

CHAPTER 32

SURVIVOR BENEFITS

Table of Contents

I. REFERENCES.....	2
II. THE RELEVANCE OF SURVIVOR BENEFITS.	3
III. DEPENDENCY AND INDEMNITY COMPENSATION (DIC).	5
IV. SURVIVOR BENEFIT PLAN (SBP).....	10
V. GOVERNMENT INSURANCE PROGRAMS.....	22
VI. DEPENDENTS EDUCATIONAL ASSISTANCE (DEA).....	30
VII. SOCIAL SECURITY BENEFITS.....	32
VIII. OTHER PAYMENTS AND BENEFITS TO SURVIVORS OF DECEASED MEMBERS.....	34
IX. TERMINAL CONDITION: IS MEDICAL RETIREMENT APPROPRIATE?	40
X. CONCLUSION.	42

APPENDICES

APPENDIX A – SBP FOR RESERVISTS.....	43
APPENDIX B - BENEFICIARY CHECKLIST.....	47
APPENDIX C - VGLI RATES	49
APPENDIX D - RECOMMENDED SGLI LANGUAGE	51
APPENDIX E - EXAMPLE OF ACTIVE DUTY DEATH VS. RETIREE DEATH.....	53
APPENDIX F - RETIREMENT IN IMMINENT DEATH CASE	55
APPENDIX G – ACCELERATED DEATH BENEFIT – SGLI	61
APPENDIX H – MILITARY FUNERAL HONORS	63
APPENDIX I – DOD AND ARMY GUIDANCE TO P.L. 107-107	71
APPENDIX J - SURVIVOR BENEFITS HYPOTHETICALS & EXAMPLES.....	83

SURVIVOR BENEFITS

OUTLINE OF INSTRUCTION

I. REFERENCES.

- A. Army Reg. 37-104-1, Payment of Retired Pay to Members and Former Members of the Army (15 Sep 1990).
- B. Army Reg. 600-8-1, Army Casualty Operations/Assistance/Insurance (24 Oct 1994) (Supersedes old AR 608-2 (SGLI) and DA Pam 608-33 (Casualty Assistance Handbook).
- C. Army Reg. 930-4, Army Emergency Relief (30 Sep 1994).
- D. DA Pamphlet 360-526, The Transition to Civilian Life (Rev. 1992).
- E. SBP Made Easy (published by The Retired Officers Association, 201 North Washington St., Alexandria, VA 22314-2529).
- F. DA Pamphlet 608-4, A Guide for the Survivors of Deceased Army Members (23 Feb 1989).
- G. Veterans Benefits Manual (Vols. I and II, 1991), The National Legal Services Project, 2001 S Street NW, Suite 610, Attn: Publication Sales, Washington, DC 20009.
- H. Reserve Retirement Benefits (1992), The Retired Officers Association.
- I. AFBA Financial Planning Guide, Armed Forces Benefit Association, 909 N. Washington Street, Alexandria, VA 22314-1556.
- J. Army and Air Force Mutual Aid Association, Fort Myer, Arlington, VA 22211-5002.
- K. Army Reserve Personnel Center, 9700 Page Blvd., St. Louis, MO 63132-5200.

II. THE RELEVANCE OF SURVIVOR BENEFITS.

- A. What Are Survivor Benefits?
- B. Situations Requiring an Understanding of Survivor Benefits.
 - 1. Lifetime planning.
 - a. Insurance needs.
 - b. The Survivor Benefit Plan.
 - 2. Deathbed planning.
 - 3. Casualty assistance.
- C. References.
 - 1. Publications.
 - 2. The Army and Air Force Mutual Aid Association is available to assist by producing a benefits comparison tailored to the soldier's circumstances.
 - 3. Websites (DFAS, VA, Private Organizations, etc.).

SURVIVOR BENEFITS

<u>Monthly Payments</u>	<u>Lump Sum Payments</u>	<u>Other Benefits</u>
DIC	SGLI	BURIAL
SBP	DEATH GRATUITY	REIMBURSEMENTS
SOCIAL SECURITY	SOC. SEC.	RELOCATION
DEA	UNPAID	MEDICAL CARE
	PAY/ALLOWANCES	PX/COMMISSARY
		EMERGENCY \$

III. DEPENDENCY AND INDEMNITY COMPENSATION (DIC) 38
U.S.C. §§ 1301-1322; 38 C.F.R. PART 3; INCLUDES COLAS THROUGH
1 DEC 02.

A. Conditions for Payment.

1. Active Component.

- a. Death on active duty, by service-connected injury or disease, and not due to member's willful misconduct. If death occurs on active duty, a presumption arises that death was service-connected.
- b. Death after active duty from service-connected causes, not due to member's willful misconduct.
- c. Death after active duty not due to service-connected causes and not due to member's willful misconduct if decedent held a total service-connected disability rating.

2. Reserve Component.

- a. "Active Duty" includes AD, ADT, and IDT. However, if death occurs in connection with IDT, only IDT deaths due to injury (not illness) are covered; and
- b. Periods of travel to and from AD, ADT, and qualifying IDT are included, but only if travel accomplished by most direct means.

3. "Service connection." See paragraph A.1. above.

4. Death or injury cannot be due to member's "willful misconduct."
 - a. Willful misconduct involves deliberate or intentional wrongdoing with knowledge of or wanton disregard of consequences.
 - b. Requires proximate cause to injury, disease, or death to prohibit payments.
5. The Department of Veterans Affairs makes the ultimate determinations on service-connection and "willful misconduct" for purposes of DIC. Appeal is to the Court of Veterans Appeals.

B. Beneficiaries.

1. DIC to widow(er).
 - a. Spouses must have continuously cohabited since date of marriage.
 - b. Any separation not due to fault of surviving spouse; temporary separations disregarded (38 C.F.R. §§ 3.52 and 3.53).
 - c. Fraudulent marriages. Generally, for soldiers that separate from active duty, subsequently marry, and then die under circumstances described in paragraphs A.1.b. and A.1.c. above, the marriage must:
 - (1) have begun within 15 years after separation from active duty;
 - (2) have existed for at least one year; or
 - (3) produced a child (38 C.F.R. § 3.54(c)).

- d. Before 01 October 1998, DIC was paid for life unless remarriage occurred.
 - (1) A widow(er) lost entitlement to DIC upon remarriage regardless of age.
 - (2) DIC would not be reinstated if second marriage were terminated through divorce or through death of second spouse.

- e. As of 01 October 1998, the eligibility of certain remarried surviving spouses can be reinstated for DIC upon termination of that marriage. 38 U.S.C. § 1311.
 - (1) The remarriage of the surviving spouse shall not bar DIC if the remarriage is terminated by death, divorce, or annulment unless it is determined the divorce or annulment was secured through fraud or collusion.
 - (2) If the surviving spouse ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person DIC as the surviving spouse shall not apply.
 - (3) The first month of eligibility for DIC will be the later of the month after the month the termination of such remarriage or the month of the cessation living with another person and holding himself or herself out openly to the public as that person's spouse.
 - (4) No payment may be made for any month before October 1998.

- f. For deaths occurring before 1 January 1993, monthly spousal payment depends on the rank of deceased at death (Note the below numbers are adjusted for inflation annually):

2003 Amounts

(Current rates can be found at: www.vba.va.gov)

E9 - \$1,165*	W4 - \$1,134	010- \$2,168**
E9 - 1,080	W3 - 1,072	010- 2,021
E8 - 1,035	W2 - 1,042	09 - 1,843
E7 - 980	W1 - 1,001	08 - 1,722
E6 - 948		07 - 1,570
E5 - "		06 - 1,453
E4 - "		05 - 1,289
E3 - "		04 - 1,171
E2 - "		03 - 1,107
E1 - "		02 - 1,035
		01 - 1,001

* Veteran who served as Sergeant Major of the Army or Marine Corps, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, or Master Chief Petty Officer of the Coast Guard.

** Veteran who served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army or Air Force, Chief of Naval Operations, or Commandant of the Marine Corps.

- g. For deaths occurring on or after 1 January 1993, the Veterans' Benefits Act of 1992 mandates a flat monthly payment, for 2002 the amount is \$948.

2. DIC to children.

- a. Children are broadly defined: Legitimate, adopted, stepchildren in household, or illegitimate if acknowledged or judicially decreed (38 C.F.R. § 3.57).
- b. Must be unmarried and under age 18, or under age 23 if in school.
- c. Amounts payable (children in the custody of a surviving eligible spouse).

- (1) Under age 18 - \$237 per child (Veterans' Benefits Act of 1992).
 - (2) Age 18 to under age 23 (in school) - \$201 per child unless child is receiving Chapter 35 benefits (Dependent's Educational Benefits).
 - (3) Disabled child - \$402 per child.
 - (4) These are the amounts payable to all children when there is a surviving spouse entitled to DIC. Payment to "all" children of the deceased veteran will be at these amounts. This includes children in the custody of former spouses or children born out of wedlock. (BVA 00-09216)
- d. Amounts payable (if no surviving eligible spouse). DIC is calculated on the basis of the total number of eligible children.
- (1) One child - \$402.00.
 - (2) Two children - \$578.00.
 - (3) Three children - \$752.00.
 - (4) Each additional child adds \$145.00.
 - (5) For each disabled child over the age of 18 add \$237.
3. DIC to parents (38 U.S.C. § 1315).
- a. Must have been dependent on deceased.
 - b. Parent(s) must be below income ceiling.
 - c. Amounts paid based on number of parents surviving.

C. Tax Consequences.

1. Not includable in decedent's gross estate.
2. Not taxable income to the recipient.

D. Application.

1. Apply to VA within 12 months to receive full payment from date of death (VA Form 21-534, Application for DIC).
2. If application is received by VA more than 12 months after death, payments are retroactive to date of application only (38 C.F.R. § 3.400).

IV. SURVIVOR BENEFIT PLAN (SBP) (10 U.S.C. §§ 1447-1460B).

A. Eligibility to Participate.

- a. Active duty members who die in the line of duty while on active duty. (NDAA for FY 2002).
- b. Active duty retired.
- c. Retired with 30% or more disability.
- d. Reservists eligible to retire (includes Army National Guard). (See Pub. L. No. 95-397, 1 Oct. 1978, extended coverage (RC-SBP) to Reserve soldiers completing 20 years, but not yet 60 years of age).

B. Eligible Beneficiaries for SBP and RC-SBP. 10 U.S.C. § 1448

1. Widow(er).
 - a. Defined. A spouse who survives a military retiree where the marriage either:
 - (1) was in effect when soldier became eligible to receive retirement pay,
 - (2) was in effect for at least one year immediately before retiree's death, or
 - (3) produced issue.
 - b. Remarriage before age 55 terminates the SBP annuity. Annuity may be reinstated if widow(er)'s second spouse dies or there is a divorce.
2. Former spouses.
3. Widow(er) and children. Full payment made to widow(er) as long as eligible; then full payment made to remaining eligible children as a group. Child eligibility:
 - a. Child under age 18 and unmarried.
 - b. Unmarried and under 22 if a full-time student.
 - c. Incapacitated before 18 or 22 - paid for life.
4. Children only. Usually elected when there is no eligible spouse.
5. Natural person with an insurable interest.
 - a. Any person with a financial interest in survival of the soldier.

- b. This option may not be elected by eligible participants who are married or have children.

C. Annuity Amount.

- 1. If soldier elects to participate in SBP, soldier then selects a "base" amount. The base amount can be anything from \$300 to the full amount of soldier's retired pay. The soldier also selects a beneficiary (discussed later), which in most cases will be the spouse. The soldier then has a premium deducted from each retirement check, and if the soldier dies before the spouse (or other eligible beneficiary), the beneficiary will begin receiving the monthly SBP payments.

- 2. If deceased became retirement eligible after 1 October 1985, the widow(er) receives an annuity calculated under a two-tiered system.

- a. Payments 55% of base.
- b. Payments reduced to 35% when widow(er) reaches 62, unless supplemental coverage also is chosen.
- c. Example: Base Amount = \$2,000.

$55\% \times \$2,000 = \$1,100$ before age 62.

$35\% \times \$2,000 = \$ 700$ age 62 & older.

- 3. If deceased was eligible to retire before 2 October 1985, SBP payments to a widow(er) will also be reduced. Widow(er) may elect to have the reduction calculated under either the new two-tier system or under the old "social security offset."

- 4. Supplemental SBP (SSBP).

- a. A retiree may elect to pay an additional premium to raise annuity payments above 35% of the base amount when widow(er) reaches age 62. Under SSBP, payments may be made at 40%, 45%, 50%, or 55% of base amount.

b. The additional cost is determined in accordance with actuarial principles.

5. Payment to all other beneficiaries (nonspouses) is at 55% of base for as long as they maintain eligibility.

D. Active Component Cost for SBP Coverage.

1. Determine desired base.

a. Minimum = \$300.00.

b. Maximum = full retired pay.

c. Any amount in between.

2. Determine type of coverage.

a. Widow(er)-only coverage.

(1) Formulas:

(a) 2.5% of first \$572, plus 10% of selected base over \$572 (OLD Formula); or

(b) Flat 6.5% rate of full base amount (NEW Formula).

(2) Example: Base Amount = \$2,000.00.

(a) Old Formula:

$$\begin{aligned} 2\frac{1}{2}\% \text{ of } \$572 &= \$ 14.30 \\ 10\% \text{ of } \$1,428 &= \$ \underline{142.80} \\ \text{monthly cost} &= \$ 157.10 \end{aligned}$$

(b) New Formula:

$$\$2,000 \times 6.5\% = \$130.00$$

(3) The formula producing the least amount of cost will be used. In the example, the new formula produces the least cost. As a rule of thumb, if the base amount exceeds \$1,225 then the new formula is used; if the base amount is less than \$1,226, the old formula is used.

(4) For those entering the service on or after March 1, 1990, only the new formula (flat 6.5% of base) will be used.

b. Widow(er) plus children coverage.

(1) Cost of widow-only coverage, plus

(2) Actuarial amount that accounts for the difference in age between the retiree and the spouse and the age of youngest child.

c. Children-only coverage. Cost is based upon actuarial tables comparing the ages of the retiree and the youngest child. If married at time of election, spouse must approve in writing.

- d. Former spouse coverage. Cost and annuities for former spouse elections made before 1 Mar 1986, are computed by the same formula used to compute costs and annuities for insurable interest coverage. For former spouse elections effected on or after 1 Mar 1986, costs and annuities are computed by the same formula used to compute costs and annuities for spouse coverage (10 U.S.C. § 1450(a)).
- e. Natural person with insurable interest (10 U.S.C. § 1448(b)(1)).
 - (1) By statute, this can only be elected if retiree has no spouse or dependent children (*Cf.* Comp. Gen. B-179465, 1974 WL 7682, which allowed this coverage for a child).
 - (2) Cost is 10% of base amount plus 5% of base amount for each five years beneficiary is younger than retiree (to a maximum of 40% of base amount).
- 3. Withholding stops if the beneficiary dies or otherwise loses eligibility. Must notify finance office.

E. Election.

- 1. Soldiers who are on active duty and have completed 20 years of active federal service are automatically enrolled in SBP without any affirmative election. Enrollment is at the full base amount of retired pay calculated as if the soldier had been retired on the day of death. Both widow(er) and children are covered (10 U.S.C. § 1448(d)). Retirees, however, must make an election to participate in SBP.
- 2. Active Component: Retired soldiers must elect type and amount of coverage within 30 days of retirement.
- 3. Reserve Component: Retirement eligible reservists have 90 days to elect, with the period running from receipt of their letter of notification of eligibility for retired pay at age 60 ("20-year letter").
- 4. An election of no coverage, less than full coverage for a widow(er), or children-only coverage requires written spousal concurrence.

