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IMPROVING VETERAN ACCESS; STATUS OF OPERATIONS OF THE UNITED STATES DEPARTMENT OF VETERAN AFFAIRS WORK-STUDY PROGRAM

Kirk Allen

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IMPROVING VETERAN ACCESS;
STATUS OF OPERATIONS OF
THE UNITED STATES DEPARTMENT OF VETERAN AFFAIRS
WORK-STUDY PROGRAM

A Project
Presented to the
Faculty of
California State University,
San Bernardino

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
in
Interdisciplinary Studies: Veteran Advocacy

by
Kirk G. Allen
December 2021

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Approved by:

Sidney Burks, Committee Chair, Career and Technical Education

John Reitzel, Committee Member

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ABSTRACT

The usage status of The U.S. Department Veterans Affairs Work-Study Program is examined. Beneficiary numbers from the Global, United States, State, and Local/County perspective are reviewed. While of essential value, the program suffers from a lack of scholarly research and government oversight, and is further hindered by restrictive administrative rules lived first-hand. Research suggests that the program is operating outside of accountability to the taxpayer, presents as unnecessarily/overly-restrictive in accessibility, and is underutilized. The program appears to not be serving all veterans to full potential.

The Work-Study Program is codified in Veterans Benefits', Title 38 United States Code, Part III, Chapter 34, Subchapter IV, § 3485, and Pensions, Bonuses, and Veterans' Relief, 38 Code of Federal Regulations, Chapter 1, § 21.4145.

Keywords: veterans, education, work-study, access restrictions, legislation

Author Note

Preponderance of contacted Federal, State, and Local/County agencies did not respond to Freedom of Information and/or Research Assistance Requests. Peculiarly, the Office of the Director, VA Work-Study Program, Muskogee, Oklahoma, failed to respond to repeated contact attempts.

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CHAPTER ONE

INTRODUCTION

This research has matured over the semesters as the researcher gained valuable personal insight accessing veteran benefits publicly funded by Federal, State and Local/County Agencies. The project assesses the effectiveness of The Department of Veteran's Affairs (VA) Work-Study Program (WSP) within Chautauqua County (Southern Tier, South of Buffalo) in the State of New York. The study has been sustained by the researcher's access of earned GI Bill educational benefits provided by the Veteran Readiness and Employment Program, as well as veteran-centric graduate coursework completed with the State University of New York at Empire State College.

Veterans have a unique and changing status within our American society. This is influenced by variables such as public opinion, changes in cultural values, era of service, age - gender - ethnicity of the veteran, our nation's peace and war activities, and the state of the economy. All of these variables impact the responsibilities and expectations of the veteran and society's view of that veteran: none more so than education and employment.

The inquiry took a sociological, historical, and educational approach – in order to establish a basis for metrics and data. The research exposed the complexities of our societal contract (military service by the very few - guarantees

the freedom of the many; many then take care of those remaining few) to the marginalized veteran population.

This study is useful to all levels of government oversight and accountability, as it exposes resource underutilization, legacy policies perpetuating systemic marginalization, and specific points of failure within the vast and monolithic bureaucracies of the Federal, State, and Local/County Veteran Service Agencies. The researcher encountered serious limitations from a lack of scholarly material as well as no government oversight of the VA's WSP; no performance audits, no usage studies, no efficiency reports. Further scholarly research and government oversight of the WSP is warranted and long overdue.

The analysis of the program has led to the development of legislative proposals included in Appendix A, that can be used to change the way the WSP is administered at the various veteran-centric service agencies, thus improving its accessibility to our entire veteran population. The overarching goal of this scholarly effort is to find meaning within the researchers overseas foreign service, and translate that into advocacy for necessary improvements with the quality of services provided by our Veteran Service Agencies to their veteran population.

CHAPTER TWO

BACKGROUND

The VA's WSP came into existence with the Vietnam Era Veterans' Readjustment Assistance Act of 1972, and is administered by a Central Director, headquartered within the Muskogee Oklahoma Regional Office (Pub. L. No. 92-540, 1972). The WSP Director is supported by a vast host of Regional Directors in major metropolitan areas, such as; Buffalo, Syracuse, and New York City, which are located in the researcher's current domicile in the state of New York. Rehabilitation Counselors populate the Offices of the Regional Directors, and are individually assigned to administer the various chapters of the GI Bill to the eligible beneficiaries (VA, 2021).

