

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

MEDICAL DISABILITY DISCHARGE PROCEDURES

Report Number 92-100

June 8, 1992

Department of Defense

The following acronyms are used in this report:

ASD(HA).....Assistant Secretary of Defense (Health Affairs)
DFAS.....Defense Finance and Accounting Service
DoDD.....Department of Defense Directive
VA.....Department of Veterans Affairs
GAO.....U.S. General Accounting Office
MTF.....Medical Treatment Facility
NMPC.....Naval Military Personnel Command
PEB.....Physical Evaluation Board
TDRL.....Temporary Disability Retirement List
U.S.C.....United States Code



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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June 8, 1992

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (HEALTH AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL
MANAGEMENT)

SUBJECT: Report on the Audit of Medical Disability Discharge
Procedures (Report No. 92-100)

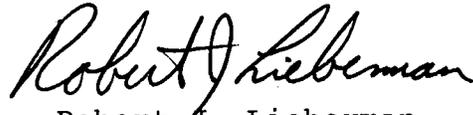
We are providing this final report for your information and use. Management comments on a draft of this report were considered in preparing the final report.

DoD Directive 7650.3 requires that all audit recommendations be resolved promptly. Therefore, we request that the Assistant Secretary of Defense (Health Affairs) provide final comments on the unresolved recommendations and monetary benefits by August 7, 1992. See the "Status of Recommendations" section at the end of Finding A for the unresolved recommendations and the specific requirements for your comments.

As required by DoD Directive 7650.3, the comments must indicate concurrence or nonconcurrence with the finding and each recommendation addressed to you. If you concur, describe the corrective actions taken or planned, the completion dates for actions already taken, and the estimated dates for completion of planned actions. If you nonconcur, you must state your specific reasons for each nonconcurrence. If appropriate, you may propose alternative methods for accomplishing desired improvements.

If you nonconcur with the estimated monetary benefits (Appendix J) or any part thereof, you must state the amount you nonconcur with and the basis for your nonconcurrence. Recommendations and potential monetary benefits are subject to resolution in accordance with DoD Directive 7650.3 in the event of nonconcurrence or failure to comment. We also ask that your comments indicate concurrence or nonconcurrence with the internal control weaknesses highlighted in Part I.

The courtesies extended to the audit staff are appreciated. If you have any questions about this audit, please contact Mr. Michael Joseph, Program Director, or Mr. Jack Armstrong, Project Manager, at (804) 766-2703. The distribution of this report is listed in Appendix L.



Robert J. Lieberman
Assistant Inspector General
for Auditing

Enclosure

cc:
Secretary of the Army
Secretary of the Navy
Secretary of the Air Force
Commandant of the Marine Corps

Office of the Inspector General, DoD

AUDIT REPORT NO. 92-100
(Project No. OFC-0023)

June 8, 1992

MEDICAL DISABILITY DISCHARGE PROCEDURES

EXECUTIVE SUMMARY

Introduction. An active duty member of the Armed Forces who is unfit to perform his or her duties because of a disability incurred while entitled to basic pay may be retired or separated from military service if the disability is permanent. At the end of FY 1990, 134,137 personnel were receiving disability retirement pay. During FY 1990, approximately 5,000 personnel retired and 13,900 personnel were separated from active duty because of disabilities. In FY 1990, the estimated cost of disability retirement pensions and severance pay was \$1.6 billion.

Objectives. The objectives of the audit were to determine whether military members identified as medically disabled were expeditiously discharged from the Services, and to assess the effectiveness of the discharge process and related internal controls.

Audit Results. We determined that the DoD disability system was not efficient or economical. Disability cases were not processed promptly, and personnel were incorrectly rated for their disabilities. Personnel were improperly assigned to or retained on the Temporary Disability Retirement List (TDRL) and were paid excessive compensation. As a result, DoD will unnecessarily spend \$139.9 million annually, or approximately \$839.3 million during FYs 1993-1998 (**Finding A**).

The Naval Military Personnel Command (NMPC), now the Bureau of Naval Personnel, did not establish adequate accountability and internal controls over travel funds available for personnel to travel to required physical exams (**Finding B**).

Internal Controls. DoD guidance was inadequate and DoD lacked adequate oversight of the disability process. Finding A discusses material weaknesses in internal controls over the rating and processing of disability cases. Finding B discusses NMPC's lack of control over its TDRL travel funds. See Part I for details of our review of internal controls.

Potential Benefits of Audit. DoD would realize an estimated cost avoidance of \$839.3 million for FYs 1993-1998 by improving its disability system operations (**Finding A**). NMPC would improve its accountability and internal controls over its travel budget (**Finding B**).

Summary of Recommendations. We initially recommended that the Assistant Secretary of Defense (Health Affairs) [ASD(HA)] revise guidance in DoD Directive 1332.18 on the disability evaluation system; develop a training program for disability evaluators; propose amendments to legislation for the Temporary Disability Retirement List; consolidate the Military Departments' physical evaluation boards (PEBs); and establish a quality assurance function for the disability evaluation system. We also recommended that NMPC improve controls over travel funds.

Management Comments. The ASD(HA) nonconcurred with draft report recommendations to amend legislation to eliminate the DoD disability retirement system and the TDRL, to delegate separation decisions to the medical boards, and to consolidate the PEBs. Management's primary concern focused on maintaining a disability evaluation system in DoD. The ASD(HA) proposed several alternative corrective actions, including the establishment of standard processing times for disability retirements; amending legislation to limit the time personnel can remain on the TDRL; developing a joint training program; and modifying requirements in DoD Directive 1332.18. The ASD(HA) also nonconcurred with the monetary benefits claimed in the draft report, but did not specify the amounts that he did not agree with. Comments from the ASD(HA) are discussed in Finding A, and the full text is included in Part IV of this report.

The Assistant Secretary of the Navy (Manpower and Reserve Affairs) concurred with Finding B on Navy Travel Funds and agreed to implement internal controls consistent with our recommendations. The Navy's comments are discussed in Finding B, and the complete text is included in Part IV.

Audit Response. Based on comments from the Assistant Secretary of Defense (Health Affairs) and meetings with his staff, we have deleted the draft report recommendations to eliminate provisions of the DoD disability evaluation system and the TDRL and to delegate fitness-for-duty decisions to the medical boards. We accept management's proposal to improve the current system, and we have revised our recommendations and adjusted our estimated monetary benefits downward to \$839.4 million. We believe that our recommendation to consolidate the PEBs is warranted. We request that the Assistant Secretary of Defense (Health Affairs) provide comments on the final report and the monetary benefits by August 7, 1992.

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This final report was prepared by the Financial Management Directorate, Office of the Assistant Inspector General for Auditing, DoD. Copies of the report can be obtained from the Information Officer, Audit Planning and Technical Support Directorate, (703) 614-6303 (DSN 224-6303).

PART I: INTRODUCTION

Background

Disability entitlement. Under Title 10, U.S.C., chapter 61, an active duty member of the Armed Forces who is unfit to perform his or her duties because of a disability incurred while entitled to receive basic pay may be retired or separated from military duty if the disability is permanent. The Secretaries of the Military Departments are authorized to determine the fitness for duty and disability rating of each case. This responsibility has been delegated to physical evaluation activities of each Military Department for military pay grades 0-6 and below. The Assistant Secretary of Defense (Health Affairs) [ASD(HA)] is responsible for reviewing cases for officers in pay grade 0-7 or higher and for medical officers, and for establishing DoD policies and procedures related to medical disabilities.

Medical boards. The initial recommendation that a member is medically qualified for retention is made by a medical board acting for a medical treatment facility (MTF). The medical board studies the medical condition and records of the member and refers the case to the physical evaluation board (PEB) of the Military Department. Until final disposition of the case, the member is carried on the patient rolls or placed in a medical holding unit or on a limited-duty assignment.

PEBs. When a case is received, the PEB evaluates the member's physical condition. The PEB reviews administrative and medical reports to determine the member's physical qualifications for retirement, discharge, or retention on active duty. Of the 24,105 cases that the PEBs received from the medical boards in FY 1990, 22,317 (92.6 percent) of the members were found to be unfit for duty. The PEB can recommend a disability discharge and rating, but the recommendation is not binding unless the member concurs. If the member agrees with the recommendation, this constitutes a decision that has been delegated to the PEBs and appeal boards by the Secretaries of the Military Departments. The PEBs are not medical activities, but administrative elements of the Military Departments.

Appeals process. If the member disagrees with the PEB's recommendation, the member may appeal. The first recourse is to demand a formal hearing. The member may choose to obtain counsel and attend the hearing. If the member disagrees with the determination made at the formal hearing, the case is referred to a physical review council (the council). The council can reverse or approve the decision. The final recourse is the physical disability appeal board (the appeal board). The appeal board reviews all records of the proceedings and resolves the case.

Separation from active duty. If the member agrees with the PEB's recommendation to be separated, the decision is carried out. The PEB notifies the personnel command, which issues separation orders to the member. The personnel command is also responsible for informing the Defense Finance and Accounting Service (DFAS) (formerly the Service finance and accounting centers) of a member's separation so the member will be paid.

Disability retirements and separations. At the end of FY 1990, DoD had 134,137 personnel receiving disability retirement pay. During FY 1990, about 5,000 personnel retired and another 13,900 personnel were separated from duty for disabilities. The cost of medical retirement and severance pay in FY 1990 was estimated at \$1.6 billion. For FYs 1986 through 1990, over 30 percent more military personnel were awarded medical retirements than in the previous 5-year period. Data obtained from DoD showed that this increase was larger than the number of regular (nonmedical) retirements, especially in proportion to the number of personnel in the Military Departments. PEB personnel offered two explanations: personnel take unwarranted advantage of the system to obtain medical retirements, and the disability system is used to increase attrition of personnel.

Duty-related disabilities. An estimated 5,300 (28 percent) of the 18,900 disability cases processed in FY 1990 were duty-related, i.e., injuries were suffered or diseases contracted as a result of combat or a job-related function. The remaining 13,600 cases (72 percent) were the result of injuries incurred off-duty; self-imposed disabilities, such as sexually transmitted diseases or abuse of alcohol or drugs; and diseases the member may have contracted regardless of military duty, such as diabetes, arthritis, and Hodgkin's disease.

Department of Veterans Affairs. If a member is separated from active duty under honorable conditions, the member may also qualify for disability compensation from the Department of Veterans Affairs (VA). When the VA rates a disability case, the case records are reviewed and the member may be required to take a physical examination. As of September 30, 1989, 442,265 (31 percent) of the 1.4 million personnel who were receiving retirement pay (medical and regular retirements) from DoD were also receiving VA disability payments. The total number of cases compensated by the VA decreased by 20,000, from 2.15 million in FY 1988 to 2.13 million in FY 1990. Although members cannot receive dual compensation, they can elect to have military pension or severance pay offset by the amount of the VA compensation. Such offsets are common, since the VA compensation is nontaxable income.

Social Security. If a member becomes seriously disabled before age 65 and has sufficient Social Security coverage, he or she may qualify for disability insurance payments. These payments are in addition to any disability compensation received from the DoD or the VA. However, the Social Security definition of disability differs from that used by DoD. A member's entitlement to Social Security disability payments does not depend on whether he or she receives disability compensation from DoD or the VA.

Objectives

The objectives of the audit were to determine whether military members identified as medically disabled were expeditiously discharged from the Military Departments, and to assess the effectiveness of the discharge process. In addition, the audit evaluated the procedures for granting disability discharges and for determining the percentage of disability that members receive. Applicable internal controls were also evaluated, as discussed in the "Internal Controls" section.

Scope

Disability cases. We reviewed the management of the Temporary Disability Retirement List (TDRL), management of personnel placed on permanent medical retirement and separated with severance pay, and management of the Military Departments' PEBs. We made two statistical samples. First, we took a statistical sample of 274 cases from 5,954 cases representing members who had been on the TDRL between 2 and 5 years as of January 1990. We took a second statistical sample of 323 cases out of 9,116 members discharged from active duty because of disabilities during a 6-month period ending in March 1990. Appendix A contains the details of the universe and samples selected. For each case sampled, we reviewed administrative, medical, payroll, personnel, and VA records where applicable.

Operations. We reviewed FY 1991 budgets, data on expenditures and staffing, procedures, and policies of the ASD(HA) and Military Department activities that perform physical evaluations and discharge personnel. We obtained information from the VA on its procedures and policies for processing and rating disabilities and compared them to the procedures and policies used in DoD's disability system.

Audit period, locations, and standards. We performed our audit from November 27, 1989, through May 31, 1991. Appendix K lists the 29 DoD and 3 non-DoD activities visited or contacted. This economy and efficiency audit was made in accordance with auditing standards issued by the Comptroller General of the United States as implemented by the IG, DoD, and accordingly

included such tests of internal controls as were considered necessary.

Internal Controls

Controls assessed. We reviewed DoD's internal controls over the processing of personnel for medical discharges and the awarding of discharges. Specifically, we reviewed the internal controls for processing cases expeditiously and for ensuring that only authorized personnel received medical retirement pay or severance pay, that disabilities were rated accurately, that personnel on the TDRL received periodic physicals, and that funds for travel to physical examinations were properly used. In addition, we reviewed the internal management control program in each Military Department as it related to the disability system. At ASD(HA), DFAS centers, personnel commands, and physical evaluation activities, management is responsible for ensuring that adequate internal controls are in place and enforced.

Internal control weaknesses. The audit identified material internal control weaknesses as defined by Public Law 97-255, Office of Management and Budget Circular A-123, and DoD Directive 5010.38. We found that controls were not adequate to ensure that disability claims were processed promptly or rated accurately. Also, the Military Departments' controls were inadequate to ensure that personnel assigned to the TDRL attended scheduled medical examinations and were promptly removed from the TDRL when their medical conditions had stabilized. The Navy did not maintain adequate accountability and controls over travel funds for TDRL physicals. Details of these conditions are discussed in Part II of this report. Recommendations A.1.a., A.1.b., A.1.c., A.1.d., A.2., A.4., A.5., B.1., B.2., and B.3., if implemented, will correct the weaknesses. Appendix J itemizes the \$782.4 million of monetary benefits that can be realized by implementing the recommendations on internal controls. A copy of the final report will be provided to the senior officials responsible for internal controls within DoD and the Military Departments.

Prior Audits and Other Reviews

Army Audit Agency. U.S. Army Audit Agency Report No. HQ-90-200, "Disability Payments to Military Personnel," December 27, 1989, described four problem areas. First, too much time was required to process disability cases, and the Army could save \$19.4 million if unnecessary delays were eliminated. The auditors recommended that standard time frames be established for processing and that a system be established to measure performance against these standards. Second, personnel on the TDRL received their required physical examinations late or not at all. As a result, personnel who erroneously remained on the TDRL were paid \$3.4 million. The auditors recommended that procedures

be improved by documenting missed physicals in case files, and that temporary disability pay be stopped when a member misses a physical.

The other two problem areas were delays in termination of disability payments of \$110,300 to personnel removed from the TDRL, and the inadequate implementation of the Army's internal control program. The auditors recommended that controls be established to ensure that the names of personnel who had been removed from the TDRL were deleted from data bases and records, and that the DFAS - Indianapolis Center (formerly the Army Finance and Accounting Center) be promptly notified to stop pay. The auditors also recommended that checklists be developed and used to evaluate internal controls, that deficiencies be documented, and that internal control responsibilities be included in managers' performance standards. Management concurred with all recommendations. At the time of our review, the Army was implementing the recommendations; therefore, we were unable to comment on the Army's corrective actions.

General Accounting Office. Although no other audits have been made of DoD's disability system, General Accounting Office (GAO) Report No. GAO/HRD-89-60, "VA Benefits: Law Allows Compensation for Disabilities Unrelated to Military Service" (no OSD case number), July 31, 1989, was relevant. GAO concluded that the VA compensated many disabilities that were not caused or aggravated by military service. Based on a sample of disability cases, GAO found that only 17 percent of the service members suffered injuries while performing military tasks, 19 percent suffered combat injuries, 16 percent incurred injuries while performing nonmilitary tasks, and the remaining 48 percent of the service members in the sample were compensated for diseases. These diseases included diabetes, arteriosclerotic heart disease, multiple sclerosis, Hodgkin's disease, hemorrhoids, and schizophrenia. The diseases were not caused or aggravated by military service. The VA paid an estimated \$1.7 billion for these types of disabilities in FY 1986. GAO recommended that Congress amend the law to exclude payment of benefits for non-service-connected disabilities. Although legislation was passed prohibiting VA compensation for the secondary effects of alcoholism and drug abuse, Congress has not restricted compensation for other non-service-connected disabilities.

