

# Austerity Threatens Veterans, Too

by Carl Osgood

When the austerity mongers among Republicans and the “post-partisan” Bloomberg crowd talk about “entitlement reform,” they usually mean slashing Social Security, Medicare, and Medicaid benefits. Hardly anybody talks about veterans’ benefits in the same vein, saying openly that they must come under the budget act as well. However, veterans have been under attack, in fact, just as much as the elderly, the sick, and the poor have been. In its first budget submission after winning re-election in 2004, the Bush Administration proposed that those in the Veterans Administration (VA) health-care system should pay higher enrollment fees and prescription drug co-pays than they were already being charged, a move the Department of Veterans Affairs calculated would result in 213,000 fewer veterans in the system than otherwise would be the case. At about the same time, Undersecretary of Defense David Chu was quoted by the *Wall Street Journal* complaining that veterans’ benefits had grown so much, that “they are taking away from the nation’s ability to defend itself.” While his comments caused a stir at the time, Chu was only echoing the argument that is made about Social Security, Medicare, and other entitlement programs: that if their growth is not “restrained,” they will crowd out all other spending in the Federal budget.

While no one dares to openly advocate slashing veterans programs—the budget cuts couldn’t get through Congress—nonetheless, the administration has gone forward with measures to reduce the number of veterans receiving benefits, including health care, and generally provide them poorer service. Evidence presented in a class action lawsuit against the VA, and in a Feb. 14 hearing of the Subcommittee on Disability Assistance and Memorial Affairs of the House Veterans Affairs Committee, suggests a pattern of entrenchment by the Bush Administration against meeting the needs of veterans. The pattern includes the inability to process disability claims in a timely manner, a disability ratings process that rewards worker productivity at the expense of accuracy, and the denial of due process rights to veterans when they appeal disability ratings decisions. While some of these problems stem from the structure of veterans’ benefits law, veterans’ service organizations are reporting an increased pattern of abuse from the Bush Administration itself.

## **VA: Medical Care Is ‘Discretionary’**

Perhaps the most extraordinary piece of evidence was provided by the government, in response to the class action



Department of Defense

*Veterans for Common Sense director Paul Sullivan lays much of the blame for the problems in the VA's benefits system on poor leadership by undersecretary for benefits, Daniel Cooper (shown here). Cooper has told Congress repeatedly that the VA had sufficient resources. "Not only was he wrong," Sullivan said, "he was catastrophically wrong."*

lawsuit, filed in U.S. District Court in San Francisco last July, by Veterans for Common Sense (VCS) and Veterans United for Truth (VCFT). The suit alleges a pattern of abuse in the denial of medical care and disability claims, charging that veterans have "been exposed to a system-wide pattern of abusive and illegal administrative practices" which have been enabled by "Various impingements on the Constitutional rights of veterans" without remedy under existing law. The government replied to the suit, in a filing dated Jan. 30, that veterans' medical care is "discretionary." The government argued that "The scope of VA's mandate reaches only 'to the extent and in the amount provided in advance in appropriations acts' for these purposes and *creates no such expectation that veterans are entitled to care*" (emphasis in original).

Gordon Erspamer, the lead attorney for the plaintiffs in the suit, calls this argument "just plain wrong," telling *EIR* on Feb. 14, that "if that is true, Congress needs to fix that, because I can't think of anything more basic to a veteran than the right to health care that he's been promised," especially if they're veterans with service-connected disabilities. "For God's sake, people are dying," Erspamer said. "They're disabled for life, and we say that this is a gratuity? We can do whatever we want? That is a very dangerous principle..." The message the government is sending, he said, "denigrates" and "belittles" the veteran. "It's treating the veteran as one of the little people who don't count."

Paul Sullivan, the executive director of Veterans for Com-

mon Sense, added that there is a surge of veterans returning from Iraq and Afghanistan, "and not only are they being denied medical care but their requests for help are being delayed unnecessarily." There are cases of veterans committing suicide, turning up homeless, turning to drug and alcohol abuse (euphemistically called "self-medicating") as a result of the long delays, "and the Department of Veterans Affairs is doing little or nothing, and in some cases, violating the law." Sullivan said that the only option left to address this situation was to file a lawsuit.