5. If a soldier is married at the time of retirement, the election made is generally irrevocable. However:
 - a. Can withdraw from the SBP between second and third anniversary from date of enrollment with concurrence of spouse and/or notification to former spouse. 10 U.S.C. § 1448a.
 - b. An eligible participant need not continue premium payments if beneficiaries are no longer eligible.
 - c. An eligible participant who has spousal coverage and loses spouse to death or divorce may withdraw after remarrying. Finance must be notified of intent to withdraw, however, before second marriage produces issue or reaches its first anniversary.
 - d. An eligible participant who becomes permanently and totally disabled may withdraw.
 6. An unmarried soldier who retires and later marries and/or acquires dependent children may opt into the plan at that time.
- F. Reserve Component Cost for SBP (see Appendix A).
- G. Spousal SBP Reduction Due to DIC Offset.
1. Any SBP or RC-SBP annuity to which surviving spouse is entitled will be reduced by amount of spousal DIC entitlement. The offset is mitigated, however, by a pro rata, lump sum return of SBP premiums paid (10 U.S.C. § 1450(e)).
 2. Any SBP or RC-SBP annuity payable to other beneficiaries is not reduced, even if that beneficiary is also eligible for DIC.
- H. SBP Tax Consequences (Federal).
1. Amounts withheld (premium payments) are not reportable as income for tax purposes (I.R.C. § 122).

2. Payments to beneficiaries are taxable as ordinary income.
 3. The present value of the SBP annuity could be subject to federal estate tax in the retiree's estate.
- I. Paid up coverage under SBP. (P.L. 106-65, October 5, 1999).
1. 30 years of SBP premiums paid.
 2. Over 70 years of age.
 3. Effective date: 01 October 2008.
- J. SBP Tax Consequences (state).
- K. Advantages of SBP (in comparison with commercial life insurance). There are basically three commercial insurance alternatives to SBP: annuities, term life insurance, and universal/whole life insurance. For various reasons, commercial insurers do not pitch annuities as replacements for SBP. Rather, they recommend term, whole life, or some combination of the two. Upon the retiree's death, the surviving spouse is supposed to collect the lump sum insurance proceeds, invest them, and draw a monthly check from the investment (see reference in para I.G. for computer program comparing term life to SBP). This paragraph contains a list of factors that might favor SBP in such an analysis.
1. Government subsidized; no administrative costs or commissions.
 - a. Premium costs for children coverage and small amounts of widow(er) coverage are particularly low. A fantastic bargain if child is incapacitated - child paid for life.
 - b. SSBP and natural persons with insurable interests not so subsidized.
 2. SBP premiums are not taxable income to the retiree.

3. SBP payments to beneficiary increase with cost of living adjustments to retired pay. A significant factor is significant inflation returns anytime in the next 40+ years.
4. Guaranteed insurability.
5. Commercial insurer more likely to go out of business than the government.
6. Value of SBP increases when factors exist which increase the probability retiree will not outlive spouse. Some factors include:
 - a. Retiree is older than spouse;
 - b. Retiree has poorer health or a less healthy lifestyle than spouse (i.e., smoker); and
 - c. Retiree is male (vs. female).

L. Disadvantages of SBP in comparison with commercial life insurance.

1. SBP is subject to change by Congress.
2. Reduction in spousal SBP (e.g., 55% to 35%) at age 62 (but SSBP is available).
3. Factors exist that increase likelihood retiree will outlive spouse (e.g., retiree is female; younger than spouse; or spouse has a less healthy lifestyle).
4. Limited revocation period. You can only withdraw from the program between the second and third anniversary from the date of your enrollment. For example, if you retired and enrolled on 1 January 1998, you will only be able to withdraw from SBP during the period from 1 January 2000 to 31 December 2000. (Note that you will also stop making payments should you no longer have a covered beneficiary – i.e., divorce, death of spouse, etc.).

M. Survivor Benefit Plan Annuities For Members Who Die While On Active Duty And In The Line Of Duty After 10 September 2001.

1. Created by Section 642 of the National Defense Authorization Act for Fiscal Year 2002. (Pub.L. 107-107, December 28, 2001).
 - a. Makes the Survivor Benefit Plan available to service members with less than 20 years time in service, who die in the line of duty while in active duty without the benefit of being retired from active service.
 - b. The new law applies to all service members who die on active duty, not just to those who die with less than 20 years of active service.
 - c. This law only affects the SBP eligibility determination or annuity calculation in cases determined to be in the line of duty.
 - (1) For cases determined to be not in the line of duty, SBP eligibility and annuity calculations remain in effect under the rules that existed prior to the effective date of the new law. That is, if the service member was not retirement eligible at the time of death, then SBP is inapplicable.
 - (2) If the service member was retirement eligible at the time of death, an SBP annuity will be paid to a qualified survivor, but will not be computed on the basis of a nominal total disability retirement. Rather, the SBP base amount will be computed on the retirement for service rules that would have applied if the service member had retired at time of death.
2. Beneficiaries: The statute controls the beneficiary of the SBP annuity, not the elections of the service member. The law requires that the Secretary concerned shall pay an annuity to:
 - a. Surviving spouse.
 - b. Dependent child.

- (1) If there is no surviving spouse, or
 - (2) If the member's surviving spouse subsequently dies.
- c. Mandatory former spouse annuity. If an eligible member is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary:
- (1) May not pay an annuity to either the current surviving spouse or, if none, child(ren) of the member.
 - (2) The annuity shall be paid to that former spouse as if the member had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in 10 U.S.C. § 1450(f)(3).
- d. Amount:
- (1) The new law, governing death on active duty, changes the calculation of assumed retirement pay to presume that everyone receives 75% of their base pay or the average of the high three years (or whichever retirement system the service member is under) regardless of years in service.
 - (2) The SBP annuity is calculated at 55% of that figure.
 - (3) For spouse, this amount is:
 - (a) Subject to DIC offset.
 - (i) DIC is advantageous to the spouse because it is a tax-free benefit.

(ii) However, many surviving spouses will only see that their SBP annuity is reduced and will not view that as beneficial. For many the amount of DIC equals or surpasses any benefit from SBP, so the new rules will result in no additional payment to the family members.

(b) Reduced to 35% at age 62.

3. The new law does not change or do away with the service's imminent death procedures.

- a. Imminent death retirement is still in place and when the situation arises where it can be implemented it is the preferred choice.
- b. The imminent death procedure actually retires the service member and allows for an election to by-pass the spouse and select child coverage for the SBP annuity. This may have some be financial advantage since only spousal DIC offsets the SBP annuity.
- c. The imminent death procedure actually retires the service member and allows the service member to elect the Supplemental Survivor Benefit Plan (SSBP).
- d. A single service member, who does not take under the current plan, may be able elect to provide SBP to someone with an insurable interest if they are retired under the imminent death procedure.
- e. Service members retired under the imminent death procedures are entitled to Supplemental SBP (SSBP) and the Veteran's Administration (VA) insurance of \$20,000.

4. Legal Assistance Pointers.

- a. Legal assistance attorneys must first recognize that imminent death retirement procedures, where available, are preferable to dying on active duty and using the new law.

- b. Do not advise all surviving family members of service members who die on active duty that the new law will result in an increase in benefits due to the SBP annuity. For many surviving family members, the actual dollar amount will not change, either because the service member was already over 30 years of service and therefore eligible for 75% of their average pay or high three, or because the DIC offset will be equal to or greater than the SBP annuity.

V. GOVERNMENT INSURANCE PROGRAMS.

A. Servicemen's Group Life Insurance (SGLI); 38 U.S.C. §§ 1965-1976; 38 C.F.R. Part 9; Veterans' Benefits Act of 1992, § 201. Office of SGLI (OSGLI), phone number: 1-800-419-1473.

- 1. Group term life insurance for members of the armed forces, purchased by the government from private insurers, and partially subsidized by the government.
- 2. Active Component.
 - a. Active duty soldiers are automatically insured for \$250,000 unless they opt out in writing.
 - b. Soldier can elect lower coverage or no coverage by completing VA Form 29-8286.
 - c. Insurability is guaranteed when first given the opportunity to elect SGLI. Thereafter, soldiers who desire to increase coverage may be subject to insurability determinations.
 - d. Provides protection on active duty and for 120 days following separation. No premiums are required during this additional 120-day period.

- e. Soldiers may lose entitlement to SGLI based on:
 - (1) Their duty status at time of death (e.g., if death occurs during extended AWOL or while serving term of confinement); or
 - (2) Other miscellaneous factors (e.g., following refusal to serve due to conscientious objector status or following conviction of certain serious crimes). See AR 608-2, paras. 2-5 and 2-7.
 - f. Cause of death, however, is irrelevant to SGLI coverage.
 - g. Soldiers may convert to Veterans Group Life Insurance (VGLI) within 120 days of separation. No person may carry a combined amount of SGLI and VGLI in excess of \$250,000 at any one time.
 - h. Amount is included in decedent's estate for purposes of federal estate tax, but generally exempt from the claims of creditors and other taxes, including federal income tax.
 - i. No loan, cash, paid-up, or extended insurance value.
3. Reserve Component.
- a. Certain reservists are eligible for full-time coverage.
 - (1) Unit soldiers of the ARNG and USAR and –
 - (a) Unit soldier in pay status.
 - (b) Delayed entry soldiers.
 - (2) IRR or IMA soldiers attached for training in a non-pay status to units that are scheduled for at least 12 periods of IDT annually.

- (3) Reservists who have completed 20 years of creditable service, but have not begun receiving retired pay.
 - b. Part-time coverage is also available during periods of AT and ADT.
- 4. Eligible beneficiaries.
 - a. Any person designated by the soldier on appropriate VA form (Active Component: VA Form 29-8286). SGLI Act gives service member absolute right to choose beneficiary.
 - b. If no designation, or "By Law" designation, then proceeds paid according to SGLI statute:
 - (1) All to spouse, but if none, then
 - (2) All to surviving children in equal shares (and descendants of deceased children, by representation), but if none, then
 - (3) All to parents (equally divided), but if none, then
 - (4) All to executor of soldier's estate, but if none, then
 - (5) Next of kin under state law.
 - c. Importance of proper designation.
 - (1) Avoid "By-Law" designation. "By Law" designations are no longer authorized within the Army. Message, Total Army Personnel Command, TAPC-PEC, subject: Servicemen's Group Life Insurance (SGLI) Program Change (021131Z Mar 93).
 - (2) But ensure soldier keeps designation current!

- (3) Consider trustee (living or testamentary) or custodian under Uniform Gifts (Transfers) to Minors Act (UGMA/UTMA) as designated beneficiary for minor children. Such designation may avoid delay and expense in the payment of proceeds.

5. Settlement options.

- a. Accelerated Death Benefits under SGLI/VGLI for servicemembers in terminal condition (within nine months of death). See Appendix H.
- b. Soldier may elect lump sum or 36 monthly installments. (On Form SGLV 8286).
- c. If no election, beneficiary may elect type of settlement.
- d. Alliance Account & financial services.

6. Apply for benefits by submitting VA Form 29-8283, Claim for Death Benefits, to OSGLI, 212 Washington Street, Newark, N.J. 07102-2999.

B. Veterans Group Life Insurance (VGLI) (38 U.S.C. §§ 1977-1979).

1. Renewable group term life insurance available after soldier leaves active duty. VGLI is five-year renewable term insurance.
2. Up to \$250,000 in coverage available.
3. Active Component soldiers should apply for VGLI within 120 days of leaving the service.
4. Reservists are also eligible when:
 - a. Being released from AD, ADSW, or ADT under call or order specifying not less than 31 days; and

- b. Members of the IRR and ING.
 - 5. VGLI rates (see Appendix C).
 - 6. Certain reservists may also be eligible.
- C. Servicemembers' Group Life Insurance Family Coverage: The Veteran's Opportunity Act of 2001, enacted 5 June 2001, amended Title 38 United States Code, Sections 1965-1970, extending SGLI coverage to insurable dependents.
- 1. Eligibility: All insurable dependents of active duty and Ready Reserve members covered by SGLI are automatically covered beginning 1 November 2001.
 - a. Insurable dependents include a spouse and all unmarried dependent children under the age of 18, and those over 18 but younger than 23 who attend an accredited school.
 - b. The definition of "child" includes legitimate children, adopted children, illegitimate children of female members, illegitimate children of male members if acknowledged in writing by the military member or judicially recognized, and stepchildren living in the home of the military member.
 - 2. Spousal Coverage:
 - a. A spouse is automatically eligible for \$100,000 of coverage (or to the same level as the military member's SGLI coverage if less than \$100,000).
 - b. A military member elects not to cover the spouse at all or to reduce the \$100,000 coverage in increments of \$10,000 on form SGLV 8286A (Family Coverage Election). The military member pays a premium (by automatic military pay deduction) for spousal coverage.
 - c. The premiums for spousal coverage are:

Spouse's age:	Monthly rate per \$10,000	Monthly cost for \$100,000 coverage
Under 35	\$.90	\$9.00
35-44	\$1.30	\$13.00
45-49	\$2.00	\$20.00
50-54	\$3.20	\$32.00
55 & older	\$5.50	\$55.00

- d. A spousal policy terminates 120 days after:
 - (1) The military member elects, in writing, to terminate spouse coverage.
 - (2) The military member's SGLI coverage terminates.
 - (3) The military member dies.
 - (4) The military member and spouse divorce.
 - (5) The spouse can convert the spousal SGLI policy into a commercial policy within 120 days of termination. The Office of Servicemember's Group Life Insurance (OSGLI) will provide a list of participating commercial companies upon request. The spouse cannot convert the SGLI to Veteran's Group Life Insurance (VGLI).
- e. The military member is the beneficiary of the spousal SGLI policy.
- f. The spouse has no incidents of ownership over the policy.
- g. The spouse cannot change the beneficiary, name the beneficiary or contingent beneficiary, nor revoke the policy.
- h. If a spouse dies and before OSGLI pays the proceeds to the military member the military member also dies, then the spousal SGLI proceeds are paid in accordance with the military member's SGLI policy beneficiary designation.
- i. If a military member elects not to cover the spouse and later wants to provide spousal coverage, the member must complete for SGLV 8285A (Request for Family Coverage).

3. Child Coverage.

- a. Every dependent child of the military member is automatically covered by a \$10,000 policy.
- b. There is no premium charged for a child's policy.
- c. The military member cannot decline nor reduce the child policy.
- d. Coverage for a child terminates 120 days after:
 - (1) The military member's SGLI coverage terminates.
 - (2) The military member separates from service.
 - (3) The military member dies.
 - (4) The child no longer qualifies for dependent status.
- e. A child policy cannot be converted to a commercial policy at anytime.
- f. The military member is the beneficiary of the child's policy.
- g. If the child dies and before OSGLI can pay the proceeds to the military member the military member also dies, the child's policy proceeds are paid in accordance with the military member's SGLI policy beneficiary designation.
- h. A child of a dual military couple is only covered by one policy. In the event of the child's death, the proceeds of the child's policy are paid to the military member eligible for SGLI coverage the longest. If a dual military couple divorces, the proceeds of a deceased child's policy are paid to the member with custody of the child.

