," he felt it would be in VA's best interest have it transferred to the CDC.[60] Despite this recommendation, Montgomery maintained in his letter that the delays in the study originated from a series of difficult circumstances of which VA had unfortunately taken the blame. Other critics, however, were not so sympathetic. One newspaper article, while

58 Bernard Weinraub, "Veterans Assail Comments…," 18 August 1981.
59 John H. Gibbons letter to Robert Nimmo, January 26, 1982, box 15, Post-Deployment Health; Epidemiology Program.
60 Gillespie "Sonny" Montgomery letter to Robert Nimmo, September 27, 1982, box 15, Post-Deployment Health; Epidemiology Program.

discussing the study, claimed that "there is nothing sensible at all about the way the VA is handling the Agent Orange inquiry," and that VA has effectively "wasted [its] single opportunity to bridge the gap between itself and the Vietnam Veteran by failing to act decisively to study the Agent Orange issue."[61] Another article claimed VA's lack of progress on the study demonstrated the government's unwillingness to accept the political and financial fallout, should the study confirm that Agent Orange exposure did, indeed, have lasting health effects.[62] In another letter to Robert Nimmo, Senator Cranston again expressed his opinion that VA transfer the study to a third party, stating that he does not know of "one person in a responsible position in the Congress, the executive Branch, or the Veterans' organizations who favor the VA itself conducting the study."[63] In late September, Representative Thomas Daschle introduced a bill to transfer the study to the Secretary of Health and Human Services. Like Representative Gilman's bill to transfer the study in February 1981, Representative Daschle's bill was also not passed.

That said, it was not long before these critiques prompted action, and, by mid-October, VA had asked the CDC to take over the epidemiological study.[64] The two agencies finalized the agreement in mid-January 1983, with VA agreeing to provide the CDC with an initial payment of $3 million, UCLA's preliminary study design, and assistance in obtaining clearance for 28 full-time staff to assist on the project.[65] In a news release days after the agreement, VA assured the public that the transfer of the study "in no way diminishes the commitment of [VA] to

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[61] "Why Not Find Out About Agent Orange?" September 1982, box 15, Post-Deployment Health; Epidemiology Program.
[62] "Government is Stonewalling on Agent Orange," September 25, 1982, box 15, Post-Deployment Health; Epidemiology Program.
[63] Alan Cranston letter to Robert Nimmo, October 7, 1982, box 15, Post-Deployment Health; Epidemiology Program.
[64] "CDC Take on Agent Orange Study," October 18, 1982, box 15, Post-Deployment Health; Epidemiology Program.
[65] Donald Custis letter to Edward Brandt, January 13, 1983, box 15, Post-Deployment Health; Epidemiology Program.

provide clinical care to Vietnam Veterans concerned about Agent Orange," and that they will continue to conduct necessary research on the effects of herbicides.[66] These sentiments were also included in the April 1983 edition of the *Agent Orange Review*.[67] In addition, Harry Walters, newly appointed VA Administrator, sent a letter to all VA employees several weeks after the transfer. While he did not explicitly mention the recent VA criticism or the transfer of the epidemiological study to the CDC, he stressed the importance of VA employees working together on the Agent Orange problem, and stated that the "compassion and competence we demonstrate in our service is a test of our dedication to this nation's Veterans."[68] Although the epidemiological study mandated by Public Law 96-151 had the goal of providing long-awaited answers to concerned Veterans, years-long delays prevented those answers from coming to light while simultaneously tainting the relationship between Vietnam Veterans and VA.

VA was, however, involved in other studies relating to Agent Orange and the broader Vietnam experience. In 1981, staff members at the VA medical center in St. Louis proposed a health study of twin Veterans who served between August 5, 1964, and May 7, 1975. Since twins share the same genetic makeup, researchers hoped that analyzing their respective health records could provide insight into whether the Vietnam experience had any significantly noticeable effects on one's physical and psychological health. Although this study was not solely intended as a study of Agent Orange exposure, researchers sought to collect information on possible contact with herbicides in case any trends concerning exposure presented themselves. The study itself consisted of two phases. The first involved the creation of a Vietnam Era Twin Registry, which served to identify identical sets of Vietnam-era twin Veterans, as well as collect

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66 News Release, January 17, 1983, box 2, Post-Deployment Health; Epidemiology Program.
67 *Agent Orange Review*, April 1983, vol 2, no. 1.
68 Memorandum, February 9, 1983, box 2, Post-Deployment Health; Epidemiology Program.

information on their time in the service and their general health history. VA partnered with the National Academy of Sciences in the creation of this registry, and hoped to compile information on upwards of 10,000 sets of twins, of which approximately 600 would participate in the study's second phase. This second phase involved a thorough, in-person medical examination conducted by VA physicians at the St. Louis VA Medical Center.[69] Of the 600 sets of twins selected for these examinations, researchers hoped to include cases where one twin served in Vietnam while the other served elsewhere, where both twins served in Vietnam, and where both twins served outside of Vietnam.[70] The November 1982 *Agent Orange Review*, distributed to Veterans on VA's Agent Orange Registry, included a brief description of the twin study, as well as VA's estimation that initial findings from the study would be available by October 1984.[71]

Yet, like the epidemiological study mandated by Public Law 96-151, the twin study faced a series of delays. By June 1983, the *Agent Orange Review* advertised a pushed back completion date to either 1985 or 1986.[72] Five months later, the November edition of the Review included a 1987 estimated completion.[73] These delays largely stem from difficulties in establishing a reliable means of identifying and locating twin Veterans. This process relied on in-depth and tedious analyses of state birth records, Department of Defense files, VA files, and other military records. Although a protocol for this phase of the study was eventually finalized in early 1984, researchers estimated that it would take approximately 2.5 years to complete.[74] Based on this estimation, the second phase of the study would begin no earlier than late 1986. VA staff were

