



Ending the Wait for **TOXIC-EXPOSED VETERANS**

A post-PACT Act blueprint for reforming
the VA presumptive process



PHOTOS BY (LEFT TO RIGHT): US ARMY, VIA WIKIMEDIA COMMONS; TECH. SGT. DAVID MCLEOD/U.S. AIR FORCE; SGT. ANTHONY L. ORTIZ/U.S. MARINE CORPS

Building on the Success of the PACT Act



A CENTURY OF MILITARY TOXIC EXPOSURES AND PRESUMPTIVES

Military toxic exposures have been part of warfare for thousands of years; however, the modern history of toxic exposures dates back to World War I when there was the first wide-scale usage of chemical weapons. For over a century, American service members have been exposed to dozens of toxic substances, both while deployed abroad and stationed at home. In response, Congress has passed laws and the VA has enacted regulations to create presumptives that make it easier for veterans to access health care and benefits; however, it can take many years from the time of the exposure to the creation of a presumptive.

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EXPOSURES

Chemical Warfare

The first large-scale use of chemical weapons occurred during World War I, when mustard gas, tear gas and chlorine were utilized, resulting in more than 1 million casualties, including an estimated 72,000 American service members.



Fort McClellan Toxins

Opened during World War I, Fort McClellan, Alabama, hosted the Army's Chemical Corps for decades, before finally closing in 1999. The VA has noted that potential toxic exposures may have included radioactive compounds, chemical warfare agents and airborne PCBs.



Mustard Gas Testing

During World War II, more than 60,000 service members were involved in military testing on the effects of mustard gas and lewisite exposure, as well as the effectiveness of new equipment to protect against these toxins.



Camp Lejeune

For almost four decades, service members and civilians living or working at Marine Corps Base Camp Lejeune, North Carolina, were exposed to drinking water contaminated with industrial solvents, benzene and other chemicals.

Atomic Veterans

Following the atomic bomb detonations at Hiroshima and Nagasaki, more than 250,000 service members were involved in cleanup and occupation activities in Japan. Over the next two decades, 400,000 more service members were exposed to atmospheric nuclear tests.

Agent Orange

Approximately 20 million gallons of herbicides—including Agent Orange—were sprayed over Vietnam, Cambodia and Laos between 1962 and 1971 to defoliate the jungles, exposing millions of service members to dioxin and other toxins in Agent Orange.



PFAS-Contaminated Water

PFAS, known as "forever chemicals," have been used by the military in firefighting foams on bases for decades. PFAS is also found in many other military, industrial and household products potentially contaminating water on over 700 military bases.

Persian Gulf War (PGW) Exposures

Millions of PGW veterans were exposed to oil-well fires, depleted uranium, insecticides, burn pits and possibly nerve agents, as well as sand and dust particles.



Burn Pits and Airborne Hazards

During the first Gulf War, and in the post-9/11 wars, millions of service members were exposed to toxic fumes from open-air burn pits that contained jet fuel, paints and solvents, petroleum, munitions and unexploded ordnance, and medical and human waste.

K2 Toxins

Over 15,000 service members were deployed to Karshi-Khanabad, known as K2, a former Soviet air base in Uzbekistan, and were exposed to enriched and depleted uranium, asbestos, jet fuel and lead-based paint.

World War I
1917 to 1918

World War II
1941 to 1945

Korean War
1950 to 1953

Vietnam War
1962 to 1973

Persian Gulf War
1990 to 1991

Afghanistan & Iraq Wars
2001 to 2021

PRESUMPTIVES

Chronic Diseases & Chronic Constitutional Diseases (1921)

Following World War I, the federal Veterans' Bureau—precursor to the VA—established the first presumptives for "chronic diseases," including tuberculosis and neuropsychiatric disease, as well as "chronic constitutional diseases," including anemia, diabetes and leukemia.

Tropical Diseases (1945)

Following World War II, the Veterans Administration created a presumptive for "tropical diseases," which initially included malaria, a disease contracted by many service members who served in the Pacific theater, and was later expanded to include cholera, dysentery and yellow fever.

Former Prisoners of War (1970)

Congress passed legislation (P.L. 91-376) creating a new presumptive for former prisoners of war who served during World War II and the Korean and Vietnam wars, which initially covered beriberi, malnutrition, psychosis and five other diseases.