VI. DEPENDENTS EDUCATIONAL ASSISTANCE (DEA) (38 U.S.C. §§ 3500-3566; 38 C.F.R. PART 21).

- A. Death of member must be under same circumstances that qualify dependents for receipt of DIC. Additionally, dependents of a totally disabled, but living, veteran may qualify.

- B. School must be approved for Department of Veterans Affairs (DVA) benefits (see 38 U.S.C. § 3523 and § 3672; 38 C.F.R. § 21.7120).
 - 1. Each state establishes an agency that certifies educational programs according to standards established by the DVA.

 - 2. Generally, the DVA will not allow approval of courses that are primarily a vocational or recreational in nature. The statute and regulation contain a list of specific courses which are either prohibited or discouraged.

- C. Eligible Recipients.
 - 1. Surviving spouses.
 - a. Period of eligibility for a spouse extends to 10 years from the date of the veteran's death; extension is possible.

 - b. Will not be reduced by DIC payments.

 - c. Remarriage permanently terminates DEA payments.

 - 2. Children.
 - a. Eligibility for child ends at age 26 (unless extended under certain conditions such as the child serving on active duty with the Armed Forces).

- b. Children must elect between DEA and DIC. Election of educational benefits is irrevocable and DIC may not be received once educational benefits begin. (Can receive DIC until age 23 and educational benefits to age 26)
- c. Marriage does not bar payments.

D. Amounts Available (38 U.S.C. § 3532, current through P.L. 108-3, approved 1/13/03).

1. Institutional Training: The DVA will pay the eligible recipient \$680 per month if the schooling is full time. Lesser amounts are available for three-quarter-time schooling (\$511), half-time (\$340). Less than half-time and quarter-time are based on tuition and fees for the course, not to exceed \$340 and \$170 respectively.
2. Farm Cooperative Training: The DVA will pay the eligible recipient \$549 per month if the schooling is full time. Lesser amounts are available for three-quarter-time schooling (\$412); half-time (\$275).
3. Correspondence Courses: Entitlement charged at a rate of one month for each \$680 paid.
4. Apprentice and On-The-Job Training: First six months - \$495; second six months - \$370; third six months - \$246; remainders of the program - \$124.
5. Payments made for a maximum of 45 school months (or to the equivalent thereof in part-time training).

E. State Programs.

VII. SOCIAL SECURITY BENEFITS.

A. General Types of Benefits.

B. Eligibility. For an individual (or his/her survivors) to qualify for social security benefits, the individual will have to be either fully insured or currently insured, or both, depending on the benefit (but see para. C.2.d. below).

1. An individual is fully insured upon receipt of 40 quarters of social security work credits. If an individual dies before age 62, he/she may be considered as "fully insured" with less than 40 credits. The actual number of credits needed depends on age at time of death.
2. An individual is currently insured if the individual has at least six quarterly work credits in the past 13 quarters.
3. Generally, one social security work credit is awarded for each \$600 of wages upon which FICA taxes are paid. A maximum of four credits can be earned in a year (hence, "quarterly credits").

C. Available Benefits for Survivors.

1. Lump sum death benefit of \$255 (deceased must have been either fully or currently insured at time of death).
2. Monthly survivor benefit payments.
 - a. Children under age 18 (deceased fully or currently insured).
 - b. Widow(er) with children under 16 (deceased fully or currently insured).
 - c. Widower age 60 and over (deceased must have been fully insured at time of death).

- d. If the death was service-connected, but the soldier was not either fully or currently insured, the VA will make up any of these social security payments for which the soldier's survivors do not qualify (38 U.S.C. § 1312(a)).
 - e. Amount of monthly benefits depends on work history of insured and family situation. Generally, the more social security (FICA) taxes paid by the insured, the greater the benefits available to the survivors. When calculating the amount of FICA taxes paid by an active duty soldier, most soldiers will qualify for an additional \$1,200 annual credit above the actual amount of FICA taxes paid.
- 3. Social Security benefits may be reduced if surviving spouse has earned income.
 - 4. Apply for benefits by submitting SS Form DA-C24 (Application for Survivor Benefits), which can be obtained from the Social Security Administration, to the Social Security Office in your area.
 - 5. More specific information on social security entitlements can be obtained by calling 1-800-772-1213.

VIII. OTHER PAYMENTS AND BENEFITS TO SURVIVORS OF DECEASED MEMBERS.

- A. Death Gratuity (10 U.S.C. § 1475).
 - 1. Conditions of payment.
 - a. Soldier died on active duty, or
 - b. 120 days after release if death resulted from disease or injury incurred while on active duty.
 - 2. Amount.
 - a. Lump sum payment of \$6,000 made by the local finance office.
 - b. The lump sum payment amount does not depend on the rank or years of service of the deceased. (National Defense Authorization Act for FY 1993).
 - 3. Beneficiaries.
 - a. By law, to surviving spouse.
 - b. If no surviving spouse, to children equally without regard to age or marital status.
 - c. If no spouse or children, by designation among parents, brothers, and sisters. DD Form 93.
 - d. If no spouse or children and no designation - then to parents (if any survive), otherwise to brothers and sisters. If there are no parents, brothers, or sisters, the death gratuity is not payable (to the estate or otherwise).

4. Tax consequences (I.R.C. § 101(b)(1)).
 - a. If payment is for death occurring on or before 20 August 1996, a total of \$5,000 is excluded from the gross income of the recipients. Remaining \$1,000 is included in gross income. If gratuity is divided between more than one recipient, tax liability is split pro rata.
 - b. If payment is made for a death occurring after 20 August 1996, \$3,000 is excluded from gross income and \$3,000 is taxable. (Pub. L. No. 104-188, 110 Stat. 1755; and I.R.C. § 134).
 - (1) Reduced exclusion is based on the repeal of I.R.C. § 101(b) on 20 Aug 1996. This section excluded \$5,000 of death gratuity from income.
 - (2) Upon the repeal of I.R.C. § 101(b), the excludable portion of the death gratuity reverted to the excludable amount that existed in 1986, when tax free military benefits were consolidated in I.R.C. § 134 which was \$3,000. (See Conference Report to I.R.C. § 134 incorporating 10 U.S.C. §§ 1475-1480 and the 1991 Amendments to 10 U.S.C. § 1478).
5. Apply by submitting DD Form 397, Claim Certification and Voucher for Death Gratuity Payments, to local finance office.

B. Unpaid Pay and Allowances. 37 U.S.C. § 501; Chap. 5, para. 40511, DOD Military Pay and Allowances Manual.

1. Amount.
 - a. All pay due soldier at death, including allowances.
 - b. Accrued leave, which can even exceed 60 days.
2. Beneficiaries.

- a. Designated by soldier.
 - b. If no designation, to spouse, children, parents, or the estate (in that order).
- C. Burial Benefits (10 U.S.C. § 1482; 38 U.S.C. §§ 2301-08 & 2402; 38 C.F.R. § 3.1600).
- 1. Burial in a national cemetery.
 - a. The following individuals are eligible for burial in a national cemetery:
 - (1) All active duty personnel;
 - (2) Veterans who served a minimum period of time on active duty (generally, 2 years) and were discharged with an other than dishonorable characterization; and
 - (3) Reservists who die on active duty, or die as a result of service-connected injuries, or die after completing 20 good years toward retirement. See Pub. L. No. 103-240.
 - b. Burial in a national cemetery is on a space available basis. Eligibility creates the rights to:
 - (1) A headstone (monetary reimbursement no longer available), and
 - (2) A graveliner (if actually buried in a national cemetery).

2. Additional assistance with burials.
 - a. All active duty soldiers. The next of kin are eligible for the following support:
 - (1) Interment Allowances: (10 USC 1481 & 1482; DoDD 1344.8, Interment Allowance for Deceased Active Duty Personnel, September 25, 1978; Assistant Secretary of Defense Memorandum, Subject: Revised Interment Allowances Under DoD Directive 1344.8, December 13, 2000, attachment 1).
 - (a) If service arranges preparation and casket:
 - (i) \$4,325 if consigned to funeral home and burial in civilian cemetery;
 - (ii) \$3,000 if consigned to funeral home and burial in govt cemetery;
 - (iii) \$600 if remains are consigned directly for burial in a govt cemetery.
 - (b) If family arranges preparation and casket:
 - (i) \$6,900 for burial in civilian cemetery;
 - (ii) \$5,550 for burial in govt cemetery.
 - (2) Reimbursement for next of kin travel to the burial site. 37 USC 411f).
 - b. Certain veterans. The next of kin are entitled to:
 - (1) A burial allowance not to exceed \$1,500 if death is service-connected.

- (2) An allowance not to exceed \$300 for preparation and transportation of remains and other funeral and burial expenses if death is not service-connected, but veteran was eligible for VA pension or compensation (i.e., the veteran was rated partially or totally disabled). An additional \$150 plot or internment allowance is available to these next of kin if burial is in a private cemetery.
3. Military funeral honors have become a statutory benefit to all veterans effective 01 Jan 2000 pursuant to the National Defense Authorization Act of 2000. See Appendix I.

D. Other Military Benefits (see DA Pam 608-4).

1. Travel of dependents and shipment of household goods and personal effects. 37 U.S.C. § 406(f).
2. Temporary continuation of allowance for dependents of members dying on active duty to continue to occupy family housing for 180 without charge. If dependents not in family housing basic allowance for housing at the rate that is payable for members of the same grade and dependency status as the deceased member for the area where the dependents are residing for 180 days. If in family housing and vacate before 180 days, then the dependents can receive basic allowance for housing for the remainder of the 180 days. 37 U.S.C. § 403.
3. Emergency financial assistance (Army Emergency Relief and/or American Red Cross).
4. Continued service benefits and privileges for dependents of soldier dying on active duty.
 - a. Commissary.
 - b. Post Exchange.
 - c. Medical care.
 - d. Legal assistance.

- e. VA Death Pension (38 U.S.C. § 5112(b)(4); 38 C.F.R. § 3.660(d); and DA Pam 360-526, p. 16). This benefit is designed for surviving spouses and children of wartime veterans (i.e., those who served at least 90 days during designated war periods) whose survivors have limited income. Service during Desert Storm qualifies. Property holdings and date of marriage to the veteran also affect eligibility. Death need not be service-connected.

IX. TERMINAL CONDITION: IS MEDICAL RETIREMENT APPROPRIATE?

- A. The decision to retire a soldier facing imminent death is still relevant, notwithstanding Section 642 of the National Defense Authorization Act for Fiscal Year 2002, which makes the Survivor Benefit Plan available to service members with less than 20 years time in service, who die in the line of duty while in active duty without the benefit of being retired from active service. See the discussion of this new act earlier in the outline.

- B. Factors favoring retirement.
 - 1. Choice of Beneficiaries.
 - a. NDAA FY 2002 (10 U.S.C. § 1448) – Mandates beneficiaries:
 - (1) Surviving spouse.
 - (2) Dependent child.
 - (a) If there is no surviving spouse, or
 - (b) If the member's surviving spouse subsequently dies.
 - (3) Mandatory former spouse annuity. The annuity shall be paid to that former spouse as if the member had been a participant in the Plan and had made an election under subsection to provide an annuity to the former spouse.
 - b. Retirement provides choice of beneficiaries.
 - (1) Child only SBP. (Possible with spousal consent.)
 - (2) Natural Person with an insurable interest. (If no spouse or child(ren).)

(3) Either choice:

(a) Creates higher premium payment. However, number of actual projected premium payments should be minimal.

(b) Neither are subject to DIC offset.

2. Supplemental SBP available. Increases basic SBP after age 62 reduction

3. Availability of Service Disabled Veteran's Life Insurance (38 U.S.C. § 1922; 38 C.F.R. § 8.116).

a. \$20,000 of life insurance available to disabled retirees who are otherwise uninsurable.

b. Must be applied for by retiree within one year of retirement.

c. If retiree is mentally competent at any time between injury and death, the retiree must sign the insurance application (VA Form 29-4364). If serviceman is mentally incompetent for the entire period prior to death, the insurance may be applied for retroactively after the death of the retiree.

C. Factors favoring continued active duty.

1. Is family at risk for extensive medical costs?

a. How long might soldier continue to live?

b. If retired, when will soldier be removed from military medical care?

c. If retired, will care be available in a VA facility?

2. Eligibility for the Death Gratuity expires if death occurs more than 120 days after retirement.
3. Some commercial life insurance policies issued by companies which deal with the military provide for automatic termination or reduction of coverage upon retirement. Does the soldier have such a policy?
4. Survivors may have to pick up some additional burial expenses if soldier is retired vice remaining on active duty.

D. Summary Comparison on Selected Benefits in imminent death processing (See Information Paper at Appendix G)

Benefit	Death on Active Duty	Death in Retired Status
Serviceman's Group Life Insurance (SGLI)	YES	Yes. Coverage retained for up to one year or until less than totally disabled.
Death gratuity	YES	Yes, if death occurs within 120 days from service-connected disability.
DVA Dependency and Indemnity Compensation (DIC)	YES	YES
Survivor Benefit Plan (SBP) Offset by DIC, but may be more than DIC.	Yes without regard to years of service. <i>Election options restricted by law.</i>	Yes without regard to years of service. <i>Several election options, to include insurable interest for single soldier.</i>
Supplemental SBP Increases basic SBP after age 62 reduction.	NO	YES (Only for spouse or spouse/child elections.)
Eligibility for DVA Service Disabled Veterans Life Insurance (SDVI)	NO	YES

X. CONCLUSION.

APPENDIX A

SBP FOR RESERVISTS

FORMULAS FOR RESERVISTS

- A. Under Option A, where the member first elects to participate at age 60, the active duty method of calculating costs and benefits applies. If the reservist dies prior to reaching age 60, he is not covered by SBP.
- B. Under Option B, coverage is in effect immediately, but the beneficiary does not receive the SBP annuity until the date the service member would have reached age 60.
- C. Under Option C, coverage is in effect immediately. The beneficiary begins receiving SPB benefits immediately upon the reservist's death.
- D. Cost of electing any coverage before age 60 (Options B and C) is shared by the retiree (through increased premiums) and the beneficiary (through decreased benefits). The cost is based on a complicated calculation involving:
 - 1. The option elected;
 - 2. Retiree's age at election;
 - 3. Difference in age of retiree and beneficiary at election; and
 - 4. Actuarial tables.
- E. Under all three options, no SBP premiums are actually paid until the reservist reaches age 60 and begins to draw retirement pay.

COST OF RETIREE SBP

Option A:

No payments are due until the retiree reaches age 60. At this point the premium is calculated as described earlier in this outline.

Option B:

Annuity begins on what would have been your 60th birthday if you die before that age. If you die after age 60, the annuity begins on the day after your death.

Your Age at Election	Base Amount Elected	Annuity Payable	Cost Per Month
45	\$1000	\$534.22)	\$85.80
50	\$1000	\$536.75	\$81.20
55	\$1000	\$541.95	\$72.40

NOTE: Assumes a starting base (threshold) of \$572

Option C:

Annuity begins on the day after your die, regardless of your age at death.

Your Age at Election	Base Amount Elected	Annuity Payable	Cost Per Month
45	\$1000	\$525.91	\$100.90
50	\$1000	\$531.36	\$92.88
55	\$1000	\$539.44	\$78.18

NOTE: Assumes a starting base (threshold) of \$572.

