

Brief to The American Public  
by the C-123 Veterans Association  
2014

*Summary:*

C-123 medium assault transports used for spraying Agent Orange during the Vietnam War remained contaminated with TCDD (dioxin) until their destruction as toxic waste in 2010. Veterans (aircrew, maintenance and aerial port) assigned to these aircraft need military herbicide exposure medical care and disability benefits from the Veterans Administration. VA denies, erroneously claiming TCDD hasn't actually been shown to cause harm to humans, TCDD on the aircraft could not have exposed crews via ingestion, inhalation or dermal routes to "enough to cause long-term harm" and TCDD on the warplanes was "dried dioxin." Numerous federal, state and independent medical and scientific agencies and societies, including NIH, CDC, US Public Health Service, EPA, challenge VA. **Only** the VA disputes C-123 veterans' Agent Orange exposure claims. Veterans need our fellow citizens' support!

**The C-123 Veterans Association**

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**To:** Our Fellow Citizens

**Subject:** *C-123 Aircrew Agent Orange Exposure & VA Claims*

**Requested Assistance:** Challenge Department of Veterans Affairs to obey law!

**Summary:** USAF C-123 veterans flew the C-123 transport aircraft following use in Vietnam spraying Agent Orange. The contamination became identified in 1994 but was not shared with veterans for decades. Veterans became aware of the tests confirming C-123 contamination in May 2011 and sought VA service connection. VA opposes on the basis of "secondary exposure" and creating concept of "dry dioxin" to suggest not "enough" exposure to warrant benefits. Veterans oppose with a large amount of evidence from other federal agencies, universities, physicians and scientists.

Senator Burr and his staff, particularly Mr. Brooks Tucker, are very familiar with our two-year struggle with this issue. Senator Merkley (Mr. Will White) and Congresswoman Bonamici (Ms. Carlie Katz) are also firmly involved in our support.

1. Number of personnel: estimate 1500-2500 aircrew, aerial port and maintenance from Westover AFB MA, Pittsburgh Air Reserve Station PA and Rickenbacker Air Reserve Station OH. Precise numbers unavailable, mostly traditional Reservists.

2. Background: After Vietnam C-123s returned to US. Spray apparatus was removed and airplanes then flew traditional cargo and aeromedical missions until 1982 retirement. 42% of fleet sprayed AO.

3. USAF records released in 2011 proved the C-123s had remained contaminated by military herbicides after Vietnam. AF toxicologists first officially confirmed contamination by military herbicide residue in 1979 following complaints from our maintenance personnel. The problem was better revealed with far more extensive official testing in 1994 in which toxicologists confirmed our airplanes were "heavily contaminated" and "a danger to public health." The

contamination was not theoretical, but confirmed many times by Air Force military and civilian toxicologists, and by contract laboratories, and also described in sworn testimony by the 1994 testing experts in federal court. In 2010, the C-123s, still judged too contaminated for landfill, were all destroyed as toxic waste, other than a few scattered in aviation museums.

4. Agencies providing findings confirming C-123 veterans' exposure include Columbia University, University of Texas Medical School, many others. Contamination was NOT hypothetical, secondary, nor scientifically questioned by any expert, agency, or university... **only** VA VHA.

Yale Law School conducted an extensive research project and concluded the C-123 veterans are fully entitled to presumptive service connection for Agent Orange exposure. The Journal of Environmental Research published "*Post-Vietnam Military Herbicide Exposures by UC-123 Agent Orange Spray Aircraft*" establishing the significant exposure to TCDD experienced by C-123 crews and maintenance personnel.

5. In 1996, the USAF Office of Environmental Law directed all contamination information "be kept in official channels only." Contaminated aircraft had accidentally been sold to Walt Disney Films and to foreign governments and AO toxicity became potentially embarrassing. USAF directed HAZMAT quarantine of remaining C-123s in a special fenced, restricted area of Davis-Monthan AFB until 2010 destruction of all airplanes as toxic waste. This secrecy decision cost veterans decades of lost time addressing their exposures.

