



## Testimony

Before the Subcommittee on Oversight and Investigations,  
Committee on Veterans' Affairs, House of Representatives

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# ARLINGTON NATIONAL CEMETERY

## Authority, Process, and Criteria for Burial Waivers

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# Arlington National Cemetery: Authority, Process, and Criteria for Burial Waivers

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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the issue of waivers for burial in Arlington National Cemetery. Since its establishment in 1864, Arlington has become widely revered as a national shrine. As the cemetery achieved greater national recognition, particularly following the burial of President Kennedy, requests to be buried at Arlington grew enormously. As a result, the space available in the cemetery became very limited, and the Army projected in 1966 that Arlington would soon have no room for new grave sites. In an effort to ensure that space remained available in Arlington for years to come, the Department of the Army—which is responsible for administering Arlington—promulgated regulations in 1967 that significantly tightened eligibility standards for burial. With stricter eligibility standards came requests for waivers that would allow those who were considered deserving of Arlington burial to be interred there despite the fact that they did not meet these standards.

Questions have been raised recently about the waiver process in general as well as about particular waiver decisions. As a result, the Subcommittee asked us to comment on (1) the trends in waiver decisions, (2) whether legal authority exists to grant waivers, (3) the process used in making waiver decisions, and (4) the criteria applied in the decision-making. My testimony today is based on our analysis of laws and regulations governing burial at Arlington, an in-depth review of available Department of the Army case files for both approved and denied waivers, and discussions with officials responsible for making waiver decisions. As agreed with the Subcommittee, because of the limited time available to perform our review, we did not attempt to validate the information contained in the Department of the Army files but did, where appropriate, obtain clarification of information in those files from officials responsible for making waiver decisions. It is important to note that the documentation of waivers requested or granted is limited, particularly for waiver decisions before 1991.

In summary, since 1967, 196 waivers have been granted for burial at Arlington, and at least 144 documented requests have been denied. Of the granted waivers, about 63 percent involved burial of individuals in the same grave site as someone already interred, or expected to be interred. Although the Secretary of the Army has no explicit statutory or regulatory authority to grant waivers, it is legal for the Secretary to do so, in part, because of the general legal authority of the Secretary for administering Arlington. We found that most waiver requests have been handled through

an internal Army review process involving officials responsible for the administration of Arlington. However, this process is not followed in all cases. For example, in the case of presidential waiver decisions, the Army process is generally bypassed. In addition, this process is not widely known or understood, which in some cases has appeared to provide advantages to those who were persistent enough to pursue a waiver request or who were able to obtain the assistance of high-level government officials. Finally, while those responsible for making waiver decisions appear to apply some generally understood criteria, these criteria, which are not formally established, are not always consistently applied or clearly documented.

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## Background

Arlington is distinct among national cemeteries in several respects. First, although all national cemeteries honor the service of and sacrifices made by members of the armed forces, significant national events—such as the burials of Unknown Soldiers and of prominent public figures such as John F. Kennedy—have identified Arlington as a place of special recognition. Second, almost all other national cemeteries are administered by the Department of Veterans Affairs (VA), but Arlington is administered by the Department of the Army.<sup>1</sup> In addition, eligibility requirements for burial in Arlington are much more restrictive than the requirements of other national cemeteries. Requirements for burial in Arlington were identical or similar to those of other national cemeteries until 1967, when the Army imposed stricter standards to ensure that burial space would remain available at Arlington for many more years. Individuals who are eligible for burial at Arlington include service members who have died while on active duty; retired service members meeting certain qualifications; and holders of the nation's highest military decorations, such as the Medal of Honor, Distinguished Service Cross, Distinguished Service Medal, Silver Star, or Purple Heart. (App. I provides a more detailed list of requirements for burial at Arlington and at other national cemeteries.)

Arlington has a total capacity of 263,639 grave sites, of which about 60,700 remain available. Since 1967, the cemetery has averaged 2,887 burials per year. After the Army imposed restrictive eligibility requirements in 1967, the number of burials at Arlington sharply declined and then remained relatively constant until 1988. Since that time, the number of burials has gradually increased. The Army projects that all grave sites at Arlington will

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<sup>1</sup>Before 1973, all national cemeteries were operated under the authority of the Army. However, the National Cemeteries Act of 1973 (P.L. 93-43) shifted authority for all national cemeteries other than Arlington and the U.S. Soldiers' and Airmen's Home National Cemetery to VA. VA's National Cemetery System operates and maintains 115 national cemeteries located in 39 states and Puerto Rico.

be full by 2025, given the expected burial rates, unless the cemetery is expanded.