PART II: FINDINGS AND RECOMMENDATIONS

A. PHYSICAL DISABILITY SYSTEM

The DoD disability system was not efficient or economical. Disability cases were not processed promptly. Personnel were improperly rated or overrated for disabilities. Others were erroneously placed and maintained on the TDRL. DoD Directive 1332.18, "Separation from Military Service by Reason of Physical Disability," February 25, 1986, did not contain standard time frames for processing reports of medical and evaluation boards or provide adequate criteria for the rating of disabilities and prior-to-service conditions. DoD procedures for awarding disabilities were not followed, and the DoD time standard for processing medical separations was not enforced. Military personnel were assigned to serve on PEBS without training in how to evaluate disability cases. In addition, the provisions of Title 10, U.S.C., chapter 61 permitted excessive compensation to be paid to members on the TDRL. As a result, DoD will unnecessarily spend \$139.9 million annually. From FY 1993 through FY 1998, we estimated that \$839.3 million in cost avoidance could be realized.

DISCUSSION OF DETAILS

Background

Disability criteria. Title 10, U.S.C., chapter 61, "Retirement or Separation for Physical Disability," gives criteria for determining whether a member of the Armed Forces is eligible for medical disability retirement pay or separation pay. When a member of the Armed Forces who is entitled to basic pay is found unfit to perform the duties of office, grade, rank, or rating because of a permanent disability incurred while on active duty, he or she may be retired with retirement pay or separated with severance pay. Title 10, U.S.C., chapter 61, also states that prior-to-service disabilities are not compensable, unless the member has 8 years of active duty service. The disability may not be the result of intentional misconduct or willful neglect, and cannot be incurred during a period of unauthorized absence. A disabled member is eligible for disability retirement pay if the member has at least 20 years of service, or if the disability is at least 30 percent on the VA rating schedule and the member was on active duty when the disability was incurred. If the member has less than 20 years of service and the disability is rated less than 30 percent, the member receives severance pay.

Disability computation. Monthly pay for disability retirements is computed by one of two methods.

o Years of service method: basic monthly pay multiplied by the number of years of service, multiplied by .025.

o Percentage of disability: basic monthly pay multiplied by the percentage of disability.

The member can choose the method that provides the greater benefit so long as the benefit does not exceed 75 percent of base pay. The formula for computing severance pay is 2 months' base pay for each year in service, not to exceed 24 months of base pay. If the disability was the result of a combat-related injury or the member was on active duty before September 24, 1975, the disability compensation is not subject to Federal income tax.

TDRL requirements. If a member is found unfit for duty by reason of a physical disability that is ratable at 30 percent or more, and the disability is unstable but of a permanent nature, the member is placed on the TDRL. Members on the TDRL receive 50 to 75 percent of their base pay, depending on their ratings or their number of years of service, whichever is higher. U.S.C., title 10, chapter 61 requires that personnel on the TDRL receive a physical examination every 18 months. If the examination finds that a member's disability is 30 percent or more and stable, or the disability rating is changed to less than 30 percent, the member is to be removed from the TDRL. If the member's disability is 30 percent or more and unstable, the member will remain on the TDRL for a maximum of 5 years and then be removed. Once a member is removed from the TDRL, he or she is permanently retired, separated with severance pay, or returned to active duty.

Disability rating schedule. The PEBs are required to use the VA "Schedule for Rating Disabilities" in title 38, Code of Federal Regulations. The rating schedule measures the degree of impairment to a person's earning capacity in civilian occupations.

Provisions of DoD Directives. DoD Directive 1332.18, which implements Title 10, U.S.C., chapter 61, gives guidance to the Military Departments' medical evaluation boards and PEBs. The Directive addresses the preparation of medical board reports, the processing of cases, criteria for determination of unfitness for duty, the application of the VA rating schedule, determination of injuries or illnesses acquired in the line of duty, and requirements for placing members on the TDRL. Continued performance of duty until a service member is scheduled for separation or retirement for reasons other than physical disability creates a presumption of fitness for duty. DoD Directive 1332.18 also requires that if a member fails to report for a TDRL physical, the member is to be denied benefits, unless the member shows just cause for his or her failure to be examined.

DoD Directive 6130.3, "Physical Standards for Enlistment, Appointment, and Induction," March 31, 1986, gives the physical standards for enlistment in the Services. This directive lists the medical disabilities and physical defects that cause personnel to be rejected for service.

Military Department guidance. The Military Departments also have guidance that implements DoDD 1332.18. The guidance specifies the responsibilities and procedures for service members who are undergoing disability processing, actions that can be taken by members who wish to continue to serve, and procedures for physical evaluation activities to assign limitations based on medical profiles. The following regulations contain guidance on disabilities:

- o Army Regulation 635-40, "Physical Evaluation for Retention, Retirement, or Separation," December 13, 1985;

- o Secretary of the Navy Instruction 1850.4C, "Department of the Navy Disability Evaluation," March 8, 1990;

- o Air Force Regulation 35-4, "Military Personnel Physical Evaluation for Retention, Retirement, and Separation," June 28, 1989; and

- o Marine Corps Order P1900.16, "Marine Corps Separation and Retirement Manual," Chapter 8, "Separation/Retirement for Physical Disability," June 27, 1989.

Results of Review

Management of the disability system. The DoD disability system was not managed efficiently or effectively. The Military Departments did not process claims promptly, and awarded disability ratings contrary to the Directive and U.S.C., title 10, chapter 61. Personnel who were assigned to the TDRL frequently missed their required physical examinations. In addition, the provisions of Title 10, U.S.C., chapter 61 permitted excessive compensation to be paid to members on the TDRL. If DoD made the physical evaluation system more efficient, \$139.9 million would be saved annually. These savings extend to an estimated \$839.3 million over the next 6 years. The following table shows the savings.

SUMMARY OF SAVINGS

	<u>Estimated savings</u>	
	<u>Annual</u>	<u>FYs 1993-1998</u>
	<u>(\$ millions)</u>	<u>(\$ millions)</u>
Disability processing:		
Medical boards	\$ 75.3	\$451.8
Physical evaluations	22.7	136.2
Separations	<u>24.4</u>	<u>146.4</u>
Subtotals	<u>\$122.4</u>	<u>\$734.4</u>
Disability ratings:		
Severance pay	\$ 3.5	\$ 21.0
Retirement pay	<u>2.5</u>	<u>15.0</u>
Subtotals	<u>\$ 6.0</u>	<u>\$ 36.0</u>
TDRL:		
Improper placement on TDRL	\$ 4.7	\$28.2
Additional compensation	4.5	27.0
Travel funds	<u>0.3</u>	<u>1.7*</u>
Subtotals	<u>\$ 9.5</u>	<u>\$56.9</u>
Oversight:		
Consolidation	<u>\$ 2.0</u>	<u>\$ 12.0</u>
Totals	<u>\$139.9</u>	<u>\$839.3*</u>

*Differences are due to rounding.

Disability Evaluations

Disability processing. The processing time for 9,116 permanent separations averaged 147.9 days from the earliest date that physicians identified a case that a medical board should decide, to the date the member was actually separated from service. We found that no DoD standard existed to ensure the timely processing of medical board reports and PEB evaluations, and that the DoD standard of 20 days for processing discharges was not enforced. If DoD improved its processing of disability cases, military end strength could be reduced by about 3,982 personnel, resulting in an estimated savings of \$122.4 million annually. Appendix B shows processing time frames and personnel costs by Service.

Medical board processing. The Army had established 30 days as the standard for processing the results of medical boards, from the date that the member's physician identifies the need for a physical to the date the MTF commander approves the report. The Navy and the Air Force had not established a standard processing time. The Military Departments spent an average of 82.1 days, or an excess of 52.1 days by the Army standard, in processing medical board reports. After the date of the medical board, an average of 32.2 days was spent in obtaining the member's signature and mailing the report to the PEB. Although we were unable to account for the remaining 49.9 days, PEB and MTF personnel told us that medical boards were not held promptly, and medical board reports were not promptly dictated for typing. DoDD 1332.18 does not contain a standard for processing medical evaluations. As a result, no internal controls existed to ensure prompt processing.

Physical evaluation processing. An additional 15.4 days could be saved if the Navy and Air Force physical evaluation activities took less time to evaluate disability cases. DoDD 1332.18 did not contain a standard for processing evaluations by the PEBs. We believe the DoD directive should specify a 21-day average. The Army PEB was able to process all cases within an average of 20.7 days, including appeals. Additionally, the Army had the lowest error rate, 8.8 percent (see Appendix C), for evaluating disabilities, while the Navy and the Air Force had error rates of over 35 percent. The average PEB processing times for the Navy and the Air Force were over 40 days.

Discharge processing. Discharges were not promptly processed after the PEBs decided to separate the member from active duty. Personnel activities spent an average of 37 days, or 17 days above DoD's 20-day standard, in processing discharges. This condition existed because the Army, Navy, and Marine Corps did not have adequate information systems to monitor the process after the Service personnel activities received notification to separate a member from active duty. On the other hand, the Air Force exceeded the standard by an average of 4.1 days because its automated system provided information to assist in monitoring the discharge process.

The Army was correcting this deficiency and had implemented a new information system at the time of our review. The Naval Military Personnel Command (NMPC), renamed the Bureau of Naval Personnel, was unaware of the length of time spent in processing separations. Often, the disability decisions received from the PEB's were not kept on file at the NMPC. Most of the Marine Corps' records were kept manually. Neither the Navy nor the Marine Corps tracked disability cases from the date a decision was received from the PEB to the date the member was actually separated. We are not making recommendations for corrective

action because our recommendation to consolidate the PEBs should resolve this issue.

If the member agreed with the PEB's recommendation, the Departments of the Army and the Navy considered the decision to be final and promptly notified the personnel activity so the separation process could begin. However, the Air Force had an additional procedure that unnecessarily delayed the separation process by 2 days. After receiving a member's concurrence, the Air Force Personnel Center prepared a memorandum stating the decision. If the Air Force eliminated the memorandums and accepted the PEB's recommendations, an average of 2 days would be saved in processing.

Disability ratings. Of the 9,116 permanent retirements and separations we reviewed using statistical sampling, 2,093 (23.0 percent) were incorrectly rated by the physical evaluation activities (see Appendix C). This included improper ratings of medical conditions and assigning disability ratings higher than those prescribed by the rating schedule. Existing DoD guidance was also inadequate. Unless this condition is corrected, incorrect ratings will cost DoD about \$6.0 million annually (\$3.5 million in severance pay and \$2.5 million in retirement pay). Appendix D gives examples of improperly rated disabilities.

Training. The rating deficiencies were partly caused by inadequate case evaluations made by the PEBs. We believe that high turnover among board members and the lack of formal training contributed to this problem. For example, at one PEB, the medical officer reviewed and rated all cases, and two line officers (nonmedical) signed the reports after cursory reviews. In another example, a line officer assigned outside the Continental United States received orders to report to a PEB within 2 days. Upon his arrival at the duty station, he began reviewing disability cases. He stated that his evaluations might be inaccurate, since he had no prior experience or training. We believe that a formal training program would improve the accuracy and consistency of evaluating disabilities.

Documentation. The PEBs did not adequately document their determinations of ratings. Neither case files nor PEB evaluation forms explained how the PEBs arrived at their decisions. Compensation was awarded to personnel for medical conditions that existed prior to enlistment, to personnel who were performing the duties of their office and rank prior to retirement, and to personnel with disabilities caused by their misconduct or willful neglect (not in the line of duty).

Prior-to-service conditions. Compensation was awarded to members who incurred disabilities prior to service that resulted in disabilities while in service. A projected 871 cases

(9.6 percent) had such disabilities. PEB personnel told us that they assumed that the 871 disability cases were aggravated by active duty, although the members' files contained no medical support. DoD Directive 1332.18 authorized the PEBs to rate a prior-to-service condition as a disability if evidence showed that the condition was aggravated by active duty. DoD Directive 1332.18 should be changed to make prior-to-service conditions nonratable in accordance with Title 10, U.S.C., chapter 61, unless the member has at least 8 years of active duty service.

Presumption of fitness. Of the 9,116 cases, a projected 435 (4.8 percent) were cases where members performed their assigned military duties prior to obtaining eligibility for regular retirement, yet were granted medical retirements. DoDD 1332.18 prohibits the granting of disability retirements when military personnel are performing the duties of their office, rank, or grade. However, Military Department policies permitted members to carry out extended, limited-duty assignments and be granted disability retirements. According to DoDD 1332.18, a career service member who incurs a disability, and who remains in service until retirement, is not required to waive his or her disability claims if he or she can perform a valid function. We believe that when members are permitted to remain in the service, they should be required to sign waivers forfeiting their medical retirement. Some members received increased retirement pensions, and part of their pension was nontaxable.

Line of duty. Of the 9,116 disability cases, a projected 279 (3.1 percent) resulted directly from the member's misconduct or willful neglect. These disabilities were caused by abuse of drugs or alcohol or gross carelessness. When making disability awards in these cases, the PEBs did not follow the intent of Title 10, U.S.C., chapter 61, and DoD Directive 1332.18. A line-of-duty statement is required when determining the circumstances of an incident that involves an injury. Frequently, the case files either did not contain a line-of-duty determination or the statement was inadequate. In addition, the PEBs did not rely on the results of the line-of-duty determination. If a member protested extensively, the PEBs would eventually make an award even if the case lacked merit.

Overratings. Disability ratings were overstated in 508 (5.6 percent) of the 9,116 cases. This resulted because the VA rating schedule was not strictly adhered to by the PEB evaluators. Disabled members with 10 or more years of service were more likely to be improperly rated and receive disability retirements.

\$300,000 a year by reducing the maximum time a member could remain on the TDRL to 3 years.

Consolidation of PEBs

In 1990, the DoD physical evaluation activities employed 171 civilian and military personnel. Annual personnel and support costs totaled an estimated \$10.6 million (see Appendix I). Forty-one of the positions at the evaluation activities were duplicate positions, such as activity commanders, executive officers, and administrative and clerical personnel. Consolidating the PEBs would save \$2.0 million in personnel costs and would help ensure that the other \$137.9 million in annual savings addressed in this finding would be achieved.

Conclusion

The DoD disability system had operational and internal control problems. Disability cases were not processed promptly, ratings were improperly awarded, and personnel were improperly placed on the TDRL and were not removed when their medical conditions stabilized. Developing time standards for processing cases, improving the procedures for awarding disability compensation, and refinements to the TDRL system will help ensure that these actions will be followed. However, ASD(HA) needs a strong quality assurance program to monitor the disability system. A system did not exist to collect data from the PEBs on how quickly cases were processed and the number of cases for each medical condition. The ASD(HA) did not make periodic inspections of the PEBs or medical boards to ensure that existing procedures were followed.

We believe that consolidation of the PEBs is the best alternative to correct the internal control deficiencies. Consolidation would help resolve the apparent lack of coordination between Service evaluation activities and ASD(HA), and would provide for economy of operations. On March 26-27, 1990, the three Service evaluation activities conducted a Tri-Service Disability Retirement Conference. We were told that ASD(HA) personnel would not be invited to the conference because the Military Departments did not want ASD(HA) to hear about their operational problems. Although ASD(HA) was not invited, representatives from the VA were invited. The purpose of the conference was "to share ideas on how to streamline the disability retirement system."

RECOMMENDATIONS, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

We recommend that the Assistant Secretary of Defense (Health Affairs):

- 1. Revise DoD Directive 1332.18 to:**

a. Require a standard of 30 days from the date a medical board is requested until the report is transmitted to the Physical Evaluation Board.

b. Require a standard of 21 days for processing evaluations from the date the Physical Evaluation Board receives the medical board's report until final determination by the Physical Evaluation Board.

c. Establish procedures to ensure that disabled personnel are separated within DoD's 20-day processing standard after the Physical Evaluation Board's determination.

Management comments. The Assistant Secretary partially concurred with Recommendation A.1.a. (draft report Recommendation A.2.). The Assistant Secretary stated that DoD Directive 1332.18 will be modified to require medical board reports to be processed within 30 days. The draft directive was to be completed and forwarded for comment by May 1, 1992.

Recommendation A.1.b. is a new recommendation in this final report; therefore, the Assistant Secretary could not previously comment on it. However, the Assistant Secretary proposed a 90-day standard for processing both medical board and PEB evaluations in his comments on Recommendation A.1.a.

