



Advisory Committee on Arlington National Cemetery

Arlington National Cemetery
Arlington, VA 22211

September 29, 2020

The Honorable Ryan D. McCarthy
Secretary of the Army
100 Army Pentagon, Room 3E700
Washington DC, 20310

Dear Mr. Secretary,

The Advisory Committee on Arlington National Cemetery (ACANC) is a congressionally mandated non-discretionary advisory committee established under Title 10 United States Code § 7723. The ACANC is chartered to make periodic reports and recommendations with respect to the administration of Arlington National Cemetery (ANC), the erection of memorials at the cemetery, and master planning for the cemetery. These recommendations compliment, not supplant, Army command and staff actions with respect to ANC. The Department of the Army provides support through Arlington National Cemetery.

The DoD, consistent with the Committee's mission and DoD policies and procedures, has authorized two subcommittees:

The Honor Subcommittee. The primary mission of this Subcommittee is to accomplish an independent assessment of methods to address the long-term future of the Army national cemeteries, including how best to extend the active burials and what ANC should focus on once all available space is used. Specifically, to assess current eligibility requirements for interment and inurnment at ANC as they affect the available space and life of active burials and ensure that recommendations serve and protect the interests of all Servicemembers and Veterans, surviving family members, and the American public. The Subcommittee's review focuses on the qualitative and quantitative benefits of the options to best honor our veterans, their families, and the Nation while maintaining the iconic nature of ANC.

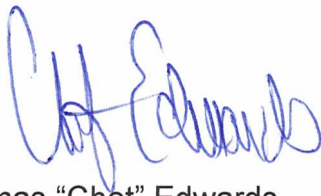
The Remember and Explore Subcommittee. The primary focus of this Subcommittee is to review issues and provide recommendations to the Committee to best maintain the Tomb of the Unknown Soldier Monument, accomplish an independent assessment of requests to place commemorative monuments, identify means to capture and convey the history of Arlington National Cemetery, and to improve the quality of visitors' experiences now and for generations to come.

The Committee takes seriously its mandate to provide independent advice and is excited and pleased with the significant progress that continues at Arlington National Cemetery.

**Report of the Advisory Committee on Arlington National Cemetery meeting held on
September 22nd, 2020**

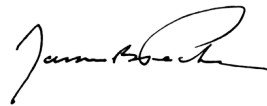
The Committee, after thorough review and deliberation, voted unanimously on September 22nd, 2020 to:

- Recommend the Secretary of the Army delete § 553.1 paragraph titled "Positions of Significant Government Responsibility" as well as the eligibility for these individuals as outlined in §553.12(a)(5) and §553.13(a)(6), within the Proposed Rule 32 Code of Federal Regulations (CFR) Part 553, recently published on 15 September 2020.
- Recommend the Secretary of the Army delete paragraph § 553.12(a)(4), within the Proposed Rule 32 CFR part 553, recently published on 15 September 2020.
- Recommend the Secretary of the Army approve placing a commemorative monument honoring the crew of the Apollo 1 within ANC
- Recommend the Secretary of the Army approve placing a commemorative monument honoring the fallen Servicemembers who served within the Office of Strategic Services within ANC



Thomas "Chet" Edwards
Co-Chair
Advisory Committee on
Arlington National Cemetery

Very Respectfully Yours,



James Peake
Co-Chair
Advisory Committee on
Arlington National Cemetery

Enclosure

Report of the Advisory Committee on Arlington National Cemetery meeting held on September 22nd, 2020.

Report of the Advisory Committee on Arlington National Cemetery meeting held on September 22nd, 2020

References

- (a) Advisory Committee on Arlington National Cemetery Charter, July 31, 2020.
- (b) October 2019 Report of the Advisory Committee on Arlington National Cemetery (dated October 24, 2019)
- (c) Proposed Rule 32 CFR Part 553, Published via Federal Register, September 15, 2020
- (d) ANC National Dialogue Surveys, (2017; 2018)
- (e) Apollo 1 Commemorative Works Proposal
- (f) Office of Strategic Services Commemorative Works Proposal

Background

Title 10 U.S.C. § 7723 stipulates that “not later than 90 days after receiving a report or recommendations from the advisory committee, the Secretary of the Army shall submit the report or recommendations to the congressional defense committees and the Committees on Veterans’ Affairs of the Senate and House of Representatives and include such comments and recommendations of the Secretary as the Secretary considers appropriate.”

Report

On September 21st and 22nd, 2020, meetings of the Remember and Explore Subcommittee, the Honor Subcommittee and the parent Advisory Committee on Arlington National Cemetery (ACANC) were held virtually via Microsoft Teams. Each meeting was convened with full membership attendance. The Designated Federal Officer, Ms. Renea Yates, was present for all meetings which were open to the public via virtual means. Formal minutes will be produced and will be available to the public on the Arlington National Cemetery public website within 60 days.

- The Remember and Explore Subcommittee received briefings on the Tomb of the Unknown Soldier (TUS) and Memorial Amphitheater preservation work, the TUS 100th commemoration plans, and education and interpretive programs at ANC. The Subcommittee also received a proposal for placement of a commemorative monument in honor of the fallen military Servicemembers who served with the OSS during WWII.
- The Honor Subcommittee received a briefing on “Burial Demands and Capacity Challenges” at ANC, and deliberated the recently published Proposed Rule 32 CFR part 553.

The estimated cost of this report or study for the Department of Defense is approximately \$1,930 for the 2020 Fiscal Year. This includes \$0 in expenses and \$1,930 in DoD labor.
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Report of the Advisory Committee on Arlington National Cemetery meeting held on September 22nd, 2020

- The Advisory Committee on Arlington National Cemetery convened to consider reports from the subcommittees; receive commemorative works proposals and deliberate recommendations for the Secretary of the Army to consider for placement within ANC; receive an update on burial demands and capacity challenges within ANC; and deliberate the recently published Proposed Rule 32 CFR part 553 for potential recommendations for consideration by the Secretary of the Army.

All eight appointed ACANC members were present for the full committee meeting on 22 September 2020:

- Dr. James Peake (LTG USA, Retired), Co-Chair
- Mr. Chet Edwards, Co-Chair (ABMC appointment)
- Mr. Gene Castagnetti (COL USMC, Retired)
- Ms. Ann Rondeau (VADM USN, Retired)
- Ms. Ann Harrell (Maj Gen USAF, Retired)
- Mr. Thomas Kelley (CAPT USN Retired), Medal of Honor Recipient
- Mr. Jack Kelly (MAJ USA, Retired) (VA Appointment)
- Mr. Mark Farley (CSM USA, Retired)

The Chair of the Remember and Explore Subcommittee reported that, after thorough consideration, the subcommittee recommends approval to the ACANC for placing a commemorative monument within ANC in honor of the fallen military Servicemembers who served within the Office of Strategic Services (OSS) in WWII. The chair noted that the Arlington National Cemetery Monuments Working Group had studied the proposal independently from the subcommittee and recommended approval.

The Chair of the Honor Subcommittee reported comprehensive discussion over the recently published Proposed Rule 32 CFR part 553. The Proposed Rule is currently in a public comment period, which closes on November 16th, 2020. The Honor Subcommittee put forth a motion, which was voted on unanimously to recommend to the ACANC, deletion of § 553.12(a)(4), as it relates to the any person who served in the position of President and Vice President of the United States, regardless of military service.

Advisory Committee Recommendations

A particular agenda item, "Burial Demand and Capacity Challenges", included an in-depth discussion on the Proposed Rule (32 CFR Part 553) published in the Federal Register on 15 September 2020. As part of the discussion, the Committee drafted specific language for recommendations for the SecArmy.

Report of the Advisory Committee on Arlington National Cemetery meeting held on September 22nd, 2020

The October 2019 Report of the Advisory Committee (ref b) provided the Committee's views and advice on the Army's proposed revised eligibility criteria in advance of the process that has led to the published Proposed Rule.

The Committee stands by the recommendations made in the October 2019 Report, specifically that the minimum criterion for interment or inurnment at Arlington National Cemetery must be honorable military service to our nation.

The Committee offers the following clarifying comments regarding two objectives: (1). Extending the life of Arlington National Cemetery and (2). Maintaining the iconic nature of Arlington National Cemetery as a symbol of honoring military service and sacrifice to our nation.

Objective 1: The Committee recognizes that the eligibility criteria changes in the Proposed Rule will meet the requirement to extend the life of active interments at Arlington National Cemetery. The Committee notes that above ground inurnment opportunities will be exhausted by year 2045. The Committee believes that those opportunities should be reserved for demonstrated honorable MILITARY service independent of service to the nation outside of the military.

Objective 2: The iconic nature of Arlington National Cemetery is more than dignified ceremonies and beautiful vistas. Most importantly, it is the unique contribution of military service that is honored. The Committee is concerned when service to the nation outside of honorable MILITARY service is considered as a criterion for interment or inurnment. In the October 2019 report: "The Committee Strongly recommends that honorable uniformed service in the Armed Forces of the United States be the minimum burial requirement at ANC for all primarily eligible persons".

Specific committee recommendations regarding the Proposed Rule include:

1. § 553.1 paragraph titled "Positions of Significant Government Responsibility". The Committee recommends deleting this paragraph and references to it relating to interment and inurnment (553.12 (a) (5) and 553.13 (a) (6)). This recommendation includes the reference to the military senior leaders who the Committee believes would best be governed by the criteria proposed for all military members.

- The Committee voted unanimously to recommend approval of this initiative.

2. Consistent with this view, the Committee recommends deleting Para 553.12 (a) (4), which refers to the President and Vice President of the United States being authorized interment without regard to military service.

- The Committee voted unanimously to recommend approval of this initiative.

The estimated cost of this report or study for the Department of Defense is approximately \$1,930 for the 2020 Fiscal Year. This includes \$0 in expenses and \$1,930 in DoD labor.
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**Report of the Advisory Committee on Arlington National Cemetery meeting held on
September 22nd, 2020**

The Committee has reviewed and calls to your attention, the two surveys (ref d) that were specifically designed to gather wide input. We note that 99% of the 250,000 respondents believed that ANC is a symbol of honoring military service and sacrifice to our nation. In the first survey, of 28,000 respondents, only 2% believed that politicians should remain eligible for burial at ANC.

The Committee commends the Secretary for his leadership to extend the active life of ANC, for his efforts regarding the Proposed Rule, and the careful consideration in fulfilling the 2019 NDAA mandate. As prescribed in 10 USC §7723, the Committee provides these unanimous recommendations, and urges careful consideration by the Secretary, as we seek to extend the life and preserve the iconic nature of Arlington National Cemetery.

Additionally, the following Commemorative Monument recommendations were reviewed:

3. The Committee reviewed and recommends to the Secretary of the Army approval for placement at Arlington National Cemetery, a commemorative monument to recognize the military fallen from the Office of Strategic Services.

- The Committee voted unanimously to recommend approval of this initiative.

4. The Committee reviewed and recommends to the Secretary of the Army approval for placement at Arlington National Cemetery, a commemorative monument to recognize the military fallen from the crew of the Apollo 1.

- The Committee voted unanimously to recommend approval of this initiative.

REFERENCE A

Charter
Advisory Committee on Arlington National Cemetery

1. Committee's Official Designation: The committee shall be known as the Advisory Committee on Arlington National Cemetery ("the Committee").
2. Authority: The Secretary of Defense, pursuant to 10 U.S.C. § 7723, and in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 C.F.R. § 102-3.50(a), established this non-discretionary advisory committee.
3. Objectives and Scope of Activities: Pursuant to 10 U.S.C. § 7723(b) and (c) the Committee shall provide independent advice and recommendations on matters relating to Arlington National Cemetery, as set forth in section four below.
4. Description of Duties: The Committee shall make periodic reports and recommendations to the Secretary of the Army with respect to the administration of Arlington National Cemetery, the erection of memorials at the cemetery, and master planning for the cemetery. Any and all advice and recommendations shall also be forwarded to the Secretary of Defense and/or the Deputy Secretary of Defense.
5. Agency or Official to Whom the Committee Reports: The Committee reports to the Secretary of the Army, who may act upon the Committee's advice and recommendations.
6. Support: The Department of Defense (DoD), through the Office of Secretary of the Army, provides the necessary support for the Committee and ensures compliance with the requirements of the FACA, the Government in the Sunshine Act ("the Sunshine Act") (5 U.S.C. § 552b), governing Federal statutes and regulations, and DoD policies and procedures.
7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating cost, to include travel, meetings, and contract support, is approximately \$237,000.00. The estimated personnel cost to the DoD is 1.8 full-time equivalents.
8. Designated Federal Officer: The Committee's Designated Federal Officer (DFO) shall be a full-time or permanent part-time DoD civilian officer or employee, or active duty member of the Armed Forces, designated in accordance with DoD policies and procedures.

The Committee's DFO is required to be attend all Committee and subcommittee meetings for the entire duration of each and every meeting. However, in the absence of the Committee's DFO, a properly approved Alternate DFO, duly designated to the Committee in accordance with DoD policies and procedures, must attend the entire duration of all Committee and subcommittee meetings.

The DFO, or the Alternate DFO, calls all Committee and subcommittee meetings; prepares and approves all meeting agendas; and adjourns any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

9. Estimated Number and Frequency of Meetings: The Committee shall meet at the call of the Committee's DFO, in consultation with the Committee's Co-Chairs. The estimated number of Committee meetings is up to four per year.
10. Duration: The need for this advisory function is on a continuing basis; however, this charter is subject

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Advisory Committee on Arlington National Cemetery

to renewal every two years.

11. Termination: The Committee shall terminate upon rescission of 10 U.S.C. § 7723.
12. Membership and Designation: The Committee shall be composed of no more than nine members. The members shall be prominent authorities in their respective fields of interest or expertise, specifically bereavement practices and administrative oversight to organizational management, the erection of memorials, and master planning for extending the life of a cemetery. Of the potential nine members, one member shall be nominated by the Secretary of Veterans Affairs; one member shall be nominated by the Secretary of the American Battle Monuments Commission; and no more than seven members shall be nominated by the Secretary of the Army.

The appointment of Committee members shall be approved by the Secretary of Defense, the Deputy Secretary of Defense, or the Chief Management Officer of the Department of Defense (CMO) (“the DoD Appointing Authorities”), after recommendation by the Secretary of the Army. Members shall serve a term of service of one-to-four years, with annual renewals, in accordance with DoD policies and procedures. No member, unless approved by the DoD Appointing Authorities, may serve more than two consecutive terms of service on the Committee, to include its subcommittees, or serve on more than two DoD federal advisory committees at one time.

Committee members who are not full-time nor permanent part-time Federal civilian officers or employees, nor active duty members of the Armed Forces, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as special government employee (SGE) members. Committee members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Armed Forces shall be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as regular government employee (RGE) members.

Each Committee member is appointed to provide advice on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflicts of interest.

The DoD Appointing Authorities shall appoint the Committee’s leadership from among the membership previously appointed to serve on the Committee in accordance with DoD policies and procedures, for a one-to-two year term of service, with annual renewal, which shall not exceed the member’s approved Committee appointment.

Except for reimbursement of official Committee-related travel and per diem, Committee members serve without compensation.

13. Subcommittees: The DoD, when necessary and consistent with the Committee’s mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Committee. Establishment of subcommittees shall be based upon a written determination, to include terms of reference (ToR), by the DoD Appointing Authorities or the Secretary of the Army, as the Committee’s Sponsor. All subcommittees operate in accordance with the FACA, the Sunshine Act, governing Federal statutes and regulations, and DoD policies and procedures. If a subcommittee’s duration, as determined by its ToR, exceeds that of the Committee’s charter and the DoD does not renew the Committee’s charter, then the subcommittee shall terminate when the Committee does.

Subcommittees shall not work independently of the Committee and shall report all of their

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Advisory Committee on Arlington National Cemetery

recommendations and advice solely to the Committee for its thorough discussion and deliberation at a properly noticed and open Committee meeting, subject to the Sunshine Act. Subcommittees have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Committee. No subcommittee nor any of its members may provide updates or report, verbally or in writing, directly to the DoD or to any Federal officer or employee, or member of the Armed Forces. If a majority of Committee members are appointed to a particular subcommittee, then that subcommittee may be required to operate pursuant to the same FACA notice and openness requirements governing the Committee's operations.

The appointment of individuals to serve on the Committee's subcommittees shall be approved by the DoD Appointing Authorities for a term of service of one-to-four years, with annual renewals, in accordance with DoD policy and procedures. No member shall serve more than two consecutive terms of service on the subcommittee unless approved by the DoD Appointing Authorities. Subcommittee members, who are not full-time nor permanent part-time Federal civilian officers or employees, nor active duty members of the Armed Forces, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Armed Forces, shall be appointed pursuant to 41 C.F.R. §102-3.130(a) to serve as RGE members.

The DoD Appointing Authorities shall appoint the subcommittee leadership from among the membership previously appointed to serve on the subcommittee in accordance with DoD policies and procedures, for a one-to-two year term of service, with annual renewal, which shall not exceed the subcommittee member's approved subcommittee appointment.

Each subcommittee member is appointed to provide advice on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflicts of interest.

With the exception of reimbursement of official travel and per diem related to the Committee or its subcommittees, subcommittee members serve without compensation.

The Committee has two permanent subcommittees. Each subcommittee member should have extensive professional experience in at least one of the following areas of operation and management of cemeteries: bereavement practices; erection of memorials and master planning; plans and strategies for addressing long-term governance challenges; and resource planning and allocation.

- a. The Honor Subcommittee will be composed of no more than 15 members. The primary focus of this subcommittee is to review and provide recommendations to the Committee, for thorough discussion and deliberation in a properly noticed and open public meeting, on how Arlington National Cemetery can best prepare for the future. Two primary focuses of this subcommittee are examining ways to extend the life of active burials and continuing to honor our veterans and their eligible family members after all available space at Arlington National Cemetery is filled. The subcommittee will address the following specific objectives:
 - (i) assess Arlington National Cemetery oversight requirements for interment and inurnment at Arlington National Cemetery, including review of exception to policy request process for interment and inurnment at Arlington National Cemetery, as they affect the available space and life of active burials, while ensuring that the recommendations serve and protect the interests of all service members and veterans, surviving family members, and the American

Charter
Advisory Committee on Arlington National Cemetery

public;

- (ii) review the existing designs of the Southern Expansion Project to ensure that the selected option best advances Arlington National Cemetery's efforts to achieve the Arlington National Cemetery vision;
- (iii) monitor and advise on the Arlington National Cemetery master plan and areas that that can focus on supporting the life of active burial space.

The estimated number of subcommittee meetings is up to four per year.

- b. The Remember and Explore Subcommittee will be composed of no more than 15 members. The primary focus of this subcommittee is to review and provide recommendations to the Committee, for thorough discussion and deliberation in a properly noticed and open public meeting, on how the Arlington National Cemetery can best maintain the precious cultural resource of the Tomb of the Unknown Soldier Monument, judiciously monitor all requests for the placement of commemorative monuments in accordance with Public Law, and convey the history of Arlington National Cemetery while improving the quality of visitors' experiences now and for generations to come. More specifically, this subcommittee will address the following objectives:

- (i) continue to assess Arlington National Cemetery's current policy and practices of repairing cracks in the large marble sarcophagus sitting atop the tomb of the World War I Unknown Soldier;
 - Examine the issue of repairing versus replacing the adjacent marble Tomb slabs, including from structural, aesthetic, historical, and memorial standards perspectives.
 - Examine what the Army can and should do with the gifted marble stone that was intended to replace the Tomb sarcophagus.
- (ii) review all new requests for commemorative monuments for significance and national historic impact worthy of placement at Arlington National Cemetery and potential displacement of burial space for eligible veterans for generations to come; and
- (iii) investigate what Arlington National Cemetery should focus on to improve the quality of visitors' experiences now and for generations to come, including through an interpretive center and continued enhanced technology.

The estimated number of subcommittee meetings is up to four per year.

- 14. Recordkeeping: The records of the Committee and its subcommittees will be managed in accordance with General Record Schedule 6.2, Federal Advisory Committee Records, or other approved agency records disposition schedule, and the appropriate DoD policies and procedures. These records will be available for public inspection and copying, subject to the Freedom of Information Act (5 U.S.C. § 552).

- 15. Filing Date: July 31, 2020

REFERENCE B



Advisory Committee on Arlington National Cemetery

Arlington National Cemetery
Arlington, VA 22211

October 24, 2019

The Honorable Ryan D. McCarthy
Secretary of the Army
100 Army Pentagon, Room 3E700
Washington DC, 20310

Dear Mr. Secretary,

The Advisory Committee on Arlington National Cemetery (ACANC) is a congressionally mandated non-discretionary advisory committee established under Title 10 United States Code § 4723. The ACANC is chartered to make periodic reports and recommendations with respect to the administration of Arlington National Cemetery (ANC), the erection of memorials at the cemetery, and master planning for the cemetery. These recommendations compliment, not supplant, Army command and staff actions with respect to ANC. The Department of the Army provides support through Arlington National Cemetery.

The DoD, consistent with the Committee's mission and DoD policies and procedures, has authorized two subcommittees:

The Honor Subcommittee. The primary mission of this Subcommittee is to accomplish an independent assessment of methods to address the long-term future of the Army national cemeteries, including how best to extend the active burials and what ANC should focus on once all available space is used. Specifically, to assess current eligibility requirements for interment and inurnment at ANC as they affect the available space and life of active burials and ensure that recommendations serve and protect the interests of all service members and veterans, surviving family members, and the American public. The Subcommittee's review of the Southern Expansion Project focuses on the qualitative and quantitative benefits of the options to best honor our veterans, their families, and the Nation while maintaining the iconic nature of ANC.

The Remember and Explore Subcommittee. The primary focus of this Subcommittee is to review issues and provide recommendations to the Committee to best maintain the Tomb of the Unknown Soldier Monument, accomplish an independent assessment of requests to place commemorative monuments, identify means to capture and convey the history of Arlington National Cemetery, and to improve the quality of visitors' experiences now and for generations to come.

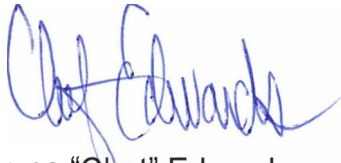
The Committee takes seriously its mandate to provide independent advice and is excited and pleased with the significant progress that continues at Arlington National Cemetery.

October 2019 Report of the Advisory Committee on Arlington National Cemetery

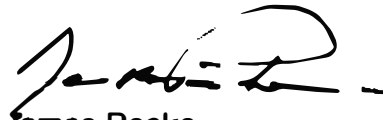
The Committee, after thorough review and deliberation, voted unanimously on September 26th, 2019 to:

- Provide a Response Statement to the Secretary of the Army regarding the proposed rule changes to eligibility criteria for burial at Arlington National Cemetery announced September 25, 2019.

Very Respectfully Yours,



Thomas "Chet" Edwards
Co-Chair
Advisory Committee on
Arlington National Cemetery



James Peake
Co-Chair
Advisory Committee on
Arlington National Cemetery

Enclosure

October 2019 Report of the Advisory Committee on Arlington National Cemetery

The estimated cost of this report or study for the Department of Defense is approximately \$1,660 in Fiscal Years 2019 - 2020. This includes \$0 in expenses and \$1,660 in DoD labor.

References

- (a) Federal Advisory Committee Act of 1972, Title 5, United States Code, Appendix 2.
- (b) The Government in the Sunshine Act of 1976 (5 U.S.C. § 552b)
- (c) National Defense Authorization Act (NDAA) of 2012, Advisory committee on Arlington National Cemetery (10 U.S.C. § 4723)
- (d) Department of Defense Instruction 5105.04.
- (e) Advisory Committee on Arlington National Cemetery Charter, July 31, 2018.

Background

Title 10 U.S.C. § 4723 stipulates that “not later than 90 days after receiving a report or recommendations from the advisory committee, the Secretary of the Army shall submit the report or recommendations to the congressional defense committees and the Committees on Veterans’ Affairs of the Senate and House of Representatives and include such comments and recommendations of the Secretary as the Secretary considers appropriate.”

Report

On September 26, 2019, the Advisory Committee on Arlington National Cemetery (ACANC) met at Arlington National Cemetery following the September 25, 2019 meetings of the Remember and Explore Subcommittee and the Honor Subcommittee meetings. Each meeting was convened with a quorum of members. The Designated Federal Officer, Ms. Renea Yates, was present for all meetings which were open to the public. Formal minutes were produced and are available to the public on the Arlington National Cemetery public website.

