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## Agent Orange's lethal legacy: For Vietnam War veterans, injustice follows injury

### Vietnam vets wait years and fight skeptical agency to get disability

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December 6, 2009



*Part 2 of a Tribune investigation finds that for many U.S. veterans, the bureaucratic fight to be compensated for health problems linked to Agent Orange amounts to a new and unexpected war, long after the shooting ended overseas. [Complete coverage >>](#)*

Jack Cooley delivered his final argument in a long, distinguished legal career from a hospital bed.

Four months before succumbing to multiple myeloma, the Chicago-area Vietnam veteran and federal magistrate judge wrote a 140-page claim for justice and filed it with the U.S. Department of Veterans Affairs. Cooley's message to the government was personal and direct: Agent Orange is killing me, and you need to take responsibility.

Cooley didn't know it last spring, but when the former Army artillery captain filed his disability claim, he was just entering a maddening bureaucratic maze many veterans know well. The VA would kick back Cooley's claim after a month, saying he lacked the required proof he'd served in Vietnam.

Cooley could have spent months navigating this convoluted path. But with Cooley's life fading, his family reached out to an old friend, a member of his West Point class of 1965. It was former Army Chief of Staff Eric Shinseki, recently appointed secretary of the Department of Veterans Affairs.

In short order the obstacles to Cooley's claim disappeared. The VA delivered three monthly disability checks for \$2,700 before Cooley died July 21, at 65, in Evanston.

"This was insult to injury," said his daughter Christina. "If Gen. Shinseki was not ... a family friend and a West Point classmate, we would have never seen a dime. It makes me think about everybody else out there struggling without resources."

The Vietnam War ended almost 35 years ago, but for many veterans, battles with cancer, diabetes, Parkinson's disease and other maladies associated with defoliants used in the war are only now beginning. Until 2007, Jack Cooley had been in good health.

For many veterans, this is the unexpected new war, long after the old one ended.

The government has been slow to recognize the connection between wartime service and debilitating diseases that strike Vietnam veterans decades later. Even when they suffer from conditions officially linked to Agent Orange, veterans can wait years for their requests for disability compensation to run through the VA system.

Jack Cooley's death from multiple myeloma, a form of blood cancer associated with exposure to Agent Orange, opens a window into the clogged workings of the VA, the final arbiter on war-related disability claims.

"The truth is, veterans who went to Vietnam returned much sicker than their (civilian) peers. Something happened over there. Why arm wrestle over it?" said Linda Schwartz, commissioner of veterans affairs in Connecticut and the author of early studies on the health of female veterans.

The VA declined requests to interview Shinseki, who has said he wants to change the culture at the agency and make it more of an advocate for those who serve the country.

As long-dormant effects of Agent Orange begin to surface in many Vietnam War veterans, the backlog of disability claims has been growing fast, despite the VA's adding more than 3,000 employees to handle the traffic jam.

"They're overwhelmed," said Joe Moore, a former VA attorney who now represents veterans in cases against the agency. "They simply can't do the decision-making fast enough."

In response to a December 2008 lawsuit filed in U.S. District Court in Washington seeking to force the VA to decide claims in 90 days, the government acknowledged that "certain diseases for Vietnam-era veterans" are contributing to the backup.

The lawsuit, filed by the Vietnam Veterans of America and Veterans of Modern Warfare, argues that "thousands of veterans die each year" before the VA acts on their disability claims. The lawsuit alleges the VA takes at least six months to consider an initial request, and appeals can drag on for years.

"In the face of such delays, many veterans simply give up, choosing to accept less than they deserve rather than to endure years of delay and frustration," it said.

Or they just die early. According to data from the VA, 58 percent of the 490,135 Vietnam veterans who died from 2000 to 2007 were younger than 60.

### **A 3-act tragedy**

For Vietnam veterans, the ongoing drama over Agent Orange can be broken into three acts. In the first, soldiers are totally unaware of the dangers posed by dioxin-laced defoliants sprayed in Vietnam. With the second comes outrage at the belated discovery of harm. And the third act is frustration with the bureaucracy set up to help veterans.

James Sprandel, a retired truck driver for the Chicago Department of Streets and Sanitation, has lived through all three.

Sprandel left South Vietnam almost 41 years ago, relieved to have survived his one-year tour as a combat medic at Tan An Airfield, about 20 miles south of Saigon. Today Sprandel, 64, uses a wheelchair because of diabetes and neuropathy, a nerve disorder that has drained the strength from his legs. The VA took 14 months to approve his disability claim.

Although he has little desire to revisit the war, Sprandel said he clearly recalls being assured that nothing was wrong with the water from rivers and streams around the air base. "There was a huge tank for bathing. ... We bathed in it, we drank it. They told us it was potable water," Sprandel said.

Never informed of the health risks, soldiers commonly reused Agent Orange barrels as barbecue pits, toilets and holding tanks for shower water. Studies show that as much as five gallons of residue often remained in 55-gallon barrels.

Not long after the war, it appeared the government would respond to the emerging realization that veterans faced a health threat from their exposure. Upon learning about Agent Orange's risks, Congress ordered a full epidemiological study in 1979 with the intent of determining and monitoring the health impact of exposure to the defoliants.

But the government balked at the directive and has yet to carry it out.

Early studies on women who served in Vietnam suggested a higher risk of several types of cancer, as well as reproductive problems and birth defects in their children. But, as with male veterans, extensive studies still have not been completed.

Meanwhile, veterans joined a massive class-action lawsuit against Dow Chemical Co., Monsanto and other chemical companies that produced herbicides used in Vietnam. The case was settled out of court in 1984 for \$180 million. The most common payment, distributed from 1988 to 1997, was for mental disorders -- which, ironically, research has never linked to Agent Orange.