The Assistant Secretary partially concurred with Recommendation A.1.c. (draft report Recommendation A.4.) and stated that the draft report recommendation should be modified to reflect separation after the PEB's or appeal board's decision. Also, the Assistant Secretary stated that processing times were skewed upward because the law restricts the sale of leave back to the Government to 60 days of leave in a member's career. Members were allowed to use leave in excess of 60 days prior to separating or retiring. The full text of the Assistant Secretary's comments is in Part IV of this report.

Audit response. The Assistant Secretary's comments to Recommendation A.1.a. were fully responsive. We have added Recommendation A.1.b. because a 90-day standard for processing (90 days from the date of the decision to convene a medical evaluation board to final determination by the disability evaluation system) would be excessively lenient. Allowing 30 days for the medical evaluation board, the 90-day proposal would provide for 60 days from the medical evaluation board's report to final determination by the disability evaluation system. As discussed in section entitled, "Physical evaluation processing," the Army processes PEB evaluations in an average of 20.7 days and with fewer errors than the Navy and the Air Force. A 21-day standard would help ensure that the typical disability case was processed efficiently and economically, saving DoD an estimated \$22.7 million annually in military personnel costs. We

request that the Assistant Secretary reconsider the proposal for a 90-day period and provide comments on Recommendation A.1.b.

The Assistant Secretary's comments to Recommendation A.1.c. (draft report Recommendation A.4.) focused on a proposed legislative amendment to allow service members to sell back accrued leave in excess of 60 days. Although we have no objections to the amendment, our review showed that this was not a significant cause for members to delay their retirements or separations. We reworded the recommendation, as suggested by management, to state that disabled personnel should be separated within 20 days after the PEB rather than after the medical board (as stated in draft report Recommendation A.4.). The Assistant Secretary needs to describe what controls will be established in order to implement the revised recommendation.

d. Require that the rationale for the decisions made by the PEBs and appeal boards be documented. At a minimum, the documentation should include the applicable VA disability code; how the percentage was determined, if the rating is different from that prescribed in the VA schedule; how line-of-duty, prior-to-service conditions, presumption of fitness, and negligence or willful misconduct were determined; and why the medical conditions of members on the Temporary Disability Retirement List are considered unstable.

Management comments. The Assistant Secretary nonconcurred with Recommendation A.1.d. (draft report Recommendation A.8.b). The nonconcurrence was part of his overall comments on our recommendation to consolidate the PEBs and did not specifically address the documentation issue.

Audit response. We have separated the recommendation to require documentation (Recommendation A.1.d.) from the overall recommendation to consolidate the PEBs, and we request that the Assistant Secretary comment on our revised Recommendation A.1.d.

e. Require that prior-to-service conditions be nonratable, except for members who have 8 or more years of active duty service.

Management comments. Recommendation A.1.e. is new; therefore, the Assistant Secretary did not provide comments.

Audit response. We deleted our draft report recommendation for the VA to rate all disabilities for DoD. Therefore, we added Recommendation A.1.e. to ensure that DoD guidance is consistent with U.S.C., title 10, chapter 61. We request that the Assistant Secretary comment on this recommendation in his response to the final report.

f. Require that a line-of-duty determination be completed before the medical board sends the report to the physical evaluation board and that a copy of the report be maintained in the member's file. As a minimum, the line-of-duty determination should address drug- and alcohol-related conditions.

Management comments. In his comments made on February 13, 1992, the Assistant Secretary stated that when line-of-duty determinations were required, such determinations would be completed prior to final determination by the disability evaluation system, and that a copy would be retained in the member's file. The revision to the DoD directive was to be completed by May 1, 1992. In previous comments on draft report Recommendation A.6., the Assistant Secretary emphasized that since the PEB rather than the medical board adjudicated cases, the line-of-duty determination was needed.

Audit response. The Assistant Secretary's comments were partially responsive. The PEB should receive the line-of-duty determination at the same time it receives the member's medical board file. Otherwise, the disposition of the case could be delayed. We have modified the recommendation to require the line-of-duty determination to be completed before the PEB meets. We request that the ASD(HA) reconsider his position and provide additional comments on Recommendation A.1.f. in the final report.

g. Require a waiver of disability benefits from disabled personnel who are allowed to remain on active duty until they are eligible for length-of-service retirement.

Management comments. As an alternative to draft report Recommendation A.1. (deleted in the final report), the Assistant Secretary proposed that DoD Directive 1332.18 be changed to require personnel who are found unfit for duty, but are authorized to continue on active duty, to sign a waiver of disability benefits. The waiver would take effect if the member remains on active duty until he or she is eligible for length-of-service retirement. The directive was to be changed by May 1, 1992.

Audit response. We accept the Assistant Secretary's proposal and have added Recommendation A.1.g. We ask that the Assistant Secretary comment on the recommendation.

2. Develop a joint training program for disability evaluators. As a minimum, the training program should include: line-of-duty criteria; presumption-of-fitness determinations; prior-to-service criteria; application of the VA rating schedule; and preparation of documentation to support PEB decisions.

Management comments. As an alternative to draft report Recommendation A.1. (deleted in the final report), the Assistant Secretary proposed that DoD continue rating disabilities, but stated that his office would develop a formal training program to ensure timely and consistent processing of disability cases.

Audit response. We accept the Assistant Secretary's proposal and agree that the disability evaluators need formal training if DoD continues rating disabilities. As a result, Recommendation A.2. has been added to the final report. We ask that the Assistant Secretary comment on the revised recommendation.

3. Propose legislation to amend Title 10, United States Code, chapter 61, to:

a. reduce the maximum time a member can remain on the Temporary Disability Retirement List to 3 years; and

b. eliminate the 50-percent minimum compensation rate for members assigned to the Temporary Disability Retirement List.

Management comments. As an alternative to draft report Recommendation A.1., the Assistant Secretary stated that he will propose legislation to reduce the maximum time on the TDRL from 5 to 3 years. Draft legislation was to be completed on April 1, 1992. The Assistant Secretary did not comment on Recommendation A.3.b., since it was not included in the draft.

Audit response. We accept management's proposal to reduce the maximum time on the TDRL and have deleted draft report Recommendation A.1. and added Recommendation A.3.a. to the final report. We ask that the Assistant Secretary comment on the recommendation in the final report. Because we are no longer recommending elimination of the TDRL, we believe that, in addition to Recommendation A.3.a., it is necessary to eliminate the 50-percent minimum compensation rate to prevent excessive compensation of members on the TDRL. Therefore, we added Recommendation A.3.b. We request comments on this recommendation from the Assistant Secretary.

4. Consolidate the physical evaluation boards and eliminate the number of positions shown in Appendix I of this report.

Management comments. The Assistant Secretary nonconcurred with Recommendation A.4. (draft report Recommendation A.7.). The Assistant Secretary stated that the Service Secretaries were authorized by Congress to make final disability determinations. He stated that the report did not adequately outline the mechanics of the proposed system and that the amount of savings we claimed did not allow for positions that would be created

under the new system. The Assistant Secretary believes that the problems can be corrected under the present structure.

Audit response. The Assistant Secretary's comments were not responsive. The Assistant Secretary did not propose specific actions to correct the problems under the present structure. We are no longer recommending that DoD discontinue evaluating disabilities, but we still believe that consolidating the PEBs would help to eliminate internal control weaknesses and would reduce overhead and improve economy of operations. We request that the Assistant Secretary reconsider his position and provide additional comments.

5. Require quality assurance reviews of the case files of PEBs and medical boards. Data should be analyzed for trends, and information should be given to responsible activities.

Management comments. The Assistant Secretary nonconcurred with this recommendation (draft report Recommendations A.8.c. and A.8.d.) as part of the recommendation to consolidate PEBs. Management stated that improvements could be made to the present system, but did not propose specific corrective actions.

Audit response. We have separated this recommendation from the recommendation to consolidate PEBs, and we request that management provide specific comments on the revised recommendation.

Navy comments. The Navy provided unsolicited comments on the finding and recommendations. The text of those comments is in Part IV of this report.

REVISED RECOMMENDATIONS

In his January 10, 1992, comments to the draft report, the Assistant Secretary nonconcurred with recommendations to eliminate the provisions of the DoD disability retirement system, to delegate the decision to separate disabled members to the medical boards, and to consolidate the PEBs.

At the request of the Assistant Secretary, we met with his staff to discuss alternatives to our recommendations. The primary emphasis of those meetings was the desire to maintain a disability evaluation system within DoD. The Assistant Secretary's staff recognized that improvements were necessary, but believed that the current system provided a solid foundation. Based on those meetings and additional written comments from the Assistant Secretary of Defense (Health Affairs), dated February 13, 1992, we deleted draft report Recommendations A.1., A.3., A.5., and A.8.a. In order to correct the deficiencies addressed by those recommendations, we added six new recommendations (A.1.b., A.1.e., A.1.g., A.2., A.3.a., and

A.3.b.). We also modified Recommendations A.1.f., A.4., A.6., and A.8.b. in the draft report. Draft report Recommendations A.8.c. and A.8.d. were combined. As a result, most final report recommendation numbers are different from the recommendation numbers in the draft. The following chart cross-references final report recommendations to the draft report.

CROSS-REFERENCE OF FINAL AND DRAFT REPORT RECOMMENDATIONS

<u>Recommendation Number</u>	
<u>Final Report</u>	<u>Draft Report</u>
A.1.a.	A.2.
A.1.b.	*
A.1.c.	A.4.
A.1.d.	A.8.b.
A.1.e.	*
A.1.f.	A.6.
A.1.g.	*
A.2.	*
A.3.a.	*
A.3.b.	*
A.4.	A.7.
A.5.	A.8.c., A.8.d.

* No cross-reference to draft report. This recommendation was added as a result of deleting draft report Recommendation A.1.

STATUS OF RECOMMENDATIONS

<u>Number</u>	<u>Addressee</u>	<u>Responses Should Cover</u>			
		<u>Concur or Nonconcur</u>	<u>Proposed Action</u>	<u>Completion Dates</u>	<u>Related Issues*</u>
1.a.	ASD(HA)				M, IC
1.b.	ASD(HA)	X	X	X	M, IC
1.c.	ASD(HA)	X	X	X	M, IC
1.d.	ASD(HA)	X	X	X	IC
1.e.	ASD(HA)	X	X	X	
1.f.	ASD(HA)	X	X	X	
1.g.	ASD(HA)	X	X	X	
2.	ASD(HA)	X	X	X	M, IC
3.a.	ASD(HA)	X	X	X	M
3.b.	ASD(HA)	X	X	X	M
4.	ASD(HA)	X	X	X	M, IC
5.	ASD(HA)	X	X	X	IC

* M = monetary benefits; IC = material internal control weakness.

B. NAVY TRAVEL FUNDS

The NMPC, now the Bureau of Naval Personnel, had not established adequate accountability and internal controls over travel funds used by personnel required to take periodic medical examinations. NMPC neither complied with the procedures prescribed in the Navy Comptroller Manual nor reviewed the internal controls over the TDRL function. As a result, NMPC lost control over 4,300 travel orders that were issued against its FY 1990 travel budget of \$171,000. NMPC had no assurance that travel claims and advances were not fraudulent.

DISCUSSION OF DETAILS

Background

Physical exams. Title 10, U.S.C., chapter 61, requires personnel on the TDRL to take a medical examination every 18 months. NMPC is responsible for issuing written orders to notify former Navy personnel of the requirement. When personnel are not located near an MTF, they can be reimbursed for their travel costs. NMPC is also responsible for budgeting, accounting, and controlling funds for TDRL travel.

Accounting provisions. The Navy Comptroller Manual, Volumes II and III, requires NMPC to issue separately numbered travel orders for each trip. Cost estimates are to be prepared and recorded on the travel orders, and copies of the orders are to be sent to the NMPC accounting office. In addition, the accounting office is to obligate travel funds based on the cost estimates and reconcile obligations to expenditures when records of actual expenditures are received.

Operation and Maintenance funds are used to finance travel to TDRL reexaminations. At the end of the fiscal year, the appropriation expires and is no longer available for obligation.

Management control program. Secretary of the Navy Instruction 5200.35B, "Department of the Navy Management Control Program," March 25, 1988, requires NMPC to perform a risk assessment every 5 years to identify functions that are vulnerable to fraud, waste, and abuse. When a deficiency is identified, a plan is to be developed to show corrective actions that will be taken and when these actions will be completed.

Results of Review

Retirement branch. During our review of NMPC's TDRL procedures, we found that NMPC did not have adequate accountability and internal controls over funds used for TDRL travel in FY 1990. NMPC's medical retirement branch issued over 4,300 travel orders annually for personnel to travel to physical

examinations. The medical retirement branch assigned the same control number to all travel orders and did not prepare cost estimates. In addition, the medical retirement branch did not send copies of travel orders to the accounting branch and could not account for all travel orders issued. NMPC could not provide copies of orders for 27 (32.5 percent) of the 83 TDRL cases we reviewed. Furthermore, NMPC could not determine if TDRL personnel had attended their physical examinations. For detailed discussion of TDRL physicals, see "Temporary Disability Retirement List" in Finding A.

Accounting methods. The NMPC accounting branch tried to correct these problems, but the medical retirement branch did not cooperate. Instead, the accounting branch made a lump-sum obligation every 3 months against the travel funds. The accounting branch could not reconcile expenditures and obligations or verify the propriety of expenditures. The accounting branch received a list of expenditures from the Naval Regional Finance Center, Washington, D.C. (now DFAS), which did not identify travelers. The accounting branch offset obligations by the total amount of expenditures. The lists of travel expenditures also contained transactions from travel in previous fiscal years, and the accounting branch had no means of verifying the expenditures. At the end of the fiscal year, most obligations were still on the accounting records. The unliquidated obligation balance was then lost to the Navy for reobligation purposes. The unliquidated amounts were merged into the Navy's "M" account after the appropriation expired. The following table illustrates the unliquidated balances of prior-year funds at the time of our audit.

STATUS OF OBLIGATIONS

<u>Fiscal year</u>	<u>Amount of obligation</u>	<u>Amount of expense at year's end</u>	<u>Amount of unliquidated obligation</u>
1988	\$175,000	\$70,000	\$105,000
1989	171,000	33,000	138,000

Internal controls assessment. NMPC's internal management control plans did not address these deficiencies. The internal control coordinators had not ensured that this function was assessed. We discussed these deficiencies with NMPC personnel in February 1990. A year later, they had not corrected the deficiencies or performed a vulnerability assessment.

Vulnerability. Conditions related to inadequate internal controls and accountability over travel funds require prompt management attention. Lax procedures are conducive to fraud and

mismanagement. A traveler could draw a travel advance and not repay it, or an unauthorized individual could obtain copies of travel orders, file a claim, and be reimbursed. Both situations might remain undetected under current practices. Because records were incomplete or unavailable, we could not verify transactions in order to determine whether fraudulent transactions were made.

RECOMMENDATIONS FOR CORRECTIVE ACTION

We recommend that the Commander, Naval Military Personnel Command (Bureau of Naval Personnel):

1. Require the retirement branch to assign separate numbers and cost estimates to each set of travel orders, and send a copy of the orders to the accounting branch.
2. Reconcile each travel expenditure to the travel orders and their respective obligations.
3. Require the internal control coordinator to monitor the status of Recommendations 1. and 2. and report the status of corrective actions in the internal management control plan.

MANAGEMENT COMMENTS

The Assistant Secretary of the Navy (Manpower and Reserve Affairs) concurred with Recommendations B.1., B.2., and B.3. The comments were fully responsive to the recommendations.

PART III - ADDITIONAL INFORMATION

- APPENDIX A - Statistical Sampling Method
- APPENDIX B - Processing Time Frames for Disability Cases and Estimated Annual Personnel Savings
- APPENDIX C - Improper Disability Ratings, by Service, and Estimated Annual Savings
- APPENDIX D - Examples of Improper Disability Ratings
- APPENDIX E - Disability Cases Improperly Placed on Temporary Disability Retirement Lists, Overpayments, and Estimated Annual Savings
- APPENDIX F - Examples of Disability Cases Improperly Placed on Temporary Disability Retirement Lists
- APPENDIX G - Members on the Temporary Disability Retirement List Who Missed One or More Physical Examinations
- APPENDIX H - Cases Improperly Maintained on the Temporary Disability Retirement List with 30- and 40-Percent Ratings, and Estimated Annual Savings
- APPENDIX I - Administrative Costs for Physical Evaluation Activities
- APPENDIX J - Summary of Potential Benefits Resulting from Audit
- APPENDIX K - Activities Visited or Contacted
- APPENDIX L - Report Distribution

APPENDIX A. STATISTICAL SAMPLING METHOD

Universe Factors

Four services. Each of the four Services operated finance and accounting activities that made payments to members and former members as a result of medical disabilities. The Services were also responsible for discharging members as a result of medical disabilities. The Marine Corps did not review and evaluate medical disabilities; the Navy performed this function for the Marine Corps. Each of the Services was treated as a separate stratum for sampling purposes.