The WSP is currently authorized under the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (Pub. L. No. 116-315, 2020). It states: "As a supplemental educational benefit, VA work-study allowance can often serve as that special increment that makes a program of education or training feasible" for the educational benefit of Veterans, and their spouses and children (VA, 2021). The VA provides beneficiary services on a global scale, with representation in the many foreign countries hosting our overseas bases. WSP beneficiary numbers for the Fall Semester 2020 are as follows (VA, 2021):

- Enterprise wide: 482,733 enrolled world-wide, not adjusted for race or gender:

- 1,383 enrolled overseas:
 - 1,351 enrolled at 3/4-time rate of pursuit:
 - One (1) white male accessing the WSP
 - WSP rate-of-access = .000%
- United States: 481,350 enrolled nationally, not adjusted for race or gender:
 - 398,350 enrolled at 3/4-time rate of pursuit:
 - 2,273 accessing the WSP
 - WSP rate-of-access (not adjusted race/gender) = .005%
- New York: 15,302 enrolled state-wide:
 - 3,974 females enrolled:
 - 3,477 females enrolled at 3/4-time rate of pursuit:
 - 35 females accessing the WSP:
 - 12 Women of Color:
 - 10 African-American
 - One (1) Asian
 - One (1) Pacific Islander
 - Eight (8) non-identified by race
 - 15 white
 - WSP rate-of-access (not adjusted for race) = .010%
 - 11,328 males enrolled:
 - 9,289 males enrolled at 3/4-time rate of pursuit:
 - 120 males accessing the WSP:

- 29 Men of Color:
 - 18 African-American
 - Nine (9) Asian/Pacific Islander
 - Two (2) First Nation Peoples
 - 10 non-identified by race
 - 81 white
 - WSP rate-of-access (not adjusted for race) = .012%.
- Chautauqua County, NY: 47 enrolled county-wide:
 - 14 females enrolled:
 - 13 at 3/4-time rate of pursuit:
 - One (1) Woman of Color
 - Three (3) non-identified by race
 - Nine (9) white
 - One (1) white work-study participant
 - WSP rate-of-access = .076%
 - 33 males enrolled:
 - 27 at 3/4-time rate of pursuit:
 - Three (3) African-American
 - Three (3) non-identified by race
 - 21 white
 - One (1) white work-study participant (research author)
 - WSP rate-of-access = .034%

A program specifically for veterans, the WSP provides compensated work experience within veteran-centric business models, and is primarily hosted by Institutions of Higher Learning, such as Regionally Accredited Colleges, Universities, and Trade Schools. Publicly-funded State Universities with a Veteran Service Office are the dominant hosts of the WSP, with participants performing a range of duties from the processing of veteran enrollment to the staffing of veteran-only resource centers. WSP hosting at Federal, State and Local/County Veteran Service Agencies remains unknown as no agencies, as identified in Appendix B, had a meaningful response to research requests. Anecdotally, the researcher did once meet a fellow navy veteran who was a pre-medical student within the University of Buffalo Medical School, whom was a WSP participant assigned to the collocated Western New York Veterans Affairs Regional Medical Center of Buffalo (Allen, 2018).

When accessed, the WSP is a value-added input into the synergetic cycle of public monies that flow from the Federal Government to the veteran and the college; large veteran enrollments provide a reliable revenue stream to the university community. However, access to the WSP is strictly regulated, and participation is permitted only when the veteran achieves three-quarter (3/4) time (nine (9) credit hours), or equivalent, rate of pursuit enrollment (38 U.S.C. § 3485, 2020).

In order for a business, an agency or an organization to participate as a host of the WSP, they must certify with the VA as having a veteran-centric

mission, and then onboard the basic employer/employee responsibility of timekeeping (VA, 2021). The WSP then limits the veterans work week to 25 hours, and provides for their compensation at the prevalent minimum wage (38 U.S.C. § 3485, 2020).