The Advisory Committee on Arlington National Cemetery convened to consider reports from the subcommittees; discuss the Secretary of the Army’s Proposed Changes to the Eligibility Criteria for burial at Arlington National Cemetery; the Federal Rulemaking Process; and deliberate potential recommendations for consideration by the Secretary of the Army.

Six of the seven appointed ACANC members (a quorum) were present:

- Dr. James Peake (LTG USA, Retired), Co-Chair
- Mr. Chet Edwards, Co-Chair
- Mr. Gene Castagnetti (COL USMC, Retired)
- Ms. Ann Harrell (Maj Gen, Retired)
- Mr. Thomas Kelley (CAPT USN Retired), Medal of Honor Recipient
- Mr. Jack Kelly (MAJ USA, Retired)

The estimated cost of this report or study for the Department of Defense is approximately \$1,660 in Fiscal Years 2019 - 2020. This includes \$0 in expenses and \$1,660 in DoD labor.

October 2019 Report of the Advisory Committee on Arlington National Cemetery

The Advisory Committee of Arlington National Cemetery reviewed the Secretary of the Army's proposed changes to eligibility criteria for burial at Arlington National Cemetery and received a briefing from the Office of General Counsel regarding the federal rulemaking process. After lengthy and robust discussion, the Committee voted on the following statement in response to the Secretary of the Army's proposed revised eligibility criteria:

The Advisory Committee on Arlington National Cemetery appreciates the Secretary of the Army's consideration of our prior recommendations and commends him for proposing a way to extend the active life of ANC well into the future. We support the variance from our recommendations and support his approach of including the first five criteria for in-ground interment and the first three criteria for above-ground inurnment.

The Committee notes that under the criteria proposed by the Secretary on 25 September 2019, above-ground space will be exhausted by approximately 2045. That will effectively eliminate eligibility for retirees and traditional veterans who have served a minimum of two years on active duty with combat experience, unless otherwise qualified. The committee is concerned with criteria that allows both above and below ground eligibility for service "out of uniform as a government official".

The Committee recognizes the importance of the *Service* imperative as defined by the Secretary and realizes that, upon exhaustion of above-ground space, a veteran with a lifetime of service in uniform would be denied space while another veteran whose eligibility is based solely on service out of the military would remain eligible.

The Committee is cognizant of the survey results of 250,000 respondents where high public office was ranked next to last as a consideration for eligibility.

The Committee strongly recommends that honorable uniformed service in the Armed Forces of the United States be the minimum burial requirement at ANC for all primary eligible persons.

The Committee voted unanimously to recommend approval of this statement and it's forwarding to the Secretary of the Army prior to December 1, 2019.

Actions Pending Further Review

The Committee takes seriously its mandate to advise the Secretary of the Army on Arlington National Cemetery. Continued study of the progress of expansion plans along with further proposals for education plans for ANC can be expected in due course.

The estimated cost of this report or study for the Department of Defense is approximately \$1,660 in Fiscal Years 2019 - 2020. This includes \$0 in expenses and \$1,660 in DoD labor.

REFERENCE C

DEPARTMENT OF DEFENSE**Department of the Army****32 CFR Part 553**

[Docket No. USA–2019–HQ–0032]

RIN 0702–AB08

Army Cemeteries**AGENCY:** Department of the Army, DoD.**ACTION:** Proposed rule.

SUMMARY: The Department of the Army proposes to amend this regulation in order to revise eligibility criteria for interment (in ground) and inurnment (above ground) at Arlington National Cemetery. This rule does not affect veterans' burial benefits or eligibility at Department of Veterans Affairs' national cemeteries.

DATES: Consideration will be given to all comments received by November 16, 2020.

ADDRESSES: You may submit comments, identified by 32 CFR part 553, Docket No. USA–2019–HQ–0032 and/or by Regulatory Information Number (RIN) 0702–AB08, or by any of the following methods:

* *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

* *Mail:* DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Renea Yates, Arlington National Cemetery, usarmy.pentagon.hqda-anc-osa.mbx.anc-revised-eligibility@mail.mil or 1–877–907–8585.

SUPPLEMENTARY INFORMATION:**Background**

Arlington National Cemetery represents the American people for past, present and future generations by laying to rest those few who have served our nation with dignity and honor, while immersing guests in the cemetery's living history. However, without this action, Arlington National Cemetery

would run out of space for new burials by the year 2041 (or the year 2055 with construction of Southern Expansion in the vicinity of the Air Force Memorial), even for those Killed in Action (KIA) and Medal of Honor recipients. Changes to eligibility at Arlington National Cemetery will preserve this national symbol and shrine as an active burial ground for current and future generations of military service members.

The Department of the Army amended 32 CFR part 553 and published rules pertaining to the development, operation, maintenance, and administration of Army National Military Cemeteries on September 26, 2016 (80 FR 65875), and August 29, 2019 (84 FR 45406). The rule published on August 29, 2019, also incorporated Army post cemeteries for the first time.

The Department of the Army is proposing these amendments in response to Section 598 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Public Law 115–232 which requires the Secretary of the Army to prescribe revised criteria for interment at Arlington National Cemetery that preserve Arlington National Cemetery as an active burial ground well into the future. These amendments revise eligibility criteria for interment (in ground) and inurnment (above ground) at Arlington National Cemetery.

The Army also considered additional physical expansion of Arlington National Cemetery to include adjacent land in developing this regulation. While costly, the Army determined additional land would not extend the active life of the cemetery sufficiently given the intent of Section 598 of Public Law 115–232.

Legal Authority for This Program

The legal basis for this rulemaking can be found in section 7722 of Title 10, U.S. Code: “The Secretary of the Army, with the approval of the Secretary of Defense, shall determine eligibility for interment or inurnment” at Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery. Additional legal authority is also found in section 7721 of Title 10, U.S. Code which directs the Secretary of the Army to operate, manage, administer, oversee, and fund the cemeteries covered by this regulation.

Finally, section 598 of Public Law 115–232 (John S. McCain National Defense Authorization Act for Fiscal Year 2019) states “The Secretary of the Army, in consultation with the Secretary of Defense, shall prescribe revised criteria for interment at Arlington National Cemetery that

preserve Arlington National Cemetery as an active burial ground ‘well into the future’ [defined as 150 years] . . . the Secretary of the Army shall establish the criteria . . . not later than September 30, 2019.”

Changes Proposed in This Rulemaking

Currently, one percent of the veteran population is laid to rest at Arlington National Cemetery, utilizing 3,691 new graves in Fiscal Year 2019. Current eligibility is summarized at <https://www.arlingtoncemetery.mil/Portals/0/Docs/Eligibility-Fact-Sheet-20170701.pdf>. Changes to eligibility at Arlington National Cemetery will preserve this national symbol and shrine as an active burial ground for current and future generations of military service members. This rule does not affect veterans' burial benefits or eligibility at Department of Veterans Affairs' national cemeteries.

With the proposed criteria, approximately 700 new interments (in ground) of eligible service members, veterans, and family members will be conducted annually at Arlington National Cemetery. Most veterans no longer eligible for in-ground interment at Arlington National Cemetery will remain eligible for above-ground inurnment. Without other eligibility, the largest affected groups with this proposed revisions are veterans retired from the U.S. Armed Forces and entitled to receive military retired pay, and service members eligible to retire from the U.S. Armed Forces and entitled to receive military retired pay on the date of their death. Annually, approximately 1,900 of these personnel entitled to receive retired pay will remain eligible for above-ground inurnment.

Service members who die on active duty, but neither as the result of armed conflict service nor from preparations or operations related to combat, both defined in § 553.1, are no longer eligible for in-ground interment or above-ground inurnment at Arlington National Cemetery. Based on recent trends, approximately 43 service members annually fit this description and were interred or inurned at Arlington National Cemetery.

With the proposed criteria, approximately 1,950 new inurnments (above ground) of eligible service members, veterans, and family members will be conducted annually at Arlington National Cemetery. Without other eligibility, veterans and service members who served on active duty (other than active duty for training) for no less than 24 months and performed armed conflict service, as defined in § 553.1, remain eligible for above-

ground inurnment at Arlington National Cemetery.

Veterans and service members no longer eligible for in-ground interment or above-ground inurnment at Arlington National Cemetery have multiple options.

(a) Nationwide. The Department of Veterans Affairs' National Cemetery Administration operates, maintains, and funds veterans' cemeteries across the country. Their strategic goal is to provide reasonable access (within 75 miles of a veteran's residence) to a burial option in a VA national cemetery or VA-funded state or tribal veterans' cemetery to reach 95 percent of eligible veterans living in the United States. This vast cemetery network continues to expand in order to serve veterans and their families throughout the country.

(b) Washington, DC metropolitan area. Veterans and their families who live in the Washington, DC metropolitan area have multiple options for burial at their time of need, including nearby Quantico National Cemetery, which provides ample burial opportunities for those veterans that are no longer eligible at Arlington National Cemetery.

This rule amends multiple sections of 32 CFR 553, including the following.

a. Section 553.1 is amended to add definitions for *armed conflict service*, *preparations or operations related to combat*, *positions of significant governmental responsibility*, and other important terms as they relate to Army cemeteries. These definitions were added to assist in revising eligibility criteria in §§ 553.12 and 553.13.

b. Section 553.9 is amended to set aside 1,000 gravesites at Arlington National Cemetery for current and future Medal of Honor recipients, as directed by the Secretary of the Army.

c. Section 553.10 is amended to add the date of July 27, 1953, the date the Armistice was signed ending combat activities in Korea, it established a start date for the requirement for service members who die on active duty to provide a statement of honorable service from the first General Courts-Martial Convening Authority.

d. Section 553.12 is amended to revise eligibility criteria for interment (in ground) at Arlington National Cemetery to meet the intent of section 598 of Public Law 115–232. The major change to this section is that military retirees without other eligibility are no longer eligible for interment (in ground), but remain eligible for inurnment (above ground).

e. Section 553.13 is amended to revise eligibility criteria for inurnment (above ground) at Arlington National Cemetery to meet the intent of section 598 of

Public Law 115–232. The major change to this section is that veterans and service members who neither served on active duty (other than active duty for training) for 24 months nor performed armed conflict service, as defined in § 553.1, are no longer for inurnment (above ground). Additionally, eligibility is maintained for those veterans who served during any armed conflict prior to July 27, 1953, and their service ended honorably.

f. Sections 553.20 and 553.47 are amended to strengthen prohibitions related to capital crimes such as murder and Tier III sex offenses.

g. Section 553.28 is amended to prohibit the construction and installation of private markers in Army National Military Cemeteries unless approved prior to December 1, 2017. Private markers have been prohibited in new sections of the cemetery since 1947. Now that previously authorized sections are full, this change provides continuity and consistency with established policy for Army National Military Cemeteries and Department of Veterans Affairs' national cemeteries.

h. Section 553.50 is added to include procedures for requesting disinterment or disinurnment of remains at Army post cemeteries.

i. Section 553.51 is added to prohibit the construction and installation of private markers in Army post cemeteries unless approved by the Executive Director prior to October 1, 2020. This addition provides continuity and consistency with established policy for Army National Military Cemeteries and Department of Veterans Affairs' national cemeteries.

B. Regulatory Flexibility Act

The Army has determined that the Regulatory Flexibility Act does not apply because the rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

C. Unfunded Mandates Reform Act

The Army has determined that the Unfunded Mandates Reform Act does not apply because the rule does not include a mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or the private sector, of \$100 million or more.

D. National Environmental Policy Act

Neither an environmental analysis nor an environmental impact statement under the National Environmental Policy Act is required.

E. Paperwork Reduction Act

The Army has determined that this rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, as the Army does not require a form. The Army collects, reviews, and maintains existing documents provided by families as specified in §§ 553.10, 553.22, and 553.25, which have not changed. Department of Veterans Affairs Form 40–1330 (Claim for Standard Government Headstone or Marker) already has an OMB control number assigned OMB Control Number 2900–0222.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Army has determined that E.O. 12630 does not apply because the rule does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Army has determined that according to the criteria defined in Executive Order 13045, the requirements of that Order do not apply to this rule.

I. Executive Order 13132 (Federalism)

The Army has determined that, according to the criteria defined in Executive Order 13132, the requirements of that Order do not apply to this rule because the rule will not have a substantial effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

J. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

This proposed rule is not expected to be an E.O. 13771 action because this rule is expected to be related to agency management, personnel, or organization.

K. Congressional Review Act

This proposed rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 32 CFR part 553

Armed Forces, Eligibility, Military personnel, Monuments and memorials, Reserve components, Service members, Veterans.

For the reasons stated in the preamble, the Department of the Army proposes to revise 32 CFR part 553 to read as follows:

PART 553—ARMY CEMETERIES

Subpart A—Army National Military Cemeteries

- Sec.
- 553.1 Definitions.
 - 553.2 Purpose.
 - 553.3 Statutory authorities.
 - 553.4 Scope and applicability.
 - 553.5 Maintaining order.
 - 553.6 Standards for managing Army National Military Cemeteries.
 - 553.7 Arlington Memorial Amphitheater.
 - 553.8 Permission to install utilities.
 - 553.9 Assignment of gravesites or niches.
 - 553.10 Proof of eligibility.
 - 553.11 General rules governing eligibility for interment, inurnment, and memorialization at Arlington National Cemetery.
 - 553.12 Eligibility for interment in Arlington National Cemetery.
 - 553.13 Eligibility for inurnment in Arlington National Cemetery Columbarium.
 - 553.14 Eligibility for interment of cremated remains in the Arlington National Cemetery Unmarked Area.
 - 553.15 Eligibility for group burial in Arlington National Cemetery.
 - 553.16 Eligibility for memorialization in an Arlington National Cemetery memorial area.
 - 553.17 Arlington National Cemetery interment/inurnment agreement.
 - 553.18 Eligibility for burial in U.S. Soldiers' and Airmen's Home National Cemetery.
 - 553.19 Ineligibility for interment, inurnment, or memorialization in an Army National Military Cemetery.
 - 553.20 Prohibition of interment, inurnment, or memorialization in an Army National Military Cemetery of persons who have committed certain crimes.
 - 553.21 Findings concerning the commission of certain crimes where a person has not been convicted due to death or flight to avoid prosecution.

- 553.22 Exceptions to policies for interment, inurnment, or memorialization at Arlington National Cemetery.
- 553.23 Placement of cremated remains at Army National Military Cemeteries.
- 553.24 Subsequently recovered remains.
- 553.25 Disinterment and disinurnment of remains.
- 553.26 Design of Government-furnished headstones, niche covers, and memorial markers.
- 553.27 Inscriptions on Government-furnished headstones, niche covers, and memorial markers.
- 553.28 Private headstones and markers.
- 553.29 Permission to construct or amend private headstones and markers.
- 553.30 Inscriptions on private headstones and markers.
- 553.31 Memorial and commemorative monuments (other than private headstones or markers).
- 553.32 Conduct of memorial services and ceremonies.
- 553.33 Visitors rules for Army National Military Cemeteries.
- 553.34 Soliciting and vending.
- 553.35 Media.

Subpart B—Army Post Cemeteries

- 553.36 Definitions.
- 553.37 Purpose.
- 553.38 Statutory authorities.
- 553.39 Scope and applicability.
- 553.40 Assignment of gravesites or niches.
- 553.41 Proof of eligibility.
- 553.42 General rules governing eligibility for interment or inurnment in Army Post Cemeteries.
- 553.43 Eligibility for interment and inurnment in Army Post Cemeteries.
- 553.44 Eligibility for interment and inurnment in the West Point Post Cemetery.
- 553.45 Eligibility for interment in U.S. Disciplinary Barracks Cemetery at Fort Leavenworth.
- 553.46 Ineligibility for interment, inurnment, or memorialization in an Army Post Cemetery.
- 553.47 Prohibition of interment, inurnment, or memorialization in an Army Post Cemetery of persons who have committed certain crimes.
- 553.48 Findings concerning the commission of certain crimes where a person has not been convicted due to death or flight to avoid prosecution.
- 553.49 Exceptions to policies for interment or inurnment at Army Post Cemeteries.
- 553.50 Disinterment and disinurnment of remains.
- 553.51 Private headstones and markers.

Authority: 10 U.S.C. 985, 1128, 1481, 1482, 3013, 7721–7726; 24 U.S.C. 295a, 412; 38 U.S.C. 2402 note, 2409–2411, 2413; 40 U.S.C. 9102; Pub. L. 93–43, 87 Stat. 75; and Pub. L. 115–232, Sec. 598.

Subpart A—Army National Military Cemeteries

§ 553.1 Definitions.

As used in this subpart, the following terms have these meanings:

Active duty. Full-time duty in the active military service of the United States.

(1) This includes:

(i) Active Reserve component duty performed pursuant to title 10, United States Code.

(ii) Service as a cadet or midshipman currently on the rolls at the U.S. Military, U.S. Naval, U.S. Air Force, or U.S. Coast Guard Academies.

(iii) Active duty for operational support.

(iv) Persons whose service has been determined to be active duty service pursuant to section 401 of the GI Bill Improvement Act of 1977 (Pub. L. 95–202; 38 U.S.C. 106 note) as of May 20, 2016 and whose remains were not already formally interred or inurned as of May 20, 2016 or who died on or after May 20, 2016.

(2) This does not include:

(i) Full-time National Guard duty performed under title 32, United States Code.

(ii) Active duty for training, initial entry training, annual training duty, or inactive-duty training for members of the Reserve components.

Active duty designee. A person whose service has been determined to be active duty service pursuant to section 401 of the GI Bill Improvement Act of 1977, as amended by Public Law 114–158 of May 20, 2016.

Active duty for operational support (formerly active duty for special work). A tour of active duty for Reserve personnel authorized from military or Reserve personnel appropriations for work on Active component or Reserve component programs. The purpose of active duty for operational support is to provide the necessary skilled manpower assets to support existing or emerging requirements and may include training.

Active duty for training. A category of active duty used to provide structured individual and/or unit training, including on-the-job training, or educational courses to Reserve component members. Included in the active duty for training category are annual training, initial active duty for training, or any other training duty.

Annual training. The minimum period of active duty for training that Reserve members must perform each year to satisfy the training requirements associated with their Reserve component assignment.

Armed conflict service. Service in a hostile fire area during a period of armed conflict. Such service must be evidenced by receipt of: Combat pay, imminent danger or hostile fire pay, or the receipt of a qualifying medal. Examples of qualifying medals include,

but are not limited to, the Korean Service Medal, Vietnam Service Medal, Southwest Asia Service Medal, Armed Forces Expeditionary Medal, Navy and Marine Expeditionary Medal, Kosovo Campaign Medal, Afghanistan Campaign Medal, Iraq Campaign Medal, Global War on Terrorism Expeditionary Medal, and Inherent Resolve Campaign Medal.

Armed Forces. The U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, Space Force and their Reserve components.

Army National Military Cemeteries. Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery.

Child, minor child, permanently dependent child, unmarried adult child—(1) Child. (i) Natural child of a primarily eligible person, born in wedlock;

(ii) Natural child of a female primarily eligible person, born out of wedlock;

(iii) Natural child of a male primarily eligible person, who was born out of wedlock and:

(A) Has been acknowledged in a writing signed by the male primarily eligible person;

(B) Has been judicially determined to be the male primarily eligible person's child;

(C) Whom the male primarily eligible person has been judicially ordered to support; or

(D) Has been otherwise proved, by evidence satisfactory to the Executive Director, to be the child of the male primarily eligible person;

(iv) Adopted child of a primarily eligible person; or

(v) Stepchild who was part of the primarily eligible person's household at the time of death of the individual who is to be interred or inurned.

(2) **Minor child.** A child of the primarily eligible person who:

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Is under the age of twenty-one years, or is under the age of twenty-three years and is taking a full-time course of instruction at an educational institution that the U.S. Department of Education acknowledges as an accredited educational institution.

(3) **Permanently dependent child.** A child of the primarily eligible person who:

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Is permanently and fully dependent on one or both of the child's parents because of a physical or mental disability incurred before attaining the age of twenty-one years or before the age of twenty-three years while taking a full-

time course of instruction at an educational institution that the U.S. Department of Education acknowledges as an accredited educational institution.

(4) **Unmarried adult child.** A child of the primarily eligible person who:

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Has attained the age of twenty-one years.

Close relative. The spouse, parents, adult brothers and sisters, adult natural children, adult stepchildren, and adult adopted children of a decedent.

Commemorative monuments. Monuments or other structures or landscape features that serve to honor events in history, units of the Armed Forces, individuals, or groups of individuals that served in the Armed Forces, and that do not contain human remains or mark the location of remains in close proximity. The term does not include memorial markers erected pursuant to § 553.16.

Derivatively eligible person. Any person who is entitled to interment or inurnment solely based on his or her relationship to a primarily eligible person, as set forth in §§ 553.12(b) and 553.13(b), respectively.

Disinterment. The permanent removal of interred human remains from a particular gravesite.

Disinurnment. The permanent removal of remains from a particular niche.

Executive Director. The person statutorily charged with exercising authority, direction, and control over all aspects of Army National Military Cemeteries, and the person charged by the Secretary of the Army to serve as the functional proponent for policies and procedures pertaining to the administration, operation, and maintenance of all military cemeteries under the jurisdiction of the Army.

Formal interment or inurnment. Interment or inurnment of identified human remains in a cemetery, crypt mausoleum, columbarium or similar formal location. Formal interment or inurnment includes interment or inurnment in private cemeteries or private burial locations at the direction of the person authorized to direct disposition or the primary next of kin. Formal interment or inurnment does not include temporary battlefield interments or inurnments, or interment or inurnment while the person was detained by or in the custody of a government other than the United States.

Former prisoner of war. A person who is eligible for or has been awarded the Prisoner of War Medal.

Former spouse. See *spouse*.

Government. The U.S. government and its agencies and instrumentalities.

Group burial. (1) Interment in one gravesite of one or more service members on active duty killed in the same incident or location where:

(i) The remains cannot be individually identified; or

(ii) The person authorized to direct disposition of subsequently identified remains has authorized their interment with the other service members.

(2) Group remains may contain incidental remains of civilians and foreign nationals.

Human remains. The deceased human body or portions of the body, including but not limited to: Amputated limbs and individual bones. Human remains do not include portions of the human body that are naturally and/or intentionally shed or expelled by the body during the lifetime of a human. Examples of those items excluded from this definition include, but are not limited to, the following when removed, cut, or expelled prior to death: Hair, teeth, skin cells, sperm, eggs, blood, and stem cells.

Inactive-duty training. (1) Duty prescribed for members of the Reserve components by the Secretary concerned under 37 U.S.C. 206 or any other provision of law.

(2) Special additional duties authorized for members of the Reserve components by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

(3) In the case of a member of the Army National Guard or Air National Guard of any State, duty (other than full-time duty) under 32 U.S.C. 316, 502, 503, 504, or 505 or the prior corresponding provisions of law.

(4) This term does not include:

(i) Work or study performed in connection with correspondence courses,

(ii) Attendance at an educational institution in an inactive status, or

(iii) Duty performed as a temporary member of the Coast Guard Reserve.

Interment. The ground burial of casketed or cremated human remains.

Inurnment. The placement of cremated human remains in a niche.

Killed in Action. A service member, as defined in this section, whose death occurred as a direct result of action against a force hostile to the United States.

Media. Individuals and agencies that print, broadcast, or gather and transmit news, and their reporters, photographers, and employees.

Memorial marker. A headstone used to memorialize a service member or veteran whose remains are unavailable for reasons listed in § 553.16.

Memorial service or ceremony. Any activity intended to honor the memory of a person or persons interred, inurned, or memorialized in the Army National Military Cemeteries. This term includes private memorial services, public memorial services, public wreath laying ceremonies, and official ceremonies.

Minor child. See *child*.

Murder. Pursuant to any Federal or State law, the causing the death of another human being when:

(1) It is committed purposely or knowingly; or

(2) It is committed recklessly under circumstances manifesting extreme indifference to the value of human life. Such recklessness and indifference are presumed if the actor is engaged or is an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, rape or deviant sexual intercourse by force or threat of force, arson, burglary, kidnapping or felonious escape.

Niche. An aboveground space constructed specifically for the placement of cremated human remains.

Official ceremony. A memorial service or ceremony approved by the Executive Director in which the primary participants are representatives of the Government, a State government, a foreign government, or an international organization authorized by the U.S. Department of State to participate in an official capacity.