Three populations. Members discharged from the Services for medical disabilities were divided into three populations: those with disabling conditions that had not stabilized and whose final disability status was to be determined after evaluation over a finite time period (temporary disability); those with permanent disabilities who did not qualify for retirement (permanently separated with or without severance pay); and those with permanent disabilities who qualified for retirement (permanent with monthly disability retirement pay).

Temporary Disability Retirement List (TDRL). Members with disability ratings of 30 percent or more are placed on this list and receive at least 50 percent of their military pay. They may be on the list for up to 5 years. Medical examinations are required every 18 months to determine changes in medical condition. The TDRL population represents those military personnel who have been on the list at least 2 years, up to the maximum of 5 years. Any member who is on the TDRL more than 18 months requires at least one follow-up examination. The breakdown by Service is as follows:

TDRL PERSONNEL

<u>Service</u>	<u>Universe</u>	<u>Sample</u>
Army	1,229	80
Navy	2,954	83
Marine Corps	804	41
Air Force	<u>967</u>	<u>70</u>
Totals	<u>5,954</u>	<u>274</u>

Permanent disability. This population consists of permanently disabled members and is divided into two subgroups: members retired from active duty who receive monthly disability retirement pay, and members separated from the Services who are

APPENDIX A. STATISTICAL SAMPLING METHOD (cont'd)

given a lump-sum payment (severance pay) based on grade and length of time on active duty. The permanent disability population consists of personnel who were added to the list between October 1, 1989, and March 31, 1990. The subgroups by Service are as follows:

PERMANENTLY DISABLED PERSONNEL

<u>Service</u>	<u>Severance pay</u>		<u>Retirement pay</u>		<u>Total population</u>	
	<u>Universe</u>	<u>Sample</u>	<u>Universe</u>	<u>Sample</u>	<u>Universe</u>	<u>Sample</u>
Army	2,061	42	592	42	2,653	84
Navy	2,997	45	1,124	35	4,121	80
Marine Corps	1,605	49	121	32	1,726	81
Air Force	386	51	230	27	616	78
Totals	<u>7,049</u>	<u>187</u>	<u>2,067</u>	<u>136</u>	<u>9,116</u>	<u>323</u>

Sample Parameters

Both the permanent disability and TDRL systems change constantly because of continuous additions of personnel. We could obtain only limited information that was common to all Services, particularly for the permanent disability system. Data on the permanent disability population covered a 6-month period (October 1, 1989, to March 31, 1990); a 1-year period would have been preferable. The Services maintained records in different ways and for different time periods. This 6-month period was the only period for which all Services had data, and was the most recent data available.

Sample Designs

TDRL. This is a one-stage sample, with the Services comprising that stage. Within each Service, the IG, DoD staff used a random sample design to select cases for review.

Permanent disability. The permanent disability data required the use of two stages for sampling both strata. The first stage consisted of disability cases stratified by compensation category (permanent retirement pay and severance pay). The second stage was stratified by the member's respective

APPENDIX A. STATISTICAL SAMPLING METHOD (cont'd)

Service. Individual disability cases were randomly selected from the severance pay group and the retirement pay group within each Service.

Confidence level. Quantitative Methods Division (QMD) designed and developed the TDRL sample with a 95-percent confidence level, and the permanent disability sample with a 90-percent confidence level. The 90-percent confidence level was used to evaluate results for all populations.

Analysis and Estimates Provided

Characteristics of estimates. The estimates are limited in their reference to the population and time period from which they were drawn. The projection is the mathematical best single estimate of the cost, number of days, and percentage of personnel with each attribute. The sampling error or precision is a measure of the reliability of the best single estimate and takes into account the size of the sample and the amount of variability in each attribute.

TDRL. This group represents individuals who had been on the list between 24 and 60 months. The estimates apply to the same personnel and time period. The cost estimates apply to an individual's total applicable months on the TDRL, as opposed to an annual (12-month) cost. The overall cost estimates are based on the cost of a member's monthly bonus, multiplied by the number of months the member was on the list.

QMD gave the audit team estimates of the number of members improperly placed on the TDRL and the associated cost, the number of medical examinations required, the number of exams missed, the number of members who missed at least one exam, the number whose TDRL compensation rate (a minimum of 50 percent of the member's pay) exceeded their potential permanent disability rate, and the costs associated with this bonus for those individuals.

Permanent disabilities. These estimates apply only to the 6-month group of cases for which the IG, DoD could obtain data from all Services. The audit focused first on the time required for processing the disability claim (both the overall time and the length of time that exceeded regulatory standards). The audit team provided individual cost data based on composite rates (daily pay plus benefits according to rank) and dates to establish time frames for disability processing. The first set of estimates addressed personnel costs in terms of personnel years and dollars associated with the number of excess processing days. The second set of estimates focused on members who either

APPENDIX A. STATISTICAL SAMPLING METHOD (cont'd)

did not qualify for any permanent disability compensation or qualified for lower severance or retirement payments because of improper disability ratings. The audit team provided data on questioned benefits for both severance and retirement pay. The applicable lump-sum severance amount or a calculated retirement amount (the number of days within the 6-month period that the individual received pay, times the applicable daily retirement pay) was used to determine the cost of improper ratings or excess benefits paid to members.

QMD provided the following estimates for the permanent disability cases, based on the two subgroups combined and adjusted for the Service totals: the average and total number of excess processing days, the personnel costs of excess days, the number of individuals incorrectly receiving permanent disability benefits, and the estimated dollar amount of questionable severance and retirement payments for the 6-month period.

Statistical Estimates for Various Tables

The tables on the following pages of this Appendix contain statistical data used in this report. These tables also show the sampling error or precision of the statistical estimates and projections with a 90-percent confidence level.

APPENDIX A. STATISTICAL SAMPLING METHOD (cont'd)

**STATISTICAL ESTIMATES FOR VARIOUS TABLES
WITH 90-PERCENT CONFIDENCE AND STATED PRECISION**

<u>Appendix</u>	<u>Title of estimate</u>	<u>Statistical estimate or projection</u>	<u>Sampling error or precision</u>
	<u>Permanent disability:</u>		
B	Average number of excess days to process		
	Army	95.6	29.5
	Navy	116.8	27.3
	Air Force	68.5	13.9
	Marine Corps	80.1	20.0
	All Services	<u>99.0</u>	<u>26.7</u>
B	Number of excess days to process*		
	Army	253,674	78,250
	Navy	481,486	112,591
	Air Force	118,193	24,067
	Marine Corps	49,326	12,067
	All Services	<u>902,679</u>	<u>243,475</u>
B	Cost of excess days to process (\$000's)		
	Army	\$21,412.3	\$ 6,488.0
	Navy	41,570.8	9,805.3
	Air Force	8,923.3	1,821.0
	Marine Corps	4,387.7	1,312.9
	All Services	<u>\$76,294.1</u>	<u>\$20,853.6</u>
C	Members incorrectly rated		
	Army	232	129
	Navy	1,446	479
	Air Force	163	97
	Marine Corps	252	73
	All Services	<u>2,093</u>	<u>700</u>
C	Costs of incorrect ratings		
	Army	\$ 102,791	\$ 76,272
	Navy	536,038	380,434
	Air Force	3,919	3,074
	Marine Corps	851,679	674,883
	All Services	<u>\$1,494,427</u>	<u>\$1,134,663</u>

* = number of excess days - 360 = number of personnel (year) reductions.

APPENDIX A. STATISTICAL SAMPLING METHOD (cont'd)

**STATISTICAL ESTIMATES FOR VARIOUS TABLES
WITH 90-PERCENT CONFIDENCE AND STATED PRECISION (cont'd)**

<u>Appendix</u>	<u>Title of estimate</u>	<u>Statistical estimate or projection</u>	<u>Sampling error or precision</u>
	<u>Temporary Disability Retirement List:</u>		
E	Number of members improperly placed on TDRL		
	Army	307	95
	Navy	1,210	259
	Air Force	176	84
	Marine Corps	207	75
	All Services	<u>1,900</u>	<u>285</u>
E	Cost of improper placement on TDRL (\$000's)		
	Army	\$ 4,021	\$1,485
	Navy	6,254	2,884
	Air Force	1,845	1,357
	Marine Corps	2,338	1,215
	All Services	<u>\$14,458</u>	<u>\$7,082</u>
G	Members who missed at least one physical examination		
	Army	476	107
	Navy	1,602	263
	Air Force	412	101
	Marine Corps	41	37
	All Services	<u>2,531</u>	<u>303</u>
G	Number of examinations required for members on TDRL		
	Army	1,997	141
	Navy	6,371	426
	Air Force	1,294	131
	Marine Corps	1,713	96
	All Services	<u>11,375</u>	<u>486</u>
G	Number of examinations missed for members on TDRL		
	Army	737	181
	Navy	2,634	520
	Air Force	588	163
	Marine Corps	69	70
	All Services	<u>4,028</u>	<u>588</u>

APPENDIX A. STATISTICAL SAMPLING METHOD (cont'd)

**STATISTICAL ESTIMATES FOR VARIOUS TABLES
WITH 90-PERCENT CONFIDENCE AND STATED PRECISION (cont'd)**

<u>Appendix</u>	<u>Title of estimate</u>	<u>Statistical estimate or projection</u>	<u>Sampling error or precision</u>
	<u>Temporary Disability Retirement List (cont'd):</u>		
H	Number of members receiving compensation for 30- or 40-percent disability		
	Army	307	95
	Navy	1,103	255
	Air Force	392	101
	Marine Corps	304	85
	All Services	<u>2,106</u>	<u>303</u>
H	Estimated value for of bonus compensation for 30- or 40-percent disability for TDRL personnel		
	Army	\$ 1,599,519	\$ 585,498
	Navy	8,136,320	2,502,911
	Air Force	2,400,623	886,808
	Marine Corps	2,113,311	810,787
	All Services	<u>\$14,249,773</u>	<u>\$2,837,459</u>

APPENDIX B. PROCESSING TIME FRAMES FOR DISABILITY CASES AND ESTIMATED ANNUAL PERSONNEL SAVINGS

<u>Service</u>	<u>Universe size</u>	<u>Average days to process</u>	<u>Average excess days to process</u>			<u>Statistical projections for 6 months</u>		<u>Estimated annual personnel savings</u>	
			<u>Medical boards</u> ^{1/}	<u>Physical evaluation</u> ^{2/}	<u>Separations</u> ^{3/}	<u>Personnel reductions</u>	<u>Costs (\$ millions)</u> ^{4/}	<u>Personnel reductions</u>	<u>Costs (\$ millions)</u>
Army	2,653	142.4	66.3	0	22.1	705	\$ 21.4	1,120	\$ 34.7
Navy	4,121	166.8	59.1	21.9	18.0	1,337	41.6	2,200	68.5
Marine Corps	1,726	118.4	19.1	19.4	11.2	328	8.9	458	11.3
Air Force	<u>616</u>	<u>126.9</u>	<u>36.5</u>	<u>27.7</u>	<u>4.1</u>	<u>137</u>	<u>4.4</u>	<u>204</u>	<u>7.9</u>
Totals	<u>9,116</u>	147.9 ^{5/}	52.1 ^{5/}	15.4 ^{5/}	17.0 ^{5/}	<u>2,507</u>	<u>\$76.3</u>	<u>3,982</u>	<u>\$122.4</u>

^{1/} Less the 30-day standard used by the Army.

^{2/} Number of days saved if the Physical Evaluation Boards had an average processing standard of 21 days.

^{3/} Less the DoD 20-day standard.

^{4/} The excess processing days for each case in the sample, multiplied by the composite compensation rate (pay and benefits) for the member's rank.

^{5/} These are weighted averages based on the population of each Service and the population in each strata (retirement and severance pay).

^{6/} Based on twice the statistical projection less 21 days for processing physical evaluations.

APPENDIX C. IMPROPER DISABILITY RATINGS, BY SERVICE, AND ESTIMATED ANNUAL SAVINGS

<u>Service</u>	<u>Universe size</u>	<u>Reasons for improperly rated disabilities</u>					<u>Percentage of improper ratings</u>	<u>Statistically projected overpayments (\$000's)</u>	<u>Estimated annual savings (\$000's)*</u>
		<u>Condition prior to service</u>	<u>Presumed fit for duty</u>	<u>Erroneously rated</u>	<u>Overrated</u>	<u>total</u>			
Army	2,653	0	42	0	190	232	8.8	\$ 102.8	\$ 411.2
Navy	4,121	696	321	266	163	1,446	35.1	536.0	2,144.0
Marine Corps	1,726	0	46	4	112	162	9.4	3.9	15.6
Air Force	<u>616</u>	<u>175</u>	<u>26</u>	<u>9</u>	<u>43</u>	<u>253</u>	<u>41.0</u>	<u>851.7</u>	<u>3,406.8</u>
Total	<u>9,116</u>	<u>871</u>	<u>435</u>	<u>279</u>	<u>508</u>	<u>2,093</u>	23.0	<u>\$1,494.4</u>	<u>\$5,977.6</u>

* The amount of projected overpayments was for the period the former member had been separated. The average separation period was 3 months. Consequently, the estimates of the annual savings were based on 12 months (\$1,494.4 million x 4).

APPENDIX D. EXAMPLES OF IMPROPER DISABILITY RATINGS

We used the criteria in DoDD 1332.18, "Separation from Military Service by Reason of Physical Disability," and U.S.C., title 10, chapter 61, "Retirement or Separation for Physical Disability," to determine if disabilities should be rated. We also compared the VA's "Schedule for Rating Disabilities" (for establishing the percentage of disability rating) to the evidence in members' claim files and other information about the claims. For disability ratings assigned by PEBs that we found incorrect, we compared PEB ratings to VA ratings.

Audit
Case
Number

Case Discussion

ARMY

- A-H-7 A member with over 10 years of active duty was diagnosed with severe, chronic headaches and frequent, prostrating attacks resulting from a tank accident. He was medically discharged on March 13, 1990, with a 30-percent disability rating. Based on the medical evidence, the headaches were not frequent or severe enough to warrant a 30-percent rating; a 10-percent rating would be in accordance with the VA schedule. The member was overrated and should have been discharged with severance pay. The excess cost to DoD was \$3,442 annually, or \$125,903 over the member's life expectancy.
- A-H-26 A member was diagnosed with steroid-dependent asthma and inflamed nasal passages, existing prior to service and service-aggravated. He was medically discharged on October 13, 1989, with a 30-percent disability rating. However, medical evidence showed that the member had only mild episodes of asthma and took no oral steroids. According to the VA schedule, a 10-percent rating was warranted. The member was overrated and should have been separated with severance pay. The excess cost to DoD was \$1,932 annually, or \$53,845 over the member's life expectancy.
- A-H-31 After an injury in Viet Nam, a member's right leg was amputated below the knee. He was examined by a medical board and was found unfit for duty. However, he was retained in the Army and attended medical school at Government expense, specializing in orthopedics. On February 10, 1990, he was given a permanent disability

APPENDIX D. EXAMPLES OF IMPROPER DISABILITY RATINGS (cont'd)

Audit
Case
Number

Case Discussion

retirement (rated at 80 percent) after 21 years of active duty. The member had the condition for approximately 19 years with no evidence of recent deterioration. At the time of our audit, the member was a civilian orthopedic physician. Presumption of fitness should have been applied, and the member should have received regular retirement, not disability retirement. The excess cost to DoD was \$12,000 annually, or \$342,600 over the member's life expectancy. In addition, his retirement of \$36,000 a year was nontaxable.

NAVY

N-M-23 After 2 years and 4 months of service, this member underwent a medical board on May 17, 1989, for open patella fracture of the left knee as the result of a gunshot wound. The injury report stated that the member was chasing rabbits from his parents' property at 11 p.m. when he tripped and shot himself in the knee. A PEB assigned a 10-percent disability rating for degenerative arthritis. The member was separated with severance pay on March 21, 1990. The member displayed willful neglect in his handling of the gun. The gun was cocked and loaded, and the member was running at night. Also, the member violated the law by hunting after sunset. The member should have been separated without severance pay. The cost to DoD was approximately \$4,728.

