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THE STATUS OF THE DEPARTMENT OF VETERANS AFFAIRS' IMPLEMENTATION OF THE VA CLAIMS PROCESSING TASK FORCE'S RECOMMENDATIONS, AND EXPLORING THE POTENTIAL FOR A GREATER VA/VETERANS' SERVICE ORGANIZATION PARTNERSHIP

HEARING

BEFORE THE

SUBCOMMITTEE ON BENEFITS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

JUNE 6, 2002

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THURSDAY, JUNE 6, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BENEFITS,
COMMITTEE ON VETERANS' AFFAIRS.
Washington, DC

The subcommittee met, pursuant to notice, at 10 a.m., in room 334, Cannon House Office Building, Hon. Michael K. Simpson (chairman of the subcommittee) presiding.

Present: Representatives Simpson, Reyes, Brown, Evans, and Davis.

OPENING STATEMENT OF CHAIRMAN SIMPSON

Mr. SIMPSON. Good morning, and welcome to today's hearing. Today we are receiving testimony on the status of the Department of Veterans Affairs' implementation of the Claims Processing Task Force's recommendations, and the potential for a greater VA/VSO partnership in serving veterans.

Our VSOs and county and state governments are very valuable contributors and leaders in this process. VA is a responsive organization paying more than $20 billion annually in compensation and pension benefits to veterans and their survivors. VA has about 8,000 dedicated employees working disability claims for regional offices across America.

Just a few facts about VA's customer base, and then I will turn to Mr. Reyes. Fortunately for our veterans, over the past 5 fiscal years about 85 percent of the 100,000 new disability awards that VA makes annually have been for 0 or 10 percent disabilities.

Although there certainly are exceptions, veterans' disabilities generally tend to mirror disabilities experienced in the general adult population, which includes disabilities for knee, back, and hearing conditions. During fiscal year 2000, the most frequent disability VA granted was for a non-tender scar.

In the 1990s and in fiscal year 2000, veterans who reopened claims outnumbered veterans filing original claims by about three to one. About two-thirds of reopened claims and appeals come from veterans already in receipt of disability compensation. Preliminary

VA data shows that veterans who reopen claims file for 17.9 different disabilities during their lifetime. In 1995, if had VA stopped accepting original disability claims from veterans, 20 years later in the year 2015, VA still would have about 72 percent of the 1995 workload because of reopened claims.

In my view, the current system represents the consequences of 50 years of well-intended yet incremental policy-making by Congress. Policy drives process, and I applaud Secretary Principi for his efforts to wring every ounce of quality and productivity out of the current adjudicative and appellate processes for veterans. But VA cannot do it alone. I think it's time, the time is coming very soon, when this committee needs to take a look at the policies driving the current system.

I will now turn to Mr. Reyes for his opening comments.

OPENING STATEMENT OF HON. SILVESTRE REYES

Mr. REYES. Well, thank you very much, Mr. Chairman. I apologize for being late. But as you know, I am on the Intelligence Committee, and we are having busy days on the 9/11 issue. So I will have to leave—we reconvene at 10:30, so I will have to leave, but I appreciate your indulgence, and the indulgence of the panelists, as well.

I want to first thank you for continuing to focus on the issue surrounding the processing of claims for compensation and pension benefits for our veterans. As you and many other members know, the accuracy and timeliness of decisions concerning claims for benefits continues to generate a great deal of interest on the part of our Nation's veterans.

Every weekend, when I return to my district, there are a number of veterans that always ask me about the status of backlogs and their benefits.

I am particularly concerned, therefore, that the erroneous report of some 200,000 reduction in backlog of claims that was reported in *The Washington Post* on Memorial Day has received widespread dissemination with no effort on the part of the Department of Veterans Affairs to correct this misinformation.

Veterans in my district are very concerned about that backlog. When they read a report that the backlog has been cut by 200,000 claims, they become concerned that the Waco regional office, which handles their claims, may be falling far behind. They let me know about that.

In fact, the Waco office has reduced its backlog to some 24,347 from 28,411, although the number of appeals pending has increased from 5,575 to 6,849. The number of appeals pending nationwide has also increased from 94,903 at the start of this fiscal year to 111,904 last week.

While a report of a reduction of 200,000 makes for good publicity for the VA, when the report is false it undermines the credibility of the VA and the dedicated employees who are struggling to process claims without reducing the quality.

I am particularly concerned that what progress has been made in reducing that backlog has come at the expense of action on remanded claims. We will hear testimony today stating that the remanded claims are being ignored or neglected, a situation that is

very troubling to the veterans that I represent and to veterans across the country.

I am particularly concerned about the almost 14,000 remands issued before October 1, 2000. They were still awaiting action as of February 27, 2002. These remands represent the claims of thousands of men and women who have served our Nation honorably and who are entitled, by law, to have their claims given expedited treatment.

I am also concerned with the amount of time it takes from the time a veteran files an appeal to the Board of Veterans' Appeals to the time that that claim is actually received by the Board. According to the April 2002 data from the board's veterans appeals control and locator system "elapsed processing days" in this report, it can take from a few months to over 3 years, with an average of 645 days for this step to take place.

And I ask, Mr. Chairman, that a copy of this report be included for the record.

Mr. SIMPSON. No objection.

(The information follows:)

Board of Veterans' Appeals - VACOLS
Elapsed Processing Time of Appeals
FY 2002 thru 04/30/02

VBAVCL 6
7-May-02

		FIELD					BVA				
	Regional Offices	Total Original BVA Decs	Avg. Total Field Days/Case	NOD To SOC	SOC to Receipt Appeal	Receipt of Appeal To BVA Rec.	Avg. BVA Days Orig. Dec	Total Non-Orig Decs	Avg. Days Non-Orig Decisions	Total BVA Decisions	Overall Average BVA Days
301	Boston	104	739.9	77.0	48.4	614.5	80.6	64	78.9	168	79.9
307	Buffalo	69	645.3	84.8	57.7	502.9	108.9	66	132.5	135	120.4
997	Buffalo Educ. RPO	4	1264.8	92.8	52.0	1120.0	132.3	1	236	5	153.0
308	Hartford	42	910.1	58.8	38.7	812.7	81.8	14	229.1	56	118.7
373	Manchester	25	896.4	195.8	57.4	643.1	69.8	17	90.9	42	78.4
306	New York	87	1646.0	155.0	64.0	1427.0	72.7	43	115.1	130	86.7
304	Providence	9	1329.6	57.6	19.0	1253.0	77.0	10	132.4	19	106.2
402	Togus	18	261.6	65.4	37.4	158.8	176.7	19	134.8	37	155.2
405	White River Junction	13	689.8	27.1	44.2	618.5	86.8	14	90.6	27	88.8
	SDN 1	**371**	**959.6**	**100.1**	**51.9**	**807.6**	**88.8**	**248**	**116.5**	**619**	**99.9**
325	Cleveland	207	805.3	75.0	58.2	672.1	89.9	70	215.5	277	121.6
329	Detroit	132	694.7	50.8	74.8	569.1	139.2	72	143.9	204	140.8
326	Indianapolis	74	613.1	68.2	61.8	483.1	123.0	45	159	119	136.6
309	Newark	49	1392.2	193.4	74.0	1124.8	112.3	27	177.5	76	135.4
880	Phil. Ins. Center	3	863.3	107.3	16.7	739.3	123.7	2	52	5	95.0
310	Philadelphia	109	799.1	169.4	46.2	583.5	120.6	66	131	175	124.5
311	Pittsburgh	97	396.9	90.7	53.0	253.2	70.4	71	108.3	168	86.4
460	Wilmington	10	673.4	68.8	52.7	551.9	113.8	11	173.8	21	145.2
	SDN 2	**681**	**744.3**	**95.5**	**60.0**	**588.8**	**107.3**	**364**	**153.1**	**1,045**	**123.3**
313	Baltimore	25	593.0	145.4	69.4	378.3	207.7	32	110.3	57	153.0
315	Huntington	78	681.2	95.8	68.7	516.7	143.5	44	169.7	122	153.0
327	Louisville	62	604.1	55.7	46.9	501.5	120.9	68	129.9	130	125.6
314	Roanoke	103	613.4	77.2	61.9	474.3	194.8	91	128.7	194	163.8
372	Washington	59	1061.8	188.7	72.0	801.1	160.5	38	105.3	97	138.9
	SDN 3	**327**	**707.2**	**102.9**	**63.1**	**541.2**	**163.4**	**273**	**130.2**	**600**	**148.3**
316	Atlanta	107	1008.9	129.4	69.8	809.7	104.3	96	109	203	106.5
992	Atlanta Education RPO	3	570.0	126.0	53.0	391.0	79.7	2	216.5	5	134.4
319	Columbia	84	544.4	55.7	44.9	443.9	95.3	57	127.3	141	108.2
320	Nashville	112	865.2	169.8	48.5	646.9	108.5	35	196.7	147	129.5
318	Winston-Salem	91	853.5	116.3	73.0	664.1	85.7	134	94	225	90.7
	SDN 4	**397**	**831.2**	**122.2**	**59.1**	**649.8**	**99.1**	**324**	**116.2**	**721**	**106.8**
323	Jackson	107	704.1	57.8	56.6	589.6	94.6	109	127.8	216	111.4
322	Montgomery	401	585.0	61.4	57.8	465.9	93.6	253	117.1	654	102.7
355	San Juan	187	1176.2	147.3	40.9	988.1	132.0	87	129.5	274	131.2
317	St. Petersburg	310	773.5	201.0	59.4	513.1	125.4	205	156.9	515	137.9
	SDN 5	**1005**	**765.8**	**120.0**	**55.0**	**590.8**	**110.7**	**654**	**133**	**1,659**	**119.5**
328	Chicago	120	842.5	123.9	61.5	657.2	98.0	54	166.7	174	119.3
333	Des Moines	30	691.0	51.7	95.9	543.4	116.5	9	253.1	39	148.1
437	Fargo	9	509.9	69.0	82.2	358.7	108.3	5	112.6	14	109.9
334	Lincoln	51	799.3	86.6	68.0	644.6	139.3	31	104.6	82	126.2
330	Milwaukee	37	700.8	90.2	46.1	564.5	136.4	13	263.3	50	169.4
438	Sioux Falls	23	656.0	41.7	104.4	510.0	163.1	11	101.4	34	143.1
994	St. Louis Education RPI	4	442.3	97.5	39.5	305.3	24.0	1	26	5	24.4
331	St. Louis	125	812.9	94.4	57.1	661.4	110.2	64	128.1	189	116.2
335	St. Paul	21	863.2	48.8	114.8	699.7	153.1	28	125.5	49	134.8
452	Wichita	47	810.9	73.1	49.4	688.3	67.5	33	118.4	80	87.7
	SDN 6	**467**	**787.6**	**90.8**	**65.5**	**631.3**	**112.2**	**249**	**141.6**	**716**	**122.1**
362	Houston	151	729.7	99.1	45.4	585.3	96.4	112	106.3	263	99.9
350	Little Rock	123	598.4	67.9	59.7	470.8	106.5	80	157.6	203	126.6
351	Muskogee	133	855.8	93.3	78.4	684.1	93.9	62	131.8	195	106.0
993	Muskogee Education RI	9	471.2	94.0	107.1	270.1	113.8	1	21	10	104.5
321	New Orleans	175	654.7	75.3	52.5	526.9	97.4	106	110.3	281	102.3
349	Waco	211	1163.6	162.6	60.9	940.1	65.1	65	141	276	83.0
	SDN 7	**802**	**825.4**	**104.8**	**59.4**	**661.2**	**89.7**	**426**	**125.7**	**1,228**	**102.1**
340	Albuquerque	35	652.7	79.9	57.1	515.6	52.5	36	111.4	71	82.4
363	Anchorage	14	1016.1	162.4	67.6	786.2	86.4	6	75.5	20	83.2
347	Boise	30	547.0	29.2	36.7	481.1	69.1	19	60.1	49	65.6
442	Cheyenne	18	1011.8	65.7	23.2	922.9	67.2	8	68	26	67.5
339	Denver	33	910.9	87.1	45.7	778.1	83.8	27	160.6	60	118.4
436	Ft. Harrison	38	752.7	140.2	37.4	575.1	92.7	27	66.4	65	81.8
348	Portland	79	1047.3	182.0	67.9	797.4	83.7	39	89.5	118	85.6
341	Salt Lake City	18	566.6	38.9	49.4	478.2	41.8	17	70.3	35	55.5
346	Seattle	55	994.7	170.4	66.1	758.2	80.0	23	106.6	78	87.9
	SDN 8	**320**	**868.8**	**124.3**	**54.0**	**690.4**	**76.2**	**202**	**96.1**	**522**	**83.9**
459	Honolulu	21	974.9	133.5	37.2	804.1	132.9	12	104.7	33	122.6
344	Los Angeles	125	859.1	114.1	75.3	669.7	79.6	78	174.4	203	116.0
358	Manila	136	526.3	87.1	64.6	374.5	73.1	61	207.4	197	114.7
343	Oakland	42	1344.8	101.8	99.5	1143.5	86.2	36	179.3	78	129.2
345	Phoenix	134	1065.1	68.2	46.6	950.2	69.9	60	105.7	194	81.0
354	Reno	28	706.3	82.4	44.6	579.4	80.8	23	215.5	51	141.5
377	San Diego	49	1252.3	102.4	79.2	1070.7	74.8	15	85.3	64	77.3
	SDN 9	**535**	**896.8**	**92.8**	**64.6**	**739.4**	**77.8**	**285**	**163.3**	**820**	**107.5**
399	NAO Ft Harrison	22	425.0	132.5	65.0	227.6	122.0	7	161.1	29	131.4
	SDN R	**22**	**425.0**	**132.5**	**65.0**	**227.6**	**122.0**	**7**	**161.1**	**29**	**131.4**
Grand Totals		**4,927**						**3,032**		**7,959**	**1,145**
Weighted Averages			**810.0**	**106.3**	**59.1**	**644.6**	**102.1**		**132.2**		**113.5**

Mr. REYES. Nonetheless, I am encouraged by the efforts the VA is making to address the backlog. In particular, I am encouraged by the VA's efforts to work with their employees to develop performance measures which take into account the experience of the adjudicators and the complexity of the claims.

I urge the VA to measure productivity, not only by the number of the "end products" taken, but by the overall quality of the product, taking into account reversals and remands from the board and compliance with the legal requirement for expedited treatment of the remanded claims.

I further urge the VA to seriously consider the issues raised by many of the veterans' service organizations, which suggest that in some areas, productivity is being promoted at the expense of fairness and accuracy.

Secretary Cooper—and by the way, welcome, we appreciate you being here, and I am very familiar with the work that you have done, and deeply appreciative in your interest in serving our veterans.

Mr. COOPER. Thank you.

Mr. REYES. And I also know that you are not interested in sacrificing any of the VBA's efforts to improve quality in order to receive a reduction in the backlog.

However, it is critical that continued attention is paid to the product. Veterans deserve fairness and accuracy, as well as productivity. So I look forward to hearing as much of the testimony as I can.

Again, with your indulgence, Mr. Chairman, and the members here, I have got the Intelligence Committee that I must be present at. And I thank you for the opportunity to speak. I yield back.

Mr. SIMPSON. Thank you. I realize it is a busy time of year, and all of us have multiple places we have to be. Mrs. Davis, do you have an opening statement you would like to make?

OPENING STATEMENT OF HON. SUSAN A. DAVIS

Mrs. DAVIS. Well, thank you, Mr. Chairman and ranking member. I just want to echo those concerns, as well. From a district which has hundreds and thousands of veterans in San Diego, we certainly hear from a number of them. And I do appreciate the fact that we have an opportunity today to talk through the process itself.

I know that many people endure what seems like an endlessly long wait to have their claim processed. And in many cases, they are not happy. Everyone is not going to be happy all the time, but I think we want to certainly have the process as fair as possible.

I know you work very hard at that, and I express my concern that we have an awful lot of people who come to see us on a regular basis. Thank you, Mr. Chairman.

Mr. SIMPSON. Thank you. Before we go vote—which, unfortunately, happens in the middle of these things, also—I would like to introduce to our panel today Lt. Col. Anne Campbell who is with subcommittee as a Fellow. Fellow? She's a woman, she's not a fellow. She's a fellowette. (Laughter.)

Mr. SIMPSON. Col. Campbell, an Air Force Academy graduate, now heads up the American and Policy Studies Division at the

Academy. As much as I would like to read her long list of academic achievements, we would not have time to both vote, have the hearing, and other things, because it is very long, indeed.

I had the opportunity to go out to the Air Force Academy and teach some of the classes that she teaches, and I learned more than the students did, I'm afraid. She has those cadets very well trained, and they had some tough questions. So we welcome you to the committee, and look forward to working with you.

We were going to take a quick recess while Sylvester and I go vote—and Susan—to not adjourn. And we will be back in 10 minutes.

[Recess.]

Mr. SIMPSON. The hearing will be back in order. I appreciate your indulgence. We have got a little debate going on on the floor, and they will have a vote at some time today. We just don't know when. We thought it would be about a 10-minute vote, but it's going to be a little bit later than that, I guess.

I would like to ask each of our witnesses to limit their oral testimony to not more than 5 minutes. When the red light comes on, time is up. Your written testimony will appear in full in the record.

Our first panel today is the Honorable Daniel Cooper, the Under Secretary of Benefits, Veterans Benefits Administration. He is accompanied by Mr. Robert Epley, the Associate Deputy Under Secretary for Policy and Program Management, Veterans Benefits Administration; the Honorable Dane Clark, Chairman, Board of Veterans' Appeals; Ms. Laura Miller, the Assistant Deputy Under Secretary for Veterans Health Administration; Mr. John Thompson, the Deputy General Counsel, Department of Veterans Affairs Office of General Counsel; and Mr. Jack Ross, Director of the Cleveland Regional Office of the Department of Veterans Affairs.

Mr. Cooper, welcome back to the committee.

STATEMENT OF DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, VETERANS BENEFITS ADMINISTRATION; ACCOMPANIED BY ROBERT EPLEY, ASSOCIATE DEPUTY UNDER SECRETARY FOR POLICY AND PROGRAM MANAGEMENT, VETERANS BENEFITS ADMINISTRATION; E. DANE CLARK, CHAIRMAN, BOARD OF VETERANS' APPEALS; LAURA MILLER, ASSISTANT DEPUTY UNDER SECRETARY FOR HEALTH, VETERANS HEALTH ADMINISTRATION; JOHN H. THOMPSON, DEPUTY GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS; AND JACK ROSS, DIRECTOR, CLEVELAND REGIONAL OFFICE, DEPARTMENT OF VETERANS AFFAIRS

Mr. COOPER. Thank you, Mr. Chairman. I really believe the rest of my group here does not have an opening statement, so I may take 5½ minutes, if that's okay.

Mr. SIMPSON. That would be okay.

Mr. COOPER. I appreciate the chance to come over and speak before you today. I will appreciate my written statement being entered into the record.

On 1 April, I was sworn in, as you know, so I am now reporting at the end of my 67th day in the job.

As I have stated earlier, there are probably several ways to solve the backlog problem, but the Task Force Report that we wrote is

the path that we are following. People can look at that and see exactly where we are trying to go.

We are trying to implement all the recommendations that have been approved by the Secretary. We have chosen to act prudently but expeditiously. If there are recommendations that should take a little bit longer, we have had extra studies done to make sure we do it properly; and those we can implement immediately, we have.

The results to date, in my mind, have been encouraging. In the last 3 months, every leading indicator has trended in the right direction. We have dramatically increased production. Every regional office has increased its output over the last year's output.

We have reduced the oldest claims, as well as the appeals and remands. Each is still much too high, and we agree. But the trends are the in the right direction, and we are working very hard.

We are measuring quality at every station this year, rather than at the level that we have done in previous years. When we recently became aware of a denigration in quality due to the Veterans Claims Assistance Act (VCAA), the duty to assist, we immediately went out to the stations, told them we wanted to have them do re-training, and report back to us. They have, in fact, completed the re-training. The indicators I have are that the quality is continuing the improve.

I would like to take a minute, if I may, to correct an error which has been referred to, and which appeared in the Associated Press last week. It was from an interview with Mr. Principi.

The error stems from the basic problem of quoting numbers in this business. I would say to you today, there are probably two people in the room who actually understand every single number we have. One is my friend, Mr. Epley, beside me, and one is Ms. McCarthy, who is up there beside you. But they are probably the two that really understand the numbers. They are very difficult, and I occasionally have to have people come back in and explain them.

The fact is, the Secretary understood what he said, and he had proper caveats. I have seen the transcript. And the fact is, they were talking about two separate numbers, one the total number of compensation and pension end products or the total workload on hand, less appeals; and the other was the number of claims that we had pending disability rating decisions.

Several months ago, total end products less appeals were in exceded 600,000. On June 3, the number was 503,000-plus. So we have, in fact, decreased that number. For the rating "end products," the total was, at one point, in excess of 430,000. That number on 3 June was 389,000.

Now, I would point out to you that Judge Brandeis at one point said, "Every figure we have set down with delusive exactness is speculative." Further, I would like to point out that, we have had the highest production that VBA has had in years, each of the last 3 months.

The regional offices have produced about 70,000 end products each of the last 3 months, and that's 50 to 100 percent greater productivity than they had the previous year.

Many specific actions are now underway. Some were started immediately after the task force report came out, and some have been put in over the last several months.

As you know, the Secretary established a Tiger Team in Cleveland to attack the backlog of claims of veterans who were over 70 years old, and whose claims are over a year old. That Tiger Team is headed by Jack Ross who is here, and able to answer any questions you may have.

One of the things he has pointed out to me is the number of remands that had been around since before October of 2000 has been quoted as 13,000 in February of this year. The number today is 10,160. What I am saying is we are working across the board in everything we're doing, and the remands have come down as a result.

We have worked with the national personal records center in St. Louis, particularly through the Tiger Team. And the turnaround time has decreased dramatically for the Tiger Team. We now have to make sure it continues to decrease across the board. It seems to be happening. The way to do it is there.

The pension maintenance has been centralized in three offices, and they have done extremely well. The Board of Veterans' Appeals has been tasked to develop additional evidence. They sent a special team up to work with Jack. They worked on 3,000 statements of the case. They also sent special teams out to regional offices to expedite appeals. They have done a great deal in trying to expedite our turnaround. Judge Clark is here, if anyone has questions for the BVA.

We have commenced triage at each RO, which means that any claim that comes in, any paper that comes in, the triage team looks at it. Those claims that can be taken care of immediately are given to one side of the office, those that will take a long time are given to the other. If there are claims that can be taken care of expeditiously, that is done. Triage is working, and we think is working quite well.

We have prototyped specialized teams at four different regional offices. One of the main problems that we had was that we had 57 offices that operated 57 different ways.

On 1 July we will start to have every office organized in these specialized teams, so that at the end of September, we expect every regional office to be organized in the same way. This will increase the uniformity and consistency of claims processing.

We have set up performance standards for all of our directors. We have looked at what they have done, we have looked at their numbers. Where numbers are bad, we have had those directors report what they expect to do to get better, or submit what we call wellness programs.

Four of our regional directors in the last couple of months have gotten all-expense-paid trips to Washington, DC to meet specifically with me and my Deputy to discuss what they are doing and how they are going to improve.

We have established four Area Directors that we will help us resolve span of control problem that the Task Force identified. We have changed our resource allocation process to allocate resources to regional offices by their productivity and by their quality. If we

have to take work from other regional offices to get it done better and faster, we have done that. We are trying to expedite some of the long-pending.

We have also used overtime specifically for the appeal problem, and this weekend we will again use overtime specifically for that reason.

VHA and VBA are working closely to look at exams. We have a special office in Nashville that looked at the major exam problems. They have started a re-training of some of the people doing physical exams.

There will be a memo that Dr. Roswell and I will sign, discussing some of the things that we are going to do. Ms. Laura Miller is here from VHA, if there are any questions for her.

And finally, the Benefits Delivery Network (BDN) has been upgraded. One of the main concerns we had in our Task Force was it was decreasing in viability. As a result, we have put in resources, both material and human. We have increased the number of people and we have a new person in charge at the Hines BDC. So we feel we have made real progress in ensuring the BDN will be around properly for whatever time is necessary until we get into VETSNET.

VETSNET is the program of the future as far as the paying and the awards—we feel that we're doing the right thing in getting it on track. And you may remember from my report, we had some concern about that.

Now, I want to talk for a few minutes about the other subject in which you are very interested. One important area addressed in the Task Force Report is the partnership with VSOs. There are some things that, since 1998, have been done. The primary one being "Training, Responsibility, Involvement and Preparation of Claims," commonly called TRIP. This is the program in which we work with the VSOs.

We have training programs for TRIP I and II. We have administered TRIP I to 1,400 VSO representatives and 700 have done TRIP II. The program allows the VSOs to develop, to a great extent, the claims and bring them to us in such a state that we should be able to process them fairly rapidly.

Now, I can't define for you what fairly rapidly means, but it seems to me that we can work together using TRIP, and make great progress.

All the regional offices have provided the level I and level II training. We're now looking at providing remote access to VBA applications for VSOs who have completed that TRIP training. That capability is being tested right now.

Looking to the future, we see a couple of problems. One of them is getting electronic access to older medical records. We do not have that capability right now but we are working with the medical people on that. We are looking to make sure that the VSOs, and ourselves, are developing claims better. It's an integrative process that we need to look at together.

Finally, Mr. Chairman, I say to you this is not a success story yet. We will always experience setbacks, and maybe an occasional misstep. But my honest feeling is that we have made strides that no critic or proponent envisioned 12 months ago. I hope that an oc-

casional error or mistake will not cause exaggerated statements and accusations to detract from our common goal of doing everything possible for the veterans.

Thank you, and we will be glad to answer any questions you may have.

[The prepared statement of Admiral Cooper, with attachment, appears on p. 63.]

Mr. SIMPSON. Thank you, Admiral Cooper. I appreciate your being here today. Let me offer just a few brief summary comments about the subcommittee's April 26 field hearing held in El Paso on claims adjudication, as they are germane to today's topic.

I certainly expected that when Mr. Reyes suggested a field hearing in his district, we would experience fine hospitality and fine cuisine, and nice people, and indeed, that came to be the case. It was the first trip I have ever made to El Paso, and I enjoyed it very much.

The trip also met several of my expectations regarding the pending workload Congress largely created by enacting the new duty to assist legislation. The subcommittee learned a good deal from the VA, the labor union, and the GAO witnesses regarding very earnest concerns which the veterans testifying also brought to our attention.

For example, timeliness is part of quality, in my opinion. I strongly support the Secretary's leadership in setting performance goals. Setting goals without a deadline, in my opinion, isn't a goal, it's just a wish.

In this regard, the GAO witness, Ms. Bascetta, testified that—and I quote—"I think the compelling concerns about timeliness are valid and important, and cannot be overlooked, and that holding people accountable for processing these claims much faster are very important."

Further, Ms. Bascetta testified—and I quote—"I am not convinced that the VBA is continuing to place a high priority of production and timeliness over quality."

Mr. Epley, on behalf of the VA, testified that—and I quote again—"We are increasing the number of people dedicated to quality insurance, we are increasing our case sampling on the quality assurance processing around the country, and refining our methodology to clearly delineate benefits entitlement errors."

With respect to the Secretary asking rating specialists to adjudicate 3.6 claims per day, we learned from Ms. Cook testifying for the labor union that—and I quote—"3.6 is only for rating specialists who have more than 2 years of experience." The 3.6 claims per day does not apply to rating specialists in training status. The Under Secretary has given regional offices the authority to set their own productivity standards for such employees.

Further, let me offer a brief comment with respect to the performance standards for claims processing, in general, at regional offices. Mr. Walcoff, of the VA, testified that—and I quote again—"Twenty-three stations," meaning regional offices, "had absolutely no floors for the rating specialists," which I am told means minimum performance standards. "The Secretary felt that was unacceptable, and I happen to agree."

Further, the subcommittee heard a complaint from one of the witnesses about rating specialists being asked to work overtime with overtime pay. The VA witness testified that regional offices do not ask employees to work overtime on consecutive weeks, and that sometimes it's only once a month so as to keep employees fresh. Temporary overtime is not new to reduce pending workloads. In 1994, Secretary Brown prudently used $16 million in overtime for this purpose.

Lastly, Admiral Cooper, you may know that I was a practicing dentist. With respect to the VA claims workload, my personal opinion is that the Congress often addresses the symptoms of the issue, rather than the root cause of the problem, so to speak.

I refer to the root cause, though I suspect our veterans at times feel like it is a root canal, which is always a pleasant procedure. That's a joke.

I asked Ms. Bascetta of the GAO for her insight regarding root causes. I asked whether the GAO's most recent report on the Secretary's initiative to reduce the claims backlog addressed the operational aspect of the VA's benefit system or congressional policies that drive the system. Ms. Bascetta testified that it was the former.

Noted Ms. Bascetta, and I quote, "Because of the way the system is designed," meaning by Congress, "there are going to be some inherent limitations on how quickly claims can be processed, particularly with the potential for increases in receipts, meaning additional claims."

The 1956 Omar Bradley Commission, and more recently, the GAO, the VA Inspector General, the Claims Adjudication Commission, the National Academy of Public Administration, and the bipartisan Transition Commission, all recommended Congress examine the system it has put VA in charge of, and I think we need to do that, as I said in my opening statement.

Lastly, let me ask you a question. There has been express concern that the administration is placing quantity over quality. Is that your opinion?

Mr. COOPER. No, sir.

Mr. SIMPSON. Do you think that we are still maintaining the quality that we expect from the VA, and that our veterans expect?

Mr. COOPER. I would say to you that we are watching quality very carefully. I have not seen records of quality being measured until about 4 years ago, and I think Mr. Thompson set up quite a good system of how to measure quality.

The quality indicators that I have seen in the last month have indicated that every year we have improved. This year we saw, as I mentioned earlier, a degradation in the quality, primarily because of actions taken due to duty to assist, and we immediately took action to bring that to everybody's attention. We had the stations do re-training and tell us when they had it completed. And having done that, quality is slowly coming up.

And so I would say to you we certainly do not intend to place quantity over quality. Quality is a part of the rating factors for directors. We are watching it very carefully, and although none of us can control exactly what will happen, I can guarantee you that we are as focused on quality as we are on production.

Mr. SIMPSON. I appreciate that. And as I mentioned in my opening statement, we will have written questions—we will keep the record open, and we will have written questions that we would like you to answer.

Ms. Brown?

Ms. BROWN. Thank you, Mr. Chairman. First of all, I would like to submit a letter to the Secretary from Congressman Evans pertaining to the remand, and I think this letter was sent May 24, pertaining to almost 14,000 remands.

Mr. SIMPSON. Without objection, it will be in the record.

(The provided material follows:)

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
May 24, 2002

Hon. ANTHONY J. PRINCIPI,
Secretary, Department of Veterans Affairs,
Washington, DC

DEAR MR. SECRETARY: Thank you for providing me the information I requested concerning the 13,805 claims for benefits which had been remanded by the Board of Veterans' Appeals (BVA) prior to October 1, 2000, and were still pending a decision as of February 27, 2002. As you know, Public Law 103–446 requires that remanded claims be given expedited consideration. Based on the information you've provided, I am forced to conclude the Department is willfully ignoring the law requiring expedited treatment for remanded claims or is incapable of complying with the law. Neither explanation is satisfactory.

I know that I need not remind you Mr. Secretary that your Department is not dealing with claims, but with veterans. Our Nation's veterans who have filed claims for benefits resulting from service-connected disabilities deserve better. All 13,805 claims remanded prior to October 1, 2000, have been in remand status for at least 17 months. One remand is dated November 3, 1993, fast approaching nine years ago. As of February 27, 2002, more than 1,500 remands had been pending for more than four years. Mr. Secretary, the failure of the Department to provide expedited treatment for remanded claims is not acceptable to our veterans, the Congress, or to you, I'm certain.

I recognize and appreciate your desire and efforts to improve the timeliness of original claims adjudication. Nonetheless, administrative efforts to obtain productivity on original claims must not be accomplished by ignoring VA's obligation to comply with the expedited consideration for remanded claims mandated by law. Mr. Secretary, as you know, many veterans are critical about the lack of timeliness in claims adjudication by the Department. While some of these veterans have had an original claim pending for several months, undoubtedly many more are veterans whose claims have been pending in the system for year after year. The length of time these 13,805 remanded claims have been in pending status is unacceptable.

As our government remembers its fallen heroes this Memorial Day, we must not only tell our Nation's veterans that we honor their service and sacrifice, we must show them that we do so by our deeds. In that light, I am asking you to provide me with information regarding VA's monitoring of "expedited" consideration. Specifically, I request that you provide me the following information:

1. all, currently in effect, timetables which have been established for monitoring compliance with the expedited consideration mandate;
2. all manual instructions, directives or other guidance which have been provided to the regional offices regarding the requirement for providing expedited consideration;
3. information concerning the person or persons responsible at each regional office for assuring compliance with the expedited consideration requirement;
4. any special procedures instituted to implement the legal requirement; and,
5. information concerning the methods used by the Veterans Benefits Administration to assure compliance with the expedited consideration requirement and the effectiveness of such methods.

I am concerned that as a result of their efforts to meet production quotas for new claims, regional offices may be ignoring their responsibility to provide expedited con-

sideration of these pending remanded claims. Veterans should not be asked to wait years for compliance with remands from the U.S. Court of Appeals for Veterans Claims or for expedited treatment of remands from the Board of Veterans' Appeals.

I would appreciate you providing me a response to this letter no later than June 20, 2002. If you have any questions about this request, please contact Mary Ellen McCarthy, Democratic Staff Director, Subcommittee on Benefits at 202–225–9756.

Sincerely,

LANE EVANS,
Ranking Democratic Member

(Subsequently the Department of Veterans Affairs provided the following response letter:)

DEPARTMENT OF VETERANS AFFAIRS
THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, June 26, 2002

Hon. LANE EVANS,
Ranking Democratic Member, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN EVANS: I am writing in response to your letter expressing concern about the Department of Veterans Affairs (VA) handling of appeals remanded by the Board of Veterans' Appeals (BVA). Appeals are a component of VA's core responsibility, and I share your concern over this issue. The enclosed fact sheet responds directly to your request for information and provides detailed information about VA's efforts to comply with the provisions of Public Law 103–446, which mandates the expeditious handling of remands.

In recent months, VA has successfully reduced the number of pending appeals remanded by BVA. From February 27, 2002, to June 18, 2002, the number of pending appeals that had been remanded by BVA prior to October 1, 2000, dropped from 13,805 to 10,997, a decrease of 20 percent. I recognize that it is official for VA to reduce the number of remanded appeals. Additional directives were recently issued to regional offices to support this effort. Additionally, initiatives recommended by the Claims Processing Task Force are being implemented that will further improve our efforts.

The Department is committed to addressing the claims backlog. I look forward to working with you to provide the best service possible to veterans and their dependents.

Sincerely yours,

ANTHONY J. PRINCIPI

Enclosures.

Fact Sheet Regarding the Expeditious Handling of BVA Remands, In Accordance with Public Law 103-446

Requests 1 and 2: All currently in effect timetables which have been established for monitoring compliance with the expedited consideration mandate. All manual instructions, directives, or other guidance which have been provided to regional offices regarding the requirement for providing expedited consideration.

Response: Public Law 103-446 requires expedited treatment of remanded appeals. VBA manual instructions that support this requirement (M21-1, Part II, Paragraphs 7.02 and 7.03 and M21-1, Part IV, Paragraphs 8.43 and 38.02) are enclosed.

Also enclosed are copies of additional directives which were recently provided to regional offices related to reducing appeals, specifically focusing on BVA remands.

> The Office of Field Operations (OFO) issued OFO Letter 201-02-38 dated February 20, 2002, which established monthly production targets for appellate actions. It doubled the number of certified appeals and cases previously remanded by BVA, that must be sent to BVA.
>
> The Director of Compensation & Pension (C&P) Service issued C&P Fast Letter 02-09 dated April 9, 2002, that stressed the importance of appeals workload management and the expeditious processing of appeals. Regional offices were advised that they must devote sufficient staff to the appellate workload and pay greater attention to the individual processing stages for appeals. Service Center Management was also instructed to conduct a Systematic Analysis of Operations pertaining to appeals processing.

Request 3: Information concerning the person or persons responsible at each regional office for assuring compliance with the expedited consideration requirement.

Response: All regional office employees involved with remanded appeals are responsible for their timely processing. In particular, service center managers and directors are responsible for ensuring the expeditious processing of remanded appeals. To assist with appeals management, all regional offices are required to have a Veterans Appeals Control and Locator System (VACOLS) coordinator. A copy of Circular 20-99-5, which provides the names of the VACOLS coordinators at each facility, is enclosed. C&P Service and the Office of Field Operations are responsible for monitoring regional offices' effectiveness.

Request 4: Any special procedures instituted to implement the legal requirement.

Response: In response to recommendations by the VA Claims Processing Task Force, BVA and VBA have collaborated to reduce the pending appeals workload. BVA attorneys visited many regional offices and worked on 3,000 appeals remanded prior to 1998. In addition, since February 2002, BVA attorneys reviewed and provided development instructions on 1,000 cases through the "mail-in-program" (regional offices send their oldest cases to BVA).

Other initiatives to improve the timeliness of appeals processing are currently underway. In February 2002, BVA began performing the necessary additional development on appellants' claims, rather than remanding the claims to regional offices for development (Task Force recommendation S-7). VBA established an awards processing unit collocated within BVA to support this effort. The Claims Processing Improvement Model (Task Force recommendation S-8) will result in the establishment of an appeals team at each regional office. This will focus greater attention on the timely processing of appeals.

Request 5: Information concerning the methods used by the Veterans' Benefits Administration to assure compliance with the expedited consideration requirement and the effectiveness of such methods.

Response: Regional offices must assess their appeals workload and appeals processing timeliness using the COIN DOOR reports (which show the number of completed appeals under EPs 070 and 172) and the VACOLS reports (which show the age and amount of the pending appeals workload). C&P Service and the Office of Field Operations monitor these indicators on a monthly basis. Stations are expected to meet the production targets for appellate actions established in OFO letter 201-02-38. Overtime has been targeted for this purpose and is being made available one weekend per month for those stations successful in achieving their targets.

To help ensure compliance with the expedited consideration mandate, timely processing of remanded appeals has been made part of the Directors' Performance Standards. Station site visits conducted by C&P Service also help to enforce this mandate.

Full implementation of the Claims Processing Improvement Model, which all regional offices must complete by September 30, 2002, will increase the effectiveness of all current directives by requiring the establishment of a team devoted to appeals processing at all regional offices.

Veterans Benefits Administration (21)
June 2002

7.02 THE VACOLS COORDINATOR

a. Each field station will designate in writing a VACOLS coordinator. The VACOLS coordinator will be responsible for ensuring that VACOLS data are current, for obtaining and distributing the "Queries" and "Suspense Reports" lists, and for maintaining the diary lists and diary reports.

b. VACOLS screen monthly listings will be maintained by Veterans Service Center management. Reviews must ensure accuracy, timeliness, and overall appeal responsiveness. Annotate VACOLS listings to confirm monthly review was done. The coordinator must ensure that appeal cases are being controlled and reviewed as necessary. Responsibilities for reviewing the listings and identifying problem cases should be specified in the division WIPP User Plan. (See M21-4, chapter 6.)

7.03 REPORTS

a. The COIN DOOR reports 1001, 1002, and 1003 show the number of completed appeals under EPs 070 and 172. VACOLS Reports show the pending appeal workload, and the age of the pending appeal workload. The Appeal Resolution Time Report shows average time to resolve an appeal (failure to respond, grant, withdrawal, death, or BVA final decision).

b. VACOLS reports show pending and disposed workload counts as well as processing days for pending and disposed appeals. Statistical information is available for multiple review levels (i.e., regional offices, SDNs, and national).

c. The regional offices must assess their appeals workload and appeals processing timeliness using the "Query" and "Suspense Reports" lists as well as the COIN DOOR and VACOLS reports. C&P Service will monitor appeals workload and timeliness of the various appeal stages using the monthly COIN DOOR and VACOLS reports.

38.02 Expeditious Handling of Court Cases

a. Public Law 103-446 (Veterans' Benefits Improvement Act of 1994) requires special attention and expeditious handling of remanded appeals. Adjudication management must ensure that all remanded cases are properly handled upon receipt in the regional office.

8.43 Remands

a. **General.** Public Law 103-446, Veterans' Benefits Improvement Act of 1994, requires special attention for and expeditious handling of remanded appeals. Station management must ensure that all BVA remanded appeals are properly handled upon receipt in the regional office.

b. **Priority Processing of Remanded Appeals.** The VACOLS coordinator (Part II, Chapter 7) and VSC management are responsible for close control and timely processing of BVA remanded appeals. Remands are amongst the oldest cases and must be worked on a priority basis. Upon receipt of the claims folder, immediately refer the case to the rating or authorization activity, as appropriate, for necessary development or other action required. Unless otherwise indicated by the remand decision, all development actions must be immediately taken upon receipt of the claims folder in the regional office. See Part II, Chapter 7 and Part IV, Chapter 38.

DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington DC 20420

February 20, 2002

OFO Letter 201-02-38

Director (00)
VA Regional Offices and Centers

Subject: FY 2002 Production Targets for Appellate Actions

OFO Letter 201-02-29 established rating end product production targets and stated that separate targets would be set for appellate actions. This letter establishes those targets and addresses issues related to them.

The reasons for the high target level

Last summer, we asked each station to commit to providing BVA with a specific number of appeals each month. That figure excluded remands. We have been monitoring each station's fulfillment of that commitment. The January 2002 overtime for appellate work was given to those stations that had met their December 2001 commitment.

VBA has been working with BVA in developing ways to improve how VA processes appeals. While these processes are changing, we must continue to make inroads into the growing backlog of appellate actions. VBA has committed to providing BVA with 3000 cases per month. Since part of that work will be done by BVA staff in the field, at least in the short term, VBA must send to BVA 2500 cases per month coming from certified appeals and pending remands. This number of cases effectively doubles what we have been sending to BVA monthly.

How the station's targets were developed

The C&P Service has provided to OFO data available in VACOLS. Those data include the number of pending Form 9s as well as the number of pending remands. 51.8 percent of the 66,291 pending actions were pending Form 9s. Consequently, the number of certified appeals to be forwarded is 1294 per month. The number of remands to be forwarded is 1206.

We then calculated each station's percentage of the total number of pending Form 9s and pending remands. Each station's percentage share of cases became the initial targets. These targets, divided between pending Form 9s and pending remands, reflect the nature of each station's pending appellate work as reflected in VACOLS.

Director (00)
VA Regional Offices and Centers

Our experience with establishing the rating production targets has shown us that using a strict mathematical model to establish station targets that meet a predetermined national target can yield unintended consequences. We have taken the targets we set mathematically and have adjusted them based on our best assessment of local factors. However, we still need to send BVA 2500 cases each month.