Since 1980, Arlington has offered inurnment of cremated remains in its columbarium complex, which currently contains about 20,000 niches, with an additional 30,200 niches either planned or under construction. Any honorably discharged veteran, as well as his or her spouse and dependent children, may be inurned in the columbarium. The columbarium was intended as an effort to deal with the problem of limited burial space at Arlington and as an alternative for those who wish to be buried in the cemetery but do not meet its stringent requirements. As of December 1997, the remains of about 22,000 individuals had been inurned in about 19,500 of the columbarium's niches.

The Secretary of the Army is responsible for the development, operation, maintenance, and administration of Arlington and for forming plans, policies, procedures, and regulations pertaining to the cemetery. The Secretary has delegated the functions of Arlington burial policy formulation and oversight, including the responsibility for making recommendations to the Secretary on requests for waivers, to the Assistant Secretary of the Army for Manpower and Reserve Affairs.<sup>2</sup>

The superintendent of Arlington is the primary caretaker of the cemetery. This individual is responsible for its day-to-day operations, including arranging, coordinating, and scheduling funerals; maintaining good relations with and supplying information to the public; and obtaining or verifying relevant documents or data. The superintendent also makes recommendations on waiver requests.

Given the nature and circumstances of burial requests, Army officials emphasized to us the urgency involved in responding to those requesting interment in Arlington. Therefore, these officials attempt to respond to requests for burial within 24 to 48 hours.

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<sup>2</sup>This responsibility rested with the Assistant Secretary of the Army for Civil Works until Aug. 30, 1995.

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## Trends in Waiver Decisions

Our review of Army files indicated that since 1967, 196 waivers for burial in Arlington have been granted, while at least 144 documented waiver requests have been denied.<sup>3</sup> The rate at which waivers have been granted has increased steadily since 1967: about 17 percent of the 196 waivers were granted during the first 15 years that waiver decisions were being made, while 83 percent of these waivers were granted during the past 15 years. About 63 percent of the 196 waivers granted involved burial of an individual in the same grave site as someone already interred or expected to be interred. Also, about 42 percent of the total waivers were for individuals with military service. About 18 percent of waivers granted for burial in a new grave site were for individuals who did not have military service. (App. II provides additional data on waiver decisions.)

Over the past 30 years, changes have occurred in the extent to which Presidents have chosen to be involved in waiver decisions. Before 1980, all waiver approvals were made by the President, but since then, 72 percent of the approvals have been made by the Secretary. Although the Secretary did not grant waivers from 1967 to 1979, he did deny at least 64 requests during that time.

The Army's philosophy toward waiver decisions has also evolved since 1967. While precisely reconstructing the basis for this evolution is difficult, our review of documents from the late 1960s and the 1970s and our discussions with a former superintendent of Arlington indicate that the Army had been very reluctant to approve waivers as a matter of policy. This is reflected in a 1969 memorandum from the Army Special Assistant (Civil Functions) to the Secretary that stated, "Since the restrictive eligibility regulations for Arlington were promulgated . . . we have received many requests for exceptions . . . . These requests have been uniformly denied and the regulation rigidly enforced since, if an exception is authorized in one case, it is impossible to deny it in others." A 1971 memorandum from the Under Secretary of the Army to the Secretary states that "Although [waiver denial] decisions . . . are difficult to make, in the long run it is equitable to all involved and prevents an early closing of the Cemetery." The memorandum goes on to say that many waivers have been denied since 1967 and that "To change the rules at this time would raise havoc."

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<sup>3</sup>Our figures for both approvals and denials are based on available Department of the Army documentation. These records were often incomplete, particularly for cases decided during the period from 1967 to 1990. This was especially the case for records of waiver denials, because Arlington officials believed there was less of a need to maintain documents on the requests of those who were not ultimately interred in the cemetery. In addition, many denials may have occurred informally through telephone conversations, which left no paper record.

The former superintendent explained to us that, sometime around 1980, the White House expressed a desire to be less involved with waiver decisions on a regular basis and to shift more of these decisions to the Army. At around the same time, the Army appears to have adopted a more lenient approach to granting waivers, in part, because of the number and types of cases that had been approved by the President in the past.