N-K-1 A member with 9 years and 6 months of service complained of a small lump in her right breast. She denied having symptoms of advanced lupus, such as fevers, chills, sweats, cough, difficulty in breathing, diarrhea, weight loss, rash, headaches, numbness, swollen lymph glands, and pain when swallowing. The PEB assigned a 100-percent disability rating (totally incapacitating condition) for systemic lupus (disseminated), and the member retired permanently on December 29, 1989. A disability rating of 30 percent would have been appropriate for moderate impairment of health and intensified pain lasting a week or more, 2 or 3 times a year, as supported by the medical records. The excess cost to DoD was \$7,962 annually, or \$304,303 over the member's life expectancy.

APPENDIX D. EXAMPLES OF IMPROPER DISABILITY RATINGS (cont'd)

Audit
Case
Number

Case Discussion

AIR FORCE

- F-F-21 A member was diagnosed as schizophrenic: unemployable, incompetent to manage personal finances, but not a danger to anyone. However, the psychiatric report stated, "He is competent for pay...no evidence of a major psychiatric disorder." The PEB rated the disability at 30 percent; the member appealed, and the review board awarded the member a 70-percent disability rating. We found no support in the member's file for the rating. The excess cost to DoD was \$4,200 annually, or \$149,940 over the member's life expectancy.
- F-F-5 A member performed his duties as a computer specialist for 10 years despite continuous back pain. Air Force Regulation 35-4 states, "Continued satisfactory performance of duty 12 months before the scheduled nondisability date, creates a presumption that the member is fit." The date of this member's nondisability separation was October 29, 1989. However, the complaint presented at the disability hearing did not differ from the member's complaint during the previous 10 years of service. The illness began around 1979. The member's supervisor stated in a letter dated September 11, 1989, "He can do his work without any problems. He works at a computer terminal sitting down and laying back." Presumption of fitness should have been applied, and the member should have received regular retirement, not disability retirement. The excess cost to DoD was \$1,632 monthly, or \$447,974 over the member's life expectancy.
- F-G-1 A member was unable to perform as an avionics repair technician because of her fear that she would suffocate while wearing a gas mask. The member received treatment for phobia for 4 months and her condition was improving when she decided to discontinue treatment. The member married and left the Air Force. The member's medical record showed emotional trauma prior to enlistment. The PEB rated the disability at 0 percent because of the prior-to-service condition; however, a review board awarded her \$5,553 in severance pay. We found no

APPENDIX D. EXAMPLES OF IMPROPER DISABILITY RATINGS (cont'd)

Audit
Case
Number

Case Discussion

documentation to support this award. Because of the member's prior-to-service condition and her decision to discontinue medical treatment (willful neglect), she was not eligible for severance pay.

F-G-24 A member was accepted into the Air Force although she suffered from a prior-to-service condition, Gilles de la Tourette Syndrome (risk of sudden loss of consciousness). The condition was clearly stated on the member's enlistment physical. An Air Training Command physician stated that the member was erroneously qualified for military service. The member was taking Haldol (trade name for haloperidol, a tranquilizer) at the time of enlistment. DoD physicians said the medication automatically rendered the member unfit for service. The excess cost to DoD was \$27,997 in severance pay.

MARINE CORPS

M-L-4 A member received a disability separation after 3 years and 6 months of service. The PEB assigned a 30-percent disability rating for chronic inflammation of the kidneys; moderate blood proteins, constant or recurring, with hyaline and granular casts or red blood cells; transient or slight edema or hypertension, diastolic blood pressure 100 or more. However, the member's medical records showed diastolic blood pressure of 84 and normal blood protein with a trace of edema. VA records showed that after separation, the member held a full-time job and did not miss work due to illness. His employer had no complaints about the member's job performance. The VA rating schedule showed that a 10-percent disability rating would have been appropriate. A 10-percent rating would have required the member to be separated with severance pay instead of a permanent disability retirement. The excess cost to DoD was \$2,880 annually, or \$118,908 over the member's life expectancy.

APPENDIX D. EXAMPLES OF IMPROPER DISABILITY RATINGS (cont'd)

Audit
Case
Number

Case Discussion

- M-L-2 The diagnosis from the member's final physical examination stated that Crohn's disease (chronic inflammation of the colon) was active. According to the diagnosis, the member had "two to three loose, non-watery bowel movements a day...without blood or mucus...a sensation of tenseness (spasmodic contraction of sphincter)...lost approximately ten pounds in past 6 months..." These conditions do not describe "moderately severe; with frequent exacerbations" (C.F.R., title 38, section 4.114), but better describe "moderate with infrequent exacerbations," which earns a 10-percent rating under the VA schedule. The member retired permanently on December 16, 1989. The VA rated the member at 30-percent disability in June 1985, and lowered his rating to 10 percent in October 1987. The member should have been separated with severance pay, not retired. The excess cost to DoD was \$3,137 annually, or \$117,781 for the member's life expectancy.
- M-L-16 During a fight, a member was struck in the eye with glass from a thrown beer bottle. His eye incurred irreparable damage. The PEB determined that the injury was in the line of duty and awarded the member a 30-percent disability. The PEB had requested a line-of-duty determination, but we found no evidence that one had ever been performed. The member's medical file showed that he drank four to six bottles of wine each day and used \$1,500 worth of crack each month. A person who knew the circumstances of the fight said that the member had consumed alcohol on the same day. This disability should have been disallowed because of willful neglect and misconduct.

**APPENDIX E. DISABILITY CASES IMPROPERLY PLACED ON TEMPORARY
DISABILITY RETIREMENT LISTS, OVERPAYMENTS, AND ESTIMATED
ANNUAL SAVINGS**

Service	Universe size	Cases improperly placed on the TDRL		Statistical projection of total savings ^{1/} (\$ millions)	Estimated annual savings ^{2/} (\$ millions)
		Number	Percentage		
Army	1,229	307	25.0	\$ 4.0	\$1.3
Navy	2,954	1,210	41.0	6.3	2.0
Marine Corps	804	176	22.0	1.8	0.6
Air Force	<u>967</u>	<u>207</u>	<u>21.4</u>	<u>2.3</u>	<u>0.8</u>
Totals	<u>5,954</u>	<u>1,900</u>	31.9	<u>\$14.4</u>	<u>\$4.7</u>

^{1/} Savings for the period during which the member was erroneously assigned to the TDRL. The average length of time a member was on the TDRL was 3.1 years.

^{2/} The total savings were divided by 3.1 to obtain the average annual savings.

**APPENDIX F. EXAMPLES OF DISABILITY CASES IMPROPERLY PLACED ON
TEMPORARY DISABILITY RETIREMENT LISTS**

We used several criteria for disability cases with inaccurate ratings. We used the criteria in DoDD 1332.18, "Separation from Military Service by Reason of Physical Disability," and U.S.C., title 10, chapter 61, "Retirement or Separation for Physical Disability," to determine if disabilities should be rated. We used the VA's "Schedule for Rating Disabilities" to establish the disability rating compared to evidence in the member's claim files and other information about the claims. For disability ratings assigned by the PEBs that we found incorrect, we compared them to VA ratings.

Audit
Case
Number

Case Discussions

ARMY

- A-G-5 A 21-year-old member complained of hip pain during the second week of basic training. A medical examination showed that the member had suffered a stress reaction of the left femoral neck. The medical board said the member would not be able to complete basic training. The member was rated at 40-percent disability and placed on the TDRL. A comparison of the medical records to the VA schedule showed a maximum rating of 20 percent. The member should have been separated. The cost to DoD was \$3,887 annually, or \$15,546 while the member was on the TDRL.
- A-G-17 A 20-year-old member with 2 years of active duty was placed on the TDRL with a 40-percent rating. The rating was the result of postoperative conditions from surgery to correct the member's long-standing extropia (crossed eyes). The member's first treatment for the condition was at age 6. Medical records stated that the member's condition was stable and that medical treatment was complete. A comparison of the medical evidence with the VA schedule showed that a 10-percent rating was appropriate. The overrating and improper placement on the TDRL cost DoD \$3,612 annually.
- A-G-69 A 21-year-old member with less than 3 years of active duty was placed on the TDRL with a rating of 40 percent. The member was diagnosed with intervertebral disc syndrome (flattened disc cartilage) following back surgery. The surgery was required after a parachuting injury. The medical narrative supported a moderate rating of 20 percent; the member was not eligible to be placed on the TDRL. The overrating will

APPENDIX F. EXAMPLES OF DISABILITY CASES IMPROPERLY PLACED ON
TEMPORARY DISABILITY RETIREMENT LISTS (cont'd)

Audit
Case
Number

Case Discussion

cost DoD \$3,288 annually. If the member is placed on permanent retirement, the overrating could cost DoD about \$143,160 over the member's life expectancy.

NAVY

N-I-43 A 19-year-old service member with 2 years and 5 months of service was evaluated on October 29, 1983, for multiple injuries suffered in a motorcycle accident. At about 2:30 a.m., October 29, 1983, the member was driving his motorcycle above the speed limit when he struck the rear of a stationary vehicle. Following the impact, the member traveled 90 feet. About 4 hours after the injury, the hospital tested the member's blood and established the alcohol content at .143. Blood alcohol content of .10 is considered legally intoxicated. The PEB of March 19, 1984, found the member not ratable due to intentional misconduct/willful neglect. The member rebutted the PEB's decision and requested a formal hearing. On June 12, 1984, a formal hearing resulted in a split decision; the majority decision was adopted. The majority decided that the information available did not offer clear and convincing evidence that alcohol impairment caused the accident. The minority decision was based on evidence that the member's alcohol-impaired judgment was the direct cause of the accident. The member received a 60-percent disability rating. The member should not have been awarded disability compensation. The member's attorney stated at the formal hearing that the member's blood alcohol level was above .10 (legally intoxicated) but less than .143. As a result of the erroneous determination, the VA is paying compensation of \$8,988 annually.

N-I-6 A 32-year-old member with 14 years of active duty was placed on temporary disability at 30 percent for schizophreniform disorder. The member had a history of alcohol abuse and had completed an alcohol rehabilitation program 2 months before the medical board was held. The medical board's report stated that the member's illness was in remission and that the member had no military impairment and could be retained in service. According to the VA schedule, the member's condition should have been rated at less than

**APPENDIX F. EXAMPLES OF DISABILITY CASES IMPROPERLY PLACED ON
TEMPORARY DISABILITY RETIREMENT LISTS (cont'd)**

Audit
Case
Number

Case Discussion

10 percent. However, the member received a 30-percent rating and was placed on the TDRL. The cost to DoD was \$8,556 annually. If the rating is made permanent, the cost to DoD could be an additional \$255,824.

N-I-10 A 33-year-old member with 11 years of service was placed on the TDRL. A medical board held on October 28, 1985, reported that the member had a history of psychiatric problems. Documentation also showed that the member had committed violent acts against family members. The member was rejected by the police academy after an interview with the police department's psychiatrist. A PEB assigned a 30-percent disability rating for atypical psychosis. Due to the member's preservice psychiatric history, the member should have been separated without severance pay. The member was improperly placed on the TDRL because a previously existing condition was rated. The cost to DoD was \$4,024 annually, or \$20,102 for the period the member was on the TDRL.

N-I-17 A 26-year-old member with 3 years of active duty was improperly placed on temporary disability for manic-depressive disorder with definite impairment of social and industrial adaptability. The medical board's report did not support the 30-percent rating given by the PEB. The member's disorder was in remission. The rating schedule showed that the disability should have been rated at 10 percent for mild impairment of social and industrial adaptability. With a 10-percent disability, the member would have been discharged with severance pay. The member had a history of drug abuse that was not noted as a contributing factor. If DoD had properly rated the member, DoD could have avoided spending \$4,800 annually, or \$24,000 for the period the member was on the TDRL.

AIR FORCE

F-E-45 A nurse was placed on the TDRL with a 40-percent rating in December 1982 after 10 months of active duty. The VA rated the member at 10 percent with a diagnosis of low adrenal output. The member remained on the TDRL until she returned to active duty in April 1986. In September 1986, the member began to complain of marked weakness and difficulty in standing. The member was

APPENDIX F. EXAMPLES OF DISABILITY CASES IMPROPERLY PLACED ON
TEMPORARY DISABILITY RETIREMENT LISTS (cont'd)

Audit
Case
Number

Case Discussion

reevaluated and referred to the physical disability system in January 1987. The member was rated at 20 percent and recommended for separation with severance pay. This rating was overturned at a board hearing, and the member was again placed on the TDRL at 40 percent. After reexamination, the member's rating was reduced to 20 percent. After two more hearings, she was recommended for discharge with severance pay. This decision was reversed by the Air Force Personnel Board, and the member was retained on the TDRL. The reversal was based partly on evidence provided by the member's physician, her sister. The member should not have been placed on the TDRL the second time. DoD could have avoided about \$45,000 in costs.

F-E-81 A nurse entered the Air Force in January 1984. In November 1984, the member was treated for lower back pains. In February 1986, the member was referred to the physical disability system for lower back pain with an unknown etiology (cause). The member was placed on the TDRL with a rating of 40 percent. The VA schedule shows a rating of less than 10 percent for lower back pains. The member's medical records showed that the member had been treated for previous back injuries resulting from a bus accident in 1969 and a fall in 1977. These injuries were not noted on the member's statement of medical history, signed when the member enlisted on September 7, 1983. The member should have been discharged without benefits because she failed to provide a complete medical history at enlistment. DoD could have avoided about \$441,145 in TDRL costs.

F-E-65 A member with 3 years of active duty was diagnosed with a schizophreniform disorder and placed on the TDRL at 70 percent. Two reexaminations showed that the member's condition was stable and in remission. However, the member remained on the TDRL. If the member had been separated after the first reexamination, DoD could have avoided about \$28,000 in TDRL costs.

APPENDIX F. EXAMPLES OF DISABILITY CASES IMPROPERLY PLACED ON
TEMPORARY DISABILITY RETIREMENT LISTS (cont'd)

Audit
Case
Number

Case Discussion

MARINE CORPS

- M-J-26 In November 1985, a member was improperly placed on the TDRL with a 40-percent rating for a fractured tibia suffered in a March 1985 motorcycle accident. The member's medical records indicated that the fracture was healed; the member was ambulatory without aids and had full motion in the adjacent joint. The VA schedule requires that for a tibia fracture to be rated at 40 percent, the member must have a malunion fracture with marked loose motion and must require a brace. In December 1985, the VA rated the member at 10 percent for this fracture. If the member had been properly rated and separated, DoD could have paid only \$9,500 in severance pay and saved \$26,000 in retirement pay.
- M-J-27 A member separated from military service in December 1978 and reentered in June 1979. At reenlistment, the member's medical history and physical examination clearly documented a hearing loss. The member was assigned to duty in a field artillery unit. In January 1980, the member was referred to a medical evaluation board for hearing loss. The medical board recommended a change to a quieter work environment and Military Occupational Specialty. The member was again referred to a medical board in March 1986. The medical board referred the member to the physical evaluation system. In September 1986, the member was placed on the TDRL with a 60-percent disability for bilateral hearing loss. In February 1988, the member was reexamined and retained on the TDRL at 60 percent. The member was improperly retained on the TDRL; a 20-percent rating was applicable based on the reexamination. DoD could have avoided expenditures of about \$27,000 if the member had been removed from the TDRL after the first reexamination.

APPENDIX G. MEMBERS ON THE TEMPORARY DISABILITY RETIREMENT LIST WHO MISSED ONE OR MORE PHYSICAL EXAMINATIONS

<u>Service</u>	<u>Universe size</u>	<u>Members who missed examinations</u>		<u>Number of required examinations</u>	<u>Number of examinations missed</u>	<u>Percentage</u>
		<u>Number</u>	<u>Percentage</u>			
Army	1,229	476	38.8	1,997	737	36.9
Navy	2,954	1,602	54.2	6,371	2,634	41.3
Marine Corps	804	412	51.2	1,294	588	45.4
Air Force	<u>967</u>	<u>41</u>	<u>4.3</u>	<u>1,713</u>	<u>69</u>	<u>4.0</u>
Totals	<u>5,954</u>	<u>2,531*</u>	42.5	<u>11,375*</u>	<u>4,028*</u>	35.4

* Statistical projections

APPENDIX H. CASES IMPROPERLY MAINTAINED ON THE TEMPORARY DISABILITY RETIREMENT LIST WITH 30- AND 40-PERCENT RATINGS, AND ESTIMATED ANNUAL SAVINGS

<u>Service</u>	<u>Universe size</u>	<u>Cases with 30- and 40-percent disability ratings</u>		<u>Statistically projected overpayments (\$ millions)*</u>	<u>Average time members were on TDRL (years)</u>	<u>Estimated annual savings (\$ millions)</u>
		<u>Number</u>	<u>Percentage</u>			
Army	1,229	307	25.0	\$ 1.6	3.2	\$0.5
Navy	2,954	1,103	37.3	8.1	3.4	2.4
Marine Corps	804	392	48.8	2.4	3.1	0.8
Air Force	<u>967</u>	<u>304</u>	<u>31.4</u>	<u>2.1</u>	<u>2.8</u>	<u>0.8</u>
Totals	<u>5,954</u>	<u>2,106</u>	35.4	<u>\$14.2</u>	3.2	<u>\$4.5</u>

* An average of 3 years' and 2 months' worth of payments for disabilities rated at 30 and 40 percent.