The use of overtime to meet targets

Each station is expected to meet the targets established by this letter. To help stations, overtime will be targeted for this purpose. You will be notified when this overtime is available, but generally, overtime for this purpose will be made available one weekend per month. As is VBA's current practice, overtime will be given to those stations that are most successful in achieving these targets.

The targets will be revisited

We recognize that changes are still being made to how BVA will be processing cases. This will be especially true for how remands are being handled. We will revisit these targets quarterly. While the total number of cases to be done nationally will not be reduced, the mix of cases and each station's targets may be adjusted.

These targets are significantly higher than the commitment targets we have been using. They present another challenge to stations, especially when combined with the rating production targets. We continue to believe that VBA will make significant progress in achieving these targets, especially as our staff gains experience.

Questions about these targets should be referred to your station analyst.

/s/
James A. Whitson
Associate Deputy Under Secretary
for Operations (East)

/s/
Michael Walcoff
Associate Deputy Under Secretary
for Operations (West)

Enclosure

Appeals Pending

As of ECM January 2002

Num	Stations	Form 9 Pending # of Cases	Remands Pending # of Cases	Totals # of Cases	PERCENT OF PENDING	Form 9 as Percent of Total	Remand as Percent of Total	Target: Certified Case Target	Target: Remand Target	Target: Combined Target
	Nationwide	**34,328**	**31,971**	**66,299**	**100.00%**	**51.8%**	**48.2%**	**1294**	**1206**	**2500**
306	St. Petersburg	1,840	2,889	4,729	7.1%	38.9%	61.1%	69	109	178
349	New York	2,992	702	3,694	5.6%	81.0%	19.0%	113	26	139
317	Waco	2,635	927	3,562	5.4%	74.0%	26.0%	99	35	134
355	Montgomery	1,227	1,927	3,154	4.8%	38.9%	61.1%	46	73	119
343	San Juan	1,462	1,440	2,902	4.4%	50.4%	49.6%	55	54	109
309	Atlanta	1,185	1,323	2,508	3.8%	47.2%	52.8%	45	50	95
344	Los Angeles	1,121	1,319	2,440	3.7%	45.9%	54.1%	42	50	92
316	Oakland	1,636	538	2,174	3.3%	75.3%	24.7%	62	20	82
331	Columbia	821	1,280	2,101	3.2%	39.1%	60.9%	31	48	79
320	Cleveland	873	1,077	1,950	2.9%	44.8%	55.2%	33	41	74
319	Nashville	1,022	833	1,855	2.8%	55.1%	44.9%	39	31	70
318	Little Rock	800	1,012	1,812	2.7%	44.2%	55.8%	30	38	68
350	Newark	1,142	620	1,762	2.7%	64.8%	35.2%	43	23	66
307	St. Louis	864	892	1,756	2.6%	49.2%	50.8%	33	34	67
314	Winston-Salem	672	1,068	1,740	2.6%	38.6%	61.4%	25	40	65
325	Detroit	871	729	1,600	2.4%	54.4%	45.6%	33	27	60
327	Roanoke	556	939	1,495	2.3%	37.2%	62.8%	21	35	56
346	Buffalo	603	875	1,478	2.2%	40.8%	59.2%	23	33	56
326	New Orleans	602	857	1,459	2.2%	41.3%	58.7%	23	32	55
346	Phoenix	673	537	1,210	1.8%	55.6%	44.4%	25	20	45
304	Portland	723	462	1,185	1.8%	61.0%	39.0%	27	17	44
339	Houston	611	549	1,160	1.7%	52.7%	47.3%	23	21	44
377	Boston	466	674	1,140	1.7%	40.9%	59.1%	18	25	43
310	Philadelphia	499	573	1,072	1.6%	46.5%	53.5%	19	22	41
308	Chicago	504	560	1,064	1.6%	47.4%	52.6%	19	21	40
323	Louisville	526	486	1,012	1.5%	52.0%	48.0%	20	18	38
301	Denver	545	443	988	1.5%	55.2%	44.8%	21	17	38
345	Pittsburgh	273	653	926	1.4%	29.5%	70.5%	10	25	35
315	Jackson	364	545	909	1.4%	40.0%	60.0%	14	21	35
354	Seattle	585	261	846	1.3%	69.1%	30.9%	22	10	32
330	Indianapolis	470	370	840	1.3%	56.0%	44.0%	18	14	32
333	Hartford	379	339	718	1.1%	52.8%	47.2%	14	13	27
321	Huntington	261	436	697	1.1%	37.4%	62.6%	10	16	26
372	Muskogee	252	438	690	1.0%	36.5%	63.5%	10	17	27
340	San Diego	393	225	618	0.9%	63.6%	36.4%	15	8	23
432	Manila	304	269	573	0.9%	53.1%	46.9%	11	10	21
311	Reno	299	267	566	0.9%	52.8%	47.2%	11	10	21
313	Milwaukee	403	157	560	0.8%	72.0%	28.0%	15	6	21
436	Lincoln	231	322	553	0.8%	41.8%	58.2%	9	12	21
334	Providence	433	104	537	0.8%	80.6%	19.4%	16	4	20
351	Wichita	197	336	533	0.8%	37.0%	63.0%	7	13	20
460	Baltimore	174	322	496	0.7%	35.1%	64.9%	7	12	19
329	Washington	275	196	471	0.7%	58.4%	41.6%	10	7	17
459	Des Moines	283	120	403	0.6%	70.2%	29.8%	11	5	16
328	Albuquerque	218	167	385	0.6%	56.6%	43.4%	8	6	14
347	Ft. Harrison	211	128	339	0.5%	62.2%	37.8%	8	5	13
373	Boise	174	123	297	0.4%	58.6%	41.4%	7	5	12
363	St. Paul	134	110	244	0.4%	54.9%	45.1%	5	4	9
335	Wilmington	102	107	209	0.3%	48.8%	51.2%	4	4	8
341	Manchester	124	84	208	0.3%	59.6%	40.4%	5	3	8
437	Honolulu	93	96	189	0.3%	49.2%	50.8%	4	4	8
402	Togus	39	111	150	0.2%	26.0%	74.0%	1	4	5
438	Salt Lake City	86	58	144	0.2%	59.7%	40.3%	3	2	5
405	Anchorage	62	37	99	0.1%	62.6%	37.4%	2	1	3
322	Sioux Falls	38	52	90	0.1%	42.2%	57.8%	1	2	3
362	Fargo	34	30	64	0.1%	53.1%	46.9%	1	1	2
358	White River Jct.	27	23	50	0.1%	54.0%	46.0%	1	1	2
				0	0.0%					

Data Source: VACOLS Appeals Pending.xls, excluding RO data.

April 9, 2002

Director (00/21)
All VBA Regional Offices and Centers

214
Fast Letter 02-09

SUBJ: Appeals Workload Management

Historically, BVA has been able to process approximately 3,000 cases per month. Currently, the Service Centers have been sending an average of only 1,329 cases per month to BVA. There are 32,000 remands and 34,000 Substantive Appeals (Form 9) pending at the Service Centers, the majority over one year old.

BVA Is Assisting our Efforts to Improve Appeal Processing.

- On February 25, 2002, in most cases, BVA began developing for missing or needed evidence rather than remanding the appeal back to a regional office.
- BVA will continue to send teams of BVA attorneys to targeted Service Centers to assist in appellate workload review.
- C&P Service will staff a small unit located at BVA. This unit will process ratings and awards for appeals when BVA makes a partial grant, but defers action on other issues requiring additional evidence. This will ensure that the appellant receives prompt award of benefits due, but allows BVA to maintain jurisdiction of the appeal.

Note: The BVA Development Team has been assigned station number **397**. BVA will COVER files as received at station 397. BVA will request examinations using this station number in CAPRI, and will send claims folders (in conjunction with exam requests) to VA medical facilities using station number **397**. Please advise all Regional Office employees to be alert to this change, and, if any claims folders or medical evidence intended for BVA is mistakenly returned to the Service Center, it should be immediately forwarded to BVA.

Service Centers Must Assist by Managing Their Appeals Workload.

- Service Centers must manage their appeals workload so that cases may be expeditiously transferred to BVA.
- Although BVA will complete development in most cases, there will be some appeals still remanded for due process or to cure defects (e.g., Travel Board

or DRO hearing requests). Also, it remains incumbent on Service Center personnel to make reasonable efforts to complete all indicated development prior to sending or returning appeals to BVA. If an appeal is poorly developed, or there is obvious oversight, the case will be remanded.

- In preparation for transferring cases to BVA in an orderly manner, Service Center management must undertake a systematic review of all pending appeals which are in Form 9 or Remand status.

- Any cases which are ready for BVA consideration should be certified to BVA immediately.

- Any cases not ready are to be reviewed to ensure proper status is shown in VACOLS, all necessary development is being undertaken, and that any duplicate or erroneous appeal records are deleted or corrected. Any properly pending appeal should have at least one suspense diary in place in VACOLS. This review should be completed NLT July 1, 2002.

Other Initiatives/Projects to Address the Pending Appeals Workload.

- The Office of Field Operations, in coordination with the C&P Service, has established monthly targets for the number of cases to be sent to BVA by each Service Center.

- Greater attention must be paid to the individual processing stages for appeals. Average days are measured from date of receipt of NOD, date of receipt of Form 9, and date of BVA Remand. The average days pending must be reduced as follows to return to levels existing at the end of FY 00:

	CURRENTLY	TARGET FY02
Notices of Disagreement	240	168
Form 9's	898	652
Remands	571	486

- To ensure the expeditious transfer of files to BVA and reduction in processing time, Service Centers must devote sufficient FTE to the appellate workload. The enclosed spreadsheet details the number of FTE each office assigned to appeals work during FY 00. These FTE calculations are based on the number of standard man-hours produced in FY 00 when processing appeal actions during that year. Service Center Management may find this useful in determining how current FTE may be apportioned to meet FY 02 goals.

- During, or at the conclusion of the above appeal review process (i.e., NLT 7/15/02), Service Center management should conduct a Systematic Analysis of Operations (SAO) pertaining to appeals processing. Attached are examples of VACOLS Users' Plan, and format for SAO on appeals.

Any questions regarding the content of this letter should also be directed to the person named in the Calendar page for this date. See http://vbaw.vba.va.gov/bl/21/calendar/index.htm.

This letter self rescinds May 1, 2003.

Ronald J. Henke, Director
Compensation and Pension Service

Attachments

APPEALS WORKLOAD MANAGEMENT

1. CREATE VACOLS APPEAL RECORD WITHIN 7 DAYS OF RECEIPT OF NOTICE OF DISAGREEMENT. ESTABLISH INITIAL VACOLS DIARY SUSPENSE WITHIN 7 DAYS OF RECEIPT OF NOTICE OFDISAGREEMENT.

2. UPDATE VACOLS APPEALS RECORD WITHIN 7 DAYS OF RECEIPT OF SUBSTANTIVE APPEAL (FORM 9). ESTABLISH VACOLS DIARY SUSPENSE WITHIN 7 DAYS OF RECEIPT OF FORM 9.

3. REVIEW VACOLS' TRAVEL BOARD REQUEST LIST MONTHLY. ANY CASES NOT READY FOR TRAVEL BOARD, ENSURE VALID CURRENT SUSPENSE DIARY IS IN PLACE.

4. REVIEW PENDING REMAND LIST MONTHLY. PARTICULAR ATTENTION TO REMANDS PENDING OVER ONE YEAR. ENSURE VALID CURRENT SUSPENSE DIARY IS IN PLACE.

5. REVIEW COVA REMAND LIST MONTHLY. PARTICULAR ATTENTION TO COVA REMANDS PENDING OVER ONE YEAR. ENSURE VALID CURRENT SUSPENSE DIARY IS IN PLACE.

6. REVIEW MVR NOTICE OF DEATH LIST MONTHLY. CLOSE OUT APPEALS IF APPROPRIATE, DELETE NOTICE FROM LIST IF APPELLANT STILL LIVING.

7. REVIEW NOTICE OF DISAGREEMENT (NOD) SUSPENSE LIST MONTHLY. PARTICULAR ATTENTION TO NOD'S OVER 90 DAYS OLD. ENSURE VALID CURRENT SUSPENSE DIARY IS IN PLACE.

8. REVIEW SSOC SUSPENSE LIST MONTHLY. PARTICULAR ATTENTION TO SSOC'S OVER 60 DAYS OLD. PREPARE CERTIFICATION TO BVA (FORM 8) WITHIN 7 DAYS AFTER EXPIRATION OF SSOC 60 DAY DIARY, UNLESS ADDITIONAL DEVELOPMENT OR DUE PROCESS IS REQUIRED, IN WHICH CASE, CLOSE SSOC DIARY AND ENSURE THAT A NEW SUSPENSE DIARY IS IN PLACE.

9. REVIEW FORM 9 SUSPENSE LIST MONTHLY. PARTICULAR ATTENTION TO FORM 9'S OVER 6 MONTHS OLD. ENSURE VALID CURRENT SUSPENSE DIARY IS IN PLACE.

10. REVIEW CERTIFIED TO BVA LIST MONTHLY. ANY CASE OVER 30 DAYS IN THIS STATUS, CONTACT BVA ADMINISTRATION TO VERIFY CASE RECEIVED AT THE BOARD.

11. REVIEW SAMPLE OF FIELD DISPOSITIONS MONTHLY TO ENSURE QUALITY OF DECISIONS AND THAT ALL ISSUES WERE PROPERLY HANDLED PRIOR TO CLOSURE OF THE APPEAL.

12. REVIEW SAMPLE OF BVA DISPOSITIONS QUARTERLY TO ENSURE QUALITY OF DECISIONS, AND IDENTIFY ANY TRENDS WHICH RESULTED IN REMANDS OR BVA REVERSALS OF REGIONAL OFFICE DECISIONS.

13. REVIEW PAST DUE DIARIES WEEKLY. NO DIARY SHOULD REMAIN PAST DUE MORE THAN 7 DAYS WITHOUT BEING PROPERLY CLOSED OR SUSPENSE UPDATED TO REFLECT ADDITIONAL TIME REQUIRED TO OBTAIN NECESSARY EVIDENCE.

14. REVIEW COMING DUE DIARIES (IN NEXT 5 DAYS) WEEKLY TO ENSURE THAT SOC'S ARE ISSUED PROMPTLY AND THAT APPEALS ARE CERTIFIED PROMPTLY WHEN THE 60 DAYS FROM SSOC ISSUANCE EXPIRES.

VACOLS REVIEW RESPONSIBILITIES

VACOLS COORDINATOR: DESIGNEE SHOULD BE SR. VSR, COACH, OR AVSCM; IS RESPONSIBLE FOR ENSURING THAT VACOLS USERS ARE KEPT APPRISED OF CHANGES, THAT QUERIES LISTS, SUSPENSE REPORTS, DIARY OVERDUE, AND DIARY COMING DUE REPORTS ARE REVIEWED MONTHLY (M21-1, PT II, CH. 7). INDIVIDUALS ASSIGNED SHOULD BE VERY FAMILIAR WITH VACOLS REPORTING TO PROVIDE MANAGEMENT AND KEY INDIVIDUALS WITH THE DATA AND ANALYSIS TO MANAGE AND IMPROVE APPEALS PROCESSING. SHOULD BE ABLE TO PROVIDE TRAINING TO SERVICE CENTER STAFF ON ALL ASPECTS OF VACOLS ANALYSES AND APPEALS PROCESSING. ACTS AS SERVICE CENTER COORDINATOR AND POINT OF CONTACT ON ALL NATIONAL ISSUES ASSOCIATED WITH APPEALS PROCESSING.

APPEALS TEAM MEMBERS: RESPONSIBLE FOR UPDATING VACOLS RECORDS, REVIEWING LISTS AS SPECIFIED ABOVE ON A MONTHLY BASIS. (M21-4, CH 6)

APPEALS TEAM COACH: RESPONSIBLE FOR REVIEWING APPEALS WHICH HAVE BEEN IN SAME STATUS FOR MORE THAN 180 DAYS. (M21-4, CH 6)

VSCM/AVSCM: RESPONSIBLE FOR REVIEWING APPEALS WHICH HAVE BEEN IN SAME STATUS FOR MORE THAN 365 DAYS. (M21-4, CH 6)

SAO - APPEALS

The below is an updated version of M21-4, Ch. 7, para 7.06b.(10), and should be used in conjunction with policy as outlined in para 7.01.

(A) ANALYSIS OF APPEAL PROCESSING STEPS, TO INCLUDE AN ASSESSMENT OF THE TIMELINESS AND QUALITY OF EACH. COMPARISON TO NATIONAL AVERAGES AS REFLECTED IN VACOLS REPORTS FOUND ON C&P WEBSITE.

(B) ANALYSIS OF APPEALS WHICH HAVE BEEN DISPOSED (GRANT, WITHDRAWAL, DEATH) BY EITHER REGIONAL OFFICE PERSONNEL OR BY BVA; AND APPEALS CERTIFIED TO BVA. TEN PERCENT OF THE CASES COMPLETED IN THESE CATEGORIES SHOULD BE REVIEWED EACH QUARTER TO ASSESS THE QUALITY OF DECISIONS, AND THE QUALITY OF APPEALS PROCESSING IN GENERAL.

(C) SPECIFIC ANALYSIS OF THE STATION'S REMANDS AND REVERSALS, TO INCLUDE THE RESULTS OF A QUARTERLY REVIEW OF THE REASONS FOR THOSE REMANDS AND REVERSALS, AS WELL AS A DISCUSSION OF THE SPECIAL PROCEDURES BEING USED TO ENSURE TIMELY TURNAROUND OF THE REMANDS. SPECIFIC ANALYSIS OF CASES WHICH REQUIRED DEVELOPMENT BY THE BVA APPEALS SUPPORT TEAM (DEVELOPED AT BVA IN LIEU OF REMAND).

(D) REVIEW A SAMPLE OF VACOLS APPEALS RECORDS TO VERIFY CORRECT STATUS (NOD, SOC, SSOC, FORM 9, REMAND, COVA REMAND, TRAVEL BOARD/VIDEO HEARING REQUESTS) [M21-1, PT. II,

CH. 7]. PARTICULAR EMPHASIS SHOULD BE GIVEN TO ANY APPEAL RECORD WHICH HAS BEEN IN THE SAME STATUS FOR OVER 365 DAYS.

		FTE FOR SOC'S	FTE FOR SSOC'S	FTE FOR CERT BVA	FTE FOR GRANTS	TOTAL
301	Boston	3.07	0.53	1.00	1.09	5.69
304	Providence	1.07	0.38	0.46	0.63	2.55
306	New York	4.34	1.08	3.14	0.71	9.28
307	Buffalo	2.89	1.87	1.29	0.70	6.76
308	Hartford	1.59	0.76	0.64	0.40	3.39
309	Newark	2.38	1.24	1.52	0.48	5.63
310	Philadelphia	2.71	0.89	0.94	0.97	5.52
311	Pittsburgh	2.37	0.83	0.83	1.07	5.10
313	Baltimore	1.17	0.47	0.42	0.31	2.37
314	Roanoke	4.03	1.52	1.29	0.90	7.74
315	Huntington	2.45	0.77	0.62	0.82	4.65
316	Atlanta	2.93	1.31	2.10	0.81	7.15
317	St. Petersburg	11.10	2.94	4.07	2.86	20.97
318	Winston-Salem	4.22	1.59	1.62	1.00	8.44
319	Columbia	4.10	2.36	1.77	0.91	9.14
320	Nashville	4.85	1.28	1.58	0.63	8.35
321	New Orleans	4.18	1.97	1.29	0.76	8.19
322	Montgomery	6.87	3.44	2.72	1.23	14.25
323	Jackson	2.68	1.05	0.81	0.46	4.99
325	Cleveland	4.14	2.30	1.70	0.81	8.94
326	Indianapolis	2.36	0.66	0.73	0.81	4.56
327	Louisville	3.43	1.52	0.91	0.98	6.84
328	Chicago	3.19	1.34	0.92	0.67	6.13
329	Detroit	3.90	1.95	1.35	0.67	7.87
330	Milwaukee	2.03	1.03	0.46	0.51	4.04
331	St. Louis	3.13	1.79	1.50	0.61	7.03
333	Des Moines	0.85	0.46	0.35	0.22	1.88
334	Lincoln	1.84	0.81	0.50	0.28	3.44
335	St. Paul	1.45	0.99	0.21	0.79	3.43
339	Denver	2.85	0.92	0.83	0.72	5.32
340	Albuquerque	1.68	0.63	0.40	0.61	3.32
341	Salt Lake City	0.74	0.33	0.13	0.24	1.45
343	Oakland	3.19	1.72	1.85	0.97	7.73
344	Los Angeles	5.89	2.61	2.08	1.45	12.02
345	Phoenix	2.40	1.36	1.16	0.66	5.58
346	Seattle	3.65	0.79	0.73	2.93	8.10
347	Boise	1.45	0.44	0.27	0.59	2.75
348	Portland	3.16	1.21	1.04	0.83	6.24
349	Waco	9.92	1.91	3.08	1.67	16.58
350	Little Rock	3.26	1.99	1.54	0.54	7.34
351	Muskogee	2.95	0.97	0.66	0.72	5.30
354	Reno	1.52	0.64	0.50	0.48	3.15
355	San Juan	3.81	1.42	2.56	0.78	8.57
358	Manila	2.98	0.47	0.48	0.17	4.10
362	Houston	5.40	2.02	0.98	2.49	10.90
372	Washington	1.90	0.66	0.10	0.25	2.91
373	Manchester	0.83	0.39	0.44	0.41	2.08
377	San Diego	1.26	0.65	0.19	0.47	2.57
402	Togus	0.52	0.23	0.52	0.71	1.98
405	White River Jct.	0.35	0.09	0.13	0.17	0.74
436	Ft. Harrison	1.27	0.55	0.04	0.20	2.06

437	Fargo	0.49	0.17	0.33	0.29	1.29
438	Sioux Falls	0.54	0.19	0.06	0.12	0.92
452	Wichita	1.23	0.70	0.08	0.22	2.23
459	Honolulu	0.78	0.24	0.50	0.40	1.93
460	Wilmington	0.52	0.19	0.17	0.16	1.04
463	Anchorage	0.60	0.12	0.19	0.11	1.02
	NATIONAL	160.91	62.82	57.81	42.66	324.19

Veterans Benefits Administration
Department of Veterans Affairs
Washington, DC 20420

Circular 20-99-5
Revised February 6, 2002

DUTIES AND RESPONSIBILITIES OF VACOLS COORDINATORS
IN THE REGIONAL OFFICES

1. PURPOSE. This circular specifies the functions of the Veterans Appeals Control and Locator System (VACOLS) coordinator at each regional office. Attached as appendix A is a listing of the names and telephone numbers of these coordinators.

2. DUTIES AND RESPONSIBILITIES. The primary function of the VACOLS coordinator is to serve as a contact point and liaison for VACOLS questions which arise pertaining to correct data entries in VACOLS at each regional office; assure proper transfer of appeals records from one regional office to another; and assure transfers of appeals records between BVA and the regional office. The coordinator is not empowered to assume any supervisory or management functions currently assigned to other Service Center personnel unless such authority is specifically delegated by the Service Center Manager. Specific duties and responsibilities of the coordinator include:

a. Maintaining thorough familiarity with all VBA guidelines on VACOLS.

b. Responding to inquiries from within and outside the Department concerning procedures in connection with VACOLS.

c. Answering inquiries from other VA elements pertaining to actions taken or underway on any particular VACOLS record (within the limits of the Privacy Act).

d. Ensuring that VACOLS data are current and for obtaining and distributing VACOLS "Suspense Reports" listings within the Service Center and to other affected operating elements (Loan Guaranty, VR&C, VHA Medical Facilities, Education, Finance, COWC, and Memorial Affairs).

e. Advising the Service Center Manager of any patterns of deficiency or ongoing problems encountered during the maintenance of the VACOLS database.

3. CHANGES. Changes in name or telephone number of coordinators will be e-mailed to VAVBAWAS/CO/214A.

Joseph Thompson
Under Secretary for Benefits

Distribution: CO: RPC 2900
SS (213) FLD:VBAFS - 1 each (Reproduce and distribute as needed)

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VACOLS COORDINATORS

STATION	NAME	PHONE #
ALBUQUERQUE	CHRIS GONZALES	505-346-4761
ANCHORAGE	FRANK STUEVE	907-257-4720
ATLANTA	RITA WOOLARD	404-929-5730
ATLANTA EDUCATION	MARILYN JACKLICH	404-929-3097
BALTIMORE	DEBRA HYNES	410-230-4530 EXT 2078
BOISE	TINA TREBILCOCK	208-334-1958
BOSTON	PAULA GEEHAN	617-303-3679
ALTERNATE	PAUL DEGRANDPRE	617-565-2611
BUFFALO BUFFALO EDUCATION	PAUL BERO JEFFREY JARZYNIECKI	716-551-4658 716-551-4651
CHEYENNE	CAMPBELL, DICK	307-778-7337
CHICAGO	LARRY ROGERS	312-353-8951
CLEVELAND	FRAN CULLINANE	216-522-4950
COLUMBIA	DAVID CHAPMAN	803-255-4170
DENVER	GEORGE PETERS	303-914-5958
DES MOINES	ALAN DEUTMEYER	515-284-4875
ALTERNATE	DIANE BEMRICH	515-284-4801
DETROIT	WILLIAM SHARER	313-226-2626 EXT 3134
FARGO	SUE CLEARY	701-237-2921
FORT HARRISON	DARYL CHAN	700-585-7735
HARTFORD	SUSAN LABINS	860-240-3300 EXT 2505
HONOLULU	JOHN MONTGOMERY	808-433-0546
HOUSTON	AL TRAVIS	713-383-3216
HUNTINGTON ALTERNATE	JANE BOWEN LARRY DIXON	304-528-7852 304-529-5445
INDIANAPOLIS	WALTER MORRIS	317-226-5209 EXT 3080
JACKSON	B J MOORE	601-364-7029
LINCOLN	BONNIE YOUNG	402-420-4231
LITTLE ROCK	CAROL WINTRODE	501-370-3771
LOS ANGELES	AL LENTO	310-235-7475
LOUISVILLE	LAURA KUERZI-RODGERS	502-582-6210
MANCHESTER	MICHAEL GUSHUE	603-666-7520
MANILA	DINA SANJUAN	VIA E-MAIL
MILWAUKEE ALTERNATE	KRISTINE LEMANCZYK MARTHA HAAS	414-382-5158 414-382-3948
MONTGOMERY	BOB BOULWARE	334-213-3345
MUSKOGEE	TAMMY FAST	918-781-7600
MUSKOGEE EDUC.	CAROLYN ALEXANDER	918-781-7811
NASHVILLE	DELORES TATE	615-695-6363
NEW ORLEANS	AL MOSLEY	504-619-4507
NEW YORK	PAUL WEISS	212-807-7229 EXT 3128
NEWARK	RAYMOND MESLAR	973-645-3314
OAKLAND	ROBERT LAMBERT	510-637-1121
PHILADELPHIA	JIM GALLAGHER	215-842-2000 EXT 2571

3.

Circular 20-99-x
Appendix

March 5, 2002 (revised)

VACOLS COORDINATORS

STATION	NAME	PHONE #
PHIL. INS. CTR	SONNY LEEPER	215-842-2000 EXT 2624
PHOENIX	WILLIAM HULBURD	602-640-5154
PITTSBURGH	MICHAEL VUDRAGOVICH	412-395-6208
PORTLAND	SUSAN OKADA	503-326-2492 EXT 3105
PROVIDENCE	DENNIS DEL DONNO	401-528-4411 EXT 3051
ALTERNATE	PAUL TRASK (ALT.)	401-528-4411 EXT 3032
RENO	CANDY WHITFIELD	775-784-5691
ALTERNATE	CHARLENE KELLY	775-784-5691
ROANOKE	JIM GRANGER	540-857-2745
ST LOUIS	DAVID KEMPF	314-552-9225
ST LOUIS EDUCATION	SCOTT NORDMOE	314-589-9898
ST PAUL	AL WARTINBEE	612-970-5267
ST PETERSBURG	KEVIN RAY	727-319-7355
SALT LAKE CITY	VICKIE ORLANDO	801-524-5645
SAN DIEGO	KATHY PROPST-BOGUE	619-400-5540
SAN JUAN	BARBARA GERBER	787-772-7415
SEATTLE	ROB HARD	206-220-6121
ALTERNATE	AMY HAMAKER (ALT.)	206-220-6121 EXT - 2828
SIOUX FALLS	JOHN SMITH	605-333-6845
TOGUS	JOHN KRECKMANN	700-833-4041
WACO	SUSAN BARNES	254-299-9136
WASHINGTON		202-691-3247
WHITE RIVER JCT	CHUCK MANNS	802-295-9363 EXT - 5334
WICHITA	HARLOW SAFFORD digits 00-99	316-651-2922
WILMINGTON	ROBERT SCHMIDT	302-633-5408
ALTERNATE	LARRY FERDMAN	302-633-5418
WINSTON-SALEM	NATHAN CALDWELL	336-631-5200 EXT 2312
VHA CO	TROY BAXLEY	202-273-8301

3.

Ms. BROWN. Thank you. I have——

Mr. COOPER. Excuse me, I believe we have that letter for answer, and I think the answer is due 20 June. Is that not correct?

Ms. BROWN. I'm sorry, you——

Mr. COOPER. I say we have that letter, and I believe the answer is due back to you on 20 June.

Ms. BROWN. Yes. We want to put the letter in the record, and we also would like to put the response in the record.

Mr. COOPER. Yes, ma'am. We are working on that now.

(See p. 13.)

Ms. BROWN. Thank you. I have—the American Legion did a report, and would you pass copies—there is one particular area that I am concerned with. Would you pass this to them, and would you please give the chairman one?

As they pass this out, let me just give you a little brief history of who I am. I am Corrine Brown, from Florida. I have been on this committee for 10 years. You know, Florida has one of the oldest and largest veterans populations.

Mr. COOPER. Yes, ma'am.

Ms. BROWN. And of course, it makes up the bulk of my workload, coming from the central Florida area, Jacksonville, Orlando, where we have military bases, and we have a lot of retirees. But I know that this is not just a Florida issue, this is a problem all over the country.

If you would look at the—do you have the sheet that I passed out?

Mr. COOPER. Yes, I do. Yes, ma'am.

Ms. BROWN. It starts with that third paragraph. Would you look at that third paragraph? Did you give that to everyone over there? Because I want a response to this. Mr. Chairman, you have it?

I am very concerned about the visit that the American Legion made to the St. Pete office, and their findings. And I can tell you—and working with the veterans in Florida—one of the major responses that we get was that it was a fire, and they lost their paperwork.

That is unacceptable, particularly in cases that the fire took place after that event. Quantity in processing is one thing. The delay is another. But to get a negative response when you are entitled to a positive one.

As we all grapple with September 11, and we are asking our young men to go out and defend this country like we have done over a long period of time, one of the things that is most important is when they need us, that we are there. And it cannot be just a talk. And it has to be the walk. And the Congress has a responsibility, and of course the veterans feel that this administration will do more. I want to see the proof is in the pudding.

So, would you explain this to me, and maybe some response to this, Mr. Cooper and anyone else?

Mr. COOPER. I certainly agree that what is said here is very bad, and I certainly can't respond, not having seen it before, so I would like to take that for the record.

The types of thing that you describe here are not good, I agree 100 percent. I do feel very strongly, however, that in order to do the jobs properly we do have to have required quotas for people to

work. However, the one part of accountability that is very important is the accountability of the regional office director. Therefore, I obviously will have to find out what happened, and I will get back to you.

I was not aware of this. No one has been kind enough to let me see this before, so I would be more than happy to take that for the record.

Ms. BROWN. So you have not received a copy of this?

Mr. COOPER. I am not aware of a copy. I certainly have not seen this.

Ms. BROWN. Mr. Chairman, I guess there is a vote. And I am not yielding back my time, but I will go to your report, and ask some questions from your report.

Mr. SIMPSON. We have 15 minutes.

Ms. BROWN. Okay. GAO recently reported that some of the veteran service organizations testified today indicated that some officers have resorted to cherry-picking easy cases in order to meet quotas, leaving more time-consuming cases aside.

Have you identified any regional office where this is occurring? How are you monitoring the regional office to assure the difficult claims are not being neglected?

Mr. COOPER. Yes, look at the numbers, we look at the quality, and we are having survey teams go out and look at the offices.

I have heard that statement, that there is occasionally cherry-picking—and have talked to regional directors to tell them that that is not something that we condone. However, I have not been made aware of specific cases of it. We are watching the numbers very carefully, we are looking to see that they are doing all of the claims, not just what would appear to be the easier ones.

Obviously, I can't sit here and tell you that that's happening everywhere. We are trying to have the oversight necessary to preclude that type of thing happening. In the long run, I think we will be successful. Right now, my guess is probably that is happening at a few places. But I am not aware of specific cases, and if I were, I would have taken action.

Ms. BROWN. Mm-hmm. I thought in your testimony—and maybe you can correct me—you indicated that you are processing the claims, but in certain instances you take certain claims to someone else to process, I guess maybe the more difficult one. Can you explain that process?

Mr. COOPER. No, I would say to you not the more difficult ones. But you are correct, we have taken claims from specific offices who are slow, have had poor productivity and poor quality, and we have sent them to offices that have been extremely successful.

A classic example is sending claims to Salt Lake City, which has a superb record in the way they process records. The important thing is to try to get the claims done as fast as we can.

Our time element has been very poor, and it has been very poor for several years. We are trying to overcome that. We are trying to expedite the claims so at least the individual veteran gets service as fast as we can.

Ms. BROWN. I guess I yield back my time at this——

Mr. COOPER. Let me just mention, if any of the service organizations have facts on some of these things, or can point me in the

right direction—I think I have talked to most of them at one time or another—I would be more than happy to receive whatever reports they have.

Ms. BROWN. Okay. So you are not getting the reports?

Mr. COOPER. I have not seen anything that would indicate that. I have heard, occasionally, rumors, and have made phone calls to make sure that people understand how we feel about it. But I have not received anything concrete, anything very specific upon which to take action.

Ms. BROWN. My understanding, there is a long period of time between when the filing of an appeal and the claim being forwarded to the Board, especially in certain regional offices. Can you——

Mr. COOPER. You are absolutely correct. And those times have been terrible. And we admit that. The fact is, we have worked very closely with the Board, and have had supreme cooperation in trying go through the various steps necessary so that we can get the appeals to the Board.

But we are going to have the burden of long processing times for a while, until we finally solve this problem. We are trying to solve it across the board. We can't concentrate on a single facet, we have to do it across the board, and we are trying to do it in about as even-handed a way as I can determine.

Ms. BROWN. But I guess I am a little confused. When the board processes it and sends it back to you, why does it take so long? I mean, 14,000?

Mr. COOPER. And the answer is——

Ms. BROWN. And some of it is over a 5-year period.

Mr. COOPER. You are absolutely correct, and that is exactly what my Task Force found. And that is the reason we are trying to do the things that we are, such as working very carefully with the Board. One of the things we said in the Task Force was instead of remanding appeals for additional development, that we set up a special group to work with the Board to obtain the various pieces of information necessary to make the decision.

We feel just the time going back and forth is long. Once it gets back there, we feel that they were concentrating so on doing claims, they just put it in the line. That's wrong.

Ms. BROWN. That's correct. And just reading the information, they don't get credit for that. So maybe you do need a separate system to deal with it. Do you need any assistance from us, or those in your purview to address it?

Mr. COOPER. I think right now I would not want any assistance. We are attacking this problem. And you are right, there is a problem with how we evaluate for end product credit. We are looking at that.

But as I mentioned before, there are many, many numbers involved, and you have to be very careful when you implement a new scoring, because it will have impacts that you really didn't anticipate.

We are aware of the problem. And I guarantee you that the remand and appeal problem is a very real one, and we pointed it out very carefully in our report. That is what we are trying to attack.

Ms. BROWN. All right, Mr. Chairman. I yield back my time.

[The prepared statement of Hon. Corrine Brown appears on p. 61.]

Mr. SIMPSON. Thank you, Ms. Brown. I appreciate your comments here today.

As I said, we will have some written questions for you that we would appreciate your answers to. I believe in your opening statement you said that you had been on the job now 67 days. And looking at your background, I expected you to have all of this solved in 67 days, this 50 years of problems that have built up. But I know that you are working on it, and I do appreciate your testimony, and I appreciate all that you are doing.

Mr. COOPER. Thank you.

Mr. SIMPSON. I can tell by your comments that all of you must have had a root canal that you didn't think was very funny. (Laughter.)

Mr. SIMPSON. I appreciate it, thank you.

Mr. COOPER. Thank you, Mr. Chairman.

Mr. SIMPSON. The next panel that we will call, as soon as this vote is over, will be Mr. George Hunt, Mr. Michael Murphy, Mr. Ronald Melendez, and Mr. Raymond Boland.

So, if you will get ready, we will be back as soon as the floor lets us come back. In about 10 minutes, thank you.

[Recess.]

Mr. SIMPSON. We will call this hearing back to order for the third time, and we apologize for the interruptions caused by the floor, but sometimes that happens. Unfortunately, they send us here to vote, also, and constituents kind of want you to do that type of thing, too.

Today, on our second panel, we have Mr. George Hunt, president of the National Association of County Veterans Service Officers, accompanied by Mr. Michael Murphy, the First Vice President of the National Association of County Veterans Service Officers, Mr. Ronald Melendez, the Treasurer and Chief Financial Officer of the National Association of County Veterans Service Officers, and Mr. Raymond Boland, President of the National Association of State Directors of Veterans Affairs. Gentlemen.

STATEMENTS OF GEORGE HUNT, PRESIDENT, NATIONAL ASSOCIATION OF COUNTY VETERANS SERVICE OFFICERS; ACCOMPANIED BY MICHAEL MURPHY, FIRST VICE PRESIDENT, NATIONAL ASSOCIATION OF COUNTY VETERANS SERVICE OFFICERS; RONALD MELENDEZ, TREASURER/CHIEF FINANCIAL OFFICER, NATIONAL ASSOCIATION OF COUNTY VETERANS SERVICE OFFICERS; AND RAYMOND G. BOLAND, PRESIDENT, NATIONAL ASSOCIATION OF STATE DIRECTORS OF VETERANS AFFAIRS

STATEMENT OF GEORGE HUNT

Mr. HUNT. Thank you, Mr. Chairman. And I would like to say good morning to you, members of the committee. It is truly my honor to be here before your committee today.

As president of the National Association of County Veterans Service Officers, I am here today to comment on the October 2001 special task force report on VA claims processing, the VA backlog

of pending claims, and recommendations for the creation of a new federal, state, and local government partnership.

Veterans are dying before they have the opportunity to receive benefits they earned through service and sacrifice. Sadly, they are dying while waiting. I hold in my hand the names of four veterans from the State of New Jersey that died while waiting for their claims to be processed.

Dying while waiting is not acceptable for any veteran. Dying while waiting is a travesty that must be reconciled. And dying while waiting is a sad epitaph for a veteran to have on his headstone. Our Nation's veterans are dying at the rate of 1,000 a day, while the backlog is over 500,000 claims.

As you know, the veteran's claim for benefit dies when the veteran dies.

Together, we must develop a mechanism for solution so that no more veterans die while waiting.

The National Association of County Veterans Service Officers is an organization made up of local government employees, local government employees that believe we can help the Department of Veterans Affairs reduce the backlog, and better serve our veterans. We work for the local government, and are tasked with assisting veterans in developing and processing their claims.

Since 1945, county veterans service offices have existed to serve veterans, and to partner with the national service organizations and the Department of Veterans Affairs to serve veterans. Our members of County Veterans Services Officers are present in 37 of our 50 States, and located in approximately 700 local communities.

This readily available workforce represents approximately 2,400 full-time employees that are available to partner with the Department of Veterans Affairs to speed the process of claims development.

The National Association of County Veterans Service Officers has been in existence since 1990, primarily as a vehicle to provide continuing education and accreditation training in Department of Veterans Affairs procedures and regulations governing veterans benefits.

Members of the National Association of County Veterans Service Officers stand ready to partner with the Department of Veterans Affairs in order to eliminate the backlog of claims that are hurting our veterans.

First, we propose partnering to significantly reduce the current backlog of veterans' claims. We suggest that the Department of Veterans Affairs segregate backlogged claims that require development and refer them to the nearest county office for further development.

The claims should be accompanied with a list identifying the information that is lacking, and what is needed to make the claim ready to rate. We suggest a check-off list and a color coding by the type of claim for ease in identification when referred back to the VA for decision and rating.

When the county veterans service officer receives a referred claim, they will make a personal contact with the veteran or dependents, explain the situation, and develop the claim. Once the claim has been fully developed, the claims would be submitted to

the Department of Veterans Affairs with the check-off list completed, indicating the claim is ready to rate. This will dramatically increase the speed at which a claim could be developed and returned to VA for rating and decision.

Second, we propose a partnership in a new way that claims are developed. As local advocates, county veterans service officers are required to protect the rights and the benefits of veterans, dependents, and survivors. The VA policies and procedures were changed to allow the county veterans service officer, a branch of local government, the authority to date-stamp, thereby protecting the veteran's right to benefits, and then fully develop the claim.

A duplication of effort would disappear. This change will dramatically streamline the claims process, and allow the veteran, dependent, or survivor's claim to be decided in a more efficient manner, and ultimately, reduce the backlog.

Third, we propose a partnership that allows access to veterans information contained in the benefits delivery network system. This would allow county veterans service officers to gain online access to clients' information contained in the VA database and use this information in developing claims to assist in backlog reduction.

With 2,400 potential full-time employees located throughout this country ready, willing, and able to assist the Department of Veterans Affairs, I believe that the National Association of County Veterans Service Officers stands the best real chance for the Department of Veterans Affairs to substantially reduce the backlog without committing to a lengthy process of hiring and training new employees.

No solution to the backlog of the Department of Veterans Affairs is without cost. The use of existing highly-trained government employees greatly reduces the cost of the Department of Veterans Affairs. The National Association of County Veterans Service Officers suggests a 3-year pilot program, and local government funding for the counties to augment, but not supplant their existing budget.

We are grateful for the opportunity to appear here today before your subcommittee, and we believe that our proposal would develop an unprecedented partnership between the county and Federal Government that could lead to other information sharing and better service to veterans, dependents, or survivors.

If we work together, I believe that veterans and their dependents will not be left dying while waiting. Thank you, Mr. Chairman.

[The prepared statement of Mr. Hunt appears on p. 81.]

Mr. SIMPSON. Thank you, Mr. Murphy.

I understand, Mr. Boland, you are going to testify also. Is that correct?

Mr. BOLAND. Yes, sir.

Mr. SIMPSON. Go ahead.

