

JULY 2019

PALOMAR CHAPTER 455 SERVING THE FEDERAL RETIREE AND EMPLOYEE

**Palomar Chapter 455
Serving 64 Years.
Chartered September 1954**

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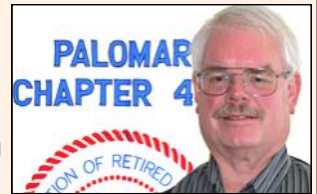
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President's Thoughts

by Robert N (Bob 2) Davidson II

Greetings Palomar Chapter members and all those across the fruited plains receiving this newsletter. Summer is upon us, the rain behind us (here in SoCal anyway) and traveling ahead of us to family and friends.



Our July meeting will be busy as we are going to review our revised By-Laws, which is attached so please review it. Additionally we will be looking at the national Referendum articles that the NEB will be mailing in the September issue of the NARFE magazine. These 8 articles are listed on page 42 & 44 of the NARFE magazine. You had to read carefully to find them as they are not listed as a subject on the cover or the Table of Contents, you will find them under "NARFE News". Old Bob covers this and much more in his Editorial, should be good reading. Make sure to check the enclosures.

Also, we are still looking for some kind soul to take over as Treasurer. If you have the skill, we would much appreciate your assistance. Speaking of officers; in accordance with the C & BL's, July we need to look for prospective chapter offices for President, 1st Vice President, 2nd Vice President, Secretary and Treasurer. The term of office is for years 2020 & 2021. Any member of the chapter or an Associate member may run for office. If you would like to be on Nominating Committee, let one of the current Chapter officers know. We will announce (and publish) the names of those desiring to run for office at the September meeting. Nominations from the floor will also be taken at the November meeting and then we will elect our officers at the meeting. They will be sworn at, I mean, sworn in at the November meeting and take office January 1st.

On a sad note, NARFE lost a dear friend and colleague, Cliff McCraw, Major USMC (ret) last month. He was the former Chapter President of Saddleback Valley Chapter 1689. A long time member of the State Executive Board, holding the office of Document Officer along with his loving wife Ann as Recording Secretary, his smile and war stories will be sorely missed. Semper Fi Cliff.

I hope to see many of you at our meeting. We are still meeting at the Escondido Marie Callendar's on July 17th at 1 PM in the Garden Room.

"I was gratified to be able to answer promptly. I said I don't know." Mark Twain

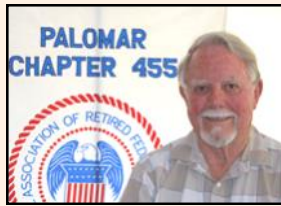
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"Without freedom of thought there can be no such thing as wisdom; and no such thing as public liberty, without freedom of speech." --Benjamin Franklin, writing as Silence Dogood, No. 8, 1722

OPINION

By Old Bob Davidson, Editor



Discussion Topics:

1. Chapter Bylaws.
2. National Bylaw Referenda.
3. Closure of Rancho Bernardo Chapter 1271.

Chapter Bylaws. NARFE national headquarters has demanded that chapters revise their bylaws to match the sample sent out by headquarters. "Stick it where the sun don't shine!", was our first reaction to orders given to us, the association owners, by our employees. But then your executive board realized that there were some changes in chapter policy and procedure over the past couple of years that, although effected by chapter vote, needed to be recorded in our bylaws. So, we did revise our chapter bylaws, the first complete revision since 1997. Attached to this newsletter email are the newly revised Palomar Chapter 455 Bylaws as proposed by your chapter executive board. These proposed bylaws will be the subject of comment and opinion at our July 17th meeting [that's this week]. Although a limited number of copies will be available at the meeting, it would be helpful if you would make a copy of the proposed bylaws from the attachment to study and bring to the meeting. As is the legitimate function of all responsible associations to allow discussion and debate on important issues prior to voting, we will do so at this meeting and vote to accept, amend, or reject the bylaws at our September meeting. This should allow for full understanding of the proposed bylaws.