Interestingly, the VA did not contest any of the material issues raised by the VCS/VUFT lawsuit, instead offering a series of technical arguments based on the claim that veterans' benefits are not an entitlement and, in an argument typical of the Bush Administration's legal philosophy, that the court has no jurisdiction to direct the VA to make the corrections that the plaintiffs are demanding. The VA is not challenging any of the claims of harm that the suit is making, that result from the VA's negligence in the processing of claims and failure to provide timely health care to those veterans who need it. That harm includes veterans dying while their claims are still pending, and the high rate of suicides among them, some of which are known to occur after they were turned away from VA medical facilities without an appointment. In a Feb. 11 response to the VA's Jan. 30 filing, the plaintiffs note that therefore, the court can, in fact, direct the VA to abide by its statutory requirements to provide veterans with five years of health care upon return from combat, to instruct the VA that veterans are entitled to due process, and that it can no longer turn away veterans who are at risk of taking their own lives. "These will be significant and effective steps," the filing concludes.

## Dysfunctional Claims-Processing System

Sullivan and Erspamer were among the witnesses at the Feb. 14 hearing who testified to the delays in the claims-processing system and the denial of medical care, and offered proposed reforms to solve those problems. Richard Paul Cohen, executive director of the National Organization of Veterans Advocates, told the hearing that the VA only gives claims raters about ten hours of training per year, that raters consistently demonstrate a lack of knowledge, adding that they "still don't know how to apply VA law regarding presumption and regarding benefit of the doubt." While the VA proudly brags about an 88% accuracy rate for claims ratings, Cohen said that the number of reversals and remands because cases were not adequately developed or were decided wrongly, means that the actual accuracy rate is below 20%. Such a low rate "directly leads to more appeals, which leads to more backlogs," he said. "If the VA could decide cases correctly the first time, then we wouldn't have cases coming back and we wouldn't have the hamster wheel justice that everybody is talking about."

J. David Cox, national secretary-treasurer of the Ameri-



US Air Force/Airman 1st Class Kenny Holston

*A class action lawsuit, filed by veterans organizations, alleges that veterans have “been exposed to a system-wide pattern of abusive and illegal administrative practices.” The government replied that veterans’ medical care is “discretionary.” Shown, a wounded soldier, at Landstuhl Regional Medical Center in Germany, last July.*

can Federation of Government Employees (AFGE), noted that claims processing is learned entirely on the job, but that the top management of the Veterans Benefits Administration has failed to recognize what these employees have to offer. In fact, AFGE has been increasingly excluded from national-level efforts to improve the claims process, and the training and certification of raters. “These days,” Cox testified, “management wants one thing, and only one thing from the VBA workforce: Process claims as fast as possible.” Cox also reported that managers often cut short the training of experienced workers who rely on continuing education to keep up with the steady stream of new laws, court cases, and benefits programs that directly impact claims determinations. These and other measures that managers take leave gaps in training which contribute to the backlog, Cox said.

### **It’s a Political Problem**

While it appears that the lawsuit will be very useful in documenting the poor treatment of veterans by the Bush Administration, it remains to be seen whether the court, even if it rules completely in favor of the veterans organizations, can solve what is essentially a political problem. One of those political problems is current undersecretary for benefits Daniel Cooper. Veterans for Common Sense lays much of the blame for the problems in the VA’s benefits system on poor leadership by Cooper, who has been in his current position since 2002. In 2001, Cooper headed a task force that studied the VA’s claims disability process and made several recommendations to improve it, but since then, according to Sullivan, Cooper has told Congress repeatedly that the VA had sufficient resources to deal with it. “Not only was he wrong,” Sullivan said, “he was catastrophically wrong.”

Beyond that, Cooper also has engaged in questionable extracurricular activities. Last September, VCS joined with the Military Religious Freedom Foundation (MRFF) in an ethics complaint against Cooper, filed with the Department of Justice, because of his appearance in a 2004 fundraising video produced by the evangelical group Christian Embassy, which is tied to Bill Bright’s Campus Crusade for Christ. In the film, Cooper can clearly be heard saying that proselytizing for the Christian Embassy is “what is important. . . . The job’s always going to be there, whether I’m there or not.” According to the VCS/MRFF complaint, Cooper’s comments “make it clear . . . that he believes proselytizing and fundraising for his religion among government employees and on government time is more important than his job” of overseeing the processing of hundreds of thousands of disability claims, each year, for injured and ill veterans. The Pentagon Inspector General, in a July 2007 report, recommended that seven military officers who also appeared in the video be reprimanded for appearing while in uniform, in violation of Department of Defense regulations, yet no action has been taken against Cooper.

The other component of the political problem is the White House itself, especially the Office of Management and Budget, which dictates to all of the departments and agencies of government the parameters within which they construct their budget submissions. Sullivan called the OMB “the elephant in the room,” which is “sucking all the oxygen out of veterans’ health care and benefits.” He said that the OMB’s behind-the-scenes slashing of the VA’s hiring and construction budgets is “almost to the point of criminal negligence.” “This administration, without a doubt, has betrayed the trust of veterans,” Sullivan said.