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[69] "Vietnam Experience Twin Study: Options and Recommendations," March 1, 1984, box 14, Post-Deployment Health; Epidemiology Program. Later records suggest that VA dropped this number to between 360 and 450 sets of twins.
[70] National Academy of Sciences' Proposal for Vietnam Era Twin Study, August 26, 1983, box 14, Post-Deployment Health; Epidemiology Program.
[71] *Agent Orange Review*, November 1982, vol. 1, no. 1.
[72] *Agent Orange Review*, June 1983, vol 2., no. 2.
[73] *Agent Orange Review*, November 1983, vol. 2, no. 4.
[74] "V.A. to Study 30,000 Veterans Who Are Twins," *New York Times*, February 12, 1984.

undoubtedly aware of the possible repercussions of another delayed study. An internal March 1984 report expressed concerns that, should the study be canceled or seriously modified, VA would likely lose confidence from Veterans, Congress, and scientists, all of whom had expressed interest in the study's results.[75] Regardless, by the fall of 1984, Richard Greene, VA's medical research director, announced his recommendation to cancel the second phase of the study, citing concerns that the study population was too small and that the twins' examination results could not be generalized to other Vietnam Veterans. Other scientists disagreed. Seth Eisen, one of the study's principal investigators, maintained that the study could provide useful insight into the psychological health of combat Veterans.[76] Alvin Young, who had previously worked alongside VA on herbicide-related issues and was now working for the President's Office of Science and Technology Policy, also urged VA to continue their research. He warned that cancellation would perpetuate the belief among Veterans that VA is not capable of conducting "credible human health studies" and that "VA will lose credibility" by abandoning the project after years of work.[77] Yet Greene's position prevailed. While the establishment of the Vietnam Era Twin Registry went on as planned, the examination phase of the study did not.[78] Notably, the decision to cancel this portion of the study was not mentioned in any editions of the *Agent Orange Review*, despite earlier issues providing brief progress updates. The study was, simply, left behind.

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75 "Vietnam Experience Twin Study: Options and Recommendations," March 1, 1984, Post-Deployment Health; Epidemiology Program.
76 Constance Holden, "VA study of twins may be canceled," *Science* 226 (1984): 521, accessed July 22, 2024, https://link-gale-com.ulc.idm.oclc.org/apps/doc/A3506372/AONE?u=slpl&sid=googleScholar&xid=399f70da.
77 "Memorandum: Veterans Administration Agent Orange Briefing, from Alvin L. Young to Bernadine Bulkley, October 23, 1984." Special Collections, USDA National Agricultural Library, accessed July 22, 2024, https://www.nal.usda.gov/exhibits/speccoll/items/show/2993.
78 Jack Goldberg et al., "The Vietnam Era Twin Registry," *Twin Research* 5, no. 5 (October 2002): 477. Later researchers, however, used the information in the Vietnam Era Twin Registry to conduct their own studies.

While VA grappled with the difficulties of the above studies, other agencies began publishing the results of their own Agent Orange-related research. The Armed Forces Institute of Pathology had been collecting Vietnam Veterans' health information since the late 1970s, with the goal of identifying any unusual health changes, such as the diagnosis of certain diseases at an abnormally young age. After an examination of over 1,500 individual health records, many of which were provided by VA, AFIP determined in late 1983 that there were "no clusters of cases with unusual features, or trends that would suggest a relationship between the Vietnam experience and the induction of disease(s) in these Veterans."[79] While the second phase of their study, which involved a comparative analysis of Vietnam Veterans' health and the health of non-Vietnam Veterans, had not been completed, initial evidence seemingly suggested that Veterans' health concerns were not associated with service in Vietnam.

This conclusion was reaffirmed when, in February 1984, the Air Force released the first morbidity report from its Ranch Hand Study.[80] The study involved interviews with and physical examinations of 1,045 Veterans who were directly involved in spraying operations during Operation Ranch Hand. The results of these interviews and examinations were compared with those of a comparison group of 773 Veterans who participated in cargo transport missions to, from, and within Vietnam, but did not participate in herbicide operations.[81] This study was, at the time, the most comprehensive government study on Agent Orange exposure, and other agencies, including the CDC, had used its study methodology as a model for their own herbicide-related

[79] Nelson Irey letter to Barclay Shepard, October 7, 1983, box 17, Post-Deployment Health; Epidemiology Program.
[80] The Air Force had previously released a mortality report from this study, which concluded there were no statistical differences in death rates between Ranch Hand personnel and the comparison group. The morbidity report, however, was the first time the study revealed information on long-lasting health effects of herbicide exposure.
[81] Air Force Releases Ranch Hand Baseline Morbidity Study, February 24, 1984, box 11, Post-Deployment Health; Epidemiology Program.; Executive Summary: Baseline Morbidity Study, February 27, 1984, box 11, Post-Deployment Health; Epidemiology Program.

research.[82] Thus, the release of the study's initial results generated significant attention. Although Air Force researchers concluded that Ranch Hand Veterans had a statistically higher prevalence of nonmelanoma skin cancers, miscellaneous liver disorders, and self-reported birth defects among children, they emphasized that these results may not actually be associated with Agent Orange exposure and required additional research. For example, Veterans had not yet been examined for possible excess sun exposure, which could, according to researchers, easily explain why more Ranch Hand Veterans had skin cancer. In addition, researchers explained that alcohol and other occupational hazards could be to blame for the various liver disorders, and that data on the higher prevalence of birth defects relied heavily on self-reported information that had not yet been medically verified. All in all, researchers described the study's initial results as "reassuring" to Vietnam Veterans and their families, and concluded that, "at this time, there is insufficient evidence to support a cause-and-effect relationship between herbicide exposure and adverse health in the Ranch Hand group."[83]

The study's results sparked mixed reactions. Representative Daschle "strongly dispute[d]" the Air Force's conclusions, and told reporters that Air Force briefers had admitted to "a significant amount of infighting and differences of opinion" over how to interpret the data.[84] John F. Sommer, Jr., Deputy Director of the American Legion, penned an article expressing doubt that the comparison group in the study had actually not been exposed to Agent Orange, as the Air Force claimed. Sommer contested that, since the comparison group also served in Vietnam, they, too, carried the risk of herbicide exposure, and that their medical records could

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[82] Protocol Outline, Tentative Timetable: Epidemiological Studies of the Health of Vietnam-Era Veterans (Agent Orange), December 1982, box 15, Post-Deployment Health; Epidemiology Program.
[83] Air Force Releases Ranch Hand Baseline Morbidity Study, February 24, 1984, box 11, Post-Deployment Health; Epidemiology Program.
[84] Mike Feinsilber article, February 24, 1984, box 11, Post-Deployment Health; Epidemiology Program.