Parent. A natural parent, a stepparent, a parent by adoption, or a person who for a period of not less than one year stood *in loco parentis*, or was granted legal custody by a court decree or statutory provision.

Permanently dependent child. See *child*.

Person authorized to direct disposition. The person primarily entitled to direct disposition of human remains and who elects to exercise that entitlement. Determination of such entitlement shall be made in accordance with applicable law and regulations.

Personal representative. A person who has legal authority to act on behalf of another through applicable law, order, and regulation.

Positions of significant governmental responsibility. Persons permanently (*i.e.*, not acting in the position, or performing the duties of that position) holding or who formerly permanently (*i.e.*, not acting in the position, or performing the duties of that position) held the following positions in the

government of the United States of America: Elected Members of Congress, Chief Justice and Associate Justices of the Supreme Court, Secretary of State, Secretary of Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, Secretary of Education, Secretary of Veterans Affairs, Secretary of Homeland Security, Director of Office of Management and Budget, Director of National Intelligence, Director of the Central Intelligence Agency, Assistant to the President for National Security Affairs, Administrator of the Environmental Protection Agency, Secretary of the Army, Secretary of the Navy, Secretary of the Air Force, Chairman of the Joint Chiefs of Staff and Senior Enlisted Advisor, Chief of Staff of the Army and Senior Enlisted Advisor, Chief of Naval Operations and Senior Enlisted Advisor, Commandant of the Marine Corps and Senior Enlisted Advisor, Chief of Staff of the Air Force and Senior Enlisted Advisor, Chief of Space Operations and Senior Enlisted Advisor, Chief of the National Guard Bureau and Senior Enlisted Advisor, Commandant of the Coast Guard and Senior Enlisted Advisor, and Combatant Commanders and their Senior Enlisted Advisors.

Preparations or operations related to combat. Military operations, individual or collective training for battle-related tasks, or transportation to or from such operations or training in a vehicle, vessel or aircraft whose primary purpose is combat or direct support of combat. Examples include, but are not limited to, military parachuting, convoy operations, live-fire operations, at-sea operations or flight operations. Activities excluded from this category include, but are not limited to, personally conducted physical training (*i.e.*, not organized unit physical training), disease or illness, or operator or passenger in a private or commercially owned vehicle not under contract to the United States Government, and suicide on or off duty.

Primarily eligible person. Any person who is entitled to interment or inurnment based on his or her service as specified in §§ 553.12(a) and 553.13(a), respectively.

Primary next of kin. (1) In the absence of a valid written document from the decedent identifying the primary next of kin, the order of precedence for designating a decedent's primary next of kin is as follows:

- (i) Spouse, even if a minor;
- (ii) Children, age 18 years and over (if under 18 years of age, their surviving parent or legal guardian shall exercise the rights of the minor);
- (iii) Parents;
- (iv) Siblings, to include half-blood and those acquired through adoption, age 18 years and over;
- (v) Grandparents; and
- (vi) Other next of kin, in order of relationship to the decedent as determined by the laws of the decedent's state of domicile.

(2) Absent a court order or written document from the deceased, the precedence of next of kin with equal relationships to the decedent is governed by seniority (age), older having higher priority than younger. Equal relationship situations include those involving divorced parents of the decedent, children of the decedent, and siblings of the decedent.

Private headstones or markers. A headstone or individual memorial marker provided at private expense, in lieu of a headstone or individual memorial marker furnished by the Government.

Private memorial service. A memorial service or ceremony conducted at the decedent's gravesite, memorial headstone, or niche.

Public memorial service. A ceremony conducted by members of the public at a historic site in an Army National Military Cemetery.

Public wreath-laying ceremony. A ceremony in which members of the public, assisted by the Tomb Guards, present a wreath or similar memento at the Tomb of the Unknown Soldier.

Reserve component. See definition in 10 U.S.C. 101.

Senior Enlisted Advisor. A service member in the grade of E-9 who is nominatively selected and permanently appointed (*i.e.*, is not holding the position in an acting or temporary status) to serve as the senior advisor to an officer in the Armed Forces in the grade of O-10.

Spouse, former spouse, subsequently remarried spouse—(1) Spouse. A person who is legally married to another person.

(2) **Former spouse.** A person who was legally married to another person at one time, but was not legally married to that person at the time of one of their deaths.

(3) **Subsequently remarried spouse.** A derivatively eligible spouse who was married to the primarily eligible person at the time of the primarily eligible person's death and who subsequently remarried another person.

Subsequently recovered remains. Additional remains belonging to the

decedent that are recovered or identified after the decedent's interment or inurnment.

Subsequently remarried spouse. See *spouse*.

Unmarried adult child. See *child*.

Veteran. A person who served in the U.S. Armed Forces and who was discharged or released under honorable conditions (general discharge under honorable conditions is not sufficient to meet this definition).

§ 553.2 Purpose.

This subpart specifies the authorities and assigns the responsibilities for the development, operation, maintenance, and administration of the Army National Military Cemeteries.

§ 553.3 Statutory authorities.

(a) *Historical.* Act of July 17, 1862, Sec. 18, 12 Stat. 594, 596; Act of February 22, 1867, Ch. 61, 14 Stat. 399; and the National Cemeteries Act of 1973, Public Law 93–43, 87 Stat. 75 (1973). The National Cemeteries Act established the National Cemetery System, which primarily consists of national cemeteries transferred from the management authority of the Department of the Army to the (now) Department of Veterans Affairs. Section 6(a) of the Act exempted Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery from transfer to the National Cemetery System, leaving them under the management authority of the Secretary of the Army.

(b) *Current.* Pursuant to 10 U.S.C. 7721(a), the Secretary of the Army shall develop, operate, manage, oversee, and fund the Army National Military Cemeteries. Section 10 U.S.C. 7721(c) provides that the Army National Military Cemeteries are under the jurisdiction of Headquarters, Department of the Army, and 10 U.S.C. 7721(d) provides that the Secretary of the Army shall prescribe such regulations and policies as may be necessary to administer the Army National Military Cemeteries. The responsibilities of Headquarters, Department of the Army with regard to the Army National Military Cemeteries are enumerated in 10 U.S.C. 7721–7726 and Army General Orders 2014–74, 2014–75, 2020–01, and 2020–02.

§ 553.4 Scope and applicability.

(a) *Scope.* The development, maintenance, administration, and operation of the Army National Military Cemeteries are governed by this subpart, Army Regulation 290–5, and Department of the Army Pamphlet 290–5. The development, maintenance,

administration, and operation of Army post cemeteries are not covered by this subpart.

(b) *Applicability.* This subpart is applicable to all persons on, engaging in business with, or seeking access to or benefits from the Army National Military Cemeteries, unless otherwise specified.

§ 553.5 Maintaining order.

The Executive Director may order the removal from, and bar the re-entry onto, Army National Military Cemeteries of any person who acts in violation of any law or regulation, including but not limited to demonstrations and disturbances as outlined in 38 U.S.C. 2413, and in this subpart. This authority may not be re-delegated.

§ 553.6 Standards for managing Army National Military Cemeteries.

(a) The Executive Director is responsible for establishing and maintaining cemetery layout plans, including plans setting forth sections with gravesites, memorial areas with markers, columbaria with niches, and landscape planting plans.

(b) New sections or areas may be opened and prepared for interments or for installing memorial markers only with the approval of the Executive Director.

§ 553.7 Arlington Memorial Amphitheater.

(a) In accordance with 24 U.S.C. 295a:

(1) No memorial may be erected and no remains may be entombed in the Arlington Memorial Amphitheater unless specifically authorized by Congress; and

(2) The character, design, or location of any memorial authorized by Congress for placement in the Amphitheater is subject to the approval of the Secretary of Defense.

(b) The Secretary of Defense will seek the advice of the Commission of Fine Arts in such matters, in accordance with 40 U.S.C. 9102.

(c) Tributes offered for those interred in the Tomb of the Unknown Soldier for placement in the Arlington Memorial Amphitheater display room are not memorials for purposes of this section.

§ 553.8 Permission to install utilities.

(a) The installation of utilities in Army National Military Cemeteries, including but not limited to, telephone and fiber optic lines, electric lines, natural gas lines, water pipes, storm drains, and sanitary sewers, must be authorized by the Executive Director.

(b) Requests for licenses, permits, or easements to install water, gas, or sewer lines, or other utilities or equipment on or across an Army National Military

Cemetery or an approach road in which the Government has a right-of-way, fee simple title, or other interest, must be sent to the Executive Director, who will process the request in accordance with Army policy. Requests must include a complete description of the type of license, permit, or easement desired and a map showing the location of the project.

§ 553.9 Assignment of gravesites or niches.

(a) All eligible persons will be assigned gravesites or niches without discrimination as to race, color, sex, religion, age, or national origin and without preference to military grade or rank.

(b) The Army National Military Cemeteries will enforce a one-gravesite-per-family policy. Once the initial interment or inurnment is made in a gravesite or niche, each additional interment or inurnment of eligible persons must be made in the same gravesite or niche, except as noted in paragraph (f) of this section. This includes multiple primarily eligible persons if they are married to each other.

(c) In accordance with 38 U.S.C. 2410A(a)(2) the Secretary of the Army may waive the prohibition in paragraph (b) of this section as the Secretary of the Army deems appropriate.

(d) A gravesite reservation will be honored if it meets the following requirements, unless cancelled by the Executive Director:

(1) The gravesite was properly reserved by law before January 1, 1962; and

(2) An eligible person was interred in the reserved gravesite prior to January 1, 2017.

(e) The Executive Director may cancel a gravesite reservation:

(1) Upon determination that a derivatively eligible spouse has remarried;

(2) Upon determination that the reservee's remains have been buried elsewhere or otherwise disposed of;

(3) Upon determination that the reservee desires to or will be interred in the same gravesite with the predeceased, and doing so is feasible; or

(4) Upon determination that the reservee would be 120 years of age and there is no record of correspondence with the reservee within the last two decades.

(f) In cases of reservations meeting the requirements of 38 U.S.C. 2410A note, where more than one gravesite was reserved (on the basis of the veteran's eligibility at the time the reservation was made) and no interment has yet

been made in any of the sites, the one-gravesite-per-family policy will be enforced, unless waived by the Executive Director. Gravesite reservations will be honored only if the decedents meet the eligibility criteria for interment in Arlington National Cemetery that are in effect at the time of need, and the reserved gravesite is available.

(g) Where a primarily eligible person has been or will be interred as part of a group burial or has been or will be memorialized in a memorial area at Arlington National Cemetery, the Executive Director will assign a gravesite or niche for interment or inurnment of a derivatively eligible person.

(h) Gravesites or niches shall not be reserved or assigned prior to the time of need.

(i) The selection of gravesites and niches is the responsibility of the Executive Director. The selection of specific gravesites or niches by the family or other representatives of the deceased is prohibited.

(j) The Executive Director shall set aside 1,000 gravesites at Arlington National Cemetery to be used for the interment of Medal of Honor recipients who meet the criteria of § 553.12 or are granted an exception to policy pursuant to § 553.22. Derivatively eligible persons, as defined in § 553.1, of the Medal of Honor recipient may be interred in the same grave as the recipient. These gravesites shall not be located in a singular defined area within the cemetery. These gravesites shall be disbursed throughout the cemetery at the direction of the Executive Director.

§ 553.10 Proof of eligibility.

(a) The personal representative or primary next of kin is responsible for providing appropriate documentation to verify the decedent's eligibility for interment or inurnment.

(b) The personal representative or primary next of kin must certify in writing that the decedent is not prohibited from interment, inurnment, or memorialization under § 553.20 because he or she has committed or been convicted of a Federal or State capital crime or is a convicted Tier III sex offender as defined in 38 U.S.C. 2411.

(c) For service members who die on active duty after July 27, 1953, a statement of honorable service is required from the first General Courts-Martial Convening Authority in the service member's chain of command. If the certificate of honorable service cannot be granted, the service member is ineligible for interment, inurnment,

and memorialization pursuant to § 553.19(h).

(d) When applicable, the following documents are required:

(1) Death certificate;

(2) Proof of eligibility as required by paragraphs (e) through (g) of this section;

(3) Any additional documentation to establish the decedent's eligibility (e.g., marriage certificate, birth certificate, waivers, statements that the decedent had no children);

(4) Burial agreement;

(5) Notarized statement that the remains are unavailable for the reasons set forth in § 553.16; and

(6) A certificate of cremation or notarized statement attesting to the authenticity of the cremated human remains and that 100% of the cremated remains received from the crematorium are present. The Executive Director may, however, allow a portion of the cremated remains to be removed by the crematorium for the sole purpose of producing commemorative items.

(7) Any other document as required by the Executive Director.

(e) The following documents may be used to establish the eligibility of a primarily eligible person:

(1) DD Form 214, Certificate of Release or Discharge from Active Duty;

(2) WD AGO 53 or 53-55, Enlisted Record and Report of Separation Honorable Discharge;

(3) WD AGO 53-98, Military Record and Report of Separation Certificate of Service;

(4) NAVPERS-553, Notice of Separation from U.S. Naval Service;

(5) NAVMC 70-PD, Honorable Discharge, U.S. Marine Corps;

(6) DD Form 1300, Report of Casualty (required in the case of death of an active duty service member); or

(7) NGB Form 22, National Guard Report of Separation and Record of Service (must indicate a minimum of 20 years total service for pay).

(f) In addition to the documents otherwise required by this section, a request for interment or inurnment of a subsequently remarried spouse must be accompanied by:

(1) A notarized statement from the new spouse of the subsequently remarried spouse agreeing to the interment or inurnment and relinquishing any claim for interment or inurnment in the same gravesite or niche.

(2) Notarized statement(s) from all of the children, age 18 years and over, from the prior marriage agreeing to the interment or inurnment of their parents in the same gravesite or niche.

(g) In addition to the documents otherwise required by this section, a

request for interment or inurnment of a permanently dependent child must be accompanied by:

(1) A notarized statement as to the marital status and degree of dependency of the decedent from an individual with direct knowledge; and

(2) A physician's statement regarding the nature and duration of the physical or mental disability; and

(3) A statement from someone with direct knowledge demonstrating the following factors:

(i) The deceased lived most of his or her adult life with one or both parents, who are otherwise eligible for interment;

(ii) The decedent's children and siblings age 18 years and over, or other family members, other than the eligible parent, waive any derivative claim to be interred at Arlington National Cemetery, in accordance with the Arlington National Cemetery Burial Agreement.

(h) Veterans or primary next of kin of deceased veterans may obtain copies of their military records by writing to the National Personnel Records Center, Attention: Military Personnel Records, 1 Archives Drive, St. Louis, Missouri 63132-1002 or using their website. All others may request a record by completing and submitting Standard Form 180.

(i) The burden of proving eligibility lies with the party who requests the burial. The Executive Director will determine whether the submitted evidence is sufficient to support a finding of eligibility.

§ 553.11 General rules governing eligibility for interment, inurnment, and memorialization at Arlington National Cemetery.

(a) Only those persons who are not formally interred or inurned as of the date of publication of this rule and who meet the criteria of § 553.12 or are granted an exception to policy pursuant to § 553.22 may be interred in Arlington National Cemetery. Only those persons who are not formally interred or inurned as of the date of publication of this rule and who meet the criteria of § 553.13 or are granted an exception to policy pursuant to § 553.22 may be inurned in Arlington National Cemetery. Only those persons who meet the criteria of § 553.14 may be interred in the Arlington National Cemetery Unmarked Area. Only those persons who meet the criteria of § 553.15 may be interred in an Arlington National Cemetery group burial. Only those persons who meet the criteria of § 553.16 may be memorialized in Arlington National Cemetery.

(b) Derivative eligibility for interment or inurnment may be established only

through a decedent's connection to a primarily eligible person and not to another derivatively eligible person.

(c) No veteran is eligible for interment, inurnment, or memorialization in Arlington National Cemetery unless the veteran's last period of active duty ended with an honorable discharge. A general discharge under honorable conditions is not sufficient for interment, inurnment or memorialization in Arlington National Cemetery.

(d) For purposes of determining whether a service member has received an honorable discharge, final determinations regarding discharges made in accordance with procedures established by chapter 79 of title 10, United States Code, will be considered authoritative.

(e) The Secretary of the Army has the authority to act on requests for exceptions to the provisions of the interment, inurnment, and memorialization eligibility policies contained in this subpart. The Secretary of the Army may delegate this authority in writing to the Executive Director on such terms deemed appropriate.

(f) Individuals who do not qualify as a primarily eligible person or a derivatively eligible person, but who are granted an exception to policy to be interred or inurned pursuant to § 553.22 in a new gravesite or niche, will be treated as a primarily eligible person for purposes of this subpart.

(g) Notwithstanding any other section in this subpart, memorialization with an individual memorial marker, interment, or inurnment in Army National Military Cemeteries is prohibited if there is a gravesite, niche, or individual memorial marker for the decedent in any other Government-operated cemetery or the Government has provided an individual grave marker, individual memorial marker or niche cover for placement in a private cemetery.

§ 553.12 Eligibility for interment in Arlington National Cemetery.

Only those who qualify as a primarily eligible person or a derivatively eligible person are eligible for interment in Arlington National Cemetery, unless otherwise prohibited as provided for in §§ 553.19 and 553.20, provided that the last period of active duty of the service member or veteran ended with an honorable discharge.

(a) *Primarily eligible persons.* The following are primarily eligible persons for purposes of interment:

(1) Any service member who is killed in action, as defined in § 553.1, while serving in the U.S. Armed Forces, if the General Courts-Martial Convening

Authority grants a certificate of honorable service.

(2) Any service member whose death results from preparations or operations related to combat, as defined in § 553.1, if the General Courts-Martial Convening Authority grants a certificate of honorable service and confirms the circumstances of death.

(3) Any service member or veteran who has performed armed conflict service, as defined in § 553.1, whose last period of active duty ended with an honorable discharge or the General Courts-Martial Convening Authority grants a certificate of honorable service, and is awarded one of the following decorations:

(i) Medal of Honor;

(ii) Distinguished Service Cross, Navy Cross, Air Force Cross, Coast Guard Cross;

(iii) Department of Defense Distinguished Service Medal, Army Distinguished Service Medal, Navy Distinguished Service Medal, Air Force Distinguished Service Medal, Coast Guard Distinguished Service Medal;

(iv) Silver Star; or

(v) Purple Heart.

(4) Any person who served in the position of President or Vice President of the United States.

(5) Any service member or veteran who served on active duty, performed armed conflict service, as defined in § 553.1, and served in a position of significant governmental responsibility, as defined in § 553.1.

(6) Any former prisoner of war who, while a prisoner of war, served honorably in the active military service and who died on or after November 30, 1993.

(b) *Derivatively eligible persons.* The following individuals are derivatively eligible persons for purposes of interment who may be interred if space is available in the gravesite of the primarily eligible person:

(1) The spouse of a primarily eligible person who is or will be interred in Arlington National Cemetery. A former spouse of a primarily eligible person is not eligible for interment in Arlington National Cemetery under this section.

(2) The spouse of an active duty service member or an eligible veteran, who was:

(i) Lost or buried at sea, temporarily interred overseas due to action by the Government, or officially determined to be missing in action;

(ii) Buried in a U.S. military cemetery maintained by the American Battle Monuments Commission; or

(iii) Interred in Arlington National Cemetery as part of a group burial (the derivatively eligible spouse may not be buried in the group burial gravesite).

(3) A subsequently remarried spouse if the remarriage is terminated by divorce, annulment or the death of the subsequently remarried spouse's subsequent spouse.

(4) The parents of a minor child or a permanently dependent adult child, whose remains were interred in Arlington National Cemetery based on the eligibility of a parent at the time of the child's death, unless eligibility of the non-service connected parent is lost through divorce from the primarily eligible parent.

(5) A minor child or permanently dependent child of a primarily eligible person who is or will be interred in Arlington National Cemetery.

(6) An honorably discharged veteran who does not qualify as a primarily eligible person, if the veteran will be buried in the same gravesite as an already interred primarily eligible person who is a close relative, where the interment meets the following conditions:

(i) The veteran is without minor or unmarried adult dependent children;

(ii) The veteran will not occupy space reserved for the spouse, a minor child, or a permanently dependent adult child;

(iii) All other close relatives of the primarily eligible person concur with the interment of the veteran with the primarily eligible person by signing a notarized statement;

(iv) The veteran's spouse waives any entitlement to interment in Arlington National Cemetery, where such entitlement might be based on the veteran's interment in Arlington National Cemetery. The Executive Director may set aside the spouse's waiver, provided space is available in the same gravesite, and all close relatives of the primarily eligible person concur; and

(v) Any cost of moving, re-casketing, or re-vaulting the remains will be paid from private funds.

§ 553.13 Eligibility for inurnment in Arlington National Cemetery Columbarium.

The following persons are eligible for inurnment in the Arlington National Cemetery Columbarium, unless otherwise prohibited as provided for in §§ 553.19 and 553.20, provided that the last period of active duty of the service member or veteran ended with an honorable discharge.

(a) *Primarily eligible persons.* The following are primarily eligible persons for purposes of inurnment:

(1) Any person eligible for interment in Arlington National Cemetery, as provided for in § 553.12(a).

(2) Any veteran retired from the U.S. Armed Forces, and entitled to receive

military retired pay on the date of their death.

(3) Any service member eligible to retire from the U.S. Armed Forces, and entitled to receive military retired pay on the date of their death.

(4) Any service member or veteran who served on active duty (other than active duty for training) for no less than 24 months and performed armed conflict service.

(5) Any veteran who:

(i) Received an honorable discharge from the Armed Forces prior to October 1, 1949, and

(ii) Who was discharged for a permanent physical disability, and

(iii) Who served on active duty (other than active duty for training), and

(iv) Who would have been eligible for military medical retirement (as authorized under 10 U.S.C. 1201) had this statute been in effect on the date of separation.

(6) Any service member or veteran who served on active duty (other than active duty for training) and served in a position of significant governmental responsibility, as defined in § 553.1.

(7) Any citizen of the United States who, during any armed conflict prior to July 27, 1953, in which the United States has been or may hereafter be engaged, served in the armed forces of any government allied with the United States during that armed conflict, whose last service ended honorably, as determined by the Executive Director, by death or otherwise, and who was a citizen of the United States at the time of entry into that service and at the time of death.

(8) Any commissioned officer of the United States Coast and Geodetic Survey who died during or subsequent to the service specified in the following categories and whose last service terminated honorably:

(i) Assignment to areas of immediate military hazard prior to September 3, 1945; or

(ii) Served in the Philippine Islands on December 7, 1941.

(9) Any commissioned officer of the United States Public Health Service:

(i) Who performed active service prior to July 29, 1945;

(ii) Such active service was in time of war; and

(iii) The officer was detailed for duty with the U.S. Armed Forces.

(10) Any Active Duty Designee as defined in § 553.1.

(b) *Derivatively eligible persons.* Those connected to an individual described in paragraph (a) of this section through a relationship described in § 553.12(b). Such individuals may be interred if space is available in the primarily eligible person's niche.

§ 553.14 Eligibility for interment of cremated remains in the Arlington National Cemetery Unmarked Area.

(a) The cremated remains of any person eligible for interment in Arlington National Cemetery as described in § 553.12 may be interred in the designated Arlington National Cemetery Unmarked Area.

(b) Cremated remains must be interred in a biodegradable container or placed directly into the ground without a container. Cremated remains are not authorized to be scattered at this site or at any location within Arlington National Cemetery.

(c) There will be no headstone or marker for any person choosing this method of interment. The Executive Director will maintain a permanent register.

(d) Consistent with the one-gravesite-per-family policy, once a person is interred in the Unmarked Area, any derivatively eligible persons and spouses must be interred in this manner. This includes spouses who are also primarily eligible persons. No additional gravesite, niche, or memorial marker in a memorial area will be authorized.

§ 553.15 Eligibility for group burial in Arlington National Cemetery.

(a) The Executive Director may authorize a group burial in Arlington National Cemetery whenever several people, at least one of whom is an active duty service member, die during a military-related activity and not all remains can be individually identified.

(b) Before authorizing a group burial that includes both United States and foreign decedents, the Executive Director will notify the Department of State and request that the Department of State notify the appropriate foreign embassy.

§ 553.16 Eligibility for memorialization in an Arlington National Cemetery memorial area.

