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# Disabled system?

## Critics claim Army purposefully lowers disability ratings

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The Army is deliberately short-changing troops on their disability retirement ratings to hold down costs, veterans' advocates, lawyers and service members say.

"These people are being systematically underrated," said Ron Smith, deputy general counsel for Disabled American Veterans. "It's a bureaucratic game to preserve the budget, and it's having an adverse effect on service members."

The numbers of people approved for permanent or temporary disability retirement in the Navy, Marine Corps and Air Force have stayed relatively stable since 2001.

But in the Army — in the midst of a war — the number of soldiers approved for permanent disability retirement has plunged by more than two-thirds, from 642 in 2001 to 209 in 2005, according to a Government Accountability Office report last year. That decline has come even as the war in Iraq has intensified, and the total number of soldiers wounded or injured there has soared to more than 15,000.

The Army denies there is any intentional effort to push wounded troops off the military rolls. But critics say many troops being evaluated for possible disability retirement accept the first rating they are offered during their first informal board — but that if they were to request a formal board and then appeal the decision of that board, they would receive higher ratings.

But those who try to navigate the process beyond their initial evaluation — to include hundreds of combat veterans in limbo at

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For a look at how the military services and the Department of Veterans Affairs calculate disability compensation, visit [armytimes.com/benefits](http://armytimes.com/benefits)

Walter Reed Army Medical Center in Washington — face long waits, lost paperwork and months or even years away from home as they try to complete the process. If they receive a rating higher than 30 percent, they receive disability retirement pay, medical benefits and commissary privileges. Those rated less than 30 percent receive severance pay and no benefits.

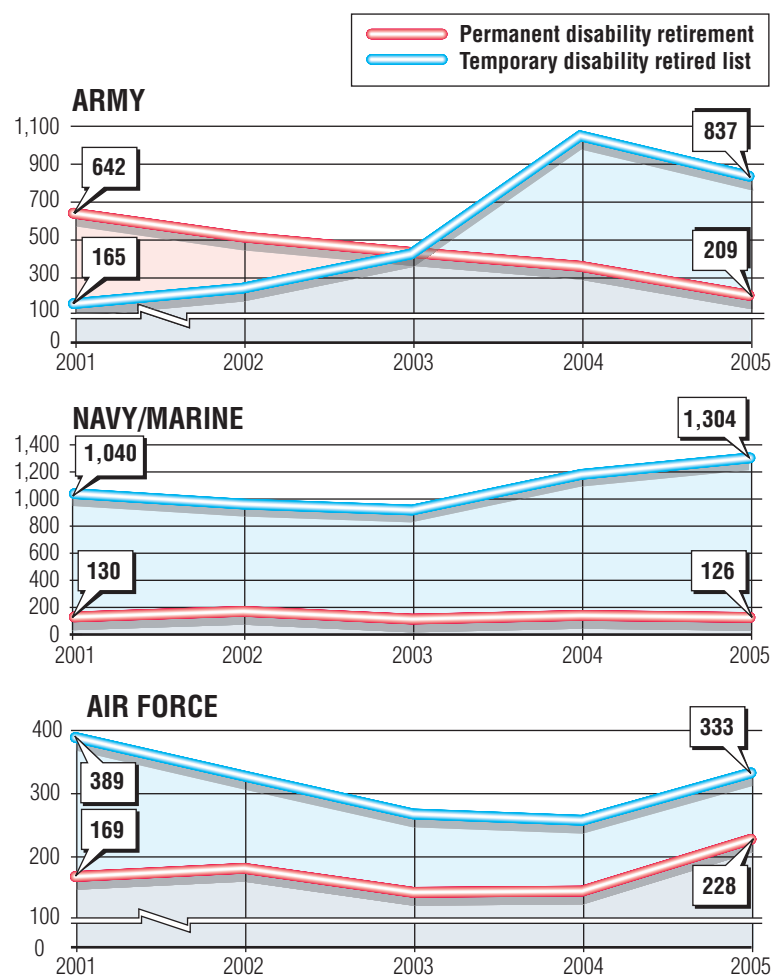
Many eventually give up and take their chances with the Department of Veterans Affairs, which may give a higher rating for the same disability. But under the separate disability payment systems of the Defense Department and the VA, a higher VA rating does not necessarily translate into more money — and forgoing military disability retirement means giving up lifetime commissary and exchange privileges, military health care and other benefits.