not be reliably used to demonstrate the health of Veterans who were not exposed. His article likewise noted that the Air Force itself had admitted that its "exposure index is not entirely accurate," which, again, calls into question the study's basic presumption that those in the control group had, for certain, not been exposed.[85] As for VA, they circulated and distributed the study results soon after the Air Force released the data. Lawrence Hobson, Deputy Director of VA's Agent Orange Projects Office, discussed the study in the Office's conference call the month after the release of the results. He acknowledged that the study required further examination, but also emphasized the Air Force's conclusions that no negative health defects could, at this time, be attributed to Agent Orange.[86] In addition, a full description of the study and its results were printed in the April 1984 edition of the *Agent Orange Review*. This description broke down the study's findings into various categories relating to one's physical health (e.g. cardiovascular, liver, neurological, reproductive, etc.).[87] Undoubtedly, VA hoped the results of this study would quell Veterans' concerns.

Five months after the Air Force released their findings, the CDC published the results of a birth defects study that had been in process since 1980. The link between Agent Orange exposure and birth defects had long been a source of concern for Vietnam Veterans and their families, as seen in the aforementioned Congressional hearing in June 1979. The CDC's study, which received support from VA and the Department of Defense, included an analysis of children born between 1968 and 1980, and who were registered in the CDC's Metropolitan Atlanta Congenital Defects Program. These children's individual health records were compared to other children without birth defects who were born in the same time period and in the same

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[85] John F. Sommer, Jr. "Letter: On Evidence: Suspicions About Agent Orange," *New York Times*, September 1, 1984.
[86] Agent Orange Conference Call, March 19, 1984, box 3, Post-Deployment Health; Epidemiology Program.
[87] *Agent Orange Review*, April 1984, vol. 3, no. 1.

metropolitan area. In total, the study included 7,133 children with birth defects and 4,246 children as part of the control group. Researchers conducted telephone interviews with the children's parents to determine, along with their health history, whether the father was a Vietnam Veteran and whether he believed he was exposed to herbicides.[88] Ultimately, the study's results, which CDC published in August 1984, concluded that Vietnam Veterans "have no greater chance of fathering babies with birth defects than other fathers."[89] In October, representatives from the Cabinet Council Agent Orange Working Group, the Office of Technology Assessment, and the CDC appeared before the Congressional Subcommittee on Hospitals and Health Care to testify of the study's reliability. While the Office of Technology Assessment "fully accept[ed] the results of the analyses relating to Vietnam service," they were "less certain of the meaning of the results as they relate to Agent Orange." Specifically, they questioned the inability of the CDC, or any researchers, to accurately determine exposure levels among Veterans. Regardless, they still felt that the study was a "powerful investigation" of the prevalence of birth defects among Vietnam Veterans, and that its conclusions offered invaluable insight.[90] The representative from the Cabinet Council Agent Orange Working Group likewise expressed praise over the study, calling it "outstanding in both quality and scope."[91] As with the Ranch Hand Study, VA published the results of the birth defects study in the next edition of the *Agent Orange Review*.[92] Between the AFIP study, the Ranch Hand Study, and the new CDC study, evidence

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[88] Statement of J. David Erickson, October 3, 1984, box 6, Post-Deployment Health; Epidemiology Program.
[89] *Agent Orange Review*, October 1984, vol. 4, no. 3.
[90] Testimony of Michael Gough and Hellen Gelband, October 3, 1984, box 6, Post-Deployment Health; Epidemiology Program.
[91] Statement of Dr. Edward N. Brandt, Jr., October 3, 1984, box 6, Post-Deployment Health; Epidemiology Program.
[92] *Agent Orange Review*, October 1984, vol. 4, no. 3.

seemingly suggested that there was no link between Veterans' poor health and herbicide exposure.

Updated Claims Guidelines and Veterans' Frustrations

The release of the aforementioned study results also coincided with the passage of new Agent Orange legislation. On October 24, 1984, President Ronald Reagan signed the Veterans' Dioxin and Radiation Exposure Compensation Standards Act.[93] This law established the Veterans' Advisory Committee on Environmental Hazards, which consisted of a 15-member panel with the responsibility of advising VA's Administrator on studies, guidelines, and proposed policies relating to herbicide exposure among Veterans. The legislation also required that VA establish a set of specific guidelines and standards for determining whether certain diseases can and should be linked with a Veterans' Agent Orange exposure. The diseases in question included chloracne, soft tissue sarcomas, porphyria cutanea tarda, and various cancers. After signing the bill into law, President Reagan issued a statement saying that he hoped this legislation would ensure "fair and consistent adjudication of…exposure claims," and that the results of these claims would be based on the "best available scientific and medical evidence." While he also acknowledged that both the Ranch Hand Study and the CDC's birth defects study did not find a positive correlation between Agent Orange exposure and poor health, he assured Veterans that their concerns remained valid and that additional studies were ongoing.[94]

Yet, it was the already completed studies that had the greatest impact on the guidelines VA established in response to this legislation. These studies had not revealed any additional

[93] Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. 98-542, 98 Stat. 2725 (1984).
[94] Statement by the President, October 24, 1984, box 5, Post-Deployment Health; Epidemiology Program.

medical conditions which could be scientifically proven as originating from Agent Orange exposure. Dr. Hobson of the Agent Orange Projects Office acknowledged this reality when, while discussing the legislation in a spring 1985 conference call, he speculated that VA will "allow only for chloracne [claims] and reject the claims for… [other illnesses] on the grounds that there [is] inadequate data to support their inclusion."[95] His suspicions proved correct. When VA released its new compensation regulations for dioxin exposure on August 26, 1985, chloracne remained the sole condition that VA positively linked with herbicides, and only in cases where chloracne was manifested within three months of one's departure from Vietnam.[96] For Veterans alleging that their other medical conditions originated from Agent Orange exposure, these new regulations essentially ensured that, unless new studies proved otherwise, their VA medical claims would be denied.

