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**Health, Education, and
Human Services Division**

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March 4, 1998

The Honorable James E. Clyburn
Ranking Minority Member
Subcommittee on Oversight and
Investigations
Committee on Veterans' Affairs
House of Representatives

Subject: Arlington National Cemetery: Additional Information on Burial Waiver
Decisions

Dear Mr. Clyburn:

The enclosed information responds to your follow-up questions concerning the Subcommittee's January 28, 1998, hearing on waivers granted for burial at Arlington National Cemetery. This information supplements our testimony before the Subcommittee. We will make copies of this correspondence available to others who are interested on request.

If you have any questions or would like to discuss this information further, please contact Stephen P. Backhus, Director, Veterans Affairs and Military Health Care Issues, on (202) 512-7101.

Sincerely yours,

Richard L. Hembra
Assistant Comptroller General

Enclosure

GAO/HEHS-98-104R Arlington Burial Waivers

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SUPPLEMENTAL INFORMATION ON ARLINGTON
NATIONAL CEMETERY BURIAL WAIVER DECISIONS

This enclosure details your questions and our responses, which supplement information in our testimony before your Subcommittee, Arlington National Cemetery: Authority, Process, and Criteria for Burial Waivers (GAO/T-HEHS-98-81, Jan. 28, 1998).

- 1. Through the course of your review, you have had the opportunity to interview and work directly with Arlington Cemetery Superintendent Jack Metzler. Can you provide Subcommittee members with your views on the job Mr. Metzler has done as Arlington Superintendent? Would you characterize Mr. Metzler's attitude toward the granting of waivers as conservative, liberal, or somewhere in between?**

Given the absence of clear, formal criteria for making waiver decisions, it is difficult to characterize the decision-making "attitude" of the various officials involved in making Arlington National Cemetery burial waiver decisions or recommendations. Mr. Metzler has described his own waiver recommendations as conservative, and former Secretary of the Army, Togo West, also told us that he believed Mr. Metzler's recommendations to be conservative. Our work has shown that Mr. Metzler was less willing to approve waiver requests than other Army decision-makers—the Assistant Secretary of the Army for Manpower and Reserve Affairs and the Secretary of the Army—based on the 11 cases in which the Secretary overruled the Superintendent's recommendation to deny a request. In two of these cases, the Assistant Secretary recommended approval of the waiver, while in two other cases, the Assistant Secretary remained neutral.

- 2. You have indicated that record-keeping at the Cemetery prior to 1991 left something to be desired, and that it has been difficult, if not impossible, to recreate many of the waiver files prior to 1991. Is this a fair description of your testimony? If so, what recommendations would you make concerning how to eliminate the risk of incomplete record-keeping in the future?**

As we noted in our testimony, documentation of waivers requested or granted is limited, particularly for waiver decisions before 1991. Our figures for both approvals and denials are based on available Department of the Army documentation. These records are often incomplete, particularly for cases decided during the period from 1967 to 1990. This is especially the case for records of waiver denials, because Arlington National Cemetery officials believed there was less of a need to maintain documents on the requests of those who were not ultimately interred in the cemetery. In addition, many denials that left no paper record may have occurred informally through telephone conversations.

Despite these limitations, we were able to obtain some information on earlier waiver decisions. This information came, in part, from the efforts of the current Superintendent to reconstruct files of waiver approvals granted before his tenure (that is, before 1991). Also, additional waiver-related files that we obtained from other units within the Department of the Army provided us with further, although still incomplete, information on both waiver approvals and denials over the past 30 years.

The current Superintendent has adopted the policy of creating a waiver file for each waiver decision. These files typically contain documents from the initial waiver request through the final waiver decision. However, even these files are not always complete. For example, documentation of a burial candidate's claimed military service or familial relationship is missing from some of these files. In addition, there is no requirement that any documentation on waivers be maintained by the Superintendent or other units of the Army such as the Office of the Assistant Secretary, the Office of General Counsel, and the Office of the Secretary. Thus, the Superintendent's current documentation practices regarding waivers do not represent official Arlington National Cemetery or Army policy. As we pointed out in our testimony, given the public attention paid to waiver decisions at the cemetery, the maintenance of clear and complete records of waiver decisions by both the Army and the White House may help reduce questions about these decisions. To reduce the risk of incomplete record-keeping in the future, the Department of the Army may want to consider imposing formal record-keeping requirements for waiver decisions that include all relevant background material, decision papers, and explanatory documents from all offices or individuals involved.

