

January 28th, 2004

**Statement of MAJ Kenneth Chavez
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Mr. Chairman and Members of the Committee, it is a distinct honor to be here to discuss important issues affecting National Guard Soldiers. Our country's Citizen Soldiers have been devastated by an ineffective pay system that cannot pay them accurately, on time, and most importantly; when they are called up to Active Duty to serve our country.

My testimony has four parts:

- First, to give a historical perspective on the B Company, 5th Battalion, 19th Special Forces Group (Airborne) deployment.
- Second, to explain pay problems that members of B Company had during the deployment.
- Third, to discuss what actions were taken to correct these problems.
- And finally, to present a solution to the overall problem which would prevent this from ever happening again.

First, the sixty-two members of B Company were activated in December 2001 for a two-year period in support of Operation ENDURING FREEDOM. The environment was hostile and the conditions were harsh. During their deployment, they were involved in numerous combat operations, one that ultimately resulted in the death of one soldier and another being seriously wounded. These soldiers willingly accepted these risks as they put their jobs, homes and families on hold to answer the call to duty. Nevertheless, they endured and accomplished their mission. Their activation terminated after one year in December 2002. The pay crisis created by this deployment remains unresolved to this day.

Second, during all three phases of their activation: Mobilization, Deployment, and Demobilization, all sixty-two soldiers encountered pay problems. Efforts that should have been devoted to the combat mission were spent trying to resolve pay problems. During extremely limited phone contact, soldiers called home only to find families in chaos because of the inability to pay bills due to erroneous military pay.

The soldier that suffered the fatal injury during the deployment, Sergeant First Class Daniel Romero, was embroiled in pay problems at the time of his death. When the company was released from active duty in December 2002, thirty-four soldiers, or 54% of the company, were erroneously overpaid when their active duty pay was not stopped. When it was finally determined that soldiers were overpaid, government actions were initiated to recover the overpayments. This collection process resulted in collections of nearly five-times the actual overpayments.

The Defense Finance and Accounting Service (DFAS) cannot say, with any amount of certainty, exactly how much each soldier was overpaid. A dedicated DFAS team created spreadsheets for each soldier's pay history in an effort to portray each soldier's "official" and complete pay history for the period in question. Soldiers formally challenged the "official" pay history presented by

DFAS. The challenges resulted in a significant change to the official pay histories in the amount of thousands of dollars and have caused continuing soldier frustration and family stress.

Third, throughout the activation, attempts to correct the pay problems were made by the Unit Clerk, the Battalion Administrative section, and the Colorado United States Property and Fiscal Office. These steps proved to be ineffective. Ultimately, DFAS was contacted to gain assistance in correcting the problems. For a short period, the collection of debts were suspended in order to again determine the correct amount of overpayment for each of our soldiers. Many soldiers disagreed with and could not receive a reasonable explanation of their debt. Several soldiers gave up and paid off their debts in order to end their frustration.

Finally, in an effort to resolve the overall problem, the Adjutant General of Colorado National Guard launched an investigation in December 2003. The investigating officer initially asked for and received another suspension of the collection of debts until March 2004. The recommendation of the investigating officer is as follows:

- Waive the U.S. claim for erroneous payments of pay and allowances.
- Reimbursement of any amount of funds paid against a waived claim.
- Disbursement of unpaid pay and allowance due to any soldier as a result of the deployment.

The current system for paying National Guard Soldiers is unable to handle the volumes imposed by recent activations. The establishment of one integrated system for paying Active Duty, Reserve, and the National Guard is absolutely necessary. This would ensure a seamless transition from Guard to Active Duty and then back to Guard.

I implore this committee to promote the necessary steps, now and in the future, to prevent another Citizen Soldier from ever suffering the hardships that members of my company had to endure. Soldiers are prepared mentally and physically to face the rigors of combat in a foreign land. What they are not prepared for are the hardships imposed by an ineffective pay system. My soldiers have suffered divorces, bankruptcies, lost homes, and endured untold family problems that are far more destructive to their morale than any enemy they face in combat. It is extremely difficult to retain soldiers when they endure this type of treatment. How do commanders maintain unit strength when situations like this occur? What does this demonstrate to our soldiers?

Twenty-five soldiers have left my unit as a direct result of these pay problems. Fifteen more are asking to transfer to the Inactive National Guard (ING) in order to accept highly paid civilian contract work overseas in Iraq in order to heal their financial wounds. It will take nearly two years and two hundred fifty thousand dollars to train each replacement. This loss has had a significant, negative impact on our mission capability. We are one of only six National Guard Special Forces Battalions in the nation.

A secondary effect of these pay problems for our soldiers is in the form of tax deductions and improper tax reporting. The erroneous debts and subsequent requirement for re-payment cause great problems in the form of over taxing or under taxing, which the soldier, alone, is responsible for correcting.

My soldiers, our soldiers, are some of America's best and brightest. Everyday Reservists and Guardsmen assume a larger role in our Global War on Terrorism. Let's not let the sacrifices of my men and their families go unsupported. Please, implement changes now to insure that the next call home from one of our deployed soldiers is a call to discuss his or her daughter's birthday, not anguish about a lack of money to pay bills. Our country should be ashamed of treating Citizen soldiers in this manner. In a word, it is *inexcusable*.

In conclusion, I implore this committee to support Colorado's efforts to waive the claims for erroneous payments, reimburse any amount of funds paid against a waived claim, pay the soldiers for entitlements they earned and were not paid for, and change the current pay system of the United States Army to support our brave soldiers and their families.

Mr. Chairman, this concludes my testimony. I thank you for this opportunity to provide testimony and would be happy to respond to any questions.