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## Authority for Waiver Decisions

Although the Secretary of the Army and the President do not have explicit legal authority to grant exceptions to the eligibility requirements now in effect for burial at Arlington, there is a legal basis for the Army's long-standing assertion of that authority. In 1973, the Congress, in the National Cemeteries Act (P.L. 93-43), expressly preserved the existing functions, powers, and duties of the Secretary of the Army with respect to Arlington while, at the same time, repealing the prior law that specified who was eligible for burial at national cemeteries. This left no explicit legal restrictions on the Secretary's authority over burials at Arlington; the Secretary could decide on criteria for admission as well as on waivers. The committees, in reporting on the bill, said that a provision giving VA explicit authority to grant waivers for the national cemeteries under its jurisdiction would be analogous to "similar authority" already residing with the Secretary of the Army regarding Arlington.

Department of the Army officials have, on several occasions since 1967, examined the issue of the Secretary's and the President's legal authority for granting waivers and have acknowledged that no explicit authority exists. In 1976, the Army General Counsel stated that "it would be desirable to specifically recognize this authority" in legislation pertaining to Arlington. In 1983 and 1984, the Army General Counsel recommended that legislation be proposed to give the Secretary (and, by extension, the President) such authority. The General Counsel advised the Secretary that "Public recognition of your explicit authority to approve exceptions to burial eligibility policy represents sound administrative practice."

On several occasions between 1986 and 1989, Army officials submitted to the Secretary of the Army proposed changes in Army policy that would have, among other things, explicitly stated the Secretary's authority to make waiver decisions. In a memorandum forwarding the proposal to the Secretary, the Assistant Secretary of the Army for Civil Works noted the Army General Counsel's view that such explicit authority would "[reduce] the possibility of charges of unfairness or capriciousness in considering exception requests." The memorandum also referred to the Secretary's

concern about this provision and mentioned “possible problems of drawing the general public’s attention to [the Secretary’s] exception authority.” Because of these concerns, the Secretary decided not to pursue a change in official Army policy, according to a memorandum from the military assistant in the Office of the Assistant Secretary of the Army.

Army officials told us that, in February 1997, they submitted a legislative proposal that would have explicitly defined both the Secretary’s authority to grant waivers as well as some broad categories of individuals who could be considered for waivers. However, these officials explained that this was done as a technical drafting service and that they did not necessarily support such legislation. According to these officials, no action was taken by the Congress on this legislation.

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## Process for Considering Waiver Requests

Most waiver requests have been handled through an internal Army review process involving officials responsible for the administration of Arlington. But this process has not been established through formal rule-making, and access to and knowledge of the process may vary widely among those inquiring about burial at Arlington. In addition, the Army waiver review process is not followed in all cases, particularly in those cases in which the President makes a waiver decision.

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## Army Waiver Review Process

Waiver decisions made by the Secretary of the Army generally involve a systematic process of review and recommendation within the Department of the Army. The process starts when a waiver request is referred to the Arlington superintendent.<sup>4</sup> The superintendent is responsible for verifying pertinent information about the interment candidate, such as military service and familial relationships. The superintendent recommends approval or denial and forwards this recommendation, along with related information, to the Assistant Secretary of the Army for Manpower and Reserve Affairs. The Assistant Secretary then reviews the case file and the superintendent’s recommendation and makes his or her own recommendation to approve or deny. In formulating a recommendation, the Assistant Secretary solicits the views of the administrative assistant to the Secretary of the Army, the Office of General Counsel, and the Office of the Chief of Legislative Liaison. These offices indicate their concurrence or nonconcurrence with the Assistant Secretary’s recommendation. The

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<sup>4</sup>Before receiving a formal waiver request, the superintendent or his staff will sometimes answer questions and provide information to a potential requester who has contacted the cemetery for information on burials. The types of questions asked and information provided during these contacts may, in some cases, determine whether a person decides to pursue a formal waiver request.

case file, including all recommendations and records of concurrence or nonconcurrence, is then sent to the Secretary of the Army, who makes the final decision to approve or deny the exception request.

All of these actions typically occur within 48 hours in order to respond quickly to surviving family members. According to officials involved in the process, this expediency imposes certain limitations on the extent of information obtained and the ability to verify this information. For example, in cases in which an exception is requested to allow the burial of one family member with another, the superintendent indicated to us that he asks for information about family relationships but does not always verify the information he receives. Similarly, he does not always obtain the consent of other family members who may have a claim to burial in that same grave.

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## **Waivers Authorized by the President**

In contrast with decisions issued by the Secretary of the Army, presidential decisions appear to involve little, if any, consultation with Department of the Army officials. In addition, the reasons for presidential waiver decisions are generally not explained. For most presidential waivers, the Army is simply informed of the President's decision to grant a waiver.