Nevertheless, participation in VA's Agent Orange Registry examinations saw a dramatic increase between 1984 and 1985. Members of the Agent Orange Projects Office speculated this increase came as a result of renewed Agent Orange media attention stemming from the settlement of the class action lawsuit against herbicide manufacturers in May 1984. That month, 75% of VA medical centers reported a significant increase in examination requests, and they ultimately performed a total of 3,212 initial Registry examinations. This number was the highest monthly total since the creation of the Registry in 1978.[97] Participation in these examinations continued at a high rate for months afterwards, resulting in the 1985 fiscal year having the highest number of initial Registry examinations to date, with 46,759. By the end of September 1985, total initial examinations amounted to 204,354.[98]

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95 Agent Orange Conference Call, January 28, 1985, box 3, Post-Deployment Health; Epidemiology Program.
96 *Agent Orange Review*, March 1986, vol. 5, no. 1.
97 Agent Orange conference call, July 16, 1984, box 3, Post-Deployment Health; Epidemiology Program.
98 *Agent Orange Review*, March 1986, vol. 5, no. 1.

Despite this increase in Registry examinations, however, the examination program itself received mixed reviews from Vietnam Veterans. In May 1985, the American Legion published the results of a study which, among other topics, documented the feelings and attitudes of a select group of Vietnam-era Veterans towards VA. While Veterans expressed favorable opinions of VA staff's hospitality, questions regarding Agent Orange received less than ideal responses. Specifically, the study's questionnaire revealed that 66% of participating Veterans felt they had not been fully informed about Agent Orange Registry examinations, and only 13% were fully satisfied with the way VA conducted the examination program as a whole.[99] These attitudes were likely, in part, influenced by the fact that VA physicians often did not inform Veterans of the results of their examinations. This problem had been ongoing since at least 1981, when a VA-conducted study of examination participants revealed that in the majority of cases, Veterans had not discussed their examination results with their physician. In addition, some 80% of respondents stated that they never received the results of the examination's laboratory tests.[100] In February 1981, VA's Chief Medical Director sent a letter to medical center directors notifying them of this issue and providing templates for follow-up letters that physicians could send to Veterans after their examination.[101] Even so, the problem persisted. In 1983, the American Legion published an article encouraging Veterans to undergo the Agent Orange examinations, while also noting that they were working with VA to address the continued dissatisfaction of Veterans who did not receive the results of said examinations.[102] Yet the following year, medical center staff once again received a notice from the Chief Medical Director "reemphasiz[ing] the

[99] Vietnam Veterans Study, May 29, 1985, box 6, Post-Deployment Health; Epidemiology Program.
[100] IL-10-81-5, February 11, 1981, box 10, Post-Deployment Health; Epidemiology Program.
[101] IL-10-81-5, February 11, 1981, box 10, Post-Deployment Health; Epidemiology Program.
[102] "Agent Orange and the Vietnam Veteran," April 1983, box 12, Post-Deployment Health; Epidemiology Program.

importance of sending the follow-up letter to the Veteran explaining the results of the examination and laboratory studies." In addition to the follow-up letter, the notice highly encouraged physicians to verbally discuss the examination results with each Veteran. The importance of this discussion, as the notice indicated, "cannot be emphasized enough."[103] Yet by the time of this directive, approximately 150,000 Veterans had already completed the examinations, with many likely having experienced these difficulties firsthand. Thus the American Legion's 1985 study showing Veterans' dissatisfaction with the examination process is perhaps not surprising.

Veterans likewise disapproved of VA's continued denial of claims relating to Agent Orange. By April 1985, several months before VA's release of their standardized compensation regulations, just over 24,000 Vietnam Veterans had submitted disability claims for alleged herbicide exposure. Of these, 11,697 had confirmed medical diagnoses that they claimed originated from Agent Orange, including, among other conditions, various cancers, hypertension, eczema, numbness, and fatigue. VA ultimately allowed benefits for 2,049 of these Veterans, 96.5% of whom had a skin condition. However, as with previous claims allowances, none of the conditions that VA classified as service-connected were attributed to Agent Orange exposure. Rather, VA awarded these claims based on other, non-herbicide-related causes.[104] Even chloracne, the one condition VA linked with Agent Orange, was so difficult to accurately diagnose that few Veterans' claims were actually classified as service-connected.[105] The all but guaranteed denial of claims eventually led to a 1986 class action lawsuit in which the Vietnam Veterans of America contested VA's policy that chloracne was the only medical condition for

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[103] Circular 10-83-38, June 1, 1984, box 10, Post-Deployment Health; Epidemiology Program.
[104] Agent Orange Claims, April 1, 1985, box 2, Post-Deployment Health; Epidemiology Program.
[105] Agent Orange conference call, January 28, 1985, box 3, Post-Deployment Health; Epidemiology Program.

which evidence supported a link with Agent Orange.[106] While the lawsuit ran its course, however, VA policy remained unchanged. After all, scientific evidence had still not shown any links between dioxin exposure and ill health.

Later Studies and Disputed Findings

Studies on Vietnam Veterans' health continued into the late 1980s, including several conducted by VA. One such study involved a mortality comparison of Vietnam and non-Vietnam Veterans, in the hopes of determining whether there were any significant differences in causes of death between the two groups. Data collection for the study began in 1982, and involved a nationwide, multi-agency effort to locate death certificates and military records of Veterans who served between 1964 and 1975.[107] VA researchers concluded the study in late 1986 after an analysis of approximately 50,000 Veteran profiles.[108] Their findings, published in the *Journal of Occupational Medicine* in May 1988, indicated that there were "no significant differences in the major cause of death between Vietnam Veterans and non-Vietnam Veterans, with a few exceptions." One such exception was that Vietnam Veterans who served in the Marine Corps had a higher prevalence of lung cancer and non-Hodgkin's lymphoma.[109] However, as this study sought only to analyze causes of death, these results did not necessarily signify any relationship between lung cancer or non-Hodgkin's lymphoma and exposure to Agent Orange. The Vietnam Veterans of America disagreed, arguing that since the Marine Corps served in the heavily