National Bylaw Referenda. Please take a look at your July NARFE magazine's table of contents. See if you can find a reference to a very important and costly referenda vote being scheduled by the NEB. Obviously you won't find any such reference—this is merely Old Bob's sarcasm. Now look very carefully at the lower half of page 42 See that innocuous heading, "Bylaws Referendum Ballot.....". Please read that article, very carefully. What's the big deal, you may ask? I asked myself that same question. And this is what I came up with:

1. This ballot is being scheduled in the summer months. Many chapters are closed during one or more of these months, we are. Many NARFE members are on vacation/family visits, etc. during this time, after Labor Day. Only 6% of NARFE members voted in the last referendum ballot and that was during the winter months, so it would be a good bet that fewer members will care to vote in the vacation months.
2. Although the magazine article states the unbridged resolutions will be available from the NARFE web site—they aren't! At least as of noon last Saturday and they won't be published in the magazine until August, if at all. Anyone study the

"There is no maxim in my opinion which is more liable to be misapplied, and which therefore needs elucidation than the current one that the interest of the majority is the political standard of right and wrong.... In fact, it is only reestablishing under another name and a more specious form, force as the measure of right." —James Madison (1786)

magazine in August—while on family visits or at the beach? Our Palomar chapter is dark in August—I'd love to review with you members the exact wording of referenda 19-01 and 19-02 both of which state that the amendments are going, "... to reorganize and streamline the bylaws [Standing Rules] language..." but with no hint of the new language, we can't. Anyone remember the surprise wording of several articles/sections of the 2016 national bylaws as well as the "clarified" wording in several of the 2018 bylaw sections? I, for one, could not reconcile those wordings with what I voted for. But then, I'm just a confused old letter carrier—still I'd like to be able to discuss the exact wording of these bylaw amendments with my fellow chapter members.

3. What's the hurry? Exactly which of these proposed amendments are so critical that their rewording/subjects could not wait until the 2020 Referendum Ballot in preparation for the useless and costly Scottsdale "Conference"? And the cost, judging by the cost of the last referendum ballot it seems that the NEB is going to spend tens of thousands of dollars (several \$10,000's) to assure a minor vote on non-essential amendments to bylaws. We are not being furnished any explanation for the changes to be made in 19-01 and 19-02. And the reasons articulated for the rest certainly don't indicate any pressing need for a change at this time. Assured minor number of votes and high monetary costs for unneeded changes—as my favorite detective says, "*The plot thickens, Watson*".



Our national office delights in telling us what to think and do, and to trust them to know what you and I need and want. Well, until they change their ways and ask us our opinion, I for one, don't trust them. We will discuss all the proposed national bylaws changes at our meeting next Wednesday at Marie Callendar's. I want your opinion and thoughts—not theirs.

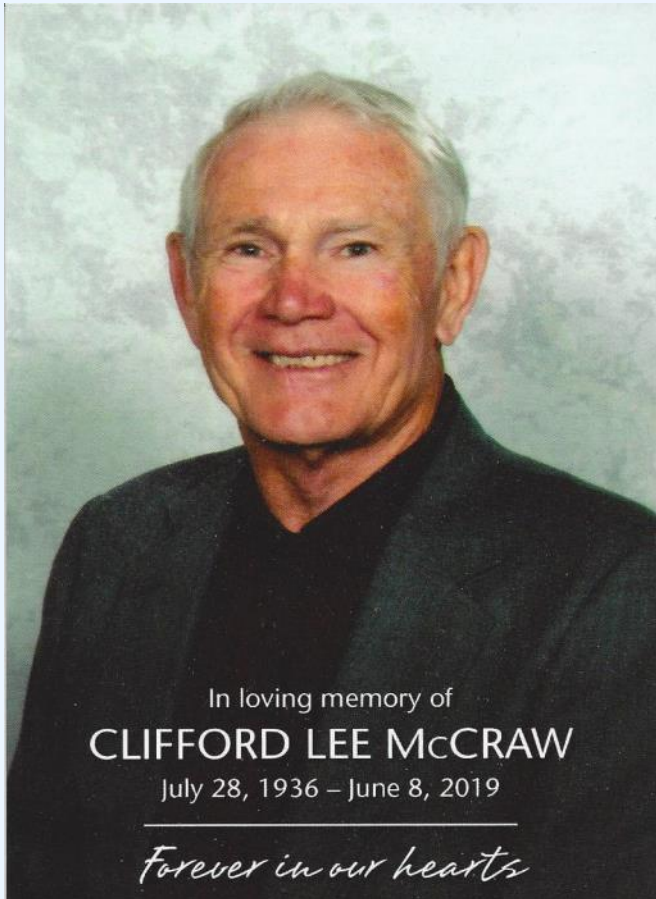
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"Called Back"