APPENDIX I. ADMINISTRATIVE COSTS FOR PHYSICAL EVALUATION ACTIVITIES

<u>Military Department</u>	<u>Estimated Administrative costs-FY 1990 (\$000's)</u>	<u>1/</u>	<u>Staffing</u>	<u>Savings (\$000's)</u>	<u>1/</u>	<u>Staff reductions</u>
Army	\$ 3,813		66 ^{2/}	\$ 775		16
Navy	4,470		66 ^{2/}	776		16
Air Force	<u>2,354</u>		<u>39</u>	<u>458</u>		<u>9</u>
Totals	<u>\$10,637</u>		<u>171</u>	<u>\$2,009</u>		<u>41</u>

1/ Military Personnel and Operation and Maintenance appropriations less TDRL travel.

2/ Does not include the Service personnel commands.

APPENDIX J. SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

<u>Recommendation Reference</u>	<u>Description of Benefit</u>	<u>Amount and/or Type of Benefit</u>
A.1.a.	Economy and efficiency and improved internal controls. Reduce the period that disabled personnel are maintained on active duty; consequently, 2,445 military positions could be eliminated.	Funds put to better use. The Military Personnel appropriation will be reduced by \$451.8 million during FYs 1993-1998. Appropriations 21-2010 will be reduced by \$156.0 million, 17-1453 by \$244.8 million, 57,3500 by \$25.0 million and 17-1105 by \$26.0 million.
A.1.b.	Economy and efficiency and improved internal controls. Reduce the period that disabled personnel are maintained on active duty; consequently, 741 military positions could be eliminated.	Funds put to better use. The Military Personnel appropriation will be reduced by \$136.2 million during FYs 1993-1998. Appropriations 17-1453 will be reduced by \$90.3 million, 57-3500 by \$19.6 million, and 17-1105 by \$26.3 million.
A.1.c.	Economy and efficiency and improved internal controls. Reduce the period that disabled personnel are maintained on active duty; consequently, 796 military positions could be eliminated.	Funds put to better use. The Military Personnel appropriation will be reduced by \$146.4 million during FYs 1993-1998. Appropriations 21-2010 will be reduced by \$52.2 million, 17-1453 by \$76.0 million, 57-3500 by \$2.8 million, and 17-1105 by \$15.4 million.
A.1.d.	Internal Control. Insure that the justification for discharging members for a disability and the rationale for disability ratings are documented.	Nonmonetary.
A.1.e.	Economy and efficiency and compliance. Provide assurance that compensation is paid for qualifying disabilities in accordance with USC, title 10, chapter 61.	Included with amount shown for Recommendation A.2.

APPENDIX J. SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT (cont'd)

<u>Recommendation Reference</u>	<u>Description of Benefit</u>	<u>Amount and/or Type of Benefit</u>
A.1.f. and A.1.g.	Economy and efficiency. Provide additional assurance that compensation is paid for valid disabilities and ratings.	Included with amount shown for Recommendation A.2.
A.2.	Economy and efficiency and improved internal controls. Improve the accuracy of the disability determinations.	Funds put to better use. Military Personnel appropriation will be reduced by \$21.0 million during FYs 1993-1998. Appropriation 21-2010 will be reduced by \$1.4 million, 17-1453 by \$7.5 million, 57-3500 by \$12.0 million, and 17-1105 by \$0.1 million. The Retirement Trust Fund (97 x 8097, multiyear) will be reduced by \$15.0 million during FYs 1993-1998.
A.3.a.	Economy and efficiency. Provide additional assurance that compensation is paid for valid disabilities and ratings.	Funds put to better use. The Operations and Maintenance appropriations will be reduced by \$1.7 million during FYs 1993-1998. Appropriations 21-2020 will be reduced by \$546,000, 17-1804 by \$342,000, 57-3400 by \$582,000, and 17-1106 by \$198,000. The Retirement Trust Fund (97 x 8097, multiyear funds) will be reduced by \$28.2 million during FYs 1993-1998.
A.3.b.	Economy and efficiency. Establish reasonable compensation rates.	Funds put to better use. The Retirement Trust Fund (97 x 8097, multiyear funds) will be reduced by \$27.0 million during FYs 1993-1998.
A.4.	Economy and efficiency and internal controls. Provide a mechanism to identify trends in disability case evaluations so corrective actions may be taken, ensure the quality and promptness of medical board reports, and make a more cost effective operation.	Funds put to better use. The Operation and Maintenance and Military Personnel appropriations will be reduced by \$12.0 million during FYs 1993-1998. Appropriations 21-2020 will be reduced by \$1.4 million, 17-1804 by \$1.4 million, 57-3400 by \$810,000, 21-2010 by \$3.3 million, 17-1453 by \$3.3 million, and 57-3500 by \$1.9 million.

APPENDIX J. SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT (cont'd)

<u>Recommendation Reference</u>	<u>Description of Benefit</u>	<u>Amount and/or Type of Benefit</u>
A.5.	Internal Controls. Ensure that the PEBs and medical boards comply with public law and DoD instructions.	Nonmonetary.
B.1. and B.2.	Internal controls and compliance. Properly account for travel funds in accordance with the Navy Comptroller Manual; reduce the risk of fraud.	Nonmonetary.
B.3.	Internal controls. Ensure that the defici- encies addressed by Recommendations B.1. and B.2. are corrected.	Nonmonetary.

APPENDIX K. ACTIVITIES VISITED OR CONTACTED

Office of the Secretary of Defense

Assistant Secretary of Defense (Health Affairs), Washington, DC
Assistant Secretary of Defense (Manpower), Washington, DC
Comptroller of the Department of Defense, Washington, DC

Department of the Army

U.S. Army Forces Command, Fort McPherson, GA
U.S. Total Army Personnel Command, Alexandria, VA
 Physical Disability Agency, Forest Glen, MD
 Physical Evaluation Board, Washington, DC
 Physical Evaluation Board, Fort Sam Houston, TX
U.S. Army Training and Doctrine Command, Fort Monroe, VA
U.S. Army Audit Agency, Alexandria, VA
U.S. Army Finance and Accounting Center, Fort Benjamin
 Harrison, IN 1/
U.S. Army Research Institute of Environmental Medicine,
 Natick, MA
Walter Reed Army Medical Center, Washington, DC

Department of the Navy

Bureau of Medicine and Surgery, Washington, DC
Naval Military Personnel Command, Arlington, VA 2/
Naval Council of Personnel Boards, Arlington, VA
 Physical Evaluation Board, Bethesda, MD
 Physical Evaluation Board, San Diego, CA
Naval Finance and Accounting Center, Cleveland, OH 3/
National Naval Medical Center, Bethesda, MD
Naval Hospital, Portsmouth, VA
Naval Hospital, San Diego, CA

Marine Corps

Deputy Chief of Staff for Manpower and Reserve Affairs,
 Arlington, VA
Marine Corps Finance and Accounting Center, Kansas City, MO 4/

APPENDIX K. ACTIVITIES VISITED OR CONTACTED (cont'd)

Department of the Air Force

Air Training Command, Randolph Air Force Base, TX
Surgeon General, Bolling Air Force Base, Washington, DC
Air Force Finance and Accounting Center, Denver, CO 5/
Air Force Military Personnel Center, Randolph Air Force Base, TX
Wilford Hall Air Force Medical Center, Lackland Air Force
Base, TX

Non-DoD Activities

Department of Veterans Affairs, Washington, DC
General Accounting Office, Washington, DC
National Personnel Records Center, St. Louis, MO

Activity name changes:

1/ Defense Finance and Accounting Service, Indianapolis Center,
Indianapolis, IN
2/ Bureau of Naval Personnel, Arlington, VA
3/ Defense Finance and Accounting Service, Cleveland Center,
Cleveland, OH
4/ Defense Finance and Accounting Service, Kansas City Center,
Kansas City, MO
5/ Defense Finance and Accounting Service, Denver Center,
Denver, CO

APPENDIX L. REPORT DISTRIBUTION

Office of the Secretary of Defense

Assistant Secretary of Defense (Force Management and Personnel)
Assistant Secretary of Defense (Health Affairs)
Assistant Secretary of Defense (Public Affairs)
Comptroller of the Department of Defense

Department of the Army

Secretary of the Army
Assistant Secretary of the Army (Financial Management)

Department of the Navy

Secretary of the Navy
Bureau of Naval Personnel

Department of the Air Force

Secretary of the Air Force
Assistant Secretary of the Air Force (Financial Management
and Comptroller)

Non-DoD Activities

Department of Veterans Affairs
Office of Management and Budget
United States General Accounting Office, NSIAD Logistics
United States General Accounting Office, NSIAD Technical
Information Center

Chairmen and Ranking Minority Members of the following
Congressional Committees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Government Operations
House Subcommittee on Legislation and National Security,
Committee on Government Operations

PART IV - MANAGEMENT COMMENTS

Management Comments: Assistant Secretary of Defense (Health Affairs)

Additional Management Comments: Assistant Secretary of Defense (Health Affairs)

Management Comments: Department of the Navy

Office of the Assistant Secretary of Defense Comments (Health Affairs)



HEALTH AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D C 20301-1200

1 0 JAN 1992

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Report on the Audit of Medical Disability
Discharge Procedures (Project No. OFC 0023)

This is in response to your request for comments on the subject draft report dated 8 November 1991. Specific comments on the findings and recommendations are attached. In general, the findings and recommendations of the audit report indicate an apparent misunderstanding of the fundamental differences between the disability system of the Department of Defense (DoD) as authorized under Title 10 USC, chapter 61, and the disability system operated by the Department of Veterans Affairs (DVA) as authorized under Title 38, chapter 11.

The purpose of the DoD disability evaluation system is to ensure a fit and vital military force and to provide compensation only to those whose military careers are terminated due to physical disability. Ultimately, the determination of whether a member is fit or unfit to perform the duties of his/her office, grade, or rank is a line responsibility because such a determination is directly related to an understanding of mission requirements as related to that specific individual. In this system, only the physical defects which result in the member being unable to perform his/her duties are rated. On the other hand, the VA system is designed to compensate veterans for any service-connected physical impairment which it determines may interfere with his/her future civilian employability, not as actually determined by a personnel system, but as judged likely to be the case based on general criteria.

Under the DoD system, the role of the Medical Evaluation Board is to determine whether a member is medically impaired; a Physical Evaluation Board (PEB) evaluates whether or not the level of impairment causes the particular service member to be unfit to perform his/her specific duties. If the physical impairment of the member is judged to render him/her unfit to perform his/her specific duties, such defects are rated by application of the Veterans Administration Schedule for Rating Disabilities (VASRD) as modified by DoDD 1332.18 and implementing Service regulations.

Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)

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We also believe that the promised savings shown in this report represent only one side of the equation. The report makes the assumption that members could be separated after MEB's determined that they were unfit and thereby reduce the active force by more than 5,000 with an annual savings of \$152.6 million. A final disposition cannot be made prior to the determination of the rate of disability because it is the percent disability that drives the disposition. If a member's disability rating is less than 30 percent then the action by the military service is separation rather than retirement. In addition, the benefit cannot be computed prior to establishing the disability rate. If the disability case had to be forwarded to a VA rating board for determination of the percent disability, there is no reason to believe that case processing would be shortened. The impact of an additional 20,000 cases to be rated by the VA rating boards could conceivably prolong the processing time. In addition, if the rate of disability was appealed, the process could be much longer. I believe a more meaningful estimate of the cost involved with this process and attendant savings, if any, could be made after your staff discusses its analytical approach with this office.

The estimated \$10.6 million in savings which could result from eliminated billets would also not be realized. The report does not estimate the cost of the new billets created by the proposed consolidated appeals board. Currently, more than 20 percent of the disability cases demand a formal hearing. Conceivably, a consolidated appeals board would be faced with more than 4,000 cases annually to adjudicate. Many of the experienced physicians and line officers now staffing our PEB's would be required for billets on the appeals board. In addition, because fitness is a line determination, line officers would have to be assigned to the MEB's. The decentralized process recommended by the report could actually require larger numbers of personnel to function. I believe a more meaningful estimate of the cost involved with this process and attendant savings, if any, could be made after your staff discusses its analytical approach with this office.

The cost of eliminating the Temporary Disability Retired List (TDRL) altogether might cost more than the current cost of TDRL management. Even though only about 5 percent of those on TDRL are found fit for duty upon reevaluation, a much larger number are separated with severance pay as a result of reevaluation when their rate of disability falls below 30 percent. Permanent disposition upon the initial fitness determination would result in many individuals being retired with permanent disability at a higher disability rate rather than separated or retired at a lower disability rate as provided for under the current system.

Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)

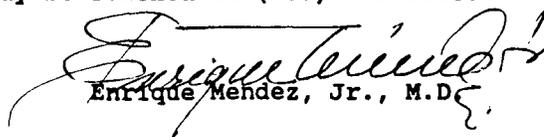
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In addition to ensuring a fit fighting force, there were humanitarian and equity needs that were recognized for those disabled while in the service of their country. Any change to such a benefit should not be undertaken until all of the factors involved are carefully thought out. The present DoD disability system recognizes the need to provide some measure of economic security to these individuals.

We believe the DoD Disability System is fundamentally a good system, one of the few in the nation that ties physical impairment to the functional ability of the specific individual to perform on the job. We recognize, however, that there are areas where significant improvements can be made and we are already in the process of making these changes. When we updated DoDD 1332.18, "Separation from the Military Service by Reason of Physical Disability," in 1986 we required the Service Secretaries to discontinue those practices that are duplicate efforts. Since the revision the Army and the Navy have discontinued the Physical Review Council (PRC) level of appeal and the Air Force will discontinue its PRC in February of 1992.

We are examining other initiatives with the Services to further streamline the administrative process of the Disability Evaluation System (DES). Each Service has set case processing time goals. Legislation is being proposed to eliminate terminal leave being taken after final disposition has been determined in order to comply with the twenty day maximum requirement between final determination and separation or retirement action. The Naval DES has received funding for a Management Information System which will further reduce case processing time. In addition, we are exploring initiatives such as: establishing a uniform goal as a DoD standard for the average case processing time; elimination of the option to demand a Formal PEB for those who have been found fit, and; legislation to reduce the maximum time allowed on TDRL from five to three years.

We believe the necessary improvements can be made to the current system with legislative changes and Directive revision. Therefore, I request that you hold your report in abeyance until your staff has had the opportunity to discuss this report with my staff and clarify what I consider to be major differences in understanding the purpose and function of the DoD Disability Evaluation System. I would also be pleased to review with your staff some of our proposed changes to streamline the system. The point of contact in Health Affairs is Rear Admiral Edward D. Martin, Deputy Assistant Secretary (Professional Affairs & Quality Assurance). He may be reached at (703) 695-6800.


Enrique Mendez, Jr., M.D.

Attachment:
As stated

Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)

Final Report
Reference

Page 1

PART I INTRODUCTION

Page 1, Paragraph: Disability entitlement

Paragraph does not include the option to place the member who is otherwise qualified for disability retirement on the Temporary Disability Retired List (TDRL) when it is determined by accepted medical principles that the disability may be permanent and is not stable.