CHAPTER THREE

ISSUE

Unfortunately, for many veterans, the WSP remains inaccessible to them. This is due to the restrictions that the 3/4-time minimum "Rate-of-Pursuit" rule enforces within the labyrinthian bureaucracy of a government agency as byzantine as the VA (VA, 2021). Take, for example, this researcher's own experiences as a GI Bill Recipient attempting access to the WSP:

As a disabled veteran attempting to access the WSP, I was repeatedly and readily excluded from the program by government statute, specifically subparagraph 21.4145 of the Combined Federal Regulation, which decrees: "...rate of pursuit shall be 3/4-time...(38 U.S.C. § 3485, 2020)." My counselors were tasked with creation of my Educational Development Plan (EDP) based upon my employment goals. While counselors are given some degree of latitude in the preparation of the EDP, "Non-Degree Necessary Credits" did - very lawfully and quite frequently - keep me below the 3/4-time threshold. Such has been my experience, that veterans toward the end of their semesters of study, do not necessarily have the credit hour requirements in the latter

stages of their disciplines, compared to their 1st year class-load; and the VA cannot pay for unnecessary credits (38 U.S.C. § 3485, 2020). I also encountered similar threshold limitations with the restrictive timing of Seasonal Courses and Sequential Programs, as not all required courses are offered each and every semester (Allen, 2019).

Enrollment restrictions are not the only issues plaguing the WSP. Keenly felt by student veterans is the WSP's reliance on the poverty-insuring Federal Minimum Wage as the maximum rate of compensation allowable (38 U.S.C. § 3485, 2020). As minimum wages are an ongoing social justice issue that continue to warrant congressional interest and scholarly research, it is necessary when considering the social implications of legacy minimum wages, to understand how that negative impact is acutely felt and amplified upon the magnitude of over 38,000 homeless veterans, as the January 2020 U.S. Department of Housing and Urban Development "Point-in-Time" count revealed, and the 581,000 unemployed veterans in our country (DOL, 2021). Our reliance upon a minimum wage that is decades behind the rate of inflation - a 31% loss since 1968 - is an ongoing injustice perpetrated upon our honored yet most marginalized population: the financially-strapped student veteran (Cooper, Gould, & Zipperer, 2019).

The WSP further restricts a veteran's employment freedoms by inhibiting their work-week with a maximum of 25 hours allowed (38 U.S.C. § 3485, 2020). What is not considered with such an indiscriminate bureaucratic fiat is the capability of That Veteran whom consistently demonstrates the ability to load 12+ credit hours a semester, and still work a 60-hour week; medical students seem to routinely operate in this realm.

Additionally, the Government Agencies that are tasked and purposed to provide access to earned veteran benefits at the Federal, State, and Local/County levels - are not required to be WSP Hosts! Any VA Office can refuse a veteran's WSP application. So too can your State Disabled Veteran Employment Outreach Office and your local County Veteran Service Agency; Congressional Committees on Veterans Affairs can say "No," too. Congress did not intend for the WSP to be relegated to the campus, and a lack of targeted legislation allows for publicly funded agencies whose mission is veteran service, to *shirk this role!*

Lastly, the Board of Veteran Appeals (BVA) has been legislatively charged with adjudicating adverse veteran claims against the VA since 1933 (VA, 2010). And for good reason, the vast VA bureaucracy has ham-fisted veteran claims for decades, with over 201,000 currently in back-log (VA, 2021). The WSP lacks a robust appellate procedure that assures the veteran of timely BVA oversight of the due process and due diligence their claims justly deserve.

CHAPTER FOUR

SOLUTION

The VA's WSP is past due for legislative overhaul. Research into the WSP has revealed a program that could improve on its accessibility to veterans in a just and fair manner. The unfulfilled research requests to those with the power and access to the levers of control, non-existent program data resources available to the public, a dearth of scholarly research and a complete lack of Government Accountability Office action, all characterize a government program that is charged with the public trust - of operating in the shadows.