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[106] See *Nehmer vs. U.S. Department of Veterans Affairs*.
[107] *Agent Orange Review*, October 1984, vol. 4, no. 3.
[108] "A Preliminary Report: The Vietnam Veterans Mortality Study," December 1986, box 13, Post-Deployment Health; Epidemiology Program.; Patricia Breslin et al., "Proportionate Mortality Study of US Army and US Marine Corps Veterans of the Vietnam War," *Journal of Occupational Medicine* 30, no. 5 (May 1988): 413.
[109] Breslin, "Proportionate Mortality Study…," 412.

sprayed I Corps region of Vietnam, these results did, indeed, show a connection.[110] VA published the study results in the *Agent Orange Review* and vowed to conduct additional studies in order to determine the causative factors behind these differences. Yet, for VA, these results did not demonstrate a concrete link between herbicides and poor health.[111]

This mortality study was not the only VA-conducted review of Vietnam Veterans' general health. In November 1988, VA released the results of the National Vietnam Veterans Readjustment Study, which was the first nationwide epidemiological study analyzing PTSD and other psychological problems in Vietnam-era Veterans. Congress originally mandated VA to conduct the study in November 1983 with the passage of the Veterans' Health Care Amendments Act. VA subsequently awarded the study contract to the Research Triangle Institute, who collected and analyzed information from 3,032 Vietnam theater Veterans, Vietnam-era Veterans, and non-Veterans.[112] After a series of interviews and clinical follow-ups, researchers found that approximately 15.2% of male Vietnam theater Veterans had PTSD, in addition to 8.5% female Vietnam theater Veterans. These percentages translate to roughly 479,000 and 7,500 male and female Vietnam Veterans, respectively. For comparison, prevalence of PTSD among these Veterans' Vietnam-era counterparts and the non-Veterans of the study ranged between 0.3% and 2.5%.[113] The study also revealed, to the concern of VA staff, that the vast majority of Vietnam Veterans did not seek mental health care from VA medical centers or Vet Centers. A preliminary study report from early 1988 indicated that only 3% of Vietnam Veterans with a high level of PTSD had sought treatment at VA medical facilities in the preceding year, while 86% had not

[110] VVA on Agent Orange, 1988, box 2, Post-Deployment Health; Epidemiology Program.
[111] *Agent Orange Review*, October 1988, vol. 6, no. 1.
[112] VA Annual Report, 1988, box 16, Post-Deployment Health; Epidemiology Program.
[113] Contractual Report of Findings from the National Vietnam Veterans Readjustment Study, November 7, 1988, box 16, Post-Deployment Health; Epidemiology Program.

sought mental health care anywhere.[114] The study's final report was slightly more promising, concluding that approximately 10% of Vietnam Veterans with PTSD had sought mental health care from VA, but the fact remained that "very substantial portions of Vietnam Veterans with readjustment problems have never used the VA or any other source for their mental health problems."[115] Like the aforementioned mortality study, the National Vietnam Veterans Readjustment Study did not include an analysis of the effects of Agent Orange on Veterans' health. However, it demonstrated VA's concern over the general health of Vietnam Veterans while also revealing Veterans' apparent disinterest in using VA medical facilities. Although the study did not offer an explanation behind this disinterest, it was no secret that many Vietnam Veterans at this time felt ignored by VA over their repeatedly expressed health concerns resulting from their military service.

Yet VA studies seeking to address these concerns continued. In the late 1980s, VA released the findings of two studies examining the frequency of soft tissue sarcomas, a condition many felt was tied to Agent Orange exposure, in Vietnam Veterans. The first study, published in December 1986, involved a case group of 234 Vietnam-era Veterans who had been treated at a VA medical center for soft tissue sarcomas. VA researchers compared these Veterans' health records with those of a comparison group of 13,496 other Vietnam-era Veterans, ultimately concluding that there was no significant association between the development of soft tissue sarcomas and previous military service in Vietnam.[116] The second study, which VA conducted in

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114 Arthur Blank letter to Terrence Keane, March 1, 1988, box 16, Post-Deployment Health; Epidemiology Program.

115 VA Annual Report, 1988, box 16, Post-Deployment Health; Epidemiology Program.; Contractual Report of Findings from the National Vietnam Veterans Readjustment Study, November 7, 1988, box 16, Post-Deployment Health; Epidemiology Program.

116 Han K. Kang et al., "Soft Tissue Sarcomas and Military Service in Vietnam: A Case Comparison Group Analysis of Hospital Patients," *Journal of Occupational Medicine* 28, no. 12 (December 1986): 1215.

partnership with the Armed Forces Institute of Pathology, reached similar results, again concluding that there was no significant association between soft tissue sarcomas and Vietnam service. Yet this study also took into account Veterans' potential exposure to Agent Orange. Researchers found that, compared to their counterparts in Vietnam, Veterans with a higher likelihood of Agent Orange exposure showed a greater risk of developing soft tissue sarcomas. This association, however, was not statistically significant, nor did VA include it in the *Agent Orange Review* article announcing the study's results.[117]

In early 1988, however, some Agent Orange study results came under fire, specifically the Air Force's Ranch Hand study. Although the study had, in 1984, released "reassuring" conclusions that Agent Orange was not linked to long-term health effects, a February 1988 Air Force report contradicted those findings. This new report ultimately came about due to pressure from Representative Daschle, who had repeatedly criticized the study's initial findings. Daschle's concerns turned out to be warranted. The newly released data showed a higher prevalence of birth defects among Vietnam Veterans' children, in addition to higher numbers of skin cancers which could not be explained by excess sun exposure. Importantly, the report noted that herbicide exposure could "not [be] exonerated as a causative agent of Veterans' disabilities."[118] Daschle also questioned VA's conclusions in their mortality study, noting that the increased prevalence of lung cancer and non-Hodgkin's lymphoma among Vietnam Marine Corps Veterans demonstrated an indisputable connection between these diseases and dioxin exposure. These findings, he argued, supported Veterans' calls for increased compensation.

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117 Han K. Kang et al., "Soft Tissue Sarcoma and Military Service in Vietnam: A Case-Control Study," *Journal of the National Cancer Institute* 79, no. 4 (October 1987):693 ; *Agent Orange Review*, October 1988, vol. 6, no. 1.
118 *Agent Orange Legislation and Oversight: Hearing before the Committee on Veterans' Affairs*. (Washington, D.C.: U.S. Government Printing Office, 1989), 4.