While the number of soldiers placed on permanent disability retirement has declined in the past five years, the number placed on temporary disability retirement has increased more than fivefold, from 165 in 2001 to 837 in 2005.

Troops on temporary disability leave convalesce for 18 months while receiving reduced basic pay. After 1½ years, they are re-evaluated and either returned to duty, rated for separation or permanent

## DISABILITY RETIREMENT

From 2001 through 2005, the number of service members in the Navy, Marine Corps and Air Force placed on permanent disability retirement and on the temporary disability retired list by medical evaluation boards remained relatively stable. But in the Army, which has by far the largest number of wounded combat troops, permanent disability retirements have dropped by two-thirds since 2001, while temporary disability retirements have more than quadrupled. Permanent and temporary disability retirement figures, by service, since 2001:



Source: Government Accountability Office

MARCIA STAIMER/STAFF

disability retirement, or sent back to temporary disability for another 18 months — for a total of up to five years.

Along with paying them reduced wages during that time, the eventual re-evaluation often leads to downward revisions in their disability ratings — and lower disability payments.

Service members must be stable before they receive a permanent disability rating, unless they are rated at less than 30 percent. In that case, they are discharged with severance pay — whether they are in stable condition or not. If their conditions then worsen, they'll receive no more money from the military.

Compared to the size of the defense budget, disability retirement costs are relatively small. In 2004, the military paid more than \$1.2 billion in permanent and temporary disability benefits to 90,000

people, the GAO said.

But that does not include the costs of lump-sum severance pay — up to 24 months of basic pay — given to 11,174 disabled troops that year in lieu of disability retirement pay. The Pentagon was unable to provide data on severance costs, the GAO said.

Officials with the Army's Physical Disability Agency say there is no ploy to save money and that troops going through the process are treated well.

"There is absolutely no attempt on the part of the Army or this agency to deny soldiers any disability benefits or to push them off on the VA," said Col. Andy Buchanan, the agency's deputy commander.

Adjudicators "are committed to ensuring all disability decisions are made fairly and accurately and based on the evidence in the soldier's medical record," he said.

"We have never received any guidance, official or otherwise, from anywhere within DoD to limit findings for budgetary or other reasons."

Smith said he began hearing tales about two years ago of service members who said they were not getting proper disability ratings based on the VA Schedule for Rating — the document used by both the military services and the VA to determine percentage ratings for disabilities, which in turn sets compensation rates.

"I finally decided to take on a case myself," Smith said. "It's been a while since I took a case."

He found an Army captain whose radial nerve in his right arm had been destroyed in Iraq — the same injury that has left Bob Dole, the World War II veteran and former Kansas senator, unable to use his arm to do more than hold a pen.

Smith followed the captain through the physical evaluation board process. He said that under the ratings schedule, this was an easy call: 70 percent disability. But at his first informal medical evaluation board, the captain initially was offered just 30 percent, and he had to fight to raise it to 60 percent through a subsequent formal evaluation board and then a final appeal.

"His first offer ... I couldn't believe it," Smith said. "I was just incensed."

Many troops accept the first rating offered them at their initial informal evaluation board, Smith said. "Soldiers are trained. When the evaluation board says, 'This is what you get,' the soldiers say, 'Yes sir.' A lot of people don't appeal."

Dennis Brower, legal adviser for the Army's Physical Disability Agency, acknowledged as much, saying only 10 percent of soldiers request a formal board.

But when the Army wouldn't budge on raising the captain's rating above 60 percent, Smith took the case a step beyond where most soldiers can go.

"I called the adjutant general and said I wanted a meeting," Smith said — and added that if he didn't get one, he was "going to Congress." That was in January. He got his meeting. He has demanded that the Army's Physical Disability Agency look for patterns of incremental increases in disability ratings as troops move through the process, and how closely their ratings match what the VA schedule mandates.

Pentagon spokesman Marine Maj. Stewart Upton said the issue is being examined.