Our elected representatives within the Congress are responsible for the legislative action necessary to change the rules of the WSP, and low program usage supports moral changes to the social contract we have with our veterans. As such, draft legislation for action at the Federal level is provided for in Appendix A.

The following proposals are designed to immediately reverse the decades of negative impact that this research has identified as needlessly impeding the access of our marginalized veteran population to the potential of the quality-of-life-altering-value that the WSP does provide:

1. Elimination of the 3/4-time minimum rate of pursuit rule, replaced with a one credit or equivalent minimum rate of pursuit requirement.
2. Veteran wage increased to \$15 per hour (with annual COLA adjustment).

3. Allowable weekly hours increased to 60:
 - 3.1. 20 of which will be considered overtime:
 - 3.1.1. Overtime provided for at a compensation rate of time and a half (1.5x) hour:
 - 3.1.2. Overtime approval authority given to Rehabilitation Counselor.
4. All Veteran-Centric Government Agencies be accessible to host WSP participants upon request:
 - 4.1. All Government Agencies in receipt of public funds supporting Veteran-Centric Programs must host upon request:
 - 4.2. Host waiver requests to be considered by VA Regional Directors.
5. Elimination of the veteran's requirement to submit paper timecards to hosting agency for approval:
 - 5.1. Migrate to web-based collection as demonstrated by existing systems.
 - 5.2. Approval transferred from host agency to assigned Rehabilitation Counselor.
 - 5.3. Agency hosts relieved of burdensome VA reporting requirements.
6. Mandatory Veteran WSP Satisfaction Debrief/Survey!
7. The Board of Veteran Appeals will be granted complete appellate jurisdiction for all WSP adjudications:
 - 7.1. Retroactive compensation will be provided to the veteran upon successful appeal.
 - 7.2. Overtime assumption to be provided for in governments calculation.

CHAPTER FIVE

SUMMARY

The U.S. Department of Veterans Affairs Work-Study Program is an intricately value-added benefit for veteran educational care. Yet, the Fall 2020 Semester figures demonstrate underutilization, which is thwarting the actualization of the programs mission:

- Chautauqua County had an access rate among women of .076%
 - men only .034%
- New York's access rate for women was .010%
 - men with .012%
- Nation-wide the access rate was a dismal .005% (VA, 2021)

Continued reliance upon the Legacy Policies that lack the support found in scholarly research and government audit, unnecessarily restricts access for veterans across the enterprise, and is divergent from our moral obligation to continuously improve the social contract with our veterans. The 3/4-time rule, minimum wage, work-hour restrictions, agency refusals to host, and a restricted appeal process all perpetuate systemic marginalization of our most vulnerable groups; those of Women Veterans, Veterans of Color, Non-Cis or Binary Gendered (LGBTQ+) Veterans, plus Non-Citizen Veterans. And marginalized veteran populations are the least likely to access the boot-strap that the promise of higher education offers (DOE, 2021).

Fixes to the WSP are available with the proposed legislative action for our federal government. Policy and rule reviews can be conducted by agency technocrats and appropriate audits can be performed by the cognizant Offices of Agency Inspector Generals.

The failed Government Response to the over 25 Freedom of Information Act and Research Requests (refer to Appendix C and D) submitted by return-receipt registered mail is a self-imposed castigation of the due-process, due-diligence, and rules-based system of laws guaranteed to the citizen. Not so shockingly, research revealed that the WSP has never been audited by the Congresses Government Accountability Office. If our real intent is to assist the veteran population seeking to be contributing members of society, change is needed.

APPENDIX A
A FEDERAL BILL

"VETERAN WORK-STUDY PROGRAM IMPROVEMENT ACT OF 2021"

to be determinedth Congress

to be determinedst Session

Senate Bill # to be determined

A Bill For An Act Entitled: Improving Veteran Access to the VA Work-Study

Program,

In the Senate,

to direct the Secretary of Veterans Affairs to improve the accessibility of the Work-Study Program for Veterans receiving educational benefits, and for other purposes.