(a) With the authority granted by 38 U.S.C. 2409, a memorial marker may be placed in an Arlington National Cemetery memorial area to honor the memory of service members or veterans, who are eligible for interment under § 553.12(a) and:

(1) Who are missing in action;

(2) Whose remains have not been recovered or identified;

(3) Whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) Whose remains were donated to science; or

(5) Whose remains were cremated and the cremated remains were scattered

without interment or inurnment of any portion of those remains.

(b) When the remains of a primarily eligible person are unavailable for one of the reasons listed in paragraph (a) of this section, and a derivatively eligible person who predeceased the primarily eligible person is already interred or inurned in Arlington National Cemetery, the primarily eligible person may be memorialized only on the existing headstone or niche cover, or on a replacement headstone or niche cover ordered with a new inscription.

Consistent with the one-gravesite-per-family policy, a separate marker in a memorial area is not authorized.

(c) When a memorial marker for a primarily eligible person is already in place in a memorial area, and a derivatively eligible person is subsequently interred or inurned in Arlington National Cemetery, an inscription memorializing the primarily eligible person will be placed on the new headstone or niche cover. Consistent with the one-gravesite-per-family policy, the memorial marker will then be removed from the memorial area.

§ 553.17 Arlington National Cemetery interment/inurnment agreement.

(a) A derivatively eligible person who predeceases the primarily eligible person may be interred or inurned in Arlington National Cemetery only if the primarily eligible person agrees in writing to be interred in the same gravesite or inurned in the same niche at his or her time of need and that his or her estate shall pay for all expenses related to disinterment or disinurnment of the predeceased person from Arlington National Cemetery if the primarily eligible person is not interred or inurned as agreed.

(b) If the primarily eligible person becomes ineligible for interment or inurnment in Arlington National Cemetery or the personal representative or primary next of kin decides that the primarily eligible person will be interred or inurned elsewhere, the remains of any predeceased person may be removed from Arlington National Cemetery at no cost to the Government.

§ 553.18 Eligibility for burial in U.S. Soldiers' and Airmen's Home National Cemetery.

Only the residents of the Armed Forces Retirement Home are eligible for interment in the U.S. Soldiers' and Airmen's Home National Cemetery. Resident eligibility criteria for the Armed Forces Retirement Home is provided for at 24 U.S.C. 412.

§ 553.19 Ineligibility for interment, inurnment, or memorialization in an Army National Military Cemetery.

The following persons are not eligible for interment, inurnment, or memorialization in an Army National Military Cemetery:

(a) A father, mother, brother, sister, or in-law solely on the basis of his or her relationship to a primarily eligible person, even though the individual is:

(1) Dependent on the primarily eligible person for support; or
(2) A member of the primarily eligible person's household.

(b) A person whose last period of service was not characterized with an honorable discharge (*e.g.*, they received a separation or discharge under general but honorable conditions, other than honorable conditions, a bad conduct discharge, a dishonorable discharge, or a dismissal), regardless of whether the person:

(1) Received any other veterans' benefits; or
(2) Was treated at a Department of Veterans Affairs hospital or died in such a hospital.

(c) A person who has volunteered for service with the U.S. Armed Forces, but has not yet entered on active duty.

(d) A former spouse whose marriage to the primarily eligible person ended in divorce.

(e) A spouse who predeceases the primarily eligible person and is interred or inurned in a location other than Arlington National Cemetery, and the primarily eligible person remarries.

(f) A divorced spouse of a primarily eligible person.

(g) Otherwise derivatively eligible persons, such as a spouse or minor child, if the primarily eligible person was not or will not be interred or inurned at Arlington National Cemetery.

(h) A service member who dies while on active duty, if the first General Courts-Martial Convening Authority in the service member's chain of command determines that there is clear and convincing evidence that the service member engaged in conduct that would have resulted in a separation or discharge not characterized as an honorable discharge (*e.g.*, a separation or discharge under general but honorable conditions, other than honorable conditions, a bad conduct discharge, a dishonorable discharge, or a dismissal) being imposed, but for the death of the service member.

(i) Animal remains that are unintentionally commingled with human remains due to a natural disaster, unforeseen accident, act of war or terrorism, violent explosion, or similar incident, and such remains

cannot be separated from the remains of an eligible person, then the remains may be interred or inurned with the eligible person, but the identity of the animal remains shall not be inscribed or identified on a niche, marker, headstone, or otherwise.

§ 553.20 Prohibition of interment, inurnment, or memorialization in an Army National Military Cemetery of persons who have committed certain crimes.

(a) *Prohibition.* Notwithstanding §§ 553.12 through 553.16, 553.18, and 553.22, the interment, inurnment, or memorialization in an Army National Military Cemetery of any of the following persons is prohibited:

(1) Any person identified in writing to the Executive Director by the Attorney General of the United States, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a Federal capital crime, as defined in 38 U.S.C. 2411, and whose conviction is final (other than a person whose sentence was commuted by the President).

(2) Any person identified in writing to the Executive Director by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a State capital crime, as defined in 38 U.S.C. 2411, and whose conviction is final (other than a person whose sentence was commuted by the Governor of the State).

(3) Any person identified in writing to the Executive Director by the Attorney General of the United States or by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of murder, as defined in § 553.1, and whose conviction is final (other than a person whose sentence was commuted by the President or the Governor of a State, as the case may be).

(4) Any person identified in writing to the Executive Director by the Attorney General of the United States or by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a Federal capital crime or a State capital crime, as defined in 38 U.S.C. 2411, or other criminal offense causing the person to be a Tier III sex offender for purposes of the Sex Offender Registration and Notification Act, who for such crime is sentenced to a minimum of life imprisonment and whose conviction is final (other than a person whose sentence was commuted by the President or the Governor of a State, or the appropriate commutation authority as dictated by the law in the jurisdiction

where the conviction was finalized, as the case may be).

(5) Any person found under procedures specified in § 553.21 to have committed any crime identified in § 553.20(a)(1) through (4), but who has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution. Notice from officials is not required for this prohibition to apply.

(b) *Notice.* The Executive Director is designated as the Secretary of the Army's representative authorized to receive from the appropriate Federal or State officials notification of conviction of capital crimes referred to in this section.

(c) *Confirmation of person's eligibility.* (1) If notice has not been received, but the Executive Director has reason to believe that the person may have been convicted of a Federal capital crime or a State capital crime, as defined in 38 U.S.C. 2411, the Executive Director shall seek written confirmation from:

(i) The Attorney General of the United States, with respect to a suspected Federal capital crime; or

(ii) An appropriate State official, with respect to a suspected State capital crime.

(2) The Executive Director will defer the decision on whether to inter, inurn, or memorialize a decedent until a written response is received.

§ 553.21 Findings concerning the commission of certain crimes where a person has not been convicted due to death or flight to avoid prosecution.

(a) *Preliminary inquiry.* If the Executive Director has reason to believe that a decedent may have committed a Federal capital crime or a State capital crime, as defined in 38 U.S.C. 2411, but has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution, the Executive Director shall submit the issue to the General Counsel of the Department of the Army. The General Counsel of the Department of the Army shall initiate a preliminary inquiry seeking information from Federal, State, or local law enforcement officials, or other sources of potentially relevant information.

(b) *Decision after preliminary inquiry.* If, after conducting the preliminary inquiry described in paragraph (a) of this section, the General Counsel of the Department of the Army determines that credible evidence exists suggesting the decedent may have committed a Federal capital crime or State capital crime, as defined in 38 U.S.C. 2411, then further

proceedings under this section are warranted to determine whether the decedent committed such crime. Consequently the General Counsel of the Department of the Army shall present the personal representative with a written notification of such preliminary determination and a dated, written notice of the personal representative's procedural options.

(c) *Notice and procedural options.* The notice of procedural options shall indicate that, within fifteen days, the personal representative may:

- (1) Request a hearing;
- (2) Withdraw the request for interment, inurnment, or memorialization; or
- (3) Do nothing, in which case the request for interment, inurnment, or memorialization will be considered to have been withdrawn.

(d) *Time computation.* The fifteen-day time period begins on the calendar day immediately following the earlier of the day the notice of procedural options is delivered in person to the personal representative or is sent by U.S. registered mail or, if available, by electronic means to the personal representative. It ends at midnight on the fifteenth day. The period includes weekends and holidays.

(e) *Hearing.* The purpose of the hearing is to allow the personal representative to present additional information regarding whether the decedent committed a Federal capital crime or a State capital crime, as defined in 38 U.S.C. 2411. In lieu of making a personal appearance at the hearing, the personal representative may submit relevant documents for consideration.

(1) If a hearing is requested, the General Counsel of the Department of the Army shall conduct the hearing.

(2) The hearing shall be conducted in an informal manner.

(3) The rules of evidence shall not apply.

(4) The personal representative and witnesses may appear, at no expense to the Government, and subject to the discretion of the General Counsel of the Department of the Army, they may testify. All testimony shall be under oath and a person who possesses the legal authority to administer oaths shall administer the oath.

(5) The General Counsel of the Department of the Army shall consider all relevant information obtained.

(6) The hearing shall be appropriately recorded. Upon request, a copy of the record shall be provided to the personal representative.

(f) *Final determination.* After considering the opinion of the General

Counsel of the Department of the Army, and any additional information submitted by the personal representative, the Secretary of the Army shall determine the decedent's eligibility for interment, inurnment, or memorialization. This determination is final and not appealable.

(1) The determination shall be based on evidence that supports or undermines a conclusion that the decedent's actions satisfied the elements of the crime as established by the law of the jurisdiction in which the decedent would have been prosecuted.

(2) If an affirmative defense is offered by the decedent's personal representative, a determination as to whether the defense was met shall be made according to the law of the jurisdiction in which the decedent would have been prosecuted.

(3) Mitigating evidence shall not be considered.

(4) The opinion of the local, State, or Federal prosecutor as to whether he or she would have brought charges against the decedent had the decedent been available is relevant but not binding and shall be given no more weight than other facts presented.

(g) *Notice of decision.* The Executive Director shall provide written notification of the Secretary's decision to the personal representative.

§ 553.22 Exceptions to policies for interment, inurnment, or memorialization at Arlington National Cemetery.

(a) As a national military cemetery, eligibility standards for interment, inurnment, or memorialization are based on honorable military service. Exceptions to the eligibility standards for new graves are rarely granted. When granted, exceptions are for those persons who have made significant contributions that directly and substantially benefited the U.S. military. Exceptions to the interment or inurnment eligibility policies shall be decided by the Secretary of the Army.

(b) Requests for an exception to the interment or inurnment eligibility policies shall be considered only after the individual's death.

(c) Requests for an exception to the interment or inurnment eligibility policies shall be submitted to the Executive Director and shall include any documents required by the Executive Director.

(d) The primary next of kin is responsible for providing and certifying the authenticity of all documents and swearing to the accuracy of the accounting provided to support the request for exception to the interment or inurnment eligibility policies.

(e) Disapproved requests will be reconsidered only when the personal representative or next of kin submits new and substantive information not previously considered by the Secretary of the Army. Requests for reconsideration shall be submitted directly to the Executive Director. The Executive Director will deny requests for reconsideration not supported by new and substantive information after review and advice from the General Counsel of the Department of the Army. The Executive Director shall notify the personal representative or next of kin of the decision of the reconsideration.

(f) The decision by the Secretary of the Army or the Executive Director, as the case may be, is final and not appealable.

(g) Under no circumstances, will exceptions to policies be considered or granted for those individuals prohibited from interment or inurnment by virtue of § 553.20 or § 553.21.

§ 553.23 Placement of cremated remains at Army National Military Cemeteries.

All cremated remains shall be interred or inurned. The scattering of cremated remains and the burial of symbolic containers are prohibited in Army National Military Cemeteries.

§ 553.24 Subsequently recovered remains.

Subsequently recovered identified remains of a decedent shall be reunited in one gravesite or urn, or as part of a group burial, in either an Army National Military Cemetery or other cemetery. Subsequently recovered identified remains may also be interred in the Arlington National Cemetery Tomb of Remembrance. Unidentified remains (which may or may not be commingled) may also be interred in the Arlington National Cemetery Tomb of Remembrance.

§ 553.25 Disinterment and disinurnment of remains.

(a) Interments and inurnments in Army National Military Cemeteries are considered permanent.

(b) Requests for the permanent (*i.e.*, the remains will not be immediately returned to the same gravesite or niche) disinterment or disinurnment of individually interred or inurned remains are considered requests for exceptions to this policy, and must be addressed to the Executive Director for decision. The request must include:

(1) A full statement of the reasons for the disinterment or disinurnment of the remains from the personal representative or primary next of kin who directed the original interment or inurnment if still living, or if not, the

current personal representative or primary next of kin;

(2) A notarized statement from each living close relative of the decedent that he or she does not object to the proposed disinterment or disinterment;

(3) A notarized statement by a person who has personal knowledge of the decedent's relatives stating that the persons giving statements comprise all of the decedent's living close relatives; and

(4) An appropriate funding source for the disinterment or disinterment, as disinterments and disinterments of individually interred or interred remains must be accomplished without expense to the Government, unless done in accordance with paragraph (c) of this section.

(c) Disinterments performed at the direction of the Secretary of Defense for the purpose of the identification of remains shall be done in compliance with, and as directed by, Department of Defense regulation and policy.

(d) The Executive Director shall carry out disinterments and disinterments directed by a court of competent jurisdiction upon presentation of a lawful, original court order and after consulting with the General Counsel of the Department of the Army.

(e) Disinterment or disinterment is not permitted for the sole purpose of splitting remains or keeping a portion of the remains in a location other than Arlington National Cemetery.

(f) Disinterment of previously designated group remains for the sole purpose of individually segregating the group remains is not permitted unless the requirements of paragraph (d) of this section are met.

§ 553.26 Design of Government-furnished headstones, niche covers, and memorial markers.

(a) Headstones and memorial markers shall be white marble in an upright slab design. Flat-type granite markers may be used, at the Executive Director's discretion, when the terrain or other obstruction precludes use of an upright marble headstone or memorial marker.

(b) Niche covers shall be white marble.

(c) The Executive Director shall approve the design of headstones and memorial markers erected for group burials, consistent with the policies of the Secretary of Veterans Affairs.

§ 553.27 Inscriptions on Government-furnished headstones, niche covers, and memorial markers.

(a) Inscriptions on Government-furnished headstones, niche covers, and memorial markers will be made

according to the policies and specifications of the Secretary of the Army, consistent with the policies of the Secretary of Veterans Affairs.

(b) No grades, titles, or ranks other than military grades granted pursuant to title 10, United States Code, will be engraved on Government-furnished headstones, niche covers, and memorial markers. Honorary grades, titles, or ranks granted by States, governors, and others shall not be inscribed on headstones, niche covers, or memorial markers.

(c) Memorial markers must include the words "In Memory of" preceding the inscription.

(d) The words "In Memory of" shall not precede the inscription of a decedent whose remains are interred or interred.

§ 553.28 Private headstones and markers.

(a) Construction and installation of private headstones and markers, in lieu of Government-furnished headstones, are prohibited in Army National Military Cemeteries unless approved prior to December 1, 2017. Repair or replacement of private headstones and markers that were approved prior to December 1, 2017, and are in sections of Army National Military Cemeteries in which private memorials and markers were authorized as of January 1, 1947, must be of simple design, dignified, and appropriate for a military cemetery as determined by the Executive Director.

(b) The design and inscription of a private headstone or marker must be approved by the Executive Director prior to its construction and placement. All private headstones and markers will conform to the dimensions and profiles specified by the Executive Director and will be inscribed with the location of the gravesite.

(c) Inscription or modification to a private headstone or marker previously placed or approved for placement is conditional upon the primary next of kin agreeing in writing to maintain it in a manner acceptable to the Government. Should the headstone or marker become unserviceable at any time and the primary next of kin fail to repair or replace it, or if the marker is not updated to reflect all persons buried in that gravesite within 6 months of the most recent burial, the Executive Director reserves the right to remove and dispose of the headstone or marker and replace it with a standard, Government-furnished headstone or marker.

(d) The construction of a headstone or marker to span two gravesites will be permitted only in those sections in which headstones and markers are

presently spanning two gravesites and only with the express understanding that in the event both gravesites are not utilized for burials, the headstone or marker will be relocated to the center of the occupied gravesite, if possible. Such relocation must be accomplished at no expense to the Government. The Executive Director reserves the right to remove and dispose of the headstone or marker and to mark the gravesite with a Government-furnished headstone or marker if the personal representative or primary next of kin fails to relocate the headstone or marker as requested by the Executive Director.

(e) Arrangements must be made with an appropriate commercial firm to ensure that additional inscriptions will be promptly inscribed following each succeeding interment in the gravesite. Foot markers must be authorized by the Executive Director and may only be authorized when there is no available space for an inscription on the front or rear of a private headstone.

(f) Except as may be authorized for marking group burials, ledger monuments of freestanding cross design, narrow shafts, and mausoleums are prohibited.

§ 553.29 Permission to construct or amend private headstones and markers.

(a) Headstone firms must receive permission from the Executive Director to construct a private headstone or marker or to add an inscription to an existing headstone or marker in an Army National Military Cemetery.

(b) Requests for permission must be submitted to the Executive Director and must include:

(1) Written consent from the personal representative or primary next of kin;

(2) Contact information for both the personal representative or primary next of kin and the headstone firm; and

(3) A scale drawing (no less than 1:12) showing all dimensions, or a reproduction showing detailed specifications of design and proposed construction material, finishing, carving, lettering, exact inscription to appear on the headstone or marker, and a trademark or copyright designation.

(c) The Army does not endorse headstone firms, but grants permission for the construction of headstones or markers in individual cases.

(d) When using sandblast equipment to add an inscription to an existing headstone or marker, headstone firms shall restore the surrounding grounds in a timely manner as determined by the Executive Director to the condition of the grounds before work began and at no expense to the Government.

§ 553.30 Inscriptions on private headstones and markers.

An appropriate inscription for the decedent will be placed on the headstone or marker in accordance with the dimensions of the stone and arranged in such a manner as to enhance the appearance of the stone. Additional inscriptions may be inscribed following each succeeding interment in the gravesite. All inscriptions will be in accordance with policies established by the Executive Director.

§ 553.31 Memorial and commemorative monuments (other than private headstones or markers).

The placement of memorials or commemorative monuments in Arlington National Cemetery will be carried out in accordance with 38 U.S.C. 2409(b).

§ 553.32 Conduct of memorial services and ceremonies.

(a) The Executive Director shall ensure the sanctity of public and private memorial and ceremonial events.

(b) All memorial services and ceremonies within Army National Military Cemeteries, other than official ceremonies, shall be purely memorial in purpose and may be dedicated only to:

(1) The memory of all those interred, inurned, or memorialized in Army National Military Cemeteries;

(2) The memory of all those who died in the military service of the United States while serving during a particular conflict or while serving in a particular military unit or units; or

(3) The memory of the individual or individuals to be interred, inurned, or memorialized at the particular site at which the service or ceremony is held.

(c) Memorial services and ceremonies at Army National Military Cemeteries will not include partisan political activities.

(d) Private memorial services may be closed to the media and public as determined by the decedent's primary next of kin.

(e) Public memorial services and public wreath-laying ceremonies shall be open to all members of the public to observe.

§ 553.33 Visitors rules for Army National Military Cemeteries.

(a) *Visiting hours.* Visiting hours shall be established by the Executive Director and posted in conspicuous places. No visitor is permitted to enter or remain in an Army National Military Cemetery outside the established visiting hours.

(b) *Destruction or removal of property.* No person shall destroy, damage, mutilate, alter, or remove any

monument, gravestone, niche cover, structure, tree, shrub, plant, or other property located within an Army National Military Cemetery, without the prior approval of the Executive Director.

(c) *Conduct within Army National Military Cemeteries.* Army National Military Cemeteries are national shrines to the honored dead of the U.S. Armed Forces, and certain acts and activities, which may be appropriate elsewhere, are not appropriate in Army National Military Cemeteries. All visitors, including persons attending or taking part in memorial services and ceremonies, shall observe proper standards of decorum and decency while in an Army National Military Cemetery. Specifically, no person shall:

(1) Conduct any memorial service or ceremony within an Army National Military Cemetery without the prior approval of the Executive Director.

(2) Engage in demonstrations prohibited by 38 U.S.C. 2413.

(3) Engage in any orations, speeches, or similar conduct to assembled groups of people, unless such actions are part of a memorial service or ceremony authorized by the Executive Director.

(4) Display any placards, banners, flags, or similar devices within an Army National Military Cemetery, unless first approved by the Executive Director for use in an authorized memorial service or ceremony. This rule does not apply to clothing worn by visitors.

(5) Distribute any handbill, pamphlet, leaflet, or other written or printed matter within an Army National Military Cemetery, except a program approved by the Executive Director to be provided to attendees of an authorized memorial service or ceremony.

(6) Bring a dog, cat, or other animal (other than a service animal or military working dog) within an Army National Military Cemetery. This prohibition does not apply to persons living in quarters located on the grounds of the Army National Military Cemeteries.

(7) Use the cemetery grounds for recreational activities (e.g., physical exercise, running, jogging, sports, or picnics).

(8) Ride a bicycle or similar vehicle or conveyance in an Army National Military Cemetery, except with a proper pass issued by the Executive Director to visit a gravesite or niche. An individual visiting a relative's gravesite or niche may be issued a temporary pass by the Executive Director to proceed directly to and from the gravesite or niche on a bicycle or similar vehicle or conveyance.

(9) Operate a musical instrument, a loudspeaker, or an audio device without

a headset within an Army National Military Cemetery.

(10) Drive any motor vehicle within an Army National Military Cemetery in excess of the posted speed limit.

(11) Park any motor vehicle in any area of an Army National Military Cemetery designated as a no-parking area.

(12) Leave any vehicle in the Arlington National Cemetery Visitors' Center parking area or Soldiers' and Airmen's Home National Cemetery visitors' parking area more than thirty minutes outside of established visiting hours or anywhere else in an Army National Military Cemetery outside of established visiting hours.

(13) Consume or serve alcoholic beverages without prior written permission from the Executive Director.

(14) Possess firearms without prior written permission from the Executive Director. This prohibition does not apply to law enforcement and military personnel in the performance of their official duties. In accordance with locally established policy, military and law enforcement personnel may be required to obtain advance permission from the Executive Director prior to possessing firearms on the property of an Army National Military Cemetery.

(15) Deposit or throw litter or trash on the grounds of an Army National Military Cemetery.

(16) Engage in any disrespectful or disorderly conduct within an Army National Military Cemetery.

(d) *Vehicular traffic.* All visitors, including persons attending or taking part in memorial services and ceremonies, will observe the following rules concerning motor vehicle traffic within Arlington National Cemetery:

(1) Visitors arriving by car and not entitled to a vehicle pass pursuant to paragraph (d)(2) of this section are required to park their vehicles in the Visitors' Center parking area or at a location outside of the cemetery.

(2) Only the following categories of vehicles may be permitted access to Arlington National Cemetery roadways and issued a permanent or temporary pass from the Executive Director:

(i) Official Government vehicles being used on official Government business.

(ii) Vehicles carrying persons on official Cemetery business.

(iii) Vehicles forming part of an authorized funeral procession and authorized to be part of that procession.

(iv) Vehicles carrying persons visiting the Arlington National Cemetery gravesites, niches, or memorial areas of relatives or loved ones interred, inurned, or memorialized within Arlington National Cemetery.

(v) Arlington National Cemetery and National Park Service maintenance vehicles.

(vi) Vehicles of contractors who are authorized to perform work within Arlington National Cemetery.

(vii) Concessionaire tour buses authorized by the Executive Director to operate in Arlington National Cemetery.

(viii) Vehicles of employees of the Army National Military Cemeteries as authorized by the Executive Director.

§ 553.34 Soliciting and vending.

The display or distribution of commercial advertising to or solicitation of business from the public is strictly prohibited within an Army National Military Cemetery, except as authorized by the Executive Director.

§ 553.35 Media.

All officials and staff of the media are subject to the Visitors Rules enumerated in § 553.33 and shall comply with the Department of the Army's media policy.

Subpart B—Army Post Cemeteries

§ 553.36 Definitions.

As used in this subpart, the following terms have these meanings:

Active duty. Full-time duty in the active military service of the United States.

(1) This includes:

(i) Active Reserve component duty performed pursuant to title 10, United States Code.