For example, in one case, the President authorized a waiver for a prominent public figure who was still alive. Army officials said they were not consulted on this matter. Army documents indicate that the Assistant Secretary did not favor such a waiver because the Army's policy was not to approve waivers before the death of an individual and that doing so in this case would set a precedent for future waiver decisions. To the extent that decisions are made outside of the normal process, perceptions of inequitable and arbitrary treatment, such as those suggested in the media, may result.

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## **Public Knowledge of the Waiver Process**

Although a waiver process exists, it has not been formally established in regulatory policy. Individuals inquiring about burial at Arlington are not necessarily provided the same information—or any information at all—regarding the possibility of obtaining a waiver. The superintendent or his or her staff make a case-by-case judgment about the type of information to provide to those making inquiries about burial eligibility and the possibility of a waiver.

Some individuals who inquire about burial at Arlington on behalf of another and are told that the person on whose behalf they are making the request is not eligible for burial at Arlington may not know that a waiver can be pursued. But others, who are aware of this possibility, may choose to pursue it. According to the superintendent, upon making an initial request for a burial waiver and being informed that such a request cannot be granted, some requesters abandon their attempt to obtain a waiver. But others persist in their efforts and may contact a high-level government official, such as a congressional or administration official, in order to pursue their request.

Some Army officials believe that these factors can make a difference in the outcome of waiver requests and whether such requests are even made. In 1984, the Army General Counsel told the Secretary of the Army that “requests for exceptions mostly come from those people possessing information . . . not available to the general public.” The General Counsel added that “initial requests for exceptions made to Arlington . . . are not treated uniformly” and that “the prior knowledge and persistence of the individual [who is making the waiver request] often determines what information is provided.” According to the General Counsel “a basic question of fairness [is] raised by the operation of this type of ‘secret’ agency practice.”

When a high-level government official (outside the Department of the Army) either makes the waiver request or expresses support for the request, the waiver process can be vulnerable to influence. For example, in a case in which the Secretary of the Army approved a waiver despite the superintendent’s recommendation to deny, Army officials recommended that the waiver request be approved because of congressional interest and to avoid possible White House action. The Secretary of the Army told us, however, that his decision was not influenced by these factors.

In another case, a waiver request had been considered through the normal review process and the Secretary had concurred with the superintendent and the Assistant Secretary’s recommendation that the request be denied. But when the Secretary of Defense became involved and asked the Secretary of the Army to reconsider his decision, the Army Secretary reversed his decision. The Secretary of Defense is not typically involved in the waiver process. Yet in this case, the requester had appealed the Army Secretary’s original decision directly to the Office of the Secretary of Defense on the basis of a personal acquaintance with the Defense Secretary and his staff. Given that most people do not have access to

high-level officials such as the Secretary of Defense, the selective involvement of such officials in such a sensitive process could result in inconsistencies and perceptions of unfairness in waiver decisions.

Although these cases indicate that involvement of high-level officials may, in some cases, influence the waiver process, our review also identified many cases in which such involvement did not result in a waiver approval. In addition, we found no evidence in the records we reviewed to support recent media reports that political contributions have played a role in waiver decisions. Where the records show some involvement or interest in a particular case on the part of the President, executive branch officials, or Members of the Congress or their staffs, the documents indicate only such factors as a desire to help a constituent or a conviction that the merits of the person being considered warranted a waiver.

In December 1997, the Department of the Army, in response to recent criticism, imposed new requirements for providing information to those who inquire about burial at Arlington in an effort to ensure consistent treatment of all individuals. The Army also required that the names of those who are granted waivers be published and that such information be communicated to the proper congressional committees.

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## Absence of Formal Waiver Criteria

No written criteria exist for determining when a waiver should be granted or denied. As a result, waiver requests that appear to be based on similar circumstances sometimes result in different outcomes. The officials we spoke with said that these decisions involve the exercise of much discretion and individual judgment. In other words, waivers, by their very nature, involve unique circumstances for which specific criteria cannot be developed to cover all cases, according to these officials.

The Arlington superintendent and the Assistant Secretary of the Army generally provide a rationale or cite reasons for their waiver recommendations to the Secretary. The reasons cited typically revolve around five factors: (1) the burial candidate's military service, (2) whether the burial candidate is related to and will be interred with someone already buried or eligible for future burial at Arlington, (3) whether the burial candidate made extraordinary contributions to the nation or in service to the federal government, (4) the circumstances of the burial candidate's death, and (5) whether similar cases have been approved or denied in the past. Particularly in more recent waiver decisions made by the Secretary, Department of the Army officials have cited the disposition

of one or more of these factors as a reason to approve or deny a waiver request.