Epitaph on Emily Dickinson's gravestone

MEMBERS WHO HAVE BEEN CALLED BACK

MAJOR CLIFFORD McCRAW USMC (RET.)



In loving memory of
CLIFFORD LEE McCRAW
 July 28, 1936 – June 8, 2019

Forever in our hearts

*Cliff McCraw, one of the,
 "Few Good Men"*

I, Old Bob, have known Cliff and Anne McCraw for more than 20 years. While I join with Anne in grief for the departure of Cliff, as they did for me when my Barbara left nearly ten years ago, I cannot help but celebrate the twenty years we were privileged to know Cliff. Honor, Duty, Service, Trust and Truth are the elements of his legacy. Well, I do have to add his dry wit and sometimes dumb jokes that kept some CSFC executive board meetings civil. He and Anne were the stalwarts keeping the Saddleback Valley Chapter alive as well as our federation moving in the right direction.

Some of us, when we are called home, will be missed for a while, then not thought of. But Major Cliff McCraw, U.S. Marine Corps, and good friend, will never be forgotten.

Opinion cont. from Pg. 1.

Closure of Rancho Bernardo Chapter 1271. Back in October 2018 the members of RB Chapter 1271 ran out of volunteers to be officers in the chapter. On October 30th the members attending the general meeting voted to close the chapter with the current officers agreeing to stay on until the closure was completed. Three letters were sent to all RB members notifying them of the situation and of their right to request a voluntary transfer to another NARFE chapter [including a choice to go National-Only]. The final letter was from our Region 8 Vice President, Helen Zajac. After a reasonable amount of time to react to the situation by the RB members, on June 25, 2019, RVP Zajac sent a request (and all the paperwork and federation approval) to national headquarters requesting reassignment of the remaining RB members to the nearest active chapter, Palomar Chapter 455. Thus far no action has been taken by headquarters. Upon inquiry I was given the sad commentary that Chapter 1271 was not the only closing chapter in NARFE and that the staff was very busy. Wow, we have 45 employees on staff at headquarters with more than 17 earning salaries of more than \$100,000 and no one to do simple data entry? Methinks we have too many "very important people" and not enough workers.

Anyway, for you remaining RB members, please be patient this will eventually get cleared up—after the new federation bylaws and chapter bylaws are finally approved by the Nat. Sec./Tres., and after that useless referenda ballot is completed and paid for, and after various conferences (including Scottsdale) are planned and executed, etc., etc. Curious, I thought we hired an Executive Director (at well over \$100,000 salary) to make things move smoothly and to supervise 44 other employees to bring NARFE into the 21st century.

Or is it really 1984 all over again?

Responses to "Opinion" are always welcome, keep them clean and please sign them, no anonymous responses.

"LAUS DEO"

CHAPTER 455 NEWSLETTER'S PURPOSE REGARDING NARFE.

This association is still the best hope for the federal employee family in its perennial battle with the Congress and the Administration to keep and enhance the federal retiree's and current employee's earned benefits.