(ii) Service as a cadet or midshipman currently on the rolls at the U.S. Military, U.S. Naval, U.S. Air Force, or U.S. Coast Guard Academies.

(iii) Active duty for operational support.

(2) This does not include:

(i) Full-time National Guard duty performed under title 32, United States Code.

(ii) Active duty for training, initial entry training, annual training duty, or inactive-duty training for members of the Reserve components.

Active duty for operational support (formerly active duty for special work). A tour of active duty for Reserve personnel authorized from military or Reserve personnel appropriations for work on Active component or Reserve component programs. The purpose of active duty for operational support is to provide the necessary skilled manpower assets to support existing or emerging requirements and may include training.

Active duty for training. A category of active duty used to provide structured individual and/or unit training, including on-the-job training, or educational courses to Reserve

component members. Included in the active duty for training category are annual training, initial active duty for training, or any other training duty.

Annual training. The minimum period of active duty for training that Reserve members must perform each year to satisfy the training requirements associated with their Reserve component assignment.

Armed Forces. The U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, Space Force and their Reserve components.

Army Post Cemeteries. Cemeteries operated by the Department of the Army on active Army installations, on Army reserve complexes, and on former Army installations or inactive posts whose purpose is to inter or inurn eligible members of the Armed Forces, Veterans, and their eligible family members. Army National Military Cemeteries are not included in post cemeteries. The West Point Cemetery is considered an Army Post Cemetery, but has separate eligibility standards due to its unique stature. In addition to the Army Post Cemeteries, there are four Native American cemeteries on Fort Sill and five World War II Enemy Prisoner of War cemeteries on four Army installations. Finally, there is the U.S. Army Disciplinary Barracks Cemetery at Fort Leavenworth used for interring the unclaimed remains of those who die while incarcerated by the United States Military. Unlike the other Army cemeteries which honor the Nation's veterans, this cemetery has unique eligibility standards due to the characterization of service of those criminally incarcerated.

Cemetery Responsible Official. An appointed official who serves as the primary point of contact and responsible official for all matters relating to the operation maintenance and administration of an Army cemetery. The appointee must be a U.S. Federal Government employee, DA civilian, or military member and appointed on orders by the appropriate garrison commander or comparable official.

Child, minor child, permanently dependent child, unmarried adult child—(1) *Child.* (i) Natural child of a primarily eligible person, born in wedlock;

(ii) Natural child of a female primarily eligible person, born out of wedlock;

(iii) Natural child of a male primarily eligible person, who was born out of wedlock and:

(A) Has been acknowledged in writing signed by the male primarily eligible person;

(B) Has been judicially determined to be the male primarily eligible person's child;

(C) Whom the male primarily eligible person has been judicially ordered to support; or

(D) Has been otherwise proven, by evidence satisfactory to the Executive Director, to be the child of the male primarily eligible person;

(iv) Adopted child of a primarily eligible person; or

(v) Stepchild who was part of the primarily eligible person's household at the time of death of the individual who is to be interred or inurned.

(2) *Minor child.* A child of the primarily eligible person who:

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Is under the age of twenty-one years, or is under the age of twenty-three years and is taking a full-time course of instruction at an educational institution that the U.S. Department of Education acknowledges as an accredited educational institution.

(3) *Permanently dependent child.* A child of the primarily eligible person who:

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Is permanently and fully dependent on one or both of the child's parents because of a physical or mental disability incurred before attaining the age of twenty-one years or before the age of twenty-three years while taking a full-time course of instruction at an educational institution that the U.S. Department of Education acknowledges as an accredited educational institution.

(4) *Unmarried adult child.* A child of the primarily eligible person who:

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Has attained the age of twenty-one years.

Close relative. The spouse, parents, adult brothers and sisters, adult natural children, adult stepchildren, and adult adopted children of a decedent.

Derivatively eligible person. Any person who is entitled to interment or inurnment solely based on his or her relationship to a primarily eligible person, as set forth in §§ 553.43 through 553.45.

Disinterment. The removal of interred human remains from a particular gravesite.

Disinurnment. The removal of remains from a particular niche.

Executive Director. The person statutorily charged with exercising authority, direction, and control over all aspects of Army National Military Cemeteries, and the person charged by the Secretary of the Army to serve as the

functional proponent for policies and procedures pertaining to the administration, operation, and maintenance of all military cemeteries under the jurisdiction of the Army.

Former prisoner of war. A person who is eligible for or has been awarded the Prisoner of War Medal.

Former spouse. See *spouse*.

Government. The U.S. Government and its agencies and instrumentalities.

Group burial. (1) Interment in one gravesite of one or more service members on active duty killed in the same incident or location where:

(i) The remains cannot be individually identified; or

(ii) The person authorized to direct disposition of subsequently identified remains has authorized their interment with the other service members.

(2) Group remains may contain incidental remains of civilians and foreign nationals.

Inactive-duty training. (1) Duty prescribed for members of the Reserve components by the Secretary concerned under 37 U.S.C. 206 or any other provision of law.

(2) Special additional duties authorized for members of the Reserve components by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

(3) In the case of a member of the Army National Guard or Air National Guard of any State, duty (other than full-time duty) under 32 U.S.C. 316, 502, 503, 504, or 505 or the prior corresponding provisions of law.

(4) This term does not include:

(i) Work or study performed in connection with correspondence courses;

(ii) Attendance at an educational institution in an inactive status; or

(iii) Duty performed as a temporary member of the Coast Guard Reserve.

Interment. The ground burial of casketed or cremated human remains.

Inurnment. The placement of cremated human remains in a niche.

Media. Individuals and agencies that print, broadcast, or gather and transmit news, and their reporters, photographers, and employees.

Minor child. See *child*.

Murder. Pursuant to any Federal or State law, the causing the death of another human being when:

(1) It is committed purposely or knowingly; or

(2) It is committed recklessly under circumstances manifesting extreme indifference to the value of human life. Such recklessness and indifference are

presumed if the actor is engaged or is an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, rape or deviate sexual intercourse by force or threat of force, arson, burglary, kidnapping, or felonious escape.

Niche. An above ground space constructed specifically for the placement of cremated human remains.

Parent. A natural parent, a stepparent, a parent by adoption, or a person who for a period of not less than one year stood *in loco parentis*, or was granted legal custody by a court decree or statutory provision.

Permanently dependent child. See *child*.

Person authorized to direct disposition. The person primarily entitled to direct disposition of human remains and who elects to exercise that entitlement. Determination of such entitlement shall be made in accordance with applicable law and regulations.

Personal representative. A person who has legal authority to act on behalf of another through applicable law, order, and regulation.

Primarily eligible person. Any person who is entitled to interment or inurnment based on his or her service as specified in §§ 553.43 through 553.45.

Primary next of kin. (1) In the absence of a valid written document from the decedent identifying the primary next of kin, the order of precedence for designating a decedent's primary next of kin is as follows:

(i) Spouse, even if a minor;

(ii) Children, age 18 years and over (if under 18 years of age, their surviving parent or legal guardian shall exercise the rights of the minor);

(iii) Parents;

(iv) Siblings, to include half-blood and those acquired through adoption, age 18 years and over;

(v) Grandparents; and

(vi) Other next of kin, in order of relationship to the decedent as determined by the laws of the decedent's state of domicile.

(2) Absent a court order or written document from the deceased, the precedence of next of kin with equal relationships to the decedent is governed by seniority (age), older having higher priority than younger. Equal relationship situations include those involving divorced parents of the decedent, children of the decedent, and siblings of the decedent.

Private headstones or markers. A headstone or individual memorial marker provided at private expense, in lieu of a headstone or individual

memorial marker furnished by the Government.

Private memorial service. A memorial service or ceremony conducted at the decedent's gravesite, memorial headstone, or niche.

Public memorial service. A ceremony conducted by members of the public at a historic site in an Army cemetery.

Reserve component. See definition in 10 U.S.C. 101.

Spouse, former spouse, subsequently remarried spouse—(1) **Spouse.** A person who is legally married to another person.

(2) **Former spouse.** A person who was legally married to another person at one time but was not legally married to that person at the time of one of their deaths.

(3) **Subsequently remarried spouse.** A derivatively eligible spouse who was married to the primarily eligible person at the time of the primarily eligible person's death and who subsequently remarried another person.

Subsequently recovered remains. Additional remains belonging to the decedent that are recovered or identified after the decedent's interment or inurnment.

Subsequently remarried spouse. See *spouse*.

Subversive activity. Actions constituting subversive activity are those defined in applicable provisions of Federal law.

Unmarried adult child. See *child*.

Veteran. A person who served in the U.S. Armed Forces and who was discharged or released under honorable conditions (general discharge under honorable conditions is not sufficient to meet this definition).

§ 553.37 Purpose.

This subpart specifies the eligibility for interment and inurnment in the Post Cemeteries and the U.S. Disciplinary Barracks Cemetery at Fort Leavenworth.

§ 553.38 Statutory authorities.

The statutory authorities for this subpart are Public Law 93–43 87 Stat. 75, 10 U.S.C. 985, 1481, 1482, 3013, and 38 U.S.C. 2411.

§ 553.39 Scope and applicability.

(a) **Scope.** The development, maintenance, administration, and operation of the Army Post Cemeteries are governed by this subpart, Army Regulation 290–5, and Department of the Army Pamphlet 290–5. The development, maintenance, administration, and operation of Army National Military Cemeteries are not covered by this subpart.

(b) **Applicability.** This subpart is applicable to all persons seeking

interment or inurnment in Army Post Cemeteries.

§ 553.40 Assignment of gravesites or niches.

(a) All eligible persons will be assigned gravesites or niches without discrimination as to race, color, sex, religion, age, or national origin and without preference to military grade or rank.

(b) Army cemeteries will enforce a one-gravesite-per-family policy. Once the initial interment or inurnment is made in a gravesite or niche, each additional interment or inurnment of eligible persons must be made in the same gravesite or niche, except as noted in paragraph (e) of this section. This includes multiple primarily eligible persons if they are married to each other.

(c) A gravesite reservation will be honored if the gravesite was properly reserved before May 1, 1975.

(d) The commander or Cemetery Responsible Official responsible for an Army cemetery may cancel a gravesite reservation:

(1) Upon determination that a derivatively eligible spouse has remarried;

(2) Upon determination that the remains of the person having the gravesite reservation have been buried elsewhere or otherwise disposed of;

(3) Upon determination that the person having the gravesite reservation desires to or will be interred in the same gravesite with the predeceased, and doing so is feasible; or

(4) Upon determination that the person having the gravesite reservation would be 120 years of age and there is no record of correspondence with the person having the gravesite reservation within the last two decades.

(e) In cases of reservations where more than one gravesite was reserved (on the basis of the veteran's eligibility at the time the reservation was made), the gravesite reservations will be honored only if the decedents continue to meet the eligibility criteria for interment in Army Post Cemeteries that are in effect at the time of need, and the reserved gravesite is available.

(f) Gravesites or niches shall not be reserved or assigned prior to the time of need.

(g) The selection of gravesites and niches is the responsibility of the Cemetery Responsible Official. The selection of specific gravesites or niches by the family or other representatives of the deceased is prohibited.

§ 553.41 Proof of eligibility.

(a) The personal representative or primary next of kin is responsible for

providing appropriate documentation to verify the decedent's eligibility for interment or inurnment.

(b) The personal representative or primary next of kin must certify in writing that the decedent is not prohibited from interment, inurnment, or memorialization under § 553.47 because he or she has not committed or been convicted of a Federal or State capital crime or is a convicted Tier III sex offender as defined in 38 U.S.C. 2411.

(c) For service members who die on active duty, a statement of honorable service is required from the first General Court-Martial Convening Authority in the service member's chain of command. If the certificate of honorable service cannot be granted, the service member is ineligible for interment, inurnment, and memorialization pursuant to § 553.46(i).

(d) When applicable, the following documents are required:

(1) Death certificate;

(2) Proof of eligibility as required by paragraphs (e) through (g) of this section;

(3) Any additional documentation to establish the decedent's eligibility (*e.g.*, marriage certificate, birth certificate, waivers, statements that the decedent had no children);

(4) Burial agreement;

(5) Notarized statement that the remains are unavailable for the reasons set forth in § 553.16;

(6) A certificate of cremation or notarized statement attesting to the authenticity of the cremated human remains and that 100% of the cremated remains received from the crematorium are present. The Cemetery Responsible Official may, however, allow a portion of the cremated remains to be removed by the crematorium for the sole purpose of producing commemorative items.

(e) The following documents may be used to establish the eligibility of a primarily eligible person:

(1) DD Form 214, Certificate of Release or Discharge from Active Duty;

(2) WD AGO 53 or 53-55, Enlisted Record and Report of Separation Honorable Discharge;

(3) WD AGO 53-98, Military Record and Report of Separation Certificate of Service;

(4) NAVPERS-553, Notice of Separation from U.S. Naval Service;

(5) NAVMC 70-PD, Honorable Discharge, U.S. Marine Corps;

(6) DD Form 1300, Report of Casualty (required in the case of death of an active duty service member); or

(7) NGB Form 22, National Guard Report of Separation and Record of Service (must indicate a minimum of 20 years total service for pay).

(f) In addition to the documents otherwise required by this section, a request for interment or inurnment of a subsequently remarried spouse must be accompanied by:

(1) A notarized statement from the new spouse of the subsequently remarried spouse agreeing to the interment or inurnment and relinquishing any claim for interment or inurnment in the same gravesite or niche.

(2) Notarized statement(s) from all of the children, age 18 years and over, from the prior marriage agreeing to the interment or inurnment of their parents in the same gravesite or niche.

(g) In addition to the documents otherwise required by this section, a request for interment or inurnment of a permanently dependent child must be accompanied by:

(1) A notarized statement as to the marital status and degree of dependency of the decedent from an individual with direct knowledge; and

(2) A physician's statement regarding the nature and duration of the physical or mental disability; and

(3) A statement from someone with direct knowledge demonstrating the following factors:

(i) The deceased lived most of his or her adult life with one or both parents who is otherwise eligible for interment; and

(ii) The decedent's children and siblings age 18 years and over, or other family members, other than the eligible parent, waive any derivative claim to be interred at the Army Post Cemetery in question.

(h) Veterans or primary next of kin of deceased veterans may obtain copies of their military records by writing to the National Personnel Records Center, Attention: Military Personnel Records, 1 Archives Drive, St. Louis, Missouri 63138-1002 or using their website. All others may request a record by completing and submitting Standard Form 180.

(i) The burden of proving eligibility lies with the party who requests the burial. Commanders of these cemeteries or their Cemetery Responsible Officials will determine whether the submitted evidence is sufficient to support a finding of eligibility.

§ 553.42 General rules governing eligibility for interment or inurnment in Army Post Cemeteries.

(a) Only those persons who meet the criteria of § 553.43 of this subpart or are granted an exception to policy pursuant to § 553.49 of this subpart may be interred in the Army Post Cemeteries. Only those persons who meet the

criteria of § 553.44 of this subpart or are granted an exception to policy pursuant to § 553.49 of this subpart may be interred or inurned in the West Point Post Cemetery. Only those persons who meet the criteria of § 553.45 may be interred in the U.S. Disciplinary Barracks Cemetery.

(b) Derivative eligibility for interment or inurnment may be established only through a decedent's connection to a primarily eligible person and not to another derivatively eligible person.

(c) No veteran is eligible for interment, inurnment, or memorialization in an Army Post Cemetery (except for the U.S. Disciplinary Barracks Cemetery) unless the veteran's last period of active duty ended with an honorable discharge. A general discharge under honorable conditions is not sufficient for interment, inurnment, or memorialization in an Army Post Cemetery.

(d) For purposes of determining whether a service member has received an honorable discharge, final determinations regarding discharges made in accordance with procedures established by chapter 79 of title 10, United States Code, will be considered authoritative.

(e) The Executive Director has the authority to act on requests for exceptions to the provisions of the interment, inurnment, and memorialization eligibility policies contained in this subpart. The Executive Director may delegate this authority in writing on such terms deemed appropriate.

(f) Individuals who do not qualify as a primarily eligible person or a derivatively eligible person, but who are granted an exception to policy to be interred or inurned pursuant to § 553.49 of this subpart in a new gravesite or niche, will be treated as a primarily eligible person for purposes of this subpart.

(g) Notwithstanding any other section in this subpart, memorialization with an individual memorial marker, interment, or inurnment in an Army Post Cemetery is prohibited if there is a gravesite, niche, or individual memorial marker for the decedent in any other Government-operated cemetery or the Government has provided an individual grave marker, individual memorial marker or niche cover for placement in a private cemetery.

§ 553.43 Eligibility for interment and inurnment in Army Post Cemeteries.

Only those who qualify as a primarily eligible person or a derivatively eligible person are eligible for interment and

inurnment in Army Post Cemeteries (except for the West Point Post Cemetery), unless otherwise prohibited as provided for in §§ 553.46 through 553.48 of this subpart, provided that the last period of active duty of the service member or veteran ended with an honorable discharge.

(a) *Primarily eligible persons.* The following are primarily eligible persons for purposes of interment:

(1) Any service member who dies on active duty in the U.S. Armed Forces (except those service members serving on active duty for training only), if the General Courts-Martial Convening Authority grants a certificate of honorable service.

(2) Any veteran retired from a Reserve component who served a period of active duty (other than for training), is carried on the official retired list, and is entitled to receive military retired pay.

(3) Any veteran retired from active military service and entitled to receive military retired pay.

(b) *Derivatively eligible persons.* The following individuals are derivatively eligible persons for purposes of interment who may be interred if space is available in the gravesite of the primarily eligible person:

(1) The spouse of a primarily eligible person who is or will be interred in an Army Post Cemetery in the same grave as the spouse. A former spouse of a primarily eligible person is not eligible for interment in an Army Post Cemetery under this section.

(2) A subsequently remarried spouse if the remarriage is terminated by divorce, annulment or the death of the subsequently remarried spouse's subsequent spouse.

(3) The spouse of an active duty service member or an eligible veteran, who was:

(i) Lost or buried at sea, temporarily interred overseas due to action by the Government, or officially determined to be missing in action;

(ii) Buried in a U.S. military cemetery maintained by the American Battle Monuments Commission; or

(iii) Interred in Arlington National Cemetery as part of a group burial (the derivatively eligible spouse may not be buried in the group burial gravesite) and the active duty service member does not have a separate individual interment or inurnment location.

(4) A minor child or permanently dependent adult child of a primarily eligible person who is or will be interred in an Army Post Cemetery.

(5) The parents of a minor child or a permanently dependent adult child, whose remains were interred in an Army Post Cemetery based on the

eligibility of a parent at the time of the child's death, unless eligibility of the non-service connected parent is lost through divorce from the primarily eligible parent.

§ 553.44 Eligibility for interment and inurnment in the West Point Post Cemetery.

The following persons are eligible for interment and inurnment in the West Point Post Cemetery, unless otherwise prohibited as provided for in §§ 553.46 through 553.48, provided that the last period of active duty of the service member or veteran ended with an honorable discharge or characterization of honorable service for active duty deaths.

(a) *Primarily eligible persons for interment or inurnment.* The following are primarily eligible persons for purposes of interment or inurnment:

(1) A graduate of the United States Military Academy, provided the individual was a U.S. citizen, both as a cadet and at the time of death, and whose military service fulfilled one of the following criteria.

(i) The graduate's service in the Armed Forces of the United States, if any, terminated honorably.

(ii) The graduate's service in wartime in the Armed Forces of a nation that was allied with the United States during the war, if the service terminated honorably.

(2) Members of the Armed Forces of the United States, including United States Military Academy cadets, who were on active duty at the United States Military Academy at time of death and their derivatively eligible person dependents who may have died while the service member was on active duty at the United States Military Academy.

(3) Members of the Armed Forces of the United States whose last permanent active duty station was the United States Military Academy at time of retirement.

(4) Members of the Armed Forces of the United States whose last permanent active duty station was the United States Military Academy prior to retirement for physical disability, in accordance with 10 U.S.C. 1201.

However, personnel (not otherwise eligible) who are transferred to the Medical Holding Detachment, Keller Army Hospital, for medical boarding or medical disability retirement are not, regardless of length of time, eligible for interment or inurnment in the West Point Post Cemetery or Columbarium.

(5) Officers appointed as Professors, United States Military Academy.

(b) *Derivatively eligible persons.* Derivatively eligible persons are those connected to an individual described in paragraph (a) of this section through a

relationship described in § 553.43(b). Such individuals may be interred or inurned if space is available in the primarily eligible person's gravesite or niche.

(c) *Temporary restrictions.* The Secretary of the Army may, in special circumstances, impose temporary restrictions on the eligibility standards for the West Point Post Cemetery. If temporary restrictions are imposed, they will be reviewed annually to ensure the special circumstances remain valid for retaining the temporary restrictions.

§ 553.45 Eligibility for interment in U.S. Disciplinary Barracks Cemetery at Fort Leavenworth.

(a) Military prisoners who die while in Military custody and are not claimed by the person authorized to direct disposition of remains or other persons legally authorized to dispose of remains are permitted to be interred in the U.S. Disciplinary Barracks Cemetery. The Executive Director will make all decisions for interment in the U.S. Disciplinary Barracks Cemetery.

(b) Other persons approved by the Executive Director.

§ 553.46 Ineligibility for interment, inurnment, or memorialization in an Army Post Cemetery.

The following persons are not eligible for interment, inurnment, or memorialization in an Army Post Cemetery:

(a) A father, mother, brother, sister, or in-law solely because of his or her relationship to a primarily eligible person, even though the individual is:

(1) Dependent on the primarily eligible person for support; or
(2) A member of the primarily eligible person's household.

(b) Except for the U.S. Disciplinary Barracks Cemetery in § 553.45, a person whose last period of service was not characterized as an honorable discharge (e.g., a separation or discharge under general but honorable conditions, other than honorable conditions, a bad conduct discharge, a dishonorable discharge, or a dismissal), regardless of whether the person:

(1) Received any other veterans' benefits; or
(2) Was treated at a Department of Veterans Affairs hospital or died in such a hospital.

(c) A person who has volunteered for service with the U.S. Armed Forces, but has not yet entered on active duty.

(d) A former spouse whose marriage to the primarily eligible person ended in divorce.

(e) A spouse who predeceases the primarily eligible person and is interred

or inurned in a location other than an Army Cemetery and the primarily eligible person remarries.

(f) A divorced spouse of a primarily eligible person, or the service-connected parent when the divorced spouse has a child interred or inurned in an Army cemetery under the child's derivative eligibility.

(g) Otherwise derivatively eligible persons, such as a spouse or minor child, if the primarily eligible person was not or will not be interred or inurned at an Army Cemetery.

(h) A person convicted in a Federal court or by a court-martial of any offense involving subversive activity or an offense described in 18 U.S.C. 1751 (except for military prisoners at the U.S. Disciplinary Barracks Cemetery).

(i) A service member who dies while on active duty, if the first General Courts-Martial Convening Authority in the service member's chain of command determines that there is clear and convincing evidence that the service member engaged in conduct that would have resulted in a separation or discharge not characterized as an honorable discharge (e.g., a separation or discharge under general but honorable conditions, other than honorable conditions, a bad conduct discharge, a dishonorable discharge, or a dismissal) being imposed, but for the death of the service member.

(j) If animal remains are unintentionally commingled with human remains due to a natural disaster, unforeseen accident, act of war or terrorism, violent explosion, or similar incident, and such remains cannot be separated from the remains of an eligible person, then the remains may be interred or inurned with the eligible person, but the identity of the animal remains shall not be inscribed or identified on a niche, marker, headstone, or otherwise.

§ 553.47 Prohibition of interment, inurnment, or memorialization in an Army Post Cemetery of persons who have committed certain crimes.

(a) *Prohibition.* Notwithstanding §§ 553.43 through 553.45, and pursuant to 10 U.S.C. 985 and 38 U.S.C. 2411, the interment, inurnment, or memorialization in an Army cemetery of any of the following persons is prohibited:

(1) Any person identified in writing to the Executive Director by the Attorney General of the United States, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a Federal capital crime and whose conviction is final

(other than a person whose sentence was commuted by the President).

(2) Any person identified in writing to the Executive Director by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a State capital crime and whose conviction is final (other than a person whose sentence was commuted by the Governor of the State).

(3) Any person identified in writing to the Executive Director by the Attorney General of the United States or by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of murder, as defined in as defined in 38 U.S.C. 2411, and whose conviction is final (other than a person whose sentence was commuted by the President or the Governor of a State, as the case may be).