STATEMENT OF RAYMOND G. BOLAND

Mr. BOLAND. Mr. Chairman, I am joined today by two of my colleagues that I would like to take a moment to introduce. To my left is Mr. John King, the state veterans director for the State of Washington. And next to him, George Basher, the state veterans director for the State of New York. I am the State Secretary of Veterans' Affairs in Wisconsin.

We appreciate this opportunity to present the voice of state government in this whole question of claims processing, and we would like to point out that we do represent the voice of state government, which is the only full service partner the VA has in serving the Nation's veterans.

As you know, we deal with the whole range of issues that the VA deals with. We help provide veterans nursing homes, cemeteries, education benefits, employment and training assistance, and a range of other benefits, and we also share the cost of all of these things, as does county government with their service officers.

Last year, Chairman Smith asked us if we could come up with a ballpark number of what kinds of outlays are being made by State and county government. We did a survey across the Nation that totaled up to about $3.2 billion per year that is being spent by State and local government in direct services to veterans.

We have focused our attention in the last couple of years, really, more on the question of the partnership issue, and the networks of partners that exist outside the VA system. So we have comments about the current status of claims processing in our written testimony. I would prefer to use my time to highlight this partnership issue and our views on it.

We believe strongly that—and this is consistent with what Mr. Hunt just said—that there is major impact on this whole picture, completely outside the purview of the VA. And we think that more—it's time to place more attention on what is happening outside the VA while we attend to the very important question of claims processing.

We have met with Secretary Principi and his staff, Admiral Cooper, and others. We have begun a dialogue with the county organization, we're meeting with the national service organizations. We are trying to take the lead to get a full collaboration of these networks of players to look at this together.

The facts we're looking at suggest that in some places of the country, these partnership networks are working quite well. In some places in the country, they are not working very well at all. There is a large lack of standardization that exists. There is major differences in infrastructure from State to State and from county to county. And we believe that those differences need to be addressed.

I agree with everything Mr. Hunt said. My current tally of States with CVSOs is 27, not 37, which—I wish we had CVSOs in every State, but unfortunately, there is a significant number of States that do not have county service officers, and have completely different structures.

I included a chart in our testimony that shows a State-by-State portrayal of how many veterans and what percentage of veterans have service-connected disability ratings now. When you look at that chart, you see why differences—and while there are some important demographic differences and economic differences, we think there is also some major differences that are simply a result of where the veteran lives, and what kind of service officers are available to him.

And sir, I would cite the State of Idaho as a case in point, where for a comparatively small veterans population, there is a rather ro-

bust network of service officers above county service organizations and States. So you have a very favorable service delivery arrangement, and the outcomes are above the national average. If you look at other States and you look at those numbers, you see the opposite.

So, we think that what really needs to be done is to join together in a fully collaborative effort, and focus on our best understanding of what works. And what seems to work is, first of all, minimum numbers or ratios of qualified service officers to veterans population; a vigorous outreach among their capabilities; and then high quality, through training and accrediting, and accountability. Standards differ considerably; we think we need a more uniform set of standards.

So, specifically, we think the following steps need to be taken. First of all, we think that all of us in this network collaboration need to work together to develop a model for what kind of service officer team is needed to assist veterans, and then properly train that team to reach the levels of performance that we need.

Secondly, we think, in coordination with VBA, that we need a pilot project to measure the effectiveness of the model we would propose. This would require a significant amount of partnership from the VA in granting us access to information and records and other things that are needed as part of this process.

And then, in conjunction with the VA, we should determine the resources necessary to implement a standardized national VA/VSO partnership claims system. The implementation of this plan would require a management system that is able to adapt to the differences across the Nation that must be kept in account as we do this.

It has to remain flexible, so that we can tailor the network structure in each area, according to the local circumstances. We need common standards, but we need to be able to mix the players in the structure, depending upon what local capabilities are. And again, the best example of that is just over half the States have CVSOs; we have to look to other players in other States.

And we think that the VA can look to its state government partner to coordinate this effort and this network structure in each State, and also to address the question of accountability for performance. This role would be very similar to the role we have with other partnership programs, where we have to meet standards and accountability with the VA now.

In closing, we are ready to move forward with state government, in partnership with the other players as part of the solution to the veterans claims processing problem.

[The prepared statement of Mr. Boland appears on p. 88.]

Mr. SIMPSON. Thank you for your testimony. Is it just Mr. Hunt and Mr. Boland who are going to be testifying?

Let me say I agree with you, Mr. Hunt, that reducing the backlog by having veterans die is unacceptable, and I think that's unacceptable both to the Secretary and to Mr. Cooper, and we're going to do everything we can to make sure that isn't the perception.

Mr. HUNT. I did not mean to imply that they——

Mr. SIMPSON. And I know you didn't imply that. But the fact that it happens is a travesty, and something that must be corrected.

This committee is going to work very hard on it, along with the Department, and all those interested parties and stakeholders, to make sure that we address this backlog, and the veterans get those claims adjudicated in a rapid and appropriate manner, and that they get what is due them. That's the least we can do for the service they have given this country, and the promises that we have made to them.

I gather from your testimony, Mr. Boland, that one of the things that you would like to see is increased information sharing between the various organizations that work with veterans. You know, this kind of reminds me of what we learned after 9/11, between all the different intelligence agencies—that there is a lot of intelligence out there, but there wasn't a lot of sharing going on of that information. Do you feel that that's kind of what is going on with the VA? That we need a better information sharing system?

Mr. BOLAND. Absolutely. And there is information access issues related to this that affect the ability of the non-VA players to do their part.

Mr. SIMPSON. I appreciate that. $3.2 billion spent by the States in helping the veterans with their claims and so forth, is a very great deal of money that we probably don't account for when we talk about how much we're spending trying to reduce that, and I appreciate what the States are doing.

And I will tell you that I will, as chairman of this subcommittee, and I am sure that the other members—the ranking member and the members of the full committee—will probably share in this, be writing to the other 23 States and territories of the need to create county veterans' service organizations within those States, because I think they could be helpful also, if there are things that we need to do to help that happen, and those States were certainly more than willing to use whatever powers we might have to be able to address that.

But I appreciate your testimony. Yes, Mr. Boland?

Mr. BOLAND. One final comment, sir. We have to be careful when we look at these models to understand the relationship between service officers and population.

For example, we have looked at this at county level in every State in the country. The general trend is the smaller the county, the better the process, and the more access to help that the veteran has.

When you get into counties that have large urban areas—Chicago being the lowest in the Nation—you have very few numbers of service officers available to large populations. And so just, you know, a county model, per se, is not the entire answer.

Mr. SIMPSON. Yes.

Mr. BOLAND. It's a matter of the size of the county. And the added difficulty is that large numbers of minority veterans residing in large metropolitan areas, where we have the least amount of customer service available, are the most underserved by system, in total.

And so, some of the—many of the people who need this help the very most do not have access to the service and assistance they need to get it.

Mr. SIMPSON. Well, I appreciate your insight into this. It is certainly testimony that we will take into consideration as we are working on this, and I am—as I have talked with Admiral Cooper and Secretary Principi, I know that they are most interested in using every resource available to try to address this, and I believe you will have a good relationship with the administration in trying to address this problem.

So, I appreciate all that you do, and thank you for being here to testify. Ms. Brown?

Ms. BROWN. Thank you, Mr. Chairman. Let me just say that in veterans' meetings, coming from Florida, it's a lot of discussion that we are slow because we want many of them to pass on, and we don't have to pay for those services. And this is something that we have got to make sure that they understand that we are working together, and we are not going to let this happen.

My question, could you provide me with—the committee—with a list of States which you have identified that have the county veterans service officers? Now, in Florida, I don't think we have this, but there are——

Mr. HUNT. You do.

Ms. BROWN. We do? But——

Mr. HUNT. Yes, ma'am, you do.

Mr. BOLAND. Sixty-seven, by my count, county service officers in Florida.

Ms. BROWN. Okay. But who pays for this? The state?

Mr. BOLAND. Counties, typically.

Mr. HUNT. Counties.

Ms. BROWN. Oh, and they work for——

Mr. BOLAND. They are mostly county employees paid for by the county. In many cases, state government subsidizes the counties with grants. We do that in Wisconsin, for example.

Ms. BROWN. I guess the reason why I'm confused is because in my area, we are not a county, we are a city that is the city in the county, which is kind of confusing.

But you are saying when you have these organizations, they process the claims for the veterans?

Mr. BOLAND. I think we are talking more about the process of the development of the claim, and the application before it ever gets to the regional office.

You see, a big part of the workload problem at the regional office is actually starting before it gets there if the right things don't happen in developing the claim. I know Mr. Hunt can comment on——

Mr. HUNT. May I address that? Every day I sit across the desk from veterans. They come to me with their problems, but also with claims requests, whether it's a reopen or a new claim. And they say to me—and they expect me to answer them, what they need to fully develop this claim.

And my job is to assist them in filling out the paperwork, and fully developing that claim. If we need doctor's statements, if we need to hear—if we need a discharge, a DD214, it's my job to go get those things for them.

The one thing that I do not do is go get VA medical records, or the national personnel record center records, because the VA has a mechanism for doing that much quicker than I can do it.

But to the average veteran in my small North Carolina county—I work in a two-person office—I am the VA. They look at me not as a county—I am paid by my county, but they look upon me as the VA. And so I say to my regional officer director, "You need to work with me, because I can make you look good. But if you don't work with me, then we are both going to look bad."

And so I hope that explains how we work.

Ms. BROWN. It does, but I am not sure that it works just this way in the larger urban cities, as you were saying, because I am almost certain that my county person that works for the city in—and in some of the other areas—don't actually assist the veterans in getting their paperwork.

I think it happens with the various organizations—you want to respond to that?

Mr. BOLAND. I would like to comment on that, because it's a very important point. The veterans' service organizations contribute a very large part of this assistance, as well. But I should point out there are not nearly enough of them, as there are not nearly enough of our county reps and others.

Furthermore, both the service organizations and state government are in severe budget crunches now. So, the service organizations are actually in the position in many States of having to reduce the number of service officers they have, because of their budgets.

So we're at a point where, you know, the spotlight has come on to this issue and all of this workload, but we don't have enough infrastructure to do it right in the front-end, as George is talking about, to help reduce this problem at the regional office. We would like to see the regional offices concentrating just on rating the claims, instead of having to back and develop the claim because the package is incomplete when it gets there.

Mr. HUNT. If you don't mind, Mr. Ron Melendez is from Orange County, California. That has a very large veterans population. And he might address the idea of how he services the veterans in his area—over 200,000, I believe.

Ms. BROWN. Yes, sir?

Mr. MELENDEZ. Well, not to prolong the testimony, but the process is primarily the same. In Orange County, I do have a fairly large staff, I have about 18 employees, sports staff and claims representatives, and we have a veterans population of just over 200,000, which is about the same population or greater than about 16 or 17 States, just in our county. And the same thing would be in Florida.

If you are not familiar with the County Veterans Service Officers program in Florida, it would probably be in our best interest to make sure that the county veterans service officer that handles your area contacts you to give you a detailed analysis of how that program works in your district, or the county veterans service officers, if there is more than one.

Ms. BROWN. Thank you.

Mr. SIMPSON. Well, again, thank you for your testimony. I do appreciate all that you do, and I know that, as I said earlier, the administration really is trying to work to solve this problem, and they are willing to work with anybody that is willing to work with them

to solve it, as evidenced by the fact that we still have Admiral Cooper here, and Mr. Clark, from the Board of Veterans' Appeals here, listening to your testimony. This indicates to me that they are interested in what you have to say.

You don't often find that. Usually when someone—over my past experience, over the last 4 years here—when someone testifies from the administration, they usually leave when they are done testifying, so I appreciate your staying and listening to these individuals, and we appreciate all you do. Thank you.

We have with us on the third panel, Mr. Carl Blake, who is the Associate Legislative Director of the Paralyzed Veterans of America; Mr. John McNeill, Deputy Director of the National Veterans Service, Veterans of Foreign Wars of the United States; Mr. Brian E. Lawrence, Associate National Legislative Director of the Disabled American Veterans; and Mr. James Fischl, Director of the National Veterans' Affairs and Rehabilitation Commission of the American Legion. Mr. Blake.

STATEMENTS OF CARL BLAKE, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; BRIAN E. LAWRENCE, ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; JAMES R. FISCHL, DIRECTOR, NATIONAL VETERANS' AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION; AND JOHN McNEILL, DEPUTY DIRECTOR, NATIONAL VETERANS SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

STATEMENT OF CARL BLAKE

Mr. BLAKE. Before I present my testimony today, Mr. Chairman, I would like to take this chance to welcome Mr. Bo Rolands, who is seated in the audience. He is a PVA national field director who has traveled here from San Diego to see what we are doing here. He is one of our front-line managers in the claims development process.

Chairman Simpson, Ms. Brown, members of the subcommittee, PVA would like to thank you for the opportunity to testify today concerning the claims processing by the Department of Veterans Affairs.

PVA would like to applaud the efforts of the under secretary of benefits, Admiral Cooper, and his task force, in developing solutions to the claims processing backlog. The Cooper report highlights many of the recurring and systematic problems faced by the VA, problems that we have been highlighting for years.

PVA has always maintained that a benefit delayed is a benefit denied. We have been frustrated by the lack of concrete steps taken and real results realized. We have pointed out, as the Cooper report stated, the apparent lack of uniformity in interpreting directives, compliance, and ultimate accountability at the vast majority of regional offices.

And like the Cooper report, we have expressed amazement over the apparently inflexibility of VBA to quickly and thoroughly address and incorporate changes brought about by congressional and judicial actions.

These deficiencies raise serious due process concerns. We are concerned about the brain drain facing the VBA, and the Federal Government as a whole, and we are pleased that the Cooper report stressed the importance of training and resource allocation.

We are also pleased that the Cooper report delved into the problem of remands. We believe that there must be real accountability and real incentives for timely and accurate actions. We have been encouraged by Secretary Principi's desire to solve the claims backlog problem once and for all, but we fervently hope that recommendations contained within the Cooper report are aggressively implemented.

PVA has not exhaustively surveyed our national service officers out in the field, and therefore is not in the position to substantively discuss the status of the VA's implementation of the recommendations found in the Cooper report. We will leave that for the VA's representatives here today.

We have heard anecdotally, from our field offices, that positive steps are being made. Our NSOs in the Cleveland area have nothing but good things to say about the efficient, effective, and expeditious work that the Tiger team has done in overcoming the claims backlog there. Other NSOs at the regional office level have touted the effectiveness of triage to expedite claims that can be quickly adjudicated.

PVA has long-assisted veterans in submitting claims and fighting for their rightful benefits. Our veterans benefits department provides assistance and representation without charge to veterans. Our field services program oversees an outstanding NSO program. We maintain 55 national service offices in VA facilities across the Nation, and we have 72 NSOs who serve in both VA medical centers and in regional offices.

In addition to assisting veterans through every stage of the VA claims process up to the Board of Veterans' Appeals, they additionally play an important role in monitoring the quality of medical care at their local VA medical facilities. Although PVA is willing to step forward and do what we can to improve the claims processing program, we would be unable to undertake any substantive burden-shifting from the VA to VSOs. We do believe that our experience and our program has much to offer.

Our NSOs participate in a rigorous training program. New service officers are designated as NSO candidates, and undergo a 16-month on-the-job training program. Each candidate is prepared with an experienced NSO supervisor at a local VA medical center or regional office.

Throughout the training program, candidates take courses to improve medical knowledge, learn relevant federal regulations and codes, and learn how to prepare a claim. The candidate must pass a series of quizzes and exams during the program. In order to be certified as a PVA NSO II, the candidate must pass a comprehensive final exam.

We believe that our rigorous and standardized training is a vital component to the success of our NSO program. It is divided among four primary regions. Our first priority for assignment of NSOs is VA medical centers that have spinal cord injury centers. Our serv-

ice officers are then placed in areas with a high population of our members and other veterans.

It is important to understand that this system is most effective because it is maintained and supervised at the national level. This provides for important uniformity and speedy dissemination of vital information.

PVA has made every effort to place our service officers where they can most effectively serve our members and all veterans. PVA supports the idea that there must be a greater partnership between the VA and the VSOs in the claims processing arena.

We have been actively involved in development of the TRIP program. The purpose of this program is to enhance service to claimants by combining resources, and focusing on shared concerns. Many of our NSOs have been trained and certified in the TRIP program, and all of our service officers will soon be expected to be TRIP-trained and certified.

An important part of the partnership between the VA and VSOs is access to training and information. VSOs can benefit a great deal from limited access to the VBA's Intranet. Access to such programs as the training and performance support system would allow PVA and the other VSOs to educate our NSOs to more effectively support the efforts of VBA.

Access to information would also allow NSOs to be more successful in developing a well-documented and complete claim. The service officers could access the compensation and pension records interchange, they could secure medical records that are a necessary part of the claim.

PVA believes that the VBA and VSOs need to build a relationship of trust. A fundamental change in the claims process required the VBA to involve the VSOs and the veteran. If there is not a mutual trust between these three, an effective partnership cannot be possible. Likewise, the VA service representatives who make ratings decisions and have been in the system a long time, must be more responsive to the veterans' needs.

PVA believes that the role that the VSOs play must be specific to preparing the claim, not the actual decision-making process. The service officers are not claims adjudicators. PVA is concerned about service officers becoming de facto gatekeepers. We will advise the veteran if his or her claim as without merit, and suggest possible remedies, but we will not fail to submit a claim, or file an appeal.

I would like to thank this subcommittee for its efforts to try to overcome the incredible backlog of claims that the VA has faced for many years. We look forward to working with the subcommittee, as well as the VA, to continue to fight this problem. I will be happy to answer any questions that you might have.

[The prepared statement of Mr. Blake appears on p. 93.]

Mr. SIMPSON. Thank you, Mr. Blake. Mr. Lawrence.

STATEMENT OF BRIAN E. LAWRENCE

Mr. LAWRENCE. Mr. Chairman, and members of the subcommittee, on behalf of the Disabled American Veterans, thank you for the opportunity to testify on the task force recommendations and the potential for an increased partnership between the VA and VSOs.

The DAV was founded on the principle that our Nation's first duty to veterans is rehabilitation of its wartime disabled. The DAV devotes nearly all of its resources to maintaining a highly-trained corps of national service officers who provide services to veterans and their dependents.

NSOs assist veterans throughout every step of the claims process. Our focus on assisting service-connected disabled veterans helps both clientele and the VA. NSOs accomplish many tasks that would otherwise draw from VA resources.

My written testimony lists several such tasks, but I would like to point out that through counseling and advising, we are able to eliminate a lot of issues from claims that have no merit, by helping to ensure that only quality claims are submitted, and a measurable amount of unnecessary work is deterred.

The DAV accomplishes this by virtue of the high level of trust we have earned with veterans throughout decades of service. Our unique position as a veterans' advocate also provides objective insight regarding VA strengths and weaknesses. The VA's greatest strength is that the majority of its workforce is comprised of dedicated employees.

The weaknesses stem largely from past instances of poor planning and uneven execution of initiatives to improve the claims process. The task force has done an excellent job of identifying the flaws, and we are pleased with the proposals that they have recommended to correct them.

One of the problems they did not list, however, is the tendency within the VA to focus on numbers and statistical areas that are likely to be noticed. Every DAV office I spoke with in preparation for this testimony reported that VA regional offices are still doing very little to resolve cases that were remanded to them by the Board of Veterans' Appeals for further development.

They only do enough remands to complete the—or to meet the established quota. And once that quota is met, all work to resolve backlog remands is discontinued. I could go further, and say that in meeting that quota, they pull out the easiest-to-rate claims, and leave the harder-to-rate ones in the pile.

The backlog of unresolved cases will continue to grow unless a concerted effort is made to eliminate it. VA needs to eliminate the practice of only looking at numbers, and remember that each claim represents a disabled veteran. And they need to concentrate more on providing assistance, as their mission entails.

It is also vital that the VA be provided substantial resources, and a workforce adequate to offset past mistakes and clear the backlog of cases.

Regarding an increased partnership role between VA and DAV, our DAV national service officers already participate in nearly every aspect of the adjudication process, besides writing rating decisions. Few tasks could be added to our agenda without overburdening our limited workforce. However, if DAV had greater access to information technology, it would help us, it would help the VA, and most importantly, it would help the people that we serve.

For example, shared-information technology such as access to CAPPS, CAPRI, and the soon-to-be-released virtual VA, are essential for us to do our jobs efficiently. CAPS was only recently ac-

quired in the St. Petersburg regional office. CAPS information allows DAV to provide most recent claims status to veterans.

Since the majority of telephone calls to the VA's toll-free line are claims status inquiries, the DAV's access to such information greatly enhances efficiency. Without access, the additional step of contacting the VA for required information is necessary. VA employees are able to accomplish a higher volume of work when they are not busy answering telephone calls.

Mr. Chairman, for the sake of brevity, I would like to just emphasize the point that, for a greater partnership, we need greater or better access to information technology. This was a recommendation of the task force, it's being implemented, but at a slow rate. I think that would streamline efforts on our behalf, as well as the VA's.

Thank you for the opportunity to testify this morning.

[The prepared statement of Mr. Lawrence appears on p. 99.]

Mr. SIMPSON. Thank you, Mr. Lawrence. Mr. Fischl.

STATEMENT OF JAMES R. FISCHL

Mr. FISCHL. Mr. Chairman, Ms. Brown, the American Legion appreciates the scheduling of this timely hearing to examine VA's implementation of the recommendations made by the veterans claims processing task force.

Today I will highlight some of the concerns expressed in our written testimony. First, the American Legion would like to commend Secretary Principi for commissioning the task force, and Admiral Cooper for his untiring efforts to search for ways to reduce the incredible backlog of pending claims.

Our major concern with the status of the VA claims task force is relating to workload reporting. VA regional offices are under tremendous pressure to produce results. I would not want to be the director that had to say this month, "I couldn't do my quota, I was doing training, and next month things will be a lot better because of the type of training I'm doing. And if you look at the long term, things will be okay."

I wouldn't want to be that director, I don't think they could handle that at this point. The directors know what their marching orders are. We have got to produce results, we have got to eliminate the backlog. That message comes out loud and clear.

Now, in talking with the office of field operations—and I did this perhaps about four or 5 months ago—they are concerned about the seeming inattention to the appeals cases, and they said not to worry, that this is in the director's performance standards, "The Secretary is very big on this, you're going to see results, these claims will be taken care of." We haven't seen that yet.

And I guess I would think that, although it is in their performance standards, only people that have jobs have performance standards. And therefore, if I want to keep my job, I am going to do my quota of cases, and hope for the best.

And Ms. Brown, we very much appreciate your interest and your concern with our report. Without the interest of Congress, this wouldn't really mean anything. And we hope to achieve some success with our report.

As an add-on to that, we, this week, sent another person down to St. Pete to look at additional cases. We wanted to make sure that our findings were accurate. We sent another person down to review 23 cases. In talking with him this morning—and I don't have a whole lot of information—but he did tell me that 11 out of the 23 cases—these are remands that he was looking at—were over 4 years old, and little or no attention paid to them.

So, that is something that concerns us greatly, but we hope to have a report out to everyone within—I hope—within the next 2 weeks.

We found in our review of cases at VA regional offices that end products are often taken at the first opportunity. One case we noticed where a veteran called the hospital and told them that he couldn't make his appointment, could they reschedule, they did reschedule. The regional office immediately disallowed the claim.

And of course they will reopen it, but the veteran got a letter that his claim was disallowed. And what happened to one VA? But he will have his claim rescheduled and reopened. But our question would be this is kind of doubling the number of end products they take, and I would suggest that that isn't happening. On paper it's happening, that you have had, you know, two end products instead of one, but it seems like the case that this is the tail wagging the dog.

There are many other examples of that. Admiral Cooper spoke of the work measurement system and the need to review that, and we feel that that is very, very important. We are not going to make any recommendations about how they should do that, but one thing that comes to mind is since you get a work credit for a reopened claim, perhaps considering something like maybe not granting any type of credit for—or very little credit for—a case that is reopened within a year, because that might indicate that maybe you didn't do it right the first time.

And should we reward people for not doing it right the first time? Just a suggestion, something that they might want to think about, but what you measure—and Admiral Cooper was quoted many times by saying—you get what you inspect, not what you expect. And that is a very wise saying, and I think that maybe we should consider that when we are looking at end products.

A little bit about partnership—my time is running low—American Legion believes in doing everything that we can to support the partnership with VA. We would suggest that partnership is a two-way street, and we would like some additional cooperation on releasing information, we would like access to hospital records.

We find that oftentimes VA uses the Privacy Act in release of information statutes as a shield. We can't do that, because of Privacy Act when, in reality, the Privacy Act was intended to help. And any veteran it has hurt, as a result of invoking the Privacy Act, there is probably something wrong with that picture. The main premise of the Privacy Act is to do no harm, and I find that we harm veterans because we say we can't do this on account of the Privacy Act.

We have a lot of ideas, we will appreciate working with the VA, we look forward to meeting with Admiral Cooper and discussing our findings of not only the survey in St. Pete, but the many other surveys we have done. I thank you, Mr. Chairman, for your time.

[The prepared statement of Mr. Fischl appears on p. 103.]

Mr. SIMPSON. Thank you, Mr. Fischl. Mr. McNeill.

STATEMENT OF JOHN McNEILL

Mr. MCNEILL. Mr. Chairman, Congresswoman Brown, and members of your excellent staff, we have also written testimony, where we expound details and many of our beliefs. If it is all right, I will just go ahead and talk from the top of my head. I'm going to put my notes aside and just highlight a couple of important things I think that are dear to the VFW's heart.

First of all, I want to thank you very much for this hearing. We believe the implementation of the task force recommendations is one of the two most critical missions or challenges faced in Secretary Principi's time. We believe, therefore, that oversight—we appreciate your oversight in this matter, and it is imperative.

We all kind of share in the VBA claims processing problems. The VSOs, everyone else in the past, and this subcommittee have recommended solutions for a long time and we obviously need to share in the implementation of actions that have to be accomplished to try to get this solved. We have a lot of confidence that this is going to happen.

And if you want one reason, I think it is really going to be based upon what we feel is the very confident leadership of Secretary Principi and Admiral Cooper. We can endlessly ask the question why has this happened in the past, and everything else, there has been a lot of initiatives conducted, there has been a lot of brainpower behind those in the last 4 or 5 years—and this goes, actually, back to 1993, when you consider the Blue Ribbon Panel on Claims Processing.

I think the one difference is that there is now—they are committed to doing this, and they are committed to making it consistent across the board. And you need not look any further than what they have established in performance standards for regional office directors and veterans service center managers.

Every trip I take out there, every regional office director and every—literally, every regional office director, every service center manager is whining and crying about the performance standards. The leadership has got to be doing something right.

And we in the VFW have all been in the military. Everyone of your staff have performance standards. I had to certify in the military within one month when I went to rifle range. So, for the longest time now, the idea that they should not have to operate on performance standards is just ludicrous.

And so, based upon that, I think the VA leadership that is coming forward—I think we are extremely confident that the problem is going to be solved.

I won't comment on the request you made for recommendations by the VSOs; it's written in our testimony on that, the three requests you have on that. I will say that I think, though, certification is working for the VSOs. It is also interesting to note that we have talked today about access to health records.

The VHA next month is going to pilot test at five medical centers—and we're asking for three more sites—access to medical records. So things are happening here. The certification program is

viable, alive, working well, probably beyond even my expectation 3 years ago, when we had it.

I will say, though, that I think there is a professionalism responsibility here in the VSOs, and especially in the VFW as to how we take a look at this, that the one real method that we can help support such things as development claims is the implementation of the recommendation in enhancing the professionalism of our own service officers.

We are committed in the VFW to do that, we established an in-depth strategic plan last year and we intend to do such things as testing our service officers to make sure they are certified. And if they fail tests, they will get a remedial training program, and if they fail the remedial program, we're going to pull accreditation. So accreditation is going to be tied to certification and professionalism in the future.

I will say there is one—I do want to get two quick points in. One is that I think there is a very viable program in the VA right now that really gives us fully-developed claims and ready-to-rate claims, and that is the Benefits Delivery and Discharge program that is going on at the military installations.

Whoever thought of that idea should be awarded tremendously, because that is one program that really will help there, and it will pay dividends probably not right now, but in 3 years, 4 years from now, it is going to pay tremendous dividends.

There is no other place that you can capture a fresh record and establish a baseline for all future claims than you can when you have active duty military coming out and receiving a compensation rating right there on the spot.

There are great programs going on in San Diego, Camp Lejeune in North Carolina, Fort Bragg, Fort Hood, Texas, all across the country. If anything, we would implore Admiral Cooper—because I'm not quite sure what their recommendation was; I felt the recommendation to enhance the BDD program was kind of waffley in its language—but we implore Admiral Cooper and Secretary Principi—to really put resources towards that program.

The second thing is that we made a point of saying that by now it's time to really take a look at our expectations on what we believe should be the proper timeliness of a compensation claim. And we stress, and we wrote in our testimony that we now believe—and we studied very hard at this—but we now believe that the expectation for veterans and for veteran service organizations should be 150 days for an original disability compensation claim.

Now, if asked, I will be glad to break down that, but that was what should be, really, the expectations right now. I think we have an obligation here to explain to veterans that because of the sophistication of the program right now, and the sophistication of our veterans coming out and making requests for disability compensations through really great outreach programs—it's going to take a little bit of time to handle your claim and get it done. But if the VA can guarantee us a 97 percent accuracy rate on claims, I think almost every individual would be saying, "I'll be happy with five months."

This basically concludes my testimony, and we appreciate, again, very much your oversight in this matter, sir.

[The prepared statement of Mr. McNeill appears on p. 110.]

Mr. SIMPSON. I appreciate all of your testimony, and to you and the panel that is going to follow you, there is no one that cares about veterans more than other veterans. So I appreciate all that you do, and I appreciate several of you raising the issue of access to VA's computer systems and—so that the VA can better position your organizations in bringing forward fully-developed claims.

I will be sending both the VA and each of you a number of post-hearing questions in this regard. After that, at some point in time, I would like to have a follow-up session with you to ensure that we have what you need in the way of access to those records. Thank you bringing that up.

I agree with you, Mr. McNeill, that we not only have a problem now, but we have got to try to address the future problem. That means that if we can get good discharge records and so forth, and start preparing some of those discharged, it's going to, I think, solve a lot of the problems in the long run, as well as, hopefully, address some of the problem that we have now.

I hear people talk about the quotas and performance standards and so forth that the Secretary has put out there. I will give you my take on that a little bit, from my own personal experience.

As I mentioned earlier, I was a dentist in the real world, and we surveyed our patients one time, asked them a variety of questions about the dental office and so forth, and what they liked and what they didn't like. And of course, everybody likes to go to the dentist, so there were a lot of likes, a couple of dislikes.

The number one thing was they hated waiting in a doctor's office. You can find that wherever you go. I mean, everybody here has experiences where they go to a dentist, they go to a physician, they check in for their 10 o'clock appointment, and they sit for an hour in the waiting room. It drives people nuts. Sometimes they think that the dentist or the doctor doesn't think that their time is as important as the doctor's time.

So, we addressed it by saying, okay, when a patient comes in, the receptionist takes their chart, they write the time on a sticky note, and put it on the chart and put it on the shelf where the girls in the back know that the next patient is there. And we want every one of those patients seated in the dental chair within 10 minutes after that chart is put up there, maximum 10-minute waiting time.

Now, that didn't always happen, because sometimes you have emergencies, and sometimes you have rooms filled and you don't have an open chair because you have procedures that took longer than you anticipated.

But I will tell you what it did. It made every employee in that office, including the dentists, say, "Man, we've got somebody out there waiting, and they have been waiting out there a long time. We need to make sure we get them back into a chair," which means why isn't that room cleaned? Somebody needs to be cleaning that room.

It just made us aware of the fact that someone was out there, and that they—and how long they had been waiting. And that awareness really made it so that we were a much more efficient office. That's what I think this type of quota system they put into place will do, in that it will make the people aware that they have a certain level of expectation.

They might not always achieve it, and there might be good reasons—and if there are good reasons, we will find out what are those good reasons—but if they are not reaching their quota because they are training that day, or something like that, it seems to me that the administration would look at that and say, "Well yes, obviously you didn't reach a quota here because you're doing another function which we expect you to do, also."

I don't think it's a hard, fast number. If I was the employee out there, I wouldn't be fearful of that. What I would be saying is, "Listen, set a goal here for us, and let's see how we can work to achieve that goal," and that's how I look at the whole quota system that they put into place, and I think it's a good standard and a good measure that we can start with, and see how it works.

I will be sending you the written questions and I do very much appreciate your testimony here today.

Ms. Brown?

Ms. BROWN. Thank you, Mr. Chairman. And I also want to thank each and every one of you for what you do for our veterans. You truly are an example that the government can't do it all, we have to have the partnerships that we have.

Let me say I was very disturbed in reading the reports from the American Legion about St. Pete, because they process—and I have always thought that that office is just not capable of processing the volume of work that we have in Florida. I would recommend that we have a field hearing down in St. Pete to take a look at that situation down there.

And would you like to make any additional comments about the awful record that the St. Pete office has, as far as handling these cases, and in addition, did you forward this report—or, if you haven't, would you please forward it to the Secretary and the—pertaining to the report, because he has not seen it——

Mr. FISCHL. We will do that. We have not even completed the report, because we just had a person come back from there yesterday. But as I indicated, I would estimate the final report would be done in approximately 2 weeks, and everyone will have a copy of it at that point.

Ms. BROWN. Would you like to make some additional responses to the report?

Mr. FISCHL. I would probably need about 20 minutes for that, and I wouldn't burden everybody with that now, except to say that we were very concerned by what we found.

Ms. BROWN. Did you make some recommendations, then? I mean, we know the problem is bad. How can we fix it?

Mr. FISCHL. We will have recommendations in there, but I think the first, you know, important thing is to come to grips with what really is down there, and deal with the attitudes.

In polling the different service organizations—this was part of what we did, we talked to the other service organizations—their——

Ms. BROWN. Just one second. Okay. I don't hear well, so—thank you, go on.

Mr. FISCHL. Their collective opinion was for training, for example, the training of new employees was good. And of course, probably a lot of that goes back to that is centrally done. But they said

training for new employees was good, but they said once they got into place, training was virtually non-existent, it didn't happen.

This was the observation of all of the service organizations. It didn't happen. And not only did it not happen, but they were corrupted by what they found in the rating boards, that they were told, "Don't pay any attention to what they taught you, here is the way we do it." And there is much of that.

It was serious. I mean, we were shocked at what—we don't normally send people right back down for follow-up action, but this time we did. We were very shocked at what we found down there. Not that we didn't expect it, because St. Pete does not have the best reputation, but we were even shocked by what we found. But it would take me forever to go through it all.

Ms. BROWN. Well, you know, for a long time we have discussed that we need an additional office in Florida, because of the sheer numbers and the volume. And, you know, it's a backlog all the time. And I experienced it, because there are so many of my constituents, and you know, we have this long list of denials or how long it takes to process the claims. It is a problem.

Thank you very much for this report.

Mr. FISCHL. Thank you.

Ms. BROWN. Mr. Lawrence, I am concerned about your testimony that VBA may be focusing more on cosmetic effects as opposed to dealing with the problem and how to improve it. Have you noticed a difference in performance by various regional offices?

Mr. LAWRENCE. That seemed to be nationwide. In preparing this testimony, we had a conference call with area supervisors and a handful of office supervisors. And almost unanimously, with regard to BVA [sic] remands, they said that they would only do—process enough remands to fill the quota, and then no more attention was given to the remands.

In the St. Petersburg regional office, decision review officers there reportedly are not allowed to work cases that have had hearing held in them, because it didn't count toward credit.

And you know, I understand that there has to be some sort of measure, there has to be some sort of an accounting system, but it seems like with the VA, if you say, "We need you to concentrate on X," Y is ignored. And that seems to be the case here. It seems to be a lack of concern for the people that have had cases pending for years and years and years, and they are worried about the numbers being right in statistical categories that are noticed.

Ms. BROWN. You know, I have a concern. Performance standards, I think, are very good, and it is based on training and the experience of the worker, you know, to say that you can—you need to complete a certain number of cases. But it just depends on the employees.

I mean, one person may be able to complete—it just depends on whether the cases are difficult or—the system doesn't seem to be—we're doing away with some of the backlog, but it's not just doing away with the numbers, it's the quality of the work and making sure that the veterans are treated fairly, and this does not seem to be happening, particularly in light of your report.

Mr. FISCHL. May I add one thing?

Ms. BROWN. Sure.

Mr. FISCHL. I think you hit the nail on the head. And what it is, it's a management issue. And having been there before in my former life—I was a manager of a claims processing unit—and I knew from experience that you had to know your people, what they could do and what they couldn't do. You worried about what your team could accomplish, not what one person in a group could accomplish. You made sure everybody was working to the best of their ability. You had to review their work. Every Friday you needed to go around and look what people had on their desk.

People tend to let sit what they don't know how to do, and so you had to deal with that. You either had to teach them how to do it, or give it to somebody else that could do it. But you couldn't just hope for the best, and hope it all worked out.

The same way with congressional inquiries. They came in, and you had to make sure your people responded to them. Now, when you get an inquiry from a Congressperson, you need to answer it. That's common sense. People didn't do it because they didn't have the answer, but a good answer is, "I'm sorry, I can't tell you that right now, I will get back to you in a specified amount of time." But there were people who would just say, "I don't know," and do nothing. You can't allow that.

So, what we're looking at is a management issue. And if you have managers that understand their people, understand what needs to be done—now there are VA regional offices that I have seen where they have an outstanding training coordinator, somebody that understands the role of mentoring, that knows how to develop people, because people don't just fall into your lap and they know what to do, you develop their skills. What do I have here? You develop that. That's like a lost art.

Now, if I could mention a regional office, I had experience to hear a presentation by the training coordinator in the Milwaukee regional office. I was electrified by what I heard. This lady really understood how to train, how to work with what you have. If they could clone her, I think they could solve the VA's problem. But that is part of it. It is management, it is training.

And training is more than presenting information and facts. Training is helping people use what they have. Can you apply what you have learned? And if they could get training coordinators—not just, "I will tell you the answer, you take the test, and if you know the answer, you win," that's not the way to do it.

Mr. SIMPSON. I appreciate that, and I appreciate your testimony. We are going to try to get in the last panel. I do appreciate all your testimony, and thank you for being here today.

We are going to try to get in the last panel of Mr. Lopez, Mr. Selfon, and Mr. DeWolf before this vote, because we have three votes coming up, and we will probably be gone for a half-hour, 45 minutes, on these votes. So we have about—we probably have about 10 minutes, so I would ask you to keep your testimony as brief as possible.

We do have your full written testimony, which will be in the record, and I appreciate all of you being here today. First we will hear from Mr. Lopez, the chairman of the Association for Service-Disabled Veterans.

STATEMENTS OF JOHN K. LOPEZ, CHAIRMAN, ASSOCIATION FOR SERVICE-DISABLED VETERANS; LEONARD J. SELFON, DIRECTOR, VETERANS BENEFITS PROGRAM, VIETNAM VETERANS OF AMERICA; AND HOWARD G. DEWOLF, NATIONAL SERVICE DIRECTOR, AMVETS

STATEMENT OF JOHN K. LOPEZ

Mr. LOPEZ. Good afternoon, Chairman Simpson, and Member Brown. Thank you for this opportunity to address the committee.

I would ask that, without objection, I may summarize my testimony and submit full written testimony.

Mr. SIMPSON. Yes.

Mr. LOPEZ. The Association for Service-Disabled Veterans is a veterans organization that is focused on empowerment of the disabled-in-service and prisoner of war military veteran. Our programs are application of managed employment and self-employment initiatives, wherein the service-disabled veteran is an active participant and cooperative beneficiary, as compared to being passive recipient of governmental programs.

ASDV believes that the dignity and self-esteem of the service-disabled veteran is maintained and enhanced when the service-disabled veteran is active in the delivery of veterans services; because the service-disabled veteran is a critical stakeholder.

As a partner in the delivery of services, the service-disabled veteran is in a unique position to provide insight and flexibility to all service-disabled veterans services, especially when those services are based on rigidly regulated processes, and delivered in a bureaucratic environment.

As an example, we have attached in our full testimony descriptions of initiatives we have sponsored. These programs are public law 106–50, The Veterans Entrepreneurial Development Act, and sections of the public law 107–135 The Department of Veterans Affairs Health Care Programs Enhancement Act.

Both of these acts of the United States Congress are proposals to have service-disabled veterans initiate programs implemented through cooperative actions of veterans' service organizations, individual service-disabled veterans, and federal agencies. These acts attest to this committee's perception of the need for more legislative benefits that are based on partnerships, joint efforts, and interactive resources of both the stakeholders and the federal agency.

However, it is critical and imperative that the committee exercise stringent oversight and review of these legislative activities. Early experience has indicated that the federal agencies have little inclination to support initiatives directed by the U.S. Congress and operated by beneficiaries, especially when the agency has not dictated these activities.

Although federal agencies are quick to criticize the U.S. Congress as being prone to micromanagement of legislative programs, it is apparent to veteran beneficiaries that without the oversight of Congress, many programs and benefits will never reach their intended purposes.

Not only must the Congress increase the emphasis on veteran and federal agency partnerships, but it must also increase its over-

sight of virtually all veterans programs and at the least the authorization and appropriations process. Thank you.

[The prepared statement of Mr. Lopez appears on p. 114.]

Mr. SIMPSON. Thank you, Mr. Lopez. Mr. Selfon.

STATEMENT OF LEONARD J. SELFON

Mr. SELFON. Thank you, Mr. Chairman. In the interest of time, I will rely on our written statement, and briefly focus the issues in my oral presentation.

We believe that the Secretary's task force has done an excellent job of building a strategy to attack the fundamental problems that exist within the VA claims adjudication process.

Obviously, any proposals to be considered as potential solutions to these difficulties with respect to backlogs, timeliness, accuracy, quality control, and uniformity of decisions from VARO to VARO, have to have as their ultimate goal a facilitation of the examiners and the adjudicators getting it right the first time.

With respect to these actions, this translates to ensuring that the evidence is fully developed prior to the initial adjudication, and includes more than simply ascertaining what records are out there, and seeking to go out and retrieve them, but also providing contemporaneous physical and psychiatric examinations where warranted, and ensuring that those examinations are adequate for rating purposes.

And with respect to the latter, we would also like to bring to your attention as an example, repeated instances where the VA C&P examiners fail to comply with the pain and range of motion requirements of the *DeLuca* case, *DeLuca* v. *Brown*, which occurred about 6 or 7 years ago.

While the passage and implementation of the VCAA, as well as the task force's recommendations address these issues, the essential truth is that unless the VBA correctly adjudicates claims at the VARO level based on full development of each claim, both administrative and judicial appeals will not only continue at their current levels, but most likely will increase.