But it is sometimes unclear how officials weigh each factor and make a final decision on the basis of the combination of these factors. As a result, the reasons cited for a waiver approval in some cases may be similar to circumstances present in other cases that resulted in a waiver denial.

The problem of unclear waiver criteria is demonstrated by the seemingly contradictory decisions and recommendations made by Army officials on the same cases. Since 1993, there have been 12 cases in which the Secretary or Acting Secretary of the Army has approved a waiver request despite the superintendent's or Assistant Secretary of the Army's recommendation that he disapprove the request. In three of these cases, the Secretary reversed his own initial waiver decision, deciding to approve waiver requests that he had originally denied.

Our review of the records for waiver cases decided during the tenure of the current superintendent showed that although the bases for waiver decisions were frequently cited by the superintendent and the Assistant Secretary of the Army, this was not always the case for decisions made by the Secretary of the Army and was rarely the case for presidential waiver decisions. In addition, the rationale for waiver decisions made in the years before the current superintendent's tenure, whether by the Secretary or the President, was often undocumented. Given the recent controversy concerning waiver decisions, the maintenance of clear and complete records of waiver decisions by both the Army and the White House may help to reduce questions about waiver decisions.

Some Army officials explained that waiver decisions are inherently discretionary and, as such, will involve differences in opinion among officials. These officials do not believe that such differences necessarily indicate unfair or arbitrary treatment. Rather, they emphasize that they take these decisions very seriously and recognize their role in preserving the integrity of Arlington. Officials we spoke with did not believe that it would be helpful or even feasible to develop and formalize a specific list of criteria for making waiver decisions because this would be contrary to the very nature of the Secretary's discretionary authority.

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## Observations

The Department of the Army is entrusted with the authority to administer Arlington, one of the nation's most revered cemeteries. This responsibility,

in combination with the constraints of limited space, has caused the Army to impose strict eligibility requirements for burial at Arlington. These requirements have, in turn, resulted in the exclusion from Arlington of many individuals who served honorably in the military.

Although the need to carefully scrutinize Arlington burial waiver decisions and ensure that such waivers are rare has been consistently acknowledged, the number of waivers allowed has grown steadily since they were first granted in 1967. In light of the diminishing capacity of the cemetery and the public attention to waivers, waiver decisions are likely to continue to be the focus of concern and criticism on the part of veterans' groups and the American public. To the extent that the authority, process, and criteria for granting waivers are unclear, inconsistent, or unknown to the public, this criticism will likely continue.

While there is a legal basis for the Secretary of the Army and the President to make waiver decisions and to adopt procedures for doing so, this authority is not explicit. This lack of explicit authority has been cited in the past by various Army officials as something that could raise questions about waiver decisions made by the Secretary. Although Army officials have, in the past, proposed that legislation or regulations be enacted to make this authority explicit, they currently do not support such legislation or regulations.

Another area of uncertainty relates to the process used to review waiver cases and make waiver decisions. The process has not been clearly and consistently communicated to all individuals who have inquired about eligibility for burial in Arlington and has not been made generally public. As a result, the ability to get access to the process can vary on the basis of the persistence and knowledge of the individual requester. In addition, the process differs according to whether the President or the Secretary of the Army is making the waiver decision and is vulnerable to influence or intervention from officials outside the normal process. Recent actions by the Secretary of the Army to improve the consistency with which the waiver process is applied will likely help in diminishing the suspicions and concerns regarding the fairness of the process. No action has been taken by the Army, however, to adopt regulations governing the waiver process or to improve the Army's communication surrounding and involvement in presidential waiver decisions, although the Army may be constrained in its ability to influence this aspect.

The absence of clear, written criteria to evaluate waiver requests has also served as a basis for perceptions of inequity and inconsistency in waiver decisions. Waiver decisions made by the Secretary of the Army appear in some cases to be inconsistent with criteria applied in other cases. This is particularly true in cases in which the Secretary's decision does not follow the recommendations of other Army officials. Moreover, presidential decisions are typically made without explicit reference to criteria.