Senators to be determined introduced the following resolution which was referred to the

COMMITTEE ON VETERANS AFFAIRS SENATE PROPOSAL RESOLVED BY THE U.S. SENATE OF THE UNITED STATES OF AMERICA, THAT THE FOLLOWING ARTICLE IS PROPOSED AS FEDERAL LAW UNDER THE JURISDICTION OF THE UNITED STATES OF AMERICA, ENFORCEABLE BY EXECUTIVE ACTION.

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

Section 1: SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.- This Act may be cited as the "Veteran Work-Study Program Improvement Act of 2021".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short Title; Table of Contents.

Sec. 2. Act Applicability.

Sec. 3. Determination of budgetary effects.

Sec. 4. Penalties.

Sec. 5. Enactment date.

TITLE I - Work-Study Program

Subtitle A- Enrollment

Sec. 1001. Eliminates the 3/4-time minimum "rate-of-pursuit" enrollment rule.

Sec. 1002. Establishes one credit, or equivalent, minimum enrollment to participate.

Subtitle B - Hourly Compensation

Sec. 1101. Sets base wage at \$15 per hour.

Sec. 1102. Allowable weekly hours increased to 60.

Sec. 1103. Allows for 20 of 60 hours to be considered overtime.

Sec. 1104. Provides for overtime at a compensation rate of time and a half (1.5x) per hour.

Sec. 1105. Overtime approval authority given to Regional Office counselors.

Subtitle C - Hosts

Sec. 1201. All Veteran-Centric Government Agencies at the Federal, State and Local/County-level will be accessible to host Work-Study Program participants

upon application.

Sec. 1202. All Federal, State and Local/County Government Agencies in receipt of public funds supporting Veteran-Centric Programs will be accessible to host upon application.

Sec. 1203. Host waiver requests to be submitted to Regional Office Director for review.

Subtitle D - Timecards

Sec. 1301. Veteran's requirement to submit paper timecards to hosting agency for approval is rescinded.

Sec. 1302. Veteran time accountability to be accomplished via web-based collection as demonstrated by existing systems.

Sec. 1303. Timecard approval authority transferred from host agency to assigned counselor.

Subtitle E - Survey

Sec. 1401. Work-Study Program Satisfaction Survey to be developed and tracked by Director, Work-Study Program, Muskogee OK Regional Office.

Sec. 1402. Survey metrics to be included in existing Annual Secretarial Report to Congress.

Sec. 1403. Survey to be collected by assigned counselor.

Subtitle F - Board of Veteran Appeals

Sec. 1501. The Board of Veteran Appeals (BVA) is granted complete appellate jurisdiction for all Work-Study Program adjudications.

Sec. 1502. The BVA is granted approval to apply retroactive compensation for the veteran upon successful appeal.

Sec. 1503. Overtime assumption is to be provided for in governments calculation.

Section 2: Act will be applicable in all places under U.S. Government Jurisdiction: States, Territories, Protectorates, Possessions and Overseas Bases.

Section 3: The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Section 4: Penalties: Federal, State and Local/County Veteran Service Agencies that refuse to host will have their Veteran Service Officer Accreditation Suspended by their Servicing VA Regional Office; veteran-centric federal public funding to Federal, State, and Local/County Agencies that refuse to host upon application, will be Suspended per review by the BVA.

Section 5: The Enactment Date is to be determined.

END.