The key to achieving the task force's stated goals is flexibility in the implementation process. Blind adherence to any set of rules or policies generally results in the same short-sightedness that led to the evolution of the VBA's current problems. And therefore, we must all be mindful that, for whatever reasons, not all of the task force recommendations may be effective once implemented.

And so, we recommend long-range vision be applied to the implementation process with current analysis—concurrent analysis, I should say—as to whether the new programs' processes and policies are working and will continue to work.

We agree with the task force's analytical approach of focusing on personnel training, workforce performance, quality assurance, and information technology. And obviously, improvement in each of these areas will assuredly lead to timelier claims and more accurate decision. It's clearly a case of working smarter and not necessarily harder.

Another important task force recommendation is to establish and enforce accountability protocols, and we're in complete accord with recommendation S–16 in this regard, and would mention that the

only way to ensure significant and meaningful accountability is to accurately assess the quality of the work product, and take appropriate action vis-á-vis not just the adjudicator, but direct, and even ultimate, supervisors. And the VA must provide significant consequences for inadequate performance beyond lower performance evaluations and loss of performance bonuses or salary increases.

Finally, we would like to address the task force's recommendation concerning full partnership and cooperation with the VA and the VSOs. Recommendation M–1 urges the effective utilization of VSO services, and there is no more enthusiastic supporter of this concept than VVA. VSOs also serve a vital function as gatekeeper by ensuring that claims without legal merit do not clog the system.

But nevertheless, mandating certain requirements of VSOs in the submission of claims comes with a risk of history repeating itself. The VCAA effectively erased a decade of VA regulations, policies, and jurisprudence concerning the threshold requirement of submitting well-grounded claims.

The VCAA essentially abolished the need for the submission of a well-grounded claim in order to trigger the VA's statutory duty to assist the claimant with the development of the evidence surrounding his or her claim.

Now, the Task Force Report references VSOs submitting ready-to-rate claims, and the common understanding of that term is that all of the available evidence sufficient to warrant an award of benefits on the merits without the need of any development on the part of the VA be initially submitted.

Obviously, not every claim is going to fall under that posture without the VA's assistance. But any statute or VA regulation or policy that would require the submission of a ready-to-rate claim prior to adjudication or developmental assistance would run afoul of the VCAA, and flirts dangerously with institutionalizing a next-generation well-grounded claim requirement.

To this end, the VSOs should strive to submit ready-to-rate claims whenever possible. However, any formal or even semi-formal requirement in this respect would be, in VVA's opinion, ultra vires, and could result in disparate treatment between veterans and claimants who represent themselves and veterans who engage in services of VSOs.

Additionally, we would consider the submission of ready-to-rate claims as one part of a reciprocal arrangement or obligation. Even if a claim was filed fully developed and ready-to-rate, it could languish in a pile of claims for a year or more before the VARO gets around to rating it, since there is no requirement that the VA promptly adjudicate claims in this regard.

What good is filing a ready-to-rate claim if the VA does not capitalize on the time savings? Therefore, VVA urges that VSO assistance in submitting ready-to-rate claims be the quid to the VA's pro quo in expediting the adjudication of such claims. The stated objective of VA/VSO partnerships is to facilitate the timely processing of claims, and we believe that to establish that, the partnership must run in both directions.

We sincerely appreciate the opportunity to present our views on these important issues. We are particularly impressed with Admiral Cooper's leadership on the task force, and we wish him contin-

ued success as the new under secretary for benefits. We believe in the good work of the task force, the good work of the VA, and the good work of this committee, and we look forward to working with all in the future to serve our veterans appropriately.

[The prepared statement of Mr. Selfon appears on p. 118.]

Mr. SIMPSON. Thank you. Mr. DeWolf.

STATEMENT OF HOWARD G. DEWOLF

Mr. DEWOLF. Yes, sir, thank you. Mr. Chairman, members of the committee, as was the case with my predecessors, I will ask that my written comments be accepted for the record, and I will attempt to summarize with the pending vote.

Over the years, AMVETS has maintained a proactive partnership with the Department of Veterans Affairs, especially through the Veterans Benefits Administration. As veterans' advocates, we value both the professional and personal relationship that exists between us.

The AMVETS organization has enthusiastically joined with the Department of Veterans Affairs in its attempt to develop a partnership with the veterans' service organization community. We fully acknowledge the importance of the issues raised in the report of the VA claims processing task force.

For a number of years it has been the policy of the AMVETS national service department to ensure that our national service officers submit well-grounded claims on behalf of veterans. We have emphasized the importance of guiding veterans towards gathering the proper evidence and insuring their claim submission is as complete as possible.;

Rather than contribute to the claims backlog by knowingly submitting an incomplete or frivolous claim, we would prefer to tell the veteran the truth, so that we do not build unrealistic expectations. To the best of our ability, we intend to be a part of the solution in processing veterans' claims in a timely manner, not part of the problem.

We have found that our diligence has paid significant benefits to the veterans whom we serve. The feedback we have received from VA regional office directors is consistently positive with respect to the completeness of our claims work. Veterans are pleased that once their claims are filed, they have no further action, other than to wait for the rating results.

Similarly, we have actively participated with the VA in implementing the TRIP program. We have met monthly with our VA counterparts, and other cooperating VSOs, to develop the program, monitor training schedules, discuss implementation issues, and ensure the partnership is fostered between the VA and VSO communities.

AMVETS has directed its NSOs to take TRIP training, become certified, and actively engage with their VA counterparts at their respective regional offices. Additionally, we have established a program where accreditation as a service organization representative of AMVETS is contingent upon successful completion of TRIP training.

Essentially, we have established a 1-year probationary period for a county or state service officer seeking accreditation with AMVETS to successfully complete TRIP training.

Unfortunately, although the VA has developed a TRIP training program, and we have enthusiastically participated, we have yet to see the benefit. Our NSO submissions are treated no differently than any other claim received by the VA, whether processed under TRIP or not. We were told that the claims our TRIP-trained service officers submitted would be processed more rapidly and, for the sake of the veterans we are serving, be given a rating more rapidly. This has not been the case.

On the contrary, our national service officers report that the claims they submit receive no priority over any others. Without exception, all claims appear to go into the same queue, without regard to whether they have been processed by a TRIP-trained service officer or not.

Our chagrin is that we feel we have held up our side of the partnership, but the VA is not delivering on theirs. Our NSOs take the training and pass the tests, but see no benefit for the veterans they are trying to serve. If we keep up our end of the partnership, make sure our NSOs are TRIP-trained, and submit fully developed claims that are ready for development, then the VA needs to carry through on its end of the partnership by giving priority consideration to those claims.

AMVETS has fully and enthusiastically committed to a partnership with the VA. We want to work together with the VA to ensure that we achieve the ultimate goal of better serving America's veterans.

AMVETS looks forward to working with you and others in Congress to ensure we help meet the needs of America's veterans and their families. Clearly, there is much to do, and we are encouraged in seeing your personal involvement in the consideration of changes in policy that will help ease the massive chronic backlog of pending benefit claims.

Sir, this concludes my remarks. I would be pleased to address any questions or comments that you or other members may have, and I thank you, again, for the opportunity to present our comments.

[The prepared statement of Mr. DeWolf appears on p. 126.]

Mr. SIMPSON. I thank all of you for your testimony. And again, as I said to the other panel, I thank you for all that you do for the veterans. It is very important.

As I have mentioned several times today, we will have written questions that we will be submitting, and we will be submitting some questions to Admiral Cooper, based on today's testimony.

Again, we appreciate your testimony and all that you do. If there are no other questions or business before this subcommittee, the hearing stands adjourned. Thank you all.

[Whereupon, at 1:10 p.m., the subcommittee was adjourned.]

APPENDIX

PREPARED STATEMENT OF CONGRESSMAN EVANS

Good Morning and welcome to all of our witnesses.

I thank Mike Simpson and Silvestre Reyes for holding this hearing.

Today's hearing has two initial goals. To help us understand what progress VA has actually made in claims processing.

Second, what steps need to be taken to further improve the quality and timeliness of VA's decisions.

I am concerned about the widespread reports that VA's backlog has been reduced by 200,000 claims.

This information is a disservice to our veterans. Particularly, to those veterans who continue to wait for VA to act on their claims. VA should publicly set the record straight.

In order to meet quotas, VA is shortening the time to submit evidence. Claims decisions are made before all needed evidence is obtained and considered.

Veterans deserve a fair decision that is both accurate and timely.

I am especially concerned that remanded claims are being neglected in order to meet regional office quotas.

I request that my recent letter to Secretary Principi concerning this problem be made a part of this record.

As VA's new employees gain experience we can achieve quality in a more timely fashion.

Veterans do not want production quotas to undermine quality.

We must ask VA employees to give the best they can.

We should not ask them to do more than they can.

Thank you Mr. Chairman.

PREPARED STATEMENT OF CONGRESSWOMAN BROWN

I want to welcome all of our witnesses.

I hope that today's hearing will address some of the problems identified by the veterans' service organizations.

Just as Enron has been discredited by misleading numbers, the Department of Veterans Affairs is discredited when glowing reports of a 200,000 reduction in VA's claims backlog is untrue. Widespread dissemination of incorrect information harms our Nation's veterans.

I am especially upset to learn that the American Legion's Quality Review Team's recent visit to the St. Petersburg Regional Office found graphic evidence of "premature and erroneous denials of claims, a general lack of compliance with the Veterans' Claims Assistance Act (VCAA) rules and other types of inappropriate action."

I am very upset to learn that the claims which were remanded more than five years ago are being intentionally neglected. This was attributed to the station receiving no work credit for resolving them under their mandated monthly production quotas. Such blatant violation of law must be dealt with by responsible VA officials.

St. Petersburg is the largest VA office in the country. According to data recently provided to Ranking Member Evans, 1,315 claims which had been remanded to St. Petersburg prior to October 1 , 2000 were still awaiting action as of February 27, 2002! Some of these claims were more than six years old.

Almost two-thirds of the appeals from St. Petersburg decided by the Board of Veterans' Appeals during the first half of this year resulted in either a reversal or remand of the St. Petersburg claim. This is unacceptable.

The current backlog in St. Petersburg has been reduced from 33,249 as of the start of the fiscal year to 27,547 last week. While this would ordinarily be cause

for acclaim, it appears that this reduction has come at an unacceptable price: premature and erroneous decisions.

I am a cosponsor of H.R. 1450 which would require the VA to open a second regional office in Florida. Today's testimony indicates to me that such legislation is warranted.

I hope that we can work with the VA to obtain real progress which we can justifiably proclaim as improvements in claims processing.

Thank you Mr. Chairman.

The Honorable Michael Bilirakis

Committee on Veterans' Affairs

June 6, 2002

Subcommittee on Benefits Oversight Hearing on the Status of the Department of Veterans Affairs Implementation of the VA Claims Processing Task Force's Recommendations, and Exploring the Potential For a Greater VA/Veterans Service Organization "Partnership"

First, I would like to thank Chairman Simpson and Ranking Member Reyes for inviting me to participate in today's hearing even though I am not a member of the Subcommittee on Benefits. Chairman Simpson is aware of my interest in the VA's claims processing system and the role of the veteran service organizations and officers. Unfortunately, the Energy and Commerce Subcommittee on Health, which I chair, is conducting a hearing at the same time and I will be unable to participate in this important hearing. However, I look forward to reviewing the testimony and comments presented to the Subcommittee today.

I am a member of several veterans organizations, and as I have probably mentioned at previous Committee hearings, I even helped establish an American Legion post in my community. I served as the post commander for several years. As an active member in veterans' posts, I know that the veterans organizations and their service officers play an important role in helping veterans file claims with the Department of Veterans Affairs.

State and county service officers also play an important role in the claims processing system. I represent three counties in Florida: Pinellas, Pasco and Hillsborough. Each of these counties has dedicated men and women serving as veterans service officers to assist local veterans with their VA claims. Often times, these service officers participate in my veterans town meetings and offer their perspectives on problems confronting the veterans they deal with on a daily basis. This input is always an insightful and important resource for my work on the House Committee on Veterans' Affairs.

For quite some time, I have felt we are not taking full advantage of veterans organizations and county service officers. As the VA works to reduce its claims backlog, these men and women are a valuable asset which should not be overlooked. I am anxious to review any suggestions on how we can encourage and improve the VA and service officer partnership—at all levels of government.

I look forward to working with my colleagues on the Committee as well as the VA and veterans organizations on improving the veterans' claims processing system. Our nation's veterans should not have to endure lengthy waits to receive the benefits to which they are entitled.

Statement of
The Honorable Daniel L. Cooper
Under Secretary for Benefits
Department of Veterans Affairs
Before the House Committee on Veterans' Affairs
Subcommittee on Benefits
June 6, 2002

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify today on the status of the Department's implementation of the VA Claims Processing Task Force's recommendations and to explore the potential for expanded partnerships with the Veterans Service Organizations.

On November 6, 2001, I testified before the House Committee on Veterans' Affairs as Chairman of the VA Claims Processing Task Force. At that hearing, I provided the Committee with an overview of the Task Force's findings and conclusions and outlined a series of recommendations for tackling the claims backlog and improving claims processing. About that time, Mr. Guy McMichael and Mr. Stan Sinclair were appointed as acting Under Secretary for Benefits and Deputy Under Secretary, respectively. Both had been members of the Claims Processing Task Force. They immediately initiated actions that laid the groundwork for our success to date. On April 2, I had the honor of being sworn in as the VA Under Secretary for Benefits, and Mr. Sinclair has been appointed Deputy on a permanent basis. I am appearing before you to report on the progress that VBA has made in carrying out the Task Force recommendations. And, although we have only begun to see the effect of implementing the easiest recommendations, the trends are in the proper direction and productivity is greater at every regional office.

Subsequent to the hearing in November, VBA developed an Implementation Plan that converted the Task Force recommendations into a series of short-, medium- and long-term tasks for achieving the claims processing objectives. Since becoming Under Secretary, I have continued the implementation of a number of the recommendations identified by the Task Force and contained in the Implementation Plan. Today I will highlight those initiatives that were identified as short-term. Obviously, we would never implement all 20 of the short-term changes immediately. Each could individually be completed in six months, but the accomplishment of all of them must take longer. I have attached to this testimony a summary of all the recommendations contained in the Plan.

Note that the Task Force Report outlined 34 recommendations (20 short-term and 14 medium-term). For implementation purposes, VBA has defined 62 actions we can take to fully accomplish the 34 recommendations. We have aggressively pursued implementation of the recommendations: 10 of the action items are already completed.

The three priority areas where we are focusing our attention are: 1) reducing the size of the backlog and the time veterans must wait for decisions on their claims; 2) ensuring high quality decisions while producing large numbers of claims; and 3) establishing greater accountability and consistency in regional office operations.

When I assumed the challenge of guiding VBA, I knew that reducing and controlling the claims processing backlog would be the primary undertaking. While we have only just started on the path to success, I believe that we are on the right track. A number of initiatives have been put into place to help accomplish our goal.

One of our most successful initiatives has been the Tiger Team, which is located at the Cleveland Regional Office. The Secretary implemented the Tiger Team in November 2001 in order to process the oldest claims in VBA and to focus on claims from veterans age 70 and older that have been pending over one year. The emphasis was to be on War World II and Korean War veterans whose claims were mired in the system. Through the end of May, the Tiger Team has completed 10,162 claims, and of these completed claims, the majority of which were for veterans over the age of 70. Working in tandem with the Tiger Team are nine Resource Centers. These Centers have completed 21,548 claims. By the end of calendar year 2002, we hope they will have completed 65,000 claims.

We have also taken action to significantly reduce the time required to obtain military records needed to resolve these long-pending claims. The VA Liaison Office at the National Personnel Records Center responds to Tiger Team requests within an average of 48 hours. Procedures have also been established to screen all records requests based on date of claim and to process the oldest claims on a priority basis. The number of requests related to these older claims has been reduced by almost 4,000 since October 2001.

We have also made great strides in improving the way annual income adjustments are made for pension recipients. The processing of all of the eligibility verification reports (EVRs) was consolidated to three Pension

Maintenance Centers this year. Utilizing three sites across the country exclusively for processing EVRs has allowed the regional offices to focus on VA's backlog of rating claims. This dramatic change was accomplished with no disruption in the pension benefit program.

The Task Force also recommended that the Board of Veterans' Appeals develop for additional evidence rather than remanding all cases back to the regional offices. Regulations to effect this recommendation have been implemented. By allowing the Board to develop for evidence, VA has virtually eliminated the time-consuming requirement of sending cases back to the local offices for additional development. This will free up resources in the regional offices to spend more time on previously remanded cases still pending at the regional offices and new claims. The Board of Veterans' Appeals has also augmented the Tiger Team in Cleveland where staff counsel drafted 3,651 Statements of the Case. In addition, the Board sent staff counsels to 19 regional offices where they reviewed the oldest pending appeals to assist in expediting the appellate workload.

To help VBA achieve uniformity of process, consistency of results across all regional offices, as well as sustain higher levels of productivity, the Task Force recommended that VBA establish specialized processing teams within each Veterans Service Center. This organization will narrow the focus and reduce the complexities of each employee's work. The result will be more efficiency in the claims process. This processing model requires six separate and distinct teams – Triage, Pre Determination, Rating, Post Determination, Appeals, and Public Contact. These new processing teams have been prototyped in four regional offices, and in July through September we will implement this organization nationwide. We are doing this at every regional office because lack of accountability and inconsistent processes between and among offices were major contributors to our inability to attack and overcome the problems of changing rules and increasing claims demands.

This model will help us to more quickly and critically examine our results and develop the talented new people that we are now hiring. We must demand timeliness, consistency, and higher quality of decisions, so that veterans' claims are treated in a prompt, appropriate, and dependable manner no matter where the claim is adjudicated. As a result of the Task Force's focus on accountability, national performance plans have been developed for rating veterans service representatives (RVSRs) and veterans service representatives (VSRs) that establish both production and accuracy standards.

VBA has also established performance requirements for every Director that are tied directly to the Secretary's priorities. Specific service delivery goals have been set for monthly rating production, improvements in processing times, reductions in the numbers of cases pending over six months, reductions in the total pending inventory, reductions in the number of pending appeals, improvements in remand timeliness, and timeliness of placing claims under control in VBA's processing systems. "Wellness plans" have already been requested of some Directors who have, thus far, failed to achieve the goals specified in the performance plan. These plans include an analysis of the causes of the performance deficiencies and identification of countermeasures to correct the situation.

I unequivocally share the concern for the requirement to maintain quality, especially with the higher output levels expected of employees. There are several recommendations in the Task Force Report designed to help VBA achieve this objective.

One of these is a refinement to our compensation and pension quality assurance process, known as STAR (Systematic Technical Accuracy Review). STAR was originally designed as a "zero defects" process, measuring all aspects of the claims process: complete development of evidence, evaluation of all issues, correctness of evaluations, and proper decision notifications.

The Task Force recommended that the STAR protocol be clarified to highlight determinations that directly affect entitlement, including statutory duty-to-assist requirements, and monetary payments. Those refinements have been made. We continue to address the full range of issues, but now give greater focus to the areas of entitlement and monetary payments. This in turn helps us gear improvement efforts where they can have the greatest impact.

The Task Force also identified the quality of medical examinations as a critical component of decision accuracy. The Compensation and Pension Examination Project (CPEP) Office in Nashville, Tennessee is a joint VBA/VHA initiative designed to improve examination report quality.

VBA has moved a portion of its C&P claims processing quality assurance (STAR) staff to Nashville to support the efforts of the CPEP office. The STAR staff conducts quality assurance reviews of examination reports based on quality protocols developed by the CPEP team with concurrence of a joint VHA/VBA/ Clinical Advisory Panel. In addition to conducting a baseline review to provide

more detailed information concerning examination report quality and areas requiring improvement, CPEP supports a "Collaborative Examination Improvement Breakthrough" quality improvement series, focusing attention on cooperative efforts between medical centers and regional offices to establish effective communication, identify problems, and resolve examination problems.

One very important area addressed in the Task Force Report is the working partnership between VA and the Veterans Service Organizations (VSOs) to support veterans in the development of ratable claims. In 1998 VA began the "Training, Responsibility, Involvement, and Preparation of Claims," or TRIP program. The goal of TRIP is to help VSO representatives submit fully developed claims so that VA can decide veterans' claims more expeditiously. To achieve this objective, VSOs would be allowed access to VA's computer systems, up to the point the claim is adjudicated. TRIP also included the provision of extensive training in claims development to participating VSOs.

All VBA regional offices have successfully provided both Levels 1 and 2 of TRIP Training to their VSO representatives. A consolidated TRIP training package (Levels 1 & 2 combined into a 32-hour program) is on schedule for national rollout in the fourth quarter of FY 2002. The consolidated package will be used by all regional offices for training beginning the first quarter of FY 2003. The consolidated program was pilot tested at the Washington Regional Office in February with participants from the Veterans of Foreign Wars and the Paralyzed Veterans of America. Three additional regional offices (St. Petersburg, Louisville, and Buffalo) are testing the program during the third quarter of FY 2002. Remote access of VBA computer applications by VSOs who have completed TRIP training is currently being tested. Our Claims Automated Processing System (CAPS) remote access test began on May 20. Plans are to incrementally expand the test to 49 additional out-based users over the next two months.

Looking to the future of this working partnership between VA and the VSOs, we see a number of opportunities and a number of issues. We are having ongoing discussions with VHA regarding electronic access by VSOs to VAMC treatment records. We are working with several regional offices (Buffalo, Louisville, Seattle, & Montgomery) to devise a method to measure how well VSOs are developing TRIP claims before they are submitted ("ready to rate" or "ready for action").

We have also increased VSO involvement in development of regulatory and procedural changes. We consult with them on major issues and solicit their advice and input prior to drafting changes. This increased collaboration promises to improve our policy development and our responsiveness to veterans' needs.

There may be or may have been several ways to attack VBA's claims processing problems. However, I am convinced that the Task Force Report offers the best plan for dramatically decreasing the backlog and providing VA with a viable long-term claims process. The attributes of the plan are accountability, integrity, and professionalism. The results that we are looking for are quality, uniformity, consistency, efficiency, and effectiveness. With all of VA and the VSOs working together as a team, I believe we can make a difference for veterans.

Mr. Chairman, this concludes my prepared testimony. I will be pleased to answer any questions you or the members of the Committee might have.

Claims Processing Task Force

REORGANIZED RECOMMENDATIONS SUMMARY

Redefined Categories

Category placement is based on a static start date of January 1, 2002.

Short-Term: < 6 months **Page 2**
- 10 recommendations assigned to this category
- 4 targeted for post-implementation performance monitoring

Medium-Term: 6-12 months **Page 4**
- 26 recommendations assigned to this category of which 3 are integrated recommendations
- 9 targeted for post-implementation performance monitoring

Long-Term: > 12 months **Page 7**
- 5 recommendations assigned to this category of which 2 are integrated recommendations
- 4 targeted for post-implementation performance monitoring
- All recommendation in this category are IT-based recommendations

Implemented w/ On-going Performance Monitoring **Page 9**
- 5 recommendations assigned to this category

Implemented and Closed Out **Page 10**
- 12 recommendations assigned to this category; 8 of those were closed out and are being addressed within an integrated recommendation

Delayed Action **Page 12**
- 4 recommendations assigned to this category

This reorganization results in a total of 62 recommendation tasks in PTS.

Claims Processing Task Force

SHORT-TERM RECOMMENDATIONS
< 6 months

ID: S-7	**Require BVA Processing of Remands** • Require that BVA process the current workload of appeals, including development of appeals, rather than issuing remands. • Acceptance of new evidence should occur only at the BVA level. Cases should not be remanded because new evidence subsequent to the date the appeal was sent to BVA. • VBA should return BVA remands for priority processing. Priority should be given to working the approximately 1,800 cases that were remanded prior to FY 1998. • An organizational realignment is required by VBA to support the BVA remand and decision process. VBA should place an appeal decision-processing unit within BVA to support the appeals process and to reduce, if not eliminate, remands. • Establish a method of accountability for BVA in developing cases for decision rather than returning the appeals to the Regional Offices. • Continue to track errors that result in remands for cause and report on the type and rate of errors to the originating office for quality and retraining purposes. • Transfer responsibility for processing VHA appeals and remands in an expeditious manner to VHA.
ID: S-15	**Revise Scorecard Measures** • Expand scorecard measures to include discrete types of work products and other performance measures. • Establish a measure that delineates the timeliness of processing steps that are within VBA's direct control. → Timeliness measurement from the date of claim to the date that all development actions have been taken should be clearly provided and articulated. → Timeliness measurement from date of receipt of all pending development items to claim authorization or denial letter (final action) should be clearly provided and articulated. • Eliminate scorecard measures by Service Delivery Network (SDN) under current ineffective SDN organizational framework.
ID: S-16A	**Establish and Enforce Accountability** Hold VBA Regional Office Directors accountable to individualized, measurable and meaningful performance standards. Reward appropriately for outstanding performance. Measure and evaluate accountability at the Regional Office and individual performance level.
ID: S-16B	**Establish and Enforce Accountability** Hold VBA Central Office officials accountable to individualized, measurable and meaningful performance standards. Reward appropriately for outstanding performance. Measure and evaluate accountability at the program service and individual performance level.

ID: S-19	**Credit Brokered Work Equitably** Develop a system that fairly and completely apportions end product credit between VBA Regional Offices performing the brokered work.
ID: S-20	**Evaluate Establishing New Pre-Discharge Centers** VBA must evaluate the advantage of opening additional Pre-Discharge Centers serviced by Regional Offices whose staffing resources are not adequate to support both the new Center and the present claims processing workload.
ID: M-1	**Utilize Veterans Service Organizations (VSO) Effectively** Empower Certified Veteran Service Officers to: • Accept evidence in support of a claim; • Provide VBA with certified copies of necessary documents; and • Assist in gathering testimonial evidence (statement in support of a claim). Accelerate the Training, Responsibility and Involvement in the Preparation of Claims (TRIP) initiatives as a high priority.
ID: M-6D	**Establish Enterprise Architecture** Require the e-mail address of each Regional Office to be shown on all external correspondence.
ID: M-10	**Redefine Claims Processing Errors** Redefine substantive claims processing errors as those that affect entitlement, amount of benefit awarded, and effective date of award. Correct substantive errors and take steps to prevent future mistakes.
ID: M-13B	**Organize Compensation and Pension Regulations** Rewrite operations manuals as soon as a regulatory basis for the claims process is established. Establish a viable, user-friendly search engine to aid in the researching of regulations and procedural requirements.

Claims Processing Task Force

MEDIUM-TERM RECOMMENDATIONS
6 – 12 months

ID: S-3	**Expedite Favorable Decisions** When the veteran is entitled, the Regional Office should make a partial grant as soon as possible in a multiple issue case. Other issues that are not resolved should be considered as information becomes available. Quality checks need to be instituted to ensure compliance.
IDs: **S-2 and S-17 – Closed Out Due to Merger** **S-9 – Delayed**	**Pension Consolidation (C&P Service Initiative)** This task combines the recommendations previously found in S-2, S-9 and S-17. The recommendations were originally reported as follows: **S-2) Defer EVRs and IVMs for 1 Year** Defer Eligibility Verification Report (EVR) processing and Income Verification Matching (IVM) for 1 year (effective FY 2002) to facilitate the allocation of C&P direct labor hours to higher priority disability claims. **S-17) Centralize Function of Waiving Debt** Centralize the debt waiver function at the Debt Management Center in St. Paul, MN.
IDs: S-8 – Active **S-11 and S-13A – Closed Out Due to Merger**	**Specialized Teams** This task combines the recommendations previously found in S-8, S-11 and S-13A. The recommendations were originally reported as follows: **S-8) Establish Specialized Claims Processing Teams (Triage/Specialization)** • Establish claims processing teams within the defined claims processing functions of Triage, Pre-Determination, Rating, Post-Determination, Appeals and Public Contact. • Establish Triage Units in VBA Regional Offices to assign work to the appropriate function team or work the case in the triage unit if the issue can be quickly resolved (one-time actions). **S-11) Expedite Putting Documents Under Control** Decrease the time delay necessary to place incoming claims under control. **S-13A) Authorize Administrative Support** Authorize VBA Regional Offices to hire administrative staff and contract for administrative service to support claims processing.
IDs: **S-8A Milwaukee** **S-8B Reno** **S-8C Roanoke** **S-8D San Diego**	**Pilot Site for Specialized Teams** • Establish claims processing teams within the defined claims processing functions of Triage, Pre-Determination, Rating, Post-Determination, Appeals and Public Contact. • Establish Triage Units in VBA Regional Offices to assign work to the appropriate function team or work the case in the triage unit if the issue can be quickly resolved (one-time actions).

ID: M-3	**Evaluate and Improve VHA Medical Examinations and the Process** The Compensation and Pension Examination Project (CPEP) office should: • Monitor the ongoing quality, timeliness, and cost of VHA C&P medical examinations; • Review, monitor, and provide training to Regional Office staff to improve the quality of C&P examination requests and ensure that the flow of C&P examination requests proceeds in an orderly and cost-effective manner; • Coordinate VHA C&P examiner training and continuing education; develop additional methods for disseminating "best practices" to the field; • Keep the Clinician's Guide (formerly the Physicians Guide) and Examination Worksheets up-to-date and disseminate changes to the field in an expeditious manner; and • Assess the feasibility of establishing examination centers which co-locate VHA/VBA staff. RVSR ancillary duties may include Paragraph 29 and 30 ratings, as well as assessing the need for scheduling routine future examinations. • VBA needs to evaluate the accuracy and the sufficiency of VHA medical compensation examinations for rating purposes. If after 1 year of implementation of the VHA-VBA Compensation Examination Project Office's Improvement Plan, the accuracy and the sufficiency of the examinations have not improved, then VBA should critically evaluate the CPEP results with the possibility of further utilizing private vendors.
ID: M-4A	**Maintain or Increase Competitive Sourcing of Medical Examinations** Maintain or increase the present level of competitive sourcing of medical examinations. Request that a GSA Contract or Federal Supply Schedule be established for medical examination providers which VBA can select from on an "as needed" basis.
ID: M-5	**Restructure VBA Management** • Eliminate the Service Delivery Network (SDN) organizational structure and establish an appropriate number of Offices of Field Operations (at least four) with line authority to Regional Offices. • Establish an independent Performance Analysis and Evaluation (PA&E) Office at VBA Headquarters that reports directly to the Under Secretary for Benefits. • Establish at each Regional Office a staff management analyst (without ancillary duties) to assist station management. These management analysts should be organized as a workforce group and work with the VBA PA&E Office located in Washington, DC. In addition to the actions listed above, this recommendation will also address S-13B – Office of Administration and S-14 – Change Management.

ID: M-8A-M	**Centralize Training** The VBA Office of Employee Development and Training should develop and be held accountable for a fully integrated training plan and program. This should include creation of a fully integrated training infrastructure (staff, resources, priorities, and requirements determination processes). The Office of Employee Development and Training should: • Develop a documented hiring strategy addressing measurably effective training prior to hiring new employees in FY 2002. • Develop immediately a process to certify instructors. • Assess immediately the effectiveness of the recent VSR/RVSR training, including the impact on employee's performance. • Hire retired VBA employees to serve as instructors and mentors for employees. • Establish skill requirements and competencies for each grade level of VSR and RVSR job series. • Design Training for each grade level within the VSR and RVSR job series. • Certify VSR and RVSR staff as proficient at each grade level in the job series. • Establish a training plan for each employee consistent with the requirements of their job series. • Develop a separate Training and Performance Support System (TPSS) module for PIES, especially the NPRC service records procedures. • Fully utilize the capacities of the VBA Training Academy and the VBA Orlando Instructional System Development (ISD) Training Group. • Provide broadcast training capabilities for the VBA Baltimore Academy and use the VBA satellite channel for VSR and RVSR training. • Local Regional Office training coordinators should be assigned as full time positions and be made responsible for local training plans and programs. The VBA field training coordinators should be managed as a workforce receiving guidance and direction from the VBA Office of Employee Development and Training. While the local training coordinators should be accountable to the Regional Office Director, the training coordinators should be fully integrated into the ISD development and implementation process. • The VBA Orlando ISD Training Group should conduct an assessment to determine the resources and structure for integrating training throughout VBA, including the ISD Training Group.
ID: M-11B	**Consolidate Income Matching – Purple Heart Registry** Consolidate the function of validating reported income for the Veterans Health Administration and the Veterans Benefits Administration at one location. Short-Term: Establish a joint VHA and VBA Project Team to determine operational needs, and review notification letters and procedures. Mid-Term: Conduct joint match with IRS and SSA records.
ID: M-11C	**Consolidate Income Matching – Change of Address** Consolidate the function of validating reported income for the Veterans Health Administration and the Veterans Benefits Administration at one location. Short-Term: Establish a joint VHA and VBA Project Team to determine operational needs, and review notification letters and procedures. Mid-Term: Conduct joint match with IRS and SSA records.
ID: M-14	**Establish Call Centers** Establish several General Inquiry Call Centers nationwide to handle routine and general case status questions.

Claims Processing Task Force

LONG-TERM RECOMMENDATIONS
> 12 months

ID: M-2A	**Maintain the Benefit Delivery Network** Sustain and upgrade the Benefits Delivery Network (BDN) to assure: • Uninterrupted processing and payment of compensation and pension, education, and vocational rehabilitation claims; • Prompt payments to veterans; and • Functionality changes to the system enable timely user, legislative, and cost-of-living adjustments.
ID: M-2B	**Maintain the Benefit Delivery Network** Immediately remedy the Hines Information Technology Center (ITC) critical workforce shortfall through near-term actions to retain critical retirement of eligible staff, rehire retirees, and remove constraints on hiring and use of contract services. Develop and fund a succession plan that addresses leadership and technical staff for the Hines ITC and Philadelphia ITC.
ID: M-2C	**Maintain the Benefit Delivery Network** Operationally test and evaluate the current BDN disaster contingency plan and provide the resources necessary to achieve a viable contingency capability.

Claims Processing Task Force

INTEGRATED LONG-TERM RECOMMENDATIONS
> 12 months

New ID: L-1 **Integrated IDs: S-5A and B, M-6B and E and M-7A (Partial), B and C**	**Core Business Applications** This task combines the recommendations previously found in S-5A and B, M-6B, C and E and M-7A (Partial), B and C. The recommendations were originally reported as follows: **S-5A/B) Defer Introduction of New Information Technology Initiatives** • Defer the deployment of new Information Technology (IT) initiatives, including testing or prototyping at any Regional Office, until claims workload is under control. • Immediately reevaluate recent IT initiatives to test their impact on productivity (e.g., RBA 2000, CAPS). **M-6B/C/E) Establish Enterprise Architecture** • Establish uniform core programs for C&P claims processing that define a core set of enterprise programs and mandate usage. • Develop a national letter package, the use of which must be man-dated as the only package to be used by Regional Offices. (Closed – Merger w/ Letter Redesign +RFW) • Provide voice recognition software for use by Rating Veterans Service Representatives in the preparation of rating decisions. **M-7A/B/C) Determine Viability of VETSNET; Use Oversight Board to Review All Modernization Initiatives** • Determine viability of the Veterans Service Network (VETSNET). • Determine the core set of business applications that are required to be used by all and mandate implementation in all Regional Offices. • Stop new IT initiatives until there is a formal mechanism in place to evaluate the need for new and on-going initiatives, as well as to develop and evaluate the realism of implementation plans and their potential impact on the field. This formal mechanism should take the form of an IT Oversight Board.
New ID: L-2 **Integrated IDs: M-6A, M-7A (Partial) and M-12A and B**	**Enterprise Architecture** This task combines the recommendations previously found in M-6A, M-7A (Partial), and M-12A and B. The recommendations were originally reported as follows: **M-6A) Establish Enterprise Architecture** Establish an IT program, which includes standards for an enterprise processing system for all Regional Offices. **M-7A) Determine Viability of VETSNET; Use Oversight Board to Review All Modernization Initiatives** • Strategically move to develop functional requirements for a new system to support a redesigned and integrated VBA, BVA, NCA and VHA claims process. **M-12A/B) Commence One VA System Integration** • Utilize a System Integrator to develop an IT solution for VBA's benefit delivery system. • Utilizing the Department's Enterprise Architecture process, integrate VBA's IT system with VHA, National Cemetery Administration (NCA), and department systems. Long-Term: Sponsor a commission/Task Force, with representation from relevant federal agencies, to identify an enterprise solution and integration plan for the records of all veterans.

Claims Processing Task Force

IMPLEMENTED RECOMMENDATIONS
With ON-GOING PERFORMANCE MONITORING

ID: S-1	**Establish Tiger Team to Eliminate the Backlog> 1 Year Old** Create a Tiger Team (or Tiger Teams) from experienced staff charged by the Secretary to expedite resolution of any C&P case over 1-year old, especially for older veterans, including remands and substantive appeals.
ID: S-12A/B/C/D	**Improve Record Recovery from Record Center** • Provide training to Regional Office claims development staff in records retrieval. The training should focus on identifying key veteran service information to aid the searcher, and the availability of certain service information in VA systems. The training must strongly emphasize the need to address all issues in the initial request to the National Personnel Records Center (NPRC). • VA should consider a Memorandum of Agreement with the NPRC or parent organization to provide dedicated staff to search for and refile VA requested service information (service medical and personnel records). • Establish a protocol to define the point at which no further search activity can, or should be, performed for service information at the NPRC, and notify the requesting Regional Office that the information is not available. • The Records Management Center's NPRC Liaison Unit should give priority requests for information based on the earliest date of claim.

Claims Processing Task Force

IMPLEMENTED RECOMMENDATIONS
CLOSED OUT

ID: S-2 **Closed Out Due to Merger w/ Pension Consolidation**	**Defer EVRs and IVMs for 1 Year** Defer Eligibility Verification Report (EVR) processing and Income Verification Matching (IVM) for 1 year (effective FY 2002) to facilitate the allocation of C&P direct labor hours to higher priority disability claims.
ID: S-6	**Extend Timeframe for Routine Compensation Reexaminations** Extend all currently scheduled medical examinations for 5 years from the date of the initial examination (or to the maximum extent allowed by law). VBA should establish a diary for all routine compensation medical examinations for 5 years from the date of the last (or initial) VA examination conducted.
ID: S-10	**Allocate Resources to Most Effective Regional Offices** Preferentially allocate new staffing resources to high-performance and high-quality Regional Offices. Develop a budget allocation model reflecting this approach.
ID: S-11 **Closed Out Due to Merger with/ Specialized Teams**	**Expedite Putting Documents Under Control** Decrease the time delay necessary to place incoming claims under control.
ID: S-13A **Closed Out Due to Merger with/ Specialized Teams**	**Authorize Administrative Support** Authorize VBA Regional Offices to hire administrative staff and contract for administrative service to support claims processing.
ID: S-13B **Closed Out – To be addressed under Restructure VBA Management**	**Authorize Administrative Support** Establish a unit within VBA Central Office with authority and responsibility for policy, procedures and resources - associated with the range of administrative and record management activities – to support the claims process.
ID: S-14 **Closed Out – To be addressed under Restructure VBA Management**	**Impose Change Management and Communication Discipline** Implement a formal process to control change by overseeing the planning, initiation, organization and deployment of any new VBA initiative.
ID: S-17 **Closed Out Due to Merger w/ Pension Consolidation**	**Centralize Function of Waiving Debt** Centralize the debt waiver function at the Debt Management Center in St. Paul, MN.
ID: S-18	**Establish Uniform Procedures for Off Site Storage of Claims Folders** Establish standard operating procedures for Regional Offices off-site storage of active folders.
ID: M-6C **Closed Out Due to Merger w/ Letter Redesign (+RFW)**	**Establish Enterprise Architecture** Develop a national letter package, the use of which must be man-dated as the only package to be used by Regional Offices.

ID: M-11A	**Consolidate Income Matching – Reuse of Pending Issue File** Consolidate the function of validating reported income for the Veterans Health Administration and the Veterans Benefits Administration at one location. Short-Term: Establish a joint VHA and VBA Project Team to determine operational needs, and review notification letters and procedures. Mid-Term: Conduct joint match with IRS and SSA records.
ID: M-13A **Task to be completed by VA Office of Regulations Policy and Management**	**Organize Compensation and Pension Regulations** • First, rewrite and reorganize the C&P Regulations in a logical coherent manner, incorporating regulatory materials now found in manuals as well as binding court precedents.

Claims Processing Task Force

DELAYED ACTIONS

ID: S-4	**Reduce Time Delays in Gathering Evidence** Revise the operating procedures in VBA manual (M21-1): Evidence requested from a claimant, private physician, or private hospital must be received within 30 days.
ID: S-9	**Develop Specialized Regional Offices** Designate specialized Regional Offices to work specific tasks in order to increase efficiency, quality and timeliness of decisions.
ID: M-4B	**Maintain or Increase Competitive Sourcing of Medical Examinations** Monitor the quality and timeliness of the contract medical examinations continuously.
ID: M-9	**Use Prototype Sites for Competitive Sourcing of Pre-Determination Function** Establish prototype site(s) for outsourcing the pre-determination claims development function.

Testimony of

George Hunt, President

National Association of

County Veterans Service Officers

Good morning Mr. Chairman, members of the committee, it is truly my honor to be here before your committee. As President of the National Association of County Veterans Service Officers, I am here today, to comment on the:

- ✓ The October 2001 Special Taskforce Report on VA Claims Processing;
- ✓ The VA Backlog of Pending Claims; and
- ✓ Recommendations for the Creation of a New Federal/State/Local Government Partnerships.

Veterans are dying before they have the opportunity to receive the benefits they earned through service and sacrifice. Sadly, they are dying, sometimes from their service connected injuries, before their claims can get through our department of veterans affairs adjudication process.

A backlog, consisting of over 525,000 claims, is causing veterans to wait, in some cases, more than a year to have their claims reviewed and adjudicated by the VA.

- ✓ **"dying while waiting"** is not acceptable for the men and women who placed themselves in harm's way for our great nation.
- ✓ **"dying while waiting"** is not acceptable for the World War II generation who saved our world from totalitarianism.
- ✓ **"dying while waiting"** is not acceptable for the men who braved the cold at the Chosin Reservoir or the brave men who came ashore at Inchon, Korea.
- ✓ **"dying while waiting"** is a travesty that can be reconciled.

- ✓ **"dying while waiting"** is a sad epitaph for a veteran to have on their headstone.

Our nation's veterans are dying at a rate of over 1,000 veterans a day and the backlog is over 500,000 cases.

There are over 25 million honorably discharged veterans of the armed forces of the United States and a large percentage of those veterans are 70 plus years of age.
It is the responsibility of the United States government to live up to promises that were made and accepted. Promises that included medical care and compensation for illnesses and wounds sustained in defense of freedom. Together we must develop a mechanism for solutions, so that no more veterans **"die while waiting".**

The National Association of County Veterans Service Officers is an organization made up of local government employees. Local government employees that believe we can help the Department of Veterans Affairs reduce the backlog and better serve our veterans. We work for the local government offices and are tasked with assisting veterans in developing and processing their claims. County Veterans Service Offices exist to serve veterans and partner with the National Service Organizations and the Department of Veterans Affairs to serve veterans.