Given the current controversy over waiver decisions, several options are available for addressing these problems, including the following:

- Revising the eligibility requirements for burial in Arlington to include certain categories of people who generally are approved for waivers, such as remarried spouses or other family members who request to be buried in the same grave as someone who is already buried in Arlington. Under such a change, these categories of individuals, which constituted about 63 percent of the waiver approvals we examined, would be automatically eligible and would not therefore go through the waiver process.
- Eliminating the Secretary's and the President's authority to grant waivers. This could, however, prevent the burial at Arlington of someone who is generally recognized as deserving of that honor but does not meet the cemetery's strict burial standards.
- Preserving some discretion to grant waivers, but providing guidance in legislation for the officials who exercise the waiver authority. While we agree with Army officials that it is not possible to establish criteria to cover all circumstances, some general guidance would serve to ensure that the exercise of discretion by the Army is not unlimited.
- Expanding the acreage of Arlington to accommodate more grave sites, thereby easing concerns over limited space. The feasibility of this option would need to be examined in terms of the land available near Arlington for annexation and the cost of acquiring such land.

These options could be adopted individually or in various combinations. Each has its own advantages and disadvantages and must be carefully considered in light of the basic purpose of Arlington. Regardless of which option is considered, we believe it is important that the use of waiver authority be sound and that the waiver process be publicly visible.

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Mr. Chairman, this concludes my statement. I will be happy to answer any questions that you or other Members may have.

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# Eligibility Requirements for Burial at Arlington and at VA's National Cemeteries

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Individuals eligible for burial at Arlington include the following:

- Any active duty member of the armed forces, except those members serving on active duty for training only.
- Any retired member of the armed forces, who has service on active duty (other than for training), is on a retired list, and is entitled to receive retirement pay. If, at the time of death, a retired member is not entitled to receive retirement pay, he or she will not be eligible for burial.
- Any former member of the armed forces separated for physical disability before October 1, 1949, who has served on active duty and who would have been eligible for retirement under 10 U.S.C. 1202 had the statute been in effect on the date of separation.
- Any honorably discharged member of the armed forces who has been awarded a Medal of Honor, Distinguished Service Cross, Distinguished Service Medal, Silver Star, or Purple Heart.
- People who have held the following positions, provided they were honorably discharged from the armed forces: an elective office of the U.S. government; Chief Justice of the United States or Associate Justice of the Supreme Court of the United States; an office listed in 5 U.S.C. 5312 or 5 U.S.C. 5313 (level I and II executives); and chief of a mission if he or she was at any time during his or her tenure classified in class I under the provisions of 60 Stat. 1002, as amended (22 U.S.C. 866, 1964 ed.).
- Any former prisoner of war who served honorably, whose military service terminated honorably, and who died on or after November 30, 1993.
- The spouse, widow, or widower; minor child; and, at the discretion of the Secretary of the Army, unmarried adult child of any of the people listed above. A surviving spouse who has remarried and whose remarriage is void, terminated by death, or dissolved by annulment or divorce by a court regains eligibility for burial in Arlington. An unmarried adult child may be interred in the same grave in which the parent has been or will be interred, provided that child was incapable of self-support up to the time of death because of physical or mental condition.
- Widows or widowers of service members who were reinterred in Arlington as part of a group burial may be interred in the same cemetery but not in the same grave.
- The surviving spouse; minor child; and, at the discretion of the Secretary of the Army, unmarried adult child of any person already buried at Arlington.
- The parents of a minor child or unmarried adult child whose remains are already buried at Arlington on the basis of the eligibility of a parent.

Individuals eligible for burial at VA's national cemeteries include the following:

- Any person who served on active duty in the armed forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard) who was discharged or released therefrom under conditions other than dishonorable.
- Any member of the armed forces of the United States who died while on active duty.
- Any member of the reserve components of the armed forces, the Army National Guard, or the Air National Guard whose death occurs under honorable conditions while hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while performing active duty for training, inactive for duty training, or undergoing that hospitalization or treatment at the expense of the United States.
- Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while attending an authorized training camp or on an authorized practice cruise; performing authorized travel to or from that camp or cruise; or hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while attending that camp or on that cruise, performing that travel, or undergoing that hospitalization or treatment at the expense of the United States.
- Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war; whose last such service terminated honorably; and who was a citizen of the United States at the time of entry on such service and at the time of death.
- The spouse of any person listed above or any interred veteran's unremarried surviving spouse.
- A veteran's minor child (under 21 years of age or under 23 years of age if pursuing a course of instruction at an approved educational institution), or unmarried adult child who was physically or mentally disabled and incapable of self-support, in the same grave with the veteran or in an adjoining grave site if that grave was already reserved.
- Such other people or classes of people as may be designated by the Secretary of VA.