However, in order to keep up with changes in potential member demographics and the changing social and financial world facing us, we must continually adjust our association's infrastructure and operations to cope with and overcome changes adverse to our established purposes. Therein lies the problem. To do the job properly requires the consideration of many options. Our current leaders must recognize that not all knowledge is concentrated within the confines of headquarters in Alexandria. There are capable and intelligent members residing outside the "Beltway" environs with possible solutions. Hence our small chapter's attempt to present all options, including those outside the normal thought patterns, in this little newsletter, though remember that publication does not equate to approval.

NARFE ACTIVE MEMBER EMPLOYEE

NEWS OF INTEREST TO THE CURRENTLY EMPLOYED

FERS and YOU

By Bob Davidson II



Greetings fellow FERS participants. I have been mentioning the upcoming changes to TSP options for those that have a TSP account. You should have received an email in regard to these changes but if you missed it I am reprinting it below. These changes will make withdrawing funds much more flexible for us and allow us to make better choices on how to manage our retirement monetary decisions.

Dear TSP Participant:

You'll soon have more options with your Thrift Savings Plan (TSP) account. Our records indicate that you previously requested a partial withdrawal from your TSP account. Whether you're still counting down the final days of your career or are 20 years into your retirement, it's important to know you'll have flexibility when you need your money.

You'll have that flexibility beginning September 15, 2019. With new withdrawal rules, you'll be able to start, stop, or change any installment payments and make additional partial withdrawals whenever you need to. Best of all, you'll continue to benefit from our low fees through retirement as long as you have at least \$200 in your TSP account. (And you can still transfer in money from eligible plans.)

Take a look at some details about the upcoming changes and consider how they might affect your financial planning. As always, you may want to consult a qualified tax advisor before making your withdrawal decisions.

Please be aware that you're receiving this email before these TSP changes take place, so most content on tsp.gov reflects current plan rules. We'll update our website in September 2019 when these changes go into effect. If you want to learn more, check our website and our social media channels throughout the rest of 2019 for opportunities to ask questions and get additional info.

Meanwhile, this is a great time to **visit tsp.gov and take stock of your investments**. Logging into My Account gives you access to manage your portfolio, send secure messages to TSP representatives, and complete certain transactions.

Next time you log into My Account, consider taking these actions:

- Verify that your mailing address is correct.
- Validate your contact information and add new login security features.
- Choose a Lifecycle (L) Fund or an asset allocation appropriate for your situation.

Become familiar with the online tools that are always available to you.

You asked for changes to our withdrawal options, and we listened. Thank you for your patience and for continuing to be a valued TSP participant.

Questions? You can easily access TSP support and information online or by calling the ThriftLine at 1-877-968-3778 to speak to a Participant Service Representative. If you're outside the U.S. and Canada, you can call 404-233-4400 (not a toll-free number). Our hours are Monday through Friday, 7 a.m. to 9 p.m. eastern time.

You can also write to us or send a secure message after you log into My Account on tsp.gov.

So you can see, the TSP will be much better for all of us upon retirement. So check your email for this announcement.

An additional piece of information - there is current legislation that may affect our TSP and other IRA type of accounts and retirement plans. H.R. 1994 has many components in it but one that will greatly benefit retirees is the later date for taking your Minimum Required Distribution (MRD) which is currently age 70 & 1/2, will be age 72 instead. Check out this House bill which passed 419-3. It has been sent to the Senate which is considering its own retirement reform legislation in the form of the *Retirement Enhancement and Savings Act of 2019* (RESA), introduced in April, and the *Retirement Security & Savings Act* (S. 1431), introduced May 14. Unfortunately this will just confuse the entire issue and probably delay it. Keep your fingers crossed and contact your two Senators to pass the House version.

As always, get good advice, be aggressive when you can and you will have the money you need to retire well and comfortably.

Live Long and Prosper my friends.

[When there is an income tax, the just man will pay more and the unjust less on the same amount of income.](#)
Plato (427 BC - 347 BC), The Republic

Flexible withdrawals begin September 2019

You never have to make a full withdrawal election. When you need to make IRS-mandated required minimum distributions (RMDs) at age 70½ and after, we'll automatically send you the right amount if you don't withdraw enough during the year.