RESERVE PART OF RCSBP RATES

METHOD: TWO-TIER

TYPE: DEFERRED TO MEMBER'S AGE 60 ("OPTION B")

OPTION: SPOUSE ONLY OR SPOUSE/CHILD

Age at Year of Election	Years Beneficiary Younger Than Member			Years Beneficiary Older Than Member		
	10-14	05-09	00-04	01-04	05-09	10-14
59.5	.0022	.0022	.0020	.0017	.0017	.0016
59	.0044	.0043	.0039	.0034	.0033	.0032
58	.0083	.0082	.0075	.0065	.0063	.0061
57	.0118	.0117	.0107	.0094	.0091	.0088
56	.0148	.0148	.0136	.0119	.0115	.0112
55	.0175	.0175	.0162	.0142	.0138	.0134
54	.0198	.0199	.0185	.0163	.0158	.0153
53	.0218	.0220	.0205	.0181	.0176	.0171
52	.0235	.0238	.0223	.0198	.0192	.0186
51	.0250	.0254	.0239	.0212	.0206	.0200
50	.0262	.0268	.0253	.0225	.0219	.0213
49	.0273	.0279	.0265	.0236	.0230	.0224
48	.0282	.0289	.0275	.0246	.0240	.0233
47	.0290	.0298	.0284	.0255	.0249	.0242
46	.0296	.0305	.0292	.0262	.0256	.0249
45	.0302	.0311	.0298	.0269	.0263	.0256
44	.0306	.0317	.0304	.0274	.0269	.0262

RESERVE PART OF RCSBP RATES

METHOD: TWO-TIER

TYPE: IMMEDIATE AT MEMBER'S DEATH ("OPTION C")

OPTION: SPOUSE ONLY OR SPOUSE/CHILD

Age at Year of Election	Years Beneficiary Younger Than Member			Years Beneficiary Older Than Member		
	10-14	05-09	00-04	01-04	05-09	10-14
59.5	.0022	.0022	.0020	.0017	.0017	.0016
59	.0049	.0048	.0043	.0038	.0037	.0036
58	.0094	.0093	.0085	.0076	.0072	.0071
57	.0136	.0135	.0126	.0113	.0106	.0104
56	.0174	.0175	.0164	.0148	.0138	.0137
55	.0209	.0212	.0201	.0183	.0169	.0168
54	.0242	.0246	.0235	.0216	.0198	.0198
53	.0271	.0277	.0267	.0247	.0227	.0226
52	.0297	.0306	.0297	.0276	.0254	.0252
51	.0321	.0332	.0324	.0304	.0280	.0277
50	.0343	.0355	.0349	.0329	.0305	.0300
49	.0362	.0376	.0372	.0353	.0329	.0323
48	.0379	.0395	.0393	.0375	.0351	.0344
47	.0395	.0413	.0412	.0395	.0371	.0364
46	.0408	.0428	.0428	.0413	.0390	.0383
45	.0420	.0441	.0444	.0429	.0408	.0400
44	.0430	.0453	.0457	.0444	.0424	.0417

APPENDIX B BENEFICIARY CHECKLIST

The following steps should be taken by the survivor of a deceased soldier or veteran. See also DA Pam 608-4.

1. Contact all insurance companies. They will require:
 - a. Policy Numbers, and/or;
 - b. Full name of the decedent.
2. Request approximately 10 certified copies of the Death Certificate.
3. Contact the Department of Veterans Affairs for burial payment. They will require:
 - a. Full name of the deceased.
 - b. Social Security Number and Branch of Service.
4. Contact the Department of Veterans Affairs for possible benefits for next of kin if soldier died while on active military duty. They will require:
 - a. Certified copy of the Death Certificate.
 - b. Copy of Marriage Certificate.
 - c. Copies of the Birth Certificates of all dependent children.
5. If soldier retired from military service after September 21, 1972, contact respective branch of service for Survivors Benefit Plan (SBP). They will require:
 - a. Full name of the deceased.
 - b. Social Security Number.
6. Contact soldier's respective branch of service for Retired Serviceman's Family Protection Plan (RSFPP). They will require:
 - a. Full name of the deceased.
 - b. Social Security Number.

7. Contact nearest Social Security Office. They will require:
 - a. Certified copy of Death Certificate.
 - b. Social Security Number of deceased.
 - c. Social Security Numbers for spouse and dependent children.
 - d. Birth Certificates for spouse and dependent children.
 - e. Approximate earnings of deceased in the year of his death and present employer's name.
8. Contact veteran's present employer for possible insurance.
9. Contact your veteran's present employer for funds possibly due from Credit Union participation.
10. Contact Bank for possible mortgage insurance.
11. Notify all creditors of death; there may be Credit Life Insurance on installment loans.
12. Contact any fraternal organization to which the deceased may have belonged for possible life insurance.
13. Contact Civil Service if deceased was employed for more than 18 months in Civil Service.
14. Search for a Will. It may explain how the deceased wanted to disburse the funds and to determine if there are trust funds in existence.
15. Look for check stubs or any canceled checks for payments to an insurance company. Check for securities, real estate, and a safe deposit box.
16. Check for past enrollment in the Veteran's Education Assistance Program and/or payroll purchase plan for Savings Bonds.
17. If death occurred on a common carrier, survivors may be able to collect damages from the carrier (for fault or negligence) and/or insurance proceeds from the relevant travel agent/credit card issuer (no fault or negligence required).
18. If death occurred due to combat, there may be federal tax breaks, both on income tax (I.R.C. § 1692) and estate tax (I.R.C. § 2201).
19. Contact the DVA for information on possible state benefits, including bonuses, educational assistance, employment preferences, and tax exemptions.

APPENDIX C
VGLI RATES^{*} (Extract)

Coverage Amount	Age 40-44		Age 45-49		Age 50-54	
	Monthly	Annual	Monthly	Annual	Monthly	Annual
\$250,000	\$55.00	\$627.00	\$80.00	\$912.00	\$130.00	\$1,482.00
\$200,000	\$44.00	\$501.60	\$64.00	\$739.60	\$104.00	\$1,185.60
\$100,000	\$22.00	\$250.80	\$32.00	\$364.80	\$ 52.00	\$ 592.80
\$ 10,000	\$ 2.20	\$ 25.08	\$ 3.20	\$ 36.48	\$ 5.20	\$ 59.28

For more complete information see the charts at the following web address:

<http://www.insurance.va.gov/sglivgli/VGLI%20rates.htm>

* Your age should be either your age on your 121st day after separation or your age on the date of application, whichever is later. Premium schedule is subject to change.

NOTE: If you pay annually, you can take advantage of a one-month discount, which is reflected in the annual premium shown above.

APPENDIX D - RECOMMENDED SGLI LANGUAGE

SGLI intended for minors may be designated by the soldier for placement in a trust; for placement in a custodianship under the Uniform Gifts or Uniform Transfers to Minors Act; or for outright gift (in which case a court must appoint a guardian or conservator to receive and maintain the proceeds). The following language is recommended for trust/custodianship SGLI beneficiary designations on the SGLV-8286 (Servicemen's Group Life Insurance Election and Certificate) (see AR 600-8-1, figures 11-12 to 11-14):

- * Testamentary Trust for Children:¹ **"My trustee to fund a trust established for the benefit of my children² under my will."**
- * Living Trust for Children:³ **"(Name of trustee), my trustee, pursuant to a trust agreement dated (date)."**
- * Custodianship under the Uniform Gifts or Uniform Transfers to Minors Act:⁴ **"(Name of custodian), as custodian for each of my children,⁵ pursuant to the UGMA/UTMA of the state of (name of state), (with distribution to each minor when that minor reaches age (desired age))."**

¹ The soldier's will must contain a trust.

² The definition of "children" in the SGLI statute excludes stepchildren and certain illegitimate children. If any such children are intended beneficiaries, they should probably be included by name in the SGLI designation. For example, "... for the benefit of my children, including my stepchild, Mary Lamb,"

³ The soldier must create a living trust prior to completing the SGLI form. A copy of the trust agreement should be provided to the SGLI office.

⁴ Life insurance custodianships are recognized in every state. A separate custodianship will be established for each child. Either the soldier, the children, the custodian, or OSGLI should have some connection with the state named by the soldier. The age of distribution to the child in most jurisdictions is 18, although in CO, CT, IN, IA, MA, and TN the age of distribution is 21. In CA and NV (and only in these jurisdictions), the soldier may designate any age between 18 and 25 as the age of distribution.

⁵ See discussion, supra, note 2.

APPENDIX E

**EXAMPLE OF DEATH ON ACTIVE DUTY VS. RETIREE DEATH
(Death after 10 September 2001)**

**HYPOTHETICAL CASE - DEATH ON AD
0-4 with spouse and 2 children (7 and 11 years old)
(0-4 had 15 years TIS)**

<u>Monthly Payments</u>	<u>Lump Sum Payments</u>
SBP----- \$1,268*	SGLI ----- \$250,000
DIC (Spouse) --- \$ 948	Death Gratuity - \$ 6,000
DIC (Child) ---- \$ 237	Pay/Allowances - \$ 3,000
DIC (Child) ---- \$ 237	<u>Social Security -- \$ 255</u>
<u>Social Security - \$1,950</u>	<u>TOTAL \$259,255</u>
TOTAL \$4,640	

* The NDAA of FY 02 presumes 100% disability and calculates retired pay at 75% of final base or high three, whichever is applicable. For this example we assume the Major's retirement is calculated based on final base pay and that the Major died in 2003.

**HYPOTHETICAL CASE - RETIREE DEATH
0-4 with spouse and 2 children (7 and 11 years old)
(0-4 had 15 years TIS)**

<u>Monthly Payments</u>	<u>Lump Sum Payments</u>
SBP----- \$1,268*	SGLI ----- \$250,000
DIC (Spouse) --- \$ 948	Death Gratuity - \$ 6,000
DIC (Child) ---- \$ 237	Pay/Allowances - \$ 3,000
DIC (Child) ---- \$ 237	SDVI ----- \$ 20,000
<u>Social Security - \$1,950</u>	<u>Social Security -- \$ 255</u>
TOTAL \$4,640	<u>TOTAL \$279,255</u>

* Physical disability retirement, presumed the Major is retired as 100% disabled. For this example we assume the Major's retirement is calculated based on final base pay and that the Major died in 2003.

EXAMPLE OF DEATH ON ACTIVE DUTY VS. RETIREE DEATH

HYPOTHETICAL CASE - DEATH ON AD
0-5 with spouse and 2 children (13 and 17 years old)
 (0-5 had 22 years TIS)

<u>Monthly Payments</u>	<u>Lump Sum Payments</u>
SBP ----- \$1,741	SGLI ----- \$250,000
DIC (Spouse) --- \$ 948	Death Gratuity - \$ 6,000
DIC (Child) ---- \$ 237	Pay/Allowances - \$ 3,000
DIC (Child) ---- \$ 237	<u>Social Security -- \$ 255</u>
<u>Social Security-- \$2,150</u>	<u>TOTAL \$259,255</u>
TOTAL \$5,313	

* The NDAA of FY 02 presumes 100% disability and calculates retired pay at 75% of final base or high three, whichever is applicable. For this example we assume the Lieutenant Colonel's retirement is calculated based on final base pay and that the Lieutenant Colonel died in 2003.

HYPOTHETICAL CASE - RETIREE DEATH
0-5 with spouse and 2 children (13 and 17 years old)
 (0-5 had 22 years TIS)

<u>Monthly Payments</u>	<u>Lump Sum Payments</u>
SBP ----- \$1,741	SGLI ----- \$250,000
DIC (Spouse) --- \$ 948	Death Gratuity - \$ 6,000
DIC (Child) ---- \$ 237	Pay/Allowances - \$ 3,000
DIC (Child) ---- \$ 237	SDVI ----- \$ 20,000
<u>Social Security-- \$2,150</u>	<u>Social Security -- \$ 255</u>
TOTAL \$5,313	<u>TOTAL \$279,255</u>

* Physical disability retirement, presumed the Lieutenant Colonel is retired as 100% disabled. For this example we assume the Lieutenant's retirement is calculated based on final base pay and that the Lieutenant Colonel died in 2003.

APPENDIX F
INFORMATION PAPER

TAPD-OEA

10 Feb 2000

SUBJECT: Imminent Death Processing

1. Purpose. To provide an overview of expeditious processing of imminent death cases and the benefits that result when a soldier pending death is expeditiously retired for physical disability.

2. Facts.

a. Expeditious processing of imminent death cases consists of procedures for completing physical disability evaluation and retirement on a 24-hour basis.

b. Imminent death procedures are applied to the cases of Active and Reserve Component soldiers when the Medical Treatment Facility (MTF) determines that the soldier is expected to die within 72 hours from a medical condition incurred or aggravated in the line of duty.

c. No regulatory and statutory requirements are omitted or accomplished after the fact of death. For example, if a line of duty determination is required, retirement is not executed until the required level of determination (informal or formal) per AR 600-8-1, chapter 39 (1986), is approved and confirms an in-line-of-duty finding. Retirement must be executed before death as defined by the laws of the state where the soldier is assigned, or if soldier is outside of the Continental United States, as defined under military medical standards.

d. To protect the interests of the soldier and the government should the soldier recover or improve, the soldier is placed on the Temporary Disability Retired List.

e. The MTF Physical Evaluation Board Liaison officer (PEBLO) and the Installation Retirement Services Officer (RSO) have joint responsibility to counsel the soldier and the soldier's next of kin.

(1) The PEBLO is responsible for counseling the soldier and the soldier's next of kin on the disability evaluation process, the soldier's rights in the process, the Physical Evaluation Board findings, estimated disability compensation, and potential Department of Veterans Affairs (DVA) benefits and programs.

(2) The RSO is responsible for counseling the soldier and the soldier's next of kin on retirement and survivor benefits, to include the Survivor Benefit Plan (SBP), and DVA and Social Security entitlements. The RSO must:

(a) Complete the DD Form 2656 (Data for Payment of Retired Personnel), which indicates the family's desired SBP election; and

(b) Coordinate with HQDA, Army Retirement Services--the Secretary of the Army designee to make SBP elections on behalf of death imminent soldiers.

(3) The Army and Air Force Mutual Aid Association is available to assist the PEBLO or RSO by producing a benefits comparison tailored to the soldier's circumstances. The Association will telefax or email the comparison to the PEBLO and RSO without regard to whether the soldier is a member of the Association. The questionnaire at enclosure 1 must be provided to the Association. The printout is generally available only during the Association's office hours: 0830 to 1630, Eastern Standard Time. The objective of the Association is to be of service to the soldier and his family by providing the maximum information available on benefits. However, as a private institution not under contract to Department of Defense, the Association cannot assume liability for the choices made.

f. Due to the variables that affect benefits, primarily under SBP, this information paper cannot provide an exact monetary comparison of benefits between death on active duty and death in retired status. These variables include: The age of the spouse; whether there are children; the ages of the children and whether any are handicapped; whether a wife is pregnant at time of the soldier's death; specifics of any divorce settlement regarding former spouse entitlement to SBP; effect of remarriage on benefit entitlement; and, whether a single soldier has a relative that would qualify as an insurable interest beneficiary.

g. In most cases when death is imminent, retirement for physical disability provides greater benefits than if death occurs on active duty due to the benefits described below. A summary matrix is attached.

(1) Entitlement to the same active duty death benefits.

(a) Soldiers retired under imminent death procedures are totally disabled soldiers. Totally disabled soldiers retain coverage under Servicemen's Group Life Insurance (SGLI) up to one year or until the disability ceases to be total in degree, whichever occurs first, with no premium cost during this period.