# Waiver Decisions by Administration

The following tables provide data on waiver decisions made under the various administrations since 1967.

**Table II.1: Number of Waiver Decisions Approved and Denied, by Administration**

| Administration       | Documented waiver requests | Waivers approved | Waivers denied |
|----------------------|----------------------------|------------------|----------------|
| Clinton 1997-present | 17                         | 12               | 5              |
| Clinton 1993-1997    | 91                         | 60               | 31             |
| Bush 1989-1993       | 53                         | 32               | 21             |
| Reagan 1985-1989     | 48                         | 40               | 8              |
| Reagan 1981-1985     | 38                         | 24               | 14             |
| Carter 1977-1981     | 23                         | 18               | 5              |
| Nixon/Ford 1973-1977 | 27                         | 7                | 20             |
| Nixon 1969-1973      | 23                         | 1                | 22             |
| Johnson 1967-1969    | 20                         | 2                | 18             |
| <b>Total</b>         | <b>340</b>                 | <b>196</b>       | <b>144</b>     |

**Appendix II**  
**Waiver Decisions by Administration**

**Table II.2: Number of Waiver Decisions  
by Decisionmaker, by Administration**

| Administration          | Documented<br>waiver<br>requests | Waivers decided by<br>the President |          | Waivers decided by<br>the Department of<br>the Army |            |
|-------------------------|----------------------------------|-------------------------------------|----------|-----------------------------------------------------|------------|
|                         |                                  | Approved                            | Denied   | Approved                                            | Denied     |
| Clinton<br>1997-present | 17                               | 0                                   | 0        | 12                                                  | 5          |
| Clinton<br>1993-1997    | 91                               | 5                                   | 0        | 55                                                  | 31         |
| Bush<br>1989-1993       | 53                               | 0                                   | 0        | 32                                                  | 21         |
| Reagan<br>1985-1989     | 48                               | 9                                   | 0        | 31                                                  | 8          |
| Reagan<br>1981-1985     | 38                               | 13                                  | 0        | 11                                                  | 14         |
| Carter<br>1977-1981     | 23                               | 17                                  | 0        | 1                                                   | 5          |
| Nixon/Ford<br>1973-1977 | 27                               | 7                                   | 0        | 0                                                   | 20         |
| Nixon<br>1969-1973      | 23                               | 1                                   | 0        | 0                                                   | 22         |
| Johnson<br>1967-1969    | 20                               | 2                                   | 0        | 0                                                   | 18         |
| <b>Total</b>            | <b>340</b>                       | <b>54</b>                           | <b>0</b> | <b>142</b>                                          | <b>144</b> |

**Appendix II**  
**Waiver Decisions by Administration**

**Table II.3: Comparison of Number of Waiver Decisions for New-Grave and Same-Grave Space, by Administration**

| Administration       | Documented waiver requests | Requests for new grave space |            | Requests for same grave space |           |
|----------------------|----------------------------|------------------------------|------------|-------------------------------|-----------|
|                      |                            | Approved                     | Denied     | Approved                      | Denied    |
| Clinton 1997-present | 17                         | 1                            | 5          | 11                            | 0         |
| Clinton 1993-1997    | 91                         | 20                           | 28         | 40                            | 3         |
| Bush 1989-1993       | 53                         | 2                            | 15         | 30                            | 6         |
| Reagan 1985-1989     | 48                         | 14                           | 7          | 26                            | 1         |
| Reagan 1981-1985     | 38                         | 15                           | 12         | 9                             | 2         |
| Carter 1977-1981     | 23                         | 12                           | 4          | 6                             | 1         |
| Nixon/Ford 1973-1977 | 27                         | 6                            | 19         | 1                             | 1         |
| Nixon 1969-1973      | 23                         | 0                            | 19         | 1                             | 3         |
| Johnson 1967-1969    | 20                         | 2                            | 16         | 0                             | 2         |
| <b>Total</b>         | <b>340</b>                 | <b>72</b>                    | <b>125</b> | <b>124</b>                    | <b>19</b> |