Atomic Veterans (1985)

The Veterans Administration promulgated regulations to create a presumptive for "atomic veterans" involved in the cleanup and occupation of Hiroshima and Nagasaki, Japan, and later expanded it to include service members involved in atmospheric nuclear testing and other radiation risk activities.

Agent Orange Act of 1991

Congress created a presumptive for exposure to Agent Orange for veterans who later became ill with cancers and other diseases. The law also created a new process to evaluate additional diseases using independent assessments from the Institute of Medicine.

Persian Gulf War Benefits Act of 1998

Congress established a presumptive for Gulf War veterans suffering from common symptoms but unknown conditions. The VA later added "undiagnosed illness," "chronic multisymptom illness," and "chronic fatigue syndrome" to the presumptive.

Camp Lejeune Contaminated Water (2017)

The VA promulgated regulations creating a new presumptive for service members stationed at Camp Lejeune between 1953 and 1987. It included Parkinson's disease and seven cancers.

Honoring our PACT Act of 2022

The PACT Act provided the largest expansion of health care and benefits for toxic-exposed veterans in a generation. It created a new presumptive for burn pits and other airborne hazards for veterans of the first Gulf War and the post-9/11 wars in Afghanistan and Iraq.

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World War II
1945

Korean War
1950 to 1953

Vietnam War
1962 to 1973

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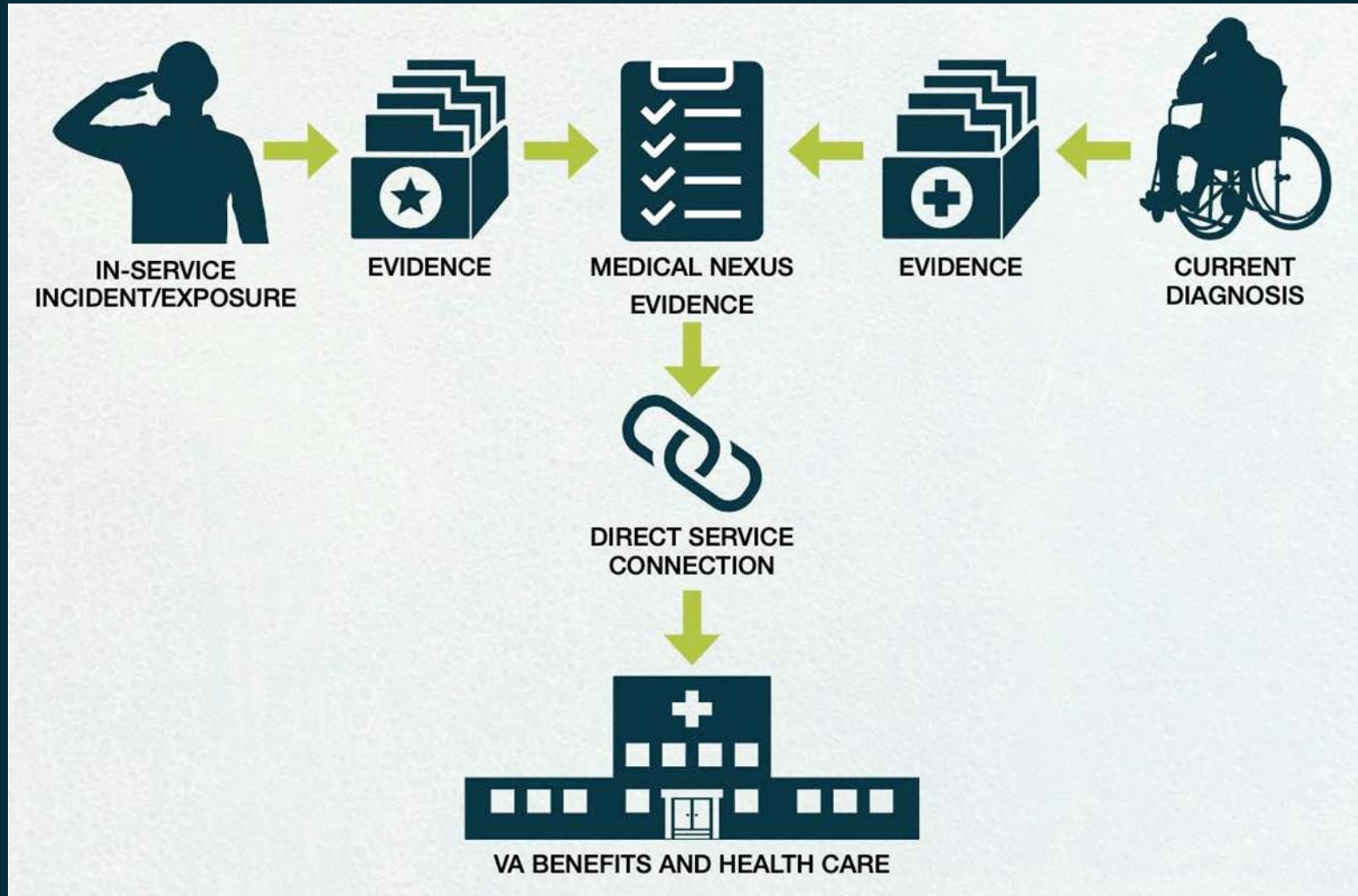
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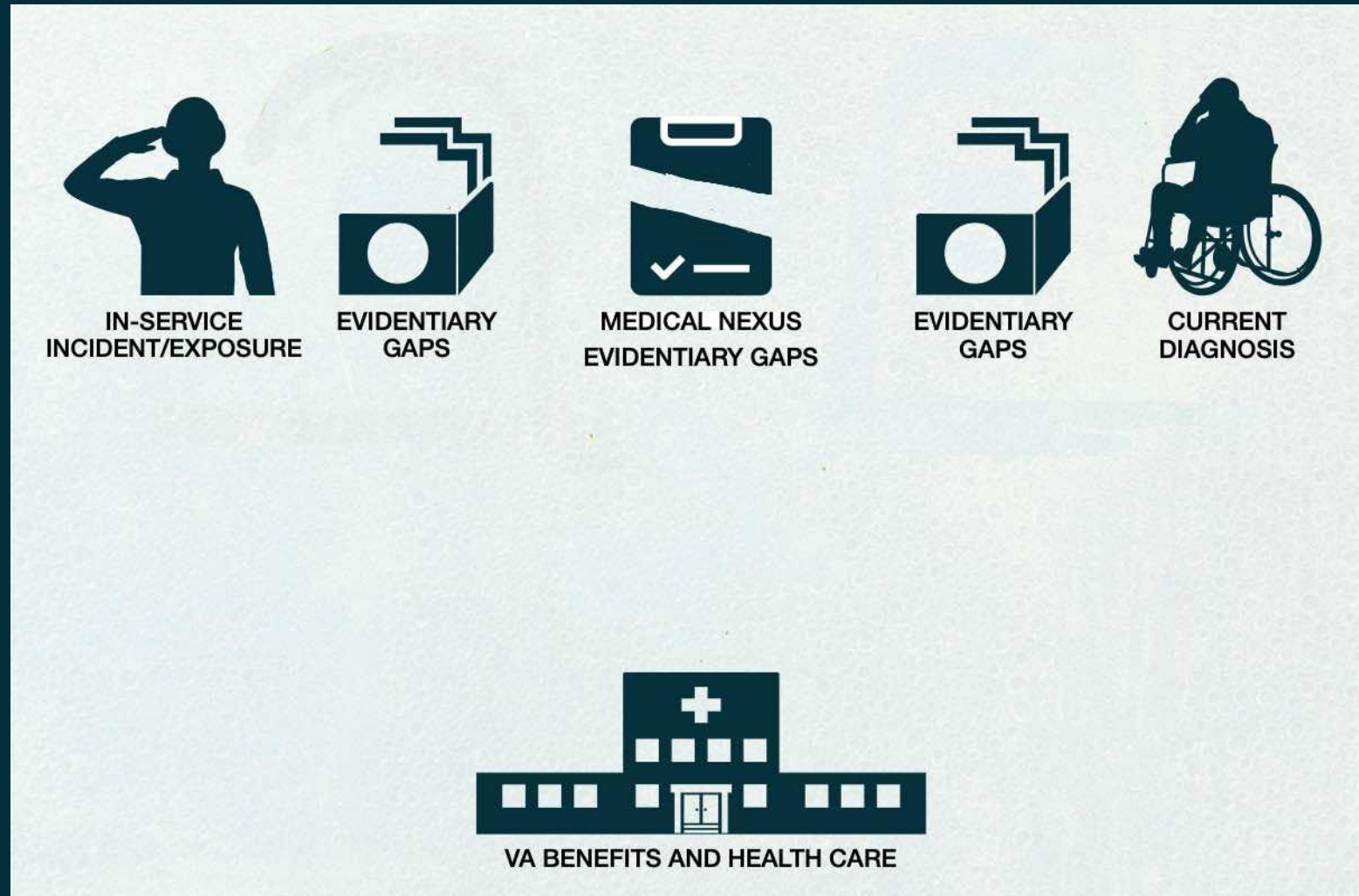
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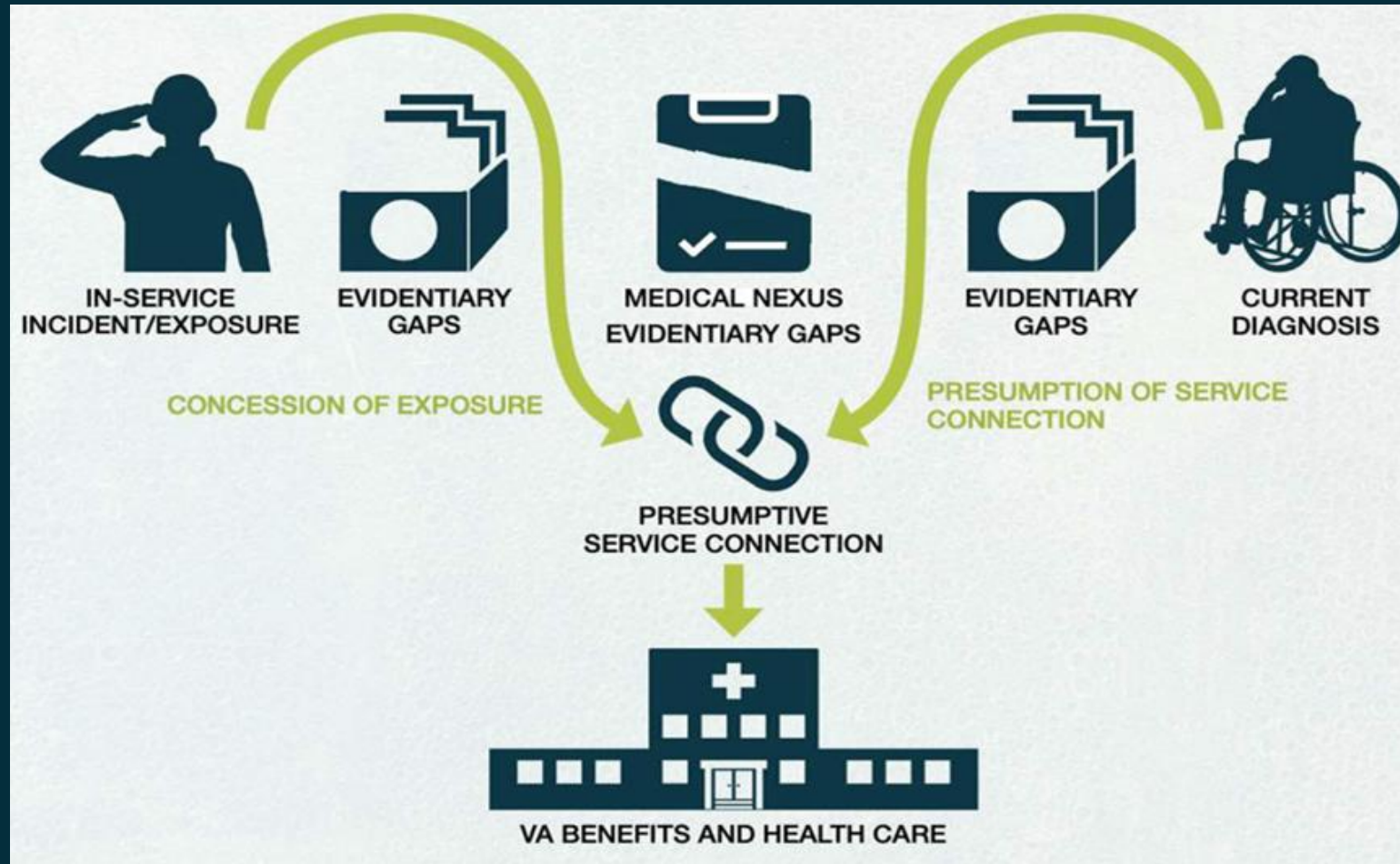
How To Establish Service Connection