To this end, Daschle, in partnership with Senator John Kerry, introduced the Veterans' Agent Orange Disabilities Act of 1987. This legislation sought to establish non-Hodgkin's lymphoma and lung cancer as presumptive conditions for Vietnam Veterans, so long as these conditions exhibited themselves within 25 years after one's departure from Vietnam. Daschle and Kerry introduced the bill before the Senate Committee on Veterans' Affairs on May 12, 1988. During the same hearing, Senator Frank Murkowski, who was himself a member of the Senate Committee on Veterans' Affairs, also introduced a bill seeking to establish non-Hodgkin's lymphoma as presumptive for Vietnam Veterans. The hearing itself consisted of 23 witnesses, representing a myriad of Veterans' groups, government agencies, and research centers. Committee members also heard from Christopher Gregory, a Vietnam Veteran, who both testified in support of the bills and condemned what he viewed as VA's willful obstruction of the truth surrounding Agent Orange.[119] Thomas Harvey, VA's Deputy Administrator, testified in opposition of the proposed bills, citing the "lack of scientific evidence" connecting these conditions to Agent Orange and saying it "is not sound public policy to make sweeping presumptions based on frustration."[120] He also contended that the passage of these laws would harm the integrity of VA's compensation system, as it would no longer be based on scientific proof.[121] After the hearing, Daschle referred to Harvey's comments as "disturb[ing]."[122] Yet, ultimately, neither law was passed, and VA continued endorsing the view that herbicide exposure did not lead to long-lasting health effects. Accordingly, the Agent Orange Projects Office, in a conference call two months after the hearing, told VA medical center staff around the

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[119] *Agent Orange Legislation and Oversight: Hearing before the Committee on Veterans' Affairs*, 107.
[120] *Agent Orange Legislation and Oversight: Hearing before the Committee on Veterans' Affairs*, 11.
[121] *Agent Orange Legislation and Oversight: Hearing before the Committee on Veterans' Affairs*, 658.
[122] *Agent Orange Legislation and Oversight: Hearing before the Committee on Veterans' Affairs*, 143.

country that “there is at the present time no condition [besides chloracne] for [which] we feel there is enough concrete evidence to ascribe…to exposure to Agent Orange.”[123]

A Series of Breakthroughs

In 1989, the Agent Orange debate underwent a number of key developments. The 1986 class action lawsuit brought against VA by the Vietnam Veterans of America concluded on May 3, 1989. The court ruled that VA’s policy of denying all medical claims relating to Agent Orange, aside from those alleging chloracne, was based on a “too demanding standard.”[124] Rather, the court felt VA should have applied “reasonable doubt” when assessing both the medical literature regarding dioxin exposure and individual Agent Orange claims. This meant that, in cases where the scientific evidence is “in balance,” the benefit of the doubt should go to the Veteran submitting the claim. The ruling required VA to reassess all claims that had been denied under their August 1985 guidelines. In addition, VA was to establish new claims guidelines which were to include regulations for reviewing scientific literature relating to dioxin exposure. The ruling received support from VA’s Secretary, Edward Derwinski, who had overseen VA’s transition into the cabinet-level Department of Veterans Affairs only two months prior. He expressed VA’s disinterest in appealing the decision, instead vowing to follow through with the ruling’s requirements as expeditiously as possible. Only five months later, in October 1989, VA published new claims guidelines reflecting the court’s recommendations. These new guidelines went into effect in November.[125]

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[123] Agent Orange conference call, July 18, 1988, box 3, Post-Deployment Health; Epidemiology Program.
[124] *Agent Orange Review*, October 1989, vol. 7, no. 1.
[125] *Agent Orange Review*, May 1990, vol. 7, no. 2.

This was not Secretary Derwinski's first foray into the Agent Orange problem, nor his last. He was VA's administrator for only two months before becoming the Department of Veterans' Affairs first-ever secretary on March 15, 1989. The day after President George H. W. Bush swore him into his new position, Derwinski attended a meeting of VA's Advisory Committee on Health-Related Effects of Herbicides. There, he lauded the committee's efforts in addressing the Agent Orange problem, especially amid the abundance of "conflicting opinions." Layne Drash, a member of VA's Environmental Agents Service who was also present at the March 16th meeting, noted that Derwinski had a "keen interest in the Agent Orange issue," and that "the Secretary's attendance at this meeting is consistent with his commitment to [this problem] and reflects the respect and high regard that he has for this committee and its members."[126] Derwinski's concern over dioxin exposure also gave hope to Veterans who had, for years, sought greater support from VA. After he chose to update VA compensation guidelines and not appeal the class action lawsuit, Mary Stout, president of the Vietnam Veterans of America, commented that he represented a "new Administration that's taking a different view of the Agent Orange situation."[127] Notably, Derwinski's decision not to appeal prompted irritation from VA's legal counsel and other government entities, including the Office of the Solicitor General, who argued that it was not his decision to make. Even so, Derwinski later recalled that, to him, ruling on the side of the Veteran was "common sense."[128]

In addition to hearing Secretary Derwinski's comments, attendees of the March 16th meeting of the Advisory Committee on Health-Related Effects of Herbicides began formulating

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[126] Advisory Committee on Health-Related Effects of Herbicides meeting minutes, March 16, 1989, box 2, Post-Deployment Health; Epidemiology Program.
[127] "VA Accepts Ruling, Will Review Agent Orange Claims it Denied," *New York Times*, May 12, 1989.
[128] Edward Derwinski, "Edward J. Derwinski Oral History," interview by the Miller Center. University of Virginia, May 3-4, 2001, https://millercenter.org/the-presidency/presidential-oral-histories/edward-j-derwinski-oral-history.