APPENDIX B
FREEDOM OF INFORMATION ACT
&
RESEARCH ASSISTANCE REQUESTS
SUBMITTED BY AGENCY

US Senate

Chair, Senate Committee on Veterans' Affairs

Russell Senate Building, Room 412

Washington DC 20510-6050

US House of Representatives

Chair, House Committee on Veterans' Affairs

Longworth House Office Building, B234

Washington DC 20515

U.S. Government Accountability Office

Comptroller General of The United States

441 G St. NW

Washington DC 20226

US Department of Veteran Affairs

1. Office of the Secretary ("No" reply to 1st FOIA)

810 Vermont Ave NW

Washington DC 20420

2. Director, Office of Management

810 Vermont Ave NW

Washington DC 20420

3. Director, Office of Programming, Analysis and Evaluation

810 Vermont Ave NW

Washington DC 20420

4. Director, Office of Budget
810 Vermont Ave NW
Washington DC 20420
5. Director, Office of Finances: 004
810 Vermont Ave NW
Washington DC 20420
6. Director, Veterans Benefit Administration
810 Vermont Ave NW
Washington DC 20420
7. Director, Center for Minority Veterans
810 Vermont Ave NW
Washington DC 20420
8. Director, Office of General Counsel
810 Vermont Ave NW
Washington DC 20420
9. Director, Office of the Inspector General
810 Vermont Ave NW
Washington DC 20420
10. Director, Board of Veterans' Appeals
810 Vermont Ave NW
Washington DC 20420
11. Director, Debt Management Center (Responded to 1st FOIA)

PO Box 11930

St Paul MN 55111

12. Director, Work-Study Program

125 South Main St

Muskogee OK 74401

13. Special Assistant to the Secretary for Veterans Service Organizations

Liaison

810 Vermont Ave NW

Washington DC 20420

14. Director, Center for Women Veterans

810 Vermont Ave NW

Washington DC 20420

15. Director, Veteran Readiness and Employment

810 Vermont Ave NW

Washington DC 20420

US Department of Labor

Director, Veterans' Employment & Training Service

Office S-1325

200 Constitution Ave NW

Washington DC 20210

State of New York

1. Director, Division of Veterans Services

2 Empire State Plaza, 17th Floor

Albany NY 12223-1551

2. Office of the Inspector General (Nothing-to-Report to FOIL)

2 Empire State Plaza, 16th Floor

Albany NY 12223

New York State Senate

Chair, Standing Committee Veterans, Homeland Security and Military
Affairs

172 State St

Albany NY 12210

New York State Assembly

Chair, Standing Committee on Veterans' Affairs

202 Legislative Office Building

Albany NY 12248

Chautauqua County, NY

Director, County Veteran Service Agency

610 W 3rd St

Jamestown NY 14701

APPENDIX C
VA WORK-STUDY PROGRAM RESEARCH QUESTIONNAIRE
SUBMITTED TO AGENCY

VA Work-Study Program Questionnaire

1. Who sponsored The VA Work-Study Program into Law?
2. What version of The GI Bill first provided for a VA Work-Study Program?
3. When was The VA Work-Study Program first authorized?
 - 3.1. Public Comment Period in the Federal Register contains what data?
 - 3.2. Department/agencies/NGO tasked with development of the rules contained in the CFR?
4. Why does The VA Work-Study Program require 3/4-time (75% minimum enrollment) Rate of Pursuit (ROP), in order to participate?
 - 4.1. Any supporting data that justifies the decision to mandate a 3/4-time ROP rule is requested.
 - 4.2. When was the 3/4-time rule first implemented?
 - 4.3. Has the 3/4-time rule ever received an exception, or been waived?
 - 4.3.1. If yes, provide reasoning?
5. How has The VA Work-Study Program changed since initial GI Bill authorization?
 - 5.1. Expansion of benefit?
 - 5.2. Contraction of benefit?
 - 5.3. Historical usage of benefit?
 - 5.3.1. Are benefit participant numbers, and overall GI Bill enrollee numbers, reflective of each other?

6. The participation numbers/benefit recipients of The VA Work-Study Program for last semester on record (assuming access to Fall 2020 Semester data):

6.1. OCONUS.

6.2. CONUS.

6.3. New York.

6.4. Chautauqua County, NY.

APPENDIX D
VETERAN DEMOGRAPHIC DATA REQUESTED

Veteran Demographic Data Requested

1. Zip Code
2. Ethnicity
3. Gender
4. Age
5. Income Range
6. Marital Status
7. Service Component
8. Duration of Service
9. Retiree
10. Rank
 - a. Officer
 - b. Warrant
 - c. Enlisted
11. All-Volunteer Force
 - a. Conscriptee
12. Service Era
 - a. WWII
 - b. Korea
 - c. Vietnam
 - d. Cold War
 - i. Panama

- ii. Granada
- e. Gulf Wars
 - i. Operation Desert Storm
 - ii. Operation Iraqi Freedom
 - iii. Operation Enduring Freedom

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