Presumptive Service Connection



Presumptive Service Connection



The Toxic Challenge

Due to the nature of toxic exposures it makes it extremely difficult for veterans to prove that an exposure happened and caused an illness.



APPENDIX A: Dataset of Military Toxic Exposures

Exposure, Hazard or Incident	First Year of Exposure	Last Year of Exposure	First Acknowledge by Federal Government	Concession & Presumption Established	Exposure to Acknowledge (years)	Acknowledge to Concess. & Presumpt. (years)	Exposure to Concession & Presumption (years)	Concession Type	NASEM Study?
Chronic Diseases	1917	1921	1921	1921	4	0	4	Admin	No
Chronic Constitutional Diseases	1917	1921	1921	1921	4	0	4	Admin	No
Tropical Diseases	1941	1945	1945	1945	4	0	4	Admin	No
Radiation-Risk Activity – Atomic Veterans	1945	1974	1984	1985	39	1	40	Legis	Yes
Agent Orange or Other Herbicides	1962	1975	1978	1991	16	13	29	Legis	Yes
Mustard Gas or Lewisite	1941	1945	1992	1992	51	0	51	Admin	Yes
Agent Orange Birth Defects	1962	1975	1997	1997	35	0	35	Legis	Yes
Gulf War Veterans' Illnesses	1990	Ongoing	1994	1998	4	4	8	Legis	Yes
Herbicide Tests and Storage	1945	1977	2003	2003	58	0	58	Admin	Yes
Camp Lejeune Water Supplies	1953	1987	2012	2017	59	5	64	Admin	Yes
Sand, Dust & Particulates	1990	Ongoing	2014	2021	24	7	31	Admin	Yes
Oil Well Fires	1991	1991	2021	2021	30	0	30	Admin	Yes
Burn Pits & Airborne Hazards	1990	Ongoing	2014	2022	24	8	32	Legis	Yes
Plutonium Cleanu, Palomares, Spain	1966	1967	2022	2022	56	0	56	Legis	No
Thule Air Force Base in Greenland	1968	1968	2022	2022	54	0	54	Legis	No
Radiological Cleanup of Enewetak Atoll	1977	1980	2022	2022	45	0	45	Legis	No

REPORT FINDINGS

The Long Wait for Presumptives

34.1 years

Average time from the **first exposure** to the establishment of a **Presumptive**





THE 60-YEAR DEVELOPMENT OF THE AGENT ORANGE PRESUMPTIVE

It took almost three decades from the time that the first service members in Vietnam were exposed to Agent Orange before Congress created a presumptive. Over the next three decades VA and Congress continued adding additional diseases to the Agent Orange presumptive. If a veteran who served in Vietnam in 1962 developed hypertension after their service, they would have had to wait 60 years before VA officially recognized a presumption of service connection for that disease.

1996 Prostate cancer added via regulation

1994 First Institute of Medicine report on Agent Orange
Respiratory cancers and multiple myeloma added via regulation

1985 Dioxin exposure conceded by VA in regulations

1984 First Agent Orange legislation approved (P.L. 98-542)

1978 VA creates Agent Orange registry, acknowledges Agent Orange exposure

1975 Last U.S. servicemembers in Vietnam

1971 Last use of Agent Orange in Vietnam

1962 First Agent Orange usage in Vietnam

1945 Development of Agent Orange at Fort Detrick

2020

2022 Congress adds hypertension (PACT Act, P.L. 117-168)

2021 Congress adds bladder cancer, hypothyroidism and parkinsonism (P.L. 116-283)

2019 Congress codifies and expands Blue Water Navy concession of exposure (P.L. 116-23)

2018 U.S. Court of Appeals restores Blue Water Navy veterans to Agent Orange concession of exposure

2010

2010 Hairy cell leukemia, Parkinson's disease and ischemic heart disease added via regulation

2000

2001 Diabetes mellitus type II added via regulation

1997 Blue Water Navy veterans removed from concession of exposure by VA Office of General Counsel opinion

1990

Agent Orange Act of 1991 (P.L. 102-4)