plans for a two-day assembly where committee members could meet and discuss the Agent Orange issue with Veterans, Veterans' groups, and representatives from various geographic regions around the United States.[129] This assembly ultimately took place on October 31 and November 1, 1989 in Washington, D.C. The first day included testimonies from a host of Veterans' groups, including the Veterans of Foreign Wars, Vietnam Veterans of America, National Vietnam Veterans Coalition, and Vietnam Veterans Agent Orange Victims. In addition, state officials from Virginia, Pennsylvania, New York, Michigan, California, and New Jersey presented statements. Most statements were critical, especially concerning VA's role in addressing the Agent Orange issue. Speakers specifically cited dissatisfaction with VA outreach efforts, the Agent Orange examinations at VA medical centers, and VA's seeming unwillingness to grant medical benefits to Veterans alleging Agent Orange exposure. Most testimonies also included critiques of government research efforts relating to Agent Orange, calling them contradictory, confusing, and of no actual help to the individual Vietnam Veteran. In addition, state officials from New York and Michigan urged VA to establish certain conditions as presumptive, specifically non-Hodgkin's lymphoma and soft tissue sarcomas. Others called for benefits for children of Vietnam Veterans experiencing birth defects. Secretary Derwinski's involvement in the Agent Orange issue was also mentioned, with the state official from Pennsylvania noting that his decision not to appeal the class action lawsuit heartened Veterans who otherwise felt a lack of concern from VA leadership. Yet Derwinski's decision alone was not enough. A representative from New Jersey summarized the overall sentiment of the meeting

[129] Letter from Michael Gough, March 23, 1989, box 2, Post-Deployment Health; Epidemiology Program.

when he stated that, “if the leaders of VA truly believe their mandate is to serve Veterans, then a radical departure from custom of the last decade is truly in order.”[130]

On the second day of the meeting, committee members met to discuss the previous day’s testimonies. There was considerable disagreement among members over how to address the speakers’ concerns, especially concerning medical benefits for Vietnam Veterans’ children and the continued confusion surrounding Agent Orange studies. One committee member, James Woods, commented that “definitive scientific answers to the Agent Orange issue will never be available.” This sentiment echoed the previous day’s remarks from fellow committee members Genevieve Matanoski and Thomas Hagel, who further urged that “a definitive judgment, as definitive as science can be, be rendered on these concerns.” The committee ultimately did not reach a conclusion on whether to endorse presumption for certain medical conditions, or whether to provide benefits for Veterans’ children. Rather, their official recommendations from the two-day assembly included a greater emphasis on both Veteran and physician education concerning Agent Orange, as well as a modification of the Agent Orange examination forms.[131] It was clear to all, however, that more changes would be needed to restore VA’s credibility among Vietnam Veterans.

As it turned out, some of these changes were forthcoming. In March 1990, the CDC released the results of their Selected Cancers Study. This study analyzed Vietnam Veterans’ risk of developing six certain types of cancer: non-Hodgkin’s lymphoma, primary liver cancer, nasal cancer, Hodgkin’s disease, soft tissue or other sarcomas, and nasopharyngeal cancer. CDC

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130 Advisory Committee on Health-Related Effects of Herbicides meeting minutes, October 31, 1989, box 2, Post-Deployment Health; Epidemiology Program.

131 Advisory Committee on Health-Related Effects of Herbicides meeting minutes, November 1, 1989, box 2, Post-Deployment Health; Epidemiology Program.; Advisory Committee on Health-Related Effects of Herbicides meeting minutes, October 31, 1989, box 2, Post-Deployment Health; Epidemiology Program.

researchers chose these cancers for the study based on previous studies suggesting their possible association with herbicide exposure. Their study ultimately concluded that, of the six cancers, Vietnam Veterans had a higher risk of contracting non-Hodgkin's lymphoma, although researchers still could not prove that this increase was due to Agent Orange. Even so, this increased risk applied only to Veterans who had served *in* Vietnam. Secretary Derwinski learned of the study's findings on March 28th. During a press conference the following day, he announced that non-Hodgkin's lymphoma would officially be designated as service-connected for Vietnam Veterans. Although the relationship between non-Hodgkin's lymphoma and Agent Orange remained disputed, Derwinski noted that the Advisory Committee on Health-Related Effects of Herbicides could not rule out that such a relationship existed. Thus, he chose to exercise his "authority as Secretary of Veterans Affairs to make a determination that in [his] judgment there is at the present time a relationship between Vietnam service and non-Hodgkin's lymphoma."[132] This decision, which Derwinski stressed was based on policy rather than scientific proof, was a significant step forward for Vietnam Veterans who, for over 12 years, had been involved in the Agent Orange debate.[133]

Derwinski, whose time in office had seemingly spurred increased momentum on the Agent Orange issue, announced an additional policy change only two months later. In mid-May, the Advisory Committee on Health-Related Effects of Herbicides concluded that it "was at least as likely as not" that a relationship existed between herbicide exposure and the development of soft tissue sarcomas. While several committee members maintained that the evidence did not suggest a causal relationship, they nonetheless gave the benefit of the doubt to the affected Veterans and recommended to Derwinski that such an association existed. As was the case with

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[132] *Agent Orange Review*, May 1990, vol. 7, no. 2.
[133] Warren E. Leary, "Higher Risk of Rare Cancer Found for Vietnam Veterans," *New York Times*, March 30, 1990.

non-Hodgkin's lymphoma, Derwinski announced VA's decision to classify soft tissue sarcomas as service-connected just one day following the recommendation.[134] Again, Veterans lauded this change, especially since it linked the disease directly to dioxin exposure.

After these decisions, VA quickly began working to create updated claims guidelines for non-Hodgkin's lymphoma and soft tissue sarcomas. Those in Congress, however, began drafting legislation to formally establish these changes as law. On January 17, 1991, Representative Montgomery, Chair of the House Veterans' Affairs Committee and previous advocate of VA's efforts to address Agent Orange, introduced a bill that would officially establish non-Hodgkin's lymphoma, soft tissue sarcomas, and chloracne as presumptive conditions of Vietnam service. President Bush signed the bill into law on February 6th, officially designating it as the Agent Orange Act of 1991.