Our member County Veteran Service Officers are present in 37 of our 50 states and located in over 700 local communities. This readily available workforce represents approximately 2,400 full time employees that are available to partner with Department of Veterans Affairs to speed the process of claims development.

The National Association of County Veterans Service Officers has been in existence since 1990, primarily as a vehicle to provide continuing education and accreditation training in Department of Veterans Affairs' procedures and regulations governing veterans' benefits. The Association provides basic and advanced training for County Veterans Service Offices and also serves as a vehicle for them to obtain national accreditation with the Department of Veterans Affairs.

The National Association of County Veterans Service Officers provides continuing education training to make sure the latest information and newest technology is available to County Veterans Service Officers nation-wide. The Association conducts an annual training conference offering 32 hours of training in the latest VA rules, regulations and case law associated changes to those regulations that impact on veterans and their claims.

In addition, the National Association of County Veterans Service Officers provides regional training in an effort to provide training for as many County Veterans Service Offices as possible, so that the very best service may be provided to our nation's veterans.

Members of the National Association of County Veterans Service Officers stand ready to partner with the Department of Veterans Affairs in order to eliminate the backlog of claims hurting our veterans.

First, we propose partnering to significantly reduce the current backlog of veterans claims. We suggest that the Department of Veterans Affairs segregate backlogged claims that require development and refer the claims to the nearest county office for development. The claim should be accompanied with list identifying the information that is lacking and what is needed to make the claim "Ready to Rate." We suggest a check off list and color coding by type of the claim for ease in identification, when referred back to the VA for decision and rating.

When the County Veterans Service Officer receives a referred claim, they will make personal contact with the veteran or dependent, explain the situation and develop the claim. Once the claim has been fully developed, the claim would be submitted to the Department of Veterans Affairs with the check off list completed indicating the claim is "Ready to Rate." This will dramatically increase the speed at which a claim could be developed and returned to the VA for rating and decision.

Second, we propose a partnership in the way new claims are developed. As a local advocate, County Veterans Service Officers are required to protect the rights and benefits of veterans, dependents and survivors. In order to protect these rights and benefits, CVSOs must file an "informal" claim with the Department of Veterans Affairs prior to the end of the month after interview and the VA logs in the claim and "date stamps" it. This is an important date, as it constitutes when the veteran, dependent or survivor actually becomes eligible for the benefits. This "date stamp" also determines the date in which a retro-active payment for any future granted benefit will begin.

In concept, this protects the veteran, but creates a situation that requires the Department of Veterans Affairs to handle the claim **more than once**. This also triggers the Department of Veterans Affairs "duty to assist" the veteran in developing the claim. In short, this mechanism creates a "duplication of effort" and is a substantial cause of the current backlog.

Informal claims submitted for the purpose of safeguarding the veterans rights to benefits, have a tendency to bog down an already overloaded system. If VA policies and procedures were changes to allow the County Veterans Service Officer, **a branch of local government**, the authority to "date stamp" (protecting the veterans right to benefits) and then fully develop the claim, the **duplication of effort would disappear.** This change will dramatically streamline the claims process and allow the veteran, dependent or survivor claims to be decided in a more efficient manner and ultimately reduce the backlog.

With 2,400 potential full time employees located throughout this country, ready, willing and able to assist the Department of Veterans Affairs, I believe that the National Association of County Veterans Service Officers stands the best real chance for the Department of Veterans Affairs to substantially reduce the backlog without committing to lengthy process of hiring and training new employees.

No solution to the backlog of the Department of Veterans Affairs is without cost. The use of existing highly trained local governmental employees greatly reduces the cost to the Department of Veterans Affairs. The National Association of County Veterans Service Officers suggest a three year pilot program and local government funding in the amount of $70 million for the counties to augment, but not supplant, their existing budgets. This funding could be allocated based on veterans population and be directed to counties through State Departments of Veterans Affairs through block grants which allow a minimal administrative overhead. This would insure accountability and allow the states to administer the funding in such a way as to not financially impact the individual states.

The National Association of County Veterans Service Officers believe that an education clause should be written into the federal/state/local partnership agreement requiring that a portion of the funding be used for CVSO attendance in educational programs sponsored by or equivalent to the National Association of County Veterans Service Officers annual continuing education and accreditation training. This will insure a level of expertise is maintained and shorten the turn around time for county development of "Ready to Rate" claims which will continue to reduce the backlog and speed service to veterans.

Information is an essential requirement, in our opinion, and we suggest that access to veteran's information contained in the Benefits Delivery Network (BDN) be provided to counties in order to provide the best possible cooperation between the partners and service to veterans. This would allow County Veterans Service Offices nation-wide to gain on-line access to client information contained in the VA Database and use this information in developing claims to assist in backlog reduction.

The National Association of County Veterans Service Officers is grateful for this opportunity to testify to the House Subcommittee on Veterans Benefits. We believe that this proposal would develop an unprecedented partnership between the county and federal government that could lead to other information sharing and much better service to the veteran, dependent or survivor. If we work together, I believe that veterans and dependents will not be left **"dying while waiting"**

In Closing, the National Association of County Veterans Service Officers recommends that:

- Legislation called the "Department of Veterans Affairs Claims Backlog Reduction Act of 2002" be introduced to authorize $70 million block grant funding, on a 3 year pilot project basis, for County Veterans Service Officers;
- The Department of Veterans Affairs be directed to issue Federal/State/Local federally funded block grants, allocated to states based on veterans population, for the purposes of creating a new partnership and reducing the current backlog of veterans claims;
- The Department of Veterans Affairs be directed to create procedures for referring backlogged veterans claims to partnering County Veterans Service Offices for development of veterans' claims and referral back to the VA for decision and rating.
- An allocation be included for State Department of Veterans Affairs to receive a minimal (2-3%) administrative overhead allocation to cover state costs and for County Veterans Service Officers to receive an education and training allocation to maintain their proficiency.

Thank you for your time and attention.

NATIONAL ASSOCIATION COUNTY VETERANS SERVICE OFFICERS

P.O. Box 905, Carthage, North Carolina 28327

Funding Statement
June 6, 2002

The National Association of County Veterans Service Officers (NACVSO) is a non-profit organization registered as a 501 (c) Corporation with the Internal Revenue Service.

NACVSO is not currently in receipt of any federal grants or contracts.

For further information, contact:

Ronald Melendez
Chief Financial Officer/Treasurer
National Association of
County Veterans Service Officers, Inc.
(714) 567-7485
(714) 567-7674 Fax

TESTIMONY OF

RAYMOND G. BOLAND

PRESIDENT

NATIONAL ASSOCIATION
OF
STATE DIRECTORS OF VETERANS AFFAIRS

BEFORE THE
HOUSE COMMITTEE ON VETERANS AFFAIRS
SUBCOMMITTEE ON BENEFITS

JUNE 6, 2002

The National Association of State Directors of Veterans Affairs (NASDVA) welcomes this opportunity to comment on the status of the implementation of the VA Claims Task Force Recommendations. We also appreciate the interest shown by the Subcommittee on Benefits toward the potential for a greater VA/Veterans Service Organization (VSO) partnership.

As you have noted in our invitation to testify, numerous reports have made recommendations to improve claims services to veterans. In each case, NASDVA and the various VSOs were considered important "stakeholders" with potential for a greater role. As such, we were all involved in the task force study process.

Before we proceed with our current observations, I would like to comment briefly on the NASDVA organization and contrast our role to other organizations represented at this hearing. NASDVA is a non-profit organization whose membership includes the veterans' directors of veterans affairs for each of the states and territories. We represent the voice of state government, the VA's only full service partner in supporting the nation's veterans. State veterans agencies each have statutory responsibility to serve and assist veterans and their families. This responsibility extends to all veterans residing in our states, regardless of which organization they may belong to.

During the past several years, NASDVA testified before joint hearings of the House and Senate Veterans Affairs Committees. During those hearings, NASDVA pointed out the important nature of our partnership and how we—as governmental counterparts—are dealing directly with exactly the same issues as USDVA. The states currently share the cost of veterans homes and cemeteries in partnership with the VA. We operate as approval agencies for G.I. Bill oversight. We provide claims assistance, direct education benefits, employment and training, and a host of other benefits and services that supplement, complement, and assist the federal VA. We also share in the cost of these services. At the request of Chairman Smith, we have gathered data on state government annual expenditures for veterans services. The national total is $3.2 billion. As the VA's established partner in providing services we are also their logical partner for improving the management of the claims process.

Two years ago we received the support of the National Governors Association (NGA) when they adopted a first-ever veterans policy agenda. That policy included the recommendation for an independent task force study of the claims process. The NGA is now on record with positions on a number of veterans issues involving federal-state partnership.

As for implementation of recommendations for reducing the backlog of claims, our sense is that it is slowly going down. This is being accomplished by a Herculean effort from nearly everyone who works at a Regional Office, plus the Cleveland Tiger Team and the BVA Team. It seems clear that making this the top priority for the VA has started to pay off. This progress isn't coming easily or without a price and we see several areas of concern.

- Recent retirements of large numbers of experienced VA personnel have led to new hires with limited experience. The retirements affected the most senior people—usually rating specialists. Training personnel is an enormous task for VBA given the number of new hires and recently promoted staff. Time to train takes away from time to work cases, so no matter how a manager compensates for these retirements, at this point it will probably impact negatively on the backlog.
- We are watching the decisions being made as a result of this effort to see if there is any change in their quality. Faster and better would be great, but faster and appealed would not be gainful for any of us.
- There is a tendency to work the "easy" cases first and leave the more difficult ones on the desk in order to make quotas.
- Remands from VBA are not part of the quota workload, so they tend to sit until someone has time to work them or until there is a request to expedite the claim.
- The "over 70 over one year old" Tiger Team cases are being dealt with as priority cases. However, if a remand applies to an "over 70" veteran, it isn't a Tiger Team case and waits in the queue like everybody else.

These items and others are part of the growing pains we see in the overall attempt to move forward. It is a major undertaking but there are definite signs of progress.

In order to present our views on how we might form a new partnership of effort to improve the processes that take place before an application ever gets to a VA Regional Office, we have participated in a series of meetings with Secretary Principi and his staff as well as with the leaders of NSOs and have drafted a proposal that we are coordinating with them. Currently, the kind of full partnership that is needed does not exist. For the most part, the actions of each of the players are independent of each other and, to some extent, are actually in competition. Although the Task Force report states that "a well developed network of VSOs and State Departments of Veterans Service Organizations is in place" the capabilities of these are inadequate in many areas of the country. We urgently need more standardization of effort to increase the quantity and quality of service and assistance that is available to all veterans who seek to become claims applicants.

A common criticism that we hear in Washington about state government veterans services, including claims assistance, is that they are different in every state. This is true, but the main reason we are different is because there is no federal direction for our mission. Each state has reached its current capabilities through evolution. There are major differences in structure. Just over one-half of the states have county veterans service officers. The size and capability of the service organizations differ greatly from one state to another yet there are important examples of common success. Although voluntary, the current VA partnership programs have received remarkable participation among the states. These programs have standards we must meet. This can be done with claims processing as well.

Our Association has completed an analysis of claims outcome data comparing the percentage of veterans population in each state that are service-connected with the size and type of service network infrastructure. We have considered socio-economic variances from one region to another. We believe there is conclusive evidence that aside from demographic differences, a veteran's chances of receiving a service-connected disability rating from the VA depends greatly on the quantity and quality of local service officer assistance. To a great extent, the nature of the workloads at VA Regional Offices is a direct reflection of the relative effectiveness of VSO networks in their area.

We urge this Subcommittee to look closely at the differences in national outcomes for service connected disability. The attached table is a listing by state that shows the percentage of veterans residing in the state who currently have a service connected rating.

The total national average is approximately nine percent. A majority of the states are above that average but half the population resides in states that are below average. In five states more than eleven percent have service connected ratings, in four states less than seven percent. We do not see sufficient demographic differences among the veterans in these states to account for this much variance. We do see major differences in the size and scope of VSO networks compared to the size of the veterans population in these states. These differences determined whether a veteran knows how to apply or has the help to do it properly.

Chairman Smith also requested a summary of current VSO resources present in each state. We recently reported that 27 states have county service officers (CVSOs). CVSOs play a major role in assisting veterans with claims applications and they represent the largest majority of the national total of service officers with approximately 2,000.

We have looked at the CVSO portion of the network structure in detail, by county in each of the states that have them. We saw an interesting picture that is consistent with our overall conclusions. The trend is that there are larger percentages of veterans with service-connected ratings in counties with smaller populations. This is also the trend among state totals. Most of the states with the highest percentages of service connection have relatively small populations. This is true regardless of whether there are CVSOs; in fact, most of the higher-ranking states do not have them. There are two noticeable exceptions. Texas and Florida have large populations and high outcomes. These states are skewed demographically with large numbers of military retirees, and have extensive VSO networks that include county officers.

The point is that the number of qualified service officers available to assist a given population is a key variable. The service organizations and state government employees comprise the rest of the service officer networks. They are present in most states, and again, 23 states have no CVSOs. In terms of total numbers, the VSOs have an aggregate total of

approximately 600 accredited service officers. State governments have a total of 750 service officers. There are approximately 3,200 accredited service officer activists. In many cases county service officers are subsidized with state funding. State government also provides funding partially or in full to the service organizations. Currently, there is no federal funding provided to state or county government or the service organizations for these important networks of service. We are not only underserved, but also feeling the pinch of state budget deficits and shrinking revenues among the service organizations. As we collectively strive to solve the claims challenge, we must address the resources needed for balancing the service network infrastructure. In this light, the VA should seriously consider potential returns for investment on resources going to VA Regional Offices versus those that might be redirected toward more balanced and efficient VSO network infrastructures.

We believe the following steps should be followed in order to achieve an effective VBA/VSO system that will facilitate a long-term solution for a prompt, efficient claims processing system.

First, NASDVA, in collaboration with NACVSO and the NSOs should develop a model for the ratio of service officers required to equally serve and assist all veterans and the appropriate training, certification and performance criteria required to enable the development of ready-to-rate claims by service officers throughout the network.

Second, we should coordinate this proposal with VBA and conduct a joint demonstration to measure the effectiveness of the proposal. This will require VA granting the necessary information and records access to the partnership networks participating in the demonstration.

Third, in conjunction with the VA, we should determine the resources necessary to implement a national VA/VSO partnership claims system.

Final implementation of this plan will require a management system that is able to adapt to differing circumstances and capabilities across the nation. It must enable flexibility in each state to tailor the network structure according to the circumstances. The standards should be the same but the mix of the structures will differ depending on local capabilities. Again, nearly half the states don't have CVSOs.

The VA can look to its state government partners to coordinate and integrate the network structure in each state and also for accountability for its performance. This role would be similar to what we already have with other programs and services.

In closing, NASDVA is ready to move forward as part of the national solution for veterans claims processing. With the support of the Congress, we are confident that, as a veterans community, in full partnership, we will bring an end to the long history of veterans waiting and in some cases dying before a claims application can be processed and benefits awarded.

STATE	VETERAN POPULATION 01	ACTIVE COMP 5/01	% OF VETERANS POP W/Comp 01
ALASKA	67,580	9,644	13.70%
WASHINGTON	621,868	71,731	11.53%
HAWAII	101,873	11,741	11.53%
NEW MEXICO	188,060	21,131	11.24%
OKLAHOMA	375,737	42,136	11.21%
VIRGINIA	714,986	77,479	10.84%
MASSACHUSETTS	532,621	57,640	10.82%
MAINE	154,011	16,481	10.70%
ALABAMA	461,872	48,853	10.58%
FLORIDA	1,783,557	188,136	10.55%
RHODE ISLAND	93,596	9,768	10.44%
TEXAS	1,720,666	178,926	10.40%
SOUTH DAKOTA	77,416	7,979	10.31%
COLORADO	410,682	42,210	10.28%
NORTH CAROLINA	772,293	78,257	10.13%
ARKANSAS	283,224	28,670	10.12%
MONTANA	106,118	10,675	10.06%
NEBRASKA	157,311	15,766	10.02%
NEW HAMPSHIRE	135,016	13,428	9.95%
NORTH DAKOTA	56,126	5,564	9.91%
GEORGIA	776,963	76,808	9.89%
IDAHO	124,629	12,242	9.82%
UTAH	134,102	12,992	9.69%
ARIZONA	515,191	49,912	9.69%
SOUTH CAROLINA	413,358	39,800	9.63%
WYOMING	53,138	5044	9.49%

STATE	VETERAN POPULATION 01	ACTIVE COMP 5/01	% OF VETERANS POP W/Comp 01
MISSISSIPPI	251,600	23,557	9.36%
KENTUCKY	371,506	34,479	9.28%
WEST VIRGINIA	202,417	18,433	9.11%
TENNESSEE	544,832	49,441	9.07%
NEVADA	233,425	21,143	9.06%
DELAWARE	78,111	6,813	8.72%
KANSAS	245,335	21,226	8.65%
CALIFORNIA	2,317,560	198,081	8.55%
LOUISIANA	388,031	32,930	8.49%
OREGON	375,331	31,728	8.45%
NEW YORK	1,293,586	108,015	8.35%
MARYLAND	492,787	41,057	8.33%
MINNESOTA	427,156	35,322	8.27%
VERMONT	58,771	4,763	8.10%
NEW JERSEY	621,175	49,603	7.99%
WISCONSIN	486,742	38581	7.93%
MISSOURI	566,462	41,789	7.38%
PENNSYLVANIA	1,215,606	88,518	7.28%
CONNECTICUT	274,924	19,978	7.27%
OHIO	1,114,596	80,217	7.20%
INDIANA	561,725	38,489	6.85%
IOWA	266,208	18,048	6.78%
MICHIGAN	891,300	59,667	6.69%
ILLINOIS	926,541	54,116	5.84%
TOTALS	25,028,687	2,224,255	8.89%

National Compensation Cases
May 2001

USDVA Data

STATEMENT OF

CARL BLAKE, ASSOCIATE LEGISLATIVE DIRECTOR

PARALYZED VETERANS OF AMERICA

BEFORE THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON BENEFITS

CONCERNING

DEPARTMENT OF VETERANS AFFAIRS

CLAIMS PROCESSING

JUNE 6, 2002

Chairman Simpson, Ranking Member Reyes, members of the Subcommittee, PVA would like to thank you for the opportunity to testify concerning claims processing by the Department of Veterans Affairs (VA). Specifically, we shall discuss the October 2001 report to the Secretary of the VA by the VA Claims Processing Task Force (Cooper Report), and our role, as a Veterans Service Organization (VSO) within the process.

PVA would like to applaud the efforts of the Under Secretary for Benefits, Admiral Cooper, and his task force in developing solutions to the claims processing backlog. The Cooper Report highlights many of the recurrent and systematic problems faced by the VA, problems that we have been highlighting for years. PVA has always maintained that a "benefit delayed is a benefit denied." We have been frustrated by the lack of concrete steps taken, and real results realized. We have pointed out, as the Cooper Report states, "the apparent lack of uniformity in interpreting directives, compliance and ultimate accountability at the vast majority of Regional Offices," and, like the Cooper Report, we have expressed amazement over the apparent inflexibility of the Veterans Benefits Administration (VBA) to quickly and thoroughly address and incorporate changes brought about by congressional and judicial actions. These deficiencies raise serious due process concerns.

We are concerned about the "brain drain" facing the VBA, and the federal government as a whole, and are pleased that the Cooper Report stresses the importance of training and resource allocation. We are also pleased that the Cooper Report delves into the problem of remands. We believe that there must be real accountability, and real incentives, for timely and accurate actions.

We have been encouraged by Secretary Principi's desire to solve the claims backlog problem once and for all. We fervently hope that many of the recommendations contained within the Cooper Report are acted upon, and that this report does not become yet another study gathering dust on the bookshelf, like so many in the past.

PVA has not exhaustively surveyed our National Service Officers (NSOs) out in the field, and therefore is not in a position to substantively discuss the status of the VA's implementation of the recommendations found in the Cooper Report. We will leave that for the VA's representatives here today. We have heard, anecdotally, from our Field Offices that positive steps are being made. Our NSOs in the Cleveland area have had nothing but good things to say about the efficient, effective, and expeditious work that the "Tiger Team" has done in overcoming the claims backlog there. Other NSOs at the

Regional Office level have touted the effectiveness of triage to expedite claims. PVA is hopeful that these steps, as well as others, will have a real impact upon the deplorable situation faced by veterans seeking benefits that they have earned by service to our Nation.

PVA has long assisted veterans in submitting claims and fighting for their rightful benefits. Our Veterans Benefits Department provides assistance and representation, without charge, to veterans. Our Field Services program oversees our outstanding NSO program. We maintain 55 national service offices in VA facilities across the nation. We have 72 NSOs who serve in both VA Medical Centers and in Regional Offices. In addition to assisting veterans through every stage of the VA claims process up to the Board of Veterans' Appeals, they additionally play an important role in monitoring the quality of medical care at their local VA medical facilities. Although PVA is willing to step forward and do what we can to improve the claims processing program, we would be unable to undertake any substantive burden-shifting from the VA to VSOs. We do believe that our experience, and our program, has much to offer.

Our NSOs participate in a rigorous training program. New service officers are designated as NSO Candidates and undergo a 16-month on-the-job training program. Each candidate is paired with an experienced NSO supervisor at a local VA Medical Center or Regional Office. Throughout the training program, candidates take courses to improve medical knowledge, learn relevant federal regulations and codes, and learn how to prepare a claim. The candidate must pass a series of quizzes and exams during the program. In order to be certified as a PVA NSO II, the candidate must pass a comprehensive final exam. The NSO can then take a more extensive exam after 18 months to be promoted to NSO III, and after a second 18 months take another exam to be promoted to Senior NSO. We believe that our rigorous and standardized training is a vital component to the success of our NSO program.

Our NSO program is divided among four primary regions. Our first priority for assignment of NSOs is VA Medical Centers that have a Spinal Cord Injury Center. Our

service officers are then placed in areas with a high population of our members or other veterans, particularly cities such as Las Vegas, Orlando, and Philadelphia. It is important to understand that this system is most effective because it is maintained and supervised at the national level. This provides for important uniformity and speedy dissemination of vital information. PVA has made every effort to place our service officers where they can most effectively serve our members and all veterans.

PVA supports the idea that there must be a greater partnership between the VA and VSOs in the claims processing arena. We have been actively involved in the development of the Training, Responsibility, Involvement and Preparation of Claims (TRIP) program. The purpose of this program is to enhance service to claimants by combining resources and focusing on shared concerns. Many of our NSO's have been trained and certified in the TRIP program, and all of our service officers will soon be expected to be TRIP trained and certified.

An important part of the partnership between the VA and VSOs is access to training and information. This applies to both the training of service officers as well as ultimately the development of claims that those service officers assist veterans with. VSOs could benefit a great deal from limited access to the VBA's Intranet. Access to such programs as the Training and Performance Support System (TPSS) would allow PVA and the other VSOs to educate our NSOs to more effectively support the efforts of VBA. As part of this education process, the VSOs should be allowed to participate in VBA satellite training when it would enhance their technical skills. Likewise, the VSOs could benefit from the sharing of copyrighted training material.

Access to information would also allow NSOs to be more successful in developing a well-documented and complete claim. If service officers could access the Compensation and Pension Records Interchange (CAPRI), they could secure medical records that are a necessary part of the claim.

PVA believes that VBA and the VSOs need to build a relationship of trust. A fundamental change in the claims process would require VBA to involve the VSOs and the veteran. If there is not a mutual trust between these three individual entities, an effective partnership cannot be possible. Likewise, VA service representatives who make ratings decisions and have been in the system a long time must be more responsive to veterans' needs.

PVA believes that the role that the VSOs play must be specific to preparing the claim, not the actual decision-making process. The service officers are not claims adjudicators. PVA is concerned about service officers becoming de facto "gatekeepers." PVA will advise a veteran if his or her claim is without merit and suggest possible remedies. However, PVA service officers will not refuse to submit a claim or file an appeal. Our role in the process is to be an advocate for veterans. We believe that an environment of cooperation, information-sharing and training, and trust between VSOs and the VA would lead to important improvements in the claims processing process, but VSOs must not be asked to undertake burdens that run contrary to our missions and goals.

I would like to thank the Subcommittee for its efforts to try to overcome the incredible backlog of claims that the VA has faced for many years. We look forward to working with the subcommittee as well as the VA to continue to fight this problem. I would be happy to answer any questions that you might have.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2002

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$179,000 (estimated).

Fiscal Year 2001

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$242,000.

Fiscal Year 2000

General Services Administration—Preparation and presentation of seminars regarding implementation of the Americans With Disabilities Act, 42 U.S.C. §12101, and requirements of the Uniform Federal Accessibility Standards—$30,000.

Federal Aviation Administration—Accessibility consultation--$12,500.

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$200,000.

STATEMENT OF
BRIAN E. LAWRENCE
ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 6, 2002

Mr. Chairman and Members of the Subcommittee:

On behalf of the Disabled American Veterans (DAV), I am pleased to testify on the status of the Department of Veterans Affairs' (VA) implementation of VA Claims Processing Task Force recommendations, and the potential for an increased partnership between the VA and Veterans Service Organizations.

Many viewpoints and observations within this testimony are based upon information obtained from a May 30, 2002 conference call involving members of the DAV National Service and Legislative Staff, nine DAV National Area Supervisors, five DAV National Service Office Supervisors, and the Supervisor of the DAV Board of Veterans Appeals Office in Washington, D.C. The conference panel discussion incorporated front-line observations from the perspective of some of the most experienced and knowledgeable managers within the DAV. Every geographic and demographic area of the United States was represented via the panel of conferees. Information gathered in the conference call was compared to a January 2002 Veterans Benefits Administration (VBA) summary regarding the status of Task Force recommendations. For the most part, only the Task Force recommendations that have been implemented, according to the VBA summary, are addressed in this testimony.

Prior to addressing the status of specific recommendations, it is important to reflect on the purpose of the Task Force and the reason for its assemblage. The VBA is in a state of crisis. Such a tremendous backlog of claims has mounted that restoring efficiency to the agency is nearly an insurmountable challenge. The Task Force identified a number of sound strategies to shift the VBA's momentum into a positive direction; however, it is clear from a front-line perspective that some of the negative practices that led to the current dismal situation remain a hindrance.

The well-known Enron scandal troubled and angered many people because the corporation allegedly manipulated its numbers to gloss over corrosive problems for the sake of appearance. Comparably, a predominant mentality within the VBA is concern for the cosmetic effect that can be created by boosting numbers in statistical areas that are likely to be noticed. Outright fraud is not necessary to manipulate statistics. For example, easy-to-rate cases can be culled out of a stack of claim files and completed quickly to give the appearance of high productivity. Known as "cherry picking" in the field, such activity occurs commonly to elevate the number of ratings completed. Consequently, difficult-to rate cases pile up and are ignored. Cases that are easy to rate *should* be completed as quickly as possible, but not at the expense of allowing more difficult cases to stagnate.

VA Regional Offices (VARO) have done as little as possible to resolve cases that have been remanded to them by the Board of Veterans Appeals for further development. Quotas for resolving remanded cases are met by selecting the easiest cases to rate. Once quotas are reached, very little effort goes into developing other cases on remand. No effort is expended to resolve cases unless credit toward a specific goal is achieved.

The Board of Veterans Appeals shares the blame for the thousands of remands that have accumulated. Credit for completing cases at the Board is attained by rendering a final decision or issuing a remand for further development. Remanding a case is simpler than deciding it, so cases are returned to the VARO of jurisdiction whenever possible, and productivity appears high. Veterans tragically pay the price for such superficial practices. There are many, many instances of claimants waiting years for final adjudication of their claims while their file bounces back and

forth between the Board and Regional Office. A significant number have died before their cases are resolved.

VA needs to eliminate the practice of cultivating numbers, and an alternate measure of productivity needs to be established, which has less emphasis on figures. Emphasis must be refocused with service to veterans—deciding the case correctly the first time—as the primary objective. It is also vital that VA be provided substantial resources and a workforce adequate to offset past mistakes and clear the backlog of cases. Failure to reduce the backlog will cause a snowball effect that may prove to be too overwhelming to correct.

Before specific Task Force recommendations are discussed, it is important to note that the majority of VBA employees are industrious men and women who have been executing an extremely difficult task to the best of their ability. Many factors beyond their control have led to the current situation. The DAV extends its sincere appreciation to VBA employees who strive earnestly, day after day, to fulfill the VA's mission to care for veterans. Many within the VA understand that veterans have paid the price for our freedom. Such employees are blessed with a sense of satisfaction and pride for knowing that their efforts contribute to a higher cause.

The Task Force recommended that a special team be created for the sole purpose of expediting resolution of compensation and pension cases that have been pending for more than a year. We are pleased to report that this recommendation has been implemented. Entitled the "Tiger Team," this small group of experienced staff members has, in an exemplary manner, begun reducing the tremendous backlog of claims within the VBA. In addition to completing an impressive number of adjudicated claims, the Tiger Team has promulgated sound decisions and illustrated that quality work does not have to be sacrificed to attain efficiency. The DAV commends the Tiger Team and encourages all VBA employees to follow its example.

On cases with multiple issues, the Task Force recommended that VA Regional Offices make partial grants on claims that are easily decided as quickly as possible. Decisions on issues requiring further development should be deferred until essential information is acquired. This policy is especially important to veterans who have claims pending for convalescent benefits or hospitalization. For example, a veteran receiving a total joint replacement for a service-connected knee automatically qualifies for a thirteen-month convalescent rating at the 100 percent rate. Since he or she is likely to be out of work for an extended period, it is critical that the benefit be granted as expeditiously as possible to compensate for lost wages.

Prior to the implementation of the Task Force recommendations, such veterans would likely not receive their convalescent pay until any other pending issues had been adjudicated as well. DAV offices throughout the country have reported that VA Regional Offices have implemented this important Task Force recommendation.

To operate efficiently, the VBA must be able to acquire records from the National Personnel Records Center (NPRC) in an expeditious manner. The Task Force recommended that VBA establish procedures with NPRC to streamline efforts in this regard. Communications with DAV field offices indicate that the time period for obtaining records has been reduced somewhat, but room for improvement remains.

To allow additional time for working backlogged cases, the Task Force recommended that the time frame for routine future medical examinations be extended to the maximum extent allowed by law. In most instances, the maximum extent allowable is five years. Compliance with this recommendation appears to be sporadic. The DAV supports the Task Force's recommendation because it would enable adjudicators to resolve the maximum number of cases. We hope more VA Regional Offices will begin to take advantage of this opportunity to secure additional time for reducing the backlog.

Regarding increased partnership roles between the VA and DAV, DAV National Service Officers (NSO's) already participate in nearly every aspect of the adjudication process aside from writing rating decisions. They counsel veterans and other claimants on potential entitlement to VA benefits and assist in the completion of required forms. An NSO helps clientele obtain evidence from public and private sources, and serves as a liaison between the VA Rating Board members and claimants. This involves reviewing rating decisions for accuracy and informing clients accordingly.

The NSO also assists clientele throughout the appeals process. This involves filing the Notice of Disagreement, helping the client write his or her substantive appeal and also writing a representative's appeal on behalf of the client. Additionally, the appeals process may include a personal hearing before a local hearing officer, as well as a possible hearing before a member of the Board of Veterans' Appeals.

Few tasks could be added to our agenda without overburdening our limited workforce. However, barriers exist between VA and DAV that if eliminated, would result in better service to disabled veterans and their family members. For example, shared information technology such as access to the Computer Assisted Payment Processing System (CAPPS) was only recently granted to DAV representatives in the St. Petersburg, Florida VA Regional Office (VARO). Access to CAPPS information allows the DAV to provide the most recent claims status to veterans. Since the majority of telephone calls to the VA's toll free line are claims status inquiries, the DAV's access to such information greatly enhances efficiency. Without access, the additional step of contacting the VA for required information is necessary. VA employees are able to accomplish a higher volume of work when they are not busy answering telephone calls. Thus far, our office in Florida is the only DAV office with access to CAPPS. Greater efficiency could be gained nationwide if all DAV offices had CAPPS availability.

Similar efficiency gains could be made if the DAV had access to the Compensation and Pension Records Interchange (CAPRI), an information system regarding VA medical records. Access to CAPRI would enable the DAV to know when medical information was available. Tremendous delays in adjudicating claims are created by the interruption of awaiting information such as the results of medical examinations. On many hundreds of occasions, medical information has been submitted to veterans' claim files without proper follow-up. The file remains inactive, awaiting information that is already available. This error is common in claims that have been remanded to a VARO by the Board of Veterans Appeals. Veterans have had benefits withheld for years because of such mismanagement. DAV access to CAPRI would help reduce errors of this sort. Other systems that should be available to DAV are Control of Veterans Records (COVERS), and a soon to be introduced technology called "Virtual VA."

The concept of streamlining efforts via shared information technology is not new. In a system-wide effort to reduce the backlog, the VBA attempted to reform claims processing with its 1996 Business Process Reengineering (BPR) Plan. Granting Veterans Service Organizations (VSO) access to the same information technology available to VBA employees was a key element of the plan. VA began using the Training Responsibility, Involvement and Preparation of Claims (TRIP) program in mid 1998. This training program was intended to partially fulfill the goal of the larger BPR plan by instructing VA and VSO personnel on the use of VA computer systems. Complications arose when the VA attempted to restrict VSOs' authority to advise clientele regarding submittal of information into their records. When VSOs did not comply with the VA's terms, further access to information technology was halted.

The Task Force recommended that the VA provide VSOs increased access to VA computer systems, training on claims development processes, and use of VA equipment to increase participation of VSOs. Training and certification of VSOs is ongoing, but they do not have authorization to use claims processing and data exchange systems to establish claims and obtain evidence as originally envisioned. The VA is becoming ever more reliant on information technology systems. It is critical that VSOs acquire access to the same technology available to the VA, if disabled veterans and their families are to have adequate representation.

Another barrier to greater VSO participation pertains to obtaining information in support of claims. VA adjudicators tend to mistrust private medical records submitted on behalf of a claimant. The VA usually seeks its own examination or medical opinion even when evidence provided by the claimant is adequate for rating purposes. Evidence from private physicians is generally more thorough than VA evidence because it is based on a longstanding physician/patient relationship. Most VA examinations and treatment notes are based on brief examinations or the one-time treatment of a particular veteran. Rarely do VA physicians have the personal knowledge or continuity of experience with patients compared to family physicians or private specialists. Duplication of examinations delays the claims process in cases where the evidence provided by the claimant is sufficient to support a grant of benefits.

The advantages of greater VSO participation in the claims process are obvious. The key to strengthening the partnership between VSOs and VA is further access to VA information technology systems. The DAV provides assistance whenever possible and devotes substantial resources to assist claimants in filing and prosecuting their claims. However, it must be remembered that it is ultimately the VA's legal obligation to assist veterans in the development of claims and to ensure all pertinent laws and regulations are applied. VSOs cannot assume the VA's legal responsibility to ensure records are fully developed; and veterans cannot be required to turn to VSOs for assistance and representation.

The DAV sincerely appreciates the Subcommittee's interest in improving the claims process. On behalf of our 1.2 million members, I thank you for the opportunity to present our views on these important topics. Clearly, the DAV's mission to improve the lives of disabled veterans is shared by the Subcommittee. We appreciate your efforts and look forward to working together on future issues.

This concludes my testimony. I will be glad to answer any questions.

STATEMENT OF
JAMES R. FISCHL, DIRECTOR
VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ON
IMPLEMENTATION OF THE VA CLAIMS PROCESSING TASK FORCE'S RECOMMENDATIONS

JUNE 6, 2002

Mr. Chairman and Members of the Subcommittee:

The American Legion commends you, Mr. Chairman, for scheduling this timely hearing to examine VA's implementation of the short-term recommendations made by the Veterans' Claims Processing Task Force (the Task Force). Today, The American Legion will address the extent to which these recommendations have changed and improved the way veterans' benefits claims are handled and decided. Additionally, The American Legion would like to address the enhancement of the VA/VSO "partnership," which was one of the Task Force's medium-term recommendations.

The American Legion supported the work of the Task Force and participated in the public hearings. The Task Force report provides useful insights into the many issues that directly and indirectly impact the claims adjudication process. The American Legion is in agreement with many of the recommendations; however, we have particular concern with one that we believe should not be implemented, since it may be disadvantageous to claimants. Mr. Chairman, The American Legion believes there are current VBA policies adversely affecting regional office operations and the implementation of these recommendations.

BACKGROUND

In May 2001, the Secretary of Veterans Affairs established the Task Force to analyze and evaluate the Veterans Benefits Administration's (VBA's) claims processing procedures and operations, to include information technology, then make recommendations to improve VBA's ability to properly develop and accurately adjudicate benefit claims. The impetus for this study was the need to respond to mounting criticism from veterans, the veterans' service organizations (VSOs), and the Congress. Clearly, the deterioration in service to veterans is obvious and the growing backlog of pending claims and appeals has reached crisis proportions. In January 2001, when Secretary Principi was confirmed, the backlog of pending claims and appeals was almost 457,000 cases and rising. The Secretary announced his commitment to improving the level and timeliness of service to veterans. His stated

goals for VBA was a reduction of the backlog to 250,000 pending cases with an average processing time of 100 days. Collaterally, this was to be done without compromising the quality or service. These ambitious objectives were to be accomplished by the end of FY 2003.

Toward this end, the Task Force was mandated to complete their review and report to the Secretary within 120 days. The Chairman of the Task Force complied with instructions and submitted the final report to Secretary Principi on October 3, 2001. The report presented a number of findings regarding an array of problems that directly affect VBA operations and the adjudication process. The report included 20 short-term recommendations and 14 longer-term recommendations. Shortly thereafter, Secretary Principi announced the immediate implementation of many of the recommendations. Chairman Cooper was lauded for his efforts and subsequently nominated, then confirmed as the Under Secretary for Benefits.

Within the past several years, VBA has been the subject of no less than three major congressionally mandated studies:

- the Veterans' Claims Adjudication Commission,
- the National Academy of Public Administration, and
- the Congressional Commission on Service Members and Veterans Transition Assistance.

Each of these prestigious groups issued a lengthy report setting forth similar recommended changes within VBA and its procedures. If these changes were fully implemented, each group expected to substantially improve the quality, accuracy, and timeliness of decisions on claims and appeals for veterans' benefits. The desired results were improved overall services to veterans and their families. Many of the recommendations were eventually implemented to varying degrees or incorporated in VBA's strategic plans and projects.

In addition, the Government Accounting Office (GAO) has continued to study VBA operations and procedures, including its computer modernization efforts. GAO noted that, while progress has been made in some areas, VBA remains unable to solve many of the more persistent, core problems affecting its claims processing operations. These reports have also set forth additional recommendations addressing the problem issues.

Prior to the Task Force, VBA had already begun to implement a number of significant policy changes that were intended to focus additional resources and effort on stemming the growth of the claims backlog. These included the deferral or suspension of several new computer programs (rating board automation, rating board redesign, etc.) intended to improve the claims adjudication process, but were found to be cumbersome and less efficient. In addition, the Decision Review Officers (DROs) (responsible for conducting personal hearings at the regional offices and the processing of appeals) were directed to work on claims processing 50 percent of the time and handle hearings and appeals-related work the other 50 percent. For the most part, these policies have remained in effect, although according to reports from several American Legion field offices, the

policies are not always enforced. Many DROs are spending little -- if any -- time on processing appeals cases.

IMPLEMENTATION

Following the issuance of the Task Force's report, VBA began implementing those recommendations involving changes in procedures, which did not require shifting of personnel and resources. By June, instructions were issued to expedite action in cases involving a favorable decision on one or more issues in the claim, rather than waiting until all issues had been adjudicated. This has been an important step forward in improving service to veterans, since it provides benefits or entitlement earlier than under the previous procedure. The American Legion is concerned, however, that the regional offices are taking unfair advantage of this to inflate the amount of work being reported while taking minimal action. Although favorable to the claimant, often cases are not fully developed.

Several of the major initiatives (the establishment of the Tiger Teams and resource centers) have now been in operation for several months. The American Legion believes it is now possible to make some preliminary assessment of the results achieved thus far. With regard to other initiatives, such as the Board of Veterans Appeals developing cases rather than issuing remands and the triage of incoming claims by the regional offices, they are in the early stages of implementation and it would be premature to try and evaluate their potential impact.

The Tiger Team is an 18-month project for the specific purpose of expediting action on the oldest claims, i.e., the approximately 81,000 cases that have been pending for more than one year. The Tiger Team Unit was established at the Cleveland VA Regional Office to work on the claims of veterans age 70 or older with a claim pending for more than a year. It was estimated there were approximately 21,000 cases in this category. The other 60,000 old cases are being handled by nine regional office resource centers. Production quotas were established for this project in keeping with the overall FY 2003 claims processing goal. From the feedback provided by American Legion Service Officers, the Tiger Team in Cleveland and the resource centers are giving these longstanding claims the expeditious action they deserve and benefits are being granted in a substantial number of claims. However, it has been noted that, in their haste to complete action, some of the claimed issues are overlooked or ignored. While other claims are prematurely denied rather than fully developing the case for additional information. While the goal of this project is commendable and the general results to date are encouraging, follow-up action by the veteran's accredited representative is often necessary to ensure the veteran receives all the benefits to which he or she is entitled.

Over the years, The American Legion has actively supported VBA's efforts to improve its operating efficiency and the quality of its decision-making. Secretary Principi has repeatedly promised fundamental changes in the claims adjudication process and has set a timeframe to achieve the stated reduction in the claims backlog that The American

Legion believes may be an overly ambitious and potentially detrimental. We will continue to monitor, with great interest, VA's weekly reports showing substantial increases in production with the steady reduction in the backlog of pending claims. For the week ending May 18, 2002, there were 514,996 cases awaiting some type of action -- 10,098 cases less than the preceding week. In addition, the number of cases over 6 months old declined by 3,589 cases. From this data, it would not be unreasonable to conclude that the regional offices are doing a good job and are well on their way to meeting the Secretary's FY 2003 target.

However, The American Legion continues to look beyond these reports through an internal ongoing program of regional office quality review visits. Over the past three years, visits have been made to 28 stations. Based on our case review findings, The American Legion has become increasingly concerned, not only by the lack of demonstrated improvement in the quality of adjudication decisions, but also of the effect of the policies and initiatives being used solely to achieve the Secretary's claim processing goals.