(4) Any person identified in writing to the Executive Director by the Attorney General of the United States, or by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a Federal or State capital crime, as defined in 38 U.S.C. 2411, or other crime causing the person to be a Tier III sex offender for purposes of the Sex Offender Registration and Notification Act, who for such crime is sentenced to a minimum of life imprisonment and whose conviction is final (other than a person whose sentence was commuted by the President or the Governor of a State, or the appropriate commutation authority as dictated by the law in the jurisdiction where the conviction was finalized, as the case may be).

(5) Any person found under procedures specified in § 553.48 to have committed any crime identified in § 553.47(a)(1) through (4), but who has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution. Notice from Federal or State officials is not required for this prohibition to apply.

(b) *Notice.* The Executive Director is designated as the Secretary of the Army's representative authorized to receive from the appropriate Federal or State officials notification of conviction of capital crimes referred to in this section.

(c) *Confirmation of person's eligibility.* (1) If notice has not been received, but the Executive Director has reason to believe that the person may have been convicted of a Federal capital crime or a State capital crime, the Executive Director shall seek written confirmation from:

(i) The Attorney General of the United States, with respect to a suspected Federal capital crime; or

(ii) An appropriate State official, with respect to a suspected State capital crime.

(2) The Executive Director will defer the decision on whether to inter, inurn, or memorialize a decedent until a written response is received.

(d) *Due diligence.* Army Commanders who have cemeteries for which they are responsible will make every effort to determine if the decedent is ineligible in accordance with 10 U.S.C. 985 and 38 U.S.C. 2411. For those determined ineligible due to the provisions of these sections, commanders will submit their determinations in writing to the Executive Director for validation.

§ 553.48 Findings concerning the commission of certain crimes where a person has not been convicted due to death or flight to avoid prosecution.

(a) *Preliminary inquiry.* If the Executive Director has reason to believe that a decedent may have committed a Federal capital crime or a State capital crime, as defined in 38 U.S.C. 2411, but has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution, the Executive Director shall submit the issue to the General Counsel of the Department of the Army. The General Counsel of the Department of the Army shall initiate a preliminary inquiry seeking information from Federal, State, or local law enforcement officials, or other sources of potentially relevant information.

(b) *Decision after preliminary inquiry.* If, after conducting the preliminary inquiry described in paragraph (a) of this section, the General Counsel of the Department of the Army determines that credible evidence exists suggesting the decedent may have committed a Federal capital crime or State capital crime, as defined in 38 U.S.C. 2411, then further proceedings under this section are warranted to determine whether the decedent committed such crime. Consequently, the General Counsel of the Department of the Army shall present the personal representative with a written notification of such preliminary determination and a dated, written notice of the personal representative's procedural options.

(c) *Notice and procedural options.* The notice of procedural options shall indicate that, within fifteen days, the personal representative may:

- (1) Request a hearing;
- (2) Withdraw the request for interment, inurnment, or memorialization; or

(3) Do nothing, in which case the request for interment, inurnment, or memorialization will be considered to have been withdrawn.

(d) *Time computation.* The fifteen-day time period begins on the calendar day immediately following the earlier of the day the notice of procedural options is delivered in person to the personal representative or is sent by U.S. registered mail or, if available, by electronic means to the personal representative. It ends at midnight on the fifteenth day. The period includes weekends and holidays.

(e) *Hearing.* The purpose of the hearing is to allow the personal representative to present additional information regarding whether the decedent committed a Federal capital crime or a State capital crime, as defined in 38 U.S.C. 2411. In lieu of making a personal appearance at the hearing, the personal representative may submit relevant documents for consideration.

(1) If a hearing is requested, the General Counsel of the Department of the Army shall conduct the hearing.

(2) The hearing shall be conducted in an informal manner.

(3) The rules of evidence shall not apply.

(4) The personal representative and witnesses may appear, at no expense to the Government, and subject to the discretion of the General Counsel of the Department of the Army, they may testify. All testimony shall be under oath and a person who possesses the legal authority to administer oaths shall administer the oath.

(5) The General Counsel of the Department of the Army shall consider all relevant information obtained.

(6) The hearing shall be appropriately recorded. Upon request, a copy of the record shall be provided to the personal representative.

(f) *Final determination.* After considering the opinion of the General Counsel of the Department of the Army, and any additional information submitted by the personal representative, the Secretary of the Army shall determine the decedent's eligibility for interment, inurnment, or memorialization. This determination is final and not appealable.

(1) The determination shall be based on evidence that supports or undermines a conclusion that the decedent's actions satisfied the elements of the crime as established by the law of the jurisdiction in which the decedent would have been prosecuted.

(2) If an affirmative defense is offered by the decedent's personal representative, a determination as to

whether the defense was met shall be made according to the law of the jurisdiction in which the decedent would have been prosecuted.

(3) Mitigating evidence shall not be considered.

(4) The opinion of the local, State, or Federal prosecutor as to whether he or she would have brought charges against the decedent had the decedent been available is relevant but not binding and shall be given no more weight than other facts presented.

(g) *Notice of decision.* The Executive Director shall provide written notification of the Secretary's decision to the personal representative.

§ 553.49 Exceptions to policies for interment or inurnment at Army Post Cemeteries.

(a) Requests for exceptions to policy for interment or inurnment at Army post cemeteries, to include the West Point Post Cemetery, will be made to the Executive Director.

(b) Eligibility standards for interment and inurnment are based on honorable military service, except at the U.S. Disciplinary Barracks Cemetery. Exceptions to the eligibility standards are rarely granted. When granted, exceptions are for those persons who have made significant contributions that directly and substantially benefited the U.S. military.

(c) Requests for an exception to the interment or inurnment eligibility policies shall be considered only after the individual's death.

(d) Procedures for submitting requests for exceptions to policy for interment and inurnment will be established by the Executive Director.

(e) The decision by the Executive Director is final and not appealable.

§ 553.50 Disinterment and disinurnment of remains.

(a) Interments and inurnments in Army post cemeteries are considered permanent.

(b) Requests for the permanent (*i.e.*, the remains will not be immediately returned to the same gravesite or niche) disinterment or disinurnment of individually interred or inurned remains are considered requests for exceptions to this policy, and must be addressed to the Executive Director for decision. The request must include:

- (1) A full statement of the reasons for the disinterment or disinurnment of the remains from the personal representative or primary next of kin who directed the original interment or inurnment if still living, or if not, the current personal representative or primary next of kin;

(2) A notarized statement from each living close relative of the decedent that he or she does not object to the proposed disinterment or disinurnment;

(3) A notarized statement by a person who has personal knowledge of the decedent's relatives stating that the persons giving statements comprise all of the decedent's living close relatives; and

(4) An appropriate funding source for the disinterment or disinurnment, as disinterments and disinurnments of individually interred or inurned remains must be accomplished without expense to the Government, unless done in accordance with paragraph (c) of this section.

(c) Disinterments performed at the direction of the Secretary of Defense for the purpose of the identification of remains shall be done in compliance

with, and as directed by, Department of Defense regulation and policy.

(d) The Executive Director shall carry out disinterments and disinurnments directed by a court of competent jurisdiction upon presentation of a lawful, original court order and after consulting with the General Counsel of the Department of the Army.

(e) Disinterment or disinurnment is not permitted for the sole purpose of splitting remains or keeping a portion of the remains in a location other than in the cemetery where the disinterment or disinurnment occurred.

(f) Disinterment of previously designated group remains for the sole purpose of individually segregating the group remains is not permitted unless the requirements of paragraph (c) of this section are met.

§ 553.51 Private headstones and markers.

Construction and installation of private headstones and markers, in lieu of Government-furnished headstones and markers, are prohibited in Army post cemeteries unless approved by the Executive Director prior to October 1, 2020. Repair or replacement of private headstones and markers that were approved prior to October 1, 2020, must be consistent with the requirements of §§ 553.28(b) through (f), 553.29, and 553.30, and the repair or replacement must be approved in advance by the Executive Director.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2020–17801 Filed 9–11–20; 4:15 pm]

BILLING CODE 5061–AP–P

REFERENCE D



Recent Interment Criteria Polls

OVERWHELMING CONSENSUS:

93+%

Of the nearly 260,000 respondents want Arlington National Cemetery to remain an active cemetery well into the future.

MOH recipients and KIA have the most support for maintaining eligibility.

Three-quarters of respondents support restricting eligibility to keep ANC active.

91% of respondents support changes that would leave retirees eligible for above ground placement.

Survey #1, JUL through NOV 2017, 24k respondents

Respondents overwhelmingly want Arlington National Cemetery to remain an active cemetery well into the future

93%

Veteran

36% of respondents

82%

Agree: ANC should expand where possible

63%

Agree: If no further geographic expansion were possible, ANC should restrict eligible populations to extend the future of active burials

Service Member

49% of respondents

76%

Agree: ANC should expand where possible

73%

Agree: If no further geographic expansion were possible, ANC should restrict eligible populations to extend the future of active burials

Military Family

14% of respondents

81%

Agree: ANC should expand where possible

66%

Agree: If no further geographic expansion were possible, ANC should restrict eligible populations to extend the future of active burials

Unaffiliated

2% of respondents

80%

Agree: ANC should expand where possible

69%

Agree: If no further geographic expansion were possible, ANC should restrict eligible populations to extend the future of active burials

Survey #2, APR through JUN 2018, 230k respondents

Respondents overwhelmingly want Arlington National Cemetery to remain an active cemetery well into the future

96%

Veteran

77% of respondents

89%

Agree: ANC should expand where possible but limit eligibility when necessary

76%

Agree: ANC should restrict eligible populations to extend the future of active burials

Service Member

17% of respondents

90%

Agree: ANC should expand where possible but limit eligibility when necessary

78%

Agree: ANC should restrict eligible populations to extend the future of active burials

Military Family

5% of respondents

87%

Agree: ANC should expand where possible but limit eligibility when necessary

74%

Agree: ANC should restrict eligible populations to extend the future of active burials

Unaffiliated

1% of respondents

87%

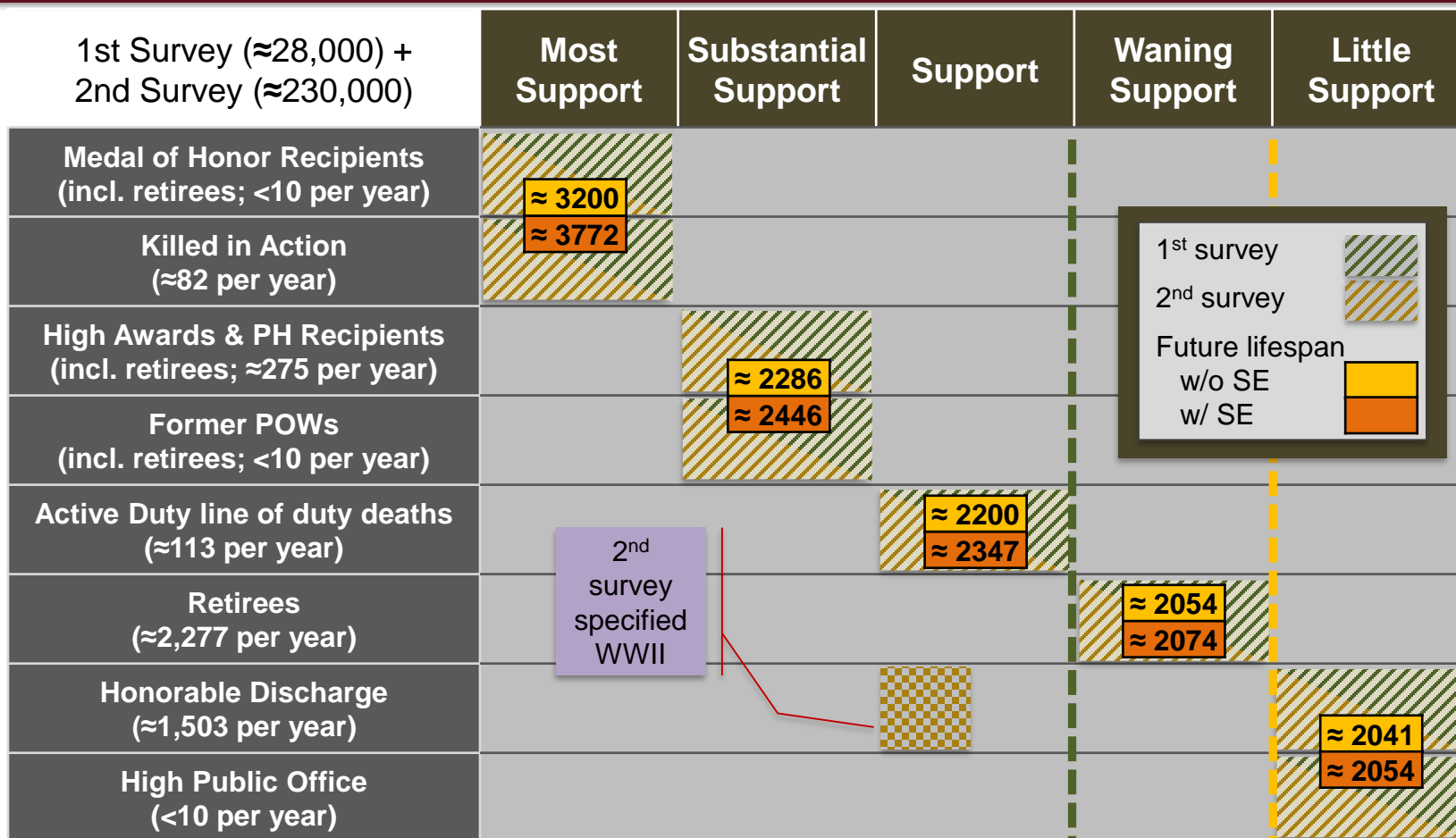
Agree: ANC should expand where possible but limit eligibility when necessary

77%

Agree: ANC should restrict eligible populations to extend the future of active burials



Respondents' thoughts on eligibility



REFERENCE E



June 30, 2020

Ms. Karen Durham-Aguilera
Executive Director, Army National Military Cemeteries
Arlington National Cemetery
1 Memorial Ave.
Arlington, VA 22211

Dear Ms. Durham-Aguilera,

The Aerospace Industries Association (AIA) and Challenger Center are pleased to submit this proposal for the Apollo 1 Commemorative Monument at the Arlington National Cemetery.

In December 2017, President Trump signed the National Defense Authorization Act for Fiscal Year 2018 that included authorization for the construction of a monument to the crew of the Apollo 1 at Arlington National Cemetery (H.R. 2810). The monument honors the lives and service of Apollo 1 crew members Virgil Ivan Grissom, Edward Higgins White II, and Roger Bruce Chaffee, who lost their lives during a launch rehearsal in 1967. AIA and Challenger Center are partnered on this important project to ensure the support of the astronauts' families, educate current and future generations on these heroes' sacrifice, and maintain the monument in perpetuity.

For over 100 years, the Aerospace Industries Association (AIA) has been the leading voice of the aerospace and defense industry. AIA represents more than 300 businesses in the aerospace and defense sector, from the largest public companies in the sector to small and medium sized firms critical to the supply chain. Our industry has played a vital role in America's space efforts, including the Apollo missions. We are dedicated to ensuring the inspiring astronauts – who risk their lives to explore the stars – are not only remembered, but honored. To support this effort, AIA will establish, within the AIA-affiliated tax-exempt organization the National Center of Advanced Technologies, a dedicated fund to provide for the construction, perpetual maintenance, and replacement, if necessary, of the proposed Apollo 1 commemorative monument. This fund will be committed to the construction and ongoing maintenance of the Apollo 1 memorial.

Challenger Center was created in the aftermath of the Challenger accident to carry the crew's educational mission forward. Its global network of Challenger Learning Centers uses space-themed simulated learning and role-playing strategies to help students bring their classroom studies to life and cultivate skills needed for future success, such as problem solving, critical thinking, communication, and teamwork. Challenger Center reaches hundreds of thousands of students and tens of thousands of teachers every year. It also worked with and continues to serve as the conduit to the Apollo 1 crew members' families, who have enthusiastically approved the artistic design.

As described further in this submission, the monument's proposed placement is in Sector 3, located near the graves of astronauts Grissom and Chaffee, as well as other astronauts buried at Arlington National Cemetery. In accordance with the authorizing language and to help preserve the limited space available at the cemetery, this location is in a non-burial area. The Apollo 1 monument dimensions match those of recently erected monuments, including the USS Thresher commemorative monument. Rick Burroughs from Kline Memorials will be the vendor assisting with the creation, delivery, and installation of the monument.

We thank you for considering this proposal and look forward to working with you further.

Sincerely,



Eric Fanning
President and CEO
Aerospace Industries Association



Dr. Lance Bush
President and CEO
Challenger Center



CHALLENGER CENTER FOR SPACE SCIENCE EDUCATION

Mr. Patrick K. Hallinan
Executive Director
Army National Military Cemeteries
Arlington National Cemetery
Arlington, VA 22211

Ms. Katherine Kelley
Acting Superintendent
Arlington National Cemetery
Arlington, VA 22211

Dear Mr. Hallinan and Ms. Kelley:

On behalf of the close family members of NASA's Apollo 1 crew, we are writing to strongly endorse the request that Arlington National Cemetery construct a national memorial in honor of our loved ones.

On January 27, 1967, America lost three national heroes and we lost three beloved family members: Air Force Lieutenant Colonel Virgil I. "Gus" Grissom, Air Force Lieutenant Colonel Edward H. White, II and U.S. Navy Lieutenant Commander Roger B. Chaffee. All of our relatives willingly and gladly put their lives on the line for their country in their military service, and as members of NASA's astronaut corps. We have long wondered why their sacrifice was not recognized at Arlington National Cemetery and are heartened that other citizens have the same view and are acting to ensure that their legacy is duly honored.

The commander of the Apollo 1 mission, Colonel Grissom once said, "The conquest of space is worth the risk of life. Our God-given curiosity will force us to go there ourselves because in the final analysis, only man can fully evaluate the moon in terms understandable to other men." We recognize that sadly, other astronauts on future missions to explore and discover worlds around us, will also lose their lives. But for time immemorial, the Apollo 1 crew will always be the first American astronaut crew to have made the supreme sacrifice, and as such are worthy of special recognition, alongside the memorials to the Space Shuttle Challenger and Columbia crews. As we approach the fiftieth anniversary of the Apollo 1 accident, we can think of no better time to recognize these intrepid astronauts and family members than now.

Thank you for your thoughtful consideration.

Respectfully submitted,

Lowell Grissom
Brother of Virgil "Gus" Grissom

Sheryl Chaffee
Daughter of Roger Chaffee

Bonnie Baer
Daughter of Ed White

Martha Chaffee
Wife of Roger Chaffee

Monument Purpose

To honor and remember the crew of the Apollo 1 mission who lost their lives on January 27th, 1967.

Justification

The following is a detailed justification for the placement of a commemorative monument at Arlington National Cemetery as a tribute to the sacrifice made by the crew of the Apollo 1 mission; Virgil “Gus” Grissom, Edward White, and Roger B. Chaffee.

NASA’s Apollo program ultimately resulted in eleven manned space flights and a mission that landed humans on the surface of the moon for the first time in history. Though the program was ultimately successful, it did not come without sacrifices.

The Apollo 1 mission, crewed by Command Pilot Virgil “Gus” Grissom, Senior Pilot Edward White, and Pilot Roger B. Chaffee was the first manned mission under the Apollo program. Theirs was intended to be an earth-orbiting mission scheduled to launch on February 21st, 1967. The crew conducted a launch test at Cape Kennedy Air Force Station on January 27th, 1967, during which the Command Module was mounted on the launch pad and the crew would undergo a full countdown sequence.

The crew entered the capsule at 1pm, but the preflight test was delayed due to a number of minor issues. At 6:31pm, a short-circuit in a group of wires created a spark in the cabin. That spark quickly turned into flames exacerbated by the high levels of oxygen and the presence of flammable materials. The crew did not have time to open the hatch to escape, and perished in a matter of seconds.

After the tragic fire, the Command Module was closely studied and a rigorous investigation was conducted. A new hatch design that could be opened more quickly was implemented, flammable

materials were removed and replaced with self-extinguishing components, and other significant design modifications resulted in a much safer and more reliable spacecraft.

The following year, Apollo 7 successfully launched into space and streamed the first live television program from an American spacecraft. Apollo 8 orbited the moon and took the iconic “Earthrise” photo. In 1969, Apollo 9 orbited the Earth and conducted a spacewalk, and Apollo 10 orbited within ten miles of the lunar surface. On July 20th, 1969, the crew of Apollo 11 successfully landed on the moon for the first time in human history. Without the sacrifice made by Grissom, White, and Chaffee, none of these successes would have been possible.

The remains of Gus Grissom and Roger Chaffee are currently interred at Arlington National Cemetery. A commemorative Apollo 1 monument, combined with the presence of their tombstones, will appropriately establish in perpetuity the memory of the crew among others who have made the ultimate sacrifice for the good of their country and the world. The families of the crew have waited more than 50 years for a commemoration of the crew’s sacrifice. This monument will honor them and ensure that the public recognizes the Apollo 1 crew as an integral part of the successes of the Apollo program and the continued exploration of space for the benefit of humanity.

References

<https://www.nasa.gov/specials/apollo50th/missions.html>

<https://www.nasa.gov/audience/forstudents/5-8/features/nasa-knows/what-was-apollo-program-58.html>

<https://nssdc.gsfc.nasa.gov/planetary/lunar/apollo1info.html>

National Defense Authorization Act for Fiscal Year 2018

The following is the cover page, table of contents, and section 1087 of the NDAA for the fiscal year 2018, which authorize construction of a memorial to the crew of the Apollo 1 launch test accident at Arlington National Cemetery.

To read the 2018 NDAA in its entirety, please see the following link:

<https://www.congress.gov/115/plaws/publ91/PLAW-115publ91.pdf>

Public Law 115–91
115th Congress

An Act

To authorize appropriations for fiscal year 2018 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Dec. 12, 2017
[H.R. 2810]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2018”.

National Defense
Authorization
Act for Fiscal
Year 2018.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into four divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Funding Tables.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.
Sec. 4. Budgetary effects of this Act.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization Of Appropriations

Sec. 101. Authorization of appropriations.

Subtitle B—Army Programs

- Sec. 111. Authority to expedite procurement of 7.62mm rifles.
Sec. 112. Limitation on availability of funds for Increment 2 of the Warfighter Information Network-Tactical program.
Sec. 113. Limitation on availability of funds for upgrade of M113 vehicles.

Subtitle C—Navy Programs

- Sec. 121. Aircraft carriers.
Sec. 122. Icebreaker vessel.
Sec. 123. Multiyear procurement authority for Arleigh Burke class destroyers.
Sec. 124. Multiyear procurement authority for Virginia class submarine program.
Sec. 125. Design and construction of the lead ship of the amphibious ship replacement designated LX(R) or amphibious transport dock designated LPD-30.
Sec. 126. Multiyear procurement authority for V-22 Osprey aircraft.
Sec. 127. Extension of limitation on use of sole-source shipbuilding contracts for certain vessels.

- Sec. 1066. Comprehensive review of maritime intelligence, surveillance, reconnaissance, and targeting capabilities.
- Sec. 1067. Report on the need for a Joint Chemical-Biological Defense Logistics Center.
- Sec. 1068. Missile Technology Control Regime Category I unmanned aerial vehicle systems.
- Sec. 1069. Recommendations for interagency vetting of foreign investments affecting national security.
- Sec. 1070. Briefing on prior attempted Russian cyber attacks against defense systems.
- Sec. 1071. Enhanced analytical and monitoring capability of the defense industrial base.
- Sec. 1072. Report on defense of combat logistics and strategic mobility forces.
- Sec. 1073. Report on acquisition strategy to recapitalize the existing system for undersea fixed surveillance.
- Sec. 1074. Report on implementation of requirements in connection with the organization of the Department of Defense for management of special operations forces and special operations.
- Sec. 1075. Report on the global food system and vulnerabilities relevant to Department of Defense missions.

Subtitle G—Modernizing Government Technology

- Sec. 1076. Definitions.
- Sec. 1077. Establishment of agency information technology systems modernization and working capital funds.
- Sec. 1078. Establishment of technology modernization fund and board.