3. **As I understand it, you had the chance to interview Mr. Costanzo, the Arlington Cemetery Superintendent from 1975 through 1990. Can you briefly summarize the information provided to GAO by Mr. Costanzo? For instance, did Mr. Costanzo ever provide a formal, written recommendation to the Department of the Army for a waiver request? How would you describe the relationship between Mr. Costanzo and the various presidential administrations with whom he worked?**

Raymond Costanzo served as Arlington Superintendent from May 1975 to December 1990. Although the Secretary of the Army has had the authority to grant waiver requests starting with the implementation of restrictive burial requirements in 1967, Mr. Costanzo said that the Office of the Secretary's policy before 1980 was to not exercise this authority. Mr. Costanzo told us that the Carter White House eventually concluded that it wanted to "get out of the interment business" of processing waiver requests, except for national figures. Although no formal policy change was announced, Mr. Costanzo said that there was a distinct policy shift toward the end of

the Carter administration and the beginning of the Reagan administration, and at that time, the Secretary of the Army began making the final decision on most waiver requests.

The criteria that Mr. Costanzo and other Army officials used when reviewing waiver requests included military service, connection to the cemetery (that is, candidates or their relatives who had lived on the Arlington grounds), public or government service, and contacts from high-level persons in the military community, the White House, or Members of Congress on behalf of a request. Mr. Costanzo told us that if someone from one of the latter groups contacted him to advocate a request, he typically decided to recommend approval, particularly if the White House or a congressional member advocated it. Each administration under which he served (except for the Bush administration) granted waivers and took an interest in requests that it had forwarded to the Army for processing. Mr. Costanzo said that the Bush administration had an unwritten but firm "hands off" policy of not granting presidential waivers or exhibiting an interest in the Army's decision on a case.

Although Mr. Costanzo did have a role in recommending approval or denial of waiver requests, he did not generally prepare a memorandum documenting his recommendation to the Assistant Secretary of the Army for Civil Works (ASA-CW). Instead, for most of the waiver requests received by the Army during Mr. Costanzo's tenure, he and the military assistant to the ASA-CW would, through informal discussions, jointly decide whether to recommend approval or denial of a request. The military assistant would then draft a memorandum for the ASA-CW's signature, conveying this recommendation to the Secretary of the Army. Beyond that memorandum, little documentation on a case was created, and a specific case file on each request was not maintained. During Mr. Costanzo's tenure, letters from requesters and the cemetery's replies to them were kept in a "correspondence file" along with documents about all types of burial requests. He stated, however, that he did not see the need to maintain documentation regarding denied waiver requests, and any correspondence that may have been maintained on denials was typically destroyed after 3 to 5 years.

- 4. This story initially broke as a scandal involving the awarding of burial plots at Arlington to "dozens" of major contributors to the Democratic Party and President Clinton. Based on the review and analysis the General Accounting Office has conducted over the last month and a half, was this an accurate portrayal of the situation at Arlington?**

As discussed and agreed with the Subcommittee staff, our examination of the extent to which political contributions were a basis for decisions to grant or deny waivers for burial was limited to a review of evidence in Department of the Army waiver

files. Our review of these files did not suggest that political contributions played a part in waiver decisions. However, the absence of evidence in these files alone does not permit us to conclude whether or not political contributions were a factor. As suggested by the Chairman during the hearing, other information sources, such as Federal Election Commission records, would have to be examined before drawing a definitive conclusion.

5. **On August 18, 1997, in response to a request from Congressman Evans, GAO attempted to provide an accounting of Merchant Mariners who would be eligible to receive veterans benefits pursuant to a bill introduced by Mr. Evans. In responding to such a request, GAO reviewed archived Merchant Mariner files at the Federal Records Center in Suitland, Maryland.**

In GAO's response to Congressman Evans, GAO indicated that its review could not identify former Mariners who may be deceased, nor could it determine if all seamen identified actually served in the Merchant Marine. Even in cases where GAO could verify service, GAO still could not readily determine whether they served on vessels on the high seas or on inland waterways.

Is this an accurate description of GAO's work at the Federal Records Center in Suitland? If so, doesn't this give credibility to the argument made by Cemetery Superintendent Metzler that it would have been extremely difficult to verify Ambassador Larry Lawrence's record of service in the Merchant Marine within the 24-48 hour period in which a decision had to be made on a waiver?

Our August 18, 1997, letter was a culmination of work conducted at the Federal Records Center in Suitland, Maryland. The objective of our work was to estimate how many former merchant mariners might be eligible for veterans' benefits if veterans status were extended to those who served on the high seas at any time during the period recognized by the Department of Veterans' Affairs as World War II—namely, from December 7, 1941, through December 31, 1946. Our estimate was based on a review of files of merchant mariners who were issued Merchant Mariners' Documents (MMD) from 1937 on. The objectives of our work did not include an effort to determine (1) whether those issued MMDs actually served in the Merchant Marine on the high seas or (2) whether former mariners are deceased.

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Based on the limited objectives of our work, the information we obtained does not shed light on how difficult or easy it would have been for Mr. Metzler to verify Ambassador Larry Lawrence's record of service in the Merchant Marine within a 24-to-48-hour period.

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