This act was a breakthrough in the Agent Orange debate, and served as the culmination of over a decade of advocacy from Veterans, Veterans' groups, government officials, and others. It was the first act to attribute medical conditions to dioxin exposure, and also the first act to establish certain conditions as presumptive when administering medical claims to those who served in Vietnam. In addition, this legislation set forth new standards for adding to the list of presumptive conditions, requiring VA to enter into a contract with NAS to update the list as additional scientific evidence became available. The partnership with NAS also voided certain functions of VA's Advisory Committee on Health-Related Effects of Herbicide, namely those relating to Agent Orange, in order to avoid duplicate efforts from both groups. Furthermore, the legislation provided for additional VA research activities into dioxin exposure, including analyses of certain Vietnam Veterans' tissue and blood samples. While many of the questions

[134] *Agent Orange Review*, August 1990, vol. 7, no. 3.

surrounding Agent Orange remained, the Agent Orange Act of 1991 was a turning point in providing Vietnam Veterans with needed care.

As with previous Agent Orange-related matters, Secretary Derwinski wholeheartedly supported the passage of this new legislation. He applauded the members of Congress who drafted and subsequently passed the bill, noting that "VA has [always had] one overriding goal in this area: providing, as best we can, the truth for our Vietnam Veterans about the effects of exposure to Agent Orange. Because, in our opinion, that is the goal of this fine legislation, we are pleased to offer our support." His supportive attitude towards Agent Orange measures earned him reciprocal praise from Congressmen, including, notably, Senator Daschle. A longtime critic of VA's response to Agent Orange, Daschle had frequently spoken out against VA's study results and introduced several unsuccessful bills prior to the Agent Orange Act that sought to establish presumptive conditions for dioxin exposure. Yet after the passage of this new legislation, Daschle commented that Derwinski's "open mind" and his "willingness to listen to Veterans, to reexamine the scientific evidence, and to give Veterans the benefit of the doubt has been crucial to the effort to redefine the federal government's response to the Agent Orange problem."[135] It was clear that, from the beginning of his time in office, Derwinski's role in addressing the Agent Orange issue proved pivotal.

Conclusion

The road to the Agent Orange Act of 1991 was not easy. From the beginning, the Agent Orange issue was both confusing and emotional. As the alleged aftereffects of dioxin exposure became public, many Vietnam Veterans lived in fear of contracting an incurable disease or

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[135] *Agent Orange Review*, April 1991, vol. 8, no. 2.

having children with severe birth defects. Even though both public and private entities conducted numerous studies on dioxin, their limited ability to determine exposure levels among individual Veterans meant that their findings often could not hold up under scrutiny. In addition, many of these studies on herbicide exposure had contradictory results, causing confusion and anger among Veterans, especially those who had already developed a medical condition for which they demanded compensation. Differences of opinion over how to address Agent Orange, specifically whether to establish certain conditions as presumptive, extended into Congress, with multiple proposed pieces of legislation that, typically, were unsuccessful.

As for VA, they sought to address these Vietnam Veterans' concerns in several ways, although the lack of definitive scientific evidence hindered some of these efforts. As the Agent Orange issue became increasingly public in the 1970s, VA almost immediately established the Agent Orange Registry and began conducting medical examinations of Veterans alleging Agent Orange exposure. In addition, they created a series of committees whose sole purposes included conducting in-house dioxin studies, reviewing dioxin studies from both national and international organizations, and making policy recommendations based on these studies' results. In-house studies included both general analyses of Vietnam Veterans' health, in addition to studies more explicitly focused on Agent Orange. VA officials also regularly testified in Congress and other mediums with updates on their research and to express their commitment in helping Vietnam Veterans as best they could.

That is not to say that VA did not have its share of difficulties. As they were often regarded as the face of the Agent Orange issue, they routinely faced criticism from Veterans, government officials, and the public alike. Many Veterans expressed dissatisfaction with the Agent Orange examinations at VA medical centers, citing difficulties in obtaining lab results and a lack of genuine concern from physicians. Further, many felt the examinations were pointless, and that VA would never acknowledge the long-term effects of dioxin exposure. VA also faced numerous critiques of their in-house Agent Orange studies, the most notable of which was the epidemiological study mandated by Congress in 1979. Although VA legally could not begin conducting the study until the resolution of a related lawsuit, the delays nonetheless prompted immense public outcry and ultimately resulted in VA transferring the study to the CDC. VA's denial of Agent Orange claims, however, arguably had the greatest influence on the deteriorating relationship between VA and Vietnam Veterans. Yet, again, with a lack of concrete scientific evidence linking herbicide exposure with the medical disabilities experienced by Veterans, changing VA policy was, seemingly, unjustified.

It was not until the late 1980s that VA began making significant changes. The results of a class action lawsuit mandated that VA revise their claims guidelines regarding Agent Orange, as the previous guidelines were deemed too demanding and based on an unachievable cause-effect standard. Under the court ruling, VA was to ensure that, in the case of equal levels of contradictory evidence, claims decisions favored the assertions of the Veteran. Notably, this ruling came shortly after Secretary Edward Derwinski assumed his role as head of VA. Derwinski brought renewed energy to the Agent Orange issue, and, the year after taking office, he announced that VA would classify two medical conditions, non-Hodgkin's lymphoma and soft tissue sarcomas, as service-connected for Vietnam Veterans. These announcements, which came despite conflicting scientific evidence over dioxin's role in causing these conditions, offered hope to Veterans who had been involved in the Agent Orange issue for years. As for Derwinski, he continued expressing his determination to address Agent Orange concerns as best he could. It is perhaps no surprise, then, that he supported the passage of the Agent Orange Act of 1991.

That said, the passage of the Agent Orange Act was not the end of the Agent Orange debate. Over the following decades, VA faced numerous calls to add to the list of presumptive conditions for Vietnam Veterans, and the list did, indeed, grow as time passed. As of the time of this writing, the list included various forms of cancer, including bladder cancer, multiple myeloma, and prostate cancer, in addition to other conditions such as high blood pressure, Parkinson's disease, and hypothyroidism. Certain children of Vietnam Veterans with birth defects have also been granted compensation. The most recent additions came in early 2024, over 30 years after the Agent Orange Act of 1991, demonstrating that VA has made and continues to make changes in the hopes of addressing Veterans' concerns and needs regarding Agent Orange exposure. These changes, however, are rooted in the studies, debates, committee meetings, and medical policies of VA's early Agent Orange efforts. The work of the 1970s, 1980s, and early 1990s set the stage for VA's Agent Orange care today.

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