(b) The death gratuity is payable to certain survivors if the death occurs within 120 days following retirement and is related to service connected causes as determined by the DVA.

(2) Eligibility for DIC and SBP.

(a) Eligible survivors of soldiers who die on active duty are entitled to DVA Dependency and Indemnity Compensation (DIC). They are not entitled to SBP unless the soldier had at least 20 years of federal service. In that case the law directs a “spouse only” election for a married soldier or a “child(ren) only” election for an unmarried soldier with child(ren). No other options are available.

(b) Survivors of retired soldiers who die of a service-connected disability may be entitled to DIC. The DVA should be consulted to ensure eligibility based on the DVA’s marriage requirements and in-line-of-duty considerations.

(c) Soldiers pending disability retirement are eligible to elect SBP and have several election options: Spouse only, children only, spouse and children, former spouse only, former spouse and children; insurable interest; and, no election.

(d) There is a dollar for dollar offset between DIC and SBP for SBP elections of spouse only or spouse and child. However, depending on the retired pay entitlement, SBP may exceed the DIC amount, in which case monies would be payable from both VA and DoD. DIC has no offsetting impact on a child’s SBP receipt. Thus, the flexibility of options available to the soldier pending retirement allows for weighing long term versus short term benefits in light of the number of dependents and their ages.

(e) A single soldier with no children or one dependent child has the election option of “natural person with an insurable interest.” An annuity can be provided to any relative more closely related to the soldier than a cousin or a close business associate with proof of being financially affected by the soldier’s death. This option is not available to single soldiers who die on active duty eligible for retirement.

(f) When a soldier pending retirement is mentally incompetent to make an SBP election, the Secretary of the Army makes the appropriate election on behalf of the soldier. This authority has been delegated to Chief, Army Retirement Services, Office of the Deputy Chief of Staff for Personnel. The RSO coordinates the action.

(3) Eligibility for Supplemental SBP (SSBP). SSBP is the supplemental plan which increases basic SBP’s after-age-62 annuity amount. SSBP is not part of the active-duty death survivor package, even when the member has more than 20 years active federal service. It can only be elected at retirement. It is not connected to DIC; it is payable at age 62 to a qualified surviving spouse in addition to any DIC amounts received.

(4) Possibility of Greater retired pay and greater SBP/SSBP annuity. Retired pay is computed using a multiplier equating to years of service or the disability rating—both limited to 75%. The disability rating for imminent death retirement is 100%. Thus, even a soldier who was eligible to retire for length of service would benefit from death imminent retirement processing because of the higher multiplier used to calculate retired pay as well as the SBP election flexibility afforded by retirement.

(5) Eligibility for Service Disabled Veterans Life Insurance (RH) (SDVI). This is a \$10,000 policy for disabled veterans. A soldier must be retired in order to apply for it.

(a) Totally disabled veterans, may apply for waiver of premiums for the basic policy. After six months, totally disabled veterans may apply for an additional policy of up to \$20,000.

(b) If the veteran is mentally competent, but physically incapable of signing the application, a statement to that effect can be submitted by his doctor or nurse. The statement must confirm that the veteran was totally aware of what was happening and why he couldn't sign. If he is mentally incompetent, only a court appointed guardian can sign the application.

(c) If the mentally incompetent soldier dies before a guardian is appointed, the soldier's beneficiary may apply for gratuitous SDVI ("ARH"). This is a lump sum payment, the approval of which rests with the DVA.

h. There are two considerations which may result in retirement posing a hardship.

(1) Civilian life insurance: Does the soldier have a civilian policy that provides greater benefits if death occurs on active duty? Usually these are policies offered by military oriented associations. The amount of such a policy should be carefully weighed against the overall entitlement package afforded by retirement.

(2) Hospitalization in a civilian facility: If the soldier is in a civilian facility when retired, the spouse becomes responsible for those medical costs not covered under the soldier's TRICARE plan. While this is a factor to consider, a death imminent soldier who survives but needs additional hospital level care may be transferred to a VA hospital, where TRICARE is not an issue. The installation Health Benefits Advisor (HBA) should be consulted on this matter.

Frances A. Dennis(202) 782-3064
USPDA Policy Officer
Dennis E. Brower(202)782-3002
USPDA Legal Advisor
(DSN 662)

AAFMAA PEBLO/CAO QUESTIONNAIRE

(No Cover Sheet Required – Page 1 of 1)

AAFMAA
Ft. Myer, VA 22211
FAX # (703) 875-0070

CAO/PEBLO Requesting: _____
Address: _____

Phone: _____
FAX: _____

XI. SERVICE MEMBER DATA

- 1. NAME: _____
- 2. DATE OF BIRTH: MO _____ DAY _____ YR _____
- 3. PRESENT RANK/GRADE: _____
- 4. DATE OF DEATH: MO _____ DAY _____ YR _____
- 5. SSAN: _____ - _____ - _____
- 6. PAY ENTRY BASE DATE (PEBD): MO _____ DAY _____ YEAR _____
- 7. BASIC ACTIVE SERVICE DATE (BASD): MO _____ DAY _____ YEAR _____
- 8. PRESENT MARITAL STATUS: SINGLE _____ MARRIED _____
- 9. DATE OF PRESENT MARRIAGE: MO _____ DAY _____ YEAR _____

XII. FAMILY DATA

- 10. CURRENT SPOUSE NAME: _____
- 11. SPOUSE DOB: MO _____ DAY _____ YEAR _____
- 12. CHILDREN:
- #1 _____ DOB: MO _____ DAY _____ YR _____
- #2 _____ DOB: MO _____ DAY _____ YR _____
- #3 _____ DOB: MO _____ DAY _____ YR _____
- #4 _____ DOB: MO _____ DAY _____ YR _____
- #5 _____ DOB: MO _____ DAY _____ YR _____
- #6 _____ DOB: MO _____ DAY _____ YR _____

Please complete ALL date fields. Dates are more important than names if names are not readily available.

FOR AAFMA USE: PROCESS DATE: _____ INITIALS: _____

APPENDIX G
INFORMATION PAPER

DAJA-LA
25 March 1999

SUBJECT: Accelerated Death Benefit - SGLI

1. PURPOSE: To provide information on obtaining an accelerated death benefit for terminally ill SGLI policy holders.

2. FACTS.

a. The President signed in to law on Veterans Day (November 11) as part of the Veterans Programs Enhancement Act. Implementation date was February 9, 1999. Interim final rule under review.

b. The Department of Veterans Affairs will issue rules soon. Watch VA's web site for more details: <http://www.va.gov>.



c. Holders of Servicemen's Group Life Insurance (SGLI) or Veterans Group Life Insurance (VGLI) who have been diagnosed as terminally ill may receive up to half the face value of their SGLI/VGLI policy as a lump sum - \$5,000 increments up to 50 percent available.

d. To qualify for the accelerated benefit, the policyholder must be diagnosed as having a life expectancy of less than 9 months. The member's subsequent SGLI/VGLI premiums will be reduced to reflect the remaining face value of the policy. The election may not be made more than once, and it will be irrevocable.

e. Not taxable - under the new law, the accelerated death benefit payment "shall not be considered income or resources for purposes of determining eligibility for or the amount of benefits under any Federal or federally-assisted program or for any other purpose."

f. Send proof of policy coverage & medical diagnosis to

Office of Servicemen's Group Life Insurance (OSGLI)
213 Washington Street
Newark, NJ 07102-2999
1-800-419-1473

COL Hancock/703-588-6708

APPENDIX H

P 170639Z DEC 99

FM CDRPERSCOM ALEXANDRIA VA //TAPC-PED-A//

MILPER MESSAGE NR 00-67

SUBJECT: **MILITARY FUNERAL HONORS**

1. THIS MILPER MESSAGE WILL EXPIRE NO LATER THAN JAN 2002.

2. MILITARY FUNERAL HONORS HAVE BECOME A STATUTORY BENEFIT TO ALL VETERANS EFFECTIVE 1 JANUARY 2000 WITH THE SIGNING OF THE NATIONAL DEFENSE AUTHORIZATION ACT 2000. CASUALTY AREA COMMANDS (CACs) MUST ENSURE THEY ESTABLISH MILITARY FUNERAL HONORS TEAMS TO MEET A SIGNIFICANT INCREASE IN REQUESTS ANTICIPATED FROM FAMILIES FOR FUNERAL HONORS. CACS HAVE THE ULTIMATE RESPONSIBILITY FOR PROVIDING MILITARY FUNERAL HONORS. CACS ARE RESPONSIBLE TO ENSURE PROPER DECORUM FOR MILITARY FUNERAL HONORS INCLUDING APPROPRIATELY TRAINED PERSONNEL AND PROPER EQUIPMENT, STANDARDIZED HONORS PROCEDURES, AND QUALITY CONTROL OF MILITARY FUNERAL HONORS TEAMS CONSISTENT WITH DEPARTMENT OF THE ARMY STANDARDS.

3. OSD HAS DEFINED "VETERANS" (FOR ELIGIBILITY FOR MILITARY FUNERAL HONORS) AS ANY PERSON WHO:

A. SERVED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE (AS DEFINED IN 38 U.S.C. 101(24)) AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE; OR B. WAS A MEMBER OR FORMER MEMBER OF THE SELECTED RESERVE DESCRIBED IN 38 U.S.C. 2301(F)

(1) COMPLETED AT LEAST ONE ENLISTMENT AS A MEMBER OF THE SELECTED RESERVE OR, IN THE CASE OF AN OFFICER, COMPLETED THE INITIAL OBLIGATED SERVICE AS A MEMBER OF THE SELECTED RESERVE; OR

(2) WAS DISCHARGED BEFORE COMPLETION OF THE PERSON'S INITIAL ENLISTMENT AS A MEMBER OF THE SELECTED RESERVE OR, IN THE CASE OF AN OFFICER, PERIOD OF INITIAL OBLIGATED SERVICE AS A MEMBER OF THE SELECTED RESERVE, FOR A DISABILITY INCURRED OR AGGRAVATED IN LINE OF DUTY; OR

(3) DIED WHILE A MEMBER OF THE SELECTED RESERVE.

C. MILITARY BURIAL HONORS MAY NOT BE FURNISHED IN THE CASE OF A PERSON WHOSE LAST DISCHARGE FROM THE SELECTED RESERVE WAS UNDER DISHONORABLE CONDITIONS.

D. IN ACCORDANCE WITH 10 U.S.C. 985, MILITARY BURIAL HONORS MAY NOT BE FURNISHED FOR ANY INDIVIDUAL CONVICTED OF A CAPITAL OFFENSE UNDER FEDERAL OR STATE LAW FOR WHICH THE PERSON WAS SENTENCED TO DEATH OR LIFE WITHOUT PAROLE.

E. MILITARY FUNERAL HONORS FOR VETERANS WHO SERVED IN THE ARMY AIR CORPS OR THE ARMY AIR FORCE WILL BE PROVIDED BY THE U.S. AIR FORCE, UNLESS THE VETERAN'S FAMILY SPECIFICALLY ASKS FOR AN ARMY BURIAL HONORS TEAM.

F. PROOF OF ELIGIBILITY FOR MILITARY BURIAL HONORS CEREMONIAL FOLDING AND PRESENTATION OF THE INTERMENT FLAG AND PLAYING SHOULD BE REQUESTED FROM THE NEXT-OF-KIN.

4. AS OF 1 JANUARY 2000, A TWO-SERVICE MEMBER TEAM TO PERFORM THE OF TAPS IS THE MINIMUM REQUIREMENT FOR ALL VETERAN FUNERALS UPON RECEIPT OF A REQUEST FROM A FAMILY MEMBER OR HIS/HER REPRESENTATIVE. THIS MAY BE A REQUEST FROM A FUNERAL DIRECTOR OR VETERAN SERVICE ORGANIZATION (VSO). ONE OF THE MEMBERS OF THE TEAM MUST BE A MEMBER OF THE DECEASED VETERAN'S SERVICE. THE CHIEF OF STAFF, ARMY IS CURRENTLY REVIEWING THIS POLICY. HE MAY WITHIN THE NEXT SEVERAL MONTHS ENLARGE THE ARMY REQUIREMENT TO PROVIDE A BIGGER DETAIL AND TO EXPAND THE HONORS RENDERED. IN THE MEANTIME, FOR ANY REQUESTED VETERANS' FUNERAL, CACS MUST ENSURE A MINIMUM OF TWO SOLDIERS.

5. PROCEDURES: THE FOLLOWING PROCEDURES WILL BE IMPLEMENTED TO ENSURE COMPLIANCE WITH THE MILITARY FUNERAL HONORS PORTION OF NDAA 2000 (AN ABBREVIATED CHECKLIST IS PROVIDED AT PARAGRAPH 9). PREPARATION FOR FUNERAL HONORS BEGINS WITH THE REQUEST FOR ARMY ASSISTANCE USING THE DOD HOTLINE AS FOLLOWS:

A. REQUESTS FOR MILITARY FUNERAL HONORS WILL BE INITIATED BY THE NEXT-OF-KIN, OR HIS/HER AUTHORIZED REPRESENTATIVE (IN MOST CASES THE FUNERAL DIRECTOR), TO THIS 24 HOUR SYSTEM AT 1-877-MIL-HONR (1-877-645-4667). THE REQUESTOR WILL BE ASKED BY AUTOMATIC DEVICE THE BRANCH OF SERVICE OF THE DECEASED VETERAN AND THE STATE AND COUNTY THAT THE INTERMENT WILL BE MADE. THE REQUESTOR WILL THEN BE AUTOMATICALLY TRANSFERRED TO THE APPROPRIATE CAC FOR SERVICE. DOD HAS DIRECTED THAT ALL REQUESTS FOR MILITARY FUNERAL HONORS MUST BE ANSWERED BY THE CAC WITHIN 12 HOURS FROM WHEN THE REQUEST IS MADE, NOT FROM WHEN THE REQUEST IS RECEIVED. AN ALTERNATIVE IS TO CONTACT A CAC DIRECTLY.

B. ONCE THE ARMY CAC IS ALERTED, IT MUST ARRANGE FOR THE DETAIL TO ARRIVE AT THE INTERMENT SITE AT THE APPROPRIATE TIME IN ORDER TO PROVIDE GRAVESIDE HONORS BY THE PLAYING OF TAPS AND THE FLAG FOLDING AND PRESENTATION TO THE APPROPRIATE FAMILY MEMBER. THE LEADER OF THE DETAIL HAS A NUMBER OF RESPONSIBILITIES. THESE INCLUDE CONTACTING THE FUNERAL DIRECTOR TO CONFIRM THE DATE, TIME AND LOCATION OF THE INTERMENT SERVICE. THE LEADER WILL ENSURE THAT THE FUNERAL DIRECTOR HAS OBTAINED A FLAG AND WILL BRING A BACKUP FLAG TO THE CEREMONY "JUST IN CASE" IT IS NEEDED. THE LEADER WILL CONFIRM AND COORDINATE PARTICIPATION OF THE SECOND MEMBER OF THE DETAIL. ONCE EVERYTHING IS COORDINATED, THE FINAL PREINTERMENT ACTIVITY IS TO TRAIN AND REHEARSE THE DETAIL. A MANDATORY TRAINING ITEM IS TO CAREFULLY WATCH A COPY OF THE VIDEO DEMONSTRATION TAPE PROVIDED BY DOD TO EACH INSTALLATION. ON THE DAY OF THE INTERMENT CEREMONY, THE DETAIL LEADER WILL CONFIRM ARRANGEMENTS WITH THE FUNERAL DIRECTOR. HE/SHE WILL WORK OUT NECESSARY CUES AT THE INTERMENT SITE WITH THE FUNERAL DIRECTOR.