**Appendix II**  
**Waiver Decisions by Administration**

**Table II.4: Comparison of Number of Waiver Decisions for Individuals With and Individuals Without Military Service, by Administration**

| Administration       | Documented waiver requests | Individuals with military service |            | Individuals without military service |           |
|----------------------|----------------------------|-----------------------------------|------------|--------------------------------------|-----------|
|                      |                            | Approved                          | Denied     | Approved                             | Denied    |
| Clinton 1997-present | 17                         | 2                                 | 4          | 10                                   | 1         |
| Clinton 1993-1997    | 91                         | 21                                | 28         | 39                                   | 3         |
| Bush 1989-1993       | 53                         | 7                                 | 14         | 25                                   | 7         |
| Reagan 1985-1989     | 48                         | 16                                | 6          | 24                                   | 2         |
| Reagan 1981-1985     | 38                         | 15                                | 4          | 9                                    | 10        |
| Carter 1977-1981     | 23                         | 16                                | 3          | 2                                    | 2         |
| Nixon/Ford 1973-1977 | 27                         | 5                                 | 17         | 2                                    | 3         |
| Nixon 1969-1973      | 23                         | 0                                 | 13         | 1                                    | 9         |
| Johnson 1967-1969    | 20                         | 1                                 | 12         | 1                                    | 6         |
| <b>Total</b>         | <b>340</b>                 | <b>83</b>                         | <b>101</b> | <b>113</b>                           | <b>43</b> |

**Appendix II**  
**Waiver Decisions by Administration**

**Table II.5: Comparison of Number of Waiver Decisions for Individuals With and Individuals Without Military Service, by New-Grave and Same-Grave Space and by Administration**

| Administration          | Documented<br>waiver<br>requests | Individuals with military service requesting: |           |            |          | Individuals without military service requesting: |           |            |           |
|-------------------------|----------------------------------|-----------------------------------------------|-----------|------------|----------|--------------------------------------------------|-----------|------------|-----------|
|                         |                                  | New grave                                     |           | Same grave |          | New grave                                        |           | Same grave |           |
|                         |                                  | Approved                                      | Denied    | Approved   | Denied   | Approved                                         | Denied    | Approved   | Denied    |
| Clinton<br>1997-present | 17                               | 1                                             | 4         | 1          | 0        | 0                                                | 1         | 10         | 0         |
| Clinton<br>1993-1997    | 91                               | 16                                            | 26        | 5          | 2        | 4                                                | 2         | 35         | 1         |
| Bush<br>1989-1993       | 53                               | 2                                             | 14        | 5          | 0        | 0                                                | 1         | 25         | 6         |
| Reagan<br>1985-1989     | 48                               | 9                                             | 6         | 7          | 0        | 5                                                | 1         | 19         | 1         |
| Reagan<br>1981-1985     | 38                               | 14                                            | 4         | 1          | 0        | 1                                                | 8         | 8          | 2         |
| Carter<br>1977-1981     | 23                               | 12                                            | 3         | 4          | 0        | 0                                                | 1         | 2          | 1         |
| Nixon/Ford<br>1973-1977 | 27                               | 4                                             | 17        | 1          | 0        | 2                                                | 2         | 0          | 1         |
| Nixon<br>1969-1973      | 23                               | 0                                             | 11        | 0          | 2        | 0                                                | 8         | 1          | 1         |
| Johnson<br>1967-1969    | 20                               | 1                                             | 12        | 0          | 0        | 1                                                | 4         | 0          | 2         |
| <b>Total</b>            | <b>340</b>                       | <b>59</b>                                     | <b>97</b> | <b>24</b>  | <b>4</b> | <b>13</b>                                        | <b>28</b> | <b>100</b> | <b>15</b> |

**Appendix II**  
**Waiver Decisions by Administration**

**Table II.6: Number of Waiver Decisions in Which the Superintendent or the Assistant Secretary Was Overruled, by Administration**

| Administration          | Superintendent or Assistant Secretary's recommendation overruled by: |                        |
|-------------------------|----------------------------------------------------------------------|------------------------|
|                         | Final decision to approve                                            | Final decision to deny |
| Clinton<br>1997-present | 1                                                                    | 0                      |
| Clinton<br>1993-1997    | 11                                                                   | 0                      |
| Bush<br>1989-1993       | 1                                                                    | 0                      |
| Reagan<br>1985-1989     | 0                                                                    | 0                      |
| Reagan<br>1981-1985     | 0                                                                    | 0                      |
| Carter<br>1977-1981     | 2                                                                    | 0                      |
| Nixon/Ford<br>1973-1977 | 1                                                                    | 0                      |
| Nixon<br>1969-1973      | 0                                                                    | 0                      |
| Johnson<br>1967-1969    | 0                                                                    | 0                      |
| <b>Total</b>            | <b>16</b>                                                            | <b>0</b>               |

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