Established concession of exposure to Agent Orange

Established first presumption of service connection (Hodgkin's Disease)

Established framework for adding new presumptions

1980

1970



FINDING

More than six decades after the first Agent Orange use in Vietnam — there are still veterans waiting for justice.



REPORT FINDINGS

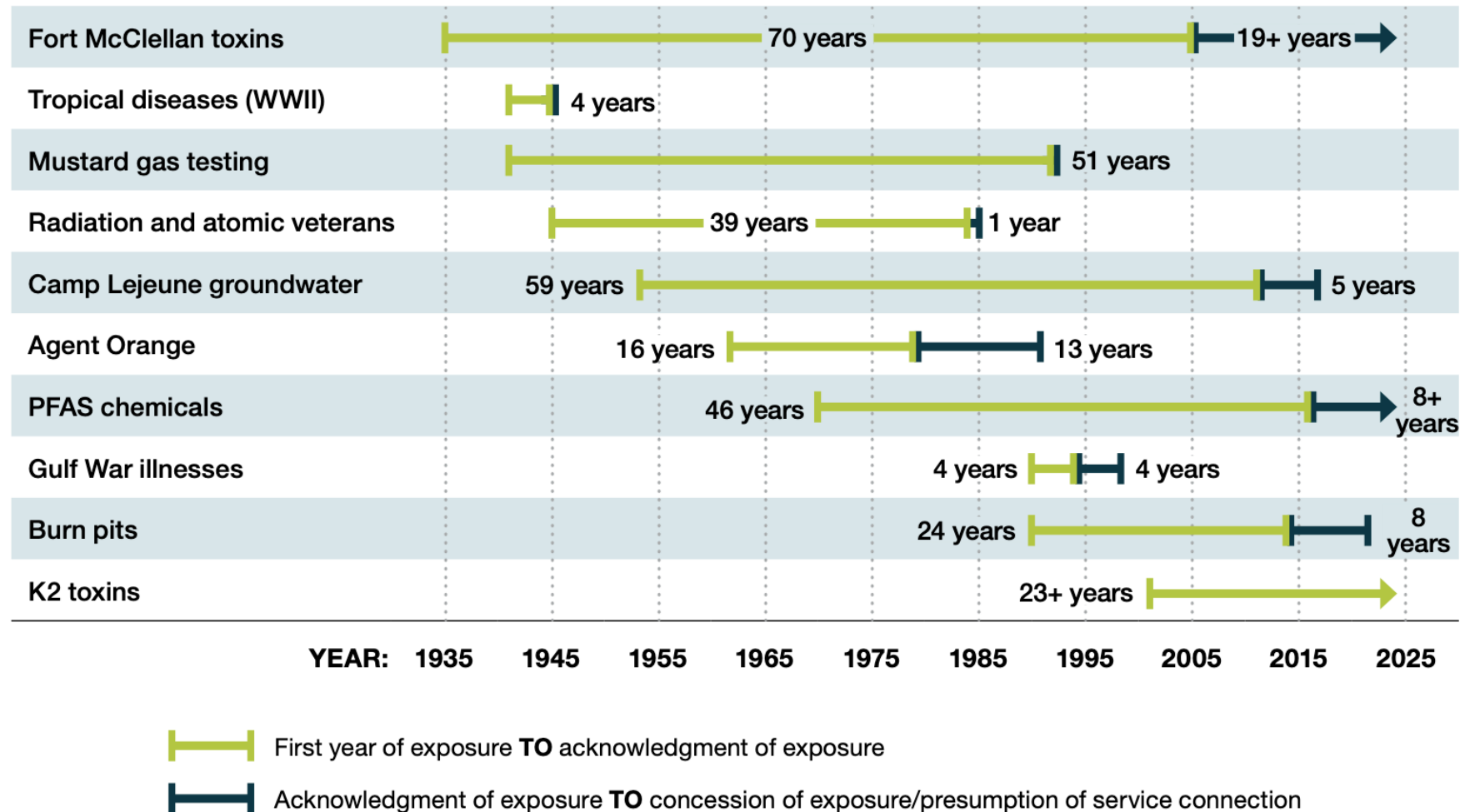
Flawed System

This flawed system is due in part to a weak legal framework that does not clearly mandate when or how the VA should acknowledge toxic exposures, further investigate an exposure or recognize related health conditions.



Timelines of Toxic Exposure Presumptives

FINDING



Strengthen Legal Framework for Establishing Presumptives

- Timelines →
- Evidentiary Thresholds →
- Decision Points →