Page 1

Page 1, Paragraph: Medical Boards

Paragraph incorrectly states that the initial determination that a member is unfit for duty is made by a medical board. The fitness finding is solely the responsibility of the Physical Evaluation Board (PEB). The Medical Evaluation Board (MEB) is a medical function which feeds the PEB which is a line function. The MEB is a clinical body that acts as consultant in military medicine. The MEB consists of three or more medical officers appointed by the medical facility commander. Individual members are referred to an MEB primarily by medical officers when it is suspected that they no longer meet retention standards or that they will be unable to return to full duty in a reasonable time due to a physical impairment. The primary function of the MEB is to make a recommendation on the member's medical qualification for retention and refer those whose qualification is questionable to the PEB. This distinction between the functions of the MEB and the PEB is not arbitrary; rather, it is in agreement with the American Medical Association Guides to the Evaluation of Permanent Impairment. Chapter I, paragraph I.I of the Guides states: "The accurate and proper use of medical information to assess impairment in connection with disability determinations depends on the recognition that, whereas impairment is a medical matter, disability arises out of the interaction between impairment and external demands. Consequently, as used in the Guides, "impairment" means an alteration of an individual's health status that is assessed by medical means, "disability", which is assessed by nonmedical means, means an alteration of an individual's capacity to meet personal, social, or occupational demands, or to meet statutory or regulatory requirements."

Paragraph states that until final disposition of the case, the member is carried on the patient rolls or placed in a medical holding unit on a limited duty assignment. While this is true of some evaluatees, many members are given duty limitations while continuing to carry out assigned duties in their units.

**Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)**

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Page 1

Page 2, Paragraph: PEB's

Paragraph incorrectly states that "the PEB can recommend..." In fact, the PEB issues a "finding" as in the definitive result of an inquiry or investigation. The member may concur and accept the finding or nonconcur and elect other options, i.e., demand a formal hearing.

Page 1

Page 2, Paragraph: Appeals process

Paragraph does not adequately explain the appeal process. Paragraph indicates that if a member disagrees with the PEB's recommendation, the first recourse is to request a formal hearing. A more accurate statement would be that if a member disagrees with the findings of the PEB, the first recourse is to demand a formal hearing (as required by law).

Paragraph does not address the differences between the respective Services in regard to the appeal process. The Army and the Navy no longer have a Physical Review Council (PRC). The paragraph is incorrect in stating that the PRC may ask the PEB to reconsider its decision. In fact, the PRC may issue revised findings if it disagrees with the PEB.

Page 2

Page 3, Paragraph: Disability retirements and separations

Paragraph includes the statement: "PEB personnel offered two explanations: personnel take unwarranted advantage of the system to obtain medical retirements, and the disability system is used to increase attrition of personnel." This ambiguous statement is subjective, at best, and no explanation is given as to how these personnel arrived at those conclusions. Unlike the Department of Veterans Affairs system, active duty members are not evaluated for disability at their request. There is no policy which purports the use of the Disability Evaluation System for attrition purposes.

Page 2

Page 3, Paragraph: Duty-related disabilities

Paragraph includes incorrect examples of "self-imposed" disabilities. Alcohol and drug addiction are precluded from being rated.

Page 7

PART II: FINDINGS AND RECOMMENDATIONS

Page 7

Page 11, Paragraph: A. Physical Disability System

Paragraph states that the DoD disability system was not efficient or economical but does not compare it to other disability evaluation systems. The report contains several inaccuracies and misunderstandings as it pertains to the disability system which bring into serious question the validity of its findings and recommendations.

**Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)**

Paragraph states that personnel were improperly rated for disabilities. This judgement was apparently arrived at by comparing the PEB rating with VA ratings. The validity of this finding depends on the assumption that VA ratings are consistent and accurate and that rating officers, using the Veterans Administration Schedule for Rating Disability (VASRD), make accurate and uniform rating decisions. While this would be ideal, it is not the case as clearly documented by GAO/HRD-89-28 report dated December 1988 to the Administrator of the Veterans Administration entitled, "Need to Update Medical Criteria Used in VA's Disability Rating Schedule". This report points out that the VASRD was designed to allow rating specialists a significant degree of judgment in classifying disabilities and that this inherent judgment factor prevented consistent and accurate disability ratings. This report includes the results of a VA Internal Study which demonstrated that veterans were given different ratings dependent on the subjective judgment of the rating specialist. One example cited in the study was a veteran with hypertensive heart disease who was assigned five different ratings, ranging from 10 to 100 percent; 25 rating boards rated this veteran 30 percent disabled (for \$202) and 21 boards rated him 60 percent disabled (for \$516). The conclusion of the GAO report was that the VASRD is a key factor in determining disability benefits; however, consistent and equitable benefits may not be awarded because the medical criteria in the VASRD are neither complete nor current. It should be pointed out that even with a revision of the medical criteria in the VASRD, some sections of the rating schedule will likely continue to require predominantly judgmental decisions by rating specialists.

Paragraph states individuals were erroneously placed on the TDRL. The proper disposition of the member who has been found unfit requires the professional judgment of the members of the PEB and is not made solely on the basis of the physicians' statements in the narrative summary. Even though a condition may be called stable or in remission, that does not mean the permanence of the condition is established or that a long term prognosis can be reasonably determined. Premature decisions on permanent disposition could result in individuals being returned to duty inappropriately and others being permanently retired at higher ratings.

Paragraph states that the DoD system duplicates the system used by the VA. This is not factual. The only similarity is the use of the VASRD. These systems have different criteria, definitions, and standards for disability, and the two systems compensate for different reasons. The DoD system compensates active duty service members who, by reason of physical disability, are unable to perform their duties and thus have their military careers interrupted or terminated. The VA assesses service connection and compensates veterans for loss of future employability in the civilian community. Thus, DoD rates only unfitting conditions, while the VA rates all service-connected conditions. Disability retirement entitles members to the same military benefits and privileges as members retired for length of service. VA compensation does not normally entitle veterans to military benefits.

**Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)**

Final Report
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Paragraph states correctly that DoDD 1332.18, "Separation from the Military Service by Reason of Physical Disability," February 25, 1986, did not contain standard time frames for processing reports of medical boards. It failed to state, however, that the Directive requires the Secretaries of the Military Departments to review existing procedural practices (in particular, those contributing to delays in disposition of cases) and discontinue those that are duplicate efforts. Each Service is in the process of streamlining its procedures. The Army and the Navy discontinued the PRC level and the Air Force is now in the process of eliminating its PRC. Each Service either has established or is now in the process of establishing time frames for processing disability cases.

Paragraph states that DoD did not provide adequate criteria for the rating of disabilities. Once a member is found unfit, the law requires the use of the VASRD to rate disability.

Page 8

Page 13, Paragraph: TDRL Requirements

Paragraph does not accurately explain, in the first sentence, how a service member is placed on TDRL. A more accurate statement would be: If a member is found unfit for duty by reason of a physical disability that is ratable at 30 percent or more and the disability is unstable but may be of a permanent nature, the member is placed on the TDRL.

Page 8

Page 14 Paragraph: Provisions of DoD Directives

Paragraph incorrectly states the "presumption of fitness" as delineated in the DoD Directive. The paragraph implies that all members who are performing the duties of their office, grade, or rank, will be presumed fit. The Directive states that "continued performance of duty until a service member is scheduled for separation or retirement for reasons other than physical disability creates a presumption of fitness for duty."

Page 9

Page 16, Paragraph: Management of the disability system

Paragraph makes statements and draws conclusions that are not explained or are inaccurate. Examples include:

- (1) "DoD disability system was not managed efficiently or effectively" (by what criteria?);
- (2) "Procedures and policies in DoDD 1332.18 were inadequate" (which ones?);
- (3) "Medical evaluation boards made determinations that disabled members were unfit for duty, and the PEB's duplicated these decisions" (MEB's do not render a finding on fitness and the PEB's do not duplicate their decisions.); and,
- (4) "DoD system duplicated the VA system" (These two systems operate under different laws with different purpose and function and do not duplicate each other.)

Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)

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Page 10

Page 17, Paragraph: Disability processing

Paragraph states that military end strength could be reduced by over 5,000 personnel and savings of over \$150 million annually could be achieved by improving processing of disability cases. These estimates are misleading in that they result from a false assumption that disposition action could be taken prior to determination of rating. In fact, disposition action cannot be taken until a rating is applied since the rating drives the disposition. These estimates also fail to take into consideration the time required for cases that are appealed.

Page 11

Page 19, Paragraph: Physical evaluation processing

Paragraph proposes that MEB's determine fitness and that members be discharged and sent to the VA for rating determination, thereby saving processing time. Since final disposition by the Service Secretaries is not possible until a rating is applied and the member is given the opportunity for a full and fair hearing, discharge at this point is not possible. There would be no advantage in case processing time with respect to application of ratings by the VA. The case would necessarily have to be mailed to a VA rating office, and disposition action could not be taken until a rating was applied. Decentralization of the process could actually increase appeals and with the increase in VA workload, longer processing times could be anticipated. The suggestion that ASD(HA) function as an appeals board would only serve to move that process from one place to another and would not result in a significant manpower savings. Senior medical and personnel officers would have to be assigned from each Service to OASD(HA) at a time when the OSD headquarters staff is being reduced by Congressional mandate.

Paragraph makes the statement that the PEB's determination that a member is unfit for duty is an approval of the medical board's previous determination and that the medical board referral is a medical opinion that a member is unfit. In fact, the purpose of the medical board is to report a service member's physical condition. The fitness determination is ultimately a line decision. The PEB considers other factors (i.e., line of duty and proximate result determinations; utilization feasibility) that line officers, rather than medical officers, are qualified to interpret. It determines whether an individual is fit to perform his/her military duties. DoDD 1332.18 specifically states: "The presence of disease or injury does not, of itself, justify a finding of unfitness by reason of physical disability. Therefore, medical reports referred for physical disability evaluations shall not reflect a conclusion of unfitness."

Paragraph correctly states that members being discharged due to physical disability are referred to the VA. The report does not, however, acknowledge that the Services are complying with the requirements of Title 10 USC in informing such members of their right to file a claim with the Department of Veterans Affairs.

**Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)**

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Page 12

Page 22 Paragraph: Disability Ratings

Rating disability involves professional judgment based on the evidence and this does result in some discrepancies. The evidence does not support a conclusion that the VA, with its larger number of boards, provides a more accurate or consistent rating.

Page 14

Page 25 Paragraph: Temporary Disability Retirement List

Paragraph contains statements which indicate a misunderstanding of TDRL. The report does not explain how the TDRL "duplicates the VA system." Paragraph states that personnel who did not receive the required physical examinations were not expeditiously removed from the TDRL. While there are provisions to stop pay, per Title 10, USC 1210(b), an individual cannot be removed from the TDRL without a medical reevaluation or until five years on the TDRL has expired and final determination is made.

Page 15

Page 29 Paragraph: Physical Exam Process

Paragraph incorrectly states that the TDRL system duplicates the VA system and is inflexible. The TDRL system, in marked contrast to the VA system, allows adjustment of the members disability rating to properly reflect changes in the status of their disabling condition prior to permanent disposition by the Service Secretaries. It is this flexibility that allows significant monies to be saved. When a member's rating falls below 30 percent, the individual is removed from the TDRL and either separated with severance pay or, if found fit, offered the option of returning to duty.

Page 16

Page 32 RECOMMENDATIONS FOR CORRECTIVE ACTION

1. Propose that DoD legislation amend United States Code, Title 10, chapter 61 to eliminate the provisions for medical disability retirement and severance pay, rating disabilities, and the Temporary Disability Retirement List (TDRL).

Nonconcur. The determination that a member is physically unfit for duty, and the duration of such unfitness, is properly related to the DoD's requirement for a fit and vital force and should remain the responsibility of each Service Secretary. Evidence does not support the conclusion that VA rating boards provide more accurate or consistent ratings. On the contrary, evidence, such as GAO/HRD-89-28, indicates that significant disparity exists among the boards. The elimination of the Temporary Disability Retirement List (TDRL) would result in premature permanent disposition actions that are likely to be more costly than the cost of managing the TDRL program. Legitimate problems identified by the report can be corrected.

Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)

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2. Establish a standard processing time of 30 days for medical boards to make final evaluations.

Partially concur. Medical Evaluation Boards do not make final determinations, rather, they report the members physical condition. We do concur, however, that medical boards should be completed within 30 days of the decision to convene a board.

3. Delegate initial fitness-for-duty determinations to the medical boards.

Nonconcur. The fitness determination is ultimately a line decision, not a medical one. PEB's, with line officer members, assess fitness for duty, i.e., an individual's ability to perform his/her duties giving consideration to job related requirements that line officers are better qualified to address. The medical officer accomplishing the member's physical evaluation for an MEB is usually the member's attending physician. Requiring the member's attending physician to make a fitness determination can place him in an adversarial role and/or create a conflict of interest. This practice would directly conflict with the policy of the American Medical Association which recommends against any participation in workman's compensation cases by attending physicians. If the determination of fitness were delegated to the MEB's, the composition of the MEB's would have to change to include line officer members and a Reserve officer in cases involving reserve component members. In addition, this action would result in a decentralization which would effect greater inconsistencies and inefficiencies.

4. Establish procedures to ensure that disabled personnel are separated promptly, after a medical or appeals board determines that they are unfit for duty and within DoD's 20-day processing standard.

Partially concur. Medical boards do not determine fitness. Concur if changed to physical evaluation board or appeals board. Processing times have been skewed upward due to the law that restricts the sale of leave back to the government to 60 days in a career. Policy has allowed members with additional leave to use that leave prior to separating or retiring.

5. Expand the line of duty determinations in DoD Directive 1332.18 to include investigations of all accidents and diseases that result from potential misconduct or prior to service conditions.

Nonconcur. Existing policy is already broad in scope and contains specific guidelines with regard to conditions that existed prior to service. An injury or illness which existed prior to service (EPTS) and was not aggravated by service, is not compensated regardless of negligence or misconduct. DoD Directive 1332.18 requires the disability evaluation system to make a finding that the disability is "not the result of intentional misconduct or willful neglect and was not incurred during a period of unauthorized absence" in order to be eligible for disability benefits. The Directive also provides that line-of-duty and misconduct determinations "shall continue to be judged by their customary evidentiary standards."

6. Require that the line-of-duty determination be completed before the medical board is held and that the report be retained in the members disability file.

Partially concur. The PEB, rather than the MEB, requires a completed line-of-duty determination in order to properly adjudicate a case. We concur that, in all cases requiring a line-of-duty determination, such a review should be completed prior to final action being taken and a copy of the report should be retained in the file.

7. Consolidate the physical evaluation activities under the Office of Health Affairs and eliminate positions discussed in finding A, "Oversight and Appeals."

Nonconcur. Congress has authorized the Service Secretaries to make final determinations with respect to members' fitness, percentage of disability at the time of retirement or separation because of unfitness, and entitlement to disability severance pay. The report does not adequately outline the mechanics of the disability evaluation and appeals process it proposes as a replacement of the current system. It tells how many positions would be eliminated, but doesn't consider how many positions would be created under the new system. For example, if the MEB were to make the fitness determination, it would be necessary to assign line officers to serve as MEB members at the military treatment facilities, and it would be fair to assume that additional administrative support would also be required. If the appeal process were centralized in the Office of Health Affairs then it would be reasonable to assume that a number of the experienced medical and line officers would have to be assigned to Health Affairs to act as an appeals board. Adding significant new staff to an OSD headquarters office would be inconsistent with the expressed intent of Congress that the OSD staff be reduced.

**Office of the Assistant Secretary of Defense Comments (Health Affairs)
(Continued)**

9

8. Establish procedures for the consolidated physical evaluation activities to:

- a. adjudicate appeals received from medical boards;
- b. document the rationale for decisions made on appeals;
- c. review the completeness of case files, analyze data for trends, and disseminate information to responsible activities; and
- d. perform quality assurance reviews of medical board proceedings.

Nonconcur. Although we agree that there is room for improvement especially in uniform data collection, analysis of data and dissemination of information at the DoD level, we believe this can be done under the present structure. Quality assurance reviews of MEB proceedings is another area that can be improved, however, this should be done under the current structure.

Office of the Assistant Secretary of Defense (Health Affairs) Additional Comments



HEALTH AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301-1200

13 FEB 1992

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Additional Comments regarding the Draft Report on the Audit of Medical Disability Discharge Procedures (Project No. OFC 0023)

Following our 10 January 1992 response to the subject draft report, members of my staff met with members of your staff on 30 January 1992 to discuss the report and our comments. As a result of that meeting, we are forwarding the attached action plan. This plan provides specific details and timeframes for our initiatives to ensure that necessary improvements will be made to streamline the DoD Disability Evaluation System.

Please include these comments in our official response.


Enrique Mendez, Jr., M.D.