Subtitle H—Other Matters

- Sec. 1081. Technical, conforming, and clerical amendments.
- Sec. 1082. Clarification of applicability of certain provisions of law to civilian judges of the United States Court of Military Commission Review.
- Sec. 1083. Modification of requirement relating to conversion of certain military technician (dual status) positions to civilian positions.
- Sec. 1084. National Guard accessibility to Department of Defense issued unmanned aircraft.
- Sec. 1085. Sense of Congress regarding aircraft carriers.
- Sec. 1086. Sense of Congress recognizing the United States Navy Seabees.
- Sec. 1087. Construction of memorial to the crew of the Apollo I launch test accident at Arlington National Cemetery.
- Sec. 1088. Department of Defense engagement with covered non-Federal entities.
- Sec. 1089. Prize competition to identify root cause of physiological episodes on Navy, Marine Corps, and Air Force training and operational aircraft.
- Sec. 1090. Providing assistance to House of Representatives in response to cybersecurity events.
- Sec. 1091. Transfer of surplus firearms to Corporation for the Promotion of Rifle Practice and Firearms Safety.
- Sec. 1092. Collaboration between Federal Aviation Administration and Department of Defense on unmanned aircraft systems.
- Sec. 1093. Carriage of certain programming.
- Sec. 1094. National strategy for countering violent extremism.
- Sec. 1095. Sense of Congress regarding World War I.
- Sec. 1096. Notice to Congress of terms of Department of Defense settlement agreements.
- Sec. 1097. Office of Special Counsel reauthorization.
- Sec. 1098. Air transportation of civilian Department of Defense personnel to and from Afghanistan.

TITLE XI—CIVILIAN PERSONNEL MATTERS

- Sec. 1101. Direct hire authority for the Department of Defense for personnel to assist in business transformation and management innovation.
- Sec. 1102. Extension of direct hire authority for Domestic Defense Industrial Base Facilities and Major Range and Test Facilities Base.
- Sec. 1103. Extension of authority to provide voluntary separation incentive pay for civilian employees of the Department of Defense.
- Sec. 1104. Additional Department of Defense science and technology reinvention laboratories.
- Sec. 1105. One year extension of authority to waive annual limitation on premium pay and aggregate limitation on pay for Federal civilian employees working overseas.
- Sec. 1106. Direct hire authority for financial management experts in the Department of Defense workforce.

interests in times of war and peace, adapting to the immediate and ever-changing nature of the world for over 90 years; and
 (2) aircraft carrier contributions and heritage should be celebrated.

SEC. 1086. SENSE OF CONGRESS RECOGNIZING THE UNITED STATES NAVY SEABEES.

(a) **FINDINGS.**—Congress makes the following findings:

(1) On March 5, 1942, Navy Construction Force personnel, known as the “Seabees”, were officially established by the Navy Department.

(2) The purpose of the Navy Seabees is to build, maintain, and support base infrastructure in remote locations for the Navy and Marine Corps, while simultaneously being capable of engaging in combat operations.

(3) The Navy Seabees dual-role is exemplified by the Seabee motto *Construimus, Batuimus*: We Build, We Fight.

(4) Throughout their history, the Navy Seabees have answered the call of duty to protect the United States and its democratic values both in times of war and peace.

(5) The Navy Seabees support United States national security at Navy fleet and combatant commands worldwide, through the construction, both on land and underwater, of bases, airfields, roads, bridges, and other infrastructure.

(6) The Navy Seabees and their families have demonstrated unmatched courage and dedication to sacrifice for the United States, from service in World War II, Korea, and Vietnam to the recent conflicts in Afghanistan, Iraq, and elsewhere.

(7) The Navy Seabees exhibit honor, personal courage, and commitment as they sacrifice their personal comfort to keep the United States safe from threats.

(8) The Navy Seabees continue to display strength, professionalism, and bravery in the all-volunteer force.

(b) **SENSE OF CONGRESS.**—Congress recognizes the United States Navy Seabees and the Navy personnel who comprise the construction force for the Navy and the Marine Corps as critical elements in deterring conflict, overcoming aggression, and rebuilding democratic institutions.

38 USC 2409
note.

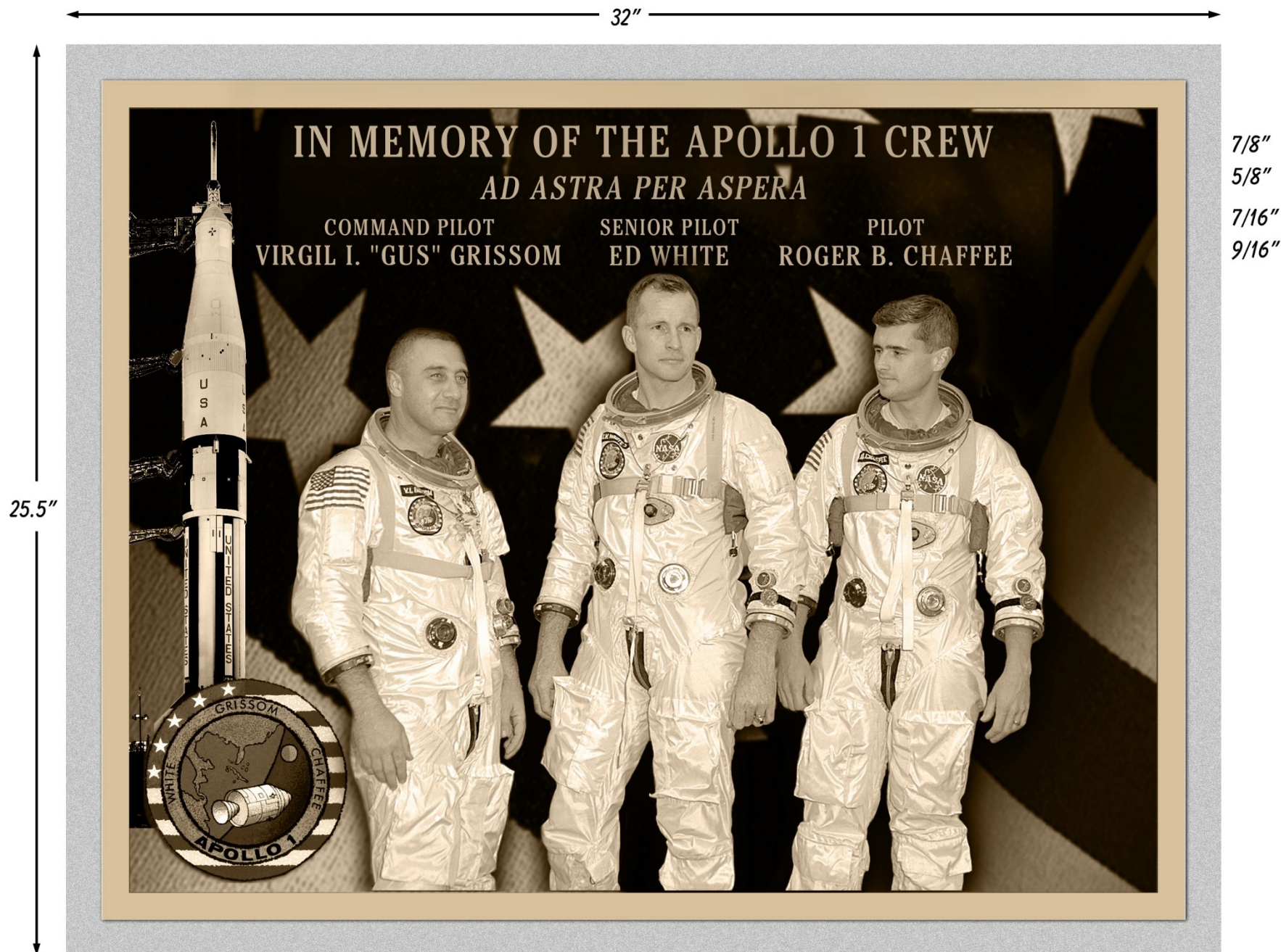
SEC. 1087. CONSTRUCTION OF MEMORIAL TO THE CREW OF THE APOLLO I LAUNCH TEST ACCIDENT AT ARLINGTON NATIONAL CEMETERY.

Subject to applicable requirements of section 2409(b)(2)(E) of title 38, United States Code, the Secretary of the Army, in consultation with the Administrator of the National Aeronautics and Space Administration, the Commission of Fine Arts, and the Advisory Committee on Arlington National Cemetery, shall authorize the construction, at an appropriate place in Arlington National Cemetery, Virginia, of a memorial marker honoring the three members of the crew of the Apollo I who died during a launch rehearsal test on January 27, 1967, in Cape Canaveral, Florida. The memorial may not be constructed in a location that is otherwise suitable as an interment site.

10 USC 113 note.

SEC. 1088. DEPARTMENT OF DEFENSE ENGAGEMENT WITH COVERED NON-FEDERAL ENTITIES.

(a) **REVIEW OF CURRENT GUIDANCE.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense



30" X 23.25" IMAGECAST PLAQUE WITH 1" GRANITE BORDER

Approved By: _____ Date: _____



June 30, 2020

Ms. Karen Durham-Aguilera
Executive Director, Army National Military Cemeteries
Arlington National Cemetery
1 Memorial Ave.
Arlington, VA 22211

Dear Ms. Durham-Aguilera,

For over 100 years, the Aerospace Industries Association (AIA) has been the leading voice of the aerospace and defense industry. AIA represents more than 300 businesses, from the largest public companies in the sector to small and medium sized firms critical to the supply chain. These companies contribute to over \$929 billion in U.S economic output, a \$90 billion positive balance of trade, and a workforce of more than 2 million American workers.

AIA's Executive Committee includes AIA President and CEO Eric Fanning, Chairman Kelly Ortberg (Special Advisor to the Office of the Chairman & CEO, Raytheon Technologies), Vice Chair Kathy Warden (CEO, Northrop Grumman), and the CEOs and senior executives of Aero-Mark, Aerojet Rocketdyne, BAE Systems, Ball Aerospace, Boeing, Eaton, General Dynamics, GE Aviation, Honeywell, Howmet Aerospace, Huntington Ingalls Industries, InterConnect Wiring, Kratos, Leidos, L3Harris, Lockheed Martin, Mercury Systems, Spirit AeroSystems, and Textron.

AIA will establish, within the AIA-affiliated tax-exempt organization the National Center of Advanced Technologies, a dedicated fund to provide for the construction, perpetual maintenance, and replacement, if necessary, of the proposed Apollo 1 commemorative monument. This fund will be committed to the construction and ongoing maintenance of the Apollo 1 memorial.

We thank you for considering this proposal and look forward to working with you further.

Sincerely,

A handwritten signature in black ink, reading 'Eric Fanning', is positioned above the printed name and title.

Eric Fanning
President and CEO
Aerospace Industries Association

REFERENCE F



HONORARY CHAIRS

Gen. Bryan D. Brown, USA (Ret.)
Lt. Gen. Charles T. Cleveland, USA (Ret.)
The Hon. Robert M. Gates
The Hon. Porter J. Goss
Maj. Gen. Paul E. Lefebvre, USMC (Ret.)
Lt. Gen. John F. Mulholland Jr., USA (Ret.)
Adm. Eric T. Olson, USN (Ret.)
The Hon. Leon E. Panetta
Gen. David H. Petraeus, USA (Ret.)
Gen. Norton A. Schwartz, USAF (Ret.)
The Viscount Slim
Amb. William J. vanden Heuvel
Dr. Michael G. Vickers
Judge William H. Webster
Amb. R. James Woolsey Jr.

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Charles T. Pinck
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LCDR Chris Randolph, USCG (Ret.)
Arthur Reinhardt

The OSS Society
7700 Leesburg Pike, Ste. 324
Falls Church, VA 22043
703-356-6667
oss@ossociety.org

March 9, 2020

Superintendent
Arlington National Cemetery
Arlington, Virginia 22211

RE: Case #186841

To the Superintendent:

Under the provisions of Title 38, U.S. Code, Paragraph 2409, the Office of Strategic Services (OSS) Society, a non-governmental entity, requests approval to place a memorial to the OSS in Arlington National Cemetery. The purpose of the memorial is to honor OSS personnel, especially those killed or missing in action, for their heroic service during World War II. Although the memorial commemorates the achievements of these OSS personnel as a group, a suggested location is along Roosevelt Drive, Section Two, as close as possible to the grave of OSS founder General William Donovan.

The OSS was created by President Franklin Roosevelt by an executive order dated June 13, 1942 (Tab 1). Its personnel were drawn from every branch of the armed forces of the United States. The OSS was terminated by an executive order signed by President Truman on September 20, 1945 (Tab 2). Its contributions to America's victory in World War II and the creation of our intelligence and special operations communities are summarized in the enclosed copy of the OSS Congressional Gold Medal Act, which was passed by the 114th Congress (Tab 3). All costs associated with the memorial will be borne by The OSS Society, which has sufficient funds for this purpose (Tab 4). We have attached an independent study and assessment of potential alternative locations (Tab 5); a drawing of the proposed memorial (Tab 6); and letters of support from members of the House and Senate Intelligence Committees, respectively; The Hon. Ellen McCarthy, director of the Department of State's Bureau of Intelligence and Research; and Gen. Richard Clarke, commander of the U.S. Special Operations Command (Tab 7).

Should you have any questions or require any additional information, please contact me at vjhugo1486@gmail.com or at 703-893-3797.

Sincerely,

MG Victor J. Hugo Jr., USA (Ret.), Executive Vice President

TAB ONE

Document 2

MILITARY ORDER

By virtue of the authority vested in me as President of the United States and as Commander-in-Chief of the Army and Navy of the United States, it is ordered as follows:

1. The office of Coordinator of Information established by Order of July 11, 1941, exclusive of the foreign information activities transferred to the Office of War Information by Executive Order of June 13, 1942, shall hereafter be known as the Office of Strategic Services, and is hereby transferred to the jurisdiction of the United States Joint Chiefs of Staff.
2. The Office of Strategic Services shall perform the following duties:
 - a. Collect and analyze such strategic information as may be required by the United States Joint Chiefs of Staff.
 - b. Plan and operate such special services as may be directed by the United States Joint Chiefs of Staff.
3. At the head of the Office of Strategic Services shall be a Director of Strategic Services who shall be appointed by the President and who shall perform his duties under the direction and supervision of the United States Joint Chiefs of Staff.
4. William J. Donovan is hereby appointed as Director of Strategic Services.
5. The Order of July 11, 1941 is hereby revoked.

FRANKLIN D. ROOSEVELT
Commander-in-Chief

THE WHITE HOUSE,
June 13, 1942.

EXECUTIVE ORDER

TERMINATION OF THE OFFICE OF STRATEGIC SERVICES
AND DISPOSITION OF ITS FUNCTIONS

By virtue of the authority vested in me by the Constitution and Statutes, including Title I of the First War Powers Act, 1941, and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered as follows:

1. There are transferred to and consolidated in an Interim Research and Intelligence Service, which is hereby established in the Department of State, (a) the functions of the Research and Analysis Branch and of the Presentation Branch of the Office of Strategic Services (provided for by the Military Order of June 13, 1942), excluding such functions performed within the countries of Germany and Austria, and (b) those other functions of the Office of Strategic Services (hereinafter referred to as the Office) which relate to the functions of the said Branches transferred by this paragraph. The functions of the Director of Strategic Services and of the United States Joint Chiefs of Staff, relating to the functions transferred to the Service by this paragraph, are transferred to the Secretary of State. The personnel, property, and records of the said Branches, except such thereof as is located in Germany and Austria, and so much of the other personnel, property, and records of the Office and of the funds of the Office as the Director of the Bureau of the Budget shall determine to relate primarily to the functions transferred by this paragraph, are transferred to the said Service. Military personnel now on duty in connection with the activities transferred by this paragraph may, subject to applicable law and to the extent mutually agreeable to the Secretary of State and to the Secretary of War or the Secretary of the Navy, as the case may be, continue on such duty in the Department of State.
2. The Interim Research and Intelligence Service shall be abolished as of the close of business December 31, 1945, and the Secretary of State shall provide for winding up its affairs. Pending such abolition, (a) the Secretary of State may transfer from the said Service to such agencies of the Department of State as he shall designate any function of the Service, (b) the Secretary may curtail the activities carried on by the Service, (c) the head of the Service, who shall be designated by the Secretary, shall be responsible to the Secretary or to such other officer of the Department of State as the Secretary shall direct, and (d) the Service shall, except as otherwise provided in this order, be administered as an organizational entity in the Department of State.
3. All functions of the Office not transferred by paragraph 1 of this order, together with all personnel, records, property, and funds of the Office not so transferred, are transferred to the Department of War; and the Office, including the office of the Director of Strategic Services, is terminated. The functions of the Director of Strategic Services and of the United States Joint Chiefs of Staff, relating to the functions transferred by this paragraph, are transferred to the Secretary of War. Naval personnel on duty with the Office in connection with the activities transferred by this paragraph may, subject to applicable law and to the extent mutually agreeable to the Secretary of War and the Secretary of the Navy, continue on such duty in the Department of War. The Secretary of War shall, whenever he deems it compatible with the national interest, discontinue any activity transferred by this paragraph and wind up all affairs relating thereto.

(OVER)

The above transfer to the State Department will provide you with resources which we have agreed you will need to aid in the development of our foreign policy, and will assure that pertinent experience accumulated during the war will be preserved and used in meeting the problems of the peace. Those readjustments and reductions which are required in order to gear the transferred activities and resources into State Department operations should be made as soon as practicable.

I particularly desire that you take the lead in developing a comprehensive and coordinated foreign intelligence program for all Federal agencies concerned with that type of activity. This should be done through the creation of an interdepartmental group, heading up under the State Department, which would formulate plans for my approval. This procedure will permit the planning of complete coverage of the foreign intelligence field and the assigning and controlling of operations in such manner that the needs of both the individual agencies and the Government as a whole will be met with maximum effectiveness.

Sincerely yours,

HARRY S. TRUMAN

~~SECRET~~

12/23/65

Exhibit W-45
Executive Order
2 pages

EXECUTIVE ORDER # 9621
TERMINATION OF OSS AND DISPOSITION OF
FUNCTIONS (UNCLASSIFIED)
Harry S. Truman, 20 Sept 45, TS

~~SECRET~~

TSD/H, 119 WO (See OSS War Report Vol I
p. 448) 12/20/65

Effective 1 Oct 45, trsfed and consolidates within an Interim Research and Intelligence Service in State Dept., OSS R&A and Presentation Branches, excluding such functions performed in Germany and Austria; trnfs remaining OSS functions to War Dept; trsfers OSS Dir position and office to Sec War; and terminates OSS.

~~SECRET~~

TAB THREE

One Hundred Fourteenth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the fourth day of January, two thousand and sixteen*

An Act

To award the Congressional Gold Medal, collectively, to the members of the Office of Strategic Services (OSS) in recognition of their superior service and major contributions during World War II.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Strategic Services Congressional Gold Medal Act".

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) The Office of Strategic Services (OSS) was America's first effort to implement a system of strategic intelligence during World War II and provided the basis for the modern-day American intelligence and special operations communities. The U.S. Special Operations Command and the National Clandestine Service chose the OSS spearhead as their insignias.
- (2) OSS founder General William J. Donovan is the only person in American history to receive our Nation's four highest decorations, including the Medal of Honor. Upon learning of his death in 1959, President Eisenhower called General Donovan the "last hero". In addition to founding and leading the OSS, General Donovan was also selected by President Roosevelt, who called him his "secret legs", as an emissary to Great Britain and continental Europe before the United States entered World War II.
- (3) All the military branches during World War II contributed personnel to the OSS. The present-day Special Operations Forces trace their lineage to the OSS. Its Maritime Unit was a precursor to the U.S. Navy SEALs. The OSS Operational Groups and Jedburghs were forerunners to U.S. Army Special Forces. The 801st/492nd Bombardment Group ("Carpetbaggers") were progenitors to the Air Force Special Operations Command. The Marines who served in the OSS, including the actor Sterling Hayden (a Silver Star recipient), Col. William Eddy (a Distinguished Service Cross recipient who was described as the "nearest thing the United States has had to a Lawrence of Arabia"), and Col. Peter Ortiz (a two-time Navy Cross recipient), were predecessors to the Marine Special Operations Command. U.S. Coast Guard personnel were recruited for the Maritime Unit and its Operational Swimmer Group.

- (4) The OSS organized, trained, supplied, and fought with resistance organizations throughout Europe and Asia that played an important role in America's victory during World War II. General Eisenhower credited the OSS's covert contribution in France to the equivalent to having an extra military division. General Eisenhower told General Donovan that if it did nothing else, the photographic reconnaissance conducted by the OSS prior to the D-Day invasion justified its creation.
- (5) Four future directors of central intelligence served as OSS officers: William Casey, William Colby, Allen Dulles, and Richard Helms.
- (6) Women comprised more than one-third of OSS personnel and played a critical role in the organization. They included Virginia Hall, the only civilian female to receive a Distinguished Service Cross in World War II, and Julia Child.
- (7) OSS recruited Fritz Kolbe, a German diplomat who became America's most important spy against the Nazis in World War II.
- (8) America's leading scientists and scholars served in the OSS Research and Analysis Branch, including Ralph Bunche, the first African-American to receive the Nobel Peace Prize; Pulitzer Prize-winning historian Arthur Schlesinger, Jr.; Supreme Court Justice Arthur Goldberg; Sherman Kent; John King Fairbank; and Walt Rostow. Its ranks included seven future presidents of the American Historical Association, five of the American Economic Association, and two Nobel laureates.
- (9) The U.S. Department of State's Bureau of Intelligence and Research traces its creation to the OSS Research and Analysis Branch.
- (10) James Donovan, who was portrayed by Tom Hanks in the Steven Spielberg movie "Bridge of Spies" and negotiated the release of U-2 pilot Francis Gary Powers, served as General Counsel of the OSS.
- (11) The OSS invented and employed new technology through its Research and Development Branch, inventing new weapons and revolutionary communications equipment. Dr. Christian Lambertsen invented the first underwater rebreathing apparatus that was first utilized by the OSS and is known today as SCUBA.
- (12) OSS Detachment 101 operated in Burma and pioneered the art of unconventional warfare. It was the first United States unit to deploy a large guerrilla army deep in enemy territory. It has been credited with the highest kill/loss ratio for any infantry-type unit in American military history and was awarded a Presidential Unit Citation.
- (13) Its X-2 branch pioneered counterintelligence with the British and established the modern counterintelligence community. The network of contacts built by the OSS with foreign intelligence services led to enduring Cold War alliances.
- (14) Operation Torch, the Allied invasion of French North Africa in November 1942, was aided by the networks established and information acquired by the OSS to guide Allied landings.
- (15) OSS Operation Halyard rescued more than 500 downed airmen trapped behind enemy lines in Yugoslavia, one of the most daring and successful rescue operations of World War II.

(16) OSS "Mercy Missions" at the end of World War II saved the lives of thousands of Allied prisoners of war whom it was feared would be murdered by the Japanese.

(17) The handful of surviving men and women of the OSS whom General Donovan said performed "some of the bravest acts of the war" are members of the "Greatest Generation". They have never been collectively recognized for their heroic and pioneering service in World War II.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design in commemoration to the members of the Office of Strategic Services (OSS), in recognition of their superior service and major contributions during World War II.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) SMITHSONIAN INSTITUTION.—

(1) IN GENERAL.—Following the award of the gold medal in commemoration to the members of the Office of Strategic Services under subsection (a), the gold medal shall be given to the Smithsonian Institution, where it will be displayed as appropriate and made available for research.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Smithsonian Institution should make the gold medal received under paragraph (1) available for display elsewhere, particularly at other appropriate locations associated with the Office of Strategic Services.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

S. 2234—4

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

TAB FOUR



Account Details

Checking 4898

As of 09/04/20

Available Balance	\$523,844.89
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Daily Posted Balance ¹	\$523,844.89
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Interest Paid (YTD)	\$2,014.47
---------------------	------------

Interest Rate	0.080%
---------------	--------

Account Number	xxxxxxx4898
----------------	-------------


Routing Number	054001547
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Transactions

Recent Transactions

Date Range	<div>30 DAYS</div>	<div>3 Months</div>	<div>6 Months</div>
------------	--------------------	---------------------	---------------------

Type	<div>ALL</div>	<div>Debits</div>	<div>Credits</div>	<div>Checks</div>
------	----------------	-------------------	--------------------	-------------------

Search	<div> Search Transactions</div>
--------	--

Search:

Pending
No transactions to display.