Two weeks ago, The American Legion's Quality Review Team visited the St. Petersburg VA Regional Office. While there, we were confronted with graphic evidence of premature and erroneous denials of claims, a general lack of compliance with the Veterans' Claims Assistance Act (VCAA) rules, and other types of inappropriate action. It almost appears as part of an orchestrated policy of manipulation of the station's production figures as a means of meeting its mandated production quotas. Management, rating board members, decision review officers, and front-line claims processors are under tremendous pressure from VA Central Office to produce the expected monthly quotas. There were cases in which veterans received letters stating that their claims were being denied, because their military records may have been destroyed in the 1972 fire at the National Personnel Records Center. The problem was that these veterans got out of the service years ***after*** the fire took place.

As disturbing as these tactics are, what was even more shocking was the intentional neglect of the backlog of pending appeals and remanded cases from the Board of Veterans Appeals. Remands are not being worked, because the station receives no work credit toward their mandated monthly production quota. This is not a local issue. It is a national issue.

At St. Petersburg, there were over 1,300 remands in which The American Legion holds power of attorney. Some of these cases had been remanded by the Board more than five years ago and were still waiting final regional office action. Mr. Chairman, this is a national disgrace and should not be tolerated.

VA AND VETERANS SERVICE ORGANIZATION (VSO) COOPERATION

Mr. Chairman, you requested The American Legion's comment on the Task Force's recommendation dealing with greater cooperation between VA and the veterans' service organizations (VSOs). The Task Force's first medium – term recommendation

was to utilize VSOs effectively. Specifically, it outlined the need to empower certified Veteran Service Officers to:

- Accept evidence in support of a claim;
- Provide VBA with certified copies of necessary documents; and
- Assist in gathering testimonial evidence (statement in support of a claim).

For several years, The American Legion and the other major VSOs have been participating in VBA's Training, Responsibility, and Involvement in Preparation of Claims Program (TRIP). The concept is to provide the professional veterans' service officers quality training and greater access to VA's computer system. Such access would enable them to prepare and submit more fully developed claims and lessen the amount of time and effort it would take for VA to complete action. At the present time, Level Two training is ongoing.

As a major stakeholder in the VA claims adjudication process, The American Legion continues to have serious reservations about the TRIP program and its practical value to VSO representatives.

The current level of access to the VA system of records provides information about a claim and its status, but does not enable the representative to actually do any new type of development. For the past two years, VA has continued to debate granting VSOs access to veterans' hospital record. As a veteran's recognized representative, The American Legion believes we should be afforded immediate access to a veteran's hospital record. Access to these records accords us information in a timely fashion and provides immediate entry to official evidence which may have an impact on the outcome of a veteran's claim for compensation. Effective and complete claims development cannot be a reality until the VA is willing to truly work in partnership with the VSOs. The American Legion realizes that release of information is controlled by many levels of regulatory protection, but we urge VBA to request opinions from VA General Council to facilitate a more efficient access to VA records for DSOs.

For several years, VBA's claims process has been under scrutiny. All of the reports that have been generated have done little to alleviate the myriad problems that continue to beset the VA. In fact, many of the reports have had similar findings and recommendations. Yet, veterans are still waiting longer than they should to receive a decision on their claims. Having said that, The American Legion is pleased that the Secretary is committed to making drastic and profound improvements in the processing of applications for veterans' benefits. We commend both the President and the Secretary for making the processing of veterans' benefit claims one of the Administration's top goals. The American Legion looks forward to assisting VA in fulfilling its mission to provide the nation's veterans, accurate, timely and uncomplicated decisions with the adjudication of their claims for benefits.

We note that the Task Force report included many references to the need for accountability. We couldn't agree more. We believe accountability is essential at all levels. Management accountability includes the responsibility to analyze the skill level

and ability of employees and to provide appropriate training. Our experience has been that stations that have expanded the concept of training beyond only providing information and include mentoring and development of employee skills necessary to meet the mission needs, these are the stations that will lead us to victory in this war on claims.

Mr. Chairman, the Secretary inherited an incredible claims backlog. We ask that the focus shift from a demand to the resolution of the immediate backlog to a renewed focus on accountability for all levels of management and on training new employees.

That concludes my statement.

★ WASHINGTON OFFICE ★ 1608 "K" STREET, N.W. ★ WASHINGTON, D.C. 20006-2847 ★
(202) 861-2700 ★ FAX (202) 861-2728 ★

June 6, 2002

Honorable Mike Simpson, Chairman
Subcommittee on Health
337 Cannon House Office Building
Washington, DC 20510

Dear Chairman Simpson:

The American Legion has not received any federal grants or contracts, during this year or in the last two years, from any agency or program relevant to the subject of the June 6 hearing concerning Implementation of the VA Claims Processing Task force's Recommendations.

Sincerely,

James R. Fischl, Director
National Veterans Affairs and
Rehabilitation Commission

STATEMENT OF

JOHN J. McNEILL, DEPUTY DIRECTOR
NATIONAL VETERANS SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE
SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

STATUS OF THE DEPARTMENT OF VETERANS AFFAIRS
IMPLEMENTATION OF THE
VA CLAIMS PROCESSING TASK FORCE'S RECOMMENDATIONS

WASHINGTON, DC JUNE 6, 2002

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you, Mr. Chairman, for inviting the Veterans of Foreign Wars of the United States (VFW) to participate in this hearing. We believe effective implementation of the recommendations made by the VA Claims Processing Task Force, in their October 3, 2001 report to the Secretary of Veterans Affairs, to be one of the two most important missions now facing the secretary. Accordingly, Congressional oversight on this is imperative. We commend you, Mr. Chairman and Ranking Member Reyes for your critical insight in having this hearing. We also implore you and your esteemed colleagues to continue your interest on this matter until the secretary reports that the Task Force's recommendations have been implemented to his satisfaction. Until that time, we should consider the Task Force to still be a work in progress.

As we are all well aware, the Claims Processing Task Force was one of a series of studies done in the last decade to tackle the problems of timeliness and the mounting (actually fluctuating) backlog of veterans' claims for disability compensation. Three sources were mentioned in the invitation letter to this hearing. To that list, we would like to add the Blue Ribbon Panel on Claims Processing (report in November 1993); the Board of Veterans' Appeals Select Panel on Productivity Improvement in 1994; and, the one that arguably caused a philosophical business approach readjustment in the Veterans Benefits Administration, the National Academy of Public Administration (NAPA) "Report on Management of Compensation and Pension Benefits Claim Processes for Veterans" in August 1997. All of these past studies (and reports) had essentially the same thrust as the Claims Processing Task Force – to make recommendations to improve the efficiency of veterans' entitlements claims processing with the end result being quality, timely decisions.

And, at their chronological time, all of these studies had a respective impact toward "improving" the system. (The Veterans Claims Adjudication Commission's report, in most areas, is one document that has seemed to stand the test of time; it is something that all serious veterans' advocates should review annually.) In a way, some of the improvements made as a result of these past studies are actually a factor in the claims processing system problems now facing us. Examples supporting this premise are the very successful outreach programs by the Veterans Benefits Administration; the tremendous influx of service connection claims for diabetes; the strong commitment to "Quality is Job One" through the creation of the Balanced Scorecard and the Systematic Technical Accuracy Review (STAR), which addressed the most vital of all goals: quality ("zero-defects") decisions; and, the reinstatement by Congress of the benevolent "Duty to Assist" doctrine on veterans' entitlements. All of these examples are critical in their support of a proper and deserving government entitlements program that emphasizes the importance and respect placed on our veterans by this great country. There is none in the world to compare to it – as it should be.

So, in a positive irony, we all (veterans, Congress, veterans service organizations, and the VA) played a role in the creation of the current claims processing problems. We therefore must share, and be a full partner to Secretary Principi, in the actions necessary to help resolve this dilemma.

(Indeed, the Claims Processing Task Force's report, in a lot of areas, is not a groundbreaking document. We view many of its recommendations to be simply a reaffirmation of what was espoused in the VBA's *Roadmap to Excellence* and the VA's Strategic Plan. The difference here, it seems, is that Secretary Principi is now providing strong leadership in insisting that the Task Force's recommendations will be implemented, and will be so at all echelons in the VBA. The secretary's "teeth" further extend to the establishment of solid, measurable performance standards for incumbents at critical positions in the VBA, such as the regional office directors; this is an exemplary undertaking that reinforces the secretary's tangible commitment to accountability. While the secretary had already made that commitment at the time of the Task Force's report, they acknowledge it with their Recommendation S-16.)

Consequently, when the Task Force issued its report last October, we reviewed it in detail, word by word, not from a primary thrust to find fault or disagreement with any recommendations, but exactly the opposite to see where we must play an integral role through possible augmentation actions. A secondary purpose was that we had just established, in February 2001, a comprehensive strategic plan for the VFW's National Veterans Service with the mission of enhancing professionalism at all levels in the VFW veterans' service programs and we had to program the anticipated impact of the Task Force recommendations into our planning, particularly our comprehensive training program.

With this philosophy, and even though we had concerns on some of the recommendations, there were only two with which we had disagreements – and the reason for those was a belief that, in the long term, both will actually impede the expeditious processing of claims by causing unneeded additional work. The first disagreement was on Recommendation S-4: "... Evidence requested from a claimant, private physician, or private hospital must be received within 30 Days". (Emphasis added.) Our disagreement with establishing such a restrictive standard has nothing to do with the fact that claims processing times are presently inordinately longer than 30 days. It is actually because we envision too many examples of veterans, when considering things as mailing transit times and absences such as vacations, having insufficient time to react adequately, especially if records must be obtained from a private physician. It is interesting to note that the VBA informally estimates approximately 25% would respond in a time period of 30 to 60 days. In those situations where a veteran responds soon after the expiration of the 30 days and the VA renders a decision at the 31st day, redundant readjudication and another decision must occur. Worse yet will be the cases where the veteran instead submits a preemptive Notice of Disagreement when the eventually submitted evidence supports the allowance of the claim. If the 25% figure is remotely accurate, there is potentially a tremendous increased and unnecessary workload addition to a system already currently burdened with redundant claims processing actions. The previous 60-day standard was reasonable, functional, and needs to be retained.

The second disagreement was on Recommendation S-17: "Centralize the debt waiver function at the Debt Management Center in St. Paul, MN." The primary concern we had with this recommendation is the inherent consolidation at one location of the Committee on Waivers and Compromises mission currently at each regional office and the resultant inability (certainly inconvenience) for veterans to have timely personal hearings before those committees. The Under Secretary for Benefits has announced that the implementation of this recommendation is delayed indefinitely.

Conversely, we believe most of the Task Force's recommendations to be so important in the overall picture of the secretary's plan to improve the claims processing system that we will fully support them even at the additional expenditure of resources, both monetary and labor. A specific example is that we considered Recommendation S-1: "Create a Tiger Team ... to expedite resolution of any C&P case over 1-year old ..." a praiseworthy endeavor by the secretary that mandated manpower augmentation in

Cleveland by us in assisting the rapid adjudication of these claims. All indications are that project has been a resounding success. We are also expending additional time resources to ensure the success of the consolidation of the maintenance portion of pension processing (part of Recommendation S-9). This approach will soon pay solid dividends by allowing concentrated training and enhanced specialization for a core group of pension experts in an area that is arguably the most difficult to master for a rating specialist. The attendant result at the other regional offices that no longer have this function will certainly be increased productivity in disability compensation claims processing with the diversion of manpower assets to that mission.

The invitation to this hearing requested us to specifically comment on Recommendation M-1 which essentially enlists the veterans service organizations to "help improve service … in gathering evidence for the development of a well documented and 'ready-to-rate' claim … deter frivolous claims, and by providing information on claims status." Initially, we must state that the first recommendation request, to present a fully developed claim, has been a long-time principle for our service officers. This canon of ours, on fully developing a claim as part of our mission to adequately represent veterans, precedes the Task Force, indeed the prescient *Roadmap to Excellence*. It goes back at least to the time of the creation of the Partner Assisted Rating Development System (PARDS) program started at the St. Petersburg Regional Office in July 1996, and which served as the harbinger to the current successful Training, Responsibility, Involvement and Preparation of claims (TRIP) program of certifying VSO access to critical VBA software programs. The very basic and first edict of TRIP is the promise by the VBA for expeditious decisions upon the presentation of a "ready-to-rate" claim (as it was for PARDS). The Task Force obviously recognized the importance of TRIP because it stressed the need to "accelerate [TRIP] as a high priority" in the same recommendation. Additional support for this objective will also soon happen with the Veterans Health Administration's development of a software tool that will enable accredited representatives to electronically view and copy pertinent health information documentation in support of a represented veteran's claim.

The third request, to provide timely claim status reports to veterans, is now easily accomplished through veterans service officers' certification at TRIP Level II and resultant access to the Claims Automated Processing System (CAPS). Over 90% of the VFW service officers located at the regional offices now have CAPS access and they universally praise its functionality. It has helped immensely in increasing the efficiency of our representation. The only comment we have in this regard is that the next VBA application generation on claims processing, Modern Award Processing – Development (MAP-D) looks even better and we are pushing hard for its VBA-wide implementation.

The second request, to deter frivolous claims, is the last to discuss because it's an extremely difficult one for us to suggest actions. This naturally implies that there is a readily definable claim as one of being frivolous. Usually, that determination only occurs -- and in most cases, subjectively at that -- upon a final rating decision. Because veterans service organizations do not have a fiduciary responsibility in veterans' claims, it is a very dangerous business for us to pre-judge a claim as being frivolous. (Many of us can recall only too clearly situations where we thought a claim was not meritorious on the surface just to have the VA determine appropriately that there is an actual entitlement.) Certainly, there are situations where ineligibility for a specific entitlement is very clear, but all we can do is strongly advise an individual on the laws and regulations pertaining to that ineligibility. If that individual is classified as having veteran status by statute and regulation, we in the VFW have a policy of providing the necessary and appropriate assistance in filing a claim.

The one VBA initiative where it is very easy to have fully developed, ready-to-rate claims is the Benefits Delivery at Discharge (BDD) program. The claims by our soon-to-be-discharged military under this program don't involve the time consuming efforts to retrieve old records and don't require a necessity for medical opinions to close continuity of symptomatology gaps (Title 38 Code of Federal Regulations § 3.303(b)). Everything is "fresh" and an accurate baseline for future evaluations is established with the initial rating decision at the time of discharge. Presently, around 40% of the active duty military take advantage of this exemplary program; it is ludicrous that this figure is not significantly higher. We choose to believe that the Task Force's Recommendation S-

20 on "[evaluating] the advantage of opening additional Pre-Discharge Centers ..." is actually a request to the secretary for a high priority on the allocation of resources to the BDD initiative as opposed to a de-emphasis of this "highly successful" program (as quoted in the Task Force report).

Because timely claims processing is the core of the Task Force's report, we would like to add as a footnote that we have testified in the past that 120 days seemed to be the ideal standard for the processing of original disability compensation claims. With a more sophisticated veteran as a result of the excellent outreach programs that have been established in the last ten years and the understanding that comprehensive medical examinations have to be performed in conjunction with these claims, we now feel that 150 days is a more reasonable expectation, with a 50-day standard included in that time period for the completion of compensation and pension examinations. Therefore, the goal of 100 days by Secretary Principi is, in our opinion, both commendable and ambitious.

In summary, we believe the secretary's attack on the claims processing problems is beginning to bear fruit. Certainly, this attack will receive additional impetus with the readjudication completion of the previous "not well grounded" denial decisions and the crest of the higher than originally estimated diabetes claims. This is also coupled with the knowledge that many of the new Veterans Service Representatives (VSR) hired over the past 18 months are now becoming experienced and comfortable in their mission. (We believe that it really takes at least three years for a rating VSR to become fully efficient in that job.) But, we strongly feel the real victory will come with the complete, consistent, and shared implementation of the Task Force's recommendations. Therefore, our suggestion here is that we all need presently to support Secretary Principi in just "staying the course".

Mr. Chairman, this concludes my testimony.

Testimony

of

John K. Lopez, SDV, Chairman
Association for Service Disabled Veterans
110 Maryland Ave., NE, Suite 100 and 504
Washington, DC 20002

To

Subcommittee on Benefits
Mike Simpson, Chairman
Committee on Veterans Affairs
U.S. House of Representatives
334 Cannon House Office Building
Washington, DC 20515

June 6, 2002; 10:00 a.m.

Partnerships, Joint Ventures, Teaming, and other similar forms of co-operational organization have always been goals of the military veterans community.

The U.S. Congress (Congress) has repeatedly been presented with pleas and demands for increased efficiency and results in veterans benefit programs, at every session of the Congress.

It is past time that the Committee on Veterans Affairs (USCVA) begins to investigate the potential for greater Veterans Service Organization (VSO)

participation in the operational processes that determine the outcome of resources that affect the lives of America's veterans.

This investigation should review and analyze meaningful and participatory programs; not just the periodic policy statements that have been received by past sessions of the Congress.

The veteran stakeholder, especially the service connected disabled veteran (SDV), has every right to be an integral part of every benefit process that impacts his life and well being.

This is a right afforded our non-veteran citizens in their daily lives, but it is a limited right to those who sacrificed for the well being of our nation.

The administrations' of our government have always considered the delivery of benefits and services to our veterans to be an exclusive and arbitrary function—to be negotiated between the Congress and the federal agency.

The unique status of a veteran, especially the SDV, who has his life and quality of life, at issue, demands more veteran participation – not more and more complex formulas, rules and regulations.

Currently, the Association for Service Disabled Veterans (ASDV) is pursuing two (2) initiatives that require co-operative relationships between individual veterans, VSO's and federal agencies.

One initiative is P.L. 106-50, "THE VETERANS ENTREPRENEURIAL DEVELOPMENT ACT", legislation unanimously enacted by the U.S. Congress to establish "self employment" programs wherein individual veterans and VSO's are authorized to enter into negotiated and co-operative relationships with federal agencies to advance "self employment" entrepreneurial opportunities for veterans.

This legislation is patterned after a highly successful program in effect in the State of California where ASDV sponsored the necessary legislation.

One of the secondary results of the State of California legislation are "partnership" relationships where the private sector has developed a new understanding and affinity to the needs and aspirations of SDV.

SBC Communications, a national leader in telephony and telecommunications has been the premier advocate and participant in this "self employment for service disabled veterans" initiative. SBC has awarded over $125 millions to SDV in support of the application of self employment to rehabilitation strategies.

Another initiative is P.L. 107-35, "THE DEPARTMENT OF VETERANS AFFAIR HEALTH CARE PROGRAMS ENHANCEMENT ACT", legislation wherein a national emergency response capability will be established to address the vulnerability of our service disabled veterans and other "AT RISK" populations.

ASDV'S "VETERANS MOBILE MONITORING SYSTEM (VMMS)" utilizes coordinated global positioning, packet switching, 24/7 monitoring centers, and advanced communications to immediately locate a patient in distress and to define and dispatch assistance to a veteran experiencing a health crisis.

Both of these initiatives are programs calling for "REAL PARTNERSHIPS" in the operation and delivery of services to service disabled veterans.

However, it is imperative that the Congress monitor and review any initiatives continuously! Experience has demonstrated that federal agencies are reluctant to involve others in the operation of their "turf".

Agencies have frequently cited the inability to establish performance requirements and the lack of enforceable accountability as two of the primary reasons for stakeholder participation.

These are not barriers that cannot be overcome. There are many innovative ways to insure the conduct and operations of even the most sensitive of programs.

The Committee is to be commended for its interest and concern for increased efficiency in veterans' programs.

ASDV, as well as other VSO, stand ready to participate in any effort to commission "partnership initiatives".

Statement of

VIETNAM VETERANS OF AMERICA

Submitted by

Leonard J. Selfon, Esq.
Director, Veterans Benefits Program

Before the

United States House of Representatives
Committee on Veterans' Affairs
Subcommittee on Benefits

Regarding

Status of the U.S. Department of Veterans Affairs' Implementation of the VA Claims Processing Task Force's Recommendations And Other Related Issues

June 6, 2002

Vietnam Veterans of America Implementation of Task Force Recommendations
June 6, 2002

Mr. Chairman and other distinguished members of the Committee, on behalf of Vietnam Veterans of America (VVA), we are pleased to have this opportunity to present our views with respect to the U.S. Department of Veterans Affairs' (VA) implementation of the VA Claims Processing Task Force's (Task Force) recommendations and an increased "partnership" between the VA and the Veterans Service Organizations (VSO) concerning the submission and the adjudication of claims for VA benefits. VVA is most appreciative of your inviting us to testify and to provide a statement for the record in this matter, as well as for your leadership in seeking to institute long-needed reforms in the VA's claims adjudication process.

The Need For Fundamental Change

Those of us who have been working in the arena of veterans benefits claims and adjudication, both on the VA side and the VSO side, can, and have, reached a general consensus concerning the fundamental problems that exist within the current VA benefits claims adjudication process. Any analysis must begin with an examination of current choke points, what has worked successfully in the past, what has not worked and what could work more efficiently. These same problems, as well as proposed solutions, have been discussed repeatedly over the years, however, the recent state of affairs appears to have reached an all time low. At the top of the list has traditionally been the need for more financial resources, increased staffing levels within the Veterans Benefits Administration (VBA), increased training for new and current adjudicative personnel, increased accountability within the adjudication staff and management, and the achievement of optimal levels of accuracy and timeliness in rating and appellate decisions. Nevertheless, throwing money at these problems is not a cure all. It would certainly help as a means to achieve the objectives that the Task Force has identified, however, fundamental change for the positive must be made at fundamental levels.

Getting It Right The First Time

Any proposals to be considered as potential solutions to the VA's adjudicative difficulties with respect to backlogs, timeliness, accuracy, quality control, uniformity of decisions from VA Regional Office (VARO) to VARO (and, in our experience, even within the same VARO), must have as their ultimate goal the facilitation of the VARO adjudicators getting it right the first time. This translates to ensuring that the evidence is fully developed prior to the initial adjudication, and includes more than simply ascertaining what records are available and seeking to retrieve them. It also means providing a contemporaneous physical or psychiatric examination where warranted, *and* ensuring that such examinations are adequate for rating purposes. Time and again, claimants must wait for one year or longer, only to have their claims remanded because a

VA examination report does not sufficiently address the issue under consideration or is so old that it does not reflect current levels of disability. While the passage and implementation of the Veterans Claims Assistance Act (VCAA), Pub. L. No. 106-475, 114 Stat. 2096 (Nov. 9, 2000), as well as the Task Force's recommendations, address these issues, the essential truth is that unless the VBA correctly adjudicates claims at the VARO level based upon the full development of each claim, both administrative and judicial appeals will continue at their current levels, and will, in all probability, increase. Increased appeals lead to increased remands for further development and readjudication. This, in turn, leads to increased backlogs from the appellate level downward. This is especially true in cases returned from the Court of Appeals for Veterans Claims (CAVC), which, pursuant to the Veterans Judicial Review Act of 1988, must be afforded expedited treatment both at the Board of Veterans' Appeals (BVA) and the VAROs.

Inconsistencies Within The System

Evidence of inaccurate VARO decisions has manifested through the VBA's intermediate level of administrative appeals – the Decision Review Officer (DRO) program. No one can argue with the success of this program. The DRO has the authority to overturn or modify an adverse VARO decision based upon a *de novo* review of the evidence of record. Statistics demonstrate that in those VAROs that maintained DROs during the VBA's initial pilot program, the number of substantive appeals to the BVA were significantly reduced. Our accredited service representatives across the country consistently report great success in receiving favorable decisions from DROs based on the same evidence that had been rejected by VARO adjudicators. While we applaud the success of the DRO program, that same success demonstrates the inadequacies inherent in the current VARO adjudication process.

The foregoing is intended to serve as an introduction to the need for the prompt implementation of the Task Force's recommendations, and to serve as an illustration that the key to achieving its stated goals is flexibility in that implementation. Blind adherence to any set of rules or policies generally results in the same shortsightedness that led the evolution of the VBA's current problems. Therefore, the VA, Congress, the VSOs, veterans and the American public should be mindful that, for whatever reasons, not all of the Task Force's recommendations may be effective once implemented. It is even possible that one or more may lead to even worse predicaments. Long-range vision must be applied to the implementation process with concurrent analysis as to whether the new programs, processes and policies are working and will continue to work.

For example, one of the Task Force's stated objectives is to reduce the current claims backlog and processing time by 50 percent over the next two years. A noble task indeed. The corollary to this goal, however, is that these reductions cannot come at the

sacrifice of accuracy and accountability. Speedier decisions and reduced backlogs mean nothing if claimants must submit to lengthy appellate processes in order to obtain benefits that they should have received following the initial adjudication of their claims.

VVA agrees with the Task Force's analytical approach of focusing on personnel training, workforce performance, quality assurance and information technology. Improvement in each these areas will assuredly lead to timelier and more accurate claims decisions. Its recommendations clearly reflect a "work smarter, not harder" mentality. While the VA can best inform this Subcommittee of current implementation measures, the following reflects some of VVA's specific observations and concerns.

Tiger Team Approach

As a short-term recommendation, the Task Force called for the creation of "Tiger Teams" of experienced staff charged to expedite the resolution of claims that have been languishing for one year or longer, especially for older veterans. The VA has put this into practice by establishing a Tiger Team to expedite the claims of veterans age 70 and over, and whose claims have been in the cue for at least one year. Overall the initiative seems to be working quite well. VVA believes in the Tiger Team concept of claims centralization and adjudicator specialization, and had espoused that belief in testimony before the Task Force last year. With respect to claims involving complex medical and evidentiary issues, we believe that the Tiger Team methodology is equally warranted. While an actual Tiger Team will not always be required, an offshoot of the Tiger Team approach to facilitate a more effective adjudicative force would be to divide VARO adjudicators, as well as VAROs, into teams based upon specialty and expertise. This approach would be ideally suited for such issues as veterans that were exposed to biological, chemical and other hazardous agents under the Shipboard Hazard and Defense (SHAD) program. New and intermediate level adjudicators could be given special training on specific issues. For example, there could be a psychiatric disorder team, a orthopedic-musculoskeletal team, a cardio-pulmonary team, etc. The assignment of claims by specific issue to adjudicators who are extremely proficient in processing that type of claim would result in timelier and more accurate decision-making. After serving on a specialty team for a while, adjudicators could rotate to other teams for continued specialized training and adjudicatory experience vis-à-vis other types of claims. Furthermore, individual VAROs, or several VAROs, could become centrally specialized to handle certain types of claims as well.

Another highly important Task Force recommendation is to establish and enforce accountability protocols. This recommendation is inextricably intertwined with the goals of quality assurance and workforce performance. The Task Force's recommendation in this respect (S-16) states, "[h]old VBA Regional Office and VBA Central Office officials accountable to individualized, measurable, and meaningful performance standards.

Reward appropriately for outstanding performance. Measure and evaluate accountability at the Regional Office and individual performance level." Task Force Report to the Secretary, p. 54. VVA is in complete accord with this recommendation, as well as with the sentiments presented in the Task Force's discussion of the recommendation. The only way to ensure sufficient and meaningful accountability is to accurately assess the quality of the work product and to take appropriate action vis-à-vis not just the adjudicator, but also his or her direct, and even, ultimate, supervisors. The goal of accountability in this context is not necessarily punitive or disciplinary in nature, but, rather, remedial. If a pattern of deficient performance emerges at the adjudicator or line supervisor levels, the employee should be counseled and retrained. If the pattern persists, then another career path could be arranged within the Department or elsewhere.

Effective enforcement of accountability protocols entails not only rewarding outstanding performance on the part of employees and supervisors, but also deterring continued deficient staff and managerial performance. The VA must provide for significant consequences for inadequate performance beyond lowered annual and semi-annual performance evaluations and the loss of performance bonuses or salary increases. If further resources are needed, VVA stands ready seek change in the civil service laws.

Supplemental Development And Training

VVA additionally supports the Task Force's recommendation concerning the centralization of employee development and training (medium-term recommendation M-8). Implementation of such a program would entail developing and implementing a VBA-wide hiring and training strategy to ensure that those hired for line and supervisory positions have the capacity to perform at prescribed levels and they receive all necessary basic and advanced training to effectively do their jobs. Certification of instructors and periodic recertification of employees with competency-based testing would be required as a means of achieving this goal.

Related to the training front, an area of concern to VVA involves current and future training materials and adjudication procedures directives from the Compensation and Pension (C&P) Service on a variety of issues. Two types of claims with particular significance to Vietnam veterans are service connection for post-traumatic stress disorder (PTSD) and the hepatitis C virus (HCV). VVA has reviewed C&P training documents and directives (*aka* "Fast Letters") concerning the adjudication of both types of claims. We were struck by the almost blatant instructions to search first for a reason to deny the claim and if one is found, to end the process there. If a reason to deny is not found (*e.g.*, an uncorroborated stressor in a PTSD claim or a non-accepted risk factor in an HCV claim), only then is the adjudicator directed to develop the evidence and proceed to an adjudication on the merits. This unacceptable mentality is by no means a demonstration of the non-adversarial, paternalistic scheme of veterans benefits administration

envisioned by Congress throughout the years (and most recently in the VCAA). We would therefore caution those responsible for training adjudicative staff to be mindful of the consequences of the language used, and *not* used, in their training materials.

With respect to the recent expansion of the BVA's developmental authority in cases where the evidence developed at the VARO level is inadequate to allow for full and fair appellate review, VVA's concern is two-fold. First, the BVA must be given the resources to undertake its own development of the evidence in the multitude of cases that would otherwise have been remanded to their respective VAROs for development and readjudication. The goal of mitigating the long delays involved in the remand process cannot be obtained if the BVA does not have sufficient personnel (whether BVA employees or "detailed" VBA employees) to secure additional evidence in a timely fashion. Second, measures must be taken to prevent the VAROs from becoming complacent about their developmental responsibilities and falling into a pattern of shoddy development at the early stages of the adjudication process. The mindset of a minimum effort, with the expectation that the BVA will clean things up on appeal, must be avoided at all costs. Such an outcome will, by far, offset any advantage that expanded BVA developmental authority has to offer.

VA – VSO Partnership

Finally, VVA would like to address the Task Force's recommendation concerning full partnership and cooperation among the VA, the VSOs and the state and county departments of veterans affairs. Medium-term recommendation M-1 urges the effective utilization of VSO services. There is no more enthusiastic supporter of this concept than VVA. Our service representative training has always emphasized that proper representation of our clients includes submitting the most fully developed claims possible and assisting the VA in identifying and securing evidence in conjunction with each claim. Existing VBA programs such as training and authorizing service representatives to certify records, as well as the Training, Responsibility and Involvement in the Preparation of Claims (TRIP), go a long way to foster VSO cooperation and assistance in the claims process. VSOs also serve a vital function as gate keeper by ensuring that claims without legal merit do not clog the system. Nevertheless, mandating certain requirements of VSOs in the submission of claims comes with a risk of history repeating itself.

One consequence of the VCAA was to effectively erase a decade of VA regulations, policies and Federal jurisprudence concerning the threshold requirement of submitting a "well-grounded" claim for VA benefits. Under the pre-VCAA evolution, a claimant had to initially provide evidence that was essentially sufficient to prevail on the merits in order for the VA to even consider the claim, let alone comply with its statutory duty to assist in developing the evidence. The VCAA abolished the need for the initial submission of a well-grounded claim and triggered VA notification and evidentiary

development obligations with the submission of a "complete or substantially complete" application for benefits.

Recently, there has been talk (also referenced in the Task Force's report) of the VSOs submitting "ready to rate" claims. The common understanding of this term is that a claim for VA benefits is submitted with all of the available evidence sufficient to warrant an award of benefits, without the need for any development on the part of the VA. Obviously, not every claim will be able to achieve this posture without the VA's assistance. Frequently, the VA or other Federal agencies are the custodians of vital documentation that the claimant cannot secure (or could, but with great difficulty). Any statute or VA regulation or policy that would require the submission of a ready to rate claim prior to adjudication or developmental assistance would run afoul of the VCAA and creates the risk of institutionalizing the next generation well-grounded claim requirement. To this end, VSOs should be trained and urged to submit ready to rate claims whenever possible, however, any formal, or even semi-formal, requirement in this respect would, in VVA's opinion, be *ultra vires*, and could result in disparate treatment of claimants who represent themselves and veterans who have engaged the services of a VSO in the prosecution of their claims.

In addition, VVA considers the submission of ready to rate claims one part of a reciprocal obligation. Of late, the VBA has been proactive in shortening procedural time limits within which a claimant must take some responsive action. For example, a recently proposed regulation would shorten the time frame in which a claimant who has received an adverse claims decision from the VARO can request a *de novo* review of that decision after filing his or her Notice of Disagreement from 60 to only 15 days. *See* 67 Fed. Reg. 10,866 (Mar. 11, 2002). Notwithstanding the unfair burden this places on the claimant, the proposed regulation offers absolutely nothing in return for claimant's promptness. In other words, even if the claimant were able to comply with the foreshortened deadline, there is nothing that would require the VA to take any expedited action to take full advantage of the time savings. The same applies to the VSOs submitting ready to rate claims at the outset of the adjudication process. Thus, even if the claim was filed fully developed and ready to rate, it could languish in a pile of claims for a year or more before the VARO gets around to rating it. Consequently, VVA urges that VSO assistance in submitting ready to rate claims be the *quid* to the VA's *pro quo* in expediting the adjudication of such claims. If the stated objective of the VA - VSO partnership is to facilitate the timelier processing of claims, then the partnership must run in both directions.

Vietnam Veterans of America sincerely appreciates the opportunity to present our views on these important matters. VVA is particularly impressed with Admiral Cooper's leadership of the Task Force and we wish him continued success as the new VA Undersecretary for Benefits. We believe that good work of the Secretary's Claims

Processing Task Force and the VA's good faith efforts to implement its recommendations address matters of vital concern to veterans, their families, VSOs and the American people. We look forward to working with this Subcommittee and Congress on this and other important issues.

VIETNAM VETERANS OF AMERICA

Funding Statement

June 6, 2002

The national organization Vietnam Veterans of America (VVA) is a non-profit veterans membership organization registered as a § 501(c)(19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any Federal grant or contract, other than routine allocation of office space and associated resources in VA Regional Offices and the Board of Veterans Appeals for outreach and direct services through its Veterans Benefits Program (service representatives). This is also true of the previous two fiscal years.

For further information, please contact:

Director, Government Relations
Vietnam Veterans of America
(301) 585-4000, extension 127

TESTIMONY

of

HOWIE DEWOLF

AMVETS NATIONAL SERVICE DIRECTOR

before the

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON BENEFITS

U.S. HOUSE OF REPRESENTATIVES

on

Cooperative Partnership of VBA and Veterans Service Organizations to Enhance Claims Processing

Thursday, June 6, 2002,

10:00 a.m., Room 334

Cannon House Office Building

MR. CHAIRMAN, RANKING MEMBER REYES, AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of National Commander Joseph W. Lipowski, I am pleased to present the comments of AMVETS on establishing a greater Veterans Service Organization (VSO) role in submitting more fully developed, ready-to-rate claims. Neither AMVETS nor I have been the recipient of any federal grants or contracts during the current fiscal year or the previous two years.

Mr. Chairman, AMVETS has been a leader since 1944 in helping to preserve the freedoms secured by America's Armed Forces. Today, our organization continues its proud tradition, providing not only support for veterans and the active military in procuring their earned entitlements but also an array of community services that enhance the quality of life for this nation's citizens.

Throughout our more than fifty year history, our focus and indeed our passion has been to represent the interests of veterans as their advocates. In this regard, you and our organization share a common purpose – we support veterans in their efforts to receive the benefits that a grateful nation intended them to have in recognition of their dedicated service to our country.

As a nation, we owe veterans an enormous debt of gratitude – for their service, their patriotism, and their sacrifices. The benefits to which they are legally entitled are not the product of some social welfare program, as some might argue. Rather they are yet another cost of freedom that unfortunately is too often forgotten.

As a national service organization, AMVETS is committed to assisting veterans in their times of need. For example, during the past sixteen years, we, together with DAV, PVA, and VFW, have co-authored a document titled *The Independent Budget* in which we identify the funding requirements necessary to support the Department of Veterans Affairs.

We believe that America's promises made to veterans for their military service need to be recognized and honored as our forebears intended. We believe that veteran's benefits should be provided in a timely and compassionate manner. We believe that to do less dishonors those whose service in defense of this nation provides a central underpinning for the prosperity and freedoms we all enjoy.

Over the years, AMVETS has maintained a proactive partnership with the Department of Veterans Affairs, especially through the Veterans Benefits Administration. As veterans' advocates, we value both the professional and personal relationship that exists between us.

AMVETS also maintains a nationwide cadre of National Service Officers co-located in many instances with the VA at various regional offices and with some NSOs assigned at or near military installations to assist with Transition Assistance. This cadre of men and women—each and every one of them a veteran—assists veterans in processing their compensation claims with the Department of Veterans Affairs. We devote a considerable amount of resources to ensuring our NSOs have the necessary tools and training to perform their tasks professionally and in a timely manner.

The AMVETS organization has enthusiastically joined with the Department of Veterans Affairs in its attempt to develop a partnership with the Veterans Service Organization community. We fully acknowledge the importance of the issues raised in the report of the VA Claims Processing Task Force.

For a number of years, it has been the policy of the AMVETS National Service Department to ensure that our National Service Officers submit well-grounded claims on behalf of veterans. We have emphasized the importance of guiding veterans towards gathering the proper evidence and ensuring their claims submission is as complete as possible.

Rather than contribute to the claims backlog by knowingly submitting an incomplete or frivolous claim, we would prefer to tell the veteran the truth so that we do not build unrealistic expectations. To the best of our ability, we intend to be part of the solution in processing veterans' claims in a timely manner, not part of the problem.

We have found that our diligence has paid significant benefits to the veterans whom we serve. The feedback we receive from Regional Office Directors is consistently positive with respect to the completeness of our claims work. Veterans are pleased that once their claims are filed they have no further action other than to wait for their rating results.

Similarly, we have actively participated with the VA in implementing its TRIP—Training, Responsibility and Involvement in Preparation of Claims—program. We have met monthly with our VA counterparts and other cooperating VSOs to develop the program, monitor training schedules, discuss implementation issues, and ensure a partnership is fostered between the VA and the VSO communities.

AMVETS has directed its NSOs to take the TRIP training, become certified, and actively engage with their VA counterparts at their respective Regional Offices. Additionally, we have also established a program where accreditation as a service organization representative of AMVETS is contingent upon successful completion of TRIP training. Essentially, we have established a one-year probationary period for a county or state service officer seeking accreditation with AMVETS to successfully complete TRIP training.

Unfortunately, although the VA has developed the TRIP training program and we have enthusiastically participated, we have yet to see the benefit. Our NSO submissions are treated no differently than any other claim received by the VA, whether processed under TRIP or not. We were told that the claims our TRIP-trained service officers submitted would be processed more rapidly and, for the sake of the veterans we serve, be given a rating more rapidly. This has not been the case.

Across the country, our National Service Officers report that the claims they submit receive no priority over any others. Without exception, all claims appear to go into the same queue without regard to whether they had been processed by a TRIP-trained service officer or not. Our chagrin is that we feel we have held up to our side of the partnership but the VA is not delivering on theirs. Our NSOs take the training and pass the tests, but see no benefit for the veterans they are trying to serve.

If we keep up our end of the Partnership, ensure our NSOs are TRIP-trained, and submit fully developed claims that are "ready-for-development," then the VA needs to carry through on its end of the Partnership by giving priority consideration to those claims.

AMVETS has fully and enthusiastically committed to a partnership with the VA. We want to work together with the VA to ensure that we achieve the ultimate goal of better serving America's veterans.

AMVETS looks forward to working with you and others in Congress to ensure we help meet the needs of America's veterans and their families. Clearly there is much to do, and we are encouraged in seeing your personal involvement in the consideration of changes in policy that will help ease a massive, chronic backlog of pending benefit claims.

This concludes my statement. I would be pleased to address any questions or comments that you or other members of the panel may have and thank you, again, for the opportunity to present our remarks.

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSES

CHAIRMAN SIMPSON TO HON. DANIEL L. COOPER, UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS

HVAC FOLLOWUP QUESTIONS TO UNDER SECRETARY'S TESTIMONY JUNE 6, 2002 QUESTIONS FROM CONGRESSMAN MIKE SIMPSON

1. On page 6 of your written statement you refer to a current VBA test in which Veterans Service Organizations (VSOs) that have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training are provided remote access to VBA computer applications. Do you have any general conclusions regarding the results of these trials to date? If not, when will you? Do these tests have any bearing on providing VSO access to other computer data for use in claims development work?

Response: It is too early to assess the impact of our efforts to expand remote access capability for veterans service organizations. VBA has provided remote access to the Benefits Delivery Network (BDN) for several years. The current VBA test is providing remote access to the Claims Automated Processing System (CAPS). Like the BDN, this system helps VBA employees track the progress of claims. However, it represents a dramatic improvement over the BDN because it has far greater storage capacity. Instead of relying on the five-character coding limit of the BDN, CAPS inquiries allow viewing of letters, reports of contact, and rating decisions. Access to this greater depth of information should help VSOs in their claims development work.

The test started on June 3, 2002, with user accounts set up for 11 remote VSO users in 2 locations. We will gradually be adding more test users each week, with 66 test users in 8 different locations accessing CAPS by the end of July 2002.

Technical experts are continuously monitoring the network for capacity and performance of the National Access Service (NAS) server in Philadelphia and the terminal server in Chicago. Once all 66 test users are on board, a formal evaluation will be done to determine if the system can handle the expected number of users if all remote VSOs were given access. Results of this evaluation should be available by the end of August. We will continue to work toward providing VSOs remote access to other VBA computer applications while addressing any system hardware and legal constraints as they arise.

2. On page 6 of your written statement you note that TRIP originally envisioned VSO access to the VA's computer systems. On page 7 of your testimony you refer to "ongoing discussions with the VHA regarding electronic access by VSOs to VAMC treatment records." Many VSOs,

including county and state representatives, have identified the lack of access to VA computer based information/data bases as a major obstacle when it comes to their ability to develop ready-to-rate claims. For instance, the Paralyzed Veterans of America (PVA) indicated on pages 5-6 of their written statement that they would like access to the Training and Performance Support System (TPSS) and Compensation and Pension Records Interchange (CAPRI), and Mr. Hunt on page 8 of the written statement by the National Association of County Veterans Service Officers stated that they would like access to veterans' information contained in the Benefits Delivery Network (BDN). What are the issues that need to be addressed regarding the provisions of VSO access to the BDN, VAMC treatment records, CAPRI, and TPSS? If there is a necessity to limit such access, would it be possible to provide some limited access to VA data that would benefit the VSOs in their expeditious development of "ready to rate" claims?

Response: VSOs have had access to BDN for years. The limit to access to BDN for Mr. Hunt's organization, the National Association of County Veterans Service Officers, involves the fact that many of his VSOs are outbased, requiring remote access. Again, remote access is available. We regularly meet with Mr. Hunt during our regularly scheduled TRIP meetings, and will continue to work with him in any way to ensure his service officers have access to the BDN.