C. THE RENDITION OF TAPS MAY BE BY A BUGLER OR BY DEVICE. THE CAC WILL CONDUCT AN ACTIVE SEARCH FOR A BUGLER. BUGLER SUPPORT MAY BE FROM AN ARMY BAND (ACTIVE OR RESERVE COMPONENT), CONTRACTED, OR VOLUNTARY. IF A BUGLER IS NOT AVAILABLE, THE CAC WILL USE THE HIGH QUALITY RECORDING PROVIDED BY OSD ON COMPACT DISK OF THE U.S. ARMY BAND BUGLER. MANY NATIONAL AND PRIVATE CEMETERIES HAVE SOUND SYSTEMS THAT PLAY TAPS AT THE INTERMENT SITE. HOWEVER, CACS CANNOT ASSUME AVAILABILITY OF SUCH AND MUST POSSESS A SUFFICIENT NUMBER OF HIGH QUALITY PORTABLE CD PLAYERS TO PROVIDE THEIR OWN SOUND SYSTEM AT FUNERALS. RECOMMENDED IS A "BOOM BOX" SYSTEM THAT IS EASILY HEARD BY ALL ATTENDEES AT THE INTERMENT CEREMONY. BEFORE DEPARTING FOR A FUNERAL, THE DETAIL LEADER MUST ASCERTAIN IF A SOUND SYSTEM IS AVAILABLE OR IF THE CAC MUST PROVIDE A SOUND SYSTEM TO THE HONORS DETAIL.

D. THE DETAIL WILL ARRIVE AT THE INTERMENT SITE EARLY AND CONDUCT A RECONNAISSANCE AND REHEARSAL. PART OF THE REHEARSAL SHOULD BE THE SELECTION OF A LOCATION OUT OF SIGHT OF THE MOURNERS FOR THE BUGLER OR CD PLAYER THAT WILL SOUND TAPS. THE DETAIL LEADER WILL SET UP AND TEST THE CD PLAYER, ENSURING THE UNIT AND ITS REMOTE CONTROL ARE WORKING PROPERLY. ONCE EVERYTHING IS PREPARED, THE DETAIL LEADER WILL POSITION THE DETAIL IN THEIR DESIGNATED PLACE PRIOR TO THE ARRIVAL OF THE FUNERAL CORTEGE. THE DETAIL LEADER WILL POSITION HIMSELF NEAR THE RECORDING DEVICE; THE OTHER MEMBER(S) WILL BE POSITIONED NEAR THE FOOT OF THE GRAVE. THE LEADER WILL BRING THE TEAM TO "ATTENTION" AND "PRESENT ARMS" AS THE REMAINS ARE CARRIED TO THE GRAVESITE BY CIVILIAN PALLBEARERS. HE WILL COMMAND "ORDER ARMS" WHEN THE REMAINS HAVE BEEN PLACED ON THE LOWERING DEVICE. AT THE CONCLUSION OF THE COMMITTAL SERVICE, THE DETAIL LEADER WILL SOUND "TAPS" ELECTRONICALLY OR DIRECT THE BUGLER TO SOUND "TAPS". INSTALLATIONS MUST ENSURE THAT TRAINING FOR DETAILS INCLUDES INSTRUCTION ON ENSURING THE RECORDING DEVICE IS POSITIONED OUT OF SIGHT FROM THE FAMILY AND PLAYED IN A DIGNIFIED MANNER AS SHOWN IN THE TRAINING VIDEO FROM DOD. ALTHOUGH THE CD SHOULD BE OUT OF SIGHT, ACTIVATING THE "PLAY" BUTTON SHOULD BE PERFORMED WITH PRECISION AND DISTINCTION BY BENDING OVER, ACTIVATING THE RECORDER AND THEN STEPPING BACK ONE STEP BACK AND ASSUMING THE POSITION OF "ATTENTION". EACH DETAIL MEMBER WILL "PRESENT ARMS" DURING "TAPS" AND "ORDER ARMS" AT ITS COMPLETION. AT THE CONCLUSION OF "TAPS", THE DETAIL LEADER MUST ENSURE THE RECORDING DEVICE IS TURNED OFF; AND THEN PROCEED IN A DIGNIFIED AND MILITARY MANNER TO THE HEAD OF THE CASKET.

E. FOR FLAG FOLDING, UPON CONCLUSION OF "TAPS", THE REPRESENTATIVE AND HIS ASSISTANT WILL MOVE CLOSER TO THE CASKET. ONCE THE FLAG IS SECURED AND RAISED, THE DETAIL WILL TAKE THREE SIDE STEPS AWAY FROM THE MOURNERS. AFTER COMPLETING THE THREE SIDE STEP MOVEMENT, THEY WILL FOLD THE FLAG. WHEN THE FLAG IS PROPERLY FOLDED, THE DETAIL ASSISTANT WILL HAND THE FLAG TO THE DETAIL LEADER AND POST TO A POSITION NEXT TO THE SIDE OR REAR OF THE FAMILY. THE DETAIL LEADER WILL PRESENT THE FLAG TO THE NEXT OF KIN. THE FLAG WILL NOT BE PRESENTED UNTIL THE ASSISTANT DEPARTS. THE LEADER WILL THEN PRESENT THE FLAG TO THE NEXT OF KIN USING THE FOLLOWING WORDING:

"THIS FLAG IS PRESENTED ON BEHALF OF A GRATEFUL NATION AND THE UNITED STATES ARMY AS A TOKEN OF APPRECIATION FOR YOUR LOVED ONE'S HONORABLE AND FAITHFUL SERVICE." AFTER PRESENTING THE FLAG, THE DETAIL LEADER WILL OFFER CONDOLENCES.

F. THERE ARE TWO TYPES OF REMAINS; CASKETED AND CREMATED. EACH HAS ITS OWN SEQUENCE OF EVENTS FOR THE GRAVESIDE SERVICE. THE SEQUENCE DESCRIBED ABOVE IS FOR CASKETED REMAINS. PROCEDURES FOR CREMATED REMAINS ARE DIFFERENT ONLY IN THAT THE FLAG IS CARRIED BEHIND THE URN AND PLACED ON A DISPLAY DEVICE NEXT TO THE URN. AFTER "TAPS" IS SOUNDED, THE FLAG IS UNFOLDED, SECURED AND REFOLDED APPROXIMATELY THREE SIDE STEPS FROM THE MOURNERS. IT IS THEN PRESENTED TO THE NEXT OF KIN IN THE SAME MANNER AS FOR CASKETED REMAINS DESCRIBED ABOVE. THE DETAIL LEADER WILL THEN OFFER CONDOLENCES.

G. THE RESERVE COMPONENTS (RC) ALONG WITH THE ACTIVE ARMY WILL BE REQUIRED TO PARTICIPATE IN THIS SENSITIVE MISSION. THE ARMY NATIONAL GUARD (ARNG) AND U.S. ARMY RESERVE (USAR) WILL HAVE A SINGLE POINT OF CONTACT (POC) IN EACH ARNG STATE AREA COMMAND (STARC) OR USAR REGIONAL SUPPORT COMMAND (RSC) TO WHICH A REQUEST FOR ASSISTANCE CAN BE MADE. WHEN THE ACTIVE ARMY IS UNABLE TO SUPPORT THE REQUEST OR IT IS MORE PRUDENT FOR THE RC UNIT TO PROVIDE HONORS, THE CAC WILL CONTACT THE RC POC AT EITHER THE STARC OR RSC FOR MILITARY FUNERAL HONORS SUPPORT. IF THE RC POC HAS NOT RESPONDED TO THE REQUEST FOR SUPPORT WITHIN TWO HOURS, THE CAC SHOULD AGAIN CONTACT THE RC POC. WHEN THE RC IS UNABLE TO SUPPORT THE REQUEST FOR ASSISTANCE, THE CAC WILL BE RESPONSIBLE FOR PROVIDING THE HONORS. CACS WILL BE PROVIDED A LIST OF RC POCs BY THE CASUALTY AND MEMORIAL AFFAIRS OPERATIONS CENTER, PERSCOM. CACS SHOULD ESTABLISH MEMORANDUMS OF AGREEMENT WITH RC POCs, AND OTHER MILITARY ORGANIZATIONS WITHIN THEIR AREA OF RESPONSIBILITY SPELLING OUT REQUIREMENTS AND RESPONSIBILITIES.

H. VETERAN SERVICE ORGANIZATIONS HAVE INDICATED A WILLINGNESS TO CONTINUE TO ASSIST THE ARMY IN SUPPORTING MILITARY FUNERAL HONORS. CACS WILL MAINTAIN LIAISON WITH THESE ORGANIZATIONS WITHIN THEIR AREA OF RESPONSIBILITY AND ENSURE THAT HONORS PROCEDURES ARE REHEARSED WITH VSO MEMBERS TO ENSURE A PROFESSIONAL CEREMONY IS CONDUCTED.

6. DOD/HQDA ASSISTANCE: IN ORDER TO FACILITATE PERFORMANCE OF THE PROVISIONS OF NDAA 2000, DOD AND HQDA ARE PROVIDING THE FOLLOWING ELEMENTS OF ASSISTANCE:

A. A TOLL FREE TELEPHONE ACCESS SYSTEM HAS BEEN ESTABLISHED. THIS LINE WAS ACTIVATED ON 17 DECEMBER 1999 AND WILL BE OPERATIONAL ON 1 JANUARY 2000.

B. A WEBSITE HAS BEEN ESTABLISHED FOR ACCESS BY FUNERAL DIRECTORS, ACTIVE AND RETIRED SOLDIERS, VETERANS, AND FAMILIES FOR THE PURPOSE OF ASSISTING THEM IN OBTAINING INFORMATION PERTAINING TO FUNERAL HONORS AND A REGISTRY OF THOSE GROUPS AUTHORIZED TO PROVIDE HONORS. THIS INCLUDES THE DOD MILITARY FUNERAL HONORS INFORMATION WEBSITE AT [HTTP://WWW.MILITARYFUNERALHONOR.OSD.MIL](http://www.militaryfuneralhonor.osd.mil). THE WEBSITE CONTAINS INFORMATION ON WHAT CONSTITUTES MILITARY FUNERAL HONORS, ELIGIBILITY FOR MILITARY FUNERAL HONORS, FLAG AND HEADSTONE INFORMATION, AND FREQUENTLY ASKED QUESTIONS. THE WEBSITE WILL BE FULLY OPERATIONAL ON 1 JANUARY 2000.

C. INFORMATIONAL KITS WILL BE DISTRIBUTED TO ALL FUNERAL HOMES TO INFORM AND UPDATE THEM ON MILITARY FUNERAL HONORS PROCEDURES. THESE KITS WILL BE DISTRIBUTED FROM DOD PRIOR TO 1 JANUARY 2000. THE KITS WILL CONTAIN A BROCHURE RELATING TO MILITARY FUNERAL HONORS, A DIRECTORY OF FUNERAL HONORS POCS, FLAG FOLDING PROTOCOL, FREQUENTLY ASKED QUESTIONS REGARDING DEATH BENEFITS, AND A COPY OF THE PORTION OF THE LAW RELATING TO FUNERAL HONORS.

D. THE MILITARY DISTRICT OF WASHINGTON WILL ALSO PRODUCE A VIDEO TRAINING TAPE TO INSTRUCT TEAM MEMBERS ON THE PROPER CUSTOMS AND COURTESIES FOR MILITARY FUNERAL HONORS INCLUDING HOW TO PROPERLY FOLD THE FLAG. THESE TRAINING TAPES WILL BE DISTRIBUTED BY DOD TO ALL ACTIVE AND RESERVE COMPONENT UNITS. LOCAL REPRODUCTION IS AUTHORIZED AND ENCOURAGED, PROVIDED THE QUALITY IS NOT DEGRADED. THE MDW WILL ALSO PROVIDE ON SITE TRAINING UPON REQUEST AND AT CAC EXPENSE. REQUESTS SHOULD BE COORDINATED THROUGH THE CASUALTY AND MEMORIAL AFFAIRS OPERATIONS CENTER, PERSCOM.

E. DOD WILL DISTRIBUTE CDS OF A RECORDING OF TAPS PRODUCED BY THE UNITED STATES ARMY BAND TO ALL CACS AND ACTIVE AND RESERVE COMPONENT UNITS FOR USE IF A BUGLER IS NOT AVAILABLE. LOCAL REPRODUCTION IS AUTHORIZED AND ENCOURAGED.

7. ARBITRARY GEOGRAPHIC LIMITS OF SUPPORT WITHIN CACS ARE ELIMINATED. CACS ARE TO PROVIDE APPROPRIATE MILITARY FUNERAL HONOR SUPPORT TO ALL VETERANS WITHIN THEIR COMPLETE GEOGRAPHIC AREA OF RESPONSIBILITY.

8. CACS MUST STILL ENTER MILITARY FUNERAL SUPPORT DATA INTO THE DOD WEBSITE. CACS HAVE BEEN PROVIDED THE UNIT IDENTIFICATION CODES (UICS) FOR THE WEBSITE. THIS IS A CRITICAL TASK AS THE INFORMATION EXTRACTED BY DOD FROM THE WEBSITE WILL BE USED TO DETERMINE FUTURE FUNDING AUTHORIZATIONS. IN ADDITION, CAC'S WILL SUBMIT A MONTHLY REPORT TO CASUALTY AND MEMORIAL AFFAIRS OPERATIONS CENTER, PERSCOM THAT INCLUDES THE NUMBER OF FUNERAL DETAILS PROVIDED BY "ACTIVE", "RETIREE", AND "VETERAN"; AND THE NUMBER OF SOLDIERS SENT ON EACH MISSION. THIS REPORT WILL BE DUE THE LAST WORKING DAY OF THE MONTH. DATA FROM THIS REPORT WILL BE USED TO BRIEF THE CSA AND WILL HELP DETERMINE FUTURE RESOURCING.

9. REQUEST THE FOLLOWING CHECKLIST PROCEDURES BE INCORPORATED INTO EACH INSTALLATION MILITARY FUNERAL HONORS SOP.

A. BEGIN COORDINATION WITH THE FUNERAL HONORS REQUESTOR ASAP; HOWEVER THE REQUEST MUST BE ANSWERED WITHIN 12 HOURS AFTER THE REQUEST IS MADE.

B. DETERMINE IF THE REQUIREMENT CAN BE FULFILLED USING TRAINED CAC PERSONNEL.

C. IF NOT, REQUEST ASSISTANCE FROM EITHER THE RSC OR STARC POC OR OTHER MILITARY ORGANIZATION IN YOUR AOR. THE RC SHOULD BE CONTACTED ON A ROTATING BASIS.

D. IF SUPPORT CAN NOT BE PROVIDED BY THE RC, REQUEST ASSISTANCE FROM A SISTER SERVICE. IF ASSISTANCE IS NOT FORTHCOMING, THE CAC IS STILL RESPONSIBLE FOR PROVIDING THE MILITARY FUNERAL HONORS.

E. IF REQUIREMENT CANNOT BE ACCOMODATED, COORDINATE WITH FUNERAL DIRECTOR TO HAVE THE INTERMENT HELD AT A DIFFERENT DATE AND/OR AT A DIFFERENT TIME WHEN THE REQUEST CAN BE ACCOMODATED.