TAB FIVE

To: Charles Pinck
The OSS Society

From: Douglas Peter Sefton

Date: September 1, 2020

RE: Independent Assessment of Sites for the OSS Commemorative Monument

There is a high threshold for placing a commemorative monument in Arlington National Cemetery. Thirty-eight U.S. Code § 2409 requires that before a monument can be placed in the cemetery, an independent study must evaluate the availability and suitability of alternative locations.¹

Assessment Finding

The Office of Strategic Services (OSS) Memorial will commemorate those military service members killed in action while serving in the OSS whose remains have never been recovered. Thirty-eight U.S. Code § 2409 states that “The Secretary of the Army may set aside, when available, a suitable area or areas in Arlington National Cemetery... to honor the memory of members of the Armed Forces... who are missing in action... or whose remains have not been recovered or identified” as a group of individuals.² After evaluating alternative sites in the Washington, D.C., area and elsewhere, this study concludes that Arlington National Cemetery is the most suitable location for an OSS commemorative monument.

Evaluation of Alternative Sites

This study assessed a diverse array of sites both within and beyond the Washington, D.C., area associated with OSS:

United States Special Operations Command (USSOCOM) Headquarters at MacDill Air Force Base, FL: The OSS is considered USSOCOM’s precursor.

Central Intelligence Agency (CIA) Headquarters in Langley, Virginia: The OSS also is considered the precursor of the CIA. Many members of the OSS later served with the Agency, and four became its director.

Although both organizations are successors to OSS, their respective headquarters are not publicly accessible. For this reason, neither location would serve as a suitable site for an OSS memorial.

¹ <https://www.law.cornell.edu/uscode/text/38/2409>

² <https://www.law.cornell.edu/uscode/text/38/2409>

Several locations in the city of Washington, D.C., were also considered:

World War II Memorial: The World War II Memorial on the National Mall collectively honors the service of members of the Armed Forces of the United States, the support of millions on the home front, and the ultimate sacrifice of more than 400,000 Americans. It does not include separate memorials for individual service branches or organizations. The memorial is subject to the Commemorative Works Act, which “contains provisions that prohibit the siting of new monuments and memorials around the National Mall” and “considers monuments and memorials, once dedicated, to be completed; and protects existing works from further additions or intrusions by other memorials.”³ Congress has authorized adding only plaques containing President Franklin D. Roosevelt’s D-Day prayer and honoring the contribution of Senator Robert Dole to the memorial.⁴

Observatory Hill: Observatory Hill, also known as Navy Hill, was the site of OSS Headquarters whose three surviving buildings are included in the Observatory Hill Historic District and listed on the National Register of Historic Places. The OSS Society has held several commemorative events at the East Building, which houses General Donovan’s office, an area specifically designated as historically significant. However, most of the Observatory Hill site, including the surviving OSS buildings, is currently the property of the Department of State, which maintains it as a high-security area with no public access. Informal conversations with State Department officials have clearly indicated that the department would strongly oppose siting a publicly accessible monument within the complex for security reasons.

The OSS Headquarters was intentionally placed within this secluded, campus-like setting to maintain wartime security by achieving separation from the surrounding streetscape. This separation is reinforced by fortress-like retaining walls and highway access ramps constructed in the 1960s.

Arlington National Cemetery: There are strong reasons why Arlington National Cemetery is the most suitable and appropriate site for the OSS Commemorative Monument. The OSS was the United States’ first centralized organization for gathering and analyzing strategic intelligence and conducting modern special operations. Its members, a significant number of whom were first- and second-generation immigrants whose language skills uniquely equipped them for missions behind enemy lines, performed some of the most heroic acts of World War II. They supported resistance movements, established intelligence networks, performed sabotage, conducted reconnaissance in enemy-held territory, rescued downed airmen, and engaged the enemy in

³ “Monuments and Memorials: Commemorative Works Act Issues in the 113th Congress,” (Washington, DC: Congressional Research Service, 2015), 4.

⁴ Jacob R. Straus. “Commemorative Works in the District of Columbia: Background and Practice,” (Washington, DC: Congressional Research Service, March 10, 2015), 26-27.

direct action. Its personnel were drawn from every branch of the military services. The OSS operated in the North Atlantic, Europe, Africa, the Middle East, India, China, Burma, and South Asia. Its contributions to America's victory in World War II were acknowledged in 2018 when it was awarded a Congressional Gold Medal, Congress' highest civilian honor.

Documents provided by the CIA and other federal records reveal that more than 125 military members were killed in action while serving in the OSS.⁵ Some of them are buried in Arlington, such as Captain Emil M. Krieger (USMC), killed by a saboteur's bomb in Germany, and Technical Sergeant William Krautwald, who died in an air crash in Burma. They have been joined by such other notable OSS figures as General Donovan, former CIA Directors Richard Helms and William Colby, Ambassador David Bruce, Colonel Peter Ortiz (USMC), Captain Stephanie Czech, Elizabeth McIntosh, Rene Joyeuse (among the few foreign nationals buried there), and many others. Most OSS members killed in action are buried in American military cemeteries abroad, although some rest in other national cemeteries within the United States or in civilian cemeteries.

However, the remains of at least 33 OSS military members have never been recovered, and their names are inscribed on the "Tablets of the Missing" in United States military cemeteries throughout Europe and Asia.⁶ They include Lieutenant Colonel Guido Pantaleoni (USA), reportedly killed while a prisoner of war in Italy. Second Lieutenants Maurice A. Lepage and Edmond LeSout (USA), believed to have been executed after parachuting into France shortly after D-Day, are memorialized at Ardennes American Cemetery.⁷ Lieutenant Joseph F. Meyers (USAAF) was reported as missing in action in New Guinea. Sergeant Wing B. Joe (USAAF) was on a flight lost over China, while Corporal Donald C. MacFarlane (USAAF) died in an air crash in India. Specialist First Class John C. MacMahon, Quartermaster First Class Robert Black, Jr., and Chief Petty Officer Howard Roeder were members of the OSS Maritime Unit and an Underwater Demolition Team (UDT-10) believed to have been executed after being captured while performing submarine based-beach reconnaissance in the Yap Islands on the night of August 18, 1944.⁸ Epinal American Cemetery's tablets memorialize the fourteen members of the DAWES Mission, which included Army and Navy personnel, who were captured while rescuing downed airmen in Yugoslavia and executed at Mauthausen Concentration Camp.⁹

⁵ Tabulation by the OSS Society based on CIA Report RDPO1-00569R000100040098-1, released 11/1/2009, additional lists and rosters provided by the CIA, OSS Casualty Card File, photocopies provided by the National Archives, Online database records provided by the American Battle Monuments Commission, the National Cemetery Administration, Ancestry.com, Fold3.com, and other sources.

⁶ Ibid.

⁷ <https://www.honorstates.org/index.php?id=325572>

⁸ Nathaniel Patch. "Bakuhatai: The Reconnaissance Mission of the USS Burrfish and the Fate of Three American POWs," in *Prologue* (Winter, 2015), (Washington, DC; National Archives), 25-34.

⁹ Ibid

Placing the OSS Commemorative Memorial in Arlington National Cemetery would most fittingly honor the contribution to the heroic accomplishments of the OSS by military members killed in action whose remains have never been recovered. The proposed OSS Commemorative Memorial meets the requirements of 38 U.S. Code § 2409 and achieves the high level of significance required for placement in Arlington National Cemetery, our Nation's most hallowed ground.



The five members of UDT-10 en route to the Yap Islands aboard the submarine USS Burrfish in August 1944. OSS Members and Naval Reserve personnel John C. MacMahon and Robert Black, Jr. (respectively second and third from the left) and Chief Petty Officer Howard Roeder (far right) were captured by Japanese forces and are believed to have been executed. Their remains have never been recovered.

Douglas Peter Sefton

19 East Chapman Street
Alexandria, VA 22301
703-836-2015
psefton@comcast.net

Education:

- Master's Degree in Architectural history, with Master's Certificate in Historic Preservation, University of Virginia, 2012
- Masters Certificate in Project Management, George Washington University, 2007
- Bachelor of Arts Degree in Sociology George Washington University, January 1974.
- Currently enrolled as Non-Degree Graduate Student, George Mason University

Recent Projects:

Author of *Modernist Churches of Southwest Washington, DC* (2015) and co-author of *Avenue of Ambition* (forthcoming from Georgetown University Press)

Coauthor of *Eckington Historic District Nomination Document and Resources* (2016), "The Dream Dies Hard," (*Washington History Magazine*, Fall 2015), and *Historical Context Study of Southwest Washington* (2014).

Principal writer, researcher, and analyst for the National Register of Historic Places nomination for the OSS Headquarters Complex on Observatory Hill filed by the DC Preservation League.

Selected Academic Presentations:

Annual Conference of the Society for Industrial Archeology, "Into the Mist: Richmond's Fulton Gas Works" (Richmond, Virginia, 2018) and "Carpets on the Chuctanunda" (Albany, New York, 2015)

Annual Conference of the American Studies Association, Eastern Region, "Symbolism in Concrete" (Harrisonburg, Virginia, March 2013)

Biennial Conference of the Society of Architectural Historians, Latrobe Chapter, "Centering the City" (Washington, DC, March 2013).

Annual Conference of the American Studies Association, "New Deal for the District" in "New Deal Urbanisms" Panel (San Juan, Puerto Rico, November 2012)

Curriculum Vitae:

Since 2004, I have researched and written numerous successful nominations to the District of Columbia Inventory of Historic Sites and National Register of Historic Places as both an employee of QED Associates and as a self-employed architectural historian. I produce technical

documents in the format prescribed by the National Register of Historic Places that establish historical significance under the criteria established by applicable laws and regulations. My clients have included building owners, community groups, and the DC Historic Preservation Office, for which I prepared nominations for six sites with especial significance to the history of the city's African-American community.

I have often made many presentations to Advisory Neighborhood Commissions and community groups and testified before the DC Historic Preservation Review. I have conducted tours of historic sites and conducted training sessions on historic preservation for real estate professionals.

My federal government background included 33 years of service, the last 24 of which were spent at the United States Census Bureau in the following positions:

2002-2010 Acquisition Division, Procurement/Program/Management Analyst (GS-14)

1998-2001 Field Division, Program Analyst (GS-14)

1986-1997 Program Analyst / Government Liaison (GS-14), Supervisory Information Services Specialist (GS-13) and Survey Statistician

1978-1986 United States Department of Labor - Workers Compensation Claims Examiner.

Awards

Bronze Medal of the Department of Commerce, 2000

Numerous Special Act and Performance Awards, 1978-2010

Vision Award; Committee of 100 on the Federal City, 2006

Memberships

Member of the Board of Trustees of the DC Preservation League and Chair of its Landmarks Committee (2007-date)

I have been a trustee of the Adirondack Architectural Trust (2018-date).

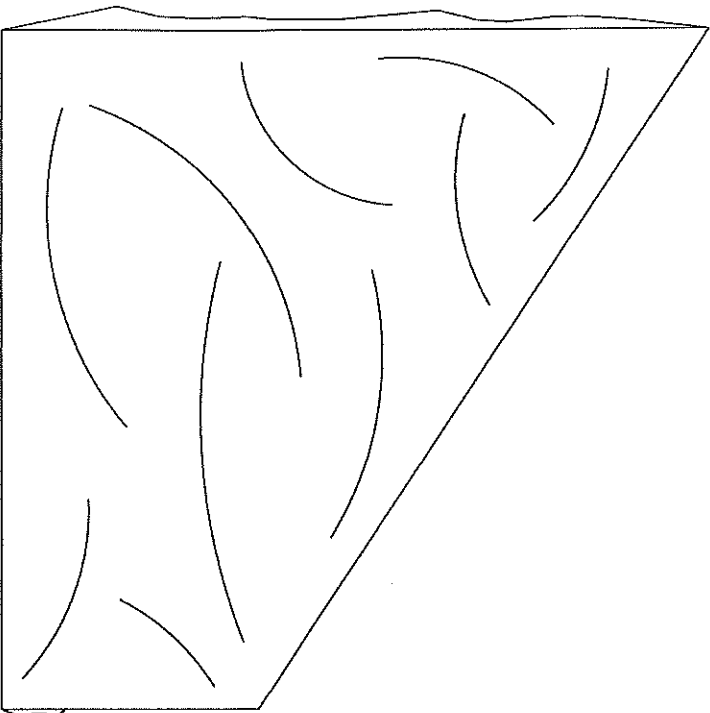
References

William Zeisell, Managing Partner, QED Associates, 202-285-4674

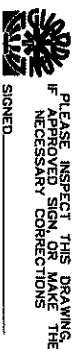
Stanley D. Matchett, United States Census Bureau,

Rebecca Miller, Executive Director, DC Preservation League, 202-783-5144

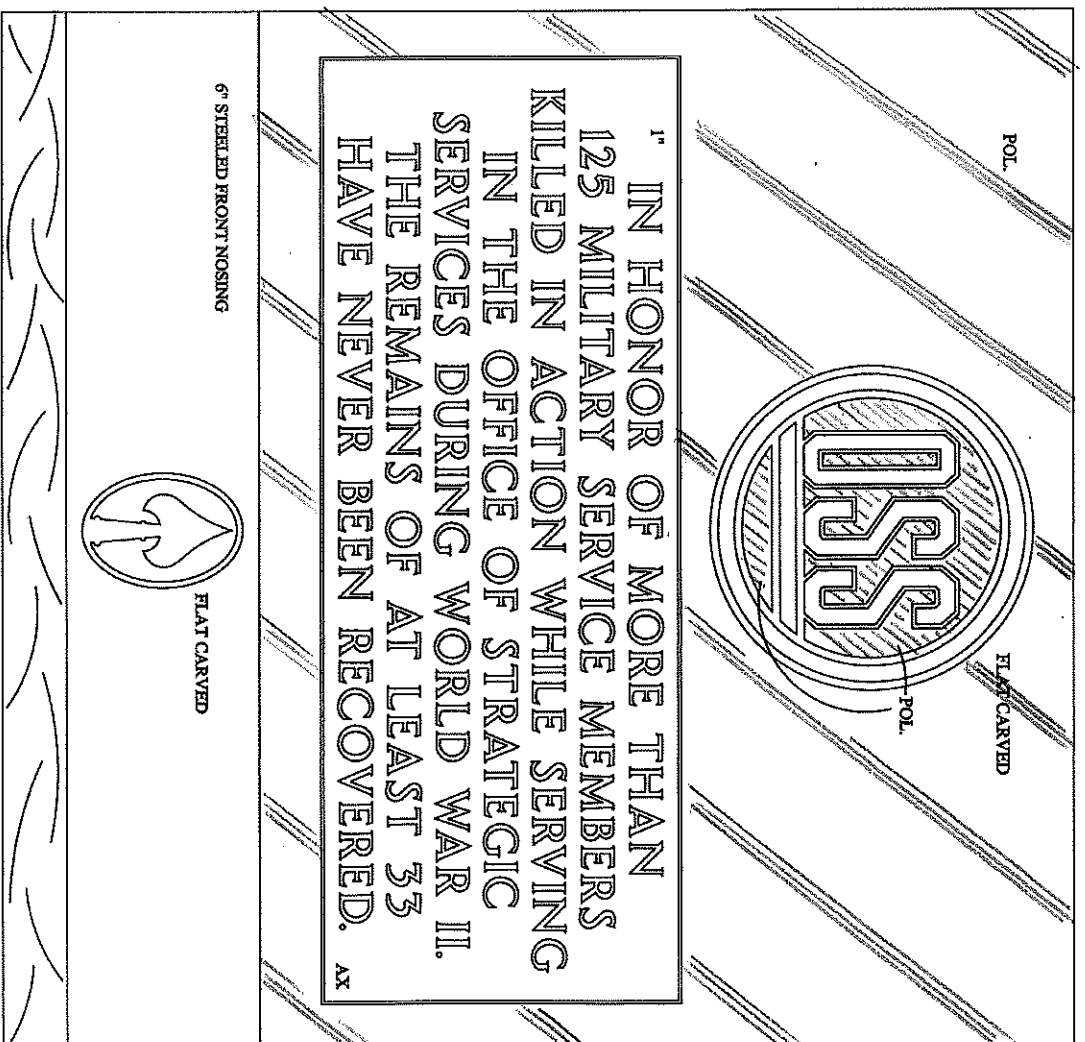
TAB SIX



#OSS SOCIETY GVT,
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POL. 1-2 BEVEL TOP, 6" STEELED FRONT MARGIN, BRP
S/B CARVED & LETTERED ON TOP
S/B CARVED ON FRONT
MED. BARRE



PLEASE INSPECT THIS DRAWING
IF APPROVED SIGN, OR MAKE THE
NECESSARY CORRECTIONS
SIGNED _____



TAB SEVEN

RICHARD BLUMENTHAL, NORTH CAROLINA, CHAIRMAN
MARK R. WARNER, VIRGINIA, VICE CHAIRMAN

JAMES E. PASCARI, IDAHO
MARCO RUBIO, FLORIDA
SUSAN M. COLLINS, MAINE
ROY BLUNT, MISSOURI
TOM COTTON, ARKANSAS
JOHN CORNYN, TEXAS
SEN BASS, NEBRASKA

DAVID PERKINS, CALIFORNIA
RON WYDEN, OREGON
MARTIN HEINRICH, NEW MEXICO
ANGUS S. KING, JR., MAINE
KAMALA HARRIS, CALIFORNIA
MICHAEL F. BENNET, COLORADO

MITCHELL MC CONNELL, KENTUCKY, EX OFFICIO
CHARLES SCHUMER, NEW YORK, EX OFFICIO
JAMES M. INHOFE, OKLAHOMA, EX OFFICIO
JACK REED, RHODE ISLAND, EX OFFICIO

CHRISTOPHER A. JOYNE, STAFF DIRECTOR
MICHAEL CASEY, MINORITY STAFF DIRECTOR
KELSEY S. DALEY, CHIEF CLERK

United States Senate

SELECT COMMITTEE ON INTELLIGENCE

WASHINGTON, DC 20510-6475

April 11, 2019

The Honorable Mark T. Esper
Secretary of the Army
Department of the Army
101 Army Pentagon
Washington, D.C. 20310-0101

Re: Support for an Office of Strategic Services (OSS) Memorial at Arlington National Cemetery

Dear Secretary Esper:

I write to express my support for placing a memorial marker for the Office of Strategic Services (OSS) on the nation's most hallowed grounds at Arlington National Cemetery. I urge you to encourage Superintendent Kelley to approve the application submitted by The OSS Society (case #186841).

The OSS was established by President Franklin D. Roosevelt by an executive order dated June 13, 1942. The OSS was the first organized effort by the United States to implement a centralized system of strategic intelligence, and provided the basis for modern day intelligence and special operations communities. The OSS drew its personnel from all branches of the U.S. military. President Harry Truman terminated the OSS with an executive order dated September 20, 1945; however, its legacy succeeds in today's Central Intelligence Agency, the U.S. Special Operations Command, U.S. Special Forces, and the U.S. Department of State's Bureau of Intelligence and Research.

Distinguished members of the OSS represent a diverse group of military leaders, scholars, and civil servants. General William J. Donovan, the OSS founder, was the only person in American history to receive our nation's four highest decorations. Four directors of central intelligence – William Casey, Allen Dulles, Richard Helms and William Colby - served in the OSS. Within the OSS Research and Analysis Branch, there were prize-winning scientists and scholars, including Ralph Bunche, the first person of color to receive the Nobel Peace Prize, and Supreme Court Justice Arthur Goldberg. Women, including Virginia Hall (the

only American civilian woman to receive the Distinguished Service Cross in World War II) and Julia Child, comprised of one-third of the OSS's work force.

The OSS Society is a nonprofit organization that honors the OSS, its successor organizations, and educates the American public about the importance of strategic intelligence and special operations to preserving freedom. The OSS Society's application for a memorial at Arlington National Cemetery is foundational to their mission to honor the contribution of the OSS through awareness and education. The OSS Society will fund the memorial at no cost to the government.

In March 2018, Congress presented The OSS Society with the Congressional Gold Medal (Public Law 114-269) to collectively recognize the brave men and women for their "heroic and pioneering service in World War II." General Donovan said they performed "some of the bravest acts" of the war. It seems fitting to honor them at Arlington National Cemetery.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Mark R. Warner". The signature is written in a cursive, slightly stylized font.

Mark R. Warner
Vice Chairman



Permanent Select Committee
on Intelligence
U.S. House of Representatives

April 30, 2019

The Honorable Mark T. Esper
Secretary of the Army
Department of the Army
101 Army Pentagon
Washington, D.C. 20310-0101

Dear Secretary Esper:

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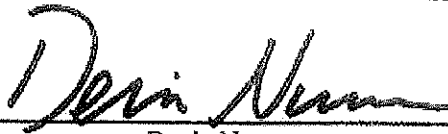
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We appreciate your consideration of this request. Please do not hesitate to reach out to us should you or Superintendent Kelley have any questions.

Sincerely,



Devin Nunes



K. Michael Conaway



Michael R. Turner



Brad R. Wenstrup



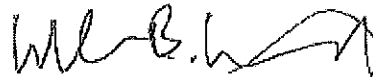
Chris Stewart



Eric A. "Rick" Crawford



Elise M. Stefanik



Will Hurd



John Ratcliffe



Bureau of Intelligence and Research
Office of the Assistant Secretary
Ellen E. McCarthy
Washington, D.C. 20520

29 February 2020

The Honorable Ryan McCarthy
Secretary of the Army
Department of the Army
101 Army Pentagon
Washington, D.C. 20310-0101

Re: Support for an Office of Strategic Services (OSS) Memorial at Arlington National Cemetery

Dear Secretary McCarthy:

I write to express my support for placing a memorial marker for the Office of Strategic Services (OSS) on the nation's most hallowed grounds at Arlington National Cemetery. I urge you to encourage the superintendent of Arlington National Cemetery to approve the application submitted by The OSS Society (case #186841).

The OSS was established by President Franklin D. Roosevelt by an executive order dated June 13, 1942. The OSS was the first organized effort by the United States to implement a centralized system of strategic intelligence, and provided the basis for modern day intelligence and special operations communities. The OSS drew its personnel from all branches of the U.S. military. President Harry Truman terminated the OSS with an executive order dated September 20, 1945; however, its legacy succeeds in today's Central Intelligence Agency, the U.S. Special Operations Command, and the U.S. Department of State's Bureau of Intelligence and Research.

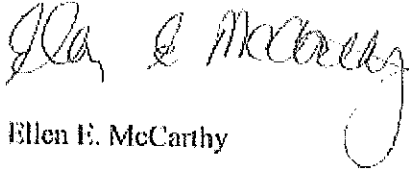
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I hope you will recognize their heroism by approving this application.

Respectfully,

A handwritten signature in cursive script, appearing to read "Ellen E. McCarthy". The signature is written in dark ink and is positioned above the printed name.

Ellen E. McCarthy



UNITED STATES SPECIAL OPERATIONS COMMAND
OFFICE OF THE COMMANDER
7701 TAMPA POINT BLVD.
MACDILL AIR FORCE BASE, FLORIDA 33621-5323

20 March 2020

The Honorable Ryan A. McCarthy
Secretary of the Army
200 Army Pentagon, Rm 3E672
Washington, D.C. 20310

Dear Mr. Secretary,

The OSS Society has petitioned the Superintendent of Arlington National Cemetery (ANC) to allow the emplacement of a memorial plaque to honor OSS personnel, especially those killed or missing in action, for their heroic service during World War II. I enthusiastically support this effort and request your endorsement for this important addition to ANC.

Though deactivated on September 20, 1945, immediately following the war, the brave members of the OSS gave birth to our modern special operations and intelligence communities. The OSS Society works tirelessly to preserve the history of the OSS and forge lasting ties between the two communities that find common heritage in the OSS.

A small memorial to honor this group of quiet professionals should be a welcome addition to ANC. The OSS Society has recommended a placement location along Roosevelt Drive, Section Two, as close as possible to the grave of OSS founder MG William Donovan. Barring a strong argument to deny such a request, this is a fitting location that will provide historical context for the memorial.

I respectfully request your support for this initiative and approval of the OSS Society's request to honor the service and sacrifice of our nation's quiet professionals from the OSS.

Sincerely,

Richard D. Clarke
General, U.S. Army
Commander

Secretary - we greatly appreciate your support on this initiative.