TPSS is a performance-based training system designed to train and test VBA employees on how to do the work, e.g., how to rate a case. While somewhat informative, it would not translate very well into improved job performance of VSOs. We specifically designed our TRIP training program to benefit the VSOs in more expeditiously developing "ready to rate" claims. We therefore believe the TRIP training is a better learning tool for VSOs than TPSS.

One of the changes we have made to the TRIP training as we have progressed has been to present the training from the VSOs' perspective rather than that of a VA claims processor. TPSS, however, trains on the performance of doing the job of a Veterans Service Representative or Rating Veterans Service Representative (both VA claims processors), not the job of a VSO. To change TPSS to make it effective for VSOs would require expensive additional development of job performance measures. It is not feasible at this time to make this specialized and closed training system available to VSOs.

On August 15, 2002, the Veterans Health Administration (VHA) will release CPRS Read Only, a software tool to grant authorized non-VA users (such as VSOs) electronic, read-only, access to veterans' medical records. CPRS Read Only, based on the Computerized Patient Record System (CPRS) already in use at VA medical centers, includes additional functionality to limit access to the medical records of individual veterans in accordance with Federal privacy and security laws. VHA will demonstrate CPRS Read Only to national VSO

representatives at the Washington, DC VA Medical Center on July 30, 2002. VHA and VBA are collaborating to include a CPRS Read Only module in the TRIP training.

Currently, CAPRI is not designed for use by non-VA users. CAPRI includes the capability to enter information such as exam requests, so it does not meet requirements for a read-only system.

3. The written statement provided by Mr. DeWolf of AMVETS stated that claims prepared by TRIP-trained VSO personnel did not receive any more expeditious treatment than any other claims submitted to the VA. Similar testimony was also given by Mr. Selfon of Vietnam Veterans of America. In order to provide an incentive to VSOs to submit claims that are, to the extent possible, "ready to rate," would it be beneficial for the VA Regional Offices (VAROs) to give expedited review to claims submitted by TRIP-trained VSO personnel? If so, would your new "triage" centers play a role?

Response: When TRIP was still in the planning stage, VBA and the VSOs together drafted a mission statement. Included in the mission statement was the recognition that improvements in accuracy, efficiency, and timeliness would result from the partnership. VA's commitments included training, certification of skills, and the promise of timely processing of properly developed claims. Not only would it be beneficial for the VAROs to give expedited review to TRIP claims submitted by VSOs, it must be done to uphold our end of the partnership.

The "triage" teams will play a role since the "triage" teams perform the first step of the adjudication process. There the claim will be recognized as ready for a decision or in need of more development, and directed toward the next processing stage. Employees in the "triage" team will "flash" the case as a TRIP claim to ensure expedited processing throughout the process.

4. On pages 3 and 4 of your written statement you identify two examples of how the VBA has created efficiencies through specialization - through the establishment of three Pension Maintenance Centers to handle all eligibility verification reports, and through the establishment of specialized processing teams within each Veterans Service Center. One VSO has suggested the possibility of VA Regional Office adjudicator specialization/VARO specialization by type of medical problem (such as veterans exposed to biological, chemical and other hazardous agents). What are your views in this regard?

Response: The practical advantages of office-level specialization are best when implemented at the program level. The effectiveness of specialization at the

individual veteran's condition level would be greatly diminished for a number of reasons. Among them:

1. Available statistics show that the average number of disabilities per veteran for those who began receiving compensation in FY 2000 was 3.2. Typically these conditions cross body systems.
2. FYTD information ending May 2002, shows approximately 16 percent of all veterans claim more than 7 disabilities on their initial claim for benefits. Again, these claims cross body systems.
3. VA previously experimented with specialization by claim type when it centralized the processing of Gulf War undiagnosed illness claims to four regional offices. Even then, those offices were expected to handle any other disabilities the veteran may have claimed unrelated to his/her Gulf War experience. In the final analysis, after a lengthy period of consolidation, the practical problems associated with such consolidation prompted a business decision to return these types of claims to their offices of original jurisdiction.
4. There are practical problems of system capability with respect to ordering disability examinations from the hospital in whose jurisdiction the veteran resides but with which a regional office might not have a traditional working relationship.

I believe that specialization within the six process teams currently being implemented represents the best opportunity for enhancing quality, improving cycle time, and strengthening the core skill sets required of all claims examiners to properly deliver the benefits authorized by law.

5. When a VSO, a county service officer, or a state veterans' affairs department goes out and gets a copy of a record or document from a federal government agency in support of a veteran's claim, can the VA accept that copy of the document as valid? Or does the VA have to request an original of that document or a copy that is sent to the VA that does not pass through the hands of an intermediary?

Response: For proof of military service, VA will accept a copy of a service department document if the copy was submitted by a service organization representative who has successfully completed VA-prescribed training on military records, and who certifies that the document is a true and exact copy of either an original document or a copy issued by the service department or a public custodian of records. Photocopies of documents necessary to establish birth, death, marriage, or relationship are acceptable as evidence if VA is satisfied that the copies are genuine and free from alteration. Otherwise, VA may request a copy of the document certified over the signature and official seal of the person having custody of the record.

6. If the VSOs were to address one issue relative to their part of the VA-VSO partnership in order to better enable VA to handle veterans' claims, what would it be?

Response: The adjudication process essentially involves first gathering evidence and then making a decision based on the evidentiary record. The one issue relative to the VA/VSO partnership which would enable VA to better handle veterans' claims would be the assistance provided by VSOs in gathering evidence, especially from private sources, needed for effective decision making.

CONGRESSMAN EVANS TO HON. DANIEL L. COOPER, UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS

THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS
WASHINGTON, D.C. 20420

AUG 14 2002

The Honorable Lane Evans
Ranking Democratic Member
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Evans:

Enclosed are the Department of Veterans Affairs' responses to the seven post-hearing questions that you submitted on behalf of Congressman Silvestre Reyes that relate to the Subcommittee on Benefits hearing regarding the Department of Veterans Affairs implementation of the Claims Processing Task Force's recommendations. The hearing was held on June 6, 2002.

If you have further questions or need additional information, please have a member of your staff contact Alexa Jensen in the Office of Congressional and Legislative Affairs. She may be reached at (202) 273-5628.

Sincerely yours,

Daniel L. Cooper

Enclosure

HVAC FOLLOW-UP QUESTIONS TO THE UNDER SECRETARY'S TESTIMONY OF JUNE 6, 2002

QUESTIONS FROM CONGRESSMAN LANE EVANS

1. According to VACOLS data as of the first quarter of 2002, an average of 644 days elapsed from the regional office receipt of an appeal until the Board of Veterans Appeals received the record. The actual number of elapsed days reported by regional offices ranged from 158 days to 1427 days. Please identify the factors that contribute to these delays. What actions are being taken to reduce these delays? In terms of number of days, describe the goal, if any, to accomplish this processing.

Response: As of the end of May, the average number of elapsed days between the date a regional office receives an informal appeal until the records are received at the Board of Veterans' Appeals (BVA) increased to 677. There are a number of factors that contribute to delays in certifying a veteran's appeal to the BVA. These include:

1. The veteran or his/her representative may identify new evidence or present relevant arguments warranting further development.
2. There may also be a request for review by a Decision Review Officer (DRO). In such cases, the DRO action must be completed before giving the claimant the opportunity to submit a formal appeal to the BVA.
3. Another common reason for delay is the submission of a subsequent claim by the veteran that may be intertwined with the issue already on appeal.

In addition, a veteran is allowed a minimum of 60 days following the issuance of the Statement of the Case (SOC) to frame, or perfect, his or her formal appeal. In actual practice, the veteran may submit this formal appeal any time within 1 year of the original decision and maintain the active status of the appeal. The time a veteran takes to submit his or her formal appeal to BVA is included in the VACOLS elapsed days. Currently, on average, it takes about 50 days for veterans to submit the formal appeal to the regional office. Once received, the formal certification process, which includes an opportunity for the local service organization representative to prepare comments, begins.

Through May of this fiscal year, DROs have favorably resolved over 4,800 informal appeals locally. They have also favorably resolved over 600 formal appeals that had been remanded by BVA. We are reviewing the DRO process from a timeliness aspect, but from an outcome view we believe the process has had a positive impact.

While there are necessary factors that delay certification of a veteran's appeal, we believe we can reduce the overall time it takes to resolve an appeal. The Secretary's Claims Processing Task Force recommended a number of actions to reduce both the backlog of appeals and their processing time. We are now implementing those recommendations, which include the following:

- Establishing permanent teams of employees to work exclusively on appeals at each regional office. Each regional office will have an Appeals Team in place before the start of fiscal year 2003.
- Establishing a unit in BVA to develop evidence or information internally rather than remanding appeals to regional offices. This unit became operational in February 2002. Through June, approximately 3,000 appeals have been referred to this unit for development action, which negates a return to a regional office.
- BVA staff attorneys were sent to assist those regional offices having the largest appeals backlogs. They also worked on-site with the Cleveland Tiger Team on a special project to review old appeals.
- Starting this fiscal year, regional office directors are being held accountable for appellate work in three areas. They are required to: 1) Reduce the age of pending remanded BVA cases by 10 percent; 2) reduce the number of pending remands at their respective stations by 10 percent; and 3) meet monthly targets for the number of initial appeals and remands forwarded to BVA (geared to ensure that VBA sends 2,500 appeals to the BVA each month).

In terms of our goal for processing appeals, we have been measuring the Appeals Resolution Time (ART). This is a measure of overall timeliness (from receipt of the notice of disagreement to final resolution of the appeal) and it includes cases that are resolved by BVA as well as those resolved at the regional office level. For FY 2002 our goal is 620 days. As of May 2002 the timeliness was 660 days, a deterioration from the 579 days in October 2001. Because of our continued emphasis on resolving the longest pending appeals and remands, we expect some further deterioration in this measure in the short term. However, as we work the backlog of old appeals and reduce the inventory, we anticipate reductions in the average age of our pending inventory, followed by reductions in the appeals resolution timeliness measure.

2. Describe the standard the Veterans' Benefits Administration (VBA) has developed for the length of time the various steps under the control of the regional office should take, such as time from receipt of a Notice of Disagreement to issuance of the Statement of the Case, or the time from receipt of an appeal to receipt of the file by the Board? If these standards have not been developed, please describe plans to develop such standards and the time line by which they will be developed.

Response: As mentioned above, VBA has been using the Appeals Resolution Timeliness (ART) as the primary measure of the appellate process. This measure takes into account the time an appeal is at the regional office, the time it takes the appellant to respond, and the time an appeal is at the Board of Veterans' Appeals (BVA). Because the veteran sees the process as a "VA process" and not two distinct processes (VBA and BVA), this overall measure is more appropriate from the veteran's perspective.

While VBA expects to continue to use this broader measure of overall appeals timeliness, VBA is developing timeliness standards for the incremental steps within the appeals process. The standards will address all increments in the life of an appeal at a regional office. It will start with the number of days from receipt of the Notice of Disagreement (NOD) to the issuance of the Statement of the Case (SOC).

In June and July 2002, VBA analyzed the appellate data and associated workload. The current data shows that we are at the following processing times (average processing days) for the incremental steps:

- From NOD to SOC (Includes de novo review, development for appropriate evidence and preparation of the statement of the case) - 237 average processing days
- Official Notice of Appeal (Form 9) to certification to the Board of Veterans Appeals (Includes initiation action on new issues, receipt of certification from service organization, and certification of case to BVA) – 658 average processing days
- Remand receipt to BVA re-certification (Includes initiation of appropriate action and certification of appeal back to BVA) – 755 average processing days

The recommended incremental standards are to process NODs (Step 1) and Form 9s (Step 2) in 100 days on average, and complete remand actions and re-certify cases to BVA (Step 3) in 200 days on average. These incremental standards are to meet by September 2003.

In late July 2002, the findings were presented to the Under Secretary for Benefits. These incremental standards will be incorporated in the Directors' performance plan for FY 2003.

3. The Tiger Team operating out of the Cleveland Regional Office has generally received favorable reports. What level of staffing or other resources would be necessary for all other regional offices to receive the same expedited treatment of requests for records from the National Personnel Records Center or scheduling of medical examinations as is provided to the Tiger Team?

Response: Because the Tiger Team has a targeted workload with a limited focus on claims of veterans who are over 70 years of age and claims pending a decision for over 1 year, the National Personnel Records Center (NPRC) is able to give priority to Tiger Team requests through a special arrangement between VA and the National Archives and Records Administration (NARA).

The Tiger Team requests an average of 73 records each work week. Our VA Liaison Office (VALO) at NPRC formats these requests and refers them to NPRC to do special searches and return the records as soon as they can, usually within a couple of days. When the records are received by the VALO, VA staff members analyze the records and post responses electronically when possible or use FedEx to overnight paper records to the Tiger Team in Cleveland. This is an extremely labor intensive process and involves the use of five full-time VA employees within the VALO. Under the Memorandum of Agreement (MOA) between VA and NARA, VA also funds five additional FTE for NARA to provide expedited turnaround time for these Tiger Team requests.

It would not be feasible to offer this level of service on a national workload averaging nearly 5,000 records requests each week. Staffing of the VALO and VA funding for additional FTE at NPRC would have to increase dramatically. Even if funding were available, such numbers of FTE would far exceed the space available to accommodate them.

Notwithstanding staffing and space issues, only a small percentage (3%) of claims pending over 180 days are attributable to delays in records recovery. Also, existing staffing levels at the VALO are achieving significant gains in our ability to recover service records:

- We have improved our average response time from 92 days at the beginning of this fiscal year to just 46 days, an improvement of 50 percent. Our goal is to provide an average turnaround in under 30 days.

- We have reduced our pending workload from over 59,000 in August 2001 to under 31,000 in July 2002. Our goal is to reduce the pending workload to under 20,000.

- We have reduced the number of records requests pending on claims over 180 days from 17 percent in August 2000 to less then 3 percent as of June 2002. Our goal is to maintain pending service records requests over 180 days old at less than 3 percent.

Tiger Team requests for medical examinations receive priority. However, these requests are diffused across Veterans Health Administration (VHA) facilities nationwide and therefore amount to a very small number per facility. Again, if all regional offices were allowed to request priority examinations, the volume would

preclude the level of priority now received. It is not possible at this time to estimate the level of additional VHA resources that would be required to provide priority examinations for all regional offices.

We are currently pursuing solutions that will maximize current resources while simultaneously building support systems and applications that will improve our business processes. We are collaborating with VHA on improvements to our shared medical examination process.

The Compensation and Pension Examination Project (CPEP) has been in place since 2001 and, as part of this collaborative effort, we have developed a baseline for the accuracy of medical examinations. We are also working on an initiative known as Compensation and Pension Evaluation Redesign (CAPER) and a prototype of this examination improvement initiative will be tested in FY 2003.

4. Although the Resource Centers and the Tiger Team are designed to provide assistance to the regional offices, the Committee has received reports that in order to meet the monthly quotas for these groups, regional office staff is being pulled from regular work at the end of the month to assure that resource centers meet their quotas. For the Tiger Team and each Resource Center, please provide information for the months of October 2001 through May 2002 concerning the use of regional office staff to meet production goals for Tiger Team or resource center claims.

Response: The regional office directors who are also responsible for managing Resource Centers or the Tiger Team do not routinely pull staff to make Resource Center or Tiger Team quotas. Therefore, there is no data for October 2001 through May 2002. However, these directors must have flexibility to manage staffing and workload fluctuations and to move resources within their overall operations as needed. For the past several months, both the Tiger Team and the Cleveland Regional Office have met their mutually exclusive production goals. Further, each of the nine Resource Centers have met or exceeded expected production goals since their inclusion with the Tiger Team process, and the associated regional offices have met or exceeded their cumulative production goals through May, with only one exception.

5. At the time that Committee staff visited the Tiger Team, it was not possible to identify Tiger Team claims separate from the regional office where the claim originated on VA's computer system, and it was not possible to track appeals of Tiger Team claims. Are Tiger Team claims and appeals now identifiable? Please discuss any steps taken to obtain and analyze this data.

Response: We currently track claims sent to the Tiger Team and the Resource Centers by claim number and regional office of original jurisdiction. We are now in the process of testing and implementing an electronic process to track all "brokered" work, including claims worked by the Tiger Team and Resource Centers as well as claims "brokered" between regional offices.

We presently have no electronic system to track appeals that may be filed on cases worked by the Tiger Team. However, Tiger Team cases are clearly marked and easily identifiable upon folder review. Additionally, Tiger Team cases are subject to quality review by Central Office on an independent basis and, further, as part of individual regional office quality reviews. Based on your inquiry, we will assess the feasibility of modifying VA's appeals tracking system (VACOLS) to track appeals filed on Tiger Team cases.

6. Please describe any policies or practices used by the Tiger Team which might be replicated for use by regional offices.

Response: The Tiger Team is dedicated to a specialized mission. The judicious use of specialization can be an effective technique to increase productivity and help foster consistent treatment of similar claims. We are implementing specialized processing at a couple of levels.

At the regional office level, the VA Claims Processing Task Force recommended the establishment of specialized teams for the defined claims processing functions of triage, pre-determination, rating, post-determination, appeals, and public contact. All regional offices will be operating within these specialized teams by the end of this fiscal year. We have also taken action on the Task Force recommendation to designate specialized regional offices to work specific tasks. For example, spina bifida claims and claims for disabled children of female veterans are now consolidated in the Denver Regional Office. On a larger scale, we consolidated pension maintenance activities into three centers located at the Regional Offices in Milwaukee, St. Paul, and Philadelphia.

In order to quickly obtain medical evidence or examinations from VA medical facilities, the Tiger Team was provided with a single logon to our Compensation and Pension Records Interchange (CAPRI) System that allows nationwide access to medical information in CAPRI. We have been collaborating with VHA in order to make this single logon access to CAPRI available to all VBA field offices. A draft memorandum of agreement between VBA and VHA, which is pending, will effect this change.

7. In your testimony, you mentioned the pension program's success in processing eligibility verification reports (EVR). Were the pension centers required or encouraged to verify Social Security income for each of the EVR claims processed as part of their review?

Response: Eligibility Verification Report (EVR) processing at each of the three Pension Maintenance Centers utilized an interface with Social Security Administration (SSA) called SHARE. This program permits VA to check a pensioner's receipt and correct rate of social security. When self-reported SSA income does not match the social security income provided by SSA that is contained in VA's Master Record, the Pension Maintenance Centers are required to utilize the information contained in SHARE to resolve any discrepancies.

Chairman Simpson to George Hunt, Past President, National Association of County Veterans Service Officers

NATIONAL ASSOCIATION COUNTY VETERANS SERVICE OFFICERS

2200 Wilson Blvd., Suite #102-530, Arlington, VA 22201-3324

June 25, 2002

Chairman Mike Simpson
Subcommittee on Benefits
Committee on Veterans Affairs
335 Cannon House Office Building
Washington D.C. 20515

Dear Chairman Simpson,

In reference to your letter of June 13, 2002 to George Hunt, President requesting answers to specific questions, please find enclosed answers to your questions.

We have recently had our National Convention and I was elected President. George Hunt now holds the position of Past President and will continue to serve on the Washington Liaison Committee for NACVSO continuity.

Thank you for the opportunity to participate.

Sincerely,

Michael D. Murphy
President

Enclosure

Questions for the Record

Chairman Mike Simpson
Veterans' Affairs Subcommittee on Benefits
June 6, 2002

Hearing on the Status of the VA's Implementation of the VA Claims Processing Task Force's Recommendations and the Potential for a Greater VA/Veterans Service Organization Partnership.

1. Several VSOs have indicated that enhanced access to VA Computer data files would assist them in their more efficient development of ready-to rate claims. Which types of data access would be most beneficial to VSO claim preparation? Three examples that were mentioned in written testimony included the Training and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI). If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some more limited level of access to VA computer data? If so what would this entail?

First, NACVSO is a national association of County Veterans Service Officers who are all government employees. We believe the VA should recognize CVSOs as an arm of government, not unlike the VA itself. The very same citizens that the VA is employed by employ us. CVSOs just have direct access to veterans because we are located in the same communities with our constituency. We are not like the Veteran Service Organizations (VSOs) and we believe that the VA should not treat us like a VSO. We are not dues driven. We represent each and every veteran and their dependents that live in our respective counties. Secondly, all of the computer systems mentioned above are extremely useful and it is necessary for us to have access to all of them, if we are to effectively assist veterans and the VA in the reduction of the backlog.

CVSOs are willing and available to assist the VA as a partner; we just need to be recognized as a governmental partner. Other federal government agencies already accept the State and local government agencies as partners. For example, the FBI and DEA recognize local law enforcement as a partner sharing information systems and work closely to solve major crimes. The DEA traditionally provides funding for law enforcement activities that they need assistance with. The Department of Agriculture contracts directly with counties for law enforcement on the National Forests even though they have their own law enforcement agents. Those agencies agree to partnerships because they are mutually advantageous, why not the VA?

2. While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that it be understood that they are first and foremost advocates for the individual veterans. Does advocacy of each veteran's case inhibit your organization from preparing a claim package that accurately reflects the full and complete record of an individual veteran's claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel?

County Veteran Service Officers are advocates for their local veterans, but as previously stated, we are government employees. We are bound to certain standards of ethical conduct because of our employment. Advocacy should never inhibit a county employee from telling the truth or providing a document or statement that would assist the veteran from obtaining their claim for benefits, at the earliest opportunity. As an advocate, it is our obligation to protect every benefit that we believe the veterans is entitled to and at the earliest possible effective date. Having said that, as advocates, we are obligated to file an "informal claim" for benefits to protect the effective date and begin the development process. Once all evidence and materials are gathered they are submitted to the VA for adjudication. In testimony NACVSO is on record as requesting a change in law or regulation that allows CVSOs to partner with the VA and allow CVSOs to date stamp the initial claim in order to protect the effective date and continue developing the veterans claim in order to submit a fully developed claim for VA action.

Yes, VBA personnel are required to do some aspects of the development process. VBA personnel must decide whether to do a current medical evaluation and order the medical evaluation. VBA personnel are also required to obtain the veteran's military service and medical records. These records are filed at the National Personnel Records Center in St. Louis. CVSOs have attempted to obtain these records for the VA in the past and find that it is faster and more efficient if the VA provides that function.

3. Some VSOs have expressed concern that VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or is almost) "ready to rate" it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training-a sort of "express lane" for claims that are more likely to be ready to rate?

Yes. NACVSO would support the concept of processing a fully developed claims at the earliest possible opportunity and would like to see this concept expanded, whether submitted by a TRIP trained CVSO/VSO or not.

In fact, NACVSO has suggested the establishment of VA checklists or color-coding of claims (by type) that would immediately show the adjudicator the "fully developed" status as another way to expedite claims adjudication.

NACVSO is not concerned with the "cherry picking" claims and supports the rapid adjudication of any veteran's claim that is easily approved and eliminated from the backlog. We believe that this activity benefits veterans and allows the VA to spend more time on the more difficult veterans claims and provides a better opportunity to get the right decision the first time.

4. What are your organization's views regarding the following statement from the 1994 study titled "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process"?

   "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of the VBA's workload comes through the Veterans Service Organizations (VSOs), it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their efforts to effectively represent veterans."

   NACVSO agrees that the statement the "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation." This is evidenced by the increase in the backlog since the 1994 American Legion study. As Advocates NACVSO cannot agree with the balance of the statement. As indicated above, CVSOs/VSOs are advocates and obligated to protect the interests and rights to benefits at the earliest possible date.

   NACVSO views this issue as a "process and procedure" issue. Congress and the VA have the ability to change the law and regulation. If Congress mandates a local government partnership for the reduction in veterans claims backlog and the VA changes its regulations allowing for CVSO date stamping for effective date the submission of "informal claims" is no longer an issue. It's the difference between pointing the finger of fault and blame and looking for a solution. In looking for a solution, NACVSO supports the protection of veterans' rights to benefits and supports the submission of fully developed claims for VA adjudication.

5. If the VA needs to address one issue relative to its part of the VA-VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

   NACVSO believes that there is no "one issue" that will reduce the VA's backlog of veteran's claims. NACVSO believes that the primary problem is the lack on recognition of the counties (local government) being a true partner. County Veterans Service Officers are 2,400 strong, CVSO are the VA's grass roots connection with veterans, CVSOs throughout our great nation stand ready, willing and able to partner with the VA and assist in reduction of the backlog of veterans' claims. Recognition of CVSOs as a local government partner, changing laws and regulations that allow for sharing of information and resources, and funding CVSOs for a 3-year pilot project is the solution that will reduce the backlog and demonstrate the effectiveness of a federal/state/local partnership.

Chairman Simpson to Raymond Boland, President of the National Association of State Directors of Veterans Affairs

Questions for the Record
Chairman Mike Simpson
Veterans' Affairs Subcommittee on Benefits
June 6, 2002

Hearing on the Status of the VA's Implementation of the VA Claims Processing Task Force's Recommendations and the Potential for a Greater VA/Veterans Service Organization Partnership

1. Several VSOs have indicated that enhanced access to VA computer data files would assist them in their more efficient development of ready-to-rate claims. Which types of data access would be most beneficial to VSO claim preparation? Three examples that were mentioned in written testimony included the Training and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI). If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some more limited level of access to VA Computer Date? IF so, what would this entail?

ANSWER: Since the early 90's, access to BDN has been granted for accredited service officers with particular emphasis on those residing in the various regional offices. Some remote sites are also established. Generally, this arrangement has worked well and received continued support by the leaders in the Veterans Benefits Administration. While access to the BDN is important, we are also interested in the expeditious implementation of the Claims Automated Process System (CAPS). We would also request access to the Modern Award Processing – Development (MAP-D), and Automated Medical Information Exchange, (AMIE); CAPRI and PIES, which would allow access to service medical and personnel records.

Many state service officers are universally praising the functionality of CAPS; additionally, a service officer involved in the MAP-D test program at the Salt Lake City VA regional office states that program is even better than CAPS.

The one program that we are anxiously waiting for is CPRS. Electronic access to a represented veteran's current medical records will immensely improve our efficiency. The Veterans Health Administration will soon conduct a "pilot test" program at eight VA medical centers on this recently developed software application.

In response to the second part of this question regarding limited access, we believe that access should be tied to certification. Currently this is accomplished through Training, Responsibility, Involvement and Preparation of claims (TRIP). We feel this system is inadequate. A more comprehensive system needs to be developed in coordination with all players, the VA, VSO's and state and county governments. We support the establishment of national standards and criteria for certification and accreditation of all "service officers" authorized to assist veterans in claims development.

2. While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that it be understood that they are first and foremost advocates for the individual veterans. Does advocacy of each veteran's case inhibit your organization from preparing a claim package that accurately reflects the full and complete record of an individual veteran's claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel?

ANSWER: We agree strongly with the concept of veterans' advocacy and take our responsibilities very seriously. "Duty to Assist" is inherent in our role. In many states we are given statutory responsibility to assist veterans with claims. This includes our role to assist in a manner of full integrity and trust. NASDVA does not tolerate abuse of the system, such as fraud or misrepresentation of facts. We want to help prevent frivolous claims. The simple answer to the second question is no. With full access to information and records, service officers could accomplish everything but adjudication.

3. Some VSOs have expressed concern that VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or is almost) "ready to rate: it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training – a sort of "express lane" for claims that are more likely to be ready to rate?

ANSWER: As stated above we feel the TRIP system, although a good first step, needs to be enhanced. If a standardized form of accreditation/certification, based on a comprehensive training, testing, and accountability program can be implemented, it is reasonable to assume that the majority of claims filed by service officers who have met this accreditation standard and have the necessary tools would be "ready to rate" and could be given priority in the rating process. The "express line" must also balance other prioritization requirements for over age 70, terminally ill, POWs, homelessness. Two requirements must be met to do this. There must be sufficient numbers of service officers available to assist all veterans and they must be fully qualified. Neither of those conditions currently exist in many geographic areas of the country. This is why there is so much variance in the outcomes of the claims system.

4. What are your organization's views regarding the following statement from the 1994 study titled "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process"?

> "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of the VBA's workload comes through Veterans Service

Organizations (VSOs), it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their efforts to effectively represent veterans."

ANSWER:
We feel that this statement strikes at the heart of the problem. The way to provide a long-term solution is to develop a standardized, *centrally coordinated partnership of VSO and State and County governments* that provide quality claims with merit to the VA.

5. If VA needs to address one issue relative to its part of the VA-VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

ANSWER: NASDVA will provide a proposal to the Under Secretary for Benefits that will address this question. We are coordinating the proposal with the VSO community. The one issue the VA must address is how to coordinate effort among the partnership collaboration in each area of the country. We see great potential for state government to coordinate the process within each state among all the players. The quality processes must be standardized at the national level. The quantities of personnel and mixes of VSO components and capabilities differ in each state. Nearly half the states do not have CVSOs, and the nature of each VSO state department is different. The VA currently has partnership programs with state government. This experience can be used to establish a new partnership program for claims development that would enable state departments of veterans affairs to integrate the efforts of the respective collaboration of players in each state.

There must be a full "partnership" of effort at the national level to design the standards for the system. There must be decentralized flexibility for each state to work with the appropriate VA regional offices and the state team of service officers who assist the veterans.

Chairman Simpson to Paralyzed Veterans of America

Question 1 – Several VSOs have indicated that enhanced access to VA computer data files would assist them in their more efficient development of ready-to-rate claims. Which types of data access would be most beneficial to VSO claim preparation? Three examples that were mentioned in written testimony include the Training and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI). If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some more limited level of access to VA computer data? If so, what would this entail?

Answer: The critical element for the success of the VA/VSO partnership is access to enhanced information systems. VBA will enable veterans to file claims quickly, monitor claim status, and discuss the merits of cases with VBA personnel who are responsible for deciding claims and accountable for their decisions.

The key to this process will involve VSO's access to the VA computer database. We have been assured that TRIP Certified NSOs will have access to the Claims Automated Processing System (CAPS). At present, VSO access to Compensation and Pension Records Interchange (CAPRI) is not available. VBA has indicated they want TRIP certified NSOs to have online access to medical data on claimants they represent to develop disability claims.

The Compensation and Pension Records Interchange (CAPRI) would be the most beneficial to VSO claim preparation. With CAPRI, NSOs have direct access to medical records of claimants they represent. There is significant potential for reducing the need for a VHA examination and allowing the VA to make more timely decisions.

Limited access to automated data equates to limited information. Our NSOs cannot achieve the valuable efficiencies by restricting access to information. If the expectation of the VA is to speed up the adjudication process, it would be to their advantage to allow VSOs to provide as much information as possible.

Question 2 – While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that it be understood that they are first and foremost advocates for the individual veterans. Does advocacy of each veteran's case inhibit your organization from preparing a claim package that accurately reflects the full and complete record of an individual veteran's claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel?

Answer: The VA claims process is supposed to be non-adversarial. VSOs have the responsibility to assist veterans develop and secure evidence that will support their claims for benefits. To require VSOs to disclose all evidence negates the VSOs right to zealous representation within the bounds of law and regulation. VSOs are not agents of the VA.

The *ex parte* claims process within the VA has certainly faded with the onset of the VJRA. It is certainly questionable when a claims process can be inherently both adversarial and *ex parte*. The VA has always had the authority, ability and the duty to gather and weigh evidence. There is no law or regulation that mandates that VSOs volunteer adverse evidence. To do so would have a profound negative impact on the relationship between the NSO and client. However if a PVA NSO had knowledge of any evidence that constitutes knowledge that the claim is fraudulent, he or she would not advance the claim and would withdraw representation.

The VA is responsible to develop and secure all pertinent evidence. The government has the authority to request records from other departments, i.e., SSA, DOD, IRS, and DOL. The VA is responsible to request and perform necessary C&P examinations, conduct social surveys and field exams, and certify proof of service.

Question 3 – Some VSOs have expressed concern that VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or is almost) "ready-to-rate" it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training—a sort of "express lane" for claims that are most likely to be ready to rate?

Answer: In June 1998, the Compensation and Pension Service kicked off their Nationwide Partnership initiatives with the Veteran Service Organizations (VSOs). The goal of these initiatives was to increase VSO participation to improve the quality and timeliness of claims processing. Creating a partnership with the nation's veterans and VSO's was the driving force behind the vision. Thus the Training, Responsibility, Involvement and Preparation of Claims (TRIP) partnership was created. PVA fully supports and participates in this partnership.

PVA would support an effort by the VA to expedite claims processing by creating an "express lane." Using certification of VSO service officers in the TRIP program as a benchmark for determining ready to rate claims is one way to prioritize claims. We would support this method; however, the VA has to be cautious if it uses this approach. Service officers need more than just the TRIP program to be fully prepared to compile and submit claims. PVA's service officers are given much greater instruction beyond the TRIP program, and the VA should expect nothing less of all of the VSOs.

Question 4 – What are your organization's views regarding the following statement from the 1994 study titled "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process"?

> "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of the VBA's workload comes through

Veterans Service Organizations (VSOs), it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their efforts to effectively represent veterans."

Answer: PVA has not thoroughly reviewed this 1994 study conducted by the American Legion and therefore we do not feel that we can comment upon it at this time.

PVA's service officers are very professional. Our NSOs undergo extensive training on claims development, medical knowledge, and federal codes and regulations. We place a great deal of responsibility on them as service officers. PVA is confident that our NSOs develop accurate and complete claims. They will advise a veteran if his or her claim is without merit and suggest possible remedies. However, PVA service officers will never refuse to submit a claim or file an appeal.

Question 5 – If VA needs to address one issue relative to its part of the VA-VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

Answer: One important issue that the VA must address is trust. In order for the partnership to truly work, there must be a relationship of trust. A fundamental change in the claims process would require VBA to involve both the VSOs and the veteran. VA service representatives who make ratings decisions are also vital to the partnership. If those service representatives who have been in the system a long time are not more responsive to veterans' needs, there will be a breakdown in the partnership. The VA has to trust that VSO service officers are providing complete and accurate claims on behalf of veterans.

RESPONSE TO FOLLOW-UP QUESTIONS FOR
BRIAN E. LAWRENCE
ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR
DISABLED AMERICAN VETERANS
FROM THE HONORABLE MIKE SIMPSON
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS
JUNE 6, 2002 HEARING

Question One: Several VSOs have indicated that enhanced access to VA computer data files would assist them in their more efficient development of ready-to-rate claims. Which types of data access would be most beneficial to VSO claim preparation? Three examples that were mentioned in written testimony included the Training and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI). If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some more limited level of access to VA computer data? If so, what would this entail?

Answer: Greater efficiency could be gained for both VA and DAV if DAV had access to Computer Assisted Payment Processing System (CAPPS) and Compensation and Pension Records Interchange (CAPRI).

CAPPS information would allow the DAV to provide claims status to veterans, without the additional step of contacting the VA for required information. Because the majority of telephone calls to the VA's toll-free line are claims status inquiries, it is easy to see that the number of calls would be reduced. VA employees are able to accomplish a higher volume of work when they are not busy answering telephone calls.

CAPRI would enable the DAV to know when medical information is available. Tremendous delays in adjudicating claims are created by the interruption of awaiting information such as the results of medical examinations. On many hundreds of occasions, medical information has been submitted to veterans' claim files without proper follow-up. The file remains inactive, awaiting information that is already available. This error is common in claims that have been remanded to a VARO by the Board of Veterans' Appeals. Veterans have had benefits withheld for years because of such mismanagement. DAV access to CAPRI would help reduce errors of this sort.

Other systems that should be available to DAV are Control of Veterans Records (COVERS), and a soon to be introduced technology called "Virtual VA."

Question 2: While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that it be understood that they are first and foremost advocates for the individual veterans. Does advocacy of each veteran's case inhibit your organization from preparing a claim package

that accurately reflects the full and complete record of an individual veteran's claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel?

Answer: The DAV makes the utmost effort to submit fully developed claims, but like the VA, we cannot dissuade clients from submitting underdeveloped claims if they are strongly inclined to do so. In many cases, it would not be possible to submit fully developed claims because only the VA is able to obtain certain necessary information. Again, DAV access to all VA computer information systems would enhance efficiency. No conceivable reason exists to preclude the DAV from participating in any portion of the development process.

Question 3: Some VSOs have expressed concern that VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or is almost) "ready to rate" it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training—a sort of "express lane" for claims that are more likely to be ready to rate?

Answer: The DAV strongly supports the prioritization of claims. Cases that are easy to rate *should* be completed as quickly as possible, but not at the expense of allowing more difficult cases to stagnate. The desire to hurry through easy-to-rate claims is created by the paradigm of boosting numbers in categories that are likely to be scrutinized. The goal of VA Rating Specialists should be to make thorough accurate decisions the first time, thereby avoiding a lengthy and arduous appeal process. Assessment of efficiency must be balanced by assessment of accuracy.

Question 4: What are your organization's views regarding the following statement from the 1994 study titled "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process"?

> "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of the VBA's workload comes through Veterans Service Organizations (VSOs), it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their efforts to effectively represent veterans."

Answer: We agree that fully developed claims should be submitted when possible. As stated in answer number two, this is not always possible. It is also true that much of the VA's workload comes from VSOs; however, the original source of the workload is largely from veterans that have suffered disabilities and sickness as a result of service. Such veterans are the ones affected by the final outcome, and it is ultimately their decision as to when a claim is submitted. Neither VSOs nor VA should have authority to refuse a properly submitted claim.

Question 5: If VA needs to address one issue relative to its part of the VA-VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

Answer: The VA should provide VSOs greater access to information technology, as indicated in the answer to question 1.

CHAIRMAN SIMPSON TO THE AMERICAN LEGION

June 27, 2002

Honorable Mike Simpson
Chairman
Subcommittee on Benefits
Committee on Veterans Affairs
U.S. House of Representatives
CHOB 335
Washington, DC 20515

Dear Chairman Simpson:

The American Legion is pleased to provide responses to your follow-up questions to the June 6, 2002 hearing.

1. Several VSOs have indicated that enhanced access to VA computer data files would assist them in the more efficient development of ready-to-rate claims. Which type of data access would be most beneficial to VSO claims preparation. Three examples that were mentioned in written testimony included the Training, and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI). If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some limited level of access to VA computer data. If so, what would this entail?

Before addressing the substance of this question, we believe it is necessary to correct some of the confusion that has resulted form the Task Force's assertion that the VSOs could and should be submitting more "ready-to-rate claims." In Recommendation M-1, the Task Force indicates that, as a result of participation in the TRIP program, the VSOs can help improve service to beneficiaries by preparing well-documented, "ready-to-rate claims." The American Legion believes this is a basic misstatement and misrepresentation of the VSO's role in the claims adjudication process and the advantages supposedly afforded VSOs by the TRIP program.

First of all, trying to increase the number of ready-to-rate claims is not a panacea or cure-all to the problems affecting the VA claims adjudication system. In

adopting TRIP's flawed concept that VSOs were going to be able to prepare "ready-to-rate claims," we believe the Task Force has overlooked the fact that the inherent nature of the VA claims adjudication process makes it impossible for there to be a dramatic increase in the number of ready-to-rate claims. Access to the VA system, based on TRIP, enables VSOs to submit "better-prepared" claims that are ready for VA to develop. In only rare instances, would these cases be "ready-to-rate." There is also some confusion between accessing the VA computer system for data on the veteran and case status and the need to access VA records, which are evidence in the case.

Please consider the following:

- Most VA workload involves claims for service connection. They are either original or reopened claims.
- Such claims require extensive development, including DD-214, Service Medical Records, other Federal records, and non-government records.
- Under the Veterans' Claims Assistance Act of 2000 (VCAA), VA has the statutory (and historic) duty to assist veterans in the development of veterans necessary to fairly and properly decide, i.e., "rate" the claim. It mandates that VA obtain those records in the possession of Federal agencies and to tell the veteran of this and what records the veteran is expected to obtain.
- The VSO, based on a power of attorney, has a fiduciary responsibility to try and obtain records or evidence from private, non-governmental sources on the veteran's behalf.
- There is a small percentage of cases involving the issue is entitlement to an increased rating for a service connected disability where the VSO may be able to provide sufficient, current medical evidence for VA to rate the claim without the necessity of scheduling a VA exam (VAE). This would be a "ready-to-rate claim." However, even if the VSO submits this type of evidence and requests expedited action, VA normally schedules a VAE. We believe this is an unnecessary delay and a waste of scarce resources.

Even though the VSOs are a major component in the claims process, it is unrealistic and unreasonable for VA and the Task Force to expect the VSOs to assume functions that are, by law, VA's sole responsibility. Such responsibility cannot be delegated. In considering ways to improve and streamline the way in which claims are developed and decided, it important for this Committee to fully understand the legal and practical limitations on the role of the VSO in the VA claims adjudication process.

Please consider this example – in addition to its notice and duty to assist obligations under 38 USC 5103(a) and 5103(A), the VA is required to consider not only claims and issues specifically identified by the claimant, but also claims that can be reasonably inferred by the VA from the evidence of record. In 1995, the VA General Counsel stated, "The Court of Veterans' Appeals has held that, under certain circumstances, VA is obligated to consider whether a claimant is

entitled to benefits under a particular law, regardless of whether the claimant specifically raised the issue of entitlement under the law. *Douglas v. Derwinski*, 2 Vet.App. 435,439 (1992)(en banc) (Where evidence of record supports entitlement under a statute or regulation, VA must consider such entitlement, notwithstanding that the issue was not raised by the claimant.); *Schafrath v. Derwinski*, 1 Vet.App. 589, 592-93 (1991). Prompt issue identification at the beginning of a claim and subsequent complete and thorough development is keys to any real improvement in the VA claims adjudication system.

As a general principal, have the VA provide as much information as possible to the veteran's representative can only benefit both the veteran and the VA. The real problem is that, if early in the claim process VA would properly and promptly identified the issues to be considered and the evidence needed to adjudicate the claim. The VSO could then provide the necessary follow-up and assistance to the veteran.

With regard to the three data access examples referred to in Question 1, access to TPSS could provide useful training on certain aspects of claims development. BDN access provides only basic information on the veteran and the status of the case. Only CAPRI access would provide any form of direct assistance to the VSOs in more fully developing claims. This would permit the VSOs to obtain and review VA hospital and outpatient treatment records prior to submitting a claim. The VSOs have sought access to VA medical records for the past several years. While in theory, CAPRI could facilitate the development of this type of evidence to some extent, this fact would still not relieve VA of it statutory obligation to ensure they had all of records necessary to make a decision.

2. While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that be understood that there are first and foremost advocates for the individual veteran. Does the advocacy of each veteran's case inhibit your organization from preparing a claim package that accurately reflects the full and complete record of an individual" claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel?