Any in-service withdrawals you made have no effect on the number of post-separation partial withdrawals you can make. You can make partial withdrawals even if you receive installment payments.

You can customize your installment payments and change your payment frequency at any time as your needs change. You can choose among monthly, quarterly, and annual installment options.

You can choose to withdraw traditional money only, Roth money only, or a proportional amount of both.

You'll request withdrawals easily using fast and secure online tools by logging into My Account on tsp.gov.

Current rules

A full withdrawal election is required the year you are separated and 70½ or older, or your account becomes abandoned.

Only one age-based in-service withdrawal or one post-separation partial withdrawal allowed in a lifetime. Then a full withdrawal election is required.

Requests to change monthly installment amounts can only be made once each year during a designated open season.

All withdrawals include both traditional and Roth funds as a pro rata (i.e., proportional) distribution.

Paper forms must be submitted by mail or fax to make or change a withdrawal election.

NARFE ACTIVE MEMBER EMPLOYEE

NEWS OF INTEREST TO THE CURRENTLY EMPLOYED

FROM THE PERSONNEL SIDE

By Old Bob Davidson



Lights, Hammer, Action!

[Susan McGuire Smith](#) July 11, 2019 [Court Cases](#)

U.S. Air Force photo by Staff Sgt. Kenny Holston

Here's a case that illustrates how easy it is to get fired over a petty dispute with a co-worker. ([Mogil v Department of Veterans Affairs](#) (CAFC No. 2018-1673 (nonprecedential) 5/1/19))



For some nine years, Mogil was an engineering technician with the Department of Veterans Affairs (VA) at its Medical Center in Minneapolis, Minnesota. His problems stemmed from sharing an office with a co-worker ("Tony"). They developed a funning feud over the lights. Simply put, Mogil wanted the lights on at all times, and Tony wanted some of them kept off because they caused glare on his computer screen and led to his discomfort. Mogil's boss offered to move him to another cubicle but he passed on the offer, choosing to continue to wage the battle over the lights with Tony. (The case doesn't mention whether the boss offered to move Tony.)

In any event, the two men worked out a compromise for a time that allowed Tony to adjust the lights when Mogil was away from the office. For reasons unexplained, Mogil decided that he wanted all the lights on at all times, including when he was not there. A few different times, he taped the switches in an on position to try to get his wish that the lights be left on. The boss had to intervene numerous times, and finally she ordered them to just leave the lights on and "get along." (Opinion pp. 1-2)

The next day Mogil left the office and returned to find the lights off. He "snapped" and took a hammer to the light switch. This ended up disabling the lighting in not only his office, but several others. (p. 3)

The agency just snapped at that point and initiated adverse action leading to Mogil's removal for damaging government property, despite his reply indicating he was really sorry and that he apologized for his actions. (p. 3)

The Merit Systems Protection Board upheld VA's removal of Mogil and the appeals court now upholds that decision.

Mogil faced the reality of the new adverse action powers vested in VA under the VA Accountability and Whistleblower Protection Act of 2017. ("Act")

The appeals court weighs the effect the Act had on taking adverse actions against VA employees under Chapter 75 of Title 5. For example under Title 5, the MSPB has authority to mitigate the agency's penalty if it finds it "unreasonable." The new Act gave the VA more discretion to remove its employees and required that the MSPB give the VA more deference in these matters, which took away the Board's "ability to mitigate the penalty imposed" as long as the decision is supported by substantial evidence. In other words, if the evidence is there, then the Board must uphold the VA's decision and "shall not mitigate" the prescribed penalty. Where the MSPB typically ensures

that the "Douglas factors" are weighed in deciding the penalty, this is now "immaterial" with regard to VA adverse action decisions. (p. 5)