F. CONFIRM ARRANGEMENTS WITH THE REQUESTOR.

G. ENSURE THE FUNERAL DETAIL IS PROPERLY TRAINED AND EQUIPPED WITH THE PROPER UNIFORM PRIOR TO DISPATCH.

H. ENSURE SUCCESSFUL EXECUTION OF THE BURIAL HONORS DETAIL AT GRAVESITE.

I. UPON COMPLETION OF THE MISSION, ENTER DATA INTO THE DOD WEBSITE AND SUBMIT THE MONTHLY REPORT TO PERSCOM.

10. FULL MILITARY FUNERAL HONORS FOR ACTIVE DUTY SOLDIERS AND MEDAL OF HONOR RECIPIENTS CONTINUE TO CONSIST OF A TEAM OF AT LEAST NINE SOLDIERS. THIS TEAM CONSISTS OF AN OIC OR NCOIC, BUGLER, CHAPLAIN, AND A SIX-SOLDIER PALLBEARER/ FIRING PARTY. THIS NINE-SOLDIER TEAM IS THE ARMY STANDARD FOR FULL MILITARY FUNERAL HONORS. LIKEWISE, CURRENT ARMY POLICY FOR MILITARY FUNERAL HONORS RENDERED TO RETIREES UPON REQUEST CONTINUES TO BE FULL MILITARY FUNERAL HONORS WHEN RESOURCES ARE AVAILABLE. IF FULL MILITARY FUNERAL HONORS ARE NOT POSSIBLE FOR A RETIREE, THE REQUIREMENT TO FURNISH A TWO-SERVICE MEMBER TEAM TO FOLD AND PRESENT THE INTERMENT FLAG AND TO RENDER TAPS REMAINS IN EFFECT. ONE OF THE MEMBERS OF THE TEAM MUST BE A MEMBER OF THE DECEASED RETIREE'S SERVICE.

11. THE POC FOR THIS ACTION AT PERSCOM IS LTC STEWARD OR MR. ELLIS AT DSN 221-5314/5304.

APPENDIX I



FORCE MANAGEMENT
POLICY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

1 May 02

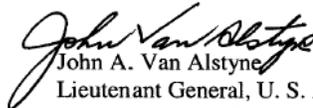
MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY
(HUMAN RESOURCES)
PRINCIPAL DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PERSONNEL PROGRAMS)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(FORCE MANAGEMENT AND PERSONNEL)
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE

SUBJECT: Survivor Benefit Plan (SBP) Annuities when Member Dies on Active Duty

This memorandum provides uniform guidance to the Services and the Defense Finance and Accounting Service (DFAS) for implementing section 642, National Defense Authorization Act for Fiscal Year 2002 (NDAA 2002), Public Law 107-107, December 28, 2001. This section of law provides new benefits under the Uniformed Services Survivor Benefit Plan (SBP). The new benefits are effective for deaths of members that occur on or after September 10, 2001. New benefits are provided in the case of most members not yet retirement eligible. Increased benefit amounts are provided in most cases of members eligible for retired pay. No new benefits are provided when the death of a member is determined to be not in Line-of-Duty.

Policies, procedures, and responsibilities for the new provisions of law are attached. These include the criteria for a qualified death, the determination of qualified beneficiaries, the computation of benefits, and guidelines for Line-of-Duty determinations necessary to support the award of benefits. Since these provisions apply retroactively, Services should identify qualified recipients and DFAS should initiate annuity payments as quickly as possible.

Separate guidance is being staffed to govern the practice of imminent death retirements. Deaths on active duty do not result in any Insurable Interest or Supplemental SBP benefits. All SBP elections remain available to all members who are retired, whether for length of service or for disability.


John A. Van Alstyne
Lieutenant General, U. S. Army
Deputy Assistant Secretary
(Military Personnel Policy)

Attachment: As stated
cc: See distribution list

Distribution List:

Deputy Chief of Staff for personnel, U.S. Army
Deputy Chief of Naval Operations (Manpower and Personnel), U.S. Navy
Deputy Chief of Staff for Personnel, U.S. Air Force
Deputy Chief of Staff Manpower and Reserve Affairs, U.S. Marine Corps
Assistant Commandant for Human Resources, U.S. Coast Guard
Director, Division of Commissioned Personnel, U/S. Public Health Service
Director, National Oceanic and Atmospheric Administration Corps Operations-NC
DoD Chief Actuary
Deputy General Counsel (Fiscal)

Implementing Policies, Procedures, and Responsibilities
Section 642, P.L. 107-107, December 28, 2001

General

Section 642, Public Law 107-107, December 28, 2001, provides expanded benefits under the Uniformed Services Survivor Benefit Plan (SBP) for the qualified survivors of eligible members who die in the Line-of-Duty while serving on active duty. These benefits are effective for a death on or after September 10, 2001. Active duty is that duty defined by 10 U.S.C. 101(d)(1). This includes reserve members on active duty for annual training duty, whether or not their orders specify a period of more than 30 days. Reserve members serving periods of inactive duty training are not included.

This document provides uniform guidance as to when a death qualifies survivors for benefits, which survivor or survivors are entitled to an annuity, and how annuities will be computed. It also establishes general guidelines for Line-of-Duty determinations and prescribes implementing responsibilities and procedures.

Qualified Deaths

A qualified death under the provisions of Section 1448(d), title 10, United States Code [10 U.S.C. 1448(d)], as amended by P.L. 107-107, is a death of a member on active duty who:

- (1) Died in the Line-of-Duty, or
- (2) Died not in the Line-of-Duty, but was retirement eligible as described by 10 U.S.C. 1448(d)(1)(A).

Benefits for those described in (2) are unchanged by the amendments of P.L. 107-107.

Guidance is provided below concerning the determination of whether the member's death was in the Line-of-Duty.

The death of a member is not a qualified death if the member was not on active duty, or was on active duty but whose death is determined to be not in the Line-of-Duty and the member was not eligible to retire as described in 10 U.S.C. 1448(d)(1)(A). The survivors of members whose death is not qualified are not entitled to SBP benefits under the provisions of 10 U.S.C. 1448(d), but may be entitled to other benefits under existing laws and regulations.

Qualified Annuitants

The amendments of P.L. 107-107 did not change the law with respect to who may receive an SBP annuity based on a qualified death (as described above). The only changes were in the criteria for a qualified death and the method of calculating the annuity.

In general, an annuity is payable to a surviving spouse unless an annuity is payable to a former spouse under the provisions of 10 U.S.C. 1448(d)(3). A former spouse annuity takes precedence over any other SBP annuity payable because of the service of the deceased member.

Under the provisions of 10 U.S.C. 1448(d)(2), a member's children qualify to receive an annuity under these provisions only when a former spouse annuity does not apply and either there is no surviving spouse or the surviving spouse later dies. A member's children are not qualified annuitants when a surviving spouse loses entitlement to an annuity as a result of a remarriage before age 55.

No other persons are qualified to receive benefits under these provisions. No benefits will be paid under these provisions to a person with an insurable interest as described in 10 U.S.C. 1448(b)(1).

Annuity Amounts

The annuity payable for a qualified death (as described above) under the provisions of 10 U.S.C. 1448(d) will be computed with the SBP base amount equal to the amount of retired pay that would have been paid to the member had that member been retired on the date of death as follows:

- (1) For a qualified death in the Line-of-Duty, the SBP base amount is equal to the retired pay as if the member were retired with total (100%) disability under 10 U.S.C. 1201 (which is equal to 75% of the appropriate retired pay base as described below). The annuity is then normally either 55 or 35 percent of the SBP base amount, following the provisions of 10 U.S.C. 1451(c).
- (2) For a qualified death not in the Line-of-Duty and the member is retirement eligible under 10 U.S.C. 1448(d)(1)(A), the SBP base amount is equal to the retired pay as if the member were retired for length of service under the applicable section of law for the respective service of the deceased member (which is 2.5% multiplied by the qualifying creditable years of service multiplied by the appropriate retired pay base as described below). The annuity is then normally either 55 or 35 percent of the SBP base amount, following the provisions of 10 U.S.C. 1451(c).

Retired Pay Base: The retired pay base applicable to a qualified death will be calculated as described under 10 U.S.C. 1406 or 1407 as appropriate to the deceased

member's Date of Initial Entry on Military Service (DIEMS). Further, such annuity calculations shall be made without regard to any reduction in the multiplier that would apply to a member under 10 U.S.C. 1409(b)(2) who elected to receive a bonus under the provisions of 37 U.S.C. 322. Cost-of-living adjustments (COLAs), however, shall be applied in the same percentage that would have applied to the member's retired pay (had the member not died). Therefore, for members who elected the bonus under 37 U.S.C. 322, the COLA applied to the SBP annuity will be reduced pursuant to 10 U.S.C. 1401a(b)(3).

No supplemental SBP (SSBP) benefits will be paid under these provisions to a surviving spouse of a member who dies while serving on active duty. Any SBP annuity paid under these provisions to a surviving spouse shall be reduced by the amount of dependency and indemnity compensation to which the surviving spouse is entitled under 38 U.S.C. 1311(a). Any such reduction shall be effective on the date of the commencement of the period of payment of such compensation.

Line-of-Duty Determinations

For purposes of determining eligibility for SBP benefits under 10 U.S.C. 1448(d), a service member's death will generally be considered to have occurred in Line of Duty unless: (1) the death occurred while the member was not serving on active duty, (2) the death was the result of the member's own intentional misconduct or willful negligence, or (3) the death occurred during a period of unauthorized absence.

For purposes of this section, the military services will make a written finding as to whether a member's death on or after September 10, 2001 was in the Line-of-Duty while the member was serving on active duty. The written finding must describe the circumstances under which the member died, and it must also address whether the death was caused by the member's own intentional misconduct or willful negligence and whether the death occurred during a period of unauthorized absence.

With the exception of the requirements contained in this memorandum and other current DoD guidance governing Line of Duty determinations and investigations, each military service should continue to apply its own existing regulatory guidance and procedures. A copy of all Line-of-Duty determinations will be retained by the military services for the period required by agency regulations but not less than three years, and will be subject to a DoD Joint Service review to be conducted approximately one year after implementation of this law. The DoD Joint Service review will assess uniformity and consistency among the military services with respect to this provision of law.

Responsibilities

The military services must review the death of each member who died on active duty on or after September 10, 2001, to ascertain whether the death was in the Line-of-Duty and

whether there are any qualified survivors entitled to SBP payments. The military services will inform the Defense Finance and Accounting Service (DFAS) of their Line-of-Duty determinations. The determination may be recorded in the remarks section of the DD Form 1300, Report of Casualty; Block 10 of the DD Form 261, Report of Investigation Line of Duty and Misconduct Status; or on any other form authorized under individual Service regulations. However, all Line of Duty (LOD) determinations must be supported by a written finding which describes the circumstances of death that support that LOD determination, as outlined in the guidance above. DFAS does not require a copy of the written finding, only an official communication from the Service to indicate the Service's determination that the death is in the Line-of-Duty -- Yes or No.

DFAS shall establish and pay SBP annuities to qualified survivors for qualified deaths as prescribed above.

The Office of the Under Secretary of Defense (Personnel and Readiness) in conjunction with the military services will convene a DoD Joint Service review board to review Line-of-Duty findings for consistency and uniformity among the military services after approximately one year of experience with the statute. This review board will make recommendations as appropriate to ensure consistency and uniformity.

MEMORANDUM FOR ARMY RETIREMENT SERVICES OFFICERS

SUBJECT: Supplemental Guidance for Army Use -- Survivor Benefit
Annuities when Member Dies on Active Duty

Plan (SBP)

1. The information that follows amplifies portions of DOD's implementing guidance, dated 1 May 2002, subject as above (see Encl 1). Recommend you read the DOD guidance first; then digest this Army guidance. While P.L. 107-107 was *effective* on 28 Dec 2001, Section 642 is *retroactive* to **10 Sep 2001**, and applies to all active duty deaths since that date.

2. Topics are presented in the same order in both documents: General, Qualified Deaths, Qualified Annuitants, Annuity Amounts, Line of Duty (LOD) Determinations, and Responsibilities.

a. **General.** The key phrase is *expanded benefit* (in Line 1). What has *expanded* is the pool of eligible soldiers who receive a benefit. Prior to passage of Sect. 642, P.L. 107-107, only soldiers who died on active duty *after* becoming retirement-eligible provided an SBP annuity to *qualified* survivors. Now, ALL soldiers who die on active duty share that entitlement. LOD findings are a factor, and are explained separately.

b. **Qualified Deaths.**

(1) ALL deaths on active duty are *qualifying deaths* **unless:** the member was not retirement-eligible **and** death was determined to be LOD-NO. If the soldier who dies on active duty IS retirement-eligible, it is a qualifying death regardless of LOD findings. However, SBP amounts are impacted. See *Table 2*.

(2) Reserve Component (RC) Soldiers. The same provisions apply to RC soldiers who die while serving ON ACTIVE DUTY. If they die while in an "INactive Duty for Training (IDT)" status, they do not qualify. "Retirement-eligible" RC soldiers are those who have received their Letter of Notification of Eligibility for Retired Pay at Age 60 (*i.e.*, "20-year letter").

**- Table 1 -
(LOD and SBP)**

<i>Years of Qualifying Service</i>	Line of Duty-- Yes or No?	SBP Payable? (To Eligible Beneficiaries)
Less than 20	LOD-Yes	Yes
Less than 20	LOD-No	No
More than 20	LOD - Yes	Yes
More than 20	LOD - No	Yes

c. Qualified Annuitants.

(1) Relation to Death Imminent Retirement Processing. Do not confuse WHO is eligible for SBP under **this** law with what occurs as a result of "death imminent retirement" processing. Soldiers who die on active duty are not retired. We do not make an SBP election on their behalf. Instead, the law DIRECTS who is eligible and in what amount. Certain SBP election options that exist under death imminent retirement scenarios do not exist under this law (e.g., insurable interest for a parent; Supplemental SBP; and child only coverage when there is a spouse). The Army is considering their position now on continuing death imminent processing. You will be informed of the final policy. DOD will consider the Services' positions and make a recommendation to Congress on this topic in July 2002. As of this date, the Army continues expeditious retirements.

(2) Title 10, U.S. Code. This law (Chap. 73) identifies WHO is a qualified SBP annuitant under death-on-active-duty circumstances, just as it did prior to this law change for active duty deaths of *retirement-eligible soldiers*.

(3) The ONLY qualified SBP beneficiaries are:

- Spouse
- Children (if no spouse or former spouse)
- Former Spouse (if court order/written agreement exists)

(4) Child Eligibility. Unlike normal SBP, a child, when part of "spouse/FS and child" coverage, can **ONLY** receive SBP if the parent dies -- **not** if the parent becomes ineligible due to remarriage before age 55 -- even though the child remains eligible. And, of course, if there is no spouse or FS, "child only" coverage is established by law.

(5) Former Spouse Coverage.

(a) It is important that the soldier's records are closely examined for evidence of court-ordered former spouse SBP coverage. Typically, such an order would exist with "senior" soldiers - those who on date of divorce/agreement, the court considered well-vested in a military career.

(b) If such an order/agreement is uncovered, the former spouse must receive the annuity (if eligible). Under a former spouse election, only the soldier's children from his/her union with the former spouse are qualified.