Attachment
As Stated

**Office of the Assistant Secretary of Defense (Health Affairs) Additional Comments
(Continued)**

ACTION PLAN

1. To ensure timely processing of service members being evaluated by the Medical Evaluation Board (MEB) and the DoD Disability Evaluation System (DES), the Office of Health Affairs will modify DoD Directive 1332.18 to require a standard average processing time for completion of an MEB of 30 days and for those cases referred to the Physical Evaluation Board (PEB) an average processing time from the decision to convene an MEB until final determination by the DES of 90 days.

Draft Directive to be completed and forwarded for formal comment by 1 May 1992.

2. To ensure compliance with the DoD standard of 20 days for processing separations of members whose final determination by the DES is unfit, the Office of Health Affairs will support legislation currently being proposed by the Air Force to allow a member, who has been found unfit and is waiting final separation action, to sell back any leave he/she has accrued in excess of 60 days.

Legislation is currently being coordinated. Enclosed is a copy of the draft legislation package.

3. To improve the efficiency of TDRL management, the Office of Health Affairs will propose legislation to amend Title 10, USC, chapter 61, to modify the TDRL provisions by reducing the maximum length of stay on the TDRL from 5 years to 3 years.

Draft legislation proposed will be completed and forwarded for formal comment by 1 April 1992.

4. To promote consistency in the application of the disability separation laws, the Office of Health Affairs will develop a joint training program for newly assigned members of the boards composing the DoD Disability Evaluation System.

By 1 March 1992, the Assistant Secretary of Defense (Health Affairs) will forward a memorandum to the Secretaries of the Military Departments and the President, Uniformed Services University of the Health Sciences (USUHS) requesting the appointment of 2 members from each Service and from USUHS to establish a Working Group whose responsibility it will be to identify the subject matter for the joint training program.

The Working Group will be established by 1 April 1992. The Center for Interactive Media at the Uniformed Services University of the Health Sciences (USUHS) will develop an interactive video from the subject matter input from the working group. Completion of the training program will require an estimated 12 months. Estimated date of completion of the joint training program is 1 June 1993.

5. To ensure completion of line-of-duty requirements, the Office of Health Affairs will modify DoD Directive 1332.18 to include a requirement that in all cases which call for a line-of-duty determination, such determination be completed prior to final determination of the members fitness by the Disability Evaluation System. A copy of the report shall be retained in the member's disability case file.

Draft Directive to be completed and forwarded for final comment by 1 May 1992.

6. To ensure fair and equal benefits to members found unfit, the Office of Health Affairs will modify DoD Directive 1332.18 to require those personnel who have been found unfit for duty but obtain authorization to continue on active duty to sign a waiver of disability benefits to take effect should they remain on active duty until eligible for length of service retirement.

Draft Directive to be completed and forwarded for final comment by 1 May 1992.

**Office of the Assistant Secretary of Defense (Health Affairs) Additional Comments
(Continued)**

STAFF SUMMARY SHEET							
NO.	TO	ACTION	SIGNATURE (SURNAME), GRADE AND DATE	NO.	TO	ACTION	SIGNATURE (SURNAME), GRADE AND DATE
1	AF/DP	Aprv		6	SAF/FM	Coord	
2	AF/JA	Coord		7	SAF/GC	Coord	
3	SAF/LLL	Coord		8	SAF/MI	Aprv	
4	AF/CC	Aprv		9	SAF/LL	Act	
5	AF/SG	Coord		10			
SURNAME OF ACTION OFFICER AND GRADE			SYMBOL		PHONE		TYPED INITIALS
Mrs Whitehead, GS-9			DPMAD		7-4447		dw
SUBJECT							DATE
Sale of Leave by Members Being Retired or Discharged for Physical Disability - Legislative Initiative for FY 92							
SUMMARY							
<p>1. Request AF/CC approval to submit a proposal concerning sale of accumulated leave as an Air Force Legislative Initiative (AFLI) (Tab 1) to OSD through SAF/LL for routing through OASD (FM&P)(MM&PP) and formal comment/coordination by the other Services. The proposed change would permit sale of accumulated leave over 60 days by military members being involuntarily retired or discharged because of physical disability.</p> <p>2. A 10 Feb 76 change to Title 37, U.S.C., Section 501, limited sale of leave to 60 days in a member's career. This change conflicts with DOD policy, currently in DOD Directive 1332.18, which mandates that members found physically unfit be retired or discharged, on the average, within 20 days of the secretarial determination of unfitness.</p> <p>3. For more than 10 years after the 1976 change to Title 37, members who had previously sold leave lost any remaining accumulated leave over 60 days when involuntarily retired or discharged for disability. A 26 Sep 86 ASD memorandum, recognizing the unfair denial of leave entitlement unwittingly created by the conflict between DOD policy and Title 37, Section 501, allowed that members being retired or discharged for disability may be permitted to use their leave--essentially by delaying the retirement/discharge date.</p> <p>4. Retaining physically unfit members on active duty simply to use leave is unnecessarily wasteful. It allows members to (1) receive allowances during the leave period in excess of the base pay upon which sale of leave would be based, (2) possibly attain additional pay "fogey" and/or a higher percentage of retired pay, and (3) accrue additional leave. Further, it impedes mission accomplishment because it delays manpower replacements, and it creates a risk of more serious medical problems arising while on active duty.</p> <p>5. The proposed legislation would permit military members involuntarily retiring or separating for disability to sell all accumulated leave, regardless of previous sale of leave.</p> <p>6.- VIEWS OF OTHERS - The Navy Disability Evaluation System and Army Disability Agency have informally concurred with the proposed legislation.</p> <p>7. OPTION. Leave law unchanged.</p> <p>8. RECOMMENDATION. AF/CC approve the legislative initiative at Tab 1 and forward to SAF/LL for transmittal to OSD.</p>							
<p>1 Tab Speaker Ltr w/1 atch</p>							

AF FORM 1768 SEP 84

PREVIOUS EDITION WILL BE USED

The Honorable Thomas S. Foley
Speaker of the House of Representatives
Washington, D.C. 20515-4312

Dear Mr. Speaker:

Enclosed is a draft legislation "To amend 37 U.S.C. 501 to permit the sale of accumulated leave by a military member being retired or discharged from active duty for disability regardless of any previous sale of leave."

This proposed legislation is part of the Department of Defense Legislative Program for the 102nd Congress. (The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this legislation for the consideration of the Congress.) The Department of the Air Force has been designated as the representative of the Department of Defense for this proposal. It is recommended that this legislation be enacted by Congress.

Purpose of the Legislation

The purpose of the proposed legislation is to remove the current prohibition on the sale of leave by a member of the armed services who is being retired or discharged for disability, when the member has previously sold 60 days of leave. Disability retirements and separations are directed by Secretarial instrument and thus the member does not have the opportunity to schedule the use of accumulated leave prior to leaving the service. The present 37 U.S.C. 501 limits the sale of leave to 60 days. DOD policy requires the services to allow those who have already sold the maximum amount of leave to remain on active duty, despite being determined to be physically unfit, so that they may use accumulated leave prior to retirement or discharge. The proposed change would allow these members to be reimbursed for their accumulated leave, rather than being retained on active duty simply to use their leave. This would reduce costs, allow more accurate management of end strength figures, and would contribute to productivity.

Cost and Budget Data

The enactment of this proposal will cause no apparent increase in the budgetary requirements of the Department of Defense.

Sincerely,

Enclosure

Office of the Assistant Secretary of Defense (Health Affairs) Additional Comments
(Continued)

A BILL

To amend title 37, United States Code, to permit sale of accumulated leave over 60 days by military members being involuntarily retired or discharged from active duty because of physical disability.

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

SEC. 501 of title 37, United States Code, is amended--

(1) by adding at the end of the section the words, "unless being retired or discharged for physical disability, in which case payment may be made for all unused accrued leave."

Department of the Navy Comments



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON D C 20350-1000

14 FEB 1992

MEMORANDUM FOR THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL

Subj: DRAFT REPORT ON THE AUDIT OF MEDICAL DISABILITY DISCHARGE PROCEDURES (PROJECT NO. OFC-0023)

Thank you for the opportunity to review the Draft Report on the Audit of Medical Disability Discharge Procedures. In response to your request for comments (Tab A), I am forwarding Tab B.

I have had continuing concern about the disability evaluation system and tasked the Director, Naval Council of Personnel Boards to review the system last February. He identified several areas where improvements could be made and implemented plans to realize monetary and time savings.

The Naval Military Personnel Command (NMPC), now the Bureau of Naval Personnel, had not established adequate accountability and internal controls over travel funds used by personnel required to take periodic medical examinations. A revised system is now in place to monitor and account for travel expenditures for Temporary Disability Retirement List (TDRL) members.

A handwritten signature in cursive script that reads "Barbara S Pope".

BARBARA SPYRIDON POPE
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Tab A - DoDIG memo dtd 8 Nov 91
Tab B - Response to Findings and Recommendations

Department of the Navy Comments (Continued)



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202 2884

NOV 8 1991

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (HEALTH AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL
MANAGEMENT)

SUBJECT: Draft Report on the Audit of Medical Disability
Discharge Procedures (Project No. OFC-0023)

We are providing this draft report for your review and comments. Within the DoD disability system, we found that the average time taken to discharge personnel with disabilities was excessive. Personnel were improperly rated for disabilities and improperly assigned to the Temporary Disability Retirement List (TDRL). The DoD physical evaluation system also duplicated the system at the Department of Veterans Affairs. We found that the Naval Military Personnel Command (now the Bureau of Naval Personnel) was not adequately controlling travel funds for personnel to attend required physical examinations. By implementing the recommendations in this draft report, DoD could save an estimated \$174.1 annually and approximately \$1.0 billion over the next 6 years (see Appendix J).

We want to consider your comments in preparing the final report. In order that we may do this, please provide your comments on the findings, recommendations, and potential monetary benefits described in this report. As required by DoD Directive 7650.3, the comments must indicate concurrence or nonconcurrence with the findings and each recommendation addressed to you. If you concur, describe the corrective actions taken or planned, the completion dates for actions already taken, and the estimated dates for completion of planned actions. If you nonconcur, state your specific reasons for each nonconcurrence. If appropriate, you may propose alternative methods for accomplishing desired improvements.

If you nonconcur with the estimated monetary benefits or any part thereof, you must state the amount you nonconcur with and the basis for your nonconcurrence. Recommendations and potential monetary benefits are subject to resolution in accordance with DoD Directive 7650.3 in the event of nonconcurrence or failure to comment. We also ask that your comments indicate concurrence or nonconcurrence with the internal control weaknesses highlighted in Part I. In order for your comments to be included in the final report, they must be received by January 14, 1992. See the

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"Status of Recommendations" section at the end of each finding for the recommendations you must comment on and the specific requirements for your comments.

The courtesies extended to the audit staff are appreciated. If you have any questions about this audit, please contact Mr. James G. McGuire or Mr. Jack L. Armstrong at (804) 766-2703. We will give you a formal briefing on the results of the audit within 15 days of the date of this memorandum, should you desire it. The planned distribution of this report is listed in Appendix L.



Nancy L. Hendricks
Director, Financial Management
Directorate

Enclosures

cc:
Secretary of the Army
Secretary of the Navy
Secretary of the Air Force

Department of the Navy Comments (Continued)

RESPONSE TO FINDINGS AND RECOMMENDATIONS

Recommendation A-1.

Propose that DoD legislation amend United States Code, title 10, Chapter 61 to eliminate the provisions for medical disability retirement and severance pay, rating disabilities, and the Temporary Disability Retirement List (TDRL).

Response.

Nonconcur. The problems identified by the report can be corrected. The Department of Veterans Affairs cannot recognize the individual fitness for duty standards of active duty members of the individual services nor should it be further burdened. It is designed to administer to "veterans" only.

Recommendation A-2.

Establish a standard processing time of 30 days for medical boards to make final determination.

Response.

Nonconcur. Medical Boards do not make final determinations, rather, they report an individual's physical profile. We do concur, however, that medical boards should be completed within 30 days of the decision to convene a board. Naval directives currently impose this 30 day standard.

Recommendation A-3.

Delegate initial fitness-for-duty determinations to the medical boards.

Response.

Nonconcur. Medical boards should only assess fitness for continued active service from a medical standpoint. PEB's, with line officer members, assess fitness for duty, i.e. an individual's ability to perform his/her military duties giving consideration to job related requirements.

Recommendation A-4.

Establish procedures to ensure that disabled personnel are separated promptly, after a medical or appeals board determines that they are unfit for duty and within DoD's 20-day processing standard.

Response.

Concur. This is already being done in the Navy.

Recommendation A-5.

Expand the line-of-duty determinations in DoD Directive 1332.18 to include investigations of all accidents and diseases that result from potential misconduct or prior-to-service conditions.

Response.

Nonconcur. Existing policy is excellent both in scope, feasibility, and applicability. The limited return from investigating a members prior service malady does not justify the cost.

Recommendation A-6.

Require that the line-of-duty determination be completed before the medical board is held and that the report be retained in the member,s disability file.

Response.

Concur. This is being done within the Naval service.

Recommendation A-7.

Consolidate the physical evaluation activities under the Office of Health Affairs and eliminate positions discussed in Finding A, "Oversight and Appeals".

Response.

Nonconcur. Retain individual service DESs until an in depth study of the entire system conducted by an independent agency concludes otherwise.

Recommendation A-8.

Establish procedures for the consolidated physical evaluation activities to:

- a. adjudicate appeals received from medical boards;

Response.

Nonconcur with A-8a. Navy's current process provides for the following:

If found unfit by the PEB, the member has the right to:

1. Request reconsideration to the Records Review Panel.
2. Demand a formal hearing.
3. Petition for relief from final action to the Director Naval Council of Personnel Boards.

If found fit by the PEB, the member has the right to:

1. Request reconsideration to the Records Review Panel.
2. Request a formal hearing. (Rarely granted)
3. Petition for relief from final action to the Director Naval Council of Personnel Boards after a formal hearing.

Department of the Navy Comments (Continued)

b. document the rationale for decisions made on appeals;

Response.

Nonconcur with A-8b. It is felt that current documentation is sufficient.

c. review the completeness of case files, analyze data for trends, and disseminate information to responsible activities;

Response.

Concur with A-8c. An automated data processing system already under development will allow the Naval PEB to accomplish.

d. perform quality assurance reviews of medical board proceedings.

Response.

Concur with A-8d. Navy PEB has a Quality Assurance section.

Finding B.

Navy Travel Funds.

Response.

Concur. The Naval Military Personnel Command (NMPC), now the Bureau of Naval Personnel (BUPERS), had not established adequate accountability and internal controls over travel funds used by personnel required to take periodic medical examinations. NMPC neither complied with the procedures prescribed in the Navy Comptroller Manual nor surveyed the internal controls over the Temporary Duty Retirement List (TDRL) function. As a result, NMPC lost control over 4,300 travel orders that were issued against its FY 1990 travel budget of \$171,000. NMPC had no assurance that travel claims and advances were not fraudulent.

Revised procedures by both the Retirements/Fleet Reserve Division (Pers-27) and the Financial Control Division (Pers-021) in BUPERS will; ensure that regulation regarding accountability for and internal control of travel funds are properly complied with.

Finding B-1. Require the retirement branch to assign separate numbers and cost estimates to each set of travel orders, and send a copy of the orders to the accounting branch.

Response.

Concur. The Retirements/Fleet Reserve Division (Pers-27) will assign consecutive order numbers to each set of travel orders issued on or after 1 January 1992 with cost estimates. a copy of these orders and any subsequent orders modification or cancellation will be provided to the BUPERS Financial Control Division (Pers-02). Concurrently, a systematic method of developing travel costs associated with each physical examination

will be instituted. a quarterly report of orders issued with associated costs will be generated and distributed to interested parties in the Navy's Disability Evaluation System.

Finding B-2. Reconcile each travel expenditure to the travel orders and their respective obligations.

Response.

Concur. The Financial Control Division (Pers-02) will reconcile each travel expenditure which is obligated from the TDRL account.

Finding B-3. Require the internal control coordinator to monitor the status of Recommendation B-1 and B-2 and report the status of corrective actions in the internal management control plan.

Response.

Concur. The BUPERS Management Control Program (MCP) Coordinator will monitor the status of actions taken in response to recommendations B-1 and B-2 and will require reporting on the items. TDRL travel funding and obligations will be looked at closely during the FY 1992 determination of new assessable units and the resulting vulnerability assessments. Expected completion of BUPERS 1992 MCP Certification Statement is 1 September 1992.

LIST OF AUDIT TEAM MEMBERS

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