In this case the Board administrative judge found that the evidence was there to prove the misconduct—in fact Mogil admitted he damaged the property. He rejected Mogil's argument that the VA Act required the Board to review if the penalty was supported by substantial evidence. Mogil also tried to argue that the Act did not excuse VA from weighing the Douglas factors. The VA disagreed with Mogil's arguments, the MSPB judge disagreed with them. He concluded that for VA cases "the Board can only review whether substantial evidence supports the VA's finding that the misconduct occurred." (p. 6)

The appeals court dances around the effect of the new VA Act, but ultimately reaches the same result in upholding Mogil's removal. Note this wording in its decision: "We need not consider, however, whether the VA's interpretation is proper here because any error in interpreting [section] 714 [of the Act] was harmless." (p. 7)

The court talks about, okay the VA did not weigh the Douglas factors, but Mogil did not try to explain how that would have changed the decision to remove him. Besides, the court points out that the government's decision letter addresses why it chose the removal penalty as appropriate, thus contradicting Mogil's argument. Further, the court notes, while VA viewed weighing Douglas factors as "immaterial," the agency "nonetheless considered such evidence in upholding the removal decision." (p. 8)

In spite of the dancing around just how impactful the new Act is on VA adverse actions, the court concluded that in this case what the agency did passed the requirements. But here's the court's last caution: "We leave for another day the statutory interpretation issue with constitutional implications." (p. 9)

Hmm. Where the MSPB is confident that the Title 5 tide has shifted for VA adverse actions thanks to the new Act intended to streamline the process, the appeals court is clearly hemming and hawing. In any event Mr. Mogil picked the wrong time to "snap" on this clearly petty office dispute.

[Mogil v. VA 2018-1673](#)

(Bob's Note) We've been hearing about the new Veterans Administration disciplinary procedures that were established in the 2017, the VA Accountability and Whistleblower Protection Act of 2017 ("ACT"). These new procedures were established in this single agency because of the bad actions of a few of their civilian employees and [in my opinion] the ineptness of VA management. This particular case is NOT a precedential case indicating that the Fed. Circuit Court is feeling its way and looking for a whopper of a case to establish a precedent. But you can bet that the MSPB and other courts will be quite aware of the logic used by the Fed. Circuit in upholding the MSPB decision, particularly the lack of influence the "Douglas" factors had on the penalty because of the ACT as well as the use of the "substantial" evidentiary standard instead of the venerable "preponderance" standard.

In the meantime, while we dinosaurs enjoy the esoteric twists and turns of fledgling policy, you current federal employees may well see this becoming the new industry standard for all agencies. So, beware and don't be as stupid as the appellant in this case.

Old Bob Davidson

Palomar Chapter 0455
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 odd numbered months.

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WEB SITES

- www.narfe.org. *
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- www.assembly.ca.gov/
- www.opensecrets.org
- www.senate.ca.gov/.
- www.opm.gov. *
- www.alz.org
- www.tsp.gov



CHAPTER MEETINGS

In accordance with the bylaw change ratified at our December 2017 meeting, Chapter 455 will have afternoon luncheon meetings the third Wednesday of every odd numbered month of the year. The luncheons will be at a local restaurant with each member responsible for ordering off the menu and paying his/her own check. The luncheon will normally start at 1:00 PM with the program and business meeting from 1:45± - 3:00 PM. **The July, 2019 general meeting will be on Wednesday, July 17, 2019 at Marie Callender's Restaurant, 515 W. 13th St. (13th & Center City Blvd.), Escondido from 1:00 PM to 3:00 PM.**

Future Meeting Dates. (All on the 3rd Wednesday of the odd numbered month), write these dates on your calendar!

July 17, 2019. Review and discussion/debate of newly revised chapter bylaws. Discussion of NARFE bylaw amendment proposals for September Referenda.

September 18, 2019. Voting on revised chapter bylaws and chapter officer election for 2020-2022. Program speaker from Alzheimer's Assn. on "Caregiver Challenges"

Executive Board Meetings. We meet at 11:00AM in the Library Room at the Escondido Marie Callender's Restaurant every 2nd Wednesday of all months [as opposed to general meetings which are on the odd months of the year]. All chapter members are welcome to attend the board meetings.