Out-of-court settlements often suggest closure of a dispute, but the controversy has only grown in the last 25 years. At the time of the agreement scientists did not fully understand the long-term effects of dioxin, especially its connection to cancer and other slow-developing diseases, gradually documented in small studies.

In 1998, attorneys filed a new lawsuit against chemical companies that manufactured defoliants, contending that the settlement money had dried up by the time thousands of veterans developed illnesses linked to the defoliants. The 2nd U.S. Circuit Court of Appeals rejected the argument, and the Supreme Court declined to hear the case in March.

The most comprehensive study on the defoliants' health effects was conducted by the Air Force, which over 27 years took biological samples from and tracked the health of a small number of soldiers who personally handled and sprayed the chemicals during the war.

The Operation Ranch Hand study, named for the defoliation effort, has long been criticized for underestimating the impact of the chemicals. More recently, new information has emerged showing that some herbicides used in the war contained even more dioxin than was once thought.

Scientists who worked on the study say re-examining the rich data in this light could bring crucial new insights. "I believe the whole thing needs to be reconsidered," said Joel Michalek, an epidemiologist at the University of Texas Health Science Center at San Antonio.

Last year, Congress directed the VA to provide funding to do just that. So far the money

has not been made available.

## **A war on 2 fronts**

Mary Ann Dove's husband, a Vietnam veteran and former Marine, was diagnosed in 1989 with the same disease that killed Cooley, multiple myeloma, which the VA did not link to Agent Orange until five years later.

In fact, the Vietnam War had been over for 16 years before the VA acknowledged that Agent Orange exposure was associated with a higher risk of any postwar illnesses. The first three to be recognized, in 1991, were soft tissue sarcoma, non-Hodgkin's lymphoma and chloracne, a skin disorder that chemical companies had linked to dioxin decades earlier.

From 1991 to 1997, the VA accepted evidence that 10 diseases, including several cancers and neuropathy, were linked to Agent Orange. In the next six years, two diseases were added to its list.

Dove, a retired Army nurse who also served in Vietnam, recalls her husband saying early on: "You can fight the disease or you can fight the government -- you can't do both." He chose to fight the disease, which killed him within six years.

The government "is clueless about what it did in Vietnam and the damage that was done," Dove said.

The sheer number of claims contributes to the delays. According to annual reports from the VA, the number of Vietnam veterans receiving disability benefits grew 20 percent from 2003 to 2008 to 1,015,410.

At the same time, the number of veterans receiving aid after fighting in the Persian Gulf, Afghanistan and Iraq jumped 88 percent, to 897,000.

"There's a lot of pressure to decide the cases from Iraq and Afghanistan quickly. What seems to be getting lost is those cases in the middle, where the veteran has already been denied and is now appealing," said Barton Stichman, joint executive director of the National Veterans Legal Service Program, a Washington-based advocacy group for veterans.

Stichman said the VA is generally tightfisted and "with Agent Orange, they are skeptical adjudicators."

Shinseki, a veteran wounded in Vietnam, proposed new rules in October for adding diseases to the expanding list of illnesses presumed to have been caused by the defoliant. The rules will undergo a period of public comment. He says he also wants to speed up the

claims process.

"Since my confirmation as secretary, I've often asked why, 40 years after Agent Orange was last used in Vietnam, we're still trying to determine the health consequences to our veterans who served in the combat theater," Shinseki said in a statement at the time. "Veterans who endure a host of health problems deserve timely decisions."

Paul Sutton, the former chairman of Vietnam Veterans of America, called the announcement too little, too late.

"At this stage, about a million-and-a-half of us are already gone," Sutton said.

### **Feeling 'betrayed'**

Jack Cooley never expected to fight his government. He attended a military high school in St. Louis and, at West Point, developed a deep respect for Civil War Gen. Ulysses Grant. "Jack is not the type to 'take things by storm,' " his classmates said of him in the 1965 West Point yearbook, the Howitzer.

One July day in 1968, Cooley flew by helicopter to Quang Tri province's Landing Zone Jane, which he described in a letter to his wife, Maria, as "God-forsaken."

Cooley was traveling the area as an artillery officer based at Camp Carroll. In all, 168,000 gallons of Agent Orange and other defoliants were dumped on the province in the year he spent there, according to a Tribune analysis of spraying data.

"This is one of the better places to be at the present time," Cooley assured his mother in a tape recording he mailed home in early 1968.

After leaving the Army, Cooley would earn a law degree from the University of Notre Dame, clerk for a federal judge in Chicago and be appointed a federal magistrate. He earned a reputation as a skilled mediator who could bring people together. He wrote textbooks on problem-solving and taught at Northwestern and Loyola universities.

When he was diagnosed with multiple myeloma, Cooley quickly made the connection to Agent Orange.

"I then (in the summer of 2007) put 2 and 2 together and realized that I had been exposed to massive amounts of toxic chemicals in the air observer assignment and other job assignments I had while in Vietnam," Cooley wrote in his claim to the VA for disability compensation.

The Cooleys started work on his claim to the VA while he was in intensive care in an Evanston hospital, having earlier undergone a stem cell transplant that failed to stop the

spread of the disease.

Christina Cooley said her father "felt very betrayed" by the government's failure to disclose the dangers of Agent Orange to the men and women serving in Vietnam.

"He strongly believed the government is there to watch out for us," she said.

At Cooley's memorial service in September, friends from the West Point class of '65 attended, including Shinseki. At the end of the service, a short prayer was recited for "families who have lost a member to Agent Orange."

Two weeks later a packet from the federal government was dropped in Cooley's mailbox in Evanston. Inside were documents requested nearly four months earlier, verifying that Cooley had served in the Vietnam War.

*Tribune reporter Jason Grotto contributed to this story.*

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