- Triggers →

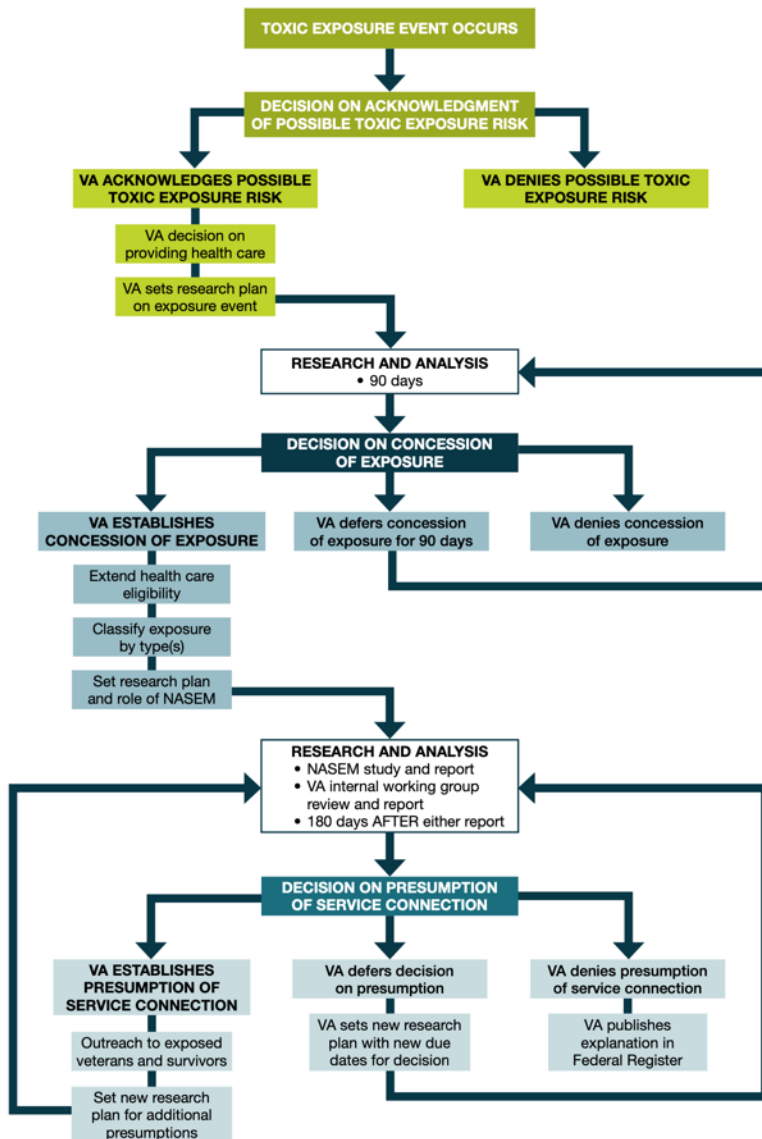


Proposed Framework for Establishing Presumptives

Step One:
Acknowledgment of Possible Toxic Exposure Risk

Step Two:
Concession of Exposure

Step Three:
Presumption of Service Connection



Strengthen Legal Framework for Establishing Presumptives

- **Transparency
&
Accountability**
- **Benefit of the Doubt
&
(Relative) Equipoise**



RECOMMENDATIONS



Expand Scientific Understanding of Toxic Exposures

- DOD Environmental Hazard Monitoring & Information Sharing
- Federal Research & Collaboration on Toxic Exposures
- Permanent Role for NASEM
- Stakeholder Advisory Committee

RECOMMENDATIONS

VA and DoD to develop programs and processes to help family members of service members who may have been exposed.