Basically, a service organization representative cannot wear two hats. In the opinion of The American Legion, the VSO service officer should not act as both representative and as a VA adjudicator. When the veteran places their trust in their representative, they do not expect them to voluntarily submit evidence, which may be negative. Therefore, the answer to the question is yes. It is the policy of The American Legion to explain to the veteran what evidence we think is necessary for to submit in order to obtain the benefit being sought. It is not the job of the Legion service officer to adjudicate the merits of that veteran's claim. All too often, adjudicator's are looking for reasons to deny rather than to grant

benefits. Our service officers are instructed not to submit negative evidence to the VA, unless that evidence has been specifically requested by VA.

Outside of the voluntary submission of negative evidence, the VSO's role as advocate does not conflict or inhibit their efforts to try and develop as much of the needed supportive evidence as possible prior to the submission of the formal claim. Our goal is to prepare a claim to be either granted or further developed by VA.

One of the most common problems found during Legion visits VA regional offices is that VA is not generally following the requirement contained in the VCAA (Section 5103(a)) that VA must explain to the claimant what evidence and information will be obtained by VA and what evidence and information must be submitted by the claimant. Instead, at best, VA sends out a boilerplate generic letter that provides very little, if any, specific direction to the claimant. See *Quartuccio v. Principi*, ___Vet.App.___, No. 01-997, slip op. At 6—7 (June 19, 2002) for a discussion of this issue by the United States Court of Appeals for Veterans' Claims. (attached)

While the VSOs could theoretically do greater development of cases, VA has the same statutory burden, under the VCAA, regardless of whether the veteran is represented or not. The major problem in the VA claims adjudication system today is not the lack of ready-to-rate claims, but the failure of VA to fully comply with the VCAA and promptly identify and communicate to claimants and their representatives fairly specifically what evidence and information in going to be necessary to substantiate the claim.

3. Some VSOs have expressed concern the VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or almost) "ready-to-rate", it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who have completed TRIP training – a sort of express lane for claims that are more likely ready to rate?

As previously discussed, where the VSO is able to get most, or perhaps all, of the evidence that will ultimately be needed for VA to decide the claim, this should be an incentive for VA to expedite such cases. However, this is not happening. The current priority on production makes "cherry picking" of simple cases a common practice for adjudicators, while the more difficult, more time consuming cases are set aside and, thus, delayed. Even when a VSO notes that a claim has been substantially developed, there is no guarantee that it will get fast or expeditious consideration. We are aware that VA is working on implementing a formal triage system to provide fast track or express claims action. We believe this will help improve the way claims are initially developed. However, triage does not address the issue of subsequent poor quality decisionmaking.

4. What are your organization's views regarding the following statement from the 1994 study titled, "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process."

   "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of VBA's workload comes through the VSOs, it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their efforts to effectively represent veterans."

This statement remains essentially true. The American Legion believes our representatives must do as much as possible to help the veteran in the development and presentation of their claim. To the extent that the veteran cooperates, this helps minimize the submission of unsupportable or substantially incomplete claims. We believe these efforts also benefit VA by limiting the development action that they might otherwise have to do if the claimant was unrepresented.

The VSOs goal is to try and ensure VA has as much supportive information and evidence as is available at the time the claim is submitted, recognizing the types of records that are the VA's responsibility to try and obtain. Unfortunately, very often, the VA does not fully comply with the requirements of the VCAA to clearly tell the veteran what evidence is needed to support the claim and/or does not try to obtain all of the relevant evidence. Inadequate issue identification, improper development, and premature denials generated by the pressure of production quotas only leads to more work for everyone, the waste of scarce VA resources, and delay and hardship for the veteran.

5. If VA needs to address one issue relative to its part of the VA/VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

In the view of The American Legion, while there may be a VA/VSO partnership on some level, each organization has special and separate legal duties and obligations. This means that the VSOs must do nothing that is inconsistent or incompatible with their role as the veteran's advocate. At the same time, the VSOs have a vested interest and stakehold in helping and cooperating with VA to the extent possible, because this should help VA provide better and more timely service to veterans. The VA would help veterans and reduce its backlog, in our view, if it made a concerted effort to properly comply with the VCAA and demonstrate that quality (and not production alone) is its number one priority.

The American Legion appreciates the opportunity to provide these additional comments for your consideration.

Carol Rutherford, Director
National VA&R Commission

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 01-997

NICHOLAS P. QUARTUCCIO, APPELLANT,

V.

ANTHONY J. PRINCIPI,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

On Appeal from the Board of Veterans' Appeals

(Decided JUN 19 2002)

Clark Evans, of Judsonia, Arkansas, was on the pleadings for the appellant.

Tim S. McClain, General Counsel; *Joan E. Moriarty*, Acting Assistant General Counsel; *Mary Ann Flynn*, Deputy Assistant General Counsel; and *Jimmy R. Moye*, all of Washington D.C., were on the pleadings for the appellee.

Before KRAMER, *Chief Judge*, and FARLEY and IVERS, *Judges*.

FARLEY, *Judge*: Before the Court is a May 14, 2001, Board of Veterans' Appeals (Board or BVA) decision that declined to reopen the appellant's claim for service connection for schizophrenia because it concluded that the appellant had not submitted new and material evidence. The appellant filed a motion for remand and stay of proceedings, in lieu of a brief. The Secretary filed a response in opposition to the appellant's motion, and a brief, and the appellant filed a reply brief. The Court has jurisdiction of the case under 38 U.S.C. § 7252(a). For the following reasons, the Court will vacate the Board's decision and remand the matter.

I. FACTS

The appellant, Nicholas P. Quartuccio, served on active duty in the U.S. Army from January 1977 to April 1978. Record (R.) at 13. In 1994, the appellant, through a representative from the Disabled American Veterans, filed a statement seeking service connection for paranoid schizophrenia. R. at 83. The statement reads that "[t]he veteran has suffered from this disability

since he had a mental breakdown while on active duty. Current medical evidence is available from [VA Medical Center (VAMC) in] Poplar Bluff, [Missouri]." *Id.* While in the military, the appellant reported that he did not get along with his superiors and he "believe[d] he [was] being constantly harassed." R. at 30. In service medical records, dated March 23, 1978, the appellant checked "Yes" next to a question asking whether he was experiencing "[n]ervous trouble of any sort." R. at 54. The VA regional office (RO), in January 1995, sent a letter to the appellant describing what he must do to file a claim. R. at 85. In the letter, the RO informed the appellant that he must "**submit evidence to show that this/these condition(s) was/were incurred in or aggravated by [his] military service and has/have existed continuously from the date of [his] discharge to the present time.**" *Id.*

In April 1995, the appellant filed a VA Veteran's Application for Compensation or Pension form for disability compensation related to "paranoid schizophrenia subchronic." R. 96-99. On the application, the appellant asserted that he had had a nervous breakdown while stationed at Fort Lewis, Washington. R. at 97. The appellant declared that "several" civilian physicians and hospitals had treated him for his condition but he could not remember their names. *Id.* The appellant authorized the release of his records from two facilities, North Arkansas Human Services System Incorporated (NAHSSI) and Hillside Center-West Yavapai Guidance Clinic (Guidance Clinic), where he had been treated between 1993 and 1995. R. at 101. The treatment records from NAHSSI reflect that the appellant had reported that he had been diagnosed with "[p]aranoid [s]chizophrenia when he was a child." R. at 126. The NAHSSI examiner diagnosed the appellant with "[p]aranoid [s]chizophrenia ([p]rovisional) [s]ubc[h]ronic." R. at 117. Another examiner, in the report from a 1993 examination conducted at the Guidance Clinic, diagnosed the appellant with "[p]ersonality [d]isorders excluding anti-social personality disorder." R. at 116. In April 1995, pursuant to the appellant's claim, a VA doctor examined the appellant. R. at 137-41. The examiner diagnosed the appellant with "[s]chizophrenia, paranoid." R. at 141. The RO, in June 1995, denied the appellant's claim for service-connected paranoid schizophrenia stating that there was "no evidence [showing that the appellant's] condition was diagnosed or treated in service or within a year after discharge." R. at 144. In July 1995, the appellant filed a Notice of Disagreement (NOD). R. at 147. The RO issued a Statement of the Case (SOC), which outlined the evidence considered in the rating decision and

pertinent law regarding the appellant's claim. R. at 152-63. When the appellant did not file a Substantive Appeal, the RO decision became final.

The appellant, in April 2000, submitted a letter in which he disagreed with the June 1995 RO decision: "I am sick and the army made me this way." R. at 195. In response to that letter, the RO sent the appellant a letter informing him that he would need to submit "new and material evidence establishing the incurrence, aggravation, or diagnosis of this condition in service, or within 1 year of discharge from service to reopen [his] claim." R. at 198. The letter defines "new and material evidence" as "medical evidence not previously submitted to VA, which bears directly and substantially upon the issue, which is neither cumulative nor redundant, and which by itself or in connection with evidence that is already of record is so significant that it must be considered to fairly decide your claim." *Id*

Medical records from the VAMC in Poplar Bluff, Missouri, reflect outpatient treatment from September 1997 through February 1998 and state that the appellant was diagnosed with "[s]chizophrenia, paranoid type." R. at 170. In June 2000, the appellant submitted a statement in support of claim in which he stated that he had experienced a nervous breakdown while in the military. R. at 200. The RO, in July 2000, found that the appellant had failed to submit new and material evidence in order to reopen his claim. R. at 206. In September 2000, the RO issued an SOC that outlined the reasons for the RO decision and explained the process for filing a formal appeal. R. at 212-17. In that same month, the appellant submitted a Substantive Appeal to the Board. R. at 219-20.

The Board decision on appeal was issued on May 14, 2001. R. at 1-11. The Board concluded that the evidence received since the June 1995 RO decision was "not new and material, and, thus, the claim for service connection for a[sic] schizophrenia is not reopened." R. at 2. The Board noted while the appellant's appeal was pending before VA, the Veterans Claims Assistance Act of 2000 (VCAA), Pub. L. No. 106-475, 114 Stat. 2096, was enacted on November 9, 2000. R. at 7. The BVA concluded that in this case the appellant had been "notified of the criteria pertaining to finality cases, and he has been informed that he should submit new and material medical evidence to support his claim." *Id.* The Board also concluded that the additional evidence submitted since the June 1995 RO decision was "duplicative and cumulative of evidence previously considered" by

the RO. R. at 9. Thus, the Board found that the appellant had submitted no new and material evidence to reopen his claim for entitlement to service connection for a psychiatric disability. *Id.* The Board further noted that "while the veteran appears to be in receipt of Social Security Administration [(SSA)] disability benefits, he has only been in receipt since the early 1990s and therefore, this evidence would only address the current status of his disability." *Id.* The Board concluded that "there would be no useful purpose in obtaining a copy of the [SSA] decision granting benefits to the appellant or the medical records upon which it was based" because such evidence would not assist in determining whether the appellant's condition had its onset in service or within 1 year of discharge. R. at 9-10.

On appeal to this Court, the appellant argues that the matter should be remanded to allow the Secretary to comply with the VCAA. Appellant's Motion for Remand (Remand Mot.) at 2. He contends that the VCAA obliges the Secretary to inform the appellant of what evidence is needed to substantiate his claim, as well as "which of this evidence VA will attempt to secure contrasted with which portion the claimant[] must present." *Id.* at 4. Additionally, the appellant argues that the Board was required, pursuant to *Murincsak v. Derwinski*, 2 Vet.App. 363 (1992), to retrieve the appellant's SSA records, because, he contends, "without looking at the records, it is impossible to know that they are devoid of medical etiology evidence." Remand Mot. at 5.

The Secretary argues that the Board's decision should be affirmed and that the appellant's motion for remand should be denied. Secretary's Brief (Br.) at 11. As to the Secretary's duty-to-notify, the Secretary contends that the Board's and RO's actions were sufficient. *Id.* at 8. Although the Secretary acknowledges that the appellant receives SSA benefits for schizophrenia, he asserts that the Court should hold that "VA's duty to notify under the VCAA is still confined to notifying [the a]ppellant of evidence that would likely further his claim" and that, in this case, there is no indication that the SSA records are likely to further his claim. *Id.* at 9-10.

II. ANALYSIS

The VCAA, among other things, modified the Secretary's duties to notify and assist claimants. *See generally* VCAA, §§ 3, 4, 7; *see also Holliday v. Principi*, 14 Vet.App. 280, 284-86

(2001). The appellant argues that 38 U.S.C. § 5103(a), as modified by the VCAA, is applicable to his claim to reopen. Section 5103(a), as amended, provides:

> Upon receipt of a complete or substantially complete application, the Secretary shall notify the claimant and the claimant's representative, if any, of any information, and any medical or lay evidence, not previously provided to the Secretary that is necessary to substantiate the claim. *As part of that notice, the Secretary shall indicate which portion of that information and evidence, if any, is to be provided by the claimant and which portion, if any, the Secretary, in accordance with section 5103A of this title and any other applicable provisions of law, will attempt to obtain on behalf of the claimant.*

38 U.S.C. § 5103(a) (emphasis added).

The Secretary has promulgated, in addition to the statute, regulations relating to 38 U.S.C. § 5103(a). VA's duty to notify is covered under 38 C.F.R. § 3.159(b). The regulation, in pertinent part, reads:

> When VA receives a complete or substantially complete application for benefits, it will notify the claimant of any information and medical or lay evidence that is necessary to substantiate the claim. VA will inform the claimant which information and evidence, if any, that the claimant is to provide to VA and which information and evidence, if any, that VA will attempt to obtain on behalf of the claimant. VA will also request that the claimant provide any evidence in the claimant's possession that pertains to the claim.

38 C.F.R. § 3.159(b) (2001).

A threshold issue is whether 38 U.S.C. § 5103(a) and 38 C.F.R. § 3.159(b) apply to an attempt to reopen a claim, as distinguished from an original claim for benefits. Prior to the enactment of the VCAA, this Court ruled that under 38 U.S.C. § 5103(a), "[a] veteran filing an original claim for benefits and a veteran attempting to reopen his claim are both claimants making an 'application for benefits.' . . . The veterans benefits statute does not limit the use of the word 'application' to the first original application for benefits." *Graves v. Brown*, 8 Vet.App. 522, 524 (1996) (citation omitted). The *Graves* Court held:

> [W]hen a veteran has made an application to reopen a claim and the Secretary is on notice of evidence which may prove to be new and material but has not been submitted with the application, the

> Secretary has a duty under section 5103 to inform a claimant of the evidence that is "necessary to complete the application."

Id. at 525 (quoting 38 U.S.C. § 5103(a)). When the VCAA amended 38 U.S.C. § 5103(a), it added a requirement that the Secretary identify which evidence he will obtain and which evidence the claimant is expected to present. The intent of Congress, as the plain language of the VCAA indicates, was to expand the duties of the Secretary to notify the claimant, not to restrict them. A claimant is defined as "any individual applying for, or submitting a claim for, any benefit under the laws administered by the Secretary." 38 U.S.C. § 5100. The Court concludes that a person attempting to reopen a claim is a claimant under chapter 51 of title 38, U.S. Code. Regarding 38 C.F.R. § 3.159(b), as recently amended, the Secretary has indicated that that amended regulation applies to claims for benefits governed by 38 C.F.R. part 3, which includes claims to reopen. *See* 38 C.F.R. §§ 3.155(c), 3.156 (2001). Thus, 38 U.S.C. § 5103(a), as amended by the VCAA, and 38 C.F.R. § 3.159(b), as amended, apply to those claimants who seek to reopen a claim by submitting new and material evidence pursuant to 38 U.S.C. § 5108.

The Secretary's duty to notify a claimant is triggered if VA has received "a complete or substantially complete application." 38 U.S.C. § 5103(a); 38 C.F.R. § 3.159(b). "Substantially complete application means an application containing the claimant's name; his or her relationship to the veteran, if applicable; sufficient service information for VA to verify the claimed service, if applicable; the benefit claimed and any medical condition(s) on which it is based; the claimant's signature . . . ." 38 C.F.R. § 3.159(a)(3) (2001). In the instant case, the Board implicitly concluded that the appellant's April 2000 letter was a substantially complete application because the Board considered the VCAA duty-to-notify provision and found that that duty had been fulfilled. R. at 7.

Concluding that the duty to notify does apply to the appellant in this case, we now turn to the question of whether the Secretary fulfilled his duty to notify. Both the statute, 38 U.S.C. § 5103(a), and the regulation, 38 C.F.R. § 3.159, clearly require the Secretary to notify a claimant which evidence, if any, will be obtained by the claimant and which evidence, if any, will be retrieved by the Secretary. The record on appeal (ROA) contains two documents the Secretary sent to the appellant noting which evidence would be useful to support the appellant's attempt to reopen his claim. The first document, a letter from the VA to the appellant, describes evidence potentially helpful to the appellant but does not mention who is responsible for obtaining such evidence. R. at

198. The other document in the ROA related to this issue is an SOC (R. at 212-16) in which the Secretary defines "new and material evidence" but does not "notify the claimant . . . of any information, and any medical or lay evidence, not previously provided to the Secretary that is necessary to substantiate the claim." 38 U.S.C. § 5103(a). Nor does the Secretary "indicate which portion of that information and evidence, if any, is to be provided by the claimant and which portion, if any, the Secretary . . . will attempt to obtain on behalf of the claimant." *Id.* Because neither communication meets the standard subsequently erected by the VCAA, the Court will remand the matter for further adjudication.

On remand, the Secretary will have the opportunity to review the complete record, and that must include the appellant's SSA records. The parties agree that the appellant is receiving SSA benefits for schizophrenia, the same condition for which he seeks VA benefits. *See* Secretary's Br. at 10; Appellant's Reply Br. at 1. It is also true that neither the Secretary nor the appellant has reviewed these records. Although the Secretary has unilaterally declared the SSA records to be irrelevant, the ROA indicates that the appellant suffered from some mental problems while in the military (R. at 30, 54, and 97), and the possibility that the SSA records could contain relevant evidence, including medical opinions as to the etiology of the appellant's schizophrenia, cannot be foreclosed absent a review of those records. *See Murincsak*, 2 Vet.App. at 370-72 (concluding VA has a duty to obtain SSA records when it has actual notice that the veteran was receiving SSA benefits); *see also Voerth v. West*, 13 Vet.App. 117, 121 (1999) (concluding that the Secretary would have a duty to obtain SSA records, once the appellant submitted a well-grounded claim); *Baker v. West*, 11 Vet.App. 163, 169 (1998) (holding that VA failed in its duty to assist the veteran by not obtaining his SSA records even when the veteran only noted that he was receiving Social Security disability).

III. CONCLUSION

Upon consideration of the foregoing, the May 14, 2001, decision of the Board is VACATED and the matter is REMANDED for readjudication consistent with this opinion.

CHAIRMAN SIMPSON TO VETERANS OF FOREIGN WARS

Veterans of Foreign Wars of the United States
Responses to the Questions for the Record
From the Subcommittee on Benefits hearing of June 6, 2002

1.(Q) Several VSOs have indicated that enhanced access to VA computer data files would assist them in their more efficient development of ready-to-rate claims. Which types of data access would be most beneficial to VSO claim preparation? Three examples that were mentioned in written testimony included the Training and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI). If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some more limited level of access to VA computer data? If so, what would this entail?

1.(A) Since at least 1995, the VFW has coordinated and worked well professionally with the leaders in the Veterans Benefits Administration, and recently the Veterans Health Administration, on policies that would allow our service officers access to critical (and vital) electronic software applications related to effective claims processing. Our accredited representatives have always had access to the Benefits Delivery Network (BDN); we were initially more concerned about such programs as the Automated Reference Material System (ARMS), SHARE, the Claims Processing System (CPS; which is now the Claims Automated Process System (CAPS) and soon to evolve into Modern Award Processing – Development (MAP-D)), and Automated Medical Information Exchange (AMIE); which evolved into AMIE-II and now is the Compensation and Pension Records Interchange or CAPRI (which is the "named" version for the VBA; the developing VSO counterpart is the Computerized Patient Records System, titled CPRS).

Most of that access has been accomplished with the establishment of VSO certification through the Training, Responsibility, Involvement and Preparation of claims (TRIP) program. Where SHARE has been established in support of BDN, VSOs have access if certified at TRIP Level I. CAPS access is obtained at certification to TRIP Level II (which means MAP-D access when that program replaces CAPS). (The basic philosophy behind TRIP is the process: Knowledge (through Training) leading to Certification, which results in Access.) Almost all of the VFW service officers located at VA regional offices are now certified to Level II and, accordingly, we do not believe we are operating with "limitations" at the present time. Our service officers have praised the functionality of CAPS; additionally, our service officer involved in the MAP-D test program at the Salt Lake City VA Regional Office states that program is even better than CAPS.

The one program that we are anxiously waiting for is CPRS. Electronic access to a represented veteran's current medical records (especially VA's) will immensely improve our efficiency, particularly on properly developing claims for increased evaluations. The Veterans Health Administration has recently conducted a "pilot test" program at five VA medical centers to allow VSO access to CPRS and now plan to distribute this application VHA-wide by August 15. However, the program's initial accessibility will be limited to a physical presence at the respective medical centers. Therefore, we still have the bigger, more critical challenge of eventually having CPRS available to the VSOs located at the VA regional offices, which are the ones that perform the yeoman's work in the development of claims. There is presently no definitive time goal by the VHA leadership on accomplishing this. Additionally, it also needs to be decided how training will be conducted on the program, primarily answering the question as to whether it should be incorporated into the TRIP program and at what level.

We also believe that TRIP is still an evolving process (theory?). The VFW has proposed higher levels of certification for the more experienced service officers on access to RBA 2000 short of actual claims allowances and authorization. (We don't have fiduciary responsibilities and would not want to; that is mandated by Congress to the Secretary of Veterans Affairs.) Additionally, there are certain claims development and rating actions and commands we could help with, such as claims establishment (CEST), scheduling of compensation and pension examinations for VA concurrence and approval, and preparation of rating decisions for VA authorization. Because of the vastly increased responsibilities inherent in this proposal, that TRIP level must be a rigorous and challenging one to obtain.

The Training and Performance Support System (TPSS), which is made up of excellent computer desktop training modules, has always been available to VSOs ever since the first module (on appeals processing) was distributed in May 1998. This program is not a part of TRIP and is essentially there for anyone that so desires to do this self-training. The VBA now has approximately eleven training modules with at least four more planned.

2.(Q) While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that it be understood that they are first and foremost advocates for the individual veterans. Does advocacy of each veteran's case inhibit your organization from preparing a claim package that accurately reflects the full and complete record of an individual veteran's claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel?

2.(A) We agree strongly with the concept of veterans' advocacy and take very seriously our professional responsibilities inherent in that edict. Our commitment to professionalism and excellence makes each service officer within the VFW family acutely aware of their responsibility to assist in the administration of a "fragile" program that Congress expects to be conducted with full integrity and trust. We (the VFW) have never tolerated abuse of the system such as fraud and misrepresentation of facts – it is not everything for the veteran but certainly everything for the veteran that is fair and just!

We tangibly augment this credo with our own written *Policy and Procedure* that has, over the years, resulted in an effective, "self-policing" operation of ensuring proper conduct, professionalism and integrity by our representatives. Our *Policy and Procedure* states clearly that the standard for submission of evidence in support of a veteran's claim remains as before: once a claim for VA entitlements has been formally submitted filed, all evidence pertinent to that claim should be submitted. (Another way to look at this is would the VA rating specialist, in fulfillment of the fiduciary responsibility, want to see all the evidence necessary to make an honest, thorough decision that actually reflects the veteran's true situation?)

If this means the concurrent submission of evidence that may prove not beneficial, then it is our representative's responsibility (and mandate) to attempt to present evidence (and an argument) that could possibly impeach that "negative" evidence. Accordingly, we don't see a conflict or an inhibition on the issue of advocacy and evidence submission.

On the second question, such actions as scheduling compensation and pension examinations and requesting civilian medical records at no cost to the veteran or the government are two examples of things that VBA officials perform more efficiently than VSOs can presently. But, we feel such examples are relatively few when it comes to overall development of a claim.

3.(Q) Some VSOs have expressed concern that VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or is almost) "ready to rate" it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training—a sort of "express lane" for claims that are more likely to be ready to rate?

3.(A) We don't have any data or hard evidence on the allegation of "cherry picking" claims. We do know, however, that last year, many regional offices were not expeditiously processing appeals, including remands by the Board of Veterans' Appeals, considering them secondary to reducing timeliness and the backlog. We voiced our concern and while we feel slow appellate processing continues at some regional offices, it is on the decline VBA-wide. The question on "expedited processing" for TRIP "ready to rate" claims is an important one and it was a topic at the most recent TRIP coordinating committee meeting on June 20, 2002. The challenge here is to get a proper definition as to what constitutes such a claim. It was decided that a checklist needs to be developed and the theory built on the same principles as to what was created at the St. Petersburg VA Regional Office in 1996 under the Partner Assisted and Rating Development System (PARDS). This includes the establishment (and promise) of a processing and rating time standard (e.g., five days) by the regional office Veterans Service Center Manager in response to a recognized "fully developed, ready-to-rate" claim under the TRIP program.

4.(Q) What are your organization's views regarding the following statement from the 1994 study titled "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process"?

> **"VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of the VBA's workload comes through Veterans Service Organizations (VSOs), it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their efforts to effectively represent veterans."**

4.(A) We strongly believe that, to the maximum extent possible, we have the mission, indeed duty to assist in as much development as possible in support of a claim for veterans' entitlements. Obviously, there are and will be some limitations – for instance, we don't have all the "tools" the VA has, and never will, in obtaining evidence, especially from civilian sources.

But, we certainly have other influences that can help the VA, and the claimant, toward the goal of having well-developed claims. And, we are constantly training our service officers in this goal. Long gone are the "old days" where a service representative could just submit a VA form 21-4138, then sit back and let the VA do all the necessary and important work.

We also have a self-imposed mission, in our opinion, to constantly monitor the ongoing process of pending claims. We will interact with appropriate VBA officials – and have done so regularly in recent years on problem regional offices as we see it – to encourage timely development and accurate (quality) decisions on all claims.

5.(Q) If VA needs to address one issue relative to its part of the VA-VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

5.(A) As we testified on June 6, the one program that will consistently have immediate "ready to rate" claims is the Benefits Delivery at Discharge (BDD) program. The basic tenant of the program is to complete claims development and conduct physical examinations with an eventual disability compensation rating prepared prior to, or closely proximate to separation from active duty.

There are very significant advantages to the program, such as the service medical records are "fresh" and immediately available, claim development is precise and minimal, there is considerable VA-VSO interaction, and (hopefully) much fewer appeals (as a result of this coordinated partnership). The concept of continuity of symptomology and the need for examinations with supporting medical opinions in support of this concept are not necessary; this is a significant resource savings. Further, an accurate "baseline" of service connection is created as a reference point for all future claims for increased evaluations.

All in all, in our opinion, it is the best program the Secretary of Veterans Affairs has undertaken in recent memory. However, as we stated in our testimony, we are not sure on the strength of the Secretary's current commitment to the program, knowing all the other critical priorities he presently has.

If we may add a second issue, it is the VHA's ability to achieve, as soon as possible CPRS availability to VSO representatives located at the regional offices, as we more fully discussed in the answer to Question #1.

Vietnam Veterans of America

8605 Cameron Street, Suite 400 • Silver Spring, MD 20910 • Telephone (301) 585-4000
Fax Main (301) 585-0519 • Advocacy (301) 585-3180 • Communications (301) 585-5245 • Finance (301) 585-5542
World Wide Web: http://www.vva.org

A Not-For-Profit Veterans Service Organization Chartered by the United States Congress

June 27, 2002

The Honorable Michael K. Simpson
Chairman, Veterans' Affairs Subcommittee on Benefits
U.S. House of Representatives
335 Cannon House Office Building
Washington, D.C. 20515

By facsimile and overnight mail

Re: Questions for the Record

Dear Chairman Simpson,

On behalf of Vietnam Veterans of America (VVA), I would like to thank you for the opportunity to respond to the questions posed in your June 13, 2002, letter in conjunction with our testimony at the June 6th hearing concerning an increased VA/Veterans Service Organization (VSO) partnership. As you have requested, I will restate each question and address them *seriatim*.

***Question 1*:**

Several VSOs have indicated that enhanced access to VA computer data files would assist them in their more efficient development of ready-to-rate claims. Which types of data access would be most beneficial to VSO claims preparation? Three examples that were mentioned in written testimony included the Training and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI), If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some more limited level of access to VA computer data?

***Response*:**

The threshold requirement for any ready-to-rate claim is that the evidence must be as fully developed as possible prior to the submission of the claim. While VSOs and veterans representing themselves on a *pro se* basis generally have access to private medical records and other documentation, it is often rather difficult for them to access records generated and maintained by Federal entities (e.g., the VA, Departments of Defense (DOD) and Labor (DOL), and the Social Security Administration (SSA)). Consequently, the primary VA databases of interest would be any that would provide

veterans service representatives with documentation or other evidence that pertain to their clients' eligibility for VA benefits. Obviously, databases such as TPSS, BDN and CAPRI, as well as those encompassed through Training, Responsibility, Involvement, and Preparation of Claims (TRIP) certification, are examples of information repositories that contain information concerning claims status, VA health care and treatment records and Compensation and Pension (C&P) examination reports. Both clinical and administrative records within the custody of the VA and other Federal agencies are often vital to determining a claimant's eligibility for benefits. Consequently, access to VA databases that contain pertinent information would prove helpful.

Of equal importance to VA records in this respect are military and SSA records. The starting point for considering any claim for veterans and dependents benefits is the veterans military status. The VBA has already established permanent VA full-time equivalent (FTE) positions within the National Archives and Records Administration (NARA, the custodian of military service records) to expedite the process of securing service medical and personnel records at the beginning of the claims process. It often takes the NARA six months or longer to process non-governmental requests for such records. If the VBA eventually develops a database that captures basic service information as part of this process (such as dates of service, overseas service information, military occupational specialty, inservice injuries, etc.), then VSO access would be especially helpful even before the claim is prepared, so that the service representative would know at the outset whether a claim has merit. Advanced warning that a claim may be frivolous would save both the VSO and the VA time and effort that would be better spent in meritorious applications for benefits.

Similarly, access to any present or future database that include SSA records and information (including SSA benefits decisions and underlying evidence) could be extremely beneficial in establishing the severity and etiology of the claimant's current disability picture. Pursuant to 38 C.F.R. § 3.153, a claim filed with the SSA will, for certain types of VA benefits, be considered to be a reciprocal claim for VA benefits and to have been received by the VA on the date actually received by the SSA. It is therefore possible that VSO access to pertinent SSA databases as well could be a boon to the preparation of ready-to-rate claims for VA benefits.

Even if VSO access to the foregoing databases must be limited in some way (*e.g.*, in a "read only" format), it is still possible to achieve valuable efficiencies, given that the service representative will gain knowledge as to what evidence is available and can at lease refer to it in the claims submission.

***Question 2*:**

While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that it be understood that they are first and foremost advocates for individual veterans. Does advocacy of each veteran's case inhibit your organization from preparing a claim package that accurately reflects the full and complete record of an individual veteran's claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel.

***Response*:**

It has been, and continues to be, VVA's fundamental operating principal that its accredited service representatives follow the highest ethical standards in conjunction with our representational activities. We believe that a representative cannot advocate effectively by hiding or disregarding evidence that is adverse to a client's claim for VA benefits. As a practical matter, if a service representative's investigation into the evidence discloses records or other evidence that militates against an award of benefits, then it's a good bet that the VA will be aware of that evidence as well. As an ethical matter, an accredited service representative's professional obligations run not only to his or her clients, but also to the VA. *See, generally*, 38 C.F.R. § 14.629. The art of advocacy includes not solely presenting affirmative evidence, but also openly presenting, confronting, discrediting or otherwise diminishing the probative value of negative evidence. It does the client a disservice to by attempting to prosecute a claim for benefits by presenting only helpful evidence, only to have the VA uncover negative evidence and afford it greater weight without considering argument against such a conclusion or even that the positive and negative evidence is in relative equipoise (which invokes the doctrine of benefit-of-the-doubt in the claimant's favor (*see* 38 C.F.R. § 3.102)).

Moreover, our review of the VA Adjudication Procedures Manual M21-1, as well as VBA "fast letters" and other directives to adjudicators, reflects a tendency toward instructing the adjudicators to initially look for negative evidence and, once found, deny the claim, before addressing the positive evidence. Claims for service connection for hepatitis C and post-traumatic stress disorder are prime examples of these kinds of instructions. With such an institutional mindset, it becomes even more important for the advocate to honestly disclose and rebut the negative evidence at the outset of his or her analysis and argument.

Accordingly, VVA does not consider a claims submission to be ready-to-rate unless there is sufficient evidence to satisfy eligibility requirements (*e.g.*, status), statutory, regulatory and jurisprudential requirements as to each element for entitlement, and compliance with all procedural requirements. Our service representatives are trained to include adverse evidence and to attack it head on and up front. Successful argument in this respect will actually serve to strengthen a claim, as opposed to weakening it. Furthermore, a practice of routinely withholding negative evidence will most assuredly damage a service representative's and the sponsoring VSO's credibility with the VA.

VVA therefore does not believe that our role as an advocate inhibits our ability to prepare a claims submission that accurately reflects the complete evidentiary record.

In all candor, however, there will be occasions where VVA will submit a claim before all of the evidence has been obtained. Primarily, these situations will entail a lengthy development process balanced against a diminishing deadline period. For example, in the case of a veteran with a terminal condition or facing an economic crisis (such as foreclosure of a home), or of a claimant whose entitlement to a benefit is predicated upon the filing of a claim during a limited period of time.

Nevertheless, as discussed in the response to Question 1, frequently, no matter how diligent the service representative's research is, there will be situations where relevant evidence may be within the custody of the VA, the military and DOD, DOL, SSA, etc., and may be extremely difficult, if not impossible, for the claimant or service representative to secure. VA has a statutory obligation under the Veterans Claims Assistance Act to assist the claimant with the development of evidence in support of his or her claim. *See* Pub. L, No. 106-475, 114 Stat. 2096 (Nov. 9, 2000). This includes not only obtaining existing available records, but also conducting contemporaneous medical and/or psychiatric examinations. Clearly, in situations where the VA has access to available evidence or is required develop the clinical record through an examination, then such development must inevitably be undertaken by VA personnel.

Question 3:

Some VSOs have expressed concern that VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or is almost) ready-to-rate it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training – a sort of "express lane" for claims that are more likely to be ready to rate?

Response:

As we indicated in our written testimony, VVA considers the submission of ready-to-rate claims to be one part of a reciprocal obligation. Of late, the VBA has been proactive in shortening procedural time limits within which a claimant must take some responsive action. For example, a recently proposed regulation would shorten the time frame in which a claimant who has received an adverse claims decision from the VARO can request a *de novo* review of that decision after filing his or her Notice of Disagreement from 60 to only 15 days. *See* 67 Fed. Reg. 10,866 (Mar. 11, 2002). Notwithstanding the unfair burden this places on the claimant, the proposed regulation offers absolutely nothing in return for claimant's promptness. In other words, even if the claimant were able to comply with the foreshortened deadline, there is nothing that would require the VA to take any expedited action to take full advantage of the time savings. The same applies to the VSOs submitting ready-to-rate claims at the outset of the adjudication process. Thus, even if the claim was filed fully developed and ready to rate, it could languish in a pile of claims for a year or more before the VARO gets around to rating it. VVA therefore would support a prioritization scheme that recognizes that VSO assistance in submitting ready to rate claims be the *quid* to the VA's *pro quo* in expediting the adjudication of such claims. If the stated objective of the VA-VSO partnership is to facilitate the timelier processing of claims, then the partnership must run in both directions.

Furthermore, VVA would advocate that expedited treatment of ready-to-rate claims not be limited to those situations where a TRIP-certified VSO service representative is helming the claim. Rather, we urge that the VBA staff screen all incoming claims upon receipt, including those submitted by unrepresented claimants, to determine whether they are ready-to-rate, and then rate them on a fast track. Such early intervention would help to alleviate adjudicatory backlogs and would encourage VSOs and other advocates to submit ready-to-rate claims whenever possible.

Question 4:

What are your organization's views regarding the following statement from the 1994 study titled "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals process"?

> "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of the VBA's workload comes through Veterans Service Organizations (VSOs), it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their

efforts to effectively represent veterans."

Response:

Although the statement is somewhat dated (particularly with respect to the "unrealistic" expectation that the VBA cannot address its timeliness and backlog problems alone), VVA wholeheartedly endorses the idea that in order to effectively represent their clients, VSOs should avoid submitting incomplete or poorly developed claims. The Secretary's Claims Processing Task Force (chaired by the current VA Undersecretary for Benefits, Admiral Daniel L. Cooper) has clearly demonstrated there is a plethora of short-, medium- and long-range actions that the VA can take in order to substantively counter backlog and timeliness issues. Nevertheless, the VA could certainly use all the help it can receive in order to achieve the Task Force's stated objectives. VSO cooperation in making it a routine practice of filing the most fully developed claim possible at the time of submission would go a long way to facilitate increased timeliness and accuracy in VA claims processing.

Question 5:

If VA needs to address one issue relative to its part of the VA – VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

Response:

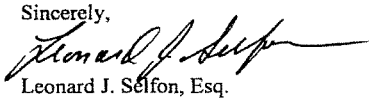
This is, by definition, an extremely difficult question to answer. So many components of the claims process, from the moment a client approaches the VSO until the administrative appeal process has been exhausted, are inextricably intertwined. Nevertheless, the threshold issue that must be addressed if any increased VA-VSO partnership will materialize concerns the lines of communication between these entities.

Efficient communication at all stages of the proceedings will foster heightened understanding on both sides as to professional obligations, as well as substantive and procedural requirements. In order to facilitate the VSOs' ability to bring forward ready-to-rate claims at the outset, VVA suggests that both the VA and the VSOs work together to compose the same sheet of music from which to read. That is to say, coming together and agreeing on what evidence is required by law to grant of an individual benefit and what evidence the VA will deem as sufficient to consider a claim for that benefit as ready-to-rate. Essentially, we are talking about a claims "cookbook", developed and

agreed to by the VA and the VSOs, and which, if adhered to, would result in a nationwide standards for both sides to follow. If done correctly, this process could result in increased uniformity of claims submissions from VSO to VSO, and increased uniformity of decision-making from VARO to VARO. VVA would be pleased to take the initiative in organizing the VSOs in this respect in anticipation of working together with the VA to accomplish this goal.

Once again Mr. Chairman, I would like to express VVA's sincere gratitude for the opportunity to present our views on these important matters, and for your and the Subcommittee's tireless efforts on behalf of our Nation's veterans and their families. VVA looks forward to working with Congress, the VA and our VSO colleagues in furtherance of our mutual mission.

Sincerely,



Leonard J. Selfon, Esq.
Director, Veterans Benefits Program

Chairman Simpson to AMVETS

Questions for the Record
Chairman Mike Simpson
Veterans' Affairs Subcommittee on Benefits
June 6, 2002

1. Several VSOs have indicated that enhanced access to VA computer data files would assist them in their more efficient development of ready-to-rate claims. Which types of data access would be most beneficial to VSO claim preparation? Three examples that were mentioned in written testimony included the Training and Performance Support System (TPSS), the Benefits Delivery Network (BDN), and the Compensation and Pension Records Interchange (CAPRI). If there must be some limitations on VSO access to automated data, would it be possible to achieve valuable efficiencies out of some more limited level of access to VA computer data? If so, what would this entail?

   Answer: The access made available to our National Service Officers (NSOs) who have completed TRIP training provides adequate information to initiate claims work for veterans. Accredited Service Organization representatives currently are granted access to BDN. The additional data made available through systems such as CAPRI could provide valuable information to assist in the preparation of claims. Although any additional access would assist the VSOs in their efforts, it is our view that access to the information currently made available through successful completion of TRIP training suffices for proper claims preparation. However, access to CAPRI would be beneficial to our work.

2. While VSOs have indicated their desire to do all that is possible to enhance their ability to develop ready-to-rate claims, some VSOs have expressed a concern that it be understood that they are first and foremost advocates for the individual veterans. Does advocacy of each veteran's case inhibit your organization from preparing a claim package that accurately reflects the full and complete record of an individual veteran's claim? Are there any parts of the claim development process, besides the adjudication process, that must inevitably be completed by VBA personnel?

   Answer: Unquestionably, our primary role is that of a veterans advocate. However, stepping-up to that role does not alleviate our responsibility for ensuring we maintain our integrity in submitting a complete, accurate, and honest accounting of our client's condition. The business practices established by AMVETS for its NSOs have ensured they submit claims that are "ready for development." Certain evidence, such as records from other sources (e.g., service medical records, private physician records), requires continued VBA assistance in obtaining. A concern often expressed by our NSOs is that they do not want to evolve into "unpaid VA employees" fulfilling the role that the VA itself should be accomplishing. The VA's focus on reducing the claims backlog is admirable. However, that mission should not be accomplished by shifting portions of the workload to the VSO community.
3. Some VSOs have expressed concern that VBA personnel are "cherry picking" the easiest claims to work on. Other VSOs have expressed concern that when they prepare a claim that is (or is almost) "ready to rate" it does not get expedited processing. Would your organization support VBA prioritization of claims developed by VSO personnel who

have completed Training, Responsibility, Involvement, and Preparation of Veterans Claims (TRIP) training—a sort of "express lane" for claims that are more likely to be ready to rate?

Answer: AMVETS fully supports an "express lane" process for claims that are more likely to be ready to rate. As we indicated in our testimony, it is our policy to have our NSOs TRIP trained and certified and to support our partnership with the VA by submitting claims that are ready for development. The prioritization of claims submitted by those who are TRIP trained would provide a clear indication that the VA is living up to its side of the partnership.

4. What are your organization's views regarding the following statement from the 1994 study titled "American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process"?

> "VA cannot fix the backlog/timeliness problems alone and that should not be an expectation. Since much of the VBA's workload comes through Veterans Service Organizations (VSOs), it is incumbent upon the VSOs to avoid submitting poorly developed or incomplete claims in their efforts to effectively represent veterans."

Answer: We absolutely agree with this statement. The VSOs need to be part of the solution, not part of the problem. By submitting poorly developed, incomplete, or frivolous claims we do nothing more than add to the backlog that we're all trying to reduce.

5. If VA needs to address one issue relative to its part of the VA-VSO partnership, so as to better position VSOs to bring forward ready-to-rate claims, what would that be?

Answer: The VA needs to continue its efforts to streamline its own internal process. For example, after our TRIP trained NSOs submit a claim that's ready for development, the VARO still sends follow-up correspondence to the veteran asking if there is any further information that needs to be added and provides a 60 day suspense. If we've submitted a complete claim, then there's no need to ask the question "are you sure you've submitted everything?" and add another 60 days to the process. In the same vein, the VA needs to ensure its database has current information in it. We often run across situations where the VA has not updated our Power of Attorney in their system. This similarly adds unnecessary delay time trying to clarify who represents the veteran. Simply stated, the VA needs to continue its ongoing efforts to refine its own process.