6. Affected veterans eventually began to approach the Department of Veterans Affairs claiming exposure to military herbicides and were immediately advised that no exposure was possible. We have been assured by the VA that no exposure occurred during the full decade we flew the C-123, with hundreds of hours aloft, hundreds of hours on the ground, hours spent cleaning, scraping, grinding, repairing, sleeping aboard during tactical deployments, trying to tolerate stench inside the airplanes and also to fly our assigned missions throughout the Western Hemisphere and Europe. On 1 June 2011 Headquarters, Air Force Reserve Command confirmed "**The C-123 aircraft in the 731<sup>st</sup> TAS fleet had been used to disperse chemical defoliants over Southeast Asia during the Vietnam War.**"

7. VA advanced an illogical position labeled "[unscientific](#)" by [Dr. Jeanne Stellman and others](#). VA says that the dermal barrier is a near-perfect barrier preventing "dry dioxin transfer." We learned from IOM and other reports that much occupational exposure to dioxin is via the dermal route. The VA's slant has been described as "unscientific" by other toxicologists, ten of whom joined with five physicians in forwarding their challenge to the Secretary of Veterans Affairs on 29 November 2012. Expert scientists and physicians who concluded our C-123 crews were exposed and need dioxin exposure care.

8. Dr. Tom Sinks, Deputy Director of the Agency for Toxic Substances and Disease Registry, evaluated our situation and stated, "**I believe aircrews operating in this, and similar, environments were exposed to TCDD.**" Drs. Schechter and Stellman differ only in the degree of exposure our crews experienced, with Stellman saying it was more than Vietnam ground soldiers and Schechter saying exposure was about the same as the troops. Subsequently, Dr. Sinks' finding was affirmed by Dr. Christopher Portier, Director ATSDR and then by Rear Admiral R. Ikeda, Acting Director.

9. Dr. Linda Birnbaum, Director of the National Institute of Environmental Health Sciences and also Director of the NIH National Toxicology Program, determined **“exposure is assumed based on wipe-tests demonstrating high dioxin concentrations in the C-123K’s.”** VA ignores other agencies resulting in the juxtaposition with one agency (VA) making a ruling that veterans’ exposure was “unlikely” and others agencies (CDC, NIH, EPA) with specific authority for determining that C-123 veterans were exposed.

10. Legal basis: VA promulgated its herbicide presumption in 2001 and the issue of herbicide exposure outside Vietnam was addressed. **66 Fed. Reg. 23166 (May 8, 2001). VA explained for non-Vietnam veterans exposed to an herbicide agent defined in 38 C.F.R. 3.307(a)(6) during active military service and with diseases on the list of presumptive service connection (which includes diabetes mellitus type II and ischemic heart disease), VA will presume that the diseases are due to the exposure. 66 Fed. Reg. 23166; 38 C.F.R. 3.309(e).**“ While required to adhere to the 1991 law as well as C.F.R.s, the VA doesn’t and disregards numerous disinterested proofs of C-123 veterans’ herbicide exposure. Rivera v. Shinseki requires VA to “sympathetically” weigh veterans’ evidence, but in LtCol Bailey’s case, every effort was made to prevent any merit being granted his large body of compelling and supporting evidence.

Unable to dispute the contamination, VA has oped to "explain" how the contamination could not have exposed the veterans. Parsing the word "exposure" has included the VA even redefining it but adding the requirement of bioavailability for exposure to have occurred. Scientists explain to the C-123 veterans that is simply wrong - "putting the cart before the horse" is a perfect analogy.

Thus far, all C-123 veterans’ claims are denied in regional offices but have eventually been reversed and granted upon appeal to Board of Veterans Appeals, but such decisions carry no precedent and can take five years to be heard. Most C-123 veterans are too old, too ill to waste five more years on top of the two years or more needed for the basic claim to be heard and denied for submission to the BVA for correction.