RECOMMENDATIONS

Eliminate Legal and Fiscal Barriers

- PAYGO and Budget Caps
- Seamless Transition & Record Sharing



Up to 400,000 Exposed Veterans NOT Covered by PACT Act

Toxic Exposures Acknowledged by VA that are NOT Covered by the PACT Act or Other Laws	Estimated Number of Affected Veterans
PFAS Exposure at Military Facilities	175,000
Fort McClellan, Alabama	100,000
K2-Karshi-Khanabad Air Base, Uzbekistan	15,000
Fukushima Nuclear Accident, Japan	70,000
Atsugi Waste Incinerator	12,000
LORAN radiation	10,000
Project 112/Project SHAD	5,800
Edgewood/Aberdeen Experiments	7,000
Chromium Exposure at Qarmat Ali, Iraq	830
Red Hill Jet Fuel Leaks, Hawaii	9,000
SUBTOTAL	404,630
Unacknowledged Toxic Exposures	???
Occupational Hazards	???
Future Toxic Exposures and Environmental Hazards	???



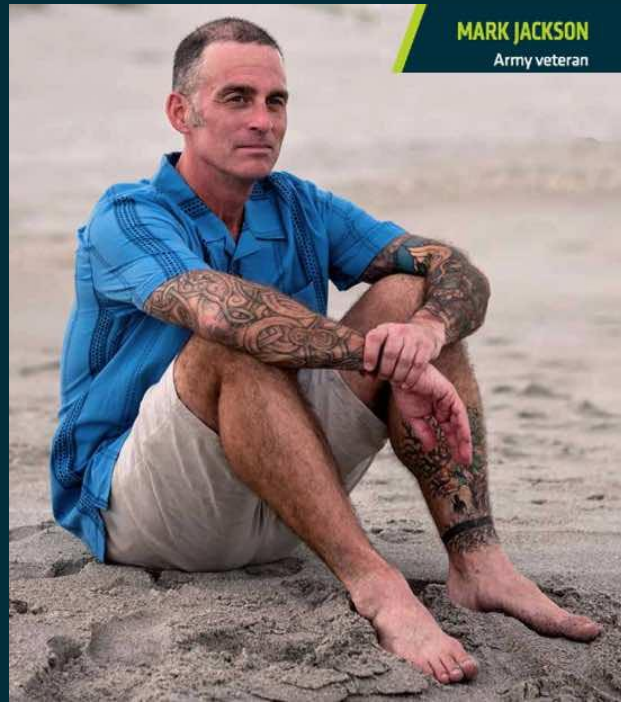
Who We Serve



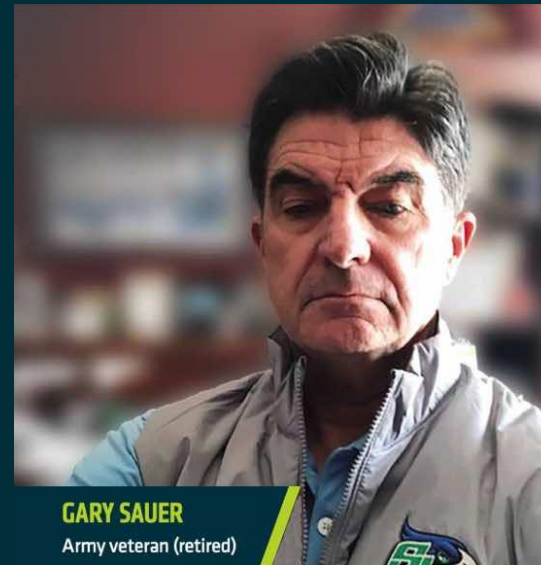
DAVID CRETE
Air Force veteran



ALFRED "AL" LEWIS
Marine veteran



MARK JACKSON
Army veteran



GARY SAUER
Army veteran (retired)



ANDREA LAFORCE
Air Force veteran



QUESTIONS?

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