(c) Why is it important to exert effort in uncovering an existing former spouse order? There are two main reasons: 1) it complies with the court's intent; and 2) it saves potential duplicate payments by the government. If the government incorrectly pays a surviving spouse, and an eligible former spouse later applies, the government likely first, would opt *not* to collect back the incorrectly paid spouse annuity; and second, would be obligated to pay the former spouse retroactively -- resulting in a double payment.

(d) The former spouse eligibility provision is not new. This has always been the case with active duty deaths of retirement-eligible members. We simply reemphasize it.

d. **Annuity Amounts.**

(1) The SBP annuity is 55% (or 35% if over age 62) of the soldier's retired pay "entitlement," as if the soldier had been retired for total disability (i.e., using a 75% multiplier). The exception is the case of a retirement-eligible soldier who dies under LOD-No conditions, in which case the multiplier is derived from actual years/months of service. (See sample below.)

(2) LOD determinations affect the annuity as follows:

- Retirement-Eligible; LOD-Yes: Final Pay (or high-36) X 75%; Retired Pay "entitlement" X 55% (or 35%) = SBP Annuity.
- Retirement-Eligible; LOD-No: Final Pay (or high-36) X multiplier based on years/months of service (e.g., 20 years = 50%); Retired Pay "entitlement" X 55% (or 35%) = SBP Annuity.
- NOT Retirement-Eligible; LOD-Yes: Final Pay (or high-36) X 75%; Retired Pay "entitlement" X 55% (or 35%) = SBP Annuity
- NOT Retirement-Eligible; LOD-No: No SBP Annuity Payable!

**- Table 2 -
(LOD-Related Examples)**

LOD (Y/N)	Grade	Yrs/Mos Svc	DIEMS Date	Final Pay/ High-36	Multiplier	Ret Pay Entit	SBP Amount	DIC Amount	SBP Left After DIC Offset
Y	E3	2/0	1 May 00	\$1000	.75	\$750	\$412	\$935	\$0
N	E3	2/0	1 May 00	\$1000	N/A	N/A	N/A	\$935*	N/A
Y	E8	22/0	1 May 80	\$3573	.75	\$2679	\$1473	\$935	\$538
N	E8	22/0	1 May 80	\$3573	.55	\$1965	\$1080	\$935*	\$145

(3) Career Status Bonus (CSB) Receipt Implications. If a soldier received the CSB, the normal reductions to the multiplier that would have been applied to the soldier's retired pay, are not applied to the annuitant. However, reduced cost-of-living adjustments (COLAs) for spouses of soldiers who received the CSB are applied to the annuity just as they would have to retired pay.

(4) Supplemental SBP (SSBP). SSBP is not payable in any active-duty death situation.

(5) Dependency & Indemnity Compensation (DIC). The VA's DIC offsets SBP annuities dollar-for-dollar to spouses. Both SBP and DIC to children are fully payable.

e. **Line-of-Duty (LOD) Determinations**.

(1) DOD has given the Services some leeway by allowing them to develop their own processes to meet Congress's direction regarding LOD. These requirements must be met by the Services:

- Describe circumstances under which the member died.
- Address whether the death was caused by the member's own intentional or willful negligence.
- Address whether the death occurred during a period of unauthorized absence.

(2) Army will apply its own regulatory guidance and procedures. A Joint Service Review Board will audit the Services within one year for uniformity and consistency.

*** LOD-No may or may not result in a denial of DIC by the VA.**

f. **Responsibilities.**

(1) DA Casualty & Memorial Affairs Operations Center:

- Will render LOD findings in which the circumstances are clearly in line of duty. In cases where the circumstances are questionable, the deceased soldier's commander will be required to conduct a LOD investigation.
- Will coordinate with DA Officer Retirement/Separations Section and EREC, Indianapolis, IN, in preparing statements of service.
- Will provide the statement of service and the record of determination to DFAS-Cleveland Center (DFAS-CL); DFAS-CL POC: Army Liaison.
- Will ascertain whether there are survivors for SBP.
- DA Casualty POC: Mr. Homer Henderson, 703-325-6047; DSN 221-6047; Homer.Henderson@hoffman.army.mil.

(2) Commanders:

- Will conduct LOD investigations on death cases, as required.

(3) DFAS-Cleveland Center (DFAS-CL):

- Will establish pay accounts and provide account data to appropriate DFAS personnel.
-- Note: Responsibility for establishing and maintaining both retiree *and* annuitant accounts is scheduled to consolidate at the Cleveland pay center. Proposed transfer dates from the Denver center to Cleveland are: New Accounts, NLT 30 Jul 02; All Accounts, NLT 30 Aug 02. These dates are subject to change.
- Will suspense annuity applications received from families if prior to account establishment, and process them at the first opportunity.

(4) Retirement Services Officers (RSO):

- Will estimate pay entitlement and SBP annuity amounts for the Casualty Assistance Officer (CAO) and/or survivors.
- Will provide personnel information as requested by DA Casualty and/or DFAS.
- Will counsel CAOs and families residing in their area of responsibility on SBP and associated government benefits.

3. HQDA POC is Avis Allen, CML (703)325-2695; DSN 221-2695; email Avis.Allen@hoffman.army.mil.

// signed //

Encls

JOHN W. RADKE
Chief, Army Retirement
Services

APPENDIX J

Survivor Benefits Hypothetical – Death on Active Duty in the Line of Duty.

Staff Sergeant - 10 years time in service, a spouse, and two children ages 3 & 5

FAMILY INFORMATION RECORD AS OF 1APR2003
 SSG SAMPLE ONLY PHONE HOME: ? WORK: ?
 MILITARY STATUS: ACTIVE MILITARY SVC: ARMY
 CURRENT PROMOTION DATE : 1NOV2002 PREVIOUS PROMOTION DATE: 1JUN1997
 DATE INIT ENTRY MIL SVC: 1FEB1993 PAY ENTRY BASIC DATE: 1MAR1993
 BASIC ACT SVC DATE: 1MAR1993

 EMAIL ADDR: ?
 FAX NUMBER: ?

-----FAMILY DATA-----				
NAME	BIRTHDATE	BIRTH/MARRIAGE	SSN	REMARKS
		RECORDS AT AAFMAA	IN VAULT	
MEMBER: SAMPLE	15JAN1974	NO	121-11-1111	
SPOUSE: JANE	9FEB1972	NO	?	
DATE MARRIED: 1APR1975		NO		
CHILD: JOHN	14FEB1998	NO	?	
CHILD: SUSAN	12MAR2000	NO	?	

* 549 SSG SAMPLE ONLY 1Apr2003
 Based on data you have provided, your assumed active duty death
 (Service-Connected) would provide these benefits to the family:

		Family Benefits				Monthly Annual	
Reason for Change		SS	VA	SBP	=	Total	Total
Member's death	Apr-2003	\$1917	+	\$1422	+	\$0	= \$3,339 40,068
John is 18	Feb-2016	1578	+	1185	+	0	= 2,763 33,156
Susan is 16	Mar-2016	789	+	1185	+	0	= 1,974 23,688
Susan is 18	Mar-2018	0	+	948	+	0	= 948 11,376
Jane is 62	Feb-2034	838	+	948	+	0	= 1,786 21,432

Funds available to designated beneficiaries:
 Social Security Death Benefit \$255
 Death Gratuity \$6,000
 SGLI \$250,000
 Commercial Life Insurance ?

 Total \$256,255

While SS, VA, and SBP are adjusted for inflation by law, the amounts above
 are in today's dollars. Projections above are estimates.
 Government agencies will provide exact amounts.
 SBP amount is zero because DIC (VA) entitlement is greater than SBP.

Department of Veterans Affairs (VA)
 Dependent Education Assistance (DEA)

Recipients	From	Age	Until	Age	
Jane	1-Apr-2003	31	1-Apr-2013	41	45mos X \$670 = \$30,150
John	14-Feb-2016	18	14-Feb-2024	26	45mos X \$670 = \$30,150
Susan	12-Mar-2018	18	12-Mar-2026	26	45mos X \$670 = \$30,150

Current full time student rate is \$ 670 per month as of Jan 2002					\$90,450
Maximum number of school months is 45 (undergraduate or graduate)					
Spouse must be unmarried - Children may be married					
DEA not paid if attending a federally funded academy or while on active duty					

Prepared By And Provided Courtesy Of The
 Armed Forces Services Corporation
 Mr. Brad Snyder, CLU
 President & CEO
<http://www.AFSC-USA.com>

Survivor Benefits Hypothetical – Death on Active Duty in the Line of Duty

Sergeant First Class with 15 years time in service, a spouse, and two children ages 7 & 9

* 549 FAMILY INFORMATION RECORD AS OF 1APR2003 PAGE 1
 SFC SAMPLE ONLY PHONE HOME: ? WORK: ?
 MILITARY STATUS: ACTIVE MILITARY SVC: ARMY
 CURRENT PROMOTION DATE : 1MAR2002 PREVIOUS PROMOTION DATE: ?
 DATE INIT ENTRY MIL SVC: 1FEB1988 PAY ENTRY BASIC DATE: 1MAR1988
 BASIC ACT SVC DATE: 1MAR1988

EMAIL ADDR: ?
 FAX NUMBER: ?

-----FAMILY DATA-----				
NAME	BIRTHDATE	BIRTH/MARRIAGE	SSN	REMARKS
		RECORDS AT AAFMAA	IN VAULT	
MEMBER: SAMPLE	15JAN1970	NO	121-11-1111	
SPOUSE: JANE	9FEB1972	NO	?	
DATE MARRIED: 1APR1992		NO		
CHILD: SUSAN	12MAR1994	NO	?	
CHILD: JOHN	14FEB1996	NO	?	

Based on data you have provided, your assumed active duty death (Service-Connected) would provide these benefits to the family:

		Family Benefits			Monthly Annual	
Reason for Change		SS +	VA +	SBP =	Total	Total
Member's death	Apr-2003	\$2070 +	\$1422 +	\$55 =	\$3,547	42,564
John is 16	Feb-2012	1663 +	1422 +	55 =	3,140	37,680
Susan is 18	Mar-2012	832 +	1185 +	55 =	2,072	24,864
John is 18	Feb-2014	0 +	948 +	55 =	1,003	12,036
Jane is 62	Feb-2034	883 +	948 +	0 =	1,831	21,972

Funds available to designated beneficiaries:

Social Security Death Benefit	\$255
Death Gratuity	\$6,000
SGLI	\$250,000
Commercial Life Insurance	?

 Total \$256,255

While SS, VA, and SBP are adjusted for inflation by law, the amounts above are in today's dollars. Projections above are estimates.

Government agencies will provide exact amounts.

SBP reduced because of the integration with spouse's VA DIC entitlement.

Department of Veterans Affairs (VA) Dependent Education Assistance (DEA)

Recipients	From	Age	Until	Age	
Jane	1-Apr-2003	31	1-Apr-2013	41	45mos X \$670 = \$30,150
Susan	12-Mar-2012	18	12-Mar-2020	26	45mos X \$670 = \$30,150
John	14-Feb-2014	18	14-Feb-2022	26	45mos X \$670 = \$30,150

Current full time student rate is \$ 670 per month as of Jan 2002 \$90,450

Maximum number of school months is 45 (undergraduate or graduate)

Spouse must be unmarried - Children may be married

DEA not paid if attending a federally funded academy or while on active duty

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 Armed Forces Services Corporation
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 President & CEO
<http://www.AFSC-USA.com>

Survivor Benefits Hypothetical – Death on Active Duty in the Line of Duty
Captain with 10 years time in service, a spouse, and two children ages 3 & 5

* 3

CPT SAMPLE H ONLY

20Mar2003

Based on data you have provided, your assumed active duty death (Service-Connected) would provide these benefits to the family:

		Family Benefits				Monthly Annual	
Reason for Change		SS	VA	SBP	=	Total	Total
Member's death	Mar-2003	\$2703	+\$1422	+\$602	=	\$4,727	56,724
James is 18	Jan-2016	2316	+ 1185	+ 602	=	4,103	49,236
Susan is 16	Jan-2017	1158	+ 1185	+ 602	=	2,945	35,340
Susan is 18	Jan-2019	0	+ 948	+ 602	=	1,550	18,600
Mary is 62	Jan-2036	1230	+ 948	+ 38	=	2,216	26,592

Funds available to designated beneficiaries:

Social Security Death Benefit	\$255
Death Gratuity	\$6,000
SGLI	\$250,000

Total	\$256,255

While SS, VA, and SBP are adjusted for inflation by law, the amounts above are in today's dollars. Projections above are estimates. Government agencies will provide exact amounts. SBP reduced because of the integration with spouse's VA DIC entitlement. SBP reduced at spouse's age 62 because of integration with social security.

Department of Veterans Affairs (VA)
 Dependent Education Assistance (DEA)

Recipients	From	Age	Until	Age		
Mary	20-Mar-2003	29	20-Mar-2013	39	45mos X \$670 =	\$30,150
James	3-Jan-2016	18	3-Jan-2024	26	45mos X \$670 =	\$30,150
Susan	4-Jan-2019	18	4-Jan-2027	26	45mos X \$670 =	\$30,150

Current full time student rate is \$ 670 per month as of Jan 2002						\$90,450
Maximum number of school months is 45 (undergraduate or graduate)						
Spouse must be unmarried - Children may be married						
DEA not paid if attending a federally funded academy or while on active duty						

Prepared By And Provided Courtesy Of The
 Armed Forces Services Corporation
 Mr. Brad Snyder, CLU
 President & CEO
<http://www.AFSC-USA.com>

Survivor Benefits Hypothetical – Death on Active Duty in the Line of Duty

Lieutenant Colonel with 22 years time in service, a spouse, and two children ages 14 & 16

* 5 TML LTC SAMPLE F ONLY 20Mar2003

Based on data you have provided, your assumed active duty death (Service-Connected) would provide these benefits to the family:

Reason for Change		Family Benefits				Monthly Annual	
		SS	VA	SBP	=	Total	Total
Member's death	Mar-2003	\$3018	+\$1422	+\$1394	=	\$5,834	70,008
John is 18	Feb-2005	2588	+ 1185	+ 1394	=	5,167	62,004
Jan is 16	Feb-2005	1294	+ 1185	+ 1394	=	3,873	46,476
Jan is 18	Feb-2007	0	+ 948	+ 1394	=	2,342	28,104
Susan is 62	Jan-2025	1374	+ 948	+ 542	=	2,864	34,368

Funds available to designated beneficiaries:

Social Security Death Benefit	\$255
Death Gratuity	\$6,000

SGLI \$250,000

Total \$256,255

While SS, VA, and SBP are adjusted for inflation by law, the amounts above are in today's dollars. Projections above are estimates.

Government agencies will provide exact amounts.

SBP reduced because of the integration with spouse's VA DIC entitlement.

SBP reduced at spouse's age 62 because of integration with social security.

Department of Veterans Affairs (VA)
Dependent Education Assistance (DEA)

Recipients	From	Age	Until	Age		
Susan	20-Mar-2003	40	20-Mar-2013	50	45mos X \$670 =	\$30,150
John	1-Feb-2005	18	1-Feb-2013	26	45mos X \$670 =	\$30,150
Jan	10-Feb-2007	18	10-Feb-2015	26	45mos X \$670 =	\$30,150

Current full time student rate is \$ 670 per month as of Jan 2002 \$90,450

Maximum number of school months is 45 (undergraduate or graduate)

Spouse must be unmarried - Children may be married

DEA not paid if attending a federally funded academy or while on active duty

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